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SERVICE TAX

Voluntary Compliance Encouragement Scheme (VCES), 2013

Frequently Asked Questions



VCES

SERVICE TAX VOLUNTARY COMPLIANCE ENCOURAGEMENT SCHEME [VCES], 2013

TOPIC - WISE
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FAQs

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FAQS OF SERVICE TAX VOLUNTARY COMPLIANCE ENCOURAGEMENT SCHEME, 2013

The following Frequently Asked Questions (FAQs) on The Service Tax Voluntary Compliance Encouragement Scheme (“**VCES**”) shall help the readers to understand the scheme in detail as well as solve their queries regarding the intricacies of this scheme. For ease of understanding and reference, this Section has been divided into the following Sub-parts –

- 1. BACKGROUND, INTRODUCTION AND ELIGIBILITY**
- 2. BENEFITS AND CONDITIONS**
- 3. CENVAT**
- 4. MISTAKES, APPEALS AND REFUNDS/ADJUSTMENTS**
- 5. ACCEPTANCE/REJECTION OF APPLICATION**
- 6. TAX DUES**
- 7. FORMATS AND FORMS**

1. BACKGROUND, INTRODUCTION AND ELIGIBILITY

1) What is VCES?

VCES is a new amnesty scheme introduced vide Chapter VI of the Finance Act, 2013 (“**The Finance Act, 2013**”), to encourage voluntary compliance by defaulters of Service Tax under Chapter V of The Finance Act, 1994 (“**The Finance Act, 1994**”). The Hon’ble Finance Minister in his budget speech mentioned that there are nearly 17,00,000 registered assesseees under Service Tax but only about 7,00,000 assesseees file their service tax returns.

Thus, the VCES is announced in order to self-motivate the defaulters to pay the service tax, not paid in the past.

[Reference: Budget Speech of The Finance Minister]

2) What is the effective date for implementation of the VCES?

The Scheme has come into force with the enactment of the Finance Bill, 2013 i.e. May 10, 2013.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

3) Which type of assessee are eligible/not eligible for applying under VCES?

Sl. No.	Type of Assessee	Whether Eligible
1	Stop-filers of service tax return	Yes
2	Non-filers of service tax return	Yes
3	Non-registrants (after getting registered)	Yes
4	Assessee failing to disclose true liability in service tax returns filed and to pay Tax Dues	Yes
5	Assessee disclosing true liability in service tax returns filed but failing to discharge the same	No
6	Assessee in receipt of Show Cause Notice /Order of Determination u/s- -72 -73 - 73A of Finance Act, 1994	No
7	Assessee being audited under the provisions of Finance Act, 1994 and such audit is pending as on 1 March 2013	No
8	Assessee against whom inquiry / investigation has been initiated and is pending as on 1 March 2013 under : i. Section 72 of Finance Act, 1994 ii. Rule 5A of Service Tax Rules, 1994 iii. Section 82 of Finance Act, 1994 iv. Section 14 of Central Excise Act, 1994 read with section 83 of Finance Act, 1994	No
9	Assessee in receipt of Show Cause Notice / Order of Determination u/s 72, 73 or 73A of Finance Act, 1994 for a specific period who wish to clear dues pertaining to the same issue in a subsequent period	No

In this regard it may be necessary to discuss the following Sections/Rules in Brief –

A. Section 72 Of The Finance Act 1994 - Best judgment assessment :

If any person, liable to pay service tax

- (a) fails to furnish the return under section 70;
- (b) having made a return, fails to assess the tax in accordance with the provisions of this Chapter or rules made thereunder,

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.

B. Section 73 Of The Finance Act 1994 - Recovery of 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; or
- (b) collusion; or
- (c) wilful mis-statement; or
- (d) suppression of facts; or

- (e) contravention of any of the provisions of this Chapter or of the rules made thereunder 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...

c. Section 73A (3) Of The Finance Act 1994 - Service tax collected from any person to be deposited with Central Government.

Where any amount is required to be paid to the credit of the Central Government under sub-section (1) or sub-section (2) and 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.

d. Rule 5A (1) Of Service tax Rules 1994 - Access to a registered premises.

An officer authorised by the Commissioner in this behalf shall have access to any premises registered under these rules for the purpose of carrying out any scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

e. Section 82 Of The Finance Act 1994 - Power to search premises.

(1) If the Joint Commissioner of Central Excise has reason to believe that any documents or books or things which in his opinion will be useful for or relevant to any proceeding under this Chapter are secreted in any place, he may authorise any Superintendent of Central Excise to search for and seize or may himself search for and seize, such documents or books or things.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches, shall, so far as may be, apply to searches under this section as they apply to searches under that Code.

f. Section 14 of the Central Excise Act 1944 - Power to summon persons to give evidence and produce documents in inquiries under this Act.

(1) Any Central Excise Officer duly empowered by the Central Government in this behalf, shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making for any of the purposes of this Act. A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(2) All persons so summoned shall be bound to attend, either in person or by an authorised agent, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and to produce such documents and other things as may be required:

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

4) An assessee is registered under Service Tax but no return is filed or tax has been paid from 01.04.2008. He has received the summons dated 25.05.2013 issued by Superintendent (AE). Is the assessee eligible under VCES?

Yes, he is eligible for availing the benefits under VCES.

5) Is there a minimum limit of Service Tax liability to be admitted under the VCES?

No. There is no minimum limit of service tax liability to be submitted under VCES.

6) I have paid the entire Service Tax but have not disclosed true liability in the Service Tax Return. Can I revise the Service Tax return through VCES?

Please refer Section 106(1) Of The Chapter VI of Finance Act 2013 , VCES is for declaration of "Tax Dues". In case there are no Tax dues, VCES cannot be filed.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

7) Whether a person, who has paid service tax for a particular period but failed to file return, can take the benefit of VCES Scheme so as to avoid payment of penalty for non- filing of return?

Under VCES a declaration can be made only in respect of “tax dues”. A case where no tax is pending, but return has not been filed, does not come under the ambit of the Scheme. However, rule 7C of the Service Tax Rules provides for waiver of penalty in deserving cases where return has not been filed and, in such cases, the assessee may seek relief under rule 7C.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

8) An assessee has filed return but it was not accepted by the system. Can he file declaration under the Scheme?

If system had not accepted the return, it means return was not filed. As stated above, under VCES a declaration can be made only in respect of “tax dues”. A case where no tax is pending, but return has not been filed, does not come under the ambit of the Scheme.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013) read with Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

9) Whether a service provider who is not registered can apply under the VCES?

Yes. In terms of the Rule 3 of the Service Tax Voluntary Compliance Encouragement Rules, 2013 (“**VCES Rules**”), if any person who wishes to apply under the VCES is not already registered, then he is required to take a registration under Rule 4 of the Service Tax Rules, 1994 as per the normal procedure of the Service Tax law.

[Reference: Notification No.10/2013 - Service Tax dated 13th May 2013 Issued by CBEC]

Procedure for Service Tax Registration

1. The assessee shall make an application in form ST 1 to the Superintendent of Central Excise in duplicate. Such application can be filed online www.aces.gov.in. For this the following procedure shall be adhered to –
 - a. log onto the site aces.gov.in and select “Service Tax” option on the left side of the screen

- b. Click on “New users to click here to register with ACES” option. On clicking the same he will be required to give certain basic details and a e-mail id. The password for such registration will be sent to this mail id.
- c. On submitting the form the password will be sent to the ID above and the user shall login into ACES with this password. Such a password is only to gain access to ACES and it does not imply that registration with the department is done.
- d. Register with ACES with the ID and password that is sent as mentioned in ‘c’ above and select the option “REG” and “Fill ST-1”.
- e. The form shall be filed online with all the required details and submitted online itself.
- f. A print of the form submitted online shall be taken and along with this the documents as mentioned below shall be submitted to the department at the concerned commissionerate.
- g. The Form should be signed by the director/partner/sole proprietor as the case may be or the authorized signatory. Once filed, the acknowledgement for having filed the application is to be obtained on the duplicate copy for one’s own reference. If the Particulars stated in the Form are correct, then the registration certificate would be provided within a period of seven days.

Documents Required for Service Tax Registration

- a. Self certified copy of PAN, (where allotment is pending, copy of the application for PAN may be given).
- b. Copy of MOA/AOA in case of Companies
- c. Copy of Board Resolution in case of Companies
- d. Copy of Lease deed/Rental agreement of the premises
- e. A brief technical write up on the services provided

- f. Registration certificate of Partnership firm / Partnership Deed
- g. Copy of a valid Power of Attorney where the owner/MD/Managing Partner does not file the application
- h. Power of Attorney in favor of the Consultant (POA)

The following documents are required in addition to the documents needed under the aforesaid procedure -

- a. Proof of address of each such premises or branches for which centralized registration is sought
- b. Proof of address of branches, new offices opened if any
- c. In case of the Centralised Registration Annexures as per the Trade Notice no. 03/2011-12-ST dated 20/10/2011 are also required to be submitted.

Normally 15-20 days are required to issue the ST reg Certificate under the Centralised Reg, as compared to 1-2 days for single premised registration

10) Whether an assessee who has surrendered their registration is required to obtain new registration for the purposes of filing the declaration?

Yes. Please refer to the above FAQ.

[Reference: Notification No.10/2013 - Service Tax dated 13th May 2013 Issued by CBEC]

11) Whether the communications, wherein department has sought information of roving nature from potential taxpayer regarding their business activities without seeking any documents from such person or calling for his presence, while quoting the authority of section 14 of the Central Excise Act, 1944, would attract the provision of section 106 (2) (a)?

As per S. No. 4 of the circular No. 169/4/2013-ST, dated 13.5.2013, as regards the scope of section 106(2) (a) of the Finance Act, 2013, wherein it has been clarified that the provision of section 106 (2) a)(iii) shall be attracted only in such cases where accounts, documents or other evidence are (requisitioned by the authorized officer from the declarant under the authority of

a statutory provision. A communication of the nature as mentioned in the question would not attract the provision of section 106 (2)(a) even though the authority of section 14 of the Central Excise Act may have been quoted therein.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

12)What are the apparent areas of concern under VCES?

- a) VCES scheme is criticized for being discriminative and helping the dishonest assessee.
- b) Also, the Scheme does not contain any secrecy clause as to confidentiality of information furnished under VCES. Thus there is a risk that the information disclosed under VCES may be used by other tax authorities.
- c) Declared tax dues is subject to approval by designated authority, may require neutral and simplified mode of adjudication.
- d) A portion of Cut off period for which declaration can be made before December 31, 2013 for the period from October 1, 2007 to December 31, 2012 is beyond period of limitation i.e. 5 Years from the relevant date of declaration. Legal sanctity of this provision may be looked into.

2. BENEFITS AND CONDITIONS

13)What is the period for which assesses can avail relief under VCES?

The Assesseees can avail benefit under VCES for default in payment of service tax including cess, not paid from October 1, 2007 to December 31, 2012.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

14)What are the benefits under VCES?

- a. Waiver of **interest** on delayed payment of service tax.
- b. Waiver of **penalty towards non-payment** of service tax.
- c. Waiver of **penalty towards failure to obtain registration** under service tax Laws.
- d. Waiver of **penalty towards non-filing / delayed filing** of service tax returns.
- e. **Immunity from proceedings** under Chapter V of Finance Act, 1994.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

15) Whether a declarant shall get immunity from payment of late fee/ penalty for having not taken registration earlier?

In this respect, the VCES Circular has clarified that it has been provided in the VCES that, beside interest and penalty, immunity would also be available from any other proceeding under the Finance Act, 1994 and Rules made thereunder. Accordingly immunity from payment of late fee/ penalty for having not taken registration earlier will be granted under the Scheme.

However, this immunity should be applicable in case of the period in relation to which the tax dues are declared. Even As per VCES Circular the immunity from interest and penalty is only for "tax dues" declared under VCES.

[Reference: Circular No. 169/4/2013 – ST dated 13th May 2013 Issued by CBEC]

16)What are the conditions to be fulfilled to avail benefit under VCES?

The assesseees has to deposit at least 50% of the declared dues by December 31, 2013 and the remaining portion of tax dues has to be paid by June 30, 2014 without any interest.

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 31st December, 2014 along with interest thereon, to be calculated from 1st July, 2014.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

17)What is the last date for availing the scheme?

The assessee can file the declaration under this scheme only up to December 31, 2013.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

18)An assessee has received a notice on 28th February, 2013 regarding non-payment of service tax and till date he has not paid any service tax. Shall he join the Scheme?

No. An assessee may declare his tax dues in respect of which no notice or an order of determination under Section 72 or Section 73 or Section 73 A of the Chapters had been issued or made before 1st March, 2013.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

19)Whether the Central Excise and Service Tax Department can take action against false declaration made by the declarant?

Yes, if the Commissioner of Central Excise has reasons to believe that declaration made by the declarant under this scheme was substantially false, he may for reasons to be recorded in writing, serve a notice on declarant in respect of such declaration requiring him to show cause why he should not pay the tax dues not paid or short paid. Such action shall not be taken after expiry of one year from the date of declaration.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

20)Whether a party, against whom an inquiry, investigation or audit has been initiated after 1.3.2013 (the cutoff date) can make a declaration under the Scheme?

Yes. There is no bar from filing of declaration in such cases.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

21) There was a default and a Show Cause Notice was issued for the period prior to the period covered by the Scheme, i.e. before Oct 2007. Whether declaration can be filed for default on the same issue for the subsequent period?

In the context of the Scheme, the relevant period is from Oct. 2007 to Dec. 2012. Therefore, the 2nd proviso to section 106 (1) shall be attracted only in such cases where a show cause notice or order of determination has been issued for the period from Oct. 2007 to Dec. 2012. Accordingly, issuance of a show cause notice or order of determination for any period prior to Oct. 2007, on an issue, would not make a person ineligible to make a declaration under the Scheme on the same issue for the period covered by the Scheme. Therefore, declaration can be made under VCES.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

22) In a case where the assessee has been audited and an audit para has been issued, whether the assessee can declare liability on an issue which is not a part of the audit para, under the VCES 2013?

Yes, declarant can declare the “tax dues” concerning an issue which is not a part of the audit para.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

23) Whether an assessee, who, during a part of the period covered by the Scheme, is in dispute on an issue with the department under an erstwhile provision of law, can declare his liability under the amended provisions, while continuing to litigate the outstanding liability under the erstwhile provision on the issue?

In terms of the second proviso to section 106 (1), where a notice or order of determination has been issued to a person in respect of any issue, no declaration shall be made by such person in respect of “tax dues” on the same issue for subsequent period. Therefore, if an issue is being litigated for a part of the period covered by the Scheme, i.e., Oct. 2007 to Dec. 2012, no declaration can be filed under VCES in terms of the said proviso on the same issue for the subsequent period.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

24) In terms of section 106 (2)(b), if a declaration made by a person against whom an audit has been initiated and where such audit is pending, then the designated authority shall by

an order and for reasons to be recorded in writing, reject such declaration. As the audit process may involve several stages, it may be indicated as to what event would constitute,-

- (i) initiation of audit; and
- (ii) culmination of audit.

Initiation of audit:

For the purposes of VCES, the date of the visit of auditors to the unit of the taxpayer would be taken as the date of initiation of audit. A register is maintained of all visits for audit purposes.

Culmination of audit:

The audit process may culminate in any of the following manner.-

- a) Closure of audit file if no discrepancy is found in audit;
- b) Closure of audit para by the Monitoring Committee Meeting (MCM);
- c) Approval of audit para by MCM and payment of amount involved therein by the party in terms of the provisions of the Finance Act, 1994;
- d) Approval of audit para by MCM, and issuance of SCN, if party does not agree to the para so raised.

The audit culminates at a point when the audit paras raised are settled in any manner as stated above.

The pendency of audit as on 1.3.2013 means an audit that has been initiated before 1.3.2013 but has not culminated as on 1.3.2013.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

25) Audit of the assessee was conducted and NIL audit report was issued to this assessee prior to 28th February 2013. This assessee wants to pay service tax for the period 01.04.2008 to 30.09.2012 which was not paid by it and the audit party could not detect such non-payment or short payment of service tax. Can this assessee get benefit of VCES?

Yes, Closure of audit file if no discrepancy is found in audit, would be regarded as Culmination of the Audit and hence there would not be any audit pending on 1st March 2013.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

26) The audit is initiated in 2010 by issuance of a letter calling for information which is also submitted. However, no audit has commenced so far. Whether such person is eligible for making a declaration under the scheme?

Yes, For the purposes of VCES, the date of the visit of auditors to the unit of the taxpayer would only be taken as the date of initiation of audit.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

VCES

3. CENVAT

27) Whether the amount lying in CENVAT Credit Account be utilised for payment of tax dues?

No. As per Rule 6(2) of the VCES Rules, Cenvat Credit shall not be utilized for payment of tax dues under the Scheme. Thus whole service tax dues are to be paid in cash.

[Reference: Notification No.10/2013 - Service Tax dated 13th May 2013 Issued by CBEC]

28) Whether the CENVAT credit is admissible on the inputs/input services used for provision of output service in respect of which declaration has been made under VCES for payment of any tax liability outside the VCES?

The VCES Rules 2013 prescribe that CENVAT credit cannot be utilized for payment of “tax dues” under the Scheme. Accordingly the “tax dues” under the Scheme shall be paid in cash.

The admissibility of CENVAT credit on any inputs and input services used for provision of output service in respect of which declaration has been made shall continue to be governed by the provisions of the Cenvat Credit Rules, 2004.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

29)(a) Whether the tax dues amount paid under VCES would be eligible as CENVAT credit to the recipient of service under a supplementary invoice?

(b) Whether CENVAT credit would be admissible to the person who pays tax dues under VCES as service recipient under reverse charge mechanism?

Rule 6(2) of the Service Tax Voluntary Compliance Encouragement Rules, 2013, prescribes that CENVAT credit cannot be utilized for payment of “tax dues” under the Scheme. Except this condition, all issues relating to admissibility of CENVAT credit are to be determined in terms of the provisions of the Cenvat Credit Rules.

As regards admissibility of CENVAT credit in situations covered under part (a) and (b), attention is invited to rule 9(1)(bb) and 9(1)(e) respectively of the Cenvat Credit Rules.

As per Rule 9 (1) (bb) of Cenvat Credit Rule – Documents to avail Cenvat Credit

“The Cenvat credit shall be taken by the manufacturer or the provider of output service on the basis of any of following documents namely:-

A supplementary invoice, bill or challan issued by a provider of output service, in terms of the provisions of service tax rules, 1994”

As per Rule 9 (1) (e) of Cenvat Credit Rule,

“A challan evidencing payment of service tax by the person liable to pay service tax under sub-clauses (iii), (iv), (v) and (vii) of clause (d) of sub-rule (1) of rule (2) of the Service Tax Rules, 1994.”

Conclusion – Therefore, the answers to the questions are as follows –

- (a) Yes. The amount paid under VCES would be eligible as CENVAT credit to the recipient of service under a supplementary invoice.
- (b) Yes. CENVAT credit, for payment of tax dues under VCES as service recipient under reverse charge mechanism, would be admissible to the person who pays tax dues.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

30) Whether debit note can be raised by the defaulter for the service tax amount and CENVAT Credit can be claimed by the other assessee?

Yes. Please refer to the above FAQ.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

4. MISTAKES, APPEALS AND REFUNDS/ADJUSTMENTS

31)Whether tax paid under VCES is refundable?

Tax paid under VCES is not refundable.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

32)Can an assessee file a refund claim on excess payment of service tax under VCES Scheme?

Any amount paid in pursuance of a declaration made shall not be refundable. For such excess payment, an assessee can not file the refund claim.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

33)Whether upon filing a declaration a declarant realizes that the declaration filed by him was incorrect by mistake? Can he file an amended declaration?

The declarant is expected to declare his tax dues correctly. In case the mistake is discovered suo moto by the declarant himself, he may approach the designated authority, who, after taking into account the overall facts of the case may allow amendments to be made in the declaration, provided that the amended declaration is furnished by declarant before the cut-off date for filing of declaration, i.e., 31.12.2013.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

34)A declarant pays a certain amount under the Scheme and subsequently his declaration is rejected. Would the amount so paid by him be adjusted against his liability that may be determined by the department?

The amount so paid can be adjusted against the liability which is determined by the department.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

5. ACCEPTANCE/REJECTION OF APPLICATION

35)When would the declaration made under VCES will be deemed as conclusive?

Declaration will attain finality/ become conclusive upon issuance of acknowledgment of discharge of total tax dues from designated authority in **Form No. VCES - 3**.

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

[Reference: Notification No.10/2013 - Service Tax dated 13th May 2013 Issued by CBEC]

36)Can the matter be reopened?

The declaration shall become conclusive upon issuance of acknowledgement of discharge by AC/DC under section 107(7). No matter shall be reopened thereafter in any proceedings under Finance Act, 1994 before any authority or court relating to the period covered by such declaration – section 98(2) of Finance Act, 2013.

However, Commissioner can reopen the matter under section 111(1) of Finance Act, 2013.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

37)Whether the Commissioner of Central Excise can serve a notice on the declarant in respect of 'substantially false' declaration?

Section 111 prescribes that where the Commissioner of Central Excise has reasons to believe that the declaration made by the declarant was 'substantially false', he may serve a notice on the declarant in respect of such declaration. However, what constitutes a 'substantially false' declaration has not been specified.

The Commissioner would, in the overall facts of the case, taking into account the reasons he has to believe, take a judicious view as to whether a declaration is 'substantially false'. It is not feasible to define the term "substantially false" in precise terms. The proceeding under section 111 would be initiated in accordance with the principles of natural justice.

To illustrate, a declarant has declared his "tax dues" as Rs 25 lakh. However, Commissioner has specific information that declaration has been made only for part liability, and the actual "tax dues" are Rs 50 lakh. This declaration would fall in the category of "substantially false". This example is only illustrative.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

38) Whether declarant will be given an opportunity to be heard and explain his cases before the rejection of a declaration under section 106(2) by the designated authority?

Yes. In terms of section 106 (2) of the Finance Act, 2013, the designated authority shall, by an order, and for reasons to be recorded in writing, reject a declaration if any inquiry/investigation or audit was pending against the declarant as on the cutoff date, i.e., 1.3.2013. An order under this section shall be passed following the principles of natural justice.

To allay any apprehension of undue delays and uncertainty, it has been clarified that the designated authority, if he has reasons to believe that the declaration is covered by section 106 (2), shall give a notice of intention to reject the declaration within 30 days of the date of filing of the declaration stating the reasons for the intention to reject the declaration. For declarations already filed, the said period of 30 days would apply from the date of this circular.

The declarant shall be given an opportunity to be heard before any order is passed by the designated authority.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

39) What is the appeal mechanism against the order of the designated authority whereby he rejects the declaration under section 106 (2) of the Finance Act, 2013?

The Scheme does not have a statutory provision for filing of appeal against the order for rejection of declaration under section 106 (2) by the designated authority.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

40) What is the consequence if a declarant fails to pay atleast 50% of declared amount of tax dues by the 31st Dec 2013?

One of the conditions of the Scheme [section 107(3)] is that the declarant shall pay atleast an amount equal to 50% of the declared tax dues under the Scheme, on or before 31st Dec, 2013.

Therefore, if the declarant fails to pay at least 50% of the declared tax dues by 31st Dec, 2013, he would not be eligible to avail of the benefit of the scheme.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

41)An assessee has two units at two different locations, say Mumbai and Ahmedabad. Both are separately registered. The Mumbai unit has received a Show Cause Notice for non-payment of tax on a revenue stream but the Ahmedabad unit has not. Whether the Ahmedabad unit is eligible for VCES?

Two separate service tax registrations are two distinct assesseees for the purposes of service tax levy. Therefore, eligibility for availing of the Scheme is to be determined accordingly. The unit that has not been issued a show cause notice shall be eligible to make a declaration under the Scheme.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

42)If department calls for information or books of account of entity 'X' in connection with investigation/inquiry into affairs of 'Y', whether 'X' is eligible for scheme?

Yes, this view is confirmed by the clarifications issued by the Board with regards to VCES so far. As per the CBEC Circulars, the unit which has not been issued a show cause notice shall only be eligible to make a declaration under the Scheme.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

43)If a person has tax dues for the period 01-10-2007 to 31-12-2012 but he declares tax dues only for the period 01-04-2008 to 31-12-2012 by a declaration dated 26-08-2013. Since the period of five years from relevant date for demand for period up to 31-03-2008 is over on 25-04-2013, he did not declare or pay any service tax for the period 01-10-2007 to 31-03-2008. Can his declaration be treated as substantially false and can recovery be made by Commissioner in terms of powers conferred by section 111 of the Finance Act, 2013?

May be yes. However, the Show Cause Notice issued by the commissioner for the period 01-10-2007 to 31-03-2008 will be time barred and therefore not sustainable.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

44)A declarant made a declaration of true tax dues in respect of one taxable service. However, due to controversy in the law for which conflicting decisions are available or difference of opinion on valuation, or on account of any other conflictions, the tax dues in

respect of another taxable service is not correctly declared. Can the Commissioner regard the declaration in such case as substantially false?

No controversial/conflicting issue can be regarded as "Substantially false". Further, the Commissioner would issue a Show Cause notice only for non- payment / short - payment of tax dues relating to the Service for which there is a conflict. However, the Service for which VCES is filed would be eligible to be accepted.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

VCES

6. TAX DUES

45)What do you mean by “Tax Dues”?

"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.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

46)Whether the tax dues after December 31, 2012 be eligible for benefit under VCES?

Tax dues means the service tax due or payable under the Finance Act, 1994 or any other amount due or payable under Section 73A thereof, for the period beginning from the October 1, 2007 and ending on the December 31, 2012 including a cess leviable thereon under any other Act for the time being in force, but not paid as on March. In respect of subsequent periods, an assessee has to pay the service tax and cesses thereon as per the normal provisions, i.e. if there is any default in making the payment, same shall be paid along with interest. In short, dues of Service Tax on or after January 2013 shall be paid as per the due dates.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

47)What if the declarant fails to pay declared tax dues?

Where the assessee fails to pay the tax dues, either fully or in part, then said amount along with interest will be recovered as arrear of land revenue, which can be recovered by attaching the movable and immovable properties of the declarant.

Also the immunity in terms of the VCES would be withdrawn.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

48)What are the consequences if the declaration made under VCES is substantially incorrect?

As per VCES, if the declaration made under VCES is found substantially incorrect by the Commissioner of Central Excise, then show cause notice is to be served for recovery of tax dues not paid or short paid within a period of one year from the date of declaration.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

49)When does an assessee have to make the payment of Tax Dues?

An assessee has to make the minimum 50% of the amount of tax dues on or before 31st Dec, 2013 and balance of tax dues or part thereof on or before 30th June, 2014. However still he can make payment of balance tax dues or part thereof on or before 31st Dec, 2014 with interest for a period of delay starting from 1st July, 2014.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

50)Is there any specific Accounting Code for deposit of tax dues under VCES?

No. There is no specific Accounting Code under VCES for deposit of Tax Dues. Accounting Code relevant to the type of services chargeable to Service Tax shall apply.

51)Can an assessee use an amount lying in CENVAT Credit Account for payment of tax dues under the Scheme?

No. CENVAT Credit shall not be utilized for payment of tax dues under the scheme.

[Reference: Notification No.10/2013 - Service Tax dated 13th May 2013 Issued by CBEC]

52)An assessee has made a declaration but later on he failed to pay the taxes in stipulated period. What would be the consequences?

Such tax dues shall be recovered under the provisions of Section 87 of Finance Act 1994.

Section 87 provides for recovery of any amount due to the Central Government by any one of the following modes:

- a) by deducting such amount from any money owed to such person, under the control of any Central Excise Officer or any officer of Customs.
- b) by recovery from any other person from whom money is due to such defaulting person.
- c) by restraining any movable or immovable property belonging to such person and detain the same until the amount payable is paid.
- d) by preparing a certificate signed by Central Excise officer specifying the amount due and send it to the Collector of district in which such person owns any property or carries on his business. The said Collector, on receipt of such certificate shall proceed to recover

from such person the amount specified thereunder as if it were an arrear of land revenue.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

53)What are the provisions relating to payment of accepted tax dues?

Date	Quantum
On or before 31 st Dec. 2013	Minimum 50% of the amount declared as due in the declaration.
On or before 30 th Jun. 2014	Balance of the amount declared as due in the declaration.
1 st Jul 2014 – 31 st Dec 2014	Amount remaining unpaid for the period ended 1.1.2014 to 30.6.2014, along with interest as prescribed under section 75 of the Finance Act, 1994. Interest shall be leviable from 1 July 2014 till the date of payment.
1 st Jan. 2015 onwards	Outstanding amount if any alongwith Interest. Recovery may be made as per process u/s 87 of the Finance Act, 1994.

On such payment, the proof of payment by way of challan should be submitted to AC/DC to whom declaration was submitted.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

54)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.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

55) Whether a declaration can be made under the Scheme in respect of CENVAT credit wrongly utilized for payment of service tax?

Any service tax that has been paid utilizing the irregular credit, amounts to non-payment of service tax. Therefore such service tax amount is covered under the definition of "tax dues".

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

56) Can amount payable under Rule 3(5), Rule 3(5A) and under Rule 6(3) of CENVAT Credit Rules 2004 be treated as 'tax dues' for the purpose of VCES? If yes, can benefit of waiver of penalty under Rule 15 of CENVAT Credit Rules 2004 be availed under VCES?

As per Section 105(1)(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.

Therefore, amounts payable under Rule 3(5), Rule 3(5A) and under Rule 6(3) of CENVAT Credit Rules 2004 cannot be regarded as tax dues.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

57) A person has made part payment of his 'tax dues' on any issue before the scheme was notified and makes the declaration under VCES for the remaining part of the tax dues. Will he be entitled to the benefit of non-payment of interest/penalty on the tax dues paid by him outside the VCES, i.e., (amount paid prior to VCES)?

No. The immunity from interest and penalty is only for "tax dues" declared under VCES. If any "tax dues" have been paid prior to the enactment of the scheme, any liability of interest or penalty thereon shall be adjudicated as per the provisions of Chapter V of the Finance Act, 1994 and paid accordingly.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

58) What is the consequence if the designated authority does not issue an acknowledgement within seven working days of filing of declaration? Whether the declarant can start making payment of the tax dues even if acknowledgement is not issued?

Department would ensure that the acknowledgement is issued in seven working days from the date of filing of the declaration. It may however be noted that payment of tax dues under the Scheme is not linked to the issuance of an acknowledgement. The declarant can pay tax dues even before the acknowledgement is issued by the department.

[Reference: Circular No. 170/5/2013 – ST dated 08th August 2013 Issued by CBEC]

VCES

7. FORMATS AND FORMS

59)What is the process to avail benefit of the Scheme?

Step 1

If the declarant is not registered, then he is first required to get himself registered and then apply for this scheme. For details, please visit www.aces.gov.in.

Step 2

a. After registration, the declarant shall make a declaration in Form VCES-1 to the designated authority on or before 31.12.2013. Declaration to be accompanied by a calculation sheet showing the amount declared as due.

b. It is mandatory to furnish a separate calculation sheet for each category of service.

Example: Assessee wishes to pay dues under the categories 'Business Support Services' and 'Renting of Immovable Property Services'. Therefore, assessee is required to furnish two calculation sheets; one for the category 'Business Support Services' and one for the category 'Renting of Immovable Property Services'.

c. The calculation sheets are to be furnished half-yearly as per the return period.

Example: Assessee furnishing declaration for the period 1st October, 2008 to 30th September, 2009 must furnish two calculation sheets, one for the period 1st October, 2008 to 31st March, 2009, and another for the period 1st April, 2009 to 30th September, 2009.

d. The calculation sheets are to be in the format of the service tax return that was prescribed during the period to which the calculation sheet pertains to.

Step 3

On receipt of Form VCES- 1, the designated authority will issue acknowledgement of declaration in Form VCES-2 within 7 working days from the date of receipt of declaration. The acknowledgement does not certify the correctness of the declaration furnished by the assessee. It is a merely an acknowledgement of receipt of declaration.

Step 4

- a. The declarant is required to pay not less than 50% of tax dues on or before 31st December 2013. Balance on or before 30th June 2014 and if not paid, can be paid on or before 31st December, 2014 alongwith interest from 1st July 2014.
 - The rate of interest in case of late payment of amount declared would be as prescribed in Section 75 i.e. if the value of taxable services in any financial year is upto Rs. 60 lakhs then rate of interest applicable is 15% and in other cases 18%. The value of taxable service shall include all taxable services including whatever declared earlier, if any.
 - CENVAT credit cannot be utilized for payment of dues (Rule 6(2)).
 - Amount paid shall not be refundable.
- b. Assessee is required to furnish proof of payment periodically along with copy of acknowledgement (Form VCES – 2).
- c. Upon furnishing of details of payment of dues in full, the appropriate authority will issue an Acknowledgement of Discharge in form VCES – 3 within seven working days.

Step 5

On full payment of taxes, the designated authority will issue acknowledgement of discharge in VCES-3 within 7 working days from the date of furnishing of details of tax dues paid in full, along with interest if any. Last date for payment of first instalment of 50% of total tax dues is 31.12.2013 and balance amount on or before 30.06.2014 or 31.12.2014 (with interest).

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

60) To whom shall an assessee make the declaration for VCES 2013?

The declaration shall be made to the designated authority, who shall be an officer not below the Rank of Assistant Commissioner of Central Excise as notified by Commissioner of Central Excise for the purpose of this scheme.

[Reference: Chapter VI of Finance Act 2013 (17 of 2013)]

61) What is the proof of successful filing of VCES. Will a certificate be issued which discharges the assessee from further liability?

After making full payment of taxes and interest, if any, for the payment made on or after 1st July, 2014 and communicating the designated authority, designated authority will issue the acknowledgement of discharge in Form VCES-3 after due verification. This will be a proof of successful filing of VCES.

[Reference: Notification No.10/2013 - Service Tax dated 13th May 2013 Issued by CBEC]

62)Whether an assessee has to submit the calculation sheet showing service tax liability?

Yes, along with declaration in Form VCES-1, an assessee has to submit the calculation sheet showing his service tax liability service wise and service tax return period wise.

Along with the declaration in Form VCES-1, a calculation sheet of tax dues is to be attached. The calculations should be in form as per Sr. No. 3 F (I) of old ST-3 for the period 1-10-2007 to 30-6-2012 and in form as per Part B of new ST-3 for the period 1-7-2012 to 31-12-2012.

[Reference: Notification No.10/2013 - Service Tax dated 13th May 2013 Issued by CBEC]

VCES

FLOWCHART ON VCES

ASSESSEE REGISTERED UNDER SERVICE TAX/ REGISTRATION CERTIFICATE
CORRECT AS PER PRESENT PROFILE OF THE ASSESSEE

YES

NO

OBTAIN REGISTRATION

AMEND REGISTRATION

STEP: 1

DECLARATION TO BE FILED IN FORM VCES-1 ON OR BEFORE 31.12.2013 TO THE DESIGNATED AUTHORITY

STEP: 2

DESIGNATED AUTHORITY TO ACKNOWLEDGE RECEIPT OF APPLICATION IN FORM VCES-2 WITHIN 7 WORKING DAYS

STEP: 3

PAY ATLEAST 50% OF THE DECLARED TAX DUES ON OR BEFORE 31.12.2013

STEP: 4

PAY BALANCE 50% OF THE DECLARED TAX DUES

STEP: 5

SUBMIT DETAILS OF PAYMENT OF SERVICE TAX AND INTEREST IF ANY TO THE DESIGNATED AUTHORITY

ON OR BEFORE 30.06.2014

NO INTEREST

ON OR BEFORE 31.12.2014

INTEREST W.E.F.
01.07.2014

STEP: 6

THE DESIGNATED AUTHORITY SHALL ISSUE AN ACKNOWLEDGEMENT IN FORM VCES-3 WITHIN 7 WORKING DAYS

CHECKLIST ON VCES

SR. NO.	PARTICULARS	POINTS OF ATTENTION
1	Check whether there is any default under the Finance Act 1994 and Rules made thereunder, during the period 1 st October, 2007 to 31 st December, 2012.	The period for which benefit can be claimed under the Scheme is 1 st October, 2007 to 31 st December, 2012
2	Check whether the assessee has stopped filing any service tax return and has some tax dues during the period 1 st October, 2007 to 31 st December, 2012.	Eligible under VCES.
3	Check whether the assessee has not filed any service tax return and has some tax dues during the period 1 st October, 2007 to 31 st December, 2012	Eligible under VCES.
4	Check whether the assessee has failed to disclose true liability in the service tax returns filed during the period 1 st October, 2007 to 31 st December, 2012, even though he has paid the entire Service Tax.	Not eligible under VCES as there are no tax dues.
5	Check whether the assessee has disclosed true liability in the service tax returns filed but has failed to discharge the same during the period 1 st October, 2007 to 31 st December, 2012.	Not eligible under VCES. Pay alongwith Interest as per normal Service Tax Rules.
6	Check whether the assessee is registered under the Finance Act 1994.	The assessee can apply under VCES only if he is registered. The assessee must obtain the registration first.
7	Check whether there is any CENVAT credit wrongly utilized for payment of service tax during the period 1 st October, 2007 to 31 st December, 2012.	VCES can be filed. Wrong availment of CENVAT Credit also gives rise to tax dues.
8	Check whether the assessee has received the Show Cause Notice/Order of Determination u/s 72, 73 or 73A of Finance Act, 1994 during the period 1 st October, 2007 to 31 st December, 2012.	Not eligible under VCES.
9	Check whether the assessee has been audited under the provisions of the Finance Act, 1994 during the period 1 st October, 2007 to 31 st December, 2012 and such audit is pending as on 1 st March, 2013.	Not eligible under VCES.

10	Check whether any inquiry/investigation has been initiated against the assessee during the period 1 st October, 2007 to 31 st December, 2012 and is pending as on 1 st March,2013 under i) Rule 5A of Service Tax Rules,1994 ii) Section 82 of the Finance Act,1994 iii) Section 14 of the Central Excise Act, 1994 read with Section 83 of the Finance Act,1994	Not eligible under VCES.
11	Check whether the assessee has received the Show Cause Notice/Order of Determination u/s 72,73 or 73A of Finance Act,1994 for a specified period & who wish to apply for VCES pertaining to an issue other than the "same issue" in the subsequent period..	Eligible under VCES for the same issue.
12	Check whether Form VCES-1 is filed with the appropriate authority on or before 31 st December,2013	31 st December, 2013 is the last day for applying under VCES.
13	Check whether a Calculation sheet is attached to Form VCES 1 showing calculation of the amount declared as dues during the period 1 st October, 2007 to 31 st December, 2012.	It is mandatory to attach calculation sheet for each category of service.
14	Check whether the calculation of tax dues is absolutely correct and no excess amount has been paid under VCE Scheme.	It shall not be refunded under any circumstances.
15	Check that the rate for computation of Service Tax under VCES the rates applicable at the time when these taxes were originally due and not at the rates prevailing on the date of actual deposit of tax under the scheme	
16	Check whether tax dues are to be discharged as per the point of taxation i.e. as per the rules for determining the point of taxation as existing during the period.	
17	Check that CENVAT Credit has not been utilized to discharge the amount declared as due.	CENVAT Credit cannot be utilized for payment of Tax Dues

18	Check whether the assessee has examined his tax liability under reverse charge and registration in respect for each service is taken, where the assessee is liable to pay tax.	
19	Check whether the calculations are in form as per Sr. No. 3 F (I) of old ST-3 for the period 1-10-2007 to 30-6-2012. and in form as per Part B of new ST-3 for the period 1-7-2012 to 31-12-2012.	
20	Check whether the assessee has mandatorily furnished a separate calculation sheet for each category of service rendered during the period 1 st October, 2007 to 31 st December, 2012.	
21	If the assessee has more than one premise from where he provides or receives taxable service, check whether the assessee has taken centralized registration or he goes for separate VCES for each premise.	
22	Check whether the appropriate authority has received the declaration in Form VCES-1 and issued an acknowledgement in Form VCES-2 within seven-working days.	
23	Check whether the assessee has discharged 50% of the amount declared as due in the declaration on or before 31 st December, 2013.	If the assessee has not discharged the same in the time prescribed, then he will not be eligible for the benefits of this scheme.
24	Check whether the assessee has discharged the balance of the amount on or before 30 th June, 2014.	If the assessee has not discharged the same in the time prescribed, then he will have to pay the same alongwith Interest u/s 75 of The Finance Act 1994.
25	Check whether the assessee has discharged the amount remaining unpaid as on 30 th June, 2014 between 1 st July, 2014 to 31 st December, 2014	In case of any dues beyond 31.12.2014, The Department may recover the same as per the process prescribed u/s 87 of The Finance Act 1994.

26	Check whether the assessee has furnished the proof of payments periodically along with the copy of acknowledgement (Form VCES-2).	
27	Check whether the assessee has furnished the details of payment dues in full and the appropriate authority has issued an Acknowledgement of Discharge in Form VCES-3 within seven days.	
28	Check whether any amount of tax is remaining unpaid pertaining to January, 2013 or subsequent periods.	Not eligible for benefit under VCES. Pay alongwith Interest as per Normal Service Tax Rules
29	Check that in the return for the period October 2012 to March 2013, the assessee writes NIL figures for the period October 2012 to December 2012 in the return in case VCES scheme is opted for upto the period ending December 2012.	
30	Check the feasibility of raising a "Supplementary Invoice" for the Tax Dues paid under VCES.	The amount paid under VCES would be eligible as CENVAT credit to the recipient of service under a supplementary invoice

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							
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Instructions:

- 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).
- This Form shall be submitted to the Central Excise Officer notified as designated authority under section 105(c) of the Act.
- 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.
- 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.
- Calculation sheet showing the tax dues calculation may please be enclosed with this declaration.
- Obtain an acknowledgment from the designated authority in form VCES -2.
- The declarant may approach the designated authority for any clarification.

FORM VCES-2

[Acknowledgment of declaration issued under sub-section (2) of section 107 of the Act].
[See rule 5]

No.								
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Receipt of a declaration filed under sub-section (1) of section 107 of the Act, as per the details below, is acknowledged.

[illegible]

2.	Name of the declarant	

3	Address of the declarant																								

4	STC No.	
---	----------------	--

5	Tax dues declared								
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6	Schedule for payment of tax dues
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A	Minimum amount to be paid on 1st month 21st Dec 2010 (50%)								
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B	Remaining tax dues to be paid on or before the 30 th June, 2014 [Amount at S. No. 5(-)Amount at S. No. 6A]							

C	Any tax dues remaining unpaid as on 1 st day of July, 2014 shall be paid before the 31 st December, 2014 along with interest, as prescribed under section 75 or as the case may be, section 73B of the Finance Act, 1994 for the period of delay starting from the 1 st day of July, 2014.
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Signature, name and seal of designated authority

Place:

Date:

Instructions:

1. This acknowledgment has been issued on the basis of declaration furnished by the declarant and it does not certify the correctness of the declaration made. This declaration does not certify payment of any tax dues.
2. Certificate of discharge in form VCES -3 shall be issued only upon full payment of tax dues along with interest if any, as per the details at S. No. 6 above.
3. If any amount declared as tax dues under the Scheme remain unpaid as on 1.1.2015, the same shall be recoverable under section 87 of the Finance Act, 1994.
4. For any clarification, the declarant may get in touch with the designated authority.

VCES

FORM VCES-3

ACKNOWLEDGEMENT OF DISCHARGE

[Issued under sub-section (7) of section 107 of the Act]

[See rule 7]

No.

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This acknowledgment of discharge has been issued under sub-section (7) of section 107 of the Act, to ACKNOWLEDGE that the tax dues declared under sub-section (1) of section 107 of the Act have been paid, in respect of declaration so made as per the following details.

1	Declaration No.	<table border="1" style="display: inline-table;"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>									Date	<table border="1" style="display: inline-table;"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>																															
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6	Payment of tax dues																																										
A	Tax dues paid on or before 31.12.2013	<table border="1" style="display: inline-table;"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>																																									
B	Tax dues paid after 31.12.2013 but on or before 30.6.2014	<table border="1" style="display: inline-table;"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>																																									
C	Tax dues paid after 30.6.2014 but on or before 31.12.2014	<table border="1" style="display: inline-table;"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>																																									
D	Interest paid under section 107 (4) on amount mentioned at '6C'	<table border="1" style="display: inline-table;"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>																																									
E	Total amount paid (A+B+C+D)	<table border="1" style="display: inline-table;"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>																																									
7	Details of challan(s)																																										

Challan No(s)(CIN)

Amount

Place: Signature, name and seal of designated authority
Date:

VCES

3F Value of taxable service, service tax payable and gross amount charged

	Month/Quarter* *	Apr./ Oct.	May/ Nov.	June/ Dec.	July/ Jan.	Aug./ Feb.	Sept./ Mar.
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
(l) Service tax payable							
(a)							
	(i) against service provided						
	(ii) in advance for service to be provided						
(b)	Money equivalent of considerations received/(paid [#]) in a form other than money						
(c) Value on which service tax is exempt/not payable							
(i)	Amount received against export of service ^A						
	(ii) Amount received/(paid [#]) towards exempted service (other than export of service, i.e., (i) above)						
	(iii) Amount received as/(paid to [#]) pure agent (Please see instructions)						
(d)	Abatement amount claimed						
(e)	Taxable value =(a+b) minus (c+d)						
(f) Service tax rate wise break-up of taxable value =(e)							
(i)	Value on which service tax is payable @ 5%						
	(ii) Value on which service tax is payable @ 8%						
	(iii) Value on which service tax is payable @ 10%						
	(iv) Value on which service tax is payable @ 12%						
	(v) other rate, if any, (please specify)						
(g)	Service tax payable= (5% of f(i)+ 8% of f(ii)+ 10% of f(iii) +12% of f(iv)+ f(v)X other rate)						
(h)	Education cess payable (@ 2% of						

	Service tax)						
(i)	Secondary and higher education cess payable (@ 1% of Service Tax) <i>(Please see instructions)</i>						
** Assessee liable to pay service tax on quarterly basis may furnish details quarter wise i.e. Apr-Jun, Jul-Sep, Oct-Dec, Jan-Mar							
# Applicable when service receiver is liable to pay service tax; ^ Not applicable to service receiver liable to pay service tax							

VCES

CALCULATION SHEET

3F VALUE OF TAXABLE SERVICE, SERVICE TAX PAYABLE AND GROSS AMOUNT CHARGED

FOR SERVICE PROVIDER

S.No		Apr./ Oct.	May/ Nov.	June/ Dec.	July/ Jan.	Aug./ Feb.	Sept./ Mar.	Total		
(I) SERVICE TAX PAYABLE										
(a)	Gross amount received in money									
(i)	Against service provided:									
(ii)	In advance for service to be provided:									
(b)	Money equivalent of considerations received in form other than money:									
(c)	Value on which service tax is exempt/not payable									
(i)	Amount received against export of service:									
(ii)	export of service):									
(iii)	Amount received as pure agent:									
(d)	Abatement amount claimed:									
(e)	Taxable value =(a+b) - (c+d):									
(f)	Service tax rate wise break-up of taxable value =(e)									
	<u>Taxable Rate Tax Rate %</u>	<u>Taxable Rate Education Cess Rate %</u>	<u>Taxable Rate SHEC Rate %</u>	<u>Taxable Value Apr./ Oct.</u>	<u>Taxabl e Value May/ Nov.</u>	<u>Taxable Value June/ Dec.</u>	<u>Taxable Value July/ Jan.</u>	<u>Taxable Value Aug./ Feb.</u>	<u>Taxable Value Sept./ Mar.</u>	<u>Taxable Value Total</u>
(g)	Service tax payable:									
(h)	Education cess payable:									
(i)	Secondary and higher education cess payable:									

FOR SERVICE RECEPIENT

S.No		Apr./ Oct.	May/ Nov.	June/ Dec.	July/ Jan.	Aug./ Feb.	Sept./ Mar.	Total
(I) SERVICE TAX PAYABLE								
(a)	Gross amount received in money							
(i)	Against service received:							
(ii)	In advance for service to be received:							
(b)	Money equivalent of considerations paid in form other than money:							
(c)	Value on which service tax is exempt/not payable							
(i)	Amount paid towards exempted service (other than export of service):							
(ii)	Amount received as pure agent:							
(d)	Abatement amount claimed:							

(e)	Taxable value =(a+b) - (c+d):									
(f)	Service tax rate wise break-up of taxable value =(e)									
	<u>Taxable Rate</u> Tax Rate %	<u>Taxable Rate</u> Education Cess Rate %	<u>Taxable Rate</u> SHEC Rate %	<u>Taxable Value</u> Apr./ Oct.	<u>Taxable Value</u> May/ Nov.	<u>Taxable Value</u> June/ Dec.	<u>Taxable Value</u> July/ Jan.	<u>Taxable Value</u> Aug./ Feb.	<u>Taxable Value</u> Sept./ Mar.	<u>Taxable Value</u> Total
(g)	Service tax payable:									
(h)	Education cess payable:									
(i)	Secondary and higher education cess payable:									

INSTRUCTIONS

AS PER NOTIFICATION NO. 48/2011-SERVICE TAX DATED 19.10.2011, FOR THE PURPOSE OF THIS FORM, THE WORDS 'RECEIVED/PAID' USED HEREIN SHALL BE CONSTRUED AS 'RECEIVED OR RECEIVABLE/ PAID OR PAYABLE', AS THE CASE MAY BE, IN TERMS OF THE POINT OF TAXATION RULES, 2011.

VCES

CALCULATION SHEET FROM THE PERIOD 1ST JULY, 2012 TO 31ST DECEMBER, 2012

PART B: Value of taxable service, service tax payable and gross amount charged

B1 FOR SERVICE PROVIDER					
	Month	Jul./Oct.	Aug./Nov.	Sep./Dec.	Total
	(1)	(2)	(3)	(4)	(5)
B1.1	Gross amount (excluding amounts received in advance, amount taxable on receipt basis, for which bills/invoices/challans or any other document may not have been issued) for which bills/invoices/challans or any other document are issued relating to service provided or to be provided (including export of service and exempted service)				
B1.2	Amounts received in advance for services for which bills/invoices/challans or any other document have not been issued				
B1.3	Amount taxable on receipt basis under third proviso to Rule 6(1) of Service Tax Rules, 1994 for which bills/invoices/challans or any other document have not been issued				
B1.4	Amount taxable for service provided for which bills/invoices/challans or any other document have not been issued				
B1.5	Money equivalent of other considerations charged, if any, in a form other than money				
B1.6	Amount on which service tax is payable under partial reverse charge				

B1.7	Gross Total Amount B1.7= (B1.1+B1.2+B1.3+B1.4+B1.5+B1.6)					
B1.8	Amount charged against export of service provided or to be provided					
B1.9	Amount charged for exempted service provided or to be provided (other than export of service given at B1.8 above)					
B1.10	Amount charged as pure agent					
B1.11	Amount claimed abatement					
B1.12	Any other amount claimed as deduction please specify					
B1.13	Total Amount Claimed As Deduction B1.13= (B1.8+B1.9+B1.10+B1.11+B1.12)					
B1.14	NET TAXABLE VALUE (B1.7-B1.13)					
B1.15	Service tax rate wise break-up of NET TAXABLE VALUE (B1.14) =Advalorem Rate					
	<u>Taxable Rate</u> Tax Rate%	<u>Taxable Rate</u> Education Cess Rate%	<u>Taxable Rate</u> SHEC Rate%	<u>Taxable Value</u> Jul./Oct.	<u>Taxable Value</u> Aug./Nov.	<u>Taxable Value</u> Sep./Dec.
B1.16	Specific Rate (applicable as per Rule 6 of ST Rules)					
	<u>Taxable Rate</u> Tax Rate%	<u>Taxable Rate</u> Education Cess Rate%	<u>Taxable Rate</u> SHEC Rate%	<u>Taxable Value</u> Jul./Oct.	<u>Taxable Value</u> Aug./Nov.	<u>Taxable Value</u> Sep./Dec.
B1.17	Service tax payable					
B1.18	Less: R&D Cess Payable					
B1.19	Net Service Tax Payable					
B1.20	Education cess payable					

B1.21	Secondary and higher education cess payable				
B2	FOR SERVICE RECEIVER				
	Month	Jul./Oct.	Aug./Nov.	Sep./Dec.	Total
	(1)	(2)	(3)	(4)	(5)
B2.1	Gross amount (excluding amounts paid in advance, amount taxable on payment basis, for which bills/invoices/challans or any other document may not have been issued) for which bills/invoices/challans or any other document are issued relating to service received or to be received (including export of service and exempted service)				
B2.2	Amounts paid in advance for services for which bills/invoices/challans or any other document have not been issued				
B2.3	Amount taxable on receipt basis under third proviso to Rule 6(1) of Service Tax Rules, 1994 for which bills/invoices/challans or any other document have not been issued				
B2.4	Money equivalent of other considerations charged, if any, in a form other than money				
B2.5	Amount paid for services received from Non-Taxable Territory- Imports				
B2.6	Amount paid for services received from Non-Taxable Territory- Other than Imports				
B2.7	Amount on which Service Tax is payable under partial reverse				

	charge					
B2.8	Gross Total Amount B1.7= (B1.1+B1.2+B1.3+B1.4+B1.5+B1.6)					
B2.9	Amount paid for exempted service received or to be received					
B2.10	Amount charged as pure agent					
B2.11	Amount claimed as abatement					
B2.12	Any other amount claimed as deduction, please specify					
B2.13	Total Amount Claimed As Deduction B1.13= (B1.8+B1.9+B1.10+B1.11+B1.12)					
B2.14	NET TAXABLE VALUE (B2.7-B2.13)					
B2.15	Service tax rate wise break-up of NET TAXABLE VALUE (B1.14) =Advalorem Rate					
	<u>Taxable Rate</u> Tax Rate%	<u>Taxable Rate</u> Education Cess Rate%	<u>Taxable Rate</u> SHEC Rate%	<u>Taxable Value</u> Jul./Oct.	<u>Taxable Value</u> Aug./Nov.	<u>Taxable Value</u> Sep./Dec.
B2.16	Specific Rate (applicable as per Rule 6 of ST Rules)					
	<u>Taxable Rate</u> Tax Rate%	<u>Taxable Rate</u> Education Cess Rate%	<u>Taxable Rate</u> SHEC Rate%	<u>Taxable Value</u> Jul./Oct.	<u>Taxable Value</u> Aug./Nov.	<u>Taxable Value</u> Sep./Dec.
B2.17	Service tax payable					
B2.18	Less: R&D Cess Payable					
B2.19	Net Service Tax Payable					
B2.20	Education cess payable					
B2.21	Secondary and higher education cess payable					

Budget 2013-2014

Speech of
P. Chidambaram

Minister of Finance

February 28, 2013

Excerpts:

PART B VIII. TAX PROPOSALS

183. While there are nearly 17,00,000 registered assesseees 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 of the scheme on condition that he files a truthful declaration of service tax dues since 1.10.2007 and makes the payment in one or two instalments before prescribed dates. In such a case, interest, penalty and other consequences will be waived. I hope to entice a large number of assesseees to return to the tax fold. I also hope to collect a reasonable sum of money.

THE FINANCE ACT, 2013 (17 of 2013)

CHAPTER VI

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 thereunder shall have the meanings respectively assigned to them in the Chapter or the rules made thereunder.

Person 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 thereunder; 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 proceeding.

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.

Tax dues declared but not paid.

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 doubts.

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.

Power to remove difficulties.

113. (1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Scheme come into force.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power to make rules.

114. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the form and the manner in which a declaration may be made under sub-section (1) of section 107;

(b) the form and the manner of acknowledging the declaration under sub-section (2) of section 107;

(c) the form and the manner of issuing the acknowledgement of discharge of tax dues under sub-section (7) of section 107;

(d) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(3) The Central Government shall cause every rule made under this Scheme to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Service Tax Voluntary Compliance Encouragement Rules, 2013

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification
No.10/2013 - Service Tax

New Delhi, the 13th May, 2013

G.S.R.....(E).- 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.

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

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2 Address of the declarant

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

3 Telephone No.

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

4 E-mail id

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

5	Service Tax Code (STC No.)	
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6	Details of tax dues*
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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.

--	--	--	--	--	--	--	--

Date

--	--	--	--	--	--	--	--

(To be assigned by the department)

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.

FORM VCES-2

[Acknowledgment of declaration issued under sub-section (2) of section 107 of the Act].

[See rule 5]

No.

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Receipt of a declaration filed under sub-section (1) of section 107 of the Act, as per the details below, is acknowledged.

1	Declaration No.	<input type="text"/>	Date	<input type="text"/>
2.	Name of the declarant	<input type="text"/>		
		<input type="text"/>		
3	Address of the declarant	<input type="text"/>		
		<input type="text"/>		
		<input type="text"/>		
4	STC No.	<input type="text"/>		
5	Tax dues declared	<input type="text"/>		
6	Schedule for payment of tax dues	<input type="text"/>		
A	Minimum amount to be paid on or before the 31 st Dec, 2013 (50% of the tax dues)	<input type="text"/>		
B	Remaining tax dues to be paid on or before the 30 th June, 2014 [Amount at S. No. 5(-)Amount at S. No. 6A]	<input type="text"/>		
C	Any tax dues remaining unpaid as on 1 st day of July,2014 shall be paid before the 31 st December,2014 along with interest, as prescribed under section 75 or as the case may be, section 73B of the Finance Act, 1994 for the period of delay starting from the 1 st day of July,2014.			

Date:

4	STC No.	
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5	Tax dues declared under the Scheme	
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6	Payment of tax dues
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A	Tax dues paid on or before 31.12.2013	
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B	Tax dues paid after 31.12.2013 but on or before 30.6.2014	
---	---	--

C	Tax dues paid after 30.6.2014 but on or before 31.12.2014	
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D	Interest paid under section 107 (4) on amount mentioned at '6C'	
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E	Total amount paid (A+B+C+D)	
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7	Details of challan(s)
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Challan No(s)(CIN)

Amount

Signature, name and seal of designated authority
Place: Date:

[F.No. B1/19/2013-TRU]

(Raj Kumar Digvijay)
Under Secretary to the Government of India

F. No. B1/19/2013-TRU
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
Tax Research Unit

New Delhi, dated the 13th May, 2013

To,
Chief Commissioners of Central Excise and Customs (All),
Director General (Service Tax), Director General (Systems),
Director General (Central Excise Intelligence), Director General (Audit),
Commissioners of Service Tax (All), Commissioners of Central Excise (All), Commissioners of
Central Excise and Customs (All)

Madam/Sir,

**Sub: The Service Tax Voluntary Compliance Encouragement Scheme-clarifications
regarding.**

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 has been issued to bring into effect the Scheme. Some references have been received seeking clarification as regards the scope and applicability of the Scheme.

2. The issues have been examined 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 <u>Finance Act, 1994</u> and <u>Rules</u> 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 <u>section 106 (1)</u> of the <u>Finance Act, 2013</u> and second proviso thereto, the tax dues in respect of which any show cause notice or order of determination under <u>section 72</u> , <u>section 73</u> or <u>section 73A</u> 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.	<p>What is the scope of section 106 (2)(a)(iii)?</p> <p>Whether a communication from department seeking general information from the declarant would lead to invoking of <u>section 106 (2) (a)(iii)</u> for rejection of declaration under the said section?</p>	<p><u>Section 106 (2) (a)(iii)</u> of the <u>Finance Act, 2013</u> 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.</p> <p>The relevant provisions, beside <u>section 14</u> of the <u>Central Excise Act</u> as made applicable to service tax vide <u>section 83</u> of</p>

		<p>the <u>Finance Act, 1994</u>, 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,-</p> <p>(i) <u>Section 72</u> of the <u>Act</u> 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.</p> <p>(ii) <u>Rule 5A</u> of the <u>Service Tax Rules, 1994</u> prescribes for requisition of specified documents by an officer authorised by the Commissioner for the purposes specified therein.</p> <p>The provision of <u>section 106 (2)(a)(iii)</u> 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.</p> <p>No other communication from the department would attract the provisions of <u>section 106 (2)(a)(iii)</u> and thus would not lead to rejection of the declaration.</p>
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3. Trade Notice/Public Notice may be issued to the field formations and tax payers. Please acknowledge receipt of this Circular. Hindi version follows.

Yours sincerely,

(S. Jayaprahasam)
Technical Officer, TRU
Tel: 011-2309 2037

VCES

F. No. B1/19/2013-TRU (Pt)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
Tax Research Unit

New Delhi, dated the 8th August, 2013

To,

Chief Commissioners of Central Excise and Customs (All),

Director General (Service Tax), Director General (Systems),

Director General (Central Excise Intelligence), Director General (Audit),

Commissioners of Service Tax (All), Commissioners of Central Excise (All), Commissioners of Central Excise and Customs (All)

Madam/Sir,

Subject: The Service Tax Voluntary Compliance Encouragement Scheme - clarifications regarding.

The Service Tax Voluntary Compliance Encouragement Scheme (VCES) has come into effect from 10.5.2013. Some of the issues raised with reference to the Scheme have been clarified by the Board vide circular No. 169/4/2013-ST, dated 13.5.2013. Subsequently, references have been received by the Board seeking further clarifications as regards the scope and applicability of the Scheme.

2. The issues have been examined and clarifications thereto are as follows:

S No.	Issues	Clarification
1	Whether the communications, wherein department has sought	Attention is invited to clarification issued at S. No. 4 of the circular No.

	<p>information of roving nature from potential taxpayer regarding their business activities without seeking any documents from such person or calling for his presence, while quoting the authority of section 14 of the Central Excise Act, 1944, would attract the provision of section 106 (2) (a)?</p>	<p>169/4/2013-ST, dated 13.5.2013, as regards the scope of section 106 (2) (a) of the Finance Act, 2013, wherein it has been clarified that the provision of section 106 (2)(a)(iii) shall be attracted only in such cases where accounts, documents or other evidence are requisitioned by the authorized officer from the declarant under the authority of a statutory provision.</p> <p>A communication of the nature as mentioned in the previous column would not attract the provision of section 106 (2)(a) even though the authority of section 14 of the Central Excise Act may have been quoted therein.</p>
2	<p>An assessee has two units at two different locations, say Mumbai and Ahmedabad. Both are separately registered. The Mumbai unit has received a Show Cause Notice for non-payment of tax on a revenue stream but the Ahmedabad unit has not. Whether the Ahmedabad unit is eligible for VCES?</p>	<p>Two separate service tax registrations are two distinct assesseees for the purposes of service tax levy. Therefore, eligibility for availing of the Scheme is to be determined accordingly. The unit that has not been issued a show cause notice shall be eligible to make a declaration under the Scheme.</p>
3	<p>Whether a declaration can be made under the Scheme in respect of CENVAT credit wrongly utilized for payment of service tax?</p>	<p>Any service tax that has been paid utilizing the irregular credit, amounts to non-payment of service tax. Therefore such service tax amount is covered under the definition of "tax dues".</p>
4	<p>Whether a party, against whom</p>	<p>Yes. There is no bar from filing of</p>

	an inquiry, investigation or audit has been initiated after 1.3.2013 (the cutoff date) can make a declaration under the Scheme?	declaration in such cases.
5	There was a default and a Show Cause Notice was issued for the period prior to the period covered by the Scheme, i.e. before Oct 2007. Whether declaration can be filed for default on the same issue for the subsequent period?	In the context of the Scheme, the relevant period is from Oct 2007 to Dec 2012. Therefore, the 2 nd proviso to section 106 (1) shall be attracted only in such cases where a show cause notice or order of determination has been issued for the period from Oct 2007 to Dec 2012. Accordingly, issuance of a show cause notice or order of determination for any period prior to Oct 2007, on an issue, would not make a person ineligible to make a declaration under the Scheme on the same issue for the period covered by the Scheme. Therefore, declaration can be made under VCES.
6	In a case where the assessee has been audited and an audit para has been issued, whether the assessee can declare liability on an issue which is not a part of the audit para, under the VCES 2013?	Yes, declarant can declare the "tax dues" concerning an issue which is not a part of the audit para.
7	Whether a person, who has paid service tax for a particular period but failed to file return, can take the benefit of VCES Scheme so as to avoid payment of penalty for non- filing of return?	Under VCES a declaration can be made only in respect of "tax dues". A case where no tax is pending, but return has not been filed, does not come under the ambit of the Scheme. However, rule 7C of the Service Tax Rules provides for waiver of penalty in deserving cases where return has not been filed and, in

		such cases, the assessee may seek relief under rule 7C.
8	A person has made part payment of his 'tax dues' on any issue before the scheme was notified and makes the declaration under VCES for the remaining part of the tax dues. Will he be entitled to the benefit of non-payment of interest/penalty on the tax dues paid by him outside the VCES, i.e., (amount paid prior to VCES)?	<p>No. The immunity from interest and penalty is only for "tax dues" declared under VCES.</p> <p>If any "tax dues" have been paid prior to the enactment of the scheme, any liability of interest or penalty thereon shall be adjudicated as per the provisions of Chapter V of the Finance Act, 1994 and paid accordingly.</p>
9	Whether an assessee, who, during a part of the period covered by the Scheme, is in dispute on an issue with the department under an erstwhile provision of law, can declare his liability under the amended provisions, while continuing to litigate the outstanding liability under the erstwhile provision on the issue?	In terms of the second proviso to section 106 (1), where a notice or order of determination has been issued to a person in respect of any issue, no declaration shall be made by such person in respect of "tax dues" on the same issue for subsequent period. Therefore, if an issue is being litigated for a part of the period covered by the Scheme, i.e., Oct, 2007 to Dec 2012, no declaration can be filed under VCES in terms of the said proviso on the same issue for the subsequent period.
10	Whether upon filing a declaration a declarant realizes that the declaration filed by him was incorrect by mistake? Can he file an amended declaration?	The declarant is expected to declare his tax dues correctly. In case the mistake is discovered suo-moto by the declarant himself, he may approach the designated authority, who, after taking into account the overall facts of the case may allow amendments to be made in the declaration, provided that the

		amended declaration is furnished by declarant before the cutoff date for filing of declaration, i.e., 31.12.2013.
11	What is the consequence if the designated authority does not issue an acknowledgement within seven working days of filing of declaration? Whether the declarant can start making payment of the tax dues even if acknowledgement is not issued?	Department would ensure that the acknowledgement is issued in seven working days from the date of filing of the declaration. It may however be noted that payment of tax dues under the Scheme is not linked to the issuance of an acknowledgement. The declarant can pay tax dues even before the acknowledgement is issued by the department.
12	Whether declarant will be given an opportunity to be heard and explain his cases before the rejection of a declaration under section 106(2) by the designated authority?	<p>Yes. In terms of section 106 (2) of the Finance Act, 2013, the designated authority shall, by an order, and for reasons to be recorded in writing, reject a declaration if any inquiry/investigation or audit was pending against the declarant as on the cutoff date, i.e., 1.3.2013. An order under this section shall be passed following the principles of natural justice.</p> <p>To allay any apprehension of undue delays and uncertainty, it is clarified that the designated authority, if he has reasons to believe that the declaration is covered by section 106 (2), shall give a notice of intention to reject the declaration within 30 days of the date of filing of the declaration stating the reasons for the intention to reject the declaration. For declarations already filed, the said period of 30 days would apply from the date of this circular.</p>

		The declarant shall be given an opportunity to be heard before any order is passed by the designated authority.
13	What is the appeal mechanism against the order of the designated authority whereby he rejects the declaration under section 106 (2) of the Finance Act, 2013?	The Scheme does not have a statutory provision for filing of appeal against the order for rejection of declaration under section 106 (2) by the designated authority.
14	A declarant pays a certain amount under the Scheme and subsequently his declaration is rejected. Would the amount so paid by him be adjusted against his liability that may be determined by the department?	The amount so paid can be adjusted against the liability that is determined by the department.
15	Section 111 prescribes that where the Commissioner of Central Excise has reasons to believe that the declaration made by the declarant was 'substantially false', he may serve a notice on the declarant in respect of such declaration. However, what constitutes a 'substantially false' declaration has not been specified.	<p>The Commissioner would, in the overall facts of the case, taking into account the reasons he has to believe, take a judicious view as to whether a declaration is 'substantially false'. It is not feasible to define the term "substantially false" in precise terms. The proceeding under section 111 would be initiated in accordance with the principles of natural justice.</p> <p>To illustrate, a declarant has declared his "tax dues" as Rs. 25 lakh. However, Commissioner has specific information that declaration has been made only for part liability, and the actual "tax dues" are Rs. 50 lakh. This declaration would fall in the category of "substantially</p>

		<p>false".</p> <p>This example is only illustrative.</p>
16	What is the consequence if a declarant fails to pay at least 50% of declared amount of tax dues by the 31 st Dec 2013?	<p>One of the conditions of the Scheme [section 107 (3)] is that the declarant shall pay at least an amount equal to 50% of the declared tax dues under the Scheme, on or before the 31.12.2013. Therefore, if the declarant fails to pay at least 50% of the declared tax dues by 31st Dec, 2013, he would not be eligible to avail of the benefit of the scheme.</p>
17	Whether the CENVAT credit is admissible on the inputs/input services used for provision of output service in respect of which declaration has been made under VCES for payment of any tax liability outside the VCES?	<p>The VCES Rules 2013 prescribe that CENVAT credit cannot be utilized for payment of "tax dues" under the Scheme. Accordingly the "tax dues" under the Scheme shall be paid in cash.</p> <p>The admissibility of CENVAT credit on any inputs and input services used for provision of output service in respect of which declaration has been made shall continue to be governed by the provisions of the Cenvat Credit Rules, 2004.</p>
18	<p>(a) Whether the tax dues amount paid under VCES would be eligible as CENVAT credit to the recipient of service under a supplementary invoice?</p> <p>(b) Whether CENVAT credit would be admissible to the person who pays tax dues under VCES as service recipient under</p>	<p>Rule 6(2) of the Service Tax Voluntary Compliance Encouragement Rules, 2013, prescribes that CENVAT credit cannot be utilized for payment of "tax dues" under the Scheme. Except this condition, all issues relating to admissibility of CENVAT credit are to be determined in terms of the provisions of the Cenvat Credit Rules.</p> <p>As regards admissibility of CENVAT credit in situations covered under part</p>

	reverse charge mechanism?	(a) and (b), attention is invited to rule 9(1)(bb) and 9(1)(e) respectively of the Cenvat Credit Rules.
19	<p>In terms of section 106 (2)(b), if a declaration made by a person against whom an audit has been initiated and where such audit is pending, then the designated authority shall by an order and for reasons to be recorded in writing, reject such declaration. As the audit process may involve several stages, it may be indicated as to what event would constitute,-</p> <p>(i) initiation of audit; and</p> <p>(ii) culmination of audit.</p>	<p>Initiation of audit: For the purposes of VCES, the date of the visit of auditors to the unit of the taxpayer would be taken as the date of initiation of audit. A register is maintained of all visits for audit purposes.</p> <p>Culmination of audit: The audit process may culminate in any of the following manner.-</p> <p>(i) Closure of audit file if no discrepancy is found in audit;</p> <p>(ii) Closure of audit para by the Monitoring Committee Meeting (MCM);</p> <p>(iii) Approval of audit para by MCM and payment of amount involved therein by the party in terms of the provisions of the Finance Act, 1994;</p> <p>(iv) Approval of audit para by MCM, and issuance of SCN, if party does not agree to the para so raised.</p> <p>The audit culminates at a point when the audit paras raised are settled in any manner as stated above.</p> <p>The pendency of audit as on 1.3.2013 means an audit that has been initiated before 1.3.2013 but has not culminated as on 1.3.2013.</p>

3. Trade Notice/Public Notice may be issued to the field formations and tax payers.

Yours sincerely,

(S. Jayaprahasam)
Technical Officer, TRU
Tel: 011-2309 2037

VCES



SERVICE TAX
Voluntary Compliance Encouragement Scheme (VCES), 2013
Frequently Asked Questions

VCES

Central Board of Excise & Customs
Department of Revenue
Ministry of Finance
Government of India

Issued by Central Board of Excise & Customs

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For complete information please refer to the Finance Act, 1994, rules made thereunder and notifications and circulars. For further information you may contact jurisdictional Service Tax office.

VCES

FOREWORD

The Service Tax Voluntary Compliance Encouragement Scheme (VCES) has been announced in this year's budget. It has come into effect from 10.5.2013. The objective of this Scheme is to encourage disclosure of tax dues and compliance of service tax law by the persons who have not paid service tax dues for the period from Oct. 2007 to Dec. 2012, either on account of ignorance of law or otherwise. VCES is the opportunity for such persons to pay the "tax dues" and come clean. On payment of "tax dues" relating to the period under VCES, there will be a complete waiver of interest, penalty and other consequences.

During the course of interaction with the trade associations on the VCES, certain issues have been raised for clarification and apprehensions have been expressed regarding certain provisions of the Scheme. These issues have been examined and the response of the department has been compiled in the form of Frequently Asked Questions (FAQ's) in this booklet. For ease of reference, the statutory provisions and the ST VCES Rules containing the VCES forms are also included in the booklet.

It is our expectation that the stakeholders would herein get the answers to their questions on the issues concerning VCES.

(Sheila Sangwan)
8th August, 2013

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S. No.	Topic
1	FAQs - Frequently Asked Questions on Service Tax Voluntary Compliance Encouragement Scheme (VCES), 2013
2	Statutory Provisions - Chapter VI of the Finance Act, 2013 (Service Tax Voluntary Compliance Encouragement Scheme, 2013)
3	ST VCES Rules, 2013 Form VCES - 1 Form VCES - 2 Form VCES - 3

FAQs
FREQUENTLY ASKED QUESTIONS ON
SERVICE TAX
VOLUNTARY COMPLIANCE ENCOURAGEMENT SCHEME (VCES), 2013

Q1. 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.

Q2. 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.

Q3. 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.

Q4. 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.

Q5. Whether the communications, wherein department has sought information of roving nature from potential taxpayer regarding their business activities without seeking any documents from such person or calling for his presence, while quoting the authority of section 14 of the Central Excise Act, 1944, would attract the provision of section 106 (2) (a)?

Attention is invited to clarification issued at S. No. 4 of the circular No. 169/4/2013-ST, dated 13.5.2013, as regards the scope of section 106 (2) (a) of the Finance Act, 2013, wherein it has been clarified that the provision of section 106 (2)(a)(iii) shall be attracted only in such cases where accounts, documents or other evidence are requisitioned by the authorized officer from the declarant under the authority of a statutory provision.

A communication of the nature as mentioned in the question would not attract the provision of section 106 (2)(a) even though the authority of section 14 of the Central Excise Act may have been quoted therein.

Q6. An assessee has two units at two different locations, say Mumbai and Ahmedabad. Both are separately registered. The Mumbai unit has received a show cause notice for non-payment of tax on a revenue stream but the Ahmedabad unit has not. Whether the Ahmedabad unit is eligible for VCES?

Two separate service tax registrations are two distinct assesseees for the purposes of service tax levy. Therefore, eligibility for availing of the Scheme is to be determined accordingly. The unit that has not been issued a show cause notice shall be eligible to make a declaration under the Scheme.

Q7. Whether a declaration can be made under the Scheme in respect of cenvat credit wrongly utilized for payment of service tax?

Any service tax that has been paid utilizing the irregular credit, amounts to non-payment of service tax. Therefore such service tax amount is covered under the definition of "tax dues".

Q8. Whether a party, against whom an inquiry, investigation or audit has been initiated after 1.3.2013 (the cutoff date) can make a declaration under the Scheme?

Yes. There is no bar from filing of declaration in such cases.

Q9. There was a default and a Show Cause Notice was issued for the period prior to the period covered by the Scheme, i.e. before Oct 2007. Whether declaration can be filed for default on the same issue for the subsequent period?

In the context of the Scheme, the relevant period is from Oct 2007 to Dec 2012. Therefore, the 2nd proviso to section 106 (1) shall be attracted only in such cases where a show cause notice or order of determination has been issued for the period from Oct 2007 to Dec 2012. Accordingly, issuance of a show cause notice or order of determination for any period prior to Oct 2007, on an issue, would not make a person ineligible to make a declaration under the Scheme on the same issue for the period covered by the Scheme. Therefore, declaration can be made under VCES.

Q10. In a case where the assessee has been audited and an audit para has been issued, whether the assessee can declare liability on an issue which is not a part of the audit para, under the VCES 2013?

Yes, declarant can declare the "tax dues" concerning an issue which is not a part of the audit para.

Q11. Whether a person, who has paid service tax for a particular period but failed to file return, can take the benefit of VCES Scheme so as to avoid payment of penalty for non- filing of return?

Under VCES a declaration can be made only in respect of "tax dues". A case where no tax is pending, but return has not been filed, does not come under the ambit of the Scheme. However, rule 7C of the Service Tax Rules provides for waiver of penalty in deserving cases where return has not been filed and, in such cases, the assessee may seek relief under rule 7C.

Q12. A person has made part payment of his 'tax dues' on any issue before the scheme was notified and makes the declaration under VCES for the remaining part of the tax dues. Will he be entitled to the benefit of nonpayment of interest/penalty on the tax dues paid by him outside the VCES, i.e., (amount paid prior to VCES)?

No. The immunity from interest and penalty is only for "tax dues" declared under VCES.

If any "tax dues" have been paid prior to the enactment of the scheme, any liability of interest or penalty thereon shall be adjudicated as per the provisions of Chapter V of the Finance Act, 1994 and paid accordingly.

Q13. Whether an assessee, who, during a part of the period covered by the Scheme, is in dispute on an issue with the department under an erstwhile provision of law, can declare his liability under the amended provisions, while continuing to litigate the outstanding liability under the erstwhile provision on the issue?

In terms of the second proviso to section 106 (1), where a notice or order of determination has been issued to a person in respect of any issue, no declaration shall be made by such person in respect of "tax dues" on the same issue for subsequent period. Therefore, if an issue is being litigated for a part of the period covered by the Scheme, i.e., Oct, 2007 to Dec 2012, no declaration can be filed under VCES in terms of the said proviso on the same issue for the subsequent period.

Q14. Whether upon filing a declaration a declarant realizes that the declaration filed by him was incorrect by mistake? Can he file an amended declaration?

The declarant is expected to declare his tax dues correctly. In case the mistake is discovered suo-moto by the declarant himself, he may approach the designated authority, who, after taking into account the overall facts of the case may allow amendments to be made in the declaration, provided that the amended declaration is furnished by declarant before the cut off date for filing of declaration, i.e., 31.12.2013.

Q15. What is the consequence if the designated authority does not issue an acknowledgement within seven working days of filing of declaration? Whether the declarant can start making payment of the tax dues even if acknowledgement is not issued?

Department would ensure that the acknowledgement is issued in seven working days from the date of filing of the declaration. It may however be noted that payment of tax dues under the Scheme is not linked to the issuance of an acknowledgement. The declarant can pay tax dues even before the acknowledgement is issued by the department.

Q16. Whether declarant will be given an opportunity to be heard and explain his cases before the rejection of a declaration under section 106(2) by the designated authority?

Yes. In terms of section 106 (2) of the Finance Act, 2013, the designated authority shall, by an order, and for reasons to be recorded in writing, reject a declaration if any inquiry/ investigation or audit was pending against the declarant as on the cutoff date, i.e., 1.3.2013. An order under this section shall be passed following the principles of natural justice.

To allay any apprehension of undue delays and uncertainty, it is clarified that the designated authority, if he has reasons to believe that the declaration is covered by section 106 (2), shall give a notice of intention to reject the declaration within 30 days of the date of filing of the declaration stating the reasons for the intention to reject the declaration. For declarations already filed, the said period of 30 days would apply from the date of the circular.

The declarant shall be given an opportunity to be heard before any order is passed by the designated authority.

Q17. What is the appeal mechanism against the order of the designated authority whereby he rejects the declaration under section 106 (2) of the Finance Act, 2013?

The Scheme does not have a statutory provision for filing of appeal against the order for rejection of declaration under section 106 (2) by the designated authority.

Q18. A declarant pays a certain amount under the Scheme and subsequently his declaration is rejected. Would the amount so paid by him be adjusted against his liability that may be determined by the department?

The amount so paid can be adjusted against the liability that is determined by the department.

Q19. Section 111 prescribes that where the Commissioner of Central Excise has reasons to believe that the declaration made by the declarant was 'substantially false', he may serve a notice on the declarant in respect of such declaration. However, what constitutes a 'substantially false' declaration has not been specified.

The Commissioner would, in the overall facts of the case, taking into account the reasons he has to believe, take a judicious view as to whether a declaration is 'substantially false'. It is not feasible to define the term "substantially false" in precise terms. The proceeding under section 111 would be initiated in accordance with the principles of natural justice.

To illustrate, a declarant has declared his "tax dues" as Rs 25 lakh. However, Commissioner has specific information that declaration has been made only for part liability, and the actual "tax dues" are Rs 50 lakh. This declaration would fall in the category of "substantially false". This example is only illustrative.

Q20. What is the consequence if a declarant fails to pay atleast 50% of declared amount of tax dues by the 31st Dec 2013?

One of the conditions of the Scheme [section 107 (3)] is that the declarant shall pay atleast an amount equal to 50% of the declared tax dues under the Scheme, on or before the 31.12.2013. Therefore, if the declarant fails to pay atleast 50% of the declared tax dues by 31st Dec, 2013, he would not be eligible to avail of the benefit of the scheme.

Q21. Whether the cenvat credit is admissible on the inputs/ input services used for provision of output service in respect of which declaration has been made under VCES for payment of any tax liability outside the VCES?

The VCES Rules 2013 prescribe that CENVAT Credit cannot be utilized for payment of tax dues under the Scheme. Accordingly the tax dues under the Scheme shall be paid in cash.

The admissibility of CENVAT Credit on any inputs and input services used for provision of output service in respect of which declaration has been made shall continue to be governed by the provisions of the Cenvat Credit Rules, 2004.

Q22. (a) Whether the tax dues amount paid under VCES would be eligible as CENVAT Credit to the recipient of service under a supplementary invoice?

(b) Whether CENVAT Credit would be admissible to the person who pays tax dues under VCES as service recipient under reverse charge mechanism?

Rule 6(2) of the Service Tax Voluntary Compliance Encouragement Rules, 2013, prescribes that CENVAT Credit cannot be utilized for payment of tax dues under the Scheme. Except this condition, all issues relating to admissibility of CENVAT Credit are to be determined in terms of the provisions of the Cenvat Credit Rules. As regards admissibility of CENVAT Credit in situations covered under part (a) and (b), attention is invited to rule 9(1)(bb) and 9(1)(e) respectively of the Cenvat Credit Rules.

Q23. In terms of section 106 (2)(b), if a declaration made by a person against whom an audit has been initiated and where such audit is pending, then the designated authority shall by an order and for reasons to be recorded in writing, reject such declaration. As the audit process may involve several stages, it may be indicated as to what event would constitute,-

- (i) initiation of audit; and**
- (ii) culmination of audit.**

Initiation of audit: For the purposes of VCES, the date of the visit of auditors to the unit of the taxpayer would be taken as the date of initiation of audit. A register is maintained of all visits for audit purposes.

Culmination of audit: The audit process may culminate in any of the following manner.-

- (i) Closure of audit file if no discrepancy is found in audit;
- (ii) Closure of audit para by the Monitoring Committee Meeting (MCM);
- (iii) Approval of audit para by MCM and payment of amount involved therein by the party in terms of the provisions of the Finance Act, 1994;
- (iv) Approval of audit para by MCM, and issuance of SCN, if party does not agree to the para so raised.

The audit culminates at a point when the audit paras raised are settled in any manner as stated above.

The pendency of audit as on 1.3.2013 means an audit that has been initiated before 1.3.2013 but has not culminated as on 1.3.2013.

[FAQs 1 to 4 are based on Circular No. 169/4/2013 - ST dated 13/5/2013, and FAQs 5 to 23 are based on Circular No. 170/5/2013 - ST dated 8/8/2013. These Circulars may be accessed at www.cbec.gov.in]