Service Tax Voluntary Compliance Encouragement Scheme, 2013

Amnesty Scheme

By CA Mohd. Rais

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BUDGET SPEECH 2013

While there are nearly 17,00,000 registered assesses under Service Tax, only about 7,00,000 file returns. Many have simply stopped filing returns. We cannot go after each of them. I have to motivate them to file returns and pay the tax dues. Hence, I propose to introduce a one-time scheme called 'Voluntary Compliance Encouragement Scheme'. A defaulter may avail the scheme on condition that he files a truthful declaration of service tax dues since 01.10.2007 and makes the payment in one or two installments before prescribed dates. In such a case, interest, penalty and other consequences will be waived. I hope to entice a large number of assesses to return to the tax fold. I also hope to collect a reasonable sum of money.

P. Chidambaram
The H'ble Finance Minister

About the Scheme

Through the VCE Scheme, the CBEC intended to provide all persons liable to pay service tax with an opportunity to rectify all the defaults made by them such as:

1. Non-payment of service tax liability

2. Short-payment of service tax liability

3. Non-filing of service tax returns

4. Failure to obtain registration under Service Tax law.

Governing Provisions

The Governing provisions of VCE Scheme 2013 are:

1. **It was introduced by Budget 2013-2014.**

2. **VCE Scheme was brought into effect upon enactment of the Finance Bill, 2013 [Section 104 to 114, Chapter VI, The Finance Act, 2013 (17 of 2013)]**

3. **It received the assent of The President of India on 10thMay, 2013.**

4. **It was introduced by CBEC via Notification No.10/2013-ST, Dated 13th May, 2013.**

5. **Further explanations were given on this scheme via**
   Circular No. 169/4/2013-ST, Dated 13th May 2013
   Circular No. 170/5/2013-ST, Dated 8th August 2013
   Circular No. 174/9/2013-ST, Dated 25th November2013

Applicability of Scheme

It is applicable on those who have not paid the tax dues.
Tax Dues means the amount of Service tax due including the amount received from other but not paid to the credit of Central Government (Section 73A).

Period of Due:
1st October 2007 to 31st December 2012

Benefits of Scheme

1. **Waiver of Interest on delayed payment of Service Tax.**
   Section 75: Interest @18% w.e.f. 01.04.2011, earlier it was 13%.

2. **Waiver of Penalty towards non-payment of Service Tax.**
   Section 76: Penalty shall be imposed at a minimum of Rs. 200 per day during which such failure continues, or @2% p.m., whichever is higher, starting with the first day after the due date till date of actual payment. However, the penalty cannot exceed the service tax which was payable.

3. **Waiver of Penalty towards failure to obtain registration under service Tax Laws.**
   Section 77: Penalty which may extend up to Rs.10,000 or Rs.200 for every day during which such failure continues, whichever is higher, starting with the first day after the due date, till the date of actual compliance.

4. **Waiver of Penalty towards non-filing/delayed filing of Service Tax Returns.**
   Rule 7C: Explained later

5. **Immunity from Proceedings:**
   All proceedings provided under Chapter V of Finance Act, 1994.

6. **Upon receipt of Form VCES3, no proceedings can be initiated thereafter in respect of period of declaration after expiry of one year from date of declaration.**

Designated Authority

Means an Officer not below the rank of Assistant Commissioner of Central Excise, as notified by Commissioner of Central Excise for this purpose.

Thus, Designated Authority means

- Commissioner
- Additional Commissioner
- Joint Commissioner
- Deputy Commissioner
- Assistant Commissioner

VCES Forms

VCES 1 — **Form of Declaration**

Declaration in respect of tax dues is to be made in this form. [Section 107(1)]

VCES 2 — **Form of Acknowledgement of Declaration**

Designated Authority on the receipt of declaration shall issue an acknowledgement in form VCES2 within a period of 7 days from the date of receipt of declaration. [Section107(2)]

VCES 3 — **Form of Acknowledgement of Discharge**

Designated Authority shall issue this within a period of 7 days from the date of furnishing details of payment. [Section107(7)]

Who can make declaration?

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 1st Day of March 2013.

Section 72

Best Judgment Assessment:
If any person, liable to pay service tax
a) Fails to furnish the return under section 70; or
b) having made a return, fails to assess the tax in accordance with the provisions of this Chapter or rules made there under, the Central Excise Officer, may require the person to produce such accounts, documents or other evidence as he may deem necessary and after taking into account all the relevant material which is available or which he has gathered, shall by an order in writing, after giving the person an opportunity of being heard, make the assessment of the value of taxable service to the best of his judgment and determine the sum payable by the assessee or refundable to the assessee on the basis of such assessment.

Section 73

Service tax not levied or paid or short levied or short paid or erroneously refunded:
Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the Central Excise Officer may, within 'eighteen months' from the relevant date, serve notice on the person chargeable with the service tax which has not been levied or paid or which has been short-levied or short-paid or

the person to whom such tax refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

Provided that where any service tax has not been levied or paid or has been short-levied or short paid or erroneously refunded by reason of (a) fraud; (b) collusion; (c) wilful mis-statement; (d) suppression of facts; (e) contravention of any of the provisions of this Chapter or of the rules made there under with intent to evade payment of service tax, by the person chargeable with the service tax or his agent, the provisions of this sub-section shall have effect, as if, for the words "eighteen months", the words "five years" had been substituted.

Section 73A

Service Tax collected from any person to be deposited with Central Government:

Any person who is liable to pay service tax under the provisions of this Chapter or the rules made there under, and has collected any amount in excess of the service tax assessed or determined and paid on any taxable service under the provisions of this Chapter or the rules made there under from the recipient of taxable service in any manner as representing service tax, shall forthwith pay the amount so collected to the credit of the Central Government the same has not been so paid, the Central Excise Officer shall serve, on the person liable to pay such amount, a notice requiring him to show cause why the said amount, as specified in the notice, should not be paid by him to the credit of the Central Government.

Who can not file declaration?

1. Person who has filed ST-3 and disclosed true liability but has not paid the disclosed amount.

2. To whom notice has been issued on any issue for any period, then no declaration on same issue for any subsequent period

Grounds of Rejection by Designated Authority

1. Inquiry or Investigation has been initiated by way of
   (a) Search of Premises, or
   (b) Issuance of Summons, or
   (c) Requiring production of accounts, document and other evidences.
2. Audit has been initiated.

All the above pending on 1st Day of March 2013

Conditions for claiming Amnesty

1. Declaration in Form VCES 1 to be filed on or before 31st December 2013.
2. CENVAT Credit cannot be utilized for payment.
3. Amount paid under this scheme shall not be refunded.
4. If amount declared in Form VCES1 not paid on or before1st January 2015, the same shall be recovered as per Section 87 of Finance Act 1994 (Recovery of any amount due to Central Government)
5. CCE may serve notice on declarant if he has reasons to believe that the declaration made is substantially false.
   However, 'Substantially false' not clarified by department.

Procedure for Claiming Amnesty

1. Declaration to be filed in Form VCES1 to Central Excise Officer notified as designated authority.

2. Declaration to be accompanied by a sheet showing calculation of the amount declared as due.
   It is mandatory to furnish separate calculation sheet for each category of service.

3. Calculation sheet must be on HALF YEARLY Basis.
   For Ex: If declaration is to be furnished for the period 1st October 2008 to 30th September 2009.
   Then 2 calculation sheets are required. One for 1st October 2008 to 31st March 2009 and another for 1st April 2009 to 30th September 2009.

4. Calculation Sheets are to be in the same format as that of Service Tax Return that was applicable during that period.

5. Upon receipt of VCES1, appropriate authority shall issue VCES2 within 7 working days.
   (VCES2 does not certify the correctness of declaration furnished. It is merely an acknowledgement.)

6. Assessee is required to furnish proof of payment periodically along with Copy of Form VCES 2.

7. Upon furnishing of above details, appropriate authority will issue Acknowledgement of Discharge in Form VCES3 within 7 Working Days.

8. A person who wishes to make declaration, but not registered, must obtain registration and file declaration.

Rule 7C

Amount to be paid for delay furnishing of return:

Where the return is furnished after the prescribed date, assessee is liable to pay to the credit of central government, for the period of delay:

-15 Days from the prescribed date	**Rs.500**
-Beyond 15 Days but Before 30 Days	**Rs.1,000**
-Beyond 30 Days	**Rs.1,000 plus Rs.100 per day**

(Subject to the maximum of Rs.20,000)

Provided further that where the assessee has paid the amount as prescribed under this rule for delayed submission of return, the proceedings, if any, in respect of such delayed submission of return shall be deemed to be concluded.

Provided also that where the gross amount of service tax payable is nil, the Central Excise officer may, on being satisfied that there is sufficient reason for not filing the return, reduce or waive the penalty.

FORM VCES-1

[In duplicate]

Declaration under sub section (1) of section 107 of the Act.

[See rule 4]

(Please read the instructions carefully before filling the form)

1.	**Name of the declarant**	
2	**Address of the declarant**	
3	**Telephone No.**	
4	**E-mail id**	
5	**Service Tax Code (STC No.)**	
6	**Details of tax dues***	

A	**Service tax**	`
B	**Education cess**	`
C	Secondary & Higher Education Cess	`
D	**Amount under section 73A of the Finance Act,1994**	`
E	**Total Tax dues* [A+B+C+D]**	`

*Furnish a calculation sheet separately [for the purposes of calculation of tax dues, the manner of calculation as prescribed in S. No. 3F (I), or as the case may be, the Part 'B' of Form ST-3, as existed during relevant period may be used and calculation of tax dues may be furnished tax return period wise, and service wise if the tax dues relates to more than one service.]

VERIFICATION

I.......................(name in block letters) son/daughter of Shri....................... solemnly declare that I have read and understood the Service Tax Voluntary Compliance Encouragement Scheme as contained in Chapter VI of the Finance Act 2013, and to the best of my knowledge and belief -

(a) the information given in this declaration and the enclosures accompanying it are correct and complete and the amount of tax dues and other particulars shown therein are truly stated;

(b) the tax dues declared above do not attract the provisions of sub-section (1), including the provisos thereto, of section 106 of the Act;

(c) no inquiry, investigation or audit is pending against the declarant as on the 1st day of March 2013 as envisaged in sub-section (2) of section 106 of the Act;

I further declare that I am authorised to make this declaration and verify it on behalf of the declarant in the capacity as ....

Enclosures:

S. No.	Details of enclosure/statement annexed
1	Calculation sheet in respect of tax dues (refer S. No. 6 above and the instructions)
2	Any other documents (please specify)

Signature of the declarant/authorised person with stamp

Place: **Date:**

Declaration No.							

(To be assigned by the department)

Date						

Instructions:

1. The Scheme has been prescribed in the Chapter VI of the Act. The provisions contained therein may please be read carefully (refer www.cbec.gov.in).
2. This Form shall be submitted to the Central Excise Officer notified as designated authority under section 105(c) of the Act.
3. The tax dues may be computed separately for each service if the tax dues relates to more than one service during the period of declaration.
4. For calculation of tax dues, the manner as prescribed at S. No. 3F (I), or as the case may be the Part 'B' of the Form ST-3, as existed during the relevant period, may be used and calculation of tax dues may be furnished tax return period wise
5. Calculation sheet showing the tax dues calculation may please be enclosed with this declaration.
6. Obtain an acknowledgment from the designated authority in form VCES -2.
7. The declarant may approach the designated authority for any clarification.

CALCULATION SHEET

Value of Taxable Services, Service Tax Payable and Gross Amount Charged

……..NAME OF ASSESSEE……. ,

SERVICE TAX REGISTRATION NO. ……………….. DT …./12/2013

FIRST HALF YEAR

FOR THE PERIOD …………. - 20…. TO ………. - 20…

(I)	Month / Quarter	**Apr 20..**	**May 20..**	**June 20..**	**July 20..**	**Aug 20..**	**Sep 20..**	**TOTAL**
	Service Tax Payable							
(a)								
	Gross amount received / paid in money **							
	(1) against service provided (Repairs and Decoration)	1,00,000	1,00,000	1,00,000	1,00,000	1,00,000	1,00,000	**6,00,000**
(b)	(2) in advance for service	-	-	-	-	-	-	**-**
(c)	Abatement amount claimed	-	-	-	-	-	-	**-**
(d)	Taxable value = (a) - minus (b)	1,00,000	1,00,000	1,00,000	1,00,000	1,00,000	1,00,000	**6,00,000**
(e)	Service Tax Rate Wise break - up of taxable value = 10%							10%
(f)	Service Tax Payable =	10,000	10,000	10,000	10,000	10,000	10,000	**60,000**
(g)	Education cess payable (@ 2% of service T ax)	200	200	200	200	200	200	**1,200**
(h)	Secondary and higher Education cess payable (@1% of service Tax	100	100	100	100	100	100	**600**
(i)	Amount u/s 73A of the finance Act, 1994	-	-	-	-	-	-	**-**
(j)	Service Tax Paid Earlier	5,000	5,000	5,000	5,000	5,000	5,000	**30,000**
	Challan No.	00123	00456	00789	00123	00456	00789	
	Date							
	Total Tax Dues	**5,300**	**5,300**	**5,300**	**5,300**	**5,300**	**5,300**	**31,800**

** The Amount received is inclusive of Service Tax.

SECOND HALF YEAR

FOR THE PERIOD …………. - 20…. TO ………. - 20…

(I)	Month / Quarter	**Oct 20..**	**Nov 20..**	**Dec 20..**	**Jan 20..**	**Feb 20..**	**Mar 20..**	**TOTAL**
	Service Tax Payable							
(a)								
	Gross amount received / paid in money **							
	(1) against service provided (Repairs and Decoration)	1,00,000	1,00,000	1,00,000	1,00,000	1,00,000	1,00,000	**6,00,000**
(b)	(2) in advance for service	-	-	-	-	-	-	**-**
(c)	Abatement amount claimed	-	-	-	-	-	-	**-**
(d)	Taxable value = (a) - minus (b)	1,00,000	1,00,000	1,00,000	1,00,000	1,00,000	1,00,000	**6,00,000**
(e)	Service Tax Rate Wise break - up of taxable value = 10%							10%
(f)	Service Tax Payable =	10,000	10,000	10,000	10,000	10,000	10,000	**60,000**
(g)	Education cess payable (@ 2% of service T ax)	200	200	200	200	200	200	**1,200**
(h)	Secondary and higher Education cess payable (@1% of service Tax	100	100	100	100	100	100	**600**
(i)	Amount u/s 73A of the finance Act, 1994	-	-	-	-	-	-	**-**
(j)	Service Tax Paid Earlier	5,000	5,000	5,000	5,000	5,000	5,000	**30,000**
	Challan No.	00123	00456	00789	00123	00456	00789	
	Date							
	Total Tax Dues	**5,300**	**5,300**	**5,300**	**5,300**	**5,300**	**5,300**	**31,800**

** The Amount received is inclusive of Service Tax.

COVERING LETTER

To

The Assistant Commissioner,

Service Tax,

Division 1– ……………………….,

…………., …………………

Subject: Declaration under SERVICE TAX VOLUNTARY COMPLIANCE ENCOURAGEMENT SCHEME, 2013 in the case of M/S XYZ LTD.
Registration No. AABCD1234ESD001

Dear Sir,

We would like to declare our Service Tax dues for the period April-… to March-…. under the Service Tax Voluntary Compliance Encouragement Scheme, 2013. Kindly find enclosed herewith the following documents:

1. Form VCES – 1
2. Computation sheets of taxes due for the period April … to March- ….
3. Income Tax returns along with computation and Balance sheet and Profit and Loss account for the year ending 20… & 20….

Kindly provide us with the acknowledgement of the receipt and oblige.

Thanking you.

(ABC)
Place: …………………

Date : …./…./20….

TEL # …………………..