

# GST Amnesty : From Complexity to Clarity

# GST

Goods &  
Services

Tax



**ASSOCIATION OF CORPORATE  
ADVISERS & EXECUTIVES**  
An ISO 9001 : 2015 Organisation



**BREAKING  
NEWS**

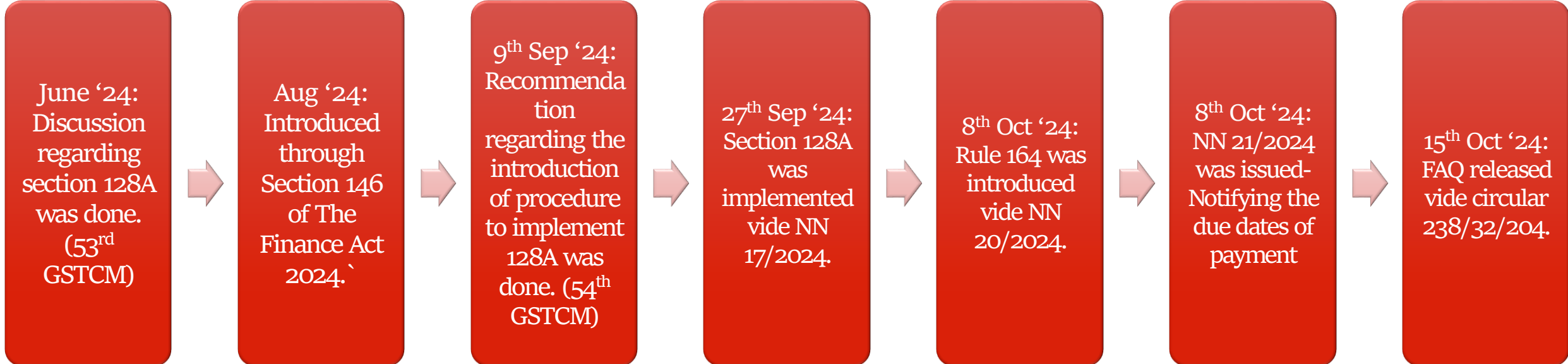
# GST की

# गलतियाँ

# माफ!



# Introduction of Section 128A



\*Advisory issued on 8<sup>th</sup> November 2024

\*Effective from 1<sup>st</sup> November 2024

**Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods -**

128A (1)

Where any amount of tax is payable by a person chargeable with tax in accordance with –

<b>Clause</b>	<b>Particulars</b>
(a)	a notice issued under section 73 (1) or a statement issued under section 73 (3) , and where no order under section 73 (9) has been issued; or
(b)	an order passed under section 73(9) and where no order under section 107 (11) or section 108 (1) has been passed; or
(c)	an order passed under of section 107 (11) or section 108 (1) , and where no order under section 113 (1) has been passed,

**For the period from July 1, 2017, to March 31, 2020, if the person pays the full tax amount, no interest or penalties will apply and all related proceedings will be considered concluded.**

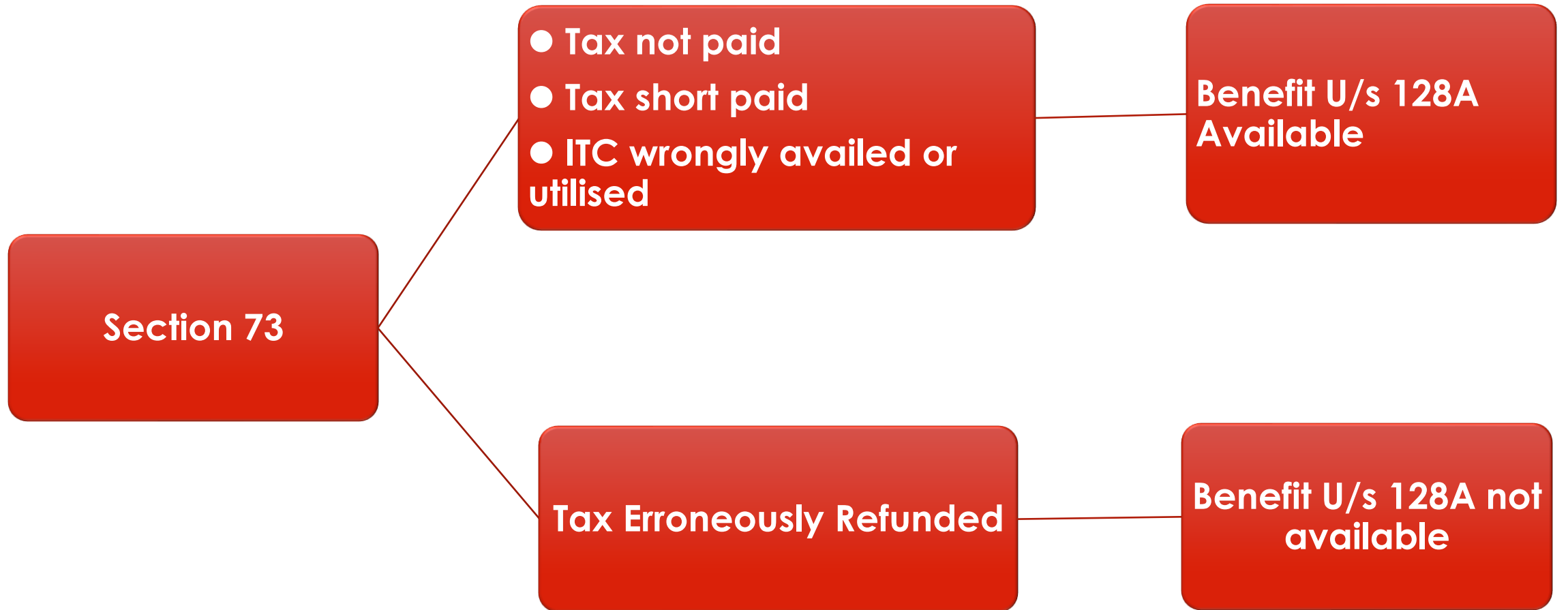
**Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods -**

128A (1)

Proviso –

<b>Proviso</b>	<b>Particulars</b>
Provided	Notice issued under section 74(1) in accordance with section 75(2) is converted into notice or order under section 73.
Provided further	If any appeal filed by the department and additional Tax demanded, same to payable within 3 months of order, or the waiver will be void.
Provided also	No refund in case interest and penalty has already been paid

**Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods -  
128A (2)**



**Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods -**

128A (3)

Any pending appeal / writ petition needs to be withdrawn in order to be eligible for waiver under this section

128A (4)

Disputed Tax paid and proceedings deemed to be concluded, No appeal under section 107(1) or 112(1) is allowed of the impugned order

**Notification No. 21/2024–Central Tax. dated the 8th October, 2024**

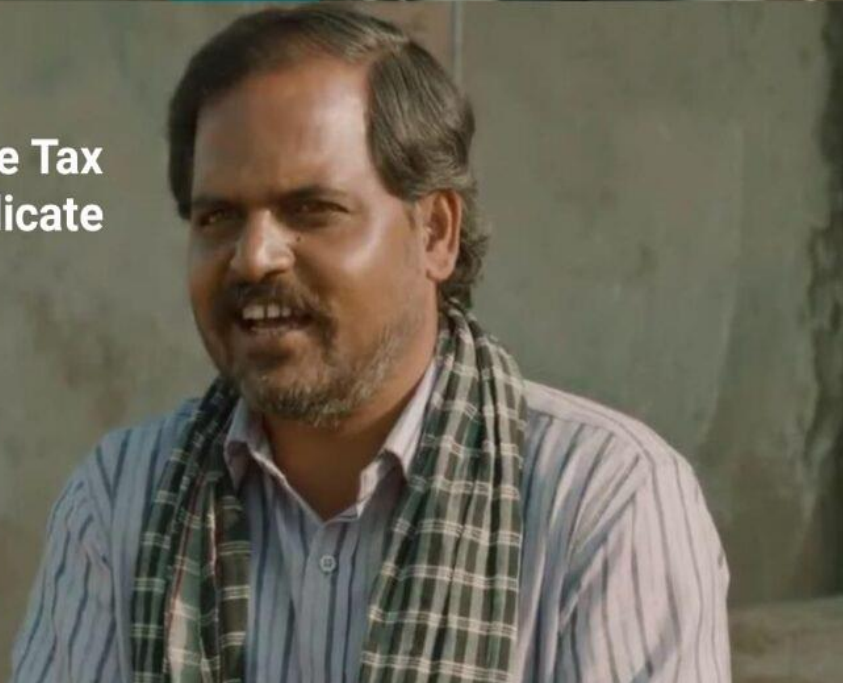
Seeks to notify the date as follows:

<b>Case Type</b>	<b>Due date of payment</b>
Notice / statement / order u/s 73	31-March-2025
Notice u/s 74 redetermined as notice u/s 73	Date ending on completion of six months from the date of issuance of the order by the proper officer redetermining tax under section 73.



**Dekh Raha hai na Binod**

**Kaise One Nation One Tax  
bolkar GST ko complicate  
kia jaa raha hai**



**Rule - 164**  
issued vide  
Notification no.  
20/2024 dated  
8<sup>th</sup> October 2024,  
inserted with effect  
from  
01<sup>st</sup> November 2024.

**Rule 164 - Procedure and conditions for closure of proceedings under section 128A in respect of demands issued under section 73.**

164(1)

**GST SPL - 01**



- Person eligible under **clause (a)** of sub section (1) **[SCN]**
- To Provide details of the notice / statement and payments made in FORM GST DRC-03.

164(2)

**GST SPL - 02**



- Person eligible under **clause (b) or (c)** of sub section (1) **[Orders]**
- To Provide details of the order and payments made towards the tax demanded.

164(2)

**Proviso**



- Payment must be made by crediting the electronic liability register against the demand created.
- If Payment already done DRC-03, then file DRC-03A to adjust against the demand

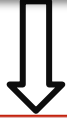
**Rule 164 - Procedure and conditions for closure of proceedings under section 128A in respect of demands issued under section 73.**

<b>Rule</b>	<b>Particulars</b>
164(3)	Benefit not available in erroneous refund cases, and full tax amount must be paid in order to be eligible for the scheme for other points.
164(4)	If the notice / statement / order covers a period beyond the specified period, full tax amount must be paid in order to be eligible for the scheme for the specified period.
164(5)	If the notice / statement / order also includes amount not payable u/s 16(5) or 16(6), then such amount shall be deducted from the amount payable before making payment.
164(6)	Application to be filed within 3 months from 31 <sup>st</sup> March, 2025. & Within 6 months of tax redetermination order under section 73. <b>(1<sup>st</sup> proviso to 128A(1))</b>
164(7)	Documents evidencing withdrawal of appeal or writ petition to be submitted along with application in order to be eligible for the scheme. In case order for withdrawal pending, application may be filed along with withdrawal application and withdrawal order to be submitted within one month of its issuance.

**Rule 164 - Procedure and conditions for closure of proceedings under section 128A in respect of demands issued under section 73.**

164(8)

**GST SPL - 03**



- If PO believes an application is ineligible for waiver, he shall issue notice within 3 months from receipt of application.

164(9)

**GST SPL - 04**



- The applicant may file a reply to notice within a period of one month from the date of receipt of the said notice.

164(10)

**GST SPL - 05**



- If PO is satisfied, he shall issue acceptance order (within 3 months)

164(11)

**GST SPL - 05**

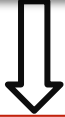


- Order in FORM GST DRC-07 is not required, where application filed in FORM GST SPL-01
- Liability created in the part II of ELL, shall be modified where application filed in FORM GST SPL-02.

**Rule 164 - Procedure and conditions for closure of proceedings under section 128A in respect of demands issued under section 73.**

164(12)

**GST SPL - 07**



- If the proper officer is not satisfied with the reply of the applicant, he shall issue a rejection order.

164(13)

**GST SPL - 04**



- SPL-05 to be issued by PO within 3 months of filing application.
- SPL-05/SPL-07 to be issued within 3 months of SPL-04 or 4 months of SPL-03, where no reply is received from the applicant.

164(14)

**GST SPL - 05**



- If no order is issued by the PO within the time limit specified ← the proceedings shall be deemed to be concluded and application approved.

**Rule 164 - Procedure and conditions for closure of proceedings under section 128A in respect of demands issued under section 73.**

164(15)(a)

**No Appeal cases**

- If no appeal is filed against SPL-07, then original withdrawn appeal shall be restored.

164(15)(b)

**GST SPL - 06 / SPL - 08**

- If appeal filed against SPL-07 and is accepted, SPL-06 to be issued and proceedings concluded.
- If appeal filed against SPL-07 is rejected, the original withdrawn appeal shall be restored; subject to tax payer files undertaking in SPL-08, within 3 months of APL-04.

164(16)

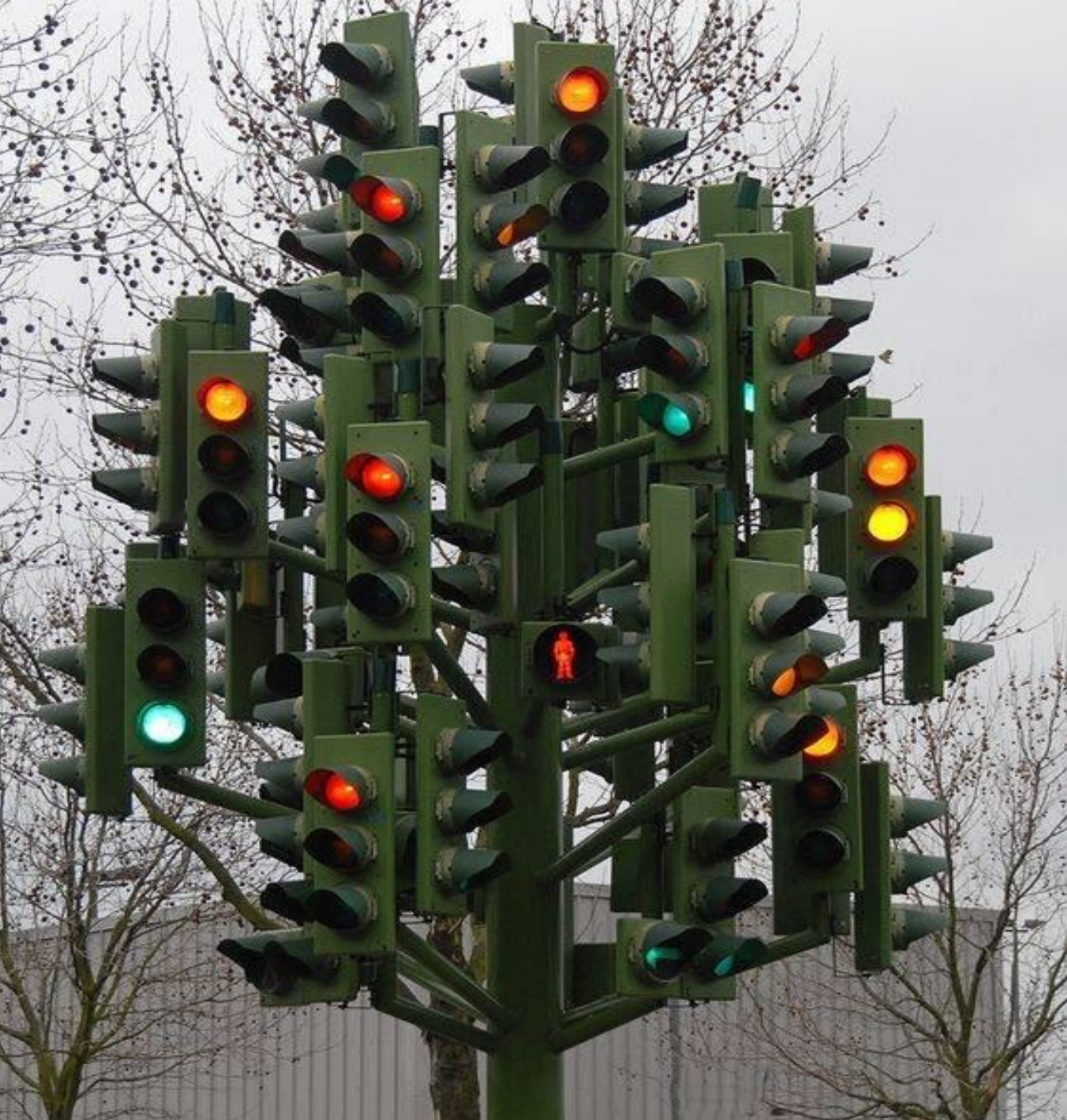
**Additional Tax**

- In case of appeal by the department and additional Tax demanded
- Taxpayer has to pay additional tax within 3 months of order
- else waiver shall become VOID.

164(17)

**Ref. 164(3) & 164(4)**

- Where interest / penalty is payable by taxpayer in erroneous refund cases or for period beyond the specified period
- Taxpayer has to pay additional tax within 3 months of order
- else waiver shall become VOID.

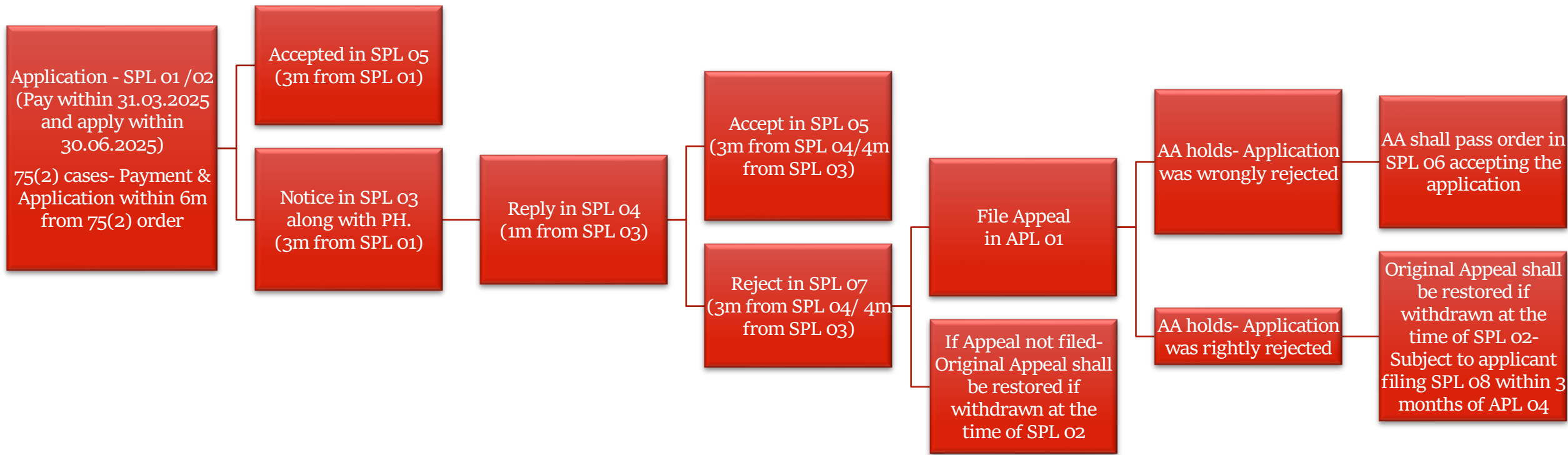


**Circular - 238**  
dated  
15<sup>th</sup> October 2024,  
  
Clarification of  
various doubts related  
to Section 128A of the  
CGST Act, 2017.

# Circular 238

Issue	Clarification
Is 128A benefit available if tax paid in full before the section comes into effect?	Yes
Can amount recovered by tax officers from any other person on behalf of the taxpayer be considered as tax paid.	Yes <span style="float: right;">16</span>
Whether interest or penalty recovered by tax officers be adjusted against the tax payable for the same demand?	No
Is benefit under 128A applicable if the tax has already been paid and the notice / order pertains only to interest and/or penalty?	Yes, however not in case of delayed filing or delayed reporting of any supply in the return
Can benefit of 128A be availed partially?	No
Whether the benefit will be available for matters involving IGST and Compensation Cess?	Yes. Full payment of tax means payment of CGST,SGST, IGST and Compensation Cess
Whether Section 128A covers cases involving demand of irregularly availed transition credit?	Yes, if availed in the period covered under Section 128A
Whether Section 128A will cover waiver of penalties under other provisions, late fee, redemption fine etc?	No
Whether payment to avail waiver under Section 128A can be made by utilizing ITC?	Yes, except in cases of RCM, ECO u/s 9(5) and erroneous refund.
Is 128A benefit available for import IGST payable under the Customs Act,1962?	No

# Various Forms – A quick Snapshot



- If no order is issued within the time limits, deemed approval of the application
- SPL 08- Undertaking by the Applicant for not filing any appeal against the AA's order.

# **ADVISORY FOR WAIVER SCHEME UNDER SECTION 128A**

Nov 8th, 2024

For reducing the tax disputes and to provide a big relief to the taxpayers, GST Council in its 53rd meeting held on 22nd June, 2024 had recommended for waiver of interest and penalties in the demand notices or orders issued under Section 73 of the CGST Act, 2017 (i.e. the cases not involving fraud, suppression or wilful misstatement, etc.) for the Financial years 2017-18, 2018-19 and 2019-20. To avail this waiver, the condition is that the full tax demanded is paid on or before 31.03.2025.

In view of the above, Rule 164 of CGST rules, 2017 was notified through *Notification No. 20/2024 dated. 8th October 2024*, effective from 1st November 2024. This rule provides procedural guidelines for the said waiver scheme. As per the waiver scheme, if a notice or order is issued under Section 73 for the financial years 2017-18, 2018-19 and 2019-20, the taxpayers are required to file an application in FORM GST SPL-01 or FORM GST SPL-02, respectively on the common portal within three months from notified date, which is 31.03.2025.

In this regard it is to inform that Form GST SPL-01 and Form GST SPL-02 are under development and same will be made available on the common portal tentatively from the first week of January 2025. In the meantime, taxpayers are advised to pay the tax amount demanded in the notice, statement, or order issued under Section 73 on or before March 31st, 2025, to ensure that they receive the waiver benefits by paying their taxes before the deadline.

Taxpayer can pay the demanded tax amount through the “payment towards demand” facility in case of demand orders and through Form GST DRC-03 in case of notices. However, if payment has already been done through Form GST DRC-03 for any demand order then taxpayer need to link the said Form GST DRC 03 with such demand order through Form GST DRC-03A, which is now available on the common portal.

Thanking You,  
Team GSTN



Beta, What is  
GST?



Good Night  
Sweet Dream  
Take Care



# Thank you

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