



Anivesh
Legal Consultants

GST Amnesty Scheme: An in-depth analysis with practical solutions

What will be covered?

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Introduction

❖ WHAT IS AMNESTY SCHEME, 2024?

- A lot of GST cases were pending at the Commissioner Appeals and Appellate Tribunal stage.
- In the **53rd GST council meeting** held on 22.06.2024, this matter was placed and the Amnesty Scheme was discussed to settle the immense pending litigation.
- For the same, section 128A of CGST Act was inserted vide **Section 146 of Finance (No.2) Act, 2024**.
- Section was made effective from **November 1, 2024** vide **NN 17/2024**.
- It waives **interest and penalty** for the pending notices and orders on the condition of **full payment of tax component** subject to such other conditions.

Coverage

WHAT IS COVERED u/s 128A?



Notices/Statements
issued u/s 73

Orders passed u/s 73

Orders passed u/s 107
or 108

For the FY 2017-18, 2018-19 and 2019-20

Not covered:

- Notices/orders under Section 74
- Notices/orders for erroneous refunds

Types of Relief

❖ TYPES OF RELIEF:

- **Waived Interest and Penalty amount:** The full amount of interest and penalty is waived on full payment of tax component of the demand.
- **Benefit of Section 16(5) & 16(6):** If the tax liability of the notices/orders include any demand which is liable to be dropped after taking benefit of section 16(5) and 16(6) of CGST Act, then the same will be reduced from total tax demand of order/notice for making full payment under Amnesty Scheme.
- **Pending Notices and Orders both:** Both notices and orders issued u/s 73, 107 and 108 are covered under the Scheme.
- **Orders once passed u/s 74 and then reassessed u/s 73 covered:** The notices/orders once issued u/s 74 and then re-assessed u/s 73 are also covered in the Scheme. A period of 6 months time is given to the registered persons to pay the demand from the date of re-assessment order.
- **If relief is provided, no appeal is allowed:** The relief provided by the SPL-05 is final and no appeal can be filed against such order by the GST department [Circular 238/32/2024-GST].

Conditions

- **For the FY 2017-18 to 2019-20:** The scheme is for the notices/orders issued with respect to FYs 2017-18, 2018-19 and 2019-20.
- **Full Tax Payment**
- Due date of payment - 31.03.2025
- For the notices/orders first issued u/s 74 and then re-assessed u/s 73 after directions under u/s 75 (2), the last date of payment is date after 6 months from date of re-assessment order.
- **Application till 30.06.2025:** The last date of filing application is 30th June, 2025 for notices/orders originally issued u/s 73, 107 and 108. For the re-assessed orders, the last date of filing application is the date after 6 months from date of communication of re-assessment order.

Conditions

- **Cases not covered:** SCN's or orders issued with respect to erroneous refunds issued by the department is not covered under the Amnesty Scheme.
- If notice/order has demand for the financial years not covered under the scheme (after FY 2019-20) or the demand of erroneous refund, the full payment of the notice/order is required.
- Interest/penalty on uncovered liability to be paid within 3 months from the date of issuance of FORM GST SPL-05 or FORM GST SPL-06. Otherwise, scheme is void.
- **No refund of already paid Interest and Penalty:** As the Scheme is to settle litigation, no refund of interest and penalty already paid by the registered person is available.

Procedure

- 1. Making Payment against the demand:** The first step is payment of demand as per the notice/order.
 - i. Payment against notice/statement under Section 73: Form DRC-03 to be filed.
 - ii. Payment against order: Crediting the amount in the E-liability register against the debit entry created by the order OR if Form DRC-03 is already filed, such payment to be credited in E-liability register by filing of Form DRC-03A.
 - iii. There is no mandatory requirement of making payment from E-Cash Ledger [except RCM, 9(5) and erroneous refund paid in cash].
- 2. Withdrawal of appeal/writ petitions:** In cases where, the appeal or writ petitions are filed against the Order/SCN, the same is to be withdrawn before last date of payment.
 - Application for withdrawal of appeal/petition is enough to apply for the scheme. Copy of the order for withdrawal of the said appeal or writ petition on the common portal, within one month of the issuance of the said order for withdrawal by the concerned authority.

As per latest GST advisory, for appeals filed after **21.03.2023**, withdrawal option is already available in the GST portal. However, for the appeals filed before **21.03.2023**, the taxpayers are advised to submit their request for withdrawal of appeal applications to the concerned Appellate Authority.

Procedure

- 3. Filing of Form SPL-01/SPL-02:** SPL-01/SPL-02 are to be filed on GST portal while navigating to *GST portal>Dashboard Services>User Services>My Applications>Apply For Waiver Scheme.*

The following documents are to be uploaded at the time of filing application:-

- i. Attested order/notice against which the application is being filed.
- ii. DRC-03 and DRC-03A (if demand order is issued) for the tax payments made.
- iii. Appeal/writ petition withdrawal order or application filed for withdrawal as the case maybe, if any appeal is filed against order/notice.

Procedure

3. Filing of Form SPL-01/SPL-02:

The screenshot displays the 'Goods and Services Tax' portal for the Government of India, States and Union Territories. The top navigation bar includes links to Dashboard, Services, GST Law, Downloads, Search Taxpayer, Help and Taxpayer Facilities, e-Invoice, and News and Updates. The breadcrumb trail shows the path: Dashboard > Services > User Services > My Applications.

My Applications

Application Type • Application for Waiver Scheme under Section 128A ▼

From Date DD/MM/YYYY 📅

To Date DD/MM/YYYY 📅

• Indicates mandatory fields

SEARCH NEW APPLICATION

Procedure

3. Filing of Form SPL-01/SPL-02:

Skip to Main Content A+ A-

Goods and Services Tax
Government of India, States and Union Territories

Dashboard Services ▾ GST Law Downloads ▾ Search Taxpayer ▾ Help and Taxpayer Facilities e-Invoice News and Updates

Dashboard > Services > User Services > My Applications > Apply For Waiver Scheme

GSTIN/UIN/Temporary ID: **Legal Name:** **Trade Name:**

Select the Waiver Application Type:

Indicates Mandatory Fields

<input type="radio"/>	SPL-01 : Application for waiver of interest or penalty or both under Section 128A(1)(a) in case of notice or statement
<input checked="" type="radio"/>	SPL-02 : Application for waiver of interest or penalty or both under Section 128A(1)(b) & Section 128A(1)(c) in case of demand order

CREATE APPLICATION

Procedure

3. Filing of Form SPL-01/SPL-02:

GST SPL - 02: Application for Waiver of interest or penalty or both under Section 128A(1)(b) & Section 128A(1)(c) in case of order

• Indicates Mandatory Fields

Whether the demand order is issued through the GST portal? •	<input checked="" type="radio"/> Yes <input type="radio"/> No
Whether any appeal application filed against the order? •	<input checked="" type="radio"/> Yes <input type="radio"/> No
Whether any application filed for the withdrawal of appeal? •	<input checked="" type="radio"/> Yes <input type="radio"/> No
Whether the appeal or writ petition against the order been withdrawn before the appellate authority, Appellate Tribunal, High Court, or Supreme Court? •	<input checked="" type="radio"/> Yes <input type="radio"/> No
Whether the order issued under Section 73 and / or Section 74? •	<input type="text" value="73"/> ▼
Whether the order covered under section 75?	<input type="radio"/> Yes <input type="radio"/> No
Whether the Demand order includes Erroneous Refund ? •	<input type="radio"/> Yes <input checked="" type="radio"/> No

BACK

NEXT

Procedure

3. Filing of Form SPL-01/SPL-02:

GSTIN/UIN/Temporary ID:	Legal Name of the Taxpayer:	Trade Name:	Status: Draft
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GST SPL - 02: Application for Waiver of interest or penalty or both under Section 128A(1)(b) & Section 128A(1)(c) in case of order

● Indicates Mandatory Fields

1. Basic Details

Mobile Number ●

Email ID ●

Jurisdiction ●

Address ●

Procedure

3. Filing of Form SPL-01/SPL-02:

2. Details of Demand Order

Order Id •

Date of issuance of Order •

Section under which the Order has been issued •

Whether any appeal or writ petition is filed against order before the Appellate Authority/ Appellate Tribunal/ High Court/ Supreme Court? •

If Yes, whether the order for withdrawal of appeal or writ petition is issued or not?

Whether demand order involves demand of erroneous refunds •

Financial Year From •

Financial Year To •

3A. Amount Demanded in the Order

3B. Out of amount in Table 3A, ITC denied as per Section 16(4) and subsequently eligible under Section 16(5) and 16(6)

4. Amount paid through payment Facility against demand order

Credit Entry Reference Number	Reference Number of Form GST DRC-03	Reference Number of Form GST DRC-03A	IGST (₹)	CGST (₹)	SGST/ U
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No data available

Procedure

3. Filing of Form SPL-01/SPL-02:

Upload Supporting Documents

Note: Please upload supporting documents, if any for application of waiver scheme. Document description accepts alphanumeric with special characters hyphen (-) and slash (/) and file accepts only alphanumeric with special character underscore (_).

1. Self-certified copy of the order •

 No file chosen

2. Proof of withdrawal of appeal / writ petition or application filed for withdrawal of appeal/ writ petition (if applicable)

 No file chosen

3. Proof of payment made towards demand / paid through FORM GST DRC-03 and adjusted through FORM GST DRC-03A. •

 No file chosen

❗ Only PDF and JPEG format is allowed.

❗ Maximum file size for upload is 5MB each.

❗ Maximum 5 supporting documents can be attached in the application.

Note: Taxpayers are expected to upload supporting documents while filing application. You may upload upto 5 supporting documents, 5MB each (total 25 MB). There is no limit to number of documents. You can scan and upload, till size of the scanned document containing multiple pages is less than or equal to 5MB.

Procedure

3. Filing of Form SPL-01/SPL-02:

5. Declarations

- ☐ I undertake that, I have not filed any appeal or writ petition against the said order. (OR) I undertake that though I had filed an appeal / writ petition against the said order, I have withdrawn the said appeal/ writ petition (or) I have filed an application for withdrawal of the same and have attached the copy of withdrawal order or the application filed for withdrawal, with this application.
- ☐ Further, I understand and agree that no appeal shall be filed against the order concluding demand proceedings, issued under section 128A in any forum in the future.
- ☐ I also undertake that on issue of an order concluding demand proceedings issued under section 128A, no writ shall be filed against the order mentioned in Table 2 of this form.
- ☐ If an application is filed/ has been filed by the department against the order mentioned in Table 2 or if any proceedings are initiated under sub-section (1) of section 108 against the said order, and the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, issues an order enhancing my tax liability, I undertake to pay the additional amount of tax payable within three months from the date of the said order of the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, as per second proviso to sub-section (1) of section 128A.
- ☐ I declare that all information provided by me is accurate and truthful. I understand that any incorrect declaration or suppression of facts will render this application void and lead to recovery proceedings for the outstanding dues along with applicable interest and penalties.

Procedure

4. **Uploading Appeal/petition withdrawal order:** If any application for withdrawal of appeal or writ petition was filed at the time of filing SPL-01 or SPL-02, the appeal/writ petition withdrawal order is required to be uploaded within a month from the date of issue of withdrawal order.
5. **Issuance of Form SPL-03/SPL-05:** After receipt of the application, the department has **three months** time to issue:
 - i. SPL-03: Notice before rejection of application to provide opportunity of being heard.
 - ii. SPL-05: Acceptance of the application and provide the relief as per Scheme.
6. **Reply to Notice [SPL-04]:** If the notice for rejection of application is received by the applicant, the applicant is given one month's time to reply in Form SPL-04.
7. **Response by the GST department [SPL-05 or SPL-07]:** After submission of reply by the registered person, the department within three months of receipt of reply will issue:-
 - i. Form SPL-05, to provide relief of scheme,
 - ii. Form SPL-07, to reject the application.

It is to be noted that if no reply is given against SPL-03, the department will reject or approve the application within four months from date of SPL-03.

Procedure

8. **No response by GST department:** If after filing SPL-01 and SPL-02, no response is given by the department within 3 months, the application will be deemed approved.
However, it is to be noted that the time limit will start from the date of uploading of appeal withdrawal order if any appeal or writ petition was filed.
9. **Appeal against the rejection order:** Appeal can be filed against SPL-07 issued to reject the relief application.
10. **Restoration of original appeal:** If the application filed under the Scheme is rejected, then the original appeal filed by the applicant, if any will be restored.

The condition for restoration are as follows:-

- i. If the time limit of three months to file appeal u/s 107 against rejection order (SPL-07) is expired.
- ii. If appeal u/s 107 is filed and rejected, thereafter the applicant declare in Form SPL-08 within 3 months from date of rejection order (APL-04) by appellate authority that he will not file any further appeal against such rejection order issued by appellate authority.

Other important points

- **Late fees and interest on delayed filing is not waived:** The scheme covers interest and penalty only. Thus, late fee, redemption fine etc. are not covered under the waiver provided under Section 128A.
- **If demand is dropped, no further appeal is allowed:** If the relief under the scheme is provided to the applicant in Form SPL-05, no further appeal against such SPL-05 will be entertained.
- **Additional tax payment to be made within 3 months from the order where:**
 - ✓ Department has filed appeal before Appellate Authority/Appellate Tribunal; or
 - ✓ Department has filed appeal before High Court or Supreme Court; or
 - ✓ Revision proceedings are initiated u/s 108If not paid within 3 months, scheme is void.
- **Proper officer:**
 - ✓ SPL-01: Proper officer for issuance of order as per Section 73; and
 - ✓ SPL-02: Proper officer referred to in Section 79 of the Act.

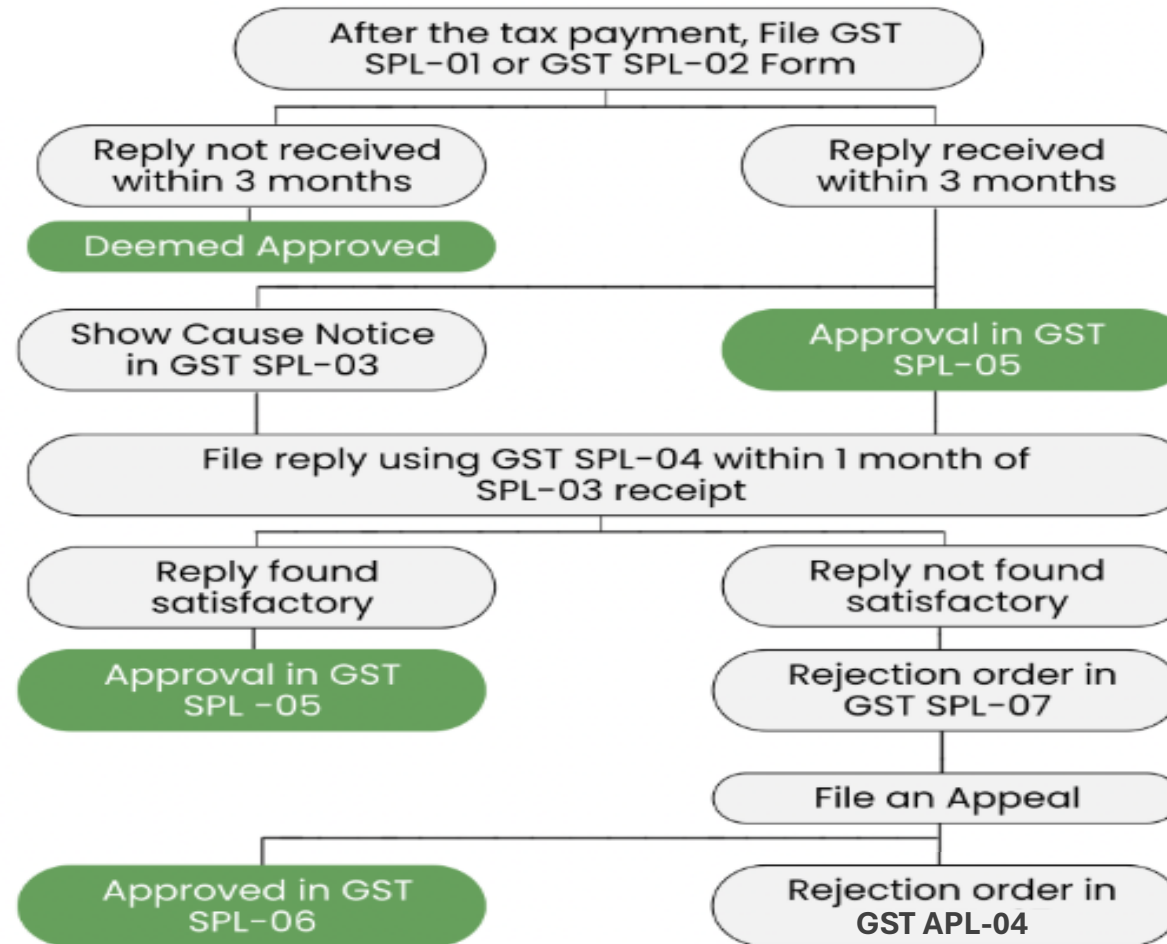
Timelines

➤ Time limits for payment of tax and filing of Applications:-

Sr No	Notice/Order	Last Date of Payment	Last date to file Application	Reference
1	Notice/Statement/Order u/s 73/107/108	31.03.2025	30.06.2025	CGST Rule 164(6) & NN 21/2024 CT
2	If directions issued u/s 75(2) redetermining tax under section 73 of the said Act.	Six months from issuance of re-assessed order u/s 73. (Circular 238 says ' communication ')	Six months from communication of re-assessed order issued u/s 73.	

Timelines

➤ Time limits after filing of Applications:-



Relevant Forms

➤ Relevant Applications for Amnesty Scheme:-

- i. **GST SPL – 01:** Application in respect of notice or statement issued u/s 73.
- ii. **GST SPL – 02:** Application in respect of an order issued u/s 73, 107 and 108.
- iii. **GST SPL – 03:** Notice by the department in response to SPL-01 or SPL-02.
- iv. **GST SPL – 04:** Reply by registered person in response to SPL-03.
- v. **GST SPL – 05:** Order for approval of SPL-01/SPL-02.
- vi. **GST SPL – 06:** Order for approval of SPL-01/SPL-02 after filing of appeal against rejection order.
- vii. **GST SPL – 07:** Order for rejection of SPL-01/SPL-02.
- viii. **GST SPL – 08:** Undertaking for not filing appeal against order issued by appellate authority.

Clarifications

➤ **The important clarifications as per the Circular No. 238-32-2024 dated 15th oct, 2024 :-**

- i. Benefit of scheme is available even if the tax payment was made before introduction of the scheme.
- ii. The benefit of scheme is available against the orders/notices containing demand of interest and penalty only as the tax component is already paid. However, waiver of interest on account of delayed filing of returns, or delayed reporting of any supply is not available as the same is recoverable u/s 75(12) of CGST Act.
- iii. If the Order/SCN is pertaining to periods not eligible for relief under the scheme or containing demand on issue of erroneous refund, relief will be provided in following manner:-
 - a. Full Payment of tax component is to be made.
 - b. Relief of interest and penalty will be provided in the proportion of demand eligible for scheme.
 - c. Demand of interest and penalty on the periods not covered under scheme or issues not eligible for relief will be raised in Form SPL-05.
 - d. Such interest and penalty will be liable to be paid within 3 months of issuance of SPL-05, else the relief provided in SPL-05 will become void.

Clarifications

➤ **The important clarifications as per the Circular No. 238-32-2024 dated 15th oct, 2024 :-**

- iv. In cases, where appeal is filed by department against the order which is subject to relief under Scheme and appellate authority enhances the tax demand of such order. The benefit of scheme will be valid only if the enhanced tax demand is paid by applicant within three months from date of order enhancing demand.
- v. If any SLP is filed before Supreme Court by the applicant and is pending, the same is also liable to be withdrawn to file relief application.
- vi. Full payment of tax means IGST, CGST, SGST and compensation cess.
- vii. The demand of wrongly availed transitional credit is also eligible for waiver if ITC is claimed in the period covered under Scheme.
- viii. Import IGST not covered.
- ix. DRC-03 filed before 31.03.2025 but DRC-03A filed thereafter covered.
- x. Recovery from a third party

Open issues

❖ OPEN ISSUES:

- Orders with demand of interest and penalty only i.e. nil tax liability, which document is to be uploaded in such document tab?
- **Restoration of Appeals:** In cases where waiver application is rejected, the method and functionality of restoration of original appeals filed is not clear yet.
- **Cases where appeal not filed:** In cases where no appeal is filed u/s 107 as the taxpayer is proceeding to file waiver application. In such case, if waiver application get rejected and in meantime, period of filing appeal is lapsed. Can registered person still file appeal u/s 107?
- Eligibility of ITC to recipient?
- How to adjust payment already made by the taxpayer via GSTR-3B?
- OIA under Section 107 where OIO was issued under Section 74? (Circular 238 vs. Section 128A)
- Manual orders passed and appeal filed
- Technical glitch or difficulty - “Issues related to Waiver Scheme” on self service portal

Open issues

❖ OPEN ISSUES:

- Interest and penalty paid under protest?
- If tax payment is made but SPL-01/SPL-2 is not filed within time?
- If application made under amnesty but taxpayer wants to litigate?
- If tax payment made till 31.03.2025 but appeal withdrawn thereafter before filing of SPL-01/SPL-02?
- SPL-05 passed in cases of interest on self-assessed tax?
- Payment made in E-cash ledger before 31.03.2025 but DRC-03 filed/demand setoff in E-liability ledger thereafter?
- Re-assessed order issued u/s 73 communicated after 6 months from date of issuance
- Scheme can be availed for specific issues in a notice/order?
- Refund of excess pre-deposit in case of rejection in SPL-07?
- SCN or Orders under Sections 129 or 130 covered?

THANK YOU

See You Next Time



+91 9717587750
+91 8077648656



ayush.agarwal@aniveshgroup.com
mohit.gupta@aniveshgroup.com



aniveshgroup.com
anivesh.in



C-2465, Basement, Opposite Peach Tree
Gate no. 1, Sushant Lok 1, Sector 43,
Gurgaon 122002.



Anivesh
Legal Consultants

