

¹[Rule 164 : Procedure and conditions for closure of proceedings under section 128A in respect of demands issued under section 73

- (1) Any person who is eligible for waiver of interest, or penalty, or both in respect of a notice or a statement mentioned in clause (a) of sub-section (1) of section 128A, may file an application electronically in **FORM GST SPL-01** on the common portal, providing the details of the said notice or the statement, as the case may be, along with the details of the payments made in **FORM GST DRC-03** towards the tax demanded.
- (2) Any person who is eligible for waiver of interest, or penalty, or both, in respect of orders mentioned in clauses (b) and (c) of sub-section (1) of section 128A, may file an application electronically in **FORM GST SPL-02** on the common portal, providing the details of the said order, along with the details of the payments made towards the tax demanded:

Provided that the payment towards such tax demanded shall be made only by crediting the amount in the electronic liability register against the debit entry created by the said order:

Provided further that 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**.

- (3) Where the notice or statement or order mentioned in sub-section (1) of section 128A includes demand of tax, partially on account of erroneous refund and partially for other reasons, an application under sub-rule (1) or sub-rule (2) may be filed only after payment of the full amount of tax demanded in the said notice or statement or order, on or before the date notified under the said sub-section.
- (4) Where the notice or statement or order mentioned in sub-section (1) of section 128A includes demand of tax, partially for the period mentioned in the said sub-section and partially for the period other than that mentioned in the said sub-section, an application under sub-rule (1) or sub-rule (2) may be filed only after payment of the full amount of tax ²[related to period mentioned in the said sub-section and] demanded in the said notice or statement or order, on or before the date notified under the said sub-section.

¹ Rule 164 inserted by Noti. No. 20/2024-Central Tax, dt. 08-10-2024 w.e.f. 01-11-2024.

² Inserted by Noti. No. 11/2025-Central Tax, dt. 27-03-2025 w.e.f. 27-03-2025.

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³**[Explanation-** No refund shall be available for any tax, interest, and penalty, which has already been discharged for the entire period, prior to the commencement of the Central Goods and Services Tax (Second Amendment) Rules, 2025, in cases where a notice or statement or order mentioned in sub-section (1) of section 128A, includes a demand of tax, partially for the period mentioned in the said sub-section and partially for a period other than mentioned in the said sub-section.]

- (5) The amount payable under sub-rule (1) or sub-rule (2) shall be the amount that remains payable, after deducting the amount not payable in accordance with sub-section (5) or sub-section (6) of section 16, from the amount payable in terms of the notice or statement or order under section 73, as the case may be.
- (6) Any person who wishes to file an application under sub-rule (1) or sub-rule (2), may do so within a period of three months from the date notified under sub-section (1) of section 128A:

Provided that where an application in **FORM GST SPL-02** is to be filed in cases referred to in the first proviso to sub-section (1) of section 128A, the time limit for filing the said application shall be six months from the date of communication of the order of the proper officer redetermining such tax under section 73.

- (7) The application under sub-rule (1) or sub-rule (2) shall be accompanied by documents evidencing withdrawal of appeal or writ petition, if any, filed before any Appellate Authority, or Tribunal or Court, as the case may be, to establish that the applicant is eligible for the waiver of interest or penalty or both, in terms of section 128A:

Provided that where the applicant has filed an application for withdrawal of an appeal or writ petition filed before the Appellate Authority or Appellate Tribunal or a court, as the case may be, but the order for withdrawal has not been issued by the concerned authority till the date of filing of the application under sub-rule (1) or sub-rule (2), the applicant shall upload the copy of such application or document filed for withdrawal of the said appeal or writ petition along with the application under sub-rule (1) or sub-rule (2), and shall upload the copy of the order for withdrawal of the said appeal or writ petition on the common portal, within one month of the issuance of the said order for withdrawal by the concerned authority.

³ Explanation inserted by Noti. No. 11/2025-Central Tax, dt. 27-03-2025 w.e.f. 27-03-2025.

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⁴[**Provided further** that where the notice or statement or order mentioned in sub-section(1) of section 128A of the Act includes demand of tax, partially for the period mentioned in the said subsection and partially for the period other than that mentioned in the said sub-section, the applicant instead of withdrawing the appeal, shall intimate the appellate authority or Appellate Tribunal that he does not wish to pursue the appeal for the period mentioned in the said sub-section and the relevant authority shall, after taking note of the said request, pass such order for the period other than that mentioned in the said sub-section, as he thinks just and proper.

Explanation- For the removal of doubt, it is clarified that the appeal application shall be deemed to have been withdrawn to the extent of the said intimation for the period from the 1st July, 2017 to the 31st March, 2020 or part thereof, for the purpose of sub-clause (3) of section 128A.]

- (8) Where the proper officer is of the view that the application made in **FORM GST SPL-01** or **FORM GST SPL-02** is liable to be rejected as not being eligible for waiver of interest, or penalty, or both, as per section 128A, he shall issue a notice on the common portal to the applicant in **FORM GST SPL-03** within three months from the date of receipt of the said application and shall also give the applicant an opportunity of being heard.
- (9) On receiving the notice under sub-rule (8), the applicant may file a reply to the said notice on the common portal in **FORM GST SPL-04**, within a period of one month from the date of receipt of the said notice.
- (10) If the proper officer is satisfied that the applicant is eligible for waiver of interest and penalty as per section 128A, he shall issue an order in **FORM GST SPL-05** on the common portal accepting the said application and concluding the proceedings under section 128A.
- (11) In cases where the order in **FORM GST SPL-05** is issued by the proper officer under sub-rule (10).-
- (a) in respect of an application filed in **FORM GST SPL-01** pertaining to a notice or statement referred to in clause (a) of sub-section (1) of section 128A, the summary of order in **FORM GST DRC-07** as per sub-rule (5) of rule 142 shall not be required to be issued by the proper officer, in respect of the said notice or statement;
 - (b) in respect of an application filed in **FORM GST SPL-02** pertaining to an order referred to in clause (b) or clause (c) of sub-section (1) of

⁴ Proviso and Explanation inserted by Noti. No. 11/2025-Central Tax, dt. 27-03-2025 w.e.f. 27-03-2025.

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section 128A, the liability created in the part II of Electronic Liability Register, shall be modified accordingly.

- (12) If the proper officer is not satisfied with the reply of the applicant, the proper officer shall issue an order in **FORM GST SPL-07** rejecting the said application.
- (13) (a) In cases where notice in **FORM GST SPL-03** has not been issued, the proper officer shall issue the order under sub-rule (10) within a period of three months from the date of receipt of the application in **FORM GST SPL-01** or **FORM GST SPL-02**, as the case may be.
- (b) In cases where notice in **FORM GST SPL-03** has been issued, the proper officer shall issue the order in sub-rule (10) or sub-rule (12) within a period of three months from the date of receipt of reply of the applicant in **FORM GST SPL-04**, or within a period of four months from the date of issuance of notice in **FORM GST SPL-03** where no reply is received from the applicant.

Explanation- For the purposes of this sub-rule, in cases referred to in the proviso to sub-rule (7), the time period from the date of filing of the application under sub-rule (1) or sub-rule (2) till the date of submission of the order for withdrawal of the appeal or the writ, as the case may be, shall not be included while calculating the time period under clause (a) or clause (b) of this sub-rule.

- (14) If no order is issued by the proper officer within the time limit specified in sub-rule (13), then the application in **FORM GST SPL-01** or **FORM GST SPL-02**, as the case may be, shall be deemed to be approved and the proceedings shall be deemed to be concluded.
- (15) (a) In cases where no appeal is filed against the order in **FORM GST SPL-07** within the time period specified in sub-section (1) of section 107, the original appeal, if any, filed by the applicant against the order mentioned in clause (b) or clause (c) of sub-section (1) of section 128A, and withdrawn for filing the application in **FORM GST SPL-02** in accordance with sub-section (3) of section 128A, shall be restored.
- (b) In cases where an appeal is filed against the order in **FORM GST SPL-07** for rejection of application for waiver of interest, or penalty, or both, if –
- (i) the appellate authority has held that the proper officer has wrongly rejected the application for waiver of interest, or penalty, or both, in **FORM GST SPL-07**, the said appellate authority shall pass an order in **FORM GST SPL-06** on the

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common portal accepting the said application and concluding the proceedings under section 128A; or

- (ii) the appellate authority has held that the proper officer has rightly rejected the application for waiver of interest, or penalty, or both, in **FORM GST SPL-07**, the original appeal, if any, filed by the applicant against the order mentioned in clause (b) or clause (c) of subsection (1) of section 128A, and withdrawn for filing the application in **FORM GST SPL-02** in accordance with sub-section (3) of section 128A, shall be restored, subject to condition that the applicant files an undertaking electronically on the portal in **FORM GST SPL-08**, within a period of three months from the date of issuance of the order by the appellate authority in **FORM GST APL-04**, that he has neither filed nor intends to file any appeal against the said order of the Appellate Authority.

- (16) In cases where the taxpayer is required to pay an additional amount of tax liability as per the second proviso to sub-section (1) of section 128A, and such additional payment is not made within the time limit specified in the said proviso, the waiver of interest, or penalty, or both, under the said section as per the order issued in **FORM GST SPL-05** or **FORM GST SPL-06**, if any, shall become void.
- (17) In cases where the taxpayer is required to pay any amount of interest, or penalty, or both, in respect of any demand pertaining to erroneous refund or on account of demand pertaining to the period other than the period mentioned in sub-section (1) of section 128A, and the details of such amount have been mentioned in **FORM GST SPL-05** or **FORM GST SPL-06**, the applicant shall pay the said amount of interest, or penalty, or both, within a period of three months from the date of issuance of the order in **FORM GST SPL-05** or **FORM GST SPL-06**, as the case may be, and where the said amount is not paid within the said time period, the waiver of interest, or penalty, or both, under section 128A as per the order issued in **FORM GST SPL-05** or **FORM GST SPL-06**, shall become void.

Explanation- For the purposes of this rule, the proper officer for issuance of order under this rule,-

- (a) in cases where the application for waiver of interest, or penalty, or both is made with respect to a notice or statement mentioned in clause (a) of sub-section (1) of section 128A, shall be the proper officer for issuance of order as per section 73; and

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- (b) in cases where the application for waiver of interest, or penalty, or both, is made with respect to an order mentioned in clause (b) or clause (c) of sub-section (1) of section 128A, shall be the proper officer referred to in section 79 of the Act.]
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