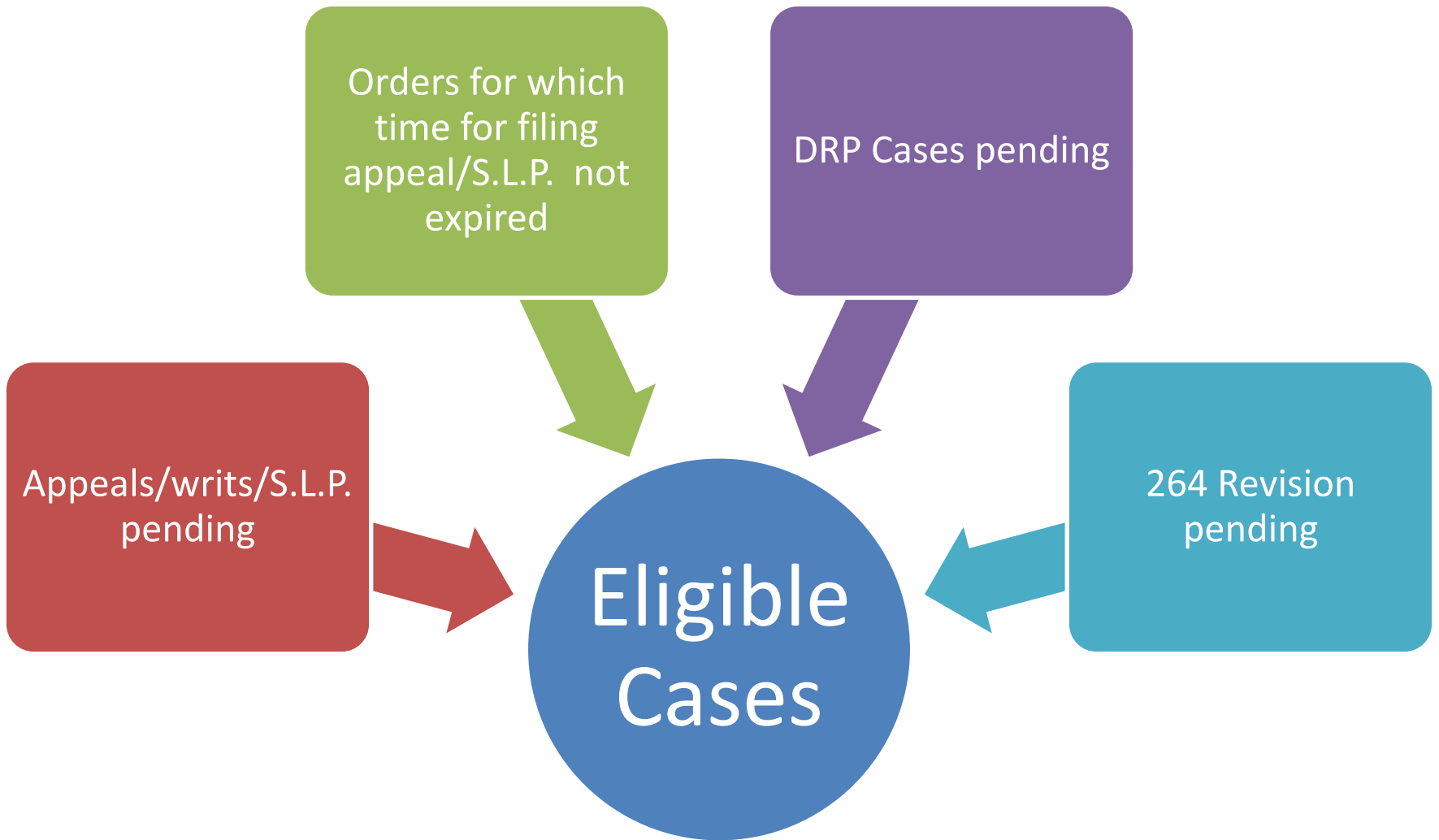




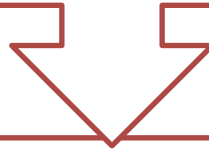
Salient Features Of Direct Tax Vivad Se Vishwas Bill, 2020

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DISPUTES COVERED

Scheme applies with reference to “Tax Arrears”



“Tax Arrear” means

the aggregate amount of disputed tax, interest chargeable or charged on such disputed tax, and penalty leviable or levied on such disputed tax

disputed
interest

disputed
penalty

disputed
fee

SCHEME NOT APPLICABLE

In respect of tax arrear relating to:

an assessment year in respect of which an assessment has been made u/s. 143(3)/144/153A/153C on the basis of search initiated u/s. 132/132A, if the amount of disputed tax exceeds five crore rupees

an assessment year in respect of which **prosecution has been instituted** on or before the date of filing of declaration;

any undisclosed income from a source located outside India or undisclosed asset located outside India;

an assessment or reassessment made on the basis of information received under an agreement referred to in section 90 or section 90A of the Income-tax Act, if it relates to any tax arrear

To any person in respect of whom an order of detention has been made under the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 on or before the filing of declaration

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

To any person in respect of whom prosecution for any offence punishable under the provisions of the Unlawful Activities(Prevention) Act, 1967, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Prevention of Corruption Act, 1988, the Prevention of Money Laundering Act, 2002, the Prohibition of Benami Property Transactions Act, 1988 has been instituted on or before the filing of the declaration or such person has been convicted of any such offence punishable under any of those Acts

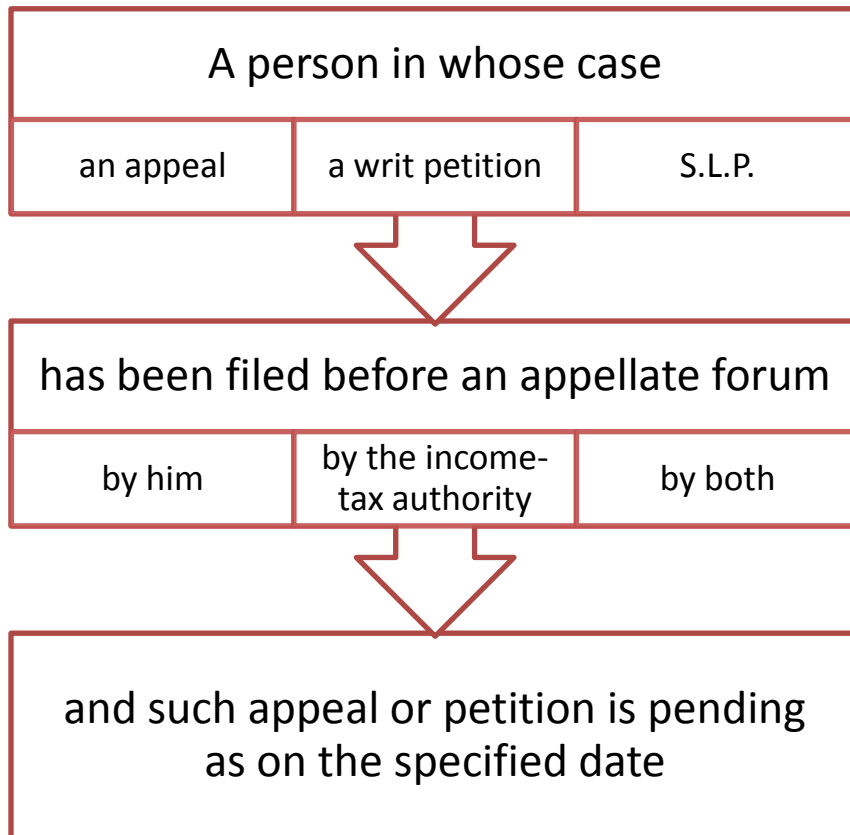
To any person in respect of whom prosecution has been initiated by an Income-tax authority for any offence punishable under the provisions of the Indian Penal Code or for the purpose of enforcement of any civil liability under any law for the time being in force, on or before the filing of the declaration or such person has been convicted of any such offence consequent to the prosecution initiated by an Income-tax authority

Where the “tax arrear” is the aggregate amount of disputed tax, interest chargeable or charged on such disputed tax, and penalty leviable or levied on such disputed tax

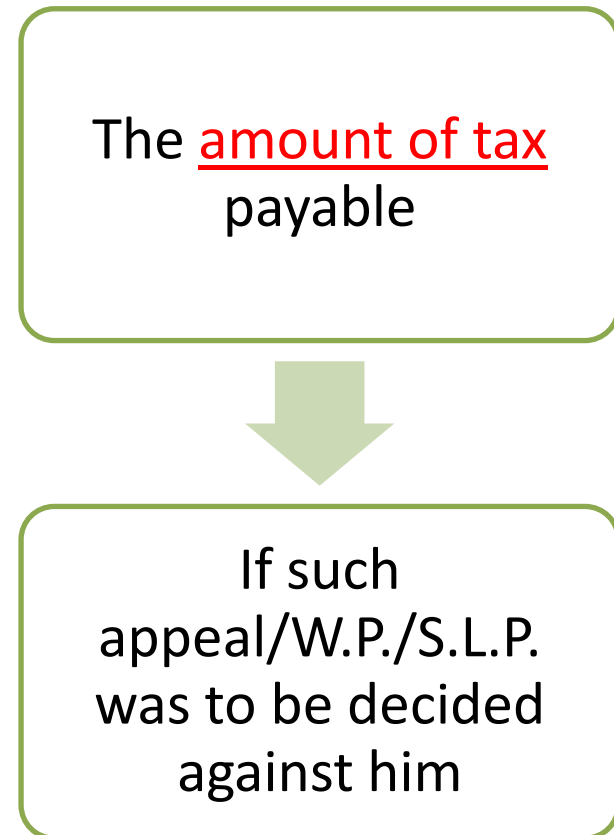
Cases Covered And Disputed Tax Payable

Case 1 : Appeal Filed

Case Covered



Disputed Tax



Case 1 : Appeal Filed-Issues

What if C.I.T. (A) has decided one issue in favor of and another issue against the assessee and now assessee and department both are in appeal? Whether tax is to be calculated assuming Assessee's appeal has been dismissed and department's appeal has been accepted?

Even if appeal has been filed with C.I.T. (A) against one addition, whether interest and penalty for all additions in the assessment shall be waived ?

Case 2 : Time Limit Not Expired

Case Covered

a person in whose case
an order has been
passed ,

by the Assessing Officer,
on or before the
specified date,

and the time for filing
any appeal against such
order has not expired as
on that date

Disputed Tax

the amount of
tax payable by
the appellant
in accordance
with such
order

Case 2 : Time Limit Not Expired

Case Covered

a person in whose case an order has been passed , on or before the specified date,

by the C.I.T. (A,
or the I.T.A.T. in
an appeal,

or by the High
Court in a writ
petition,

and the time for filing any appeal or S.L.P.
against such order by that person has not
expired as on that date

Disputed Tax

the amount of
tax payable
after giving
effect to the
order so
passed

Time Limit Not Expired-Issues

In case C.I. T.(A)/ITAT/HC has decided any issue in favor of assessee

Challenged by
Department

Pending to be challenged
by the department

Tax Payable “as if case is
decided against the
assessee”

Tax Payable “after giving
effect to the order so
passed”

Case 3 : Revision u/s. 264

Case Covered

a person who has filed an application for revision under section 264 of the Income-tax Act

and such application is pending as on the specified date

Disputed Tax

the amount of tax payable if such application for revision was not to be accepted

Case 4 : DRP Matters

Case Covered

a person who has filed his objections before the Dispute Resolution Panel under section 144C

and the Dispute Resolution Panel has not issued any direction on or before the specified date

Disputed Tax

the amount of tax payable if the Dispute Resolution Panel was to confirm the variation proposed in the draft order

Case 4 : DRP Matters

Case Covered

a person in whose case the Dispute Resolution Panel has issued direction u/s 144C (5)

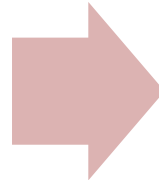
and the Assessing Officer has not passed any order under sub-section (13) of that section on or before the specified date.

Disputed Tax

the amount of tax payable as per the assessment order to be passed by the Assessing Officer under sub-section (13)

Proviso 1

Where Commissioner (Appeals) has issued notice of enhancement under section 251 on or before the specified date,



the disputed tax shall be increased by the amount of tax pertaining to issues for which notice of enhancement has been issued.

Proviso 2

where the dispute in relation to an assessment year relates to reduction of

tax credit u/s 115JAA or section 115D

or any loss or depreciation computed thereunder,

the appellant shall have an option

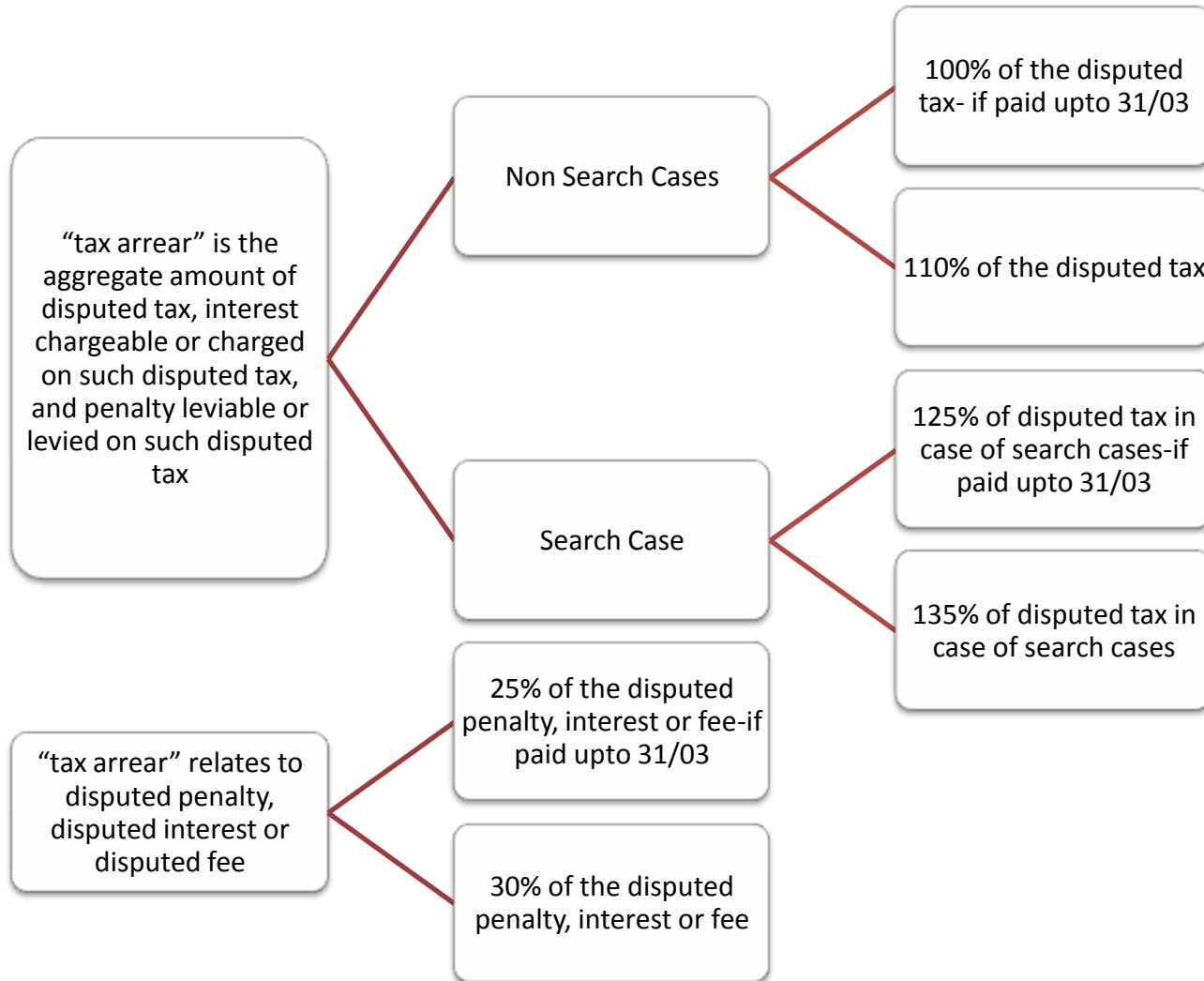
either to include the amount of tax related to such tax credit or loss or depreciation in the amount of disputed tax,

or to carry forward the reduced tax credit or loss or depreciation,

in such manner as may be prescribed.

Payment Terms

Amount Payable



Amount Payable

In a case where an appeal or writ petition or special leave petition is filed by the income-tax authority on any issue before the appellate forum,

the amount payable shall be one half of the amount in the Table above calculated

on such issue, in such manner as may be prescribed.

Amount Payable

Where an appeal is filed before the appellate forum or objections is filed before the DRP by the appellant on any issue

on which he has already got a decision in his favor from higher appellate forum (where the decision on such issue is not reversed by the High Court or the Supreme Court)

The amount payable shall be one-half of the amount in the Table above calculated on such issue, in such manner as may be prescribed

Refund of Excess Amount Paid



If the amount paid by taxpayer before filing declaration exceeds the amount payable under the Scheme, the taxpayer would be granted the refund for such excess amount.

Consequences of Opting

Consequent to such declaration and fulfilment of conditions, appeals/writs/objections of taxpayers & department in respect of the disputed income, disputed interest or disputed penalty or disputed fee pending before the Commissioner (Appeals), DRP, ITAT, High Court or Supreme Court shall be withdrawn.

Consequences of Opting

Immunity will be granted from institution of any proceeding for prosecution for any offence under the Income-tax Act in respect of matters covered in the declaration and also provide immunity from imposition of penalty and levy of interest.

Filing of declaration will not set any precedence and neither the Department nor the taxpayer can claim in any other proceedings that the taxpayer or the Department has conceded its tax position by settling the dispute.

Other Terms

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.

Other Terms

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 settling 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 settling dispute.

Other Terms

The settling 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 fund to India in respect of settled transfer pricing adjustment.



-Thank You

Happy to answer your queries : mdafria@gmail.com. 9826046463