

GST AMNESTY SCHEME AUGUST 2024: PREPARATION & ISSUES

Team Tax Connect

The video for this article can be accessed at: <https://youtu.be/FIEOnQXtcvg>

The GST Amnesty Scheme has been Enacted Vide Finance (No. 2) Act 2024 (No. 15 of 2024) dated 16th August, 2024. It would be notified in few months and Rules and Circulars would be issued to this effect. However, Trade & Industry needs to prepare for the Scheme from now so that correct actions are taken and maximum benefits of the scheme can be availed.

In this article we have discussed on the Issues regarding the Scheme and the preparation which may be undertaken.

I. The GST Amnesty Scheme (Provisions):

¹[Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods.

128A. (1) Notwithstanding anything to the contrary contained in this Act, where any amount of tax is payable by a person chargeable with tax in accordance with,--

(a) a notice issued under sub-section (1) of [section 73](#) or a statement issued under sub-section (3) of section 73, and where no order under sub-section (9) of section 73 has been issued; or

(b) an order passed under sub-section (9) of section 73, and where no order under sub-section (11) of [section 107](#) or sub-section (1) of [section 108](#) has been passed; or

(c) an order passed under sub-section (11) of section 107 or sub-section (1) of section 108, and where no order under sub-section (1) of [section 113](#) has been passed,

pertaining to the period from 1st July, 2017 to 31st March, 2020, or a part thereof, and the said person pays the full amount of tax payable as per the notice or statement or the order referred to in clause (a), clause (b) or clause (c), as the case may be, on or before the date, as may be notified by the Government on the recommendations of the Council, no interest under [section 50](#) and penalty under this Act, shall be payable and all the proceedings in respect of the said notice or order or statement, as the case may be, shall be deemed to be concluded, subject to such conditions as may be prescribed:

Provided that where a notice has been issued under sub-section (1) of [section 74](#), 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](#), the said

notice or order shall be considered to be a notice or order, as the case may be, referred to in clause (a) or clause (b) of this sub-section:

Provided further that the conclusion of the proceedings under this sub-section, in cases where an application is filed under sub-section (3) of section 107 or under sub-section (3) of [section 112](#) or an appeal is filed by an officer of central tax under sub-section (1) of [section 117](#) or under sub-section (1) of [section 118](#) or where any proceedings are initiated under sub-section (1) of section 108, against an order referred to in clause (b) or clause (c) or against the directions of the Appellate Authority or the Appellate Tribunal or the court referred to in the first proviso, shall be subject to the condition that the said person pays the additional amount of tax payable, if any, in accordance with the order of the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, within three months from the date of the said order:

Provided also that where such interest and penalty has already been paid, no refund of the same shall be available.

(2) Nothing contained in sub-section (1) shall be applicable in respect of any amount payable by the person on account of erroneous refund.

(3) Nothing contained in sub-section (1) shall be applicable in respect of cases where an appeal or writ petition filed by the said person is pending before Appellate Authority or Appellate Tribunal or a court, as the case may be, and has not been withdrawn by the said person on or before the date notified under sub-section (1).

(4) Notwithstanding anything contained in this Act, where any amount specified under sub-section (1) has been paid and the proceedings are deemed to be concluded under the said sub-section, no appeal under sub-section (1) of section 107 or sub-section (1) of section 112 shall lie against an order referred to in clause (b) or clause (c) of sub-section (1), as the case may be.]

II. Salient Features GST Amnesty Scheme Enacted in Aug 2024

- 1. SCNs/ Adjudicating Orders/ Appeal Orders** issued for FY 2017-18, 18-19 & 19-20 covered.
- 2. Waiver of Interest & Penalty on payment of “Full Amount of Tax”**
- 3. In case SCN/ Order is u/s 74 of CGST Act but in case **u/s 75(2)** of The CGST Act Appellate Authority considers that Sec 73 is applicable, then also the consequential Order u/s 73 would be covered**
- 4. Payment has to be made within 31st March 2025 to get covered under the Scheme**
- 5. Cases of Refund are not covered under the Scheme.**
- 6. Cases in Appeals or before Court have to be withdrawn for going into the Scheme.**
- 7. Cases once closed under the Scheme cannot be appealed against.**

III. Preparations for GST Amnesty Scheme & Issues therein

1. Applicability of the scheme may start only from October/November 2024 or thereafter when the official notification is issued.
2. Generally it is seen that to go into an Amnesty Scheme one has to **pay the Tax Amounts** and only then they get a waiver of interest. Hence the payment as against concerned Order/ SCN may be made under the Scheme. Before that appeal may be filed with a pre-deposit for the said Order.
3. Please ensure that such appeal is filed within time. Otherwise, the scheme may not be eligible.
4. Orders u/s 74 may be contested and incase closed u/s 73 within 31st March 2025, the same may also come within the Scheme. Hence, taxpayers may also review the said orders too.
5. The question remains that incase there is a demand only of “interest and/or penalty” whether it will covered without a corresponding ‘tax payment’. Industry has represented for the same to be included in the Scheme
6. The Scheme is **SCNs/ Orders wise**. Hence, if a taxpayer wishes to go into the Scheme, then it has to go for all issues in the **SCNs/ Order**.
7. The question remains that incase **SCNs/ Orders** are issued for 4-5 years at a time, then whether for 3 years the Amnesty can be carved out and balance years litigated. Industry has represented for carving out the relevant FYs from a **SCN/ Order** and to be brought under the Scheme.
8. The question remains whether **Transitional Credit Disputes** are covered under the Scheme. Industry has represented for TRAN Orders to also be brought under the Scheme.
9. It needs to be seen whether the “**tax payable**” under the Scheme can be paid vide **ITC** or has to be paid only vide Cash Ledger.
10. However, Taxpayers have to be careful not to pay the “**tax payable**” vide **GSTR-3B** as it might not be covered under the Scheme. In past Scheme including TRAN Scheme, it has been witnessed that incase of procedural lapses, there are disputes.
11. For past periods incase there are **disputes for time barring period of ITC u/s 16(4)** of The CGST Act for FY FY 2017-18, 18-19 & 19-20, wherein ITC will now be available u/s 16(5) & 16(6), it needs to be seen as to how this portion of the SCN/ Order shall be carved out to bring in the balance portion of the SCN/ Order under the Scheme.
12. Where taxpayer has already **admitted and paid** the “Tax, Interest and penalty”, **no refund shall be granted** in such cases.

LET'S DISCUSS FURTHER!

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