

# SUPREME COURT OF INDIA

Ballarpur Industries Ltd.

Vs.

State Rep. By Dy. Superintendent of Police, Chennai

CrI.A.No.1048 of 2002

(D.K. Jain and R.M. Lodha JJ.)

04.03.2009

## ORDER

1. This appeal by special leave arises out of a judgment dated 12th February 2002, rendered by the High Court of Judicature at Madras in CR.R. Case No. 516 of 1999. By the impugned judgment, a Learned Single Judge of the High Court has set aside the order passed by the trial Court discharging the appellant for the offence under Section 420 of the Indian Penal Code on the ground that since the offence under the said Section is punishable by a minimum mandatory sentence of imprisonment which cannot be enforced against the Company, it cannot be charged with the offence.

2. We have heard learned counsel for the parties.

3. We are of the view that the point in issue, viz. whether a Company, being a juristic person, can be prosecuted for an offence for which mandatory punishment prescribed is imprisonment and fine, is no more res integra. In *Standard Chartered Bank & Ors.*

4. Court has opined that there is no immunity to the Companies from prosecution merely because the prosecution is in respect of offences for which the punishment prescribed is mandatory imprisonment and fine. It has been held that though a Company cannot be sentenced to imprisonment, it can nevertheless, be prosecuted and the Court can impose punishment of fine instead. In the light of the said decision, no fault can be found with the view taken by the High Court. Accordingly, the appeal is dismissed.

5. At this juncture, Mr. U.U. Lalit, learned senior counsel appearing on behalf of the appellant, submits that when application for discharge was filed before the Principal Special Judge, CBI, Chennai on 20th May, 1998, the decision of the Customs, Excise and Gold (Control) Appellate Tribunal (CEGAT) dated 9th May, 2000 was not available. He, therefore, prays that since the order passed by the CEGAT has material bearing on the case against the appellant, the appellant may be permitted to move a fresh application before the Special Judge for discharge.

6. Without commenting on the merits of the submissions made by the learned counsel, we permit the appellant to take recourse to any appropriate proceeding as may be available to them in accordance with law. We may also note that we are not oblivious of the observations made by this Court in order dated September 11, 2001, passed in Civil Appeal Nos. 3942-3944 of 2001.