

TAX ALERT

September 6, 2019



Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019

The Central Board of Indirect Taxes and Customs (“**CBIC**”) has finally notified the date of operationalization of Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (“**Scheme**”) and released the much awaited Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 (“**Rules**”) on August 21, 2019. The Scheme would be operational from September 1, 2019 to December 31, 2019.

Additionally, the CBIC also released a Circular dated August 27, 2019 and an updated list of Frequently Asked Questions on August 30, 2019 to further clarify various aspects of the Scheme. Some points of interest are summarized below:

1. CONSTITUTION OF DESIGNATED COMMITTEE

1.1. The designated committee, which would verify the declarations made under the Scheme (except voluntary disclosures) and issue a discharge certificate, would comprise 5 members including:

- (a) Principal Commissioner/ Commissioner of Central Excise and Service Tax (where the tax dues are more than INR 50,00,000), or Deputy Commissioner/ Assistant Commissioner of Central Excise and

Service Tax (where the tax dues are less than or equal to INR 50,00,000), as the case may be;

- (b) Additional Commissioner/ Joint Commissioner of Central Excise and Service Tax;
- (c) Principal Additional Director General (Adjudication)/ Additional Director General (Adjudication);
- (d) Directorate General of Goods and Service Tax Intelligence; and
- (e) Additional Director/ Joint Director, Directorate General of Goods and Service Tax Intelligence, Delhi.

2. PROCEDURE FOR FILING & PROCESSING OF DECLARATION

- 2.1. The process would be fully automated with a dedicated portal for all aspects.
- 2.2. Form SVLDRS-1 has been prescribed for filing declarations, which would *inter-alia* include:
 - (a) Basic details, such as, name, address,

- registration number, mobile number, PAN of the declarant;
- (b) Category of application and other relevant details of the matter, such as, case number, amount of duty, tax, cess, penalty, etc.
- 2.3. On insertion of the aforesaid details, the system would automatically generate the amount of tax dues (less tax relief). In case of a disagreement, the declarant would have to fill the reasons for disagreement and the amount in the declaration, as per his calculation.
- 2.4. Upon submission, the system would generate an auto acknowledgement bearing a unique reference number.
- 2.5. Thereafter, the designated committee would verify the declarations (except voluntary disclosures) and issue
- (a) a statement in Form SVLDRS-3, indicating amount payable by the declarant where correct declaration has been made; or
- (b) an estimate of the amount payable along with a notice for personal hearing in Form SVLDRS-2, where the amount declared is lesser than the amount determined by the designated committee.
- 2.6. The declarant may file Form SVLDRS-2A to indicate his agreement or disagreement with the estimated amount, file written submissions, waive personal hearing or seek an adjournment.
- 2.7. Once Form SVLDRS-3 is issued, the declarant would have to discharge the tax dues electronically, within 30 days of issuance of Form SVLDRS-3, and withdraw any proceedings pending before High Court or Supreme Court, in this regard. In case the payment is not made within 30 days, the declaration would lapse and the benefit of the Scheme would no longer be available.
- 2.8. A discharge certificate would be issued to the declarant in Form SVLDRS-4 within 30 days of the aforesaid two events, whichever is later.
- 2.9. Pursuant to the above, the declarant would not be liable for any further interest, penalty or subject to any prosecution in relation to the matters covered under declaration. Also, no proceedings can be reopened with respect to such declarations except in cases of voluntary disclosures.
- 3. OPERATIONAL CLARIFICATIONS**
- 3.1. Ineligibility to file declarations is case specific. A person would be eligible to file declarations with respect to other outstanding disputes which are covered under the Scheme.
- 3.2. The following matters would be covered under the Scheme:
- (a) Proceedings before the Settlement Commission which have been abated due to reasons such as, rejection of application, order not being passed within the prescribed time, etc.;
- (b) Pending appeals, references or writ petitions filed against or any arrears emerging out of the orders of Settlement Commission;
- (c) All show cause notices (“SCNs”) with respect to penalty/ late fee, irrespective of whether such SCN is under adjudication or in appeal;
- (d) SCNs where duty demand has become nil on account of payment of such duty under the Scheme or otherwise;
- (e) Call book cases;
- (f) Unpaid tax dues which have been indicated as payable in the returns (to be filed under the category ‘arrears’ and not under ‘voluntary disclosure’);
- (g) SCN issued for subsequent periods (pursuant to the issuance of a main SCN), even though the declarant does not opt for the benefit with respect to main SCN under the Scheme;

- (h) Disputes pertaining to Cenvat credit; and
 - (i) SCNs where duty demand was dropped by the adjudicating authority but an appeal preferred by the department is pending.
- 3.3. An enquiry, investigation or audit where the amount was quantified on or before June 30, 2019 but modified subsequently, would not be covered.
- 3.4. A declaration under the Scheme would not be a basis for assuming that the declarant has admitted the position nor would it preclude department from issuing SCN on same issue for subsequent period or for different matter pertaining to the same period.
- 3.5. Matters under investigation by Directorate General of Goods and Services Tax Intelligence involving quantified duty relating to more than one Commissionerate would be decided by the designated committee of the Commissionerate with the maximum amount.
- 3.6. All pre-deposit amounts (including the deposits made through utilization of input tax credit) paid by a declarant in connection with the tax dues would be deducted from the amount payable by the declarant.

OUR VIEW

While many of the issues have been already been addressed by the CBIC, ambiguity with respect to treatment of duties paid under protest, eligibility of disputes remanded back to the lower authorities for calculation or deciding basis the order of CESTAT or High court, etc., continues to persist.

However, the government has recognized that it is incumbent for the tax authorities to partner with the industry for make the Scheme a success. To ensure successful implementation of the Scheme, it directed tax authorities to provide updated and complete records of the eligible cases to the designated committee and assured that the members of the designated committee would be properly trained, well versed with the Scheme and software application. This would also ensure a speedy disposal of the declarations.

Separately, the government proposes to carry out an intensive outreach programme to create awareness among the industry and eligible taxpayers. Proper implementation of the Scheme would result in a win-win situation for both, the taxpayers and the tax authorities.

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Should you have any queries in relation to any of the issues set out herein or on other areas of law, please feel free to contact us at the following coordinates.

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