

Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 ('LDRS') – with Inputs from PwC

Following the footsteps of multiple States which had rolled out amnesty scheme for disposal of pending litigations under erstwhile State VAT, CST and entry tax laws, the Honorable Union Finance Minister in her maiden budget speech on July 5, 2019 proposed the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (“LDRS” or “scheme”). The LDRS is aimed at off-loading litigation baggage primarily of duties and taxes payable under the Central Excise Act and Finance Act (Service Tax) and proposes a speedy closure of disputes providing substantial relief to taxpayers from payment of dues along with immunity from future prosecution.

LDRS is a onetime measure consisting of the following two main components:

1. Dispute resolution – Aimed at liquidating the legacy cases blocked in litigation at various forums; and
2. Amnesty – Providing an opportunity to taxpayers who have failed to correctly discharge their tax liability to discharge such tax dues and grant immunity from any prosecution under the law

In this regard, the Ministry of Finance operationalized¹ the scheme from September 01, 2019, and prescribing the rules in this regard. The scheme shall be available for all taxpayers who have filed their declarations on or before December 31, 2019.

I. Cases covered under the scheme

- Show cause notice (SCN) demanding duty/tax or one or more appeals arising out of such notice is pending and the final hearing² has not taken place as on June 30, 2019;
- SCN for penalty and late fee only has been issued and where the final hearing has not taken place as on June 30, 2019;
- Any recoverable arrears are pending;
- An enquiry, investigation or audit is made and the duty/tax involved has been quantified and communicated to the taxpayer or admitted by him in a statement on or before June 30, 2019;
- A voluntary disclosure is made

¹ Notification No. 04/2019 and No. 05/2019 Central Excise-NT dated August 21, 2019

² Hearing to mean only those cases where the appellate forum has heard the matter finally prior to June 30, 2019

II. Highlights of the scheme

- Relief of tax dues ranging from 40% to 70% for cases covered under LDRS; as detailed below:

Tax dues pertaining to	SCN or appeal(s) pending as on June 30, 2019	Enquiry or Investigation or Audit quantified as on June 30, 2019	Amount in arrears	Amount payable as per returns	SCN for late fee or penalty only and duty is paid or Nil	Voluntary Disclosure
Amount < or = 50 Lakh	70%	70%	60%	60%	Entire late fee or penalty	Relief only for late fee or penalty;
Amount > 50 Lakh	50%	50%	40%	40%		No tax relief

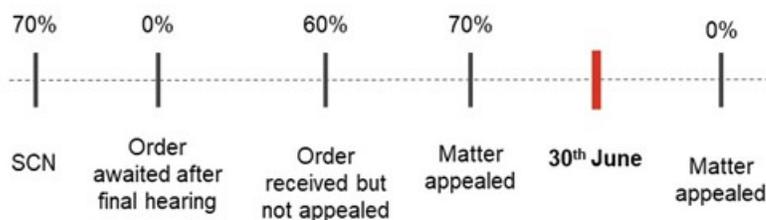
- Total waiver of interest, penalty and fine;
- Immunity from prosecution – other than for voluntary disclosure cases with provision to re-open the case within a period of one year from declaration;
- No final decision without an opportunity for personal hearing in case of any disagreement;
- Facility for adjustment of any amount paid as pre-deposit;
- Proceedings under the Scheme shall not treat as a precedent for past and future liabilities;
- Proceedings under the Scheme shall be fully automated with a dedicated portal to ensure transparency, accountability and speedy settlement;
- Discharge certificate to be issued within 30 days of final payment/adjustment and shall indicate full and final closure of the proceedings in question for both department and taxpayer.

III. Key points for consideration

- Duty/tax dues shall be required to be discharged in cash only and cannot be paid by utilizing input credit;
- No credit can be availed of the tax dues paid under the scheme either as payer or as recipient of the underlying goods or services;
- Any voluntary disclosure made after being subjected to audit/investigation/enquiry shall not qualify for the scheme;
- No refund of amount paid under this scheme or any balance remaining after adjustment of pre-deposit can be claimed;

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- Payment and discharge under this scheme shall not absolve any liability for periods not covered under the declaration;
- Discharge certificate shall not preclude the issue of an SCN:
 - for the same matter for a subsequent time period; or
 - for a different matter for the same time period;
- Taxpayer to pay amount indicated in statement issued by designated committee within 30 days, else declaration shall lapse;
- The extent of relief varies at each stage of litigation pending post receipt of SCN. In this regard, the percentage of relief available is provided below:



Concluding remarks

As new litigation surfaces under GST, it is important that the Government resolves past tax disputes as early as possible. The onetime dispute resolution scheme, LDRS, is a welcome step towards addressing long-pending litigations. With complete waiver of interest, penalty and prosecution, and part waiver of tax dues, this would be an opportune moment for taxpayers to review their old tax disputes for early closure.