

SHORT REVISIONARY KONCEPTS

Criminal Proceedings

	<u>Which act will constitute Offence (that will attract imprisonment)</u>		<u>Some Special Points</u>
<u>Sec 9</u> <u>Any Person</u> [Natural Person / Artificial Person (Company)] [Assessee / Dept.]	<u>When</u> 1) Possession of “Tobacco” in excess of prescribed quantity; 2) Evading payment of excise duty; 3) Removal any excisable goods in contravention of any provisions of CEA / Rules <u>or</u> <i>in anyway concern himself with such removal;</i> 4) -- Acquiring possession of, or -- In anyway concerning himself in Transporting/Depositing/ Keeping/Concealing, selling or purchasing, or -- In any other manner dealing with goods which he knows or has reason to believe are liable to confiscation; 5) Contravention of any provisions of Cenvat Credit Rules, 2004; 6) Failure to supply the information which he is required to supply under the act or supplying false information; 7) Attempting to commit or abetting the commission of, first two categories of offences.	<u>Sec 9A</u>	Offence to be non-cognizable: No arrest in respect of these Offences shall be made without obtaining arrest warrant. Offence can be COMPOUNDED: For that request to be made to Chief CCE (such request can be made before launch of prosecution proceeding and even after launch of prosecution proceeding) --- Any of the offence is compoundable on payment of prescribed fee.
		<u>Sec 9AA</u> (1) ↓ (2)	<u>Offence by Companies</u> <u>Offence committed by a Company</u> – The person who, at the time of commissioning of offence, was in charge of / responsible for conduct of the business of the company ■ shall be deemed to be guilty [Principle of VICARIOUS LIABILITY] ■ shall be liable to be proceeded against & punished accordingly. <u>Defenses available to such person:</u> i) He can prove that offence was committed without his knowledge or ii) He can prove that he exercised due diligence to prevent the commission of that offence <u>Offence committed by a Company</u> – Dept prove that it was committed with the consent of or it is attributable to neglect on part of -Any Director -Manager -Secretary -Other Officer of Company then, such person/s ■ shall be deemed to be guilty ■ shall be liable to be proceeded against & punished accordingly.
If offence is committed by Firm, then same principles (as stated above) shall apply – “Director” in relation to firm shall mean a “Partner in Firm”. Same principles will also be applicable if offence is committed by Other Association of Individuals / Any Body Corporate. [Explanation to Sec 9-AA (1)]			

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How Criminal Proceeding shall take place

