GOVERNMENT OF NAGALAND
OFFICE OF THE COMMISSIONER OF STATE TAXES
NAGALAND: DIMAPUR

ADVISORY-01/2026

Subject :- ADVISORY ON TIMELY ISSUANCE OF SHOW CAUSE NOTICES UNDER SECTION 73,74 AND 74A OF THE NGST ACT TO AVOID LIMITATION.

No. CT/ GST/INST/5/2026/555: Attention is invited to the limitation provisions governing issuance of notices under Sections 73, 74 and 74A of the NGST Act. All Jurisdictional Authorities are advised to ensure that cases selected for scrutiny, audit, inspection, investigation, or any other verification are processed expeditiously so that SCNs are issued well within the statutory time limits.

1. All JAs are, therefore, directed to undertake an immediate review of all pending audit observations, inspection reports, enforcement cases, intelligence inputs, scrutiny cases, refund verification and any other matters where tax, interest or penalty is liable to be demanded under the provisions of the NGST Act. Particular attention shall be given to cases approaching the limitation period.

2. It is reiterated that, where the limitation period has already expired, SCNs under Sections 73 or 74 cannot be issued for such tax periods. Accordingly, officers shall not process or propose issuance of SCNs for financial years which have become barred by limitation, including tax periods prior to **FY 2020-21(except u/s 74)**, wherever the statutory period for issuance has already expired.

For **FY 2024–25 onwards**, the demand provisions are primarily governed by **Section 74A**.

Below is a table for illustration:

Particulars	Section 73	Section 74	Section 74A
Applicable period	Up to FY 2023–24	Up to FY 2023–24	FY 2024–25 onwards
Nature of case	Non-fraud cases	Fraud, wilful misstatement or suppression of facts	Covers both fraud and non-fraud cases under one provision

Cases covered	Tax not paid/short paid, erroneous refund, wrongful ITC	Same	Same
SCN Time Limit	At least 3 months before the order	At least 6 months before the order	Within 42 months from the due date of the annual return (or from the date of erroneous refund, as applicable)
Time Limit for Adjudication order	Within 3 years from the due date of the annual return	Within 5 years from the due date of the annual return	Within 12 months from the date of SCN (extendable by 6 months)
Penalty (non-fraud)	10% of tax or ₹10,000, whichever is higher	Not applicable	10% of tax or ₹10,000, whichever is higher
Penalty (fraud)	Not applicable	100% of tax	100% of tax
Minimum demand for SCN	No specific threshold	No specific threshold	No SCN if tax involved is less than ₹1,000

NP: **Section 74 A of the GST Act** is a new demand and recovery provision introduced by the **Finance (No.2) Act, 2024.** It replaces the earlier dual framework of **Sections 73 (non-fraud cases)** and **74 (fraud/suppression cases)** for tax periods **from FY 2024–25 onwards.**

The objective is to provide a single procedure for determining tax liability while still prescribing different penalties depending on whether fraud is involved.

For reference, a note on Section 74A, a ready reckoner and a Demand and Recovery flowchart is attached as Annexures 1, 2 and 3 with this Advisory

3. Each jurisdiction shall maintain a Limitation Monitoring Register (physical or electronic) containing:

(i) GSTIN and name of taxpayer;

(ii) Financial year/tax period involved;

(iii) Applicable statutory provision (Section 73, Section 74 or Section 74A);

(iv) Last date for issuance of Show Cause Notice;

(v) Last date for passing the adjudication order;

(vi) Present status of the case;

(vii) Officer responsible for the case.

4. Deputy Commissioners of each Zone shall review the register every month and ensure that cases approaching limitation are accorded the highest priority. Draft Show Cause Notices shall be prepared well in advance to avoid last-minute delays. All DCSTs shall closely supervise and monitor pending cases under their jurisdiction and ensure that:

(i) Cases involving FY 2020–21 and subsequent years are examined on priority.

(ii) SCNs are prepared, vetted, and issued well before the expiry of the prescribed statutory timelines.

(iii) Periodic reviews of pending investigation, scrutiny, and audit cases are conducted to prevent revenue loss on account of limitation.

Position as of July 2026

- **Section 73:** The limitation for issuing SCNs for **FY 2020–21 and earlier** has expired (subject to any proceedings saved by specific notifications or court orders).
- **Section 74:** SCNs for **FY 2020–21** could be issued up to **31 August 2026**, with the adjudication order to be passed by **28 February 2027**, based on the ordinary statutory timeline.

Sd/-

(ABHINAV SHIVAM) IAS
Commissioner of State Taxes
Nagaland: Dimapur

No. CT/ GST/INST/5/2026/555
Dated, Dimapur, 22 **July 2026**

Copy to:

1. All the DCSTs / ACSTs for information and necessary action.
2. Office Copy.

(ABHINAV SHIVAM) IAS
Commissioner of State Taxes
Nagaland: Dimapur

ANNEXURE 1

Purpose of Section 74A

Section 74A applies where:

- Tax has **not been paid.**
- Tax has been **short paid.**
- Tax has been **erroneously refunded.**
- **Input Tax Credit (ITC)** has been wrongly availed or utilized.

Key features

- **One provision for all demand proceedings** relating to FY 2024–25 and later.
- The notice must ordinarily be issued **within 42 months from the due date for furnishing the annual return** for the relevant financial year.
- The adjudication order is generally required to be passed **within 12 months from the date of issuance of the notice**, subject to the statutory extension provisions.

Penalty under Section 74A

- **Cases not involving fraud, wilful misstatement, or suppression of facts:** Penalty is generally **10% of the tax or ₹10,000, whichever is higher.**
- **Cases involving fraud, wilful misstatement, or suppression of facts:** Penalty can be **equal to 100% of the tax.**

Comparison with the earlier law:

Earlier provisions	**New provision**
Section 73 – Non-fraud cases	Section 74A
Section 74 – Fraud/suppression cases	Section 74A
Different procedural timelines	Common procedural framework with different penalties based on the nature of the case

In short:

- **FY 2023–24 and earlier:** Sections 73 and 74 continue to apply.
- **FY 2024–25 onwards: Section 74A** governs demand proceedings.

ANNEXURE 2

SECTION 74A READY RECKONER for GST Officers

(CGST/SGST Act – Applicable from FY 2024–25 onwards)

1. Scope of Section 74A: Section 74A applies where there is:

- Tax not paid;
- Tax short paid;
- Erroneous refund;
- Input Tax Credit (ITC) wrongly availed or utilized.

It replaces the separate demand mechanisms under Sections 73 and 74 for tax periods **FY 2024–25 onwards.**

2. Limitation

Sl No	Particular	Time Limit
1	Issue of SCN	Within **42 months** from the due date for furnishing the annual return for the relevant FY (or from the date of erroneous refund, where applicable)
2	Adjudication Order	Ordinarily within **12 months** from the date of SCN (extendable by up to 6 months by the competent authority).

3. Penalty Matrix

Nature of case	Penalty
No fraud / no wilful misstatement / no suppression	10% of tax or ₹10,000, whichever is higher
Fraud / wilful misstatement / suppression	100% of tax

4. Important GST Forms

Sl No	Form	Purpose
1	DRC-01A	Pre-SCN intimation (optional)
2	DRC-03	Voluntary payment
3	DRC-04	Acknowledgement of payment before SCN
4	DRC-01	Show Cause Notice
5	DRC-05	Proceedings concluded after eligible payment
6	DRC-06	Reply to SCN
7	DRC-07	Summary of adjudication order

5. Officer's Checklist Before Issuing SCN

(i) Verify jurisdiction.

(ii) Verify GSTIN and registration status.

(iii) Clearly identify the tax period.

(iv) Specify whether the issue relates to:

- Tax not paid
- Short payment
- Wrong refund
- Wrong ITC

(v) Calculate separately:

- Tax
- Interest
- Penalty

(vi) Quote the exact statutory provisions.

(vii) Mention all relied-upon documents (RUDs).

(viii) Supply copies of all relied-upon documents.

(ix) Explain the factual basis and legal basis independently.

Ensure computations are annexed.

6. Common Grounds on Which SCNs Are Set Aside

(A) Vague allegations

Instead of stating:

"The taxpayer appears to have suppressed facts."

State:

"During verification of GSTR-3B for April 2025 with GSTR-2B, ITC amounting to ₹8,45,620 was found to have been availed without valid tax invoices as detailed in Annexure-B."

(B) No evidence enclosed

Every allegation should be supported by:

- Returns
- Statements
- Invoices
- Inspection reports
- Investigation report
- Data analytics
- Third-party evidence

(C) Incorrect computation

Always annex a computation sheet.

Never leave figures unexplained.

(D) Wrong legal provision

Quote the precise provisions of:

- Section 74A
- Relevant Rules
- Circulars (where applicable)

(E) Violation of Natural Justice

Provide:

- Reasonable time to reply
- Copies of documents relied upon
- Personal hearing
- Speaking order addressing the taxpayer's submissions

7. Structure of a Good SCN

1. Jurisdiction
2. Brief facts
3. Investigation findings
4. Evidence relied upon
5. Legal provisions
6. Discussion
7. Computation
8. Proposal for recovery
9. Proposal for penalty
10. Opportunity of hearing

8. Speaking Order Checklist

A good adjudication order should answer:

- What are the facts?
- What is the issue?
- What is the taxpayer's defence?
- What evidence supports each finding?

- Why is the defence accepted or rejected?
- What is the legal reasoning?
- What amount is recoverable?
- What interest is payable?
- What penalty is leviable?

9. Best Practices

- Avoid issuing SCNs close to the limitation date.
- Use DRC-01A wherever appropriate to encourage voluntary compliance.
- Ensure figures in the SCN and DRC-01 match exactly.
- Avoid copying investigation reports verbatim—apply independent reasoning.
- Verify calculations thoroughly before issuing the notice.
- Pass a well-reasoned ("speaking") order that deals with every significant contention raised by the taxpayer.

10. Quick Reference Flow

Detection

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Verification

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DRC-01A (Optional)

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Taxpayer Response

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DRC-01 (SCN)

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Reply + Personal Hearing

↓

Speaking Order

↓

DRC-07

↓

Recovery / Appeal

A Note for GST Officers:

Maintain a **Section 74A limitation register record**, for every case:

- Financial year,
- Due date of annual return,
- Last date for issuing the SCN,
- Date of DRC-01A,
- Date of SCN,
- Last date for passing the order.

This simple tracking mechanism can help ensure that no case becomes time-barred due to missed statutory deadlines.

ANNEXURE 3

Below is a practical **Section 74A Demand & Recovery Flowchart** that can be used as a desk reference by GST officers.

SECTION 74A – DEMAND & RECOVERY FLOW

Tax not paid / Short paid/ Erroneous refund / Wrong ITC

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Detection through scrutiny / audit / investigation / inspection / intelligence

▼

(Optional) FORM GST DRC-01A (Part A)

Pre-SCN intimation of proposed liability

▼ ▼

Taxpayer accepts liability Pays or makes submissions (DRC-03 / DRC-01A Part B)	Taxpayer disagrees/ makes representations (DRC-01A Part B)

▼

Officer examines payment/submissions (May issue Part C of DRC-01A where applicable)

▼

FORM GST DRC-01 (Show Cause Notice)

▼

Reply to SCN + Opportunity of Hearing

▼

Adjudication under Section 74A (Order ordinarily within 12 months from SCN, extendable as provided under the Act)

▼ ▼

Demand dropped	Demand confirmed

▼

FORM GST DRC-07 (Order)

▼

Payment / Recovery

▼

Appeal under Section 107

Important Forms under Section 74A

Form	Purpose
DRC-01A (Part A)	Pre-show cause intimation (optional).
DRC-01A (Part B)	Taxpayer's submissions or partial payment.
DRC-01A (Part C)	Officer's response to submissions/payment.
DRC-03	Voluntary payment of tax, interest and applicable penalty.
DRC-04	Acknowledgement of payment before SCN.
DRC-01	Show Cause Notice.
DRC-05	Order concluding proceedings where payment is made as permitted.
DRC-07	Summary of adjudication order creating demand.

Practical timeline

- **Detection** → Scrutiny, audit, inspection, intelligence, etc.
- **DRC-01A** → Optional but encouraged to facilitate voluntary compliance.
- **SCN (DRC-01)** → Issued under Section 74A.
- **Adjudication** → Ordinarily within **12 months** from the date of SCN (subject to statutory extension).
- **Appeal** → Before the Appellate Authority under Section 107.