



Lau Yang Chang

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 42 of 2014)**

**Steven Chong, J.
9 December 2014**

Criminal law – Sentence – Possession of cigarettes and alcohol – Excise duty not paid – Fine imposed not excessive considering amount of excise duty evaded.

Appellant unrepresented.

DPP Dk Siti Nurul Fairuz Bte Pg Rosli and PO Muhammad Aiman Adri Bin Ahmad Zakaria for the Public Prosecutor.

Steven Chong, J.:

This is an appeal against sentence.

On 1 October 2014 in the Magistrate's Court the appellant was convicted on his own plea to 3 counts of possession of goods in which duty had not been paid contrary to section 146(1)(d) of the Excise Order 2006, namely, 1,400 cartons of cigarettes (1st Charge); 56 cartons of cigarettes (2nd Charge); and 4 bottles of alcohol (3rd Charge).

Senior Magistrate Haji Nabil Daraina Bin PUKDPSS Ustaz Haji Badaruddin sentenced the appellant as follows:

1st Charge: Fine of \$400,000 or 3 years' imprisonment in default of payment.

2nd Charge: Fine of \$13,000 or 6 months' imprisonment in default of payment.



3rd Charge: Fine of \$500 or 2 weeks' imprisonment in default of payment.

Shortly stated the facts admitted by the appellant were that on the afternoon of 29 September 2014 he was driving a Mitsubishi Grandis along Jalan Bengkurong when customs officers stopped him and searched the car. Altogether, 1,400 cartons of cigarettes were found in the car. This was followed by a search on a Toyota Sceptor parked at the appellant's house in Sengkurong which yielded a further 56 cartons of cigarettes. The 4 bottles of alcohol were found in a bedroom in the appellant's house. The appellant admitted that he had collected the cigarettes from Kampong Bolkiah after "Ah Hui" paid \$30 to him.

The duty evaded is as follows: \$65,200 on the 1st Charge; \$2,140 on the 2nd Charge; and \$17 on the 3rd Charge.

Under section 146(1)(i) of the Excise Order 2006 the Senior Magistrate was obliged in relation to these offences to impose a fine of not less than 6 times the amount of the excise duty or \$40,000 whichever is the lesser amount and of not more than 20 the amount of excise duty or \$40,000 whichever is the greater amount.

Considering the amount of the excise duty evaded on each count the fine imposed is not excessive. Nor is the term of imprisonment in default of payment ordered.

The appeal is therefore dismissed.

DATO PADUKA STEVEN CHONG
Judge, High Court