

V.B.GAIKWAD & ASSOCIATES

328, 'E' Ward, D/10, Royal Plaza, Dabholkar Corner, Kolhapur-416 001.

[VERY IMPORTANT/VERY URGENT]

15.10.2024.

To,

All,

Sir,

Sub.:- GST – Waiver of interest or penalty or both related to demands raised under Sec.73 for F.Y.2017-18, 2018-19 & 2019-20 – Insertion of new Sec.128A in CGST Act, 2017 – Reg....

As per Sec.73 of the CGST Act, 2017, in cases where no malafide intention to evade payment of GST etc. is involved, the department can issue show cause notice to recover the wrongly availed ITC/unpaid/short-paid/late paid GST along with interest and penalty within normal limitation period. The said Sec.73 also empowers the department to issue show cause notice to recover the wrongly obtained refund of ITC/GST along with interest and penalty.

- [2] During the period from F.Y.2017-18 to 2019-20, due to various reasons the assesses has availed wrong ITC/has not paid/short paid/late paid the GST and to recover the said ITC/GST along with interest and penalty, the department has issued various show cause notices under Sec.73. Though most of the said show cause notices are pending for adjudication, some of the said show cause notices are already adjudicated by passing the orders and the appeals of the assessee against the said orders are pending before the Appellate Authorities. Though some of the appeals against the said orders are rejected by the Appellate Authorities, due to non-formation of the GST Tribunal, the appeals against the said Appellate Orders are yet to be filed by the assessee.
- [3] Considering the vital fact that, during the initial period of introduction of GST, due to confusion/doubts among the Trade and Industry about the various provisions of GST Act/Rules made thereunder and due to technical problems faced while filing the GST returns/making the payments, the wrong availment of ITC/non-payment/short-payment/late payment of GST has happened, the Government has now decided to give relief to those assesses who due to genuine/bonafide reasons has wrongly availed inadmissible ITC/not-paid/short-paid/late paid the GST liabilities during the F.Y.2017-18 to 2019-20 by way of waiving the interest and penalties imposed/imposable on such assesses provided such assesses pays the said wrongly availed ITC/short-paid/not-paid GST on or before 31.03.2025. For that purpose the Government has inserted a new Sec.128A in GST Act, 2017 vide Finance (No.2) Act, 2024.
- [4] Accordingly, we herewith inform you that, in case if any show cause notices issued under Sec.73 for denial of ITC/for recovery of short-paid/not-paid GST along with interest and penalty and for recovery of interest and penalty for late payment of

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GST are issued to you or if your appeals against the orders (upholding such show cause notices under Sec.73) are pending and you don't want to contest the said issue any further, you can very well pay the amount of ITC/GST proposed to be recovered in the said show cause notices/the amounts of ITC/GST confirmed in the said orders on or before 31.03.2025 and can close the dispute, without paying any interest or penalty for the wrong availment of said ITC/non-payment/short-payment of GST.

Further, any show cause notice or order confirming the interest and penalties for late payment of GST are issued/passed against you and/or are pending for adjudication/before Appellate Authorities or pending due to non-formation of GST Tribunal, you can rely upon the said Sec.128A and can get the waiver of interest and penalties involved therein.

- [5] However, please note that, the benefit of said Sec.128A will not be available to any show cause notice under Sec.73 for recovery of wrongly availed refund of ITC/GST along with interest and penalty or any order passed for recovery of said wrongly availed refund of ITC/GST along with interest/penalty and in those cases the assessee who wants to settle the matter will be bound to pay not only the amount of wrongly availed refund but also the interest till the date of payment and the penalty, if any imposed.
- [6] We herewith request you to kindly take note of the above said important legal development and to take benefit of the same in fit cases.
- [7] We hope we have clarified the matter.

Thanking you,

Yours faithfully,
Sd/-
V.B.Gaikwad & Associates

Disclaimer – The above said circular/clarification is of general nature and not intended to address circumstances of any particular individual or party. The said circular/clarification is only for Private and Confidential circulation and any reliance to be placed thereon should be subject to further consultation and advice the matter.