



Clarifications Issued by CBIC: Key Guidelines on GST amnesty scheme

The key highlights of the **Circular No. 237/31/2024-GST** dated **15.10.2024** on the implementation of provisions of sub-section (5) and (6) of Section 16 of the CGST Act, 2017:

- **Retrospective Insertion:** Sub-sections (5) and (6) of Section 16 of the CGST Act, 2017 were retrospectively inserted via Section 118 of the Finance (No. 2) Act, 2024, with effect from 1st July 2017. These provide relief for availment of input tax credit (ITC) under specified conditions.
- **Relevant Provisions of Section 16 of the CGST Act, 2017:**
 - **Sub-section (4):** Restricts the time limit for availing ITC for any invoice or debit note to 30th November following the end of the financial year.
 - **Sub-section (5):** Allows registered persons to avail ITC for Financial Years 2017-18 to 2020-21 up to 30th November 2021.
 - **Sub-section (6):** Provides ITC benefits to those whose registration was cancelled but later revoked, allowing ITC claims for periods under certain conditions.
- **No Refund Clause:** Section 150 of the Finance (No. 2) Act, 2024 states no refund of tax paid or ITC reversed due to the retrospective insertion of these



sub-sections.

- **Special Procedure for Rectification:** Issued via Notification No. 22/2024 - Central Tax on 08.10.2024, outlining a special procedure for rectifying orders issued under Sections 73, 74, 107, and 108 of the CGST Act related to wrong availment of ITC, now rectifiable due to the new provisions.
- **Clarifications for Various Cases:**
 - **No Demand Notice Issued:** If no demand notice has been issued under Section 73 or 74, proper officers should take cognizance of the retrospective amendment and act accordingly.
 - **Demand Notice Issued but No Order:** Adjudicating authorities must consider the retrospective amendment and pass appropriate orders.
 - **Appeal Filed but No Order:** Appellate authorities must consider the amendments while passing orders under Section 107 or 108.
 - **Orders Issued but No Appeal Filed:** Taxpayers may apply for rectification within 6 months using the special procedure provided.
- **Application for Rectification:**
 - Detailed procedures for filing rectification applications through the GST portal under My Applications.
 - Applications must include details of confirmed demand and eligible ITC under the new provisions.
- **Proper Officer's Role:** The proper officer will review the rectification application and issue orders within 3 months. If the rectification is adverse to the taxpayer, principles of natural justice will be followed.
- **No Refund on Reversed ITC:** ITC that was reversed or tax already paid due to contravention of Section 16(4) will not be refunded, even if now eligible under



the retrospective amendment.

- **Time Limit for Rectification:** Applications for rectification under the special procedure must be filed within 6 months from **08.10.2024**.

Source: ***GST Circular***

The key highlights of the **Circular No. 238/32/2024-GST** dated **15.10.2024** related to the clarification of doubts about Section 128A of the CGST Act, 2017:

- **Introduction of Section 128A:** Effective from 01.11.2024, Section 128A of the CGST Act allows for the waiver of interest or penalty, or both, on demands raised under Section 73 of the CGST Act for FYs 2017-18, 2018-19, and 2019-20, subject to conditions.
- **Rule 164 and Timelines:**
 - Rule 164, inserted effective 01.11.2024, outlines the procedure for closing proceedings under Section 128A.
 - The deadline for full payment to avail the waiver is set as 31.03.2025 for most cases. For redetermined tax demands, the deadline is six months from the order date.
- **Eligible Cases for Waiver:**
 - Cases where a notice or statement has been issued under Section 73 but no final order passed.
 - Cases where an order under Section 73 has been issued, but no final appellate or tribunal order has been passed.
 - Cases where initial notices were issued under Section 74, later redetermined under Section 73 by appellate or court directives.
- **Application Process:**



- Taxpayers must apply for the waiver in **FORM GST SPL-01** or **FORM GST SPL-02**, depending on their case.
- Applications should be filed within three months of 31.03.2025 or six months from the redetermination order.
- Separate applications are required for multiple notices/orders.
- **Payment of Tax:**
 - Tax must be paid using **FORM GST DRC-03** or through the electronic liability register (ELR) depending on the stage of the notice/order.
 - Payments must be completed by the deadlines for waiver eligibility.
- **Processing of Application:**
 - The proper officer examines the application and issues an order in **FORM GST SPL-05** (approval) or **FORM GST SPL-07** (rejection) within the prescribed timeframe.
 - If no order is issued within the set period, the application is deemed approved.
 - Applicants must withdraw any related appeals or writ petitions before applying for the waiver.
- **Retrospective ITC Adjustments:** Taxpayers can adjust demands relating to denied ITC under Section 16(4) due to recent retrospective amendments.
- **Additional Considerations:** Taxpayers must ensure full tax payment (excluding retrospective ITC adjustments) and meet any additional tax demands arising from appellate or revisional proceedings within three months of the order. Failure to do so will void the waiver.

Source: **GST Circular**



INDIRECT TAX

Contact Details

3rd Floor, MJ Tower,
55, Rajpur Road,
Dehradun - 248001

T: +91.135.2743283, +91.135.2747084

E: info@vkalra.com

W: www.vkalra.com



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