

# **THE DIRECT TAX VIVAD SE VISHWAS BILL, 2020**



**PRESENTED BY:**  
**INCOME TAX DEPARTMENT,**  
**TDS-RANGE, SURAT.**

# Why this Bill?

- To reduce the disputed tax demand pending before appellate authorities i.e. CIT(A), ITAT, High Court and Supreme Court.
- To generate timely revenue.
- To save the time, energy and resources of tax payer as well as Government of India

# **Applicability of the Scheme:**

In case of all pending appeals before CIT(A), ITAT, High Court and Supreme Court as on **31<sup>st</sup> January, 2020.**

## **Appeals may be against:**

Disputed Tax

Disputed Interest (Chargeable / Charged)

Disputed Penalty (Leviable / Levied)

Disputed Fee

Disputed TDS/TCS

# Eligibility Conditions:

Appeals/writs filed on or before 31.01.2020 are eligible.

Order for which time for filing appeal has not expired on 31.01.2020

Case pending before Dispute Resolution Panel (DRP) on 31.01.2020

Cases where DRP issued direction on or before 31.01.2020 but no order has been passed.

Cases where assessee filed revision (Section 264) on or before 31.01.2020.

Search case if the disputed demand is less than Rs. 5 Crore for a particular financial year.

# Payment Terms:

## A. If the appeal is filed by the Taxpayers

In case payment is made till 31<sup>st</sup> March, 2020:

1. 100% of the disputed tax (125% of disputed tax in case of search cases).
2. 25% of the disputed penalty, interest or fee

In case payment is made after 31<sup>st</sup> March, 2020:

1. 110% of the disputed tax (135% of disputed tax in case of search cases).
2. 30% of the disputed penalty, interest or fee

# Payment Terms:

## **B. If the appeal is filed by the Department or the Department has lost on an issue:**

In case payment is made till 31<sup>st</sup> March, 2020:

1. 50% of the disputed tax (62.5% of disputed tax in case of search cases).
2. 12.5% of the disputed penalty, interest or fee

In case payment is made after 31<sup>st</sup> March, 2020:

1. 55% of the disputed tax (67.5% of disputed tax in case of search cases).
2. 15% of the disputed penalty, interest or fee

# **Exclusions under the Scheme:**


- Search cases if disputed tax is more than Rs. 5 Crore.
- Prosecution cases under the Income-tax Act or IPC filed by the Department.
- Cases relating to undisclosed foreign income and assets.
- Cases completed on the basis of information from foreign countries.
- Cases covered under offense under IPC, the Unlawful Activities (Prevention) Act, 1967, NDPS Act, 1985, PC Act, 1988, PMLA Act, 2002, COFEPOSA Act, 1974, Prohibition of Benami Property Transactions Act, 1988 and Special Court Trial in Securities Act, 1992.

# **Salient Features of the Scheme:**

- **Refund of Excess Amount:** If the amount paid by the taxpayer before filing declaration exceeds the amount payable under the Scheme, he would be granted the refund for such excess amount.
- **No Refund:** Any amount paid in pursuance of the scheme shall not be refundable under any circumstances.
- **Removal of Difficulty:** The Central Government may by order not inconsistent with the provisions of the scheme remove the difficulty.



- If there are more than one issues involved in the appeal, the taxpayer would be required to file declaration for all issues, he cannot file declaration for some issues and litigate the balance issues.
- In a case where the taxpayer has got a favourable decision on an issue at higher forum, he would be required to pay only 50% of disputed tax on that issue even in the cases in which he has filed appeal.
- The taxpayer would be required to submit the proof of withdrawal of appeal/writ with the intimation of payment i.e. before the issuance of final certificate for setting dispute and not with the declaration as originally proposed in the Bill. The department would also withdraw the appeal/writ before the issuance of final certificate for setting dispute.

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- In case where the Assessing Officer has reduced the returned loss by making addition of income/disallowing expenditure, the taxpayer shall have an option to either pay the notional tax on amount by which the loss has been reduced and carry forward the claimed loss without reduction or by accepting the reduced carry forward of loss without making any payment under the Scheme. Same mechanism would apply for reduction in MAT credit.
  - The setting of dispute regarding transfer pricing adjustment would not have any effect on the secondary adjustment, both being independent provisions, and the taxpayer would be required to repatriate found to India in respect of settled transfer pricing adjustment.