

Waiver of Interest & Penalty for the period 2017-18 to 2019-20 under GST Law

Brief: Section 128A of CGST Act provides for waiver of interest or penalty or both relating to demand under Section 73 of CGST Act pertaining to period July 2017 to March 2018, FY 2018-19, FY 2019-20. The said provision shall be effective from 1 November 2024.

Timeline for payment – Notification No- 21/2024- Central tax dated 8 October 2024

CBIC vide captioned notification, has notified the date up to which tax is payable as per the notice, or statement or Order, by specified class of person for waiver of interest or penalty under Section 128A of CGST Act. This notification shall come into effect from 1 November 2024. The date of payment of tax corresponding to class of registered person is summarized as below:

Sr. No.	Class of registered person	Date up to which tax can be paid to the avail the benefit of Section 128A of CGST Act
1	In case where a notice or statement or order, referred to in Clause (a) or (b) or (c) of sub-section 1 of the section 128A of CGST Act, has been issued.	31-03-2025
2	In case where a notice is issued under Section 74 (1) of CGST Act and an Order is passed by the officer pursuant to direction of Appellate Authority or Appellate Tribunal or a Court, the said notice or Order shall be considered as the one referred to in clause (a) or (b)	Date ending on completion of six months from the date of issuance of order by the proper officer determining tax under section 73 of the Act.

Rule prescribing procedure- Notification No. 20/2024 -Central Tax dated 8 October 2024:

CBIC vide captioned notification introduced Rule 164 of CGST Rules wherein the procedure for filing application and conditions for closure of proceedings under Section 128A of CGST Act has been laid down. A summary of the same is as below:

Particulars	Form and due date of filing	Mode of Payment
Waiver of interest or penalty or both in respect of a Notice or a Statement- Section 128(1)(a) of CGST Act	GST SPL-01 on or before 30 June 2025	DRC-03
Waiver of interest or penalty or both in respect of Order passed by the officer under Sec 73(9) of CGST Act or Order passed by first appellate authority-	GST SPL-02 on or before 30 June 2025	Crediting the amount in Electronic liability register i.e. the procedure similar to payment of pre-deposit for filing appeal before tribunal In case

Section 128(1)(b) & (c) of CGST Act		payment is already made through DRC-03, an application in DRC-03A is to be filed
Waiver of interest or penalty or both in case where initially notice was issued u/s 74 of CGST Act. However, Appellate Authority or Tribunal or Court has directed the officer to determine the tax as if demand notice is issued u/s 73 of CGST Act.	GST SPL-02 within 6 months from the date of communication of Order determining tax u/s 73 of CGST Act.	Same as mentioned for Sec 128(1)(b) &(c) of CGST Act

Remarks:

1. Separate application needs to be filed against each Statement, Notice or Order.
2. The amount of ITC denied on account of Section 16(4) of CGST Act, which is now available in terms of Section 16(5) or (6) of CGST Act is to be deducted while filing application under captioned section. Also, a separate application for rectification is not required to be filed.
3. At the time of filing the application, document evidencing withdrawal of appeal or writ petition, if any filed before any Appellate Authority, or Tribunal or Court, as the case may be needs to be uploaded. In case, the order for withdrawal has not been issued by the concerned authority till the date of filing of the application, applicant is required to upload copy of application for withdrawal of appeal or writ petition. Subsequently, copy of Order is required to be uploaded within 1 month of issuance of Order of withdrawal by concerned authority.