

# 11

## PROCEDURE FOR DECLARATION UNDER THIS SCHEME

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### 11.1 MEANING OF CERTAIN WORDS

#### *Section 121(a) : Amount declared*

Amount declared means the amount declared by the declarant under section 125.

#### *Section 121(b) : Amount estimated*

Amount estimated means the amount estimated by the designated committee under section 127;

#### *Comment*

As per Section 127 the amount estimated by the designated committee may be either equal to or it may exceed the amount declared by the declarant.

#### *Section 121(e) : Amount payable*

Amount payable means the final amount payable by the declarant as determined by the designated committee and as indicated in the statement issued by it, in order to be eligible for the benefits under this Scheme and shall be calculated as the amount of tax dues less the tax relief.

Final amount payable =	Amount of tax dues - Tax relief
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*Comment*

As per Section 124(2) the declarant can take the benefit of pre-deposit at the appellate stage or as deposit during enquiry, investigation or audit.

***Section 121(h) : Declarant***

Declarant means a person who is eligible to make a declaration and files such declaration under section 125.

***Section 121(i) : Declaration***

Declaration means the declaration filed under section 125.

***Section 121(k) : Designated committee***

Designated committee means the committee referred to in section 126.

***Section 121(l) : Discharge certificate***

Discharge certificate means the certificate issued by the designated committee under section 127.

*Comment*

Once the amount payable as per the designated committee is paid within 30 days from the date of issue of electronic statement and on production of proof of withdrawal of appeal in HC/SC, the designated committee shall issue an electronic discharge certificate which shall be conclusive of matter and time period.

***Section 121(s) : Statement***

Statement means the statement issued by the designated committee under section 128.

***Section 121(t) : Tax relief***

Tax relief means the amount of relief granted under section 124.

**11.2 DECLARATION UNDER THE SCHEME [SECTION 125(2)]**

A declaration under section 125(1) shall be made in such electronic form as may be prescribed under rules 3 and 4 extracted below:

### Rule 3. Form of declaration under section 125

- (1) The declaration under section 125 shall be made electronically at <https://cbic-gst.gov.in> in **Form SVLDRS-1** by the declarant, on or before the **31st December, 2019**.
- (2) A separate declaration shall be filed for each case.

*Explanation.*—For the purpose of this rule, a “case” means—

- (a) a show cause notice, or one or more appeal arising out of such notice which is pending as on the 30th day of June, 2019; or
- (b) an amount in arrears; or
- (c) an enquiry or investigation or audit where the amount is quantified on or before the 30th day of June, 2019; or
- (d) a voluntary disclosure.

### Rule 4. Auto acknowledgement

On receipt of declaration, an auto acknowledgement bearing a **unique reference number** shall be generated by the system.

## 11.3 VERIFICATION OF DECLARATION BY DESIGNATED COMMITTEE [SECTION 126]

Section 126(1) provides that the designated committee shall **verify the correctness** of the declaration made by the declarant under section 125 in such manner as may be prescribed in rule 6.

**No such verification** shall be made in case where a **voluntary disclosure** of an amount of duty has been made by the declarant.

<i>Declaration in respect of</i>	<i>Verification by designated committee</i>
- Voluntary disclosure	No verification
- Other cases	Verify the correctness of the declaration

### Rule 6(1). Verification by designated committee and issue of estimate, etc.

The declaration made under section 126, except when it relates to a case of voluntary disclosure of an amount of

duty, shall be verified by the designated committee based on the particulars furnished by the declarant as well as the records available with the Department.

Section 126(2) provides that the composition and functioning of the designated committee shall be such as may be prescribed in rule 5.

**Rule 5. Constitution of designated committee.**

(1) The designated committee under section 126 shall consist of—

(a) the Principal Commissioner or Commissioner of Central Excise and Service Tax, as the case may be, and the Additional Commissioner or Joint Commissioner of Central Excise and Service Tax, as the case may be, in a case where the tax dues are more than rupees fifty lakh:

**Provided** that there shall be only one such designated committee in a Commissionerate of Central Excise and Service Tax;

(b) the Additional Commissioner or Joint Commissioner of Central Excise and Service Tax, as the case may be, and the Deputy Commissioner or Assistant Commissioner of Central Excise and Service Tax, as the case may be, in a case where the tax dues are rupees fifty lakh or less:

**Provided** that there will only be one such designated committee in a Commissionerate of Central Excise and Service Tax;

(c) the Principal Additional Director General (Adjudication) or Additional Director General (Adjudication), Directorate General of Goods and Services Tax Intelligence (DGGI), and Additional Director or Joint Director, Directorate General of Goods and Services Tax Intelligence (DGGI), Delhi.

(2) The members of the designated committee mentioned in clauses (a) and (b) of sub-rule (1) shall be nominated by the Principal Chief Commissioner or Chief Commissioner of Central Excise and Service Tax, as the case may be.

(3) The members of the designated committee mentioned in clause (c) of sub-rule (1) shall be nominated by Pr. Director General or Director General, Directorate General of Goods and Services Tax Intelligence (DGGI), as the case may be.

#### CHART : CONSTITUTION OF DESIGNATED COMMITTEE

AT COMMISSIONERATE LEVEL			
<b>Rule 5(1)(a) : Tax due exceeds ₹ 50 Lakhs</b>		<b>Rule 5(1)(b) : Tax due is upto ₹ 50 Lakhs</b>	
(i)	Principal Commissioner or Commissioner of Central Excise and Service Tax and	(i)	Additional Commissioner or Joint Commissioner of Central Excise and Service Tax; and
(ii)	Additional Commissioner or Joint Commissioner of Central Excise and Service Tax	(ii)	Deputy Commissioner or Assistant Commissioner of Central Excise and Service Tax
<b>Rule 5(1)(c) : AT DGGI LEVEL - NO LIMIT</b>			
(i)	Principal Additional Director General (Adjudication) or Additional Director General (Adjudication), Directorate General of Goods and Services Tax Intelligence (DGGI); and		
(ii)	Additional Director or Joint Director, Directorate General of Goods and Services Tax Intelligence (DGGI), Delhi.		

### 11.4 ISSUE OF STATEMENT BY DESIGNATED COMMITTEE [SECTION 127]

Section 127(1) provides that where the **amount estimated** to be payable by the declarant, as estimated by the designated committee, **equals the amount declared** by the declarant, then, the designated committee shall issue in electronic form, a **statement**, indicating the amount payable by the declarant, **within a period of sixty days** from the date of receipt of the said declaration.

#### *Comment*

1	Amount estimated = Amount declared	Issue electronic statement indicating the amount payable within 60 days from the date of receipt of declaration.
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Rule 6(2) provides that the statement under sub-sections (1) and (4) of section 127, as the case may be, shall be issued by the designated committee electronically, within a period of sixty days from the date of receipt of the declaration un-

der sub-rule (1) of rule 3, in **Form SVLDRS-3** setting forth therein the particulars of the amount payable.

No such statement shall be issued in a case where the amount payable, as determined by the designated committee is nil and there is no appeal pending in a High Court or the Supreme Court.

**Rule 9** provides in a case where **Form SVLDRS-3** has not been issued by the designated committee by virtue of the proviso to sub-rule (2) of rule 6, the discharge certificate shall be issued within **thirty days** of the filing of declaration referred to in sub-rule (1) of rule 3.

Section 126(2) provides that where the **amount estimated** to be payable by the declarant, as estimated by the designated committee, **exceeds the amount declared** by the declarant, then, the designated committee shall issue in electronic form, an estimate of the amount payable by the declarant **within thirty days** of the date of receipt of the declaration.

2	Amount estimated > Amount declared	Issue in electronic form within 30 days of the date of receipt of declaration.
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Rule 6(3) provides where the amount estimated to be payable by the declarant exceeds the amount declared by the declarant, then, the designated committee shall issue electronically, within thirty days of the date of receipt of the declaration under sub-rule (1) of rule 3, in **Form SVLDRS-2**, an estimate of the amount payable by the declarant along with a notice of opportunity for personal hearing.

Section 126(3) provides that after the issue of the estimate under sub-section (2), the designated committee shall **give an opportunity of being heard** to the declarant, if he so desires, before issuing the statement indicating the amount payable by the declarant:

On sufficient cause being shown by the declarant, only one adjournment may be granted by the designated committee.

3	Amount estimated > Amount declared	Before issuing the statement it shall grant an opportunity of being heard with maximum one adjournment.
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Rule 6(4) provides that if the declarant wants to indicate agreement or disagreement with the estimate referred to in sub-rule (3) or wants to make written submissions or waive personal hearing or seek an adjournment, he shall file electronically **Form SVLDRS-2A** indicating the same.

If no such agreement or disagreement is indicated till the date of personal hearing and the declarant does not appear before the designated committee for personal hearing, the committee shall decide the matter based on available records

Rule 6(5) provides that on receipt of a request for an adjournment under sub-rule (4), the designated committee may grant the same electronically in **Form SVLDRS-2B**.

If the declarant does not appear before the designated committee for personal hearing after adjournment, the committee shall decide the matter based on available records.

Section 126(4) provides that after hearing the declarant, a statement in electronic form indicating the amount payable by the declarant, shall be issued within a period of **sixty days** from the date of receipt of the declaration.

4	Amount estimated > Amount declared Final hearing completed	Issue electronic statement indicating the amount payable within 60 days from the date of receipt of declaration.
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Section 126(5) provides that the declarant shall pay electronically through internet banking, the amount payable as indicated in the statement issued by the designated committee, within a period of **thirty days** from the date of issue of such statement.

5	Pay the amount payable as indicated in the electronic statement within 30 days from the date of issue of statement.
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**Rule 7** provides that every declarant shall pay electronically the amount, as indicated in **Form SVLDRS-3** issued by the designated committee, within a period of thirty days from the date of its issue.

Section 126(6) provides that where the declarant has filed an appeal or reference or a reply to the show cause notice against any order or notice giving rise to the tax dues, before the appellate forum, **other than the** Supreme Court or the High Court, then,

notwithstanding anything contained in any other provisions of any law for the time being in force, such appeal or reference or reply **shall be deemed to have been withdrawn.**

6	Appeal or reference or a reply to the show cause notice against any order or notice giving rise to the tax dues, before the appellate forum	
A	with Supreme Court or High Court	The application need to be filed for withdrawal of appeal.
B	with others	Deemed to be withdrawn (No need to file application)

Rule 8 provides that proof of withdrawal of appeal or writ petition or reference before a High Court or the Supreme Court, as the case may be, under sub-section (7) of section 127 shall be furnished electronically by the declarant.

Section 126(7) provides that where the declarant has filed a writ petition or appeal or reference before any High Court or the Supreme Court against any order in respect of the tax dues, the declarant shall file an application before such High Court or the Supreme Court for withdrawing such writ petition, appeal or reference and after withdrawal of such writ petition, appeal or reference with the leave of the Court, he shall furnish proof of such withdrawal to the designated committee, in such manner as may be prescribed, along with the proof of payment referred to in sub-section (5).

7	Where any writ petition or appeal or reference is pending with any High Court or the Supreme Court then	
A	apply for withdrawal	
B	furnish proof of such withdrawal	

Section 126(8) provides that on payment of the amount indicated in the statement of the designated committee and production of proof of withdrawal of appeal, wherever applicable, the designated committee shall issue a discharge certificate in electronic form, **within thirty days** of the said payment and production of proof.

8	Issuance of discharge certificate	
A	On payment of amount payable; and	
B	Production of proof of withdrawal if applicable	



## 11.5 RECTIFICATION OF ERRORS [SECTION 128]

Section 126 provides that within **thirty days** of the date of issue of a statement indicating the amount payable by the declarant, the designated committee may modify its order only to **correct an arithmetical error or clerical error**, which is apparent on the face of record, on such error being pointed out by the declarant or suo motu, by the designated committee.

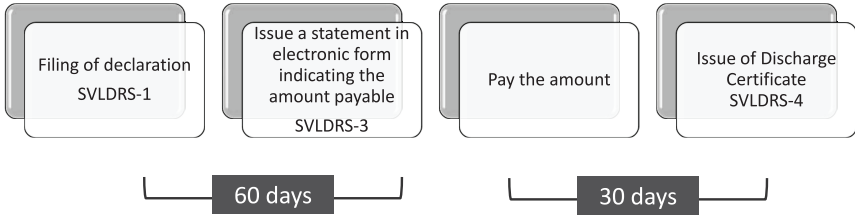
Rule 6(6) provides within thirty days of the date of issue of **Form SVLDRS-3**, the designated committee may modify its order only to correct an arithmetical error or clerical error, which is apparent on the face of record, on such error being pointed out by the declarant or suo motu by issuing electronically a revised **Form SVLDRS-3**.

### Designated Committee (DC)

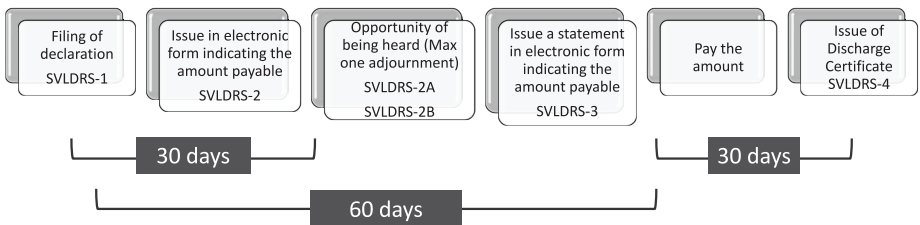
Declarant files declaration  
in electronic form with DC  
SVLDRS-1

DC verify the correctness  
and determines the  
estimated amount payable  
in every case except in case  
of voluntary disclosure.

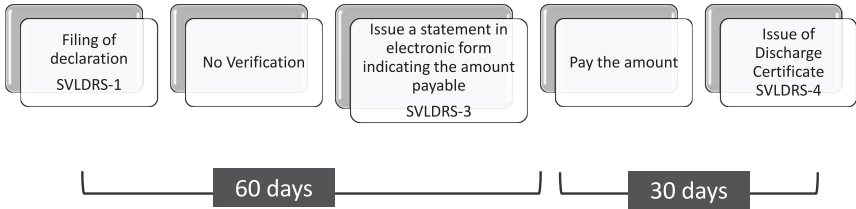
### Amount Declared = Amount estimated



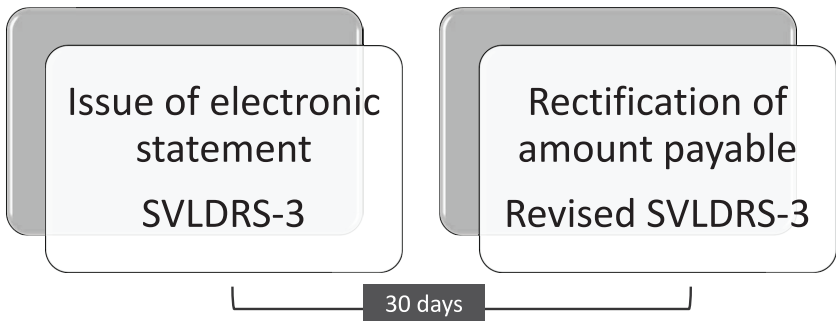
### Amount estimated > Amount declared



## Voluntary Disclosure



## Correction of Arithmetical error or clerical error which is apparent on the face of record



### Procedure of issuance of discharge certificate

