

October 2024

Alert: Goods & Services Tax

Bhatia & Bhatia
CHARTERED ACCOUNTANTS



Changes in GST Laws with effect from 01-11-2024:

- 1. New rule 47A inserted:** Taxpayer who is liable to pay tax under RCM shall issue the RCM tax invoice within a period of 30 days from the date of receipt of the said supply of goods/ services.
- 2. Time limit inserted in rule 66:** Taxpayer who is liable to deduct GST TDS under section 51 needs to file GSTR-7 electronically on or before 10th of the month succeeding the calendar month.
- 3. Amnesty scheme procedure described via New rule 164:** Amnesty Scheme for Interest and penalty waiver for FY 2017-18 to 2019-20. Refer short summary of section 128A. Payment to be made between period 01-11-2024 to the last due date 31-03-2025. Post payment of tax, application in SPL-01 or SPL-02 will be made for adjudication after 31-03-2025.
- 4. Change in GSTR 9:** GSTR 2B to be referred instead of GSTR 2A in table 8(A) of the GSTR 9 for the FY 2023-24.
- 5. Late fees reduced/waived for GST-TDS return filers under section 51:**
 - a. Late fees who fails to furnish GSTR-7 for the June, 2021 month onwards:**
 - Minimum late fees – Rs. 25 for each day failure.
 - Maximum late fees – Rs. 1,000.
 - b. Late fees who fail to furnish NIL GSTR-7:** Late fees fully waived.

Changes in GST Laws with effect from 01-11-2024:

6. **Reduction in maximum limit of mandatory pre-deposit for first appellate authority:** There is a reduction notified in the maximum limit for pre-deposit amount for filing Commissioner (Appeal) under GST laws.

Maximum limit for pre-deposit	On or before 31-10-2024	On or after 01-11-2024
CGST	25 Crore	20 Crore
SGST	25 Crore	20 Crore
IGST	50 Crore	40 Crore
Cess	25 Crore	NIL

Rectification of order relating to demand confirmed for wrong availment of ITC but the said ITC is now available for FY 2017-18 to FY 2020-21 with effect from 08-10-2024:

1. The Central Government, under Section 148 of the Central Goods and Services Tax Act, 2017, has notified a special procedure for rectifying orders related to wrongly availed input tax credit (ITC). This applies to registered persons who received orders under Sections 73, 74, 107, or 108 confirming ITC demand due to non-compliance with Section 16(4). If such ITC is now allowed under Section 16(5) or (6) and no appeal was filed, they may apply for rectification within six months from the date of notification, i.e. 08-10-2024.
2. The application must be submitted electronically along with the required details in Annexure A. The order issuing authority will review the application and aim to issue

a rectified order within three months from the date of application. Rectified orders will be uploaded in either FORM GST DRC-08 or FORM GST APL-04, depending on the section.

3.If rectification adversely affects the applicant, natural justice principles will be upheld.

Latest GST Updates in respect of RCM and TDS with effect from 10-10-2024:

- 1.GST is applicable on Reverse Charge Mechanism (RCM) basis on the rent of commercial immovable properties (such as offices, shops, warehouses, malls, etc.) when rented by an unregistered person to a registered person.
- 2.Reverse Charge Mechanism (RCM) has been introduced on supply of metal scrap by unregistered person to registered person. Thus, GST on purchase of metal scrap from the unregistered person by the registered person will be subject to GST on RCM basis.
- 3.TDS is made applicable under GST law in case of metal purchase @2% in case of purchase from the registered person by the registered person.
 - However, as per proviso to Section 51 (1), no deduction of TDS shall be made if the location of the supplier and the place of supply is in a State /Union territory which is different from the State/ Union territory of registration of the recipient.
 - Further persons who are required to deduct tax under section 51 need compulsory registration whether or not separately registered under GST.

Very important - Advisory dated 17-10-2024 issued for locking of auto-populated liability in GSTR-3B:

After introducing GSTR-1A facility to amend incorrectly declared outward supplies in GSTR-1/IFF and roll out of Invoice Management System (IMS) facility from October 2024 month onwards to manage inward supplies & ensure accurate ITC claims in GSTR-3B by providing option to take informed actions of accept/reject/pending on inward supplies, the GST Portal is now going to restrict making changes in auto-populated liability in pre-filled GSTR-3B from GSTR-1/1A/IFF to further enhance accuracy in return filing from **January 2025 tax period** tentatively.

Our comments: As per this advisory, we suggest to reconcile and reclaim the eligible Input tax credit (ITC) related to the tax period April 2024 to September 2024 which is not availed till yet and still lying in the electronic reversal and reclaim statement on the GST portal **latest by the 31-12-2024**.

Advisory dated 22-10-2024 issued for facilitating registration compliance process for buyer of metal scrap through REG-07:

- In pursuance the advisory issued on October 13 regarding the "New GST provision for metal scrap transactions," the GST portal has been updated to facilitate registration compliance for buyers of metal scrap through form GST REG-07.
- Taxpayers in this category are required to select "Others" in Part B of Table 2 under the title "Constitution of Business" section. This selection will open a text box where the taxpayer must enter "Metal Scrap Dealers". Please note that this entry is a mandatory field for those selecting "Others" in Table 2.
- Once this is completed, the remaining details in the GST REG-07 form must be filled and submitted on the common portal to comply with registration requirements as per Notification No. 25/2024 - Central Tax, issued on October 9, 2024.
- Screenshots attached for reference:

The screenshot displays the GST REG-07 form interface. At the top, a yellow header bar shows 'TDS Application' with dates '22/10/2024' and '06/11/2024', and a '15%' indicator. Below the header are five icons representing different sections: Business Details, Drawing and Disbursing Officer, Authorized Signatory, Office Address of Tax Deductor, and Verification. The main form area is titled 'Applicant Details' and includes a legend indicating that a red asterisk (*) denotes mandatory fields. The form contains several input fields: 'Legal Name of the Tax Deductor' (Rajesh Pathak), 'Email Address', 'Mobile Number', 'Permanent Account Number (PAN)' (BEWPP3223H), 'Trade Name' (Trade name, if any), and 'Date of Liability to Deduct Tax' (DD/MM/YYYY). A dropdown menu is open over the 'Constitution of Business' field, listing options: 'Select', 'Government Department', 'Local Authority', 'Public Sector Undertaking', 'Statutory Body/Government agencies', 'Authority or board or any other body notified by Central / State Government', 'Society established by Central / State Government or Local Authority', and 'Others' (which is selected and highlighted in blue). A red arrow points to the 'Others' option. Below the 'Applicant Details' section is the 'Jurisdiction Details' section, which includes 'Name of the State' (Delhi) and 'State Jurisdiction' (ward).

Applicant Details • indicates mandatory fields

Legal Name of the Tax Deductor Rajesh Pathak	Email Address [REDACTED]	Mobile Number [REDACTED]
Permanent Account Number (PAN) [REDACTED]	Date of Creation of PAN Pan date not available	Type of Registration Tax Deductor
Trade Name Trade name, if any	Constitution of Business * Others	Others (Please specify) * Please specify
Date of Liability to Deduct Tax * DD/MM/YYYY		

Advisory dated 29-10-2024 issued for barring of GST Return on expiry of three years:

The taxpayers shall not be allowed file their GST returns after the expiry of a period of total three years from the due date of furnishing the said return under Section 37 (Outward Supply), Section 39 (payment of liability), Section 44 (Annual Return) and Section 52 (Tax Collected at Source). These Sections cover GSTR-1, GSTR 3B, GSTR-4, GSTR-5, GSTR-5A, GSTR-6, GSTR 7, GSTR 8 and GSTR 9.

The said changes are going to be implemented in the GST portal from early next year (2025). Hence, the taxpayers are advised to reconcile their records and file their GST Returns as soon as possible if not filed till now.

Appendix

Section 128A – Amnesty Scheme for Interest and penalty waiver for FY 2017-18 to 2019-20.

- 1. Introduction:** Section 128A was added to the CGST Act, 2017, effective November 1, 2024, following the 53rd GST Council meeting, allowing waivers of interest or penalties for demands under Section 73 for FY 2017-18, 2018-19, and 2019-20. Rules for implementing this were introduced through Rule 164. A deadline of March 31, 2025, was set for taxpayers to pay the tax demanded to avail of the waiver. Several doubts were raised about its implementation, and to ensure consistency, the Board issued clarifications under Section 168(1) of the CGST Act.
- 2. Filing of application:** Section 128A of the CGST Act offers a waiver of interest or penalties for tax demands raised under Section 73 for FYs 2017-18, 2018-19, and 2019-20. It applies to cases where notices or orders were issued but not fully settled. Taxpayers can file applications electronically via FORM GST SPL-01 or SPL-02, depending on their case, within three months of March 31, 2025, or six months if tax redetermination is involved. If an appeal or writ petition is pending, it must be withdrawn before applying. Each notice or order requires a separate application.
- 3. Mode of Payment:** Section 128A addresses the waiver of interest or penalties for tax demands under Section 73. For notices yet to be adjudicated, payment is made through FORM GST DRC-03. For adjudicated orders, payment is made via Part II of the Electronic Liability Register (ELR). If the tax has already been paid, an adjustment using FORM GST DRC-03A is required. Payments should be made by March 31, 2025, or within six months for redetermined tax cases. Adjustments are allowed for amounts no longer payable due to retrospective amendments to Section 16. Any deductions must be verified by tax officers to ensure they are solely related to Section 16(4) violations, not other grounds.
- 4. Processing of application and issuance of order:** The processing of applications for waivers of interest or penalties under Section 128A involves specific procedures. The appropriate officer examines applications filed in FORM GST SPL-01 or SPL-02 and issues a notice if rejection is likely. Applicants can respond through FORM GST SPL-04 within a month. Orders will be issued in FORM GST SPL-05 (approving) or FORM GST SPL-07 (rejecting). If no order is made within



any additional tax is required within three months of order issuance; otherwise, the waiver becomes void. Proper officers must ensure that all tax demands have been settled, excluding amounts no longer payable due to new provisions. If other liabilities exist, they will be noted, and an opportunity for a personal hearing may be offered. Payments for any outstanding interest or penalties must be completed within three months to maintain waiver validity.

5. Appeal against the order issued under Rule 164: Under Rule 164, appeals against orders related to waiver applications are regulated. No appeal is allowed against an order in FORM GST SPL-05, which concludes proceedings under Section 128A. However, appeals can be filed against rejection orders in FORM GST SPL-07 using FORM GST APL-01, typically without a pre-deposit, unless insufficient tax dues were paid. Appeals focus solely on the waiver's applicability, not the merits of the original order. If the appellate authority finds that the rejection was incorrect, an order in FORM GST SPL-06 will be issued to modify any associated liabilities. If a taxpayer withdraws their appeal but later faces a rejection order, they may restore their original appeal based on specific conditions, such as filing an undertaking. If the appeal period lapses without action, the original appeal is also restored.

6. Non-availability of this amnesty scheme: This scheme is not available to:

- Amount (tax/interest/penalty) payable by the person on account of erroneous refund.
- No refund of already paid interest and penalty with respect to notices/orders.
- Appeal or writ petition is filed against the order and has not been withdrawn by 31-03-2025.

7. Other matters involved: The clarification outlines the provisions under Section 128A regarding waivers of interest or penalties for taxpayers. Key points include:

- Tax payments made before or after Section 128A's effect are considered valid.
- Amounts collected by officers on behalf of taxpayers count as payments.
- Interest or penalties from certain financial years cannot offset tax dues.
- Benefit of waiver of interest and penalty shall not be applicable in case of: -
 - Interest demanded on delayed filing of returns.
 - Interest demanded on delayed reporting of any supply in the return.
- Waivers apply only when tax is fully paid, not for partial payments.
- Taxpayers can apply for waivers even if erroneous refunds are involved, provided full tax amounts are paid – But remember, the waiver of interest and penalty shall be only available in respect of tax demand other than that pertaining to demand of erroneous refund.

- Waivers extend to IGST and transitional credits, but not to penalties under other provisions or import IGST.
- Payments can be made through ITC, except in specific cases like reverse charge mechanisms or erroneous refunds.
- Tax amounts must be calculated after adjustments for retrospective changes in tax laws.

These clarifications aim to facilitate compliance and clarify eligibility for waivers under the GST framework.

About Us

Founded in 1981, our firm is dedicated to providing unparalleled financial services to our clients and assisting in navigating the business landscape. With a commitment to deliver exceptional services while upholding the highest ethical standards, our team of over 125+ professionals, led by 11 experienced partners, brings a diverse range of expertise to the table. This allows us to act as your trusted advisor for all aspects of your financial needs, including Audit & Assurance, Taxation (both domestic and cross-border), Valuations, Mergers & Acquisitions and Corporate Finance. We operate as a progressive and well-structured full-service firm with a Pan India presence and a network of various international forums, groups & chambers. We deliver end-to-end business solutions through a dedicated panel of experts, maintaining long-term trust and reliance from our clients.

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