Customs (Compounding of offences) Rules, 2005

[Notification No. 114/2005-Cus. (N.T.), dated 30-12-2005 as amended.]

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 :-

RULE 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.

RULE 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.

RULE 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 [See Customs Series Form No. 124 in Part 5] 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.

RULE 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.

2[Provided further that application shall not be allowed unless the duty, penalty and interest liable to be paid have been for the case for which application has been made.]

(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.

RULE 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 :

Provided that if a person has, in respect of same goods, committed offences falling under more than one[category specified below] and where amount of duty evasion, or ,amount of drawback exemption from duty, provided under the Act in connection with export goods; or amount of market value of the goods is same for all offences, the compounding amount, in such cases, shall be the amount determined for the offence for which a higher compounding amount has been prescribed.

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 ten per cent of the amount of market value of the goods subject to minimum of one lakh rupees.
5.	Offence specified under section 135(1)(b) of the Act	Upto five per cent of the amount of market value of the goods subject to minimum of one lakh rupees.
6.	Offence specified under section 135(1)(c) of the Act	Upto ten per cent of the amount of market value of the goods subject to minimum of one lakh rupees.
7.	Offence specified under section 135(1)(d) of the Act	Upto ten per cent of the amount of market value of the goods subject to minimum of one lakh rupees.
8	Offence specified under section 135A of the Act	Upto five per cent of the amount of market value of the goods subject to minimum of one lakh rupees.

RULE 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.

RULE 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.

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