

## Chapter 30

### Offences and Penal Provisions

#### 1. Introduction:

- 1.1 Persons involved in import or export activity in violation of prohibitions or restrictions in vogue or with the intent to evade duties or fraudulently claim export incentives are liable for strict penal action under the Customs Act, 1962. The offending goods can be confiscated and heavy fines and penalties imposed on the persons concerned. In fact, sensitive goods like narcotics, FICN, arms and ammunitions, etc. are absolutely confiscated. There are also provisions for arrests and prosecution to deter smuggling or commercial fraud, which seriously affects the economic security.
- 1.2 In the context of penal provisions under the Customs Act, 1962 the term “smuggling” has vast connotations and means “any act or omission which will render such goods liable for confiscation under Sections 111 or 113 of the said Act.
- 1.3 In general terms, the word ‘penalty’ means punishment under the law, i.e., such punishment as is provided in penal laws. It also means the sum payable as a punishment for a default. The Customs Act, 1962 contains specific provisions for imposition of penalty in case of contraventions of the legal stipulations.

#### 2. Seizure of offending goods:

- 2.1 In terms of Section 110 of the Customs Act, 1962 an officer of Customs can seize any goods, if he has reason to believe that the goods are liable to confiscation under the said Act. If it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer. The proper officer may also seize any documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under the said Act. The person from whose custody any documents are seized shall be entitled to make copies thereof or take extracts there from in the presence of an officer of customs.
- 2.2 The person from whom the goods are seized is issued Show Cause Notice, usually within 6 months, otherwise the goods shall be returned to the person from whose possession they were seized. However, Commissioner of Customs, on sufficient cause being shown can extend the time period for issue of Show Cause Notice, for a period not exceeding 6 months. Further, Section 110 of Customs Act, also provides for the proper officer may seize any documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act. However, the person from whose custody any documents are seized shall be entitled to make copies hereof or take extracts there from in the presence of an officer of customs.
- 2.3 In case the seized goods are perishable or hazardous in nature or prone to depreciate in value over time or for reasons of constraints in space, Government can notify such goods for disposal before the conclusion of the proceedings viz., photographic films, electronic goods, currency (Indian and foreign), liquors, P&P medicines, gold, silver, software, Petroleum products, red sanders, sandalwood, etc.

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### **3. Confiscation of seized goods:**

- 3.1 The word 'confiscation' implies appropriation consequential to seizure. The essence and the concept of confiscation is that after confiscation, the property of the confiscated goods vests with the Central government.
- 3.2 The adjudicating authority makes the decision regarding confiscation of goods. The specific/different categories of violations under which the import or export goods are liable to confiscation, are enumerated in Section 111 and 113 of the Customs Act. In general, the goods that are attempted to be smuggled into or out of the country, by route other than land routes notified under Section 7 of the Customs Act, 1962 or is attempted to be cleared by way of mis-declaration in quantity, description or value etc. are liable to be confiscated. The imported or export goods are also liable to confiscation if there is an intention to evade Customs duty or to fraudulently avail the benefits available under various export promotion schemes, such as Drawback, EOU etc. Also liable to confiscation are goods entered for exportation which does not correspond in respect of value or in any material particular with the entry made or in the case of baggage with the declarations made under Section 77 of the Customs Act, 1962.
- 3.3 Smuggled goods may be confiscated even if its form has been changed. In case the smuggled goods are kept with other goods in such a manner that the goods cannot be separated then the whole of goods are liable to be confiscated as per Section 120 of the Customs Act, 1962.

### **4. Confiscation of conveyances/packages etc.:**

- 4.1 In addition to confiscation of goods, the conveyances, i.e., vessels, aircrafts or vehicles, or animal's used in the smuggling activities or in connection with exportation under claim of Drawback and unloaded without permission of the proper officer are liable to confiscation as per Section 115 of the Customs Act, 1962.
- 4.2 In case the goods liable to confiscation are imported in a package, the package and its other contents, if any, are also liable to confiscation as per Section 118 of the Customs Act, 1962.
- 4.3 The goods used for concealing smuggled goods are liable to confiscation as per Section 119 of the Customs Act, 1962.
- 4.4 There may be situations when the smuggled goods are sold off. In such a situation, the sale proceeds thereof are liable to confiscation as per Section 121 of the Customs Act, 1962.

### **5. Penalties in respect of improper importation of goods:**

- 5.1 In terms of Section 112 of the Customs Act, 1962 any person involved in acts of omission or commission, in relation to any goods which renders such goods liable to confiscation under Section 111 of the said Act, or abets the same, or acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under the said Section 111, shall be liable to penalties as follows:-
- (i) In the case of goods in respect of which any prohibition is in force under the Customs Act, 1962 or any other law for the time being in force, to a penalty not exceeding the value of the goods or Rs.5,000/-, whichever is the greater;

- (ii) In the case of dutiable goods, other than prohibited goods, to a penalty not exceeding the duty sought to be evaded on such goods or Rs.5,000/-, whichever is the greater;
- (iii) In the case of goods in respect of which the value declared is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or Rs.5, 000/-, whichever is the greater;
- (iv) In the case of goods falling both under (i) and (iii) above, to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or Rs.5,000/-, whichever is the highest; and
- (v) In the case of goods falling both under clauses (ii) and (iii) above, to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or Rs.5,000/-, whichever is the highest.

**6. Penalties in respect of improper exportation of goods:**

6.1 In terms of Section 114 of the Customs act, 1962 the person involved in commission or omission, in relation to any goods, which renders such goods liable to confiscation under Section 113 of the said Act, or abets the same, shall be liable to penalties in different types of cases as follows:

- (i) In the case of goods in respect of which any prohibition is in force under Customs Act, 1962 or any other law for the time being in force, to a penalty not exceeding three times the value of the goods as declared by the exporter or the value as determined under the said Act, whichever is the greater;
- (ii) In the case of dutiable goods, other than prohibited goods, to a penalty not exceeding the duty sought to be evaded on such goods or Rs.5,000/-, whichever is the greater; and
- (iii) In the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under the Customs Act, 1962, whichever is greater.

**7. Mandatory penalty in certain cases:**

7.1 Section 114A of the Customs Act, 1962 deals with imposition of mandatory penalty in certain cases. Thus, in cases of non-levy or short levy of duty or where the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or wilful mis-statement or suppression of facts, the person liable to pay the duty or interest, as the case may be, as determined under Section 28(2) of the Customs Act, 1962 shall also be liable to pay a penalty equal to the duty or interest so determined. However, where such duty or interest, as the case may be, and the interest payable thereon, is paid within 30 days from the date of the communication of the order, the amount of penalty to be paid shall be reduced to 25% of the duty or interest.

7.2 If the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate tribunal or, as the case may be, the Court, then the duty or interest as reduced or increased, as the case may be, shall be taken into account for the purpose of mandatory penalty under Section 114A of the Customs Act, 1962. Also, in a case where the duty or interest determined to be payable is increased by the Commissioner (Appeals),

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The Appellate tribunal or, as the case may be, the Court, then, the benefit of reduced penalty shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon, and 25% of the consequential increase in penalty has been levied under the said Section 114A, no penalty shall be levied under Sections 112 or 114 of the said Act.

### 8. Other penalties:

- 8.1 If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, then in terms of Section 114AA of the Customs Act, 1962 such person shall be liable to a penalty not exceeding five times the value of goods.
- 8.2 In terms of Section 116 of the Customs Act, 1962 if any goods loaded in a conveyance for importation into India, or any goods transshipped under the provisions of the said Act or coastal goods carried in a conveyance, are not unloaded at their place of destination in India, or if the quantity unloaded is short of the quantity to be unloaded at that destination, and, if the failure to unload or the deficiency is not accounted for to the satisfaction of the Assistant/Deputy Commissioner of Customs, the person-in-charge of the conveyance shall be liable to the following penalty:
- (i) In the case of goods loaded in a conveyance for importation into India or goods transshipped under the provisions of the Customs Act, 1962 to a penalty not exceeding twice the amount of duty on the goods not unloaded or the deficient goods, as the case may be, had such goods been imported; and
  - (ii) In the case of coastal goods, to a penalty not exceeding twice the amount of export duty on the goods not unloaded or the deficient goods, as the case may be, had such goods been exported.
- 8.3 Any person who contravenes any provision of the Customs Act, 1962 or abets any such contravention or who fails to comply with any provision of this Act, with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding Rs.1 lakh.

### 9. Adjudication of confiscations and penalties:

- 9.1 The Customs Act, 1962 enjoins quasi-judicial proceedings to be followed before any penalties are imposed and any confiscation action etc., initiated against any offending goods. Apart from issuing Show Cause Notice under Section 124 of the said Act, the persons concerned are required to be given opportunity of representation in writing and personal hearing in the matter. The adjudication authority is then required to pass final order taking due note of all evidences brought on record.
- 9.2 As per Section 122 of the Customs Act, 1962 the adjudication powers given to different officers are as follows:
- (a) Without limit, by a Commissioner of Customs or a Joint Commissioner of Customs;
  - (b) Where the value of the goods liable to confiscation does not exceed Rs.5 lakhs by an Assistant/Deputy Commissioner of Customs; and

- (c) Where the value of the goods liable to confiscation does not exceed Rs.50,000, by a Gazetted Officer of Customs lower in rank than an Assistant/Deputy Commissioner of Customs.
- 9.3 Generally, 'mens rea' is not required to be proof for the imposition of penalty under the provisions of the Customs Act. The amount of penalty depends on the gravity of the offence and is to act as a deterrent for the future.
- 9.4 Whenever the goods confiscated are not prohibited, an option is to be given as per Section 125 of the Customs Act, 1962 to pay a 'redemption fine', as the adjudicating authority deems fit, in lieu of the confiscation. Prohibited goods shall be confiscated absolutely.

**10. Arrest:**

- 10.1 To effectively tackle the menace of smuggling and other serious economic offences including commercial frauds, apart from penal action in Departmental adjudication, the Customs Act, 1962 provides for criminal prosecution in a Court of law. Prosecution action can also be taken for providing false documents/declaration to the Customs and for obstructing Customs officers in their work.
- 10.2 Any person guilty of serious offence under Customs Act, 1962 which is punishable under Section's 132, 133, 135, 135A or 136 of the said Act, can be arrested by a Customs officer authorized in this behalf, as provided under Section 104(1) of the said Act. Under the law, the person being arrested is entitled to be informed of the grounds for such arrest. Also, every arrested person has to be taken without unnecessary delay to the nearest Magistrate. The arrested person is to be dealt with by the Magistrate, as per the provisions of the Criminal Procedure Code which regulate this aspect would be applicable. The power to remand an arrested person to judicial custody vests in the Magistrate by virtue of Section 165 of the Cr.PC.
- 10.3 Though under Section 104 of the Customs Act, 1962 Commissioners of Customs are empowered to delegate to an officer of Customs by general or special order, powers of arrest of persons guilty of offence punishable under Section 135 of the said Act, extreme circumspection and care is to be exercised at senior level in exercising these powers and ordering arrests. Arrest should be resorted to only in cases of sufficient grave nature.
- 10.4 Persons involved in Customs related offence cases who may be liable to prosecution should not be arrested in routine unless exigencies of certain situations demand their immediate arrest. At times, prior to prosecution, arrests (s) may be necessary to ensure proper investigations and penal action against the persons (s), as otherwise the person involved in the offence may hamper investigations or disappear from the scene/area – such as in cases involving outright smuggling by Sea/Air/Land route.
- 10.5 In all commercial fraud cases in relation to regular imports or exports, before arresting any person(s) the Commissioner/ADG concerned should be approached by the Investigating Officer and the Commissioner/ADG should be personally satisfied that there are sufficient grounds warranting arrest of the person(s). These grounds/reasons should also be recorded by the concerned Commissioner/ADG in writing on file before the arrest is ordered and affected by the proper officer.

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- 10.6 As far as possible, in other than commercial fraud cases warranting prosecution under Section 135 of the said Act, where arrest is considered necessary prior clearance and approval for arrest may be taken from Commissioners/ADGs. However, there could be situations, for example in outright smuggling cases in remote areas (and sometimes even in town seizure or international passenger clearance offence cases) where it may not be administratively possible to get prior permission of concerned Commissioner/ADG before effecting arrest. In such cases, the decision to arrest a person in accordance with the guidelines - taking due note of the offence against the person which has come to light in investigations carried out, should be taken at the minimum level of the concerned Assistant Commissioner/Assistant Director – recording the reasons in writing. Further, in such cases, the concerned Assistant Commissioner/ Assistant Director or other higher officer (lower than Commissioner/ADG) who has ordered arrest, should immediately after arrest furnish a report incorporating reasons for arrest, to the jurisdictional Commissioner/ADG and his satisfaction for the arrest made should also be kept on record in writing.
- 10.7 The guidelines for arrest are summed up as follows:
- (i) Offences under the Customs Act, 1962 are either (i) bailable; or (ii) non-bailable. Since arrest takes away the liberty of an individual, the power must be exercised with utmost care and caution in cases where a Commissioner of Customs or Additional Director General has reason to believe on basis of information or suspicion that such person has committed an offence under the Act punishable under the Sections 132 or 133 or 135 or 135A or 136 of the Customs Act, 1962.
  - (ii) Arrest of persons in terms of Section 104(1) of Customs Act, 1962 should be resorted to only where the facts and situations of a particular case demand such action. Persons involved should not be arrested unless the exigencies of certain situations demand their immediate arrest. These situations may include circumstances like ensuring proper investigation, to prevent such person from absconding, cases involving organised smuggling of goods or evasion of Customs duty by way of concealment, masterminds or key operators effecting proxy/ benami imports/ exports in the name of dummy or non-existent persons/IECs, etc. The decision to arrest should be taken in cases which fulfil the requirement of the provisions of Section 104(1) of Customs Act, 1962 and after considering the nature of offence, the role of the person involved and evidence available.
  - (iii) While the Act does not specify any value limits, the powers of arrest may be exercised in respect of an offence, categorized as bailable offence, only in exceptional situations which may include (a) outright smuggling of high value goods such as precious metal, restricted items or prohibited items or goods notified under Section 123 of the Customs Act, 1962 or foreign currency where the value of offending goods exceeds Rs. 20 lakhs, (b) in a case related to importation of trade goods (i.e. appraising cases) involving wilful mis-declaration in description of goods/concealment of goods/goods covered under Section 123 of Customs Act, 1962 with a view to import restricted or prohibited items and where the CIF value of the offending goods exceeds Rs. 50 lakhs.

- (iv) There is no prescribed format for arrest memo but an arrest memo must be in compliance with the directions in "*D.K Basu vs. State of W.B.*" [1997(1) SCC 416 (see para 35)].
- (v) Certain modalities that should be complied with at the time of arrest and pursuant to an arrest include (a) female offender should be arrested by or in the presence of woman Customs officers, (b) medical examination of an arrestee should be conducted by a medical officer in the service of Central or State Government and in case such medical officer is not available, by a registered medical practitioner soon after the arrest is made. If an arrested person is a female then such an examination shall be made only by, or under supervision of a female medical officer, and in case such female medical officer is not available, by a female registered medical practitioner, (c) it shall be the duty of the person having the custody of an arrestee to take reasonable care of the health and safety of the arrestee.
- (vi) A person arrested for a non-bailable offence should be produced before Magistrate without unnecessary delay, as per Section 104(2) of the Customs Act, 1962.
- (vii) Under Section 104(3) of the Customs Act, 1962 an officer of Customs (arresting officer) has the same powers as an officer in charge of a Police Station under the Cr.PC. Thus, a Customs officer (arresting officer) is bound to release a person on bail for offences categorized as bailable under the Customs Act, 1962 and release on bail must be offered to a person arrested in respect of bailable offence and bail bond accepted. If the conditions of the bail are fulfilled, the arrestee shall be released on bail forthwith. The arresting officer may, and shall if such a person is indigent and unable to furnish surety, instead of taking bail from such person, discharge him or her executing a bond without sureties for his appearance as provided under Section 436 of Cr.PC. in cases where the conditions for granting bail are not fulfilled, the arrestee shall be produced before the appropriate Magistrate without unnecessary delay and within 24 hours of arrest.

[Refer Instruction F.No.394/71/97-Cus(AS), dated 22-6-1999 and  
Circular No. 38/2013- Cus., dated 17-9-2013]

## 11. Punishment for Customs offences:

- 11.1 Section 135(1) of the Customs Act, 1962 provides for imprisonment for a maximum term of 7 years and with fine to any person who is, in the context of any goods which he knows or has reason to believe are liable to confiscation under Sections 111 or 113 of the said Act:
- (a) Involved, in relation to the goods, or
  - (b) Anyway knowingly concerned in mis-declaration of value, or
  - (c) In any fraudulent evasion or attempt at evasion of any duty chargeable thereon or of any prohibition for the time being imposed under the said Act or any other law for the time being in force with respect to such goods, or
  - (d) Acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing or in any other manner dealing with any goods, or

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- (e) Attempts to export any goods, or
  - (f) Fraudulently avails of or attempts to avail of drawback or any exemption from duty provided under the said Act in connection with export of goods.
- 11.2 Section 135 provides the following punishments to the person held liable for offences mentioned therein:
- I. Imprisonment for a term not exceeding 7 years (and in any case ordinarily not less than 1 year) in the case of an offence relating to:
    - (a) Any goods the market price of which exceeds Rs.1 crore; or
    - (b) The evasion or attempted evasion of duty exceeding Rs.50 lakhs; or
    - (c) Such categories of prohibited goods as the Central Government may, by notification, specify; or
    - (d) Fraudulently availing of or attempting to avail of drawback or any exemption from duty referred to above, if the amount of drawback or exemption from duty exceeds Rs.50 lakhs.
  - II. In any other case, with imprisonment for a term not exceeding 3 years or with fine, or with both.
- 11.3 If any person convicted of an offence under Section 135(1) (or of Section 136(1) which applies to Custom Officers) of the Act is again convicted of an offence under the same sections, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to 7 years and with fine.
- 11.4 The offences punishable with imprisonment for a term of less than 3 years or only fine are as follows:
- (a) Section 132 of the Customs Act 1962: If a person makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document in the transaction of any business relating to the customs, knowing or having reason to believe that such declaration, statement or document is false in any material particular, he shall be punishable with imprisonment for a term which may extend to 2 years, or with fine, or with both.
  - (b) Section 133 of the Customs Act 1962: If any person intentionally obstructs any officer of Customs in the exercise of any powers conferred under this Act, such person shall be punishable with imprisonment for a term, which extend to 2 years, or with fine, or with both.
  - (c) Section 134 of the Customs Act 1962: If any person resists or refuses to allow a radiologist to screen or to take X-Ray picture of his body in accordance with an order made by a Magistrate under Section 103 of the said Act, or resists or refuses to allow suitable action being taken on the advice and under the supervision of a registered medical practitioner for bringing out goods liable to confiscation secreted inside his body, he shall be punishable with imprisonment for a term which may extend to 6 months, or with fine, or with both.



- (d) Section 135 of the Customs Act 1962: In all offences under the Customs Act other than those mentioned under 'non-bailable or cognizable offences' above, the punishment for imprisonment may extend to a term of three years, or with fine, or with both. However, under Section 135(1) (i) of the said Act, in the absence of special and adequate reasons to the contrary to be recorded in the judgment or the court, such imprisonment shall not be for less than 1 year.
- (e) Section 135A of the Customs Act 1962: If a person makes preparation to export any goods in contravention of the provisions of this Act, and from the circumstances of the case, it may be reasonable inferred that if not prevented by circumstances independent of his will, he is determined to carry out his intention to commit the offence, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

**12. Offences by Customs officers:**

12.1 The officers of Customs also cannot escape serious action including prosecution action, if they abuse their powers or collude or connive with tax evaders. In the following cases, prosecution proceeding against a Custom officer may be initiated under Section 136 of the Customs Act, 1962:

- (i) In cases of connivance in the act or any fraudulent export is effected or thing whereby any duty of customs leviable on any goods, or any prohibition for the time being in force under the said Act or any other law for the time being in force with respect to any goods is or may be evaded, a customs officer shall be punishable with imprisonment for a term which may extend to 3 years, or with fine, or with both.
- (ii) In cases of vexatious search, i.e., where any person is searched for goods liable to confiscation or any document relating thereto, without having reason to believe that he has such goods or documents secreted about his person, a Customs Officer may be punishable with imprisonment for a term which may extend to 6 months, or with fine which may extend to Rs.1, 000/-, or with both; or
- (iii) If a Customs Officer arrests any person without having reason to believe that he has been guilty of an offence punishable under Section 135 of the said Act, he may be punishable with imprisonment for a term which may extend to 6 months, or with fine which may extend to Rs.1,000/-, or with both; or
- (iv) If a Customs Officer searches or authorizes any other officer of customs to search any place without having reason to believe that any goods, documents, or things of the nature referred to in Section 105 of the said Act are secreted in that place, he may be punishable with imprisonment for a term which may extend to 6 months, or with fine which may extend to Rs.1,000/-, or with both.
- (v) If any Customs Officer, except in the discharge in good faith of his duty or in compliance with any requisition made under any law for the time being in force, discloses any particulars learnt by him in his official capacity in respect of any goods, he may be punishable with imprisonment for a term which may extend to 6 months, or with fine which may extend to Rs.1,000/- or with both.

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### **13. Presumption of culpable mental state:**

- 13.1 As per Section 138A of the Customs Act, 1962 in prosecution proceedings there under, the culpability (guilty conscience or mensrea ) on the part of the accused person shall be presumed and it will be for the accused to prove that he had no deliberation with respect of alleged offence. The presumption of culpable mental state is drawn under this provision that presumption includes intention, motive, knowledge, belief as well as reason to believe. The presumption could be deemed as rebutted only if the proof is beyond reasonable doubt not merely when its existence is established by a preponderance of probability.

### **14. Cognizability and Bailability:**

- 14.1 Broadly, Cognizable Offences as per Code of Criminal Procedure, 1973 (2 of 1974) are those offences which are punishable with imprisonment for a term of more than three years. Further, as per Cr.PC, the offences punishable with imprisonment for a term of less than 3 years or with fine are covered in the category of non-cognizable offences. However, Section 104 of Customs Act, 1962 stipulates that notwithstanding anything contained in the Cr.PC any offence relating to - (a) Prohibited goods; or (b) Evasion or attempted evasion of duty exceeding fifty lakh rupees shall be cognizable and all other offences under the Act shall be Non-cognizable. Section 104 (6) of the Customs Act, 1962 provides for the categories of offences punishable under Section 135 that are non-bailable and all other offences under this Act shall be bailable as per Section 104 of the Customs Act. The following categories of offences shall be non-bailable:

- (a) evasion or attempted evasion of duty exceeding Rs.50 Lakhs; or
- (b) prohibited goods notified under Section 11 of the Customs Act, 1962 which are also notified under Section 135(1)(i)(C) of the Customs Act, 1962; or
- (c) import or export of any goods which are not declared as per the provisions of the Customs Act, 1962 and the market price of which exceeds Rs.1 Crore; or
- (d) fraudulently availing of or attempt to avail of drawback or any exemption from duty, if the amount of drawback or exemption from duty exceeds Rs.50 Lakhs.

### **15. Prosecution:**

- 15.1 No prosecution proceedings can be launched in a Court of Law against any person under the Customs Act, 1962 and no cognizance of any offence under Sections 132, 133, 134, 135 and 135A of the said Act can be taken by any Court, except with the previous sanction of concerned Commissioner of Customs. Thus, based upon the results of investigations and evidence brought on record, Commissioners of Customs shall sanction prosecution only after being satisfied that there are sufficient reasons justifying the same. Criminal complaint must thereafter be filed in appropriate Court of law and followed up with a view to get expeditious conviction.

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