



SABKA VISHWAS – LEGACY DISPUTE RESOLUTION SCHEME - 2019

CMA Dr. Sanjay R. Bhargave
Practicing Cost & Management Accountant

In order to reduce pending litigations, the dispute resolution scheme called “Sabka Vishwas Legacy Dispute Resolution Scheme 2019 is being introduced for resolution and settlement of pending cases of Central Excise, Service Tax, and Cesses which have got subsumed in GST and few more cesses and welfare funds.

All persons, except persons who are convicted under the act for which he intends to make declaration and those who have filed an application before Settlement Commission are eligible to avail the benefit of the scheme.

The scheme shall come into force from the notified date. The scheme shall be applicable to following duties, taxes and cesses.

- ✓ Central Excise Duty
- ✓ Service Tax i.e. Chapter V of Finance Act, 1994
- ✓ Various cess such as SBC, KKC, Edu. Cess, SHE Cess,
- ✓ Agricultural Produce Cess,
- ✓ Coffee Cess,
- ✓ Rubber Cess,
- ✓ Salt Cess.
- ✓ Special Excise Duty on Sugar and Sugar Cess.
- ✓ Additional Duties of Excise on Textile and Textile Articles and Textile Cess,
- ✓ Produce Cess,
- ✓ Tobacco Cess,
- ✓ Jute Cess.
- ✓ Coal Mines Cess,
- ✓ Spices Cess
- ✓ Iron Ore mines, Manganese Ore mines and Chrome Ore Mines Labour Welfare Cess
- ✓ Bidi Workers Welfare Cess,
- ✓ Excise Duty on Medicinal and Toilet Preparations,
- ✓ Additional Duties of Excise on Goods of Special Importance
- ✓ Additional Duties of Excise and Customs on Mineral Products
- ✓ Limestone and Dolomite Mines Labour Welfare Fund.
- ✓ Mica Mines Labour Welfare Fund
- ✓ Agricultural and Processed Food Products Export Cess.
- ✓ Cess under Oil Industry (Development) Act,1974

The relief under this scheme is available to the Tax Dues, Interest, Penalty, Late Fees, Prosecution with respect to matter and time period covered in declaration.

Substantial relief ranging from 40% to 70% in tax dues and 100% relief from Interest, Penalty, Late Fees and Prosecution has been proposed in the scheme as per the following

Sr. No.	Scenario	Meaning of Tax Dues. <i>(The word Duty has been used for all the duties, taxes and cesses covered under this scheme).</i>
1	Where a single appeal arising out of an	Total amount of duty disputed in said appeal

	order is pending as on 30.06.2019 before appellate forum.	
2	Where more than one appeals arising out of an order, one by declarant and other by departmental appeal, pending as on 30.06.2019 before appellate forum	Sum total of amount of duty disputed by declarant and department
3	Where SCN is received on or before 30.06.2019	Amount of duty payable as per SCN
4	Where an enquiry or investigation or audit is pending	Amount of duty payable as quantified on or before 30.06.2019.
5	Where amount has been voluntarily disclosed	Amount of duty stated in declaration

Relief available to declarant

Sr. No.	Where Tax Dues are relatable to	Slab in Rs.	Relief
1	SCN or one or more appeals arising out of SCN	≤ 50 Lakh	70% of Tax Dues
		≥ 50 Lakh	50% of Tax Dues
2	SCN for late fee or penalty only		Entire amount of late fee and penalty
3(i)	Amount in arrears	≤ 50 Lakh	60% of Tax Dues
		≥ 50 Lakh	40% of Tax Dues.
3(ii)	Amount Indicated in return as an amount of duty payable but not paid	≤ 50 Lakh	60% of Tax Dues
		≥ 50 Lakh	40% of Tax Dues
4	Linked to an enquiry, investigation or audit and the amount is quantified on or before 30.06.2019	≤ 50 Lakh	60% of Tax Dues
		≥ 50 Lakh	50% of Tax Dues
5	On account of a voluntary disclosures		No relief

It is pertinent to note that if any amount is paid as pre-deposit at any stage of appellate proceedings, enquiry, investigation or audit, the same shall be deducted when issuing a statement indicating amount payable. However if amount pre-deposited or paid exceeds the amount payable, no refund shall be granted to declarant.

Eligibility

Under this scheme, all persons shall be eligible **except** following namely-

- a) Who have filed an appeal before appellate forum AND such appeal has been heard on or before 30.06.2019 (*"Appellate forum" means the Supreme Court or the High Court or the Customs, Excise and Service Tax Appellate Tribunal or the Commissioner (Appeals)*)
- b) Who have been convicted for any offence punishable for the matter for which he intends to file declaration.

- c) Who have been issued a Show Cause Notice and the final hearing has taken place on or before 30.06.2019
- d) Who have been issued a Show cause notice for an erroneous refund or refund;
- e) Who have been subjected to an enquiry or investigation or audit and the amount of duty involved has not been quantified on or before 30.06.2019
- f) A person making a voluntary disclosure, -
 - (i) after being subjected to any enquiry or investigation or audit; or
 - (ii) having filed a return under the indirect tax enactment, wherein he has an amount of duty as payable, but has not paid it;
- g) Who have filed an application in the Settlement Commission for settlement of a case
- h) Persons seeking to make declarations with respect to excisable goods set forth

in the Fourth Schedule to the Central Excise Act, 1944. (Tobacco products)

Procedure under scheme

The following procedure has been prescribed.

- Eligible Person to file declaration in electronic form.
- Designated committee shall verify correctness (no verification in case of voluntary declaration).
- If amount declared by declarant and estimated by committee is equal then estimate shall be issued within 60 day.
- If amount estimated by Committee exceeds the amount declared by declarant then estimate shall be issued within 30 days in electronic form. In such case an opportunity of personal hearing shall be granted to the declarant and then after the personal hearing Statement of amount payable shall be issued in electronic form within sixty days from date of declaration.
- Amount payable shall be paid through internet banking within 30 days from receipt of statement.
- A discharge certificate shall be issued in electronic form within 30 days from date of payment and production of proof.
- Rectification of arithmetical or clerical error can be done within 30 days.

Impact of discharge certificate

Every discharge certificate shall be conclusive as to matter and time period stated therein. No further duty, interest or penalty is payable by the declarant. No prosecution shall be initiated against the declarant. No matter and period declared shall be reopened.

However, it shall not preclude the issue of Show Cause Notice –

- For the same matter in subsequent period
- For a different matter in same period
- In case of voluntary disclosure, if any declaration found to be false within a year of issue of discharge certificate then proceedings under applicable indirect enactment shall be instituted.

Restrictions of the scheme

It has been provided that:-

- Amount payable shall not be paid through Input Tax Credit.
- Amount paid shall not be refunded under any circumstances.
- Amount paid shall not be taken as input tax credit. (This is applicable predominantly to payment of service tax under reverse charge or duty paid on captive consumption).
- Amount paid shall not entitle any person to take input tax credit as recipient of the excisable goods or taxable services.
- In case any pre-deposit or other amount / deposit already paid exceeds the amount payable as indicated in the statement of the designated committee, the difference shall not be refunded.

Rules to be issued by the Central Government

Central Government, by notification in the official Gazette shall make rules, on the following:-

- Form in which declaration may be made and the manner in which such declaration may be verified.
- The manner of constitution of the designated committee and its rules of procedure and functioning.
- The form and manner of estimation of the amount payable by declarant and procedure relating thereto.
- The form and manner of making payment by the declarant and the intimation regarding the withdrawal of the appeal.
- The form and manner of the discharge certificate.
- The manner in which the instructions may be issued and published.
- Any other matters relevant to the scheme.

This is the last chance to the taxpayers to settle the litigations under various Indirect Taxes enactments. It will also reduce the pending litigations and burden on the Government Departments and The Appellate Forum.

Substantial relief has been provided to the taxpayers. Considering the cost of litigation and time required to resolve the dispute, the taxpayers have got an excellent opportunity to settle the pending disputes.