



Chapter XIX

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Chapter XIX

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Section-122 - Penalty for certain offences.

122(1)

- without issue of invoice or False invoice
 - issue of invoice without supply
 - fails to pay collected tax amt.
 - fails to deduct or deducts less amt. tds as per sec-51
 - fails to Collect or Collects less amt. tcs as per sec-52
 - utilize ITC without receipt of goods or services or both
 - Fraudulently obtains refund
 - takes or distributes ITC in contravention of sec-20
 - falsifies or substitutes bank accounts
 - liable to be registered but fails to do so
- Furnish false info. In registration particulars
- obstructs or prevents any officer in discharge of his duties

He shall be liable to pay a penalty of Rs. 10000 or amount equivalent to to tha tax evaded or TDS not deducted or deducted but not paid to govt. OR TCS not collected or collected but not paid to govt. Or ITC availed of or passed on or distributed irregularly -higher

122(1)

- transports any taxable goods without cover docs
- suppresses his turnover for evasion of taxes
- fails to keep, maintain or retain books of A/c
- fails to furnish Docs. called for by an officer
- supplies, transports or stores goods which are liable to confiscation.
- issues invoices with GSTIN of another taxpayer
- tampers with, or destroys any material evidence
- disposes or tampers with any goods that have been detained, seized or attached

122(1A)

Liable to pay penalty equivalent upto tax amt. Evaded FOR transaction covered in (I), (II), (vii) & (ix) in sub section-1

122(2)

When tax is not paid or short-paid or erroneously refunded or ITC wrongly availed or utilised.

(a) for any reason other than fraud or wilful misstatement or suppression of fact , liability to pay Rs. 10,000 or 10% of tax due-higher

(b) for reason of fraud or wilful misstatement or suppression of fact , liability to pay Rs. 10,000 or tax due-higher





Section-122 - Penalty for certain offences.

122(3)

Any person who -

- aids or abets any offences in clause (i) to (xxi) of sub section- 1*
- acquires possession of , or in any way deals with goods liable to confiscation*
- Deals in supply of services on which he has reasons to believe that such supply is in contravention of this act*
- fails to appear before the officer of central tax*
- fails to issue invoice*

Shall be liable to pay penalty upto Rs. 25,000



Section-122

(1) Where a taxable person who--

- (i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;
- (ii) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder;
- (iii) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;
- (iv) collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;



- (v) fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) thereof, the amount deducted as tax;
- (vi) fails to collect tax in accordance with the provisions of sub-section (1) of section 52, or collects an amount which is less than the amount required to be collected under the said sub-section or where he fails to pay to the Government the amount collected as tax under sub-section (3) of section 52;
- (vii) takes or utilises input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder;
- (viii) fraudulently obtains refund of tax under this Act;
- (ix) takes or distributes input tax credit in contravention of section 20, or the rules made thereunder;
- (x) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act



- (xi) is liable to be registered under this Act but fails to obtain registration;
- (xii) furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;
- (xiii) obstructs or prevents any officer in discharge of his duties under this Act;
- (xiv) transports any taxable goods without the cover of documents as may be specified in this behalf;
- (xv) suppresses his turnover leading to evasion of tax under this Act;
- (xvi) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;
- (xvii) fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;
- (xviii) supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act;
- (xix) issues any invoice or document by using the registration number of another registered person;
- (xx) tampers with, or destroys any material evidence or document;



(xxi) disposes off or tampers with any goods that have been detained, seized, or attached under this Act, he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.

(1A) Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.



(2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilised,—

(a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent. of the tax due from such person, whichever is higher;

(b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.



(3) Any person who--

- (a) aids or abets any of the offences specified in clauses (i) to (xxi) of sub-section (1);
- (b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;
- (c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;
- (d) fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry;
- (e) fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account, shall be liable to a penalty which may extend to twenty-five thousand rupees.





Section-123 - Penalty for failure to furnish information return.

123

If a person fails furnish info. U/S 150 within time period specified in sub section (3) then PO may direct such person is liable to pay Rs 100 during period of failure to furnish such info, continues.

Proviso - such penalty shall not exceed Rs 5,000



Section-123

If a person who is required to furnish an information return under section 150 fails to do so within the period specified in the notice issued under sub-section (3) thereof, the proper officer may direct that such person shall be liable to pay a penalty of one hundred rupees for each day of the period during which the failure to furnish such return continues:

Provided that the penalty imposed under this section shall not exceed five thousand rupees.





Section-124 - Fine for failure to furnish statistics.

124

If any person fails to furnish info. In section 151

- *Without any reasonable cause*
- *Willfully furnishes wrong information*

He shall be liable to pay fine upto rs.10,000

In case of continuing offence further fine may extend to Rs.100 per day after first day Upto Rs.25,000



Section-124

If any person required to furnish any information or return under section 151,—

- (a) without reasonable cause fails to furnish such information or return as may be required under that section, or
- (b) wilfully furnishes or causes to furnish any information or return which he knows to be false, he shall be punishable with a fine which may extend to ten thousand rupees and in case of a continuing offence to a further fine which may extend to one hundred rupees for each day after the first day during which the offence continues subject to a maximum limit of twenty- five thousand rupees.





Section-125 - General penalty.

125

*For any offence under this act or Rules , for which there is no separate provision for penalty.
Penalty can be imposed upto Rs. 25,000*



Section-125

Any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to twenty-five thousand rupees.





Section-126 - General disciplines related to penalty.

126(1)

No officer under this act shall impose penalty for minor breaches & any omission or mistake in documentation

126(2)

Penalty imposed depends on the circumstances & facts, & commensurate with degree & severity of breach

126(3)

No penalty without giving opportunity to be heard

126(4)

Officer while imposing penalties shall specify nature of breach & applicable law & regulations

126(5)

When a persons Voluntarily discloses a breach then such officer may consider it as an mitigating factor while quantifying a penalty for that person

126(6)

Provision of this section shall not p=apply where penalty is fixed or expressed in percentage



Section-126

(1) No officer under this Act shall impose any penalty for minor breaches of tax regulations or procedural requirements and in particular, any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent or gross negligence.

Explanation.--For the purpose of this sub-section,--

- (a) a breach shall be considered a 'minor breach' if the amount of tax involved is less than five thousand rupees;
- (b) an omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on the face of record.

(2) The penalty imposed under this Act shall depend on the facts and circumstances of each case and shall be commensurate with the degree and severity of the breach.



- (3)** No penalty shall be imposed on any person without giving him an opportunity of being heard.
- (4)** The officer under this Act shall while imposing penalty in an order for a breach of any law, regulation or procedural requirement, specify the nature of the breach and the applicable law, regulation or procedure under which the amount of penalty for the breach has been specified.
- (5)** When a person voluntarily discloses to an officer under this Act the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the officer under this Act, the proper officer may consider this fact as a mitigating factor when quantifying a penalty for that person.
- (6)** The provisions of this section shall not apply in such cases where the penalty specified under this Act is either a fixed sum or expressed as a fixed percentage.





Section-127 - Power to impose penalty in certain cases.

127

When PO is of view that a person is liable to pay penalty & the same is not covered under proceedings U/S 62, 63, 64, 73, 74, 129, & 130, PO may issue order levying penalty with reasonable oppo. Of being heard



Section-127

Where the proper officer is of the view that a person is liable to a penalty and the same is not covered under any proceedings under section 62 or section 63 or section 64 or section 73 or section 74 or section 129 or section 130, he may issue an order levying such penalty after giving a reasonable opportunity of being heard to such person.





Section-128 - Power to waive penalty or fee or both

128

Govt. may, by notif. Waive in full or part of penalties imposed U/s 122, 123, 125, or any late fee prescribed u/s 47



Section-128

The Government may, by notification, waive in part or full, any penalty referred to in section 122 or section 123 or section 125 or any late fee referred to in section 47 for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council.





Section-129 - Detention, seizure and release of goods and conveyances in transit

129(1)

Transport or storing goods in transit that are in Contravention of this act/rules, all such goods/conveyance & their documents are liable to detention & seizure.

Such goods/documents shall be released-

(a) on payment of 200% of tax payable, in case of exempted goods 2% of value of goods or Rs. 25,000 , where owner of goods comes F/w

(b) On payment of penalty equal to 50% of value of goods or 200% of tax payable,

In case of exempted goods 5% of value of goods or Rs. 25,000 whichever is less.

Where owner of goods does not comes F/w.

(c) upon furnishing security equivalent to amt.

Payable under clause (a) & (b).

Proviso - no such goods or conveyance shall be detained or seized without serving an order.

129(3)

PO detaining or seizing such goods or conveyance shall issue a notice within 7 days. & thereafter issue an order within period of 7 days.

129(4)

No penalty shall be determined without giving opportunity to be heard.

129(5)

On payment of penalty, all proceedings in respect of notice shall deemed to be concluded.

129(6)

When the person transporting goods fails to pay Penalty within 15 days of date of receipt of order. All goods & conveyance detained & seized shall be liable to be sold or disposed.

Proviso - conveyance shall be released on payment of penalty under sub sec-(3) or Rs.1 lakh - lower, by the transporter

Proviso- where detained/seized goods are perishable in nature, the period of 15 days may be reduced by PO.



Section-129

(1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,--

~~(a) on payment of the applicable tax and penalty equal to one hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;~~

(a) on payment of penalty equal to two hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such penalty;

Substituted vide THE FINANCE ACT, 2021 dated 28-03-2021 w.e.f.



~~(b) on payment of the applicable tax and penalty equal to the fifty per cent. of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty;~~

b) on payment of penalty equal to fifty per cent. of the value of the goods or two hundred per cent. of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty;”;

(c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed:

Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.

Substituted vide THE FINANCE ACT, 2021 dated 28-03-2021 w.e.f.



~~(2) The provisions of sub-section (6) of section 67 shall, mutatis mutandis, apply for detention and seizure of goods and conveyances.~~

~~(3) The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c).~~

(3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).”;

(4) ~~No tax, interest or penalty~~ **No penalty** shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.

(5) On payment of amount referred in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded.

Substituted vide THE FINANCE ACT, 2021 dated 28-03-2021 w.e.f.



~~(6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within seven days **Fourteendays** of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:~~

~~Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of seven days may be reduced by the proper officer.~~

(6) Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3):

Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less:

Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.”

Substituted vide Central Goods and Services Tax (Amendment) Act, 2018 w.e.f. 01-02-2019

Substituted vide THE FINANCE ACT, 2021 dated 28-03-2021 w.e.f.





Section-130 - Confiscation of goods or conveyances and levy of penalty.

130(1)

Where any person -
(i) Supplies/receives any goods in contravention of act/rules, to evade tax
(ii) Doesn't account for goods on which he is liable to pay tax.
(iii) Supplies goods liable to tax without obtaining registration
(iv) Contravenes any provision of this act for tax evasion
(v) Uses any conveyance as means of transport in contravention of this act.
Unless owner of such conveyance proves that it was used without his knowledge.

All such goods & Conveyances used are liable to be confiscated & penalty u/s 122

130(2)

Officer adjudging Confiscation of goods shall give owner an option to pay in lieu of Confiscation.
Proviso - Fine shall not exceed market value of goods confiscated less tax payable on such goods.
Proviso - aggregate of such fine/penalty shall not be less than 100% of tax payable.
Proviso - an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods

130(4)

No order of Confiscation or for imposition of penalty without giving opportunity of being heard.

130(5)

Title of confiscated goods/conveyance vest in the Government.

130(6)

PO adjudging confiscation shall hold possession of goods/conveyance & every Police officer shall assist him

130(7)

PO after satisfying that no further proceedings are required shall allow time of 3 months to pay fine in lieu of confiscation, Dispose goods or conveyance & deposit the sale to Govt.



Section-130

- (1) ~~Notwithstanding anything contained in this Act, if~~ where any person—
- (i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or
 - (ii) does not account for any goods on which he is liable to pay tax under this Act; or
 - (iii) supplies any goods liable to tax under this Act without having applied for registration; or
 - (iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or
 - (v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance, then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.

Substituted vide THE FINANCE ACT, 2021 dated 28-03-2021 w.e.f.



(2) Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit:

Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:

Provided further that the aggregate of such fine and penalty leviable shall not be less than ~~the amount of penalty leviable under sub-section (1) of section 129:~~ penalty equal to hundred per cent. of the tax payable on such goods.

Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.

Substituted vide THE FINANCE ACT, 2021 dated 28-03-2021 w.e.f.



~~(3) Where any fine in lieu of confiscation of goods or conveyance is imposed under sub-section (2), the owner of such goods or conveyance or the person referred to in sub-section (1), shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.~~

(4) No order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person an opportunity of being heard.

(5) Where any goods or conveyance are confiscated under this Act, the title of such goods or conveyance shall thereupon vest in the Government.

(6) The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.

Substituted vide THE FINANCE ACT, 2021 dated 28-03-2021 w.e.f.



(7) The proper officer may, after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding three months to pay fine in lieu of confiscation, dispose of such goods or conveyance and deposit the sale proceeds thereof with the Government.





Section-131 -Confiscation or penalty not to interfere with other punishments

131

Without prejudice to the Code of Criminal Procedure, 1973.No confiscation & penalty imposed shall prevent any other punishment under this act or any other law.



Section-131

Without prejudice to the provisions contained in the Code of Criminal Procedure, 1973, no confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law for the time being in force.





Section-132 - Punishment for certain offences

132(1)

List of Punishment for Certain Offences - Any person who commits or Causes to commit & retains the benefit shall be punishable -
(i) tax evaded or ITC wrongfully claimed/utilized exceeds 500 lakhs - imprisonment may extend to 5 years with fine.
(ii) for amt. 200 lakhs - 500 lakhs - imprisonment may extend to 3 years with fine
(iii) for amt. 100 lakhs - 200 lakhs - imprisonment may extend to 1 years with fine
(iv) where any person commits or abets an offence specified in clause (f), (g) & (j) - Punishment may extend to 6 months or with fine or both

132(2)

For the second & every subsequent offence under this section - Imprisonment which may extend upto 5 years with fine.

132(3)

Imprisonment in clause (i), (ii), (iii) of sub section (1) & (2) in absence of special & adequate reason. Shall not be for less than 6 months.

132(4)

Offences in sub-sections(5) shall be non-cognizable & bailable

132(5)

Offences specified in Clause (a), (b), (c) & (d) shall be cognizable & non-bailable

132(6)

No prosecution under this section except with previous sanction of comm.



Section-132

~~(1) Whoever commits any of the following offences,~~ **Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences, namely:—**

- (a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;
- (b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;
- ~~(c) avails input tax credit using such invoice or bill referred to in clause (b);~~
- (c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill**
- (d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

Substituted vide Finance Act, 2020 dated 27-03-2020 w.e.f. 01-01-2021



- (e) evades tax, ~~fraudulently avails input tax credit~~ or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);
- (f) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;
- (g) obstructs or prevents any officer in the discharge of his duties under this Act;
- (h) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;
- (i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

Substituted vide Finance Act, 2020 dated 27-03-2020 w.e.f. 01-01-2021



(j) tampers with or destroys any material evidence or documents;

(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder 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; or

(l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section, shall be punishable--

(i) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;

(ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;



(iii) in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;

(iv) in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(2) Where 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 five years and with fine.

(3) The imprisonment referred to in clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2) shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.



(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act, except the offences referred to in sub-section (5) shall be non- cognizable and bailable.

(5) The offences specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) and punishable under clause (i) of that sub-section shall be cognizable and non-bailable.

(6) A person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

Explanation.— For the purposes of this section, the term “tax” shall include the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions of this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act and cess levied under the Goods and Services Tax (Compensation to States) Act.





Section-133 - Liability of officers and certain other persons.

133(1)

Where any person
-engaged in connection with the collection of statistics U/S 151
-or compilation or computerisation thereof
-officer of central tax having access of info. U/S 150
-any person engaged with provision of service on common portal or the agent of common portal willfully discloses info.

He shall be punishable with imprisonment upto 6 months or with fine upto Rs.25,000 or both

133(2)

Any person -

- (a) Govt. servant shall not be prosecuted for any offence. Except with prev. Sanc. of govt.
- (b) Govt. servant shall not be prosecuted for any offence. Except with prev. Sanc. of govt.



Section-133

(1) Where any person engaged in connection with the collection of statistics under section 151 or compilation or computerisation thereof or if any officer of central tax having access to information specified under sub-section (1) of section 150, or if any person engaged in connection with the provision of service on the common portal or the agent of common portal, wilfully discloses any information or the contents of any return furnished under this Act or rules made thereunder otherwise than in execution of his duties under the said sections or for the purposes of prosecution for an offence under this Act or under any other Act for the time being in force, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to twenty-five thousand rupees, or with both.

(2) Any person—

(a) who is a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Government;

(b) who is not a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.





Section-134 -Cognizance of offences.

134

No Court shall take cognizance of any offence except with previous sanction of comm. & no court inferior to that of a magistrate of the first class shall try any offence.



Section-134

No court shall take cognizance of any offence punishable under this Act or the rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Magistrate of the First Class, shall try any such offence.





Section-135 - Presumption of culpable mental state.

135

In any prosecution which requires culpable mental state of accused. Court will presume the existence of such mental state, the accused will have to prove the fact that he had no such mental state

Explanation - culpable mental state include intention, motive, knowledge of a fact, & belief in, or reason to believe, a fact



Section-135

In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.—For the purposes of this section,—

- (i) the expression “culpable mental state” includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact;
- (ii) a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.





Section-136 - Relevancy of statements under certain circumstances

136

Statement made & signed by person on appearance in response to summons U/s 70 shall be relevant in prosecution for an offence under this act

- (a) When person who made statement is -
- Dead or Cannot be found
 - Incapable of giving evidence
 - Kept out of way by adverse party
 - Or whose presence cannot be obtained

Under the circumstances court considers unreasonable

- (b) Court is of opinion that the statement should be admitted in evidence in the interest of justice.



Section-136

statement made and signed by a person on appearance in response to any summons issued under section 70 during the course of any inquiry or proceedings under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,--

(a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or

(b) when the person who made the statement is examined as a witness in the case before the court and the court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.





Section-137 - Offences by companies

137(1)

When offence is committed by a company, every person who was in charge of & responsible for for conducting business, Shall be deemed to be guilty of the offence.

137(2)

Where an offence committed by company & it is proved offence has been committed with the consent or connivance

137(3)

In case of offence committed by a partnership firm, LLP or HUF or a trust
The Partner, Karta or managing trustee shall be deemed guilty.

137(4)

Such person shall not be liable if he proves that the offence was committed without his knowledge or he has taken all steps in due diligence to prevent such offence.



Section-137

(1) Where an offence committed by a person under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.



(3) Where an offence under this Act has been committed by a taxable person being a partnership firm or a Limited Liability Partnership or a Hindu Undivided Family or a trust, the partner or karta or managing trustee shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly and the provisions of sub-section (2) shall, mutatis mutandis, apply to such persons.

(4) Nothing contained in this section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

Explanation.--For the purposes of this section,--

- (i) "company" means a body corporate and includes a firm or other association of individuals; and
- (ii) "director", in relation to a firm, means a partner in the firm



Section-138

(1) Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by the person accused of the offence, to the Central Government or the State Government, as the case be, of such compounding amount in such manner as may be prescribed:

Provided that nothing contained in this section shall apply to—

- (a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f) of sub-section (1) of section 132 and the offences specified in clause (l) which are relatable to offences specified in clauses (a) to (f) of the said sub-section;
- (b) a person who has been allowed to compound once in respect of any offence, other than those in clause (a), under this Act or under the provisions of any State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the Integrated Goods and Services Tax Act in respect of supplies of value exceeding one crore rupees;



- (c) a person who has been accused of committing an offence under this Act which is also an offence under any other law for the time being in force;
- (d) a person who has been convicted for an offence under this Act by a court;
- (e) a person who has been accused of committing an offence specified in clause (g) or clause (j) or clause (k) of sub-section (1) of section 132; and
- (f) any other class of persons or offences as may be prescribed:

Provided further that any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law:

Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.



(2) The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than ten thousand rupees or fifty per cent. of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher.

(3) On payment of such compounding amount as may be determined by the Commissioner, no further proceedings shall be initiated under this Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.





Rule-162 - Procedure for compounding of offences

162(1)

Application U/s 138(1) in **FORM GST CPD-01** to the commissioner for compounding of an offence.

162(2)

On receipt of application, the commissioner shall call for a report from concerned officer

162(3)

On being satisfied that the applicant has cooperated & fully disclosed all facts, shall issue an order in **FORM GST CPD-02** indicating the compound amount & grant him immunity from prosecution

162(4)

The application shall not be decide without granting an Opportunity of being heard

162(5)

Application shall not be allowed unless tax interest penalty is paid

162(6)

Applicant shall pay compounding amt. Within 30 days from the date of receipt of order

162(7)

In case applicant fails to pay compounding amt. Within time limit. Application under sub rule (3) shall be vitiated & be void.

162(8)

Immunity granted shall be withdrawn if comm. Is satisfied that such person had given false evidences or concealed any material particulars



Rule - 162

- (1) An applicant may, either before or after the institution of prosecution, make an application under sub-section (1) of section 138 in FORM GST CPD-01 to the Commissioner for compounding of an offence.
- (2) On receipt of the application, the Commissioner shall call for a report from the concerned officer with reference to the particulars furnished in the application, or any other information, which may be considered relevant for the examination of such application.
- (3) The Commissioner, after taking into account the contents of the said application, may, by order in FORM GST CPD-02, on being satisfied that the applicant has co-operated in the proceedings before him and has made full and true disclosure of facts relating to the case, allow the application indicating the compounding amount and grant him immunity from prosecution or reject such application within ninety days of the receipt of the application.



(4) The application shall not be decided under sub-rule (3) without affording an opportunity of being heard to the applicant and recording the grounds of such rejection.

(5) The application shall not be allowed unless the tax, interest and penalty liable to be paid have been paid in the case for which the application has been made.

(6) The applicant shall, within a period of thirty days from the date of the receipt of the order under sub-rule (3), pay the compounding amount as ordered by the Commissioner and shall furnish the proof of such payment to him.

(7) In case the applicant fails to pay the compounding amount within the time specified in sub-rule

(6), the order made under sub-rule (3) shall be vitiated and be void.



(8) Immunity granted to a person under sub-rule (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of the compounding proceedings, concealed any material particulars or had given false evidence. Thereupon such person may be tried for the offence with respect to which immunity was granted or for any other offence that appears to have been committed by him in connection with the compounding proceedings and the provisions the Act shall apply as if no such immunity had been granted.”;



Important Case Laws & Advance rulings:

S.no	Description
1.	A Syed Ali Fathima v. Assistant State Tax Officer
2.	Chellaperumal Vaikundasekar Proprietor vs Assistant State Tax Officer
3.	Jaspal Singh vs Assistant Commissioner of State Tax
4.	Ms.Jeyyam Global Foods (P) Ltd Vs union of India
5.	N.V.K.MOHAMMED SULTHAN RAWTHER AND SONS vs Union of India
6.	Tripura HC TIRTHAMOYEE ALUMINIUM PRODUCTS



<u>Circulars</u>	<u>Description</u>
Circular no. - 41/2018	clarifying the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances.
Circular no. - 47/2018	Whether e-way bill is required in the following cases- (i) Where goods transit through another State while moving from one area in a State to another area in the same State, (ii) Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State.
Circular no. - 49/2018	Seeks to modify Circular No. 41/15/2018-GST
<i>Circular no. - 61/2018</i>	<i>Storing of goods in godown of transporter</i>
<i>Circular no. - 64/2018</i>	<i>Penalty in case of minor mistakes occurred in attached documents including E-Way Bill</i>
Circular no. - 76/2018	Who will be considered as the “owner of the goods” for the purposes of section 129(1) of the CGST Act?
Circular no. - 88/2019	Some Clauses amended of circular 41/2018