



**H N A & Co LLP**  
Chartered Accountants  
(Formerly known as Hiregange & Associates LLP)

# HNA Updates – Changes pursuant to 54th GST council meeting

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**October -2024**

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# **A. Changes/clarifications in GST rates for Services**

## Affiliation services

Circular No.234/28/2024-GST

### Summary of amendment

**GST on the service of affiliation provided by Central and State Educational Boards or Councils to schools-** Circular clarifies that affiliation services provided by educational boards like CBSE to schools are taxable. However, it exempts affiliation services provided by State/Central educational boards, educational councils and other similarly placed bodies to Government Schools prospectively. The issue for the past period between 01.07.2017 to 17.06.2021 is to be regularized on 'as is where is' basis.

**GST on the service of affiliation provided by universities to colleges-** Circular clarifies that the affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided to educational institutions in the notification No. 12/2017- CT(R) and GST at the rate of 18% is applicable on the affiliation services provided by the universities.

### H N A Comments

*Various representations were received from universities expressing their concerns regarding "affiliation" fees charged to colleges, arguing that affiliation services are distinct from accreditation and therefore should not be subject to the same GST treatment as outlined in the Circular No. 151/07/2021-GST dated 17.06.2021. Further, various judgements were held with respect to affiliation services:*

**Affiliation services are exempt:**

- *Tamil Nadu Dr. Mgr Medical University - 2022 (64) G.S.T.L. 475 (Mad.) followed decision of Madurai Kamraj University reported in 2021 (54) G.S.T.L. 385 (Mad.)*

**Affiliation services are taxable:**

- *SREE RAMU COLLEGE OF ARTS AND SCIENCE - 2024 (83) G.S.T.L. 411 (Mad.)*
- *Care College of Nursing 2024 86 GSTL 244 (Tel)*

*In response to these concerns, the GST Council, during its 54th meeting, clarified that the circular includes all other services, including affiliation services and 18% GST is applicable as CBSE by way of affiliation is not imparting any education, training or instruction to students. However, the Council also decided that affiliation services provided by State/Central educational boards, educational councils, or similar entities to government schools will be exempt from GST prospectively. The exemption of the aforesaid services can be construed as a welcome move as this bridges the disparity in the economy.*

### Action Points for Businesses

*Past tax liabilities for the period from 01.07.2017 to 17.06.2021 will be regularized on an 'as is where is' basis only in case of school not colleges. Educational institutions should review their existing contracts with universities and educational boards to understand the GST implications and make necessary adjustments.*

## Flying training courses

Circular No.234/28/2024-GST

### Summary of amendment

The circular clarifies that the approved flying training courses conducted by DGCA-approved Flying Training Organizations (FTOs) are exempt from the levy of GST. This includes training required for obtaining private pilot and commercial pilot licenses, as mandated by the Aircraft Act, 1934, and the rules prescribed thereunder

### H N A Comments

*There has been a dispute as to whether the Circular-117/36/2019-GST dated 11.10.2019 that exempts maritime training institutes can be mutatis mutandis applicable to the flying training provided by Organization's approved by DGCA by way of inclusion in the educational institutions.*

*The Council clarified that training programs conducted by FTOs approved by the DGCA are considered skill development programs governed by the Aircraft Act, 1934, the Aircraft Rules, 1937, and the Civil Aviation Requirements. Thus, these FTO-conducted trainings qualify as "education as a part of curriculum for obtaining a qualification recognized by any law in force," as outlined in sub-para (ii) of the definition of 'educational institution'. However, these trainings do not fall under the category of 'vocational education and training' as defined by the notification issued by the Ministry of Skill Development and Education and shall continue to meet the definition of 'educational institution'.*

*Relevant Notification/Circulars: Notification No. SD-17/113/2017-E&PW dated 5th December 2018, Circular No. 117/36/2019-GST.*

### Action Points for Businesses

*The approved flying training courses conducted by FTOs approved by DGCA, wherein the DGCA mandates the requirement of a completion certificate, are covered under Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 and are hence, exempt*

## Transport of passengers by helicopters

Circular No. 234/28/2024-GST

### Summary of amendment

The Circular notified that GST @ 5% on the transport of passengers by helicopters on seat share basis and regularized the GST for past period i.e., or the period from July 1, 2017, to October 9, 2024 on 'as is where is' basis. Also clarified that charter of helicopter will continue to attract 18% GST.

### H N A Comments

*The current passenger transport services by air can be bifurcated into three rates:*

- a. Economy class that attracts 5% GST*
- b. Other than Economy class that attracts 12% GST.*
- c. Residual Entry - 18%*

*However, helicopters not having any distinction between economy or non-economy seats were charging GST at 5% treating it similar to economy class offered by scheduled airlines. This even in today's date is being challenged by GST department by way of avalanche of notices to all the Helicopter operators demanding GST at 18%.*

*Further, Sl No. 18(iva) of Notification No 11/2017-CT(R) w.e.f 01.01.2019 prescribing GST at 5% by non-scheduled air transport service or charter service engaged by specified organizations in respect of religious pilgrimages facilitated by GOI alone. Hence, it has been recommended that GST @5% will be applicable on all the transport of passengers by helicopters when rendered on seat share basis whether for the religious pilgrimages or not.*

*Charter of Helicopter as a whole cannot be covered under the aforesaid tax rate and shall continue to fall under the residual Heading of 9964 charging tax @18%*

### Action Points for Businesses

*How to distinguish amongst the two services? What can be the evidence in this regard?*

*In our considered view, clear demarcation may be established between the aforesaid services by way of proper ticketing mechanisms or documentary record-keeping of the details of the "sale of tickets". A proper register may be maintained on a trip level encompassing the list of passengers boarded per trip.*

**Relevant Notification:** *Sl No. 18(iva) of Notification No 11/2017-CT(R) w.e.f 01.01.19*

## Ancillary/intermediate services provided by GTA

Circular No. 234/28/2024-GST

### Summary of amendment

The circular clarifies when ancillary/intermediate services are provided by GTA in the course of transportation of goods by road and GTA also issues consignment note, the service will constitute a composite supply and all such ancillary/intermediate services like loading/unloading, packing/unpacking, transshipment, temporary warehousing etc. will be treated as part of the composite supply. If such services are not provided in the course of transportation of goods and invoiced separately, then these services will not be treated as composite supply of transport of goods.

### H N A Comments

*The Department was classifying the ancillary services in relation to transportation of goods as "Cargo Handling Services" and GST@18% was demanded to be discharged. This is a welcome move as this would lead to brevity in the industry as the unnecessary future demands may be eliminated.*

*The above recommendations are only applicable when the following elements are present in the transactions so as to make it a composite supply:*

- a. Services in relation to transportation of goods by road*
- b. Issuance of consignment note.*

### Action Points for Businesses

*The method of invoicing used by GTAs will not generally alter the nature of the composite supply of service. However, if such services are not provided in the course of transportation of goods and are invoiced separately, then these services will not be treated as composite supply of transport of goods.*



## Import of service by Airlines branch Office

Circular No. 234/28/2024-GST

### Summary of amendment

The Circular provides an exemption on import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India, when made without consideration.

### H N A Comments

*For foreign airlines operating from India, the head offices (HO) outside India incur most of the expenses without charging costs thereof to their Indian branches. However, under Schedule I Entry 4 of the CGST Act, 2017, any import of services from a related establishment abroad, even without consideration, is deemed a taxable supply, subject to an 18% GST under the reverse charge mechanism.*

*Since, the Indian Branch Office is not eligible for the full input tax credit due to GST @5% on outward supplies when rendered through economy class, the services procured cannot be deemed to be of Nil Value. The council provided relief through an exemption for the import of services by foreign airline branches from their HO, provided the GST on transporting goods and passengers has been duly paid in India.*

### Action Points for Businesses

*Past tax liabilities for the period from 01.07.2017 to 09.10.2024 will be regularized on an 'as is where is' basis.*

## Preferential Location Charges (PLC)

Circular No. 234/28/2024-GST

### Summary of amendment

The Circular clarifies that location charges or Preferential Location Charges (PLC) paid along with the consideration for the construction services of residential/commercial/industrial complex before issuance of completion certificate forms part of composite supply where supply of construction services is the main service and PLC is naturally bundled with it and are eligible for same tax treatment as the main supply that is, construction service.

### H N A Comments

***Building sold before OC/CC:*** The sale of building before OC/CC amounts to supply of service. It is clarified in the 54th council meeting that PLC are part of a composite supply bundled with construction services, attracting the same GST rate as main service.

***Building sold after OC/CC:*** The sale of building after OC/CC does not amount to supply. PLC along with sale of building after OC/CC cannot be considered a composite supply in the first place as, composite supply requires the existence of two or more supplies.

Then comes a question, as to whether PLC should be taxed separately. In our view, PLC should be considered merely as an extension of consideration charged for sale of immovable property and should be kept outside the purview of GST. This can be taken as a cue from the discussion in 54th GST council meeting as well.

### Action Points for Businesses

While determining first sale value for calculation of GST liability on construction services, PLC charges must also be included by the Developer in the first sale value of the similar apartments sold by him to the end customer.

## Services related to transmission or distribution of electricity

Circular No. 234/28/2024-GST

### Summary of amendment

The circular provides an exemption on supply of services such as application fees for providing electricity connection, rental charges against electricity meter, testing fees for meters/ transformers/capacitors, labour charges from customers for shifting of meters/service lines, charges for duplicate bills etc. which are incidental, ancillary or integral to the supply of transmission and distribution of electricity by transmission and distribution utilities to their consumers, when provided as a composite supply.

### H N A Comments

*Vide Sl. No. 4 of Circular No. 34/8/2018-GST, it was clarified that the following services are taxable under GST w.e.f. 01.07.2017:*

*"The other services such as, - (i) Application fee for releasing connection of electricity; (ii) Rental Charges against metering equipment; (iii) Testing fee for meters/ transformers, capacitors etc.; (iv) Labour charges from customers for shifting Of meters or shifting Of service lines; (v) charges for the duplicate bill; provided by DISCOMS to the consumer are taxable"*

*However, the above Circular has been struck down by the Hon'ble High Court of Gujarat in Torrent Power Ltd vs UOI (5343 of 2018) case. Where the Court held that the services in question would fall within the ambit of bundled services and would be treated in the same manner as the service which gives the bundle its essential character, namely, transmission and distribution of electricity and, would therefore, be exempt from payment of service tax.*

*Therefore, the Council has clarified that all above such services, when provided by DISCOM or transmission and distribution utility to customers along with transmission or distribution of electricity, are naturally bundled and supplied in conjunction with principal supply of service, i.e., transmission and distribution of electricity, and will thus constitute composite supply in such cases and not liable to GST.*

### Action Points for Businesses

*GST liability for the past period will be regularized on an 'as is where is' basis. Moving forward, the above services provided by transmission and distribution utilities to customers, when bundled with the transmission or distribution of electricity, will be exempt from GST, as the principal supply is exempt.*

## Film distribution services

Circular No. 234/28/2024-GST

### Summary of amendment

The GST liability for the past period prior to 01.10.2021 on 'as is where is' basis, where the film distributor or sub-distributor acts on a principal basis to acquire and distribute films.

### H N A Comments

*Following are the relevant entries for the film distribution.*

*9996 – Motion picture distribution services (18%)*

*9973 – Licensing of rights to broadcast (12%)*

*Department has taken a view that the grant of theatrical to the exhibition centres attracts GST rate @18% under 9996. In the 45th GST Council meeting held on 17.09.2021, it was stated that there is no difference between "granting permission" and "licensing". Hence, w.e.f. 01.10.2021 council recommended to rationalise the GST rate and keep uniform rate of 18% on both entries.*

### Action Points for Businesses

*Now, for the past period prior to 01.10.2021, GST council recommended to regularize the GST liability on "as is where is" basis in respect to granting to theatrical rights by distributor to exhibition centres wherein the distributor acted on a principal basis to acquire and distribute films.*

## **B. Changes/clarifications in GST tax rates for Goods**

## Extruded Snack Pellets

Circular No. 235/29/2024-GST

### Summary of amendment

The GST rate for extruded or expanded savoury or salted products (excluding un-fried or uncooked snack pellets) under HSN 1905 90 30 will be reduced from 18% to 12%, aligning it with the rate for ready-to-eat items like namkeens and bhujia under HSN 2106 90. The 5% GST rate will continue for un-fried or uncooked snack pellets. This reduced 12% GST rate will apply prospectively.

### H N A Comments

*There have been disputes on the issue of classification of extruded based namkeen products considering that these products, in recommendation of Council, could not fall under chapter 2106 as applicable for namkeen products.*

*The general GST rate for "Extruded or expanded products, savoury or salted" was clarified earlier to fall under tariff item 1905 90 30 with 18% rate of tax. However, industry was of the view that the process of extrusion should not make any difference so long as final product is the nature of namkeen and thus should be classifiable under 2106 with rate of tax @ 12%. The dispute has been in challenge before Karnataka High Court in case of ITC Limited where stay has already been granted by Court.*

*The Council has now clarified that the classification would be under 1905 only, but rate of tax has been reduced to 12% to align it with namkeen products. However, the recommendation is proposed to be prospective leaving the interpretational issue open for past period.*

*Considering the view taken by entire industry for classification under 2106 with rate of tax being equivalent to namkeen for past period, the matter may get settled only at High Court level.*

**Relevant Notification No. – NN-1/2017-CT(R)**

## Roof Mounted Air Conditioners for Railways

Circular No. 235/29/2024-GST

### Summary of amendment

Circular clarifies that Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways would be classified under HSN 8415 attracting a GST rate of 28%.

### H N A Comments

*There has been a dispute as to whether to classify the roof mounted air conditioners in railways under Heading 8415 with 28% GST or 8607 with 18% GST due to AAR rulings that are in contrary to one another. Goods under heading 8415, which includes air-conditioning machines, are subject to a 28% GST rate as specified in S. No. 119 of Schedule IV of notification No. 01/2017-CT (Rate) dated June 28, 2017. Similarly, goods under heading 8607, such as parts for railway or tramway locomotives, attract different GST rates per S. No. 398G of Schedule III of the same notification.*

*To provide clarification, Roof Mounted Package Unit (RMPU) air-conditioning machines specifically intended for use in railway systems will be classified under Harmonized System of Nomenclature (HSN) code 8415. This classification ensures that these air-conditioning machines are subject to a Goods and Services Tax (GST) rate of 28%.*

## Car and Motorcycle seats

Circular No. 235/29/2024-GST

### Summary of amendment

Circular clarifies that car seats are classifiable under 9401 and attract a GST rate of 18%. GST rate on car seats classifiable under 9401 to be increased from 18% to 28%. This uniform rate of 28% will be applicable prospectively for car seats of motor cars in order to bring parity with seats of motorcycles which already attract a GST rate of 28%.

### H N A Comments

*Car seats are classified under CTH 9401 and are now subject to a GST at the rate 28%, increased from the previous rate of 18%. Going forward, this uniform 28% GST rate will be applied to car seats, bringing them in line with the GST rate for motorcycle seats, which is also set at 28%. The CTH 9401 classification encompasses 'Seats, whether or not convertible into beds, and parts thereof'.*

*The increased GST rate on car seats aligns it with the rate for motorcycle seats, simplifying the tax structure. This change could also boost government revenue.*

*Increase in tax rate may not affect the cost of vehicles at OEM level as it would be entitled to take ITC. However, in after sales market, this could result in increased cost and thus leading to suppression or cash billing.*



## **C. Other changes**

## Waiver of Late fee for late filing of Form GSTR 7

Notification No:23/2024-Central Tax

### Summary of amendment

Notification No. 23/2024-Central Tax, effective from November 1, 2024, waives late fees for delayed filings of GSTR-7 returns under Section 51 of the CGST Act. It replaces Notification No. 22/2021-Central Tax, reducing late fees to ₹25 per day for delays since June 2021, capped at ₹1,000 per month. The waiver extends to Nil TDS returns, encouraging compliance and easing financial burdens on taxpayers.

### H N A Comments

*Instead of the original higher amount of late fee, the late fee will now be restricted to ₹25 per day. If the delay in filing GSTR-7 continues, the late fee would continue to accrue at ₹25 per day but would be capped at a total amount of ₹1,000 for that particular month.*

*If no tax was deducted in the given month (meaning the TDS for that month is Nil), and the GSTR-7 return is delayed, the late fee payable under Section 47 will be completely waived. This waiver applies even if the return is filed late, provided no tax was deducted during that month.*

*The notification applies to the late filing of GSTR-7 returns starting from June 2021 onwards. The reference to previous months provides clarity to taxpayers, ensuring that any overdue GSTR-7 filings from June 2021 will be subject to the revised late fee provisions outlined in this notification.*

*By reducing the late fees and capping the total amount payable, the government is encouraging compliance with TDS provisions under GST. Registered persons, especially those required to deduct TDS, will find it easier to adhere to filing deadlines due to the reduction in the financial penalty for delays.*

## Special procedure for rectification of order for wrong availment of ITC u/s 16(4)

Notification No:22/2024-Central Tax

### Summary of amendment

The notification provides the special procedure for rectification of order, to be followed by the class of registered persons (hereinafter referred to as the said person), against whom any order under section 73 or section 74 or section 107 or section 108 of the said Act has been issued confirming demand for wrong availment of input tax credit, on account of contravention of provisions of sub-section (4) of section 16 of the said Act, but where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the said Act, and where appeal against the said order has not been filed

### H N A Comments

**Filing the Rectification Application:** To utilize this special procedure, taxpayers must:

File an application electronically on the common portal within **six months** from the date of issuance of the notification.

Upload the required information using the proforma provided in **Annexure A**. The proforma includes details such as the taxpayer's GSTIN, order reference number, and a breakdown of the demand for wrongly availed ITC, as well as the ITC that is now eligible.

**Rectification Process:**

The proper officer responsible for issuing the original order will be tasked with reviewing and deciding on the rectification application.

The officer must take action on the application and issue a rectified order, ideally **within three months** from the date of the application.

Once the rectified order is issued, the officer will upload a summary of the rectification electronically:

- In FORM GST DRC-08 for orders under Section 73 or 74.
- In FORM GST APL-04 for orders under Section 107 or 108.

### Action Points for Businesses

This provides much-needed relief to taxpayers who have received demands for wrong availment of ITC due to contraventions of Section 16(4), but where such ITC is now eligible under Section 16(5) or 16(6). By following the outlined procedure, taxpayers can seek rectification and ensure that they are not unfairly penalized for ITC availment that is now legally permissible. For those affected, it is crucial to act promptly by filing their rectification application within the **six-month** period specified in the notification.

## Clarifying issues on retrospective implementation of sub-sections (5) and (6), Section 16 of the CGST Act, 2017

Circular No. 237/31/2024-GST

### Summary of amendment

- **Section 16(5):** Extends the time limit as per Section 16(4) to avail ITC pertaining to FY 2017-18, 2018-19, 2019-20 and 2020-21, through Form GSTR-3B of any month, till 30th November 2021.
- **Section 16(6):** Allows relaxation of conditions as per Section 16(4) of the Act, for availing the ITC for the period from the date/effective date of cancellation of registration till the date of revocation of cancellation of registration, provided the returns for the said period shall be filed within 30 days of revocation of cancellation of registration.
- No refund of tax already paid, or input tax credit reversed would be allowed on account of these retrospective amendments. However, refund of amount paid as pre-deposit at the time of filing is allowed.
- The proper officer/Adjudicating Authority/Appellate Authority/Revisional Authority shall take cognizance of the sub-section (5) or sub-section (6) of section 16 of CGST Act while deciding the case.
- Where order under section 73 or section 74 or section 107 (i.e. order in Appeal) or section 108 (i.e. Revisional order) of the CGST Act has been issued but no appeal against the said order has been filed with - the concerned taxpayer may apply for rectification of such order under the special procedure under section 148 of the CGST Act notified vide Notification No. 22/2024 - Central tax dated 08.10.2024, within a period of six months from the date of issuance of the said notification i.e., on or before 26.03.2025.
- The detailed procedure for filing rectification application is attached here <https://taxinformation.cbic.gov.in/view-pdf/1003242/ENG/Circulars>

### H N A Comments

*This is a welcome move, which would reduce litigation in relation to ITC pertaining to FY 2017-18 to 2020-21, given the volume of such cases are huge in number. Further, the orders passed in cases pertaining to wrong availment of ITC for the period FY 2017-18 to FY 2020-21 can be rectified under section 148 of the CGST Act, 2017.*

# Mandatory registration for supplier of Metal Scrap

Notification No. 24/2024-Central Tax

## Summary of amendment

Notification 05/2017 CT exempts persons to obtain GST registration 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.

Further w.e.f. 10.10.2024, suppliers of metal scrap (Chapters 72-81 of Customs Tariff Act) are excluded from such exemption and hence must obtain GST registration, even if all their taxable supplies are subject to reverse charge.

Chapter 72-81 of Customs Tariff Act could be found [here](#).

## H N A Comments

*This amendment excludes persons who exclusively supply goods and services subject to Reverse Charge Mechanism (RCM) from the GST registration exemption.*

*Hence, the suppliers of metal scrap should obtain GST registration to comply with the amended provisions of registrations of GST.*

## Action Points for Businesses

*Scrap dealers should identify whether any of their scrap materials fall under Chapters 72-81 of the Customs Tariff Act, as outlined in the link above, and obtain GST registration if applicable.*

## TDS @ 2% is applicable on supply of Metal Scrap

Notification No. 25/2024-Central Tax

### Summary of amendment

Notification No. 50/2018-CT notifies persons required to deduct tax from the payment made to the suppliers. Further proviso to the said notification also excludes only the transactions which take place between the notified persons from the deduction of TDS.

W.e.f. 10.10.2024, businesses engaged in business-to-business (B2B) transactions involving metal scrap (Chapters 72-81 of Customs Tariff Act) are now required to deduct 2% Tax Deducted at Source (TDS) from registered suppliers.

Additionally, the amended proviso to the notification does not exempt registered persons from TDS deduction in B2B transactions involving metal scrap classified under Chapters 72-81 of the Customs Tariff Act.

**Check out the attached FAQ for quick answers to 15 key questions on these new changes. :** [https://www.linkedin.com/posts/ca-bhavesh-mittal-61b5b8169\\_tds-on-metal-scrap-15-most-asked-questions-activity-7252513620239015936-eDoZ?utm\\_source=share&utm\\_medium=member\\_desktop](https://www.linkedin.com/posts/ca-bhavesh-mittal-61b5b8169_tds-on-metal-scrap-15-most-asked-questions-activity-7252513620239015936-eDoZ?utm_source=share&utm_medium=member_desktop)

### H N A Comments

*There have been continuous discussions in the GST Council in the past to introduce certain mechanism to prevent fake invoicing relating to sale of iron and metal scrap. With introduction of TDS, transparency will be established between the Government and taxpayers. This would ensure that proper verification of taxpayer is carried out to establish his bonafide.*

*However, it is to be noted that merely deduction of TDS would not regularize the ITC of the recipient as the department could always question validity of ITC if the goods have not been received by the registered supplier.*

*This is a welcome move and is expected to bring down the instances of fake billing in this sector significantly.*

### Action Points for Businesses

*Businesses dealing in B2B metal scrap must obtain TDS registrations under GST*

## Clarification regarding the scope of “as is / as is, where is basis” mentioned in GST Circulars.

Circular No. 235/29/2024-GST

### Summary of amendment

This circular addresses queries on the scope of regularization on an “as is” or “as is, where is” basis across various GST circulars. It clarifies that payments made at lower rates will be accepted as a full discharge of tax liability, with no refunds issued for payments made at higher rates. Taxpayers who have not made any payments will be required to pay at the applicable rate.

### H N A Comments

*This circular aims to provide clarity on past regularization decisions, avoiding disputes and ensuring consistency.*

*‘As is - Where is’ benefit for past : Different scenarios were tabulated below.*

Scenarios	Scenario 1 (Rate difference)	Scenario 2 (Genuine doubt of exemption entry)	Scenario 3 (Interpretational issue)
Paid by some tax payers	5% on the supply of “X”	5% on the supply of “X”	5% on the supply of “X”
GST paid by others	12% on the supply of “X”	Nil (Due to belief of exemption)	12% on the supply of “X” and <b>few paid nothing</b>
Clarification by GST council on 01.12.2023	GST rate reduced to 5% prospectively, past regularized “as is where is basis”	GST clarified as 5%, past regularized “as is where is basis” due to genuine doubt	GST clarified as 12%, past regularized “as is where is basis”
Impact on past payment	Those who paid 5% Treated as full payment. No extra 7% due	Those who paid Nil Treated as exempt. No 5% due	Those who paid 5%. Treated as full payment. No extra 7% due
	Those who paid 12%. <b>No refund allowed</b>	Those who paid 5%. <b>No refund due</b>	Those who paid 12%. <b>No refund allowed</b>
Impact on future payments	GST at 5% after 01.12.2023	GST at 5% after 01.12.2023	GST at 12% after 01.12.2023
Those who did not pay GST	-	Not liable for past periods	<b>12% GST to be recovered, where no tax has been paid.</b>

# GST Amnesty Scheme: Waiver of Interest & Penalty u/s 128A

Circular No. 235/29/2024-GST

## Summary of amendment

Section 128A of the CGST Act allows a waiver of interest and penalties for certain tax periods if taxpayers meet specific conditions. This aims to simplify the resolution of outstanding liabilities from 2017–2020. However, the waiver doesn't apply to erroneous refunds or pending appeals.

Below table summarizes the procedures broadly. The detailed procedures for the circular can be found [here](#).

## H N A Comments

### Applicability:

- Where a notice issued under 73(1) or a statement issued under 73(3), but where no order under 73(9) has been issued.
- Where an order has been issued under 73(9), against the notice/ statement issued under section 73, but where no order has been issued by the Appellate Authority/ Revisional Authority.
- Where an order has been issued by the Appellate Authority/ Revisional Authority, in the cases where notice/ statement was issued under section 73 and where no order has been passed by the Appellate Tribunal.
- In cases where a notice was initially issued under section 74 for FYs 2017-18, 2018-19 and 2019-20, and an order is passed or required to be passed by the proper officer under section 73.

### Forms:

- If a notice / statement is issued demanding Tax for the period July 2017- March 2020- Form GST SPL-01 should be filed.
- In cases where an order has been issued under Section 73 or where an order has been issued under Section 107/108- Form GST SPL-02 should be filed.
- If a taxpayer has been issued multiple notices/statements/orders, Separate application is to be filed for each notice/statement/order

### Time limits for filing the forms:

- GST SPL-01 & GST SPL-02 should be filed within 3 Months from 31-03-2025 in normal cases.
- Where notice has been issued under section 74, but the proper officer redetermined the tax as per Section 73, Form GST SPL-02 can be filed within six months from the date of communication of order.
- Where an appeal or writ petition has been filed, taxpayer is required to withdraw the same before filing GST SPL-01 or GST SPL-02 and the order of withdrawal should be enclosed with form. In case where order of withdrawal is not issued at the time of filing the form, copy of the application filed to be uploaded and final order of withdrawal should be uploaded within 1 month.



# GST Amnesty Scheme: Waiver of Interest & Penalty u/s 128A.....Cont.

Circular No. 235/29/2024-GST

## H N A Comments

### Payment of Tax:

- In case of notice / statement- Payment of tax must be made through DRC-03 before **31-03-2025**.
- In case of order / appeal- Payment to be made against the debit entry in Part-II of electronic liability register (ELR) within 6 months from the date of communication of re-determining the order under Section 73. If the payment against the order / appeal has already done- DRC-03A to be filed for set off against the ELR.

### Processing of application and issuance of order:

- After receiving the GST SPL-01 / SPL-02, proper officer shall examine the same and if he feels that the same is liable to be rejected, form GST SPL-03 to be issued within 3 months.
- Applicant may file the reply in form GST SPL-04 within 1 month.
- Proper officer shall issue the order in GST SPL-05 for accepting and form GST SPL-07 for rejecting the application.

### Appeal against the orders issued:

- GST SPL-05 cannot be appealed, whereas GST SPL-07 can be appealed further through Form GST APL-01.
- Appeal can be only against the applicability of waiver of interest or penalty or both. But not against the merits of original notice/ statement/ order.
- Appellate authority can reject the rejection order issued through Form GST SPL-06 and can uphold the rejection order through Form GST APL-04.

## Action Points for Businesses

- Review outstanding GST demands and ensure eligibility for the scheme.
- Prioritize payment of tax dues to secure the waiver benefits before March 31<sup>st</sup>, 2025.
- Refer FAQ's on Amnesty Scheme:

[https://www.linkedin.com/search/results/all/?keywords=faq%20on%20amnesty%20scheme&origin=GLOBAL\\_SEARCH\\_HEADER&sid=p3](https://www.linkedin.com/search/results/all/?keywords=faq%20on%20amnesty%20scheme&origin=GLOBAL_SEARCH_HEADER&sid=p3)

## Due date notified for tax payment to avail waiver of interest and penalty under section 128A

Notification 21/2024 Central Tax dated 08.10.2024

### Summary of amendment

- 1) Taxpayers to whom a notice or statement or order has been issued under section 73, has to pay the full tax demand on or before - 31.03.2025, to claim the benefit u/s 128A of the CGST Act, 2017.
- 2) Taxpayers to whom initially notice has been issued under sub-section (1) of section 74 but later amended by the Appellate Authority, or Appellate Tribunal, or a court to section 73 of the said Act then the taxpayer has to pay tax before the date ending on completion of six months from the date of issuance of the order by the proper officer redetermining tax under section 73 of the said Act i.e., within 6 months from the date of issuance of the fresh order u/s 73.

### H N A Comments

*Section 128A(1) offers taxpayers an opportunity to waive interest and penalty, provided the full tax amount is paid before the date notified by the government.*

*The government vide notification 21/2024 dated 08.10.2024 has prescribed the following dates before which payment of tax has to be paid to claim the benefit of waiver of interest and penalty shall come into effect from 01.11.2024:*

- *The full payment of tax demanded in the notice/order/statement is required to be made on or before 31 March 2025 to avail the benefit of the Scheme. The application for availing the benefit of the Scheme is required to be filed within three months from 31 March 2025.*
- *Further, where a notice was originally issued under Section 74 and as per the direction of the Appellate Authority/Tribunal/Court, final adjudication takes place under Section 73 as per Section 75(12) of the GST Act, the application for availing benefit under the scheme is required to be filed within six months from the date of communication of order under Section 73.*

### Action Points for Businesses

- *Taxpayers should carefully evaluate their eligibility for the scheme and ensure timely compliance with payment and application submission deadlines. The scheme provides a significant relief opportunity, but strict adherence to prescribed timelines is crucial to avail its benefits.*

## Time limit to issue tax invoice by the recipient of supply

Circular No. 20/2024 Central Tax dated 08.10.2024

### Summary of amendment

A registered person liable to pay tax under reverse charge must issue an invoice within 30 days of receipt of goods or services from an unregistered person.

### H N A Comments

➤ **Time limit for issuance of self-invoice notified to be 30 days from date of receipt of supply - Insertion of Rule 47A:**

➤ Section 31(3)(f) which provides for requirement of issuance of self-invoice provided that the time limit for issuance of such self-invoice would be provided through the Rules.

Pursuant to this, a new **Rule 47A** is being enforced w.e.f **01st November' 2024** prescribing a separate time limit for issuance of self- invoice which would be 30 days from the date of receipt of supply of goods or services or both.

➤ Also, there cannot be any consolidation of invoices from multiple suppliers. For each relevant supply, a separate self-invoice is to be issued.

➤ **ToS:** In respect of GST payable under Reverse Charge Mechanism(RCM), **separate time of supply (ToS)** was introduced for supplies received **from Registered and Un-registered** suppliers through Finance Act (no. 2) of 2024.

➤ For supplies received from **unregistered suppliers**, the time of supply was prescribed to be earlier of:

- a) The **date of payment** as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
- b) the **date of issue of invoice by the recipient**, in cases where invoice is to be issued by the recipient.

## Due date to furnish form GSTR-7 prescribed

20/2024 Central Tax dated 08.10.2024

### Summary of amendment

Taxpayer who is required to deduct tax at source under section 51 shall furnish a return in FORM GSTR-7 **on or before the tenth day of the month succeeding the calendar month** electronically through the common portal either directly or from a Facilitation Centre notified by the Commissioner.

### *H N A Comments*

*As per Section 51(2) of the CGST Act 2017, tax deducted must be paid to the government within 10 days after the month of deduction. Accordingly, Rule 66 has been amended to mandate filing Form GSTR-7 by the 10th of the following month.*

## Streamlining and speeding up the refund process for such exports

Notification N0: 20/2024 Central Tax dated  
08.10.2024

### Summary of amendment

To address challenges faced by exporters, the government has prospectively omitted Rules 96(10), 89(4A), and 89(4B) of the CGST Rules, 2017, which restricted refunds on exports where specified concessional or exemption benefits were availed on inputs.

### H N A Comments

*This amendment is a positive step by the government, offering significant relief to exporters by addressing past litigations and simplifying compliance.*

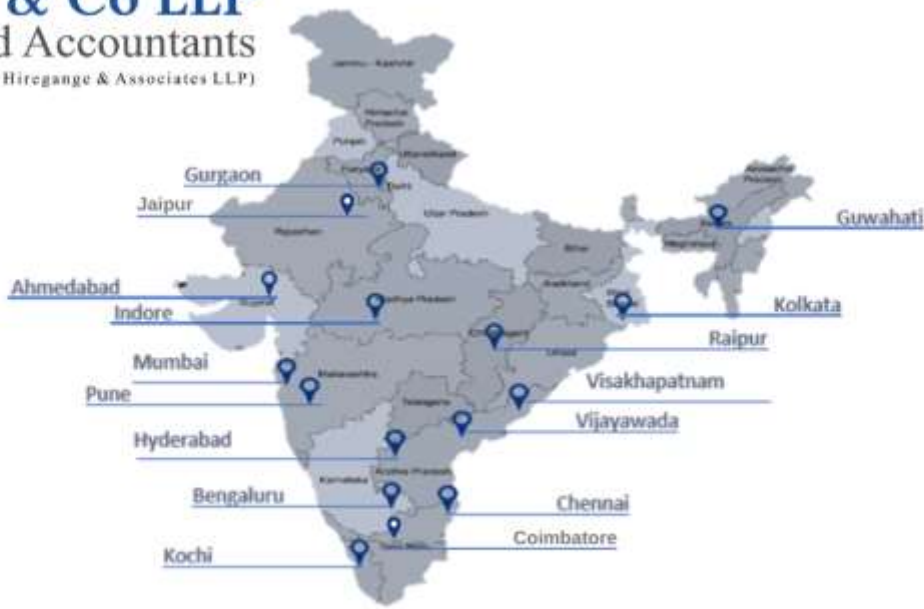
*Summary of the omitted rules:*

*Rule 96(10): Restricts exporters from claiming refunds for exports with tax payment if they have availed certain customs benefits on imported goods.*

*Rule 89(4A): Allows ITC refunds on inputs or input services used in exports for Advance Authorization holders or EOUs procuring goods domestically without GST payment.*

*Rule 89(4B): Permits ITC refunds on inputs or input services used in exports for Advance Authorization holders or EOUs importing goods without GST payment, or for merchant exporters.*

*This change simplifies refund processes and provides clarity for exporters moving forward.*



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