

## UPDATE ON SABKA VISHWAS SCHEME, 2019- PART-4

In our earlier update, we had discussed about the quantum of relief available under the newly proposed Amnesty Scheme- “SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019”. The present update seeks to discuss various situations and the possibility of claiming relief under this scheme.

Situation No.	Question	Eligibility to file declaration under Scheme	Quantum of Relief
1.	M/s ABC has 2 different appeals pending on the same issue as on 30 <sup>th</sup> June, 2019 for which final hearing has not been granted till date. The quantum of tax involved in the first appeal is Rs. 25,00,000/- which is pending before Commissioner Appeals whereas the quantum of tax involved in the second appeal is Rs. 55,00,000/- which is pending before the Tribunal. Whether M/s ABC can opt for declaration under this scheme? If Yes, what will be the quantum of relief available?	Yes, M/s ABC is eligible for claiming benefit of Amnesty Scheme as the appeals have not been finally heard on or before 30.06.2019	This situation will get covered under section 123(1)(a) which states that where the tax dues are relatable to show cause notice or one or more appeals arising out of such notice which is pending as on 30.06.2019, the amount of relief will be 70% of the tax dues if the amount of duty is Rs. 50 Lakhs or less whereas the relief will be 50% of the tax dues if the amount of duty is more than Rs. 50 Lakhs. Now, the question arises is whether 2 appeals will be

			<p>considered separately for this scheme or will be clubbed in order to determine the quantum of relief available?</p> <p>There is no express provision as regards the number of times assessee is eligible to file declaration under this scheme as usually the amnesty scheme specifies that it is 'one time'. However, in our opinion, even if the declaration can be filed only once, the computation of the quantum of relief should be done separately for different appeals.</p> <p>Therefore, for first appeal involving tax of Rs. 25,00,000/-, relief of 70% should be available whereas for the second appeal involving tax of Rs.</p>
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			55,00,000/-, relief of 50% will be available.
2.	In the same example as stated above, if the amount already paid by M/s ABC is Rs. 12,00,000/- in first appeal and Rs. 5,50,000/- in the second appeal, what will be the amount of relief available and the tax dues payable by the assessee? Whether excess amount deposited in one appeal can be used for other appeal?	Same as above	As per section 123(2), the amount payable by the declarant shall be computed after deducting the amount deposited during enquiry, investigation or audit or as mandatory pre-deposit. Consequently, the tax payable will be calculated as follows:- First Appeal = Tax payable will be Rs. 7,50,000 (25,00,000 * 30%). However, since the assessee has already paid Rs. 12,00,000/- no additional tax dues are required to be paid. The excess amount paid shall not be refunded to the assessee. Second Appeal= Tax payable will be Rs.27,50,000/-

			(55,00,000* 50%) reduced by amount paid as mandatory pre- deposit being Rs. 5,50,000. Hence, Net amount of tax payable shall be Rs. 22,00,000/- . Furthermore, no adjustment of excess amount paid in first appeal will be available as it was already stated that the computation of relief shall be separate for each case.
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The other situations and probable solutions will be discussed in our next update.

**CA PRADEEP JAIN**

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