

**SINGHVI**  
**DEV & UNNI LLP**  
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## **SPECIAL COMMUNIQUE**

**Amnesty Scheme under GST laws – Waiver of Interest and Penalties**

## **Amnesty Scheme under GST laws – Waiver of Interest and Penalties in specified cases**

Considering the difficulties faced by the taxpayers in the initial years of GST implementation, the Government has launched the GST Amnesty Scheme by introducing Section 128A into the GST legislations i.e., CGST / SGST Act, 2017. The said Amnesty Scheme is effective from 1<sup>st</sup> November 2024 and provides for a conditional full waiver from payment of interest and penalty or both, with respect to demands raised under Section 73 of the CGST/SGST Act, 2017 for the FY 2017-18, FY 2018-19 and FY 2019-20 (including cases, where tax liability is re-determined under Section 73).

The salient features of the GST Amnesty Scheme are:

- Conditional full waiver from payment of interest and penalty or both – Subject to payment of full tax demanded.
- The said benefit will be available only with respect to assessments that pertain to F.Y 2017-18, F.Y 2018-19 and F.Y 2019-20.
- Such assessments should have been initiated under Section 73 of CGST/SGST Act, 2017.
- The benefit is not available, where interest and penalty relate to erroneous refunds or interest relating to interest liability with respect to self-assessed taxes.
- Benefit under amnesty scheme will be available provided payment of full tax:
  - Is made on or before 31.03.2025;
  - Is made within six months from date of communication of order issued, based on direction from Appellate Authority/Appellate Tribunal/Court

### **Relevant Notifications / Circulars:**

- [Notification No. 20/2024 Central Tax dated 08.10.2024](#)
- [Notification No. 21/2024 Central Tax dated 08.10.2024](#)
- [Notification No. 22/2024 Central Tax dated 08.10.2024](#)
- [Circular No. 238/32/2024-GST dated 15.10.2024](#)

### **The following aspects of the amnesty scheme are covered in this communique:**

- Procedure, timelines and form in which application is to be furnished.
- Mode of discharge of liabilities to avail benefits under the scheme.
- Procedure for verification of application and passing of order accepting / rejecting the application.
- Appeal option under the scheme.
- Clarifications issued by CBIC with respect to the amnesty scheme under GST.

Eligibility		
Particulars	Details	
Applicability / Eligibility	<ul style="list-style-type: none"> <li>• Notices / Statements that have been issued under <b>Section 73</b> for the <b>F.Ys 2017-18, 2018-19 and 2019-20</b>, pending for issuance of orders;</li> <li>• Orders passed under Section 73(9) for the said F.Ys, appeals or revision application filed, where orders are not yet issued by appellate or revisional authority;</li> <li>• Orders passed under Section 107/108, where appeals filed with Appellate Tribunal, but orders are pending to be passed by Appellate Tribunal;</li> <li>• Notice issued under Section 74 for the said FYs and order is passed or required to be passed by the proper officer under Section 73 in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a Court.</li> </ul>	
Relief under this scheme	Complete waiver of Interest and Penalty, if full amount of tax demand is discharged for the specified periods (except when such interest and penalty relate to erroneous refunds or interest in cases where self-assessed tax where such taxes are paid belatedly)	
Payment of Tax – To avail waiver of interest and penalties		
Cases	Mode of discharge	Timelines
Payment of tax for notice / statement issued, where orders are pending to be issued	GST DRC-03	On or before 31.03.2025
Payment of tax for order issued by adjudicating authority and order is pending before Appellate Authority, Revisional Authority or Appellate Tribunal.	Debit entry in Part II of Electronic Liability Register (ELR) created by demand order.	On or before 31.03.2025
<i>Tax already paid through FORM GST DRC-03, against demand in ELR- Part II</i>	Payment so made to be adjusted in ELR by filing Form GST DRC -03A.	On or before 31.03.2025. <b>Note:</b> Date of discharge in such cases will be the date on which amounts were paid through Form GST DRC-03 and not the date on which amount was adjusted by filing GST DRC-03A.
Payment of tax where notice was issued u/s 74 and order is issued or required to be issued by the adjudicating officer u/s 73 consequent to direction of the Appellate Authority or Appellate Tribunal or a court	Debit entry in Part II of Electronic Liability Register (ELR) created by demand order.	Within six months of the communication of the order by the proper officer (redetermining liability under Section 73 of CGST / SGST Act, 2017.

Application Form			
Details of relevant application Forms	<b>Form</b>	<b>Covered Cases for Application Form</b>	
	GST SPL-01	Cases Covered: Notice or statement has been issued under Section 73, but no order has been issued. Time limit to file Form: Three months from 31.03.2025 i.e., on or before 30.06.2025	
	GST SPL-02	<b>Applicability</b>	<b>Time Limit to file the form</b>
		Appeal filed but order not passed by the Appellate Authority or orders passed by Appellate Authority but pending before Appellate Tribunal	3 months from 31.03.2025 i.e., on or before 30.06.2025
	Notice issued under Section 74 but proper officer to redetermine tax as if notice issued under section 73.	6 months from date of communication of order redetermining tax under section 73	
Eligibility of the scheme where appeal / writ petition is filed	<ul style="list-style-type: none"> <li>• Taxpayers must withdraw any appeals or writ petitions before applying for waiver.</li> <li>• Order of withdrawal should be enclosed along with the application filed.</li> <li>• In case the order for withdrawal of appeals/ writ has not been issued, submission of copy of application for withdrawal of appeal will suffice, temporarily.</li> <li>• However, the final order for withdrawal of the said appeal/ writ must be uploaded on the common portal within 1 month of the issuance of order of withdrawal.</li> </ul>		
Application for cases where multiple notices / Orders are issued	Separate applications are required to be filed against each notice / order issued under Section 73 for the period July 2017 to March 2020.		

**Notes:**

1. No refunds will be granted for any amounts already paid towards interest or penalties against notices/orders eligible for the amnesty scheme.
2. Cases where, notice or order issued involves inter alia issue of ITC disallowed under Section 16(4), which is available now with insertion of Section 16(5) or 16(6) of CGST/SGST Act, 2017 - In such cases, application in Form GST SPL-01 (notice or statement stage) or Form GST SPL-02 (order/appeals stage) to be filed after reducing the amount not payable in terms of Section 16(5) or Section 16(6) of the CGST Act,2017.
3. Waiver from interest and penalties will be available, only when total tax proposed to be demanded (notice/statement stage) or demanded (order or appeal stage) is remitted in full (including interest and penalties on erroneous refund or interest towards self-assessed tax) – Except for reduction of ITC demanded on account of Section 16(4) or Section 16(5) of CGST, 2017 but which is now available as per retrospectively inserted Section 16(5) or Section 16(6) of the CGST Act,2017.

Processing of Application and issuance of Order									
Particulars	Details								
Processing application for waiver of interest and penalty	<ul style="list-style-type: none"> <li>- <b>Form GST SPL-01</b>: Proper officer who has issued order under section 73 of CGST/SGST Act, 2017;</li> <li>- <b>Form GST SPL-02</b>: Proper officer meant to do recovery under Section 79 of CGST/SGST Act, 2017.</li> </ul>								
Examination of Application and subsequent action	<ul style="list-style-type: none"> <li>• If application is found appropriate and complete in all aspects, an <b>order in Form GST SPL-05</b> to be issued <b>within 3 months</b> from the date of application.</li> <li>• If proper officer upon examination believes that application is liable for <b>rejection</b>, a notice in <b>Form GST SPL-03</b> will have to be issued <b>within 3 months</b> from the date of receipt of application, offering the applicant an opportunity for a personal hearing.</li> <li>• The applicant to reply electronically in <b>Form GST SPL-04</b> within <b>1 month</b> from the date of receipt of notice.</li> <li>• Where <b>reply is filed</b> and the proper officer is satisfied or not satisfied that the applicant is eligible for waiver of interest and penalty, <b>order shall be issued within 3 months of receipt of reply</b></li> <li>• Where <b>no reply</b> is received within 1 month from date of receipt of notice, proper officer to issue an <b>order within 4 months</b> from the date of issuance of notice.</li> </ul> <p><b>Note:</b> In case no such orders accepting or rejecting the application is filed, it will be <b>deemed to be approved</b> as per applicant's application.</p>								
Issuance of order for acceptance or rejection of application	<table border="1"> <thead> <tr> <th>Order for</th> <th>Order to be issued in Form</th> </tr> </thead> <tbody> <tr> <td>Approval of application made in Form GST SPL-01 or Form GST SPL-02</td> <td>Form GST SPL-05</td> </tr> <tr> <td>Rejection of application made in Form GST SPL-01 or Form GST SPL-02</td> <td>Form GST SPL-07</td> </tr> <tr> <td colspan="2"><b>Order shall be issued within the specified time limits as mentioned supra</b></td> </tr> </tbody> </table>	Order for	Order to be issued in Form	Approval of application made in Form GST SPL-01 or Form GST SPL-02	Form GST SPL-05	Rejection of application made in Form GST SPL-01 or Form GST SPL-02	Form GST SPL-07	<b>Order shall be issued within the specified time limits as mentioned supra</b>	
Order for	Order to be issued in Form								
Approval of application made in Form GST SPL-01 or Form GST SPL-02	Form GST SPL-05								
Rejection of application made in Form GST SPL-01 or Form GST SPL-02	Form GST SPL-07								
<b>Order shall be issued within the specified time limits as mentioned supra</b>									
Requirement to issue summary order by proper officer	<ul style="list-style-type: none"> <li>- Approved for application in <b>Form GST SPL-01</b>: <u>No summary order in Form GST DRC-07 is required.</u></li> <li>- Approved for application in <b>Form GST SPL-02</b>: Liability to be modified accordingly in <u>Electronic Liability Register (ELR) – Part II.</u></li> </ul>								
Conclusion of proceedings, where appeal is preferred, or application is made before revisional authority against order in Form GST SPL-05 or Form GST SPL-06	<ul style="list-style-type: none"> <li>• In case the tax office had initiated revisional proceedings against the said order issued in Form GST SPL-05 or Form GST SPL-06 or an appeal was filed or there was a direction from the court, the final conclusion order in GST SPL-05 or Form GST SPL-06 is subject to condition that any additional tax determined if any, by the Appellate Authority, Appellate Tribunal or Revisional Authority is paid in full. Such payment shall be made within 3 months of issuance of order or direction as the case may be.</li> <li>• If above amount remains unpaid, the waiver under Section 128A(1) will stand null and void</li> </ul>								
Payment of Interest or penalty mentioned in notice or order for period other than period eligible under Section 128A i.e., period on or after 01.04.2020	If any interest or penalty is payable for a period other than periods mentioned in Section 128A or interest or penalty relates to an erroneous refund, the <b>details</b> of the same shall be included in <b>columns 19 and 20 of Form GST SPL-05 or SPL-06</b> . A personal hearing may be provided in such cases before concluding the proceedings under the amnesty scheme.								
Payment requirement for above interest or penalty	If amounts are confirmed as payable in column 19 and 20 of Form SPL-05 or SPL-06, the same will have to be <b>paid within three months</b> from order issuance; otherwise, the waiver of interest and or penalty will become null and void.								

Appeal against the order issued under the amnesty scheme													
Appeal Eligibility	<ul style="list-style-type: none"> <li>• Appeals can be filed only against the <b>order for rejection</b> of application issued in Form GST SPL-07 within timelines prescribed under section 107 of CGST/SGST Act, 2017 i.e., within 3 months from the date of communication of order.</li> <li>• Appeals needs to be filed in Form GST APL-01.</li> <li>• In case appeal is not filed within timelines prescribed under Section 107 of CGST/SGST Act, 2017, then original appeals filed if any (before making an application in GST SPL-02 will be restored).</li> </ul>												
Scope of an appeal	Appeals against rejection order in SPL-07 can only be to the extent of waiver of interest or penalty or both and not the original notice/ order itself.												
Outcome when Appellate authority finds improper rejection by proper officer	<ul style="list-style-type: none"> <li>• In case appeal filed by the applicant against the order in Form GST SPL-07 (rejection of waiver application) is allowed and the Appellate Authority finds that <u>proper officer has wrongly rejected the application, and the waiver of interest or penalty or both is granted.</u></li> <li>• Such order will be passed the appellate authority in <b>Form GST SPL-06</b></li> <li>• Liability created if any, shall be modified in ELR – Part I</li> </ul>												
Status of appeals filed pre and post application in SPL-01 or SPL-02	<p>If appeal filed (if any) was withdrawn before making an application in Form GST SPL-02 (waiver application) and such waiver application was rejected by order issued in Form GST SPL-07:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;">Cases</th> <th style="width: 40%;">Appeal Outcome</th> <th style="width: 30%;">Conditions</th> </tr> </thead> <tbody> <tr> <td>Appeal filed against the order in Form GST SPL-07</td> <td> <ul style="list-style-type: none"> <li>• If the Appellate Authority (AA) holds that order is rightly passed by the proper officer.</li> <li>• The AA shall issue an order in <b>Form GST APL-04</b> thereby <b>restoring the original appeal</b></li> </ul> </td> <td>Applicant must file an undertaking in <b>Form GST SPL-08</b> confirming <b>no further appeal will be filed</b> against this order</td> </tr> <tr> <td>Rejection order in Form GST SPL-07 is held incorrect</td> <td>If the AA holds that order is wrongly passed by the proper officer, AA to issue an order in Form GST SPL-06 thereby allowing the benefit of waiver of interest or penalty</td> <td>No further appeal required, as appeals are allowed by way of order in Form GST SPL-06.</td> </tr> <tr> <td>Appeal not filed against rejection order in Form GST SPL-07</td> <td>If the taxpayer does not prefer an appeal within specified period against the rejection order issued in Form GST SPL-07.</td> <td>Original appeal filed (if any) shall be restored.</td> </tr> </tbody> </table>	Cases	Appeal Outcome	Conditions	Appeal filed against the order in Form GST SPL-07	<ul style="list-style-type: none"> <li>• If the Appellate Authority (AA) holds that order is rightly passed by the proper officer.</li> <li>• The AA shall issue an order in <b>Form GST APL-04</b> thereby <b>restoring the original appeal</b></li> </ul>	Applicant must file an undertaking in <b>Form GST SPL-08</b> confirming <b>no further appeal will be filed</b> against this order	Rejection order in Form GST SPL-07 is held incorrect	If the AA holds that order is wrongly passed by the proper officer, AA to issue an order in Form GST SPL-06 thereby allowing the benefit of waiver of interest or penalty	No further appeal required, as appeals are allowed by way of order in Form GST SPL-06.	Appeal not filed against rejection order in Form GST SPL-07	If the taxpayer does not prefer an appeal within specified period against the rejection order issued in Form GST SPL-07.	Original appeal filed (if any) shall be restored.
Cases	Appeal Outcome	Conditions											
Appeal filed against the order in Form GST SPL-07	<ul style="list-style-type: none"> <li>• If the Appellate Authority (AA) holds that order is rightly passed by the proper officer.</li> <li>• The AA shall issue an order in <b>Form GST APL-04</b> thereby <b>restoring the original appeal</b></li> </ul>	Applicant must file an undertaking in <b>Form GST SPL-08</b> confirming <b>no further appeal will be filed</b> against this order											
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Appeal not filed against rejection order in Form GST SPL-07	If the taxpayer does not prefer an appeal within specified period against the rejection order issued in Form GST SPL-07.	Original appeal filed (if any) shall be restored.											

Clarifications issued vide Circular No. 238/32/2024 dated 15.10.2024

Sl. No.	Issue/Query	Clarification
1	Applicability of amnesty scheme for taxpayers who have paid tax before Section 128A came into force.	Payments made towards the <b>demand</b> up to the <b>notified date</b> <i>i.e., on or before 31.03.2025</i> are <b>considered valid</b> , irrespective of whether the payment was made before the issuance of notice/order provided it was intended to be paid towards such demand.
2	Whether amounts recovered by tax officers from other persons on behalf of the taxpayer be considered as tax paid?	<b>Yes</b> . Amounts recovered <b>on behalf of the taxpayer</b> for a demand are considered as taxes paid for the purpose of Section 128A of CGST Act 2017, provided they were <b>recovered on or before the notified date</b> <i>i.e., on or before 31.03.2025 or six months from the date of communication of order, where such order was originally issued under Section 74 of CGST/SGST Act, 2017.</i>
3	Whether interest or penalty already paid from demand payable under Section 73 for FYs 2017-18 to F.Y 2019-20, be adjusted against taxes payable towards demand for the said financial years under Section 128A?	<b>No</b> , as per the <b>third proviso</b> of Section 128A of CGST Act, 2017, <u>refunds of interest or penalty already paid are not allowed</u> . Further, such amounts cannot be adjusted against tax dues.
4	Whether the benefit under Section 128A is applicable if the tax due is already paid but only interest/penalty is demanded under section 73?	<b>Yes</b> , even if tax is paid and only interest/penalty is in demand, the benefit applies. However, if the interest liability relates to delayed filing of returns or delayed reporting of supply in returns, the waiver is not applicable as such interest relates to the interest on self-assessed liability. Further, the benefit under the scheme also does not apply to cases where interest liability is towards erroneous refund.
5	Whether benefit of the scheme can be availed, if the taxpayer intends to avail partial waiver of interest or penalty or both, on certain issues, by making part payment of the amount demanded in the notice/ statement/ order, as the case may be, and opts to litigate for the remaining issues?	<b>No</b> , since Section 128A (1) provides that the waiver of interest or penalty or both is <b>applicable only when the full amount of tax demanded in the notice/ statement/ order is paid</b> .
6	Where notices/orders include multiple periods consisting of period covered under the scheme and also period not covered under the scheme, whether the benefit of waiver can be availed under the scheme?	<ul style="list-style-type: none"> <li>• Taxpayers can apply for waiver of interest or penalty for periods covered under Section 128A only.</li> <li>• The payment of <b>full tax amount</b> as demanded under the notice/order must be made. However, <b>the benefit of waiver shall be applicable only for the specified periods i.e., F.Y 2017-18 to F.Y 2019-20.</b></li> <li>• On payment of the tax demanded, the proper officer shall reduce the liability of interest or penalty for tax periods covered under section 128A in Form GST SPL-05 provided he is satisfied that the applicant is eligible for the benefit.</li> <li>• The <b>remaining liability</b> of interest or penalty for tax periods <b>not covered under Section 128A remains payable</b></li> </ul>

Sl. No.	Issue/Query	Clarification
		<ul style="list-style-type: none"> <li>The taxpayer must pay the required <b>amount within 3 months</b> from the issuance of the order in Form GST SPL-05 or Form GST SPL-06.</li> <li>Non-payment of the same within the specified time will result in the waiver of approval void.</li> </ul>
7	<p>Where notices/orders issued under section 73 involves multiple issues including demand of erroneous refund, whether waiver of interest or penalty under the scheme be applicable? What is the tax amount payable for claiming the waiver?</p>	<ul style="list-style-type: none"> <li><b>Yes.</b> The taxpayer must pay the full tax amount demanded, including that related to erroneous refund, to avail the waiver benefits</li> <li>The <b>waiver of interest or penalty or both</b> shall only be to the extent of tax demand <b>other than demand of erroneous refund</b></li> <li>On payment of the tax demanded, the proper officer shall reduce the liability of interest or penalty for tax periods covered under section 128A in Form GST SPL-05 provided he is satisfied that the applicant is eligible for the benefit.</li> <li>The <b>remaining liability</b> of interest or penalty pertaining to demand of erroneous refund remains payable</li> <li>The taxpayer must pay the required <b>amount within 3 months</b> from the issuance of the order in Form GST SPL-05 or Form GST SPL-06.</li> <li>Non-payment of the same within the specified time will result in waiver of approval void.</li> </ul>
8	<p>If the proper officer has issued an order in FORM GST SPL-05, and if department has filed an appeal against order u/s 73 or against the Appellate Authority and the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, has issued an order enhancing the tax liability, what will be the status of proceedings u/s 128A</p>	<ul style="list-style-type: none"> <li>The conclusion of proceedings in such cases is subject to the condition that the said person pays the additional amount of tax payable, if any, in accordance with the order of the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, within three months from the date of the said order.</li> <li>Non-payment of the same within the specified time will result in waiver of approval void.</li> </ul>
9	<p>Where an SLP filed by the applicant is pending before the Supreme court, what is the procedure to be followed to avail the waiver benefit?</p>	<ul style="list-style-type: none"> <li>If an SLP is pending before the Supreme Court, the applicant must withdraw it and file an application in Form GST SPL-01 or Form GST SPL-02, with proof of withdrawal.</li> <li>A copy of application of withdrawal is required in case the order for withdrawal has not been issued within due date prescribed to make an application.</li> <li>However, the final order for withdrawal has to be uploaded on the common portal within <b>1 month</b> of the issuance of order of withdrawal;</li> </ul>
10	<p>Whether the benefit provided will include matters involving IGST and Compensation Cess?</p>	<ul style="list-style-type: none"> <li><b>Yes.</b> Section 128A benefits apply to matters involving IGST and Compensation Cess, per the relevant GST Acts.</li> <li><b>Full payment of tax</b> for the purpose of Section 128A means payment of CGST, SGST, IGST and Compensation Cess.</li> </ul>



Sl. No.	Issue/Query	Clarification
11	Whether benefit is available on demand of irregularly availed transition credit?	<b>Yes.</b> Demands related to irregularly availed transitional credit under Section 73 are covered if the credit was availed in the period specified under Section 128A i.e., during F.Y 2017-18 to F.Y 2019-20.
12	Whether waiver of penalties under other provisions, late fee, redemption fine etc is covered?	<ul style="list-style-type: none"><li>• Penalties under Section 73, 122 and 125 demanded under Section 73 is covered for waiver.</li><li>• However, late fee, redemption fine etc., is not covered by the same.</li></ul>
13	Whether payment can be made by utilizing ITC?	<ul style="list-style-type: none"><li>• <b>Yes.</b> payment of tax to be made for eligibility for waiver can be paid by debiting from electronic cash ledger or by utilizing Input Tax Credit or partly from both.</li><li>• In case the demand is for tax to be paid under <b>RCM or by taxes to be paid by Electronic Commerce Operator (ECO), payment is required to be made only by debiting electronic cash ledger.</b></li><li>• Amount <b>demanded for erroneous refund must also be paid in cash</b>, by debiting the electronic cash ledger and not through ITC.</li></ul>
14	Whether benefit of waiver be availed for Import IGST Payable under the Customs Act. 1962?	<b>No.</b> The benefit of waiver under Section 128A cannot be availed for import IGST payable under the Customs Act, 1962 as demand for import IGST is issued under the Customs Act and not under Section 73 of the CGST/SGST Act, 2017.

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