



Tax Flash News



11 October 2024

KPMG. Make the Difference.

Amendments to GST Rules including amnesty

Executive summary



The Central Board of Indirect Taxes (CBIC) has issued the Central Goods and Services Tax (Second Amendment) Rules, 2024*. It amends/inserts a few rules under the CGST Rules 2017. The major impact of such amendments include

- Restrictions on IGST refund in specific cases of advance authorization, EOU, etc. removed [Rule 96(10)]
- Time limit for issuance of self-invoices specified [Rule 47A]
- Procedure to be followed for availing the benefit of amnesty scheme introduced through Finance Act 2024 specified [Rule 164]
- Restriction of credit not applicable in case of notices issued under section 74A [Rule 36(3)]

The above amendments have been elaborated in the ensuing part of this flash news.

* Through Notification 20/2024-Central Tax dated 8 October 2024

Amendments effective from 8 October 2024



- Rule 36(3) restricts ITC on any tax paid pursuant to any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts. Section 17(5) was amended through Finance Act, 2024 to restrict credit on taxes paid where demand proceedings have been confirmed under Section 74 till Financial year 2023-24. Rule 36(3) has also been amended now to restrict ITC for taxes paid under Section 74 only.
- Rule 96(10) restricting IGST refund in specific cases of advance authorization, EOU, etc., has been omitted
- Since Rule 96(10) is removed, all references to Rule 96(10) have been removed from:
 - a) Rule 86 [electronic credit ledger],
 - b) Rule 89 [refund]
- Rules 89(4A) and (4B) that provide for filing of separate refund mechanisms regarding Deemed exports, Advance Authorisation, EPCG, EOU, concessional rate of 1% for exports have been omitted.

Amendments effective from 1 November 2024



- The second proviso to Rule 46 allowed a consolidated self-invoice to be issued at the end of a month for RCM transactions [covered under section 9(4)] if the aggregate value of such supplies exceeded rupees five thousand in a day. The said proviso has now been removed. Hence, issuance of consolidated self-invoice for the said transactions will no longer be allowed.
- A new Rule 47A has been inserted to provide timeline of 30 days specifically for issuance of self-invoice from the date of supply in case of RCM transactions.
- Rule 66 has been amended to prescribe due date for filing TDS return as 10th of the succeeding month (*the said due date has also been removed from Section 39(3) w.e.f. 1 November 2024, through Finance Act 2024*).

- Section 74A is introduced in Finance Act 2024 to bring out a single provision instead of Section 73&74 for issuing SCN for FY 2024-25 onwards. Hence, reference to the said section has been added in
 - Rule 88B (Manner of calculating interest on delayed payment of tax)
 - Rule 88D (Manner of dealing with difference in input tax credit available in auto-generated statement containing the details of input tax credit and that availed in return)
 - Rule 96B (Recovery of refund of unutilized input tax credit or integrated tax paid on export of goods where export proceeds not realized)
 - Rule 121 (Recovery of credit wrongly availed)
 - Rule 142 (Notice and order for demand of amounts payable under the Act)

- Amnesty Scheme under Section 128A**

- New Rule 164 inserted prescribing procedures and conditions for closure of proceedings
- **Application forms:**

Form	Section	Cases	Time Limit
GST SPL-01 ¹	128(1)(a)	Where DRC-01 or DRC-01A is issued but OIO has not been issued.	30 June 2025 ²
GST SPL-02 ³	128A(1)(b) or (c)	(a) OIO is issued but OIA/ Revision u/s 108 is pending (b) OIA/ Revision u/s 108 is issued but GSTAT order is pending	30 June 2025 ⁴
GST SPL-02 ⁵	First Proviso to 128A(1)	Cases remanded back after rejecting the applicability of Section 74	Six months from the date of order redetermining tax under Section 73.

- The said applications are required to be made along with the following:
 - Details of payment in DRC-03, if any
 - Documents evidencing withdrawal of appeal or writ petition, if any.

¹ Rule 164(1)

² Rule 164(6) – three month from the date notified under 128A(1) i.e. from 31 March 2025

³ Rule 164(2)

⁴ Rule 164(6) – three month from the date notified under 128A(1) i.e. from 31 March 2025

⁵ Proviso to Rule 164(6)

- c) Copy of withdrawal application, if order for withdrawal yet to be issued. Upon obtaining the withdrawal order, the same is to be uploaded within one month.

➤ Payment of Tax

- a) By crediting the amount in the electronic liability register against the debit entry created by the said order.
- b) If made through FORM GST DRC-03, an application in FORM GST DRC-03A shall be filed for credit of the said amount in the Electronic Liability Register.
- c) The amount payable under Rule 164(1) or (2) shall not include amount allowed under newly introduced Section 16(5) or (6)⁶
- d) Where the notice/ statement/ order mentioned in Section 128A(1) includes demand of tax:
- i. partially on account of erroneous refund and partially for other reasons
 - ii. partially from July 2017 to March 2020 and partially for the other period

⁶ which allows ITC to be availed within the extended period for FY 2017-18 to 2020-21 and where ITC can be availed for the period from cancellation of registration to its revocation.

- e) Payment of the full amount of tax demanded to be made on or before 31 March 2025⁷, the said application to be filed thereafter only.

➤ Procedures on application

Form	Action	Timeline
FORM GST SPL-03 ⁸	Issuance of notice by officer	Three months from date of application
FORM GST SPL-04 ⁹	Filing of reply by applicant	One month from receipt of notice
FORM GST SPL-05 ¹⁰	Issuance of order accepting application	Where notice is not issued – three months* from application ¹¹
		Where notice is issued – three months* from date of reply or if no reply received four months* from date of notice ¹²
FORM GST SPL-06 ¹³	Order of appellate authority accepting the application	Time limit as per Section 107(13)
FORM GST SPL-07 ¹⁴	Rejection of application	Same as applicable for GST SPL-05.
FORM GST SPL-08 ¹⁵	Undertaking for not filing appeal	Three months from the date of order by appellate authority in FORM GST APL-04

⁷ Notification No. 21/2024-Central Tax dated 8 October 2024

⁸ Rule 164(8)

⁹ Rule 164(9)

¹⁰ Rule 164(10)

¹¹ Rule 164(13)(a)

¹² Rule 164(13)(b)

¹³ Rule 164(15)(b)

¹⁴ Rule 164(12)

¹⁵ Rule 164(15)(b)(ii)

* The said timeline for issuance of order, shall not include the time period from the application date till submission of withdrawal order of appeal/writ by the applicant, in cases where withdrawal order was not available.

- a) If no order is issued within the specified time limit, the application is deemed approved.
- b) Where order in FORM SPL-05 is issued against application made in:
 - i. FORM GST SPL-01, summary order in Form DRC-07 is not required.
 - ii. FORM GST SPL-02¹⁶, the liability created in the part II of Electronic Liability Register, shall be modified accordingly.
- c) If no appeal is filed within the time period as per Section 107(1) against the rejection order, the original appeal withdrawn for filing the application will be restored.
- d) If an appeal is filed against the rejection order:
 - i. Appellate authority does not agree with the rejection - an order in FORM GST SPL-06 shall be passed, accepting the application.
 - ii. Appellate authority agrees with the rejection - the original appeal filed by the applicant against the order in Section 128A(1)(b) or (c), which was withdrawn for filing the application in FORM GST SPL-02, will be restored¹⁷
- e) If the taxpayer is required to pay an additional amount of tax liability as per the second proviso to Section 128A(1)¹⁸ and fails to make payment within the specified time limit, the waiver granted as per the order¹⁹, will become void.
- f) If the taxpayer is required to pay any amount of interest, penalty, or both, related to:
 - i. erroneous refund
 - ii. or a demand pertaining to a period not mentioned Section 128A(1),
 and these details are mentioned in order¹⁹, the applicant must pay the same within three months from the order date. Otherwise, the waiver of interest, penalty, or both, granted as per the order¹⁹, will become void.

¹⁶For cases mentioned in Section 128A(1)(b) or (c) only.

¹⁷ subject to the condition that the applicant files an electronic undertaking in FORM GST SPL-08, within three months from the date of order by the appellate authority in FORM GST APL-04, stating that they have not and do not intend to file any appeal against the said order of the Appellate Authority

¹⁸ i.e. appeals filed by the department against the orders of adjudicating authority, first appellate authority, appeals before HC & SC, revisionary authority, cases remanded back after rejecting the applicability of Section 74

¹⁹ issued in FORM GST SPL-05 or FORM GST SPL-06

- g) The proper officer for issuance of order shall be:
- i. for section 128(1)(a) - proper officer as per section 73
 - ii. for Section 128(1)(b) or (c) - proper officer as per section 79.

Our comments



The above amendments are crucial as they clear the air about the time limit for issuance of self-invoice, the procedure to be followed for availing the benefit of amnesty scheme, ITC eligibility in respect of tax paid under section 74A, etc.

However, in relation to the amnesty scheme, there are still a lot of practical issues remaining unaddressed by the new rule including procedure to be followed in case of issuance of manual order or availing amnesty scheme for a few issues of the SCN/order while opting to challenge the other issues in higher fora.

It would be interesting to see how feasible it is to follow the prescribed procedures practically and how the unaddressed queries are resolved.



KPMG in India addresses:

Ahmedabad

Commerce House V, 9th Floor,
902, Near Vodafone House, Corporate Road, Prahlad Nagar, Ahmedabad – 380 051.
Tel: +91 79 4040 2200

Hyderabad

Salarpuria Knowledge City, 6th Floor, Unit 3, Phase III, Sy No. 83/1, Plot No 2, Serilingampally Mandal, Ranga Reddy District, Hyderabad – 500 081.
Tel: +91 40 6111 6000

Noida

Unit No. 501, 5th Floor, Advant Navis Business Park, Tower-A, Plot# 7, Sector 142, Expressway Noida, Gautam Budh Nagar, Noida – 201 305.
Tel: +91 0120 386 8000

Bengaluru

Embassy Golf Links Business Park, Pebble Beach, 'B' Block, 1st & 2nd Floor, Off Intermediate Ring Road, Bengaluru – 560071 Tel: +91 80 6833 5000

Jaipur

Regus Radiant Centre Pvt Ltd., Level 6, Jaipur Centre Mall, B2 By pass Tonk Road, Jaipur – 302 018.
Tel: +91 141 - 7103224

Pune

9th floor, Business Plaza, Westin Hotel Campus, 36/3-B, Koregaon Park Annex, Mundhwa Road, Ghorpadi, Pune – 411 001.
Tel: +91 20 6747 7000

Chandigarh

SCO 22-23 (1st Floor), Sector 8C, Madhya Marg, Chandigarh – 160 009.
Tel: +91 172 664 4000

Kochi

Syama Business Centre, 3rd Floor, NH By Pass Road, Vytilla, Kochi – 682 019.
Tel: +91 484 302 5600

Chennai

KRM Towers, Ground Floor, 1, 2 & 3 Floor, Harrington Road, Chetpet, Chennai – 600 031.
Tel: +91 44 3914 5000

Kolkata

Unit No. 604, 6th Floor, Tower – 1, Godrej Waterside, Sector – V, Salt Lake, Kolkata – 700 091.
Tel: +91 33 4403 4000

Mumbai

2nd Floor, Block T2 (B Wing), Lodha Excellus, Apollo Mills Compound, N M Joshi Marg, Mahalaxmi, Mumbai- 400011 Tel: +91 22 3989 6000

Vadodara

Ocean Building, 303, 3rd Floor, Beside Center Square Mall, Opp. Vadodara Central Mall, Dr. Vikram Sarabhai Marg, Vadodara – 390 023.
Tel: +91 265 619 4200

Vijayawada

Door No. 54-15-18E, Sai Odyssey, Gurunanak Nagar Road, NH 5, Opp. Executive Club, Vijayawada, Krishna District, Andhra Pradesh – 520 008.
Tel: +91 0866 669 1000

Gurugram

Building No.10, 8th Floor, DLF Cyber City, Phase II, Gurugram, Haryana – 122 002.
Tel: +91 124 307 4000

[kpmg.com/in](https://www.kpmg.com/in)

Follow us on:

[kpmg.com/in/socialmedia](https://www.kpmg.com/in/socialmedia)



The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

KPMG Assurance and Consulting Services LLP, Lodha Excelus, Apollo Mills Compound, NM Joshi Marg, Mahalaxmi, Mumbai - 400 011 Phone: +91 22 3989 6000, Fax: +91 22 3983 6000

© 2024 KPMG Assurance and Consulting Services LLP, an Indian Limited Liability Partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

This document is meant for e-communication only.