



## The Institute of Chartered Accountants of India

### GST & Indirect Taxes Committee

## GOODS & SERVICES TAX UPDATE - 243

### 1. Amendments in CGST Rules, 2017

#### (i) Amendment in Rule 36 - Documentary requirements and conditions for claiming input tax credit

Sub-rule (3) of rule 36 lays down that no input tax credit shall be availed by the registered person where tax has been paid in pursuance of any order where demand has been confirmed on account of fraud, wilful misstatement, or suppression of facts. Sub-rule (3) has been amended to specify that said order shall be such where demand has been confirmed on account of fraud, wilful misstatement, or suppression of facts **under section 74.**

*(Effective from 08.10.2024)*

#### (ii) Amendment in Rule 46 - Tax invoice

Second proviso to rule 46 lays down that where an invoice is required to be issued under section 31(3)(f) of the CGST Act, 2017, a registered person may issue a consolidated invoice at the end of a month for supplies covered under section 9(4) of the CGST Act, 2017, the aggregate value of such supplies exceeds Rs.5,000 in a day from any or all the suppliers.

The said second proviso shall be omitted implying thereby that recipients notified under section 9(4) will no longer be able to issue consolidated invoice.

*(To be Effective from 01.11.2024)*

#### (iii) Insertion of Rule 47A-Time limit for issuing tax invoice in cases where recipient is required to issue invoice

The Finance (No. 2) Act, 2024 had amended section 31(3)(f) of the CGST Act, 2017 to incorporate an enabling provision for prescribing the time period for issuance of invoice by the recipient in case of reverse charge supplies.

Consequently, new rule 47A has been inserted to provide time limit for issuing tax invoice under section 31(3)(f). The new rule lays down that a registered person who is

liable to pay tax under reverse charge as per sections 9(3) and 9(4) of the CGST Act, 2017, shall issue tax invoice within a period of 30 days from the date of receipt of the supply of goods or/and services from unregistered persons.

*(To be Effective from 01.11.2024)*

**(iv) Amendment in Rule 66 - Form and manner of submission of return by a person required to deduct tax at source**

The (Finance No. 2) Act, 2024 had substituted section 39(3) of the CGST Act, 2017 to mandate the electronic furnishing of return for each month by the registered person required to deduct tax at source, irrespective of whether any deductions have been made in the said month or not. Further, the Government was empowered to prescribe by rules, the form, manner and the time within which such return shall be filed.

Accordingly, sub-rule (1) of rule 66 has been amended to provide that every registered person required to deduct tax at source shall furnish return in Form GSTR-7 on or before the 10<sup>th</sup> day of the month succeeding the calendar month.

*(To be Effective from 01.11.2024)*

**(v) Amendment in Rule 89 - Application for refund of tax, interest, penalty, fees or any other amount**

Sub-rules (4A) and (4B) of rule 89 have been omitted. Consequently, reference of these sub-rules in clauses (B), (C) and (E) of sub-rule (4) and in explanation to sub-rule (5) have also been omitted.

*(Effective from 08.10.2024)*

**(vi) Amendment in Rule 96 - Refund of integrated tax paid on goods or services exported out of India**

Sub-rule (10) of rule 96 provides for a bar on availment of the refund of IGST paid on export of goods or services, if benefits of certain concessional/exemption notifications, as specified in the said sub-rule, have been availed on inputs/raw materials imported or procured domestically.

Sub-rule (10) of rule 96 has now been omitted. Accordingly, amendment has also been made in rule 86(4B)(b).

*(Effective from 08.10.2024)*

**(vii) Insertion of Rule 164 - Procedure and conditions for closure of proceedings under section 128A in respect of demands issued under section 73**

The Finance (No. 2) Act, 2024 had inserted a new section 128A in the CGST Act,

2017 to provide for conditional waiver of interest and/or penalty in respect of demand notices issued under section 73 of the CGST Act, 2017 for the Financial Years 2017-18, 2018-19, 2019-20 if full tax liability is paid before a date to be notified. A new rule 164 has been inserted to provide the procedure and conditions for closure of proceedings under section 128A in respect of demands issued under section 73. Some salient points of the rule are given hereunder:

- ✓ A person eligible for waiver of interest/ penalty in relation to a notice/statement under section 128A(1)(a) can file an application in FORM GST SPL-01 electronically. Details of the notice and payments made through FORM GST DRC-03 must be provided.
- ✓ For orders under section 128A(1)(b) or (c), the application must be filed in FORM GST SPL-02 electronically, providing details of the order and payments made. Payments must be made by crediting the Electronic Liability Register. If payment was made through FORM GST DRC-03, a separate application in FORM GST DRC-03A is required to transfer the amount to the Electronic Liability Register before filing FORM GST SPL-02.
- ✓ If the demand includes tax due to erroneous refund or relates to multiple periods, an application can only be filed after full payment of the demanded tax. The amount payable under this rule is the balance tax payable after deducting amounts as per section 16(5) or 16(6) from the total demanded tax.
- ✓ Applications for waiver must be filed within three months from the date notified under section 128A(1), with a six-month window for some specific cases involving re-determined tax amounts.
- ✓ Application must be accompanied by evidence showing withdrawal of any appeal/writ petition. If the withdrawal order has not been issued, the application for withdrawal must be submitted, and the order must be uploaded within one month of issuance.
- ✓ Proper officers will review the applications and issue an order either accepting or rejecting the request. If the proper officer is of the view that the applicant is not eligible for a waiver, he will issue a notice in FORM GST SPL-03 within three months. The applicant can respond via FORM GST SPL-04 within one month.
- ✓ If the officer accepts the application, an order is issued in FORM GST SPL-05 concluding the proceedings. If rejected, an order is issued in FORM GST SPL-07. If the proper officer fails to issue an order within the prescribed time, the application will be deemed approved.
- ✓ If no appeal is filed against a rejection, the original withdrawn appeal is restored. If an appeal is filed and upheld, the waiver is granted through FORM GST SPL-

06. If the rejection is confirmed, the original appeal is restored. Failure to pay additional taxes under Section 128A within the given time will make the waiver granted under FORM GST SPL-05/06 void.

**(viii) Amendment in various rules due to insertion of new section 74A**

The Finance (No. 2) Act, 2024 had inserted a new section 74A in the CGST Act, 2017 to provide for determination of tax not paid/short paid/erroneously refunded or ITC wrongly availed/ utilised for both fraudulent and non-fraudulent reasons pertaining to the Financial Year 2024-25 onwards. The new section shall become effective from 01.11.2024. Amendments have been made in rules 88B, 88D, 96B, 121, 142 to incorporate a reference to the new section 74A.

*(To be Effective from 01.11.2024)*

**(ix) Amendments in various forms**

Amendments have been made in various forms as specified below-

- a) FORM GST REG-20 has been substituted with a new form.
- b) In FORM GST REG-31, a paragraph has been inserted to provide for suspension of registration due to violations of Rule 10A/ 21.
- c) FORM GSTR-9 has been amended to reconcile the input tax credit as per FORM GSTR-3B and FORM GSTR-2B instead of FORM GSTR-2A.
- d) FORM GST APL-01 and FORM GST APL-05 will be amended w.e.f. 01.11.2024 to provide for the reduced pre-deposit.
- e) FORM INS-01 has been amended to provide for the sections of Bharatiya Nyaya Sanhita, 2023 in place of Indian Penal Code.
- f) FORM DRC-01A will be amended w.e.f. 01.11.2024 to incorporate the reference to new section 74A.
- g) Following new forms will be introduced w.e.f. 01.11.2024 in view of insertion of rule 164:

FORM GST SPL - 01: Application for waiver of interest or penalty or both under section 128A in respect of a notice or a statement mentioned in clause (a) of sub-section (1) of the said section.

FORM GST SPL -02: Application for waiver of interest or penalty or both under section 128A, in respect of an order mentioned in clause (b) or clause (c) of sub-section (1) of the said section.

FORM GST SPL -03: Notice in respect to an application filed u/s 128A.

FORM GST SPL -04: Reply to notice issued under rule 164(8).

FORM GST SPL -05: Order by Proper Officer for conclusion of proceedings as per section 128A.

FORM GST SPL -06: Order by Appellate Authority for conclusion of proceedings as per section 128A.

FORM GST SPL -07: Order for Rejection of Application submitted under section 128A.

FORM GST SPL -08: Undertaking submitted under rule 164(15)(b)(ii).

**[Notification No. 20/2024 – CT dt. 08.10.2024](#)**

**2. Date for payment of tax under section 128A(1) of CGST Act, 2017 notified**

The following dates have been notified for the payment of tax payable as per the notice, or statement, or the order referred to in clause (a) or clause (b) or clause (c) of section 128A of the CGST Act, 2017 by different class of registered person, as under:

<b>S. No.</b>	<b>Class of registered person</b>	<b>Date of payment for waiver of interest, or/and penalty under section 128A</b>
1.	Registered persons to whom a notice or statement or order, referred to in clause (a) or clause (b) or clause (c) of section 128A, has been issued	31.03.2025
2.	Registered persons to whom a notice has been issued under section 74(1), in respect of the period referred to in section 128A(1), and an order is passed or required to be passed by the proper officer in pursuance of the direction of the Appellate Authority, or Appellate Tribunal, or a court, in accordance with the provisions of section 75(2), for determination of the tax payable by such person, deeming as if the notice were issued under section 73(1) of the said Act.	Date ending on completion of six months from the date of issuance of the order by the proper officer re-determining tax under section 73 of the said Act.

*This notification shall come into force from 01.11.2024.*

**[Notification No. 21/2024-CT dt. 08.10.2024](#)**

**3. Special procedure for rectification of demand orders issued for contravention of section 16(4) of the CGST Act, 2017**

A special procedure has been provided for rectification of orders issued under sections 73, 74, 107, 108 of the CGST Act, 2017 confirming demand for wrong availment of input tax credit (ITC) due to contravention of section 16(4), but where such ITC is now available under sections 16(5) or 16(6), and where appeal against the said order has not been filed.

The person against whom such orders have been issued shall file a rectification application therefor on the portal within 6 months from the date of issuance of notification. Along with the application, information as given in the proforma in Annexure A of *Notification No. 22/2024-CT dt. 08.10.2024* shall also be uploaded.

The proper officer for carrying out rectification of the said order shall be the authority who had issued such order. The said authority shall take a decision on the said application and issue the rectified order, as far as possible, within a period of 3 months from the date of the said application in FORM GST DRC-08 (when order was issued under sections 73/74) or FORM GST APL-04 (when order was issued under sections 107/108).

Where such rectification adversely affects the said person, the principles of natural justice shall be followed by the authority carrying out such rectification.

**[Notification No. 22/2024-CT dt. 08.10.2024](#)**

**4. Waiver of late fee for delayed filing of Form GSTR-7**

*Notification No. 22/2021 CT dated 01.06.2021* providing the waiver of late fee for delay in filing of Form GSTR 7 has been superseded by *Notification No. 23/2024-CT dt. 08.10.2024*. It has now been provided that the total amount of late fee payable for failure to file the return in FORM GSTR-7 for a month by the due date shall be waived if the total CGST deducted at source in the said month is nil.

The late fee for delayed filing of the return in FORM GSTR-7 for the month of June, 2021 onwards, by the due date continues to be Rs. 50 per day [Rs. 25 for CGST & Rs. 25 for SGST] for the period of default. However, the maximum late fee is restricted to Rs. 2,000/- [Rs. 1000 for CGST & Rs. 1000 for SGST].

*This notification shall be effective from 01.11.2024.*

**[Notification No. 23/2024-CT dt. 08.10.2024](#)**

**5. Mandatory registration for supplier of Metal Scrap**

Persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods

or services or both under section 9(3) are exempt from obtaining registration under the CGST Act, 2017 vide *Notification No. 5/2017-CT dt. 19.06.2017*.

*Notification No. 5/2017-CT dt. 19.06.2017* has been amended to provide that the above exemption shall not be available to any person engaged in the supply of metal scrap, falling under Chapters 72 to 81 in the first schedule to the Customs Tariff Act, 1975.

*This notification shall come into force w.e.f. 10.10.2024.*

**[Notification No. 24/2024-CT dt. 09.10.2024](#)**

## **6. TDS on supply of metal scrap**

*Notification No. 50/2018-CT dt. 13.09.2018* has been amended to provide that any registered person receiving supplies of metal scrap from other registered person shall deduct tax at source, as required under section 51 of the CGST Act.

It has been further provided that TDS shall be deducted by the recipient on supply of metal scrap even when it is supplied between persons mentioned in clause (a), (b), (c) and (d) of section 51(1).

*The above amendment shall come into force w.e.f. 10.10.2024.*

**[Notification No. 25/2024-CT dt. 09.10.2024](#)**

***Vice – Chairman  
GST & Indirect Taxes Committee***

***Chairman  
GST & Indirect Taxes Committee***

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