



# Sabka Vishwas (Legacy Dispute Resolution Scheme), 2019

Clause 119-134 of Finance  
(no. 2) Bill, 2019

# Contents:

<b>Sr. No.</b>	<b>Particulars</b>	<b>Page No.</b>
1	Indirect Tax Cases Statistics	3
2	Why this Scheme	4
3	Overview	5
4	Enactments covered	6-8
5	Important Definitions	9-12
6	Eligibility	13-14
7	Procedure	15
8	Relief	16-17
9	Effects of Discharge Certificate	18
10	Payments & Refund Restrictions	19

# Indirect Tax Cases Statistics:

In an Economic Survey conducted in the year 2017-18, following statistics of Indirect Tax pending cases and department's success ratio were observed-

<b>Authority</b>	<b>Pending Cases</b>	<b>Amount involved (in Rs.)</b>	<b>Department's Success Ratio</b>
Supreme Court	2,946	0.2 Lakh Crores	11%
High Court	14,141	0.37 Lakh Crores	46%
CESTAT	83,338	1.92 Lakh Crores	12%

## Why this Scheme:

- ❑ The dispute can be an interpretational issue of law which has evolved unfavorably against the tax payer since the matter went into litigation.
- ❑ The cost of litigation over a long term tenure is higher.
- ❑ Contingent liabilities disclosure as a note to the balance sheet which could be a matter of displeasure/unrest with share-holders.
- ❑ Huge interest and penal implications and the litigation is to avoid levying of such interest or penalty.
- ❑ Corporate governance issues – where companies may not want to accept non compliance and may not want to have confirmed penalty notices on record which are not contested, and so on and so forth.

# Overview:

- ❑ It is a dispute resolution cum amnesty scheme for settlement and resolution of legacy cases.
- ❑ It covers past disputes of taxes and duties which got subsumed in GST.
- ❑ All persons are eligible to avail this scheme subject to certain exclusions.
- ❑ Scheme shall be effective from a date to be notified by government.
- ❑ Relief is given from payment of tax dues to The extend of 40% to 70% of tax dues depending upon The amount of tax dues involved.
- ❑ Relief from payment of interest and penalty.

## Enactments covered:

- ❑ This scheme covers disputes/ liabilities relating to Excise and Service Tax enactments (i.e. Central Excise Act, 1944, Central Excise Tariff Act, 1985 and Finance Act, 1994).
- ❑ Additionally, it covers more than 26 other enactments such as Sugar Cess Act, Tobacco Cess Act etc.
- ❑ Thus, effectively disputes/ liabilities under 29 enactments are intended to get covered under the LDRS ambit

# Enactments covered:

## ❑ Other Acts Covered–

(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

# Enactments covered:

## ❑ Other Acts Covered–

(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 Spices Cess Act, 1986	(xxii) The Agricultural and Processed Food Products Export Cess Act, 1985
(xxiii) The Finance Act, 2004	(xxiv) The Finance Act, 2007
(xxv) The Finance Act, 2015	(xxvi) The Finance Act, 2016



# Important Definitions:

- ❑ **Amount Declared**– It means the amount declared by the declarant under section 124.
- ❑ **Amount in Arrears**– It means the amount of duty which is recoverable as arrears of duty under the indirect tax enactment, on account of—
  - (i) **no appeal having been filed** by the declarant against an order or an order in appeal before expiry of the period of time for filing appeal; or
  - (ii) **an order in appeal** relating to the declarant **attaining finality**; or
  - (iii) the declarant having **filed a return** under the indirect tax enactment on or before the 30th day of June, 2019, wherein he has **admitted a tax liability** but not paid it;
- ❑ **Appellate Forum**– It means the Supreme Court or the High Court or the Customs, Excise and Service Tax Appellate Tribunal or the Commissioner (Appeals).

# Important Definitions:

- ❑ **Audit**– It means any scrutiny, verification and checks carried out under the indirect tax enactment, other than an enquiry or investigation, and will commence **when a written intimation** from the central excise officer regarding conducting of audit is received.
- ❑ **Enquiry or Investigation**: It includes search of premises, issuance of summons, requiring the production of accounts, documents or other evidence, recording of statements.
- ❑ **Quantified**– It means a **written communication** of the amount of duty payable under the indirect tax enactment.

# Important Definitions:

## □ Tax Dues–

<b>Sr. No</b>	<b>Scenario</b>	<b>Meaning of Tax Dues</b>
(a)	Where a single appeal arising out of order is pending as on 30.06.2019	Total amount of duty which is disputed
(b)	Where more than one appeal arising out of an order, one by the decedent and other a departmental appeal where such an appeal has not been heard finally on or before 30.06.2019	Sum total of amount disputed by both decedent and department
(c)	Where SCN has received on or before 30.06.2019	Amount of duty payable as per SCN
(d)	Where enquiry or investigation or audit is pending which has been quantified on or before the 30th day of June, 2019	Amount of duty payable which has been quantified

# Important Definitions:

## ❑ Tax Dues-

(e)	Where the amount is voluntarily disclosed	Total amount of duty stated in Declaration
(f)	Where an amount in arrears is due	Amount in arrears

Provided that nothing contained in the above clauses shall be applicable where such an **appeal has been heard finally** on or before the 30th day of June, 2019.

Provided that if the above said notice has been issued and other persons making them jointly and severally liable for an amount, then, the amount indicated in the said notice as jointly and severally payable shall be taken to be the amount of duty payable by the declarant.

# Eligibility:

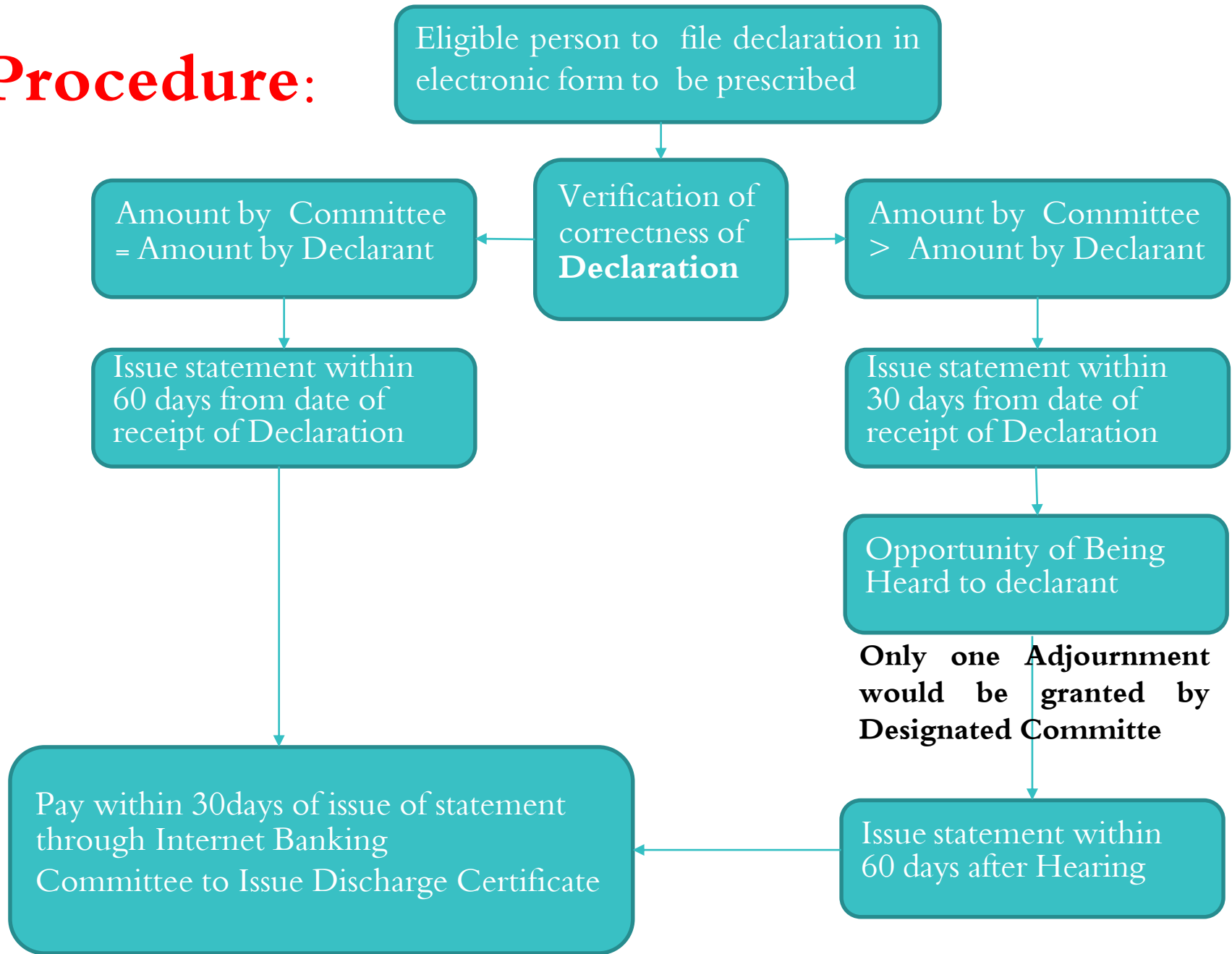
All persons shall be eligible to this scheme except–

Sr. No	Particulars
(a)	Where the <b>appeal</b> is filed and <b>final hearing</b> has taken place on or before 30.06.2019.
(b)	Who have been <b>convicted for any offence</b> under any provision of the indirect taxes for which he intends to file a declaration.
(c)	Who have been issued a <b>SCN</b> , under indirect taxes and the <b>final hearing</b> has taken place on or before 30.06.2019
(d)	Who have been issued a SCN under indirect taxes for an <b>erroneous refund</b> or refund
(e)	Who have been subjected to an <b>enquiry or investigation or audit</b> and the amount of duty involved has <b>not been quantified</b> on or before the 30.06.2019

# Eligibility:

(f)	A person making a <b>voluntary disclosure</b> ,— (i) after being subjected to any enquiry or investigation or audit; or  (ii) having filed return, wherein he has indicated an amount of duty as payable, but not paid it
(g)	Persons seeking to make declarations with respect to excisable goods set forth in the <b>Fourth Schedule</b> to the Central Excise Act, 1944
(h)	Who have filed an application in the <b>Settlement Commission</b> for settlement of a case

# Procedure:



## Relief available:

Details	Amount of Duty involved	Relief
1. Tax dues relatable to SCN or one or more Appeal pending as on 30.06.2019	< 50 Lakhs	70% of Tax Dues
	> 50 Lakhs	50% of Tax Dues
2. Tax dues relatable to SCN for late fee or penalty only and the amount of duty has been paid or is nil	-	Entire amount of late fee or penalty
3. Tax Dues are relatable to amount in arrears and the declarant has indicated an amount of duty as payable but not paid it.	< 50 Lakhs	60% of Tax Dues
	> 50 Lakhs	40% of Tax Dues



## Relief available:

4. Tax dues are linked to an enquiry, investigation or audit against the declarant	< 50 Lakhs	70% of Tax Dues
	> 50 Lakhs	50% of Tax Dues
5. Tax dues are on account of voluntary disclosure by the declarant		No relief

- If any amount paid as **pre-deposit** under the indirect taxes or as deposit shall be **deducted** when issuing the statement indicating the amount payable by the declarant.
- If the amount of pre-deposit or deposit already paid by the declarant exceeds the amount payable by the declarant, the declarant shall **not** be entitled to **any refund**.

# Effect of Discharge Certificate:

Discharge Certificate issued shall be conclusive as to matter and time period thereon and

- Declarant **not liable to pay any further duty, interest and penalty** w.r.t matter and time period covered in the declaration.
- Declarant shall not be liable to be **prosecuted** w.r.t matter and time period covered in the declaration
- Matter and time period covered by declaration shall not be **reopened** in any other proceeding.

However, it shall not preclude issuance of SCN for the same matter for subsequent period, different matter for same period and in case of voluntary disclosure information furnished is found to be false.

# Payment and Refund Restrictions:

- ❑ Any amount paid under this Scheme,—
  - shall **not** be paid through **input tax credit**.
  - shall **not** be **refundable** under any circumstances.
  
- ❑ The amount paid shall not be taken as input tax credit or shall **not entitle any person to take input tax credit** as recipient of goods or services.
  
- ❑ In case any pre-deposit or other deposit **already paid exceeds** the amount payable as indicated in the statement of the designated committee, the difference shall **not be refunded**.

# Thank You



ARNK

**Contact Details :**

**A R N K & ASSOCIATES LLP**  
**BLOCK NO. B-6, LEVEL ONE**  
**ABC COMPLEX, OPP DIST COURT**  
**ADALAT ROAD, AURANGABAD – 431001**  
**T | +91 240 2970297**  
**W | [www.arnindia.in](http://www.arnindia.in)**  
**E | [info@arnindia.in](mailto:info@arnindia.in)**