



The Direct Tax Vivad Se Vishwas Scheme, 2024

*“An Act to provide for resolution of disputed tax and
for matters connected therewith or incidental thereto...”*

Speaker :

CA. HARDIK C. MANIAR
F.C.A, DISA, FAFD, GST (ICAI)

Mobile No. +91-9173871522

Email:- hardik.maniar@gmail.com

CBDT notifies Rules and Forms for Direct Tax Vivad Se Vishwas (DTVSV) Scheme, 2024

- ❑ DTVSV Scheme provides for **lesser settlement amounts for a 'new appellant'** in comparison to an 'old appellant'
- ❑ In pursuance of the announcement in Union Budget 2024-25 by Union Minister for Finance and Corporate Affairs Smt. Nirmala Sitharaman, the Central Board of Direct Taxes (CBDT) has notified the Direct Tax Vivad Se Vishwas Scheme, 2024 (referred as DTVSV, 2024) to resolve pending appeals in the case of income tax disputes.
- ❑ The said Scheme shall come into force **with effect from 1st Oct. 2024.**
- ❑ The DTVSV Scheme, 2024 was enacted vide Finance (No. 2) Act, 2024. Further, the Rules and Forms for enabling the Scheme have also been notified vide Notification No. 104/2024 in G.S.R 584(E) dated 20.09.2024.
- ❑ The DTVSV Scheme also provides for **lesser settlement amounts for taxpayers who file declaration on or before 31.12.2024** in comparison to those who file thereafter.

Pending Litigations

More than 6 lakh cases are estimated to be pending at various appellate forums with total amount of demand under dispute exceeding 10.60 lakh crore rupees which is approx. 5.6% of GDP size of India.

Why this Scheme:

This resolves tax disputes and accordingly reduce litigation (VSVS 2024 or 2.0)

Background Material

For precise reference one may refer to the provisions of Sec 88 to 99 of the Finance (No. 2) Act, 2024.

Who may avail the benefit of Scheme ?

As per Section 89(1)(a) following persons are eligible to participate:

- (i) Taxpayers, in whose case any appeal is **pending** before CIT(A), ITAT, HC or SC including SLP before SC, filed **either by the assessee or by the income-tax authority**, as on the specified date.
- (ii) Taxpayers, in whose case an **objection before the DRP is pending** or the directions have been issued by the DRP, **but no final order has been passed by the AO**, on as on the specified date.
- (iii) Taxpayers, in whose case the **revision** application u/s 264 of the Income-tax Act **is pending** before PCIT/CIT, as on the specified date.

Who can't avail the benefit of the Scheme

- ❑ Where the tax **arrears pertains to** assessment completed in pursuance of action **u/s 132**
- ❑ If a **prosecution** has already been **initiated** before filing the declaration.
- ❑ If the undisclosed **income or assets are located outside** India.
- ❑ If the assessment or reassessment is based on **information received under an agreement** with another country (sections 90 or 90A of the Income-tax Act).
- ❑ Where the detention order against the assessee has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (**CFEPoSA**) and the same has not been set aside.

Who can't avail the Scheme, Continue

- ❑ Tax payer is involved in cases under specific laws such as the Unlawful Activities (Prevention) Act, the Narcotic Drugs Act, the Prevention of Money Laundering Act, or the Prevention of Corruption Act, among others, and has been prosecuted or convicted before filing the declaration (UAPA, PMLA).
- ❑ If a **prosecution has been initiated** by an income tax authority against an assessee under the Bharatiya Nyaya Sanhita or any other law for enforcing civil liabilities before filing the declaration.
- ❑ Where the assessee is notified under the Special Court (Trial of Offences Relating to **Securities Transactions) Act, 1992** before the declaration.

What is the specified date for the purposes of VSVS 2024:

It is 22.07.2024

The Declaration under the scheme should be submitted before

- An authority not below the rank of CIT.
- The person making such application shall be termed as the Declarant (i.e. a person who files a declaration under section 91 of the scheme)

Certain important terms :

- ❑ **Disputed Income:** Income related to the disputed tax.
- ❑ **Disputed Interest:** Interest determined under the Income-tax Act even **when the same has not been charged** or the interest is charged **against which the assessee has filed an appeal.**
- ❑ **Disputed Penalty:** Penalty determined under the Income-tax Act even when the same has **not been levied or the penalty is levied against which the assessee has filed an appeal.**
- ❑ **Disputed Fee:** Fee determined under the Income-tax Act against which the assessee has filed an appeal.

Meaning of Disputed Tax :

- ❑ **"Disputed tax"**, in relation to an assessment year or financial year, as the case may be, **means the income-tax including surcharge and cess** payable by the appellant under the provisions of the Income-tax Act, as computed hereunder :—
 - (A) in a case where any **appeal**, writ petition or special leave petition is pending before the appellate forum as on the specified date, the amount of tax that is payable by the appellant **if such appeal or writ petition or special leave petition was to be decided against him:**
 - (B) in a case where objection filed by the appellant is pending before the Dispute Resolution Panel under section 144C of the Income-tax Act, as on the specified date, the amount **of tax payable by the appellant if the Dispute Resolution Panel was to confirm** the variation proposed in the draft order;

Meaning of Disputed Tax :

- (C) in a case where Dispute Resolution Panel has issued any direction under sub-section (5) of section 144C of the Income-tax Act, and the Assessing Officer has not completed the assessment under sub-section (13) of that section on or before the specified date, the amount **of tax payable by the appellant as per the assessment order to be passed by the Assessing Officer in pursuance of the said** assessment under sub-section (13) thereof;
- (D) in a case where an application for revision under section **264** of the Income-tax Act, is pending as on the specified date, the amount of tax payable by the appellant **if such application for revision was not to be accepted:**

Amount of Tax Payable under the Scheme, if appeal relates to assessment ? (if appeal was filed after 31.01.2020, New Appellant Case)

Nature of Tax Arrears	Amount Payable under the Scheme	
	On or Before 31.12.2024	On or After 01.01.2025 but before the Last Date
Where the tax in arrear is the aggregate of (i) Disputed tax, (ii) Interest chargeable/charged (iii) Penalty leviable/levied.	Only the amount of disputed tax.	Amount of Disputed Tax plus 10% of such Disputed Tax



Amount of Tax Payable under the Scheme, if appeal relates to interest, penalty or fee ' ? (if appeal was filed after 31.01.2020, New Appellant Case)

Nature of Tax Arrears	Amount Payable under the Scheme	
	On or Before 31.12.2024	On or After 01.01.2025 but before the Last Date
Where the tax in arrear is the aggregate of (i) Disputed tax, (ii) Interest chargeable/charged (iii) Penalty leviable/levied.	25% of the Disputed Amount	30% of the Disputed Amount



Amount of Tax Payable under the Scheme?

(if appeal was filed on or before 31.01.2020, Old Appellant Case)

Nature of Tax Arrears	Amount Payable under the Scheme	
	On or Before 31.12.2024	On or After 01.01.2025 but before the Last Date
Where the tax in arrear is the aggregate of (i) Disputed tax, (ii) Interest chargeable/charged (iii) Penalty leviable/levied.	Amount of Disputed Tax plus 10% of such Disputed Tax.	Amount of Disputed Tax plus 20% of such Disputed Tax.



**Amount of Tax Payable under the Scheme, Intt, penalty , fees?
(if appeal was filed on or before 31.01.2020, Old Appellant Case)**

Nature of Tax Arrears	Amount Payable under the Scheme	
	On or Before 31.12.2024	On or After 01.01.2025 but before the Last Date
Where the tax in arrear relates to (i) Disputed interest OR (ii) Disputed Penalty OR (iii) Disputed Fee.	30% of the Disputed Amount	35% of the Disputed Amount

How much amount will be payable if the assessee has won appeal in a previous year on same issue before any authority ?

The amount payable will be reduced to 50% in the following scenarios:

- a) The **appeal** was filed **by tax authorities**.
- b) The appeal was filed before any authority, and an order in favour of the taxpayer was received and a higher authority has not reversed such an order.
- c) Where the dispute is related to the reduction of MAT/AMT (Minimum alternative tax/ Alternative Minimum tax) credit or loss or depreciation, **the taxpayer will have an option to include the amount of tax related to such tax credit/loss/depreciation in the disputed taxes or carry forward the reduced MAT/AMT credit or loss/depreciation.**

What will be the benefit / savings due if one opts for the Scheme ?

- ❑ **No legal proceedings** (for interest, penalty or prosecution) will be initiated for the tax arrears covered under this Scheme.
- ❑ Assessee may also **be entitled to receive a refund of the excess amount** (if already deposited). However, assessee is not entitled to receive any interest on such excess amount paid.
- ❑ Matters covered under VSVS can't be reopened again.

Steps under the Scheme :

- ❑ **Step 1** : One may **review any tax arrears or disputes** wish he/ she wishes to resolve under the VSVS 2024.
- ❑ **Step 2** : Complete **Form-1**, which includes all necessary details as notified by the tax authority. One needs to ensure that the declaration is submitted to the Designated Authority (a tax officer not below the rank of Chief Income Tax Officer).
- ❑ **Step 3** : After submission, one will **receive an electronic receipt** acknowledging your declaration.
- ❑ **Step 4** : Any **appeal** pending before the CIT(A) or ITAT regarding the same tax arrears will be **considered withdrawn** effective from the date the certificate is issued by the Designated Authority. However, if one has filed a writ petition with **the High Court or Supreme Court, then same should be withdrawn.**

Steps continue...

Steps continue...

- ❑ **Step 5** : After processing of the declaration, **the Designated Authority will issue** a certificate in Form-2 confirming the withdrawal of appeals.
- ❑ **Step 6** : After receiving Form-2, one needs to proceed for **make the payment** as per the instructions provided.
- ❑ **Step 7** : Complete **Form-3 to furnish an intimation of the payment made along with proof of withdrawal of any pending appeals.** Submit Form-3 to the Designated Authority electronically.
- ❑ **Step 8** : The Designated Authority will then issue **a final order in Form-4** regarding the payment made and confirm the closure of the tax arrears dispute.
- ❑ **Step 9** : Alongside the declaration, one will need to submit an undertaking waiving his/her right to seek any remedy related to the tax arrears.

**Any details / declaration need to be submitted
while filing application under VSVS 2024:**

The assessee must comply/submit the information in the prescribed form and manner:

- i. Once the declaration is submitted, any pending appeal before CIT(A) / ITAT will be deemed to have been withdrawn **from the date of issue of a certificate** under section 92(1).
- ii. Once the declaration is submitted, any pending appeal the **High Court or Supreme Court must be withdrawn. Proof of withdrawal, along with payment details, must be submitted** to the designated authority.
- iii. In addition, assessee must provide an **undertaking for not pursuing any further legal action** with reference to disputed tax.

Various forms under the VSVS 2024 :

Form-1 Declaration and undertaking by the taxpayer

Form-2 Certificate issued by the Designated Authority

Form-3 Intimation of payment by the taxpayer

Form-4 Order for full and final settlement of tax arrears

Form-1 must be filed separately for each dispute, unless both the assessee and the income tax authority have filed appeals against the same order, allowing for a single Form- 1 submission in such cases.

Payment notifications should be submitted using Form-3, along with proof of withdrawal of any related appeals. Forms 1 and 3 will need to be filed electronically and will be accessible on the Income Tax Department's e-filing portal.

Is there a time limit for the Designated Authority to issue certificate

The designated authority will determine the tax payable and issue the certificate to the assessee within **15 days** of receiving the declaration.

When the disputed tax shall be payable before declaration or post issuance of certificate?

The assessee is required to pay the amount within **15 days** of receiving the certificate.

Precautions while opting for the scheme?

One should take care of the fact that a declaration will be considered invalid if any information provided by the assessee is found to be false, or if the taxpayer violates any conditions and in such case the consequences under the income tax act against the assessee shall be deemed to have been reviewed.

Significant changes have been made in VSVS- 2024 in comparison to VSVS 2020:

- ❑ Search cases, which were addressed in VSVS - 2020 for assessments up to Rs. 5 Crore whereas it has been completely omitted from in VSVS-2024.
- ❑ The VSVS 2024 does not cover arbitration, conciliation, or mediation cases.
- ❑ Cases where an assessment or appellate order has been issued, but the appeal deadline does not extend beyond July 22, 2024, are not eligible for VSVS 2024.

- ❑ 1. Cases where orders are already passed and appeal is not filed, but time **to file an appeal has not elapsed** on 22 July 24

- ❑ Cases that are **remanded back to** the file of the **Assessing Officer**, except de-novo (fresh) adjudication.

Thanking You....

Hardik Maniar,

Chartered Accountants

H.C. Maniar & Co.,

Office No. 10-11, Nilesh Park Complex,

Sector - 8, B/h. KDBA Gymkhana,

Tagore Road, Gandhidham Kutch

Mo. +91 9173 871 522

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