

Central Excise Act, 1944

Section 9 - Offences and Penalties

1 [(1) Whoever commits any of the following offences, namely:-

2 [(a) contravenes any of the provisions of section 8 or of a rule made under clause (iii) or clause (xxvii) of sub-section (2) of section 37;]

(b) evades the payment of any duty payable under this Act;

3 [(bb) removes any excisable goods in contravention of any of the provisions of this Act or any rules made thereunder or in any way concerns himself with such removal;]

(bbb) acquires possession of, or in any way concerns himself in transporting, depositing, keeping, concealing, selling or purchasing, or in any other manner deals with any excisable goods which he knows or has reason to believe are liable to confiscation under this Act or any rule made thereunder;]

4 [(bbbb) contravenes any of the provisions of this Act or the rules made thereunder in relation to credit of any duty allowed to be utilised towards payment of excise duty on final products;]

(c) fails to supply any information which he is required by rules made under this Act to supply or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information;

(d) attempts to commit, or abets the commission of, any of the offences mentioned in clauses (a) and (b) of this section;

5 [shall be punishable,-

(i) in the case of an offence relating to any excisable goods, the duty leviable thereon under this Act exceeds one lakh of rupees, with imprisonment for a term which may extend to seven years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court such imprisonment shall not be for a term of less than six months;

(ii) in any other case, with imprisonment for a term which may extend to three years or with fine or with both.

3 [(2) If any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to seven years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court such imprisonment shall not be for a term of less than six months.

(3) For the purposes of sub-sections (1) and (2), the following shall not be considered as special and adequate reasons for awarding a sentence of imprisonment for a term of less than six months, namely:-

(i) the fact that the accused has been convicted for the first time for an offence under this Act;

(ii) the fact that in any proceeding under this Act, other than a prosecution, the accused has been ordered to pay a penalty or the goods in relation to such proceedings have been ordered to be

confiscated or any other action has been taken against him for the same act which constitutes the offence;

(iii) the fact that the accused was not the principal offender and was acting merely as a carrier of goods or otherwise was a secondary party in the commission of the offence;

(iv) the age of the accused.]

1. Section 9 re-numbered as sub-section (1) of that section by Act 36 of 1973, section 20 (w.e.f. 1-9-1973).

2. Substituted by Act 18 of 1992, section 113, for clause (a) (w.e.f. 14-5-1992).

3. Inserted by Act 36 of 1973, section 20 (w.e.f. 1-9-1973).

4. Inserted by Act 21 of 1998, section 107 (w.e.f. 1-8-1998).

5. Substituted by Act 36 of 1973, section 20, for certain words (w.e.f. 1-9-1973).