Module 15 · Search, seizure, arrest, prosecution P19 · topic 15

SM pp. 1037–1058 (exercise 1059–1060). **J23 Q6(a)** three persons — prosecution, arrest, bail (6 marks) = **SM Illus. 1 template**; J25 MCQ magistrate within 24 hours. Expected ~0.5 marks, but when it comes it is the Illus. 1 table.

S.67 INSPECTION, SEARCH, SEIZURE

- Authorised by a proper officer **not below Joint Commissioner** with **reasons to believe** (authorisation INS-01; seizure order INS-02; prohibition order INS-03 where seizure is impracticable; inventory signed by the person). Not "as a matter of course" (*Patran Steel*, Guj HC). Place of business includes godown, books' location, agent's place. [SM 1038–1039]
- Documents not relied on returned within **thirty days** of the notice; seized goods released provisionally on bond + security or on paying tax, interest, penalty; **no notice within six months** of seizure → goods returned (extendable by six months). Officer may seal / break open premises; copies allowed; CrPC applies; test purchases allowed (67(12)). [SM 1040]
- **s.68**: documents and devices to be carried with goods above the limit; produce for verification on interception. **s.70**: summons — inquiry is a judicial proceeding; from 1-11-2024 must appear in person or by authorised representative (70(1A)). **s.71**: produce records within **fifteen working days**. **s.72**: police, railways, customs etc. assist. [SM 1041, SM 1044]
- Voluntary payment (DRC-03) during search must be truly voluntary — no coercion; recovery only after adjudication (s.79). [SM 1045]

S.69 ARREST

- Commissioner, with reasons to believe a person committed a s.132(1)(a)–(d) offence punishable under (i) / (ii) or s.132(2), may authorise arrest. **Cognizable / non-bailable** (s.132(5)) → grounds told and produced before a **Magistrate within twenty-four hours** (J25 MCQ). **Non-cognizable / bailable** (s.132(4)) → bail by the DC / AC like a police officer-in-charge, else judicial custody. [SM 1041, SM 1043]
- ₹500 lakh monetary limit for prosecution does not apply to **habitual evaders** (two or more confirmed cases in two years) or where an **arrest** was made. [SM 1041]

S.132 OFFENCES AND PUNISHMENT

- **(a)** supply without invoice; **(b)** invoice without supply; **(c)** ITC on such invoices / without invoice; **(d)** tax collected, not paid **beyond three months** — these four are **cognizable and non-bailable above ₹500 lakh** (s.132(5)). [SM 1046]
- Always non-cognizable and bailable: **(e)** evasion / fraudulent refund not in (a)–(d); **(f)** falsified records; (h) dealing with goods liable to confiscation; (i) services in contravention; (l) attempt / abetment. **(g), (j), (k)** (obstruction, tampering, not giving information) **omitted from 1st October 2023**. [SM 1046–1047]

Tax involved	Imprisonment
> ₹ 500 lakhs (132(1)(i))	up to 5 years with fine
> ₹ 200 lakhs ≤ ₹ 500 lakhs (ii)	up to 3 years with fine
> ₹ 100 lakhs ≤ ₹ 200 lakhs (iii) — clause (b) only	up to 1 years with fine
clause (f) (iv)	up to 6 months or fine or both
second conviction (132(2))	up to five years and fine

Minimum **six months** unless the court records special reasons (132(3)); prosecution only with the Commissioner's **previous sanction** (132(6)). "Tax" includes wrong ITC and wrong refund. [SM 1047–1048]

S.138 COMPOUNDING (RULE 162)

- Commissioner may compound before or after prosecution, on payment of all tax, interest, penalty; not for a person already compounded for (a)–(f), (h), (i), (l). Amount between **25%** and **100%** of tax (138(2)); pay within **thirty days** of the order or it is void; immunity withdrawn for concealment / false evidence. [SM 1051–1054]
- Rule 162(3A) (from 1st October 2023): clauses (a), (c), (d), (e) — above ₹500 lakhs **50% to 75%** of tax; ₹200–500 lakhs **40% to 60%**; clauses (f), (h), (i) and attempts / abetment **25%**; more than one category → the higher amount. [SM 1053]

PROBLEMS BOX · PROSECUTION / ARREST / BAIL TABLE (RECOMPUTED BY SCRIPT m15_patterns.py)

FORMAT

For each person: (1) clause of s.132(1); (2) amount → punishment band; (3) (a)–(d) and > 500 lakh → cognizable + non-bailable, else non-cognizable + bailable; (4) arrest u/s 69 by the Commissioner; (5) second offence → up to 5 years.

WORKED PATTERN · SM ILLUS. 1

Person	Result
Ram: ITC ₹ 162 lakh not utilised	no offence
Rahim: evasion ₹275 lakh (e)	up to 3 years; non-cognizable; bailable
Robert: information not given, ₹8 lakh	not an offence after 1-10-2023
Lakshman: collected ₹585 lakh, paid ₹25 lakh (d)	up to 5 years; cognizable; non-bailable; arrest without warrant
Karthik: falsified records (f)	up to 6 months or fine; bailable

[SM 1048–1049] Illus. 2: invoices without supply ₹ 20 crore → tax ₹ 3.60 crore → non-cognizable, up to 3 years. [SM 1050]

J23 Q6(a) (OUR WORKING)

- (i) George: fraudulent refund 510 lakh → clause (e) → up to 5 years with fine; **non-cognizable, bailable** (e is outside s.132(5)).
- (ii) Abdul: collected 720, paid 120 → 600 lakh unpaid beyond three months → (d), > 500 lakh → up to 5 years; **cognizable, non-bailable**; arrest; Magistrate within 24 hours.
- (iii) Rohan: evasion 480 lakh → (e) → up to 3 years; **non-cognizable, bailable**.

⚠ ARREST FOR CLAUSE (e)

s.69(1) covers only clauses (a)–(d), yet SM Illus. 1 says "arrest can be ordered by Commissioner" for Rahim (e) and Karthik (f). Follow the section; mention the SM view in one line. [SM 1041, SM 1049]

PRACTISE THESE

J23 Q6(a) · J25 Q1(vii) · SM Illus. 1–2 · SM M15 MCQs (SM 1059–1060) · **ICMAI Practice Workbook Ch12 set 3 illus. 7, 8, 13, 17, 18; Ch13 illus. 1, 2, 6** (fake invoices, tax not deposited, s.70 statements, compounding, search, arrest) · MCQ bank Q68, Q147–Q151.

MEMORY HOOK

"ABCD above 5 crore = cognizable, no bail. Everything else bails." 5 crore → 5 years, 2 crore → 3, 1 crore → 1 (fake invoices); records → 6 months.