

GST UPDATE ON SABKA VISHWAS SCHEME, 2019- PART-5

The present update is in continuation of our earlier update to discuss various situations and the possibility of claiming relief under the newly proposed Amnesty Scheme- “SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019”.

Situation No.	Question	Eligibility to file declaration under Scheme	Quantum of Relief
3.	Recently, audit of M/s XYZ was conducted wherein 3 objections were being raised and quantified as on 28.06.2019. M/s XYZ consented on one objection regarding non-payment of tax under reverse charge mechanism amounting to Rs. 2,00,000/- while did not accept the other two objections raised by the audit team. The other objections were non-admissibility of credit to the extent of Rs. 35,00,000/- and short payment of tax to the extent of Rs. 15,00,000/-. Whether M/s XYZ will be eligible to claim the benefit of scheme? If Yes, what will be the quantum of relief available?	Yes, M/s XYZ can file declaration under this scheme.	This situation will be covered by section 123(1)(d) and the relief available is 70% of the tax dues if the amount quantified on or before 30.06.2019 is Rs 50 Lakhs or less whereas the relief will be 50% of the tax dues if the amount quantified is more than Rs. 50 Lakhs. Now, the question arises is whether assessee is mandatorily required to go for all audit objections or has the option to go for certain objections only

			<p>under this amnesty scheme.</p> <p>In our opinion, the assessee is free to opt for this scheme with respect to each of the audit objections raised in one audit report.</p> <p>Consequently, the tax relief would be computed as follows:-</p> <p>Liability under RCM- Rs. 60,000/-</p> <p>Liability under admissibility of credit- Rs. 10,50,000/-</p> <p>Liability under short payment of tax- Rs. 4,50,000/-.</p> <p>If we assume that M/s XYZ files declaration only with respect to admissibility of credit, the revenue authorities will issue show cause notice for remaining issues. The reason for our opinion is that objections raised during</p>
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			<p>audit are to be quantified separately and cannot be clubbed for the purpose of declaration under this scheme as it is possible that assessee litigates one or more issues while opts to conclude other issues. However, the situation would change in case where section 123(1) (a) is applicable and single show cause notice covers more than one issues. In such case, M/s XYZ cannot opt for benefit under this Scheme only for certain issues and rather entire dues of show cause notice will have to be considered.</p>
4.	<p>In the same example as stated above, if the audit objections were quantified as on 6.7.2019, whether M/s XYZ will be eligible for benefit under amnesty scheme?</p>	<p>No, if the quantification is being done after 30.06.2019, the situation will get covered under person ineligible for claiming benefit</p>	<p>Not Applicable</p>

		under this scheme as stated in section 124(1)(e).	
5.	In the same example, if show cause notice has been issued on 12.07.2019 for the objections raised during the course of audit and quantified as on 2.07.2019, whether benefit of this scheme is available?	No, issuance of show cause notice cannot be considered as arrears of dues so as to avail the benefit of this scheme. The benefit is available only with respect to tax liability confirmed against the assessee.	Not Applicable
6.	In the same example, if the show cause notice issued on 12.07.2019 has been decided on 12.08.2019, before the Finance Bill gets assent of the President, whether benefit of this scheme is available?	The definition of 'amount in arrears' includes amount of duty recoverable on account of no appeal filed by the declarant against order before expiry of the time period for filing appeal. Hence, the period for filing appeal should elapse in order to consider the duty confirmed by the order as amount in arrears. Hence, only the appeals pending as on 30.06.2019 for which final hearing has not been convened are eligible for declaration under this scheme. M/s XYZ cannot file declaration in this situation as well.	Not Applicable

