



### Section 128A - Amnesty Scheme

- Insertion of Section 128A in the Central Goods and Services Tax (CGST) Act to address the multiplicity of litigations faced by taxpayers during the initial years of GST implementation, providing as follows:
  - Interest and penalties for litigation pertaining to FY2017-18, 2018-19 and 2019-20 are proposed to be waived if the taxpayer pays the total amount of tax demanded on or before a date to be notified.
  - Amnesty is applicable in the following three scenarios:
    - Notice/statement has been issued under Section 73, and order is pending by adjudicating authority
    - Order has been issued by adjudicating authority in respect of notice issued under Section 73 but not by appellate authority/revisional authority or
    - Order has been issued by appellate authority/revisional authority but not by the Appellate Tribunal
  - Waiver not applicable to demands related to erroneous refunds.
  - Waiver is not applicable in cases where an appeal or writ petition is pending before an appellate authority or Appellate Tribunal or a court and not withdrawn before the date to be notified.
  - No refund of interest and penalty already paid will be available.
  - Recourse to further appeal shall not be available if the amnesty scheme is opted.
- The proposed amendment will reduce litigation on pending litigations pertaining to the earlier years of GST, many of which were on procedural and non-recurring issues.

### Insertion of Section 74A

- Section 73 and Section 74 of the CGST Act, 2017 proposed to be subsumed by Section 74A for determination of tax pertaining to FY2024-25 onwards, in cases involving unpaid tax, short paid, erroneously refunded, or Input Tax Credit (ITC) wrongly availed/utilised (for amount involving INR 1000 or more for a financial year).
  - To bring consistency and uniformity, the time limit for issuance of Show Cause Notice (SCN) from the due date of filing the annual return or from the date of the erroneous refund has undergone changes as mentioned below:
    - The time limit for cases involving fraud, wilful misstatement, or suppression of facts to evade tax has been decreased from **54 to 42 months**.
    - In cases other than above, the time limit has been increased from **33 to 42 months**.

- Applicable penalty (no changes) as mentioned below:
  - 10 percent of the tax due or INR 10,000, whichever is higher in non-fraud cases.
  - Penalty equivalent to the tax due in fraud cases.
- Order to be issued within 12 months of issuing the notice, further extendable by six months in exceptional circumstances.
- Provisions to pay the tax along with interest for the conclusion of the proceedings before issuance of SCN remains unchanged.
- However, the time limit to pay tax, along with interest and specified penalty for the conclusion of proceedings, has been increased from 30 to 60 days from the issuance of SCN/order.

### **Powers not to recover GST as a result of trade practices**

- Provisions inserted to empower the government not to recover GST and compensation cess not levied or short-levied due to general trade practice.
- This provision is similar to Section 11C of the Central Excise law and is significant since it will resolve sector-specific issues/disputes.

### **Others**

- Extension in the time limit for ITC in respect of invoices/debit notes for FY2017–18 to 2020–21, provided such ITC is availed in any GSTR-3B filed up to 30 November 2021.
- ITC to be allowed from the date of cancellation of GST registration till the date of order of revocation, subject to the filing of returns within thirty days from the date of order of revocation or up to 30 November of the following year, whichever is later.
- Certain other proposals of the 53rd GST Council meeting, such as reduction of the pre-deposit limit for filing appeals, have also been introduced.