

Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019



SABKA VISHWAS
(Legacy Dispute Resolution)
SCHEME, 2019
For Service Tax and Central Excise.
Make a New Beginning!

Scheme Valid till : 31st December 2019

CA Vaibhav JAIN

B.Com (H), FCA, ACS, LLB, MBF (ICAI), CIDT,
FAFD (ICAI), Registered Valuer – S&FA (IBBI)

+91 9711310004 | vaibhavjain@mehragoelco.com

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Coverage



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Amnesty Scheme - Legacy Dispute Resolution Scheme, 2019

In continuation of various Amnesty schemes introduced by States such as Gujarat, Kerala, Karnataka, Maharashtra, Madhya Pradesh, Haryana and Rajasthan, the Central Government, to “*unload the baggage of more than INR 3.75 lakh Crores (3750bn) blocked in litigations in service tax and excise and allow the business to move on*” has proposed to introduce a legacy dispute resolution scheme (scheme). This will allow quick closure of pre-GST litigations.

Two main Components of scheme

- **Dispute resolution:** It is aimed at liquidating legacy cases of Central Excise and Service Tax that have been subsumed in GST and are pending in litigation at various forums.
- **Amnesty component:** It provides opportunity to taxpayers to pay specified percentage of outstanding taxes and be free of any other consequences under the law. **(Part Waiver of Tax, Complete Waiver of Interest, Penalty and Prosecution)**

Statutes Covered Under The Scheme

Central Excise Act, 1944
Central Excise Tariff Act, 1984

Chapter V of Finance Act, 1994 - Service Tax

The Agricultural Produce Cess Act, 1940;	The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978;
The Coffee Act, 1942;	The Sugar Cess Act, 1982;
The Mica Mines Labour Welfare Fund Act, 1946;	The Jute Manufacturers Cess Act, 1983;
The Rubber Act, 1947;	The Agricultural and Processed Food Products Export Cess Act, 1985;
The Salt Cess Act, 1953;	The Spices Cess Act, 1986;
The Medicinal and Toilet Preparations (Excise Duties) Act, 1955;	Finance Act, 2004 - Education Cess
The Additional Duties of Excise (Goods of Special Importance) Act, 1957;	Finance Act, 2007 - Secondary and Higher Education Cess
The Mineral Products (Additional Duties of Excise and Customs) Act, 1958;	Finance Act, 2015 - Swachh Bharat Cess
The Sugar (Special Excise Duty) Act, 1959;	Finance Act, 2016 – Krishi Kalyan Cess
The Textiles Committee Act, 1963	The Produce Cess Act, 1966;
The Tobacco Cess Act, 1975;	The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972;
The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976;	The Coal Mines (Conservation and Development) Act, 1974;
The Bidi Workers Welfare Cess Act, 1976;	The Oil Industry (Development) Act, 1974;

This Presentation is for Educational Purposes and not a replacement to Expert Professional Advice.

Who **cannot** declare under the scheme

All persons shall be eligible to make a declaration under this except the following :-

- 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;
- 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;
- 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;
- who have been **issued a show cause notice** under indirect tax enactment for an **erroneous refund or refund**;
- 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**;

Who **cannot** declare under the scheme

All persons shall be eligible to make a declaration under this except the following :-

- a person making a **voluntary disclosure**,—
 - **after being subjected** to any enquiry or investigation or audit; or
 - **having filed a return** under the indirect tax enactment, **wherein he has indicated an amount of duty as payable, but has not paid it;**
- who have **filed an application** in the **Settlement Commission** for settlement of a case;
- persons seeking to make declarations with respect to excisable goods set forth in the **Fourth Schedule to the Central Excise Act, 1944**; (tobacco and manufactured tobacco substitutes; mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes)

The Relief under the scheme

S.No.	Details	Amount	Relief
1.	Tax Dues relatable to SCN or appeal arising out of such SCN which is pending as on 30.06.2019 and the amount of duty is	< 50 Lakhs	70 % of tax dues
		> 50 Lakhs	50% of Tax Dues
2.	Tax due relatable to SCN for late fee or penalty only and the amount of duty has been paid or nil	-	Entire amount of late fee or penalty
3.	Tax dues are relatable to amount in arrears or Tax dues are relatable to amount in arrears and the declarant has indicated an amount of duty as payable but not paid it and amount of duty involved is	< 50 Lakhs	60% of Tax Dues
		> 50 Lakhs	40% of Tax Dues

The Relief under the scheme

S.No.	Details	Amount	Relief
4.	Tax dues are linked to an enquiry, investigation or audit against the declarant and the amount quantified on or before 30th June	< 50 Lakhs	70 % of tax dues
		> 50 Lakhs	50% of Tax Dues
5.	Tax dues are on account of <u>voluntary disclosure</u> by the declarant	-	No Relief

The Relief under the scheme

- ❖ 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
- ❖ 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;
- ❖ no matter and time period covered by such declaration shall be reopened in any other proceeding under the indirect tax enactment.

Tax Dues:- Meaning

S.No.	Particular	Meaning of Tax Dues
1.	Where a single appeal arising out of order is pending as on 30.06.2019	Total Amount of duty which is disputed
2.	Where more than one appeal arising out of an order , one by the decedent and other a departmental appeal where such an appeal has not been heard finally before 30.06.2019	Sum total of amount disputed by both decedent and department
3.	Where SCN has received on or before 30.06.2019	Amount of duty payable as per SCN
4.	Where enquiry or investigation or audit is pending	Amount of duty payable which has been quantified on or before 30.06.2019

Tax Dues:- Meaning

S.No.	Particular	Meaning of Tax Dues
5.	Where the amount has been voluntarily disclosed by the declarant	Total amount of duty stated in the declaration
6.	Where an amount in arrears relating to the declarant is due	Amount in arrears*

*Amount in **Arrears** Meaning:-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;

Tax Dues-Case Study

S.No.	Order	Amount of Duty	Penalty	Appeal Filled by	Amount of Duty	Penalty	Tax Dues
1	Order	Rs. 1000	Rs. 100	Declarant	Rs. 1000	Rs. 100	Rs. 1000
				Department	NIL	NIL	
2	Order	Rs. 900	Rs. 90	Declarant	Rs. 900	Rs. 90	Rs. 900
				Department	NIL	NIL	
3	OIO	Rs. 1000	NIL	Declarant	Rs. 1000	NIL	Rs. 900
	OIA	Rs. 900	NIL	Department	NIL	NIL	
				Declarant	Rs. 900	NIL	
4	Order	Rs. 900	Rs. 90	Declarant	Rs. 900	Rs. 90	Rs. 1000
				Department	Rs. 100	Rs.10	

Other Features of this scheme

❖ Appeal Cases

- ❖ Any appeal or reference or reply to SCN filed before the appellant forum (Other than SC/HC) shall be deemed to have been withdrawn
- ❖ In case of SC/HC, declarant shall file an application to SC/HC for withdrawal

- ❖ Declarant shall pay amount payable as mentioned in statement issued by Designated Committee through internet banking
 - ❖ i.e. Amount paid under the scheme shall be paid through Cash only
 - ❖ and Amount payable under this scheme shall not be paid through input tax credit

- ❖ Amount paid shall not be taken as input tax credit or shall not entitle any person to take input tax credit as recipient of goods or services
- ❖ Amount shall not be refundable under any circumstances.

Other Features of this scheme

No relief from future fresh proceedings

- ❖ 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,—
 - ❖ for the same matter for a subsequent time period; or
 - ❖ for a different matter for the same time period;
 - ❖ 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.

Process Flow of the scheme

1. Filling of Declaration under the scheme

Step 1 - Go to the website **cbic-gst.gov.in** → Click on SVLDRS Tab → Click on 'please click here to log on to the scheme' and log in → Click on 'Menu' and under the tab 'Amnesty Scheme' click on 'SVLDRS 1'.

Step 2- Fill the Form- SVLDRS 1 to make declaration. An auto-acknowledgement bearing a unique reference number will be generated by the system.

Step 3- The designated committee will verify the application and issue a statement in SVLDRS 3 in 60 days from the date of declaration when the designated committee agree with the declaration made in Form-SVLDRS1.

Step 4- Make the payment within 30 days from the date of issuance of SVLDRS3.

Step 5- If the designated committee is satisfied will issue a discharge certificate in SVLDRS 4 within 30 days of the date of payment by the Declarant

Process Flow of the scheme

2. Verification by designated committee and issue of estimate, etc

S.No.	Condition	Time Limit for issue of Statement	Form	Remarks	Time limit for payment
1.	Case of Voluntary Declaration	-	-	Shall verified by designated committee	-
2.	Amount declared by declarant = Amount estimated by designated committee	Within 60 Days	SVLDRS-3	Details of amount payable	Within 30 days

Process Flow of the scheme

2. Verification by designated committee and issue of estimate, etc

S.No.	Condition	Time Limit for issue of Statement	Form	Remarks	Time limit for payment
3.	Amount Declared by declarant < Amount estimated by designated committee of Voluntary Declaration	Within 30 Days	SVLDRS-2	Details of amount payable and a notice of opportunity of being heard	Within 30 days

Forms

S. No.	Form	Purpose
1.	SVLDRS-1	Declaration Under the Scheme
2.	SVLDRS-2	Notice to the declarant
3.	SVLDRS-2A	For disagreement and agreement with the estimated amount or for seek an adjournment
4.	SVLDRS-2B	Intimation of granting adjournment by Designated committee
5.	SVLDRS-3	Statement of amount payable issued by designated committee
6.	SVLDRS-4	Discharge certificate of full and final settlement of tax dues issued by designated committee

Frequently Asked Questions (FAQs)

S. No.	Cases
1	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
2	Where an appeal have been filled before the appellate forum (Commissioner (Appeals) /CESTAT) and such appeal has been heard finally on or before the 30th day of June, 2019. Whether he is eligible for the scheme?
Ans.	No
3.	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.	No

Frequently Asked Questions (FAQs)

S. No.	Cases
4	Where a taxpayer has been convicted for an offence punishable under a provision of the indirect tax enactment. Whether he is eligible for the Scheme?
Ans.	No
5	Where a taxpayer have been issued a SCN, under indirect tax enactment and the final hearing has taken place on or before the 30th day of June, 2019. Whether he is eligible for the Scheme?
Ans.	No
6	Where a taxpayer have been subjected to an enquiry or investigation or audit under indirect tax enactment 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. whether he is eligible for the Scheme?
Ans.	No

Frequently Asked Questions (FAQs)

S. No.	Cases
7	Where a taxpayer have been subjected to an enquiry or investigation or audit under indirect tax enactment and he want to make a voluntary disclosure regarding the same. Whether he is eligible for the Scheme?
Ans	No
8	Where a taxpayer have filed an application in the Settlement Commission for settlement of the case. Whether he is eligible for the Scheme?
Ans.	No
9	Where a taxpayer deal with the goods which are presently under Central Excise and is mentioned in the Fourth Schedule to the Central Excise Act,1944. He want to make declarations with respect to those excisable goods. Whether he is eligible for the scheme?
Ans.	No

Frequently Asked Questions (FAQs)

S. No.	Cases
10.	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 has to file declaration for entire amount of tax dues as per the SCN. Refer to the Para 10(h) of Circular No. 1071/4/2019 – CX. 8 dated August 27, 2019.
11.	Where a taxpayer has been issued a SCN, wherein other persons apart from him are jointly and severally liable for an amount, then, what would be the tax dues?
Ans.	As per section 123(b), the amount indicated in the SCN as jointly and severally payable shall be taken to be the tax dues payable by taxpayer.

Other Issues

Issue 1 - 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.?

Extract of **Circular No. 1072/05/2019-CX dated September 25, 2019 [Para 2(vi)]**, CBIC has 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**

Section 125 (1) (f) of Finance Act 2019

- a person making a **voluntary disclosure**,—
 - **after being subjected** to any enquiry or investigation or audit; or
 - **having filed a return** under the indirect tax enactment, **wherein he has indicated an amount of duty as payable, but has not paid it;**

Other Issues

Issue 2 - Section 125(1)(c) excludes cases which are under adjudication and where final hearing has taken place on or before June 30, 2019 from the purview of the Scheme.

Extract of **Circular No. 1072/05/2019-CX** dated **September 25, 2019** [Para **2(vii)**], CBIC has clarified that such cases, however, may still fall under the arrears category once the adjudication order, is passed and has attained finality or appeal period is over, and other requirements under the Scheme are fulfilled.

Other Issues

Issue 3 - 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.

Extract of **Circular No. 1072/05/2019-CX** dated **September 25, 2019** [Para **2(viii)**], CBIC has 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.

Other Issues

Issue 4 - One of the categories 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.

Extract of **Circular No. 1072/05/2019-CX** dated **September 25, 2019** [Para **2(iii)**], CBIC has clarified that since the amount in arrears pertains to a return, a separate declaration will need to be filed for each such return.

Issue 5 – Whether the benefits of scheme is available to co-noticees ?

Extract of **Circular No. 1072/05/2019-CX** dated September 25, 2019 [Para 2(iii)],

- ❖ **In case of a SCN for late fee or penalty** → Section 124(1)(b) provides that where the tax dues are relatable to a SCN 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*, also covers cases of penal action against co-noticees.
- ❖ **In case of a SCN 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.

Other Issues

Issue 6 – Adjustment of Pre-deposit amount or deposit amount

- ❖ **In case of amount in arrears** - The relief available under Section 124(1)(c) will be applied to the **net outstanding amount** so arrived at.
- ❖ **In case 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.

CA. Vaibhav Jain, Partner

B.Com (Hons.), FCA, ACS, LL.B., MBF (ICAI),
CIDT, FAFD (ICAI), Registered Valuer (S&FA)

+91 97113 10004

vaibhavjain@mehragoelco.com

Since 1963
MEHRA GOEL
& CO. Chartered Accountants

Head Office

- 505, Chiranjiv Tower, 43, Nehru Place, New Delhi, 110 019, IN
- T: +91 11 26419527 E: mg@mehragoelco.com

Mumbai

- 201, 2nd Floor, Madhava Centre, E Block BKC, Bandra Kurla Complex, Bandra East, Mumbai, 400051, IN
- T: +91 22 4974 6258

Gurgaon

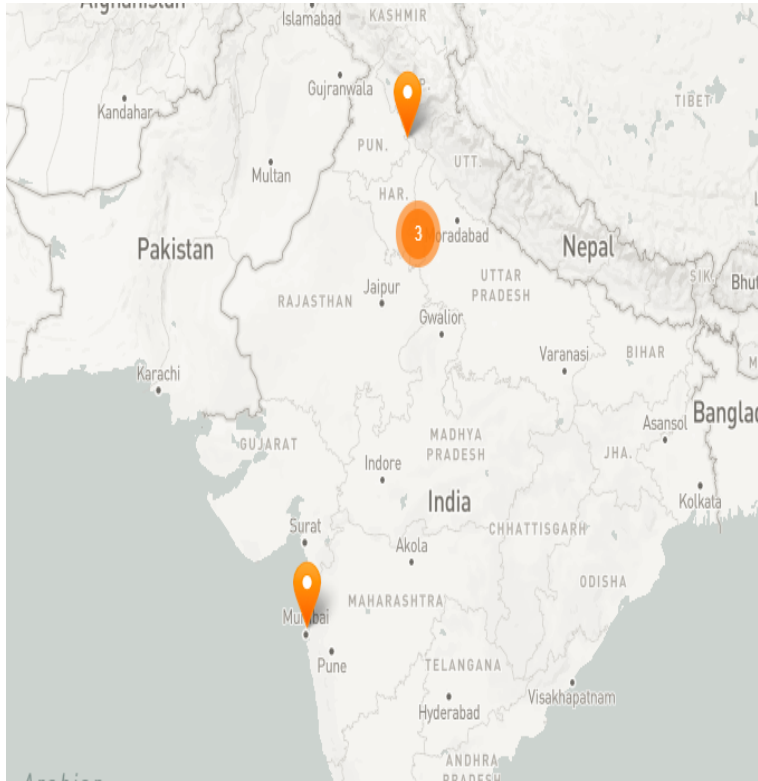
- 101, Global Business Square, Building No 32, Sector 44, Institutional Area, Gurgaon, 122 003, IN
- T: +91 124 4786200

Noida

- Ground Floor, GF 001, Trustone City, Tower 2, Plot No 21, TechZone IV, Noida Extension, Greater Noida, 201 308, IN

Chandigarh

- SCO-705, 1st Floor, NAC Manimajra, Chandigarh, 160101, IN
- T: +91-172-5077789



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