



Indirect Tax Amnesty Scheme

— Introduction

- ✓ A Dispute Resolution Cum Amnesty Scheme, “**Sabka Vikas (Legacy Dispute Resolution) Scheme**” has been proposed vide Clause 119 to clause 134 of Finance Bill, 2019 in order to unload baggage of huge pending litigations in relation to Central Excise, Service tax and other Indirect Tax Enactments pertaining to Pre-GST period and provide one time resolution and settlement and allow business to move on freely.
- ✓ More than Rs. 3.75 Lakh crore is blocked in pending litigations under erstwhile Indirect Taxes
- ✓ This scheme shall come into force on the date to be notified by the Central Government.
- ✓ Further the Central Government will notify the Rules necessary for implementation of the scheme.

— Taxes and Cesses Covered

❖ Following Pre-GST Regime Taxes/Cesses will get covered under this scheme:

• The Central Excise Act, 1944 & Rules	• The Central Excise Tariff Act, 1985
• Service Tax law	• The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972.
• The Coffee Act, 1942.	• The Sugar (Special Excise Duty) Act, 1959.
• The Rubber Act, 1947.	• The Salt Cess Act, 1953.
• The Medicinal And Toilet Preparations (Excise Duties) Act, 1955.	• The Additional Duties Of Excise (Goods Of Special Importance) Act, 1957.
• The Mineral Products (Additional Duties of Excise and Customs) Act, 1958.	• The Agricultural and Processed Food Products Export Cess Act, 1985.
• The Textiles Committee Act, 1963.	• The Produce Cess Act, 1966.
• The Spices Cess Act, 1986	• The Sugar Cess Act, 1982

— Taxes and Cesses Covered

❖ Various Pre-GST Regime Taxes/Cesses levied under below Acts will get Covered:

• The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978	• The Finance Act, 2007 (Introduction of “Secondary Higher Education Cess”)
• The Finance Act, 2004 (Introduction of “Education Cess”)	• The Finance Act, 2015 (Introduction of “Swachh Bharat Cess”)
• The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976.	• The Finance Act, 2016 (Introduction of “Krishi Kalyan Cess”)
• The Mica Mines Labour Welfare Fund Act, 1946.	• The Coal Mines (Conservation and Development) Act, 1974
• The Tobacco Cess Act, 1975	• The Bidi Workers Welfare Cess Act, 1976
• The Jute Manufacturers Cess Act, 1983	• The Agricultural Produce Cess Act, 1940
• The Oil Industry (Development) Act, 1974	

— Important Terms

❖ Amount In Arrears :

It means amount of tax which becomes recoverable on account of

Appeal

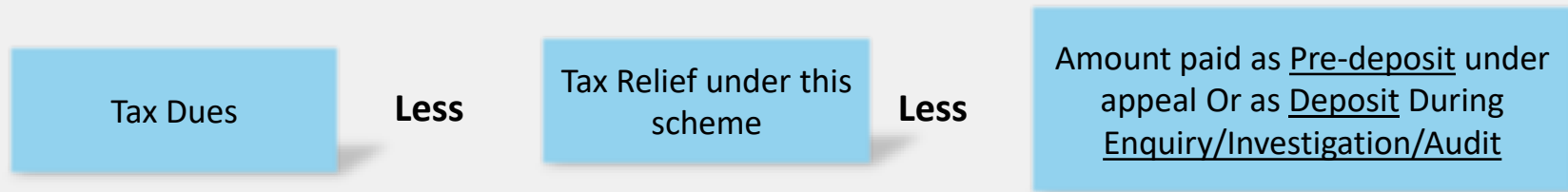
- Appeal to a confirmed demand order has not been filed
- Order in appeal has become final

Return

- The person has filed return **on or before 30.06.2019** and shown some liability in it but the same is **not paid**

— Important Terms

❖ Amount Payable Under The Scheme =



- ✓ If amount payable as calculated above > 0, then declarant is required to pay the amount **in cash only**.
- ✓ ITC of any amount paid under this scheme **cannot be availed as Input tax credit**.
- ✓ If Amount Payable (after adjusting amount already paid as pre-deposit or otherwise) is in negative than **no refund** shall be allowed.

— Important Terms

❖ Audit

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

shall include the following actions, namely:

- Search of premises
- Issuance of summons
- Requiring the production of accounts, documents or other evidence
- Recording of statements

— Important Terms

❖ Tax Dues

Appeal
pending
on
30.06.19

Amount
under
dispute shall
be tax dues

Last hearing
of the appeal
must be
pending

SCN

Amount
demanded in
SCN shall be
tax dues

Last hearing
of the SCN
must be
pending

Enquiry /
Audit

Amount
quantified
shall be tax
dues

Amount must
be quantified
before
30.06.19

Voluntary
Disclosure
/ Arrear

Amt
declared
disclosure
shall be Tax
Dues

Amount of
Arrears if any
shall be the
Tax Dues

— Relief under the scheme

Stage	Situation Covered under Scheme	Percentage of Tax Dues Payable
Adjudication / appeals	SCN for Penalty and late fees only	Nothing is Payable
Voluntary Disclosure	Where Person declares unpaid tax dues which he has not shown in return	Only Tax Payable, Interest & Penalty waived 100%
High / Supreme Court	Appeal filed in High court or Supreme Court is pending for final hearing as on 30.06.2019	Disputed Demand is Less than 50 Lac : Pay 30% More than 50 lac : Pay 50%
Adjudication / appeals	SCN is received or appeals pending for final hearing as on 30.06.2019	
Investigation	Amt. is quantified in enquiry, investigation or audit on or before 30.06.2019	

— Relief under the scheme

Stage	Situation Covered under Scheme	Percentage of Tax Dues Payable
Post Adjudication	Amt. in arrears due as on 30.06.2019	Disputed Demand is Less than 50 Lac : Pay 40% More than 50 lac : Pay 60%
Return filing	Return filed on or before 30.06.2019 and duty shown as payable but not paid	

Whether, a person who has filed a return declaring certain tax as payable but has not paid the same, will be eligible under this scheme? Section 124 (1)(f)(ii) of the Finance Bill disqualifies such a person but section 123 (1) (c)(iii) prescribes relief in tax dues.

— Persons not eligible for scheme

Appeal

- Appeal is pending in any forum
- And it is finally heard on or before 30.06.2019

Convicted

- If a person is convicted of an offence under Excise or Service Tax
- That matter will not be eligible for relief

SCN

- Final hearing is done on or before 30.06.2019
- If SCN is issued for erroneous Refund

Enquiry / Investigation

- If the Amount of Tax Involved has not been quantified on or before 30.06.2019

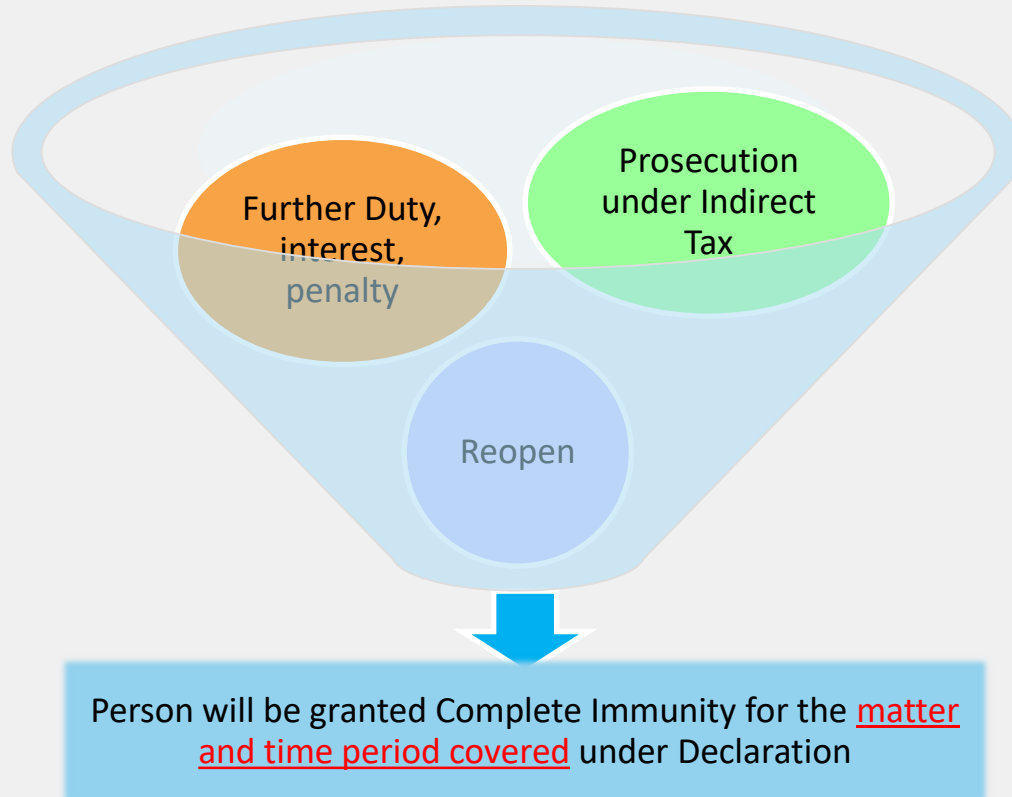
Voluntary Disclosure

- Demand must not be due to any enquiry or audit
- Unpaid liability has been declared in Return

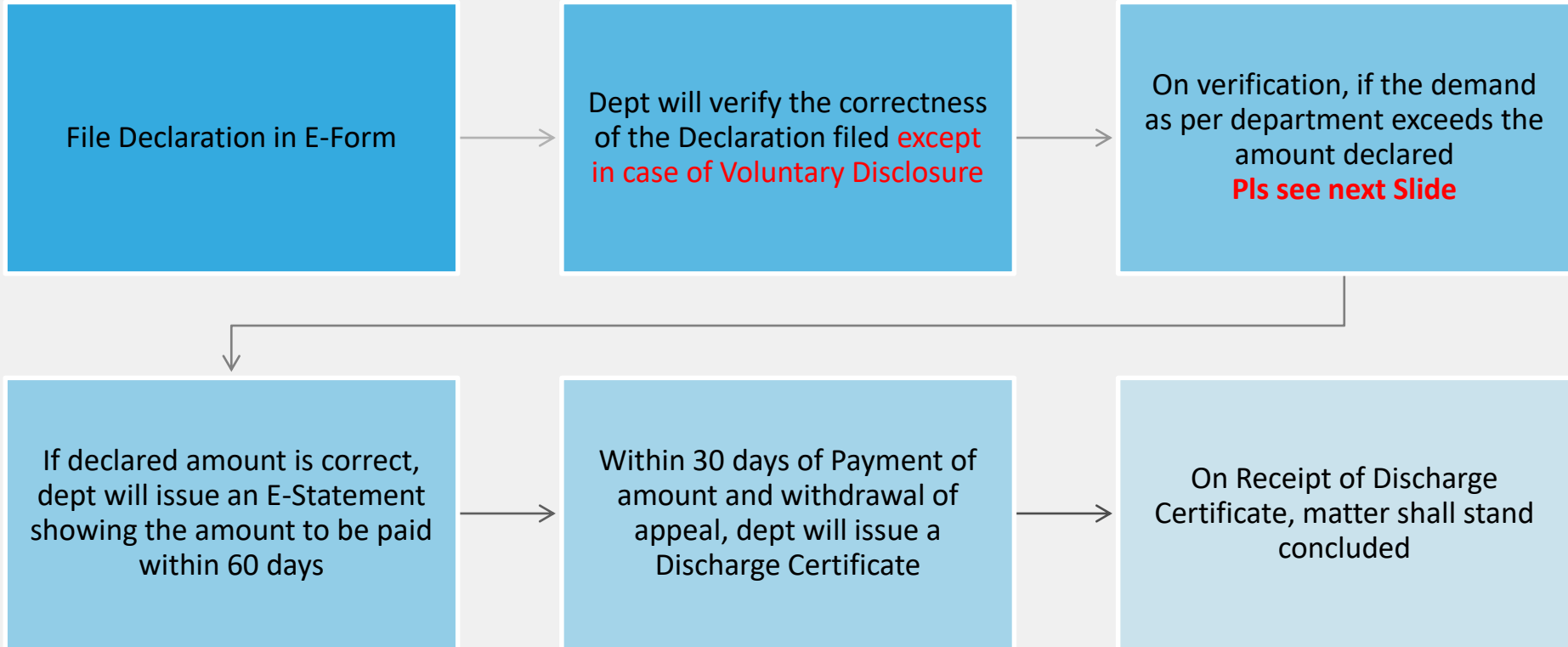
Others

- Who have filed application in Settlement Commission
- Demands related to Tobacco & Petroleum Products

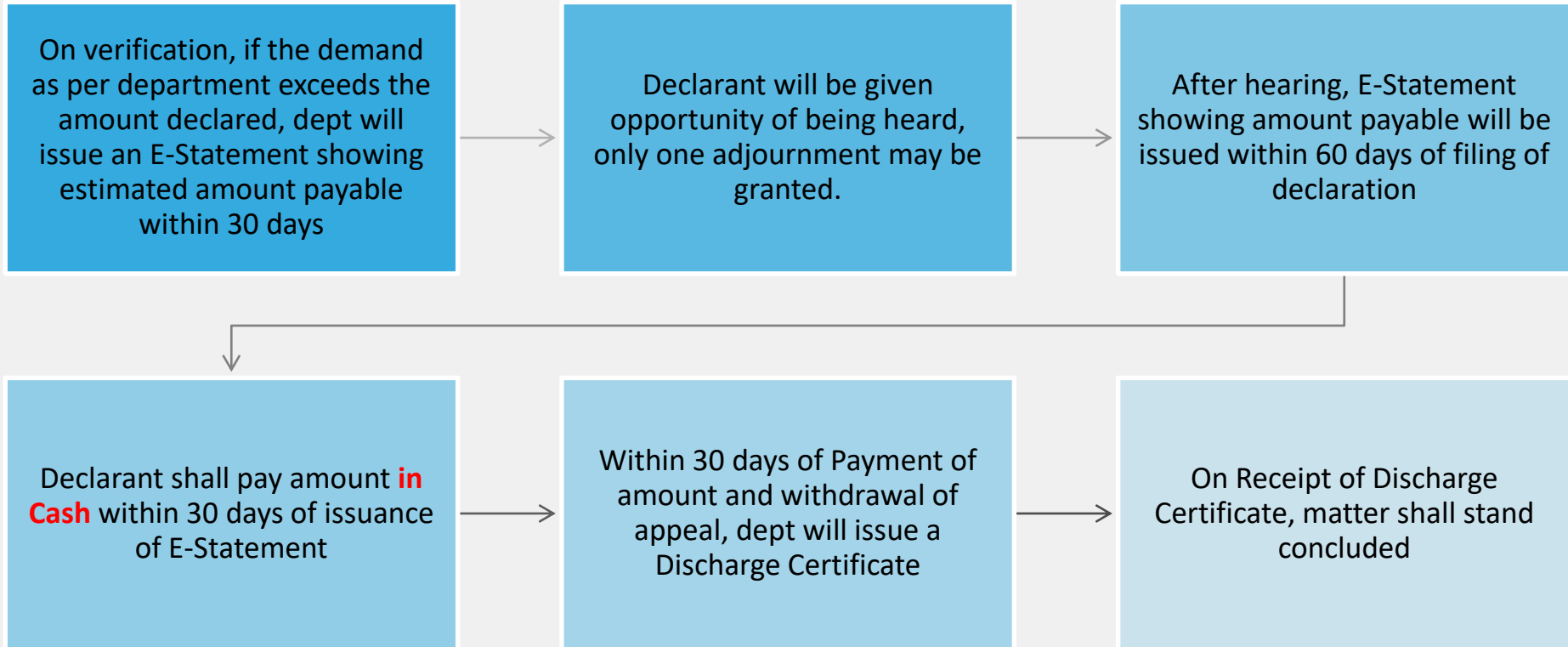
— Benefits of the scheme



— Procedure - Filing to Discharge



— Procedure - Filing to Discharge



— Discharge Certificate

- Every discharge certificate (DC) issued under this scheme shall be conclusive as to the **matter and time period** stated therein
- No person being a party in appeal, application, revision or reference shall contend that the central excise officer has acquiesced in the decision on the disputed issue by issuing the DC under this scheme
- Issuance of DC with respect to a matter for a time period shall not stop the dept from issuing of a SCN –
 - for the same matter for a subsequent time period; or
 - for a different matter for the same time period;
 - in a case of voluntary disclosure where any material particular furnished in the declaration is subsequently found to be false, within a period of 1 year of issue of the DC, it shall be presumed as if the declaration was never made and proceedings under the applicable law shall be instituted.

— Rectification of Errors

Committee may modify its order for payment of tax within 30 days of its issuance, in case of a mistake with regards to an arithmetical or clerical error which is apparent on record. Such mistake may corrected on suomoto basis or on the pointing out by the declarant.

— Open Issues

- Tax demanded in SCN has been paid in full, only interest and / or penalty are pending to be paid. Appeal is pending in the CESTAT, would such cases qualify under this scheme.
- There is no express process of quantifying a demand in Enquiry, investigation and audit. Assessee comes to know the same only on issuance of SCN or Audit Report. In cases where SCN or Audit report has not been issued, how to ascertain whether the tax demand is quantified or not.
- Tax payable under the scheme is to be paid as CGST or as Service tax / Excise
- What documents are required to be submitted alongwith a declaration on voluntary basis
- Where pre-deposit paid through Credit whether declarant will get deduction of the same from the amount payable?
- Where pre-deposit of penalty is done in Cash whether the same will be adjusted against Amount payable ?
- Suppose SCN issued for demand of duty amounting to Rs. 100 and Rs. 20 is paid during the enquiry (through cash/credit) by the person which is proposed to adjust against the SCN. In such case What is Tax Due? And whether declarant eligible for Rs. 20 deduction?

— Conclusion

- This Scheme is brought in with very good intentions as no nation should work through such pile of tax litigations.
- It tries to provide relief to almost all kinds of pending litigations and also opens door for persons who want to voluntarily declare pending tax dues
- In recent history, this is the first scheme which grants relief from payment of tax itself and not merely in interest and penalty and that too upto 70% of it is being foregone by the Government.
- However, one thing baffles us, why are people whose final hearings completed before 30th June 2019 excluded from this benevolent exercise. What is their fault, this will give rise to unnecessary filings at various forums asking for additional hearings and if not granted would eventually lead to more litigations.
- We would also urge Government to issue clarifications as early as possible so that people can take maximum benefit of this scheme.

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