



## CBIC NOTIFIES AMENDMENTS IN THE CGST RULES

Pursuant to the recommendations made in the 54th GST Council meeting held on 9 September 2024, CBIC has issued Notification No. 20/2024-Central Tax dated 8 October 2024 for amending the provisions of the Central Goods and Services Tax Rules, 2017 (CGST Rules).

### Procedure for claiming benefit under the GST Amnesty Scheme (Section 128A of the Central Goods and Services Tax Act, 2017 (CGST Act)) - Rule 164 of the CGST Rules

The GST Amnesty scheme for waiver of interest or penalty or both relating to demands under Section 73 of CGST Act for FY 2017-18 to FY 2019-20 has been introduced under Section 128A of the CGST Act. In this regard, the following procedures and conditions of the amnesty scheme have been prescribed:

- The application form for opting for the amnesty scheme is as under:
  - In respect of a notice or a statement mentioned in Section 128A(1)(a) i.e., show cause notice issued under section 73 that is pending for adjudication - Form GST SPL-01; and
  - In respect of orders mentioned in Section 128A(1)(b) (where no order has been issued by First Appellate Authority or GST Appellate Tribunal) or 128A(1)(c) (where show cause notice alleging fraud, wilful mis-statement or, suppression of facts which are subsequently held otherwise in adjudication / appeal) - Form GST SPL-02.
- The application to be accompanied with the details of payments made towards tax demanded (through Form GST DRC-03 or by crediting the amount in the Electronic Liability register created by the order).
- If the notice or statement or order covered under Section 128A(1) includes:
  - Demand of tax, partially on account of erroneous refund and partially for other reasons, the application for amnesty scheme may be filed only **after payment of full amount of tax demanded in the said notice or statement or order.**
  - Demand of tax, partially for the period mentioned in Section 128A(1) and partially for other periods, the application under the amnesty scheme may be filed only **after payment of full amount of tax demanded in the said notice or statement or order.**
- Amount payable under the amnesty scheme shall be the amount that remains payable after deducting the amount not payable in terms of Sections 16(5) and 16(6) of the CGST Act (i.e. after claiming the benefit of extended period to claim ITC).
- An application for claiming benefit under the amnesty scheme can be filed within a period of 3 months from the date notified under Section 128A(1) of the CGST Act (i.e., 31 March 2025), i.e. effectively the application needs to be filed by 30 June 2025. However, where a notice is issued under section 74(1), and an order is passed or is required to be passed by the proper officer by deeming the notice to have been issued under section 73(1), the time limit for filing the application will be six months from the date of communication of the order passed by proper officer redetermining the tax demand under section 73 of the CGST Act.
- The application is to be accompanied by the documents evidencing withdrawal of appeal or writ petition, if any, to establish that the applicant is eligible for waiver of interest or penalty or both under Section 128A. If the applicant has filed an application for withdrawal of appeal or writ petition but the order for withdrawal has not been issued till the date of filing of application, the applicant shall upload the copy of the said withdrawal application and must file the copy of the order within one month of the issuance of the said order.
- If the proper officer is of the view that the application is liable to be rejected, the proper officer shall issue a notice in Form GST SPL-03 within 3 months from the date of receipt of application and also provide an opportunity of being heard to the applicant. The reply to such notice may be filed by the applicant in Form GST SPL-04.
  - If the proper officer is satisfied that the applicant is eligible under the amnesty scheme, an order shall be issued in Form GST SPL-05, accepting the application and concluding the proceedings under Section 128A.
  - If the proper officer is not satisfied, he shall issue an order in Form GST SPL-07 rejecting the application.
  - The order accepting / rejecting the application shall be issued within a period of three months from the date of receipt of reply in Form GST SPL-04 or within a period of four months from the date of issuance of notice (in Form GST SPL-03) where no reply is received from the applicant.
- In cases where no notice is issued in Form GST SPL-03, the proper officer shall issue an order accepting the application within three months from the date of its receipt.

- If no order is issued by the proper officer within the aforesaid time limits, the application shall be deemed to be approved and the proceedings shall be deemed to be concluded.
- If no appeal is filed against the order in Form GST SPL-07 (order rejecting the application under the amnesty scheme) within the time period specified under Section 107(1), the original appeal (if any) filed by the applicant (and withdrawn) shall be restored.
- However, if an appeal has been filed against Form GST SPL-07 and the appellate authority holds that the proper officer has wrongly rejected the application, the appellate authority shall pass an order in Form GST SPL-06 accepting the said application and concluding the proceedings under section 128A. On the contrary, if the appellate authority issues an order holding that the proper officer has rightly rejected the application, the original appeal (if any) filed by the applicant shall be restored, subject to the condition that the applicant files an undertaking within 3 months from the date of issuance of order by the appellate authority that he has neither filed nor intends to file an appeal against the aforesaid order of the appellate authority.
- In cases where the applicant is liable to pay an additional amount as per second proviso to Section 128A(1) of the CGST Act, and such additional amount is not paid within the prescribed time limits, the waiver of interest or penalty as per the order in Form GST SPL-05 / GST SPL-06 (if any) shall become void.
- Similarly, where the applicant is liable to pay any amount of interest, or penalty, or both, in respect of any demand pertaining to erroneous refund or on account of demand pertaining to periods other than those covered under section 128A(1), and the details of such amount have been mentioned in FORM GST SPL-05 / GST SPL-06, the applicant shall pay the said amount of interest, or penalty, or both, within a period of three months from the date of issuance of the order, and where the said amount is not paid within the said time period, the waiver of interest or penalty as per the order in Form GST SPL-05 / GST SPL-06 (if any) shall become void.
- Further, Form GST SPL-01 to GST SPL-08 have been notified and appended to the CGST Rules.

#### Refund on zero-rated supply of goods or services or both

- Rule 89 of the CGST Rules prescribing the mechanism for claiming refund of unutilized ITC on zero-rated supply of goods or services or both is amended as under:
  - A separate refund mechanism under Rules 89(4A) and 89(4B) of the CGST Rules was prescribed in cases where the supplier making zero-rated supply of goods / services has claimed benefits / exemptions on procurements under the prescribed notifications (such as under EPCG, as an EOU/STPI, Merchant Exports etc.). The said mechanism is now omitted to prescribe a single mechanism for claiming refund of unutilized ITC on zero-rated supply of goods / services that would apply, irrespective of whether the supplier has claimed the benefit / exemptions under such notifications.
  - Consequent amendments have been made in the formula prescribed under Rule 89(4) of the CGST Rules to enable the suppliers covered under the erstwhile Rules 89(4A) or (4B) to claim refund under Rule 89(4) of CGST Rules.
- Similarly, Rule 96(10) of the CGST Rules specifically barred an exporter to export the goods '*on payment of IGST*' (and consequently claim refund) in case benefit of prescribed notifications (such as under EPCG, as an EPU/STPI, Merchant Exports etc.) is claimed on its procurements. Rule 96(10) prescribing this restriction has been omitted. Various consequential changes have also been made.
- These amendments to come into effect from 8 October 2024.

#### Restriction to claim input tax credit (ITC)

Effective 1 November 2024, Section 17(5)(i) of the CGST Act has been amended to *inter alia* remove restrictions to claim ITC in respect of taxes paid pursuant to demands alleging fraud, wilful mis-statement or suppression of facts (under Section 74 of CGST Act) from FY 2024-25 onwards.

In this regard, consequential amendment is made to Rule 36(3) of the CGST Rules (with effect from 1 November 2024) to provide that the restriction to claim ITC in respect of tax paid in pursuance of any order where any demand has been confirmed on account of any fraud, wilful misstatement or suppression of facts will be restricted to the demands made under Section 74 of the CGST Act.

#### Time limit for issuance of self-invoice

Section 31(3)(f) of the CGST Act provides that in respect of procurements made from an unregistered person attracting GST under the reverse charge mechanism, a registered person is required to issue a self-invoice.

With effect from 1 November 2024, the following amendments are made in relation to the manner of issuance of self-invoice:

- Self-invoice shall be issued within a period of 30 days from the date of receipt of goods or services or both (Insertion of Rule 47A).
- The option available to a registered person under second proviso to Rule 46 to issue a consolidated self-invoice at the end of the month for the supplies covered under section 9(4) of the CGST Act (i.e., under reverse charge) where the aggregate value of such supplies exceeds INR 5,000 in a day from any or all the suppliers has been removed.

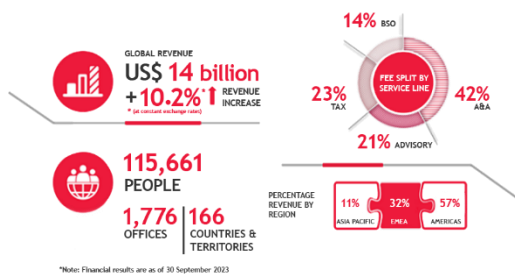
#### Miscellaneous amendments

- With effect from 1 November 2024, Rule 66(1) of CGST Rules is amended to prescribe the time limit for filing Form GSTR-7 (Return for tax deducted at source) to be 10th of the succeeding month.
- Rule 86(4B) of the CGST Rules provides that where a registered person deposits the amount of erroneous refund sanctioned to him under Rule 96(3), in contravention to Rule 96(10) of the CGST Rules along with interest and penalty, an amount equivalent to the erroneous refund deposited by the registered person shall be re-credited to the Electronic Credit Ledger. Rule 86(4B) has been amended to delete reference to the phrase '*in contravention to Rule 96(10)*' to give effect to omission of rule 96(10).
- Pursuant to the insertion of Section 74A of the CGST Act with effect from 1 November 2024, Rules 88B, 88D, 96B, 121, 142 of the CGST Rules have been amended to incorporate the reference to Section 74A of the CGST Act with effect from 1 November 2024.
- Further, Forms GST REG-20, GST REG-31, GSTR-9, GST APL-01, GST APL-05, GST INS-01 and GST DRC-01A appended to the CGST Rules have been substituted / amended.

[Source - Notification No. 20/2024-Central Tax dated 8 October 2024]

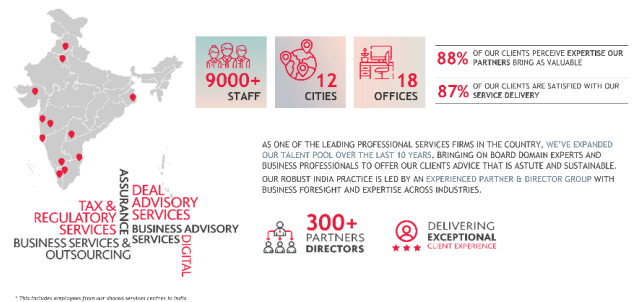
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