

Service Tax Voluntary Compliance Encouragement Scheme, 2013

CA Sagar Shah
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BUDGET SPEECH

“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.”

P. Chidambaram

The Hon’ble Finance Minister

Budget Speech 2013



ABOUT THE SCHEME

The Hon'ble Finance Minister, while making his speech during the Union Budget 2013-2014, had introduced Chapter VI of the Finance Act. The said Chapter in relation to the Service Tax Voluntary Compliance Encouragement Scheme, 2013 ('VCE Scheme').

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

- Non-payment of service tax liability
- Short-payment of service tax liability
- Non-filing of service tax returns
- Failure to obtain registration under Service Tax laws



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UNION BUDGET 2013-2014

The draft of the VCE Scheme was introduced by the Hon'ble Finance Minister in the Union Budget 2013-2014. The salient features of the VCE Scheme, when introduced in the Union Budget 2013-2014 were as follows:

- Period of Scheme: 1 October 2007 to 31 December 2012
- The following persons were eligible to rectify the defaults made by them:
 - i. Stop-filers of returns;
 - ii. Non-filers of returns
 - iii. Non-registrants
 - iv. Service providers who have not disclosed true liability in the returns filed during the period of scheme



UNION BUDGET 2013-2014

- Benefits extended by the VCE Scheme:
 - i. Waiver of interest leviable on delayed payment of liability
 - ii. Waiver of penalty leviable on non-payment of liability
 - iii. Payment of dues by way of installments as prescribed
 - iv. Immunity against initiation of proceedings including prosecution

- The main conditions of the VCE Scheme were as follows:
 - i. Any amount of tax remaining unpaid pertaining to January 2013 or subsequent periods shall not be eligible under this scheme
 - ii. Amount of tax paid under this scheme shall not be refundable under any circumstances
 - iii. If the amount of tax dues declared are not paid within the prescribed time limit, the same shall be recovered in accordance with the provisions of service tax laws.



VCE Scheme - May 2013

- The presidential assent was received on 10 May 2013.
- The CBEC, vide notification no. 10/2013 - ST dated 13 May 2013, notified the Service Tax Voluntary Compliance Encouragement Rules, 2013 (VCE Rules). The VCE Scheme was brought into effect upon enactment of the Finance Bill, 2013.
- The scheme provides amnesty for specified defaulters under the provisions of Chapter V of the Finance Act, 1994.
- Period covered by the VCE Scheme: 1 October 2007 to 31 December 2012

VCE Scheme - May 2013

- Eligibility for claiming amnesty under VCE Scheme:

Sr. 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	Yes
4.	Assessee failing to disclose true liability in service tax returns filed	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 or 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

VCE Scheme - May 2013

- Eligibility for claiming amnesty under VCE Scheme:

Sr. No.	Type of Assessee	Whether Eligible
8.	Assessee against whom inquiry / investigation has been initiated under and is pending as on 1 March 2013: 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 (Refer example below)	No

VCE Scheme - May 2013

- Eligibility for claiming amnesty under VCE Scheme:

Period of Default	Whether Notice / Order issued	Issue(s) contained in Notice / Order	Eligibility under VCE Scheme
1 October 2007 to 31 March 2008	Yes	Non-payment of tax dues (Example: Business Support Service)	No
1 April 2008 to 31 March 2009	No	Non-payment of tax dues (Example: Business Support Service)	No



VCE Scheme - May 2013

- Procedure for claiming amnesty under VCE Scheme:
 - i. Declaration to be filed in form VCES - 1 with the appropriate authority.
 - ii. Declaration to be accompanied by a sheet showing calculation of the amount declared as due.
 - iii. It is mandatory to furnish a separate calculation sheet for each category of service (Refer example below)

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'.



VCE Scheme - May 2013

- Procedure for claiming amnesty under VCE Scheme:
 - iv. The calculation sheets are to be furnished half-yearly.

Example: Assessee furnishing declaration for the period 1 October 2007 to 30 September 2008. Therefore, assessee must furnish two calculation sheets, one for the period 1 October 2007 to 31 March 2008, and another for the period 1 April 2008 to 30 September 2008
 - iv. 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.
 - v. Upon receipt of the declaration in form VCES - 1, the appropriate authority shall issue an acknowledgement in form VCES - 2 within seven working days.
 - vi. The acknowledgement does not certify the correctness of the declaration furnished by the assessee. It is a merely an acknowledgement of receipt of declaration.

VCE Scheme - May 2013

- Procedure for claiming amnesty under VCE Scheme:

vii. The assessee is required to discharge the tax liability in accordance with the time limits prescribed as under:

Date	Quantum
On or before 31 December 2013	Minimum 50% of the amount declared as due in the declaration
On or before 30 June 2014	Balance of the amount declared as due in the declaration
1 July 2014 onwards	Amount remaining unpaid as on 30 June 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



VCE Scheme - May 2013

- Procedure for claiming amnesty under VCE Scheme:
 - viii. Assessee is required to furnish proof of payment periodically along with copy of acknowledgement (Form VCES - 2)
 - ix. Upon furnishing of details of payment of dues in full, the appropriate authority to issue an Acknowledgement of Discharge in form VCES - 3 within seven working days
 - x. A person who wishes to make a declaration, but is not registered under service tax laws, must obtain registration first and then file declaration



VCE Scheme - May 2013

- Benefits for claiming amnesty under VCE Scheme:
 - i. Waiver of interest on delayed payment of service tax
 - ii. Waiver of penalty towards non-payment of service tax
 - iii. Waiver of penalty towards failure to obtain registration under service tax laws
 - iv. Waiver of penalty towards non-filing / delayed filing of service tax returns
 - v. Immunity from proceedings under Chapter V of Finance Act, 1994
 - vi. Upon receipt of Form VCES - 3, no proceedings can be initiated thereafter in respect of the period of declaration



VCE Scheme - May 2013

- Conditions for claiming amnesty under VCE Scheme:
 - i. Declaration in form VCES-1 to be filed on or before 31 December 2013
 - ii. CENVAT Credit cannot be utilized to discharge the amount declared as due
 - iii. Amount paid under VCE Scheme shall not be refunded under any circumstances
 - iv. If amount declared as due in Form VCES - 1 remains due as on 1 January 2015, the same shall be recovered as per section 87 of Finance Act, 1994
 - v. Commissioner of Central Excise may serve notice on the declarant if he has reasons to believe that the declaration made by the declarant is substantially false.



VCE Scheme - May 2013

- Frequently Asked Questions:
 - i. Is an assessee, who has paid service tax liability correctly, but failed to disclose the same in the service tax return for the relevant period eligible for benefit under VCE Scheme? (Incorrect disclosure penalty)
 - ii. Whether an assessee who is in receipt of a letter towards a default committed under the provisions of the Finance Act, 1994, eligible under VCE Scheme?
 - iii. Whether an assessee who has surrendered their registration is required to obtain new registration for the purposes of filing the declaration?
 - iv. Whether an assessee who suppresses the amount payable by him and pays the amount so declared be subject to proceedings as per the provisions of Finance Act, 1994?
 - v. Whether assessees, who have paid off the correct amount of liability are required to furnish revised returns?



VCE Scheme - May 2013

- Frequently Asked Questions:

- vi. Whether an assessee, against whom inquiry has been initiated u/s 72 of the Finance Act, 1994, after 1 March 2013, is eligible for claiming benefit under VCE Scheme?
 - What is the date of initiation
- vii. Whether debit note can be raised by the defaulter for the service tax amount and CENVAT credit can be claimed by the assessee.
- viii. What is the definition of 'same issue' as mentioned in the proviso to section 106(1) of Finance Act, 2013?
- ix. If an assessee has paid off tax dues that were payable under Reverse Charge Mechanism, will it be eligible to be availed as CENVAT Credit?



VCE Scheme - May 2013

- Frequently Asked Questions:
 - x. An assessee, who has filed a declaration in form VCES-1 and has paid off tax dues, is intimated that their declaration has been rejected and a notice has been issued on them. Upon conclusion of the proceedings, the demand against the assessee is confirmed. Is the assessee required to pay penalty under the provisions of the Finance Act, 1994, even though he has paid off the amount due prior to issue of Notice?

Thank You

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