THE CUSTOMS (COMPOUNDING OF OFFENCES) RULES, 2005

Notification No. 114/2005-Customs (N.T.) dated 30th December, 2005 – E-BOOK

(AS AMENDED UP TO 22ND AUGUST, 2022)

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The Customs (Compounding of Offences) Rules, 2005 (Notification No. 114/2005-Customs (N.T.) dated 30th December, 2005, as amended up to 22nd August, 2022) are reproduced in this e-book exactly as in the final consolidated text. Only the front pages, index, navigation links and page layout have been added; the text of the Rules, Form and footnotes is unchanged.

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HOW TO READ THE AMENDMENTS

Amended text shaded light yellow in the Rules marks wording changed by an amending notification (shown in square brackets, with the footnote number at the start of the bracket).

A superscript footnote number gives the amending notification and the effect of the change. Footnotes beginning "Editorial note" are the compiler's own notes and not part of the Rules.

Provisions that carry footnotes are marked ✎ n in the Index and listed in the finder below.

NAVIGATION TIPS

Click any line of the Index to jump to that Rule or the Form.

Click the small ▲ next to a heading, or "▲ Go to INDEX" in the footer, to return to the Index.

In Word, press Ctrl+A then F9 to refresh page numbers in the Index after any edit.

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CUSTOMS (COMPOUNDING OF OFFENCES) RULES, 2005

(Notification No. 114/2005-Customs (N.T.), dated 30th December, 2005 — G.S.R. 755(E))

As amended up to 22nd August, 2022 — consolidated reader's copy (English text), revised

How to read this copy

Amended text is shown in square brackets on a light background. The footnote number is placed at the beginning of the bracket and the footnote gives the amending notification, the provision of that notification and the effect of the change. Where a later change falls inside text that was itself inserted or substituted, the inner bracket has a darker background. A footnote number standing alone marks an omission or an editorial note. Footnotes beginning "Editorial note" are the compiler's own notes; they are not part of the Rules.

Sources. The text is taken from the five Gazette copies supplied: the principal notification of 2005, the amending notifications of 2008 and 2022, the Corrigenda of 18th November, 2008 and Notification No. 56/2014-Customs (N.T.) of 6th August, 2014. The Hindi text has been ignored.

This compilation is an aid to reading and is not an authentic text. For any legal use, refer to the Gazette notifications. No search was made here for amendments after 2022.

Amendments incorporated

S. No.	Instrument	Date	Provisions amended
1	No. 118/2008-Customs (N.T.) [G.S.R. 786(E)] — Customs (Compounding of Offences) Amendment Rules, 2008	12.11.2008	Rule 4(3): second proviso inserted. Rule 5: substituted. Form: item 12A inserted.
2	Corrigenda [G.S.R. 795(E)], F. No. 450/67/2003-Cus.-IV (Pt)	18.11.2008	Rule 5 as substituted in 2008: proviso ("below" for "above") and S. Nos. 4 to 8 of the Table.
3	No. 56/2014-Customs (N.T.) [G.S.R. 565(E)] — references to authorities	06.08.2014	Rule 2(b), (c) and (e); Explanation to rule 3; item 4 of the Form: designations to be construed as stated.
4	No. 69/2022-Customs (N.T.) [G.S.R. 645(E)] — Customs (Compounding of Offences) Amendment Rules, 2022	22.08.2022	Rule 5: S. No. 9 inserted in the Table. Rule 6: words omitted and proviso inserted. Rule 7(2): reference substituted.

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

New Delhi, the 30th December, 2005

No. 114/2005-CUSTOMS (N.T.)

G.S.R. 755(E).— 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.[1]

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 [2][Principal Commissioner or Commissioner, as the case may be] of Customs under section 4;

(c) "compounding authority" means the [3][Principal Chief Commissioner or Chief Commissioner, as the case may be] 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 [4][Principal Commissioner or Commissioner, as the case may be] 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 [5][Principal Chief Commissioner or Chief Commissioner, as the case may be] 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.

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1 Editorial note: the principal rules were published as Notification No. 114/2005-Customs (N.T.), dated 30.12.2005 [G.S.R. 755(E)], Gazette of India, Extraordinary, Part II, Section 3(i), No. 543, dated 30.12.2005, and came into force on that date.

2 To be read as shown by Notification No. 56/2014-Customs (N.T.), dated 06.08.2014 [G.S.R. 565(E)], Gazette of India, Extraordinary, Part II, Section 3(i), No. 407, dated 06.08.2014, with effect from 06.08.2014, for the reference "Commissioner". That notification, issued under sections 25, 151A, 156 and 157 of the Act, directs that references to "Commissioner" in the rules made under those sections "shall, unless the context otherwise requires, be construed as references to" the "Principal Commissioner or Commissioner, as the case may be". Editorial note: the notification is a general direction on how references are to be construed; it does not name these Rules or substitute their text. The reading is shown in the text for convenience.

3 To be read as shown by Notification No. 56/2014-Customs (N.T.), dated 06.08.2014 [G.S.R. 565(E)], Gazette of India, Extraordinary, Part II, Section 3(i), No. 407, dated 06.08.2014, with effect from 06.08.2014, for the reference "Chief Commissioner". The notification directs that references to "Chief Commissioner" in the rules "shall, unless the context otherwise requires, be construed as references to" the "Principal Chief Commissioner or Chief Commissioner, as the case may be". Editorial note: as in the preceding footnote, this is a direction on construction and not a textual substitution; the reading is shown in the text for convenience. Effect: the compounding authority is the Principal Chief Commissioner or Chief Commissioner of Customs, in line with section 137(3) of the Act.

4 See footnote 2.

5 See footnote 3.

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 [6]**[**Principal Chief Commissioner or Chief Commissioner, as the case may be**]** 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.

[7]**[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.

[8][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 :

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6 See footnote 3.

7 Second proviso to rule 4(3) inserted by Notification No. 118/2008-Customs (N.T.), dated 12.11.2008 [G.S.R. 786(E)] (Customs (Compounding of Offences) Amendment Rules, 2008), Gazette of India, Extraordinary, Part II, Section 3(i), No. 596, dated 12.11.2008, rule 2(a), with effect from 12.11.2008. Effect: an application for compounding cannot be allowed unless the duty, penalty and interest payable in the case have first been paid.

8 Rule 5 substituted by Notification No. 118/2008-Customs (N.T.), dated 12.11.2008 [G.S.R. 786(E)] (Customs (Compounding of Offences) Amendment Rules, 2008), Gazette of India, Extraordinary, Part II, Section 3(i), No. 596, dated 12.11.2008, rule 2(b), with effect from 12.11.2008. Before substitution, rule 5 read: "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.-", followed by a table of seven entries: S. Nos. 1 to 3 (offences under sections 132, 133 and 134) "Rupees fifty thousand for the first offence and to be increased by hundred per cent. of this amount for each subsequent offence."; S. Nos. 4 to 7 (offences under sections 135(1)(a), 135(1)(b), 135(1)(c) and 135A) "Upto twenty per cent. of market value of the goods or Rupees ten lakhs whichever is higher." Effect of the substitution: the amounts for offences under sections 135 and 135A were reduced to five or ten per cent. of market value with a floor of one lakh rupees; a separate entry was added for section 135(1)(d); and a proviso was added for cases where offences of more than one category relate to the same goods.

Provided that if a person has, in respect of same goods, committed offences falling under more than one category specified [9][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 [10][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 [11][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 [12][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 [13][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 [14][goods, subject to minimum of one lakh rupees.]
[15][9	Offences specified under Section 135AA of the Act	One lakh rupees for the first offence, to be increased by hundred per cent of this amount for each subsequent offence.]]

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9 Word "below" to be read for "above" by Corrigenda dated 18.11.2008 [G.S.R. 795(E)], F. No. 450/67/2003-Cus.-IV (Pt), Gazette of India, Extraordinary, Part II, Section 3(i), No. 604, dated 18.11.2008, item (i): "In the page 3, in the line 10, for 'category specified above' read 'category specified below'". Effect: the proviso, which is printed before the Table, refers to the categories in the Table that follows.

10 Words "goods, subject to minimum of one lakh rupees." to be read by Corrigenda dated 18.11.2008 [G.S.R. 795(E)], F. No. 450/67/2003-Cus.-IV (Pt), Gazette of India, Extraordinary, Part II, Section 3(i), No. 604, dated 18.11.2008, item (ii), against Serial Numbers 4, 5, 6, 7 and 8, in column (3), for "goods or one lakh rupees, whichever is higher".
Effect: one lakh rupees is the minimum compounding amount, and the amount may go up to the stated percentage of the market value of the goods.

11 See footnote 10.

12 See footnote 10.

13 See footnote 10.

14 See footnote 10.

15 S. No. 9 and the entries relating to it inserted by Notification No. 69/2022-Customs (N.T.), dated 22.08.2022 [G.S.R. 645(E)] (Customs (Compounding of Offences) Amendment Rules, 2022), Gazette of India, Extraordinary, Part II, Section 3(i), No. 570, dated 22.08.2022, rule 2, with effect from 22.08.2022.
Effect: offences under section 135AA of the Act (inserted in the Act by the Finance Act, 2022) are given a compounding amount.

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 [16][omitted] 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.

[17][Provided that if the offence is punishable only under Section 135AA, the immunity from prosecution shall be granted.]

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 [18][rule (6)] 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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16 The words "has co-operated in the proceedings before him and", which stood after the words "under these rules", omitted by Notification No. 69/2022-Customs (N.T.), dated 22.08.2022 [G.S.R. 645(E)] (Customs (Compounding of Offences) Amendment Rules, 2022), Gazette of India, Extraordinary, Part II, Section 3(i), No. 570, dated 22.08.2022, rule 3(i), with effect from 22.08.2022.
Effect: the compounding authority's satisfaction is now confined to whether the applicant has made full and true disclosure of facts.

17 Proviso inserted by Notification No. 69/2022-Customs (N.T.), dated 22.08.2022 [G.S.R. 645(E)] (Customs (Compounding of Offences) Amendment Rules, 2022), Gazette of India, Extraordinary, Part II, Section 3(i), No. 570, dated 22.08.2022, rule 3(ii), with effect from 22.08.2022 (the amending rule reads "the following proviso shall be inserted").
Effect: where the offence is punishable only under section 135AA, grant of immunity from prosecution is mandatory.

18 Substituted by Notification No. 69/2022-Customs (N.T.), dated 22.08.2022 [G.S.R. 645(E)] (Customs (Compounding of Offences) Amendment Rules, 2022), Gazette of India, Extraordinary, Part II, Section 3(i), No. 570, dated 22.08.2022, rule 4, with effect from 22.08.2022, for "sub-rule (1)". The amending rule reads: "for words, brackets and number, 'sub-rule (1)', the words, brackets and number, 'rule (6)' shall be substituted".
Editorial notes: (1) the principal rules as published read "sub rule (1) above", without a hyphen; (2) the text of the Rules on the CBIC tax information portal shows "sub-rule (6)" at this place, whereas the Gazette reads "rule (6)"; (3) the evident intention is a reference to rule 6, under which immunity is 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. [19][Principal Commissioner or Commissioner, as the case may be] 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:

[20][12A. Whether the amount of duty, penalty and interest have been paid and if yes, the details thereof.]

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.

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[19] See footnote 2.

[20] Item 12A inserted by Notification No. 118/2008-Customs (N.T.), dated 12.11.2008 [G.S.R. 786(E)] (Customs (Compounding of Offences) Amendment Rules, 2008), Gazette of India, Extraordinary, Part II, Section 3(i), No. 596, dated 12.11.2008, rule 2(c), with effect from 12.11.2008. Effect: the applicant must state whether duty, penalty and interest have been paid, in line with the second proviso to rule 4(3).

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][21]

ANUPAM PRAKASH, Under Secy.

[21] Editorial note: the note to Notification No. 69/2022-Customs (N.T.) describes the last amendment as "notification No. 118/208-Customs (N.T)"; the correct number is 118/2008.

DISCLAIMER

▲ INDEX

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