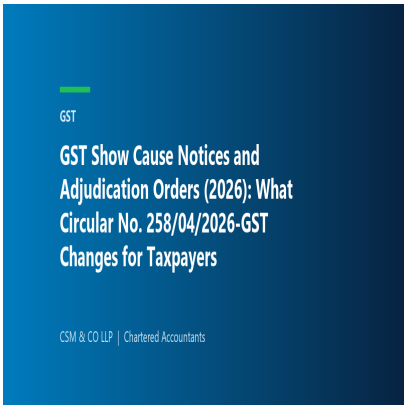

GST Show Cause Notices and Adjudication Orders (2026): What Circular No. 258/04/2026-GST Changes for Taxpayers

Description

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Quick summary

- Circular No. 258/04/2026-GST, dated 26/10/2026, sets detailed standards for how a GST show cause notice and adjudication order must be drafted, aimed at cutting down vague, “cut and paste” notices that collapse at appeal.
- A show cause notice that invokes fraud, wilful misstatement or suppression of facts must set out the specific facts supporting that charge - the Supreme Court has held that merely reproducing the words, without the material that led to the inference, does not suffice.
- Section 73 (ordinary cases) and section 74 (fraud/suppression cases) cannot be invoked together without the notice clearly separating which facts and which tax amount fall under each.
- Adjudicating officers are told to independently discuss each submission the taxpayer makes, not use generic phrases like “reply has been considered,” and may use AI tools only with full human verification of anything the tool produces.
- Where the CGST and SGST authorities have both started proceedings on the same matter, only one can continue - parallel proceedings on the same subject matter are barred under section 6 of the CGST Act.

A large share of GST litigation exists only because a show cause notice or an adjudication order was poorly drafted - vague, reproducing statutory language without facts, or ignoring what the taxpayer actually argued. CBIC’s Circular No. 258/04/2026-GST, dated 26 October 2026, sets out detailed standards meant to fix this at the source, for both notices and the orders that follow them.

New to terms such as “speaking order” or “pre-deposit”? See the technical terms explained in simple words further down.

At a glance

- **Circular:** No. 258/04/2026-GST, GST Policy Wing, CBIC, dated 26 October 2026.
- **Issued under:** section 168(1) of the CGST Act (power to issue instructions for uniform implementation).

- **Covers:** pre-show cause notice intimation, drafting standards for show cause notices, the fraud/suppression threshold, timely issuance, service of notices, personal hearings, adjudication order drafting, AI-tool use, rectification under section 161, and first appeal proceedings.
- **Draws on recent case law**, including two 2026 judgments on notice quality that the circular quotes directly.

Before the notice: pre-SCN intimation

Under Rule 142(1A), an officer may intimate the taxpayer of the tax assessed as payable (FORM GST DRC-01A, Part A) before issuing a formal show cause notice. The circular encourages this wherever feasible, since it gives the taxpayer a chance to clarify or pay up voluntarily before a full notice is issued - reducing unnecessary litigation on both sides.

What makes a show cause notice legally sound

The circular sets out the parts a well-drafted notice should contain:

1. **Clear identification of the noticee** - name, GSTIN, trade name, registration status, jurisdiction, and the exact tax periods covered.
2. **An objective factual background** - discrepancies and evidence should be described using neutral language such as “it appears that,” never a pre-judged conclusion, since a notice is not a verdict.
3. **A clear legal basis** - the specific provisions allegedly contravened, with no unrelated sections thrown in “just in case.”
4. **A concise, specific statement of charges.**
5. **Quantified demand**, broken down by financial year where the notice spans several years.
6. **A clear concluding paragraph** naming the Adjudicating Authority, the reply deadline, and the consequence of not replying.

The circular cites the Telangana High Court’s ruling in *M/s Nice Enterprises v. Deputy Commissioner ST* [(2024) 21 Centax 554], which held that a notice merely reproducing statutory language without specific grounds violates natural justice.

The fraud/suppression threshold: a genuinely important taxpayer protection

This is the most practically significant part of the circular. Sections 74(1) and 74A(5)(ii) allow a longer limitation period and higher penalty where there is fraud, wilful misstatement, or suppression of facts to evade tax - but invoking these is not a formality.

The circular quotes the Supreme Court’s ruling in *G.R Infra Project Ltd. v. State of Madhya Pradesh* (2026) 45 Centax 331 (SC), dated 19.08.2026:

> “…What is required for the extended time to be applied are the allegations, which lead to the inference of a fraud or the concealment as attempted by the assessee resulting in suppression of facts, should emanate from the notice itself. It cannot be a mechanical use of the words ‘fraud, willful misstatement or suppression of facts’ without listing out the aspects which persuades the assessing officer to conclude that there has been employed either of these surreptitious devices by the assessee…”

The circular also draws on the Andhra Pradesh High Court's ruling in *Sriba Nirman Company v. Commissioner (Appeals)* (2025) 29 Centax 206, which held that an incorrect statement is not automatically a wilful misstatement - it must be a conscious, deliberate act aimed at evading tax. **Mere non-payment of tax, or a discrepancy found in routine scrutiny, is explicitly not enough on its own to justify invoking the extended period.**

Section 73 versus section 74/74A: keep the two separate

Where a single notice proposes demand partly under section 73 (ordinary cases) and partly under section 74 or 74A (fraud/suppression cases), the notice must clearly separate the facts, legal basis and quantified tax amount for each - not blend them together. For periods from FY 2024-25 onwards, section 74A consolidates the limitation period to 42 months from the annual return due date, but the requirement to separately justify any fraud/suppression allegation within that single notice remains.

No parallel proceedings

Section 6 of the CGST Act bars a CGST officer from initiating proceedings on a subject matter already taken up by an SGST or UTGST officer, and vice versa - reinforced by the Supreme Court's ruling in *M/s Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East Commissionerate* (2025) 33 Centax 222.

Personal hearings: what a taxpayer can expect

- **Up to four hearing opportunities** before an order is passed, since section 75(5) caps adjournments at three; any refusal of a further adjournment must be recorded in writing.
- **Authorised representatives** (under section 116) should be accommodated.
- **Virtual hearings** should be made available.
- **A detailed hearing record** (date, attendees, what was discussed) must be kept and reflected in the final order.
- **The order should follow promptly**, preferably within one month of the hearing.
- If the adjudicating officer is transferred mid-proceeding, a **fresh hearing is required** by the successor, unless the hearing was already completed, in which case the outgoing officer should try to pass the order before handing over.

Drafting the adjudication order

The circular is detailed here, and the standards apply equally, with modification, to first appeal orders:

- The order must be a genuine **speaking order** - reasoned, not a template, and limited to the grounds actually raised in the notice (section 75(7): the final demand cannot exceed what the notice proposed, and no new ground can be confirmed that the notice did not raise).
- **Each submission the taxpayer makes must be independently addressed** - generic phrases like“reply has been considered” are explicitly discouraged.
- **Case law citations** must be checked for continuing validity (not overruled since), and judgments the taxpayer relies on must be discussed, not ignored.
- **Quantification must be exact**, issue-wise and year-wise, never left open-ended or estimated, with any amount already paid clearly adjusted.
- **Interest** continues to accrue until actual payment, and is payable whether or not the order specifically mentions it (section 75(9)).
- **Penalties** must be reasoned, not mechanical, and follow the general discipline under section 126.

AI tools in adjudication: human oversight required

A notable addition: where an officer uses AI or other technological tools to assist with adjudication, the circular requires **independent human verification** of anything the tool produces before it is relied on or incorporated into the order. The responsibility for the correctness of the final order rests with the issuing officer regardless of what tool helped draft it.

Rectification under section 161: a narrow remedy, not a second round

Section 161 allows correcting an error “apparent on the face of the record” - but the circular, citing *Arun Dev Upadhyaya v. Integrated Sales Service Ltd.* (2023) 8 SCC 11, stresses this is **not** a route to re-argue the merits. An error requiring detailed analysis or capable of two views is not an “apparent” error, and only the original issuing officer (not a superior reassigning the case) can rectify it. Rectification applications must be filed within three months, and (barring purely clerical fixes) decided within six months.

First appeal: key practical points

- **The 3-month limitation (plus a possible 1-month condonation)** under section 107 is strictly examined before the merits are even considered.
- **Additional evidence** at appeal stage is admissible only in limited circumstances (Rule 112) - not as a routine fresh investigation.
- **Cross-appeals** by the taxpayer and the department on the same order should be heard together and disposed of by one composite order.
- **Appeals should ordinarily be decided within one year** of filing.

How CSM & Co LLP can help

Whether you are responding to a notice or evaluating an order already passed, the standards in this circular give a concrete checklist to test the notice or order against - please reach out to our team and we will be happy to assist with drafting replies, attending hearings, and evaluating appeal prospects.

Technical terms explained in simple words

Term	What it means
Show cause notice (SCN)	A formal notice requiring a taxpayer to explain why a proposed tax demand, penalty or other adverse action should not be confirmed against them.
Speaking order	An order that clearly explains its own reasoning, rather than simply stating a conclusion.
Suppression of facts	Deliberately withholding information required to be disclosed, with intent to evade tax - distinct from an honest omission.
Adjudicating Authority	The tax officer empowered to decide a show cause notice and pass the resulting order.
Pre-deposit	A partial payment of the disputed tax amount required before an appeal can be admitted.
Rectification	A narrow, limited correction of an error that is obvious on the face of an order, not a re-examination of its merits.

Frequently asked questions

What is Circular No. 258/04/2026-GST about?

CBIC guidance, dated 26 October 2026, on how a GST show cause notice and the resulting adjudication or appeal order should be drafted, aimed at reducing vague or non-speaking orders that get set aside or remanded on appeal.

What must a GST show cause notice contain to invoke fraud, wilful misstatement or suppression of facts?

It must set out the specific facts, material and circumstances that led the officer to that conclusion - the Supreme Court has held that a mere mechanical use of the words “fraud,” “wilful misstatement” or “suppression of facts,” without disclosing what the officer actually relied on, does not meet the legal threshold.

Can a non-payment of GST by itself justify invoking the extended period for fraud or suppression?

No. The circular is explicit that sections 74 and 74A(5)(ii) cannot be invoked merely because a discrepancy or non-payment was noticed in a scrutiny - there must be specific evidence of an intent to evade tax.

Can two tax authorities (CGST and SGST) both proceed against the same taxpayer on the same issue?

No. Section 6 of the CGST Act bars parallel proceedings - once one authority has initiated proceedings on a particular subject matter, the other authority cannot initiate separate proceedings on the same matter.

How many personal hearing opportunities can a taxpayer get before an order is passed?

Up to four, since section 75(5) caps adjournments at three; a hearing request should be considered only for good reason, and any refusal must be recorded in writing.

Can an officer use AI tools to help draft an adjudication order?

Only with full human verification. The circular is explicit that any output from an AI or other technological tool must be independently checked before being relied on, and the issuing officer remains fully responsible for the correctness of the final order regardless of what tool was used.

Official sources

- CBIC - GST Circulars (CGST)
- GST Portal

Related reading

- CBIC Guidelines for GST Registration Applications (2026): Circular No. 257/03/2026-GST
- GST Registration Application and Amendment (2026): Documents, REG-01, REG-14 and the Automatic Route
- GST Litigation Management (2026): ?10,000 Notice Threshold, Penalty as a Charge and Reduced Penalties

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