



VIVAD SE VISHWAS SCHEME 2024

The Direct Tax *Vivad se Vishwas Scheme, 2024* was proposed in the Finance (No. 2) Bill, 2024. The Scheme has been proposed with the objective of reducing pending income tax litigation and provides for a dispute settlement mechanism pursuant to which eligible taxpayers can settle their pending tax disputes by paying a specified portion of the tax arrears. It is noteworthy that the provisions of the VSV Scheme, 2024 are largely aligned with the *Vivad se Vishwas Scheme of 2020*

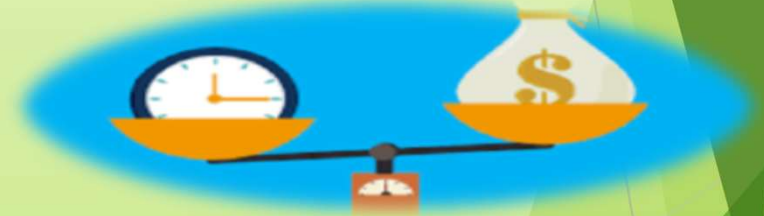
INTRODUCTION

What is Vivad se Vishwas



- Vivad se Vishwas is a dispute resolution scheme introduced by the Indian government to settle direct tax disputes.
- The scheme aims to reduce the litigation burden on taxpayers and the government.

Objectives:



- To provide a quick and efficient resolution of pending tax disputes.
- To generate timely revenue for the government by resolving long-pending cases.

Key Features of Vivad se Vishwas 2024

ELIGIBILITY:

- The scheme covers all types of taxpayers (individuals, companies, etc.) with pending disputes as of the specified cut-off date.

COVERAGE:

- Disputes related to income tax only are covered.
- No Coverage for wealth tax, STT, CTT and Equalisation levy

PROCESS:

- Taxpayers shall file a declaration to opt for the scheme.
- Payment of the disputed tax amount without interest and penalty to be paid by a specific date.

INCENTIVES:

- Waiver of interest, penalty, and prosecution in certain cases.
- Faster resolution with no litigation post acceptance.



Benefits of the Scheme



Financial Relief:

Significant reduction in financial liabilities as penalties and interest are waived off.

Simplification:

Streamlined process that simplifies the resolution of disputes without prolonged litigation.

Legal Clarity:

The scheme helps in reducing the legal backlog and offers finality to disputes, providing clarity to taxpayers.



REFERENCE

NATURE OF ANNOUCEMENT

- ▶ **VSVS 2024 – Section 88 to 99 of F(2nd)A-2024**
- ▶ **Direct Tax Vivad se Vishwas Rules, 2024**
- ▶ **Procedure for filing Forms N.N.-4/2024**
- ▶ **FAQ ON VSV-2024 - Circular_No__12_of_2024**
- ▶ **FAQ ON VSV-2024 - Circular_No__19_of_2024**

DATE OF RELEASE

- ▶ **Notified wef 1-10-24**
- ▶ **20th September, 2024**
- ▶ **30th September 2024**
- ▶ **15th October, 2024**
- ▶ **16th Dec⁶ember 2024**

Implementation and Timeline

Important Dates:

- 1- 01-10-2024 - Date of commencement of Scheme
- 2- 22-07-2024 - **Specified Date** i.e. Date on which dispute must be pending
- 3- 31-01-2020 - New Appellant and Old Appellant
- 4- 31-12-2024 - Date upto which the Declaration in Form-1 to be filed to pay normal amount of Tax
- 5- After 31-12-2024 - Date upto which Declaration can till the end of be filed with additional payment of Tax.
Scheme -
- 6- Issue of Form-2 by ITA- within 15 from filing of Form-1
- 7- Due Date for Tax Pmt- within 15 days from receipt of
and Form-3 filing Form-2

What is the last date of
the Scheme



ELIGIBILITY

Any Person can apply for the VSVS 2024 in cases where:

An appeal or writ petition or Special Leave Petition is pending as on 22 July 2024

Objections have been filed before the Dispute Resolution Panel u/s 144C, but no directions have been issued on or before 22 July 2024

DRP directions have been issued but the final assessment order has not been passed on or before 22 July 2024

Application for revision under section 264 of the Income-tax Act, 1961 before the CIT is pending as on 22 July 2024

Exclusion

The Scheme is not applicable with respect to **tax arrears** relating to:

- ☐ An AY where assessment was made based on a **search** initiated under section 132 or 132A of the Act and assesment done u/s 153A / 153C / **143(3) /144/ 147**
- ☐ An AY for which **prosecution** was initiated **before the declaration filing date**.
- ☐ Any undisclosed Income from a source or asset located **outside India**.
- ☐ Assessment or reassessment **based on information** received under agreement u/s **90/90A**, if info related to **tax arrears**.
- ☐ Any Taxpayer for whom order for detention under COFEPOSA Act has been passed on or before filing of declaration.
- ☐ Any Taxpayer for whom Presecution order under Benami, Corruption, Money laundering etc Acts has been instituted on or before filing of declaration.

PAYMENT TERMS

Nature of dispute and Tax Arrear		Amount payable on or before 31-12-2024		Amount payable on or after 1-1-2025 but on or before last date	
Taxpayer's appeal		New Appellant (After 31-1-20)	Old Appellant (Before 31-1-20)	New Appellant (After 31-1-20)	Old Appellant (Before 31-1-20)
I. Matters involving Disputed tax, Interest and Penalty		100% of disputed tax	110% of disputed tax	110% of disputed tax	120% of disputed tax
II. Matters involving Disputed interest, Penalty or fee		25% of such amount	30% of such amount	30% of such amount	35% of such amount
III. Dispute Created by Revenue		50% of above amount	50% of above amount	50% of above amount	50% of above amount



SALIENT FEATURES...PAYEMENT TERMS



Nature of dispute and Tax Arrear	Amount payable on or before 31-12-2024		Amount payable on or after 1-1-2025 but on or before last date	
Taxpayer's appeal	New Appellant (After 31-1-20)	Old Appellant (Before 31-1-20)	New Appellant (After 31-1-20)	Old Appellant (Before 31-1-20)
IV. Issues Covered in favour of Declarant	50% of above amount	50% of above amount	50% of above amount	50% of above amount

DEFINITIONS:

New appellant case

Means any case other than an “old appellant case” where the

declarant is an appellant after the 31st January, 2020 but on or before the specified date

Old appellant case

Means where the declarant is an appellant on or before the 31st January, 2020, in respect of any tax arrear and continues to be an appellant at the same

appellate forum on the specified date in respect of such tax arrear

What is a “Disputed Income”?

“disputed income” in relation to an assessment year, means the whole or so much of the total income as is relatable to the disputed tax.

What is a “Tax Arrears”?

“tax arrear” means—

- (i) the aggregate amount of disputed tax, interest chargeable or charged on such disputed tax, and penalty leviable or levied on such disputed tax; or*
- (ii) disputed interest; or*
- (iii) disputed penalty; or*
- (iv) disputed fee.*

What is a 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 (hereafter in this Chapter referred to as the amount of tax) 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 u/s 144C of the Income-tax Act, as on the specified date, **the amount of tax payable by appellant if the Dispute Resolution Panel was to confirm the variation proposed in the draft order;***

(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.

Provided that in a case where the dispute in relation to an assessment year relates to reduction of tax credit under section 115JAA or section 115JD of the Income-tax Act, 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.

“ **Disputed interest**“ means the interest determined in any case under the provisions of the Income-tax Act, 1961, where—

- such interest is not charged or chargeable on disputed tax;
- an appeal has been filed by the appellant in respect of such interest;
- It covers those cases wherein the assessee is not disputing quantum addition but calculation of interest u/s 234B etc.



What is
Disputed interest?

What is disputed **Disputed Penalty?**



- “ **Disputed Penalty**” means the penalty determined in any case under the provisions of the Income-tax Act, 1961, where—
- such penalty is not levied or leviable in respect of disputed income or disputed tax, as the case may be;
 - an appeal has been filed by the appellant in respect of such penalty;
 - It covers penalties like 271B, 271A etc....

What is **Disputed fee?**

"Disputed fee" means the fee determined under the provisions of the Income-tax Act, 1961 in respect of which appeal has been filed by the appellant.

FORMS : DIRECT TAX VIVAD SE VISHWAS SCHEME, 2024



FOUR SEPARATE FORMS HAVE BEEN NOTIFIED AS UNDER:

FORM-1

Form for filing declaration and Undertaking by the declarant

FORM-2

Form for Certificate to be issued by Designated Authority

FORM-3

Form for Intimation of payment by the declarant

FORM-4

Order for Full and Final Settlement of tax arrears by Designated Authority

Forms will be made available on WWW.incometax.gov.in

Procedure

- 1
- 2
- 3



Under this Scheme...



❏ Taxpayer to file declaration in before the designated authority.

FORM-1

❏ Taxpayer to furnish an undertaking waiving his right direct or indirect to seek or pursue any remedy or claim in relation to the tax arrears under any law.

❏ Designated authority within 15 days from the date of receipt of declaration to determine the amount payable by the Taxpayer and grant a certificate to the declarant containing particulars of tax arrears and amount payable in

FORM-2



- ❑ Upon filing of the declaration, the appeal is deemed to have been withdrawn from the date of issue of certificate
- ❑ 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
- ❑ Taxpayer to pay the amount determined by the designated authority within 15 days from the date of receipt of the certificate and inform the designated authority of such payment made in **FORM-3**



❏ Order passed by the designated authority to be conclusive as to matters mentioned therein and such matters cannot be reopened in any other proceedings.

FORM - 4

❏ No institution of any proceedings in respect of an offence, penalty or interest. (For the benefit of declarant)

❏ Appellate forums / arbitrator, conciliator or mediator not to decide the issue in respect of cases where an order is passed by the designated authority.

OTHER



OF THE SCHEME



Features

- **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.



Features

- 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.



Features

- ❑ The taxpayer would be granted immunity from initiation of any proceedings (including prosecution proceedings) or imposition of any penalty or interest under any provisions of the IT Act in respect of tax arrears for which VSV Scheme, 2024 has been availed
- ❑ Deemed withdrawal of already pending Appeal before ITAT and CIT(A)/JCIT(A)-for appeal pending in respect of Disputed income/disputed interest/ disputed penalty/ disputed fees w.e.f. certificate issued

Question

- ▶ What is the impact in case Payment could not be done within 15 days from the date of issue of Form-2

Question

- ▶ In case no appeal is pending relating to Tax Disputes, Can VsV be applied for Penalty / Interest only.

Question

- ▶ In case both Quantum Appeal and Penalty Appeal are pending, whether Tax to be deposited for Quantum dispute and Penalty both

OR

Only Quantum Tax to be deposited

Question

- ▶ To avail the concessional benefits, whether Form-1 to be filed upto 31-12-24 OR tax also must be deposited before 31-12-24

Question

- ▶ If JCIT(A) / CIT(A) has given notice for enhancement of Income, Can this proposed enhancement of income be covered under Form-1



Appeal disposed off

➤ Suppose a taxpayer is eligible to apply for **DTVSV Scheme, 2024** as his appeal is pending as on **22.7.2024**. But subsequently, before the taxpayer could file declaration under the **DTVSV Scheme, 2024**, his appeal has been disposed off. Can such a taxpayer still file declaration under the Scheme?

Yes,

such cases are eligible for settlement under the Scheme as appeal was pending as on 22.7.2024. Disputed tax will be calculated in the same manner as if the appeal pending on 22.7.2024 is yet to be disposed off.



Appeal disposed off

Suppose a taxpayer has filed a declaration in Form-1. After the declaration, the appeal has been disposed off by the concerned authority. Whether such a case is eligible for settlement?

Yes, such a case is eligible for settlement.



Time limit to file appeal not expired on 22.7.24

- Extant provisions of DTVS Scheme, 2024 does not cover cases where Taxpayer would have received orders but the time limit to file an appeal/special leave petition had not expired as on **22 July 2024**. Is there any possibility that such cases can be covered in the Scheme?

As per section **89(1)** of the Scheme, it is clear that the appeal has to be pending as on the specified date i.e. **22.07.2024** for an appellant to be eligible for the Scheme. The definition of appellant also covers cases where the DRP has issued directions **u/s 144C(5)** but the AO has not completed the assessment **uls 144C(13)**.

Therefore, the Scheme does not provide for eligibility of those cases where an appeal is not pending as on **22.7.2024** except for DRP cases referred above.



Time limit to file appeal expired on 22.7.24

Time limit for filing of appeal has expired before 22nd July 2024 but an appeal alongwith application for condonation. Of delay has been filed after 22nd July, 2024. Whether the taxpayer can opt for the Scheme in such a case?

No.

Appeal has to be pending as on 22nd of July, 2024 for a taxpayer to opt for the Scheme. Thus, where an appeal along with application **for condonation is filed after 22nd July, 2024, it does not tantamount to pendency of appeal as on 22nd July, 2024. Accordingly, such cases shall not be eligible.**



Time limit to file appeal expired on 22.7.24

Suppose an appeal has been filed before 22nd July, 2024 with an application for condonation of delay which is also filed before 22nd July, 2024. This appeal has been admitted by allowing condonation of delay prior to the date of filing of declaration under the Scheme. Whether such a taxpayer can opt for the Scheme

Yes.

In such cases where the appeal as well as condonation application have been filed on or before 22nd July, 2024. On admission of condonation application, such cases convert into an appeal pending on 22nd of July, 2024. Therefore, the taxpayer can opt for settlement under the Scheme in such cases.



Settling issues in Part

- Where disputed tax contains qualifying tax arrears along-with non-qualifying tax arrears such as, tax arrears mentioned in **section 96(a)** for eg. tax arrear in respect of undisclosed foreign income, whether the taxpayer can apply for the Scheme in such a case?

As per section 91 (2) of the Scheme, after filing of declaration appeals before ITAT/ CIT(A)/ JCIT(A) are deemed to be withdrawn from the date of issue of certificate by the Designated Authority. Further as per **section 91(3)** of the Scheme, the taxpayer IS required to withdraw appeals and furnish proof thereof along with intimation of payment **uls 92(2)** of the Scheme

Therefore, the Scheme does not envisage settling issue in part. The dispute has to be settled in full as per the Scheme.

Thus, where there are non-qualifying tax arrears, such disputes are not eligible to be covered under the Scheme.



Settling penalty appeal while quantum appeal pending

- Can a taxpayer settle penalty appeal while continuing to litigate the associated quantum appeal?

Reference may be made to section 89(1)(i) of the Scheme, which provides the definition of 'disputed penalty'. It provides that the disputed penalty is such penalty which is not levied or leviable in respect of disputed income or disputed tax.

Thus, it would not be possible for the appellant to apply for settlement of penalty appeal only, when the appeal on disputed tax related to such penalty is still pending.

If both quantum appeal covering disputed tax and appeal against penalty levied on such disputed tax for an assessment year are pending, the declarant is required to file a declaration form giving details of both disputed tax appeal and penalty appeal.

However, he would be required to pay relevant percentage of disputed tax only.



Request for withdrawal of appeal made

- If a taxpayer has requested for withdrawal of appeal under section 91 (3) of the Scheme and the appeal is not yet allowed to be withdrawn, how will the taxpayer furnish proof of withdrawal in such cases?

Where assessee has made request for withdrawal and such request IS under process, proof of request made shall be enclosed .

Refund issues

- Whether taxpayers can settle appeals under **DTVSV Scheme, 2024** using the refunds which they are expecting from the department?

As per **section 92(2)** of the Scheme, the declarant shall pay the amount determined under **section 92(1)** of the Scheme within a period of fifteen days of the date of receipt of the certificate and intimate the details of such payment to the Designated Authority in the prescribed form and thereupon the Designated Authority shall pass an order stating that the declarant has paid the amount.

There is no provision in the Scheme allowing payment of the amount determined **uls 92(1)** of the Scheme through adjustment or any refund expected from the Department.



TDS/TCS issues

- When assessee settles his own appeal under DTVSV Scheme, 2024, will consequential relief be available to the deductor In default from liability determined under **TDS order u/s 201** of the Act?

Yes. In such a case, the deductor in default would not be required to pay the corresponding TDS amount. However, he would be required to pay the interest under **sub-section (IA) of section 201** of the Act. If such levy of interest under **sub section(I A)** of section 201 of the Act qualifies for **DTVSV Scheme, 2024**, the deductor in default can settle this disputed interest by filing up the relevant schedule of disputed interest.



Set-aside matters

- An order has been set aside, fully or partially, to the AO. Can the taxpayer avail the DTVSV Scheme, 2024 if the set –aside matter is pending as on **22.7.2024**?

According to the Scheme, an appeal which is pending as on **22.7.2024** shall be eligible for settlement. A set-aside matter to the AO is not an appeal pending as such. Therefore, set-aside matters to the AO, whether fully set-aside or partially set-aside are not covered under the Scheme.

However, where an appeal has been set-aside fully to ITAT/CIT(A)/DRP, such appeals will be eligible for settlement.

Also, where an appeal has been partially set-aside to ITAT/CIT(A)/DRP, all the issues which have been set-aside will form a separate appeal and shall be eligible for settlement as such and disputed tax will be computed as if pending at the level to which it is set-aside.



Two appeals for one AY in respect of the same order

- Where there are two appeals filed for an assessment year in respect of the same order - one by the appellant and one by the tax department, whether the appellant can opt for only one appeal? How would the disputed tax be computed in such a cases?

Yes. The appellant has an option to opt for settling appeal filed by him or appeal filed by the department or both. This has to be specified in the declaration to be made in **Form- I** . Also refer to the proviso to Rule 4 of **the Direct Tax Vivad se Vishwas Rules, 2024** which is reproduced as under: -

"where the appellant and the income-tax authority have both filed an appeal or writ petition or special leave petition in respect of the same order, single Form- I shall be filled by the appellant. "

Accordingly, relevant Schedules in **Form- I** have to be filled out by the appellant and the disputed tax would be worked out.

Writ on 148/148A notice

- If a writ has been filed against a notice issued under **section 148/ 148A** of the Act and no assessment order has been passed consequent to that notice, whether such cases are eligible under the Scheme?

The income in such cases is yet to be determined. Therefore, the disputed tax is not ascertainable. Thus, the taxpayer would not be eligible For the Scheme in such cases.



Assessment order stayed by HC/SC

- Whether the **DTVSV Scheme, 2024** can be availed in a case where the enforceability of an assessment order passed by AO has been stayed by the High Court or Supreme Court?

No . A quantum appeal pending on **22.7. 2024** can be settled under the Scheme. Where an assessment order has been stayed, it does not tantamount to an appeal pending as on **22.7.2024**.

Other Issues

- The assessment order under **section 143(3)** of the Act was passed in the case of an assessee for an assessment year. The said assessment order is pending with ITAT. Subsequently another order under **section 147/143(3)** was passed for the same assessment year and that is pending with CIT (A)? Could both or one of the orders be settled under scheme?

The appellant in this case has an option to settle either of the two appeals or both appeals for the same assessment year. As per **rule 4(1)** of the **Direct Tax Vivad se Vishwas Rules, 2024**, the declaration shall be filed separately in respect of each order. Therefore, if a taxpayer decides to settle both appeals then he has to file separate declaration for the two orders.



- Addition was made **u/s 143(3)** on two issues whereas appeal is filed only for one addition. Whether interest and penalty be waived for both additions.

- Once declaration is filed under **DTVSV Scheme, 2024**, and for financial difficulties, payment is not made accordingly, will the declaration be null and void?

- Whether the immunity from prosecution is only for the declarant or also for the Director of the company or partner of the firm with respect to the disputes settled under the **DTVSV scheme 2024**?

Under **DTVSV Scheme, 2024** interest and penalty will be waived only in respect of the issue which is disputed in appeal and for which declaration is filed. Hence, for the undisputed issue, the tax, interest and penalty shall be payable.

Yes. As per provisions of **section 91 (5)** of the Scheme it shall be deemed as if the declaration has not been made.

If a dispute has been settled under the Scheme, the immunity from prosecution with respect to that dispute shall also extend to the director / partner of company / firm (being the declarant) in respect of same dispute under **section 278B** of the Act.



Review petition pending before SC/ HC

Where review petitions are pending before High Courts or Supreme Courts, whether those cases be eligible for settlement under DTVSV Scheme, 2024?

No.

Pendency of review petition does not tantamount to pendency of an appeal. Therefore, even if a review petition is pending as on 22nd July, 2024, it will not amount to pendency of an appeal



Search assessments

- **Kindly clarify which assessments shall be considered to have been made on the basis of search initiated under section 132/132A of the Act?**

Assessments framed under section 153A or 153C are clearly made on the basis of search initiated u/s 132/132A. Therefore, such cases shall not be eligible for the DTVSV Scheme, 2024.

For other cases where assessments have been made U/S 143(3)/144/ 147, following three sets of cases shall be considered as cases where assessments have been made on the basis of search initiated u/s 132/ 132A.

These cases are:-

- i) Where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A, on or after the 1st day of April, 2021, in the case of the assessee and assessments have been made consequently; or**



(i) Where the Assessing Officer has drawn satisfaction with the prior approval of the Principal Commissioner or Commissioner, that any money, bull ion , jewellery or other valuable article or thing, seized or requisitioned **under section 132 or section 132A** in case of any other person on or after **the 1st day of April , 2021**, belongs to the assessee and assessments have been made consequently; or

(iii) Where the Assessing Officer has drawn satisfaction, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned under **section 132 or section 132A** in case of any other person on or after the **1st day of April , 2021**, pertains or pertain to, or any information contained therein, relate to , the assessee and assessments have been made consequently.



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