

TAX FLASH NEWS

27 September 2019

Circular update – Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (SVLDRS)

In addition to an earlier circular issued on SVLDRS¹, Central Board of Indirect Taxes and Customs (CBIC) has released a new circular², clarifying therein the issues raised by trade and field formation, particularly with respect to withdrawal of appeals, mis-declaration in the application made under the scheme, adjustment of deposit made for determining the relief and voluntary disclosures.

Gist of the circular is summarised as under

Sl. No.	Section	Issue discussed	Clarification
1	Section 125 – Declaration under the scheme	Filing of application basis mis-declaration in Form SVLDRS-1 by an ineligible person	In such cases, even if the application is accepted by the system, the declaration shall be considered void and accordingly will be informed to such person through a letter.
2	Section 124(1)(a) – Relief available under the scheme Section 127(6) – Withdrawal of appeal	Withdrawal of appeal – cases where department has filed an appeal or reference or writ petition before the Supreme Court or High Court as the case maybe	Department will be required to file an application for withdrawal of appeal or reference or writ petition as the case may be, after the discharge certificate has been issued by the designated committee
3	Section 121(c)(iii) – Amount in arrears	There can be incidence of duty amount indicated in return, but duty liability not paid in case of multiple returns	Separate declaration shall be required to be filed in SVLDRS-1 for each such return separately
4	Section 121(c) – Amount in arrears Section 123 – tax dues and Section 124(1)(c) – Relief available under the scheme	Relief shall be computed on which of the following a. Net tax dues i.e. tax dues computed after appropriation of deposits; or b. On the amount of confirmed duty amount	Relief shall be calculated on the net tax dues amount i.e. dues computed after appropriation of deposits.
5	Section 125(1)(f) – Declaration under the Scheme (Voluntary declaration made after being subjected to enquiry or investigation or audit)	Eligibility of Voluntary disclosure made on the basis of documents viz. balance sheet, profit and loss called for by department by quoting	Eligibility of such disclosure shall be determined by the designated committee on the basis of merits of each case

¹ Circular no. 1071/4/2019-CX.8 dated 27 August 2019

² Circular no. 1072/05/2019-CX dated 25 September 2019

		section 14 of the Central Excise Act, 1944	
6	Section 125(1)(a) – Application under the scheme – after the final hearing has taken place on or before 30 June 2019	Declaration filed by a person whose matter has been heard finally either at adjudication or appellate forum	Such cases may fall under the arrears category, once the appellate or adjudication order, as the case may be, is passed and had attained finality or appeal period is over, and other requirements under the scheme are fulfilled
7	Section 121(c)(i) and (ii) – Amount in arrears	Situation where the taxpayer does not want to file an appeal against an order or the order in appeal as the case maybe, even though the time period for filing of appeal is not over.	In such situation, taxpayer can file a declaration, provided a letter is filed with the department that no appeal would be filed by the taxpayer which shall be binding on the taxpayer.

Our comments

A welcome circular considering that some of the practical issues has been clarified in the circular, particularly with respect to cases where the order has been passed on or before 30 June 2019 and the taxpayer has not filed an appeal as the time period for filing has not elapsed. However, the circular has created an anomaly with respect to the manner in which quantum of relief needs to be calculated, i.e. whether relief is to be calculated as a percentage of disputed gross duty liability or disputed net duty liability arrived at after adjusting deposits made.

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Ahmedabad

Commerce House V, 9th Floor,
902, Near Vodafone House,
Corporate Road,
Pralhad Nagar,
Ahmedabad – 380 051.
Tel: +91 79 4040 2200

Bengaluru

Maruthi Info-Tech Centre
11-12/1, Inner Ring Road
Koramangala,
Bengaluru – 560 071.
Tel: +91 80 3980 6000

Chandigarh

SCO 22-23 (1st Floor),
Sector 8C, Madhya Marg,
Chandigarh – 160 009.
Tel: +91 172 664 4000

Chennai

KRM Towers, Ground Floor,
1, 2 & 3 Floor, Harrington Road,
Chetpet, Chennai – 600 031.
Tel: +91 44 3914 5000

Gurugram

Building No.10, 8th Floor,
DLF Cyber City, Phase II,
Gurugram, Haryana – 122 002.
Tel: +91 124 307 4000

Hyderabad

Salarpuria Knowledge City,
6th Floor, Unit 3, Phase III,
Sy No. 83/1, Plot No 2,
Serilingampally Mandal,
Ranga Reddy District,
Hyderabad – 500 081.
Tel: +91 40 6111 6000

Jaipur

Regus Radiant Centre Pvt Ltd.,
Level 6, Jaipur Centre Mall,
B2 By pass Tonk Road,
Jaipur – 302 018.
Tel: +91 141 - 7103224

Kochi

Syama Business Centre,
3rd Floor, NH By Pass Road,
Vytilla, Kochi – 682 019.
Tel: +91 484 302 5600

Kolkata

Unit No. 604,
6th Floor, Tower – 1,
Godrej Waterside,
Sector – V, Salt Lake,
Kolkata – 700 091.
Tel: +91 33 4403 4000

Mumbai

1st Floor, Lodha Excelus,
Apollo Mills,
N. M. Joshi Marg,
Mahalaxmi,
Mumbai – 400 011.
Tel: +91 22 3989 6000

Noida

Unit No. 501, 5th Floor,
Advant Navis Business Park,
Tower-A, Plot# 7, Sector 142,
Expressway Noida,
Gautam Budh Nagar,
Noida – 201 305.
Tel: +91 0120 386 8000

Pune

9th floor, Business Plaza,
Westin Hotel Campus, 36/3-B,
Koregaon Park Annex,
Mundhwa Road, Ghorpadi,
Pune – 411 001.
Tel: +91 20 6747 7000

Vadodara

Ocean Building, 303, 3rd Floor,
Beside Center Square Mall,
Opp. Vadodara Central Mall,
Dr. Vikram Sarabhai Marg,
Vadodara – 390 023.
Tel: +91 265 619 4200

Vijayawada

Door No. 54-15-18E,
Sai Odyssey,
Gurunanak Nagar Road, NH 5,
Opp. Executive Club, Vijayawada,
Krishna District,
Andhra Pradesh – 520 008.
Tel: +91 0866 669 1000

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