

Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019

July 2019

Legacy Indirect tax cases

- **Economic Survey of 2017-18 – “timely justice is one of the next frontiers for achieving “Ease of Doing Business”**
 - 2946 cases pending before the Supreme Court involving an amount of INR 0.2 Lakh crore
 - 14,141 cases pending before High Court involving an amount of INR 0.37 lakh crore
 - 83,338 cases pending before CESTAT involving an amount of INR 1.92 Lakh crore
 - Department’s success ratio was at 11%, 46% and 12% respectively

Extract of the Budget 2019 Speech by the Finance Minister

“GST has just completed two years. An area that concerns me is that we have huge pending litigations from pre-GST regime. More than Rs. 3.75 lakh crore is blocked in litigations in service tax and excise. There is a need to unload this baggage and allow business to move on. I, therefore, propose, a Legacy Dispute Resolution Scheme that will allow quick closure of these litigations. I would urge the trade and business to avail this opportunity and be free from legacy litigations.”

Relief under the Scheme

Situation	Not Eligible	Tax Dues	Relief
SCN or Appeal* arising out of such SCN pending and to be disposed as on 30 June 2019	<ul style="list-style-type: none"> If final hearing <u>has</u> taken place on or before 30.06.2019 	Less than or equal to Rs. 50 lakhs	70% of tax dues
		More than Rs. 50 lakhs	50% of tax dues
Tax dues relatable to SCN for late fee or penalty <u>only</u> , and the amount of duty has been paid or is Nil	-	-	Entire amount of late fee or penalty
Tax dues relatable to 'amount in arrears' <ul style="list-style-type: none"> Appeal not filed within the prescribed time-limit Order-in-Appeal attaining finality Admitted tax liability under a return filed on/ prior to 30 June 2019 but not paid 	-	Less than or equal to Rs.50 lakhs	60% of tax dues
		More than Rs.50 lakhs	40% of tax dues

*Appeal filed before Supreme Court or High Court or the CESTAT or the Commissioner (Appeals)

Relief under the Scheme

Situation	Not Eligible	Tax Dues	Relief
A case subjected to enquiry or investigation or audit - Total amount of duty/ tax payable	<ul style="list-style-type: none"> If amount of duty has <u>not been</u> quantified before 30.06.2019 	Less than or equal to Rs.50 lakhs	70% of tax dues
		More than Rs.50 lakhs	50% of tax dues
Voluntary disclosure by the declarant	<ul style="list-style-type: none"> If made after being subjected to any enquiry/ investigation/ audit Having filed a return showing duty payable, but has not paid the duty 	-	No relief with respect to tax dues (Appears that relief available for interest & penalty)
Other Exclusions			
<ol style="list-style-type: none"> 1) Customs Law not covered 2) Show cause notice for an erroneous refund or refund 3) Who have been convicted for any offence under Indirect tax law for the matter for which he intends to file a declaration 4) An application for settlement of a case is filed before the Settlement Commission 5) Excisable goods listed in fourth schedule to Central Excise Act, 1944 			

Other Conditions of the Scheme

1

Any amount paid as pre-deposit at any stage of appellate proceedings or as deposit during enquiry, investigation or audit will be deducted in computing the amount payable

2

No refund of monies if pre-deposit/ deposit exceeds amount payable under the Scheme

3

Amount payable under this Scheme shall not be paid through input tax credit. Thus liability to be discharged in cash only

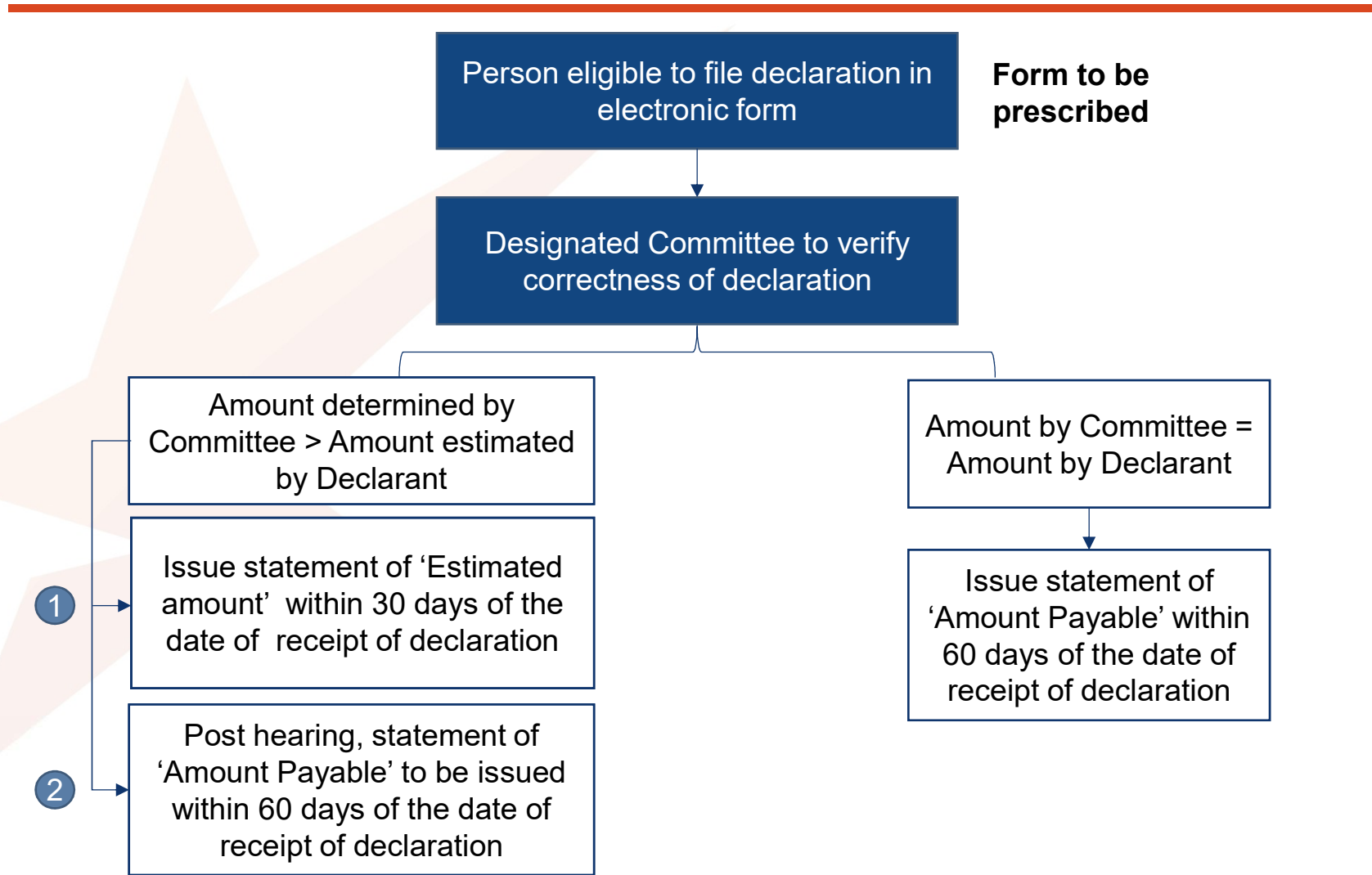
4

Amount paid shall not to be taken as input tax credit

5

Amount shall not be refundable under any circumstances

Procedure under the Scheme



Procedure under the Scheme

1

Declarant shall make payment within 30 days of issuance of statement

2

Any appeal or reference or reply to SCN filed before the appellate forum (other than Supreme Court/High Court) shall be **deemed** to have been withdrawn

3

In case of Supreme Court/High Court, declarant shall file an application to Supreme Court/High Court for withdrawal.

4

Designated Committee shall issue Discharge Certificate on payment of the amount and on proof of withdrawal of appeal, where applicable.

Effect of Discharge Certificate

- Discharge Certificate issued shall be conclusive as to matter against which liability is paid and time period thereon and
 - Declarant not liable to **pay any further duty, interest and penalty**
 - Declarant shall not be liable to be prosecuted
 - Matter and time period covered by declaration shall not be reopened in any other proceeding under Indirect tax enactment
- It shall not preclude issuance of SCN for:
 - the same matter for subsequent period
 - different matter for same period
 - voluntary disclosure, if information furnished is found to be false, within one year of discharge certificate

Need of the hour



Stock take of tax litigations

- To take stock of all litigations and audit/ enquiries/ investigation notices as on 30 June 2019 under the Central Excise, Service tax and other laws



Finalize the matters to be settled under the Scheme

- To evaluate whether the case fits in the Scheme
- To take an informed decision given the fact that there may be no further re-course available after declaration is made



Evaluate tax disputes

- Carry out 'Remote-Probable-Possible' process: Aspects to consider – Interpretational issue, strength merits of cases, precedents in matters, position for subsequent periods
- Cost benefit analysis – Interest & penalty cost, litigation cost
- Clean up financial statements – Contingent liabilities



Take necessary steps for opting into the Scheme

- Procedural aspects of the Scheme will be notified shortly. The requisite steps will have to be undertaken for applying for the scheme:
 - Filing Declaration/ Application
 - Payment
 - Obtaining Discharge Certificate

Dinesh Kanabar - CEO



- Dinesh Kanabar is the CEO and Founder of Dhruva Advisors LLP. A tax stalwart who over the decades, has been recognized by his peers as amongst the top tax advisors in India.
- His ability to relate the business strategies of clients to the tax and regulatory environment has been recognized as unique and has played a critical role in evolving solutions for clients.
- He is a member of the National Committee of FICCI and the Chairman of its Taxation Committee. He has worked with the Government on several policy committees, including tax reforms. He was a member of the Rangachary Committee which dealt with tax reforms in the IT/ITES sector and evolved Safe Harbour Rules. He is currently also serving as a Public Interest Director of the National Stock Exchange.



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