

R.C. JAIN AND ASSOCIATES LLP

NEWSLETTER

October 2024

“None can destroy iron, but its own rust can. Likewise, none can destroy a person, but their own mindset can”

- Ratan Tata



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Circular No 11 /2024, F. No. 312/63/2023-OT dated 1st October.

Order authorizing Income-tax authorities to **admit an application or claim for refund and carry forward of loss and set off thereof under section 119(2)(b) of the Income-tax Act, 1961** containing guidelines and procedures to be followed :-

- Delegation of Powers:-
 - Principal Commissioners/Commissioners of Income-tax: Handle claims up to Rs. 1 crore.
 - Chief Commissioners of Income-tax: Handle claims exceeding Rs. 1 crore but not more than Rs. 3 crores.
 - Principal Chief Commissioners of Income-tax: Handle claims exceeding Rs. 3 crores.
- The Commissioner of Income Tax at the Central Processing Centre (CPC) in Bengaluru will manage condonation applications related to delays in verifying returns.
- Condonations applications must be filed **within five years from the end of relevant assessment year**, effective from 1st October 2024. Applications should be processed within six months of receipt by the competent authority.
- Condonations will only be considered if the assessee demonstrates genuine hardship or reasonable cause for delay in filing. In case of court-ordered refunds, time during which the case was pending will be excluded from the five year limit.
- **Supplementary Refund Claims:** Late applications for additional refunds are permissible if conditions are met:-
 - The income of the assessee is not assessable in the hands of any other person under any of the provisions of the Act.
 - No interest will be admissible on belated claim of refunds.
 - The refund has arisen as a result of excess tax deducted/collected at source and/or excess advance tax payment and/or excess payment of self assessment tax as per the provisions of the Act.

~Compiled by Zainab Ansari

CBDT issues revised guidelines for compounding offences under Income Tax Act,1961 dated 17.10.2024

In conformity with the Hon'ble Finance Minister's budget announcement on simplification and rationalization of compounding procedure, CBDT has issued Revised Guidelines for Compounding of offences under the Income-tax Act, 1961(the 'Act') on 17-10-2024.

The revised guidelines supersede all existing guidelines on the subject and would apply to pending as well as new applications, from the date of its issue. The guidelines are expected to facilitate the stakeholders by reducing complexities arising out of existing multiple guidelines, simplifying the compounding procedure and lowering the compounding charges.

The guidelines have been simplified inter-alia by eliminating the categorization of offences, removing the limit on number of occasions for filing applications, allowing fresh application upon curing of defects which was not permissible under earlier guidelines, allowing compounding of offences under sections 275A and 276B of the Act, removing the existing time limit for filing application viz 36 months from the date of filing of complaint, etc.

To facilitate compounding of offences by companies and HUFs, the requirement of main accused filing the application has been dispensed with. The offences of the main accused as well as any or all co-accused can be compounded on payment of relevant compounding charges by the main accused and/or any of the co-accused, under the revised guidelines.

The compounding charges have also been rationalized by abolishing interest chargeable on delayed payment of compounding charges, reducing rates for various offences such as for TDS defaults multiple rates of 2%, 3% and 5% have been reduced to single rate of 1.5% per month and basis for calculation of compounding charges for non-filing of return has been simplified. Other simplification measures include removal of charge of separate compounding fee from co-accused.

The revised guidelines are an additional step towards simplification of procedures aimed at promoting ease of compliance.

The revised Guidelines for Compounding of offences, dated 17-10-2024 are available on <https://www.incometaxindia.gov.in>.

Circular No 12 of 2024 [F. NO. 370142/22/2024-TPL] dated 15.10.2024

The Direct Tax Vivad Se Vishwas Scheme, 2024 (hereinafter referred as DTVSV Scheme, 2024) has been enacted vide Chapter IV of finance (No.2) Act, 2024 to provide for dispute resolution in respect of pending income tax litigation. The objective of the Scheme is to, inter alia, reduce pending income tax litigation, generate timely revenue For the Government and benefit taxpayers by providing them peace of mind, certainty and savings on account of time and resources that would otherwise be spent on the long-drawn and vexatious litigation process.

The commencement date of the said Scheme has already been notified as 1-10-2024. further, Rules and Forms for enabling the Scheme have also been notified on 20-9-2024. After enactment of the DTVSV Scheme, 2024, several queries were received from the stake-holders seeking guidance in respect of various provisions contained therein.

Accordingly, under Section 97 of the DTVSV Scheme, 2024 which empowers the Board to issue directions or instructions in public interest, following Guidance Note in the Form of answers to the frequently asked questions (FAQs) is hereby issued.

Click on the following link to read the said circular

<https://incometaxindia.gov.in/communications/circular/circular-12-2024.pdf>

Case Law-1

1) Issue Involved:

Where Assessing Officer disallowed 100 per cent of purchases from certain entities which were held to be bogus and Tribunal upheld disallowance of 10 per cent of total purchases alleged to be bogus, since Tribunal simply adopted a 10 per cent margin for disallowance, despite returning a firm finding that Assessing Officer's order was untenable not being backed by cogent and convincing evidence impugned order of Tribunal deserved to be set aside.

HIGH COURT OF BOMBAY

Ashok Kumar Rungta

v.

Income-tax Officer*

G.S. KULKARNI AND SOMASEKHAR SUNDARESAN, JJ.

INCOME TAX APPEAL NOS.1753, 1759 & 2780 OF 2018

OCTOBER 15, 2024

Gist of the Case:

1. The Tribunal confirmed that the appellant's sales were valid and compliant with indirect tax requirements, rejecting the Assessing Officer's unfounded adverse findings.
2. The Tribunal deemed the 100% disallowance of purchases by the Assessing Officer as judicially untenable.
3. Despite affirming the validity of sales, the Tribunal upheld a 10% disallowance of purchases due to a lack of evidence from the appellant-assessee about the sellers, suggesting possible grey market involvement.
4. The Tribunal's expectation that the appellant's prove innocence was inappropriate, lacking an analysis of the 10% disallowance's reasonableness.
5. The revenue failed to provide sufficient evidence to justify any disallowance, making the 10% deduction arbitrary.
6. The Tribunal's order to uphold the 10% disallowance was unsupported, leading to the appeal being allowed in favor of the appellant.

Facts of the Case:

1. **Sales Validity:** The Tribunal confirmed that the sales made by the appellant-assessee were accepted and compliant with indirect tax requirements, including sales tax returns and VAT audit reports.
2. **Assessing Officer's Findings:** The Assessing Officer disallowed 100% of the appellant's purchases, claiming they were unsubstantiated.
3. **Tribunal's Ruling on Evidence:** The Tribunal found that the Assessing Officer's adverse findings lacked cogent and convincing evidence.
4. **Failure to Produce Evidence:** The appellant did not produce the parties from whom the purchases were made or documents proving the movement of goods, such as lorry receipts.
5. **Speculation on Purchases:** The Tribunal speculated that the goods might have been purchased from the grey market, leading to a decision to uphold a 10% disallowance of the purchases.
6. **Comparison to Previous Case:** The Tribunal noted similarities to the case of *CIT v. Nikunj Eximp Enterprises*, where a complete disallowance was rejected.
7. **Onus of Proof:** The responsibility to demonstrate that the purchases were suspect rested with the revenue, which failed to meet this burden.
8. **Final Decision:** The Tribunal's decision to uphold the 10% disallowance was criticized as lacking justification, ultimately leading to the appeal being allowed in favour of the appellant.

Held:

The Court finds in favor of the appellant-assessee, concluding that:

- The ITAT's decision to uphold a 10% disallowance of purchases, deemed bogus, lacks proper evidentiary support.
- The Assessing Officer's (AO) findings were based on insufficient and inconclusive evidence, undermining the foundation of the original order.
- The ITAT failed to justify why a partial disallowance was appropriate when the sales were confirmed as genuine.

Case Law-2

Issue Involved:

Where reopening notice was issued by JAO based on information received by him in matter of search and seizure under section 132, or requisitioned under section 132A, method of automated allocation, for issuance of notice under section 148 in a faceless manner, as per scheme framed vide notification dated 29-3-2022, could not be applied.

HIGH COURT OF GUJARAT

Talati and Talati LLP

v.

Office of Assistant Commissioner of Income-tax*

MRS. SUNITA AGARWAL, CJ AND PRANAV TRIVEDI, J.R/SPECIAL CIVIL APPLICATION NO.13198 OF 2024, R/SPECIAL CIVIL APPLICATION NO. 13225 OF 2024, OCTOBER 1, 2024

Gist of the Case:

- A limited liability partnership providing Chartered Accountancy services challenged a physical reassessment notice issued by the Jurisdictional Assessing Officer (JAO).
- **Section 151A** mandates faceless assessments, effective 1-11-2022.
- **Section 148** outlines procedures for reassessment, while **Section 148A** requires inquiries before issuing notices.
- The notice's issuance was valid despite the claim of violating section 151A, as it related to search and seizure under section 132.
- Section 148A's requirements do not apply to search cases, allowing the JAO to act on seized material.
- The court affirmed the JAO's authority to issue the notice and emphasized that technological efficiency doesn't negate existing legal procedures.
- The challenge to the JAO's jurisdiction was dismissed, and the assessee was advised to seek remedies from the Competent Authority and could request virtual hearings.

Facts of the Case:

1. The assessee is a limited liability partnership engaged in Chartered Accountancy services. The partnership filed its original return of income under section 139.
2. The Jurisdictional Assessing Officer (JAO) issued notice for reassessment, which the assessee challenged.
3. The challenge was based on alleged violations of section 151A, which mandates faceless assessments effective from 1-11-2022.
4. **Section 148:** Governs issuance of notices for assessment and reassessment.

Section 148A: Requires inquiry and opportunity for the assessee before issuing a notice, but does not apply to cases of search and seizure under section 132.

5. The court examined whether the JAO had the authority to issue the notice and the applicability of technological efficiency requirements.
6. The **court upheld the validity of the JAO's notice** and dismissed the assessee's challenge regarding jurisdiction.

Held:

1. The court upheld the validity of the reassessment notice issued under Section 148 of the Income Tax Act, 1961, by the Jurisdictional Assessing Officer (JAO). The challenge to the notice was dismissed.
2. The court determined that the JAO had the authority to issue the notice under Section 148, even in cases involving search and seizure under Section 132. The provisions of Section 148A, which require prior inquiry and opportunity for the assessee, do not apply in such cases.
3. The court emphasized that the JAO's assessment is based on information obtained from search operations, which necessitates a personal evaluation and application of the officer's judgment. The recording of satisfaction by the JAO was deemed necessary and appropriate in these contexts.
4. The court ruled that the automated allocation processes and risk management strategies mentioned in the Act do not apply to search and seizure cases. Therefore, the issuance of notices in such scenarios must involve the human assessment of the JAO.
5. The court referenced the specific legal provisions, including the exemptions in Section 148A for search and seizure cases, affirming that the legal framework supports the JAO's actions in this case.
6. The court noted that the petitioners still have the option to pursue remedies through the Competent Authority, including requesting virtual hearings to ensure their rights are protected during the proceedings.

Overall, the court found that the reassessment notice was issued in compliance with the relevant provisions of the Income Tax Act, and the JAO acted within his jurisdiction.

~ **Compiled by Chaitanya Sejpal**

Notification No. 20/2024 – Central Tax

Sr. No	Section/Rule	Existing Provision	Proposed Provision	Impact
1	Rule 36 (3)	No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, wilful misstatement or suppression of facts.	No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, wilful misstatement or suppression of facts under section 74	Section 74 shall be inserted in rule 36(3)
2	Rule 46 After clause (s) 2nd Proviso	Provided further that where an invoice is required to be issued under clause (f) of sub-section (3) of section 31, a registered person may issue a consolidated invoice at the end of a month for supplies covered under sub-section (4) of section 9, the aggregate value of such supplies exceeds rupees five thousand in a day from any or all the suppliers:		Second proviso shall be omitted.
3	Rule 46 After clause (s) 3rd Proviso	Provided also that in the case of the export of goods or services, the invoice shall carry an endorsement "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS ON PAYMENT OF INTEGRATED TAX" or "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED	Provided further that in the case of the export of goods or services, the invoice shall carry an endorsement "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS ON PAYMENT OF INTEGRATED TAX" or "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ	Provided further that in the case of substituted instead of Provided also that in the case of

		OPERATIONS UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX", as the case maybe, and shall, in lieu of the details specified in clause (e), contain the following details, namely, (i) name and address of the recipient; (ii) address of delivery; and (iii) name of the country of destination	DEVELOPER FOR AUTHORISED OPERATIONS UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX", as the case maybe, and shall, in lieu of the details specified in clause (e), contain the following details, namely,- (i) name and address of the recipient; (ii) address of delivery; and (iii) name of the country of destination	
4	Rule 47		47A. Time limit for issuing tax invoice in cases where recipient is required to issue invoice. –Notwithstanding anything contained in rule 47, where an invoice referred to in rule 46 is required to be issued under clause (f) of sub-section (3) of section 31 by a registered person, who is liable to pay tax under sub-section (3) or sub-section (4) of section 9, he shall issue the said invoice within a period of thirty days from the date of receipt of the said supply of goods or services, or both, as the case may be.”.	Rule 47A shall be inserted from 1st day of November 2024.
5	Rule 66 (1)	Every registered person required to deduct tax at source under section 51 (hereafter in this rule referred to as deductor) shall furnish a return in FORM GSTR-7 electronically through the common portal either directly or from a Facilitation Centre	Every registered person required to deduct tax at source under section 51 (hereafter in this rule referred to as deductor) shall furnish a return in FORM GSTR-7 on or before the tenth day of the month succeeding the calendar month	on or before the tenth day of the month succeeding the calendar month inserted from 1 st day of November

		notified by the Commissioner	electronically through the common portal either directly or from a Facilitation Centre notified by the Commissioner.	2024.
6	Rule 86 sub rule (4B) clause (b)	under sub-rule (3) of rule 96, in contravention of sub-rule (10) of rule 96	under sub-rule (3) of rule 96	“in contravention of sub-rule (10) of rule 96” shall be omitted
7	Rule 88B	In case, where the supplies made during a tax period are declared by the registered person in the return for the said period and the said return is furnished after the due date in accordance with provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, the interest on tax payable in respect of such supplies shall be calculated on the portion of tax which is paid by debiting the electronic cash ledger, for the period of delay in filing the said return beyond the due date, at such rate as may be notified under sub-section (1) of section 50.	In case, where the supplies made during a tax period are declared by the registered person in the return for the said period and the said return is furnished after the due date in accordance with provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 or section 74A in respect of the said period, the interest on tax payable in respect of such supplies shall be calculated on the portion of tax which is paid by debiting the electronic cash ledger, for the period of delay in filing the said return beyond the due date, at such rate as may be notified under sub-section (1) of section 50.	Section 74A shall be inserted from 1st day of November 2024.
8	Rule 88D sub rule (3)	Where any amount specified in the intimation referred to in sub-rule (1) remains to be paid within the period specified in the said sub-rule and where no explanation or reason is furnished by the registered person in default or	Where any amount specified in the intimation referred to in sub-rule (1) remains to be paid within the period specified in the said sub-rule and where no explanation or reason is furnished by the registered person in default	Section 74A shall be inserted from 1st day of November 2024.

		where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be liable to be demanded in accordance with the provisions of section 73 or section 74, as the case may be.]	or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be liable to be demanded in accordance with the provisions of section 73 or section 74 or section 74A, as the case may be.]	
9	Rule 89 sub rule (4) clause (b)	"Net ITC" means input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;	"Net ITC" means input tax credit availed on inputs and input services during the relevant period.	other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both shall be omitted
10	Rule 89 sub rule (4) clause (c)	"Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both]	"Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less	other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both shall be omitted
11	Rule 89 sub rule 4A and 4B	(4A) In the case of supplies received on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 48/2017-		Rule 89 sub rule 4A and 4B or both shall be omitted

Central Tax dated the 18th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E) dated the 18th October, 2017, refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.

7[(4B) Where the person claiming refund of unutilized input tax credit on account of zero rated supplies without payment of tax has -

(a) received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017 Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321(E), dated the 23rd October, 2017; or

(b) availed the benefit of notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13th October, 2017 or notification No. 79/2017-Customs, dated the 13th

		October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13th October, 2017, the refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted]	
12	Rule 96(10)	<p>The persons claiming refund of integrated tax paid on exports of goods or services should not have -</p> <p>(a) received supplies on which the benefit of the Government of India, Ministry of Finance notification No. 48/2017-Central Tax, dated the 18th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E), dated the 18th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme or notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II,</p>	Rule 96(10) shall be omitted

		<p>Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23rd October, 2017 has been availed; or</p> <p>(b) availed the benefit under notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272 (E), dated the 13th October, 2017 or notification No. 79/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.]</p>		
13	Rule 96B sub rule (1)	Where any refund of unutilized input tax credit on account of export of goods or of integrated tax paid on export of goods has been paid to an applicant but the sale proceeds in respect of such export goods have not been realized , in full or in part, in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, the person to whom the refund has been made shall deposit the amount so refunded, to the extent of non- realization of sale proceeds, along with applicable interest within	Where any refund of unutilized input tax credit on account of export of goods or of integrated tax paid on export of goods has been paid to an applicant but the sale proceeds in respect of such export goods have not been realized , in full or in part, in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, the person to whom the refund has been made shall deposit the amount so refunded, to the extent of non- realization of sale proceeds, along with	Section 74A shall be inserted from 1 st day of November 2024.

		thirty days of the expiry of the said period or, as the case may be, the extended period, failing which the amount refunded shall be recovered in accordance with the provisions of section 73 or 74 of the Act, as the case may be, as is applicable for recovery of erroneous refund, along with interest under section 50:	applicable interest within thirty days of the expiry of the said period or, as the case may be, the extended period, failing which the amount refunded shall be recovered in accordance with the provisions of section 73 or 74 or 74A of the Act, as the case may be, as is applicable for recovery of erroneous refund, along with interest under section 50:	
14	Rule 142 sub rule (1)	The proper officer shall serve, along with the (a) Notice issued under section 52 or section 73 or section 74 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in FORM GST DRC-01	The proper officer shall serve, along with the (a) Notice issued under section 52 or section 73 or section 74 or section 74A or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in FORM GST DRC-01	Section 74A shall be inserted from 1 st day of November 2024.

New Rule 164 shall be inserted after Rule 163 -

Details procedure of new rule and applicability as mentioned in Circular No - **238/32/2024-GST**

Notification No. 21/2024- Central Tax

In exercise of the powers conferred by sub-section (1) of section 218A of the CGST Act, 2017, the Central Government, on the recommendations of the council notifies the date up to which payment for the tax payable as per the notice, or statement or the order referred to in clause (a) or clause (b) or clause (c) of the said section can be made for waiver of interest or penalty by the class of registered persons. i.e. before liability of any interest or payment or both.

Sl. No.	Class of registered persons	Date up to which payment can be made
1	Registered persons to whom a notice or statement or order, referred to in clause (a) or clause (b) or clause (c) of section 128A of the said Act, has been issued	31 st March, 2025
2	Registered persons to whom a notice has been issued under sub-section (1) of section 74, in respect of the period referred to in sub-section (1) of section 128A of the said Act, and an order is passed or required to be passed by the proper officer in pursuance of the direction of the Appellate Authority, or Appellate Tribunal, or a court, in accordance with the provisions of sub-section (2) of section 75, for determination of the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73 of the said Act	Date ending on completion of SIX months from the date of issuance of the order by the proper officer re-determining tax under section 73 of the said Act.

This notification shall come into effect from the **1st day of November, 2024**

Important points:

• **Coverage under clause a, b and c of Section 128A of the CGST Act:**

1. Show Cause Notice is issued under section 73(1) or statement issued under Section 73(3) and where no adjudication order is passed under Section 73(9).
2. Adjudication order is passed under Section 73(9); filed appeals to Appellate Authority or pending with revisional Authority and where no Appellate order is passed under Section 107(1).
3. Appellant order is passed under Section 107(11) or 108(1) and where GST Appellant Tribunal passes no order under Section 113(1) of the CGST Act.
4. Adjudication order passed under Section 74, where the Appellant Authority or tribunal or courts have held that the demand is not sustainable under Section 74, but only under section 73 and the issue is pending under the adjudicating authority to re-determine the demand under Section 73.

Conditions to avail benefits under Section 128A of the CGST act:

1. Registered person to pay the full amount of tax payable as per the notice or statement or order on or before the date, as may be notified by the Government on the recommendations of the Council.
2. Withdrawal of any appeal or writ by the taxpayer by the notified.
3. No further appeals are allowed on the concluded matter.

Exceptions to Section 128A of the CGST Act

1. Where the interest and/or penalty have already been paid, no refund shall be available.
2. In case of any amount payable by the person on account of an erroneous refund.

Conclusions of the proceedings as per Section 128A of the CGST Act:

If the demanded tax including the revised tax (if any), is paid on or before the date, as may be notified by the Government on the recommendations of the Council, all proceedings in respect of the said notice, statement or order as applicable, shall be deemed to be concluded.

Section 74(1):

Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder:

Provided that no notice shall be issued, if the tax which has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised in a financial year is less than one thousand rupees.

Section 75(2):

Where any Appellate Authority or Appellate Tribunal or court concludes that the notice issued under sub-section (1) of section 74 is not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73.

Notification No. 22/2024 Central Tax

In exercise of the powers conferred under the section 148 of the CGST Act, 2017, the Central Government, on the recommendations of the council, hereby notifies the following special procedure for rectification of order, to be followed by class of registered persons against whom any order* has been issued confirming demand **for wrong availment of ITC but where such ITC is now available and where appeal against such order has not yet been filed.**

Procedure for rectification of order:

1. File an application for rectification of the order, electronically on the common portal within a period of **SIX** months from the date of issue of this notification i.e. 8th October, 2024.
2. Upload the information in the proforma in Annexure A of this Notification.
3. The authority who issued the order in question will be the proper officer responsible for carrying out the rectification.
4. The PO shall take a decision on the said application and issue a rectified order, as far as possible, within a period of **THREE** months from the date of the said application.
5. The PO shall upload a summary of the rectified order electronically –

- In form GST DRC-08 for rectification of order issued under Sections 73 and 74.
- In form GST APL-04 for rectification of order issued under sections 107 and 108.

The format for the same can be referred to from Annexure A included in the said notification.

Notification No. 23/2024 Central Tax

In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017, and in supersession of the notification of the Government of India in the Ministry of Finance Central Board of Indirect Taxes and Customs published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i) vide number G.S.R. 366(E), dated the 1 June, 2021 (No.22/2021-Central Tax), except as respects things done or omitted to be done before such supersession, the Central Government, on the recommendations of the Council:

hereby waives the amount of late fee payable under section 47 of the said Act by any registered person, required to deduct tax at source under the provisions of section 51 of the said Act, for failure to furnish the return in FORM GSTR-7 for the month of June, 2021 onwards, by the due date, which is in **excess of an amount of twenty-five rupees** for every day during which such failure continues:

Provided that the total amount of late fee payable under section 47 of the said Act by such registered person for failure to furnish the return in FORM GSTR-7 for the month of June, 2021 onwards, by the due date, shall stand waived which is **in excess of an amount of one thousand rupees**.

Provided further that the total amount of late fee payable under section 47 of the said Act by the registered person, who fails to furnish the return in FORM GSTR-7 for a month by the due date, where the total amount of central tax deducted at source in the said month is **nil**, shall stand waived.

This notification shall come into force on the 1st day of November, 2024.

Notification No. 24/2024 Central Tax

In exercise of the powers conferred by sub-section (2) of section 23 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue) No. 5/2017- Central Tax, published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i) vide number G.S.R. 607(E), dated the 19th June, 2017,

In the said notification, after the opening paragraph, the following proviso shall be inserted,

“Provided that nothing contained in this notification shall apply to any person engaged in the supply of metal scrap, falling under Chapters 72 to 81 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975).”.

This notification shall come into force with effect from the 10th day of October, 2024.

Notification No. 25/2024 Central Tax

In exercise of the powers conferred by sub-section (3) of section 1 read with section 51 of the Central Goods and Services Tax Act, 2017 (12 of 2017), hereafter in this notification referred to as the said Act, the Central Government, on the recommendations of the Council, hereby makes the following further amendment:

In the said notification,

1) After clause (c) and before the first proviso, the following clause shall be inserted-

“(d) any registered person receiving supplies of metal scrap falling under Chapters 72 to 81 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), from other registered person”;

2) for the third proviso, the following proviso shall be substituted, namely- **“Provided also that nothing in this notification shall apply to the supply of goods or services or both, which takes place between one person to another person specified under clauses (a), (b), (c) and (d) of sub-section (1) of Section 51 of the said Act, except the person referred to in clause (d) of this notification.”**

This notification shall come into force with effect from the 10th day of October, 2024

Notification No. 09/2024 – Central Tax (Rate)

In the said notification, in the Table, after serial number 5AA and the entries relating thereto, the following serial number and entries relating thereto in columns (2), (3) and (4) shall be inserted, namely: -

(1)	(2)	(3)	(4)
5AB	Service by way of renting of any property other than residential dwelling.	Any unregistered person	Any registered person

As per the said notification any registered person who avail service by way of renting of Commercial property from unregistered person is liable to pay GST on reverse charge basis.

This notification shall come into force with effect from the 10th day of October, 2024.

Notification No. 08/2024 - Central Tax (Rate)

1. (i) In the said notification, in the Table, -

(A) after serial number 25 and the entries relating thereto, the following serial number and entries relating thereto in columns (2), (3), (4) and (5) shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
25A	9969 Electricity, Gas, Water and Other Distribution Services or 9986 - Support Services to Agriculture, Hunting, Forestry, Fishing, Mining and Utilities.	Supply of services by way of providing metering equipment on rent, testing for meters/transformers/capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers.	Nil	Nil

(B) after serial number 44 and the entries relating thereto, the following serial number and entries relating thereto in columns (2), (3), (4) and (5) shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
44A	Research and Experimental Development Services In Medical Sciences and Pharmacy.	Research and development services against consideration received in the form of grants supplied by – (a) a Government Entity; or (b) a research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the income tax Act,1961	Nil	Provided that the research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act,1961 is so notified at the time of supply of the research and development service.

(C) after serial number 66 and the entries relating thereto, the following serial number and entries relating thereto in columns (2), (3), (4) and (5) shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
66A	Education Services	Services of affiliation provided by a Central or State Educational Board or Council or any other similar body, by whatever name called, to a school established, owned or controlled by the Central Government, State Government, Union Territory, local authority, Governmental authority or Government entity.	Nil	Nil

(D) for serial number 69 and the entries relating thereto in columns (2), (3), (4) and (5), the following shall be substituted, namely: -

(1)	(2)	(3)	(4)	(5)
69	9983- Other professional, Technical and Business Service 9991- Public Administration service 9992- Education	Any services provided by – (a)the National Skill Development Corporation set up by the Government of India; (b)the National Council for Vocational Education and Training; (c)an Awarding Body recognized by the National Council for Vocational Education and Training; (d)an Assessment Agency recognized by the National Council for Vocational Education and Training; (e)a Training Body accredited with an Awarding Body that is recognized by the National Council for Vocational Education and Training, in relation to- (i)the National Skill Development Programme or any other scheme implemented by the National Skill Development Corporation; or (ii)a Vocational skill development course under the National skill Certification and Monetary Reward scheme; or (iii) any National skill Qualification Framework aligned Qualification or skill in respect of which the National council for Vocational Education and Training has approved a qualification package.	Nil	Nil

Notification No. 07/2024 - Central Tax (Rate)

1. After item (iv a) and the entries relating thereto in columns (3), (4) and (5), the following item and entries relating thereto in columns (3), (4) and (5) shall be inserted, namely: -

Description of Service	Rate (per cent.)	Condition
(ivb) Transportation of passengers, with or without accompanied baggage, by air, in a helicopter on seat share basis.	2.5	Provided that credit of input tax charged on goods used in supplying the service has not been taken.

2. This notification shall come into force with effect from the 10th day of October, 2024.

Notification No. 06/2024 – Central Tax (Rate)

Any dealer who is registered under Goods & Service Tax Act, 2017 purchase Goods as mentioned in **Annexure 1** below from an unregistered dealer is liable to Pay GST on Reverse Charge basis.

Annexure 1

Tariff	Description of Goods
Chapter 72	Iron, Alloys, Scrap & Granules
Chapter 73	Iron tube, piles & Sheets
Chapter 74	Copper Mattes, Rods, Bars, Wires, Plates
Chapter 75	Nickel Mattes & Unwrought Nickel
Chapter 76	Unwrought Aluminum- Rods, Sheets & Profiles
Chapter 78	Unwrought Lead – Rods, Sheets & Profiles
Chapter 79	Unwrought Zinc – Rods, Sheets & Profiles
Chapter 80	Unwrought Tin – Rods, Sheets & Profiles
Chapter 81	Magnesium, Cobalt, Tungsten Articles

The above amendment is explain below through various scenario's

RCM on Metal Scrap

Seller	Buyer	RCM
Unregistered	Registered	YES @ 18%
Unregistered	Unregistered	NO
Registered	Unregistered	Forward Charge – YES RCM – NO
Registered	Registered	Forward Charge – YES RCM – NO

This notification shall come into force with effect from the 10th day of October, 2024

Circular No. 238/32/2024-GST

Clarification of various doubts related to Section 128A of the CGST Act, 2017

Section 128A has been inserted in CGST Act, 2017 to provide for waiver of interest or penalty or both, relating to demands under section 73 of the CGST Act pertaining to Financial Years 2017-18, 2018-19 and 2019-20, subject to certain conditions.

As per the section full payment of tax demanded in the notice/ statement/ order needs to be made by the taxpayer within six months from the date of issuance of order in order to avail the benefit of waiver of interest or penalty or both under the said section.

The procedure to be followed by the taxpayers and the tax officers to avail and implement the benefit provided under Section 128A, is as follows:

1. Filing of application:

Section 128A are applicable in cases where notice is issued under section 73 for the FY 2017-18, 2018-19 and 2019-20, in the following situations:

- a) Where notice is issued under section 73 but no order is issued.
- b) Where order under section 73 is issued but no order is issued by the Appellate Authority/ Revisional Authority under section 107 or 108.
- c) Where order is issued by the Appellate Authority/ Revisional Authority under section 107 or 108 but no order is issued under section 113 by Appellate Tribunal.

In cases where a notice/ statement under Section 73 has been issued demanding tax inter-alia pertaining to the period from July 2017 to March 2020, for which no order has been issued under section 73, an application in **FORM GST SPL-01**, may be filed electronically on the common portal, by the taxpayer.

Where an order has been issued under Section 73 demanding tax inter-alia pertaining to the period from July 2017 to March 2020, for which no order has been issued under section 107 or section 108, an application in **FORM GST SPL-02** is filed.

The above FORM shall be filed within three months from 31.03.2025 & FORM GST SPL-02, can be filed within six months from the date of communication of order of the proper officer redetermining the amount of tax to be paid under section 73.

To apply for a waiver of interest or penalties, taxpayer must first withdraw any related appeal or petition. They should attach withdrawal order with their waiver application forms so that it acts as proof.

2. Payment of tax:

The payment towards the tax demanded in the said notice shall be made by the taxpayer through FORM GST DRC-03. In cases where the payment towards tax demanded in the demand order has already been made through FORM GST DRC-03, the procedure prescribed in rule 142(2B) may be followed. In such cases, the taxpayer shall be required to file an application in FORM GST DRC-03A as prescribed in the said rule, in order to adjust the amount already paid vide the FORM GST DRC-03, towards the demand created in the ELR-Part II, before filing the application for waiver under Section 128A in FORM GST SPL-02. For the purposes of determining the date of payment of full amount of tax, the date on which the amount has been paid through FORM GST DRC-03 may be considered and not the date on which the said amount has been adjusted using FORM GST DRC-03A.

The applicant can file the application for waiver of interest or penalty or both under section 128A, in respect of a notice/ statement/ order mentioned in sub-section (1) of section 128A, only after payment of full amount of tax demanded in the said notice/ statement/ order, including on account of demand pertaining to erroneous refund, if any, and also on account of demand pertaining to the period other than the period mentioned in sub-section (1) of section 128A, if any, in the said notice/ statement/ order.

3. Processing of application and issuance of order:

The proper officer for processing the application for waiver of interest or penalty or both under Section 128A, would be the proper officer to issue the order under section 73, in case the application is filed in FORM GST SPL-01, and would be the proper officer for recovery under Section 79, in case the application is filed in FORM GST SPL-02.

The proper officer on receipt of the application in FORM GST SPL-01 or FORM GST SPL-02, shall examine the said application. If, on examination, he finds that the said application is liable to be rejected, he shall issue a notice to the applicant, within three months from the date of receipt of the said application, in FORM GST SPL-03 on the common portal. The proper officer shall also give the applicant an opportunity of personal hearing.

On receipt of the notice in FORM GST SPL-03, the applicant may file his reply in FORM GST SPL-04, electronically on the common portal, within a period of one month from the date of receipt of the notice.

The proper officer shall issue an order in FORM GST SPL-05, accepting the said application, if he is satisfied that the applicant is eligible for waiver of interest or penalty or both under Section 128A. However, if the proper officer, based on the application and the reply in FORM GST SPL-04 received from the taxpayer, is of the view that the applicant is not eligible for waiver of interest or penalty or both under Section 128A, he shall issue an order in FORM GST SPL-07, rejecting the said application.

The order in FORM GST SPL-05 or FORM GST SPL-07 shall be required to be issued within the time period prescribed in sub-rule (13) of rule 164. In terms of sub-rule (14) of rule 164, in cases where no order is issued within the time limit prescribed in sub-rule (13) of rule 164, the application filed in FORM GST SPL-01 or FORM GST SPL -02, as the case may be, shall be deemed to be approved, and the order in FORM GST SPL-05 approving the said application shall be made

available on the common portal.

In cases where an application for waiver of interest or penalty or both was filed in FORM GST SPL-01 and an order approving the said application is issued by the proper officer in FORM GST SPL-05, then a summary of order in FORM GST DRC-07 need not be issued on the common portal. However, in cases where an order in FORM GST SPL-05 or in FORM GST SPL-06, as the case may be, has been issued approving an application filed in FORM GST SPL-02, the liability earlier created in the ELR – Part II by the demand order or the appellate order, as the case may be, shall stand modified accordingly.

Where it is found that any amount of interest and penalty is payable by the applicant on account of some demand pertaining to the period other than the period mentioned in sub-section (1) of section 128A or pertaining to demand of erroneous refund, the detail of the same shall be mentioned in column no. 19 and column no. 20 of FORM GST SPL-05 or FORM GST SPL06, as the case may be. Further, in such cases, an opportunity of personal hearing may be granted to the applicant, before issuance of order in FORM GST SPL-05 or FORM GST SPL-06.

4. Appeal against the orders issued under Rule 164:

No appeal shall lie under section 107, against an order issued in FORM GST SPL-05 concluding the proceedings under section 128A. The order issued in FORM GST SPL-07, rejecting the application for waiver, shall be, however, appealable in accordance with sub-section (1) of section 107 within the time limit specified therein, by filing an application in FORM GST APL-01. In such cases, normally, no pre-deposit may be required to be paid by the taxpayer for filing the said appeal, as the said amount may already have been paid as a part of payment of tax dues involved in the demand notice/ statement / order before filing an application in FORM GST SPL-01 or FORM GST SPL-02. However, in cases where no amount of tax dues has been paid or amount of tax dues paid is less than the requisite amount for pre-deposit for filing appeal as per sub-section (6) of section 107, the remaining amount of pre-deposit will be required to be paid for filing the said appeal.

Where appeal had been withdrawn before filing an application in FORM GST SPL-02, for availing the waiver of interest or penalty or both under Section 128A, but the application for waiver is rejected by the proper officer by issuance of order in FORM GST SPL-07

(a) in cases, where the taxpayer prefers an appeal against the said rejection order, and the appellate authority holds that the proper officer has rightly rejected the said application made in FORM GST SPL-02, and issues an order in FORM GST APL-04, then the original appeal filed by the applicant shall be restored, subject to condition that the applicant files an undertaking electronically on the portal in FORM GST SPL-08, that he has neither filed nor intends to file any appeal against such order of the Appellate Authority.

(b) in cases, where the taxpayer prefers an appeal against the said rejection order, and the appellate authority holds that the proper officer has wrongly rejected the said application made in FORM GST SPL-02, and issues an order in FORM GST SPL-06, thereby holding that the appellant is eligible for waiver of interest or penalty or both, no appeal shall lie against the said order issued in FORM GST SPL-06.

(c) in case, where the taxpayer does not prefer an appeal within the time period mentioned in subsection (1) of section 107 against the said rejection order, then the original appeal filed by the applicant shall be restored.

~Compiled by Saif Shah, Jhanvi Nanda, Avadhi Gala, Aayush Shah

RBI/FED/2024-25/78

A.P. (DIR Series) Circular.No.17/2024-25

October 01, 2024

Directions - Compounding of Contraventions under FEMA, 1999

- The Foreign Exchange Management Act, 1999 (FEMA) allows for the compounding of contraventions, as outlined in Section 15. The Reserve Bank of India (RBI) can compound these contraventions, except those specified in Section 3(a), upon application from the individual involved.
- In a recent update, the Government of India issued the Foreign Exchange (Compounding Proceedings) Rules, 2024 (Notification G.S.R. 566 (E), dated September 12, 2024), replacing the previous rules from 2000. This update also includes a review of earlier circulars, with a detailed list of superseded circulars provided in an appendix.
- To ensure compliance with FEMA, Section 11(2) empowers the RBI to require authorized persons to provide information as needed. Authorized Dealers (ADs) are urged to implement effective systems and controls to prevent contraventions related to foreign exchange transactions. Additionally, as per Section 11(3), the RBI can impose penalties on authorized persons for non-compliance with its directives or failure to submit required reports.
- AD Category-I banks and authorized banks are encouraged to share these updated guidelines with their clients to enhance awareness and compliance.

RBI/2024-25/79

A.P. (DIR Series) Circular No. 18

October 04, 2024

Due diligence in relation to non-resident guarantees availed by persons resident in India

1. The Reserve Bank of India (RBI) has identified cases where guarantees, including Standby Letters of Credit (SBLCs) and performance guarantees, issued by non-residents in favour of residents in India, are not compliant with existing FEMA regulations.
2. AD Category-I banks must ensure that any guarantee contracts they advise for their resident clients comply with FEMA regulations.
3. Banks are required to inform their constituents about this directive to promote awareness and adherence to the regulations.
4. This direction is issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (FEMA).

October 09, 2024

Interest Equalization Scheme (IES) on Pre and Post Shipment Rupee Export Credit

- The Government of India has announced an extension of the Interest Equalization Scheme for Pre and Post Shipment Rupee Export Credit through Trade Notice No. 18/2024-2025 dated September 30, 2024. This extension will last for three months, until December 31, 2024, with key modifications:
- The total fiscal benefits for each Micro, Small, and Medium Enterprises (MSME) will be capped at Rs.50 lakhs for the Financial Year 2024-25, applicable until December 31, 2024.
- MSME manufacturer exporters who have already received benefits of Rs.50 lakhs or more in the Financial Year 2024-25 (up to September 30, 2024) will not be eligible for additional benefits during the extended period.
- All other terms and conditions of the existing instructions related to the Scheme remain unchanged.

~ Compiled by Pulkit Bothra

#HUNAR ART



~ By Ayush Shah .

Allow us to tell you more!



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