



Vivad Se Vishwas Scheme

2020

Detailed Analysis of the Scheme as issued by the CBDT

A scheme to promote confidence (Vishwas) in the taxpayer that government is working to resolve all the disputes (Vivad).

Team Expert Advisorz • February 6, 2020 • Expert Advisorz Management Pvt Ltd

In Union Budget 2020, our finance minister introduced amnesty scheme for disposal of appeal pending in direct tax matters. The bill has been named **“The Direct Tax Vivad se Vishwas Bill, 2020”**.

The bill has been presented in Lok Sabha on 5th February, 2020 and shall come in to force once it gets approved by both houses of Parliament and approved by President of India.

The scheme shall be applicable to the cases pending before any appellate forum (CIT-Appeals, Appellate tribunal, High court or supreme court) as on specified date (31st January, 2020).

The scheme shall cover all disputed amount be it Tax, Interest, Fee or Penalty or aggregate of any of these.

For availing this scheme, a person has to file declaration with designated Authority (Commissioner of Income Tax) in the prescribed form and manner.

Where declarant (person giving declaration for availing this scheme) has filed any appeal before the appellate forum or writ petition before the High Court or Supreme Court, he shall furnish proof of withdrawal of appeal or writ petition and if arbitration, conciliation or mediation proceeding has been initiated or notice has been given by him under any law for the time being in force or under any agreement entered into by India with any other country or territory outside India for protection of investment or otherwise, he shall withdraw such claim and submit proof thereof along with the declaration.

Further, an undertaking shall be furnished by declarant waiving his right, to seek any remedy or claim in relation to the tax arrears which may otherwise be available to him under any law or agreement.

The Designated Authority shall within 15 days of receipt of declaration, determine the amount payable and grant certificate containing particulars of tax arrears and amount payable in prescribed form. All the proceeding with respect to said matter shall abate once such certificate has been issued.

The declarant shall pay amount determined by designated authority within 15 days and intimate the details to designated authority who in turn shall pass an order that declarant has paid the amount.

The amount payable under this Scheme is as below:

Nature of Tax Arrear	Amount payable (if paid on or before 31 st March, 2020	Amount payable (if paid after 31 st March, 2020 but on or before last date
Where Arrear is inclusive of: -Disputed tax; -Interest on Disputed Tax; & -Penalty on Disputed Tax.	Only Disputed tax; no need to pay interest & Penalty.	110% of Disputed tax; provided it doesn't exceed total disputed amount.
Where Arrear is: -Disputed Interest; -Disputed Penalty; or -Disputed Fee.	25% of the disputed amount.	30% of the disputed amount.

It may be noted that, Certificate issued under this Act shall be final, and no matter covered by such order shall be reopened in any other proceeding under any law for the time being in force or under any agreement.

However, the scheme shall not apply:

1. In the assessment year, where assessment has been made under section 153A or 153C (Assessment in case of search or requisition) or on the basis of information received from foreign government/ institution (under Section 90/ 90A);
2. In respect of undisclosed income from source/ asset located outside India;
3. In respect of an appeal Where order has already been passed commissioner (under section 251);
4. In respect of person in whose case an order of detention has been made under COFEPOSA (Conservation of Foreign Exchange and Prevention of smuggling Activities Act, 1974) before filing declaration and which has not been revoked under section 8, Section 9(3) or Section 12A(3) of the said Act or such order has not been set aside by order of court;
5. In respect of person in whose case prosecution has been instituted under:
 - a. Income Tax Act, 1961;
 - b. Indian Penal Code;
 - c. The Unlawful Activities (Prevention) Act 1967;
 - d. The Narcotic Drugs and psychotropic Substance Act, 1985;
 - e. The prevention of Corruption Act, 1988;
 - f. The Prevention of Money Laundering Act, 2002;
 - g. The prohibition of Benami Property Transactions Act, 1988;

Or for the purpose of enforcement of any civil liability has been instituted on or before the filing declaration or such person has been convicted of any offence punishable under any of those Act; and

6. To any person notified under section 3 of The Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 before filing of declaration.

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