

TAX FLASH NEWS

29 August 2019



Clarificatory circular on Legacy Dispute Resolution Scheme (LDRS)

Legacy Dispute Resolution Scheme (LDRS) as announced in the Union Budget 2019-20 has been made effective from 1 September 2019. In this regard, Central Board of Indirect Taxes and Customs (CBIC) has released a circular¹ clarifying therein scope and coverage for ease of implementation.

Key clarifications are summarised as under:

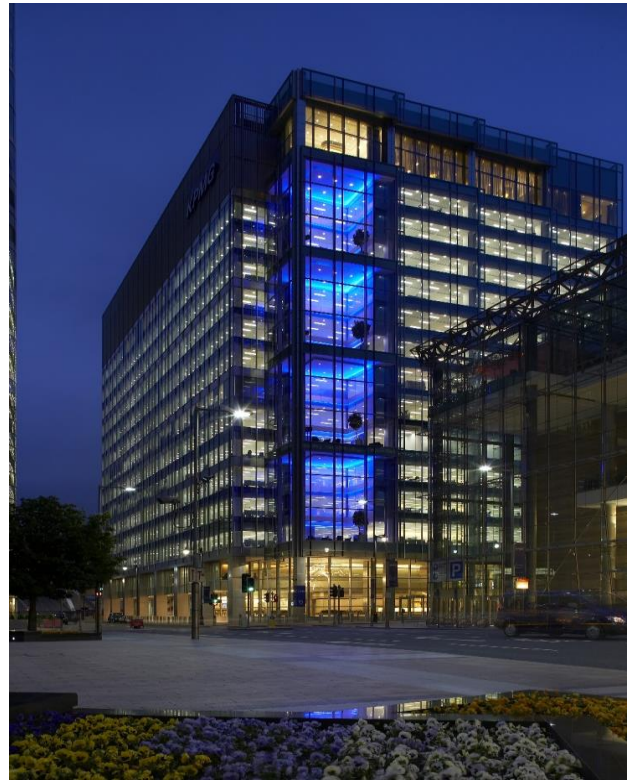
1. Amount of duty shall also include litigation with respect to CENVAT credit
2. Scheme provides for complete waiver of interest and penalty
3. The phrase 'amount quantified on or before 30 June 2019', shall include written communication by means of letter intimating duty demand; or duty liability admitted by the taxpayer during inquiry, investigation/audit or audit report
4. In case of multiple matters covered in a single show cause notice (SCN), a taxpayer cannot opt to avail the benefit of the scheme in respect of selected matters
5. A situation where SCN has been issued demanding duty/tax from the main taxpayer and penal action has been proposed against the co-noticee, the benefit of the scheme shall be available to such co-noticee only when the main-noticee pays the duty demanded
6. Where the amount of duty litigated is NIL i.e. SCN issued for penalty amount or where only penalty amount has been contested, the taxpayer is not required to deposit any amount to settle the case
7. While determining the final amount payable under the scheme, Designated Committee shall adjust pre-deposit/taxes already paid by utilising input tax credit
8. In case of Voluntary Disclosure, the taxpayer is required to pay the full amount of duty liability
9. The restriction that the applicant shall be ineligible to apply for the scheme, if final hearing is concluded, but the order is awaited as on 30 June 2019, shall apply only in those cases where the appellate forum has heard the matter finally as on 30 June 2019
10. If a person has been issued a SCN for refund or erroneous refund and at the same time, has other outstanding disputes which are covered under the scheme, then such person will be eligible to file a declaration(s) for such covered disputes
11. Where an application before the settlement commission has been abated viz. rejection of application or the order has not been passed within a prescribed time period, such cases shall also be eligible under the scheme
12. Issuance of discharge certificate shall not mean acceptance of disputed position either by the taxpayer or by the revenue department
13. Discharge certificate issued shall be conclusive evidence of closure of matter and time period stated therein. Accordingly, no matter or time period covered under the discharge certificate shall be reopened in any other proceedings.
14. Discharge certificate does not prevent the issuance of SCN
 - For the same matter, but for a subsequent period; or
 - Different matter during the same period
15. In case of voluntary disclosure, matters can be reopened within a period of one year of issue of discharge certificate to verify the correctness of declaration, if any material particular is found to be false subsequently

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

Our comments

Though the circular has addressed most of the doubts of the stakeholders, the clarification that the taxpayers cannot avail the benefit of the scheme for selected matters covered in a single SCN, may limit the taxpayer's option to avail the benefit of the scheme.

The clarification that the scope of the scheme also covers litigation on CENVAT credit matters is a welcome move and could provide great relief to taxpayers who wish to opt for the scheme.



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