

Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019

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The Sabka Vishwas Scheme, 2019 is a scheme proposed in the Union Budget, 2019, and introduced to resolve all disputes relating to the erstwhile Service Tax and Central Excise Acts, which are now subsumed under GST, as well as 26 other Indirect Tax enactments (as listed below). The scheme will be for taxpayers who wish to close their pending disputes, with a substantial relief provided by the government.

"Sabka Vishwas means Trust Everyone"

These are the 26 enactments to which the Sabka Vishwas Scheme, 2019, also applies-

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| (i) The Agricultural Produce Cess Act, 1940; | (xiv) The Oil Industry (Development) Act, 1974; |
| (ii) The Coffee Act, 1942; | (xv) The Tobacco Cess Act, 1975; |
| (iii) The Mica Mines Labour Welfare Fund Act, 1946; | (xvi) The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976; |
| (iv) The Rubber Act, 1947; | (xvii) The Bidi Workers Welfare Cess Act, 1976; |
| (v) The Salt Cess Act, 1953; | (xviii) The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978; |
| (vi) The Medicinal and Toilet Preparations (Excise Duties) Act, 1955; | (xix) The Sugar Cess Act, 1982; |
| (vii) The Additional Duties of Excise (Goods of Special Importance) Act, 1957; | (xx) The Jute Manufacturers Cess Act, 1983; |
| (viii) The Mineral Products (Additional Duties of Excise and Customs) Act, 1958; | (xxi) The Agricultural and Processed Food Products Export Cess Act, 1985; |
| (ix) The Sugar (Special Excise Duty) Act, 1959; | (xxii) The Spices Cess Act, 1986; |
| (x) The Textiles Committee Act, 1963; | (xxiii) The Finance Act, 2004; |
| (xi) The Produce Cess Act, 1966; | (xxiv) The Finance Act, 2007; |
| (xii) The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972; | (xxv) The Finance Act, 2015; |
| (xiii) The Coal Mines (Conservation and Development) Act, 1974; | (xxvi) The Finance Act, 2016; |

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Effective date of implementation:

The scheme has been notified by the CBIC to come into force on the 1st of September, 2019, and shall be operational until the 31st of December, 2019.

What cases can be settled under this scheme?

The following cases are covered under the Sabka Vishwas Scheme, 2019-

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

Persons not eligible to apply under this 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 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;
- c) 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;
- (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.

Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019

Benefits of this scheme:

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

1. Taxpayers can pay the outstanding tax amounts due and be free from any other consequences under the Law.
2. Taxpayers will get substantial relief in the form of full waivers of interest, penalties and fines.
3. There will be complete amnesty from prosecution proceedings.
4. The matter and period covered in the statement not to be reopened in any other proceeding.

What is relief provided by this scheme?

This scheme provides for a substantial relief margin on all Duty demands, ranging from 40% to 70% of the demand, except in the case of voluntary disclosure. The relief will be applicable as follows-

Relief available from the duty demand	For cases pending or adjudication appeal*	For cases of confirmed duty demands (Where no appeal is pending)	For cases of voluntary disclosure
Duty demand up to Rs. 50 lakh	70%	60%	The full amount of duty disclosed
Duty demands > Rs. 50 lakhs	50%	40%	

*For cases under investigation or audit, the same relief will also be available, however, the amount should have been quantified and communicated to the concerned party, or admitted by him in a statement, on or before the 30th of June, 2019.

Conditions for availing benefit:

1. Amount to be paid under the scheme shall not be paid through input tax credit account
2. Amount paid cannot be taken as input tax credit or entitle any person to take input tax credit as a recipient
3. Amount paid under the scheme shall not be refundable
4. If pre-deposit exceeds payment, refund would not be available

Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019

Forms and Procedure to apply for this scheme:

Form	Particulars
SVLDRS-1	A declaration under section 125 needs to be filed electronically on https://cbic-gst.gov.in , on or before the 31st of December, 2019 A separate declaration need to be filed for each case to be resolved
	<ul style="list-style-type: none">✓ On receipt of the declaration, the system will automatically generate a unique reference number.✓ The designated committee shall verify the declaration submitted, based on the particulars furnished by the declarant, and based on the records that are already available within the department. This verification shall not be done in cases of voluntary disclosure.
SVLDRS-2	In cases where the estimated amount payable turns out to be more than what has been declared by the declarant, then the designated committee should issue an estimate of the amount payable in Form SVLDRS-2 within 30 days of the receipt of the declaration. This should include an opportunity for a personal hearing.
SVLDRS-2A	If the declarant wishes to agree or disagree with the estimate calculated by the designated committee, to make any written submission, to waive the personal hearing, or to seek an adjournment, he will need to file Form SVLDRS-2A and indicate the same. If the above form has not been filed, or if the declarant does not appear before the designated committee on the appointed date, then the committee will make its decision based on the records available.
SVLDRS-3	A statement will be issued by the designated committee in Form SVLDRS-3, within a period of 60 days from the date of receipt of the declaration, with the particulars of the amount payable. If the amount payable is nil, and there is no appeal pending in either a High Court or the Supreme Court, then this statement will not be issued.
SVLDRS-4	Once the designated committee has been satisfied that the declarant has paid the amount in full, it will issue a discharge certificate in Form SVLDRS-4 within 30 days of payment being made.

The designated committee will have the power to modify its order and issue a revised Form SVLDRS-3, provided-

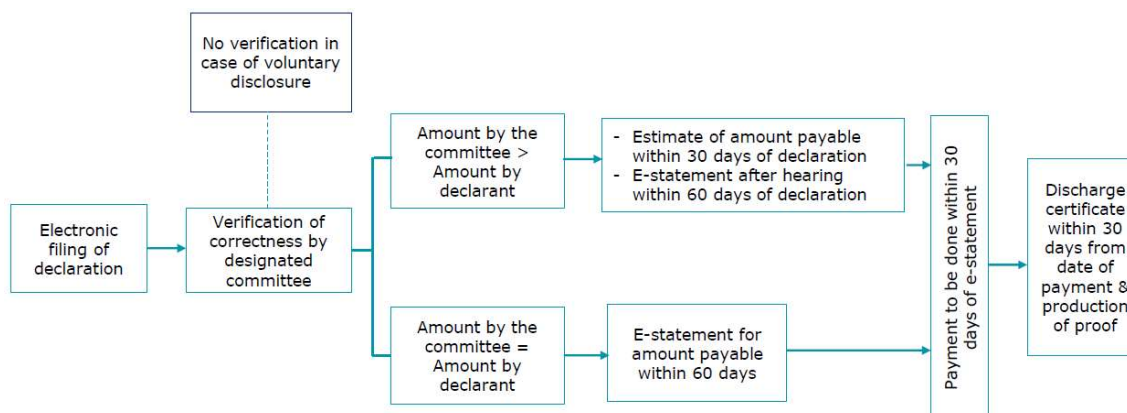
1. The modification has been done within 30 days of issuing the original Form SVLDRS-3.
2. It is only to correct an arithmetical or clerical error, which is apparent on the face of record.

The declarant is supposed to pay the amount indicated in Form SVLDRS-3, within 30 days from the date of its issue.

When applicable, proof of withdrawal of the appeal or writ petition filed before a High Court or Supreme Court needs to be furnished by the declarant.

Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019

Summary of flow of SVLDRS,2019



Open issues:

1. Eligibility of cases where only department is in appeal and scope of scheme, in cases where both assessee and department in appeal
2. Single appeal greater than INR 50 lakhs arising out of multiple SCNs (each SCN less than INR 50 lakhs) - whether separate matters or single matter
3. Scope of final hearing, whether includes - (i) matters placed in the call book (ii) appeals dismissed ex-parte but restored subsequently (iii) re-hearing of finally heard cases, due to change of adjudicating officer
4. Eligibility for adjustment - payment under protest, pre-deposit through ITC, interest or penalty paid in cash

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

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