

Customs Act, 1962

Section 135 - EVASION OF DUTY OR PROHIBITIONS 145[

1)] Without prejudice to any action that may be taken under this Act, if any person- (a) is in relation to any goods in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any duty chargeable thereon or of any prohibition for the time being imposed under this Act or any other law for the time being in force with respect to such goods, or (b) acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing or in any other manner dealing with any goods which he knows or has reasons to believe are liable to confiscation under section 111, he shall be punishable, (i) in the case of an offence relating to any of the goods to which section 123 applies and the market price whereof exceeds one lakh of rupees, with imprisonment for a term which may extend to 115[seven years] and with fine: PROVIDED that in the absence of special and adequate reasons to the contrary to be recorded in the judgement of the court, such imprisonment shall not be for less than 146[three years]; (ii) in any other case, with imprisonment for a term which may extend to 146[three years], or with fine, or with both. 117[(2) If any person convicted of an offence under this section or under sub-section (1)of section 136 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 judgement of the court such imprisonment shall not be for less than 147[one year]. (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 147[one year], 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 which are the subject matter of 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 to the commission of the offence; (iv) the age of the accused.] 148[135A. Preparation If a person makes preparation to export any goods in contravention of the provisions of this Act, and from the circumstances of the case it may be reasonably inferred that if not prevented by circumstances independent of his will, he is determined to carry out his intention to commit the offence, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.