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HALF DAY WORKSHOP ON SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019

FACULTIES

Speaker: CA Naresh Sheth

Panelist: CA S. S. Gupta
Advocate Vipin Jain
Advocate Harsh Shah

Moderator: CA A. R. Krishnan

VENUE

Walchand Hirachand Hall, 4th Floor,
IMC, Churchgate, Mumbai – 400 020

TIME: 9.00 am to 1.30 pm.



THE CHAMBER OF TAX CONSULTANTS

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**HALF DAY WORKSHOP ON SABKA VISHWAS (LEGACY
DISPUTE RESOLUTION) SCHEME, 2019
SATURDAY, 7TH SEPTEMBER, 2019 AT WALCHAND HIRACHAND HALL,
4TH FLOOR, IMC, CHURCHGATE, MUMBAI - 400020**

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Appendix I – Presentation by
CA Naresh Sheth

The Chamber of Tax

Workshop on Sabka Vishwas (Legacy Dispute Resolution) Scheme,

Subject : Scheme in brief

Date & Day : Saturday, 7th September,

Venu : Walchand Hirachand Hall, Indian Merchant Chambers,

Presented by : CA Naresh

September 07,

CA Naresh

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Sabka Vishwas
(Legacy Dispute
Resolution)
Scheme, 2019

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Preambl

- Legacy litigation under Excise and Service tax is a great concern for nation as a whole
- 1.50 lakhs cases involving disputed tax dues of INR 3.75 lakhs crores are pending at various forums
- Tax payers are burdened with huge litigations mostly arising out of frivolous demands
- Judiciary and tax administration is clogged with enormous pendency of the cases
- On introduction of GST, some states introduced Amnesty / Dispute Resolution Scheme for VAT litigations
- Finance (No.2) Act, 2019 [‘the Act’] introduced one-time scheme for:
 - Resolution and faster settlement of Central Excise and Service Tax dispute legacy cases
 - Providing an opportunity for voluntary disclosure

Preambl

- The Scheme offers an opportunity to taxpayers to close never-ending costly litigation by:
 - Availing substantial **tax relief ranging from 40% to 70%** of disputed tax dues/ arrears
 - Complete **waiver of interest, penalty and prosecution**
 - Closure of further proceedings in respect of such disputes
- Government’s sincerity is apparent from **Circular No. 1071/4/2019-CX.8 dated 27.08.2019**:
 - Action plan is chalked out at Para 11 of above referred Circular
 - All officers and staff of CBIC to partner with trade & industry to make the scheme a grand success
 - Administrative machinery to fully focus on helping taxpayers in smooth implementation of the Scheme
 - An intensive out-reach programme for creating awareness among trade & industry through polite emails, phone calls, letter and SMS

Scope of

- Analysis of relevant provisions, Rules, Circulars and FAQs with reference to:
 - Cases eligible for scheme
 - Relief under the scheme
 - Amount payable under the scheme
 - Procedure under the scheme
- Approach to assess viability of the scheme
- Way forward for assesses and consultants
- Scheme related issues will be dealt by the learned panel in the next session

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Legal

- Chapter V of Finance (No. 2) Act, 2019 ['the Act'] enacting the Scheme
- Notification No. 04/2019 Central Excise-NT dated 21.08.2019
 - Notifying effective date and duration of the Scheme
- Notification No. 05/2019 Central Excise-NT dated 21.08.2019
 - Notifying Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 ['the Rules']
- Circular No. 1071/4/2019- CX.8 dated 27.08.2019 ['the Circular']
- FAQs released by CBIC (through flyer) on 08.08.2019

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Scheme – Effective

- The scheme came into force w.e.f.

- N/No. 04/2019 CE-NT dated

- The last date for making declaration under the scheme is **31.12.2019**

- N/No. 05/2019 CE-NT dated

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Taxes / Duties / Cesses covered under the Scheme

Section
122 of
the Act

- The scheme mainly covers tax disputes relating to:
 - **Excise duty and Cesses**
 - **Service tax and Cesses**
- Tax disputes under **Customs Act** and **State tax legislations** such as VAT, Entry tax, Octroi, Luxury tax, entertainment tax, etc. are not covered under the scheme
- Tax disputes under **Goods and Services Tax** is also not covered under the scheme
- The scheme also covers tax disputes under following Acts:

1	the Agricultural Produce Cess Act, 1940;	6	the Rubber Act, 1947;
2	the Coffee Act, 1942;	7	the Salt Cess Act, 1953;
3	the Mica Mines Labour Welfare Fund Act, 1946;	8	the Agricultural and Processed Food Products Export Cess Act, 1985
4	the Spices Cess Act, 1986;	9	the Sugar (Special Excise Duty) Act, 1959;
5	the Sugar Cess Act, 1982;	10	the Jute Manufacturers Cess Act, 1983;

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Taxes / duties / cess covered under the Scheme [Cond...]

Section
122 of
the Act

11	the Bidi Workers Welfare Cess Act, 1976;	19	the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978;
12	the Produce Cess Act, 1966;	20	the Tobacco Cess Act, 1975;
13	the Finance Act, 2004;	21	the Textiles Committee Act, 1963;
14	the Finance Act, 2007;	22	the Oil Industry (Development) Act, 1974;
15	the Finance Act, 2015;	23	the Mineral Products (Additional Duties of Excise and Customs) Act, 1958;
16	the Finance Act, 2016;	24	the Limestone and Dolomite Mines Labour Welfare Fund Act, 1972;
17	the Medicinal and Toilet Preparations (Excise Duties) Act, 1955;	25	the Additional Duties of Excise (Goods of Special Importance) Act, 1957;
18	the Coal Mines (Conservation and Development) Act, 1974;	26	the Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976;

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Eligibility

Section
125 of
the Act

➤ **All Persons** (Registered or Unregistered) are eligible for scheme for any dues **except who have:**

- Filed an appeal before the appellate forum **and final hearing** is done on or before the **30.06.2019**
- Received SCN **and final hearing** is done on or before the **30.06.2019**
- Been convicted for the matter for which he intends to file a declaration
- Received SCN for an erroneous refund / refund
- Been subjected to an enquiry / investigation / audit where amount of duty **not quantified** on or before



30.06.2019

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Eligibility

Section
125 of
the Act

- Made voluntary disclosure in following cases:
 - After being subjected to any enquiry / investigation / audit; or
 - Having filed a return where duty payable is disclosed, but not paid it
- Filed an application in the Settlement Commission for settlement of a case
- If matter is related to excisable goods covered in the IV Schedule to the Central Excise Act, 1944
 - Tobacco and manufactured tobacco substitutes
 - Petroleum products

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Eligibility – Relevant definitions

Section
121 of
the Act

➤ **“audit”** means any:

- scrutiny
- verification
- 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

➤ **“enquiry or investigation”**, under any of the indirect tax enactment, shall include the following actions, namely-

- Search of premises
- Issuance of summons
- Requiring the production of accounts, documents or other evidence
- Recording of statements

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Eligibility – Clarifications through Circular

Section
125 of
the Act

- Whether tax payer can avail benefit of scheme in respect matters transferred to call book?
 - **Para 6 of the Circular** - Scheme is wide enough to cover call book cases
- Whether Section 125 makes **a person** or **a case** ineligible to apply under the Scheme?
 - **Para 10(b) of the Circular** - Exception for eligibility u/s 125 is for 'the case' and not 'the person'. Therefore, if a person is not eligible to go for Scheme in respect of a case, such ineligibility will not impact his eligibility for opting the Scheme in respect of any other case
- In case of appeals, where final hearing is concluded but the order is awaited as on 30.06.2019. However, such hearing in matter is rescheduled even after the final hearing due to new bench, change in officer or any other reason. Whether the appellant is eligible to go for Scheme?
 - **Para 10(e) of the Circular** - This restriction will apply to only those cases, where the appellate forum has heard the matter finally as on 30.06.2019

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Eligibility – Clarifications through

Section
125 of
the Act

- If a person filed application with Settlement Commission for settlement of a case under Service tax. However, proceedings before the Commission is abated due to rejection of the application or any other reason. Whether one can apply under the scheme?
 - **Para 10(f) of the Circular** - All cases which are outside the purview of the Settlement Commission shall be covered under the scheme
 - Further, any pending appeals, reference or writ petition filed against order of Settlement Commission are also eligible under the scheme
 - An arrears emerging out of order of Settlement Commission are also eligible under the scheme

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Eligibility – Clarifications through

Section
125 of
the Act

- 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. What does the term 'Quantified' mean?
 - Section 2(r) defines "quantified" as a written communication of the amount of duty payable under the indirect tax enactment
 - **Para 10(g) of the Circular** - 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.
- If a "SCN" or "appeal" relates to multiple matters, whether assessee can avail benefit of scheme in respect of selected matter or he has to file declaration for all matters under dispute?
 - **Para 10(h) of the Circular** - Declarant has to file declaration for all the matters covered under the SCN

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Meaning of "Tax Dues"

Section
123 of
the Act

Sr. No.	Particulars	Tax dues
1	Where a single appeal arising out of an order is pending as on 30.06.2019 before the appellate forum i.e. Commissioner (Appeals), Tribunal, High Court or Supreme Court - where final hearing not done till 30.06.2019	Disputed duty / tax
2	Where more than one appeal arising out of an order: <ul style="list-style-type: none"> • One by the declarant; and • Departmental appeal are pending as on the 30.06.2019 before the appellate forum - where final hearing not done till 30.06.2019	Sum of duty / tax disputed by Declarant and Department

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Meaning of "Tax Dues" [Cond...]

Section
123 of
the Act

Sr. No.	Particulars	Tax dues
3	Where a SCN has been received on or before 30.06.2019 - where final hearing not done till 30.06.2019	Duty / tax payable as per SCN
4	Where an enquiry / investigation / audit is pending and amount of duty is quantified on or before 30.06.2019	Disputed duty / tax as quantified
5	Where the amount has been voluntarily disclosed by declarant	Total amount of duty / tax declared
6	Where amount in arrears is due	Amount in arrears

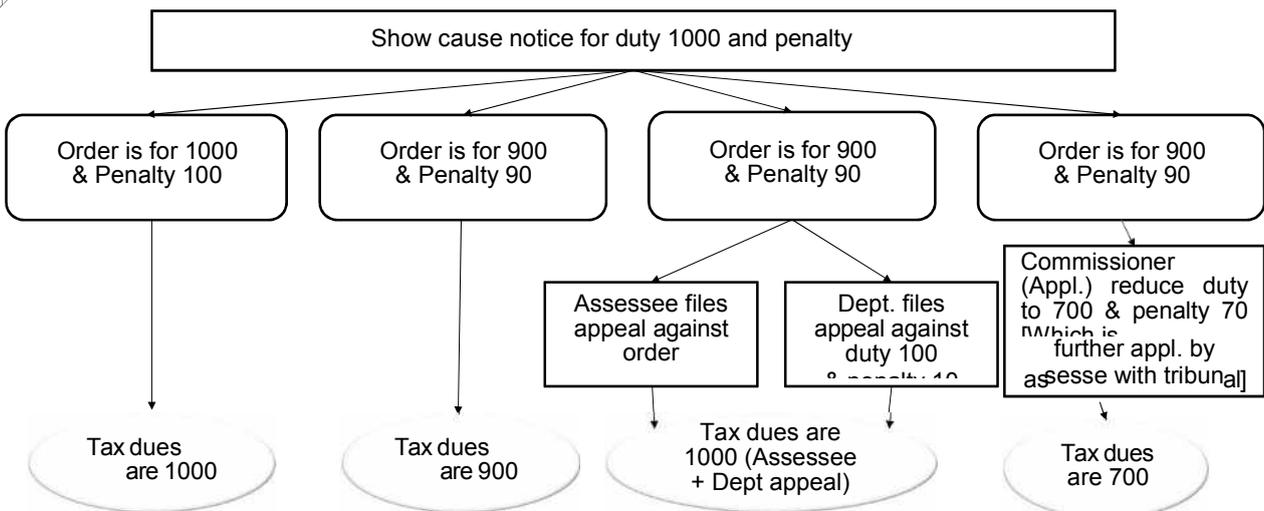
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Examples of "Tax

Section
123 of
the Act



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Relief when tax dues are \leq Rs.50 lakhs

Section
124 of
the Act

Case	Relief	Settlement amount
<ul style="list-style-type: none"> • Where tax dues are related to a SCN pending as on the 30.06.2019 • Appeal arising out of SCN pending as on the 30.06.2019 • Where tax dues are linked to an enquiry, investigation or audit and the amount quantified on or before 30.06.2019 	70% of tax dues	30% of tax dues
<ul style="list-style-type: none"> • Where tax dues are relatable to amount in arrears: <ul style="list-style-type: none"> ▪ Non-filing of appeal against an order / an order in appeal before expiry of time for filing appeal; or ▪ An order in appeal relating to the declarant attaining finality; or ▪ Unpaid tax liability disclosed in a return filed on or before 30.06.2019 	60% of tax dues	40% of tax dues

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Relief when tax dues are $>$ Rs.50 lakhs

Section
124 of
the Act

Case	Relief	Settlement amount
<ul style="list-style-type: none"> • Where tax dues are related to a SCN pending as on the 30.06.2019 • Appeal arising out of SCN pending as on the 30.06.2019 • Where tax dues are linked to an enquiry, investigation or audit and the amount quantified on or before 30.06.2019 	50% of tax dues	50% of tax dues
<ul style="list-style-type: none"> • Where tax dues are relatable to amount in arrears: <ul style="list-style-type: none"> ▪ Non-filing of appeal against an order / an order in appeal before expiry of time for filing appeal; or ▪ An order in appeal relating to the declarant attaining finality; or ▪ Unpaid tax liability disclosed in a return filed on or before 30.06.2019 	40% of tax dues	60% of tax dues

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Relief irrespective of amount of tax dues

Section
124 of
the Act

Situation	Relief	Settlement amount
Where tax dues are related to a SCN for late fee or penalty only and amount of tax (as stated in SCN) has been paid or is NIL	late fee or penalty	Nil
Where tax dues are payable on account of a voluntary disclosure by the declarant (i.e. disclosure in declaration)	Interest / Penalty	100% of Tax dues

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Relief under Scheme – Clarifications through

Section
124 of
the Act

- In respect of penalty/late fee matters u/s 124(1)(b) which specifically covers SCN for late fee or penalty, whether one can apply under the Scheme for appellate proceedings?
 - **Para 10(d) of the Circular** - The provisions apply to any show cause notice for penalty/late fee, irrespective of the fact that it is under adjudication or appeal
- In case of SCN demanding duty/tax from the Main Taxpayer and proposing penal action to the Co-noticees, can the benefit of Scheme be availed by the Co-noticees if the Main Taxpayer does not avail the Scheme?
 - **Para 10(i) of the Circular** - Co-noticees can not avail the Scheme till the duty demand is not settled by Main Taxpayer
 - Once Main Taxpayer discharge duty demand (Whether under this scheme or otherwise), the Co-noticees can apply under the Scheme

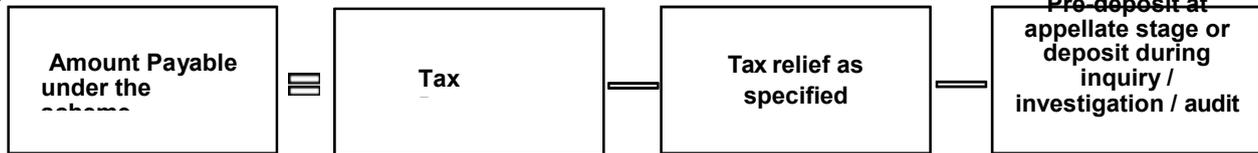
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Amount payable under

Section
127, 129
& 130 of
the Act



- If **Pre-deposit / deposit amount** exceeds the **Tax dues (net of relief)**, the difference amount will **not** be refunded
- Amount payable under the scheme is to be paid in cash only
- Amount cannot be paid from CENVAT or ITC balance
- Amount paid cannot be availed as ITC by:
 - Declarant; or
 - Recipient of goods or services
- Amount paid under the scheme is non-refundable

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Amount payable – Clarification through Circular

Section
130 of
the Act

- **Para 10(c) of the Circular** - If tax have been paid by utilising the input credit and the matter is under dispute, 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

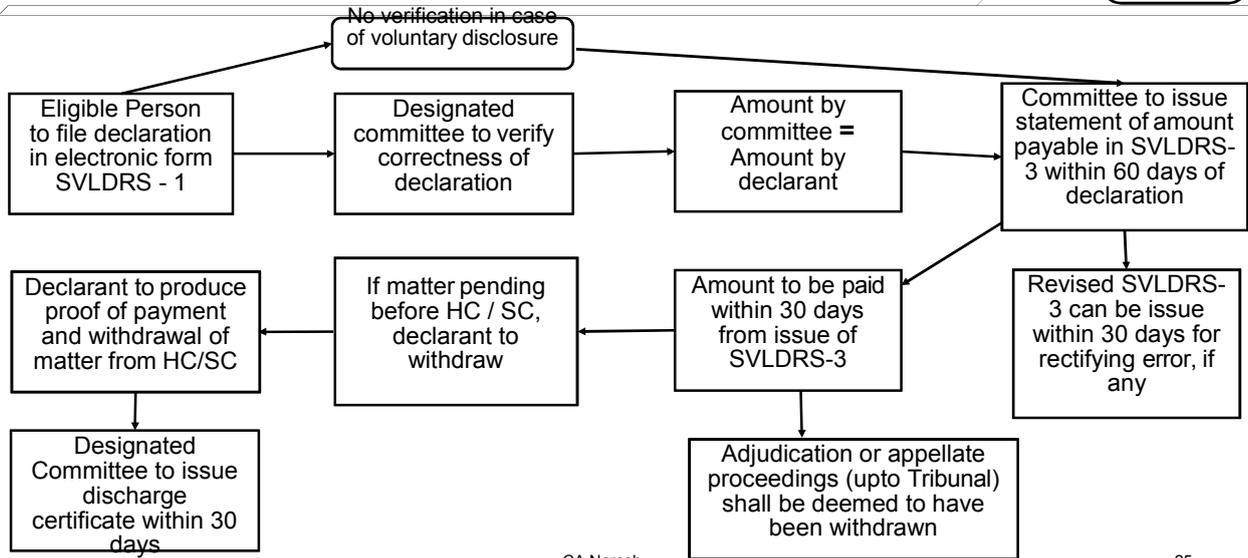
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Procedure where amount declared = amount estimated by Designated Committee

Section 127 of the Act



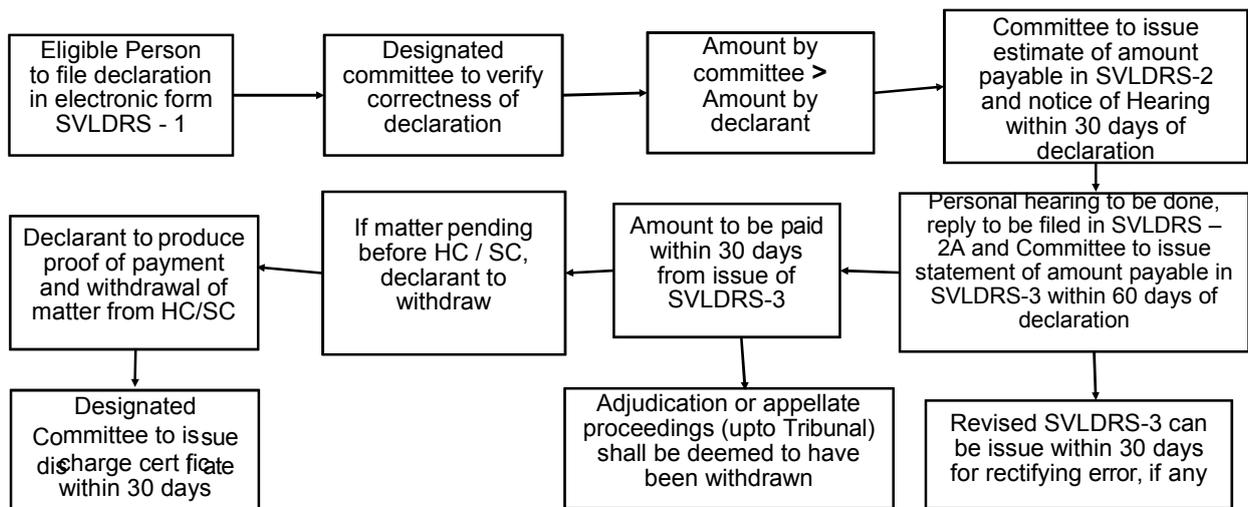
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Procedure where amount estimated by Designated Committee > Amount declared

Section 127 of the Act



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Discharge Certificate

Section
127 of
the Act

- Discharge Certificate shall be **conclusive as to matter and time period** covered in declaration
- Declarant will **not liable to following** in respect of matter and time period covered in the declaration:
 - To pay any further duty, interest and penalty
 - To be prosecuted
- Matter and time period covered by declaration **shall not be reopened** in any other proceeding
- It shall not preclude issuance of SCN:
 - For same matter for subsequent period; or
 - For different matter for same period; or
 - Any material information found to be false in case of Voluntary disclosure (deemed that declaration was never made)

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Effect of discharge certificate

Section
129 of
the Act

- No further payment of Tax or duty in respect of matter and period covered under declaration
- Complete waiver of:
 - Interest,
 - Penalty
- Closure of all proceedings related to matter and period covered under declaration
- No prosecution in respect of matter and period covered under declaration
- No reopening in respect of matter and period covered under declaration
- Nothing specified about late fees waiver
- In case of Voluntary disclosure, **declaration will become null and proceedings will be instituted within one year from issue of discharge certificate** if material particular in declaration is found to be false

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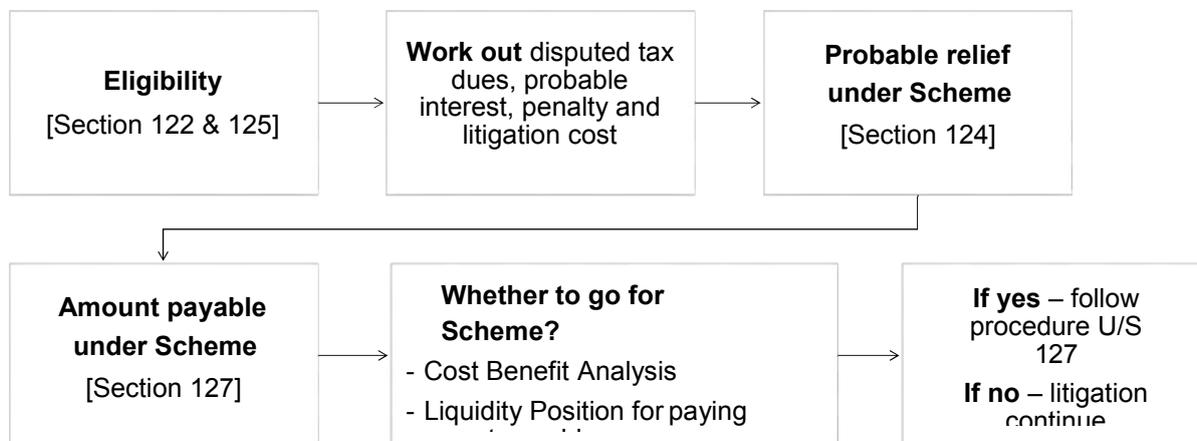
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Forms under the

the
Rules

Sr.	Forms	Purpose of filing of form	Filed / Issued by	Section	Rule
1	SVLDRS – 1	Declaration under the Scheme	Declarant	S. 125	R. 3
2	SVLDRS – 2	Intimation of amount payable, if exceeds the amount declared	Designated Committee	S. 127(2)	R. 6 (3)
3	SVLDRS – 2A	Reply against Form SVLDRS – 2 or adjournment request to DC	Declarant	S. 127(3)	R. 6 (4)
4	SVLDRS – 2B	For granting adjournment to declarant	Designated Committee	S. 127(3) Proviso	R. 6 (5)
5	SVLDRS – 3	Intimation of statement of amount payable	Designated Committee	S. 127(1)/(4)	R. 6(2)
6	SVLDRS – 3	Revision of statement of amount payable in 1 month (arithmetical or clerical error)	Designated Committee	S. 128	R. 6 (6)
7	SVLDRS – 4	Issue of discharge certificate	Designated Committee	S. 127(8)	R. 9 ²⁹

Decision making – Flow



Way forward – Optimizing benefits of the Scheme

- List out status of inquiries, investigations and audits
- Take stock of all pending litigations from SCN stage to Appeals lying at various forums
- Assess probable outcomes of each case based on merits / demerits of the case and classify it under categories of strong, weak or unpredictable cases
- Assess risk appetite, strength and weakness to pursue litigation and take litigation hassles
- Estimate litigation cost
- Liquidity position
- Work out cost benefit analysis

- Professional support for sound decision making

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Way forward - Strong

- Strong case on account of:
 - Favourable retrospective amendment in the Act
 - Subsequent favourable notification / clarification / circular
 - Matters settled by Tribunal / High Court / Supreme Court
 - Demand arisen out of mis-comprehension of facts and arithmetical errors
 - Time-barred demands
 - Frivolous demands
- Not advisable to go for Scheme in such cases **except where:**
 - Stake involved (pre-deposit and amount payable under scheme) is nominal; and
 - Litigation cost and hassles are substantial

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Way forward – Weak

- Weak case on account of:
 - Merits; and
 - Facts
- Advisable to go for scheme as not opting for scheme may entail:
 - Full payment of tax
 - Interest, which could probably be equal to or more than tax amount on finality of matter
 - Penalty equivalent to tax amount
 - Substantial litigation cost and hassles
- Probability of prosecution

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Way forward - Case where outcome is

- Final outcome of litigation in following cases may be unpredictable:
 - Where two interpretations are possible on issue involved
 - Absence of clarification from department on legal position
 - No settled jurisprudence
 - Difference in view between two or more High Courts or Tribunals
 - Issue pending before Hon'ble Supreme Court
- One has to take considered call on such cases:
 - Expert advice as to probable outcome of case
 - Litigation cost involved
 - Cost benefit analysis
 - Risk appetite
 - Liquidity position

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Words of Caution

- Views expressed in the presentation are the personal views of faculties based on his interpretation of law
- Presentation needs to be revised and revisited on any clarifications, circulars or notifications released after the date of presentation
- Presentation is made for educational meeting arranged with a clear understanding that neither the Faculty nor the Chamber of Tax Consultants will be responsible for any error, omission, commission and result of any action taken by a participant or anyone on the basis of this presentation
- Views expressed by faculty should not be construed as professional advice or legal opinion

THANK

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Appendix II –
Questions/Issues for Panel
Discussion

The Chamber of Tax Consultants

Workshop on Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019

07/09/2019, Saturday

Questions for Panel Discussion

A. VALIDITY

1. Whether the scheme can be challenged before the Courts as discriminating against honest and dutiful taxpayers who have paid full tax in normal course? If the Court strikes down the scheme what would be the consequences specifically -

- (i) Whether department will be able to issue fresh SCNs, launch enquiries, start audits / investigations?
- (ii) In case where appeals are withdrawn, whether said appeals will be reinstated?
- (iii) Whether declarant would get the refund of tax paid under the scheme?
- (iv) Whether declarant would be liable to pay full tax, interest or penalty?
- (v) Whether all litigations covered under the scheme will restart?

B. ELIGIBILITY

2. (i) If a “SCN” or “appeal” relates to multiple issues, whether an assessee can avail the benefit of the scheme in respect of selected issues or he would have to file a declaration for all the issues under dispute?

(ii) However where for the same issue there are two SCNs can the assessee opt to go for the scheme only for one SCN?

(iii) Where a declaration under the scheme has been filed in respect of one SCN, later on, can a separate declaration be filed for another SCN which may cover the same issue or another issue?

(iv) Where there are 4 SCNs which are disposed of by the Commissioner (Appeals) by a common order and the matter is in appeal before the Tribunal as on 30.6.2019 whether demands in respect of one of the SCN covered under the order can be offered for resolution under the scheme.

(v) In case of 2 SCNs on the same issue, one for Rs. 70 lakhs and the other for Rs. 30 lakhs there would be 2 declarations - for the first one Rs. 35 lakhs would be paid and for the other one Rs. 9 lakhs would be paid - Is it correct?

(vi) In case of SCN demanding duty/tax from the main assessee – a company and proposing penal action to the co-noticee – a director, can the benefit of Scheme be availed by the co-noticee even though the main Assessee does not opt to avail the Scheme? Attention is drawn to circular no. 1071/4/2019-CX.8 dated 27.8.2019 - para 11(i) which clarifies that co-noticees can avail the scheme only when duty demand is settled by main tax payer. Is this interpretation correct?

3. Where a tax payer, who has filed a return declaring certain tax as payable but has not paid it, will he be eligible under the scheme in the following circumstances:

- Tax return of April to September 2016 is filed on or before 30.06.2019
 - Tax return for October to March 2017 is filed on or after 01.07.2019
- [Attention is drawn to sections 121(c)(iii), 124(1)(c), 124(1)(e) and 125(1)(f)(ii)]

4. SCN received by tax payer on or after 15.07.2019. Whether the scheme is available if the SCN was pursuant to:

- EA - 2000 audit completed on or before 30.06.2019;
- Pre-SCN consultation done on or before 30.06.2019;
- Investigation or anti-evasion proceedings on or before 30.06.2019;
- Periodical SCN wherein requisite information furnished to department before 30.06.2019
- The SCN was issued on 29.06.2019

Please give your views on each of the above cases.

5. Declarant can apply for scheme in respect of pending SCN or appeal which are not finally heard till 30.06.2019. The term “FINAL HEARING” is not defined under the Scheme or relevant Indirect tax enactment. Moreover, there is no procedure of intimating tax payer about conclusion of hearing. What is the best method to ensure the eligibility on this criteria?

What are your views in the following cases:

- (i) In many cases SCNs are heard but no order is passed or the department has kept it pending for some information to be filed.
- (ii) In case declarant has not appeared for consecutive three hearings, what would be considered as date of final hearing?
- (iii) Whether tax payer can avail benefit of scheme in respect of matters transferred to call book though the matter was heard once?
- (iv) Where the Tribunal has reserved its orders in respect of hearings that took place before 30.6.2019?

6. Whether the declaration can be filed in the following cases where adjudication order received on 15th June 2019 and due date for filing the appeal is 14.9.2019 –

- (a) Appeal filed within prescribed time (say) 10.09.2019
- (b) Appeal filed after 15.09.2019
- (c) Appeal not filed at all

(d) Appeal filed before 30.06.2019.

In all above cases demand has not been paid.

7. In a case where appeal is pending before the Commissioner (Appeals) as on 30.6.2019 but subsequently in September 2019 the hearing takes place and the demand is confirmed, whether an assessee can go for the scheme on the premise that the appeal was pending on 30.6.2019?

8. Whether appellant can go for scheme where he withdraws the appeal in September 2019 in case where appeal already heard by appellate authority before 30.06.2019 so as to contend that tax was in arrears as on 30.06.2019 in cases where order has not been passed?

9. (i) An unregistered person collected service tax on invoices citing bogus service tax registration number. He has not deposited such amount collected as representing service tax. On being caught by department, he gets a SCN which is pending as on 30.06.2019. Whether such a person can take benefit under the scheme - he pays 30% instead of 100% of tax collected [Attention is drawn to Section 73A]

(ii) Does it make a difference if he is registered?

10. Section 123(a) defines the term “tax dues” in respect of appeal arising out of an order. The term “order” as well as “order in appeal” has been defined u/s 121(o) and 121(p) respectively. Whether section 123(a) is wide enough to consider both these terms?

11. Adjudication order demanding recovery of refund granted is challenged in appeal which is pending as on 30.06.2019. Whether appellant is eligible to go for the scheme?

12. (i) Whether declarant can withdraw his petition filed with settlement commission to qualify for the scheme?
(ii) Whether declarant can apply under the scheme if in respect of a matter he made an application to settlement commission which has been rejected by the Commission or Proceeding has been abated due to any other reason?

13. (i) As per section 121(c), “amount in arrears” involves cases where no appeal is filed by the declarant before expiry of the period of time for filing the appeal. In this background if appeals are filed beyond the filing period can the disputed amount be treated as “amount in arrears” eligible for relief under 124(c) or relief under 124(a)?

- (ii) Under section 121(c)(iii) amount in arrears means duty recoverable on account of an order in appeal attaining finality. What is the meaning of the term “attaining finality”?

14. Scrutiny is initiated based on discrepancy between revenue as per Income tax returns / 26AS and Service tax returns. The first communication is received on or before 30.06.2019 showing difference in revenue and requesting to pay differential tax. Whether a declarant can go for the scheme to pay differential tax in such case?

15. (i) In case of EA-2000 audit, when can it be said that liability is quantified? Whether one has to treat final audit report, draft audit report or any communication of tax payable as quantification of liability?

(ii) Where disputed duty amount is quantified in final audit report (“FAR”) and is issued on or before 30.06.2019 to assessee, whether he is entitled to go for scheme if the audit is completed and not pending? [Attention is drawn to section 123(c) and 125(1)(e)?

(iii) EA-2000 audit is started in April 2019. Audit team has sent letter intimating audit observations in May 2019 stating the amount of revenue escaping the tax. Whether declarant can go for scheme?

16. There is no formal process of intimating probable liability to taxpayer in inquiry or investigation process. How declarant can prove that his liability was quantified on or before 30.06.2019?

17. In anti-evasion and investigation proceedings wherein the department has recorded the statements on or before 30.06.2019 asking explanations on revenue escaping the tax. There are three possible answers by taxpayer:

- He accepts the liability
- He denies the liability
- He asks for time to give comment to the question

Whether declarant can go for scheme in such case?

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18. Whether the scheme permits voluntary payment of tax dues on undisclosed revenue? If so whether this declaration is confidential and would have no effect on VAT or Income Tax?

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19. Voluntary disclosure after inquiry, investigation or audit is not eligible for scheme under section 125(1)(f)(i) of the Act.

The term “after” should be interpreted to mean “after commencement of enquiry/ investigation/ audit” or “after completion of enquiry/ investigation/ audit”

C. TAX QUANTIFIATION

20. (i) Section 124(2) allows deduction of tax paid during enquiry, audit as or pre-deposit. Further Circular No 1071/4/2019-CX.8 also clarifies that tax paid through input credit shall be adjusted. What would be the position in respect of following:
- (a) Tax paid by utilizing CENVAT Credit but not appropriated in SCN/Order
 - (b) Tax paid by utilizing CENVAT Credit after issue of SCN but before passing of Order and hence appropriation not done
 - (c) Tax paid in Cash but not considered while issuing SCN/Order

(d) Tax paid in Cash after issue of SCN but before passing of Order and hence appropriation not done

(ii) The input credit cannot be used for payment of LDRS tax. However tax already paid by utilising the input credit during enquiry/investigation/audit would be considered as eligible. Would this not be considered as discriminatory especially to a case where an assessee considers his income not liable for service tax and has a good amount of credit if tax payable on output in case liability arises?

21. Whether amount of tax paid after receiving adjudication order (either in cash or through Cenvat) can be regarded as Other deposit to be adjusted against amount payable under the scheme?

22. Whether tax recovered by department directly from assessee or through Garnishee provisions (not yet appropriated through returns or adjudication order) can be regarded as 'pre-deposit or other deposit' while calculating Amount payable?

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23. How to quantify the pending dues when Tribunal order (passed before 30/6/2019) does not quantify the relief in its order?
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D. REMEDY FOR ADVERSE DECISION OF DESIGNATED COMMITTEE

24. (i) Unlike the erstwhile Kar Vivad Samadhan Scheme, wherein the designated authority was required to determine the amount payable by the declarant based on the information furnished in the declaration, in the present scheme, the designated committee would estimate the amount payable by the declarant and if amount estimated by the designated committee is more than the amount declared by the declarant then it would give him an opportunity of hearing and thereafter issue a statement indicating the amount payable by the declarant. Can this amount payable estimated by Designated Committee be challenged in any forum?
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(ii) Whether designated committee has power to reject the declaration upfront?

If a declaration is rejected upfront by the designated committee whether there is any remedy?

(iii) In the above scenario if the amount stated to be payable by the designated committee is not acceptable to the declarant, can he forego the declaration and continue disputing the matter before the respective authorities?

(iv) If appellant has voluntarily disclosed revenue escaped in normal period of limitation, whether department can invoke extended period of limitation in such cases and accordingly can invoke section 129(2)(c) of the Act and annul the discharge certificate?

EFFECTS OF DECLARATION

25. What are the consequences, if declarant fails to pay the amount payable within 30 days of SVLDRS-3 issued by designated committee?
- (a) The Act or Rules does not provide for this eventuality.
 - (b) Para 10(j) of Circular No. 1071/4/2019-CX.8 dated 27.08.2019 has clarified that in such case, declaration will be treated as lapsed.
 - (c) Whether declarant who has made voluntary declaration will be liable to penalty or interest on amount declared?

(d) Other consequences [please refer Q. No. 1]

26. Section 127(6) specifies that when the assessee opts for the scheme the reply filed in response to a show cause notice or the appeal filed before the Commissioner (Appeals), Tribunal, shall be deemed to have been withdrawn. What is the time limit by which the appeal needs to be withdrawn and the procedure for withdrawal of such appeal?

Appendix III – Relevant
portion of Finance Act, 2019
as applicable for Sabka
Vishwas (Legacy Dispute
Resolution) Scheme, 2019

(2) Refund shall be made of all such service tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times:

Provided that an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance (No. 2) Bill, 2019 receives the assent of the President.

(3) Notwithstanding the omission of the said Chapter, the provisions of the said Chapter shall apply for refund under this section retrospectively as if the said Chapter had been in force at all material times.

32 of 1994.
12 of 2017.

119. (1) Notwithstanding anything contained in section 66B of Chapter V of the Finance Act, 1994, as it stood prior to its omission *vide* section 173 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the said Chapter), no service tax shall be levied or collected on upfront amount, called as premium, salami, cost, price, development charges or by any other name, payable in respect of service by way of granting long term lease of thirty years or more of plots for development of infrastructure for financial business, provided or agreed to be provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having fifty per cent. or more of the ownership of the Central Government or the State Government or the Union territory, either directly or through an entity which is wholly owned by the Central Government or the State Government or the Union territory, to the developers in any industrial or financial business area during the period commencing from the 1st day of October, 2013 and ending with the 30th day of June, 2017 (both days inclusive).

Special provision for retrospective exemption from service tax in certain cases relating to long term lease of plots for development of infrastructure for financial business.

(2) Refund shall be made of all such service tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times:

Provided that an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance (No. 2) Bill, 2019 receives assent of the President.

(3) Notwithstanding the omission of the said Chapter, the provisions of the said Chapter shall apply for refund under this section retrospectively as if the said Chapter had been in force at all material times.

CHAPTER V

SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019

120. (1) This Scheme shall be called the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (hereafter in this Chapter referred to as the "Scheme").

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

121. In this Scheme, unless the context otherwise requires,—

Definitions.

(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. 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) 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;

1 of 1944.
5 of 1986.
32 of 1994.

27 of 1940.

7 of 1942.

22 of 1946.

24 of 1947.

49 of 1953.

16 of 1955.

58 of 1957.

57 of 1958.

58 of 1959.

41 of 1963.

15 of 1966.

62 of 1972.

28 of 1974.

47 of 1974.

26 of 1975.

55 of 1976.

56 of 1976.

40 of 1978.

3 of 1982.

28 of 1983.

2 of 1986.

Application of
Scheme to
indirect tax
enactments.

(xxii) the Spices Cess Act, 1986;	11 of 1986.
(xxiii) the Finance Act, 2004;	22 of 2004.
(xxiv) the Finance Act, 2007;	17 of 2007.
(xxv) the Finance Act, 2015;	20 of 2015.
(xxvi) the Finance Act, 2016;	28 of 2016.

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

Tax dues.

123. 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.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;

(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. (1) Subject to the conditions specified in sub-section (2), the relief available to a declarant under this Scheme shall be calculated as follows:—

Relief
available under
Scheme.

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

Declaration
under Scheme.

(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.

1 of 1944.

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

Verification of declaration by designated committee.

126. (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.

Issue of statement by designated committee.

127. (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. 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 *suo motu*, by the designated committee. Rectification of errors.

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

(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. (1) Any amount paid under this Scheme,— Restrictions of 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 predeposit or other deposit already paid exceeds the amount payable as indicated in the statement of the designated committee, the difference shall not be refunded.

Removal of doubts.

131. 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.

Power to make rules.

132. (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.

Power to issue orders, instructions, etc.

133. (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. (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: Removal of difficulties.

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. (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. Protection to officers.

(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.

CHAPTER VI

MISCELLANEOUS

PART I

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

136. The provisions of this Part shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. Commencement of this Part.

2 of 1934.

137. In the Reserve Bank of India Act, 1934 (hereafter in this Part referred to as the principal Act), in section 45-IA, in sub-section (1), for clause (b), the following shall be substituted, namely:— Amendment of section 45-IA.

“(b) having the net owned fund of twenty-five lakh rupees or such other amount, not exceeding hundred crore rupees, as the Bank may, by notification in the Official Gazette, specify:

Provided that the Bank may notify different amounts of net owned fund for different categories of non-banking financial companies.”.

138. After section 45-IC of the principal Act, the following sections shall be inserted, namely:— Insertion of new sections 45-ID and 45-IE.

“45-ID. (1) Where the Bank is satisfied that in the public interest or to prevent the affairs of a non-banking financial company being conducted in a manner detrimental to the interest of the depositors or creditors, or financial stability or for securing the proper management of such company, it is necessary so to do, the Bank may, by order and for reasons to be recorded in writing, remove from office, a director (by whatever name called) of such company, other than Government owned non-banking financial company with effect from such date as may be specified in the said order. Power of Bank to remove directors from office.

(2) No order under sub-section (1) shall be made unless the director concerned has been given a reasonable opportunity of making a representation to the Bank against the proposed order:

Appendix IV – Notification
No 05/2019-CE NT notifying
Sabka

Vishwas (Legacy Dispute
Resolution) Scheme Rules,
2019

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

Notification No. 05/2019 Central Excise-NT

New Delhi, the 21st August, 2019

GSR.....(E).- In exercise of the powers conferred by sub-sections (1) and (2) of section 132 of the Finance (No. 2) Act, 2019 (23 of 2019), the Central Government hereby makes the following rules, namely:-

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 Good and Services Tax Intelligence (DGGI), and Additional Director or Joint Director, Directorate General of Good 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 Good 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.

F. No. 267/78/19 - CX8 (Pt III)

(Mazid Khan)
Deputy Commissioner CX-8

8. Please answer Yes or No:

1.	Have you been convicted for an offence for the matter for which this declaration is being made? <i>[Note: If you answer YES to this question, you are ineligible to proceed further under the Scheme.]</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2.	Have you filed an application in the Settlement Commission for the case for which this declaration is being made? <i>[Note: If you answer YES to this question, you are ineligible to proceed further under the Scheme.]</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3.	Are you seeking to make this declaration with respect to excisable goods set forth in the Fourth Schedule to the Central Excise Act, 1944 (specified petroleum and tobacco products)? <i>[Note: If you answer YES to this question, you are ineligible to proceed further under the Scheme.]</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.	Are you seeking to make this declaration with respect to a show cause notice of refund/erroneous refund? <i>[Note: If you answer YES to this question, you are ineligible to proceed further under the Scheme.]</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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? <i>[Note: If you answer YES to this question, you are ineligible to proceed further under the LITIGATION category.]</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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? <i>[Note: If you answer YES to this question, you are ineligible to proceed further under the VOLUNTARY DISCLOSURE category.]</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
7.	Have you received any written communication from a Central Excise Officer with regard to any audit to be conducted? <i>[Note: If you answer YES to this question, you are ineligible to proceed further under the VOLUNTARY DISCLOSURE category.]</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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 <i>[Note: If you answer YES to this question, you are ineligible to proceed further under the VOLUNTARY DISCLOSURE category.]</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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? <i>[Note: If you answer YES to this question, you are ineligible to proceed further under the VOLUNTARY DISCLOSURE category.]</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
10.	Have the tax dues with regard to the matter under enquiry, investigation or audit NOT been quantified on or before 30.06.2019? <i>[Note: If you answer YES to this question, you are ineligible to proceed further under the INVESTIGATION, ENQUIRY OR AUDIT category.]</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>

9. Category of application

9.1 Litigation	9.1.1 SCN involving duty along with interest/late fee/penalty (if any) pending as on 30.06.2019 and final hearing not held before 30.06.2019	Whether the case is under adjudication by Pr. ADG/ADG (Adjudication), Delhi?					Yes <input type="checkbox"/>	No <input type="checkbox"/>						
		SCN No. & Date	Duty/Tax/Cesses	Amount Of Duty/Tax/Cess	Amount of Penalty	Amount of Late Fee	Amount of Deposit Made, If Any			Tax Dues Less Tax Relief				
		A	B	C	D	E	F			G				
	9.1.2 SCN involving penalty or late fee only pending as on 30.06.2019 and final hearing not held before 30.06.2019	SCN No. & Date	Amount of Penalty	Amount of Late Fee	Tax Dues Less Tax Relief									
		A	B	C	D									
	9.1.3 Appeal pending as on 30.06.2019, final hearing not held before 30.06.2019	Appeal No. and Date of Filing	Forum	O-i-O No. and date	Duty/Tax/Cess Confirmed in the O-i-O	Amount of Duty/Tax/Cess	Whether Departmental Appeal is Pending in Relation to the O-i-O	Duty/Tax/Cess And amount Under dispute		Total amount of duty under dispute	Total amt. of penalty	Total amt. of late fee	Amount of Pre-deposit/ any other deposit of duty	Tax Dues minus Tax relief
		A	A1	B	C	D	E	F		G	H	I	J	K
								Declarant's Appeal						
							Duty/Tax/Cess	Amt	Duty/Tax/Cess					
9.2 ARREARS	9.2.1 Appeal not filed or	Order No. and date of receipt	Forum	Duty/Tax/Cess Confirmed in	Amount of	Amount of Penalty	Amount of Late Fee Imposed in the O-i-O or O-i-A			Amount of Pre-	Tax Dues less Tax			

	appeal having attained finality			the O-i-O or O-i-A	Duty/Tax/Cess	Imposed in the O-i-O or O-i-A		deposit or Any Other Deposit of Duty	Relief
		A	B	C	D	E	F	G	H
	9.2.2 Tax Dues declared in return as payable but not paid	Period for which return was filed	Date on which return was filed	Description of Goods/ Services	Duty/Tax/Cess declared as payable in the return but not paid	Amount declared as payable in the return but not paid	Tax Dues less Tax Relief		
		A	B	C	D	E	F		
9.3 INVESTIGATION , ENQUIRY OR AUDIT	9.3.1 Investigation by DGGI	Duty/Tax/Cess	Total Amount Quantified	Reference No. and Date of communication of Quantified Amount	Description of Goods/Services	Issue Involved	Amount Deposited	Tax Dues less Tax Relief	
		A	B	C	D	E	F	G	
	9.3.2 Investigation by Commissionerate	Duty/Tax/Cess	Total Amount Quantified	Reference No. and Date of communication of Quantified Amount	Description of Goods/Services	Issue Involved	Amount Deposited	Tax Dues less Tax Relief	
		A	B	C	D	E	F	G	
	9.3.3 Audit	Duty/Tax/Cess	Total	Reference No.	Description	Issue Involved	Amount Deposited	Tax Dues less Tax	

		Amount Quantified	and Date of communication of Quantified Amount	on of Goods/Services			Relief	
		A	B	C	D	E	F	G
9.4 VOLUNTARY DISCLOSURE	Duty/Tax/Cess	Total Amount	Period involved	Description of Goods/Services	Issue involved	Tax Dues less Tax Relief		
	A	B	C	D	E	F		

10. Do you agree with the Tax Dues less Tax Relief calculated by the System? Yes/No

11. If you do not agree, state the reasons for disagreement:

12. Amount of Tax Dues less Tax Relief as per your calculation

VERIFICATION

I declare that I have read and understood the SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019, and agree to abide by the provisions and conditions of the Scheme, and that the information given in this declaration is correct and complete and the amount of tax dues and other particulars shown therein are truly stated.

I shall pay the amount as may be determined by the Designated Authority under the Scheme.

Name of declarant/ authorized representative filing this declaration:

Date:

PREVIEW
SUBMIT

Form SVLDRS-2

[Estimate under section 127 of the Finance (No.2) Act, 2019 read with rule 6 of the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 to be issued by the Designated Committee]

SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019

Declaration No.....
SVLDRS-2 No.....
Commissionerate/DGGI, Delhi.....
Zone/DGGI, Delhi.....

Whereas Mr./Ms./M/s. (hereinafter referred to as the declarant) having registration no./Non assessee code no..... has filed a Declaration No..... datedunder section 125 of the Finance (No. 2) Act, 2019;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 127 of the Finance (No. 2) Act, 2019, the designated committee, after consideration of facts on record, hereby determines the following amount estimated to be payable by the declarant towards full and final settlement of his/her/their tax dues covered by the said declaration under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019:

Category	Description of Goods/ Services	Matter involved	Time period	Tax dues		Tax relief	Pre-deposit or any other deposit of duty	Estimated Amount Payable	
				Name* E1	Amount E2			Name* H1	Amt H2
A	B	C	D	E		F	G	H	
				Name* E1	Amount E2			Name* H1	Amt H2

*Name of Duty/Tax/Cess

Notice For Personal Hearing

If the Declarant does not agree with the Estimated Amount Payable, as determined by the designated committee, he is requested to appear for a Personal Hearing before the designated committee on/...../2019 at AM/PM at(address) to explain the reasons thereof. Please submit Form SVLDRS 2A in case any other date and time of personal hearing is desired.

Members of the Designated Committee

1. Name:
Designation:

2. Name:
Designation:

(This is a computer generated print. There is no need for a signature)

Place.....
Date.....

PREVIEW

SUBMIT

Form SVLDRS-2A

[Written submissions, waiver of personal hearing and adjournment under section 127 of the Finance (No.2) Act, 2019 read with rule 6 of the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019]

SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019

- 1. Do you agree with the Estimate in SVLDRS-2 Number..... Yes No
- 2. Do you want make written submissions: Yes No
- 3. Written submission containing reasons for disagreement:

- 4. Do you want to upload documents in support of your submissions? Yes No

If Yes, Upload Documents

- 5. Do you want to waive personal hearing? Yes No
- 6. Do you want to seek an adjournment of personal hearing offered to you? Yes No
- 7. Indicate a preferred date for hearing:

8. Name of declarant/ authorized representative:

Date:

dd/mm/2019

PREVIEW

SUBMIT

Form SVLDRS-2B

[Intimation of personal hearing after adjournment under section 127 of the Finance (No.2) Act, 2019 read with rule 6 of the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019]

SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019

To,
Mr./Ms./M/s.....
Registration No.....

This is to inform that the Personal Hearing before the designated committee in relation to the subject Declaration No.....filed by you under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 has been fixed at(AM/PM) on (date) in the office of(address).

Please note that in the event of failure to attend the Personal Hearing the designated committee shall take a decision in regard to your Declaration in accordance with the legal provisions on the basis of the facts on record without further reference to you.

Members of the Designated Committee

1. Name:
Designation:

2. Name:
Designation:

(This is a computer generated print. There is no need for a signature)

Place.....
Date.....

PREVIEW

SUBMIT

Form SVLDRS-3

[Statement under section 127 of the Finance (No.2) Act, 2019 read with rule 6 of the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 to be issued by the Designated Committee]

SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019

Declaration No.....
SVLDRS-3 No.....
Commissionerate/DGGI, Delhi.....
Zone/DGGI, Delhi.....

Whereas Mr./Ms./M/s.(hereinafter referred to as the declarant) having registration no./Non assessee code no.....has filed a Declaration No..... datedunder section 125 of the Finance (No. 2) Act, 2019;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (4), as the case may be, of section 127 of the Finance (No. 2) Act, 2019, the designated committee, after consideration of relevant material, hereby determines the following amount is payable by the declarant towards full and final settlement of tax dues under..... (Central Excise Act, 1944 /Finance Act, 1994/Cess Act) covered by the said declaration under the Scheme:

Category	Description of Goods/ Services	Matter involved	Time period	Tax dues		Tax relief	Pre-deposit or any other deposit of duty	Estimated Amount Payable	
				Name*	Amount			Name*	Amt
A	B	C	D	E1	E2	F	G	H1	H2

*Name of Duty/Tax/Cess

Notes:

- (1) The Declarant is hereby directed to make payment of the amount payable within thirty days from the date of this Statement.
- (2) The Declarant has to withdraw the writ petition/appeal/reference before (mention the name of the High Court) High Court or the Supreme Court against any order in respect of the tax dues and furnish the proof of such withdrawal in accordance with the provisions contained in sub-section (7) of section 127 of the Finance (No. 2) Act, 2019;

Members of the Designated Committee

2. Name:
Designation:

2. Name:
Designation:

(This is a computer generated print. There is no need for a signature)

Place.....
Date.....

PREVIEW
SUBMIT

FORM SVLDRS-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.....
Commissionerate/DGGI, Delhi.....
Zone/DGGI, Delhi.....

Whereas.....(Name and address of the declarant) having registration number..... had made a declaration under Section 125 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:

Category	Description of Goods/ Services	Matter involved	Time period	Tax dues		Tax relief	Pre-deposit or any other deposit of duty	Estimated Amount Payable	
				Name*	Amount			Name*	Amt
A	B	C	D	E1	E2	F	G	H1	H2

And whereas the declarant has paid Rs. (Rupees) being the amount payable determined by the designated committee under section 126 of the Finance (No. 2) Act, 2019

And whereas the declarant had filed an appeal before the (mention the name of the Commissioner (Appeal) or the CESTAT (Branch name) against any order in respect of the tax dues and whereas the said appeal is deemed to be withdrawn in accordance with the provisions contained in sub-section (6) of section 127 of the Finance (No. 2) Act, 2019;

OR

And whereas the declarant had filed a writ petition/appeal/reference before (mention the name of the High Court) High Court or the Supreme Court against any order in respect of the tax dues and the declarant has withdrawn the said writ petition/appeal/reference and furnished proof of such withdrawal in accordance with the provisions contained in sub-section (7) of section 127 of the Finance (No. 2) Act, 2019;

Now, therefore, in exercise of the powers conferred by sub-section (8) of section 127 of the Finance (No. 2) Act, 2019, the designated committee hereby issues this Discharge Certificate to the said declarant:-

- (a) certifying the receipt of payment from the declarant towards full and final settlement of the tax dues determined in the Statement No.....dated.in accordance with the
- (b) Declaration no.....dated made by the aforesaid declarant;
- (c) discharging the declarant from the payment of any further duty, interest or penalty with respect to the aforesaid matter;
- (d) granting immunity, subject to the provisions contained in the Scheme, from instituting any proceeding for prosecution for any offence under the Central Excise Act 1944/ Chapter V of the
- (e) Finance Act 1994/----- Cess Act----) or from the imposition of penalty under the said enactment, in respect of the aforesaid matter; and
- (f) The provisions of sections 129 and 131 of the Finance (No.2) Act 2019 will be applicable with respect to this Discharge Certificate.

Members of the Designated Committee

3. Name:
Designation:

2. Name:
Designation:

(This is a computer generated print. There is no need for a signature)

Place.....
Date.....

PREVIEW

SUBMIT

- To
- 1. The Declarant
 - 2. Adjudicating Officer
 - 3. Commissioner of Central Excise, Service Tax and CGST (jurisdictional)
 - 4. Chief Commissioner of Central Excise, Service Tax and CGST / Pr. Director General, DGGI
 - 5. Concerned Appellate Forum

NB: Delete whatever is not applicable.

Appendix V – Notification No
04/2019-CE NT
Effective Date for
Implementation of Scheme

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

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

Notification No. 04/2019 Central Excise-NT

New Delhi, the 21st August, 2019

GSR.....(E).- In exercise of the power conferred by sub-section (2) of section 120 of the Finance (No. 2) Act, 2019, the Central Government hereby appoints the 1st of September, 2019 as the date on which the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 shall come into force.

F.No. 267/78/19-CX8(Pt III)

(Mazid Khan)
Deputy Commissioner CX-8

Appendix VI – Circular No
1071/4/2019 dt 27.08.2019
issued by CBIC

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, the 27th August, 2019

To

The Principal Chief Commissioners/ Chief Commissioners (All)
The Principal Director Generals/ Director Generals (All)

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) 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 be 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.

Yours sincerely,



(Navraj Goyal)
OSD(CX)

Appendix VII – Flyer issued by CBIC



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

SABKA VISHWAS

**(LEGACY DISPUTE RESOLUTION)
SCHEME, 2019**



Directorate General of Taxpayer Services
CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS



Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019



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

Objectives

- One time measure for liquidation of past disputes of Central Excise and Service Tax
- To provide an opportunity of voluntary disclosure to non-compliant taxpayers.

Cases covered under the Scheme

- A show cause notice or appeals arising out of a show cause notice pending as on the 30th day of June, 2019
- An amount in arrears
- An enquiry, investigation or audit where the amount is quantified on or before the 30th day of June, 2019
- A voluntary disclosure.

Exclusions from the Scheme

- Cases in respect of excisable goods set forth in the Fourth Schedule to the Central Excise Act, 1944 (this includes tobacco and specified petroleum products)
- Cases for which the taxpayer has been convicted under the Central Excise Act, 1944 or the Finance Act, 1944
- Cases involving erroneous refunds
- Cases pending before the Settlement Commission.

Benefits under the Scheme

- Total waiver of interest, penalty and fine
- Immunity from prosecution
- Cases pending in adjudication or appeal, a relief of 70% from the duty demand if it is \leq 50 Lakh or less and 50% if it is more than \leq 50 Lakh

- The same relief for cases under investigation and audit where the duty involved is quantified on or before 30th June, 2019
- In case of an amount in arrears, the relief offered is 60% of the confirmed duty amount if the same is \leq 50 Lakh 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.

Other features of the Scheme

- Facility for adjustment of any deposits of duty already made
- Settlement dues to be paid in cash electronically only and cannot be availed as input tax credit later
- A full and final closure of the proceedings in question. The only exception is that in case of voluntary disclosure of liability, there is provision to reopen a false declaration within a period of one year
- Proceedings under the Scheme shall not treated as a precedent for past and future liabilities
- Final decision to be communicated within 60 days of application
- No final decision without an opportunity for personal hearing in case of any disagreement
- Proceedings under the Scheme will be fully automated.



Directorate General of Taxpayer Services
CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS

Appendix VIII – FAQ's issued by CBIC



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

FAQs

SABKA VISHWAS

(LEGACY DISPUTE RESOLUTION)

SCHEME, 2019



Directorate General of Taxpayer Services
CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS



FAQs

Sabka Vishwas

(Legacy Dispute Resolution) Scheme, 2019



SABKA VISHWAS
(Legacy Dispute Resolution)
SCHEME, 2019
For Service Tax and Central Excise
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Q 1. 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 under the Scheme, to file a declaration:

- Who has a show cause notice for duty or one or more appeals arising out of such notice pending and where the final hearing has not taken place as on 30.06.2019.
- Who has been issued show cause notice for penalty and late fee only and where the final hearing has not taken place as on 30.06.2019.
- Who has recoverable arrears pending.
- Who has cases under investigation and audit where the duty involved has been quantified and communicated to party or admitted by him in a statement on or before 30th June, 2019.
- Who want to make a voluntary disclosure.

Q 2. What are the acts covered under the Scheme?

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

- 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;
- The following Acts, namely:-
 - The Agricultural Produce Cess Act, 1940;
 - The Coffee Act, 1942;
 - The Mica Mines Labour Welfare Fund Act, 1946;
 - The Rubber Act, 1947;
 - The Salt Cess Act, 1953;
 - The Medicinal and Toilet Preparations (Excise Duties) Act, 1955;
 - The Additional Duties of Excise (Goods of Special Importance) Act, 1957;
 - The Mineral Products (Additional Duties of Excise and Customs) Act, 1958;
 - The Sugar (Special Excise Duty) Act, 1959;
 - The Textiles Committee Act, 1963;
 - The Produce Cess Act, 1966;
 - The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972;
 - The Coal Mines (Conservation and Development) Act, 1974;
 - The Oil Industry (Development) Act, 1974;
 - The Tobacco Cess Act, 1975;
 - The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976;
 - The Bidi Workers Welfare Cess Act, 1976;
 - The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978;
 - The Sugar Cess Act, 1982;
 - The Jute Manufacturers Cess Act, 1983;
 - The Agricultural and Processed Food Products Export Cess Act, 1985;
 - The Spices Cess Act, 1986;
 - The Finance Act, 2004;
 - The Finance Act, 2007;
 - The Finance Act, 2015;
 - The Finance Act, 2016;
- Any other Act, as the Central Government may, by notification in the Official Gazette, specify.



Q 3. 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 payable has not been quantified on or before 30th June, 2019, the person shall not be eligible to opt for the scheme.

Q 4. 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.

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FAQs

Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019



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SCHEME, 2019
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Q 5. What is the scope of tax relief covered under section 124(1) (b) with respect to SCN for late fee and penalty only where the amount of duty in the said notice has been paid or is nil?

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

Q 6. 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) of the said Scheme.

Q 7. 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, such a person shall not be eligible to file a declaration under the Scheme.

Q 8. I have been convicted for an offence punishable under a provision of the indirect tax enactment. Am I eligible for the Scheme?

Ans. A person who has 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 shall not be eligible to avail the benefits under the Scheme.

Q 9. I 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. Am I eligible for the Scheme?

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

Q 10. I have been issued a SCN under indirect tax enactment for an erroneous refund or refund. Am I eligible for the scheme?

Ans. No, you are not eligible as per section 125(1)(d) of the Scheme.

Q 11. I 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. Am I eligible for the Scheme?

Ans. No, you are not eligible as per section 125(1) (e) of the Scheme.

Q 12. 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 as per section 125(1) (f) (i) of the Scheme.

Q 13. I want to make a voluntary disclosure after having filed a return under the indirect tax enactment, wherein I have indicated an amount of duty as payable but the same has not been paid. Am I eligible for the Scheme?

Ans. You cannot make a voluntary disclosure in such a case. However, you can still file a Declaration under Section 125(1) (f)(ii).

Q 14. 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 for which you have filed an application in the Settlement Commission.

Q 15. I deal with the goods which are presently under Central Excise and is mentioned in the Fourth Schedule to the Central Excise Act, 1944. I want to make declarations with respect to those excisable goods. Am I eligible for the scheme?

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

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Q 16. How will I apply for the said scheme?

Ans. All such persons who are eligible under the Scheme will be required to file an electronic declaration at the portal <https://cbic-gst.gov.in>

Q 17 Will I get an acknowledgement for filing a declaration electronically?

Ans. Yes, on receipt of declaration, an auto acknowledgement bearing a unique reference number will be generated by the system. 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.

Q 18. 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.

Q 19. What is the difference between 'Tax Dues' and 'Tax Relief'?

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

Q 20. A SCN has been issued to me for an amount of duty of ₹ 1000 and an amount of penalty of ₹ 100. In the Order in Original (OIO) the duty confirmed is of ₹ 1000 and an amount of ₹ 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 ₹ 1000 and hence the tax dues will be ₹ 1000.

Q 21. A SCN has been issued to me for an amount of duty of ₹ 1000 and an amount of penalty of ₹ 100. In the OIO the duty confirmed is of ₹ 900 and penalty imposed is ₹ 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 ₹ 900 and hence the tax dues are ₹ 900.

Q 22. A SCN has been issued for an amount of duty of ₹ 1000 and an amount of penalty of ₹ 100. In the OIO the duty confirmed is of ₹ 900 and penalty imposed is ₹ 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 ₹ 100 and penalty of ₹ 10. What would be the tax dues?

Ans. The amount of duty which is being disputed is ₹ 900 plus ₹ 100 i.e. ₹ 1000 and hence tax dues are ₹ 1000.

Q 23. A SCN has been issued for an amount of duty of ₹ 1000. The Adjudicating Authority confirmed the duty of ₹ 1000. I have filed an appeal against this order. The first appellate authority Commissioner Appeals/CESTAT reduced the amount of duty to ₹ 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 ₹ 900 and hence the tax dues are ₹ 900.

Q 24. I have been issued a SCN under any of the indirect tax enactment on or before the 30th June, 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.

Q 25. I have been issued a SCN, wherein other persons apart from me 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 you.

Q 26. What is the coverage of SCNs under the Scheme with respect to main noticee vis-à-vis co-noticee particularly when the tax amount is paid?

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FAQs

Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019



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SCHEME, 2019
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Ans. In case of a SCN issued to an assessee demanding duty 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 co-noticee/s can opt for the scheme for the waiver of penalty.

Q 27. What is the scope of coverage of periodical SCNs under the scheme?

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

Q 28. What are the benefits available under the Scheme?

Ans. The various benefits available under the Scheme are:

- Total waiver of interest, penalty and fine in all cases
- Immunity from prosecution
- In cases pending in adjudication or appeal, a relief of 70% from the duty demand if it is \leq 50 Lakh or less and 50%, if it is more than \leq 50 Lakh. The same relief is available for cases under investigation and audit where the duty involved is quantified on or before 30th June, 2019.
- In case of an amount in arrears, the relief is 60% of the confirmed duty amount if the same is \leq 50 Lakh 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.

Q 29. 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. 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 while issuing the statement indicating the amount payable by the declarant.

Q 30. How the declaration made by the declarant under the Scheme would be verified?

Ans. 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.

Q 31. Whether the declarant will be given an opportunity of being heard or not?

Ans. Yes, as per section 127(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, in case of a disagreement.

Q 32. What will be procedure and time period of payment to be made by the declarant?

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

Q 33. 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 or a reply to the SCN 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 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.

Q 34. 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.

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FAQs

Sabka Vishwas

(Legacy Dispute Resolution) Scheme, 2019



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Q 35. 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.

Q 36. 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 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; and (c) no matter and time period covered by such declaration shall be reopened in any other proceeding under the indirect tax enactment.

Q 37. Can I take input tax credit for any amount paid under the Scheme.

Ans. No.

Q 38. 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.

Q 39. Can I take a refund of an amount deposited under the Scheme?

Ans. No.

Q 40. 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.

Q 41. Is there 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?

Ans. No, as per section 131, 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.

Q 42. 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.

Q 43. What action would be taken against a declarant who makes false voluntary disclosure under the scheme?

Ans. As per section 129(c), in such 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.

[Note: The 'sections' referred above are those of the Finance (No.2) Act, 2019.]

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The Chamber of Tax Consultants



Vision Statement

The Chamber of Tax Consultants (The Chamber) shall be a powerhouse of knowledge in the field of fiscal laws in the global economy.

The Chamber shall contribute to the development of law and the profession through research, analysis and dissemination of knowledge.

The Chamber shall be a voice which is heard and recognised by all Government and Regulatory agencies through effective representations.

The Chamber shall be pre-eminent in laying down and upholding, among the professionals, the tradition of excellence in service, principled conduct and social responsibility

Unveiled by **Shri S. E. Dastur**, *Senior Advocate* on 30th January, 2008

ABOUT CTC

The Chamber of Tax Consultants (CTC) established in 1926, is a voluntary non-profit making organisation formed with the object of educating and updating its members on the direct tax laws and allied laws. It has membership strength of about 3,000 comprising of Professionals like Chartered Accountants, Advocates and Tax Consultants.

The CTC regularly conducts Workshops, Seminars, Lecture Meetings, Study Circle Meetings, Study Group Meetings, Education Courses, Outstation Conferences, etc. Its monthly journal "Income Tax Review" and especially, its Special Issues on topics of professional interest has found a permanent place in the libraries of Professionals.

The CTC regularly makes representation to Government and Tax Department through its Law and Representation Committee. In recent years, the CTC has acted as a catalyst and has contributed substantially to the development of better tax laws, administration and compliance.



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