

SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019

Frequently Asked Questions (FAQs)

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

**

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

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

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

Q2. What are the statutes covered under the Scheme?

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

- (a) The Central Excise Act, 1944 or the Central Excise Tariff Act, 1985 or Chapter V of the Finance Act, 1994 and the rules made thereunder;
- (b) The following Acts, namely:—
 - (i) The Agricultural Produce Cess Act, 1940;
 - (ii) The Coffee Act, 1942;
 - (iii) The Mica Mines Labour Welfare Fund Act, 1946;
 - (iv) The Rubber Act, 1947;
 - (v) The Salt Cess Act, 1953;
 - (vi) The Medicinal and Toilet Preparations (Excise Duties) Act, 1955;

- (vii) The Additional Duties of Excise (Goods of Special Importance) Act, 1957;
 - (viii) The Mineral Products (Additional Duties of Excise and Customs) Act, 1958;
 - (ix) The Sugar (Special Excise Duty) Act, 1959;
 - (x) The Textiles Committee Act, 1963;
 - (xi) The Produce Cess Act, 1966;
 - (xii) The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972;
 - (xiii) The Coal Mines (Conservation and Development) Act, 1974;
 - (xiv) The Oil Industry (Development) Act, 1974;
 - (xv) The Tobacco Cess Act, 1975;
 - (xvi) The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976;
 - (xvii) The Bidi Workers Welfare Cess Act, 1976;
 - (xviii) The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978;
 - (xix) The Sugar Cess Act, 1982;
 - (xx) The Jute Manufacturers Cess Act, 1983;
 - (xxi) The Agricultural and Processed Food Products Export Cess Act, 1985;
 - (xxii) The Spices Cess Act, 1986;
 - (xxiii) The Finance Act, 2004;
 - (xxiv) The Finance Act, 2007;
 - (xxv) The Finance Act, 2015;
 - (xxvi) The Finance Act, 2016;
- (c) Any other Act, as the Central Government may, by notification in the Official Gazette, specify.

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

Ans. No. If an audit, enquiry or investigation has started, and the amount of duty/duty payable has not been quantified on or before 30th June, 2019, the person shall not be eligible to opt for the Scheme under the enquiry or investigation or audit category. 'Quantified' means a written communication of the amount of duty payable under the indirect tax enactment[Section 121(g)]. 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.[Para 10(g) of Circular No 1071/4/2019-CX dated 27th August, 2019]

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

Ans. No. A person cannot opt to avail benefit of the Scheme in respect of selected matters. He must file a declaration in respect of all the matters concerning duty/tax liability covered under the SCN. For instance, a part of demand is confirmed and is not being contested in an appellate forum but a part of demand which was dropped at some stage is being contested. In such a case, the person will have to file a declaration covering both the issues. However, for the confirmed and uncontested demand, the relief as available under the Arrears category will be applicable. For the demand being contested in appeal, the relief as available in the Litigation category will be applicable.

Q5. 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. You are not eligible to make a declaration under the Litigation category. However, once the order in appeal is passed you can file a declaration under the arrears category provided the appeal has attained finality or the appeal period is over or you give an undertaking to the department that you will not file any further appeal in the matter.

Q6. What is the scope under the Scheme when adjudication order determining the duty/tax liability is passed and received prior to 30.06.2019, but the appeal is filed on or after 01.07.2019?

Ans. Such a case is not eligible under the Litigation category. However, such a person may choose to withdraw the appeal, and furnish to the department an undertaking to not file any further appeal in the matter. In this case, he can make a declaration under the Arrears category.

Q7. I have been convicted for an offence punishable under a provision of the indirect tax enactment. However, in respect of the same matter, I intend to file a declaration under the Scheme. Am I eligible?

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

Q8. I have been issued a SCN and the final hearing has taken place on or before 30.06.2019. Am I eligible for the Scheme?

Ans. You are not eligible to make a declaration under the Litigation category. However, once the order is passed you can file a declaration under the Arrears category provided the appeal period is over or you give an undertaking to the department that you will not file any appeal in the matter.

Q9. I have been issued a SCN for an erroneous refund or refund. Am I eligible for the Scheme?

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

Q10. I have been subjected to an enquiry or investigation or audit under indirect tax enactment and I want to make a voluntary disclosure regarding the same. Am I eligible for the Scheme?

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

Q11. There is an apparent contradiction between the provisions of section 125(1)(f)(ii) and section 124(1)(c)(iii). Can you elaborate?

Ans. Section 125(1)(f)(ii) is an exception to voluntary disclosure category. In other words, a person having filed a return but has not deposited the duty/tax cannot make a voluntary disclosure in respect of the same since the liability already stands disclosed to the Department. On the other hand, section 124(1)(c)(iii) is a sub-set of the 'arrears' category, meaning thereby that in respect of such return a declaration can only be filed under the arrears category. As such, there is no contradiction between the two provisions.

Q12. I have filed an application in the Settlement Commission for settlement of the case. Am I eligible for the Scheme?

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

Q13. I deal with the goods which are presently under Central Excise and are mentioned in the Fourth Schedule to the Central Excise Act, 1944. I want to make declarations with respect to these excisable goods. Am I eligible for the Scheme?

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

Q14. How will I apply for the said Scheme?

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

Q15. Will I get an acknowledgement for filing a declaration electronically?

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

Q16. 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.

Q17. What is the difference between 'Tax Dues' and 'Tax Relief'?

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

Q18. A SCN has been issued to me for an amount of duty of Rs.1000 and an amount of penalty of Rs.100. In the Order in Original (OIO) the duty confirmed is of Rs.1000 and an amount of Rs.100 has been imposed as penalty. I have filed an appeal against this order before the Appellate Authority. What will be the tax dues for me?

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

Q19. A SCN has been issued to me for an amount of duty of Rs.1000 and an amount of penalty of Rs.100. In the OIO the duty confirmed is of Rs.900 and penalty imposed is Rs.90. I have filed an appeal against this order. The department has not filed any appeal in the matter. What would be the tax dues?

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

Q20. A SCN has been issued for an amount of duty of Rs.1000 and an amount of penalty of Rs.100. In the OIO the duty confirmed is of Rs.900 and penalty imposed is Rs.90. I have filed an appeal against this order before the Appellate Authority. Further, Department has also filed an appeal before the Appellate Authority for an amount of duty of Rs.100 and penalty of Rs.10. What would be the tax dues?

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

Q21. A SCN has been issued for an amount of duty of Rs.1000. The Adjudicating Authority confirmed the duty of Rs.1000. I have filed an appeal against this order. The first appellate authority Commissioner Appeals/CESTAT reduced the amount of duty to Rs.900. I have filed a second appeal (before

CESTAT/High Court. The department has not filed any appeal. What will be the tax dues for me?

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

Q22. I have been issued a SCN under any of the indirect tax enactment on or before 30.06.2019, what will be the tax dues?

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

Q23. What is the coverage of SCNs under the Scheme with respect to main noticee vis-à-vis co-noticee particularly when the tax amount has already been paid by the main noticee outside the Scheme?

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

Q24. What is the scope of coverage of periodical SCNs under the Scheme?

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

Q25. What are the benefits available under the Scheme?

Ans. The various benefits available under the Scheme are:

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

- In cases of voluntary disclosure, the declarant will have to pay full amount of disclosed duty/tax.

Q26. Shall the pre-deposit paid at any stage of appellate proceedings and deposit paid during enquiry, investigation or audit be taken into account for calculating relief under the Scheme?

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

Q27. Whether the declarant will be given an opportunity of being heard?

Ans. Yes, as per section 127(2) and (3), after the issue of the estimate, the Designated Committee shall give an opportunity of being heard to the declarant, if he so desires, in case of a disagreement.

Q28. What will be procedure and time period of payment to be made by the declarant?

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

Q29. What procedure will be followed for withdrawal of appeals where the person has filed a declaration under the Scheme?

Ans. Where the declarant has filed an appeal or reference against any order or notice giving rise to the tax dues, before the appellate forum, other than the Supreme Court or the High Court, then, such appeal or reference or reply shall be deemed to have been withdrawn.

In case of a writ petition or appeal or reference before any High Court or the Supreme Court, the declarant shall file an application before such High Court or the Supreme Court for withdrawing the writ petition, appeal or reference and after its withdrawal with the leave of the Court, he shall furnish proof of such withdrawal to the Designated Committee.

Q30. Whether any certificate will be provided to declarant as proof towards 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.

Q31. 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.

Q32. What will be the benefits of discharge certificate issued under the Scheme?

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

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

Q33. Can I take input tax credit for any amount paid under the Scheme?

Ans. No.

Q34. 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.

Q35. Can I take a refund of an amount deposited under the Scheme?

Ans. No.

Q36. 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.

Q37. Is there any benefit, concession or immunity for the declarant in any proceedings other than those in relation to the matter and time period to which the declaration has been made?

Ans. No.

Q38. What action would be taken against a declarant who makes false voluntary disclosure under the Scheme?

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

Q39. I have received an intimation for audit, enquiry or investigation on or before 30.06.2019. Can I make a voluntary disclosure of my liability?

Ans. No. If an intimation for audit, enquiry or investigation has been received by you on or before 30.06.2019 then you cannot make a voluntary disclosure of your liability under the Scheme.

Q40. Can taxpayer opt for the benefit under the Scheme in case of periodical notices without opting for it in respect of the main notice?

Ans. Yes.

Q41. If the main noticee avails benefit of the Scheme whether Directors whose appeals are pending in respect of penalty only get a waiver of the penalty?

Ans. Once the main noticee discharges the duty/tax demand, the co-noticees can avail the benefits under the Scheme.

Q42. If a person has been issued a SCN for a refund/ erroneous refund and, at the same time, he also has other outstanding disputes which are covered under this Scheme, then, will he be eligible to file a declaration(s) for the other case(s)?

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

Q43. If I file a declaration under the Scheme, will it be assumed that I have admitted to the position and agree with the allegations made in the show cause notice?

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

Q44. With respect to penalty/late fee matters, whether only SCNs for late fee or penalty are covered under this Scheme or also such cases under appellate proceedings?

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

Q45. I had made an application to the Settlement Commission for settlement of my case. However these proceedings abated due to rejection of the application by the Settlement Commission or other reason/s and the case went back to the

adjudicating authority for further action. Can I avail the benefit of the Scheme with respect to this case?

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

Q46. With respect to cases under enquiry, investigation or audit what is meant by 'written communication' quantifying demand?

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

Q47. I have already paid duty/tax by utilising the input credit, and the matter is under dispute. Will this duty/tax already paid through input credit be adjusted against my duty/tax liability calculated under the Scheme?

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

Q48. Which is the Form through which I can make a declaration under the Scheme?

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

Q49. I do not agree with the estimate of the Designated Committee. Will I be given a personal hearing?

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

Q50. I have received a communication of the amount payable in Form SVLDRS3. How do I make the duty/tax payment?

Ans. A challan can be generated by a link provided in the Form SVLDRS3 issued by the department. Once the challan is generated, payment against the same can be made by the taxpayer.

Q51. How do I intimate the department about withdrawal of appeal by me?

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

Q52. Are disputes pertaining to Cenvat credit covered under the Scheme?

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

Q53. What happens if I do not make the payment of the amount specified in the statement within 30 days of its issue?

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

Q.54. The amount quantified under an enquiry, investigation or audit on or before 30.06.2019 gets modified subsequently due to any reason. Will I still be eligible to file a declaration under the Scheme?

Ans. Only such cases of enquiry, investigation or audit are covered under the Scheme where the duty/tax demand has been finally worked out on or before 30.06.2019. In other words, all the evidence/document gathering process is over and the tax liability has been worked out on or before 30.06.2019. For instance, a Draft Audit Report or the Final Audit Report has been issued on or before 30.06.2019. Similarly, a letter intimating duty demand has been issued by the department. These would include those cases also where the duty/tax demand undergoes a change only due to any clerical or calculation error.

Q.55 The duty demand in an SCN issued to me was dropped by the adjudicating authority. However, the department has filed an appeal. I have not filed any appeal in the matter. Will this case be eligible under the Scheme.

Ans. Yes. You can file a declaration with regard to this appeal if you are willing to pay the tax dues as calculated under the Scheme for bringing the matter to closure. Section 124(1)(a) covers 'one or more appeals' arising out of an SCN. Such appeals can be either filed by the party or the department.

Q.56 I have declared sums of duty as payable by me in multiple returns but not paid the same. Do I need to file a single declaration for all these returns or a separate declaration for each return?

Ans. For administrative convenience, a single declaration may be filed indicating separately the details of each such return in the declaration. However, it will not have any impact on the applicable tax relief. In other words, for the purpose of application of tax relief, each such return will be taken individually even though a single Estimate/Statement and Discharge Certificate shall be issued for a declaration.

Q.57 I have filed a return showing Rs. 1000 as duty payable. At the date of filing the return I had not paid any sum against this. However subsequently I have paid Rs.500 against this duty payable and as on date the outstanding duty amount is Rs. 500. For making a declaration under the scheme under the category of arrears what is the amount on which the relief is to be calculated?

Ans. For declaration under the category of arrears the amount outstanding as on the date of making the declaration is the tax dues on which the relief shall be calculated i.e. Rs. 500 in this case.

Q.58 I have an order confirming a duty demand of Rs. 1 crore against me and I have already paid Rs. 60 lakhs against this. What are the tax dues on which relief is to be calculated and what will be the amount payable?

Ans. The amount of tax dues is Rs 40 lakhs. After applying applicable relief @ 60%, the amount payable under the Scheme is Rs 16 lakhs.

Q.59 I have an order confirming a duty demand of Rs 1 crore apart from Rs 20 lakh penalty and interest as applicable. I have already paid Rs 1 crore towards duty. What are the tax dues on which relief is to be calculated and what will be the amount payable?

Ans. The amount of tax dues is zero, and the amount payable under the Scheme is zero.

Q.60 Although I have not been subjected to any search of my premises or investigation of any kind as per my knowledge I have recently received a letter from the department asking for some documents like balance sheets and Profit and loss accounts of certain years. I want to make a voluntary declaration with regard to the same period. Am I eligible?

Ans. The letter may have been sent to you by the department as a result of a specific intelligence input as part of an enquiry or investigation or it may be with the aim of making a preliminary assessment as to whether or not an enquiry or investigation is warranted. This would depend on the facts and circumstances of each case. You can make a declaration. However the eligibility will be decided on a case to case basis by the designated committee.

Q.61 I want to file a declaration under the Scheme for an order against which I do not want to file an appeal even though the time period for filing of appeal is not over. Can I make such a declaration?

Ans. You can file a declaration under the Scheme provided you give in writing to the department that you will not file an appeal. This declaration shall be binding on you.

Q.62 I want to file a declaration under the Scheme for a case where I have filed an appeal after 30.06.2019. Am I eligible?

Ans. Such cases are not covered under the Scheme per se. However, if a taxpayer withdraws the appeal and furnishes the undertaking to the department in terms of Para 2(viii) of Circular No. 1072/05/2019-CX dated 25.09.2019, they can file a declaration under the Scheme.
