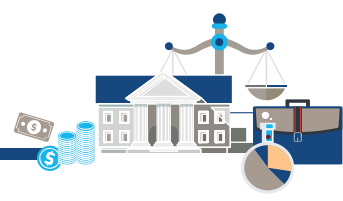


# Amnesty Scheme under GST Law

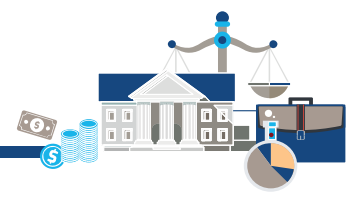
An Amnesty Scheme for taxpayers was introduced through Section 128A of the Central Goods and Services Tax Act, 2017 as part of the Finance Act (No. 2), 2024. The scheme allows for a conditional waiver of interest and/or penalties concerning demand notices for the period from July 2017 to March 2020. Additionally, the procedure for availing of these waiver benefits was prescribed by the Central Government on October 8, 2024, through the insertion of Rule 164 in the Central Goods and Services Tax Rules, 2017, and subsequently a clarification was introduced through Circular No. 238/32/2024, dated October 15, 2024.

This Dhruva Alert summarizes the key requirements and steps taxpayers need to follow to opt into the Amnesty Scheme/the Scheme:

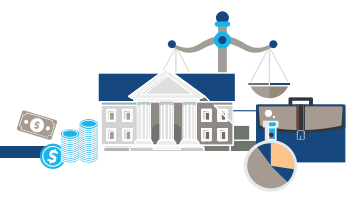
Subject	Particulars
<b>Applicability</b>	<ul style="list-style-type: none"> <li>• The Scheme is applicable in situations where the:               <ol style="list-style-type: none"> <li>a) Show cause notice ('SCN') is issued for non-payment or short payment of tax, or wrongful availment or utilization of Input Tax Credit ('ITC') [Section 73(1)] or, a statement issued in Form DRC-02 [under Section 73(3)]</li> <li>b) Order is passed by the Adjudicating Authority [Section 73(9)], and no subsequent order is passed by the Appellate Authority [Section 107(11)] or, by the Revisional Authority [Section 108(1)]</li> <li>c) Order is passed by the Appellate Authority [Section 107(11)] or, by the Revisional Authority [Section 108(1)]</li> <li>d) Appellate Authority, Tribunal or Court have held that the tax demand under Section 74 is invalid and that the said tax demand should be re-determined under Section 73</li> </ol> </li> <li>• Cases of erroneous refunds are <b>not eligible</b> for benefit under the Scheme</li> </ul>



Subject	Particulars														
<b>Conditions</b>	<ul style="list-style-type: none"> <li>● To qualify for the waiver of interest and/or penalties, the following conditions must be fulfilled: <ul style="list-style-type: none"> <li>– Full amount of tax is to be paid by the taxpayer within the specified timelines: <table border="1" data-bbox="477 387 1490 689"> <thead> <tr> <th data-bbox="477 387 1163 427">Particulars</th> <th data-bbox="1166 387 1490 427">Last date for payment</th> </tr> </thead> <tbody> <tr> <td data-bbox="477 432 1163 501">For SCN, statement or order [referred in point (a), (b) and (c) above]</td> <td data-bbox="1166 432 1490 501">March 31, 2025</td> </tr> <tr> <td data-bbox="477 506 1163 613">Order passed by Appellate Authority, Tribunal or Court directing re-determination of tax demand under Section 73 [referred in point (d) above]</td> <td data-bbox="1166 506 1490 613">6 months from the date of re-determination order under Section 73</td> </tr> <tr> <td data-bbox="477 618 1163 689">Additional tax resulting from order post an appeal / application filed by Tax Authorities</td> <td data-bbox="1166 618 1490 689">3 months from the date of order</td> </tr> </tbody> </table> </li> <li>– Any appeal, petition pending before the Appellate Authority, Tribunal, or Court is to be withdrawn by March 31, 2025</li> <li>– No appeal is to be filed for the matters for which benefits of the Scheme is intended to be availed</li> </ul> </li> </ul>	Particulars	Last date for payment	For SCN, statement or order [referred in point (a), (b) and (c) above]	March 31, 2025	Order passed by Appellate Authority, Tribunal or Court directing re-determination of tax demand under Section 73 [referred in point (d) above]	6 months from the date of re-determination order under Section 73	Additional tax resulting from order post an appeal / application filed by Tax Authorities	3 months from the date of order						
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Additional tax resulting from order post an appeal / application filed by Tax Authorities	3 months from the date of order														
<b>Procedure</b>	<ul style="list-style-type: none"> <li>● <b>Filing of application</b> <ul style="list-style-type: none"> <li>– Relevant forms for applying under the Scheme are as under: <table border="1" data-bbox="469 1099 1477 1370"> <thead> <tr> <th data-bbox="469 1099 1230 1140">Applicable Provision</th> <th data-bbox="1233 1099 1477 1140">Form</th> </tr> </thead> <tbody> <tr> <td data-bbox="469 1144 1230 1178">SCN issued under Section 73(1)</td> <td data-bbox="1233 1144 1477 1178">SPL- 01</td> </tr> <tr> <td data-bbox="469 1182 1230 1216">Statement under Section 73(3)</td> <td data-bbox="1233 1182 1477 1216">SPL- 01</td> </tr> <tr> <td data-bbox="469 1220 1230 1254">Order in Original under Section 73(9)</td> <td data-bbox="1233 1220 1477 1254">SPL- 02</td> </tr> <tr> <td data-bbox="469 1258 1230 1292">Revision Order under Section 108(1)</td> <td data-bbox="1233 1258 1477 1292">SPL- 02</td> </tr> <tr> <td data-bbox="469 1296 1230 1330">Order in Appeal under Section 107(11)</td> <td data-bbox="1233 1296 1477 1330">SPL- 02</td> </tr> <tr> <td data-bbox="469 1335 1230 1370">Order re-determining the tax liability under Section 73</td> <td data-bbox="1233 1335 1477 1370">SPL- 02</td> </tr> </tbody> </table> </li> <li>– Separate application in Form SPL – 01 / 02 (as applicable) shall be filed for each SCN, statement or order, as the case may be</li> </ul> </li> <li>● <b>Payment of tax</b> <ul style="list-style-type: none"> <li>– In case of SCN / statement of demand, tax to be paid through Form DRC-03</li> <li>– In case of order / appeal, tax to be paid through the following mechanism: <ul style="list-style-type: none"> <li>○ Tax demand to be credited to the Electronic Liability Register ('ELR') against the debit entry created by the respective order</li> <li>○ If payment is made through Form DRC-03, a separate application in Form DRC-03A to be filed to facilitate credit of the amount in the ELR against the debit entry</li> </ul> </li> </ul> </li> </ul>	Applicable Provision	Form	SCN issued under Section 73(1)	SPL- 01	Statement under Section 73(3)	SPL- 01	Order in Original under Section 73(9)	SPL- 02	Revision Order under Section 108(1)	SPL- 02	Order in Appeal under Section 107(11)	SPL- 02	Order re-determining the tax liability under Section 73	SPL- 02
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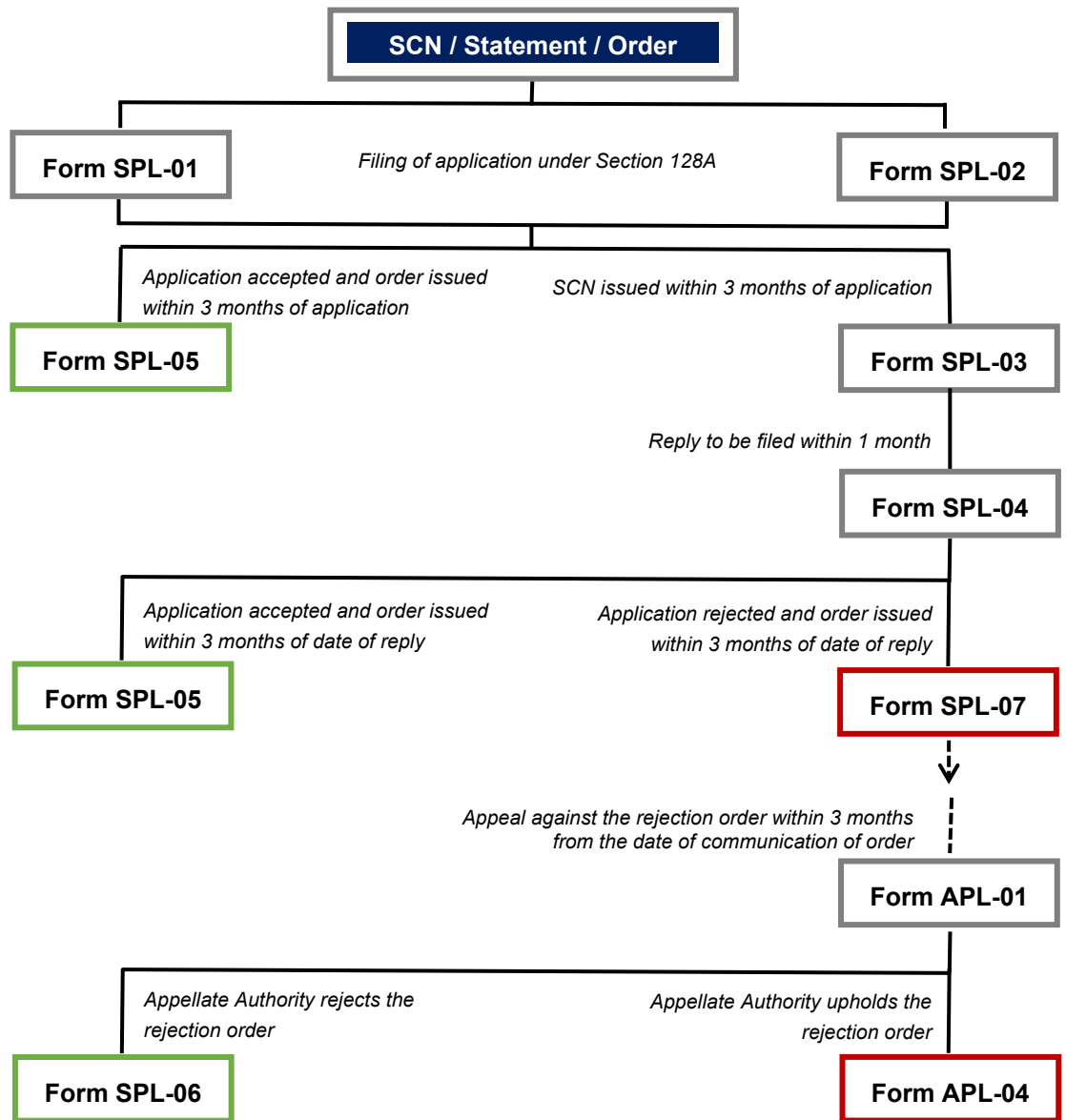


Subject	Particulars								
	<ul style="list-style-type: none"> <li>● <b>Payment requirements</b> <ul style="list-style-type: none"> <li>– Application is to be submitted after full payment of the tax</li> <li>– In cases involving tax demand and demand on account of erroneous refund, waiver shall be granted only to the extent of tax demand. Proceedings towards erroneous refund to continue</li> <li>– Where a SCN or order includes tax demands for different periods, application to be filled only after full payment of the tax demand (for all the periods). However, waiver under the Scheme will be granted for the eligible periods only</li> <li>– Cases involving delayed availment of ITC under Section 16(4), amount payable for waiver shall be determined after deducting amounts that are not payable in terms of extended ITC timelines under Section 16(5) or Section 16(6) of CGST Act</li> </ul> </li> <li>● <b>Withdrawal of appeal</b> <ul style="list-style-type: none"> <li>– Application for waiver must be accompanied by proof of withdrawal of appeal, writ petition or SLP</li> <li>– If the withdrawal order has not been issued at the time of amnesty scheme application, then such order must be uploaded within one month of its issuance</li> </ul> </li> <li>● <b>Relevant timelines</b> <p><u>Filing of application in Form SPL-01 or Form SPL-02:</u></p> <table border="1" data-bbox="416 1290 1477 1570"> <thead> <tr> <th data-bbox="416 1290 983 1339">Particulars</th> <th data-bbox="983 1290 1477 1339">Timeline for filing</th> </tr> </thead> <tbody> <tr> <td data-bbox="416 1339 983 1386">Payments made prior to November 1, 2024</td> <td data-bbox="983 1339 1477 1386">November 1, 2024 to June 30, 2025</td> </tr> <tr> <td data-bbox="416 1386 983 1480">Payments made between November 1, 2024 and March 31, 2025</td> <td data-bbox="983 1386 1477 1480">From the payment date until June 30, 2025</td> </tr> <tr> <td data-bbox="416 1480 983 1570">Cases involving re-determination of tax under Section 73</td> <td data-bbox="983 1480 1477 1570">Within 6 months from the date of re-determination order</td> </tr> </tbody> </table> </li> </ul>	Particulars	Timeline for filing	Payments made prior to November 1, 2024	November 1, 2024 to June 30, 2025	Payments made between November 1, 2024 and March 31, 2025	From the payment date until June 30, 2025	Cases involving re-determination of tax under Section 73	Within 6 months from the date of re-determination order
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● **Process involved**



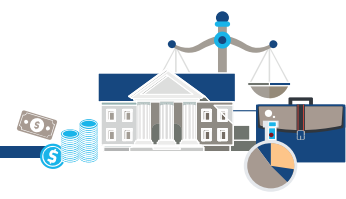
**Note: If no order is issued by the officer within the prescribed timelines, then the application shall be deemed to be accepted**

● **Restoration of original appeal**

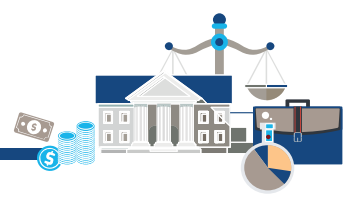
- If no appeal is filed against the order in Form SPL-07 the original appeal will be restored
- If an appeal is filed against the rejection of the application in Form SPL-07:
  - Appellate Authority finds that the application was wrongly rejected, it will issue an order in Form SPL-06 accepting the application and concluding the proceedings



Subject	Particulars																
	<ul style="list-style-type: none"> <li>○ If the rejection is upheld, the original appeal will be restored, provided the applicant submits an undertaking in Form SPL-08 within 3 months, confirming no further appeals will be filed against the said decision</li> <li>● <b>Waiver to be void</b> <ul style="list-style-type: none"> <li>– If any additional tax liability is determined in an order of Appellate Authority or Appellate Tribunal or Court and the same is not paid within 3 months from the date of said order</li> <li>– If the demand relating to interest and/or penalty pertaining to erroneous refunds or for periods outside the scope of the Scheme is not paid within 3 months of the order in Form SPL-05 or Form SPL-06</li> </ul> </li> </ul>																
<b>Clarifications on various issues</b>	<table border="1"> <thead> <tr> <th data-bbox="360 752 783 792">Issue</th> <th data-bbox="786 752 1484 792">Clarification</th> </tr> </thead> <tbody> <tr> <td data-bbox="360 797 783 927">Treatment of amounts recovered from third party by tax officers on behalf of taxpayers</td> <td data-bbox="786 797 1484 927">Such amounts recovered from third parties will be treated as tax paid toward the demand, provided the recovery occurred on or before March 31, 2025</td> </tr> <tr> <td data-bbox="360 931 783 1106">Adjustment of interest or penalty amounts already paid</td> <td data-bbox="786 931 1484 1106">Amounts paid as interest or penalty under Section 73 for the period July 2017 to March 2020 cannot be adjusted against the tax amount payable for the demand. No refund of such interest or penalty is allowed</td> </tr> <tr> <td data-bbox="360 1111 783 1317">Benefit when only interest or penalty is involved</td> <td data-bbox="786 1111 1484 1317">If the tax has already been paid and the demand SCN issued under Section 73 relates only to interest or penalty, the waiver will apply. However, no benefit is available if the interest is related to late filing of returns or delayed reporting of supply in the returns</td> </tr> <tr> <td data-bbox="360 1321 783 1415">Partial waiver of interest or penalty</td> <td data-bbox="786 1321 1484 1415">Such partial waiver is not allowed</td> </tr> <tr> <td data-bbox="360 1420 783 1514">Transitional credit demands</td> <td data-bbox="786 1420 1484 1514">Issues pertaining to transitional credit are covered if the demand was issued under Section 73</td> </tr> <tr> <td data-bbox="360 1518 783 1666">Waiver of penalties and other charges</td> <td data-bbox="786 1518 1484 1666">Penalties under various provisions, such as Section 73, Section 122, or Section 125, are covered by the waiver. No waiver available for late fees (for filing) and redemption fines</td> </tr> <tr> <td data-bbox="360 1671 783 1765">Payment for tax using ITC</td> <td data-bbox="786 1671 1484 1765">Tax can be paid using ITC or through the electronic cash ledger, except in cases of reverse charge demands</td> </tr> </tbody> </table>	Issue	Clarification	Treatment of amounts recovered from third party by tax officers on behalf of taxpayers	Such amounts recovered from third parties will be treated as tax paid toward the demand, provided the recovery occurred on or before March 31, 2025	Adjustment of interest or penalty amounts already paid	Amounts paid as interest or penalty under Section 73 for the period July 2017 to March 2020 cannot be adjusted against the tax amount payable for the demand. No refund of such interest or penalty is allowed	Benefit when only interest or penalty is involved	If the tax has already been paid and the demand SCN issued under Section 73 relates only to interest or penalty, the waiver will apply. However, no benefit is available if the interest is related to late filing of returns or delayed reporting of supply in the returns	Partial waiver of interest or penalty	Such partial waiver is not allowed	Transitional credit demands	Issues pertaining to transitional credit are covered if the demand was issued under Section 73	Waiver of penalties and other charges	Penalties under various provisions, such as Section 73, Section 122, or Section 125, are covered by the waiver. No waiver available for late fees (for filing) and redemption fines	Payment for tax using ITC	Tax can be paid using ITC or through the electronic cash ledger, except in cases of reverse charge demands
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<b>Dhruva Comments</b>	<p><i>The Amnesty Scheme provides relief to taxpayers by waiving interest and penalties, aiming to ease the burden of litigation under the GST regime. While the Amnesty Scheme (and the guidelines thereunder) offers advantages, concerns have arisen including regarding its implementation, some of which are:</i></p>																



Subject	Particulars
	<ul style="list-style-type: none"> <li>• <i>If the SCN covers multiple periods, including those not under Section 128(1), the Scheme requires the taxpayer to pay interest and penalties for those other/additional periods; this could prove to be a barrier for entry in cases of those taxpayers who have multiple period litigation</i></li> <li>• <i>The guidelines clarify that benefit of the Scheme will not be available in cases of interest demand for self-assessed liabilities; this raises the question of why SCNs issued under Section 73(1) have been excluded from coverage under the Scheme in such cases and distinguished from cases where SCN or order concerns only interest or penalty or both</i></li> <li>• <i>The Scheme does not allow partial relief for some issues in a SCN if multiple issues are raised. Typical SCN and thereby orders encompass all issues for the given assessment year and so, multiple reasons for demand arise. However, if multiple SCNs for different issues are issued in the same period, it has been clarified that these be treated as separate applications to avail the benefit under the Scheme; this results in unwarranted inconsistency</i></li> <li>• <i>While the provisions make no specific distinction, the accompanying Circular (guidelines) refer to specific penalties (late fee, redemption fine etc.) for which waiver will not be available; thereby creating contradictions</i></li> <li>• <i>Taxpayers can avail of the Amnesty Scheme without filing an appeal against an order under Section 73(9) or Section 107(11). However, there should have been clarity regarding the filing an appeal if the amnesty application is rejected and the taxpayer wishes to agitate the issue</i></li> </ul>



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