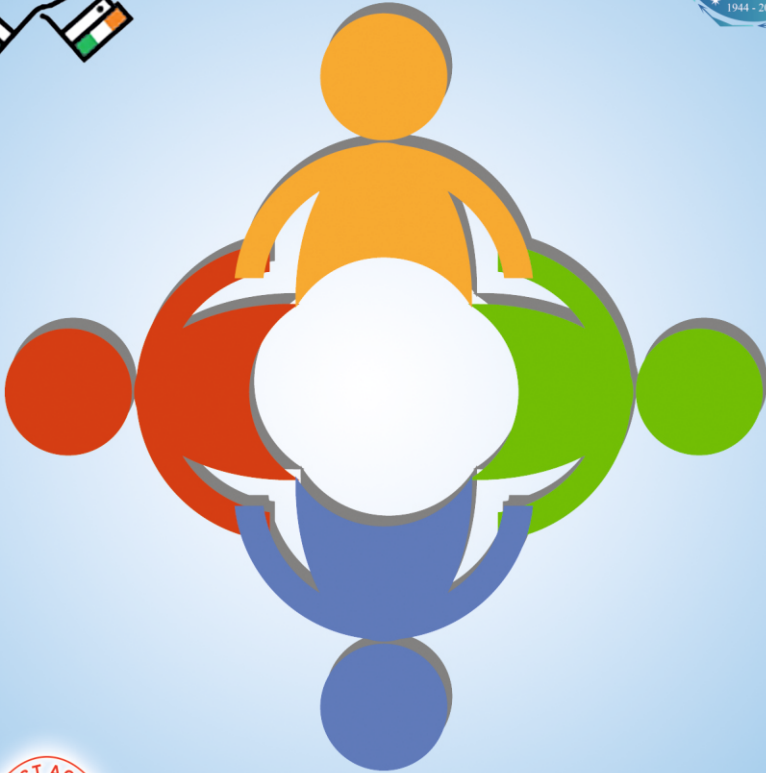


# SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME 2019



**THE INSTITUTE OF  
COST ACCOUNTANTS OF INDIA**  
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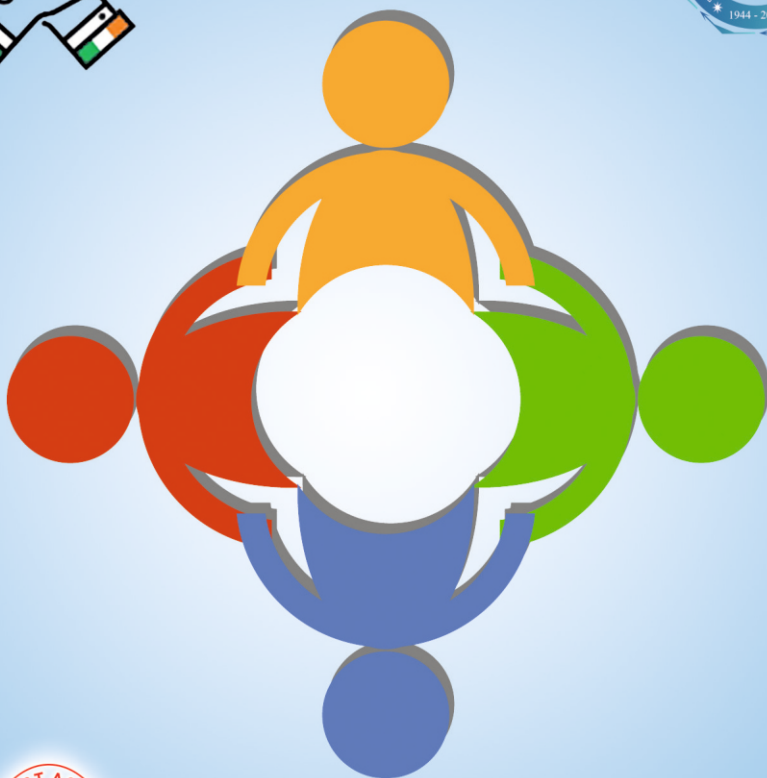
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4. Evaluating opportunities for CMAs to make way for further development and sustenance of the opportunities.
5. Conducting and monitoring of Certificate Courses on Direct and Indirect Tax for members, practitioners and stakeholders.

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### **President's Message**

I am pleased to note that the Tax Research Department is publishing this handbook on "Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019". I congratulate CMA Niranjan Mishra, Chairman of Indirect Taxation Committee and eminent authors as well as Team Tax Research Department for their efforts and support in releasing this handbook.

The Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019 is a one-time measure for resolving of past disputes of Central Excise and Service Tax as well as to ensure disclosure of unpaid taxes by a person eligible to make a declaration.

The scheme comes with a validity of 4 months starting from September 1, 2019 to December 31, 2019. It provides a facility to an eligible person to declare the unpaid tax dues and pay the same as per provisions of this scheme; It further provides for certain immunities including penalty, interest or any other proceedings under the Central Excise Act, 1944 or Chapter V of the Finance Act, 1944 to those persons who pay the declared tax dues.

CBIC has come up with various provisions of reliefs to those taxpayers whose cases regarding Central Excise / Services Tax are pending

- Show cause notice (SCN) / appeal pending as on 30.06.2019
  - 70% of the tax dues shall be waived off if the amount of duty is Rs. 50 lakhs or less,
  - 50% of the tax dues shall be waived off if the amount of duty is more than Rs. 50 lakhs
- 100% of the amount of late fee or penalty shall be waived off if SCN issued only with respect to late fee/penalty, and tax amount is paid or NIL
- Amount relating to arrears of tax or amount indicated in returns but not paid
  - 60% of the tax dues shall be waived off if the amount of duty is Rs. 50 lakhs or less
  - 40% of the tax dues shall be waived off if the amount of duty is more than Rs. 50 lakhs

Beside this, few more reliefs have been provided to Taxpayers also.

I am sure this handbook will act as Torchlight for the assesses who intend to settle the cases under "Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019" and I am hopeful that this scheme will result in significant reduction in pending litigations under central excise/service tax regime.

With Warm Regards,

**CMA Balwinder Singh**  
24<sup>th</sup> October 2019



## CHAIRMAN'S MESSAGE

"Your work is going to fill a large part of your life, and the only way to be truly satisfied is to do what you believe is great work. And the only way to do great work is to love what you do".

-Steve jobs

At the outset, I would like to acknowledge the superlative input of Tax Research Department in publishing a Handbook on "Sabka Vishwas (Legacy Dispute Resolution Scheme 2019).

The Sabka Vishwas Scheme, 2019, proposed in the Union Budget, 2019, has been introduced to resolve all disputes relating to the erstwhile Service Tax and Central Excise Acts, which are now subsumed under GST and to provide substantial relief to the taxpayers who wish to close their pending disputes. This scheme has come into force from 1st of September, 2019, and shall be operational till 31st of December, 2019.

This scheme offers several lucrative resolution benefits to taxpayers, such as-

- Taxpayers can pay the outstanding tax amounts due and be free from any other consequences under the Law.
- Taxpayers will get substantial relief in the form of full waivers of interest, penalties and fines.
- There will be complete amnesty from prosecution proceedings.

I would like to praise Mr. Pawan K. Pahwa and Mr. Mukesh Pandey for their untiring efforts for this publication and congratulate entire Team - Tax Research Department for this excellent job. My best wishes to Team TRD for all future undertakings.

Hope, the members and stakeholders will get benefit of this Handbook.

Wish you a happy and safe Diwali.

Thank You

A handwritten signature in blue ink, appearing to read 'Niranjan Mishra', enclosed in a light blue rectangular box.

CMA Niranjan Mishra

Chairman – Indirect Taxation Committee

24th October 2019

# PREFACE

It has been more than two years since introduction of Goods and Services inter alia subsuming central excise and services tax laws and still huge litigation is pending related to legacy taxes at various forums. With the objective to free large segment of the taxpayers from the legacy taxes, the Hon'ble Finance Minister in her first maiden budget speech on 5th July, 2019 announced one of the largest dispute resolution and amnesty scheme called 'Sabka Vishwas-Legacy Dispute Resolution Scheme, 2019'.

It gives us immense pleasure to write a book on "Sabka Vishwas-Legacy Dispute Resolution Scheme, 2019". This book is an effort to provide detailed analysis of provisions of scheme so as to find out the impact of the scheme on the taxpayers and is an effort to resolve the questions in the mind of the stakeholders about the scheme.

We hope that this book will help the professionals in advising their clients or making decision in their organizations for opting for the scheme in respect of legacy tax matters.

Here , we would also like to thank and acknowledge the immense contributions of **Mr. Pawan K. Pahwa and Mr. Mukesh Pandey** without whose hard work , toil and guidance this handbook could have never acquired this shape. The department is indebted to them for their contribution.

CMA Niranjan Mishra has been our guiding star. Thank you Sir.

**Tax Research Department**

The Institute of Cost Accountants of India

24th October 2019

# ACKNOWLEDGEMENTS

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# CHAPTER 01

## INTRODUCTION

The Indian taxation system has witnessed various amnesty schemes introduced by the Government to lure tax evaders. The schemes offered payment of lesser tax against the actual liability. The Service Tax Voluntary Compliance Encouragement Scheme, 2013 and the Kar Vivad Samadhan Scheme, 1998 are two such schemes of the Central Government in this regard.

It is seen that the tax amnesty schemes at time brings resentment and discouragement in the minds of the honest taxpayers who feels defrauded as they end up paying more taxes and the tax evaders get away while paying lesser taxes. Given this, constitutional validity of such schemes have been challenged before the Courts in the past. Here reference could be made to the case of RK Garg and Ors. Vs. Union of India and Ors. [(1981)4 SCC 675] wherein the Special Bearer Bonds (Immunities and Exception) Act, 1981 was challenged on the ground that the said act neglected and discouraged the tax abiding citizens by supporting tax evaders by providing them immunities and exemptions. The Supreme Court rejected the contention and held that

“those who have successfully evaded taxation and concealed their income or wealth despite the stringent tax laws and the efforts of the tax department are not likely to disclose their unaccounted money without some inducement by way of immunities and exemptions and it must necessarily be left to the legislature to decide what immunities and exemption would be sufficient for the purpose.”

The Union Finance Minister Nirmala Sitharaman recently on the



footprints of various states such as Maharashtra, Karnataka, West Bengal etc to unload the baggage of the pending litigations under erstwhile State VAT, CST and entry tax laws, in her maiden budget speech on 5 July 2019 proposed the Sabka Vishwas(Legacy Dispute Resolution) Scheme, 2019 (“LDR Scheme”). The intention of the LDR Scheme is evident from the Budget speech of the Finance Minister wherein she stated that

“GST has just completed two years. An area that concerns me is that we have huge pending litigations from pre-GST regime. More than Rs 3.75 lakh crore is blocked in litigations in service tax and excise. There is need to unload this baggage and allow business to move on. I, therefore, propose, a Legacy Dispute Resolution Scheme that will allow quick closure of these litigations. I would urge the trade and business to avail this opportunity and be free from legacy litigation.

The LDR Scheme is a one-time measure for liquidation of past disputes of Central Excise, Service Tax and certain other indirect taxes as well as to ensure disclosure of unpaid taxes by a person eligible to make a declaration. The scheme besides granting tax relief also provides for certain immunities including penalty, interest or any other proceedings to those persons who pay the declared tax dues. The scheme started from 1st September, 2019 and shall be available to all the taxpayers who have filed the declaration till 31st December 2019.

The LDR Scheme has the two main components, namely:

1. **Dispute Resolution:** The LDR Scheme aim at off loading the legacy cases blocked in litigation at various forums and liquidating the taxes blocked in such litigations.
2. **Amnesty:** LDR Scheme provides opportunity to taxpayers who have failed to correctly discharge their tax liability under the erstwhile tax laws to discharge such tax dues resultantly adding to the revenue collections of the Centre which may



escape the eyes of the authorities as the tax machinery is occupied with the new indirect tax legislation ie GST

LDR Scheme covers pending litigation at show cause notice stage, appellate stage from first appellate authority till Supreme Court and even extends to arrears ie where the case has been decided against the tax payer and has attained finality. The cases covered under the LDR Scheme include:

1. a show cause notice or an appeal where the final hearing has not concluded on or before June 30, 2019;
2. amount in arrears i.e. tax demand upheld vide an order against which no appeal has been preferred and the limitation period has expired or an order which has attained finality;
3. an enquiry, investigation or audit where the tax amount is quantified and communicated to the taxpayer on or before June 30, 2019; and
4. a voluntary disclosure

The LDR Scheme, typically, cannot be opted by a tax payer who:

- has filed an appeal before appellate forum and final hearing concluded on or before 30. 06.2019;
- has been convicted under Indirect tax enactment for any offence for the matter for which he intends to file a declaration;
- has been issued a show cause notice ('SCN') and final hearing has already taken place on or before 30.06.2019;
- has been issued a SCN for an erroneous refund;
- has been subjected to enquiry or investigation or audit and amount of duty not quantified on or before 30.06.2019;
- has filed an application in the Settlement Commission for settlement of a case;



- intends to file a declaration with respect to excisable goods which are petroleum, tobacco and related tobacco products as mentioned in the Fourth Schedule to the Central Excise Act, 1944;
- makes a voluntary disclosure after being subjected to enquiry or investigation or audit or having filed a return, wherein he has indicated an amount of duty as payable, but has not paid it.

Relief available under LDR Scheme is tabulated below:

Situation to avail Relief	Amount of Tax Dues	Relief from Tax dues
Show cause notice or appeals arising out of such notice which is pending as on the 30th June 2019	Upto Fifty Lakhs	70%
	> Fifty Lakhs	50%
In case of an enquiry, investigation or audit against the tax payer if the amount is quantified on or before the 30th June 2019	Upto Fifty Lakhs	70%
	> Fifty Lakhs	50%
Voluntary disclosure by the Tax payer	No limit	NIL
Where tax arrears are payable or where tax payable is reported in returns but not paid	Upto Fifty Lakhs	60%
	> Fifty Lakhs	40%

LDR Scheme also grants complete immunity from interest, penalty and prosecution under the erstwhile indirect tax laws.

As the objective of the Scheme is to free as large a segment of the taxpayers from the legacy taxes as possible, the relief given thereunder is substantial. The Scheme is especially tailored to free the large number of small taxpayers of their pending disputes



with the tax administration.

It is noteworthy that there are certain restrictions on the availment of the LDR Scheme which inter-alia includes the following:

- Tax dues payable shall not be paid through input tax credit account;
- Tax dues paid shall not be taken as input tax credit or entitle any person to take input tax credit as a recipient of excisable goods or taxable services;
- Tax dues paid shall not be refundable under any circumstances.

Further, the procedure for availing the benefit under the LDR Scheme is provided under Sabka Vishwas Legacy Dispute Resolution Scheme Rules, 2019 ("LDR Rules"). The process under the Scheme involves filing an electronic declaration by the taxpayer, stating the details of their case and the amount of relief available to them. The declaration is evaluated by the Designated Committee ("DC"), which is a body comprising of senior officers of Central Excise and Service Tax, responsible for administering the Scheme. In case there is any difference between the amount quantified by the taxpayer/ declarant and the amount as evaluated by the DC, an opportunity is granted to the taxpayer to make submission to support the declaration/ amount quantified by him. The statement of final amount payable by the taxpayer is issued by the DC. Thereafter, on being satisfied that the amount payable as mentioned in the statement is paid and the case pending before High Court or Supreme Court has been withdrawn, the DC shall issue a discharge certificate to the taxpayer.

The author believes that this is an opportunity for the taxpayers to bring an end to their pending litigation or settle the arrears of tax dues. Taxpayers should review the pending cases explore the possibility to opt for the Scheme. This would be helpful for the taxpayers to start a fresh with a clean slate in the new tax regime.





# CHAPTER 02

## SCOPE OF LDR SCHEME

- 2.1 Scope of the SVLDRS
- 2.1.1 Section 122 of the Finance Act, 2019("Finance Act") provides that the scheme shall be applicable to the indirect tax enactments. Thus the Direct Tax enactments such as Income Tax Act, 1961, Wealth Tax Act, 1957 or other Direct tax statutes are not covered under the scope of this scheme.
- 2.1.2 The objective of Government behind bringing LDR Scheme is to clear the pending disputes related to indirect tax statutes (governed and controlled by the Central Government) which are now subsumed under Goods and Services Tax (GST) Law so that assessee as well as revenue department could focus on the compliance of GST Law. This objective of the government clearly reflects from the speech of Hon'ble Finance Minister, Ms. Nirmala Sitharaman, while presenting the Budget for 2019-20 along with the Finance Bill, 2019 in the Parliament on 05th July 2019. The Hon'ble Finance Minister in her speech has said that:

"141. GST has just completed two years. An area that concerns me is that we have huge pending litigations from pre-GST regime. More than 3.75 lakh crore is blocked in litigations in service tax and excise. There is a need to unload this baggage and allow business to move on. I, therefore, propose, a Legacy Dispute Resolution Scheme that will allow quick closure of these litigations. I would



urge the trade and business to avail this opportunity and be free from legacy litigations.”

2.1.3 As per Section 124 of the Finance Act, the LDR Scheme provides relief in respect of ‘tax dues’. The term ‘tax dues’ is defined in Section 123 of the Finance Act to mean ‘amount of duty’ disputed in appeal pending on or before 30th June, 2019 or ‘amount of duty’ proposed in the show cause notice issued on or before 30th June, 2019 or ‘amount of duty’ quantified under any audit investigation or inquiry on or before 30th June, 2019 or ‘amount of duty’ recoverable as an arrears. Now, the definition of ‘tax dues’ under provided Section 123 of the Finance Act refers to the term ‘amount of duty’ which is defined under clause (d) of Section 121 of the Finance Act, to read as follows:

(d) “amount of duty” means the amount of central excise duty, the service tax and the cess payable under the indirect tax enactment;

2.1.4 Thus, from the above, it transpires that the Scope of the LDR Scheme is limited to the disputes related Service Tax, central Excise and Cess leviable under different Indirect Tax statutes mentioned under section 122 of the Finance Act. Hence, the disputes related to customs duty leviable under Customs Act, 1962 (52 of 1962) or Custom Tariff Act, 1975 (51 of 1975) are not covered under this scheme.

2.1.5 The Scheme deals with almost every kind of case related to duty/taxes payable under the Indirect tax statutes mentioned in Section 122 of the Chapter V of Finance Act whether such cases are at the enquiry stage, Show Cause Notice stage or at the Appellate stage, except few cases which are under exclusions. The LDR Scheme is also applicable on the arrears amount i.e. amount of duty become recoverable due to non filing of appeal or the



Appeal having attained finality (matter decided by highest forum) or the assessee has shown the liability in returns wherein he admitted its liability but has not paid. Therefore, the scope and the coverage of this scheme is very wide as compared to the earlier dispute resolution scheme brought by the Government whether it is Karsamadhan Scheme, 1998 or Voluntary Compliance Encouragement scheme, 2013 or Dispute Resolution Scheme, 2016.

## 2.2 Statutes covered under the Scheme

2.2.1 The Indirect Tax Statutes covered under Section 122 of Chapter V of the Finance Act, 2019 on which the scheme is applicable are, namely -

- i. The Central Excise Act, 1944 and rules made thereunder
- ii. The Central Excise Tariff Act, 1985 and rules made thereunder
- iii. Chapter V of the Finance Act, 1994 (Service Tax ) and the rules made there under;
- iv. The Agricultural Produce Cess Act, 1940;
- v. The Coffee Act, 1942;
- vi. The Mica Mines Labour Welfare Fund Act, 1946;
- vii. The Rubber Act, 1947;
- viii. The Salt Cess Act, 1953;
- ix. The Medicinal and Toilet Preparations (Excise Duties) Act, 1955;
- x. The Additional Duties of Excise (Goods of Special Importance) Act, 1957;
- xi. The Mineral Products (Additional Duties of Excise



- and Customs) Act, 1958;
- xii. The Sugar (Special Excise Duty) Act, 1959;
  - xiii. The Textiles Committee Act, 1963;
  - xiv. The Produce Cess Act, 1966;
  - xv. The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972;
  - xvi. The Coal Mines (Conservation and Development) Act, 1974;
  - xvii. The Oil Industry (Development) Act, 1974;
  - xviii. The Tobacco Cess Act, 1975;
  - xix. The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976;
  - xx. The Bidi Workers Welfare Cess Act, 1976;
  - xxi. The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978;
  - xxii. The Sugar Cess Act, 1982;
  - xxiii. The Jute Manufacturers Cess Act, 1983;
  - xxiv. The Agricultural and Processed Food Products Export Cess Act, 1985;
  - xxv. The Spices Cess Act, 1986;
  - xxvi. The Finance Act, 2004 (Education Cess) ;
  - xxvii. The Finance Act, 2007 (Secondary Higher Education Cess) ;
  - xxviii. The Finance Act, 2015 (Swachh Bharat Cess);
  - xxix. The Finance Act, 2016 (Krishi Kalyan Cess) ;



xxx. Any other Act, as the Central Government may, by notification in the Official Gazette, specify.

2.2.2 The perusal of Section 122 of the Finance Act shows that the Government has covered almost all the indirect tax enactments under which central excise duty, services tax or Cesses were leviable, in the scope of the scheme. However, there are still certain enactments which have not been considered for purpose of the scheme such as Finance Act, 2001 (National Calamity contingent duty), Finance Act, 2005 (Additional duty on Pan masala and certain other products), Finance Act, 2010 (Clean Energy Cess/ Clean Environment Cess), Additional duty of excise leviable on motor Sprit (Petrol) and additional duty of excise leviable on High Speed Diesel Oil etc.

2.3 Date of applicability of the scheme

2.3.1 Sub Section 2 of Section 120 of the Finance Act provides that the LDR Scheme shall be operational from the date of issuance of Notification in the Official Gazette. The LDR Scheme is made applicable with effect from 1st September, 2019 vide Notification No. 05/2019 – Central Excise (NT) dated 21.08.2019. As per clause 3 of the said Notification the LDR Scheme shall be operational till 31st December, 2019. Thus the last date for filing of declaration under the scheme is 31st December, 2019.



# CHAPTER 03

## SITUATIONS/CASES COVERED UNDER THE SCHEME

- 3.1 Type of Cases covered under the scheme
- 3.1.1 Rule 3 of the LDR Rules read with Section 125 of the Finance Act provides that a taxpayer has to file an application in Form SVLDRS-1 to avail the benefit under the LDR Scheme. Further, as per Sub Rule 3 of Rule 3 of the LDR Rules separate declaration is required to be filed for each 'case'. The term 'case' is defined under explanation provided in Rule 3 of LDR Rules which classifies the term 'case' under four different categories as enumerated below:
- (a) a show cause notice (SCN), or one or more appeals arising out of such notice which is pending as on the 30th June, 2019; or
  - (b) an amount in arrears; or
  - (c) an enquiry or investigation or audit where the amount is quantified on or before the 30th June, 2019; or
  - (d) a voluntary disclosure.
- Any taxpayer falling under the above mentioned categories shall be eligible to file a declaration under the Scheme, subject to other conditions/restrictions.
- 3.1.2 Case means a Show Cause Notice, or, one or more appeal arising out of such notice which is pending as on the 30th June, 2019:
- This category covers the cases where show cause notice



issued to the taxpayer is pending for adjudication or appeal filed by the taxpayer before the Appellate forum is pending as on 30.06.2019. Accordingly, any Show Cause Notice issued after 30.06.2019 or any case wherein, the taxpayer has filed appeal after 30.06.2019 is not covered under this category.

The term 'case' here denote to a show cause notice or one or more appeals arising out of such Show Cause Notices. This demonstrates that in case taxpayer has been issued two show cause notices then both Show Cause Notices are to be treated as separate case and separate declaration in respect of each Show Cause Notice is required to be filed by the taxpayer. Further, ineligibility to file declaration in respect of one Show Cause Notice would not restrict the taxpayer from filing declaration in any other Show Cause Notice. This aspect has also been clarified by Central Board of Indirect Taxes and Customs ("CBI&C") vide Circular No. 1071/4/2019-CX. 8 dated 27.08.2019. The relevant Para of the said Circular is reproduced below:

"It is clarified that the exception from eligibility is for 'the case' and not 'the person'. In other words if a person has been issued a Show Cause Notice for a refund / erroneous refund and at the same time, he also has other outstanding disputes which are covered under the scheme, then, he will be eligible to file a declaration(s) for the other cases".

Further, where a Show Cause Notice contains multiple issues, in such case taxpayer shall have to file declaration for all the issues covered under the Show Cause Notice. It is not open for the taxpayer to avail the benefit of the LDR Scheme for part portion of a Show Cause Notice. This aspect has also been clarified by the CBI&C vide Circular No. 1071/4/2019-CX. 8 dated 27.08.2019.





Separately, any order passed in a case either favors taxpayer or revenue department and the party which is dissatisfied from such order files appeal against the said order. However, in some cases where the order provides partial relief to the taxpayer, a situation arises where both revenue department and taxpayer could file an appeal. In such case if both the taxpayer and the revenue department has preferred appeal against a common order then for the purpose of LDR Scheme, both the appeals shall be treated as one case.

### 3.1.3 Case means an amount in arrears:

The term 'arrears' generally refers to an amount which could not be paid by due date and recoverable. For the purpose of LDR Scheme, the term 'amount in Arrears' has been defined under clause (c) of Section 122 of the Finance Act. As per clause (c) of Section 122 of the Finance Act the term 'amount in arrears' means any amount which is recoverable as arrears of duty under the indirect tax enactment, on account of following reasons:

- (i) no appeal having been filed by the declarant against an order or an order in appeal before expiry of the period of time for filing appeal:

As per this clause, where any amount become payable due to non filing of appeal before the appellate authority within due time i.e. before the expiry of the time period allowed for filing such Appeal, the same shall be considered as arrear for the purpose of this scheme.

Here question arises that where a person has filed an appeal after the expiry of the time period for filing the appeal along with application for condonation of delay, whether such cases would be covered under definition of arrear or not?



In view of the author, this clause covers all those cases under its ambit in which appeal has not filed within the statutory time period of filing the Appeal. Given this, even though the appeal is filed along with application for condonation of delay, the same shall be considered as a case of arrear, as the same is filed after the expiry of time period for filing the Appeal. However, once the Appellate Authority has condoned the delay in filing the Appeal, the said appeal shall be deemed to be filed within the statutory time limit and such case shall cease to fall within the ambit of arrears.

- (ii) an order in appeal relating to the declarant attaining finality:

This clause covers such cases which have finally been decided and no further appeal can be preferred in such case. For example cases decided by the Hon'ble Supreme Court.

- (iii) the declarant having filed a return under the indirect tax enactment on or before 30th June, 2019, wherein he has admitted a tax liability but not paid it :

This sub clause is applicable to the taxpayer who has declared its tax liability in the service tax returns or central excise returns on or before 30.06.2019 but has failed to deposit the tax/duty so declared in the return.

In case tax payer has not paid the tax liability in respect of multiple returns, tax payable in respect of each return shall be treated as separate case and the taxpayer shall be required to file separate declaration for tax liability in respect of each return. The said position has been clarified by the CBI&C vide Circular No. 1072/05/2019-CX dated 25.09.2019.



3.1.4 An enquiry or investigation or audit where the amount is quantified on or before the 30th June, 2019 :

The cases pending Enquiry, investigation or audit level were not covered under the amnesty schemes issued earlier. However, for cases to be covered under Scheme is that during the course of enquiry, investigation or audit, the tax/duty amount has been quantified on or before 30th June 2019. The term 'quantified' is defined under clause (r) of Section 121 of the Finance Act which reads as follows:

(r) "quantified", with its cognate expression, means a written communication of the amount of duty payable under the indirect tax enactment;

Given this, for being eligible under this category the written communication of the duty payable before 30th June, 2019 is must. The written communication in this regard includes letter intimating the demand or duty liability admitted by the taxpayer during enquiry, investigation or audit, copy of audit report supplied to the tax payer etc.

This aspect has been clarified by the CBI&C Circular No. 1071/4/2019-CX. 8 dated 27.08.2019. The relevant extract of the circular dated 27.08.2019 is reproduced below:

(g) Cases under an enquiry, investigation or audit where the duty demand has been quantified on or before 30th day of June, 2019 are eligible under the scheme. Section 2(r) defines 'quantified' as a written communication of the amount of duty payable under the indirect tax enactment. It is clarified that such written communication will include a letter intimating duty demand. ;or duty liability admitted by any person during enquiry, Investigation or audit or audit report etc.



The above circular clarifies the fact that even written communication given by an Assessee during the investigation/audit/inquiry stating its liability shall suffice the purpose of falling under this category. Thus, as per authors view the scheme is available to the Assessee even in case where Assessee has communicated its liability with the Department.

### 3.1.5 Case means a voluntary disclosure:

Voluntary disclosure means self declaration/disclosure of its liability by the taxpayer on its own discretion i.e. the taxpayer comes to the department itself and inform the department about its tax liabilities. However, in case a person disclosed its liability due to enquiry or investigation or audit proceedings, the same shall not amount to voluntary disclosure. Further, where a person has reflected its liability in its returns and the same has not been paid in such case for the purpose of this scheme it is deemed that the taxpayer has already disclosed its liability before the scheme become operational and consequently, taxpayer shall not be covered under the category of voluntary disclosure. It may be noted the cases where the liability is declared by the tax payer in the statutory returns before 30th June, 2019, the taxpayer shall be covered under the category of amount of arrears under the LDR Scheme.

LDR Scheme further provides that in case of voluntary disclosure where any particular furnished in the declaration is subsequently found to be false, within a period of one year of issue of the discharge certificate, it shall be presumed as if the declaration was never made and proceedings under the applicable indirect tax enactment shall be instituted.

CBI&C vide Circular No. 1071/4/2019-CX.8 dated



27.08.2019 has clarified that in case of voluntarily disclosing of liability, there is no way to verify the correctness of declaration made. Therefore, a provision is made to reopen such declaration within one year of issue of discharge certificate, if subsequently any material particular is found to be false.

Therefore, applying for the scheme under this category is not free from the litigation. This category of the scheme is similar to the VCES scheme, 2013 and the history of the VCES scheme shows the person disclosing income under VECS were subjected to inquiry by the department and Show Cause Notices were issued to various persons. Thus opting for LDR Scheme under this category seems to be risky and could be litigious.

### 3.2 Ineligible categories of cases for making declaration under the LDR Scheme

The intention behind bringing the LDR Scheme is to make the trade and industry free from the legacy matters and clear the baggage of large pending litigation. Therefore, the LDR scheme has been given very wide coverage. However, Section 125 of the Finance Act provides certain circumstances and cases where a taxpayer is ineligible to make declaration under this scheme. The exceptions of the LDR Scheme as provided under Section 125 of the Finance Act are discussed as follows:

#### 3.2.1 Appeal filed before the appellate forum has been finally heard on or before June 30, 2019 or Show Cause Notice issued in respect of which 'final hearing' has taken place on or before 30th June, 2019:

Generally at adjudication or commissioner (Appeals) level after conclusion of personal hearing, Adjudicating Authority or Commissioner (Appeals) takes 20 days to



30 days for passing the order. Whereas in appeal pending before CESTAT or Hon'ble High Court or Hon'ble Supreme Court, the general tendency is to dictate the order in open court on the date of final arguments. However, in some cases the courts also reserve the order and pronounce the same later on. As per clause (a) and (c) of Section 125 of the Finance Act where appeal has been finally heard by the Appellate Authority or final hearing in respect of show cause notice has taken place on or before 30th June, 2019 and order has not been passed in the said cases till 30th June, 2019, the said case shall become ineligible for declaration under this scheme.

Now, question arises that when it will be considered that the final hearing is concluded. The Author based on his experience is of the view that at CESTAT or Hon'ble High Court or Hon'ble Supreme Court level when the matter has been argued finally and the order in the said has been reserved by the Court and only pronouncement of order is to be made later on, the same should fall under this category of ineligible cases. Whereas in case of appeal before commissioner (Appeals) or in case of adjudication of Show Cause Notice, the final hearing is construed to be completed when the taxpayer has signed the hearing memo and the Commissioner (Appeals) or the Adjudicating Authority has concluded the personal hearing and no further opportunity of hearing has been granted during the hearing in the said matter, the same could be considered to be covered under this category of ineligible cases.

However, there could be a situation where final hearing is concluded prior to the 30th June, 2019 but the orders could not be passed before 30th June, 2019 due to transfer of the authority or rescheduling of the bench. The CBI&C Circular No. 1071/4/2019-CX.8 dated 27.08.2019



deals with this situation. The Circular clarifies that where hearing has been re-scheduled due to the change of bench or change in officer or any reason, then such case would get covered in the LDR Scheme. The said clarification has been given in respect of appeal matters. However, the ratio of said circular could also be applied on the cases at show Cause Notice stage.

### 3.2.2 Person convicted for any offence punishable under any provision of the indirect tax enactment for the matter for which he intends to file a declaration:

The CBI&C circular No. 201/11/2016-ST dated 30.09.2016 provides for arrest and prosecution of person in case of offences specified under clause (a) to (d) of Central Excise Act, where the evasion of Central Excise duty or misuse of CENVAT Credit is equal to or more than Rs. 2 crore. Similarly, in Service Tax where a person commits any offence mentioned under sub-section (1) of section 89 of the Finance Act, 1994 and where due to such commission of offence, the evasion of Service tax is equal to or more than Rs. 2 crore then as per the circular said person can be arrested and prosecuted.

Where a taxpayer is held guilty for any offence resulting in tax evasion of more than Rs 2 cores and is convicted for such offence, then such person is ineligible to file declaration under the LDR scheme. However, the restriction is applicable only where the taxpayer is convicted in respect of the matter for which he intends to file declaration. In case such person files declaration under the scheme, the same will be rejected by the designated committee.

### 3.2.3 Show Cause notice issued in respect of erroneous refund:

This clause provides that a taxpayer shall be ineligible under the LDR Scheme where initially refund was granted



to a taxpayer but subsequently it comes to the knowledge of the department that the refund has wrongly/ erroneously been sanctioned to such taxpayer and consequently the department issued Show Cause Notice to such taxpayer for recovery of refund wrongly sanctioned. In other words, LDR Scheme shall not be available in respect of cases pertaining to recovery of erroneous refund.

3.2.4 Enquiry/Investigation/Audit, where quantification is not done on or before June 30, 2019

As per clause (e) of Section 125 of the Finance Act where a taxpayer is subjected to any enquiry, investigation or audit and the demand of duty/tax amount is not quantified on or before 30th June, 2019, such taxpayer shall be ineligible to file declaration under this scheme. The meaning and scope of the term 'quantified' has been discussed at para 3.1.4 of this Chapter.

3.2.5 Person making voluntary disclosures after (i) audit, enquiry or investigation; (ii) indicating an amount as payable in return;

A taxpayer shall not be eligible for the LDR Scheme under voluntary disclosure category where the taxpayer discloses its liability after being subjected to audit, enquiry or investigation. The terms enquiry and investigation is defined under clause (m) of Section 121 of the Finance Act which reads as follows:

(m) "enquiry or investigation", under any of the indirect tax enactment, shall

include the following actions, namely:—

- (i) search of premises;
- (ii) issuance of summons;





(iii) requiring the production of accounts, documents or other evidence;

(iv) recording of statements;

Further, the terms audit is define under clause (g) of Section 121 of the Finance Act which reads as follows:

(g) "audit" means any scrutiny, verification and checks carried out under the indirect tax enactment, other than an enquiry or investigation, and will commence when a written intimation from the central excise officer regarding conducting of audit is received;

On perusal of the definition of enquiry or investigation and Audit, it can be inferred that even if the taxpayer has received notice for audit or investigation or enquiry, the taxpayer is barred from applying for the LDR scheme under the category of voluntarily disclosure.

CBI&C vide Circular No. 1072/05/2019-CX. dated 25.09.2019 on this aspect has clarified that where the declaration is filed after receiving a letter for enquiry, the Designated Committee may decide on merits, whether such case is covered under Section 125(1) (f) or not.

Further, a tax payer who has shown the tax dues in the returns and the same has not been discharged, in such case the taxpayer shall be ineligible to file the declaration under this category. However such person should be eligible to make declaration under the LDR Scheme under the category of amount in Arrears for the amount which is reflected in the returns but is not paid.

3.2.6 Who have filed an application in the Settlement Commission for settlement of a case;

This exclusion suggests that the taxpayers who have filed



an application before the Settlement commission for the settlement of the case are ineligible to file declaration under the LDR Scheme.

Where the application filed before Settlement Commission for the settlement of the case is abated due to the reason such as rejection of application by the Settlement commission or due to order of the settlement commission not being passed in time etc., CBI&C vide Circular No. 1071/4/2019-CX. dated 27.08.2019 has clarified that as all such cases are outside from the preview of Settlement Commission, they are covered under the LDR Scheme under relevant category of adjudication, appeals or arrears. The said circular further clarified that any appeal, reference or writ petition or an arrear emerging out of order of settlement commissioner is also covered under the scheme. The relevant extract of the said Circular is reproduced below:

“(f) Section 125(g) excludes the cases where an application has been filed before the Settlement Commission for settlement. However, in many such cases, proceedings before the Commission may abate due to reasons such as rejection of the application by the Commission or due to order of the Commission not being passed within the prescribed time etc. It is clarified that all such cases which are outside the preview of the Settlement Commission shall be covered under the Scheme under the relevant category of adjudication or appeal or arrears as the case may be provided the eligibility is otherwise established under this Scheme. Further, any pending appeals, reference or writ petition filed against or any arrears emerging out of the orders of Settlement Commission are also eligible under the Scheme.”

However, the circular do not clarify that if any reference



or writ petition filed against the order of settlement commissioner, the same will fall under the litigation category or under arrears category. In Author's view in such case the application may be filed under the category of litigation as for the purpose 'appeal' it do not distinguish between writ/ appeal against settlement order and appeal against any other order.

### 3.2.7 Persons seeking to make declarations with respect to excisable goods set forth in the Fourth Schedule to the Central Excise Act, 1944.

The objective of the Government behind bringing LDR Scheme is to clear the pending disputes related to indirect tax statutes (govern and controlled by Central Government) which are now subsumed under Goods and Services Tax. Thus enactment or products which are not subsumed in GST has not been considered for the purpose of the scheme.

This aspect has also been clarified by CBI&C vide Circular No. 1072/05/2019-CX. dated 25.09.2019 that cases in respect of goods that are still subject to levy of Central Excise Duty such as specified petroleum products and tobacco products falling under Fourth Schedule to the Central Excise Act, 1944 are excluded from the applicability of LDR Scheme.

Thus, the duties levied under Fourth Schedule to the Central Excise Act, 1944 are excluded from the scope of this scheme and any person making declaration under the scheme in respect of goods specified in Fourth Schedule to the Central Excise Act, 1944 are not eligible for the scheme.



# CHAPTER 04

## TAX DUES AND TAX RELIEF

### 4.1 Tax dues for the purpose of the Scheme:

Tax dues in common parlance means the total outstanding duty/ tax demand from the taxpayer. The tax dues in reference to each category of cases covered under the LDR Scheme is defined under Section 123 of the Finance Act.

#### 4.1.1 Tax dues in case of Appeals:

Where the appeal has not been finally heard on or before the 30th June, 2019, the Tax dues shall mean:

- a) the total amount of duty which is being disputed, in case single Appeal is filed against the order (irrespective whether the appeal is filed by Taxpayer or Department)
- b) Sum of the amount of duty which is being disputed in more than one appeal arising out of an order, where the Appeal has been filed by both the department and the Taxpayer against the same order

The term 'amount of duty' is defined under clause (d) of Section 121 of the Finance Act to mean the Excise duty, Service Tax or Cess payable under the indirect tax enactment. Thus, penalty and interest are not covered under the definition of Tax dues. For better appreciation and understanding of this clause certain illustrations are provided under finance Act. The same are reproduced below:



### **Illustration – 1 :**

The show cause notice to a declarant was for an amount of duty of Rs.1000 and an amount of penalty of Rs.100. The order was for an amount of duty of Rs.1000 and amount of penalty of Rs.100. The declarant files an appeal against this order. The amount of duty which is being disputed is Rs.1000 and hence the tax dues are Rs.1000.

### **Illustration -2:**

The show cause notice to a declarant was for an amount of duty of Rs.1000 and an amount of penalty of Rs.100. The order was for an amount of duty of Rs.900 and penalty of Rs. 90. The declarant files an appeal against this order. The amount of duty which is being disputed is Rs. 900 and hence tax dues are Rs.900.

### **Illustration-3:**

The show cause notice to a declarant was for an amount of duty of Rs.1000 and an amount of penalty of Rs.100. The order was for an amount of duty of Rs. 900 and penalty of Rs. 90. The declarant files an appeal against this order of determination. The departmental appeal is for an amount of duty of Rs. 100 and penalty of Rs. 10. The amount of duty which is being disputed is Rs. 900 plus Rs. 100 i.e Rs. 1000 and hence tax dues are Rs. 1000.

### **Illustration 4:**

The show cause notice to a declarant was for an amount of duty of Rs. 1000. The order was for an amount of duty of Rs.1000. The declarant files an appeal against this order of determination. The first appellate authority reduced the amount of duty to Rs. 900. The declarant files a second appeal. The amount of duty which is being disputed is Rs. 900 and hence tax dues are Rs. 900.



#### 4.1.2 Tax due in case of a show cause notice (SCN):

Where Show Cause Notice issued is received on or before the 30th June, 2019 and the case has not been finally heard, the tax dues shall be:

- a) The amount of duty stated to be payable by the declarant in the said notice, where Show Cause issued to the declarant only
- b) Total Amount of duty payable jointly, where a Show Cause Notice has been issued to two or more persons making them jointly and severally liable for an amount of duty.

For better appreciation of this clause certain illustrations are provided below:

##### **Illustration – 1:**

The show cause notice issued to the taxpayer proposing demand of duty of Rs.1,00,000 and an amount of penalty of Rs. 10,000/-. In such case, the tax dues for the purpose of this clause shall be Rs. 1,00,000/-.

##### **Illustration -2:**

One show cause notice issued to two persons making both the persons liable to pay

duty of Rs. 1,00,000/- jointly and penalty of Rs. 1,00,000/-. Here, one of the person intend to file declaration under this scheme. In such case, the Tax dues for the purpose of this scheme shall be Rs. 1,00,000/-.

#### 4.1.3 Tax dues in case of enquiry or investigation or audit

In case where an enquiry or investigation or audit is pending against the taxpayer, the amount of duty payable under any of the indirect tax enactment which has been



quantified on or before the 30th June, 2019 shall be considered as tax dues.

As already explained in the earlier paras, Section 121(r) defines term 'quantified' to mean a written communication of the amount of duty payable under the indirect tax enactment. Thus tax dues for the purpose of the this clause shall be:

- a) The amount of duty payable in terms of written communication issued to the taxpayer on or before 30th June, 2019 by the department stating the duty liability of the taxpayer, where an enquiry or investigation or audit is pending against the taxpayer; or
- b) The amounts of duty payable in terms of written communication given by the taxpayer to the department on or before 30th June, 2019, where an enquiry or investigation or audit is pending against the taxpayer.

#### 4.1.4 Tax due in case of voluntary disclosure:

Where the amount has been voluntarily disclosed by the taxpayer, the total amount of duty stated in the declaration shall be considered as tax dues.

#### 4.1.5 Tax dues in case of arrears :

The 'amount in Arrears' is defined in clause (c) of Section 121 of the Finance Act which means any amount recoverable as arrears of duty under the indirect tax enactment, on account of following reasons:

- a) No appeal filed by the declarant against an order or a order in appeal before expiry of the period of time for filing appeal; or





- b) An order in appeal relating to the declarant attaining finality; or
- c) The declarant filed a return under the indirect tax enactment on or before the 30.06.2019, wherein he has admitted a tax liability but not paid it.

Any amount payable as arrears in above mentioned situations shall be the tax dues for the purpose of this scheme.

#### 4.2 Tax reliefs:

##### 4.2.1 Tax relief available under LDR Scheme

The reliefs under the LDR Scheme are governed by the provisions of Section 124 of the Finance Act. Section 124 of the Finance Act while refers to the term 'relief' as percentage of tax dues and 'relief' from fine and penalty is referred only in clause (b) of the section 124 of the Finance Act. Thus, a doubt was raised by the Industry that relief from fine and penalty is available only when the Show Cause Notice has been issued for late fee or penalty only and amount of duty in the said notice has been paid or is nil. In this regard one need to refer to Section 129 of the Finance Act which deals with the issuance of discharge Certificate wherein it is stated that the taxpayer/declarant shall not be liable to pay any further duty interest, or penalty with respect to the matter and time period covered in the declaration.

Further, CBI&C vide Circular No. 1071/4/2019-CX.8 dated 27.08.2019 has clarified that the provisions apply to any Show Cause Notice for penalty/late fee, irrespective of the fact that it is under adjudication or appeal. Thus, the waiver from penalty and late fee is available in all the ceases under the LDR Scheme irrespective of category of the case.



Given the above, the LDR Scheme provides a substantial relief on Tax dues which varies from 40% to 70% of the Tax dues depending on the category of cases and complete waiver from the interest and penalty. However, in the case of voluntary disclosure, only waiver from interest and penalty is available and the taxpayer has to pay entire amount of Tax dues declared.

The provisions of Section 124 read with Section 129 of the Finance Act and Circular No. 1071/4/2019-CX.8 dated 27.08.2019 are summarized below:

Section 124 of Finance Act	Category of cases	Relief available	
		In case Tax dues are equal to Rs. 50 lakhs or less	In case Tax dues are more than Rs. 50 Lakhs
(a)	Show cause notice or one or more appeals arising out of such notice which is pending as on 30.06.2019	70% of tax dues and waiver from interest, penalty and late fee	50% of tax dues and waiver from interest, penalty and late fee
(b)	Show cause notice for late fee or penalty only and amount of duty in the said notice has been paid or is nil	Waiver from Penalty and Late fee	Waiver from Penalty and Late fee



(c)	Amount in arrears	60% of tax dues and waiver from interest, penalty and late fee	40% of tax dues and waiver from interest, penalty and late fee
(c)(iii)	Amount of duty/tax indicated in the returns	60% of tax dues and waiver from interest, penalty and late fee	40% of tax dues and waiver from interest, penalty and late fee
(d)	Enquiry, investigation or audit where amount quantified on or before 30.06.2019	70% of tax dues and waiver from interest, penalty and late fee	50% of tax dues and waiver from interest, penalty and late fee
(e)	Voluntary disclosure by the taxpayer	Waiver from interest, penalty and late fee	Waiver from interest, penalty and late fee

#### 4.2.2 Conditions for availing the relief

The relief under this scheme is available on certain conditions/limitations.

(a) Amount paid as pre-deposit or amount paid during the investigation or audit shall be deducted while computing payable under the scheme:

As per Sub Section (2) of Section 124 of the Finance Act where a taxpayer has paid any amount as pre-deposit at



any stage of appellate proceedings under the indirect tax enactment or as deposit during enquiry, investigation or audit then such amount of pre-deposit or deposit shall be deducted when issuing the statement indicating the amount payable by the taxpayer/declarant.

**Illustration: 1**

Where a taxpayer has been issued a Show Cause Notice proposing the demand of duty of Rs. 1,00,000/- and penalty of Rs. 1,00,000/-. The taxpayer had already deposited Rs. 10,000/- during the investigation. The amount payable by said taxpayer under the LDR Scheme shall be Rs. 20,000/-  $[(1,00,000 - 70\% * 100,000) - 10,000]$ .

**Illustration: 2**

Where a taxpayer has been issued a Show Cause Notice proposing the demand of duty of Rs. 1,00,000/- and penalty of Rs. 1,00,000/- and the Adjudicating Authority has confirmed the entire demand of Rs. 1,00,000/- and imposed penalty of Rs 1,00,000. The taxpayer preferred appeal against the said order of Adjudicating Authority after making mandatory pre-deposit equal to of 7.5% of duty demanded i.e. Rs. 7,500/-. The amount payable under this scheme in such case shall be Rs. 22,500/-  $[(1,00,000 - 70\% * 100,000) - 7,500]$ .

(b) Pre-deposit or other deposit already paid in excess of amount payable under the scheme shall not be refunded:

As per Sub Section (2) of Section 124 where pre-deposit or deposit made by the taxpayer/ declarant exceeds the amount payable as indicated in the statement of the Designated Committee, the difference shall not be refunded to the taxpayer/ declarant.

**Illustration:**

Where a taxpayer has been issued a Show Cause Notice proposing the demand of duty of Rs. 1,00,000/- and penalty of Rs. 1,00,000/-. The taxpayer had already deposited Rs. 1,10,000/- during the investigation. The amount payable by said taxpayer under the LDR Scheme shall be Rs. 0/-  $[(1,00,000 - 70\% * 100,000) - 1,10,000]$ . No refund of excess deposited amount shall be granted.

(c) Amount payable under scheme shall not be paid through the input tax credit account:

The CBI&C issued Circular No. 42/16/2018-GST dated 13.04.2018 to clarify the procedure for recovery of arrears under existing law and clause 4.2 of the circular through utilization of electronic cash ledger or/and electronic credit ledger maintained under the GST law. The relevant portion of the circular is reproduced below for ready reference:

4.2 Recovery of interest, penalty and late fee payable:

(a) The arrears of interest, penalty and late fee in relation to CENVAT credit wrongly carried forward, arising out of any of the situations discussed in para 3 above, shall be recovered as interest, penalty and late fee of central tax to be paid through the utilization of the amount available in electronic cash ledger of the registered person and the same shall be recorded in Part II of the Electronic Liability Register (FORM GST PMT-01).

(b) The arrears of interest, penalty and late fee in relation to arrears of central excise duty, service tax or wrongly availed CENVAT credit thereof under the existing law arising out of any of the situations discussed in para 3 above, shall, unless recovered under the existing law, be recovered as interest, penalty and late fee of central tax to be paid through the utilization of the amount available in



the electronic cash ledger of the registered person and the same shall be recorded in Part II of the Electronic Liability Register (FORM GST PMT-01).

On perusal of above it transpires that a person registered under GST could pay the arrears of central Excise through electronic credit ledger. However, clause (a) of Section 130 of Finance Act, debar the taxpayer/ declarant for the payment of amount payable under this scheme through the input tax credit account. As per this clause, the amount payable as determined by designated Authority under this scheme shall be paid through cash only.

However, such restriction is not applicable where the tax dues are already paid through utilization of Cenvat Credit prior to introduction of the LDR Scheme.

(d) Amount paid cannot be taken as input tax credit or entitle any person to take input tax credit as a recipient:

As per clause (c) of Section 130 of the Finance Act the amount paid under the schemes, shall not take the credit of such amount paid and nor the recipient of goods or Services, in respect of which declaration filed, shall be eligible to take the credit.

## CHAPTER 05

### AMOUNT PAYABLE AND IMMUNITIES UNDER THE LDR SCHEME

#### 5.1 Amount payable under the LDR Scheme:

As per clause (e) of Section 121 of the Finance Act the term "amount payable" means the final amount payable by the taxpayer/ declarant as determined by the Designated Committee and as indicated in the statement issued by it, in order to be eligible for the benefits under this Scheme and shall be calculated as the amount of tax dues less the tax relief.

Further, Sub Section 2 of the Section 124 of the Finance Act provides that any amount paid as pre-deposit at any stage of appellate proceedings under the indirect tax enactment or as deposit during enquiry, investigation or audit, shall be deducted when issuing the statement indicating the amount payable by the declarant. Accordingly, the amount payable under the LDR Scheme shall be equal to [(Tax dues – Tax relief (70% or 50% as the case may be)) – amount already paid].

However, the above formula shall not apply in case of Arrears. As per Clause (c) of Section 121 of the Finance Act, amount in arrears means the amount of arrears of duty. Further, Section 123 of the Finance Act defines the Tax dues as in respect of arrears as the amount payable which is due in arrears. In other words, the tax dues is the amount of duty outstanding against the declarant i.e. net amount after deducting the amount of dues already paid. Accordingly, the amount payable in case of 'arrears' shall



be equal to [(Tax dues – Tax already paid) – Tax relief (60% or 40% of (Tax dues – Tax already paid))]

Further, CBI&C vide circular No. 1071/4/2019 – CX.8 dated 27.08.2019 has clarified that the amount already paid shall also includes the duty paid through Cenvat Credit and the Designated Committee at the time of determining the final amount shall adjust the amount paid through Cenvat Credit also.

For better understanding of term 'amount payable', few illustrations are provided below:

**Illustration 1:**

Where a taxpayer has been issued a Show Cause Notice proposing the demand of duty of Rs. 1,00,000/- and penalty of Rs. 1,00,000/-. The taxpayer had already deposited Rs. 10,000/- during the investigation. The amount payable by said taxpayer under the scheme shall be Rs. 90,000/- [(1,00,000 – 70% \* 100,000) – 10,000)].

**Illustration 2 :**

Whereas taxpayer was issued a show cause Notice proposing demand of duty of Rs. 1,00,000/- and the Adjudicating Authority has confirmed the said duty demand. The taxpayer did not file any appeal against the said order. However, the taxpayer has already deposited Rs. 50,000/- in respect of said demand. As the taxpayer has not filed Appeal against the order, the demand of duty becomes amount in arrears. Now in such case the amount payable by said taxpayer under the LDR Scheme shall be Rs. 30,000/- [(1,00,000 – 50,000) – 60% \* (1,00,000 – 50,000)].



**Illustration 3:**

Where a taxpayer has been issued a Show Cause Notice proposing the demand of duty of Rs. 1,00,000/- and penalty of Rs. 1,00,000/-. The taxpayer has already deposited Rs. 10,000/- through cash and Rs. 40,000/- through credit during the investigation. The amount payable by said taxpayer under the scheme shall be Rs. 0/-  $[(1,00,000 - 70\% * 100,000) - 50,000]$

**5.2 Immunities available to the taxpayer/declarant under the LDR Scheme**

As per Sub-section (1) of Section 129 of the Finance Act, every discharge certificate issued under section 126 with respect to the amount payable under this Scheme shall be conclusive as to the matter. The person who applies for the scheme, after getting the discharged certificated shall have immunity from:

- a) payment of any further tax, duty, interest, or penalty with respect to the matter and time period covered in the declaration; and
- b) Immunity from the prosecution; and
- c) Immunity from re-opening of the case;

**5.2.1 Immunity from payment of any further tax, duty, interest, or penalty with respect to the matter and time period covered in the declaration:**

As per Section 129 of the Finance Act after issuance of discharge certificate under the scheme, the taxpayer shall have immunity from the payment of any further tax, duty, interest, or penalty with respect to the matter and time period covered in the declaration. The department cannot demand any amount in respect of such matter in future.



Similar immunity was also provided under earlier amnesty scheme i.e. Kar Vivad Samadhan Scheme, 1998. Therefore, the judicial pronouncement in respect of said clause of immunity merits considerations. In case of Prem Lamicoats (P.) Ltd. Vs. Commissioner of Central Excise, Chennai [2000 taxmann.com 125 (CEGAT- Chennai)] the Commissioner of Central Excise proceeded to adjudicate the show cause notice which was settled in Kar Vivad Samadhan Scheme and passed order for confiscation of goods and plant and machinery. The CEGAT has held that after show cause notice has been settled under KVSS, 1998, the Commissioner has no jurisdiction to proceed with the adjudication of the notice.

However, in case of voluntary disclosure of liability under the LDR Scheme as there is no way to verify the correctness therefore a specific provision is made to re-open such declaration within one year of issue of discharge certificate, if subsequently any material particulars declared is found to be false. Further, the filing of declaration in one case do not provide immunity from any liability proposed on the same issued for different period or in respect of different issue for the same period. The immunity is available only in respect of matter and time period for which declaration is filed.

#### 5.2.2 Immunity from the prosecution:

The person who is applying for the matter shall not be liable to be prosecuted under the indirect tax enactment with respect to the matter and time period covered in the declaration. Further, the CBI&C vide Circular No. 1072/05/2019-CX dated 25th September, 2019 has clarified that where prosecution has already been launched, procedure laid down in Circular No. 1009/16/2015-Cx dated 23rd October, 2015 should be followed for withdrawal



of prosecution after issuance of the discharged certificate.

The availability of relief from prosecution after issuance of discharge certificate under earlier Kar Vivad Samadhan Scheme (amnesty scheme) was disputed by the department in case of Hira Lal Hari Lal Bhagwati Vs. CBI, New Delhi [2003 taxmann.com 1362 (SC)]. In the said case the taxpayer has filed declaration under Kar Samadhan Scheme and withdrawn the appeal filed in the said case in terms of the provisions of the Kar Samadhan Scheme. Thereafter, the taxpayer was issued discharged certificate under the said scheme. The department filed an FIR with CBI and initiated criminal proceedings under Section 12B and Section 420 of Indian Penal Code against the taxpayer. The Hon'ble Supreme Court has held that the matter settled under KVSS and in absence of mensrea, prosecution could not be launched even under IPC.

### 5.2.3 Immunity from re-opening of the case:

Section 129(1)(c) of the Finance Act provides that no case and time period in respect of which declaration is made under LDR scheme shall be reopened in any other proceeding under the indirect tax enactment.

However, as per Section 129(2)(b) the condition of 129(1) (c) shall not put any restriction on issuance of Show Cause Notice for the same issue for subsequent period or for a different matter for the same time period for which no declaration has been filed. The scheme provides immunity from re-opening of the matter only in respect of case for which declaration is filed. The CBI&C vide Circular No. 1071/4/2019-Cx.8 dated 27.08.2019 has clarified that issue of discharge certificate does not prevent issuance of show cause for subsequent period or different matter for the same period.



Further, Section 129(1)(c) shall not apply in case of voluntarily disclosure. Section 129(1)(c) provides that in case of voluntary disclosure where any material particular furnished in the declaration is subsequently found false, it shall be presumed that the declaration was never been made.

# CHAPTER 06

## MISCELLANEOUS PROVISIONS

### 6.1 Power to make Rules

Section 132 of the Finance Act provides the power to the government to make Rules for the purpose of carrying out the provisions of LDR Scheme, by issuing notification in the Official Gazette. Such rules may be notified by the government for all or any of the following matters:

- (a) the form in which a declaration may be made and the manner in which such declaration may be verified;
- (b) the manner of constitution of the designated committee and its rules of procedure and functioning;
- (c) the form and manner of estimation of amount payable by the declarant and the procedure relating thereto;
- (d) the form and manner of making the payment by the declarant and the intimation regarding the withdrawal of appeal;
- (e) the form and manner of the discharge certificate which may be granted to the declarant;
- (f) the manner in which the instructions may be issued and published;
- (g) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules



## 6.2 Power to Issue Instructions

Section 133 of the Finance Act provides power to CBI&C to issue such orders, instructions and directions to the authorities, as it may deem fit, for the proper administration of this Scheme. However, CBI&C is prohibited from issuing any directions so as to require any designated authority to dispose of a particular case in a particular manner. The Authorities and all other persons employed in the execution of this Scheme are required to observe and follow such orders, instructions and directions.

## 6.3 Removal of difficulties

Section 134 of the Finance Act provides that if any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty. However, the Government cannot issue such order after the expiry of two years from the date on which the provisions of this Scheme come into force.

## 6.4 Constitution of Designated Committee

Section 126(2) of the Finance Act provides for formation or constitution of Designated Committee for the operation of LDR Scheme and Rule 3 of the LDR Rules governs the provisions of composition and functioning of the Designated Committee.

In each Commissionerate, two Designated Committee's shall be formed one for cases where the tax dues are more than rupees fifty lakh and another for the cases where the tax dues equal to or below fifty lakhs.

For the cases where the tax dues are more than rupees fifty lakhs, the Designated Committee shall be formed comprising the Principal Commissioner or Commissioner



of Central Excise and Service Tax, as the case may be, and the Additional Commissioner or Joint Commissioner of Central Excise and Service Tax.

Whereas, for the cases involving tax dues equal to or below fifty lakhs, the Designated committee shall comprise of the Additional Commissioner or Joint Commissioner of Central Excise and Service Tax, as the case may be, and the Deputy Commissioner or Assistant Commissioner of Central Excise and Service Tax.

The CBI&C vide Circular No. 1071/4/2019-CX.8 dated 27th August, 2019 has clarified that the Designated Committees have been set up based on the amount of tax dues i.e. duty demand before applying the tax-relief. For example, if in a show cause notice the duty demanded is Rs. 60 lakhs, the same will fall under the purview of a Committee consisting of Principal Commissioner/Commissioner and Additional/Joint Commissioner even though the final duty payable after applying tax-relief will be less than Rs. 50 lakhs.

#### 6.5 Rectification of Errors

The Designated Committee may modify its order only to correct an arithmetical error or clerical error, which is apparent on the face of record, on such error being pointed out by the Taxpayer or suomotu, by the Designated Committee. No error can be corrected by Designated Committee after thirty days from the date of issue of a statement indicating the amount payable by the Taxpayer.

#### 6.6 Protection to the Officers

Section 135 of the Finance Act provides following protection to the officers under the LDR Scheme :

(a) where anything which is done, or intended to be



done by the Central Government or any officer of the Central Government in good faith, in pursuance of this Scheme or any rule made there under in such case no suit, prosecution or other legal proceeding can be instituted against such officers.

- (b) Any proceeding, other than a suit shall be commenced against such officers only after giving a prior notice of not less than one month in writing of the intended proceeding to such officer.
- (c) No proceeding shall be commenced against any officer only on the ground of subsequent detection of an error in calculating the amount of duty payable by the declarant, unless there is evidence of misconduct.



# CHAPTER 07

## PROCEDURE FOR AVAILING THE SCHEME

### 7.1 Eligibility of the case under the LDR Scheme

Before applying under LDR Scheme, the taxpayer should carefully check the eligibility of the case under LDR Scheme and ensure that the case is related to the enactments covered by the Scheme and not debarred from applying for the LDR scheme in terms Section 125 (1) of the Finance Act.

### 7.2 Ascertaining Tax Due, Relief, tax paid and amount payable

Once the taxpayer ascertains that its case is covered under the LDR Scheme and the case does not fall under the exceptions provided Section 125 (1) of the Finance Act, the second step is to analyze the category of case in terms of Explanation to Rule 3 of LDR Rules and determine the amount of tax dues as per Section 123 of the Finance Act. Thereafter, the next step is to determine the relief available and amount payable under the scheme.

### 7.3 Filing of Declaration

The declaration under the LDR Scheme is to be filed electronically in forms SVLDRS -1. For filing the declaration taxpayer has to login at the website <https://www.cbic-gst.gov.in/cbec-portal-ui/?amnestyScheme>. The Tax payer who was registered on ACES under Service Tax or under Central Excise can use their User ID and Password of ACES to login at LDR's website and if the taxpayer was not earlier



registered on ACES, he can register itself for LDR Scheme on the said website by filling the requisite credentials.

Once the taxpayer logged in into the website, he can file the declaration in form SVLDRS – 1 by filling the required details in the form. On opting for filing SVLDRS-1, a window will appear contacting the 10 questions on eligibility for the LDR Scheme and the taxpayer has to select 'yes' or 'no' in answer. If taxpayer is found eligible for the scheme, the system will allow proceeding further.

Thereafter, the taxpayer have to fill, information like Appeal No., Order No., amount of tax dues, amount of tax paid/pre-deposit made etc. and after that the system will automatically compute the amount payable. If tax payer does not agree with the amount payable, he can record the reasons for the same. The Online procedure for filling the declaration demonstrated with screen shots in subsequent Para 'Online procedure for filing declaration under LDR Scheme'.

#### 7.4 Verification by the Designated Committee

Once the declaration is submitted by the taxpayer online, the same shall be verified by the Designated Committee on the basis of the information submitted by the taxpayer and records available with the department.

#### 7.5 Estimation of Amount Payable

After verification of the declaration, the Designated Committee shall determine the amount payable and a statement will be issued to the taxpayer in form SVLDRS-3 stating the amount payable by the Taxpayer.

#### 7.6 Opportunity of hearing



Where the amount estimated to be payable by the taxpayer exceeds the amount payable declared by the taxpayer, the Designated Committee shall issue a statement of amount payable in form SVLDRS -2 along with a notice of opportunity of personal hearing within 30days from the date of filing the declaration.

#### 7.7 Payment of amount under LDR Scheme

The taxpayer after receiving the statement of amount payable from Designated Committee in from SVLDRS-3, shall pay the amount indicated in the statement within 30 days from the date of its issue.

#### 7.8 Withdrawal of Appeal

The taxpayer after making payment is required to withdraw the appeal filed in respect of case for which declaration is filed, which is pending before the Hon'ble High Court and Supreme Court. As regard to appeals before Commissioner (Appeals) and CESTAT, the same shall be deemed to be withdrawn.

#### 7.9 Issue of Discharge Certificate

The Designated Committee on being satisfied that the taxpayer has paid full amount as determined under form SVLDRS-3 and submitted the proof of withdrawal of appeal or writ petition in respect of said case, the DC shall issue the discharge certificate electronically in form SVLDRS-4, within 30 day of payment or submission of proof whichever is later.

#### 7.10 Online procedure for filing declaration under LDR Scheme

- The taxpayer can apply for this scheme from <https://cbic-gst.gov.in>



- The taxpayer already registered under CE / ST can login and fill Part-B of SVLDRS Form-1.
- The unregistered taxpayer can register himself by filling Part-A of SVLDRS Form -1.

If the taxpayer selects the jurisdiction from know your jurisdiction then value of the fields i.e. State/ Zone/ Commissionerate/ Division/ Range will auto populated.

fig 7.1

Once the taxpayer log in by using the user ID and password, the dashboard of the registered taxpayer would be available. The snapshot of the same is shown below as fig. 7.2

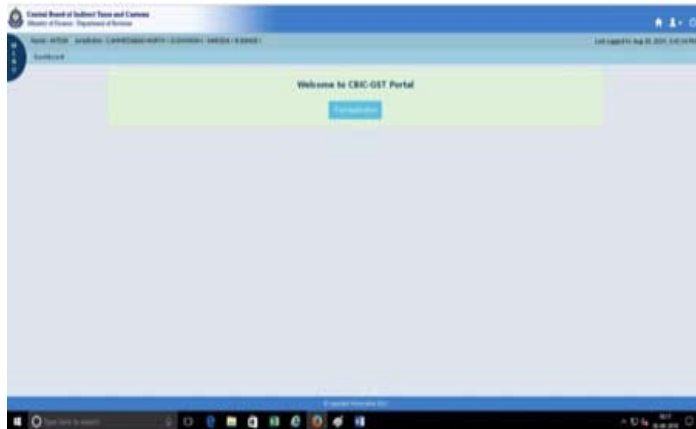


fig 7.2

The taxpayer can select the LDR scheme from the menu option on the dashboard. The snapshot of the same is shown below as fig 7.3

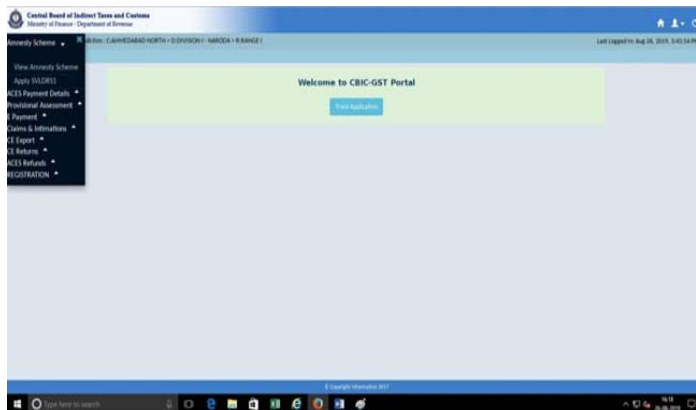


fig 7.3



On selecting the Scheme, the following questionnaire would come on the screen. In order to apply for the Scheme, the answer to first four questions must be 'No'. The snap shot of the window/ screen of questionnaire is shown below as fig 7.4.

The screenshot shows a web-based questionnaire from the Central Board of Indirect Taxes and Customs. The header includes the name 'NITESH' and the address 'C/ANNEEJALNORTH D/SHIVSHY NARODA - 48 RANGE 1'. The page is titled 'Kindly answer the following questions to determine whether you are eligible to file LDRS 1 Form'. The questions are as follows:

Sl.No	Eligibility Criteria	Yes/No
1	Have you been convicted for an offence for the matter for which this declaration is being made? (Note: If you answer YES to this question, you are ineligible to proceed further under the scheme.)	<input type="radio"/> Yes <input type="radio"/> No
2	Have you filed an application in the Settlement Commission for the case for which this declaration is being made? (Note: If you answer YES to this question, you are ineligible to proceed further under the scheme.)	<input type="radio"/> Yes <input type="radio"/> No
3	Are you seeking to make this declaration with regard to exclude goods and berth in the Fourth Schedule to the Central Excise Act, 1944 (specified petroleum and tobacco products)? (Note: If you answer YES to this question, you are ineligible to proceed further under the scheme.)	<input type="radio"/> Yes <input type="radio"/> No
4	Are you seeking to make this declaration with regard to a show cause notice of refusal/revocation/refund? (Note: If you answer YES to this question, you are ineligible to proceed further under the scheme.)	<input type="radio"/> Yes <input type="radio"/> No
5	Whether final hearing with regard to a matter in adjudication or appeal has taken place on or before 30.06.2019 for the matter for which this declaration is being made? (Note: If you answer YES to this question, you are ineligible to proceed further under the LDRS1 category.)	<input type="radio"/> Yes <input type="radio"/> No
6	Have you been subjected to any audit under the Central Excise Act, 1944 or Chapter V of the Finance Act, 1994 in respect of the goods/services or both for which this declaration is being made? (Note: If you answer YES to this question, you are ineligible to proceed further under the VOLUNTARY DISCLOSURE category.)	<input type="radio"/> Yes <input type="radio"/> No
7	Have you received any written communication from a Central Excise Officer with regard to any audit to be conducted? (Note: If you answer YES to this question, you are ineligible to proceed further under the VOLUNTARY DISCLOSURE category.)	<input type="radio"/> Yes <input type="radio"/> No
8	Have you been subjected to any enquiry or investigation under the Central Excise Act, 1944 or Chapter V of the Finance Act, 1994 in respect of the goods/services or both for which this declaration is being made by way of any of the following: (a) search of premises (b) issuance of summons (c) requiring the production of accounts, documents or other evidence (d) recording of statements (Note: If you answer YES to this question, you are ineligible to proceed further under the VOLUNTARY DISCLOSURE category.)	<input type="radio"/> Yes <input type="radio"/> No
9	Have you filed any return for the period for which declaration is being made showing the amount of duty to be payable but not having paid it? (Note: If you answer YES to this question, you are ineligible to proceed further under the VOLUNTARY DISCLOSURE category.)	<input type="radio"/> Yes <input type="radio"/> No
10	Have the tax dues with regard to the matter under enquiry/ investigation or audit NOT been quantified on or before 30.06.2019? (Note: If you answer YES to this question, you are ineligible to proceed further under the INVESTIGATION, ENQUIRY OR AUDIT category.)	<input type="radio"/> Yes <input type="radio"/> No

fig 7.4

After replying to the questionnaire, the tax payer needs to select the category, sub-category and duty type under the LDR Scheme. The snap shot of the screens appearing for the said purpose is shown at fig 7.5, fig 7.6, fig 7.7 and fig 7.8.



Control Board of Indirect Taxes and Customs  
Ministry of Revenue, Department of Revenue

Name: NITESH | Jurisdiction: C/AR/MSABAD-NORTH + DIVISION-1-NARODA + R-RANGE-1 | Last Logged In: Aug 26, 2019, 3:43:54 PM

backboard

FORM SVLDRS 1

Name of the Declarant: NITESH | Address of the Declarant: North Block, Ahmedabad 3705, A/c. | PAN: BAPO4739L | Email ID: niteshnitish081@gmail.com | Mobile No: 9447284008

Jurisdiction: C/AR/MSABAD-NORTH + DIVISION-1

Category	Sub Category	Duty Type
Select		
Arisars		
Litigation		
Investigation, Injury or Accid		
Voluntary Disclosure		

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fig 7.5

Control Board of Indirect Taxes and Customs  
Ministry of Revenue, Department of Revenue

Name: NITESH | Jurisdiction: C/AR/MSABAD-NORTH + DIVISION-1-NARODA + R-RANGE-1 | Last Logged In: Aug 27, 2019, 12:30:09 PM

backboard

FORM SVLDRS 1

Name of the Declarant: NITESH | Address of the Declarant: North Block, Ahmedabad 3705, A/c. | PAN: BAPO4739L | Email ID: niteshnitish081@gmail.com | Mobile No: 9447284008

Jurisdiction: C/AR/MSABAD-NORTH + DIVISION-1

Category	Sub Category	Duty Type
Litigation	Select	
	Select	
	SCS Involving Duty Pending	
	SCS Involving Penalty Pending	
	Appeal Pending	

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fig 7.6



**Central Board of Indirect Taxes and Customs**  
Ministry of Revenue, Department of Revenue

Name: NITESH | Jurisdiction: CAHMEDABAD-NORTH - DDIVISION | HARODA - R-RANGE | Last Logged in: Aug 27, 2019, 12:30:09 PM

**FORM SVLDRS 1**

Name of the Declarant: NITESH | Address of the Declarant: North Block, Ahmedabad 3705, An. | PAN: BAPOF736 | Email ID: niteshahlyal89@gmail.com | Mobile No: 9447256008

Jurisdiction: CAHMEDABAD-NORTH - DDIVISION

Categories: [Excise] | Sub Category: [Select] | Duty Type: [Central Excise]

Appeal not filed or appeal having attained finality  
Declared in Return but not paid

fig 7.7

**Central Board of Indirect Taxes and Customs**  
Ministry of Revenue, Department of Revenue

Name: NITESH | Jurisdiction: CAHMEDABAD-NORTH - DDIVISION | HARODA - R-RANGE | Last Logged in: Aug 27, 2019, 12:32:18 PM

**SCN Involving Duty Pending** | Central Excise

SCN involving duty along with interest/date frequency (if any) pending as on 30.06.2019 and final hearing not held before: 30.06.2019

Whether the case is under adjudication by Pt. ADG/DCI (Adjudicator), delhi?  
 Yes  No

S.No	SCN No	SCN Date	Details of Duty		Penalty	Late Fee	Pre-deposit	Tax Duty less Tax Relief	Action
			Duty/Tax Case	Amount					
1	12/was/2018-12	12/06/2018	Spec. Duties/Other	200000	30000	30000	0	140000	+
2			Other Services	200000	0	0	0	140000	+
3	12/was/2018-12	09/06/2018							+

Amount Payable (in Words): Rupees Twenty Eight Lakh Only

Total Amount: 200000

Verification: I declare that I have read and understood the SABKA VISHWAS (LEGAT) declaration is correct and complete and the amount of tax dues and c... I shall pay the amount as may be determined by the Designated Auth...

fig 7.8





On filling the requisite information, the system will compute the amount payable. In case the declarant/ taxpayer does not agree with the amount payable computed by the system, the taxpayer can enter the amount payable as per his calculation. Thereafter, the tax payer could submit the declaration by clicking on the submit button. On submitting the application, ARN will be generated and the taxpayer will be informed via email and sms.

The Tax officer on submission of the declaration in form SVLDRS 1, will be shown following two options:

### **Option 1 : SVLDRS 3**

Where the amount payable as estimated and declared by the taxpayer is equal to the amount payable estimated to be payable, the DC shall issue a statement in form SVLDRS-3 indicating the amount payable by the taxpayer. The said form should be issued by the DC within 60 days from the date of receipt of declaration.

### **Option 2 : SVLDRS 2**

Where the amount payable as estimated and declared by the taxpayer is less than the amount payable estimated to be payable by DC, the DC shall issue a statement in form SVLDRS-2 within 30 days of date of receipt of declaration stating the estimate of the amount payable by the taxpayer along with notice of opportunity for personal hearing. In such case the tax payer is required to file reply in form SVLDRS-2A stating agreement or disagreement with the estimate of the amount payable as computed/ determined by DC.

Once the amount payable is agreed or accepted by the DC, the taxpayer shall pay the said amount electronically within a period of thirty days from the issue of the statement. The challan for payment is to be generated on the portal itself and on generation of the challan, the portal will direct the tax payer to the payment gateway.



In case the LDR Scheme is opted in respect of any appeal or reference or writ petition filed before the High Court or Supreme Court, the taxpayer is required to withdraw such appeal or writ petition with the leave of the Court.

Once the payment of the amount payable as indicated in Form SVLDR-3 is made and DC is satisfied of the payment so made and submission of the proof of withdrawal of appeal or reference or writ petition filed before the High Court or Supreme Court, if any, the DC shall issue electronically in Form SVLDRS-4 a discharge certificate within thirty days of the said payment and submission of proof of withdrawal (where applicable), whichever is later.

In case wherein the amount payable is NIL and accordingly, statement in Form SVLDR-3 was not issued and no appeal before the High Court or Supreme Court is pending, the discharge certificate shall be issued within 30 days of receipt of declaration. Snapshot of the discharge certificate in Form SVLDR-4 is shown at fig. 7.9

Form No. SVLDRS-4 (Form 4)

[Discharge Certificate for Full and Final Settlement of Tax Dues under Section 127 of the Finance (No. 2) Act, 2019 read with Rule 9 of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019]

SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME RULES, 2019

Declaration No. : SVLDRS-4 No. : Commissioner's/DGO, Delhi : Zone/DGO, Delhi :

Whereas : [Name and address of the declarant] having registration number : had made a declaration under section 127 of the Finance (No. 2) Act, 2019;

And whereas the designated committee by issue of a statement dated : under section 127 of the Finance (No. 2) Act, 2019 determined the amount of Rs. [Rupees] payable by the declarant in accordance with the provisions of the Scheme towards full and final settlement of tax dues as per details given below:

S.No.	Category	Description of Liability	Nature	Time period		Tax Rates		Tax called	Tax deposit	Estimated amount payable	
				From Period	To Period	Rate	Amount			Rate	Amount
1	SVLDRS-4 Discharge	State Product	Exemption	01/01/2019	01/01/2019	0%	0	0	0	0	0
TOTAL								0	0	0	0
GRAND TOTAL								0	0	0	0

Amount Payable (in Words) :

fig7.9

# CHAPTER 08

## ISSUES / GREY AREAS

Certain grey areas or issues which may crop up while filing the declaration under the LDR scheme are tabulated below:

Sr No	Issue	Comments
1.	Single appeal filed against a common order in respect of multiple Show Cause Notices, whether single declaration to be filed or separate declaration in respect of each Show Cause Notice is to be filed?	Explanation to Rule 3(2)(a) of the LDR Rules defines a "case" to mean a Show Cause Notice or one or more appeal arising out of such Show Cause Notice. In other words said Rule treats each show cause notice as a separate case. Given this, separate declaration should be filed for each show cause notice even though single appeal is pending with the Appellate Authority/ Court.
2.	Where the department and Taxpayer both are in Appeal against a common order, the taxpayer filed appeal before 30th June, 2019 and the same is pending as on 30th June, 2019. Whereas, the department filed appeal against the same order after 30th June, 2019. Whether tax payer shall be eligible for the scheme? If yes, what will be the tax dues for the purposes of the scheme?	It appears that the Scheme might not be available to the taxpayer as one of the appeals arising out of the same order in respect of a Show Cause Notice was not pending on 30th June, 2019. This issue needs to be addressed by the CBI&C to extend the benefit of LDR Scheme in such cases.



3.	Where Show Cause Notice is issued to Co-Noticee along with main Noticee, whether separate declaration by main Noticee and Co-Noticee to be filed? If main Noticee does not file declaration, whether co-Noticee can file the declaration or vice versa?	In Author's view separate declaration is to be filed by the main noticee and the co-noticee. In case the main noticee does not file the declaration under LDR Scheme, the co-noticees shall not be entitled to the benefit of the LDR Scheme. This aspect has been clarified by the CBI&C dated 27.08.2019 should be filed
4.	Liability under Reverse Charge Mechanism(RCM) deposited after issuance of Show Cause Notice and availed Cenvat Credit. SCN issued for tax, interest and penalty. Whether the benefit under LDR Scheme shall be available as the tax payer has already availed Cenvat Credit while LDR Scheme states that any amount paid under the scheme shall not be taken as input tax credit?	Section 130(1)(c) of the Finance Act provides restriction on admissibility of input tax credit in respect of any amount paid under the scheme. The 'amount payable' under the scheme is defined to mean the final amount payable by the declarant as determined by the designated committee and as indicated in the statement issued by it, in order to be eligible for the benefits under this scheme and shall be calculated as the amount of tax dues less tax relief. Further, Section 124(2) provides that any amount paid as pre-deposit at any stage of appellate proceedings or as deposit during enquiry, investigation or audit shall be deducted when issuing the statement indicating the amount payable by the declarant. Given this, the amount payable as per the statement under the scheme shall come to be NIL and therefore, the author is of the view that the restriction provided on availability of input tax credit under Section 130 should not be applicable to the present case.



5.	In case of a Show Cause Notice since the amount in respect of penalty is not finally quantified, what amount is to be shown with regard to penalty in Form SVLDRS-1?	In author's view the maximum penalty leviable under the Section under which penalty is proposed to be imposed under the Show Cause Notice could be shown as penalty in Form SVLDRS-1.
6.	Investigation or audit completed and duty amount quantified before 30.06.2019 but Show Cause Notice issued after 30.06.2019. Whether the benefit of the LDR Scheme shall be available to the taxpayer in such case?	In this case once the Show Cause Notice is issued the case ceases to fall under the category of Enquiry, investigation or audit for the purpose of LDR Scheme. Further, since the show cause notice is issued after 30.06.2019 and is pending adjudication, the benefit of the LDR Scheme should not be available to the taxpayer.
7.	Whether LDR Scheme should be available in respect of cases where application for revision under Section 35EE of the Central Excise Act, 1944 is pending before the revisionary authority?	Though the intent of the LDR Scheme is to allow the benefit to all the matters in relation to enactments contained in Section 122, except those cases which are excluded by Section 125. However, the said cases typically are not covered under the definition of tax dues as defined under Section 123. Further, the term appellate forum is defined under the Finance Act in a manner that it does not cover within its ambit the Revisionary Authority. Given this, the benefit of the LDR Scheme may not be available to cases/ applications pending with revisionary authority.



8.	Whether LDR Scheme should be applicable in cases involving Seizure of goods?	The tax relief under the LDR Scheme does not cover the redemption fine. Given this, it appears that the benefit may not be available qua the seizure of the goods. However, Hon'ble Tribunal in the case of Prem Lamicoats Pvt Ltd while dealing with similar situation under Kar Vivad Samadhan Scheme has held that once the duty has been settled under the Scheme, the Commissioner does not have power to adjudicate the show cause notice. (refer para 5.2.1 in this regard)
9.	The department issued multiple Show Cause Notices to a tax payer and the taxpayer deposited lumpsum tax of say 50 percent of the total duty demand in all the Show Cause Notices, whether the payment so made could be adjusted under the Scheme on pro-rata basis against various cases or it shall be set-off fully against one case?	In author's view that the duty deposited against the single challan is not appropriated by the tax payer against any single show cause notice and also the duty so paid is still under protest till the matter attains finality. Given this, the tax payer should be allowed to utilize the duty paid through a single challan in the manner the taxpayer intends to utilize.



10.	In cases wherein the declaration filed by the taxpayer and subsequently a statement of amount payable is issued by the Designated Committee in respect of matters pending before the appellate authority other than High Court and Supreme Court, whether the taxpayer can opt not to deposit the amount payable or fails to deposit the amount payable within prescribed time and pursue the appeal?	Section 127(6) of the Finance Act provides that once the statement is issued by the Designated Committee, the appeal filed before the appellate forum other than Supreme Court and High Court shall be deemed to have been withdrawn. Further, there is no provision for reinstatement of such appeal under the LDR Scheme. Given this once the statement is issued by the Designated Committee, the taxpayer cannot pursue the appeal as the appeal stands deemed withdrawn once the statement of amount payable is issued by the Designated Committee.
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# CHAPTER 09

## FINANCE ACT, 2019

SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019  
Finance (no. 2) Act, 2019

120. Short title and commencement –

- (1) This Scheme shall be called the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (hereafter in this Chapter referred to as the “Scheme”).
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

121. Definitions –

In this Scheme, unless the context otherwise requires,—

- (a) “amount declared” means the amount declared by the declarant under section 125;
- (b) “amount estimated” means the amount estimated by the designated committee under section 127;
- (c) “amount in arrears” means the amount of duty which is recoverable as arrears of duty under the indirect tax enactment, on account of—
  - (i) no appeal having been filed by the declarant against an order or an order in appeal before expiry of the period of time for filing appeal; or



- (ii) an order in appeal relating to the declarant attaining finality; or
- (iii) the declarant having filed a return under the indirect tax enactment on or before the 30th day of June, 2019, wherein he has admitted a tax liability but not paid it;
- (d) "amount of duty" means the amount of central excise duty, the service tax and the cess payable under the indirect tax enactment;
- (e) "amount payable" means the final amount payable by the declarant as determined by the designated committee and as indicated in the statement issued by it, in order to be eligible for the benefits under this Scheme and shall be calculated as the amount of tax dues less the tax relief;
- (f) "appellate forum" means the Supreme Court or the High Court or the Customs, Excise and Service Tax Appellate Tribunal or the Commissioner ( Appeals);
- (g) "audit" means any scrutiny, verification and checks carried out under the indirect tax enactment, other than an enquiry or investigation, and will commence when a written intimation from the central excise officer regarding conducting of audit is received;
- (h) "declarant" means a person who is eligible to make a declaration and files such declaration under section 125;
- (i) "declaration" means the declaration filed under section 125;
- (j) "departmental appeal" means the appeal filed by a central excise officer authorised to do so under the indirect tax enactment, before the appellate forum;



- (k) "designated committee" means the committee referred to in section 126;
- (l) "discharge certificate" means the certificate issued by the designated committee under section 127;
- (m) "enquiry or investigation", under any of the indirect tax enactment, shall include the following actions, namely:—
  - (i) search of premises;
  - (ii) issuance of summons;
  - (iii) requiring the production of accounts, documents or other evidence;
  - (iv) recording of statements;
- (n) "indirect tax enactment" means the enactments specified in section 122;
- (o) "order" means an order of determination under any of the indirect tax enactment, passed in relation to a show cause notice issued under such indirect tax enactment;
- (p) "order in appeal" means an order passed by an appellate forum with respect to an appeal filed before it;
- (q) "person" includes—
  - (i) an individual;
  - (ii) a Hindu undivided family;
  - (iii) a company;
  - (iv) a society;
  - (v) a limited liability partnership;
  - (vi) a firm;



- (vii) an association of persons or body of individuals, whether incorporated or not;
- (viii) the Government;
- (ix) a local authority;
- (x) an assessee as defined in rule 2 of the Central Excise Rules, 2002;
- (xi) every artificial juridical person, not falling within any of the preceding clauses;
- (r) "quantified", with its cognate expression, means a written communication of the amount of duty payable under the indirect tax enactment;
- (s) "statement" means the statement issued by the designated committee under section 127;
- (t) "tax relief" means the amount of relief granted under section 124;
- (u) all other words and expressions used in this Scheme, but not defined, shall have the same meaning as assigned to them in the indirect tax enactment and in case of any conflict between two or more such meanings in any indirect tax enactment, the meaning which is more congruent with the provisions of this Scheme shall be adopted.

122. Application of Scheme to indirect tax enactments –

This Scheme shall be applicable to the following enactments, namely:—

- (a) the Central Excise Act, 1944 or the Central Excise Tariff Act, 1985 or Chapter V of the Finance Act, 1994 and the rules made thereunder;



(b) the following Acts, namely:—

- (i) the Agricultural Produce Cess Act, 1940;
- (ii) the Coffee Act, 1942;
- (iii) the Mica Mines Labour Welfare Fund Act, 1946;
- (iv) the Rubber Act, 1947;
- (v) the Salt Cess Act, 1953;
- (vi) the Medicinal and Toilet Preparations (Excise Duties) Act, 1955;
- (vii) the Additional Duties of Excise (Goods of Special Importance) Act, 1957
- (viii) the Mineral Products (Additional Duties of Excise and Customs)
- (ix) The Sugar (Special Excise Duty) Act, 1959
- (x) the Textiles Committee Act, 1963;
- (xi) the Produce Cess Act, 1966;
- (xii) the Limestone and Dolomite Mines Labour Welfare Fund Act, 1972;
- (xiii) the Coal Mines (Conservation and Development) Act, 1974;
- (xiv) the Oil Industry (Development) Act, 1974;
- (xv) the Tobacco Cess Act, 1975;
- (xvi) the Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976;
- (xvii) the Bidi Workers Welfare Cess Act, 1976;
- (xviii) the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978
- (xix) the Sugar Cess Act, 1982;



- (xx) the Jute Manufacturers Cess Act, 1983;
  - (xxi) the Agricultural and Processed Food Products Export Cess Act, 1985;
  - (xxii) the Spices Cess Act, 1986;
  - (xxiii) the Finance Act, 2004;
  - (xxiv) the Finance Act, 2007;
  - (xxv) the Finance Act, 2015;
  - (xxvi) the Finance Act, 2016;
- (c) any other Act, as the Central Government may, by notification in the Official Gazette, specify.

123. Tax Dues –

For the purposes of the Scheme, “tax dues” means—

(a) where—

- (i) a single appeal arising out of an order is pending as on the 30th day of June, 2019 before the appellate forum, the total amount of duty which is being disputed in the said appeal;
- (ii) more than one appeal arising out of an order, one by the declarant and the other being a departmental appeal, which are pending as on the 30th day of June, 2019 before the appellate forum, the sum of the amount of duty which is being disputed by the declarant in his appeal and the amount of duty being disputed in the departmental appeal:

Provided that nothing contained in the above clauses shall be applicable where such an appeal has been heard finally on or before the 30th day of June, 2019.

**Illustration 1:**

The show cause notice to a declarant was for an amount of duty of Rs.1000 and an amount of penalty of Rs.100. The order was for an amount of duty of Rs.1000 and amount of penalty of Rs.100. The declarant files an appeal against this order. The amount of duty which is being disputed is Rs.1000 and hence the tax dues are Rs.1000.

**Illustration 2:**

The show cause notice to a declarant was for an amount of duty of Rs.1000 and an amount of penalty of Rs.100. The order was for an amount of duty of Rs.900 and penalty of Rs. 90. The declarant files an appeal against this order. The amount of duty which is being disputed is Rs. 900 and hence tax dues are Rs.900.

**Illustration 3:**

The show cause notice to a declarant was for an amount of duty of Rs.1000 and an amount of penalty of Rs.100. The order was for an amount of duty of Rs. 900 and penalty of Rs. 90. The declarant files an appeal against this order of determination. The departmental appeal is for an amount of duty of Rs. 100 and penalty of Rs. 10. The amount of duty which is being disputed is Rs. 900 plus Rs. 100 i.eRs. 1000 and hence tax dues are Rs. 1000.



#### **Illustration 4:**

The show cause notice to a declarant was for an amount of duty of Rs. 1000. The order was for an amount of duty of Rs.1000. The declarant files an appeal against this order of determination. The first appellate authority reduced the amount of duty to Rs. 900. The declarant files a second appeal. The amount of duty which is being disputed is Rs. 900 and hence tax dues are Rs. 900;

- (b) where a show cause notice under any of the indirect tax enactment has been received by the declarant on or before the 30th day of June, 2019, then, the amount of duty stated to be payable by the declarant in the said notice:

Provided that if the said notice has been issued to the declarant and other persons making them jointly and severally liable for an amount, then, the amount indicated in the said notice as jointly and severally payable shall be taken to be the amount of duty payable by the declarant;

- (c) where an enquiry or investigation or audit is pending against the declarant, the amount of duty payable under any of the indirect tax enactment which has been quantified on or before the 30th day of June, 2019;
- (d) where the amount has been voluntarily disclosed by the declarant, then, the total amount of duty stated in the declaration;
- (e) where an amount in arrears relating to the declarant is due, the amount in arrears.





124. Relief available under the scheme –

- (1) Subject to the conditions specified in sub-section (2), the relief available to a declarant under this Scheme shall be calculated as follows:—
  - (a) where the tax dues are relatable to a show cause notice or one or more appeals arising out of such notice which is pending as on the 30th day of June, 2019, and if the amount of duty is,—
    - (i) rupees fifty lakhs or less, then, seventy per cent. of the tax dues;
    - (ii) more than rupees fifty lakhs, then, fifty per cent. of the tax dues;
  - (b) where the tax dues are relatable to a show cause notice for late fee or penalty only, and the amount of duty in the said notice has been paid or is nil, then, the entire amount of late fee or penalty;
  - (c) where the tax dues are relatable to an amount in arrears and,—
    - (i) the amount of duty is, rupees fifty lakhs or less, then, sixty per cent. of the tax dues;
    - (ii) the amount of duty is more than rupees fifty lakhs, then, forty per cent. of the tax dues;
    - (iii) in a return under the indirect tax enactment, wherein the declarant has indicated an amount of duty as payable but not paid it and the duty amount indicated is,—
      - (A) rupees fifty lakhs or less, then, sixty per cent. of the tax dues;
      - (B) amount indicated is more than rupees fifty



lakhs, then, forty per cent. of the tax dues;

(d) where the tax dues are linked to an enquiry, investigation or audit against the declarant and the amount quantified on or before the 30th day of June, 2019 is—

(i) rupees fifty lakhs or less, then, seventy per cent. of the tax dues;

(ii) more than rupees fifty lakhs, then, fifty per cent. of the tax dues;

(e) where the tax dues are payable on account of a voluntary disclosure by the declarant, then, no relief shall be available with respect to tax dues.

(2) The relief calculated under sub-section (1) shall be subject to the condition that any amount paid as pre deposit at any stage of appellate proceedings under the indirect tax enactment or as deposit during enquiry, investigation or audit, shall be deducted when issuing the statement indicating the amount payable by the declarant:

Provided that if the amount of pre deposit or deposit already paid by the declarant exceeds the amount payable by the declarant, as indicated in the statement issued by the designated committee, the declarant shall not be entitled to any refund.

125. Declaration under the scheme –

(1) All persons shall be eligible to make a declaration under this Scheme except the following, namely:—

(a) who have filed an appeal before the appellate



- forum and such appeal has been heard finally on or before the 30th day of June, 2019;
- (b) who have been convicted for any offence punishable under any provision of the indirect tax enactment for the matter for which he intends to file a declaration;
  - (c) who have been issued a show cause notice, under indirect tax enactment and the final hearing has taken place on or before the 30th day of June, 2019;
  - (d) who have been issued a show cause notice under indirect tax enactment for an erroneous refund or refund;
  - (e) who have been subjected to an enquiry or investigation or audit and the amount of duty involved in the said enquiry or investigation or audit has not been quantified on or before the 30th day of June, 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 indicated 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.



- (2) A declaration under sub-section (1) shall be made in such electronic form as may be prescribed.

126. Verification of declaration by designated committee –

- (1) The designated committee shall verify the correctness of the declaration made by the declarant under section 125 in such manner as may be prescribed:

Provided that no such verification shall be made in case where a voluntary disclosure of an amount of duty has been made by the declarant.

- (2) The composition and functioning of the designated committee shall be such as may be prescribed.

127. Issue of statement by designated committee –

- (1) Where the amount estimated to be payable by the declarant, as estimated by the designated committee, equals the amount declared by the declarant, then, the designated committee shall issue in electronic form, a statement, indicating the amount payable by the declarant, within a period of sixty days from the date of receipt of the said declaration.
- (2) Where the amount estimated to be payable by the declarant, as estimated by the designated committee, exceeds the amount declared by the declarant, then, the designated committee shall issue in electronic form, an estimate of the amount payable by the declarant within thirty days of the date of receipt of the declaration.
- (3) After the issue of the estimate under sub-section (2),



the designated committee shall give an opportunity of being heard to the declarant, if he so desires, before issuing the statement indicating the amount payable by the declarant:

Provided that on sufficient cause being shown by the declarant, only one adjournment may be granted by the designated committee.

- (4) After hearing the declarant, a statement in electronic form indicating the amount payable by the declarant, shall be issued within a period of sixty days from the date of receipt of the declaration.
- (5) The declarant shall pay electronically through internet banking, the amount payable as indicated in the statement issued by the designated committee, within a period of thirty days from the date of issue of such statement.
- (6) Where the declarant has filed an appeal or reference or a reply to the show cause notice against any order or notice giving rise to the tax dues, before the appellate forum, other than the Supreme Court or the High Court, then, notwithstanding anything contained in any other provisions of any law for the time being in force, such appeal or reference or reply shall be deemed to have been withdrawn.
- (7) Where the declarant has filed a writ petition or appeal or reference before any High Court or the Supreme Court against any order in respect of the tax dues, the declarant shall file an application before such High Court or the Supreme Court for withdrawing such writ petition, appeal or reference and after withdrawal of such writ petition, appeal or reference with the leave of the Court, he shall furnish proof of such withdrawal to



the designated committee, in such manner as may be prescribed, along with the proof of payment referred to in sub-section (5).

- (8) On payment of the amount indicated in the statement of the designated committee and production of proof of withdrawal of appeal, wherever applicable, the designated committee shall issue a discharge certificate in electronic form, within thirty days of the said payment and production of proof.

128. Rectification of errors –

Within thirty days of the date of issue of a statement indicating the amount payable by the declarant, the designated committee may modify its order only to correct an arithmetical error or clerical error, which is apparent on the face of record, on such error being pointed out by the declarant or *suomotu*, by the designated committee.

129. Issue of discharge certificate to be conclusive of matter and time period –

- (1) Every discharge certificate issued under section 126 with respect to the amount payable under this Scheme shall be conclusive as to the matter and time period stated therein, and—
- (a) the declarant shall not be liable to pay any further duty, interest, or penalty with respect to the matter and time period covered in the declaration;
  - (b) the declarant shall not be liable to be prosecuted under the indirect tax enactment with respect to the matter and time period covered in the declaration;



- (c) no matter and time period covered by such declaration shall be reopened in any other proceeding under the indirect tax enactment.
- (2) Notwithstanding anything contained in sub-section (1),—
  - (a) no person being a party in appeal, application, revision or reference shall contend that the central excise officer has acquiesced in the decision on the disputed issue by issuing the discharge certificate under this scheme;
  - (b) the issue of the discharge certificate with respect to a matter for a time period shall not preclude the issue of a show cause notice,—
    - (i) for the same matter for a subsequent time period; or
    - (ii) for a different matter for the same time period;
  - (c) in a case of voluntary disclosure where any material particular furnished in the declaration is subsequently found to be false, within a period of one year of issue of the discharge certificate, it shall be presumed as if the declaration was never made and proceedings under the applicable indirect tax enactment shall be instituted.

130. Restriction of Scheme –

- (1) Any amount paid under this Scheme,—
  - (a) shall not be paid through the input tax credit account under the indirect tax enactment or any other Act;
  - (b) shall not be refundable under any circumstances;



(c) shall not, under the indirect tax enactment or under any other Act,—

(i) be taken as input tax credit; or

(ii) entitle any person to take input tax credit, as a recipient, of the excisable goods or taxable services, with respect to the matter and time period covered in the declaration.

(2) In case any pre deposit or other deposit already paid exceeds the amount payable as indicated in the statement of the designated committee, the difference shall not be refunded.

131. Removal of doubts –

For the removal of doubts, it is hereby declared that, save as otherwise expressly provided in sub-section (1) of section 124, nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant in any proceedings other than those in relation to the matter and time period to which the declaration has been made.

132. Power to make rules –

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which a declaration may be made and the manner in which such declaration may be verified;





- (b) the manner of constitution of the designated committee and its rules of procedure and functioning;
  - (c) the form and manner of estimation of amount payable by the declarant and the procedure relating thereto;
  - (d) the form and manner of making the payment by the declarant and the intimation regarding the withdrawal of appeal;
  - (e) the form and manner of the discharge certificate which may be granted to the declarant;
  - (f) the manner in which the instructions may be issued and published;
  - (g) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.
- (3) The Central Government shall cause every rule made under this Scheme to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.



133. Power to issue orders, instructions etc. –

- (1) The Central Board of Indirect Taxes and Customs may, from time to time, issue such orders, instructions and directions to the authorities, as it may deem fit, for the proper administration of this Scheme, and such authorities, and all other persons employed in the execution of this Scheme shall observe and follow such orders, instructions and directions:

Provided that no such orders, instructions or directions shall be issued so as to require any designated authority to dispose of a particular case in a particular manner.

- (2) Without prejudice to the generality of the foregoing power, the Central Board of Indirect Taxes and Customs may, if it considers necessary or expedient so to do, for the purpose of proper and efficient administration of the Scheme and collection of revenue, issue, from time to time, general or special orders in respect of any class of cases, setting forth directions or instructions as to the guidelines, principles or procedures to be followed by the authorities in the work relating to administration of the Scheme and collection of revenue and any such order may, if the said Board is of opinion that it is necessary in the public interest so to do, be published in the prescribed manner.

134. Removal of difficulties. –

- (1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty:

Provided that no such order shall be made after the



expiry of a period of two years from the date on which the provisions of this Scheme come into force.

- (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

135. Protection to officers –

- (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of the Central Government for anything which is done, or intended to be done in good faith, in pursuance of this Scheme or any rule made thereunder.
- (2) No proceeding, other than a suit shall be commenced against the Central Government or any officer of the Central Government for anything done or purported to have been done in pursuance of this Scheme, or any rule made thereunder, without giving the Central Government or such officer a prior notice of not less than one month in writing of the intended proceeding and of the cause thereof, or after the expiration of three months from the accrual of such cause.
- (3) No proceeding shall be commenced against any officer only on the ground of subsequent detection of an error in calculating the amount of duty payable by the declarant, unless there is evidence of misconduct.



## **SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME RULES, 2019**

1. Short title and commencement.-
  - (1) These rules may be called the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019.
  - (2) They shall come into force on the 1st day of September, 2019.
2. Definitions.-

In these rules, unless the context otherwise requires, -

  - (a) "Scheme" means the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019, specified under Chapter V of the Finance (No.2) Act, 2019 (23 of 2019);
  - (b) "section" means the section of the Finance (No. 2) Act, 2019;
  - (c) "Form" means the Form annexed to these rules;
  - (d) Words and expressions used in these rules but not defined in these rules and defined in the Scheme shall have the meanings respectively assigned to them in the Scheme.
3. Form of declaration under section 125 .-
  - (1) The declaration under section 125 shall be made electronically at <https://cbic-gst.gov.in> in Form SVLDRS-1 by the declarant, on or before the 31st December, 2019.
  - (2) A separate declaration shall be filed for each case.

Explanation.-For the purpose of this rule, a "case"



means –

- (a) a show cause notice, or one or more appeal arising out of such notice which is pending as on the 30th day of June, 2019; or
- (b) an amount in arrears; or
- (c) an enquiry or investigation or audit where the amount is quantified on or before the 30th day of June, 2019; or
- (d) a voluntary disclosure.

4. Auto acknowledgement.-

On receipt of declaration, an auto acknowledgement bearing a unique reference number shall be generated by the system.

5. Constitution of designated committee.-

(1) The designated committee under section 126 shall consist of -

- (a) the Principal Commissioner or Commissioner of Central Excise and Service Tax, as the case may be, and the Additional Commissioner or Joint Commissioner of Central Excise and Service Tax, as the case may be, in a case where the tax dues are more than rupees fifty lakh:

Provided that there shall be only one such designated committee in a Commissionerate of Central Excise and Service Tax;

- (b) the Additional Commissioner or Joint Commissioner of Central Excise and Service Tax, as the case may be, and the Deputy Commissioner or Assistant Commissioner of Central Excise and Service Tax,



as the case may be, in a case where the tax dues are rupees fifty lakh or less:

Provided that there will only be one such designated committee in a Commissionerate of Central Excise and Service Tax;

- (c) the Principal Additional Director General (Adjudication) or Additional Director General (Adjudication), Directorate General of Goods and Services Tax Intelligence (DGGI), and Additional Director or Joint Director, Directorate General of Goods and Services Tax Intelligence(DGGI), Delhi.
  - (2) The members of the designated committee mentioned in clause (a) and (b) of sub-rule (1) shall be nominated by the Principal Chief Commissioner or Chief Commissioner of Central Excise and Service Tax, as the case may be.
  - (3) The members of the designated committee mentioned in clause (c) of sub-rule (1) shall be nominated by Pr. Director General or Director General, Directorate General of Goods and Services Tax Intelligence (DGGI), as the case may be.
6. Verification by designated committee and issue of estimate, etc.-
- (1) The declaration made under section 125, except when it relates to a case of voluntary disclosure of an amount of duty, shall be verified by the designated committee based on the particulars furnished by the declarant as well as the records available with the Department.
  - (2) The statement under sub-sections (1) and (4) of section 127, as the case may be, shall be issued by the designated committee electronically, within a period of sixty days from the date of receipt of the declaration



under sub-rule (1) of rule 3, in Form SVLDRS-3 setting forth therein the particulars of the amount payable:

Provided that no such statement shall be issued in a case where the amount payable, as determined by the designated committee is nil and there is no appeal pending in a High Court or the Supreme Court.

- (3) Where the amount estimated to be payable by the declarant exceeds the amount declared by the declarant, then, the designated committee shall issue electronically, within thirty days of the date of receipt of the declaration under sub-rule (1) of rule 3, in Form SVLDRS-2, an estimate of the amount payable by the declarant along with a notice of opportunity for personal hearing.

- (4) If the declarant wants to indicate agreement or disagreement with the estimate referred to in sub-rule (3) or wants to make written submissions or waive personal hearing or seek an adjournment, he shall file electronically Form SVLDRS-2A indicating the same:

Provided that if no such agreement or disagreement is indicated till the date of personal hearing and the declarant does not appear before the designated committee for personal hearing, the committee shall decide the matter based on available records.

- (5) On receipt of a request for an adjournment under sub-rule (4), the designated committee may grant the same electronically in Form SVLDRS-2B:

Provided if the declarant does not appear before the designated committee for personal hearing after adjournment, the committee shall decide the matter based on available records.

- (6) Within thirty days of the date of issue of Form



SVLDRS-3, the designated committee may modify its order only to correct an arithmetical error or clerical error, which is apparent on the face of record, on such error being pointed out by the declarant or suo motu by issuing electronically a revised Form SVLDRS-3.

7. Form and manner of making the payment.-

Every declarant shall pay electronically the amount, as indicated in Form SVLDRS-3 issued by the designated committee, within a period of thirty days from the date of its issue.

8. Proof of withdrawal of appeal from High Court or Supreme Court.-

Proof of withdrawal of appeal or writ petition or reference before a High Court or the Supreme Court, as the case may be, under sub-section (7) of section 127 shall be furnished electronically by the declarant.

9. Issue of discharge certificate.-

The designated committee on being satisfied that the declarant has paid in full the amount as determined by it and indicated in Form SVLDRS-3, and on submission of proof of withdrawal of appeal or writ petition or reference referred to in rule 8, if any, shall issue electronically in Form SVLDRS-4 a discharge certificate under sub-section (8) of section 127 within thirty days of the said payment and submission of the said proof, whichever is later:

Provided that in a case where Form SVLDRS-3 has not been issued by the designated committee by virtue of the proviso to sub-rule (2) of rule 6, the discharge certificate shall be issued within thirty days of the filing of declaration referred to in sub-rule (1) of rule 3.



# CHAPTER 10

## LEGACY DISPUTE RESOLUTION (LDR) RULES

### SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME RULES, 2019

1. Short title and commencement.-
  - (1) These rules may be called the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019.
  - (2) They shall come into force on the 1st day of September, 2019.
2. Definitions.-

In these rules, unless the context otherwise requires, -

  - (a) "Scheme" means the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019, specified under Chapter V of the Finance (No.2) Act, 2019 (23 of 2019);
  - (b) "section" means the section of the Finance (No. 2) Act, 2019;
  - (c) "Form" means the Form annexed to these rules;
  - (d) Words and expressions used in these rules but not defined in these rules and defined in the Scheme shall have the meanings respectively assigned to them in the Scheme.
3. Form of declaration under section 125 .-
  - (1) The declaration under section 125 shall be made electronically at <https://cbic-gst.gov.in> in Form SVLDRS-1



by the declarant ,on or before the 31st December,2019.

(2) A separate declaration shall be filed for each case.

Explanation.-For the purpose of this rule, a “case” means–

- (a) a show cause notice, or one or more appeal arising out of such notice which is pending as on the 30th day of June, 2019; or
- (b) an amount in arrears; or
- (c) an enquiry or investigation or audit where the amount is quantified on or before the 30th day of June, 2019; or
- (d) a voluntary disclosure.

4. Auto acknowledgement.-

On receipt of declaration, an auto acknowledgement bearing a unique reference number shall be generated by the system.

5. Constitution of designated committee.-

(1) The designated committee under section 126 shall consist of -

- (a) the Principal Commissioner or Commissioner of Central Excise and Service Tax, as the case may be, and the Additional Commissioner or Joint Commissioner of Central Excise and Service Tax, as the case may be, in a case where the tax dues are more than rupees fifty lakh:

Provided that there shall be only one such designated committee in a Commissionerate of Central Excise and Service Tax;

- (b) the Additional Commissioner or Joint Commissioner of Central Excise and Service Tax, as the case may be, and the Deputy Commissioner or Assistant Commissioner



of Central Excise and Service Tax, as the case may be, in a case where the tax dues are rupees fifty lakh or less:

Provided that there will only be one such designated committee in a Commissionerate of Central Excise and Service Tax;

- (c) the Principal Additional Director General (Adjudication) or Additional Director General (Adjudication), Directorate General of Goods and Services Tax Intelligence (DGGI), and Additional Director or Joint Director, Directorate General of Goods and Services Tax Intelligence(DGGI), Delhi.
  - (2) The members of the designated committee mentioned in clause (a) and (b) of sub-rule (1) shall be nominated by the Principal Chief Commissioner or Chief Commissioner of Central Excise and Service Tax, as the case may be.
  - (3) The members of the designated committee mentioned in clause (c) of sub-rule (1) shall be nominated by Pr. Director General or Director General, Directorate General of Goods and Services Tax Intelligence (DGGI), as the case may be.
6. Verification by designated committee and issue of estimate, etc.-
- (1) The declaration made under section 125, except when it relates to a case of voluntary disclosure of an amount of duty, shall be verified by the designated committee based on the particulars furnished by the declarant as well as the records available with the Department.
  - (2) The statement under sub-sections (1) and (4) of section 127, as the case may be, shall be issued by the designated committee electronically, within a period of sixty days from the date of receipt of the declaration under sub-rule (1) of rule 3, in Form SVLDRS-3 setting forth therein the



particulars of the amount payable:

Provided that no such statement shall be issued in a case where the amount payable, as determined by the designated committee is nil and there is no appeal pending in a High Court or the Supreme Court.

(3) Where the amount estimated to be payable by the declarant exceeds the amount declared by the declarant, then, the designated committee shall issue electronically, within thirty days of the date of receipt of the declaration under sub-rule (1) of rule 3, in Form SVLDRS-2, an estimate of the amount payable by the declarant along with a notice of opportunity for personal hearing.

(4) If the declarant wants to indicate agreement or disagreement with the estimate referred to in sub-rule (3) or wants to make written submissions or waive personal hearing or seek an adjournment, he shall file electronically Form SVLDRS-2A indicating the same:

Provided that if no such agreement or disagreement is indicated till the date of personal hearing and the declarant does not appear before the designated committee for personal hearing, the committee shall decide the matter based on available records.

(5) On receipt of a request for an adjournment under sub-rule (4), the designated committee may grant the same electronically in Form SVLDRS-2B:

Provided if the declarant does not appear before the designated committee for personal hearing after adjournment, the committee shall decide the matter based on available records.

(6) Within thirty days of the date of issue of Form SVLDRS-3, the designated committee may modify its order only to correct an arithmetical error or clerical error, which is



apparent on the face of record, on such error being pointed out by the declarant or suomotu by issuing electronically a revised Form SVLDRS-3.

7. Form and manner of making the payment.-

Every declarant shall pay electronically the amount, as indicated in Form SVLDRS-3 issued by the designated committee, within a period of thirty days from the date of its issue.

8. Proof of withdrawal of appeal from High Court or Supreme Court.-

Proof of withdrawal of appeal or writ petition or reference before a High Court or the Supreme Court, as the case may be, under sub-section (7) of section 127 shall be furnished electronically by the declarant.

9. Issue of discharge certificate.-

The designated committee on being satisfied that the declarant has paid in full the amount as determined by it and indicated in Form SVLDRS-3, and on submission of proof of withdrawal of appeal or writ petition or reference referred to in rule 8, if any, shall issue electronically in Form SVLDRS-4 a discharge certificate under sub-section (8) of section 127 within thirty days of the said payment and submission of the said proof, whichever is later:

Provided that in a case where Form SVLDRS-3 has not been issued by the designated committee by virtue of the proviso to sub-rule (2) of rule 6, the discharge certificate shall be issued within thirty days of the filing of declaration referred to in sub-rule (1) of rule 3.



# CHAPTER 11

## **CBI&C CIRCULAR DATED 27TH AUGUST, 2019**

Circular No. 1071/4/2019-CX.8, Dated 27.08.2019

F. No. 267/78/2019/CX-8-Pt.III

Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes and Customs

Dated, 27th August, 2019

Dear Madam/Sir,

I am directed to state that the Government has announced the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 as a part of the recent Union Budget. Further, in accordance with the Finance (No.2) Act, 2019, the Central Government has notified the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 as well as issued Notification No. 04/2019 Central Excise-NT dated 21.08.2019 to operationalize this Scheme from 01 .09.2019 to 31.12.2019.

2. As may be appreciated, this Scheme is a bold endeavor to



unload the baggage relating to the legacy taxes viz. Central Excise and Service Tax that have been subsumed under GST and allow business to make a new beginning, and focus on GST. Therefore, it is incumbent upon all officers and staff of CBIC to partner with the trade and industry to make this Scheme a grand success.

3. Dispute resolution and amnesty are the two components of this Scheme. The dispute resolution component is aimed at liquidating the legacy cases locked up in litigation at various forums whereas the amnesty component gives an opportunity to those who have failed to correctly discharge their tax liability to pay the tax dues. As may be seen, this Scheme offers substantial relief to the taxpayers and others who may potentially avail it. Moreover, the Scheme also focuses on the small taxpayers as would be evident from the fact that the extent of relief provided is higher in respect of cases involving lesser duty (smaller taxpayers can generally be expected to face disputes involving relatively lower duty amounts).
4. The relief extended under this Scheme is summed up, as follows:
  - (a) For all the cases pending in adjudication or appeal (at any forum), the relief is to the extent of 70% of the duty involved if it is Rs. 50 lakhs or less and 50% if it is more than Rs. 50 lakhs. The same relief is available for cases under investigation and audit where the duty involved is quantified and communicated to the party or admitted by him in a statement on or before 30.06.2019.
  - (b) In cases of confirmed duty demand, where there is no appeal pending, the relief offered is 60% of the confirmed duty amount if the same is Rs. 50 lakhs or less and it is 40% if the confirmed duty amount is more than Rs. 50





lakhs.

- (c) In cases of voluntary disclosure of duty not paid, the full amount of disclosed duty would have to be paid.
- (d) There will be full waiver of interest and penalty under all the categories of cases, as at (a) to (c) above.

5. The relief under this Scheme is illustrated, as follows:

- (i) If the amount of duty (including CENVAT credit) being litigated is Rs.50 lakhs, then the taxpayer only needs to pay only Rs.15 lakhs to settle his case.
- (ii) If the amount of duty(including CENVAT credit) being litigated is Rs. 1 crore, then the taxpayer only needs to pay only Rs. 50 lakhs to settle his case.
- (iii) If the amount of duty being litigated is nil, either because the show cause notice was only for penalty or because the duty was deposited at any subsequent stage, and only penalty is being contested, then the taxpayer does not need to deposit anything to settle his case. However, the taxpayer would have to make a declaration under this Scheme.
- (iv) If the duty (including CENVAT credit) involved during investigation or audit is Rs. 50 lakhs, then the taxpayer only needs to pay Rs.15 lakhs to settle his case.
- (v) If the amount in arrears is Rs.50 lakhs, then the taxpayer only needs to pay only Rs. 20 lakhs to settle his case.
- (vi) If the taxpayer makes a voluntary disclosure of Rs. 1 crore, then he will need to pay Rs. 1 crore to settle his case.

6. It may be appreciated that the ambit of this Scheme is wide enough to cover all kinds of pending disputes, including call



book cases, except for a few categories. The exclusions are firstly, cases in respect of goods that are still subject to levy of Central Excise such as specified petroleum products and tobacco i.e. goods falling in the Fourth Schedule to the Central Excise Act, 1944. Secondly, cases for which the taxpayer/noticee has already been convicted in a Court of law. Thirdly, cases under adjudication or litigation where the final hearing has taken place on or before 30.06.2019. Fourthly, cases of erroneous refunds. Lastly, cases which are pending before the Settlement Commission.

7. Some of the highlights of this Scheme are that it will be fully automated with a dedicated portal ([www.cbic-gst.gov.in](http://www.cbic-gst.gov.in)) for online filing of declaration and communication of final decision. DG (Systems) will shortly issue a user manual for the online facility being provided to implement this Scheme. This has been done with the objectives of ensuring transparency, speed and accountability in the decision making. There are also fixed timelines for the various processes involved which are to be strictly adhered to so that the entire process of filing of declaration to communication of Department's decision and to payment gets completed within 90 days. This is important as there is no scope for extension of the time period for the sub-processes or the complete process. It is also important to appreciate that while this Scheme indicates various timelines, it is in the common interest of both the taxpayer and the Department that any declaration made thereunder is expeditiously handled well before the indicated timelines. This should be an area of focus for the Designated Committees as well as the supervisory Principal Chief Commissioner/Chief Commissioner concerned.
8. Once the declarant produces the proof of payment and withdrawal of appeal in High Court and Supreme Court, if



applicable, for in cases of lower forums the Scheme provides for deemed withdrawal of appeal, a discharge certificate will be issued indicating a full and final closure of the proceedings in question for both the Department and the taxpayer. It merits mention that every discharge certificate shall be conclusive as to the matter and time period stated therein. The declarant shall not be liable to pay any further duty, interest or penalty. No matter and time period covered under a discharge certificate shall be reopened in any other proceedings under the said indirect tax enactments. This entails a full waiver from prosecution as well. The only exception is in case of a taxpayer's voluntary disclosure of liability as there is no way to verify its correctness, so a provision is made to reopen such declaration within one year of issue of a discharge certificate, if subsequently any material particular is found to be false.

9. Moreover, the scope of discretion has been kept to the minimum by linking the relief under this Scheme to the duty amount which is already known to both the Department and the taxpayer in the form of a show cause notice/order of determination or a written communication. The calculation of relief itself will be automated. Even in case of voluntary disclosure, no verification will be carried out by the Department, Still in the eventuality the declarant seeks the opportunity of being heard, the decision would be taken only after giving him this opportunity.
10. Further, the following issues are clarified in the context of the various provisions of the Finance (No.2) Act, 2019 and Rules made thereunder:
  - (a) Section 129(2)(a) provides that no person being a party in appeal, application, revision or reference shall contend that by issuing a discharge certificate, Department has



accepted the disputed position. Section 129(2)(b) further provides that issue of a discharge certificate does not prevent issuance of a show cause notice for the same matter for a subsequent period or for a different matter in the same period. It is clarified that similar position will apply in case of Department also. In other words, a declaration under this Scheme will not be a basis for assuming that the declarant has admitted the position, and no fresh show cause notice will be issued merely on that basis.

- (b) Section 125(1)(d) mentions that the Scheme is not available to an applicant who has been issued a show cause notice relating to refund or erroneous refund. It has potential to lead to an interpretation that such persons will not be able to opt for the Scheme for any other dispute as well, since the restriction is on 'the person' in place of 'the case'. It is clarified that the exception from eligibility is for 'the case' and not 'the person'. In other words, if a person has been issued a show cause notice for a refund/erroneous refund and, at the same time, he also has other outstanding disputes which are covered under this Scheme, then, he will be eligible to file a declaration(s) for the other case(s). Same position will apply to persons covered under Sections 125(1)(a), (b), (c), (e) and (g).
- (c) This Scheme provides for adjustment of any amount paid as pre-deposit during appellate proceedings or as deposit during enquiry, investigation or audit [Sections 124(2) and 130(2) refer]. In certain matters, tax may have been paid by utilising the input credit, and the matter is under dispute. In such cases, the tax already paid through input credit shall be adjusted by the Designated Committee at the time of determination of the final amount payable



under the Scheme.

- (d) With respect to penalty/late fee matters [Section 124(1) (b) refers], a doubt has been expressed that only show cause notices for late fee or penalty are covered under this Scheme as there is no mention of appellate proceedings. It is clarified that the provisions apply to any show cause notice for penalty/late fee, irrespective of the fact that it is under adjudication or appeal. Moreover, there can be a show cause notice that originally also involved a duty demand, and the amount of duty in the said notice became 'nil' whether on account of the fact that same has been paid under this Scheme or otherwise. Such cases are also covered under Section 124(1)(b).
- (e) In case of appeals, the applicant is ineligible to apply if the final hearing is concluded but the order is awaited as on 30.06.2019. The hearings in matters are typically rescheduled even after the final hearing due to new bench, change in officer or any other reason. It is clarified that this restriction will apply to only those cases, where the appellate forum has heard the matter finally as on 30.06.2019.
- (f) Section 125(g) excludes the cases where an application has been filed before the Settlement Commission for settlement. However, in many such cases, proceedings before the Commission may abate due to reasons such as rejection of the application by the Commission or due to order of the Commission not being passed within the prescribed time etc. It is clarified that all such cases which are outside the purview of the Settlement Commission shall be covered under the Scheme under the relevant category of adjudication or appeal or arrears as the case may be



provided the eligibility is otherwise established under this Scheme. Further, any pending appeals, reference or writ petition filed against or any arrears emerging out of the orders of Settlement Commission are also eligible under the Scheme.

- (g) Cases under an enquiry, investigation or audit where the duty demand has been quantified on or before the 30th day of June, 2019 are eligible under the Scheme. Section 2(r) defines “quantified” as a written communication of the amount of duty payable under the indirect tax enactment. It is clarified that such written communication will include a letter intimating duty demand; or duty liability admitted by the person during enquiry, investigation or audit; or audit report etc.
- (h) Rule 3(2) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 provides that a separate declaration shall be filed for each case. Many a times a show cause notice covers multiple matters concerning duty liability. It is clarified that a declarant cannot opt to avail benefit of scheme in respect of selected matters. In other words, the declarant has to file a declaration for all the matters concerning duty liability covered under the show cause notice.
- (i) Section 124(1) (b) provides that where the tax dues are relatable to a show cause notice for late fee or penalty only, and the amount of duty in the said notice has been paid or is ‘nil’, then, the entire amount of late fee or penalty will be waived. This section, inter alia, covers cases of penal action against co-noticees. In case of a show cause notice demanding duty/tax from main taxpayer and proposing penal action against co-noticees, it is clarified that the co-



noticees can't avail the benefits of the scheme till such time the duty demand is not settled. Once, the main-noticee discharges the duty demand, the co-noticees can apply under this Scheme. This will also cover cases where the main noticee has settled the matter before the Settlement Commission and paid the dues and in which co-noticees were not a party to the proceedings before the Settlement Commission.

- (j) Section 127(5) of the Scheme provides that the declarant shall pay the amount indicated in the Statement issued by the Designated Committee within a period of thirty days. If the declarant does not pay the amount within the stipulated time, due to any reason, the declaration will be treated as lapsed.
- (k) In respect of matters under investigation by DGGI, there may be cases where the duty quantified relates to more than one Commissionerate. In such cases, the Designated Committee of the Commissionerate involving the maximum amount of duty will decide the case. Further, in other cases of DGGI wherein the show cause notice that has been issued covers more than one Commissionerate, a common adjudicator must be quickly appointed under intimation to the Chief Commissioner concerned and DG Systems so the Designated Committee of that Commissionerate can finalize this matter.

11 In order to make this Scheme a success, the following actions are required to be taken on priority:

- (i) It shall be ensured that the updated and complete records of the cases eligible under the Scheme are made available to the Designated Committees by 31.08.2019. It may be noted that except for voluntary disclosure, the information



regarding eligible taxpayers is readily available with the field formations through show cause notices which are yet to be adjudicated, or cases which are pending at various appellate forums or the cases under investigation or audit where the duty demand has been quantified and communicated on or before 30.06.2019 or the cases of recoverable arrears.

- (ii) An intensive out-reach programme to create awareness among the trade and industry at large and the eligible taxpayers in particular needs to be carried out. In this direction it will also be desirable to communicate to the eligible taxpayers the benefits of this Scheme through a polite email or phone call or letter. For these purposes the publicity material prepared by DGTPS can be used. Also, registration details of such eligible taxpayers shall be conveyed to DG (Systems) so that periodic SMS can be sent to them, informing about this Scheme.
- (iii) Though this Scheme provides a period of sixty days for the Designated Committee to decide on a declaration filed by a taxpayer, a speedier disposal is expected by the Board. For instance, in cases of voluntary disclosure, no verification is necessitated which means that the declaration will be accepted as such. Hence, such cases must be finalized within 15 days of filing of the declaration. Similarly, as the duty amount is already known in the form of a show cause notice/order of determination or a written communication/ or order in appeal or disputed amount in appeal, and the tax-relief will be calculated by the system automatically, where these particulars are found to be correct as per the declaration filed and the records available with the Department, such cases must also be finalized within 15 days of filing of the declaration. These timelines must be





strictly adhered to.

- (iv) There shall be two Designated Committees of two officers each in a Commissionerate to process the declarations received thereunder (for this purpose Audit Commissionerates are to be left out). The Designated Committees have been set up based on the amount of tax dues. For removal of doubts, it is, hereby, clarified that this duty demand is before applying the tax-relief. For example, if in a show cause notice the duty demanded is Rs. 60 lakhs, the same will fall under the purview of a Committee consisting of Principal Commissioner/Commissioner and Additional/Joint Commissioner even though the final duty payable after applying tax-relief will be less than Rs. 50 lakhs. Essentially, where the duty payable as determined by the Designated Committee comes out to be more or less than the amount declared by the taxpayer, there will no change in the composition of the Designated Committee. In other words, the same Designated Committee to which the declaration is automatically routed based on the amount mentioned therein will take a final decision in the matter. The members of the Committee will be nominated by jurisdictional Principal Chief Commissioner/Chief Commissioner and Principal Director General/ Director General, DGGI, as the case may be. It is expected that the Designated Committee will be prompt in decision making by consensus and the senior officer in the Committee will take a lead to ensure the same.
- (v) It shall be the responsibility of the Zonal Principal Chief Commissioners/Chief Commissioners and Principal Director General/ Director General, DGGI (in the case of DGGI, Delhi) to ensure the success of the Scheme. Apart from the reach-out programme outlined at (i) above, it also



needs to be ensured that the members of the Designated Committee are properly trained and well versed with the Scheme and the software application. In this connection DG (NACIN) has been instructed to carry out suitable training.

12. The Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 has the potential to liquidate the huge outstanding litigation and free the taxpayers from the burden of litigation and investigation under the legacy taxes. The administrative machinery of the Government will also be able to fully focus on helping the taxpayers in the smooth implementation of GST. Thus, the importance of making this Scheme a grand success cannot be overstated. The Principal Chief Commissioners/ Principal Directors General/Chief Commissioners/Directors General and all officers and staff are instructed to familiarize themselves with this Scheme and actively ensure its smooth implementation.

# CHAPTER 12

**CBI&C CIRCULAR DATED 25TH SEPTEMBER, 2019**

Circular No. 1072/05/2019-CX

F. No. 267/78/2019/CX-8-Pt.III

Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes and Customs

Dated, 25th September, 2019

**Subject: Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019-reg**

Dear Madam/Sir,

I am directed to invite your attention to Board's Circular No. 1071/4/2019-CX.8 dated 27th August, 2019 on the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019. Subsequently, the Board has received references from field formations as well as from the trade seeking certain clarifications on the Scheme.



2. The references received by the Board have been examined, and the issues raised therein are clarified in the context of the various provisions of the Finance (No.2) Act, 2019 and Rules made thereunder, as follows:
- (i) Only the persons who are eligible in terms of Section 125 can file a declaration under the Scheme. The eligibility conditions are captured in Form SVLDRS-1 (Sr. No. 8). The system automatically disallows persons who are not eligible from filing a declaration. However, there is a possibility that such ineligible persons may still make a declaration by selecting an incorrect response. For instance, under Sr. No. 8.1, the person making a declaration has to indicate whether he/she has been convicted for an offence for the matter for which the declaration is being made. If, the answer is 'Yes', then the person is ineligible and is not allowed to proceed further by the system. However, such person is able to file a declaration if he/she incorrectly indicates 'No' as the answer even though he/she has been convicted. Such declarations are void and do not merit consideration under the Scheme. Such persons may be informed of their ineligibility through a letter.
  - (ii) Section 124(1)(a) outlines the relief available in the case of one or more appeals arising out of a Show Cause Notice. Such an appeal may have been filed either by the party or by the department. Further, Section 127(6) provides for deemed withdrawal of such appeals filed by a declarant pending at a forum other than the Supreme Court or High Court. It is clarified that such deemed withdrawal will also be applicable for departmental appeals. Further, where a departmental appeal, reference or writ petition is pending before the Supreme Court or High Court, the department will file an application for withdrawal of such



appeal, reference or writ petition after issuance of the discharge certificate. Similarly, if prosecution has already been launched, the procedure as laid down in Circular No. 100911612015-CX dated 23-10-2015 should be followed for withdrawal of prosecution after issuance of discharge certificate.

- (iii) One of the category of cases for which a declaration can be made under the Scheme is where the declarant has filed a return but not paid duty. It is possible that a taxpayer may not have paid duty in case of multiple returns. It may be noted that Rule 3 of the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 provides that a separate declaration shall be filed for each case. Further, in terms of the Explanation to Rule 3, in case of arrears, a case means an amount in arrears'. Section 121(c)(iii) defines an amount in arrears" as the duty recoverable on account of the declarant having filed a return but not paying duty. Since the amount in arrears pertains to a return, a separate declaration will need to be filed for each such return.
- (iv) Section 121(c) defines an amount in arrears as the amount of duty which is recoverable as arrears of duty. Further, Section 123 defines tax dues' in respect of arrears as the amount which is due in arrears. In other words, tax dues is the amount of duty which is outstanding against the declarant. This is the net amount after deducting the dues that he has already paid. Such payment may be in the form of pre-deposits appropriated or paid subsequently by the taxpayer voluntarily against the outstanding amount. It is clarified that the relief available under Section 124(1)(c) will be applied to the net outstanding amount so arrived at. It may be noted that in respect of all other categories, any money paid before its appropriation is in the nature



of a deposit only. Hence, in respect of declarations made under these other categories, the relief will be applied to the outstanding amount and, only thereafter the pre-deposits/deposits [Section 124(2)] shall be adjusted. The same is illustrated as follows:

- (a) Taxpayer has outstanding arrears of confirmed duty demand of Rs. 1 crore and he has already paid Rs. 60 lakhs. So, the amount of tax dues is Rs 40 lakhs. After applying applicable relief @ 60%, the amount payable under the Scheme is Rs 16 lakhs.
- (b) Taxpayer has outstanding arrears of confirmed duty demand of Rs 1 crore apart from Rs 20 lakh penalty and interest as applicable. He has already paid Rs 1 cr towards duty. So, the amount of tax dues is zero, and the amount payable under the Scheme is zero.
- (v) It may so happen that on being pointed out by audit etc, the taxpayer may in some cases deposit the duty without interest. In such cases, a Show Cause Notice is generally issued for appropriating the duty deposited and demanding the applicable interest. It is clarified that such cases are covered under the Scheme. However, in no case will a refund of the duty paid be made to the taxpayer.
- (vi) Section 125(1)(f) bars a person from making voluntary disclosure after being subjected to an enquiry or investigation or audit. Further, what constitutes an enquiry or investigation or audit has also been defined [Sections 121(g) and 121(m)]. A doubt has been expressed as to whether benefit of the Scheme would be available in cases where documents like balance sheet, profit and loss account etc. are called for by department, while quoting authority of Section 14 of the Central Excise Act, 1944 etc.



It is clarified that the Designated Committee concerned may take a view on merit, taking into account the facts and circumstances of each case as to whether the provisions of Section 125(1)(f) are attracted in such cases.

(vii) Section 125(1)(a) excludes cases which are under appeal and where final hearing has taken place on or before 30th June, 2019 from the purview of the Scheme. Similar exclusion has been made applicable, *mutatis mutandis*, under Section 125(1)(c) to cases under adjudication. It is clarified that such cases, however, may still fall under the arrears category once the appellate or adjudication order, as the case may be, is passed and has attained finality or appeal period is over, and other requirements under the Scheme are fulfilled.

(viii) Section 121(c) (i) and (ii) define an amount in arrears” as the amount of duty which is recoverable, *inter alia*, on account of no appeal having been filed by the declarant against an order or order in appeal before the expiry of the period of time for filing of appeal or the order in appeal having attained finality. There may be situations where the taxpayer does not want to file an appeal even though the time period for filing of appeal is not over. It is clarified that in such cases, the taxpayer can file a declaration under the Scheme provided he gives in writing to the department that he will not file an appeal. This declaration shall be binding on the taxpayer.

3. Difficulty if any, in implementation of this Circular may be brought to the notice of the Board.





# CHAPTER 13

## FREQUENTLY ASKED QUESTIONS

### **SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019 - Frequently Asked Questions (FAQs)**

Notes:

1. For Scheme details please refer to the Finance (No.2) Act, 2019.
2. The 'sections' referred below are those of the Finance (No.2) Act,2019.
3. In case of any apparent inconsistency between the contents of these FAQs and the statutory provisions, the latter shall prevail.

\*\*\*

**Q1. Who is eligible to file declaration under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019?**

**Ans.** Any person falling under the following categories is eligible, subject to other conditions, to file a declaration under the Scheme:

- (a) Who has a show cause notice (SCN) for demand of duty/tax or one or more pending appeals arising out of such notice where the final hearing has not taken place as on 30.06.2019.
- (b) Who has been issued SCN for penalty and late fee only and where the final hearing has not taken place as on 30.06.2019.



- (c) Who has recoverable arrears pending.
- (d) Who has cases under investigation and audit where the duty/tax involved has been quantified and communicated to him or admitted by him in a statement on or before 30th June, 2019.
- (e) Who wants to make a voluntary disclosure.

**Q2. What are the statutes covered under the Scheme?**

**Ans.** This Scheme is applicable to the following enactments, namely:—

- (a) The Central Excise Act, 1944 or the Central Excise Tariff Act, 1985 or Chapter V of the Finance Act, 1994 and the rules made thereunder;
- (b) The following Acts, namely:—
  - (i) The Agricultural Produce Cess Act, 1940;
  - (ii) The Coffee Act, 1942;
  - (iii) The Mica Mines Labour Welfare Fund Act, 1946;
  - (iv) The Rubber Act, 1947;
  - (v) The Salt Cess Act, 1953;
  - (vi) The Medicinal and Toilet Preparations (Excise Duties) Act, 1955;
  - (vii) The Additional Duties of Excise (Goods of Special Importance) Act, 1957;
  - (viii) The Mineral Products (Additional Duties of Excise and Customs) Act, 1958;
  - (ix) The Sugar (Special Excise Duty) Act, 1959;
  - (x) The Textiles Committee Act, 1963;
  - (xi) The Produce Cess Act, 1966;
  - (xii) The Limestone and Dolomite Mines Labour



Welfare Fund Act, 1972;

- (xiii) The Coal Mines (Conservation and Development) Act, 1974;
- (xiv) The Oil Industry (Development) Act, 1974;
- (xv) The Tobacco Cess Act, 1975;
- (xvi) The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976;
- (xvii) The Bidi Workers Welfare Cess Act, 1976;
- (xviii) The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978;
- (xix) The Sugar Cess Act, 1982;
- (xx) The Jute Manufacturers Cess Act, 1983;
- (xxi) The Agricultural and Processed Food Products Export Cess Act, 1985;
- (xxii) The Spices Cess Act, 1986;
- (xxiii) The Finance Act, 2004;
- (xxiv) The Finance Act, 2007;
- (xxv) The Finance Act, 2015;
- (xxvi) The Finance Act, 2016;

(c) Any other Act, as the Central Government may, by notification in the Official Gazette, specify.

**Q3. If an enquiry or investigation or audit has started but the tax dues have not been quantified whether the person is eligible to opt for the Scheme?**

**Ans.** No. If an audit, enquiry or investigation has started, and the amount of duty/duty payable has not been quantified on or before 30th June, 2019, the person shall not be eligible to opt for the Scheme.



**Q4. If a SCN covers multiple issues, whether the person can file an application under the Scheme for only few issues covered in the SCN?**

**Ans.** No. A person cannot opt to avail benefit of the Scheme in respect of selected matters. He must file a declaration in respect of all the matters concerning duty/tax liability covered under the SCN.

**Q5. What is the scope of duty/tax relief covered under section 124(1)(b) with respect to SCN for late fee and penalty only where the amount of duty/tax in the said notice has been paid or is nil?**

**Ans.** The relief shall be of the entire amount of late fee or penalty.

**Q6. I have filed an appeal before the appellate forum [Commissioner (Appeals)/CESTAT] and such appeal has been heard finally on or before the 30th day of June, 2019. Am I eligible for the Scheme?**

**Ans.** No, you are not eligible in view of section 125(1)(a).

**Q7. What is the scope under the Scheme when adjudication order determining the duty/tax liability is passed and received prior to 30.06.2019, but the appeal is filed on or after 01.07.2019?**

**Ans.** Such a person shall not be eligible to file a declaration under the Scheme.

**Q8. I have been convicted for an offence punishable under a provision of the indirect tax enactment. Am I eligible for the Scheme?**

**Ans.** If the conviction is for the same matter and time period for which the declaration is proposed to be filed, then you are not eligible to avail the Scheme.

**Q9. I have been issued a SCN and the final hearing has**



**taken place on or before 30.06.2019. Am I eligible for the Scheme?**

**Ans.** No, you are not eligible as per section 125(1)(c).

**Q10. I have been issued a SCN for an erroneous refund or refund. Am I eligible for the Scheme?**

**Ans.** No, as per section 125(1)(d) you are not eligible to make a declaration under the Scheme in respect of an SCN issued for an erroneous refund or refund.

**Q11. I have been subjected to an enquiry or investigation or audit and the amount of duty/tax involved therein has not been quantified on or before 30.06.2019. Am I eligible for the Scheme?**

**Ans.** No, as per section 125(1)(e) you are not eligible to file a declaration in respect of such an enquiry or investigation or audit.

**Q12. I have been subjected to an enquiry or investigation or audit under indirect tax enactment and I want to make a voluntary disclosure regarding the same. Am I eligible for the Scheme?**

**Ans.** No, you are not eligible to make a declaration under the voluntary disclosure category as per section 125(1)(f)(i).

**Q13. There is an apparent contradiction between the provisions of section 125(1)(f)(ii) and section 124(1)(c)(iii). Can you elaborate?**

**Ans.** Section 125(1)(f)(ii) is an exception to voluntary disclosure category. In other words, a person having filed a return but has not deposited the duty/tax cannot make a voluntary disclosure in respect of the same since the liability already stands disclosed to the Department. On the other hand, section 124(1)(c)(iii) is a sub-set of the 'arrear' category, meaning thereby that in respect of such



return a declaration can only be filed under the arrears category. As such, there is no contradiction between the two provisions.

**Q14. I have filed an application in the Settlement Commission for settlement of the case. Am I eligible for the Scheme?**

**Ans.** No, you are not eligible to file a declaration for a case which is still pending with the Settlement Commission.

**Q15. I deal with the goods which are presently under Central Excise and are mentioned in the Fourth Schedule to the Central Excise Act, 1944. I want to make declarations with respect to these excisable goods. Am I eligible for the Scheme?**

**Ans.** No, you are not eligible to avail the benefits under the Scheme.

**Q16. How will I apply for the said Scheme?**

**Ans.** All eligible persons are required to file an electronic declaration at the portal <https://cbic-gst.gov.in> in Form SVLDRS 1.

**Q17. Will I get an acknowledgement for filing a declaration electronically?**

**Ans.** Yes, on receipt of your declaration, an auto acknowledgement bearing a unique reference number will be generated by the system and sent to you. This unique number will be useful for all future references. The declaration will automatically be routed to the Designated Committee that will finalize your case.

**Q18. How will I come to know about the final decision taken by the designated committee on my declaration?**

**Ans.** Within sixty days of filing of a declaration, you will be informed electronically about the final decision taken in



the matter.

**Q19. What is the difference between 'Tax Dues' and 'Tax Relief'?**

**Ans.** 'Tax Dues' is the total outstanding duty/tax demand. 'Tax Relief' is the concession the Scheme offers from the total outstanding duty demand.

**Q20. A SCN has been issued to me for an amount of duty of Rs.1000 and an amount of penalty of Rs.100. In the Order in Original (OIO) the duty confirmed I of Rs.1000 and an amount of Rs.100 has been imposed as penalty. I have filed an appeal against this order before the Appellate Authority. What will be the tax dues for me?**

**Ans.** The amount of duty which is being disputed is Rs.1000 and hence the tax dues will be Rs.1000.

**Q21. A SCN has been issued to me for an amount of duty of Rs.1000 and an amount of penalty of Rs.100. In the OIO the duty confirmed is of Rs.900 and penalty imposed is Rs.90. I have filed an appeal against this order. The department has not filed any appeal in the matter. What would be the tax dues?**

**Ans.** The amount of duty which is being disputed is Rs.900 and hence the tax dues are Rs.900.

**Q22. A SCN has been issued for an amount of duty of Rs.1000 and an amount of penalty of Rs.100. In the OIO the duty confirmed is of Rs.900 and penalty imposed is Rs.90. I have filed an appeal against this order before the Appellate Authority. Further, Department has also filed an appeal before the Appellate Authority for an amount of duty of Rs.100 and penalty of Rs.10. What would be the tax dues?**

**Ans.** The amount of duty which is being disputed is Rs.900 plus



Rs.100 i.e.Rs.1000 and hence tax dues are Rs.1000.

**Q23. A SCN has been issued for an amount of duty of Rs.1000. The Adjudicating Authority confirmed the duty of Rs.1000. I have filed an appeal against this order. The first appellate authority Commissioner Appeals/CESTAT reduced the amount of duty to Rs.900. I have filed a second appeal (before CESTAT/ High Court. The department has not filed any appeal. What will be the tax dues for me?**

**Ans.** The amount of duty which is being disputed is Rs.900 and hence the tax dues are Rs.900.

**Q24. I have been issued a SCN under any of the indirect tax enactment on or before 30.06.2019, what will be the tax dues?**

**Ans.** As per section 123(b), the tax dues will be the amount of duty/tax/cess stated to be payable in the SCN.

**Q25. What is the coverage of SCNs under the Scheme with respect to main noticee vis-à-vis co-noticee particularly when the tax amount has already been paid by the main notices outside the Scheme?**

**Ans.** In case of a SCN issued to an assessee demanding duty/tax and also proposing penal action against him as well as separate penal action against the co-noticee/s specified therein, if the main noticee has settled the tax dues, the conoticee/s can opt for the Scheme for the waiver of penalty. For instance, the main noticee has settled the matter before the Settlement Commission and paid the dues and the co-noticees were not a party to the proceedings. In such a case, the co-noticees can file a declaration under the Scheme.

**Q26. What is the scope of coverage of periodical SCNs under the Scheme?**





**Ans.** Any SCN issued whether main or periodical, where the final hearing has not taken place on or before 30.06.2019 is eligible under the Scheme.

**Q27. What are the benefits available under the Scheme?**

**Ans.** The various benefits available under the Scheme are:

- Total waiver of interest and penalty
- Immunity from prosecution
- In cases pending in adjudication or appeal, a relief of 70% from the duty/tax demand if it is Rs. 50 lakhs or less and of 50%, if it is more than Rs. 50 lakhs. The same relief is available for cases under enquiry, investigation and audit where the duty involved is quantified on or before 30.06.2019.
- In case of an amount in arrears, the relief is 60% of the confirmed duty/tax amount if the same is Rs. 50 lakhs or less and it is 40% in other cases.
- In cases of voluntary disclosure, the declarant will have to pay full amount of disclosed duty/tax.

**Q28. Shall the pre-deposit paid at any stage of appellate proceedings and deposit paid during enquiry, investigation or audit be taken into account for calculating relief under the Scheme?**

**Ans.** Yes, any amount paid as pre-deposit at any stage of appellate proceedings under the indirect tax enactment or as deposit during enquiry, investigation or audit, shall be adjusted while issuing the statement indicating the amount payable by the declarant.

**Q29. Whether the declarant will be given an opportunity of being heard or not?**

**Ans.** Yes, as per section 127(2) and (3), after the issue of



the estimate, the Designated Committee shall give an opportunity of being heard to the declarant, if he so desires, in case of a disagreement.

**Q30. What will be procedure and time period of payment to be made by the declarant?**

**Ans.** The declarant shall pay electronically within 30 days of the statement issued by the Designated Committee, the amount payable as indicated therein.

**Q31. What procedure will be followed for withdrawal of appeals where the person has filed a declaration under the Scheme?**

**Ans.** Where the declarant has filed an appeal or reference against any order or notice giving rise to the tax dues, before the appellate forum, other than the Supreme Court or the High Court, then, such appeal or reference or reply shall be deemed to have been withdrawn. In case of a writ petition or appeal or reference before any High Court or the Supreme Court, the declarant shall file an application before such High Court or the Supreme Court for withdrawing the writ petition, appeal or reference and after its withdrawal with the leave of the Court, he shall furnish proof of such withdrawal to the Designated Committee.

**Q32. Whether any certificate will be provided to declarant as proof to payment of dues?**

**Ans.** Yes, on payment of the amount indicated in the statement and production of proof of withdrawal of appeal, wherever applicable, the Designated Committee shall issue a discharge certificate in electronic form, within 30 days of the said payment and production of proof, whichever is later.

**Q33. Whether a calculation error in statement may be**

**rectified or not?**

**Ans.** Yes, within 30 days of the date of issue of a statement indicating the amount payable by the declarant, the Designated Committee may modify its order only to correct an arithmetical error or clerical error, which is apparent on the face of record, on such error being pointed out by the declarant or suo-motu.

**Q34. What will be the benefits of discharge certificate issued under the Scheme?**

**Ans.** Every discharge certificate issued under section 127 with respect to the amount payable under the Scheme shall be conclusive as to the matter and time period stated therein, and:

- (a) the declarant shall not be liable to pay any further duty/ tax, interest, or penalty with respect to the matter and time period covered in the declaration;
- (b) the declarant shall not be liable to be prosecuted under the indirect tax enactment with respect to the matter and time period covered in the declaration; and
- (c) no matter and time period covered by such declaration shall be reopened in any other proceeding under the indirect tax enactment.

**Q35. Can I take input tax credit for any amount paid under the Scheme?**

**Ans.** No.

**Q36. Can I pay any amount under the Scheme through the input tax credit account under the indirect tax enactment or any other Act?**

**Ans.** No.

**Q37. Can I take a refund of an amount deposited under**



### **the Scheme?**

**Ans.** No.

**Q38. In cases where pre-deposit or other deposit already paid exceeds the amount payable as indicated in the statement of the designated committee, the difference shall be refunded or not?**

**Ans.** No, it shall not be refunded.

**Q39. Is there any benefit, concession or immunity for the declarant in any proceedings other than those in relation to the matter and time period to which the declaration has been made?**

**Ans.** No.

**Q40. Whether the discharge certificate under the Scheme would serve as immunity against issuance of any further SCN (i) for the same matter for a subsequent time period; or (ii) for a different matter for the same time period?**

**Ans.** No, as per section 129 (2)(b), the issue of the discharge certificate with respect to a matter for a time period shall not preclude the issue of a SCN, (i) for the same matter for a subsequent time period; or (ii) for a different matter for the same time period.

**Q41. What action would be taken against a declarant who makes false voluntary disclosure under the Scheme?**

**Ans.** As per section 129(2)(c), in cases of voluntary disclosure, where any material particular furnished in the declaration is subsequently found to be false, within a period of one year of issue of the discharge certificate, it shall be presumed as if the declaration was never made and proceedings under the applicable indirect tax enactment shall be instituted.



**Q42. Does intimation for audit received by the taxpayer prior to 30.06.2019 seeking details qualify for the Scheme?**

**Ans.** No, if the duty/tax payable has not been quantified as on 30.06.2019 the taxpayer is not eligible to make a declaration regarding this audit under the Scheme.

**Q43. I have received an intimation for audit, enquiry or investigation on or before 30.06.2019. Can I make a voluntary disclosure of my liability?**

**Ans.** No.

**Q44. Can taxpayer opt for the benefit under the Scheme in case of periodical notices without opting for it in respect of the main notice?**

**Ans.** Yes.

**Q45. If the main noticee avails benefit of the Scheme whether Directors whose appeals are pending in respect of penalty only get a waiver of the penalty?**

**Ans.** Yes. Co-noticees cannot avail the benefits of the Scheme only till such time that the duty/tax demand has not been settled. Once the main noticee discharges the duty/tax demand, the co-noticees can apply under the Scheme.

**Q46. If a person has been issued a SCN for a refund/erroneous refund and, at the same time, he also has other outstanding disputes which are covered under this Scheme, then, will he be eligible to file a declaration(s) for the other case(s)?**

**Ans.** Yes. The exception from eligibility is for 'the case' and not 'the person'.

**Q47. If I file a declaration under the Scheme, will it be assumed that I have admitted to the position and agree with the allegations made in the show cause**



**notice?**

**Ans.** No. A declaration under the Scheme will not be a basis for assuming that the declarant has admitted the position and no fresh show cause notice will be issued merely on that basis.

**Q48. With respect to penalty/late fee matters, whether only SCNs for late fee or penalty are covered under this Scheme or also such cases under appellate proceedings?**

**Ans.** The Scheme is applicable to any SCN for penalty/late fee, irrespective of whether it is under adjudication or appeal.

**Q49. I had made an application to the Settlement Commission for settlement of my case. However these proceedings abated due to rejection of the application by the Settlement Commission or other reason/s and the case went back to the adjudicating authority for further action. Can I avail the benefit of the Scheme with respect to this case?**

**Ans.** Yes. A declaration under the Scheme can be made for a case which is no longer with the Settlement Commission if other conditions of the Scheme are satisfied.

**Q50. I have filed a writ petition challenging the order of the Settlement Commission. Can I make a declaration under the Scheme with respect to this case?**

**Ans.** Yes. A declaration can be filed under the Scheme if no application is pending before the Settlement Commission and the Writ Petition has not been heard finally on or before 30.06.2019.

**Q51. With respect to cases under enquiry, investigation or audit what is meant by 'written communication' quantifying demand?**



**Ans.** Written communication will include a letter intimating duty/tax demand or duty/tax liability admitted by the person during enquiry, investigation or audit or audit report etc.

**Q52. I have already paid duty/tax by utilising the input credit, and the matter is under dispute. Will this duty/tax already paid through input credit be adjusted against my duty/tax liability calculated under the Scheme?**

**Ans.** Yes. In such cases, duty/tax already paid through input credit shall be adjusted by the Designated Committee at the time of determination of final amount payable under the Scheme.

**Q53. Which is the Form through which I can make a declaration under the Scheme?**

**Ans.** Form SVLDRS1 is the form that has to be filled for making a declaration. The form is required to be filled and submitted electronically and shall be available at the portal <https://cbic-gst.gov.in>

**Q54. I do not agree with the estimate of the Designated Committee. Will I be given a personal hearing?**

**Ans.** Yes. A date of personal hearing is intimated alongwith the estimate issued by the Designated Committee in Form SVLDRS2. Written submissions can be made, personal hearing can be waived, and one adjournment of the personal hearing can also be sought through Form SVLDRS 2A. These forms are available at the portal <https://cbic-gst.gov.in> and are submitted electronically.

**Q55. I have received a communication of the amount payable in Form SVLDRS3. How do I make the duty/tax payment?**

**Ans.** A challan can be generated by a link provided in the Form SVLDRS3 issued by the department. Once the challan is



generated, payment against the same can be made by the taxpayer.

**Q56. How do I intimate the department about withdrawal of appeal by me?**

**Ans.** Form SVLDRS3 provides a document upload facility for furnishing proof of withdrawal.

**Q57. Are disputes pertaining to Cenvat credit covered under the Scheme?**

**Ans.** Yes, they are included unless covered by a specific exclusion.

**Q58. What happens if I do not make the payment of the amount specified in the statement within 30 days of its issue?**

**Ans.** The declaration shall be treated as lapsed and benefits of the Scheme will no longer be available.

**Q.59 The amount quantified under an enquiry, investigation or audit on or before 30.06.2019 gets modified subsequently due to any reason. Will I still be eligible to file a declaration under the Scheme?**

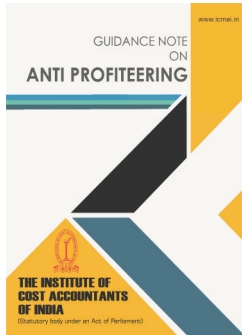
**Ans.** Only such cases of enquiry, investigation or audit are covered under the Scheme where the duty/tax demand has been worked out on or before 30.06.2019 but SCN has not been issued.

**Q.60 The duty demand in an SCN issued to me was dropped by the adjudicating authority. However, the department has filed an appeal. I have not filed any appeal in the matter. Will this case be eligible under the Scheme.**

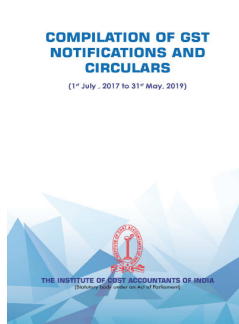
**Ans.** Yes.



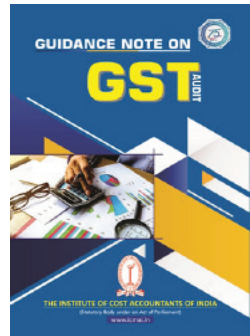
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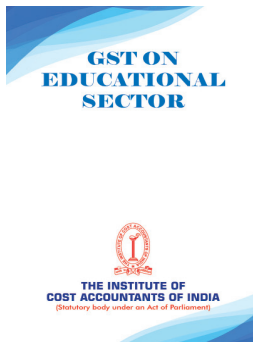
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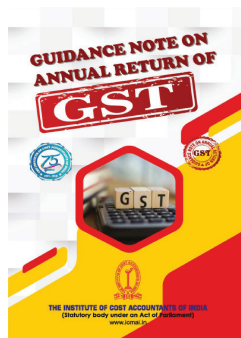
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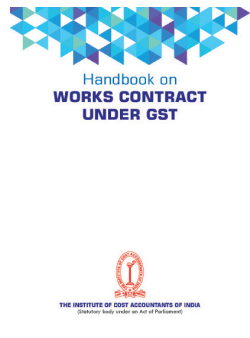
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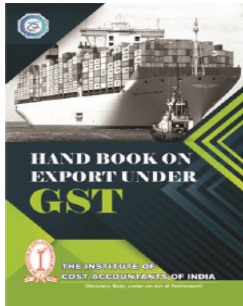
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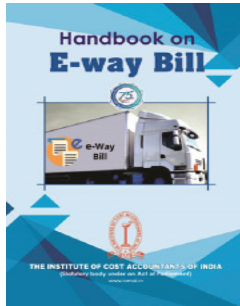
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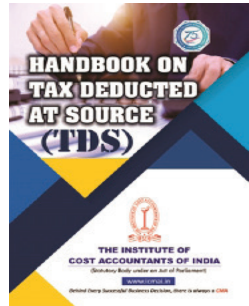
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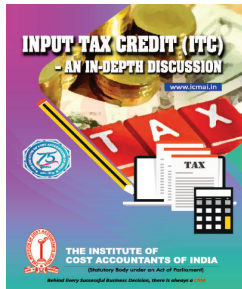
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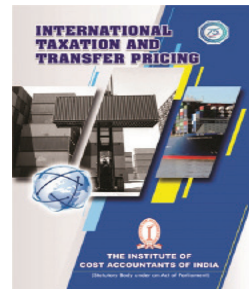
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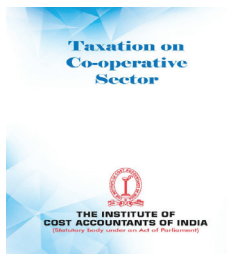
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Taxation on Cooperative Sector

## Action Plan:

1. Successful conduct of Certificate Course on GST.
2. Publication and Circulation of Tax bulletin (both in electronic and printed formats) for the awareness and knowledge updation of stakeholders, members, traders, Chambers of Commerce, Universities.
3. Publication of Handbooks on Taxation related topics helping stakeholders in their job deliberations.
4. Carry out webinars for the Capacity building of Members - Trainers in the locality to facilitate the traders/ registered dealers.
5. Conducting Seminars and workshops on industry specific issues, in association with the Trade associations/ Traders/ Chamber of commerce in different location on practical issues/aspects associated with GST.
6. Tendering representation to the Government on practical difficulties faced by the stakeholders in Taxation related matters.
7. Updating Government about the steps taken by the Institute in removing the practical difficulties in implementing various Tax Laws including GST.
8. Facilitating general public other than members through GST Help-Desk opened at Head quarter of the Institute and other places of country.
9. Introducing advance level courses for the professionals on GST and Income Tax.
10. Extending Crash Courses on Taxation to Corporates, Universities, Trade Associations etc.



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