



Lawgics

By Nidhi, Advocate



Serial No.: 138
Dt.: 28-07-2023



<https://chat.whatsapp.com/Ie4VxuhvToe76Us7e5>

CLICK TO JOIN
WHATSAPP GROUP

Section 134 of CGST Act, 2017

134. Cognizance of offences.

No court shall take cognizance of any offence punishable under this Act or the rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Magistrate of the First Class, shall try any such offence.

Our Interpretation

Section 134

This provision sets out **the manner of taking cognizance of offences.**

Any offence under the Act or Rules can be tried **only before a Court not lower than the Court of Judicial Magistrate of First Class.** Further, **previous sanction of the Commissioner is mandatory** in every case.

Section 135 of CGST Act, 2017

135. Presumption of culpable mental state.

In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.—For the purposes of this section,—

- (i) the expression “culpable mental state” includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact;
- (ii) a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

Our Interpretation

Section 135

In this section, the framers of law have **cast the responsibility upon the shoulders of the accused who is alleged of culpable mental state to prove otherwise.**

In case of any prosecution which requires the existence of a culpable mental state, the Court would presume the existence of it. The accused can prove that he had no such mental state in respect of a particular act for which he is charged.

We expressly disclaim liability to any person in respect of anything done in reliance of the contents of this publication.