



# **Amnesty Scheme u/s 128A and other recent amendments September-October, 2024**

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**At Sales Tax Bar Association (Regd.)**

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# Issues for discussion

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1. Introduction of New Provisions: Sec 16(5) and Sec 16(6)
2. Relief from Interest and Penalty: Sec 128A
3. Invoice Management System
4. Hard Locking
5. TDS on metal Scrap
6. TDS on renting
7. Other clarifications

CA Tarun Arora



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1: Introduction of New Provisions  
Sec 16(5) and Sec 16(6).



# 1. Introduction of New Provisions Sec 16(5) and Sec 16(6).

## Last date to claim credits - Sec 16(4)

- A registered person shall **not be entitled to take input tax credit in respect of any invoice or debit note** for supply of goods or services or both
- after the ~~due date of furnishing of the return under section 39 for the month of September~~ **thirtieth day of November** [w.e.f. 01-10-2022](#) following the end of financial year
- to which such invoice or [w.e.f. 1-1-2021](#) ~~[invoice relating to such]~~ debit note pertains or furnishing of the relevant annual return, whichever is earlier:

[w.e.f. 31-12-2018](#) **Provided** that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019.

### Insertion of two new sub-clauses Sec 16(5) and Sec 16(6)

- Sec 16(5) – ITC relating to 2017-18 to 2020-21
- Sec 16(6) – Cases relating to Revocation of cancellation of registration

**No refund** shall be made of all the tax paid or the input tax credit reversed, which would not have been so paid, or not reversed, **had section 118 been in force at all material times. Sec 150 FANo2 2024**

# 1. Introduction of New Provisions Sec 16(5) and Sec 16(6).

## Sec 16(5) ITC relating to 2017-18 to 2020-21

[Clause 114 FA]

Extract from Press-release dated 22<sup>nd</sup> June, 2024  
[53<sup>rd</sup> Council Meeting]

**In respect of initial years of implementation of GST, i.e., financial years 2017-18, 2018-19, 2019-20 and 2020-21:**

The GST Council recommended that the time limit to avail input tax credit in respect of any invoice or debit note under Section 16(4) of CGST Act, through any return in FORM GSTR 3B filed upto 30.11.2021 for the financial years 2017-18, 2018-19, 2019-20 and 2020-21, may be deemed to be 30.11.2021. For the same, requisite amendment in section 16(4) of CGST Act, retrospectively, w.e.f. 01.07.2017, has been recommended by the Council.

## Sec 16(5)

- *Notwithstanding* anything contained in sub-section (4),
- in respect of an **invoice or debit note** for supply of goods or services or both
- **pertaining to the Financial Years 2017 18, 2018-19, 2019-20 and 2020-21,**
- the registered person **shall be entitled to take input tax credit**
- in any return under section 39
- which is **filed upto the thirtieth day of November, 2021.**

GSTR-3B

# 1. Introduction of New Provisions Sec 16(5) and Sec 16(6).

## Sec 16(6) ITC relating to 2017-18 to 2020-21

[Clause 114 FB]

Extract from Press-release dated 22nd June, 2024 [53rd Council Meeting]

In respect of initial years of implementation of GST, i.e., financial years 2017-18, 2018-19, 2019-20 and 2020-21:

The GST Council recommended retrospective amendment in Section 16(4) of CGST Act, to be made effective from July 1st, 2017, to conditionally relax the provisions of section 16(4) of CGST Act in cases where returns for the period from the date of cancellation of registration/ effective date of cancellation of registration till the date of revocation of cancellation of the registration, are filed by the registered person within thirty days of the order of revocation.

### Sec 16(6)

Where registration of a registered person is cancelled under section 29 and subsequently **the cancellation of registration is revoked by any or order**, either under section 30 or pursuant to any order made by the Appellate Authority the Appellate Tribunal or **court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration**, the **said person shall be entitled to take the input tax credit** in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,–

- (i) **filed upto thirtieth day of November following the financial year** to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or
- (ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed **within thirty days from the date of order of revocation of cancellation of registration, whichever is later**

# 1. Introduction of New Provisions Sec 16(5) and Sec 16(6).

## NOTIFICATION NO. 22/2024– CENTRAL TAX

**Applicable Cases:** This applies to registered persons against whom an order has been issued confirming the wrong availment of ITC due to the violation of sub-section (4) of section 16, but where such ITC is now available under sub-section (5) or (6) of section 16, and **no appeal has been filed** against the order.

**Six-Month Timeframe:** The person must file an application electronically for rectification on the common portal within six months from the date of issuance of the notification. Along with the application, the person must upload information in the proforma provided in Annexure A of the notification.

**Proper Officer's Role:** The authority that issued the original order will be responsible for rectifying the order, and the rectified order should be issued within three months of the application.

**Electronic Upload of Rectified Order:** After rectification, the authority must upload a summary of the rectified order in:

# FORM GST DRC-08 for orders under section 73 or 74.

# FORM GST APL-04 for orders under section 107 or 108.

**Rectification Scope:** The rectification is limited to the demand related to the ITC wrongly availed under sub-section (4) of section 16, where the ITC is now available under sub-sections (5) or (6).

- In cases where the matter is pending (no order is issued) or where an order is issued and an appeal has been filed then the provision is already effective vide Notification No 17/2024 Central Tax accordingly benefit shall be available.
- Detailed process has been provided in CIRCULAR NO. 237/31/2024-GST

# 1. Introduction of New Provisions Sec 16(5) and Sec 16(6).



What is the status of Reverse Charge Mechanism (**RCM credits**) when the taxes are paid after the deadline specified in Section 16(4) of the GST Act?

- RCM inward supplies from unregistered persons  
[Circular 211/5/2024 dated 26<sup>th</sup> June, 2024]
- RCM Inward supplies from registered persons  
[.....??.....]



# 1. Introduction of New Provisions Sec 16(5) and Sec 16(6).

Circular No 211/5/2024-GST dated 26<sup>th</sup> June, 2024

## Extract from Press-release dated 22nd June, 2024 [53rd Council Meeting]

- The Council recommended to clarify that
- in cases of supplies received from unregistered suppliers,
- where tax has to be paid by the recipient under reverse charge mechanism (RCM) and
- invoice is to be issued by the recipient only,
- the relevant financial year for calculation of **time limit for availment of input tax credit** under the provisions of section 16(4) of CGST Act is **the financial year in which the invoice has been issued by the recipient.**

## Extracts from Circular

- In cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under reverse charge mechanism (RCM) and where invoice is to be issued by the recipient of the supplies in accordance with section 31(3)(f) of CGST Act, the relevant financial year for calculation of time limit for availment of input tax credit under the provisions of section 16(4) of CGST Act will be the financial year in which the invoice has been issued by the recipient under section 31(3)(f) of CGST Act, subject to payment of tax on the said supply by the recipient and fulfilment of other conditions and restrictions of section 16 and 17 of CGST Act.
- *In case, the recipient issues the invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax. Further, in cases of such delayed issuance of invoice by the recipient, he may also be liable to penal action under the provisions of Section 122 of CGST Act.*

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2: Relief from interest and  
penalty Sec 128A



## 2. Relief from interest and penalty payments: Sec 128A

Extract from Press-release dated 22<sup>nd</sup> June, 2024 [53<sup>rd</sup> Council Meeting]

Insertion of Section 128A in CGST Act, to provide for conditional waiver of interest or penalty or both, relating to demands raised under Section 73, for FY 2017-18 to FY 2019-20 :

- Considering the difficulties faced by the taxpayers, during the initial years of implementation of GST,
- the GST Council recommended, **waiving interest and penalties**
- for **demand notices issued under Section 73** of the CGST Act
- for the fiscal years **2017-18, 2018-19 and 2019-20,**
- in cases where the **taxpayer pays the full amount of tax demanded in the notice upto 31.03.2025.**
- The waiver **does not cover demand of erroneous refunds.**
- To implement this, the GST Council has recommended insertion of Section 128A in CGST Act, 2017.

## 2. Relief from interest and penalty payments: Sec 128A

### 128A. Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods.

- (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,

#### Tax is payable in

- a. Notice u/s 73 but no order has been issued; or **Application: Form SPL-01**
- b. Order u/s 73 but no Order by appellate authority [Sec 107] or revisional authority [Sec 108]; or **Application: Form SPL-02**
- c. Order by Appellate authority [Sec 107] or Revisional Authority [Sec 108] but no order by Tribunal

## 2. Relief from interest and penalty payments: Sec 128A

128A. Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods.

- 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:

**Applicable period : July, 2017 to March, 2020**

**Pays the full amount of tax as per-**

- Notice u/s 73 (where no order has been issued); or
- Order u/s 73 (where no Order by appellate authority [Sec 107] or revisional authority [Sec 108] has been issued); or
- Order of Appellate authority [Sec 107] or Revisional Authority [Sec 108] (where no order is issued by Tribunal).

**Before: 31<sup>st</sup> March, 2025 [Notification 21/2024]**

**Then No interest and penalty and proceedings shall be deemed to be concluded.**

## 2. Relief from interest and penalty payments: Sec 128A

128A. Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods.

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:

### *Sec 75 (2)*

- *Where any*
- *Appellate Authority or Appellate Tribunal or court*
- *concludes that*
- *the notice issued under sub-section (1) of section 74*
- *is not sustainable*
- *for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax*
- *has not been established against the person to whom the notice was issued,*
- *the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73.*

Application in SPL-02 within six months from the date of communication of order. Rule 164(6)

## 2. Relief from interest and penalty payments: Sec 128A

128A. Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods.

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.*

If department goes for an appeal against the order then the proceedings under Sec 128A shall be deemed to concluded if the additional amount of tax is paid within three months from the date of the order.

## 2. Relief on interest and penalty payments: Sec 128A

128A. Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods.

(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.”.

Sec 128A not applicable in case of erroneous refunds.

Appeal or writ petition must be withdrawn by the said person on or before the date notified.

No further appeal if amount is paid u/s 128A.



## 2. Procedure – Rule 164 read with circular 238

### Payment of Taxes Rule 164(1) and (2)

- **Notice:** DRC-03
- **Orders:** By crediting the amount in the electronic liability register against the debit entry created by the said order.

Note: If the payment towards such tax demanded has been made through FORM GST DRC-03, an application in FORM GST DRC-03A, as prescribed in sub-rule (2B) of rule 142, shall be filed by the said person for credit of the said amount in the Electronic Liability Register against the debit entry created for the said demand, before filing the application in FORM GST SPL 02.

### Withdrawal of Appeal Rule 164(7)

- The application under sub-rule (1) or (2) must **include documents proving the withdrawal of any appeal** or writ petition filed.
- If the withdrawal order is not issued by the authority at the time of filing the application, the applicant must upload proof of the **withdrawal request** along with the application.
- The final withdrawal order must be uploaded on the common portal within **one month** of its issuance by the concerned authority.

## 2. Procedure – Rule 164 read with circular 238

### Further Process

#### **Notice - SPL-03:**

- Proper officer is of the view that the application made is not eligible.
- Within three months from the date of receipt of the said application.

#### **Reply - SPL-04:**

- Applicant reply.

#### **Order - SPL-05:**

- Officer is satisfied; issue order.

#### **Rejection - SPL-07:**

- Officer is not satisfied; issue rejection order.

In case, where the taxpayer does not prefer an appeal within the time period mentioned in sub-section (1) of section 107 against the said rejection order, then the original appeal filed by the applicant shall be restored.

#### **APL-01:**

- Appeal against SPL-07
- Subject matter of the appeal will only be regarding the applicability of waiver of interest or penalty or both under Section 128A and not on the merits of the original notice/ statement/ order.

#### **Appeal Order SPL-06:**

- If Appeal is satisfied, relief granted.

In cases, where the taxpayer prefers an appeal against the said rejection order, and the appellate authority holds that the proper officer has rightly rejected the said application made in FORM GST SPL-02, and issues an order in FORM GST APL-04, then the original appeal filed by the applicant shall be restored, subject to condition that the applicant files an undertaking electronically on the portal in FORM GST SPL-08, that he has neither filed nor intends to file any appeal against such order of the Appellate Authority.

## 2. Procedure – Rule 164 read with circular 238

### **Separate Applications for Multiple Notices/Order**

If a taxpayer has received multiple notices, statements, or orders related to demands under Section 73 for the period from July 2017 to March 2020, they must submit separate applications.

### **Adjustment of Tax Payable Due to Retrospective Amendments**

If a tax demand in a notice/statement/order includes an amount related to the contravention of Section 16(4), and this amount is no longer payable due to the retrospective insertion of Section 16(5) and (6), the tax payable for waiver eligibility under Section 128A will be recalculated after deducting the now non-payable amount.

### **Erroneous refunds and demand for other period**

The applicant can apply for a waiver of interest or penalty under Section 128A only after paying the full amount of tax demanded in the notice/statement/order. This includes tax related to erroneous refunds and any demands for periods other than those mentioned in Section 128A(1) in the notice/order.

## 2. Clarifications

4	Whether the benefit provided under Section 128A will be applicable in cases, where the tax due has already been paid and the notice or demand orders under Section 73 only pertains to interest and/or penalty involved?	<p>Where the tax due has already been paid and the notice or demand orders under Section 73 only pertains to interest and/or penalty involved, the same shall be considered for availing the benefit of section 128A.</p> <p>However, the benefit of waiver of interest and penalty shall not be applicable in the cases where the interest has been demanded on account of delayed filing of returns, or delayed reporting of any supply in the return, as such interest is related to demand of interest on self-assessed liability and does not pertain to any demand of tax dues and is directly recoverable under sub-section (12) of section 75.</p>
12	Whether Section 128A will cover waiver of penalties under other provisions, late fee, redemption fine etc?	<p>It is clarified that any penalty, including penalties under section 73, section 122, section 125 etc, demanded under the demand notice/ statement/ order issued under section 73, is covered under the waiver provided under Section 128A.</p> <p>However, late fee, redemption fine etc are not covered under the waiver provided under Section 128A.</p>

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3: Invoice Management System



# 3. Invoice Management System



- Applicable from 1<sup>st</sup> October, 2024.
- GSTR-2B will now be in two stages: IMS and Final 2B.
- The recipient has the following options in draft GSTR-2B
  - Accept
  - Reject
  - Keep pending
  - No action taken [Deemed Accepted]

Supplier can also see action taken by the recipients.

ITC register

**Pending action not allowed in following scenarios:**

- Original Credit note,
- Upward amendment of the credit note irrespective of the action taken by recipient on the original credit note
- Downward amendment of the credit-note if original credit note was rejected by recipient,
- Downward amendment of Invoice/ Debit note where original Invoice/ Debit note was accepted by recipient and respective GSTR 3B has also been filed.

- Only **accepted/deemed accepted entries** to form part of **Final GSTR-2B**. Pending records will remain on IMS dashboard, allowing you to either accept or reject them in subsequent months up-to time limit specified u/s 16(4).
- GSTR-2B for the following month will not be generated until GSTR-3B for the current month is filed by the taxpayer

The liability of supplier will be increased in GSTR 3B for the subsequent tax period, for the invoices/records which have been rejected by the recipient in the IMS for these transactions.

**Legal issues ?**



# 3. Invoice Management System

Stages	Period	Illustration Supply Month: Oct, 2024	Flow of Data in IMS	Flow of Data in Draft 2B	Flow of data in Final 2B
Suppliers issues an Invoice.	From start of the supply month to filing of GSTR-1.	1 <sup>st</sup> Oct, 2024 to 11 <sup>th</sup> Nov, 2024.	NA	NA	NA
Saving of invoices in GSTR-1/IFF.	From start of the supply month to filing of GSTR-1.	1 <sup>st</sup> Oct, 2024 to 11 <sup>th</sup> Nov, 2024.	Yes	NA	NA
Filing of GSTR-1 by the Supplier	Between 1 <sup>st</sup> to 11 <sup>th</sup> or 13 <sup>th</sup> of Subsequent month	1 <sup>st</sup> Nov, 2024 to 11 <sup>th</sup> Nov, 2024	Yes	Data will start flowing but final version will be available on 14 <sup>th</sup>	NA
The recipient can take actions against the said invoice.	From start of the supply month to filing of GSTR-3B.	1 <sup>st</sup> Nov, 2024 to 20 <sup>th</sup> Nov, 2024	Yes	# Only Invoices filed by supplier in GSTR-1 will be reflected. # Final action for finalization of GSTR-2B	After draft GSTR-2B is saved and computed. Final GSTR-2B is generated and 3B can be filed.

## Additional Important Points

- ❑ The following supplies will not appear in the IMS but will be directly populated in GSTR-3B:
  - a. **Inward RCM supplies** reported by the supplier in Table 4B of IFF, GSTR-1, or GSTR-1A.
  - b. **Supplies ineligible for ITC** under Section 16(4) of the CGST Act or due to Place of Supply (POS) rules.
- ❑ The **issue of invoice amendments is not covered** in this presentation, as the implementation of e-invoicing for major parties has made the concept less relevant. Typically, parties now issue a credit note followed by a fresh invoice instead.
- ❑ It may be noted that GSTR-2B will not be generated for Month M-1 and M-2 for QRMP taxpayer. GSTR-2B for a QRMP taxpayer will be generated on Quarterly basis only.

# 3. Invoice Management System

## FAQ Set 1 & Set 2

8	What all documents will not be made available in IMS but will be part of GSTR-2B?	<p>Below records will not be part of IMS but will directly flow to GSTR-2B:</p> <ol style="list-style-type: none"> <li>1. Document flowing from the following forms: <ul style="list-style-type: none"> <li>• GSTR 5</li> <li>• GSTR 6</li> </ul> </li> <li>2. ICEGATE documents</li> <li>3. RCM records</li> <li>4. Document where ITC is ineligible due to: <ul style="list-style-type: none"> <li>• POS rules</li> <li>• Section 16(4) of CGST Act</li> </ul> </li> <li>5. Documents where ITC to be reversed on account of Rule 37A</li> </ol>
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18	Will Reverse Charge document received from registered suppliers also form part of IMS ?	No, RCM invoices are not part of IMS but will continue to be part of GSTR-2B as it is being reflected today.
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20	What happens if recipient reject a record?	<ol style="list-style-type: none"> <li>1. If the recipient rejects the record before filling of GSTR 1 by supplier, then the invoice/record can be edited and supplier can file the GSTR 1 with revised detail. This edited record will be made available in the IMS for action by the recipient.</li> <li>2. If the recipient rejects after filling of GSTR 1 by supplier, then the supplier needs to amend/add the invoice/record in GSTR-1A or in subsequent GSTR 1/ IFF with same or revised details, as the case may be. Amended record will be made available in the IMS for action by the recipient.</li> </ol>
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7	How can recipient accept a genuine credit note issued by supplier in IMS as it will result further reduction of the recipient ITC, however recipient had reversed ITC	In such cases recipient can accept the said credit note in IMS. As recipient had already reversed the ITC, there is no need for reversal of ITC again in case of such credit note.
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	corresponding to invoice itself because of 17(5), Rule 42, 38, 43 etc., or not availed the ITC at all because of POS or 16(4) etc., ineligibility?	
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## 4. Hard - Locking of auto-populated liability in GSTR-3B

1. In order to ***assist taxpayers in filing their returns and minimizing human errors***, GSTN has continuously improving the GST return filing process and in this endeavor the GST Portal now provides a pre-filled GSTR-3B form, where the tax liability is auto-populated from the declared supplies in ***GSTR-1/ GSTR-1A/ IFF by the supplier, while the Input Tax Credit (ITC) is auto-populated from GSTR-2B. A detailed system generated pdf of the auto populated GSTR-3B is also provided to all the taxpayers.***
2. Now, taxpayers also have a facility to amend their incorrectly declared outward supplies in GSTR-1/IFF through GSTR-1A, allowing them an opportunity to correct their liabilities before filing their GSTR-3B. Additionally, to manage inward supplies and ensure accurate ITC claims in GSTR-3B, taxpayers have the option to take informed actions of accept/reject/pending on inward supplies via the Invoice Management System (IMS) which is now available to the taxpayers.
3. It may be noted that tentatively ***from January 2025 tax period, the GST Portal is going to restrict making changes in auto-populated liability in pre-filled GSTR-3B from GSTR-1/1A/IFF to further enhance accuracy in return filing.*** It is once again suggested hereby that in case any change is required in auto-populated liability, the same may please be handled through GSTR-1A.
4. However, locking of ***auto-populated ITC in GSTR-3B, after the roll out of IMS, will be implemented from a later date.*** For the same a separate advisory would be issued after addressing all the issues related to IMS, raised by the trade.

## 5. TDS and RCM provision related to Metal Scrap

### Current Provisions

- [Exemption from Registration \(Notification No. 05/2017 as amended\)](#): Under Section 23(2), a person is exempt from GST registration if the tax on their supplies is to be paid by the recipient under the Reverse Charge Mechanism (RCM).
- [TDS on Scrap Dealers \(Section 51 of GST Act\)](#): Section 51, which governs Tax Deducted at Source (TDS) under GST, does not specifically cover scrap dealers.

### Amendment Objective

Ensure that the entire supply chain of metal scrap transactions is captured within the GST framework.

### Proposed Solution

- [Mandatory Registration for Scrap Dealers Above Threshold Limit](#): The exemption provided under Notification No. 05/2017 (u/s 23(2)) should be withdrawn for scrap dealers. Scrap dealers will be required to register under GST if their turnover exceeds the threshold limit specified under Section 22. **Notification No. 24/2024 - Central Tax**
- [RCM for Unregistered Dealers](#): Until a scrap dealer exceeds the registration threshold and becomes registered, the recipient (purchaser) will continue to pay tax on such supplies under the Reverse Charge Mechanism (RCM). **Notification No. 06/2024-Central Tax (Rate)**
- [TDS Deduction for Registered Scrap Dealers](#): Once a scrap dealer is registered, the recipient of the supplies will deduct TDS on transactions, as applicable. However, in B2C transactions, no TDS can be deducted since no tax is charged on such supplies by the supplier. **Notification No. 24/2024 - Central Tax**

## 6. RCM on Rent

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
5AB	Service by way of renting of any <u>immovable</u> property other than <b>residential dwelling.</b>	Any unregistered person	Any registered person.
5AA	Service by way of renting of <b>residential dwelling</b> to a registered person.	Any person	Any registered person.

NOTIFICATION NO. 9/2024-CENTRAL TAX (RATE) DATED 08-10-2024; WEF 10-10-2024

NOTIFICATION NO. 5/2022-CENTRAL TAX (RATE) DATED 13-07-2022; WEF 18-07-2022

### NOTIFICATION NO. 5/2017-CENTRAL TAX, DATED 19-6-2017

In exercise of the powers conferred by sub-section (2) of section 23 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby specifies the **persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under sub-section (3) of section 9 of the said Act as the category of persons exempted from obtaining registration under the aforesaid Act.** 2. This notification shall come into force on the 22nd day of June, 2017

**Provided that nothing contained in this notification shall apply to any person engaged in the supply of metal scrap, falling under Chapters 72 to 81 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975). Notification No. 24/2024 - Central Tax**

## **7. Additional Clarifications**

### **Applicability of GST on the service of affiliation provided by universities to colleges**

- Affiliation involves ensuring that a college meets the necessary infrastructure, faculty, and financial requirements to offer courses leading to a university degree.
- These services are not related to student admissions or examination conduct.
- Affiliation services provided by universities to colleges do not fall under the exemptions for educational institutions outlined in Notification No. 12/2017-CT(R). Therefore, GST at 18% is applicable to such affiliation services.

### **Applicability of GST on the service of affiliation provided by Central and State educational boards or Councils, or other similar bodies, to schools:**

- For the period Upto 17-06-2021: As is where is basis.
- 17-06-2021 to 10-10-2024: Taxable at 18%
- WEF 10-10-2024: For Government School exempt taxable for others

### **Disclaimer**

The contents of this document are solely for informational purpose. It does not constitute professional advice or a formal recommendation. The presentation is made with utmost professional caution but in no manner guarantees the content for use by any person. It is suggested to go through original statute / notification / circular / pronouncements before relying on the matter given. The presentation is meant for general guidance and no responsibility for loss arising to any person acting or refraining from acting as a result of any material contained in this presentation will be accepted by us. Professional advice recommended to be sought before any action or refrainment.



# Thank you

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