

# GST Update

Weekly Update  
31.08.2019

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 24.08.2019. It supplements the earlier GST Updates.
- This presentation is based on CGST Act/Rules/ Notifications. Similar parallel provisions in State Laws may be referred to as required

- Four Central Tax notification issued during the last week
- One Removal of Difficulties Order issued
- One press release by CBIC issued
- One Central Excise circular on Sabka Vishwas scheme issued

- **Notification No. 38/2019 – Central Tax dated 31<sup>st</sup> August, 2019**
- The declaration in FORM GST ITC-04 of the CGST rules, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to June, 2019
- Time period was extended from time to time till 31<sup>st</sup> August, 2019
- The format of the GST ITC-04 was amended in September, 2018. However, the functionality for the same was developed by GSTN in August, 2019
- Now the form has been scrapped, in respect of job work, for the period July, 2017 to June, 2019

## GST ITC-04 (Contd)

- Registered persons required to furnish the details of challans in FORM ITC-04 under rule 45(3) of CGST Rules, 2017 read with section 143 of the CGST Act shall not be required to furnish FORM ITC-04 for the period July, 2017 to March, 2019
- Provided they shall furnish the details of all the challans in respect of goods dispatched to a job worker in the period July, 2017 to March, 2019 but not received from a job worker or not supplied from the place of business of the job worker as on the 31st March, 2019, in serial number 4 of FORM ITC-04 for the quarter April-June, 2019.

# Disbursement of refund by single authority

- **Notification No. 39/2019 – Central Tax dated 31<sup>st</sup> August, 2019**
- Following sub-section 8A inserted in section 54 of the CGST Act, 2019
- “(8A) The Government may disburse the refund of the State tax in such manner as may be prescribed”
- Above shall come into force w.e.f 1<sup>st</sup> September, 2019

## Last date for GSTR-7

- **Notification No. 40/2019 – Central Tax dated 31<sup>st</sup> August, 2019**
- Last date for filing GSTR-7 ( TDS return under section 51 read with section 39(3) of the CGST Act, 2017 and rule 66 of the CGST rules, 2017) for the period for the months of October, 2018 to July, 2019 extended to 20<sup>th</sup> September, 2019 for the flood effected districts of seven states and Jammu and Kashmir

# Waiver of late fees

- **Notification No. 41/2019 – Central Tax dated 31<sup>st</sup> August, 2019**
- Seeks to waive the late fees in certain cases( Flood effected districts of seven states and Jammu & Kashmir) for the month of July, 2019 for FORM GSTR-1 and GSTR-6 provided the said returns are furnished by 20.09.2019.



# Last date for Annual Returns

- **Order No. 7/2019-Central Tax dated 26<sup>th</sup> August, 2019**
- Last Date for filing of Annual returns Annual return / Reconciliation Statement for the period from the 1st July, 2017 to 31<sup>st</sup> March, 2018 in FORMs GSTR-9, GSTR-9A and GSTR-9C
- Extended to 30th November, 2019.

# Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019

- The Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019,(SVLDRS) application has been made available online at <https://cbic-gst.gov.in> from 01.09.2019.
- The declaration under Section 125 of the Finance Act, 2019 can now be made electronically in Form SVLDRS-1 by the declarant

## SV (LDR) Scheme 2019

- **Circular No. 1071/4/2019-CX.8 dated 27<sup>th</sup> August, 2019**
- Scheme is a bold endeavour to unload the baggage relating to the legacy taxes viz. Central Excise and Service Tax that have been subsumed under GST and allow business to make a new beginning, and focus on GST. Therefore, it is incumbent upon all officers and staff of CBIC to partner with the trade and industry to make this Scheme a grand success.
- Dispute resolution and amnesty are the two components of this Scheme. Aimed at liquidating the legacy cases locked up in litigation at various forums and giving an opportunity to those who have failed to correctly discharge their tax liability to pay the tax dues. As may be seen, this Scheme offers substantial relief to the taxpayers and others who may potentially avail it.

# SV (LDR) Scheme 2019 (Contd)

- Following issues are clarified in the context of the various provisions of the Finance Act, 2019 and Rules made thereunder
- Section 129(2)(a) provides that no person being a party in appeal, application, revision or reference shall contend that by issuing a discharge certificate, Department has accepted the disputed position. Section 129(2)(b) further provides that issue of a discharge certificate does not prevent issuance of a show cause notice for the same matter for a subsequent period or for a different matter in the same period. It is clarified that similar position will apply in case of Department also. In other words, a declaration under this Scheme will not be a basis for assuming that the declarant has admitted the position, and no fresh show cause notice will be issued merely on that basis.

- Section 125(1)(d) mentions that the Scheme is not available to an applicant who has been issued a show cause notice relating to refund or erroneous refund. It has potential to lead to an interpretation that such persons will not be able to opt for the Scheme for any other dispute as well, since the restriction is on ‘the person’ in place of ‘the case’. It is clarified that the exception from eligibility is for ‘the case’ and not ‘the person’. In other words, if a person has been issued a show cause notice for a refund/erroneous refund and, at the same time, he also has other outstanding disputes which are covered under this Scheme, then, he will be eligible to file a declaration(s) for the other case(s). Same position will apply to persons covered under Sections 125(1)(a), (b), (c), (e) and (g).

- This Scheme provides for adjustment of any amount paid as pre-deposit during appellate proceedings or as deposit during enquiry, investigation or audit [Sections 124(2) and 130(2) refer]. In certain matters, tax may have been paid by utilising the input credit, and the matter is under dispute. In such cases, the tax already paid through input credit shall be adjusted by the Designated Committee at the time of determination of the final amount payable under the Scheme.

- With respect to penalty/late fee matters [Section 124(1)(b) refers], a doubt has been expressed that only show cause notices for late fee or penalty are covered under this Scheme as there is no mention of appellate proceedings. It is clarified that the provisions apply to any show cause notice for penalty/late fee, irrespective of the fact that it is under adjudication or appeal. Moreover, there can be a show cause notice that originally also involved a duty demand, and the amount of duty in the said notice became 'nil' whether on account of the fact that same has been paid under this Scheme or otherwise. Such cases are also covered under Section 124(1)(b).

## SV (LDR) Scheme 2019 (Contd)

- Section 125(g) excludes the cases where an application has been filed before the Settlement Commission for settlement. However, in many such cases, proceedings before the Commission may abate due to reasons such as rejection of the application by the Commission or due to order of the Commission not being passed within the prescribed time etc. It is clarified that all such cases which are outside the purview of the Settlement Commission shall be covered under the Scheme under the relevant category of adjudication or appeal or arrears as the case may be provided the eligibility is otherwise established under this Scheme. Further, any pending appeals, reference or writ petition filed against or any arrears emerging out of the orders of Settlement Commission are also eligible under the Scheme.



# SV (LDR) Scheme 2019 (Contd)

- In case of appeals, the applicant is ineligible to apply if the final hearing is concluded but the order is awaited as on 30.06.2019. The hearings in matters are typically rescheduled even after the final hearing due to new bench, change in officer or any other reason. It is clarified that this restriction will apply to only those cases, where the appellate forum has heard the matter finally as on 30.06.2019.

# SV (LDR) Scheme 2019 (Contd)

- Cases under an enquiry, investigation or audit where the duty demand has been quantified on or before the 30<sup>th</sup> June, 2019 are eligible under the Scheme. Section 2(r) defines “quantified” as a written communication of the amount of duty payable under the indirect tax enactment. It is clarified that such written communication will include a letter intimating duty demand; or duty liability admitted by the person during enquiry, investigation or audit; or audit report etc.
- Rule 3(2) of the SV (LDR) Rules provides that a separate declaration shall be filed for each case. Many a times a show cause notice covers multiple matters concerning duty liability. It is clarified that a declarant cannot opt to avail benefit of scheme in respect of selected matters. In other words. the declarant has to file a declaration for all the matters concerning duty liability covered under the SCN.

## SV (LDR) Scheme 2019 (Contd)

- Section 124(1) (b) provides that where the tax dues are relatable to a show cause notice for late fee or penalty only, and the amount of duty in the said notice has been paid or is 'nil', then, the entire amount of late fee or penalty will be waived. This section, inter alia, covers cases of penal action against co-noticees. In case of a show cause notice demanding duty/tax from main taxpayer and proposing penal action against co-noticees, it is clarified that the co-noticees can't avail the benefits of the scheme till such time the duty demand is not settled. Once, the main-noticee discharges the duty demand, the co-noticees can apply under this Scheme. This will also cover cases where the main noticee has settled the matter before the Settlement Commission and paid the dues and in which co-noticees were not a party to the proceedings before the Settlement Commission.

# SV (LDR) Scheme 2019 (Contd)

- Section 127(5) of the Scheme provides that the declarant shall pay the amount indicated in the Statement issued by the Designated Committee within a period of thirty days. If the declarant does not pay the amount within the stipulated time, due to any reason, the declaration will be treated as lapsed.
- In respect of matters under investigation by DGGI, there may be cases where the duty quantified relates to more than one Commissionerate. In such cases, the Designated Committee of the Commissionerate involving the maximum amount of duty will decide the case. Further, in other cases of DGGI wherein the show cause notice that has been issued covers more than one Commissionerate, a common adjudicator must be quickly appointed under intimation to the Chief Commissioner concerned and DG Systems so the Designated Committee of that Commissionerate can finalize this matter.

# SV (LDR) Scheme 2019 (Contd)

- Following actions are required to be taken on priority by dept-
- It shall be ensured that the updated and complete records of the cases eligible under the Scheme are made available to the Designated Committees by 31.08.2019. It may be noted that except for voluntary disclosure, the information regarding eligible taxpayers is readily available with the field formations through show cause notices which are yet to be adjudicated, or cases which are pending at various appellate forums or the cases under investigation or audit where the duty demand has been quantified and communicated on or before 30.06.2019 or the cases of recoverable arrears.

# SV (LDR) Scheme 2019 (Contd)

- An intensive out-reach programme to create awareness among the trade and industry at large and the eligible taxpayers in particular needs to be carried out. In this direction it will also be desirable to communicate to the eligible taxpayers the benefits of this Scheme through a polite email or phone call or letter. For these purposes the publicity material prepared by DGTPS can be used. Also, registration details of such eligible taxpayers shall be conveyed to DG (Systems) so that periodic SMS can be sent to them, informing about this Scheme.

# SV (LDR) Scheme 2019 (Contd)

- Though this Scheme provides a period of sixty days for the Designated Committee to decide on a declaration filed by a taxpayer, a speedier disposal is expected by the Board. For instance, in cases of voluntary disclosure, no verification is necessitated which means that the declaration will be accepted as such. Hence, such cases must be finalized within 15 days of filing of the declaration. Similarly, as the duty amount is already known in the form of a show cause notice/order of determination or a written communication/or order in appeal or disputed amount in appeal, and the tax-relief will be calculated by the system automatically, where these particulars are found to be correct as per the declaration filed and the records available with the Department, such cases must also be finalized within 15 days of filing of the declaration. These timelines must be strictly adhered to.

## SV (LDR) Scheme 2019 (Contd)

- There shall be two Designated Committees of two officers each in a Commissionerate to process the declarations received thereunder (for this purpose Audit Commissionerates are to be left out). The Designated Committees have been set up based on the amount of tax dues. It is clarified that this duty demand is before applying the tax-relief. For ex., if in a show cause notice the duty demanded is Rs. 60 lakhs, the same will fall under the purview of a Committee consisting of Pr. Commr/Commr and Addl /Joint Commr even though the final duty payable after applying tax-relief will be less than Rs. 50 lakhs. Essentially, where the duty payable as determined by the Designated Committee comes out to be more or less than the amount declared by the taxpayer, there will no change in the composition of the Designated Committee. In other words, the same Designated Committee to which the declaration is automatically routed based on the amount mentioned therein will take a final decision in the matter.



# SV (LDR) Scheme 2019 (Contd)

- Members of the Committee will be nominated by jurisdictional Pr. Chief Commr/Chief Commr and Pr. DG/ DG, DGGI, as the case may be. It is expected that the Designated Committee will be prompt in decision making by consensus and the senior officer in the Committee will take a lead to ensure the same.
- It shall be the responsibility of the Zonal Pr. Chief Commrs/ Chief Commrs and Pr. Director General/ Director General, DGGI (in the case of DGGI, Delhi) to ensure the success of the Scheme. Apart from the reach-out programme, it also needs to be ensured that the members of the Designated Committee are properly trained and well versed with the Scheme and the software application. In this connection DG (NACIN) has been instructed to carry out suitable training.

# SV (LDR) Scheme 2019 (Contd)

- The Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 has the potential to liquidate the huge outstanding litigation and free the taxpayers from the burden of litigation and investigation under the legacy taxes. The administrative machinery of the Government will also be able to fully focus on helping the taxpayers in the smooth implementation of GST. Thus, the importance of making this Scheme a grand success cannot be overstated. The Principal Chief Commissioners/Principal Directors General/Chief Commissioners/Directors General and all officers and staff have been instructed to familiarize themselves with this Scheme and actively ensure its smooth implementation.



# GST Legal Updates

- Writ Petition No. 8075 Of 2019
- Order dated 14.08.2019 by Bombay High Court in the case of -
- HIGH GROUND ENTERPRISES LTD Vs UOI and DGGI, Mumbai
- Petitioner has sought to question the refusal by the Officers of the DGGI, Mumbai to supply documents to the Petitioner seized by the officers and also sought a direction to the Respondents to hand over copies of the documents seized in January 2019
- Petitioner, in the meanwhile, received notices from the BSE and the NSE in connection with the non-submission of financial results - Since the documents were not given to the Petitioner and the Petitioner is facing coercive action from the Stock Exchange, the Petitioner has filed the present petition seeking direction to the respondent authorities to hand over the copies of the documents seized - Petitioner clarifies that they seek copies of the documents seized by the respondent authorities and not the originals thereof.

- BHC Held- Scheme of Section 67 of the CGST Act, 2017 , more particularly sub-section (5) thereof, suggests that as far as copies of the documents so seized, a person from whose custody such documents have been seized will have right to get the copies thereof - This right is qualified with a contingency where giving such copies will prejudicially affect the investigation - The legislative intent as far as the documents and books which are seized under section 67(2), is clear - The originals of documents or books so seized must be kept by the officer only for a period as may be necessary for an inquiry.
- There must be cogent reasons to withhold giving of copies to the person - A mere statement that it will prejudicially affect the investigation would be only chanting the language of the section

- Legislative intent is clear that the documents or books seized must not be kept in the custody of the officer for more than the period necessary for its examination and copies thereof need to be given to the person from whose custody the said documents or books are seized - documents were seized in January 2019, and the petition is being heard in the middle of August 2019, prejudice to the Petitioner has been demonstrated - refusal by the respondent-authorities to give copies of the documents to the Petitioner which are seized under Panchanama dated 9/10 January 2019 is not justifiable
- Hon'ble High Court issued a mandamus to the respondent-authorities to furnish copies of the documents seized under Panchanama dated 9/10 January 2019 within two weeks.

## Any ISSUES/ queries?



- <https://cbec-gst.gov.in/>
- [CBEC MITRA HELPDESK](#)
  - 1800 1200 232
  - [cbecmitra.helpdesk@icegate.gov.in](mailto:cbecmitra.helpdesk@icegate.gov.in)
- GSTN Help Desk
  - <https://selfservice.gstsystem.in/> - Grievance redressal portal
  - Help Desk Number: 0120-4888999

# Any ISSUES/ queries?

- Twitter Handles
- For General Questions
- [https://twitter.com/askGST\\_GoI](https://twitter.com/askGST_GoI)
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- [https://twitter.com/NACIN\\_OFFICIAL](https://twitter.com/NACIN_OFFICIAL)



**THANK YOU**