SECTION: 122 Penalties for Certain Offences

Section No.	Offence	Penalty
SECTION NO. 122(1) " PENALTY FOR 21 Specified Offences" "I-M-R-R-R-R-ITC" "FOR the Person who is Registered OR liable to be Registered"	**I: INVOICE:** # NO INVOICE / FALSE INVOICE / BOGUS INVOICE – ISSUED # BOGUS INVOICE / FALSE INVOICE – RECEIVED FOR ITC # ISSUE INVOICE – WITH REGISTRATION NUMBER OF ANOTHER PERSON (TOPO – KI SALAMI) # E-WAY BILL / BILTY ETC NOT ISSUED # SUPPRESS TURNOVER. ✓ **M: MANNER OF PAYMENT:** # COLLECT TAX / AMOUNT : BUT NOT PAID EVEN BEYOND 3 MONTHS OF DUE DATE # TDS : NOT DEDUCTED / SHORT DEDUCTED / DEDUCTED BUT NOT PAID # TCS : NOT COLLECTED / SHORT COLLECTED / COLLECTED BUT NOT PAID **'R' = REGISTRATION:** # NO REGISTRATION # REGISTRATION WITH WRONG DETAILS (FRAUDLY TAKEN) **'R' = RECORDS:** # NO RECORD / FALSE RECORDS / SUBSTITUTE RECORDS OR DESTROY RECORDS / FASLE INFORMATION **'R' = RETURN:** — NOTHING — BECAUSE WE HAVE ALREADY SECTION: 47 / 62 (LATE FEE) **R = REFUND:** FRAUDULENTLY CLAIM REFUND.	# 100% का TAX OR # ₹10,000 (WHICHEVER IS HIGHER)

ITC :

- # wrongly Avail / utilise ITC
- # Wrongly Distribution of ITC By I.S.D.

DOS.

- (D) # Dispose off / Tamper with : Any Goods seized u/s: 67(2) or Provisionally Attach u/s: 83
- (O) # Obstruct : Create Obstruction in officer work.
- (S) # Secondary Party : Transporter / warehouse keeper etc.

Section: 122(1A) PENALTY for MASTER MIND (Hide Behind curtain) ie ownership Gardner, Servant etc)

Any Person who is master mind ie on whose Instruction following Transactions are Conducted :

- Outward:
  - * No Bill (But Supply made)
  - * No Supply (But Bill issued) (हवाला कांड)
- Inward:
  - * Take ITC without Supply
- Pass on:
  - * wrong Distribution of ITC. etc

"100% TAX" ~~OR 10000~~

Section: 122(1B) Penalty on ECO Related to "UNRegistered Vendor" eg AMAZON

- # Any E-com operator allows Any "UNREG." Vendor of Goods without GNR NO.
- # Allow Inter-State Sale of Goods of such person
- # Fails to furnish Details u/s: 52 (TCS wala)

100% TAX OR Rs 10000 (whichever is Higher)

Section.	Offence	Penalty
Section: 122(2) "Penalty for 5 Reasons"	# Any Registered person who commits following * Tax Not Paid / Short Paid * ITC wrongly claim / utilise * Erroneous Refund Note: Sec: 73/74/74A Vs Section: 122(2) → ANY ONE " ie NO Double Penalty will be there "	Bonafide 10% of Tax ~~ITC~~ or 10,000 (Higher) ~~eRefun~~ Malafide 100% of Tax ~~ITC~~ OR Rs 10,000 (whichever is Higher)
Section: 122(3) Penalty for Supporter " सहायक ie गाड़ी में तस्करी [illegible] " ~~अड्डा~~	Any person who :- # Aids/Abets with respect to offence u/s 122(1) # Acquire Possession of Goods/ Transport/ Deposit/ Keeping/ Concealing etc ie " CONTRABANNED Goods ME HATH SANE hai " eg Director, manager etc # NOT Present Before officer (HAVELI) # INVOICE NOT ISSUED / NOT ACCOUNT FOR	Upto Rs 25000

CRUX	Sec:			
	122(1)	: 21 offences	: 100% of Tax OR 10000 (H)	Fixed
	122(1A)	: Master mind	: 100% of Tax	Fixed
	122(1B)	: ECO	: 100% of Tax or 10000	Fixed
	122(2)	: Bonafide / Malafide	: (10% or 10k), (100 or 10k)	Fixed
	122(3)	: Aids/Abets	: upto 25,000	Variable

SECTION: 125 : Residuary Penalty : Where NO Specific Penalty is Provided for Any offence : Penalty U/S: 125 Upto Rs 25,000 (variable NATURE)

eg Books of A/C = 72 Months
eg r/ Concept = ✓
eg

Section: 122 A : Penalty for failure to Register Certain MACHINES

BACKGround : Gutkha/Pan MASALA etc / Tobacco.

Value :	10,000	(500 Cr)
+ GST @	2800	
+ CESS @ 135% :	13500	
	26300	

10000 माल
16300 TAX

Heavy TAX Rate ↑
Evasion Heavy ↑
CONTROL Heavy ↑

"ONE MORE Step to Control TAX Evasion"

MAchine Ki counting se – Production CAPACITY ✓

Package MACHINE KA Registration KARWANA HAI.

NAHI KARAYA TO??

Sec: 122 A @ Penalty

Notwithstanding Any contained in this Act : –

- Where Any Person who is engaged in manufacturing of Specified Goods, In Respect of which Any special procedure Relating to Registration of Machines is notified U/s: 148 (eg Gutkha, Pan MASALA maker etc)
- Contravene Special Procedure ie NO REG. of MACHINES
- THEN In Addition to the Penalty payable otherwise – Be liable to a Penalty U/s: 122 A

Rs 100000 per MACHINE for Every UNREG. M/C

eg 3 MACHINE NOT REG (1 × 3 = 3 lakh)

&

Every Such Machine liable to Confiscation

Relaxation

IF Penalty Paid &

Within 3 DAYS Machine KA Registration DONE ; Then NO Confiscation

SECTION: NO: 123 : Penalty for failure to furnish "Information Return"

(NOT FOR TAXPAYER)

Applicable to person Required to file Information Return u/s 150
failure to furnish "VALID Information Return" within PRESCribed time :- Penalty = Rs 100 per DAY (MAX Rs = 5000)
Persons covered under this Section : BANK, RTO, Developement Authority, Electricity depatt, stock Exchange, INCome TAX depatt etc

Section: 124 : fine for failure to furnish "Statistics" :

(NOT for TAXPAYER)

(ORGANISED DATA) which is Required u/s:151

failure to furnish "Statistics"

* UPFRONT fine : Upto 10000 + 100 Rs PER DAY (MAX:25000)

: Relax- BABY - Relax :

Section for officer ✓

Section: 126 : General Discipline Related to Penalty Mitigation/Reduction in Penalty

Points to be considered while imposing penalties

(1) Mitigation :

PENALTY

- Fixed
  - # (eg 100% of TAX or 10000)
  - # CAN NOT be mitigated
  - ie KAM KARNE KI KOI GUNJAISH NAHI Hai.
  - (close)
- Variable
  - eg (Penalty : upto 25000/-)
  - # CAN Be mitigated
  - ie KAM KARNE KI GUNJAISH Hai.
  - (NEXT PAGE)

No penalty for minor Breach ie Amount of TAX Involved LESS than 5000 /=

No penalty for mistake Apparent from Records (& No fraudulent Intention)

Voluntary Disclosure will be given Due Respect for mitigation.

Penalty @ vary @ CASE to CASE.

#(2) Other Points to be Considered By imposing penalty:

* Penalty should be imposed Based on Intensity of CASE.
* Opportunity of Being heard - Shall be given.
* ie $\boxed{\text{first of All Notice}}$ → $\boxed{\text{Opportunity of Being heard}}$ → Penalty @ order Specifying the Nature of Breach, Applicable Law (Section Reference) & order with Reason

With full clarity

SECTION: 128: Power to Govt to waive Penalty, Fee or Both

THIS SECTION is for Govt

Govt has the Power that in special Circumstances Penalty
u/s: 122 ~~122A~~
u/s: 123, ~~124~~
u/s: 125
: u/s: 47 (LATE fee) / ~~62~~

waive off (Fully / Partially).

SECTION: 127: TU SATH NA DE MERA CHALNA MUJHE AATA HAI ....

Similar Provision for Interest Also

ONLY Penalty proceedings can be Initiated Independently

ie NO MANDATORY Need to do this Along with $\boxed{\text{Other Proceedings.}}$

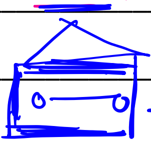
- 62, 63, 64 { BJ. Non filer / Non Reg. / Summary Assessment }
- 73, 74, 74A { SCN – Demand order }
- 129, 130 { Seizure & Confiscation

Clarification

Seizure and confiscation of Goods @ "ON the WAY" / IN TRANSIT "Outdoor"

Oppo. ist Beg. here

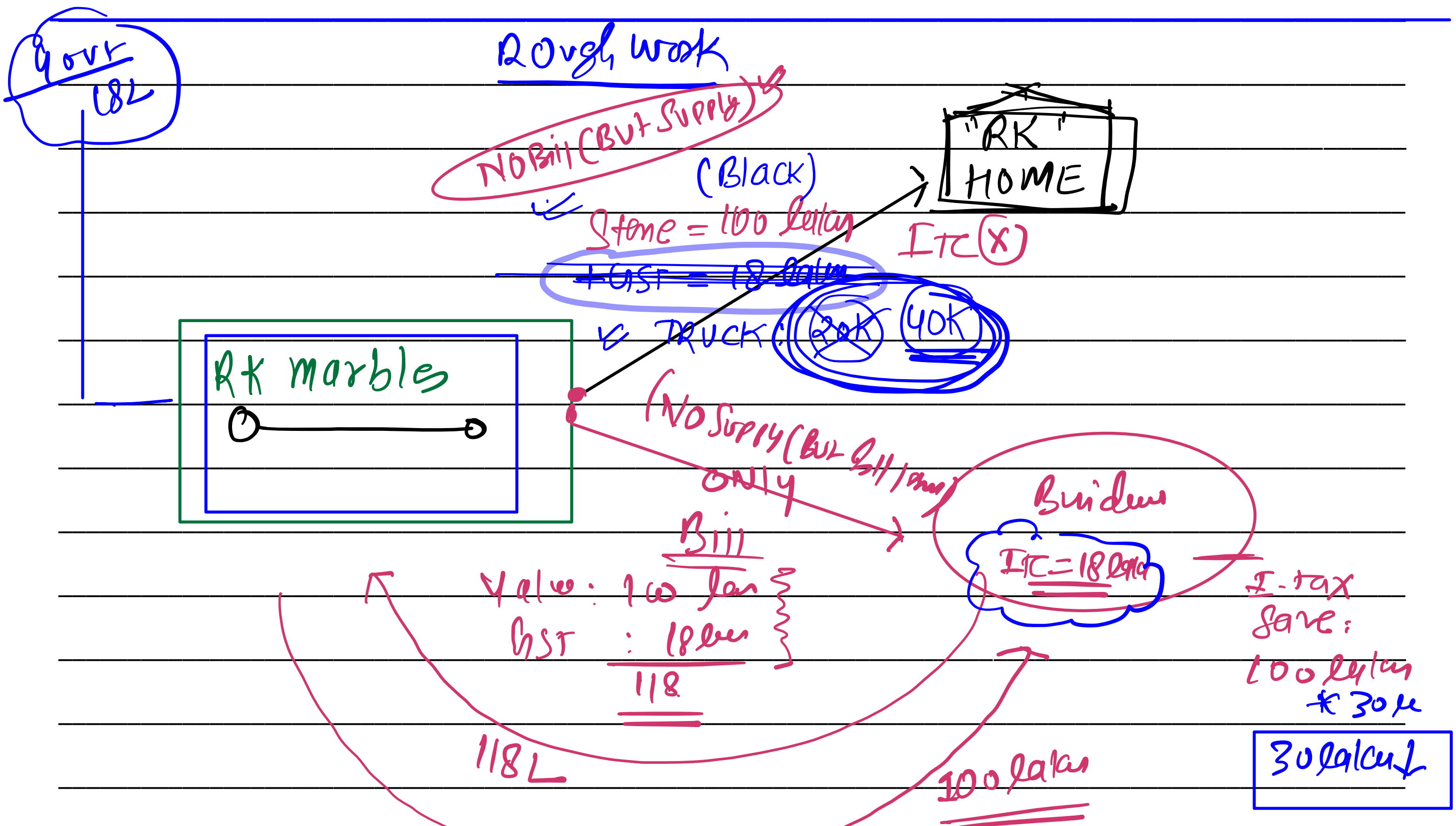
Section Reference	For Goods owner	For Transporter
Section: 129 : Seizure	**Pay Before Demand order:**	# PENALTY Amount
Applicable where:	# Taxable Goods — 200% OF TAX # Exempted Goods — * 2% of Value of Goods OR * Rs 25000 (WHICH Ever is Lower)	For Owner of Goods le JITNI penalty Goods owner par LAGI Hai UTNI penalty transporter pe LAGAO. XXXX
# TRANSPORT of Contrabanned Goods # Store "in TRANSIT" (Note: Power to Stop vehicle U/S: 68 if Value of Goods ~~Exceeds~~ Rs 50,000)	**Pay After Demand order** # Taxable Goods — 200% of TAX OR 50% of Value of Goods (Higher) # Exempted — * 5% of Value of Goods or * Rs 25000 (Lower)	(But MAX to MAX Rs 100000)
Seizure —7 DAYS→ Notice —7 DAYS→ Order —15 DAYS→ Payment → Sale # For Perishable Even less than 15 DAYS	Make it Double for IGST	
Section: 130 Confiscation @ Redemption fine # NOTE: # Supply with Intent to Evade,, # Supply with Intent to Evade # NOT A/C For the Goods # TRANSPORT Contrabanned Goods # other Contraventions to Evade # Goods & TRUCK liable to confiscation # (Option to Redemption fine) Opt (PAY Red fine) / NOT to OPT Confiscation ✓ – Auction	**MAXIMUM Red. fine** market Value of the Goods (–) GST Amt = XXX eg M.V = 118000 – GST = 18000 NET Value 100000 GST ✓ Fine ✓ Red fine ?	**Maximum Red. fine** = Amount of TAX Evasion. le AAPKI VAJAH se JITNI GST KI CHORI HUE HEI UTNA Red. fine PAY KARNA Hoga 1800



Section: 131

Civil Proceedings & Criminal Proceedings Both are Independent.

Means: if Civil activated : NO Relaxation in Criminal. & vice versa.



Note: # All Criminal offence = Civil offence
(Saas) (BAHU)

All Civil offence ≠ Criminal
(BAHU) (खतर नाक SAAS)

Section 132:
List of Criminal offences
Nature of offence (Hot - Cool)
Punishment for certain offences (Jail)

① Section: 132(1): Any person → who commit / cause to commit / beneficiary
(9 Criminal offences)

Ⓢ Angle
(a) No Bill (But Supply made)
(b) No Supply (But Bill issued) { पूरी नौटंकी ie Bill PARCHE KA Kaam }

Ⓡ Angle
(c) Book ITC (Because of 2 Above Points) by Buyer
(d) Collect an Amount of Tax and not to pay Even Beyond 3 months of DD.

4 MAHA PAAP.

Evade (e) Otherwise way Evade Tax / claim Refund fraudulently.
False (f) Keep false / Substitute Records, produce false information.
(g) X
Hi
(h) Goods (Boys): Any way Deals with contrabanned Goods
(i) Service (Girls): Any way Deals with contraband Service
(j) X
(k) X
(l) Attempt to commit above offences

g j k

NATURE of offence: (HOT / COOL)

4 MAHAPAAP (a) (b) (c) (d) →
- Rs 5 crore plus: HOT : ARREST Without "ARREST Warrant" (Arrest: u/s. 69)
- Rs 2 crore to 5 cr: Cool : "Arrest with Arrest warrant"
- Rs 1 cr plus: Cool : NO ARREST

→ Other 5 PAAP : Always cool
e f h i l

HOT = Cognizable & NON Bailable

\# ie ~~संगीन~~ Arrest without ARREST warrant U/s: 69 and Produce him before Magistrate within 24 Hour.

जमानत नहीं मिलेगी

Cool = NON Cognizable & Bailable

ie ARREST with Arrest Warrant

जमानत MIL जाएगी

"PUNISHMENT"

(Fine = Court fine)

Particulars	Value	Punishment
# Sec: 132(1)(i) {ANY 1 of 9}	5 Cr Plus	6 MONTH – 5 years (with fine)
# Section 132(1)(ii) {ANY 1 of 9}	2 Cr (+) to 5 Cr	6 MONTH – 3 year (with fine)
# Section 132(1)(iii) {For (b) Point ie No Supply But Issued}	1 Cr (+) to 2 Cr	6 Months to 1 Year
# Section: 132(1)(iv) {for (f) Point "FALSE Record/INFO}	— N A —	Upto 6 MONTH (with or without fine)
SEC: 132(2)	REPEAT offency (ANY Value)	6M – 5 year (TOP class wali)

Habitual offender

Note :# Imprisonment of 6 month may be Reduced in Special CASES.
\# Discretion of Court.

Section : 133 : NOT Relevant

(संज्ञान)

Section : 134 : Congnizance of offences.

PUSH mode

ONLY with the Prior Approval of commission : NO court shall take congizance of any offence Except with the PRIOR Approval of commission.

Section : 135 Presumption of Culpable Mental State

Note: EK Person KO TAB TAK Jail ME NAHI DALA JA SAKTA JAB TAK KI WO Criminal offence Usne Jaan BUJHKAR NA KIYA HO.

As per section : 135 : Court will presume that the offender do the Act will culpable mental state ie with Guilty mind.

AND Burden of Proof of "NON Existance" of "Guilty mind" @ on the offender

Section : 136 : NOT Relevant

Section: 137 : offence By Company etc

KYA KYA Jail

offence By company, firm, AOP, BOI etc — PROsecution

BADE MIYA : * Director, manager, secretary, other office
* PARTNER
* Members
* KARTA.

Driver

Jail

Consent/
connivance
INKI HOTI Hai.

CHHOTE MIYA : Every person who at the time of offence was committed - was "IN CHARGE" ie Respective Depatt Incharge eg store Incharge, Purchase Incharge, Accounts Incharge

Jail

KARTE ye Hai

HElper

EXClusion : # who was Absent when offence was committed (eg vaishno Devi)
who follow Due Diligence.

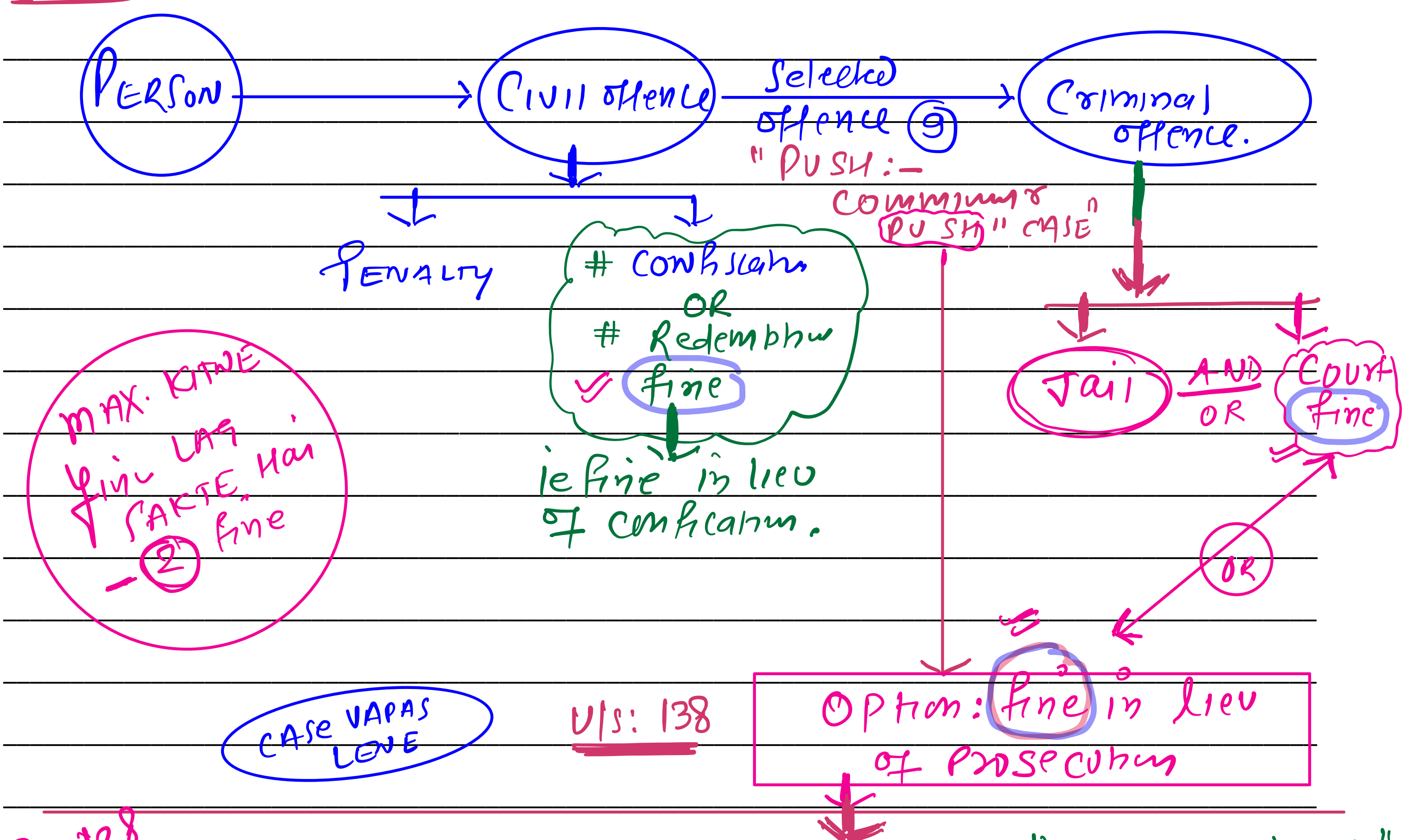
Prove

Imp

" AB FILM KA "PARDA" GIRNE WALA HAI "

SECTION NO: 138 : "Paise lekar APRADHO PAR PARDA DAALNA"
ie Compounding of offences in lieu of Prosecution.

BACKGROUND



Sec 138

(1) Available only for first time offender, "ONCE IN Lifetime"
But for : 132 (1) (b) wala ie NO Supply But Bill issue wale case ME EK BAAR BHI NAHI.

(2) WHEN to opt for :

- # Before Prosecution : = YES Possible
- # DURING the prosecution : = YES, Possible
- # After prosecution ie After court Decision : = NO BABY

③ Compounding fee : MINIMUM (25% OF TAX) to MAXIMUM (100% of TAX)
U/S: 138

Rule: 162

"Offence"	"Value"	FEE	upper class
ⓐ ~~ⓑ~~ ⓒ ⓓ ⓔ	Rs 5 Cr Plus	50% to 75%	upper middle class
ⓐ ~~ⓑ~~ ⓒ ⓓ ⓔ	Rs 2 Cr (+) to 5 Cr	40% to 60%	middle class
REST of the CASES	—	25%	Lower class

Note: Compounding Benefit Available only after Payment of
- TAX
- INT
- Penalty
- Compounding fee

Relax

Other Act. Proceedings go on ie unaffected