

SUPREME COURT OF INDIA

Rainbow Rubber Industries

Vs.

Assistant Collector of Cen.Excise, Madur.

CrI.A.No.1849 of 2009

(K.G. Balakrishnan CJI., P. Sathasivam and Dr. B.S. Chauhan JJ.)

01.10.2009

ORDER

1. Leave granted.

2. Appellant nos.2 and 3 herein, who are partners in the appellant no.1 firm, are challenging the conviction and sentence passed against them under Section 9 of the *Central Excise & Salt Act, 1944*. It was alleged that the appellants evaded central excise duty and the trial court found the appellants guilty and sentenced them to undergo imprisonment for a period of six months and to pay a fine of Rs.1,000/- each and in default to undergo simple imprisonment for a period of one month each. The appellants challenged their conviction before the Additional District and Sessions Court and the same was dismissed. The appellants filed a revision against the same before the High Court and the High Court dismissed the revision and upheld the order of the District & Sessions Judge.

3. Heard both sides.

4. Learned counsel for the appellants, submits that the appellants are above 70 years' in age and the entire duty allegedly evaded by the present appellants has already been paid by them.

5. Under the above circumstances and in view of the special reasons, we confirm the conviction but modify the sentence and direct that the appellants 2 and 3 shall pay a sum of Rs.2 lacs each in lieu of six months imprisonment within six weeks before the Addl.Chief Judicial Magistrate, Madurai and produce a receipt before the authority before whom the appellants had executed bail bonds and on production of such receipt, their bail bonds will stand cancelled.

6. Appeal is disposed of accordingly.