भारत सरकार GOVERNMENT OF INDIA
वित्त मंत्रालय MINISTRY OF FINANCE
राजस्व विभाग DEPARTMENT OF REVENUE
केन्द्रीय अप्रत्यक्ष कर और सीमा शुल्क बोर्ड
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS
प्रधान आयुक्त का कार्यालय
OFFICE OF THE PRINCIPAL COMMISSIONER
केन्द्रीय कर एवं केन्द्रीय उत्पाद शुल्क
CENTRAL TAX & CENTRAL EXCISE
कोच्चि,KOCHI
केन्द्रीय राजस्व भवन, CENTRAL REVENUE BUILDING
आई. एस. प्रेस रोड, कोच्चि, I.S. PRESS ROAD, KOCHI-682 018
E-mail: cexcochi@nic.in Fax: 0484-2390608 Phone: 0484-2390404

प.सं./C.No. IV/16/87/2019-Tech दिनांक /Date:21.09.2019

व्यापार सुविधा सं./ Trade Facility No: 04/2019 केन्द्रीय कर / Central Tax

संदर्भ: अधिसूचना संख्या 04/2019 केंद्रीय उत्पाद शुल्क-एनटी दिनांक 21 अगस्त 2019 और अधिसूचना संख्या 05/2019 केंद्रीय उत्पाद शुल्क-एनटी दिनांक 21.08.2019.

Ref: Notification No.04/2019 Central Excise-NT dated 21.08.2019 & Notification No.05/2019 Central Excise-NT dated 21.08.2019.

Kind attention is invited to Notification No.04/2019 Central Excise-NT dated 21st August 2019 & Notification No.05/2019 Central Excise-NT dated 21.08.2019. In exercise of the power conferred by sub-section (2) of section 120 of the Finance (No. 2) Act, 2019, the Central Government has introduced Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 with effect from 1st of September, 2019.

2. This Scheme is a bold endeavor 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.

3. Dispute resolution and amnesty are the two components of this Scheme. The dispute resolution component is aimed at liquidating the legacy cases locked up in litigation at various forums whereas the

amnesty component gives 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. Moreover, the Scheme also focuses on the small taxpayers as would be evident from the fact that the extent of relief provided is higher in respect of cases involving lesser duty (smaller taxpayers can generally be expected to face disputes involving relatively lower duty amounts).

4. 'The relief extended under this Scheme is summed up, as follows:

(a) For all the cases pending in adjudication or appeal (at any forum), the relief is to the extent of 70% of the duty involved if it is Rs. 50 lakhs or less and 50% if it is more than Rs. 50 lakhs. The same relief is available for cases under investigation and audit where the duty involved is quantified and communicated to the party or admitted by him in a statement on or before 30.06.2019.

(b) In cases of confirmed duty demand, where there is no appeal pending, the relief offered is 60% of the confirmed duty amount if the same is Rs. 50 lakhs or less and it is 40% if the confirmed duty amount is more than Rs. 50 lakhs.

(c) In cases of voluntary disclosure of duty not paid, the full amount of disclosed duty would have to be paid.

(d) There will be full waiver of interest and penalty under all the categories of cases, as at (a) to (c) above

5. The relief under this Scheme is illustrated, as follows:

(i) If the amount of duty (including CENVAT credit) being litigated is Rs.50 Lakhs, then the taxpayer only needs to pay only Rs.15 lakhs to settle his case.

(ii) If the amount of duty (including CENVAT credit) being litigated is Rs. 1 crore, then the taxpayer only needs to pay only Rs. 50 lakhs to settle his case.

(iii) If the amount of duty being litigated is 'nil', either because the show cause notice was only for penalty or because the duty was deposited

at any subsequent stage, and only penalty is being contested, then the taxpayer does not need to deposit anything to settle his case. However, the taxpayer would have to make a declaration under this Scheme.

(iv) If the duty (including CENVAT credit) involved during investigation or audit is Rs. 50 lakhs, then the taxpayer only needs to pay Rs.15 lakhs to settle his case.

(v) If the amount in arrears is Rs.50 lakhs, then the taxpayer only needs to pay only Rs. 20 lakhs to settle his case.

(vi) If the taxpayer makes a voluntary disclosure of Rs. 1 crore, then he will need to pay Rs. 1 crore to settle his case.

6. It may be appreciated that the ambit of this Scheme is wide enough to cover all kinds of pending disputes, including call book cases, except for a few categories. The exclusions are firstly, cases in respect of goods that are still subject to levy of Central Excise such as specified petroleum products and tobacco i.e. goods falling in the Fourth Schedule to the Central Excise Act. 1944 Secondly, cases for which the taxpayer/noticee has already been convicted in a Court of law. Thirdly, cases under adjudication or litigation where the final hearing has taken place on or before 30.06 2019. Fourthly, cases of erroneous refunds. Lastly, cases which are pending before the Settlement Commission.

7. Some of the highlights of this Scheme are that it will be fully automated with a dedicated portal (www.cbic-gst.gov.in) for online filing of declaration and communication of final decision. This has been done with the objectives of ensuring transparency, speed and accountability in the decision making. There are also fixed timelines for the various processes involved and the entire process of filing of declaration to communication of Department's decision and to payment gets completed within 90 days.

8. Once the declarant produces the proof of payment and withdrawal of appeal in High Court and Supreme Court, if applicable, for in cases of lower forums the Scheme provides for deemed withdrawal of appeal, a discharge certificate will be issued indicating a full and final closure of the proceedings in question for both the Department and the taxpayer, It merits mention that every discharge certificate will be conclusive as to the matter and time period stated therein. The declarant shall not be liable to pay any further duty,

interest or penalty. No matter and time period covered under a discharge certificate shall be reopened in any other proceedings under the said indirect tax enactments. This entails a full waiver from prosecution as well. The only exception is in case of a taxpayer's voluntary disclosure of liability as there is no way to verify its correctness, so a provision is made to reopen such declaration within one year of issue of a discharge certificate, if subsequently any material particular is found to be false.

9. Moreover, the scope of discretion has been kept to the minimum by linking the relief under this Scheme to the duty amount which is already known to both the Department and the taxpayer in the form of a show cause notice/order of determination or a written communication. The calculation of relief itself is automated. Even in case of voluntary disclosure, no verification will be carried out by the Department. Still in the eventuality the declarant seeks the opportunity of being heard, the decision would be taken only after giving him this opportunity.

10. Further, the following issues are clarified in the context of the various provisions of the Finance (No.2) Act, 2019 and Rules made thereunder:

(a) 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.

(b) 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.

(c) Cases under an enquiry, investigation or audit where the duty demand has been quantified on or before the 30th day of 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.

(d) Rule 3(2) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules. 2019 provides that a separate declaration shall be filed for each case. Many a times a show cause notice covers multiple matters concerning duty liability. 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 show cause notice.

(e) 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 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.

(f) 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.

(g) 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.

(h) With respect to constitution of the "designated committee" as required under sub Rule 5(2) of Sabka Vishwas (Legacy Dispute Resolution) scheme Rules 2019, it is informed that the jurisdictional officers of the Commissionerate will form the "designated committee" under clause 5 1(a) for the cases where the tax dues are more than rupees fifty lakhs i.e. jurisdictional Commissioner & jurisdictional Additional Commissioner/Joint Commissioner & for clause 5 1(b), for the cases where the tax dues are rupees fifty lakhs or less (Jurisdictional Additional Commissioner/Joint Commissioner and Deputy/Assistant Commissioner).The details of delegated committee for Cochin Commissionerate is given below.

Committee for cases where Tax Dues are more than Rs.50 Lakh

SI No	Name (S/Shri)	Designation	Address
1	K.R Uday Bhaskar	Pr. Commissioner	Central Tax and Central Excise, C.R Building, I.S Press Road, Kochi-18
2	Biju Thomas	Joint Commissioner	

Committee for cases where Tax Dues are Rs.50 Lakh or less

SI No	Name (S/Shri)	Designation	Address
1	Dr. Tiju	Addl. Commissioner	Central Tax and Central Excise, C.R Building, I.S Press Road, Kochi-18
2	B. Umadevi	Asst. Commissioner	

के.आर. उदय भास्कर
K.R. Uday Bhaskar
प्रधान आयुक्त / Principal Commissioner

सेवा में / **To,**

कोचिन आयुक्तालय की प्रेषण सूची के अनुसार
As per DL-I & II of Cochin Commissionerate

प्रति प्रस्तुत है /**Copy Submitted to:**

प्रधान मुख्य आयुक्त कार्यालय **The Principal Chief Commissioner's Office.**