30th December 2005

Notification No. 114/2005-Customs (N.T.)

In exercise of the powers conferred by clause (h) of sub-section (2) of section 156, read with sub-section (3) of section 137, of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules, namely :-

1. Short title and commencement.- (1) These rules may be called the Customs (Compounding of Offences) Rules, 2005.

> (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.- In these rules, unless the context otherwise requires,-

a	"Act" means the Customs Act, 1962 (52 of 1962);
b	"applicant" means any importer, exporter or any other person, but shall not include officers of Customs as appointed by Board or Commissioner of Customs under section 4;
c	"compounding authority" means the Chief Commissioner of Customs, having jurisdiction over the place where the offence under the Customs Act, 1962, has been or alleged to have been committed;
d	"form" means the form appended to these rules;
e	"reporting authority" means the Commissioner of Customs, having jurisdiction over the place where the offence under the Act has been or alleged to have been committed or any other officer as may be authorized in this regard by the Chief Commissioner of Customs having jurisdiction over the place where such offence has been or alleged to have been committed;
f	"section" means a section of the Act; and
g	words and expressions used in these rules and not defined but defined in the Act shall have the respective meanings assigned to them in the Act.

3. Form and manner of application. - (1) An applicant may, either before or after institution of prosecution, make an application under sub-section (3) of section 137 in the form appended to these rules, to the compounding authority for compounding of the offence.

Explanation.- Where an offence has been committed at more than one place falling under the jurisdiction of more than one compounding authority, then the Chief Commissioner of Customs having jurisdiction over such place where the value of goods seized, or the amount of duty evaded or attempted to be evaded or amount of export incentives wrongly claimed or attempted to be claimed wrongly is more than others shall be the competent authority.

4. Procedure on receipt of application under rule 3. - (1) On receipt of an application under rule 3, the compounding authority shall call for a report from the reporting authority with reference to the particulars furnished in the application, or any other information, which may be considered relevant for examination of such application.

(2) Such report shall be furnished by the reporting authority within a period of one month or within such extended period as may be allowed by the compounding authority, from the date of receipt of communication from the compounding authority.

(3) The compounding authority after taking into account the contents of the said application may, by order, either allow the application indicating the compounding amount in terms of rule 5 and grant him immunity from prosecution in terms of rule 6 or reject such application:

Provided that application shall not be rejected unless an opportunity has been given to the applicant of being heard and the grounds of such rejection are mentioned in such order.

(4) A copy of every order under sub rule (3) shall be sent to the applicant.

(5) The applicant shall, within a period of thirty days from the date of receipt of order under sub- rule (3) allowing the compounding of offences, pay the compounding amount, as ordered to be paid by the compounding authority and shall furnish the proof of such payment to the compounding authority.

(6) The compounding amount once paid shall not be refunded except in cases where the Court rejects grant of immunity from prosecution.

(7) The applicant cannot claim, as of right, that his offence shall be compounded.

5. Fixation of the Compounding amount .- For the purpose of compounding of offences under the various provisions of the Act , the compounding amount shall be as provided herein below.-

IndiaCode

S. No.	Offence	Compounding amount
1	Offence specified under section 132 of the Act	Rupees fifty thousand for the first offence and to be increased by hundred per cent. of this amount for each subsequent offence.
2	Offence specified under section 133 of the Act	Rupees fifty thousand for the first offence and to be increased by hundred per cent. of this amount for each subsequent offence.
3	Offence specified under section 134 of the Act	Rupees fifty thousand for the first offence and to be increased by hundred per cent. of this amount for each subsequent offence.
4	Offence specified under section 135(1)(a) of the Act	Upto twenty per cent. of market value of the goods or Rupees ten lakhs whichever is higher.
5	Offence specified under section 135(1)(b) of the Act	Upto twenty per cent. of market value of the goods or Rupees ten lakhs whichever is higher.
6	Offence specified under section 135(1)(c) of the Act	Upto twenty per cent. of market value of the goods or Rupees ten lakhs whichever is higher.
7	Offence specified under section 135A of the Act	Upto twenty per cent. of market value of the goods or Rupees ten lakhs whichever is higher.

6. Power of Compounding authority to grant immunity from prosecution.-

The compounding authority, if he is satisfied that any person who has made the

application for compounding of offence under these rules has co-operated in the proceedings before him and has made full and true disclosure of facts relating to the case, grant to such person, subject to such conditions as he may think fit to impose, immunity from prosecution for any offence under the Customs Act, 1962 with respect to the case covered by the compounding of offence.

7. Withdrawal of Immunity from Prosecution in certain conditions.-

(1) An immunity granted to a person under rule 6 shall stand withdrawn if such person fails to pay any sum specified in the order of compounding passed by the Compounding authority, under sub-rule (3) of rule 4 within the time specified in such order or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of the Customs Act, 1962 shall apply as if no such immunity had been granted.

(2) An immunity granted to a person under sub rule (1) above may, at any time, be withdrawn by the Compounding authority, if he is satisfied that such person had, in the course of the compounding proceedings, concealed any particulars, material or had given false evidence, and 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 thereupon the provisions of the Customs Act, 1962 shall apply as if no such immunity had been granted.

FORM

(see rule 3)

(Application for compounding offence)

1. Full Name and address of the applicant:

2. Address for communication:

3. (i) Permanent Account Number (PAN):

(ii) Import Export Code (IEC) No:

4. Commissioner of Customs having jurisdiction over the applicant:

5. The violation of provisions of Customs Act, 1962, against which prosecution is instituted or contemplated for which application of Compounding:

6. Details of Bill(s) of Entry /Shipping Bill(s)/Adjudication order in relation to the case for compounding:

7. Date of seizure, if any:

8. Brief facts of the case and particulars of the offence(s) charged:

9. Whether Show Cause Notice issued:

10. If yes, details of duty/export incentives demanded:

11. whether Show Cause Notice has been adjudicated:

12. If yes, adjudication details:

(a) Amount of duty confirmed:

(b) Export incentive to be recovered/denied:

(c) Fine imposed:

(d) Penalty imposed:

13. Whether this is the first offence under the Customs Act, 1962. If not details of previous cases:

14. Whether any proceedings for the same offence contemplated under any other law, if so the details thereof:

Name and Signature of the applicant.

DECLARATION

1. I shall pay the compounding amount, as may be fixed by the compounding authority under sub-rule (3) of Rule 4 of the Customs (Compounding of Offences) Rules, 2005.

2. I understand that I cannot claim, as of right that the offence committed by me under the Act shall be compounded.

Name and Signature of the applicant.

VERIFICATION

I, ----------the son/daughter/wife of----------residing at ------do solemnly declare that I am making this application in my capacity as ------ and I am competent to verify it.

That the contents of this application are true to the best of my knowledge and belief and no information relevant to the facts of the case has been suppressed. The documents accompanying the application are true copies of the originals and the tables showing financial transactions are correct and are duly attested by me.

Verified today the ------ day of ------ (month), ------ (year) at ------.

Name and Signature of the applicant.

Place:

Date:

[F. No. 450/67/2003-Cus.IV]

(Anupam Prakash)
UNDER SECRETARY TO THE GOVERNMENT OF INDIA