

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA  
(Set up by an Act of Parliament)

CHENGALPATTU DISTRICT BRANCH (SIRC)  
(Formerly Known as Kanchipuram District Branch)



E- Newsletter  
December 2024



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## **ARTICLES INVITED FROM MEMBERS**

Note: Articles are invited from members for publishing in newsletter. The articles shall be either on the specific subject or a general article. Members can send their articles with Name, Membership Number, Mobile Number, Residential Address, Office Address & Photo to our E-mail id mentioned below:

E-mail id: [chengalpattu@icai.org](mailto:chengalpattu@icai.org)

*Note: The views expressed in the articles published, are their own views and Chengalpattu District Branch does not endorse or take responsibility.*





***From the Chairman's Desk***



Dear Esteemed Members,

Greetings from Chengalpattu District Branch (SIRC).

As we enter the most important month of this calendar year, we now have the opportunity to relax and look back this year for our achievements and celebrations. The December month will always have its festival spirit, a sense of satisfaction achieved during the year and the new goals to be focussed in the next year. We will also need to analyse the new challenges and opportunities that may be passing us next year.

**"A pessimist sees the difficulty in every opportunity; an optimist sees the opportunity in every difficulty." — Winston S. Churchill**

**Creativity thrives on a consistent challenges and opportunities, which are often one and the same. Life is in between, and it will offer challenges and opportunities beyond measure.**

**This year, our profession has faced with lots of challenges and opportunities. We had proven its resilience and adaptability. Our members had once again proven their quest for development by adapting in a swift manner to changes in regulatory frameworks, financial reporting standards and also to technological advancements in audit and advisory services. This proves that we are not only professionals but also leaders in driving change.**

**As Chartered Accountants, we are entrusted with the responsibility of maintaining the integrity of financial systems and upholding the highest standards of transparency and accountability. This December, let us renew our commitment to these core principles, as they will continue to guide us in the coming year.**

**As a member of this prestigious institution, we have to perform one major duty towards our profession. The elections for the Regional Council and Central Council is scheduled to be held on 6th and 7th of this month. I request all our branch members to vote in this election without fail.**

**Let us look forward to the new year with optimism, ready to tackle new challenges and seize the opportunities that lie ahead. Together, we will continue to raise the bar and make a positive impact on the global business landscape.**



## *E-Newsletter - Chengalpattu District Branch (SIRC)*

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I want to express my deepest gratitude to each and every member of our branch, who had been extending their unwavering support and extending their contribution to our branch and also to our profession. I am sure that with your support and commitment our branch will reach greater heights in the years to come.

Wishing you and your loved ones a joyful holiday season and a prosperous new year.

**JAI HIND. JAI ICAI.**

**CA Narasimma Raghavan R**  
**Chairman**  
**Chengalpattu District Branch (SIRC)**



**CPE MEETING**

**Topic :** Vivad Se Vishwas Scheme 2024 And GST Insights & Judgement Analysis: Comprehensive Updates, Deep Dives, And Open Discussions

**Speaker :** CA. Suraj Nahar A & CA. Ashwin Kumaar P

**Date :** 9th November 2024, Saturday

**Time :** 4.30 PM to 7.30 PM

**Venue :** Our Branch Premises







**CPE MEETING**

**Topic :** WORKSHOP ON GST

**Speaker :** CA. Saradha Hariharan, CA. Shankara Narayanan V, CA. Vasudev Joshi K And CA. Vishal V

**Date :** 23rd November 2024, Saturday

**Time :** 9.30 AM to 5.00 PM

**Venue :** Our Branch Premises









**CA. P ASHWIN KUMAAR**

**GST Insights & Judgement Analysis, Comprehensive Updates, Deep Dives and Open Discussions**



### **Arguments for the petitioner**

- Renting/leasing/letting of immovable property vs selling the immovable property –Treating unequal as equal  
Intelligible differentia
- 1. Creation of Immovable Property and Break in the credit chain is also not a differentia
- The Rule Rational Nexus basis
- Cascading Effect contrary to the very object of the CGST Act
- “Plant and machinery” and “plant or machinery” law is vague Shreya Singhal v. Union of India
- 300A a statutory right in terms of Section 16 of the GST Act
- Wide latitude does not wild latitude
- Rule of reading down





1. Articles 246A and 279A were introduced to simplify the indirect tax cascading effect of multiplicity
2. The primary condition for availing of ITC is the nexus between the assessee's input and output business activities, which exists in the assessee case. Direct correlation with input services or output services is not necessary to avail of the benefit of itc
3. GST is a destination-based tax on consumption, and accordingly, the final burden of the tax must be borne by the customers and not the businesses. b2b

•“on its own account”

### **Para 9 Shri Arvind P Datar's Arguments**

·“plant and machinery” has been used **at least ten times** and the expression “plant or machinery” occurs only **once** in Section 17(5)(d).

·**November 2016** for inviting suggestions and comments, the expression “plant and machinery” was used both in clauses (c) and (d) of Section 17(5). However, while enacting the law, the legislature has advisedly used the expression “plant and machinery” in clause (c) and “plant or machinery” in clause (d) of Section 17(5). Therefore, the intention of the legislature cannot be brushed aside by contending that the use of the word “or” in Section 17(5)(d) is a mistake of the legislature.

·Clauses (c) and (d) of Section 17(5) give unequal treatment to unequals. **both clause different from each other**

·The word “**plant**” is not defined under the CGST Act or the General Clauses Act, 1897. It is also not defined in any of the State GST enactments. Reliance was placed on a decision of this Court in the case of Indcon Structural (P) Ltd. v. Commissioner of Central Excise, Chennai.

**Functionality Test.**

·The explanation to sub-section (6) of Section 17, which defines “plant and machinery” is **not applicable to the Clause (d)**

·Since buildings have been specifically excluded from the definition of “plant and machinery” in the explanation to sub-section (5) of Section 17, the word '**plant**' in the expression '**plant or machinery**' must be taken in its natural sense, which **will include buildings**.



### Questions before the bench

- (i) Whether the definition of “**plant and machinery**” in the explanation appended to Section 17 of the CGST Act applies to the expression “**plant or machinery**” used in clause (d) of sub-section (5) of Section 17?
- If it is held that the explanation does not apply to “plant or machinery”, what is the meaning of the word “**plant**”? and
- Whether clauses (c) and (d) of Section 17(5) and Section 16(4) of the CGST Act are **unconstitutional**?

### For the Revenue

- Drafting Error** as to “Plant and machinery “ and “Plant or Machinery”
- Taxing statute is not open to challenge on the ground that the tax is harsh or excessive
- Denial of ITC was justified on the ground that it is **not a fundamental or constitutional right**. He submitted that ITC is a statutory right, and in the absence of the right under the statute, the Court cannot issue a mandamus to grant ITC
- Identifying what would constitute plant and machinery/plant or machinery, it is not necessary to refer to decisions under the **Income Tax Act as the same have no relevance**. There is no concept of ITC in the Income Tax Act.
- If a shopping mall is sold as an immovable property immediately after the completion certificate is issued, no GST is payable at the time of sale of the immovable property. Therefore, ITC credit cannot be used. If the mall is used to render renting service for five years and then is sold after five years, no GST will be payable on the sale. However, if ITC is allowed as contended during these five years, ITC will be exhausted against GST payable on rental income
- Other arguments were also made

### Para 25 Hon’ble SC on Interpretation of Statutes

No additions and subtractions to the taxing statute on the ground of intendment

- On interpreting the provisions, absurd results is not a factor; legislature to remove absurdity
- Principle of Strict Interpretation to be applied
- Two Interpretations possible, courts will follow interpretation in favour of taxpayer





- While Interpreting taxing statutes, rule of equitable consideration out of place
- Taxing Statues to be interpreted in the light of what is clearly expressed. Deficiencies cannot be supplied by importing any provisions
- Literal Interpretations manifestly unjust, courts can modify language
- Equity and taxation are strangers
- Words not defined in statute should be understood in commercial and technical sense.

### **Para 32 On his Own Account – Apex Court Views**

- Construction made for personal use
- Construction used as setting in which business is carried out
- Construction that intended to be sold or letting out is not on own account.

### **FAQ AND WAY FORWARD**

1. Whether input tax credit can be availed on goods and services procured for construction of a mall which is intended to be given on rent/lease?
2. Whether input tax credit can be availed on the works contract services received for construction of a mall which is intended to be given on lease/license?
3. Whether input tax credit can be availed on specialized civil structures which form an integral part of the manufacturing process or which are a part and parcel of the flow of the manufacturing process? These buildings cannot be separated from the machinery and the machinery cannot be worked without such special construction.
4. Whether input tax credit can be availed on buildings used for administrative purposes like corporate office, staff quarters, security rooms, etc.?
5. Whether input tax credit can be availed on goods and services procured for construction of a hotel or a cinema theatre?
6. Whether the input tax credit is eligible on goods and services used for construction of warehouses, cold storages, co-working spaces, dry docks, ponds, multi-level car parking systems, etc.?
7. Whether the ITC is eligible on lifts, DG Sets, Escalators Central Air-conditioning, electrical appliances Sewage and Water Treatment Plants



## Amnesty Scheme Section 128A

### OVERVIEW

- Ministry of Finance introduced a new Section 128A in the GST Act vide Section 146 of Finance (No. 2) Act, 2024 which introduces an amnesty scheme
- Aiming to the reduction of the litigation cases pending for the initial years (FY 2017-18 to FY 2019-20) of GST
- waiver of interest or penalty or both relating to proceedings initiated under Section 73 ,122 and 125 of the GST Act except late fee and redemption fine(Does not include sec 129 and 130)
- can be availed before or after issuance of Notice
- Not available in case of erroneous refund be it 73 or 74
- Time limit
- payment of tax on or before 31st march 2025 and application within 3 months from 31st march 2025
- in cases where notice was issued u/s 74 later adjudicated to proceed u/s 73 - 6 months from the date of order u/s 73

#### 1. What is the rationale of the Amnesty Scheme?

The scheme provides for the waiver of the liability of interest & penalty for the cases issued by the department under Section 73



The scheme excludes any benefit for the cases of refund, even if the same has been dealt with in Section 73.

#### 2. What are the benefits available under the Scheme?

Amnesty Scheme provides for waiver of interest or penalty or both relating to proceedings initiated under Section 73 pertaining to FY 2017-18, 2018-19, and 2019-20.



However, the amount of late fee and redemption fine, etc. are not covered under the waiver provided under Section 128A.







### 3. Who would be entitled to avail of the benefit under the Scheme?

Show Cause Notice (Section 73): The taxpayer is entitled to benefits after a show cause notice is issued.

Order by Adjudicating Authority, No Appeal Yet: If an order is passed but no appeal has been filed, the taxpayer is still entitled to benefits.

Appeal or Writ Filed:

- If an appeal is filed before the appellate authority or a writ is pending in the High Court, the taxpayer must resolve the case (either through appeal or writ) within the scheme period, or withdraw the appeal/writ to avail the benefits.

Order by Revisioning Authority: If an order is passed by the Revisionary Authority, the taxpayer can avail benefits by paying any additional tax confirmed within three months of the order.

Order by Appellate Authority (No Appeal): If the Appellate Authority issues an order and no further appeal is filed, the taxpayer can still avail benefits by paying any additional tax determined.

### 4. What is the time limit to claim benefits for the Scheme?

The full payment of tax demanded in the notice/order/statement is required to be made on or before 31 March 2025

Scheme is required to be filed within three months from 31 March 2025.

Where a notice was originally issued under Section 74 and as per the direction of the Appellate Authority/Tribunal/Court, final adjudication takes place under Section 73

Scheme is required to be filed within six months from the date of communication of order under Section 73.



**5. The department had issued notice under Section 74. How should I proceed to get the benefit under the Scheme?**

The taxpayer, at the first instance, is required to prove before the adjudicating and appellate authority that Section 74 is not invocable considering the non-existence of elements of fraud, suppression

If the contention of the taxpayer is accepted at any stage of proceedings for non invocation of section 74, the taxpayer may avail benefit under the Scheme.

**6. Do I have the option to pay tax amount for some of the observations to take benefit of the Scheme while contesting other observations on merit?**

No. The benefit of the Amnesty Scheme is available to the taxpayers who have paid the tax demand computed in notice/order in full.

**Tax component is required to be paid irrespective of the legality and the factual aspect of the demand.**

**7. I got a refund for FY 2019-20 on export of services. Subsequently, the department has issued SCN challenging eligibility of benefit of refund. Can I surrender the refund and avail benefit of the Scheme? Would it make any difference if the notice for rejection of refund is raised under section 73 or 74?**

No, the benefit provided under the Amnesty Scheme is not available for the cases of erroneous refund.

The waiver of interest or penalty or both shall not be applicable toward the erroneous refund amount.





**8. One of the issues raised in the SCN is claiming of erroneous refund. How should I proceed to avail the benefit of the Scheme?**

The taxpayer shall be required to pay the full amount of tax demanded in the SCN including on account of demand of erroneous refund, to avail the benefit under the Scheme

The waiver of interest or penalty or both shall not be applicable toward the erroneous refund amount.

**9. Department had conducted audit for 2017-18 wherein 8 audit paras were raised. Subsequently, department has raised separate SCN for each of the audit para. How should I proceed to claim the benefit in such cases?**

The benefit under this scheme is available qua-notice/order and correspondingly, the taxpayers are free to opt the notices/orders for which benefit of the scheme is to be availed or for which the normal proceedings to carry on

The taxpayer may choose to claim benefit of scheme for some of the SCNs/orders while continue litigation proceedings for other SCNs/orders

**10. Vehicle was detained by the department due to error in e-way bill and penalty was deposited by me. Can I get benefit of the scheme in respect of such penalty?**

The circular no. 238/32/2024 clarifies that the penalty imposed under Section 73, 122 and 125 of the GST Act is waived.

The penalty paid on e way bill cases is under section 129 which is not covered in the scheme



**11. Certain amount of tax along with interest and penalty was deposited during department proceedings. Can I get refund of interest and penalty already paid by me?**

In terms of the third proviso to Section 128A (1), the refund of any interest and penalty paid during any proceeding is strictly restricted

It is not entitled to claim refund of such interest/penalty already paid.

**12. Can I pay the tax liability under the Scheme through electronic credit ledger or it has to be compulsorily be paid through cash ledger?**

The tax liability can be paid debiting from the electronic cash ledger or by utilising the ITC by debiting the electronic credit ledger.

**However, the tax liability cannot be discharged through ITC in the following**

**cases;**

- Where the tax demand is payable under RCM;
- Where the demand is payable by Electronic Commerce Operator u/s 9

**(5) (there is no such restriction under the law but only provided in the circular)**

- Payment of erroneous refund

**Payment of interest and penalty of any nature**

**One of the issues raised in SCN has been the delayed filing of GSTR-3B resulting in the denial of ITC u/s 16 (4). Do I need to pay this liability also while availing the benefit of interest and penalty?**

Section 16 (5) has been inserted in the CGST Act to provide that the ITC shall be eligible to the taxpayers who had delayed in filing GSTR-3B provided such GSTR-3B was filed till November 2021.

Hence, in case one of the issues covered in the Notice is denial of such credit which has now been enabled through this section, there shall not be any need to reverse such credit.





**14. Tax liability was discharged by me voluntarily while filing GSTR-9 and 9C without interest and penalty. The department subsequently issued a notice for interest and penalty. How do I get the benefit of the Scheme?**

The benefit under the scheme would be available in such cases also as the tax amount has already been paid fully and the demand of interest and penalty is raised under section 73

**15. What if the tax liability was paid by me but no notice has been issued by the department in the above case?**

It is pertinent to note that the time limit for issuing notice under Section 73 for FY 2017-18 to FY 2019-20 has already lapsed, hence, the Department cannot initiate proceedings now for interest and penalty.

The demand can only be raised under Section 74 for FY 2019-20. In such a case, the taxpayer needs to follow the procedure provided in FAQ 5.

**16. Transition credits have been denied by the department. Can we get the benefit of the scheme in respect of such credit?**

The demand for transition credit can be raised under Section 73 or Section 74 of the GST Act. Thus, the benefit of the scheme can be availed if;

- The transitional credit is availed from FY 2017-18 to FY 2019-20 and;
- The demand has been issued under Section 73 of the GST Act or subsequent re-adjudication takes place u/s 73.



**17. Whether the amount recovered by the tax officers as tax due from any other person on behalf of the taxpayer, against a particular demand can be considered as tax paid towards the same for the purpose of Section 128A?**

Since the recovery from the other persons is made on behalf of the taxpayers and such amount is appropriated towards the said demand only, the amount recovered is also considered as tax paid towards the said demand and eligible for the benefit.

**18. Whether the benefit of the scheme is available where the notice is issued demanding interest for delayed return filing or delayed reporting of any supply in the return?**

Section 75 (12) covers instances where any amount of self-assessed tax in accordance with GSTR-1 or GSTR-3B remains unpaid (whether with or without interest), then there is no need for issuance of notice under section 73 but it can be directly recovered under section 79.

However, in case such demands have been raised by the department by issuing notice under section 73, in view of the authors, the benefit of the scheme should be admissible as the department has not invoked section 75 (12) read with section 79

**19. Whether the benefit of the waiver of interest or penalty is available where the demand is issued for multiple tax periods involving the periods for which benefit under the scheme is not available.**

To avail the benefit of the scheme, the entire tax amount demanded is required to be paid, irrespective of the period to which the demand pertains.



**20. Whether the benefit provided under Section 128A will be available for matters involving IGST and Compensation Cess?**

As per Section 20 of the IGST Act and Section 11 of the GST (Compensation to States) Act, 2017, the benefit of the scheme will be available for matters involving IGST and compensation cess demand as well.

Thus, the taxpayer may avail the benefit of waiver of interest and penalty after making the payment of CGST, SGST, IGST, and compensation cess demand in the notice/order.

**21. Whether the benefit of waiver under Section 128A be availed qua import IGST payable under the Customs Act, 1962?**

Circular No 238/32/2024 has clarified that the demand for payment of IGST in case of import is not issued under Section 73 of the GST Act, hence, the benefit of waiver of interest and penalty is not available. However, honorable CESTAT in the case of M/s Mayur Uniquoters Ltd has held that IGST is part of the GST Act, not the Customs Act.

Considering this, the benefit of the Scheme should be admissible in such cases also. There may be a need to make appropriate representation before the Council and pursue writ proceedings to claim the benefit of the same.

**22. Describe the various forms in brief in which applications needed to be filed during various stages of the Amnesty Scheme.**

**Stage SPL-01:**

Application Requirements: The application should detail the notice/statement and include proof of payment made via DRC-03.

**Stage SPL-02:**

Application Requirements: The application must provide details of the order and payment made by crediting the amount to the Electronic Liability Ledger. If the payment is made through DRC-03, DRC-03A must be filed before SPL-02.





**23. How can a taxpayer opt for the amnesty scheme for waiver of interest and penalty under Section 128A of CGST Act, 2017?**

a. Form GST SPL-01 in respect of notice/statement issued under sub-section (1) or sub-section (3) of Section 73 but no order has been issued under sub-section (9) of Section 73

b. Form GST SPL-02 in respect of  
i. Order issued under sub-section (9) of Section 73 but where no order has been issued by Appellate Authority/Revisional Authority under Section 107(11) or 108(1) of CGST Act, 2017.

**24. What are the details to be provided along with the application in Form GST SPL-01?**

In the case of Form SPL-01, the following documents need to be submitted

- a. The details of the notice or the statement under Section 73(1)/(3)
- b. The details of the payments made in Form GST DRC-03 towards the tax demanded.
- c. Documents evidencing the withdrawal of Writ Petition if any filed before court.

**25. What are the details to be provided along with the application in Form GST SPL-02?**

In the case of Form SPL-02, the following documents need to be submitted

- a. The details of the order i.e., orders mentioned in clauses (b) and (c) of 128A (DRC-07/APL-04)
- b. The details of the payments made towards the tax demanded (crediting the amount in the electronic liability ledger or paid through DRC-03 and filed the application in Form DRC-3A)
- c. Documents evidencing the withdrawal of appeal or Writ Petition if any filed before appellate authority or tribunal or court



**26. How payment of tax demanded need to be made while filing an application in Form GST SPL-01 and SPL-02?**

a.For application in Form SPL-01: - The tax demand shall be paid using DRC-03 and shall be submitted along with the application filed for waiver of interest and penalties.

b.For application in Form SPL-02: - The tax demanded shall be made only by crediting the amount in the Electronic Liability Register against the debit entry created by the orders in Form DRC-07/APL-04.

**27. What if the tax demanded with respect to the orders mentioned in Section 128A (1) (b) & (c) of the CGST Act, 2017 (DRC-07/APL-04) has been discharged through Form GST DRC-03 before filing the application in Form GST SPL-02?**

In such cases, an application in Form GST DRC-03A, as prescribed in Rule 1442(2B) of the CGST Rules, 2017, shall be filed for credit of the said amount in the Electronic Liability Register against the debit entry created for the said demand in Form DRC-07/APL-04 before filing the application.

**28. Whether application in Form GST DRC-03A can be filed after filing the application in Form GST SPL-02?**

**No, the application in Form GST DRC-03A is required to be filed before filing the application in Form GST SPL-02.**



**29. Which date is considered as the date of payment when payment is discharged through Form GST DRC-03 and filed Form GST DRC-03A with respect to applications to be filed in Form GST SPL-02?**

**The date on which the amount has been paid through Form GST DRC-03 may be considered and not the date on which the said amount has been adjusted using Form GST DRC-03A.**

**30. Where the notice or statement or order mentioned in Section 128A of the CGST Act, 2017 includes demand partially for the periods covered under Section 128A(1) i.e., for FY 2017-18, 2018-19 and 2019-20 and partially for another period i.e., 2020-21/2021-22, etc, whether the taxpayer can file an application in Form GST SPL-01 or Form GST SPL- 02 for the period covered under the scheme? If yes, what are the conditions to be fulfilled?**

**The taxpayer is allowed to file an application in Form GST SPL-01 or Form GST SPL-02 only after making payment of the full amount of tax demanded**  
 **in the said notice or statement or order, on or before 31-03-2025 (i.e., the date notified under Section 128A) including the amount demanded for other periods.**

**31. Whether taxpayer is also required to file an application for rectification of order with respect to Section 16(4) demands now eligible due to retrospective insertion of Section 16(5) or (6)?**

**Not required to file an application for rectification for the same in terms of the special procedure notified in Section 148 vide Notification No. 22/2024- Central Tax dated 08-10-2024.**





**32. Who would be the proper officer for processing the application of waiver of interest or penalty or both under Section 128A?**

The proper officer for processing the application filed in  
a. Form GST SPL-01 would be the proper officer to issue order under Section 73 and  
b. Form GST SPL-02 would be the proper officer for recovery under Section 79.

**33. What is the procedure to be followed by the proper officer after receiving the application in Form SPL-01 or SPL-02?**

If the proper officer is satisfied with the application filed in Form SPL-01/SPL-02, he shall issue an order in Form GST SPL-05 within 3 months from the date of receipt of application by accepting the application and concluding the proceedings under Section 128A

If the proper officer is not satisfied, he shall issue a notice in Form GST SPL-03 within 3 months from the date of receipt of the application and shall also give an opportunity of being heard.

**34. What is the time limit for issuing an order in Form GST SPL-05 when SPL-03 is issued?**

The order in Form GST SPL-05 shall be issued within 3 months from the date of receipt of reply in Form GST SPL-04 or within 4 months from the date of issuance if notice in Form GST SPL-03 where no reply is received from the applicant.

**35. Whether the time limit specified in the previous question excludes any time period?**

In case of applications where the applications for withdrawal of appeal/Writ petition are involved, the time limit from the date of filing an application under this scheme till the date of submission of order for withdrawal shall be excluded.



**36. What happens when the order in Form GST SPL-05 is issued by the proper officer?**

In respect to an application in Form GST SPL-01, the summary of the order in Form GST DRC-07 as per Rule 142(5) shall not be required to be issued by the proper officer in respect to said notice or statement.

In respect to an application in Form GST SPL-02, the liability created in Part II of the Electronic Liability Register shall be modified accordingly

**37. What happens when no order is issued by the proper officer in Form GST SPL-05 or Form GST SPL-07 within the time period prescribed under Rule 164(13)?**

If no order is issued within the time limits prescribed, the applications filed in Form GST SPL-01 or SPL-02 shall be deemed to be approved and the proceedings shall be deemed to be concluded.

**38. Whether an appeal under Section 107 can be filed against the order issued in Form GST SPL-05?**

No appeal shall lie under Section 107 against the order issued in Form GST SPL-05 concluding the proceedings under Section 128A.

**39. Whether an appeal under Section 107 can be filed against the order issued in Form GST SPL-07?**

Yes, an appeal can be filed in accordance with Section 107(1) against the order issued in Form GST SPL-07 within the time limit specified therein, by filing an application in Form GST APL-01.



**40. What could be grounds for filing the appeal under Section 107(1) against the order issued in Form GST SPL-07?**

The 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.

**41. Whether pre-deposit is required to be paid while filing Form GST APL-01 against the order issued in Form GST SPL-07?**

Normally, no pre-deposit may be required to be paid for filing the said appeal, as the said amount may already have been paid as a part of the payment of tax dues

However, in cases where no amount of tax dues have been paid or the amount of tax dues paid is less than the requisite amount of pre-deposit for filing an appeal as per Section 107(6), the remaining amount of pre deposit will be required to be paid for filing the said appeal.

**42. What happens when the appellate authority either rejects or accepts the appeal filed against the rejection order passed in From GST SPL- 07?**

If the appellate authority held that the application filed in SPL-01/02 was wrongly rejected, an order in Form GST SPL-06 shall be passed on the common portal accepting the said application and concluding the proceedings under Section 128A

If the appellate authority held that the application filed in SPL-01/02 was rightly rejected, the original appeal filed by the applicant shall be restored





**43. What happens when the additional amount of tax liability as per the second proviso to Section 128A is not made within the time limit of 3 months?**

The waiver of interest or penalty or both as per GST SPL-05 or GST SPL-06 shall become void.

**44. What happens when the taxpayer is required to pay an amount of interest or penalty or both in respect of any demand pertaining to erroneous refund or on account of demand pertaining to period other than covered in Section 128A and the same has been mentioned in SPL- 05 or SPL-06?**

The applicant shall pay the said interest and penalty within 3 months from date of issuance of the order in SPL-05 or SPL-06. If such an amount is not paid, the waiver of interest or penalty under Section 128A as per order in SPL-05 or SPL-06 shall become void.

**45. Whether matters where a Special Leave Petition (SLP) filed by the applicant is pending before the Supreme Court, what is the procedure to be followed by the taxpayer to avail the waiver of interest or penalty or both?**

The applicant is required to withdraw SLP and file an application in Form GST SPL-01 or Form GST SPL-02, as the case may be, along with proof of withdrawal of SLP or the copy of the application

where the order for withdrawal of SLP has not been issued at the time of filing application in Form GST SPL-01 or Form GST SPL-02.



**46. What if the notice or statement or order issued under Section 73 pertaining to periods 2017-18 to 2019-20 was issued manually and not uploaded in the GST common portal?**

No specific clarification has been provided in this regard. Taxpayers may be required to request the proper officer to upload the said notice or statement or order in the GST common portal and accordingly can proceed to file an application in Form GST SPL-01 or Form GST SPL-02.

**47. How to proceed if the demand contained in the detailed order does not match with the summary order uploaded in the GST common portal?**

No specific clarification has been provided in this regard. The taxpayer may apply for rectification of the order and then proceed to file an application in Form GST SPL-01 or Form GST SPL-02 against the rectified order

However, taxpayers may face a problem when the time limit for filing the rectification of an order is expired.

**48. What would be the course of action where a detailed order contains various issues and the summary order issued contains the interchange of demands or in a case where the taxpayer has paid partial demand but the detailed order is appropriated with the wrong amount?**

No specific clarification has been provided in this regard. The taxpayer may apply for rectification of the order and then proceed to file an application in Form GST SPL-01 or Form GST SPL-02 against the rectified order.

However, taxpayers may face a problem when the time limit for filing the rectification of an order has expired.



**49. Whether a single application in Form GST SPL-01 or Form GST SPL-02 can be filed where the taxpayer has been issued multiple notices/statements/orders pertaining to demands under Section 73, for the period from July 2017 to March 2020?**

No, he is required to file a separate application in Form GST SPL-01 or For GST SPL-02, as the case may be, in respect of each of the concerned notices/statements/order.

**50. What happens when a single notice or statement or order has been issued for multiple tax periods involving tax period 2017-18 to 2019-20 and other tax periods also but the summary notice or statement or**

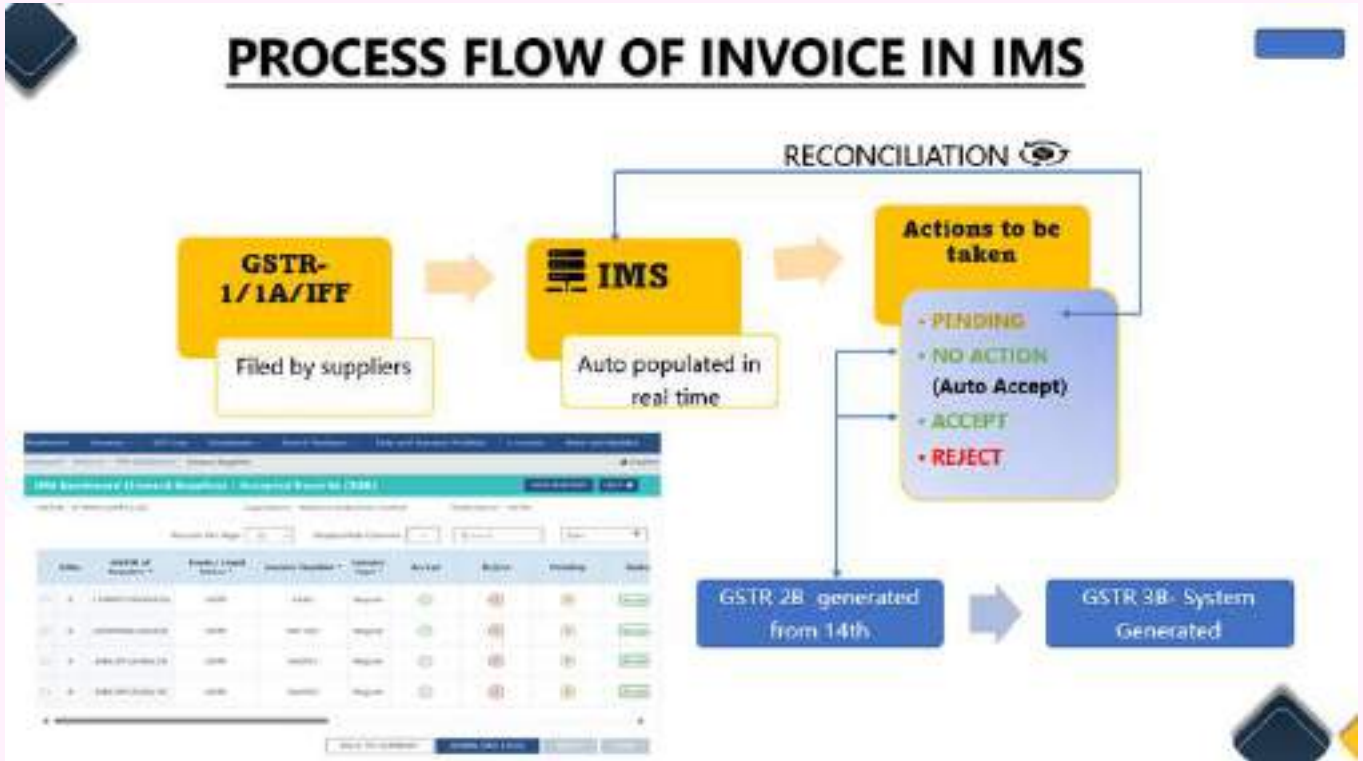
No specific clarification has been provided in this regard. However, taxpayers may be allowed to file an application in Form GSST SPL-01 or Form GST SPL-02

For all the periods in order to be eligible for waiver of interest or penalty or both for the periods 2017-18 to 2019-20.

### Invoice Management System



## PROCESS FLOW OF INVOICE IN IMS



## Supplies directly populated in GSTR 2B



1. B2B inward supplies under reverse charge

2. ITC time barred or not available due to different POS



### What can't be kept Pending



- Original credit Note or their Upward amendment
- Downward amendment of Credit note if the original credit note was rejected
- Downward amendment of invoice/ debit note where original document was accepted and GSTR 3B has been filed

# GSTR 2B

## Generation next GSTR 2B

- GSTR 2B will now be sequential
- GSTR 2B of a subsequent month shall not be generated unless GSTR 3B of previous month is filed

## Amendments through GSTR 1A

- Invoices amended through GSTR 1A will be reflected in IMS of current month , but ITC will appear in the next month.

## What is included in GSTR 2B?

- Only records filled by supplier by the due date of filling GSTR 1
- Line item data will not be available in GSTR 2B
- Only a summary of rejected invoices shall be available in GSTR 2B

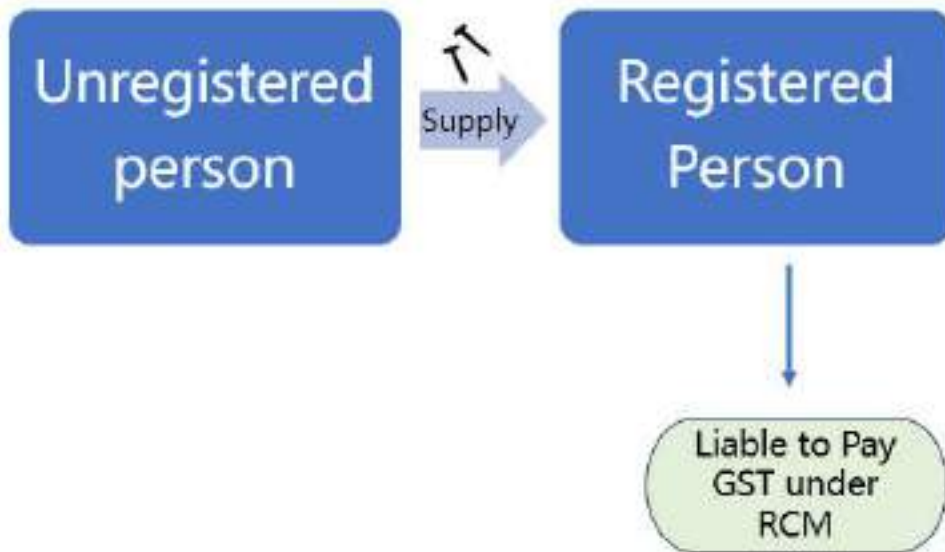
# Reverse Charge for Renting other than Residential Dwelling





## GST on METAL SCRAP

### Reverse Charge – N.No.6/24 CT (R) dt.8.10.24





**Registration – N.No.24/24 CT dt.9.10.24**

- Notification 5/2017 CT dt.19.6.17
- exempts from registration, the persons who are only engaged in making taxable supplies where the total tax on which is liable to be paid on reverse charge basis by the recipient u/s 9(3) of the Act
- 
- The said notification has now been amended by N.No.24/24 C dt.9.10.24 stating that the said notification will not apply to any person engaged in supply of metal scrap falling under chapter 72 to 81 in the first schedule to Customs Tariff Act 1975

**TDS – N.No.25/24 CT dt.9.10.24**

- Notification No.50/18 CT dt.13.9.18, specifies the persons who are liable to deduct TDS u/s 51(1) of GST Acts, 17.
- Clause (d) of S.51(1) of GST Acts, 17 allows the government to mandate such persons or category of persons as may be notified
- The CG through N.No.25/24 CT dt.9.10.24 has now notified ‘any registered person receiving supplies of metal scrap falling under Chapters 72 to 81 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), from other registered person
- N.No.25/24 CT dt.9.10.24 has ‘substituted’ the third proviso to N.No.50/18 CT, the effect of which is that if the persons specified u/s 51(1) of GST Acts, 17 (namely department or establishment of the CG or SG, local authority, government agencies or such persons as notified by CG/ SG), are the recipients of metal scrap, then still TDS would be liable to be deducted on the said transaction.}





## Invoice by Recipient under reverse charge

Rule 47A overrides Rule 47

Rule 47

1. Applies to a case where supplier is registered and tax is liable either on RCM or forward
2. States that invoice ought to be issued within 30 days from the date of supply of service.

1. Applies to a case where supplier is not a registered person and tax is liable on RCM
2. States that invoice has to be issued within 30 days from the date of receipt of said supply of goods or service

Rule 47A

## GSTR 7 related amendments

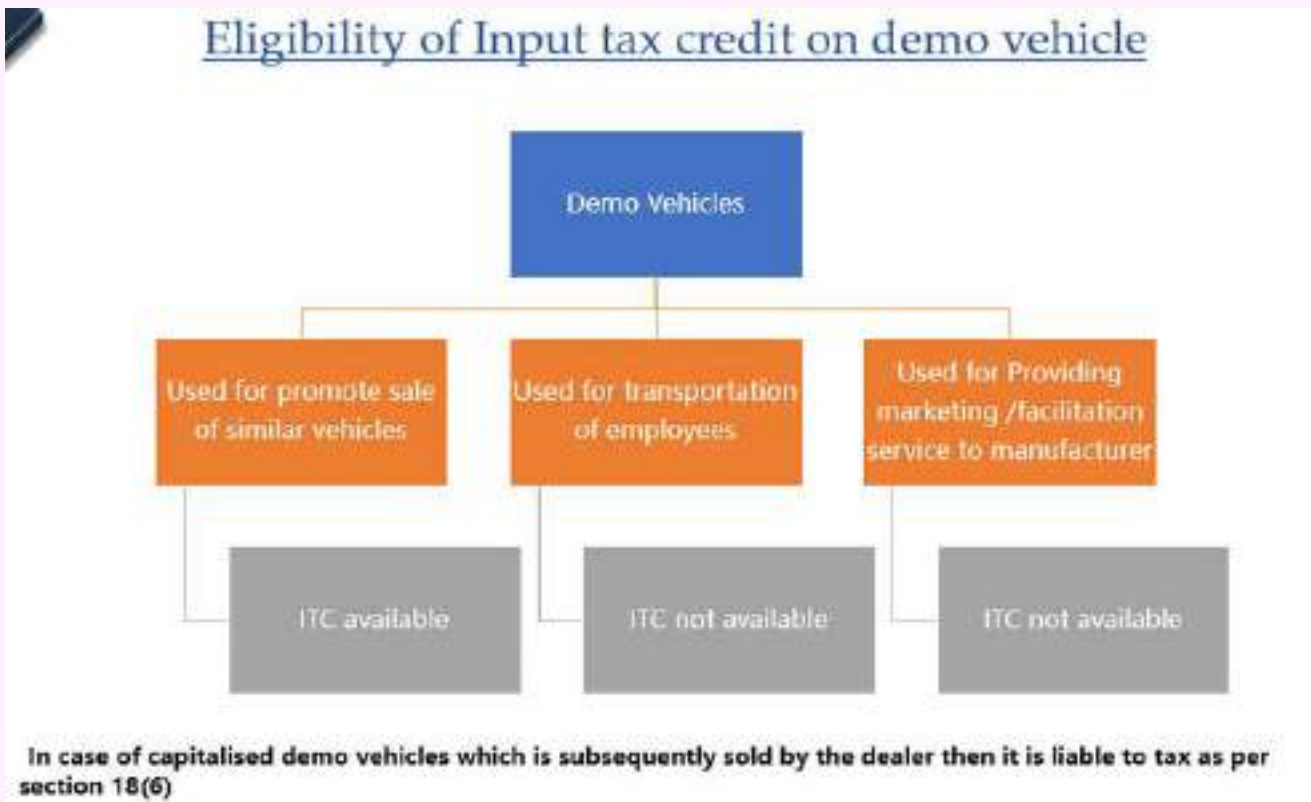
- 1 The total late fees payable under section 47 for failure to furnish the return in Form GSTR 7 shall be waived in excess of 1000/-.
- 2 If the TDS to be deducted is nil then late fee stand waived
- 3 GSTR 7 is to be filed on or before 10th day of succeeding calendar month
- 4 GSTR7 to be filed even if TDS is not deducted for the period

## Preferential location charges

Preferential location charges are liable to GST at the same rate as of construction services before issuance of completion certificate where such charges are collected along with consideration for sale/transfer of residential/commercial properties.

## Goods Transport Services

- The ancillary or incidental services provided by GTA in the course of transportation of goods by road such as unloading/loading, packing/unpacking, transshipment, temporary warehousing etc. will be treated as composite supply of transport of goods.
- If such services are not provided in the course of transportation of goods and are invoiced separately then these services will not be treated as composite supply of transport of goods





**Rule 89(4A) & (4B) and Rule 96(10) of CGST Rules omitted**

- Rule 96(10) was inserted so as to restrict the possibility of double benefit when exporter had availed certain schemes such as Advance Authorisation and EOU scheme.
- Rule 96(10) also sought to prevent utilisation of ITC of domestic supplies to be off set against IGST for exports.
- Rule 89(4A) and (4B) sought to prescribe a one-to-one correlation of inputs and input service in case of deemed exports and merchant exports respectively
- Since sub rules (4A) and (4B) of Rule 89 did not prescribe formula, the said refunds may also be granted using the formula prescribed in sub rule (4) of Rule 89
- Exporter who did not avail the benefit of schemes mentioned in the aforesaid provisions was allowed to utilise ITC and get refund of IGST paid on export without any restriction
- But exporter who claimed schemes mentioned in aforesaid provision would be subject to ITC restrictions.
- N.No.20/24 CT omits sub rules (4A) and (4B) of Rule 89 and para 10 omits sub rule 96(10) of CGST Rules, 17

**Rectification procedure-confirming demand (Section 73,74, 107 & 108) of wrong availment of ITC under section 16(4) of CGST Act 2017.**

- S.16(5) provides for availing credit-FY 17-18, 18-19, 19-20, 20-21, in a case where registered person has filed returns u/s 39 before 30.11.21
- S.16(6) provides for availing credit wrt to a cancelled registration, which has since been restored either pursuant to revocation of cancellation or appellate orders by First Appellate Authority or Courts.
- Section 16(5) and section 16(6) provides the benefits of availment of ITC retrospectively from 01.7.2017.
- The rectification procedure is applicable only in case where appeal is not filed against the order.
- The applicant has to file electronically on the GST portal, within 6 months from the date of issue of Notification

The proper officer will be officer who issued such orders

- Shall rectify within a period of three months from the date of the said application.
- The proper officer shall upload a summary of the rectified order electronically in:
  - a. FORMGSTDRC-08, in cases where rectification of an order issued under section 73 or section 74 of the said Act or
  - b. FORM GST APL-04, in cases where rectification of an order issued under section 107 (FAA) or section 108 (RA) of the said Act

The rectification should be made only for 16(4) demand and principles of natural justice to be followed



In case

- where investigation or audit proceedings are in process or
- demand notice is not issued or intimation is issued in DRC-01A. or
- where the notice is issued by adjudication officer or
- Appeal is filed before Appellate Authority or
- Proceedings are pending before Revisional Authority

They have to conclude the order based on section 16(5) and 16(6) of CGST Act 2017.

- The tax already paid or input tax credit reversed against 16(4) is not eligible for refund under GST law (Circular 237/31/2024 dated 15.10.2024)





## Upcoming Programs

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA  
(Set up by an Act of Parliament )  
CHENGALPATTU DISTRICT BRANCH (SIRC)

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**Topic** : Standards on auditing (SA 230) and How to prepare your firm for peer review  
**Speaker** : CA. Arumugaraj P and CA. Balaji R S  
**Date** : 3rd December 2024 (Tuesday)  
**Timings** : 3:00 PM to 7:00 PM  
**Place** : Branch Premises

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**Topic** : Certificate Course on AI for Chartered Accountants (AICA)  
**Speaker** : Eminent Speakers  
**Date** : 16th, 17th and 18th December 2024 (Monday, Tuesday and Wednesday)  
**Timings** : 10:00 AM to 6:00 PM  
**Place** : Branch Premises

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**Topic** : Certificate Course on Concurrent audit of banks  
**Speaker** : Eminent Speakers  
**Date** : December (20, 21, 23, 24, 26 & 27, 2024) (Friday, Saturday, Monday, Tuesday, Thursday & Friday)  
**Place** : Branch Premises

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## Upcoming Programs



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA  
(Set up by an Act of Parliament)  
CHENGALPATTU DISTRICT BRANCH (SIRC)  
&  
CHENGALPATTU DISTRICT BRANCH OF SICASA

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On 13<sup>th</sup> & 14<sup>th</sup> DEC. 2024  
Friday & Saturday

Venue:  
**GYAN BHAVAN, AUDITORIUM,  
AM JAIN COLLEGE  
Meenambakkam, Chennai**



Organised by: **Board of Studies, ICAI.** Hosted by: CHENGALPATTU DISTRICT BRANCH (SIRC) & CHENGALPATTU DISTRICT BRANCH OF SICASA



## PROGRAMME SCHEDULE

### DAY 1

08.30 am to 09.15 am	Registration
09.15 am to 10.15 am	Inaugural Session Chief Guest: CA. DEVARAJA REDDY .M Past President, ICAI
10.15 am to 11.00 am	"The Life's Bread Crumbs" CA. MAALAN BHARATHI .M
11.00 am to 11.15 am	Tea Break
11.15 am to 12.30 pm	Technical Session 1 - Direct Taxation  Session Chairman - CA. SURESH T.G.  <ul style="list-style-type: none"><li>• New Tax Regime Bane or Boom</li><li>• Changes in Capital Gain Taxation for Real Estate</li><li>• Faceless Assessment &amp; Appeals - Challenges &amp; Opportunities</li><li>• Tax Evasion &amp; Tax Avoidance Ethical &amp; Legal Perspective</li></ul>
12.30 pm to 01.30 pm	Lunch Break
01.30 pm to 02.15 pm	Interaction with Board of Studies, ICAI.
02.15 pm to 03.00 pm	"Fueling Resilience" CA. PARASURAMAN .R Finance Manager - Dr Kamakshi Memorial Hospital
03.00 pm to 03.15 pm	Tea Break
03.15 pm to 04.30 pm	Technical Session 2 - Indirect Taxation  Session Chairman - CA. VIRAL M KHANDHAR  <ul style="list-style-type: none"><li>• Distinguish between 12(6), 12(7) and 13(5) of IGST</li><li>• Distinguish between Refund and Rebate under GST</li><li>• Composite Supply &amp; Mixed Supply</li><li>• Revenue Neutrality under GST</li></ul>



## PROGRAMME SCHEDULE

### DAY 2

09.00 am to 09.30 am	Registration
09.30 am to 10.15 am	CA Course - An Achievable Dream CA. UMA KRISHNA
10.15 am to 10.30 am	Tea Break
10.30 am to 11.45 am	Technical Session 3 - Artificial Intelligence  Session Chairman - CA. VINODH KOTHARI .S  <ul style="list-style-type: none"><li>• AI in Financial Analysis</li><li>• AI and Taxation</li><li>• AI in Fraud Detection and Prevention</li><li>• Using AI for Risk Assessment in Auditing</li></ul>
11.45 am to 12.30 pm	Motivational Session CA. SATISH GUDULA CFO Mangal industries Limited An Amara Raja Group of company
12.30 pm to 01.30 pm	Lunch Break
01.30 pm to 02.15 pm	Dark Side Of My Life Illuminates You CA. DAMODARAN .P
02.15 pm to 03.30 pm	Technical Session 4 Strategic Management  Session Chairman - CA. HARIHARAN .K  <ul style="list-style-type: none"><li>• TQM that make Everything better</li><li>• "Pareto" Maximize result by Mastering the 20%</li><li>• Small Steps to big Efficiency in 5S</li><li>• 6 Sigma - The continuous Improvement way to Success</li></ul>
03.30 pm to 03.45 pm	Tea Break
03.45 pm to 05.00 pm	Valedictory Session Chief Guest: CA. VIJAYAKUMAR M.P. Director & Group CFO, SIFY
05.00 pm to 07.00 pm	Cultural Programme followed by Dinner





Conference Chairman & Chairman, Board Of Studies, ICAI	Conference Co-chairman & Vice-Chairman, Board Of Studies, ICAI	Conference Director & Central Council Member, ICAI
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<b>CA. NARASIMMA RAGHAVAN .R</b> Conference Coordinator & Chairman, Chengalpattu District Branch of ICAI (SIRC)	<b>CA. RAVICHANDRAN SUBRAMANIAN</b> Conference Coordinator & SICASA Chairman, Chengalpattu District Branch of ICAI (SIRC)
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<b>CA. SHIVACHANDRA REDDY .K</b> Vice Chairman	<b>CA. MADHUMITHA .R</b> Secretary	<b>CA. SATHISH .T.S</b> Treasurer	<b>CA. PRIYA .A</b> Nominated Member of SICASA & NC Member
<b>CA. SIVAGURUNATHAN .T</b> Immediate Past Chairman	<b>CA. SATHIYANARAYANAN .K.R</b> Past Chairman		<b>CA. AANAND .P</b> NC Member

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<b>SAISUDHA .K</b> Vice Chairman - SICASA	<b>KEERTHANA .R</b> Secretary - SICASA	<b>POORVAJA .S</b> Treasurer - SICASA	
<b>PARAMASIVAM .T</b> Member - SICASA	<b>KISHORE .C</b> Member - SICASA	<b>SHIVA .K</b> Member - SICASA	

**REGISTRATION FEE:**  
**₹500/- per student**  
 Payment Mode: <http://bosactivities.icai.org/>



SCAN FOR LOCATION

For Registration Queries Contact

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chengalpattu@icai.org

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