



**OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE, CUSTOMS AND SERVICE TAX,
AURANGABAD, N-5, TOWN CENTER, CIDCO, AURANGABAD-431 003.**

TRADE NOTICE NO. 07/2013

Sub: **The Service Tax Voluntary Compliance Scheme-reg:**

Attention of all trade associations and stake holders is invited to the service tax Voluntary Compliance Scheme 2013 and Notification No. 10/2013-Service Tax dated 13.05.2013.

The Central Government has introduced "The Service Tax Voluntary Compliance Encouragement Scheme, 2013 vide Chapter VI of Finance Act, 2013 (17 of 2013), the relevant sections of which are as follows:-

SERVICE TAX VOLUNTARY COMPLIANCE ENCOURAGEMENT SCHEME, 2013:-

Short Title:-

104. This Scheme may be called the Service Tax Voluntary Compliance Encouragement Scheme, 2013.

Definitions:-

105. (1) In this Scheme, unless the context otherwise requires,—

(a) "Chapter" means Chapter V of the Finance Act, 1994;

(b) "declarant" means any person who makes a declaration under sub-section (1) of section 107;

(c) "Designated authority" means an officer not below the rank of Assistant Commissioner of Central Excise as notified by the Commissioner of Central Excise for the purposes of this Scheme;

(d) "Prescribed" means prescribed by rules made under this Scheme;

(e) "Tax dues" means the service tax due or payable under the Chapter or any other amount due or payable under section 73A thereof, for the period beginning from the 1st day of October, 2007 and ending on the 31st day of December, 2012 including a cess leviable thereon under any other Act for the time being in force, but not paid as on the 1st day of March, 2013.

(2) Words and expressions used herein and not defined but defined in the Chapter or the rules made there under shall have the meanings respectively assigned to them in the Chapter or the rules made there under.

Persons who may make declaration of tax dues:-

106. (1) Any person may declare his tax dues in respect of which no notice or an order of determination under section 72 or section 73 or section 73A of the Chapter has been issued or made before the 1st day of March, 2013:

Provided that any person who has furnished return under section 70 of the Chapter and disclosed his true liability, but has not paid the disclosed amount of service tax or any part thereof, shall not be eligible to make declaration for the period covered by the said return:

Provided further that where a notice or an order of determination has been issued to a person in respect of any period on any issue, no declaration shall be made of his tax dues on the same issue for any subsequent period.

(2) Where a declaration has been made by a person against whom,—

(a) an inquiry or investigation in respect of a service tax not levied or not paid or short-levied or Short-paid has been initiated by way of —

(i) Search of premises under section 82 of the Chapter; or

(ii) Issuance of summons under section 14 of the Central Excise Act, 1944, as made applicable to the Chapter under section 83 thereof; or

(iii) Requiring production of accounts, documents or other evidence under the Chapter or the rules made there under; or

(b) An audit has been initiated, and such inquiry, investigation or audit is pending as on the 1st day of March, 2013, then, the designated authority shall, by an order, and for reasons to be recorded in writing, reject such declaration.

Procedure for making declaration and payment of tax dues

107. (1) Subject to the provisions of this Scheme, a person may make a declaration to the designated authority on or before the 31st day of December, 2013 in such form and in such manner as may be prescribed.

(2) The designated authority shall acknowledge the declaration in such form and in such manner as may be prescribed.

(3) The declarant shall, on or before the 31st day of December, 2013, pay not less than fifty per cent. Of the tax dues so declared under sub-section (1) and submit proof of such payment to the designated authority.

(4) The tax dues or part thereof remaining to be paid after the payment made under sub-section (3) shall be paid by the declarant on or before the 30th day of June, 2014:

Provided that where the declarant fails to pay said tax dues or part thereof on or before the said date, he shall pay the same on or before the 31st day of December, 2014 along with interest thereon, at such rate as is fixed under section 75 or, as the case may be, section 73B of the Chapter for the period of delay starting from the 1st day of July, 2014.

(5) Notwithstanding anything contained in sub-section (3) and sub-section (4), any service tax which becomes due or payable by the declarant for the month of January, 2013 and subsequent months shall be paid by him in accordance with the provisions of the Chapter and accordingly, interest for delay in payment thereof, shall also be payable under the Chapter.

(6) The declarant shall furnish to the designated authority details of payment made from time to time under this Scheme along with a copy of acknowledgement issued to him under sub-section (2).

(7) On furnishing the details of full payment of declared tax dues and the interest, if any, payable under the proviso to sub-section (4) the designated authority shall issue an acknowledgement of discharge of such dues to the declarant in such form and in such manner as may be prescribed.

Immunity from penalty, interest and other proceedings

108. (1) Notwithstanding anything contained in any provision of the Chapter, the declarant, upon payment of the tax dues declared by him under sub-section (1) of section 107 and the interest payable under the proviso to sub-section (4) thereof, shall get immunity from penalty, interest or any other proceeding under the Chapter.
- (2) Subject to the provisions of section 111, a declaration made under sub-section (1) of section 107 shall become conclusive upon issuance of acknowledgement of discharge under sub-section (7) of section 107 and no matter shall be reopened thereafter in any proceedings under the Chapter before any authority or court relating to the period covered by such declaration.

No Refund of amount paid under the scheme

109. Any amount paid in pursuance of a declaration made under sub-section (1) of section 107 shall not be refundable under any circumstances.
110. Where the declarant fails to pay the tax dues, either fully or in part, as declared by him, such dues along with interest thereon shall be recovered under the provisions of section 87 of the Chapter.

Failure to make true declaration

111. (1) Where the Commissioner of Central Excise has reasons to believe that the declaration made by a declarant under this Scheme was substantially false, he may, for reasons to be recorded in writing, serve notice on the declarant in respect of such declaration requiring him to show cause why he should not pay the tax dues not paid or short-paid.
- (2) No action shall be taken under sub-section (1) after the expiry of one year from the date of declaration.
- (3) The show cause notice issued under sub-section (1) shall be deemed to have been issued under section 73, or as the case may be, under section 73A of the Chapter and the provisions of the Chapter shall accordingly apply.

Removal of doubt

112. For the removal of doubts, it is hereby declared that nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant other than the benefit, concession or immunity granted under section 108.

(B) Further, In exercise of the powers conferred by sub-sections (1) and (2) of section 114 of the Finance Act, 2013 (17 of 2013), the Central Government hereby makes the following rules regarding the form and manner of declaration, form and manner of acknowledgement of declaration, manner of payment of tax dues and form and manner of issuing acknowledgement of discharge of tax dues under the Service Tax Voluntary Compliance Encouragement Scheme, 2013, namely:-

1. Short title and commencement.-

- (1) These rules may be called the Service Tax Voluntary Compliance Encouragement Rules, 2013.
(2) They shall come into force on the date of its publication in the Gazette of India.

2. Definitions. -

- (1) In these rules, unless the context otherwise requires, -
(a) "Act" means the Finance Act, 2013;
(b) "Form" means the Forms annexed to these rules.

(c) "Scheme" means the Service Tax Voluntary Compliance Encouragement Scheme, 2013 as specified in the Act;

(2) Words and expressions used but not defined in these rules but defined in the Scheme shall have the meanings respectively assigned to them in the Scheme.

3. Registration. – Any person, who wishes to make a declaration under the Scheme, shall, if not already registered, take registration under rule 4 of the Service Tax Rules, 1994.

4. Form of declaration. – The declaration under sub-section (1) of section 107 of the Act, in respect of tax dues under the Scheme shall be made in Form VCES -1.

5. Form of acknowledgment of declaration. – The designated authority on receipt of declaration shall issue an acknowledgement thereof, in Form VCES -2, within a period of seven working days from the date of receipt of the declaration.

6. Payment of tax dues.–

(1) The tax dues payable under the Scheme along with interest, if any, under section 107 of the Act shall be paid to the credit of the Central Government in the manner prescribed for the payment of service tax under the Service Tax Rules, 1994.

(2) The CENVAT credit shall not be utilised for payment of tax dues under the Scheme.

7. Form of acknowledgement of discharge.–

(1) The designated authority shall issue an acknowledgement of discharge under sub-section (7) of section 107 of the Act, in Form VCES - 3.

(2) The acknowledgement of discharge shall be issued within a period of seven working days from the date of furnishing of details of payment of tax dues in full along with interest, if any, by the declarant.

The VCES-1, VCES-2 & VCES-3 are enclosed with this Trade Notice for ready reference of the Trade.

(C) The Service Tax Voluntary Compliance Encouragement Scheme (VCES) has come into effect upon enactment of the Finance Bill 2013 on the 10th May, 2013. The Service Tax Voluntary Compliance Encouragement Rules, 2013 have been issued to bring into effect the Scheme. Some references have been received seeking clarification as regards the scope and applicability of the Scheme. The issues have been examined by CBEC and clarifications thereto are as follows:-

| S. No. | Issues | Clarification |
|--------|---|--|
| 1 | Whether a person who has not obtained service tax registration so far can make a declaration under VCES? | Any person who has tax dues to declare can make a declaration in terms of the provisions of VCES. If such person does not already have a service tax registration he will be required to take registration before making such declaration. |
| 2 | Whether a declarant shall get immunity from payment of late fee/penalty for having not taken registration earlier or not filed the return or for delay in filing of return. | Yes. It has been provided in VCES that, beside interest and penalty, immunity would also be available from any other proceeding under the Finance Act, 1994 and Rules made thereunder. |

3 Whether an assessee to whom show cause notice or order of determination has been issued can file declaration in respect of tax dues which are not covered by such SCN or order of determination?

In terms of section 106 (1) of the Finance Act, 2013 and second proviso thereto, the tax dues in respect of which any show cause notice or order of determination under section 72, section 73 or section 73A has been issued or which pertains to the same issue for the subsequent period are excluded from the ambit of the Scheme. Any other tax dues could be declared under the Scheme subject to the other provisions of the Scheme.

4. What is the scope of section 106 (2)(a)(iii)?
Whether a communication from department seeking general information from the declarant would lead to invoking of section 106 (2) (a)(iii) for rejection of declaration under the said section?

Section 106 (2) (a)(iii) of the Finance Act, 2013 provides for rejection of declaration if such declaration is made by a person against whom an inquiry or investigation in respect of service tax not levied or not paid or short-levied or short paid, has been initiated by way of requiring production of accounts, documents or other evidence under the chapter or the rules made thereunder, and such inquiry or investigation is pending as on the 1st day of March, 2013.

The relevant provisions, beside section 14 of the Central Excise Act as made applicable to service tax vide section 83 of the Finance Act, 1994, under which accounts, documents or other evidences can be requisitioned by the Central Excise Officer for the purposes of inquiry or investigation, are as follows,-

(i) Section 72 of the Act envisages requisition of documents and evidences by the Central Excise Officer if any person liable to pay service tax fails to furnish the return or having made a return fails to assess the tax in accordance with the provision of the Chapter or rules made thereunder.

(ii) Rule 5A of the Service Tax Rules, 1994 prescribes for requisition of specified documents by an officer authorised by the Commissioner for the purposes specified therein.

The provision of section 106 (2)(a)(iii) shall be attracted only in such cases where accounts, documents or other evidences are requisitioned by the authorised officer from the declarant under the authority of any of the above stated statutory provisions and the inquiry so initiated against the declarant is pending as on the 1st day of March, 2013.

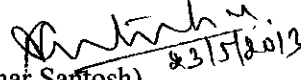
No other communication from the department would attract the provisions of section 106 (2)(a)(iii) and thus would not lead to rejection of the declaration.

(D) In respect of Voluntary Compliance Encouragement Scheme, 2013, a declaration has to be made before the 'Designated Authority'.

I, in my capacity as Commissioner, Central Excise, Customs & Service Tax, Aurangabad hereby notify Shri R. V. Pradhamesh, Assistant Commissioner, Central Excise, Customs & Service Tax as the 'Designated Authority' for the purpose of declaration under the VCES, 2013 amnesty scheme.

His official address is "office of the Commissioner of Central Excise, Customs & Service Tax, N-5, Towncentre, CIDCO, Aurangabad-431030

All the Trade Associations are requested to give wide publicity to the content of this Trade Notice amongst their members and all Stake holders.


(Kumar Santosh) 23/5/2013
Commissioner
Customs, Central Excise & Service Tax,
Aurangabad

Authority: Notification No. 10/2013- Service Tax, dated 13.05.2013

F. No. VGN(30) 32/ST/HK/Trade Notice/2011-12

Dated 23.05.2013

Copy to:

1. All Trade Associations & Stake Holders (as per mailing list)
2. Additional Commissioner, Service Tax, Aurangabad
3. Assistant Commissioner, Division I/ II/ III/ Nanded/ Ahmednagar/ Service Tax (Hqrs.)
- ✓ 4. Assistant Commissioner (Comp), with request to upload the Trade Notice on the Commissionerate website.
5. Notice Board of the Commissionerate/ Divisions.
6. Master File