

Updated up to March 2022

[Training Material for Departmental Use]

E-BOOK

On

***Compounding of offences
under
Indirect Tax Laws***

Note: In this E-book, attempts have been made to explain Compounding of offences under Indirect Tax Laws. It is expected that it will help departmental officers in their day-to-day work.

2. Though all efforts have been made to make this document error free, but it is possible that some errors might have crept into the document. If you notice any errors, the same may be brought to the notice to the NACIN, ZC, Kanpur on the Email addresses: nacin.kanpur@gov.in. This may not be a perfect E-book. If you have any suggestion to improve this book, you are requested to forward the same to us.

3. If any officer is interested in preparing E-book on any topic relating to Customs, Central Excise or Service Tax, he may forward the E-book prepared by him to the Email addresses mentioned above. After necessary vetting, we will include the same in our E-book library for benefit of all Departmental officers.

Sd/-

(Shiv Kumar Sharma)
Additional Director General
NACIN, ZC, Kanpur

INDEX

1. Introduction	4
2. Summary of the Legal Provisions at a Glance.....	4
3. Text of Legal Provisions.....	5
A. Under Customs Act, 1962.....	5
B. Under Central Excise Act, 1944.....	6
4. Important Points to be noted.....	7
4.1 Person accused of certain specified offences not eligible for compounding of offences.....	7
A. Under Customs Act, 1962.....	7
B. Under Central Excise Act, 1944.....	8
C. Finance Act, 1994.....	8
4.2 Procedure for launching of prosecution	8
4.3 Procedure for compounding of offences	9
4.4 Under the compounding rules framed by Central Government, the compounding amounts have been fixed considering the gravity of offence.....	9
A. Under Customs Act, 1962.....	9
B. Under Central Excise Act, 1944.....	10
C. Under Service Tax Provision	11
Rejection of application for compounding.....	12
Time limit prescribed for disposal of application for compounding of offences?.....	12
Withdrawal of the immunity granted from prosecution under Compounding provision	12
Can Appeal be filed by the applicant against the order passed by the Compounding authority?.....	13
Can Departmental officer apply for Compounding of offences?	13
5. Text of Compounding Rules and Circulars.....	13
5.1 Customs (Compounding of offences) Rules, 2005	13
RULE 1. Short title and commencement. –	13
RULE 2. Definitions. –.....	13
RULE 3. Form and manner of application. –.....	14
RULE 4. Procedure on receipt of application under rule 3. –.....	14
[RULE 5 Fixation of the compounding amount.-.....	15
RULE 6 Power of Compounding authority to grant immunity from prosecution –.....	16
RULE 7 Withdrawal of Immunity from Prosecution in certain conditions	16

Compounding of Offences under Indirect Tax Laws

5.2	Central Excise (Compounding of offences) Rules, 2005.....	17
	RULE 1 Short title and commencement	17
	RULE 2 Definitions.....	17
	RULE 3 Form and manner of application	17
	RULE 4 Procedure on receipt of application under rule 3.....	18
	RULE 5 Fixation of the compounding amount.....	18
	RULE 6 Power of Compounding authority to grant immunity from prosecution	19
	RULE 7 Withdrawal of Immunity from prosecution in certain conditions	20
5.3	Service Tax (Compounding of offences) Rules, 2012.....	20
	RULE 1 Short title and commencement	20
	RULE 2 Definitions.....	20
	RULE 3 Form and manner of application	21
	RULE 4. Procedure on receipt of application under rule 3.....	21
	RULE 5 Fixation of the compounding amount.....	22
	RULE 6 Power of compounding authority to grant immunity from prosecution	23
	RULE 7 Withdrawal of immunity from prosecution in certain conditions	23
6.	Text of Relevant Circulars.....	23
6.1	Circular No.20/2008-Customs, dated 2.12.2008	23
6.2	Circular No. 29/2009-Customs,dated 15.10.2009	25
7.	Important Case Laws	28
8.	Form and Formats	28
8.1	Format for Application for compounding of offences under Customs Act, 1962	28
8.2.	Format for Application for compounding of offences under Central Excise Act, 1944	31
8.3	Format for Application for compounding of offences under Customs Act, 1962	33
9.	Circular Issued by Board but no longer relevant	34

Compounding of Offences under Indirect Tax Laws

1. Introduction

1.1. To prevent litigation and encourage early settlement of disputes, the Government introduced a scheme in year 2005 providing for compounding of offences against payment of compounding amount. Initially, it was extended to offences under Customs Act, 1962 and Central Excise Act, 1944. In the year 2012, it has been extended to offences under the Finance Act, 1994 (relating to service Tax) also.

1.2. The term “applicant” has been defined in the compounding of offences Rules framed under the above said Indirect Tax Statutes. It includes any assessee or any other person, but shall not include,-

- (i) officers of Central Excise as appointed by Board or Commissioner of Central Excise under Rule 3 of the Central Excise Rules, 2002, and
- (ii) officers of Customs as appointed by Board or Commissioner of Customs under section 4 of the Customs Act, 1962.

2. Summary of the Legal Provisions at a Glance

Sr. No.	Section/Rules/notification/Circulars/Instructions	Subject
1.	Sub-section (3) of Section 137 of the Customs Act, 1962 [Inserted vide Section 71 of the Finance Act, 2004]	Provides for compounding in all offences under Customs Act, 1962 except certain specified offences on payment of Compounding amount.
2.	Sub-section (2) of Section 9A of the Central Excise Act, 1994 [Inserted vide Section 79 of the Finance Act, 2004 and amended vide Section 104 of Finance Act,2009]	Provides for compounding in all offences under Central Excise Act, 1944 except certain specified offences on payment of Compounding amount.
3.	Customs (Compounding of offences) Rules, 2005	These rules has been notified vide notification No. 114/2005-Customs (NT), dated 30.12.2005 as amended]
4.	Central Excise (Compounding of offences) Rules, 2005	These rules has been notified vide notification No. 37/2005-C.E. (N.T.), dated 30-12-2005 as amended]
5.	Service Tax (Compounding of offences) Rules, 2012	These rules has been notified vide notification No. 17/2012-Service Tax, dated 29-05-2012]

6.	Circulars	
6.1	Circular No. 54/2005-Custom, dated 30.12.2005. [This has been superseded vide Circular No. 29/2009-Customs, dated 15.10.2009 and hence, the text of it has not been incorporated in this E-book].	Explains the salient features of the scheme of compounding of offences under Customs Act, 1962 and Central Excise Act, 1944.
6.2	Circular No. 20/2008-Customs, dated 2.12.2008	It highlights the changes made in the scheme of Customs (Compounding of offences) Rules, 2005 based on the recommendations of the Committee on Subordinate Legislation (Rajya Sabha).
6.3	Circular No. 29/2009-Customs, dated 15.10.2009	Explains the salient features of the Scheme of Compounding of offences under Customs Act, 1962 and Central Excise Act, 1944 after amendment of relevant provisions in the light of recommendation of Committee on Subordinate Legislation (Rajya Sabha) and the decision of the Supreme Court in the case of U.O.I. vs. Anil Chanana (2008 (222) ELT 481 SC)

3. Text of Legal Provisions

A. Under Customs Act, 1962

3.1 Sub-Section (3) of Section 137 of the Customs Act, 1962 [*Inserted vide Section 71 of the Finance Act, 2004 and later amended vide Section 89 of the Finance Act, 2009*]

(3) Any offence under this Chapter may, either before or after the institution of prosecution, be compounded by the Chief Commissioner of Customs on payment, by the person accused of the offence to the Central Government, of such compounding amount and in such manner of compounding as may be specified by rules.

Provided that nothing contained in this sub-section shall apply to-

- (a) a person who has been allowed to compound once in respect of any offence under sections 135 and 135A;*
- (b) a person who has been accused of committing an offence under this Act which is also an offence under any of the following Acts, namely:—*
 - (i) the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985);*
 - (ii) the Chemical Weapons Convention Act, 2000 (34 of 2000);*
 - (iii) the Arms Act, 1959 (54 of 1959);*

- (iv) *the Wild Life (Protection) Act, 1972 (53 of 1972);*
- (c) *a person involved in smuggling of goods falling under any of the following, namely:—*
- (i) *goods specified in the list of Special Chemicals, Organisms, Materials, Equipment and Technology in Appendix 3 to Schedule 2 (Export Policy) of ITC (HS) Classification of Export and Import Items of the Foreign Trade Policy, as amended from time to time, issued under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);*
 - (ii) *goods which are specified as prohibited items for import and export in the ITC (HS) Classification of Export and Import Items of the Foreign Trade Policy, as amended from time to time, issued under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);*
 - (iii) *any other goods or documents, which are likely to affect friendly relations with a foreign State or are derogatory to national honour;*
- [
- (d) *a person who has been allowed to compound once in respect of any offence under this Chapter for goods of value exceeding rupees one crore;*
- (e) *a person who has been convicted under this Act on or after the 30th day of December, 2005.*

3.2 Further, clause (h) of sub-section (2) of Section 156 of the Customs Act, 1962 empowers Central Government to make rules, which may provide for “the amount to be paid for compounding and the manner of compounding under sub-section (3) of Section 137 of the Customs Act, 1962

B. Under Central Excise Act, 1944

3.3 Sub-Section (2) of Section 9A of the Central Excise Act, 1944 provides as under:-

(2) Any offence under this Chapter may, either before or after the institution of prosecution, be compounded by the Chief Commissioner of Central Excise on payment, by the person accused of the offence to the Central Government, of such compounding amount and in such manner of compounding as may be prescribed:

Provided *that nothing contained in this sub –section shall apply to ---*

- (a) a person who has been allowed to compound once in respect of any of the offences under the provisions of clause (a),(b),(bb),(bbb),(bbbb) or (c) of sub –section (1) of section 9;*
- (b) a person who has been accused of committing an offence under this Act which is also an offence under the Narcotic Drugs and Psychotropic Substance Act,1985 (61 of 1985);*
- (c) a person who has been allowed to compound once in respect of any of the offence under this Chapter for goods of value exceeding rupees one crore;*

(d) a person who has been convicted by the court under this Act on or after the 30th day of December, 2005.

3.4 Further, clause (id) of sub-section (2) of Section 37 of the Central Excise Act, 1944 empowers Central Government to make rules, which may provide for “the amount to be paid for compounding and the manner of compounding under sub-section (2) of Section 9A of the Central Excise Act, 1944.”

3.5 The provision of Section 9A of the Central Excise Act, 1944 has been made applicable to Service Tax matters *vide* section 83 of the Finance Act, 1994. Further, clause (i) of sub-section (2) of Section 94 of the Finance Act, 1944 empowers Central Government to make rules, which may provide for “the amount to be paid for compounding and the manner of compounding of offences”.

4. Important Points to be noted

4.1 Person accused of certain specified offences not eligible for compounding of offences

A. Under Customs Act, 1962

(i) Any person who along with offence under Customs Act, has also committed or has also been accused of committing an offence under any of the following Acts:-

- (a) Narcotics Drugs and Psychotropic Substances Act, 1985;
- (b) Chemical Weapons Convention Act, 2000;
- (c) Arms Act, 1959
- (d) The Wild Life (Protection) Act, 1972

(ii) Any person who is involved in cases of smuggling of goods falling under any of the following categories,-

- (a) Special Chemicals, Organisms, Materials, Equipments & Technologies (SCOMET), as specified in Appendix-3 to Schedule 2 of ITC (HS);
- (b) Prohibited items for import or export as specified in the ITC (HS) Classifications of Export and Import items, 2004-09 issued under section 3 of the Foreign Trade (Development and Regulation) Act, 1992;
- (c) Any other goods or a document, which is likely to affect friendly relations with any foreign state or is derogatory to national prestige.

(iii) Any person who has already exercised the option of compounding of an offence in respect of goods of value exceeding rupees one crore in the past.

(iv) Any person who has been convicted under the Act by an order issued subsequent to the date of publication of the Customs/ Excise (Compounding of offences) Rules in the official gazettee.

(v) Any person who has applied for compounding of offences in respect of any offence under Section 135 and 135A.

B. Under Central Excise Act, 1944

- (a) a person who has been allowed to compound once in respect of any of the offences under the provisions of clause (a), (b), (bb), (bbb), (bbbb) or (c) of sub – section (1) of section 9;
- (b) a person who has been accused of committing an offence under this Act which is also an offence under the Narcotic Drugs and Psychotropic Substance Act,1985 (61 of 1985);
- (c) a person who has been allowed to compound once in respect of any of the offence under this Chapter for goods of value exceeding rupees one crore;
- (d) a person who has been convicted by the court under this Act on or after the 30th day of December, 2005.

C. Finance Act, 1994

No such person specified under Compounding of Offences (Service Tax) Rules, 2012

4.2 Procedure for launching of prosecution

Step-wise procedure since detection of case is as under:-

- detection of case of duty evasion, completion of investigation and issuance of SCN
- adjudication of SCN and recommendation by the adjudicating authority regarding launching of prosecution (in certain serious case, prosecution can be launched even before adjudication)
- proposal in specified format to be sent by the Concerned Commissionerates to Principal Chief Commissioner /Chief Commissioner C for sanction of prosecution -(in case of DGCEI case, the decision regarding persecution to be taken by DG, DGCEI)
- Consideration of proposal by Principal Chief Commissioner / Chief Commissioner and sanction of prosecution on file.
- Issuance of letter to the person to be prosecuted offering them compounding option.

- In case of non-acceptance of option for compounding, launching of prosecution by the respective field formation.

4.3 Procedure for compounding of offences

- Filing/Receipt of application for compounding in the specified format with the compounding authority (jurisdictional Principal Chief Commissioner/ Chief Commissioner).
- To obtain a factual report from the Reporting Authority (within one month of receipt of the application for compounding). Period of one month can be extended by Compounding authority
- Grant of personal hearing to the applicant before rejection of his application
- Passing of order (within one month of personal hearing)

Compounding amount

4.4 Under the compounding rules framed by Central Government, the compounding amounts have been fixed considering the gravity of offence.

The compounding amounts fixed are as under:-

A. Under Customs Act, 1962

TABLE-1

Sl. No.	Offence Under Customs Act, 1962	Compounding amount
(1)	(2)	(3)
1.	Offence specified under Section 132 of the Act	Fifty thousand rupees 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	Fifty thousand rupees 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	Fifty thousand rupees 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 a minimum of one lakh rupees.
5.	Offence specified under Section 135 (1)	Upto five per cent. of the amount of market value of the goods, subject to a minimum of one lakh

Compounding of Offences under Indirect Tax Laws

Sl. No.	Offence Under Customs Act, 1962	Compounding amount
(1)	(2)	(3)
	(b) of the Act	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 a 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 a 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 a minimum of one lakh rupees.

B. Under Central Excise Act, 1944

TABLE-2

Sl. No.	Offence [under Central Excise Act, 1944]	Offence in details	Compounding amount
(1)	(2)		(3)
1.	Offence specified under section 9(1)(a) of the Act	Contravention of any of the provisions of section 8 or of a rule made under clause (iii) or clause (xxvii) of sub-section (2) of section 37;	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 9(1)(b) of the Act	evades the payment of any duty payable under this Act;	Up to fifty per cent of the amount of duty evasion, subject to minimum of ten per cent of duty evasion.
3.	Offence specified under section 9(1)(bb) of the Act	removes any excisable goods in contravention of any of the provisions of this Act or any rules made thereunder or in any way concerns himself with such removal;	Upto fifty per cent of the amount of duty evasion, subject to minimum of ten per cent of duty evasion.
4.	Offence specified under	acquires (bbb) transporting, depositing, possession of, or	Upto twenty five per cent of the amount of duty evasion,

Compounding of Offences under Indirect Tax Laws

	section 9(1) (bbb) of the Act	in any way concerns himself in keeping, concealing, selling or purchasing, or in any other manner deals with any excisable goods which he knows or has reason to believe are liable to confiscation under this Act or any rule made thereunder;	subject to minimum of ten per cent of duty evasion.
5.	Offence specified under section 9(1)(bbbb) of the Act	Contravenes the provisions of this Act or the rules made thereunder in relation to credit of any duty allowed to be utilised towards payment of excise duty on final products;	Upto fifty per cent of the amount of CENVAT Credit wrongly taken or utilized, subject to minimum of ten per cent of said amount.
6.	Offence specified under section 9(1)(c) of the Act	fails to supply any information which he is required by rules made under this Act to supply, 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;	Rupees fifty thousand for the first offence and to be increased by hundred per cent of this amount for each subsequent offence.
7.	Offence specified under section 9(1)(d) of the Act	attempts to commit, or abets the commission of, any of the offences mentioned in clauses (a) and (b) of this section;	Upto twenty five per cent of the amount of duty evasion, subject to minimum of ten per cent of duty evasion.

C. Under Service Tax Provision

Table 3

S. No.	Offence under Finance Act, 1994	Compounding amount
(1)	(2)	(3)
1.	Offence specified under section 89 (1)(a) of the Act	Up to fifty per cent. of the amount of service tax evasion, subject to minimum of ten per cent. of amount of tax evaded
2.	Offence specified under section 89 (1)(b) of the Act	Upto fifty per cent. of the amount of CENVAT Credit wrongly taken or utilised, subject to minimum of ten per cent. of said amount.
3.	Offence specified under section 89 (1)(c) 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	Upto twenty five per cent. of the amount of service tax

	section 89 (1)(d) of the Act	not deposited subject to a minimum of two per cent. for each month for which the amount has not been so deposited.
--	------------------------------	--

Rejection of application for compounding

4.5 Application for compounding can also be rejected by the compounding authority. However, 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. Therefore, in such a case, Personal hearing is necessarily to be given.

4.6 The Board has also clarified that on the basis of the decision of the Supreme Court in the case of U.O.I. vs. Anil Chanana (2008 (222) ELT 481 SC) that compounding of offences is undertaken based on the principle of Disclosure. The basic rule of disclosure, underlying Section 137(3) read with Rule 6 of the Customs (Compounding of offences) Rules, 2005, is that if there are demonstrable contradictions or inconsistencies or incompleteness in the case of the applicant, then the application for compounding cannot be entertained. It is reiterated that the aforesaid decision of the Supreme Court and rule of disclosure shall be followed while considering the compounding of offences. Accordingly, compounding of offences may not be allowed where there are demonstrable contradictions, inconsistencies or incompleteness in the case.

Time limit prescribed for disposal of application for compounding of offences?

4.7 The Compounding Authority is required to dispose of the application within an overall time limit of 6 months from the date of receipt of application.

Withdrawal of the immunity granted from prosecution under Compounding provision

4.8 Immunity granted from prosecution can be withdrawn in following cases:-

- (a) if such person fails to pay any sum specified in the order of compounding passed by the compounding authority within the time specified in such order or fails to comply with any other condition subject to which the immunity was granted.
- (b) immunity granted to a person 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

Can Appeal be filed by the applicant against the order passed by the Compounding authority?

4.9 Under the scheme of compounding of offences, no appeal provisions have been provided. In such cases, against the order of compounding of offences, Writ petition can be filed by the applicant.

Can Departmental officer apply for Compounding of offences?

4.10 The officer of Custom or Central Excise officer have been excluded from the definition of “applicant” defined under Compounding Rules, therefore, they are not eligible for benefit under the provisions relating to compounding of offences contains under the Customs Act, 1962/Central Excise Act, 1944/ Finance Act, 1994.

5. Text of Compounding Rules and Circulars.

5.1 Customs (Compounding of offences) Rules, 2005 [Notification No. 114/2005-Cus. (N.T.), dated 30-12-2005 as amended *vide* notification No. 118/2008-Customs (NT), dated 12.11.2008.]

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 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.

Compounding of Offences under Indirect Tax Laws

¹[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.

²[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 in the following Table:

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 or exemption from duty, provided under the Act in connection with export goods; or amount of market value of the goods is same for all such offences, the compounding amount, in such cases, shall be the amount determined for the offence for which a higher compounding amount has been prescribed.

Table

Sl.No.	Offence	Compounding amount
(1)	(2)	(3)
1.	Offence specified under Section 132 of the Act	Fifty thousand rupees 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	Fifty thousand rupees 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	Fifty thousand rupees 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 a minimum of one lakh rupees.

¹ Inserted *vide* notification No. 118/2008-Customs (NT), dated 12.11.2008

² Substituted *vide* notification No. 118/2008-Customs (NT), dated 12.11.2008

Compounding of Offences under Indirect Tax Laws

Sl.No.	Offence	Compounding amount
(1)	(2)	(3)
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 a 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 a 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 a 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 a 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 offences 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 offences.

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.

5.2 Central Excise (Compounding of offences) Rules, 2005 [Notified *vide* notification No. 37/2005-C.E. (N.T.), dated 30-12-2005 as amended by notification No. 42/2007-C.E. (N.T.), dated 27.12.2007]

In exercise of the powers conferred by clause (id) of sub-section (2) of section 37 read with sub-section (2) of section 9A of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby makes the following rules, namely :

RULE 1 Short title and commencement

- (i) These rules may be called the Central Excise (Compounding of offences) Rules, 2005.
- (ii) 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 Central Excise Act, 1944 (1 of 1944);
- (b) “applicant” means any assessee or any other person, but shall not include officers of Central Excise as appointed by Board or Commissioner of Central Excise under Rule 3 of the Central Excise Rules, 2002;
- (c) “compounding authority” means the Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise, as the case may be, having jurisdiction over the place where the offence under the Central Excise Act, 1944, have been or alleged to have been committed;
- (d) “form” means the form appended to these rules;
- (e) “reporting authority” means, the Principal Commissioner of Central Excise or Commissioner of Central Excise, as the case may be, having jurisdiction over the factory/place where the offences under the Act have been or are alleged to have been committed or any other officer as may be authorized in this regard by the Chief Commissioner of Central Excise having jurisdiction over the place where such offences under the Act have been or are 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 2 of section 9A in the form appended to these rules, to the Compounding authority to compound the offence:

Explanation - Where an offence under the Act has been committed at more than one place falling under the jurisdiction of more than one compounding authority, then the Chief Commissioner of Central Excise having jurisdiction over such place where the value of goods seized, or the amount of duty evaded or attempted to be evaded is more than the 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.

Provided further that application shall not be allowed unless the duty, penalty and interest liable to be paid have been paid 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

Compounding of Offences under Indirect Tax Laws

For the purpose of compounding of offences under the provisions of the Act, the compounding amount shall be as provided in the following Table, namely :-

TABLE

S. No.	Offence	Compounding amount
(1)	(2)	(3)
1	Offence specified under section 9(1)(a) 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 9(1)(b) of the Act	Up to fifty per cent of the amount of duty evasion, subject to minimum of ten per cent of duty evasion.
3	Offence specified under section 9(1)(bb) of the Act	Upto fifty per cent of the amount of duty evasion, subject to minimum of ten per cent of duty evasion
4	Offence specified under section 9(1) (bbb) of the Act	Upto twenty five per cent of the amount of duty evasion, subject to minimum of ten per cent of duty evasion.
5	Offence specified under section 9(1)(bbbb) of the Act	Upto fifty per cent of the amount of CENVAT Credit wrongly taken or utilized, subject to minimum of ten per cent of said amount.
6	Offence specified under section 9(1)(c) 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.
7	Offence specified under section 9(1)(d) of the Act	Upto twenty five per cent of the amount of duty evasion, subject to minimum of ten per cent of duty evasion.

Provided that if a person has, in respect of same goods, committed offences falling under more than one category specified above and where amount of duty evasion or amount of CENVAT Credit wrongly taken or utilized is same for all such offences, the compounding amount, in such cases, shall be the amount determined for the offence for which a higher compounding amount has been prescribed.

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 offences 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 Central Excise Act, 1944 with respect to the case covered by the compounding of offences.

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 Central Excise Act, 1944 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 the Central Excise Act, 1944 shall apply as if no such immunity had been granted.

5.3 Service Tax (Compounding of offences) Rules, 2012 [*notified vide notification No. 17/2012-Service Tax, dated 29-05-2012*]

G.S.R. (E).- In exercise of the powers conferred by clause (i) of sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994)(hereinafter referred to as “the Act”) read with sub-section (2) of section 9A of the Central Excise Act, 1944 (1 of 1944), made applicable to service tax *vide* section 83 of the Act, the Central Government hereby makes the following rules, namely :

RULE 1 *Short title and commencement*

- (1) These rules may be called the Service Tax (Compounding of offences) Rules, 2012.
- (2) They shall come into force on the date of publication in the Official Gazette.

RULE 2 *Definitions*

In these rules, unless the context otherwise requires,-

- (a) “Act” means Chapter V of the Finance Act, 1994 (32 of 1994);
- (b) “applicant” means any assessee or any other person, but shall not include officers of Central Excise appointed for exercising the powers under the Act under rule 3 of the Service Tax Rules, 1994;
- (c) “compounding authority” means the Chief Commissioner of Central Excise, having jurisdiction over the place where the offence under the Act, have been or alleged to have been committed;

- (d) “Excise Act” means the Central Excise Act, 1944 (1 of 1944);
- (e) “form” means the form appended to these rules;
- (f) “reporting authority” means, the Commissioner of Central Excise or Commissioner of Service Tax, having jurisdiction over the place where the offences under the Act have been or are alleged to have been committed or any other officer as may be authorised in this regard by the Chief Commissioner of Central Excise having jurisdiction over the place where such offences under the Act, have been or are alleged to have been committed;
- (g) “section” means a section of the Act; and
- (h) words and expressions used in these rules and not defined but defined in the Act or Central Excise Act, 1944 shall have the respective meanings assigned to them in the Act or Central Excise Act, 1944, as the case may be.

RULE 3 *Form and manner of application*

An applicant may, either before or after the institution of prosecution, make an application under sub-section (2) of section 9A of Excise Act, made applicable to service tax *vide* section 83 of the Act, in the form appended to these rules, to the compounding authority to compound the offence.

Explanation.- Where an offence under the Act has been committed at more than one place falling under the jurisdiction of more than one compounding authority, then the Chief Commissioner of Central Excise having jurisdiction over such place where the amount of service tax evaded is more than the 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:

Compounding of Offences under Indirect Tax Laws

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:

Provided further that application shall not be allowed unless the service tax, penalty and interest liable to be paid have been paid 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 shall not claim, as of right, that his offence be compounded.

RULE 5 Fixation of the compounding amount

For the purpose of compounding of offences under the provisions of the Act, the compounding amount shall be as provided in the following Table, namely:-

Table		
S.No.	Offence	Compounding amount
(1)	(2)	(3)
1.	Offence specified under section 89 (1)(a) of the Act	Up to fifty per cent. of the amount of service tax evasion, subject to minimum of ten per cent. of amount of tax evaded
2.	Offence specified under section 89 (1)(b) of the Act	Upto fifty per cent. of the amount of CENVAT Credit wrongly taken or utilised, subject to minimum of ten per cent. of said amount.
3.	Offence specified under section 89 (1)(c) 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 89 (1)(d) of the Act	Upto twenty five per cent. of the amount of service tax not deposited subject to a minimum of two per cent. for each month for which the amount has not been so deposited.

Provided that if a person has committed offences falling under more than one category specified above and where the amount of service tax evasion or amount of CENVAT Credit wrongly taken or utilised is the same for all such offences, the compounding amount, in such cases, shall be the amount as determined for the offence for which a higher compounding amount has been prescribed.

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 offences 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 such person, subject to such conditions as he may think fit to impose, immunity from prosecution for any offence under the Act, with respect to the case covered by the compounding of offences.

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 the order or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of the Act, shall apply as if no such immunity had been granted.

(2) An immunity granted to a person under sub-rule (1) 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 material particulars, or had given false *evidence*, and thereupon the 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 Act, shall apply as if no such immunity had been granted.

6. Text of Relevant Circulars

6.1 Circular No.20/2008-Customs, dated 2.12.2008 [Issued from F.No. 450/67/2003-Cus.IV (Pt)]

Subject: Guidelines for compounding of offences under Customs (Compounding of offences) Rules, 2005 - regarding.

Please refer to notification No.118/2008-Customs (N.T) dated 12.11.2008 whereby certain amendments have been carried out in the Customs (Compounding of offences) Rules, 2005. Further, considering the recommendations made by the

Committee on Subordinate Legislation (Rajya Sabha) and to make a meaningful impact on the Scheme of Compounding of offences, the following changes have been made in the scheme of Customs (Compounding of offences) Rules, 2005 and the guidelines issued in this regard.

2. The compounding amount prescribed under Rule 5 of the said Rules has been revised downwards. A new proviso has been inserted in this rule, which provides that if a person has, in respect of same goods, committed offences falling under more than one category, i.e., Sl.No.1 to 8 of the table specified in this rule and where amount of duty evasion or amount of drawback or exemption from duty, or amount of market value of the goods is same for all such offences, then the compounding amount, in such cases, shall be the amount determined for the offence for which a higher compounding amount has been prescribed.

3. Further, in rule 4, a new provision has been added, whereby it has been provided that an applicant should pay duty, penalty, and interest before submission of application for compounding. Correspondingly, the Application Form has also been amended by inserting Sl.No.12A so as to ensure that the compounding of offences shall not be allowed unless the aforesaid duty, penalty and interest thereon are paid by the applicant.

4.1. In view of the recommendations of the Committee, for early disposal of the applications for compounding, the Board directs that normally the application for compounding of offences may be disposed of within a period of 3 months from the date of receipt of such application. In order to ensure such time bound disposal, it is reiterated that the existing instructions regarding time limit for launching prosecution should be followed. In straight cases, where the importer / exporter is caught red handed, prosecution may be launched immediately after seizure of the goods. In other cases, the process of deciding about launching of prosecution or otherwise shall be completed within a month of adjudication of the case. Further, cases of prosecution shall be pursued seriously with the respective Government Counsels and the Courts.

4.2. The Compounding Authority shall invariably obtain a factual report from the Reporting Authority within one month of receipt of the application for compounding, except in deserving cases, where request for extension of the period have been sought for justifiable reasons (i.e. 1 month). Where an opportunity of personal hearing requires to be given to the applicant before passing of an order, the same shall be offered within one month's time of date of receipt of report from the Reporting Authority (1 month). After taking into account the contents of the application and the concerned reports of the Reporting Authority and submissions (written or oral) made by applicant, the Compounding Authority may be able to dispose of the case within one month of the date of personal hearing or obtaining a report whichever is later (1 month). In any case, even if there are certain difficulties in timely submission of report or conducting timely personal hearings, the Compounding Authority shall dispose of the application within an overall time limit of 6 months as provided in para 7 of the guidelines issued in this regard.

5. Further, it was decided by the Board that compounding of offences should not be allowed where there are demonstrable contradictions, inconsistencies or incompleteness in the case. Accordingly, in the guidelines issued for compounding of offences under Customs and Central Excise Acts *vide* Circular No.54/2005-Cus dated 30.12.2005, the following additional guidelines shall be added:

“3(v): Any person who has applied for compounding of offences in a case, where there are apparent contradictions or inconsistencies or incompleteness.”

6. Adequate publicity may be given about reduction of compounding amount, in order to make the scheme more popular as to reduce the cases pending in the Court. Further, in order to make best use of compounding of offences scheme, all persons against whom prosecution is initiated or contemplated, should be informed separately in writing, the offer of compounding. Guidelines issued *vide* Circular No.54/2005-Cus dated 30.12.2005 shall continue to apply, subject to the amendments made *vide* Notification No.118/2008-Customs (NT) dated 12.11.2008 and the changes mentioned in para 5 above.

7. The field formations as well as trade and industry may be suitably informed.

8. Hindi version will follow.

Director (Customs)

6.2 Circular No. 29/2009-Customs, dated 15.10.2009 [Issued from F. No. 450 /139 /2008-Cus.IV (Pt.)]

Subject: Guidelines for compounding of offences under Customs Act, 1962 – regarding.

I am directed to invite your attention to the Board’s Circular No. 54/2005-Cus dated 30.12.2005 prescribing the Guidelines for compounding of offences for implementing the provisions of the Customs Act, 1962 and the Customs (Compounding of offences) Rules, 2005.

2. The High Court of Bombay in their Order dated 25.10.2007 passed in W.P. No. 1884 of 2007 held that there is no power conferred to interfere with the statutory power of the Chief Commissioner of Customs for compounding of offences under Section 137(3) of the Customs Act, 1962. Hence, the guidelines issued by the Board, *vide* Circular No. 54/2005-Cus dated 30.12.2005, classifying offences as ‘technical’ and ‘substantive’, allowing substantive offences to be compounded only once and excluding certain cases from the purview of the compounding were held by the Court to be *ultra vires* to Customs Act, 1962 and Rules made thereunder.

3. The matter was examined in the Board for appropriate amendment in the provisions of the Customs Act, 1962 for compounding of offences. Accordingly, Section 137(3) of the Customs Act, 1962 was suitably amended through the Finance (No. 2) Act, 2009 (No. 33 of 2009). Through these amendments, certain categories of cases have been excluded from the purview of compounding such as cases pertaining to:

- (a) a person who has already been allowed compounding once in respect of any offence under section 135 and 135A of the Customs Act, 1962
- (b) a person who has been accused of committing an offence under Customs Act, which is also an offence under Narcotics Drugs and Psychotropic Substances Act, 1985 or Chemical Weapons Convention, Act, 2000 or Arms Act, 1959 or Wild Life (Protection) Act, 1972
- (c) a person involved in smuggling of goods falling under any of the specified categories of goods such as Special Chemicals, Organisms, Materials, Equipments & Technologies (SCOMET); prohibited items for import or export as specified under Section 5 of the Foreign Trade (Development and Regulation) Act, 1992; goods or a document, which are likely to affect friendly relations with any foreign state or is derogatory to national prestige.
- (d) a person who has been allowed to compound once in respect of any offence under the Chapter XVI of the Customs Act, 1962 for goods of value exceeding rupees one crore.
- (e) a person who has been convicted under the Customs Act, 1962 on or after the 30th Day of December, 2005.

4. The Board had also issued a Circular No.20/2008-Customs dated 2.12.2008 highlighting the changes made in the scheme of Customs (Compounding of offences) Rules, 2005 based on the recommendations of the Committee on Subordinate Legislation (Rajya Sabha). These relate to early disposal of applications for compounding by obtaining a factual report within the stipulated period and dispose of the application within the overall time limit of six months. It was also stated that on the basis of the decision of the Supreme Court in the case of U.O.I. vs. Anil Chanana (2008 (222) ELT 481 SC) that compounding of offences is undertaken based on the principle of Disclosure. The basic rule of disclosure, underlying Section 137(3) read with Rule 6 of the Customs (Compounding of offences) Rules, 2005, is that if there are demonstrable contradictions or inconsistencies or incompleteness in the case of the applicant, then the application for compounding cannot be entertained. It is reiterated that the aforesaid decision of the Supreme Court and rule of disclosure shall be followed while considering the compounding of offences. Accordingly, compounding of offences may not be allowed where there are demonstrable contradictions, inconsistencies or incompleteness in the case.

5. Further, at the time of introduction of the Scheme of Customs Compounding of offences, the salient features of the provisions were explained in the Board's circular. The following are the important points and are reiterated:

- (i) Offence committed by officers of Customs/ Central excise does not merit compounding as it is a matter between the State and its employee. Accordingly the definition of the applicant excludes the departmental officers.
- (ii) As the Chief Commissioner has to decide about the eligibility of the applicant and allow compounding in respect of an application filed before him on the basis of certain facts given by the applicant, it may be ensured that verification of such facts is done by calling for a report or any other facts or information available on record from the reporting authority.
- (iii) As per Rule 6 of the Customs (Compounding of offences) Rules, 2005, any person who has made the application for compounding of offences and has made full and true disclosure of facts relating to the case, is given immunity from prosecution for any offence under the Customs Act, 1962 with respect to the case covered by the compounding of offences. Since the filing of application under compounding rules is the individual option of the person to avoid prosecution, other persons involved in the case/ offence and who have not filed the application would not be given immunity from prosecution. In such situation, remaining persons would face regular proceedings of the department for adjudication/ prosecution/ appeal.
- (iv) On the basis of the recommendations made by the Committee on Subordinate Legislation (Rajya Sabha) and to enable the Scheme of Compounding of offences to make a meaningful impact, the compounding amount prescribed under Rule 5 of the said Rules has been revised downwards *vide* notification No.118/2008-Customs (NT) dated 12.11.2008. A new proviso has also been inserted in this rule, which provides that if a person has, in respect of same goods, committed offences falling under more than one category, i.e., Sl.No.1 to 8 of the table specified in this rule and where amount of duty evasion or amount of drawback or exemption from duty, or amount of market value of the goods is same for all such offences, then the compounding amount, in such cases, shall be the amount determined for the offence for which a higher compounding amount has been prescribed.
- (v) In terms of Rule 4, an applicant is required to pay duty, penalty, and interest before submission of an application for compounding of offences. Correspondingly, the Application Form also contains a specific column under Sl.No.12A requiring the applicant to declare whether he has paid the same and their details. Hence, it is clarified that the compounding of offences shall not be allowed unless the aforesaid duty, penalty and interest thereon are paid by the applicant.

6. In order to make best of use of the scheme of compounding of offences, it is reiterated that at the time of intimation/ initiating action for launching of prosecution itself, the assessee should be given an offer of compounding. It may, however, be clarified that the application for compounding shall be decided on merits and in exercise of the powers vested with the Chief Commissioner. In respect of cases where the Chief Commissioner is not inclined to accede to the applicant's request for compounding, the same may be rejected duly informing the grounds and after following the principles of natural justice.
7. The above instructions may be taken into consideration by the Compounding Authorities while examining the applications for compounding.
8. This Circular **supersedes Board's Circular No. 54/2005-Customs dated 30.12.2005.**
9. These instructions may be brought to the notice of all concerned by way of issuance of suitable Public Notice / Standing Order.
10. Difficulties, if any, in implementation of the Circular may be brought immediately to the notice of the Board.

Under Secretary (Customs Policy)

7. Important Case Laws

- (1) U.O.I. vs. Anil Chanana (2008 (222) ELT 481 SC)

8. Form and Formats

8.1 Format for Application for compounding of offences under Customs Act, 1962 (as notified under Rule 3 of Customs (Compounding of offences) Rules, 2005)

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:

Compounding of Offences under Indirect Tax Laws

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.

Compounding of Offences under Indirect Tax Laws

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

Name and Signature of the applicant.

Place:

Date:

nacenkanpur.gov.in

8.2. Format for Application for compounding of offences under Central Excise Act, 1944 *(as notified under Rule 3 of Central Excise (Compounding of offences) Rules, 2005)*

FORM
(see rule 3)

Application for Compounding of offences

1. Full Name and address of the applicant:
2. Address for communication:
3. (i) Permanent Account Number (PAN):
(ii) Registration No:
4. Commissioner of Central Excise having jurisdiction over the applicant:
5. The violation of provisions of Central Excise Act, 1944, against which prosecution is instituted or contemplated for which application of Compounding:
6. Details of invoices/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 demanded
11. Whether Show Cause Notice has been adjudicated
12. If yes, adjudication details
 - (a) Amount of duty confirmed
 - (b) Amount of CENVAT credit to be recovered/denied
 - (c) Fine imposed
 - (d) Penalty imposed
13. Whether this is the first offence under the Central Excise Act, 1944. 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 Central Excise (Compounding of offences) Rules, 2005.
2. I understand that I cannot claim, as of right that the offence committed by me under the Act should 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:

8.3 Format for Application for compounding of offences under Customs Act, 1962 [as notified under Rule 3 of Service Tax (Compounding of offences) Rules, 2005]

FORM
(See rule 3)

Application for Compounding of offences

1. Full Name and permanent address of the applicant:
2. Address for communication:
3. (i) Permanent Account Number (PAN):
(ii) Service Tax Registration No:
4. Commissioner of Central Excise/Service Tax having jurisdiction over the applicant:
5. Specific provision(s) of Chapter V of the Finance Act, 1994, against whose violation, prosecution is instituted or contemplated for which application of compounding is being filed:
6. Details of Adjudication Order in relation to the case for compounding:
7. Brief facts of the case and particulars of the offence (s) charged:
8. Whether Show Cause Notice issued:
9. If yes, details of service tax demanded:
10. Whether Show Cause Notice has been adjudicated:
11. If yes, adjudication details:
 - (a) Amount of service tax confirmed:
 - (b) Amount of CENVAT credit to be recovered/denied:
 - (c) Penalty imposed:
12. Whether this is the first offence under Chapter V of the Finance Act, 1994, if not, details of previous cases:
13. 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 Service Tax (Compounding of offences) Rules, 2012.

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

Name and Signature of the applicant.

VERIFICATION

I, _____ 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:

9. Circular Issued by Board but no longer relevant

S.No.	Superseded Circular No. & Date	Superseding Circular No. & Date
1.	Circular No.54/2005-Customs dated 30.12.2005	Circular No.19/2009-Customs dated 15.10.2009

nacenkanpur.gov.in