

SECTION: 122 Penalties for certain offences

Section No.	Offence	Penalty
SECTION NO.	<u>I: INVOICE:</u>	# 100% of TAX
122(1)	# NO INVOICE / FALSE INVOICE / BOGUS INVOICE - ISSUED	OR
"PENALTY FOR	# BOGUS INVOICE / FALSE INVOICE - RECEIVED FOR ITC	# ₹ 10,000
21 SPECIFIED	# ISSUE INVOICE - WITH REGISTRATION NUMBER OF	(WHICHEVER IS HIGHER)
OFFENCES"	another person (तोपो-की सलामी)	
"I-M-R-I-I	# EWAY Bill / Bill etc NOT ISSUED	
-R-ITC"	# SUPPRESS <u>TURNOVER</u> . ✓	
"FOR		
THE PERSON	<u>M: Manner of PAYMENT:</u>	
WHO IS	# COLLECT TAX / AMOUNT: BUT NOT PAID EVEN	
REGISTERED	Beyond <u>3 months</u> of DUE DATE	
OR LIABLE	# TDS: NOT DEDUCTED / SHORT DEDUCTED / DEDUCTED	
TO BE	BUT NOT PAID	
REGISTERED	# TDS: NOT COLLECTED / SHORT COLLECTED / COLLECTED	
"	BUT NOT PAID	
	<u>'R' = REGISTRATION:</u>	
	# NO REGISTRATION	
	# REGISTRATION WITH WRONG DETAILS (FRAUDULENTLY TAKEN)	
	<u>'R' = RECORDS:</u>	
	# NO RECORD / FALSE RECORDS / SUBSTITUTE RECORDS	
	OR DESTROY RECORDS / <u>FALSE INFORMATION</u>	
	<u>'R' = RETURN:</u> - Nothing - Because we have	
	Already section: 47/62 (LATE FEE)	
	<u>R = REFUND:</u> Fraudulently claim Refund.	

ITC :

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

DOS :

- ① # Dispose off / tamper with : ANY Goods seized
uls: 67(2) OR Provisionally ATTACH uls: 83
- ② # Obstruct : Create Obstruction in officer work.
- ③ # 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 i.e. on whose instruction following transactions are

Conducted :

OUTWARD

* NO Bill (But Supply made)

* NO Supply (But Bill issued) ❌ (हानिकार)

INWARD

* TAKE ITC without Supply

PASS ON :

* WRNG Distribution of ITC. etc

100% ITC

OR

10000

Section: 122(1B)

PENALTY

ON ECO

Related to

"UNREGISTERED

Vendor"

@ AMAZON

ANY E-com operator allows ANY "UNREG."

Vendor of Goods without ENR No.

Allow Inter-state Sale of Goods of such

Person

Fails to Forming Details uls: 52 (TCS wala)

100% ITC

OR

₹ 10000

(Whichever is

Higher)

Section	Offence	Penalty
Section: 122(2)	# ANY REGISTERED PERSON WHO COMETES FOLLOWING * TAX NOT PAID / SHORT PAID * ITC wrongly claim / utilise + Erroneous Refund	BONA FIDE 10% of TAX OR 10,000 (Higher)
Reasons	Notes: See: 73/74/74A vs Section: 122(2) " ANY ONE ie NO double penalty will be there "	MALA FIDE 100% of TAX OR 10,000 (Higher)

Section: 122(3)	ANY PERSON WHO :-	Penalty
Penalty for Supplier	# AIDS/ABETS with respect to offence u/s 122(1)	Up to ₹ 25,000
" FETAR ie गति शि वैयक्तिक व्यक्ति आदि "	# Acquire Possession of Goods / Transport / Report / Keeping / Concealing etc ie " CONTRABANNED GOODS ME HATH SANETHAI "	
	# Director, manager etc	
	# NOT Present before officer (JANETI)	
	# INVOICE NOT ISSUED / NOT ACCOUNT FOR	

Section	Offence	Penalty	Nature
Section: 122(1)	: 21 offence	: 100% of TAX OR 10,000 (H)	Fixed
122(1A)	: MASTER MIND	: 100% of TAX	Fixed
122(1B)	: ECO	: 100% of TAX OR 10,000	Fixed
122(2)	: Bona fide / mala fide	: (10% or 10K), (100 or 10K)	Fixed
122(3)	: AIDS/ABETS	: UP TO 25,000	Variable

SECTION 125: Residuary penalty: Where NO specific penalty is provided for any offence & penalty u/s: 125 upto ₹ 25,000 (variable NATURE)

1) Books & ITC = 72 MONTHS }
 2) 1/3 Concept = 1/3 }
 3)

Section: 122 A: Penalty for failure to register certain machines

Background: Gutkha/Pan Masala etc tobacco.

Value ; 10,000 (5000 am)
+ GST @ 2800
+ CESS @ 13500
135%
26300

10000 TAX
16300 TAX

Heavy TAX Rate ↑
Evasion Heavy ↑
CONTROL Heavy ↑

"ONE MORE Step to Control TAX Evasion"

MACHINERY ki counting se - Production CAPACITY ko
Pachay MACHINERY KA Registration KARAWA HAI.
NABHI KARAYATO??

Sec: 122 A @ Penalty

NOTWITHSTANDING ANY contained in this Act: -

- Where any person who is engaged in manufacture of Specified Goods,
in respect of which any special procedure relating to
Registration of machines is notified u/s: 148 (e.g. Gutkha, Pan Masala
maker etc)

- Contravene special procedure is 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. MC

& Every such machine liable
to CONFISCATION
e.g. 3 MACHINE (1X3 = 30000)
NOT REG.

Relaxation

IF Penalty paid &

WITHIN 3 DAYS
MACHINERY 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 = ₹ 100 per DAY (MAX ₹ = 5000)

Persons covered under this Section: BANK, RTO, Development Authority, Electricity Deptt, stock exchange, INCOME TAX Deptt 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 ₹ PER DAY (MAX: 25000)

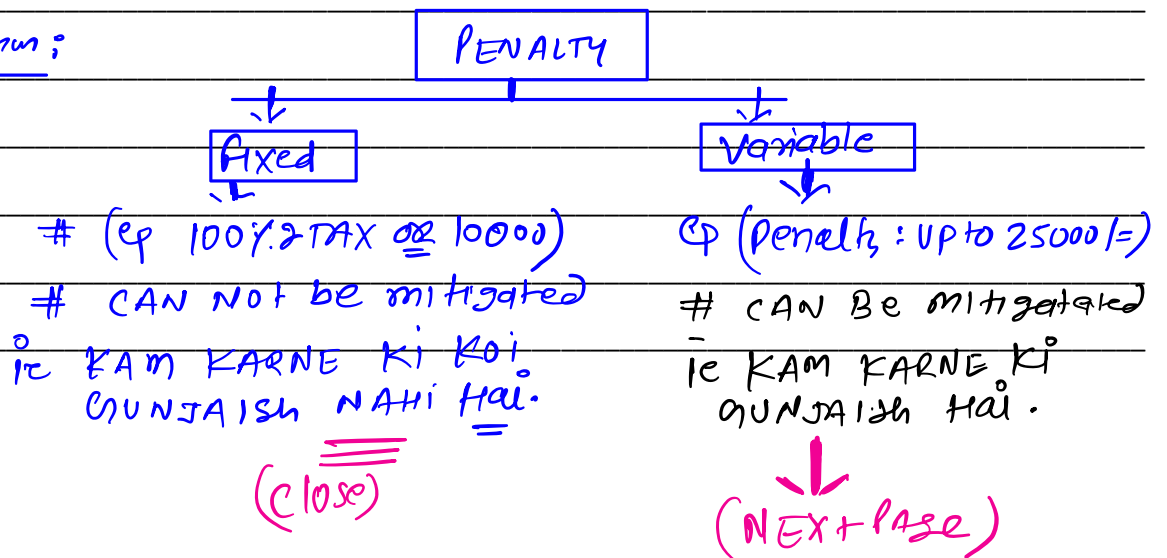
: Relax - BABY - Relax :

Section for Officers ✓

Section: 126: General Disclpns related to Penalty
Mitigation/Reduction in Penalty

POINTS to be considered while imposing Penalties

(I) Mitigation:



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 first of All notice

Opportunity of being heard

With
full
Clarity



Penalty @ order Specifying the Nature
of Breach, Applicable Law (Section Reference)
& order with Reason

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 MIJHE AATA

hai

ONLY Penalty proceedings can be Initiated
Independently

ie NO MANDATORY need to do this along with

Other proceedings.


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

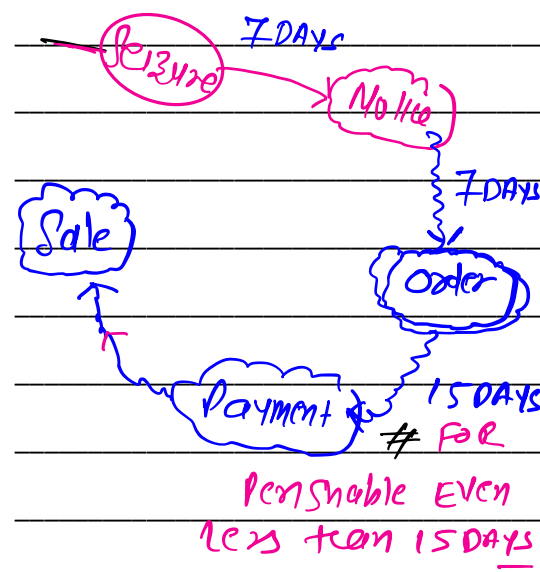
Similar
provision
for Interest
Also

Classification

Oppo. st
Seg. heam

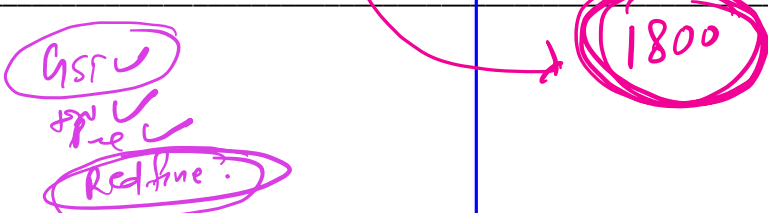
Seizure and confiscation of Goods @ "ON THE WAY" / IN TRANSIT "Outdoor"

Section Reference	For Goods Owner	For Transporter
Section: 129: Seizure	<u>Pay Before Demand order</u>	# PENALTY AMOUNT
Applicable Where: 	# Taxable Goods	For Owner of Goods i.e. JINAI
# TRANSPORT of contrabanded goods	200% OF TAX	Penalty Goods Owned PAR LAGI HAN UNHI Penalty transporter re LAGAN. <u>XXX X</u>
# <u>STAGE IN TRANSIT</u>	# Exempted Goods	(BUT MAX to max Rs 100000)
(Note: Power to Stop vehicle if: GR if Value of goods exceeds Rs 50,000)	* 2% of Value of Goods OR * Rs 25000 (WHICHEVER is <u>Lower</u>)	
	<u>Pay After Demand order</u>	
	# Taxable Goods	
	200% OF TAX	
	OR	
	50% of Value of Goods (Higher)	
	# Exempted	
	* 5% of Value of Goods OR * Rs 25000 (Lower)	



make it double for last

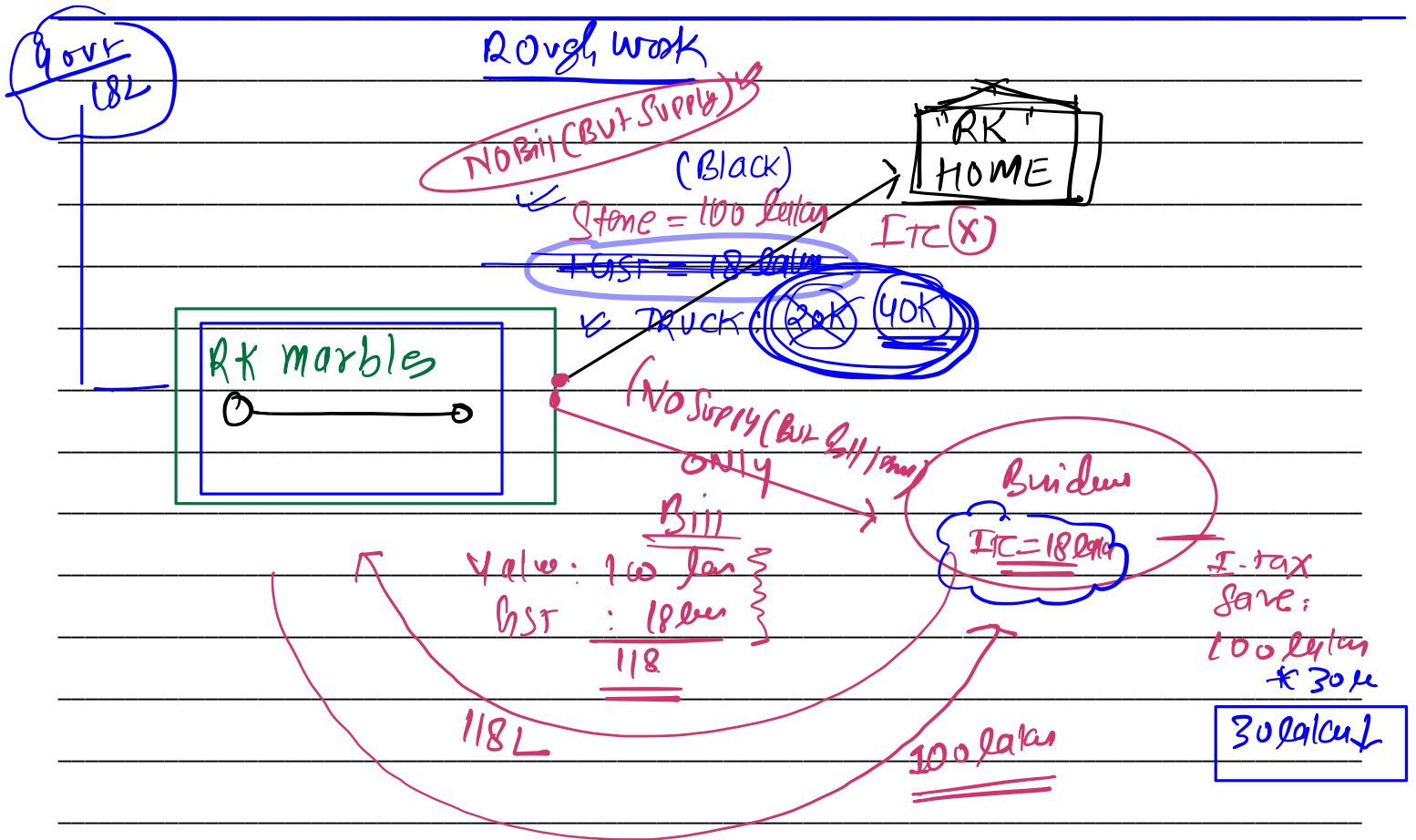
Section: 130 Confiscation	Maximum Red. Fine	Maximum Red. Fine
Redemption fine	market value of the goods (-) GST amt = <u>XXX</u>	= amount of TAX EVASION.
# NO REF.		
# Supply with intent to evade	eg M.V = 118000 - GST = 18000 NET value = <u>100000</u>	ie AAPKI VAJAH Se JINAI GST KI, CHORI hue hai URA Red. Fine Pay FARNA Hoga
# Supply with intent to evade, # NOT A/C FOR the goods		
# TRANSPORT contrabanded goods		
# Other contraventions to evade		
# Goods & TRUCK liable to confiscation		
# (Option to Redemption fine)		
Opt (PAY Red fine) OR NO + TO OPT Confiscation - Auction		



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) (सबसे भी SAAS)

Section 132: # List of Criminal offences

NATURE of offence (HOT - COOL)

Punishment for certain offences (Jail)

① Section 132(1): ANY PERSON $\begin{cases} \rightarrow \text{WHO COMMIT} \\ \rightarrow \text{CAUSE TO COMMIT} \\ \rightarrow \text{BENEFICIARY} \end{cases}$
(9 CRIMINAL OFFENCES)

(a) NO Bill (But Supply made)

(b) NO Supply (But Bill ISSUED) \approx पूरी नीयत ie Bill PARCHE KA KAM

(c) BOOK ITC (Because of 2 Above points) of Builder

(d) Collect an AMOUNT of TAX and not to pay EVEN BEYOND 3 MONTHS OF DTD.

4
MAHA
PAAP.

Evide (e) Otherwise way Evide tax / claim Refund fraudulently.

false (f) Keep false / substitute records, produce false information.

(g) X (BOYS)

(h) Goods: Any way Deals with contabanned Goods

(i) Service: Any way Deals with contabanned Service
(GIRL)

(j) X

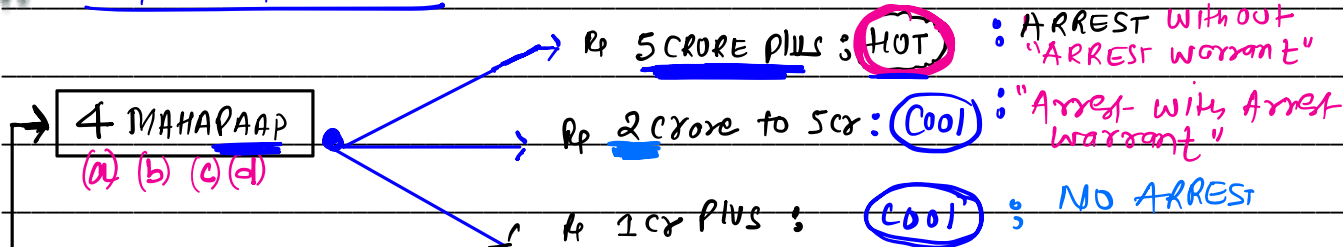
(k) X

(l) (Attempt) to commit above offences

g j k

NATURE of offence: (HOT/COOL)

Arrest: u/s. 69



Other 5 PAAP: Always COOL
e f h i l

HOT = Cognizable & **NON** Bailable
 ↓
 # i.e. संजीव
 Arrest without
 ARREST warrant
 U/s: 69 and
 produce him before
 Magistrate within
24 hour.

COOL = **NON** Cognizable & Bailable
 ↓
 i.e. ARREST
 With warrant
 warrant -
 शाहीद
 MIL
 जाउरी

" 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 i.e. 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 -	UP TO 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 months may be reduced in special cases.
 # Discretion of COURT.

Section: 133 : NOT Relevant

(संज्ञा)

Section: 134 : CONSPIRACY OF OFFENCES.

PUSH
Mode

ONLY WITH THE PRIOR APPROVAL OF COMMISSIONER & NO COURT SHALL TAKE CONSPIRACY OF ANY OFFENCE EXCEPT WITH THE PRIOR APPROVAL OF COMMISSIONER.

Section: 135 Presumption of Culpable Mental State

Note: EK PERSON KO TAB TAK JAI MENAHI DALA JA SAKTA JAB TAK KI WO CRIMINAL OFFENCE USNE JAAN BUSHKAR NA KIYA HO.

AS PER SECTION: 135: COURT WILL PRESUME THAT THE OFFENDER DO THE ACT WITH CULPABLE MENTAL STATE IS 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 hai

offence By Company, firm, AOP, BOI etc

PROSECUTION

BADE MIYA * Director, Manager, secretary,

Other office

Consent/
connivance
INKI HOI
Hai.

* PARTNER

Driver

Jail

* MEMBERS

• KARTA.

CHHOTE MIYA : Every person who at

the time of offence was

committed - was " IN CHARGE "

Jail

ie Respective Deptt Incharge

of store Incharge, Purchase

Incharge, Accounts Incharge

KARTE
YE HAI

HELPER

EXCLUSION :

Who was Absent when offence was committed (eg varsho devi)

Who follow Due Diligence.

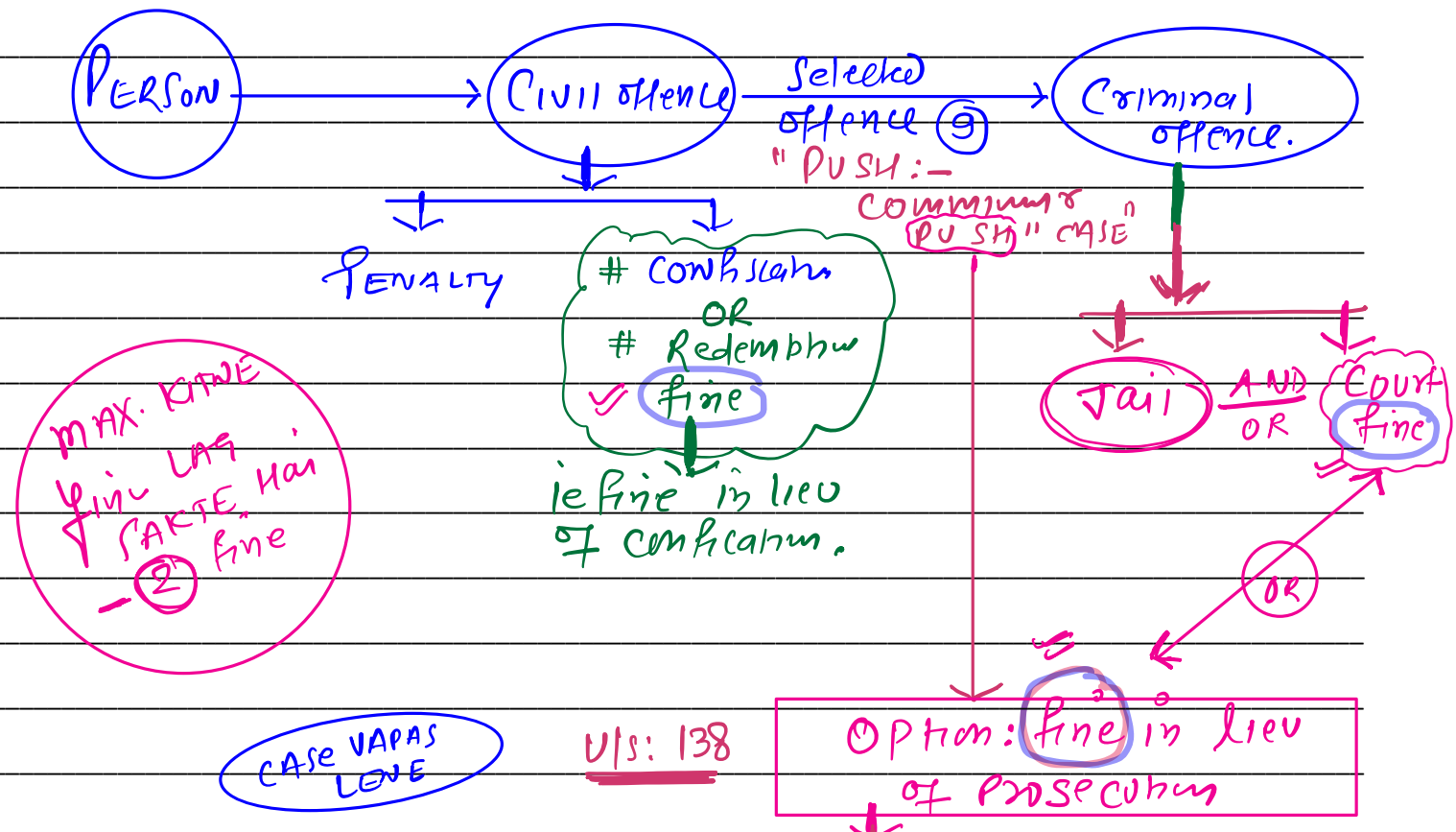
PROVE

Imp

"AB FIRM KA "PARDA" GIRNE WALA HAI"

Section NO: 138: "Paise lekar APRADHO PAR PARDA DADNA"
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 ✓

Notes Compounding Benefit Available only after
 Payment of

- TAX ✓
- IFTY ✓
- Penalty ✓
- Compounding fee ✓

↓
Relax

Other Acc. proceeds
 go on i.e. unaffected