



**Western India Regional Council of
The Institute of Chartered Accountants of India**
(Set up by an Act of Parliament)



———— Practical Guide on ————
**Vivad se Vishwas
Scheme 2020**



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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

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Foreword



The Government is taking forward the reform agenda in taxation with great speed. The '*Vivad Se Vishwas*' scheme is a laud worthy attempt by the Government to bring down pendency in the number of direct tax cases. The scheme aims to settle and conclude the approximately 4.83 lakh direct tax cases pending at various appellate forums such as the Commissioner (Appeals), ITAT, high courts and the Supreme Court.

This scheme brings a host of benefits not least being that it removes uncertainty regarding the outcome of the dispute; it is a very speedy process; ends up reducing costs in terms of interest, penalty and prosecution as well as litigation costs; has inbuilt payment flexibility, in short, this scheme frees up resources from the burden of disputes to be put to more constructive business matters.

In the last few years we have seen quite a few changes in terms of procedures, guidelines, revised notifications, etc. with so many variations as well as upcoming changes it was felt that more clarity was required to enable members and students not only understand but face the new challenges with aplomb and confidence.

To that end, I am confident that this eBook will go far towards keeping members completely updated in comprehending and addressing relevant issues with respect to the '*Vivad Se Vishwas*' scheme. This e-publication will enable members to get clarity about various issues and assist them in planning the course of action required to resolve issues across multiple fronts related to this scheme.

I take this opportunity to thank CA Jayesh Kala, RCM, CA Piyush Chhajer and CA Vinod Jain for their efforts in producing this e-Publication within a very short span of time. This e-publication will ensure that our members and students remain at the cutting edge of professional knowledge and information, thus continuing to provide world class services to all clients and stakeholders.

CA. Lalit Bajaj,
Chairman, WIRC

Preface



Dear Members ,

The outbreak of 'COVID-19' pandemic has significant adverse impact on businesses across sectors and on livelihood. It has not only disturbed the global economy and global supply chain but also brought various sectors to standstill. The partial shutdown that started from early March in many parts of India and further Nationwide complete lockdown since 25 March 2020 in India and similar measures taken by several countries to tackle 'COVID-19' pandemic has impacted the whole world as the economy and lives of many are disturbed.

Inspite of this unprecedented situation that each one of us is facing, we all are standing strong and putting our best efforts to overcome the ongoing situation. At this juncture it is wisely to say Stay home stay healthy and safe and take care of your near and dear ones.

WIRC of ICAI has always worked upfront for the benefit of its members. Inspite of such ongoing challenging situation WIRC has always imparted knowledge to its members and students at large through various webinars. WIRC has not left stone unturned for upgrading its members and students through digital learning hub, conducting webinars, virtual classes etc.

Vivad Se Vishwas Scheme 2020 is the golden opportunity to settle Income tax disputes. The objective of the scheme is to Reduce income tax pending litigation, help taxpayers end their tax disputes with the department by paying disputed tax and get waiver from payment of interest and penalty. The government has extended the deadline for settling tax disputes under the **Vivad se Vishwaas** scheme without paying any interest and penalty to December 31, 2020 from March 31, 2020.

WIRC has taken initiative to bring this publication of Vivad Se Vishwas Scheme so that the members can equipped themselves with the scheme guidelines and can guide their clients in an informed manner. The efforts taken by CA Piyush Chajed and CA Vinod Jain is commendable to bring out this publication amidst lockdown. I also acknowledge the support extended by our Chairman CA Lalit Bajaj and entire council members in bringing out this publication. I am sure the members at large shall be immensely benefitted through this publication.

Regards,

Jayesh Kala

Chairman

Direct Tax Committee, WIRC of ICAI



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Abbreviations

In this book, unless context requires otherwise, the following abbreviated terms shall carry the meaning as reflected against each abbreviation.

AAR	Authority of advance Ruling under Income Tax Act 1961
Act/ The Act	The Direct Tax <i>Vivad Se Vishwas</i> Act, 2020
AO	Assessing officer
Appeal	Appeals, Writs, SLP and other proceedings that are eligible under the VsV Act
CBDT	The Central Board of Direct Tax
CIT(A)	The Commissioner of Income Tax (Appeal)
DA	Designated Authority under Direct Tax <i>Vivad Se Vishwas</i> Act, 2020
DRP	Dispute Resolutions Panel Under Income Tax Act, 1961
FAQ's	Frequently ask Questions issued by CBDT via circular no 9/2020
HC	High Court
ITAT	Income Tax Appellate Tribunal
SC	Supreme Court
SVS	Sabka Vishwas - (Legacy Dispute Resolution) Scheme, 2019
Scheme/ VsV	Direct Tax <i>Vivad Se Vishwas</i> Act, 2020

The Direct Tax Vivad se Vishwas Act 2020

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CHAPTER – 1

About the Direct Tax Vivad Se Vishwas Act, 2020

Tax amnesty/dispute resolution schemes are introduced by the countries world over and are advertised as a benefit extended by the government to the defaulters/ disputers to pay taxes. List of various Resolution/ amnesty schemes introduced in India by various governments are as under

Sr. No.	Year	Dispute Resolution Schemes
1.	1998	Kar Vivad Samadhan Scheme (KVSS)
2.	2016	Direct Tax Dispute Resolution Scheme
		Amnesty Schemes
1.	1951	VDS Tyagi Scheme
2.	1965	Block voluntary disclosure scheme
3.	1975	Voluntary disclosure scheme
4.	1985	Amnesty scheme
5.	1997	Voluntary disclosure of income scheme (VDIS-97)
6.	2016	Income and Assets Declaration Scheme (IADS)
7.	2016	Pradhan Mantri Garib KalyanYojana (PMGKY)

Apart from the above list, the recently implemented “Sabka Vishwas – (Legacy Dispute Resolution) Scheme, 2019 covering disputes under erstwhile indirect tax laws.

Over the years, the pendency of appeals filed by taxpayers as well as Government has increased due to the fact that the number of appeals that are filed is much higher than the number of appeals that are disposed. As a result, a huge amount of disputed tax arrears is locked-up in these appeals. As per the Government database, as on the 30th November, 2019, the amount of disputed direct tax arrears is ₹ 9.32 lakh Crores. Considering that the actual direct tax collection in the financial year 2018-19 was ₹ 11.37 lakh Crores, the disputed tax arrears constitute nearly one year’s direct tax collection.

Tax disputes consume copious amount of time, energy and resources both on the part of the Government as well as taxpayers. Moreover, they also deprive the

Government of the timely collection of revenue. Therefore, there was an urgent need to provide for resolution of pending tax disputes. This will not only benefit the Government by generating timely revenue but also the taxpayers who will be able to deploy the time, energy and resources saved by opting for such dispute resolution towards their business activities.

The Vivad Se Vishwas Bill, 2020 (now VsV Act), has been passed by the Lok Sabha on 4th March 2020 and by the Rajya Sabha on 13th March 2020. Further, the assent of the Hon'ble President of India has received on 17th March 2020.

The objective behind the VsV is to collect taxes and at the same time reduce litigation. It offers a complete waiver on interest and penalty to the taxpayers who pay their disputed taxes. And if the dispute is only on the penalty, interest or fee, then certain percent of it will be required to be paid.

Objectives of the Direct Tax Vivad Se Vishwas Act,2020

1. Minimizing Tax Related Litigation
2. Generate revenues for the Government
3. Help taxpayers to end tax disputes by paying disputed tax and get waiver from payment of interest and penalty.
4. Immunity from prosecution.
5. Bridging the Dispute – Trust

Various Other Benefits of the Direct Tax Vivad se Vishwas Act, 2020:

- a. **Old disputes (legacy issues)** - The Companies usually litigate those issues as they set a precedent for subsequent years. Further, given the huge pendency of litigation in India in the High Court and Supreme Court, it is likely such matters are prolonged anywhere between 5 to 15 years from the date of admission, depending upon jurisdiction where the appeal is pending. Thus, it could make sense for taxpayers to opt VsV, as settling matters in the VsV, will not be considered as a precedent and taxpayers can continue to litigate for subsequent years.

Also, if the issues involved in such old years, with evolving judicial precedents, suggest that the position adopted was aggressive, a finer look at the demand usually will reflect that the potential interest quantum is either equivalent to or higher than the disputed tax demand, owing to the long pendency of such appeals.

- b. **Additions impacting losses** - The VsV may be of particular interest to taxpayers that have losses/ unabsorbed depreciation that are either likely to be lapsed (either on account of time or change in shareholding under section 79) or unlikely to be utilised in near future. In such scenario, taxpayers can consider the Scheme with utilisation of brought forward losses.
- c. **Additions which are timing in nature** - In such cases, the issue involved is purely on account of the year in which deduction shall be available to the taxpayer. In case clarity is brought that the consequential effect of such issues in subsequent years either on account of actual expenditure or depreciation is allowable, and to that effect, refund be computed in such subsequent years at this stage itself, the same shall provide impetus for such appeals to be closed through VsV and meet the objective of reducing pending litigation.
- d. **Fact specific additions owing to lack of documentation** - There are, sometimes, issues raised by the Tax Authorities where more than legal principles the documentation maintained by the taxpayer plays a decisive role in deciding the matter. It has been experienced that in certain cases in absence of real time documentation and also on account of attrition of employees, furnishing of evidence at the assessment or appellate stage becomes a challenge. Such matters may be settled without the invocation of interest and dispute on penalty under the VsV.

Some more announcements by the Honourable Finance Minister: -

24th March 2020:-

As per the original scheme, when launched, tax dispute settlement under the scheme was to be allowed without payment of any interest or penalty only till March 31, 2020. Additional 10% of disputed tax amount had to be paid if dispute was settled under the scheme after March 31 but before closure of scheme on June 30. Now, settlement of any dispute under the VsV onwards till June 30 will not attract any penalty or interest.

13th May 2020:-

The Finance Minister again announced as a part of the mega economic relief package that the deadline for settling tax disputes under the Vivad se Vishwas scheme extended to December 31, 2020. According to her the scheme will now close on 31st December 2020 without any additional payment. The notification in this regard is not yet issued. The last extension done from 31.03.2020 to 30.06.2020, was for filing declaration as well as payment without additional tax. In view of the above, pending notification it can be safely assumed that the date of filing declaration and payment of tax both shall stand extended to 31.12.2020.

Further the last date as defined under the Act has not been notified, and therefore it is not known whether last date may be 31.12.2020 or any other date, thereafter, whereby payments can be made along with the additional tax.

'Vivad se Vishwas' will undisputedly benefit the interest of taxpayers looking for an expeditious and rapid settlement of their tax claims raised by the Department.

■ ■ ■

CHAPTER 2

Various important dates under the Direct Tax Vivad Se Vishwas Act, 2020

Sr. No.	Date	Particulars
1	31st January 2020	Specified date as defined under the VsV Act, 2020
2	1st February 2020	The Honourable Union Finance Minister during her budget speech on February 1, 2020 (2020) 420 ITR 115 (st) (146) proposed to introduce a scheme at Para 126 of the speech.
3	5th February 2020	The Bill is formally presented before the Parliament.
4	12th February 2020	The Cabinet approved certain amendments with a view to widen the scope of the Bill.
5	4th March 2020	Central Board of Direct Taxes ('CBDT') vide Circular No. 7 of 2020 provided clarifications on provisions of VsV in the form of FAQs.
6	4th March 2020	VsV Bill, 2020 passed in the Lok Sabha
7	5th March 2020	Press Release: CBDT issues FAQs on Direct Tax Vivad se Vishwas Scheme, 2020.
8	13th March 2020	VsV Bill, 2020 passed in Rajya Sabha
9	17th March 2020	VsV Bill, 2020 receives assent of President
10	17th March 2020	VsV Act, 2020 comes into force
11	18th March 2020	VsV Rules, 2020 are notified
12	31st March 2020 extended to 30th June 2020	Cut-off date for beneficial payment under the VsV Act, 2020
13	To be notified – as per the Act.	Last date for payment under the VsV Act, 2020, June 30, 2020* As per the Budget Speech
14	30th June 2020 now extended to 31st December 2020	The Honourable Finance Minister announced as a part of the mega economic relief package that the deadline for settling tax disputes under the Vivad se Vishwas scheme extended to December 31, 2020.



CHAPTER 3

Eligible Person and Eligible Appeal under the Direct Tax Vivad se Vishwas Act, 2020

Eligible Person under the Direct Tax Vivad Se Vishwas Act, 2020

3.1 The prime focus under the Direct Tax Vivad se Vishwas Act, 2020 is on “tax arrear”, its computation and its payment.

“Declarant”, as defined in section 2 (1) (c) of the Scheme, is eligible to avail this Scheme. The term “declarant” is defined as

‘a person who files declaration under section 4 of the Act’.

After detailed analysis of section 3, it shows that, ultimately, the declaration is vis – a – vis “tax arrear” which, in turn, is dependent upon “disputed tax” which, in turn, is defined in relation to an “appellant” in whose case an appeal or a writ or a SLP or the prescribed proceeding is pending before an “appellate forum” or before the specified income tax authority, as the case may be.

It becomes essential to understand who is regarded as an appellant. In section 2 (1) (a) of the Scheme, the word “appellant” is defined as under:

“2 (1) In this Act, unless the context otherwise requires, –

(a) “appellant” means–

- i. *a person in whose case an appeal or a writ petition or special leave petition has been filed either by him or by the income-tax authority or by both, before an appellate forum and such appeal or petition is pending as on the specified date;*
- ii. *a person in whose case an order has been passed by the Assessing Officer, or an order has been passed by the Commissioner (Appeals) or the Income Tax Appellate Tribunal in an appeal, or by the High Court in a writ petition, on or before the specified date, and the time for filing any appeal or special leave petition against such order by that person has not expired as on that date;*
- iii. *a person who has filed his objections before the Dispute Resolution Panel under section 144C of the Income-tax Act, 1961 and the*

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

- iv. *a person in whose case the Dispute Resolution Panel has issued direction under sub-section (5) of section 144C of the Income-tax Act and the Assessing Officer has not passed any order under sub-section (13) of that section on or before the specified date;*
- v. *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;”*
- vi. *a person who has initiated any proceeding for arbitration, conciliation or mediation, or has given any notice thereof under any law or under any agreement*

After the detailed analysis of the section 2(1) of the Direct Tax Vivad se Vishwas Act, 2020, the following person shall be eligible for the benefit under VsV Act:

3.2 Any person whose appeal is pending before CIT/ITAT/HC/SC, any person whose writ petition is pending before HC/SC, any person whose special leave petition is pending before SC.

Any person also includes person in whose case appeal is filed by department in any of the above forums. The specified date for the VsV Act is 31.01.2020. Hence the assessee /department should have any appeal/Writ/SLP pending before CIT/ITAT/SC/HC as on 31.01.2020.

Appeals, writs, SLPs, arbitration, conciliation and mediation petition filed by Department or taxpayer on or before 31 January 2020 against-

- Disputed tax (including interest or penalty on such disputed tax) in relation to an assessment or reassessment order
- Disputed interest, disputed penalty or disputed fees where there is no disputed tax.
- Disputed tax can also include the tax determined on default in respect of tax deducted at source (TDS) or tax collected at source (TCS).
- Disputed tax shall include tax on enhancement notice issued by Commissioner of Income Tax (Appeals)

3.2.1 If Appeal was pending on 31st January, 2020

The VsV Act requires that the appeal should be pending on 31st January, 2020; therefore, the assessee should be eligible for the VsV. It should be noted, in

the earlier VsV in respect of erstwhile indirect tax laws i.e. SabkaVikas (Legacy Dispute Resolution) Scheme, 2019 the decided matters which were pending on the specified date were allowed to be settled.

3.2.2 Appeal was pending on 31st Jan, 2020 but appellate order had come before filing Declaration.

The appeal of the assessee was pending as on 31st January, 2020. The appeal was heard and order was passed on 3rd February, 2020. The VsV requires that the appeal should be pending on 31st January, 2020, therefore, the assessee should be eligible for the VsV.

3.2.3 Appeal not pending on 31st January, 2020 but ITAT recalled its order subsequently through miscellaneous application under section 254 of the Income Tax Act, 1961.

When any mistake in the earlier order is observed, the matter, as per the provisions of section 254, is recalled by ITAT. The appeal then relates back to the date on which the erroneous order was passed. Thus, the appeal shall be considered as pending on 31st January, 2020.

3.2.4 Admission of Appeal pending:

An appeal, should have been pending as on 31.01.2020. There is no further requirement that it should have been admitted. In so far as an appeal or a SLP pending before High Court / Supreme Court is concerned, it appears, the assessee can opt for the scheme, even if such appeal is pending admission. It is further clarified in Question No. 24 of the FAQ's, which reproduced as under:

Question No. 24. *If appeal is filed before High Court and is pending for admission as on 31.1.2020, whether the case is eligible for Vivad se Vishwas?*

Answer : Yes.

3.2.5 Substantive addition / Protective addition:

An appeal may be pending against an assessment made or an addition made on protective basis and /or on substantive basis. This said issue is also covered by the CBDT via Question No. 35 as under:

Question No. 35. *If there is substantive addition as well as protective addition in the case of same assessee for different assessment year, how will that be covered? Similarly if there is substantive addition in case of one assessee and protective addition on same issue in the case of another assessee, how will that be covered under Vivad se Vishwas?*

Answer: *If the substantive addition is eligible to be covered under Vivad se Vishwas, then on settlement of dispute related to substantive addition AO shall pass rectification order deleting the protective addition relating to the same issue in the case of the assessee or in the case of another assessee.*

3.2.6 Deemed Appeal: The appealable orders where time limit of filing appeal has not expired as on specified date i.e. 31.01.2020 have been included in this sub-clause.

The assessment order is passed U/s 143(3) on 31.12.2019, the order is received by assessee on 02.01.2020, accordingly time limit for filing an appeal before Commissioner of Income Tax (Appeals) is on or before 01.02.2020 (i.e. 30 days from date of receipt of assessment order). In which case the time limit for filing the Appeal has not expired on 31.01.2020 and therefore the disputes vide said assessment order shall be eligible for the VsV.

3.2.7 Similarly, Mr. X had filed an appeal before First Appellate Authority – Commissioner of Income Tax (Appeals), and if CIT(A) has dismissed the appeal of Mr. X on 22.01.2020 and received on the same date. In which case the due date of filing appeal before the Second Appellate Authority i.e. Income Tax Appellate Tribunal (TAT) is 60 days from the date of receipt of First Appeal Order i.e. 22.03.2020. Hence Mr. X will be termed as an appellant for the purpose of Act.

3.3 Cases where assessee has filed any objection against draft order before Dispute resolution panel u/s. 144C of the Income Tax Act.

As per sub section 2 of Section 144C, on receipt of the draft order proposing transfer pricing adjustments, the assessee shall within thirty days of the receipt of the order-

- File his acceptance of the variation to the AO, or
- File his objection, if any, to such variation with the DRP;

The DRP on receipt of any objection, shall issue such directions, as it thinks fit, for guidance of the AO to enable him to complete the assessment. On receipt of the directions, the AO shall, complete the assessment order within one month from the end of the month in which such direction is issued.

If DRP has not issued any direction, then such cases are eligible for the said VsV. If Dispute Resolution panel has issued any direction, then the same shall also be covered as per the next sub clause of the VsV Act.

3.4 Cases where DRP has issued any direction to Assessing Officer u/s 144C (5) upon receipt of objections from assessee under Sec 144C(2) of Income Tax

Act and Assessing Officer has not passed the assessment order u/s. 144C (13) of the Income Tax Act are covered here.

3.5 Cases where application for revision has been filed before CIT/PCIT under section 264 of the Income Tax Act are eligible under this clause. However, this would be applicable only when such application is pending on 31.01.2020.

An assessee aggrieved by an order passed by the Assessing Officer (AO) may file an appeal against the same, to the Dy. CIT (A) or the CIT(A). As an alternative remedy the assessee may prefer an application to the CIT for revising the orders passed by the AO. A remedy U/s 264 of Income Tax Act is contemplated by the Legislature only to meet a situation faced by an aggrieved assessee who is unable to approach the appellate authorities for relief and has no other alternative remedy under the Income Tax Act. Even those orders which are not appealable before the Dy. CIT(A) or CIT(A), may be referred by the assessee to the CIT for seeking revision or modification.

Further Sec 264 excludes all the order to which section 263 applies; hence the same is excluded from the benefit of the Act indirectly.

Section 263 of the Income Tax Act, 1961 confers wide powers on the Principle Commissioner of Income Tax/Commissioner of Income Tax (Pr. CIT/CIT) to revise any assessment which is "erroneous and prejudicial to the interests of the revenue".

3.6 Dispute where payment has already been made shall also be eligible for the VsV.

3.7 Set aside proceedings:

3.7.1 If all the issues are remanded back by tribunal to the Assessing officer

In case the assessee had filed an Appeal before the ITAT, and ITAT has passed the order and where assessment is cancelled with a direction that assessment is to be framed de novo. There is no Appeal pending as per section 2(1)(a) of the VsV Act; The same will not be covered within the ambit of the VsV Act. It will be noted that once the ITAT order is passed setting aside the assessment order, there is no demand against the assessee till the time fresh order is passed within the time limit prescribed under the Income Tax Act.

In case where the issues are remanded back by the ITAT to AO and consequent to the same the AO has passed the order U/s 254 r.w.s 143(3), and if appeal is pending against the said order on 31.01.2020 or time limit has not expired as on 31.01.2020, then the assessee shall be eligible under the VsV in respect of the fresh order passed U/s 254 r.w.s 143(3)

3.7.2 **If all the issues are remanded back by the tribunal to the Commissioner of income Tax (Appeals)**

In case the assessee had filed an Appeal before the ITAT, and ITAT has passed the order remanding back to the Commissioner of Income Tax (Appeals) for fresh consideration. There is an appeal pending against an order of the Ld. AO as per section 2(1)(a) of the VsV Act and the same will be covered within the ambit of the VsV Act.

3.7.3 **If part issues are remanded back to the Assessing officer and part to the Commissioner of Income Tax (Appeals)**

In case the assessee had filed an Appeal before the ITAT, and ITAT has passed the order remanding back certain issues to AO and on certain issues to Commissioner of Income Tax (Appeals). In this case the Appeal will be treated as pending before Commissioner of Income Tax (Appeals) in respect of issues which have been set aside to Commissioner of Income Tax (Appeals) and therefore the same shall be eligible for the VsV.

If an appellate authority has set aside an order to the file of the AO for giving proper opportunity or to carry out fresh examination of the issue with specific direction, the assessee would be eligible to avail Vivad se Viswas.

This said issue is also covered by the CBDT via Question No. 7 ad same is reproduced as under:

Question No. 7. *If assessment has been set aside for giving proper opportunity to an assessee on the additions carried out by the AO. Can he avail the Vivad se Vishwas with respect to such additions?*

Answer: *If an appellate authority has set aside an order (except where assessment is cancelled with a direction that assessment is to be framed de novo) to the file of the AO for giving proper opportunity or to carry out fresh examination of the issue with specific direction, the assessee would be eligible to avail Vivad se Vishwas. However, the appellant shall also be required to settle other issues, if any, which have not been set aside in that assessment and in respect of which either appeal is pending or time to file appeal has not expired. In such a case disputed tax shall be the tax (including surcharge and cess) which would have been payable had the addition in respect of which the order was set aside by the appellate authority was to be repeated by the AO.*

3.7.4 **Parallel Proceedings-**

There may be various situations where settlement of one appeal under the VsV may have repercussion on other proceedings under the IT Act. Following are the examples of the same:

- 2 or more appeal for the same assessment year for same issues and different issues
- Appeal arising out of the consequential proceeding like u/s 263 and 143(3) r.w.s 263
- Protective and substantive additions

The assessee has an option to file declaration for any appeal or both. The same is clarified by CBDT via Question No. 19 of the FAQ's:

Question No. 19. *The assessment order under section 143(3) of the Act was passed in the case of an assessee for the assessment year 2015-16. 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 (Appeals)? Could both or one of the orders be settled under Vivad se Vishwas?*

Answer : *The appellant in this case has an option to settle either of the two appeals or both appeals for the same assessment year. If he decides to settle both appeals then he has to file only one declaration form. The disputed tax in this case would be the aggregate amount of disputed tax in both appeals.*

■■■

CHAPTER 4

Disputed Tax for the Direct Tax Vivad se Vishwas Act, 2020

After detailed studies of the eligible persons and eligibility criteria the next important discussion about disputed taxes or tax arrears is as follows:-

Where appeal or writ is pending before an appellate forum, can be regarded as an appellant, however, this definition makes the point clear, an appellant means a person in whose case an appeal, etc. has been filed 'by him or by the income tax authority'. As such, an appellant cannot be the income tax authority. Further, as per section 3, a declaration has to be filed by a 'person', which the Department cannot be regarded as. In any case, since, in terms of the definition of the term 'disputed tax' as given u/s. 2 (1) (j) of theVsV Act, the very crux of the Scheme is settlement of disputed tax / tax arrears by payment of the tax payable by an appellant to the Government, by the very nature of the Scheme, a declaration can be filed only by an assessee and not by the Department.

4.1 Disputed Tax: Section 2(1)(j)of the Direct Tax Vivad se Vishwas Act, 2020

Definition of the disputed is defined under section 2(1)(j) of the Direct Tax Vivad se Vishwas Act, 2020, as under: -

"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 clause referred to as the amount of tax) payable by the appellant under the provisions of the Income-tax Act, 1961, 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 an order in an appeal or in writ petition has been passed by the appellate forum on or before the specified date, and the time for filing appeal or special leave petition against such order has not expired as on that date, the amount of tax payable by the appellant after giving effect to the order so passed;*
- (C) *in a case where the order has been passed by the Assessing Officer on or before the specified date, and the time for filing appeal against such order*

has not expired as on that date, the amount of tax payable by the appellant in accordance with such order;

- (D) *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;*
- (E) *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 passed the order 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 under sub-section (13) thereof;*
- (F) *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:*

4.1.1 The provisions for computing 'disputed tax' as given in section 2 (1) (j) are tabulated in a simplified manner as under:

Sr. No.	Cases	Disputed Tax means:
1	In case of appeals pending as on 31.01.2020	Amount of Tax payable if such appeal was to be decided in favour of revenue
2	In case where an order in appeal has been passed on or before 31.01.2020, and time for filing further appeal has not expired as on 31.01.2020	Amount of tax payable after giving effect to the order so passed
3	In case where an order in original has been passed by Assessing officer on or before 31.01.2020, and time for filing appeal has not expired as on 31.01.2020	Amount of tax payable in accordance with such order in original (assessment order)
4	In case where objection filed is pending before Dispute Resolution Panel (DRP) u/s 144C as on 31.01.2020	Amount of tax payable if the DRP was to confirm the variations proposed in the draft order.

Sr. No.	Cases	Disputed Tax means:
5	in case where DRP has issued any direction u/s 144C(5) and the AO has not passed final order as on 31.01.2020	Amount of tax payable as per the assessment order to be passed by the Assessing Officer
6	in a case where an application for revision under section 264 is pending as on the 31.01.2020	Amount of tax payable if such application for revision was not to be accepted

Following are the examples in respect to the above situations:-

For the sake of simplicity, we have assumed tax rates @ 30% and MAT @ 18.5% (including Cess and surcharge). However, Tax rates, Surcharge rates and Cess rates vary from disputed assessment year to assessment year and the different nature of disputed income.

- a) **Where an order in Appeal has been passed on or before 31.01.2020, and time for filing further Appeal has not expired as on 31.01.2020:-**

Particular of Income	Returned Income	Assessed Income
Income as per Return of Income	70	70
Add: Disallowances-		10
Add: Under Reported Sales-		50
Assessed income –	70	130
Tax Payable (including Surcharge & Edu. cess)	21	39
Disputed Tax		18

- b) **Where Appeal is pending before the CIT (A) as on 31.01.2020:-**

Particular of Income	Not Contested	Contested
Undisputed/Disputed Income	10	50.00
Tax payable	3.00	15.00
Interest payable (Say for 3years)	1.08	5.40
Penalty u/s 270A-Misreporting @ 50% of the Tax and under reporting @200% of the Tax (assume under reporting)	6.00	30.00

Particular of Income	Not Contested	Contested
Amount payable	10.08	50.40
(a) Amount payable immediately-Income not contested	10.08	
(b) Amount Payable if paid up to 31-12-2020		15.00

c) Where Disputed tax due to Notice of enhancement given by the CIT (A)

Particular of Income	Assessed Income
Assessed Income as per Order of AO	50
Notice of enhancement given u/s 251	20
Disputed Income	70
Total Disputed Tax payable if paid up to 31-12-2020	21.00

d) Where Disputed Tax due to Appeal disposed-of by the ITAT and pending before High Court as on 31.01.2020:-

Particular of Income	Appellant	Revenue
Income contested (Rs. 50 + 20 Lakhs enhancement)	70.00	
Less: Relief granted by the ITAT	40.00	
Balance disputed income	30.00	40.00
(a) Amount Payable if paid up to 31-12-2020	9.00	12.00

Here the appellant has following options	Paid upto 31-12-2020
1) Settle Self Appeal- Amount payable	9.00
2) Settle Revenue Appeal- Amount Payable @ 50%	6.00
3) Settle both the Appeals- Amount payable	15.00

If the appellant does not settle the Revenue Appeal and later on if the Revenue Appeal is decided against the appellant then the amount payable will as under

Tax payable		12.00
Interest payable (Say for 3 years)		4.32
Final Amount payable		16.32

e) Where Appeal is filed before the Supreme Court and pending as on 31.01.2020

Particular of Income	Appellant	Revenue
Disputed Income	30.00	
Less: Relief Granted by the HC	20.00	–
Balance Disputed Income	10.00	20.00
(a) Amount Payable if paid up to 31-12-2020	3.00	6.00

Here also the appellant has following options	Paid up to 31-12-2020
1) Settle Self Appeal- Amount payable	3.00
2) Settle Revenue Appeal- Amount Payable @ 50%	3.00
3) Settle both the Appeals- Amount payable	6.00

If the appellant does not settle the Revenue Appeal and later on if the Revenue Appeal is decided against the appellant then the amount payable will as under

Tax payable		6.00
Interest payable (Say for 4 years)		2.88
Final Amount payable		8.88

f) Where Disputed Tax on Search operations

Particular of Income	Returned Income	Assessed Income
Income as per Return of Income	70.00	70.00
Add: On Search operations		50.00
Returned/Assessed income	70.00	120.00
Tax Payable	21.00	36.00
Disputed Tax		15.00
(a) 125% of the Disputed Tax if paid before 31-12-2020		18.75

4.1.2 Calculation of disputed tax in cases where dispute relates to reduction of business loss or unabsorbed depreciation:-

In a case where the assessed income is a loss, or the brought forward loss/unabsorbed depreciation is more than the assessed income, such declarant can:

- Opt to pay the tax on the amount by which the loss/unabsorbed depreciation got reduced and carry forward the entire loss / depreciation, without any reduction.

Or

- Opt not to pay any amount in the Scheme and carry forward only the balance reduced loss / reduced depreciation.

The manner of computation of disputed tax in such cases has been provided in Rule 9 of the Direct Tax Vivad se Vishwas Rules, 2020, which are reproduced as under:

Rule 9. Manner of computing disputed tax in cases where loss or unabsorbed depreciation is reduced.–

1. *Where the dispute in relation to an assessment year relates to reduction in loss or unabsorbed depreciation to be carried forward under the Income-tax Act, the declarant shall have an option to –*
 - i. *include the tax, including surcharge and cess, payable on the amount by which loss or unabsorbed depreciation is reduced in the disputed tax and carry forward the loss or unabsorbed depreciation by ignoring such amount of reduction in loss or unabsorbed depreciation; or*
 - ii. *Carry forward the reduced amount of loss or unabsorbed depreciation.*
2. *Where the declarant exercises the option as per clause (ii) of sub-rule (1), he shall be liable to pay tax, including surcharge and cess, along with interest, if any, as a consequence of carrying forward the reduced amount of loss or unabsorbed depreciation in subsequent years:*

Provided that the written down value of the block of asset on the last day of the year, in respect of which unabsorbed depreciation has been reduced, shall not be increased by the amount of reduction in unabsorbed depreciation:

Provided further that in cases other than the eligible search cases, in computing the reduced amount of loss or unabsorbed depreciation to be

carried forward in clause (ii) of sub-rule (1), one-half of the amount by which loss or unabsorbed depreciation is reduced shall be considered for reduction, if such reduction is related to issues covered in favour of declarant:

Provided also that in case of eligible search cases, in computing the reduced amount of loss or unabsorbed depreciation to be carried forward in clause (ii) of sub-rule (1), one and one-fourth times of the amount by which loss or unabsorbed depreciation is reduced shall be considered for reduction and where the one and one-fourth times of the amount by which loss or unabsorbed depreciation is reduced exceeds the amount of loss to be carried forward before its reduction, such excess shall be ignored:

Provided also that in case of eligible search cases in computing the reduced amount of loss or unabsorbed depreciation to be carried forward in clause (ii) of sub-rule (1), five-eighth of the amount by which loss or unabsorbed depreciation is reduced shall be considered for reduction, if such reduction is related to issues covered in favour of declarant.

The Amount payable under the above Said rule is summarized in the below tables:-

[Unabsorbed depreciation – ‘UD’, Brought forward – ‘b/f’, Carry forward – ‘c/f’]

Options	In case of Assessee’s Appeal	In case of Department’s Appeal
Non – search case		
Opts to pay tax Option 1: Payment of tax on disputed amount of loss/ depreciation is selected	Pay 100% of tax on the amount of disputed addition and c/f the entire loss/UD by ignoring the amount of addition	Pay 50% of tax on the amount of disputed addition and c/f the entire loss /UD by ignoring the amount of addition
Does not opt to pay tax Option 2 i.e. Carrying forward of reduced amount of loss/ depreciation	Reduce 100% of disputed amount from the b/f loss / UD and c/f the balance reduced amount of loss / Uz.	Reduce only 50% of disputed amount of such issue from the b/f loss / UD and c/f the balance reduced amount of loss / UD

Options	In case of Assessee's Appeal	In case of Department's Appeal
Search Cases		
Opts to pay tax Option 1: Payment of tax on disputed amount of loss/ depreciation	Pay 125% of tax on the amount of disputed addition and c/f the entire loss / UD by ignoring the amount of addition	Pay 62.5 % of tax on the amount of disputed addition and c/f the entire loss / UD by ignoring the amount of addition
Does not opt to pay tax Option 2 i.e. Carrying forward of reduced amount of loss/ depreciation	Reduce 125% of disputed addition from the b/f loss / UD and c/f the balance reduced amount of loss / UD. If 125% of disputed addition exceeds the b/f loss /UD, then the assessee will have to pay 125% of tax on such excess amount	Reduce 62.5% of disputed addition of such issue from the b/f loss / UD and c/f the balance reduced amount of loss / UD.

Option 1

The tax payable on such reduction of losses for that assessment year shall be considered as disputed tax, which the appellant shall be required to pay (i.e. the appellant would only have to pay the amount of disputed tax. Interest will be waived). In such circumstances, the appellant shall be able to carry forward the losses to subsequent years as per his return of income

E.g.

A.Y. 2015-16, Losses c/f. as per return of income – ₹ 90 Crores.

Addition made in the said assessment – ₹ 30 Crores.

So, reduced loss c/f. – ₹ 60 Crores (90-30).

For the A.Y. 2016-17 – Assume Net Profit of ₹ 75 Crores.

If the assessee chooses option (i) above, disputed tax of ₹ 9 Crores (30% of 30 Crores) is required to be paid along with surcharge and cess for the AY 2015-16 without payment of any interest and there will be no impact on the tax liability of any subsequent year and in AY 2016-17, he will be allowed to set-off b/f. loss of Rs. 90 Crores without any reduction.

Option 2

Accept the reduction in losses in assessment year under dispute and carry forward the reduced amount of loss or unabsorbed depreciation, without paying any tax in the year under dispute. As a result, the appellant shall be able to carry forward only the reduced amount of losses. Consequently, the appellant will have reduced amount of losses to be set-off against income of the subsequent years. This may result in additional tax liability in the subsequent years which he shall be liable to pay, along with interest.

In case of above example if the assessee chooses option (ii) above, then there will be no tax liability in the AY 2015-16. But, the assessee will have to carry forward reduced loss of ₹ 60 Crores only.

Earlier, in the original return of income for AY 20 16-17, the appellant would have adjusted the b/f. loss of ₹ 90 Crores. However, as a result of choosing Option (ii), it will be allowed to set-off reduced b/f. loss of ₹ 60 Crores only. Thus, now the Company will have to pay tax of ₹ 4.5 Crores [being 30% of (NP of 75 Crores – reduced b/f. loss of ₹ 60 Crores)] along with surcharge, cess and Interest for the AY 2016-17 upto payment of tax (i.e. till date).

The calculation is tabulated below considering also disallowance of depreciation:

Particular of Income	Returned Loss (₹ in crores)	Assessed Loss ₹ in crores
Assessed Loss as per Order of AO	90	90
Less: Disallowance of expenses		30
Revised Loss		60
Less: Depreciation claimed 50		
Add: Depreciation allowed 25		25
Revised Loss after Depreciation		35
In such a case the assessee has following options		
a) Carry forward the reduced assessed unabsorbed Depreciation and Business Loss		35
OR		
b) Pay an amount of tax on reduced business Loss and reduced depreciation and C/F the original Loss	30	9
	25	7.5
		16.5
Returned Loss carried Forward		90

Calculation of disputed tax in cases where dispute relates to reduction of MAT Credit:

In a case where the assessed income is a loss or the brought forward loss/unabsorbed depreciation is more than the assessed income, such assessee can:

- Opt to pay the tax on the amount by which the MAT Credit got reduced and carry forward the entire MAT Credit, without any reduction.

Or

- Opt not to pay any amount in the Scheme and carry forward only the balance MAT Credit.

The manner of computation of disputed tax in such cases has been provided in Rule 10 of the Direct Tax Vivad Se Vishwas Rules, 2020, which are reproduced as under:

Rule 10 Manner of computing disputed tax in cases where Minimum Alternate Tax (MAT) credit is reduced. –

1. *Where the dispute in relation to an assessment year relates to reduction in Minimum Alternate Tax (MAT) credit to be carried forward, the declarant shall have an option to*
 - i. *include the amount by which MAT credit to be carried forward is reduced in disputed tax and carry forward the MAT credit by ignoring such amount of reduction, or*
 - ii. *carry forward the reduced MAT credit.*
2. *Where the declarant exercises the option as per clause (ii) of sub-rule (1), he shall be liable to pay tax, including surcharge and cess, along with interest, if any, as a consequence of carrying forward reduced MAT credit in subsequent years:*

Provided that in cases other than the eligible search cases, in computing the reduced amount of MAT credit to be carried forward in clause (ii) of sub-rule (1), one-half of the amount by which MAT credit is reduced shall be considered for reduction, if such reduction is related to issues covered in favour of declarant:

Provided further that in case of eligible search cases, in computing the reduced amount of MAT credit to be carried forward in clause (ii) of sub-rule (1), one and one-fourth times of the amount by which MAT credit is reduced shall be considered for reduction and where the one and one-fourth times the amount by which MAT credit is reduced exceeds the amount of MAT credit to be carried forward before it's reduction, such excess shall be ignored:

Provided also that in case of eligible search cases in computing the reduced amount of MAT credit to be carried forward in clause (ii) of sub-rule (1), five-eighth of the amount by which MAT credit is reduced shall be considered for reduction, if such reduction is related to issues covered in favour of declarant.

Explanation – For the purpose of this rule MAT credit means tax credit as per the provisions of section 115JAA or 115JD of the Income-tax Act.

The Amount payable under the above said rule is summarized in the below tables:

[Unabsorbed depreciation – ‘UD’, Brought forward – ‘b/f’, Carry forward – ‘c/f’]

Options	In case of Assessee’s Appeal	In case of Department’s Appeal
Non – search case		
Opts to pay tax Option 1: Payment of tax on disputed amount of MAT credit	Pay 100% of the disputed MAT and c/f the entire MAT credit including the disputed MAT	Pay 50% of disputed MAT and c/f the entire MAT credit including the disputed MAT
Does not opt to pay tax Option 2 i.e. Carrying forward of reduced amount of MAT credit	Reduce 100% of the disputed MAT credit and c/f balance reduced MAT credit	Reduce only 50% of disputed MAT credit of such issue and c/f the balance reduced MAT credit
Search Cases		
Opts to pay tax Option 1: Payment of tax on disputed amount of MAT credit	Pay 125% of the disputed MAT and c/f the entire MAT credit including the disputed MAT	Pay 62.5% of disputed MAT and c/f the entire MAT credit including the disputed MAT
Does not opt to pay tax Option 2 i.e. Carrying forward of reduced amount of MAT credit	Reduce 125% of disputed MAT credit and c/f the balance reduced MAT credit. If 125% of tax on disputed income exceeds the b/f MAT credit, then the assessee will have to pay 125% of tax on such excess amount	Reduce 62.5% of disputed MAT credit of such issue and c/f the balance reduced MAT credit.

Example: In such cases, the appellant company shall have the following two options:

Option 1

Pay the disputed tax on (interest will be waived) amount of MAT Credit reduced and carry forward the MAT credit as per return of income by ignoring such amount of reduction.

Option 2

Accept the reduction in MAT Credit for the assessment year under dispute and carry forward the reduced MAT credit to subsequent years without payment of any disputed tax.

The calculation is tabulated below:

Particular of Income	Normal provisions (Rs. in crores)	MAT provisions (Rs in crores)
Assessed Income as per Order of AO	80.00	150.00
Tax payable thereon	24.00	27.75
MAT Credit		3.75
Additions to the Book Profit		20.00
Revised Book Profit		170.00
Tax payable thereon		31.45
Revised MAT Credit		7.45
In such a case the assessee has following options		
a) Carry forward the revised MAT credit OR		7.45
b) Pay an amount of difference in MAT Credit and carry forward the original MAT credit		3.70

Further in case where the declarant opts not to pay tax on additions having effect on reducing loss/depreciation or MAT credit carried forward (as explained in 4.1.2 and 4.1.3) then the relevant column of the schedule –D of Form 1 is to be filled up.

Schedule-D of Form 1

Unabsorbed loss/depreciation/ MAT credit	Unabsorbed loss	Unabsorbed depreciation	MAT Credit
Brought forward as claimed by assessee (A)			
Carried forward as claimed by assessee (B)			
Disputed income* (C)			
Brought forward as per order of income-tax authorities (D)			
Carried forward as per order of income-tax authorities (E)			

4.2 Disputed Fee :Section 2(1)(f) of the Direct Tax Vivad se Vishwas Act, 2020

As per section 2(1)(f) disputed fee means the fee determined under the Income Tax Act in respect of which an appeal is filed.

The appeals may be pending as on 31.01.2020 in respect of fees payable U/s 234E. The Section 234E, is in regard to fees payable for delayed filing of TDS Returns. In which case the fee determined under the order passed which is disputed in appeal shall be considered as disputed fee.

Further the following fees payable under various section of the Income Tax Act which are in appeal shall be considered as disputed fees.

Sr. No.	Section of Income Tax Act	Nature of Fees
1	234F	Default in furnishing return of income within time as prescribed under section 139(1)
2	234E	Failure to file statement within time prescribed in section 200(3) or in proviso to section 206C(3)

a. Disputed Interest: Section 2(1)(h) of the Direct Tax Vivad se Vishwas Act, 2020

As per Section 2(1)(h) Disputed interest means any interest which is NOT levied or leviable on the disputed tax and where an appeal is filed against such disputed interest. This could include cases where the Assessee is not disputing any tax amount but only the interest amount determined as per any order.

The same shall include disputed interest under section 234A, 234B, 234C, 220, 201 etc.

b. Disputed Penalty: Section 2(1)(i) of the Direct Tax Vivad se Vishwas Act, 2020

As per Section 2(1)(i) disputed penalty means Any penalty determined in any CASE under the provisions of the Income Tax Act, which is NOT levied or leviable on the disputed income or disputed tax and where an appeal is filed against such disputed penalty.

The penalties are leviable under income tax act such as:

Sr. No.	Section of Income Tax Act	Penalty
1	140A(3)	Failure to pay wholly or partly— (a) self-assessment tax/fringe benefit tax, or (b) interest, and fee, or (c) both under section 140A(1)
2	158BFA(2)	Determination of undisclosed income of block period
3	221(1)	Default in making payment of tax
4	270A(1)	Under-reporting and misreporting of income
5	271(1)(b)	Failure to comply with a notice under section 115WD(2)/115WE(2) / 142(1) or section 143(2) or failure to comply with a direction under section 142(2A)
6	271(1)(c)	Concealment of particulars of income or fringe benefits or furnishing of inaccurate particulars of income or fringe benefits
7	271(4)	Distribution of profits by registered firm otherwise than in accordance with partnership deed and as a result of which partner has returned income below the real income
8	271A	Failure to keep, maintain, or retain books of account, documents, etc., as required under section 44AA
9	271AA(1)	(1) Failure to keep and maintain information and documents required by section 92D(1) or 92D(2) (2) Failure to report such transaction Maintaining or furnishing incorrect information or document

Sr. No.	Section of Income Tax Act	Penalty
10	271AA(2)	Failure to furnish information and document as required under Section 92D(4)
11	271AAA	Where search has been initiated before 1-7-2012 and undisclosed income found
12	271AAB(1)	Where search has been initiated on or after 1-7-2012 but before 15-12-2016 and undisclosed income found
13	271AAB(1A)	Where search has been initiated on or after 15-12-2016 and undisclosed income found
14	271AAC	Income determined by Assessing Officer includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D for any previous year. [if such income is not included by assessee in his return or tax in accordance with section 115BBE has not been paid]
15	271B	Failure to get accounts audited or furnish a report of audit as required under section 44AB
16	271BA	Failure to furnish a report from an accountant as required by section 92E
17	271BB	Failure to subscribe any amount to units issued under scheme referred to in section 88A(1)
18	271C	Failure to deduct tax at source, wholly or partly, under sections 192 to 196D (Chapter XVII-B) or failure to pay wholly or partly tax u/s 115-O(2) or second proviso to section 194B
19	271CA	Failure to collect tax at source as required under Chapter XVII-BB
20	271D	Taking or accepting any loan or deposit or specified sum in contravention of the provisions of Section 269SS. "Specified sum" means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place.
21	271DA	Receipt of an amount of ₹ 2 lakh or more in contravention of provisions of Section 269ST.

Sr. No.	Section of Income Tax Act	Penalty
22	271E	<p>Repayment of any loan or deposit or specified advance otherwise than in accordance with provision of Section 269T.</p> <p>“Specified advance” means any sum of money in the nature of advance, by whatever name called, in relation to transfer of an immovable property, whether or not transfer takes place.</p>
23	271F	<p>Failure to furnish return as required by section 139(1) or by its provisos before the end of the relevant assessment year</p>
24	271FA	<p>Failure to furnish an annual information return as required under section 285BA(1)</p> <p>Failure to furnish annual information return within the period specified in notice u/s 285BA(5)</p>
25	271FAB	<p>Section 9A provides that fund management activity carried out by an eligible offshore investment fund through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India (subject to certain conditions).</p> <p>The provision requires that eligible investment fund shall furnish within 90 days from the end of the financial year a statement, in respect of its activities in a financial year, in the prescribed form containing information relating to fulfilment of specified conditions and such other information or documents as may be prescribed. Penalty to be levied if investment fund failed to comply with the requirement.</p>
26	271FB	<p>Failure by an employer to furnish the return of fringe benefits as required under section 115WD(1)</p>
27	271G	<p>Failure to furnish any information or document as required by section 92D(3)</p>
28	271GA	<p>Section 285A provides for reporting by an Indian concern if following two conditions are satisfied:</p>

Sr. No.	Section of Income Tax Act	Penalty
		<p>a) Shares or interest in a foreign company or entity derive substantial value, directly or indirectly, from assets located in India; and</p> <p>b) Such foreign company or entity holds such assets in India through or in such Indian concern.</p> <p>In this case, the Indian entity shall furnish the prescribed information for the purpose of determination of any income accruing or arising in India under Section 9(1)(i).</p> <p>In case of any failure, the Indian concern shall be liable to pay penalty.</p>
29	271GB(1)	Failure to furnish report under section 286(2)
30	271GB(2)	Failure to produce the information and documents within the period allowed under section 271GB(6)
31	271GB(3)	Failure to furnish report or failure to produce information/documents under section 286 even after serving order under section 271GB(1) or 271GB(2)
32	271GB(4)	<p>Failure to inform about inaccuracy in report furnish under section 286(2)</p> <p>Or furnishing of inaccurate information or document in response to notice issued under section 286(6).</p>
33	271H	Failure to deliver/cause to be delivered a statement within the time prescribed in section 200(3) or the proviso to section 206C(3), or furnishes incorrect information in the statement
34	271-I	As per section 195(6) of the Act, any person responsible for paying to a non-resident or to a foreign company, any sum (whether or not chargeable to tax), shall furnish the information relating to such payment in Form 15CA and 15CB. Penalty shall be levied in case of any failure.
35	271J	Furnishing of incorrect information in any report or certificate by an accountant or a merchant banker or a registered valuer.

Sr. No.	Section of Income Tax Act	Penalty
36	272A(1)	Refusal or failure to : (a) answer questions (b) sign statement (c) attend to give evidence or produce books of account, etc., in compliance with summons under section 131(1) (d) comply with notices u/s 142(1) / 143(2) or failure to comply with direction issued u/s 142(2A).
37	272A(2)	Failure to : (a) furnish requisite information in respect of securities as required under section 94(6) ; (b) give notice of discontinuance of business or profession as required under section 176(3) ; (c) furnish in due time returns, statements or certificates, deliver declaration, allow inspection, etc., under sections 133, 134, 139(4A), 139(4C), 192(2C), 197A, 203, 206, 206C, 206C(1A) and 285B; (d) deduct and pay tax under section 226(2) (e) file a copy of the prescribed statement within the time specified in section 200(3) or the proviso to section 206C(3) (up to 1-7-2012) (f) file the prescribed statement within the time specified in section 206A(1) (g) Failure to deliver or cause to be delivered a statement under Section 200(2A) or Section 206C(3A) within prescribed time. With effect from June 1, 2015, it is mandatory for an office of the Government, paying TDS or TCS, as the case may be, without production of a challan, to deliver a statement in the prescribed form and manner to the prescribed authority.

Sr. No.	Section of Income Tax Act	Penalty
38	272AA	Failure to comply with section 133B
39	272B	Failure to comply with provisions of section 139A/139A(5)(c)/(5A)/(5C)
40	272BB(1)	Failure to comply with section 203A
41	272BB(1A)	Quoting false tax deduction account number/tax collection account number/tax deduction and collection account number in challans/certificates/statements/documents referred to in section 203A(2)

The penalty imposed under any order passed under provisions of Income Tax Act and where an appeal is filed shall be treated as disputed penalty.

■■■

CHAPTER 5

Amount Payable and Relief under the Direct Tax Vivad se Vishwas Act, 2020

5.1 Tax Arrear:- After detailed examination of the "disputed tax", "disputed penalty", "disputed interest" and "disputed fee" involved in an appeal, etc., the next step is to determine the "tax arrear" with respect to such appeal, etc. The nature of the 'tax arrear' will help in determining the amount payable under the Scheme.

The Term "Tax Arrear" defined under section 2(1)(o) of the Direct Tax Vivad se Vishwas Act, 2020 which is reproduced as under: -

Section 2(1)(o): - "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,*

as determined under the provisions of the Income-tax Act.

Therefore, 'tax arrear' means either

- (a) 'disputed tax' along with interest chargeable or charged on such disputed tax, and penalty leviable or levied on such disputed tax, or*
- (b) 'disputed interest' or*
- (c) 'disputed penalty' or*
- (d) 'disputed fee', as the case may be, and as computed in the manner discussed in the earlier Chapter – III.*

In other words, the term 'tax arrear' is defined vis – a – vis, and depending upon and in the context of, the type of the appeal, etc. with respect to which the declaration is filed, namely, quantum appeal, penalty appeal, interest appeal or fee appeal.

5.2 The Amount Payable

After determining the nature and amount of 'tax arrear', the next step is to compute the 'amount payable' under the Direct Tax Vivad se Vishwas Act, 2020. The Amount Payable under the scheme is defined under section 3 of the Direct Tax Vivad se Vishwas Scheme, 2020.

The section 3 can be regarded as the main enabling section of the entire Scheme.

In regards to the amount payable, the FAQ's question of 28 reproduced as under

Question No. 28 What amount of tax is required to be paid, if an assessee wants to avail the benefit of the Vivad se Vishwas?

Answer: Under the Vivad se Vishwas, declarant is required to make following payment for settling disputes:

- A. *In appeals / writ / SLP / DRP objections / revision application under section 264 arbitration filed by the assessee –*
 - a. *In case payment is made till 31st March, 2020 –*
 - i. *100% of the disputed tax (125% in search cases) where dispute relates to disputed tax (excess amount over 100% limited to the amount of interest and penalty levied or leviable), or*
 - ii. *25% of the disputed penalty, interest or fee where dispute relates to disputed penalty, interest or fee only.*
 - b. *In case payment is made after 31st March, 2020 –*
 - i. *110% of the disputed tax (135% in search cases) where dispute relates to disputed tax (excess amount over 100% limited to the amount of interest and penalty), or*
 - ii. *30% of the disputed penalty, interest or fee in case of dispute related to disputed penalty, interest or fee only.*

However, if in an appeal before Commissioner (Appeals) or objections pending before DRP, there is an issue on which the appellant has got favourable decision from ITAT (not reversed by HC or SC) or from the High Court (not reversed by SC) in earlier years then the amount payable shall be half or 50% of above amount. Similarly, if in an appeal before ITAT, there is an issue on which the appellant has got favourable decision from the High Court (not reversed by SC) in earlier years then the amount payable shall be half or 50% of above amount.

- B. In appeals/ writ/ SLP filed by the Department –*
- a. In case payment is made till 31st March, 2020-*
- i. 50% of the disputed tax (62.5% in search cases) in case of dispute related to disputed tax or*
 - ii. 12.5% of the disputed penalty, interest or fee in case of dispute related to disputed penalty, interest or fee only.*
- b. In case payment is made after 31st March, 2020 –*
- i. 55% of the disputed tax (67.5% in search cases) in cases of dispute related to disputed tax, or*
 - ii. 15% of the disputed penalty, interest or fee in case of dispute related to disputed penalty, interest or fee only.*

The amounts payable with respect to various situations explained above are tabulated below: -

5.2.1 Where Appeal is /to be filed by the assessee: -

Nature of Tax Arrear	Amount payable on or before 31st Dec, 2020 (Earlier 31th March 2020 and 30th June 2020)
Search cases involving dispute relating to tax, interest, penalty etc. (if the disputed tax does not exceed Rs. 5 Crores)	125% of Dispute Tax Penalty & Interest Waive of (However, when 25% of disputed tax exceeds the aggregate of interest and penalty, the excess shall be ignored)
Other than search cases where dispute involves tax, interest, penalty or fees	100% of Dispute Tax Penalty & Interest Waive of
Where dispute relates only to interest, penalty or fees	25% of disputed interest, penalty or fees Balance 75%/70% would be waived of and,
Immunity from prosecution	50% of disputed tax
Issue where assessee got relief in earlier year (not reversed by HC/SC)	Penalty waived of

5.2.2 Where Appeal is /to be filed by the department: -

Nature of Tax Arrear	Amount payable on or before 31st Dec, 2020 (Earlier 31st March 2020 and 30th June 2020)
Appeal/WP/SLP is filed by the Department on any issue before the appellant (Except Search Cases)	50% of Disputed Tax
Search cases involving dispute relating to tax, interest, penalty etc. (if the disputed tax does not exceed Rs. 5 Crores)	62.5% of the disputed tax
Where dispute relates only to interest, penalty or fees	12.5% of disputed penalty, interest or fee

- *Initial due date as per the VsV Act was 31st March 2020, which was extended to 30th June 2020, one of the relief measures announced by Government of India in view of COVID-19 outbreak on 25th March 2020. Subsequently the Honourable Finance Minister had announced as a part of the mega economic relief package that the due date is further extended to 31st December 2020*

Following table summarized the Various Scenarios of the Tax Arrear Related to "Disputed Tax", "Disputed Interest", "Disputed Penalty" and "Disputed Tax".

Sr. No.	Situations	Amount Payable	Descriptions
A.	Tax Arrear related to 'Disputed Tax'		
	If quantum appeal is already settled and time to file further appeal is not lapse on 31.01.2020 If Quantum appeal is pending as on 31.01.2020	100%/125%of the Disputed tax (As specified in the above table) (Ignore Penalty and Interest)	Connected interest and penalty will be clubbed with such 'disputed tax'. Such combined amount will be 'tax arrear'. However settlement of such quantum appeal is based on only the 'disputed tax' and ignoring the interest and penalty elements.

Sr. No.	Situations	Amount Payable	Descriptions
B.	Tax arrear relating to 'disputed penalty'		
	Penalty appeal not related to the quantum appeal	25% of the Disputed Penalty	
	No quantum appeal is pending as on 31.01.2020 related to such penalty	25% of the Disputed Penalty	
C.	Tax arrear relating to 'disputed interest'		
	Interest appeal not related to the quantum appeal	25% of the Disputed Interest	
	No quantum appeal is pending as on 31.01.2020 related to such Interest	25% of the Disputed Interest	
	Appeal Against the delay in deposit of TDS / TCS interest u/s. 201(1A) or 206C(7)	25% of the Disputed Interest	
D.	Tax arrear relating to 'disputed Fee'		
	Disputed fees not related to the quantum addition and quantum appeal	25% of the Disputed Fees	

- Where a quantum appeal of an assessee is settled then, automatically, the amount of the connected and penalty will be clubbed with such 'disputed tax'. Such combined amount will be 'tax arrear'. In such a case, however, the amount payable against such 'tax arrear' towards settlement of such quantum appeal is based on only the 'disputed tax' and ignoring the interest and penalty elements.
- If penalty and/or related interest also pending as on 31.01.2020, the assessee has to compulsorily settle quantum appeal, and cannot independently opt for settlement of the penalty and/or interest appeal, while continuing to litigate the quantum appeal. In such a case, settlement of the quantum appeal will automatically settle such penalty and/or interest appeal without any extra payment.

- However, if appeal related to disputed penalty and/or interest is not with respect to such disputed tax, that is, not related to the quantum appeal, or where no such quantum appeal is pending or in which case the due date for filing such appeal is over as on 31.01.2020, such interest / penalty appeal can be, and will have to be, settled independently.
- The restrictions concerning penalty and interest appeals as discussed above are not applicable in case of an appeal challenging any fee levied under the IT Act. Accordingly, such appeal can be settled independently and irrespective of the status of the quantum appeal.

■■■

CHAPTER 6

Exclusion from the Direct Tax Vivad se Vishwas Act, 2020

- 6.1** Section 9 of the Direct Tax Vivad se Vishwas Act, 2020 state about the exclusion from the Act.

Section 9 - not to apply in certain cases.

The provisions of this Act shall not apply—

(a) *in respect of tax arrear, —*

(i) *relating to an assessment year in respect of which an assessment has been made under sub-section (3) of section 143 or section 144 or section 153A or section 153C of the Income-tax Act on the basis of search initiated under section 132 or section 132A of the Income-tax Act, if the amount of disputed tax exceeds five crore rupees;*

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

(iii) *relating to any undisclosed income from a source located outside India or undisclosed asset located outside India;*

(iv) *relating to 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;*

(b) *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:*

Provided that—

(i) *such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or*

(ii) *such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9,*

or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9, of the said Act; or

- (iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; or*
- (iv) such order of detention has not been set aside by a court of competent jurisdiction;*
- (c) 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;*
- (d) 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;*
- (e) 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.*

6.2 Following are the cases on which the Scheme is not available: -

6.2.1 Search cases

- As per section 9 (a) (i) covers the following cases:
 - Search is initiated under section 132 or section 132A of the IT Act;
 - An assessment is made u/s. 143 (3) or 144 or 153A or 153C of the IT Act on the basis of such search; and
 - The disputed tax is in respect of / relates to such assessment year / such assessment is more than ₹ 5 crores

- The amount of tax payable in search cases is 100% of the disputed tax and 25% of the disputed tax where 25% of the disputed tax exceeds the aggregate amount of interest charged or charged on such disputed tax and penalty leviable of levied on such disputable tax, the excess shall be ignored
- The Question No. 6 of the FAQ's clarified and as reproduced below.

Question No. 6 Can the benefit of the Vivad se Vishwas be availed, if a search and seizure action by the Income-tax Department has been initiated against a taxpayer?

*Answer Case where the tax arrears **relate to an assessment** made under section 143(3) or section 144 or section 153A or section 153C of the Act on the basis of search initiated under section 132 or section 132A of the Act are excluded if the amount of disputed tax exceeds five crore rupees in that assessment year.*

Thus, if there are 7 assessments of an assessee relating to search & seizure, out of which in 4 assessments, disputed tax is five crore rupees or less in each year and in remaining 3 assessments, disputed tax is more than five crore rupees in each year, declaration can be filed for 4 assessments where disputed tax is five crore rupees or less in each year.

6.2.2 Prosecution: -

Section 9(a)(ii), 9(c) and 9(d) cover the Prosecution related issues. The summarised points are as under: -

- The pendency of such prosecution proceeding as on the date of declaration relating to that assessment year and not as on the usual cut – off date of 31.01.2020.
- The Section 9(a)(ii) of the Act is assessment year specific, however the section 9 (c) and 9 (d) are person specific.
- The bar does not extend to any other assessment year, other than the assessment year with respect of which the prosecution is instituted.
- If prosecution proceeding is initiated by issuance of a show – cause notice, and prosecution is not instituted before declaration, this clause will not apply and the declarant can go for the Scheme for any issue, including the issue involved in such show cause notice.
- Section 9(c) states about the prosecution for any offence punishable under following act: -

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

Prosecution against such person has been instituted on or before filing declaration or such person has been convicted of any such offence punishable under any of those Acts.

- As per section 9 (d), the Scheme shall not apply to any person in respect of whom prosecution has been initiated by the department Indian Penal Code Or for the purpose of any civil liability under any law for the time being in force, before filing any declaration or any such person who has been convicted for any such offence on prosecution initiated by Income tax authority.

FAQ's question no. 22 further elaborated: -

Question No. 22 In the case of an assessee prosecution has been instituted and is pending in court. Is assessee eligible for the Vivad se Vishwas? Further, where the prosecution has not been instituted but the notice has been issued, whether the assessee is eligible for Vivad se Vishwas?

Answer Where only notice for initiation of prosecution has been issued without prosecution being instituted, the assessee is eligible to file declaration under Vivad se Vishwas. However, where prosecution has been instituted with respect to an assessment year, the assessee is not eligible to file declaration for that assessment year under Vivad se Vishwas, unless prosecution is compounded before filing the declaration.

- In case where a declaration is not covered by the bar provided in section 9 of the Scheme, the declarant will get immunity from interest, penalty, prosecution, etc. with respect to the matter for which declaration is filed. This has been provided in section 6 of the Scheme as under:

6.2.3 Undisclosed foreign income and assets: -

Section 9(a)(iii) of the Direct Tax Vivad se Vishwas Act 2020 state that If any tax arrears are related to the undisclosed income from a source located outside

India or undisclosed asset located outside India then the declaration cannot be made under the Direct Tax Vivad Se Vishwas Act, 2020.

This has been further clarified in the Circular at Question No. 11, which is reproduced as under:

Question No. 11 In case where disputed tax contains qualifying tax arrears as also non-qualifying tax arrears (such as, tax arrears relating 10 assessment made in respect of undisclosed foreign income):

- i. Whether assessee is eligible to the Vivad se Vishwas itself?*
- ii. If eligible, whether quantification of disputed tax can exclude/ignore non-qualifying tax arrears?*

Answer If the tax arrears include tax on issues that are excluded from the Vivad se Vishwas, such cases are not eligible to file declaration under Vivad se Vishwas. There is no provision under Vivad se Vishwas to settle part of a pending dispute in relation to an appeal or writ or SLP for an assessment year. For one pending appeal, all the issues are required to be settled and if anyone of the issues makes the declaration invalid, no declaration can be filed.

6.2.4 Cases completed on the basis of information received from foreign jurisdiction.

Section 9(a)(iv) of the Direct Tax Vivad Se Vishwas Act, 2020 state that, If any appeal pending, which is completed on the basis of the information received under the agreement referred to in section 90 or section 90A of the I T Act.

6.2.5 Cases where person is notified under Special Courts (Trial of Offences Relating to Transactions in Securities) Act, 1992 or detained under Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

6.2.6 Cases covered under Narcotic Drugs and Psychotropic Substances Act, Unlawful Activities (Prevention) Act, Prevention of Corruption Act, Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, Prevention of Money Laundering Act, Prohibition of Benami Property Transactions Act.

6.2.7 Wealth Tax, Equalisation levy, Commodities Transaction Tax (CTT) and Securities Transaction Tax (STT) issues.

Question No. 18. Are disputes relating to wealth tax, security transaction tax, commodity transaction tax and equalisation levy covered?

Answer: No. Only disputes relating to income-tax are covered.

6.2.8 Authority of Advance Ruling

Proceeding pending before the AAR is not included, as the same is not included either as an appeal or as an appellate forum in the Scheme. It is clarified that though AAR is not included, any writ filed against a ruling of AAR is eligible. The said clarification, in response to Question No. 3, is reproduced below:

Question No. 3. Whether Vivad se Vishwas can be availed for proceedings pending before Authority of Advance Ruling (AAR)? If a writ is pending against order passed by AAR in a HC will that case be covered and how disputed tax to be calculated?

Answer: Vivad se Vishwas is not available for disputes pending before AAR. However, if the order passed by AAR has determined the total income of an assessment year and writ against such order is pending in HC, the appellant would be eligible to apply for the Vivad se Vishwas. The disputed tax in that case shall be calculated as per the order of the AAR and accordingly, wherever required, consequential order shall be passed by the AO. However, if the order of AAR has not determined the total income, it would not be possible to calculate disputed tax and hence such cases would not be covered. To illustrate, if AAR has given a ruling that there exists Permanent Establishment (PE) in India but the AO has not yet determined the amount to be attributed to such PE, such cases cannot be covered since total income has not yet been determined.

6.2.9 Application for waiver of interest under sections 234A, 234B, 234C of the Income Tax Act:-

Only appeals/writ petitions/SLPs pending as on the specified date can be settled under the vivid se vishwas scheme. A waiver application pending as on 31.01.2020 before the competent authority does not fall within the section 2(1)(a) of the Act, such an assessee cannot file for the declaration under the scheme.

Question no 13 of the CBDT Circular No. 9 of 2020 has also taken the same view and reproduced as under:

Question No. 13. With respect to interest under section 234A, 234B or 234C, there is no appeal but the assessee has filed waiver application before the competent authority which is pending as on 31 Jan 2020? Will such cases be covered under Vivad se Vishwas?

Answer: No, such cases are not covered. Waiver applications are not appeal within the meaning of Vivad se Vishwas.



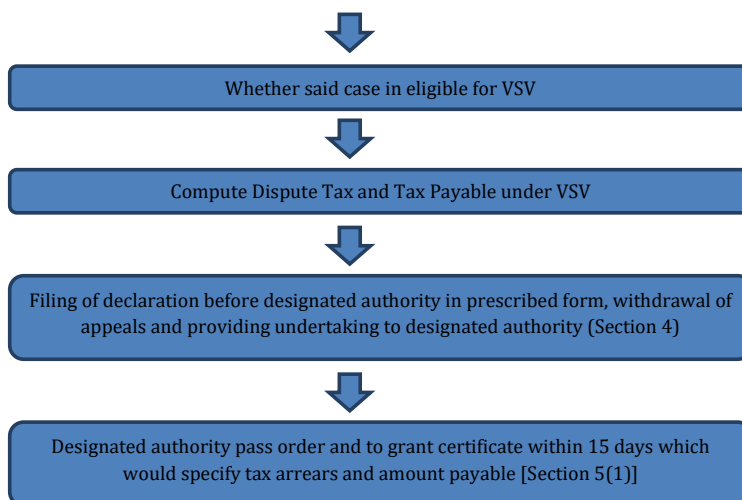
CHAPTER 7

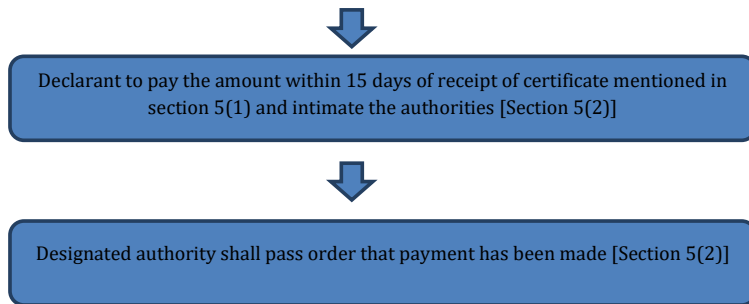
Procedure to file declaration under the Direct Tax Vivad se Vishwas Act, 2020

The Procedure of filing declaration is complete electronically, as under;

- Login to I-T portal.
- Click on Vivad Se Vishwas tab.
- Prepare and Submit DTVSV Form.
- Select the year and the filing type.
- Fill Form-1 correctly.
- Fill Form-2 as a final submission.
- File the required documents properly.
- File them with DSC or EVC accordingly.
- Make the payment within 15 days in Form-3 issued by I-T Department.
- The order for settlement will be issued by the department.

Complete process to be followed to apply for the Direct Tax Vivad Se Vishwas Act:-





Procedure for availing benefit of Direct Tax Vivad se Vishwas Act

7.1 Filing of Declaration in Form-1 and Form-2:-

To avail this benefit, the aggrieved taxpayer who is eligible to opt for this Act has to file declaration in Form-1 along with an undertaking in Form-2 before the designated authority to waiving other rights in relation to tax arrears. Both the forms are being submitted together on the e-filing portal. The forms have to be verified using DSC, if the return of income is required to be filed under DSC however in other cases, the declaration can be verified through EVC.

7.2 Certificate from Designated Authority in Form-3: -

Within 15 days from the date of receipt of declaration, the designated authority (an officer not below the rank of Commissioner) shall issue a CERTIFICATE in Form-3 electronically, determining the amount payable by the declarant as full and final settlement of the tax arrears.

7.3 Payment of Taxes: -

The declarant shall pay the amount determined in Form-3 within 15 days of receipt of Certificate in Form-3. However, if the declarant fails to pay the same, the declaration shall be presumed never to have been made.

7.4 Withdrawal of appeal: -

As per Section 4(2) of VsVAct, upon the filing the declaration any appeal which is pending before Income Tax Appellate Tribunal or Commissioner of Income Tax Appeals shall be deemed to have been withdrawn from the date on which certificate is issued by the designated authority. If any appeal of the aggrieved taxpayer is pending before High court or Supreme Court of India against any order in respect of any tax arrears, the withdrawal of such appeal of writ petition with the permission of the relevant court only after submitting the proof of such withdrawal alongwith the intimation of payment to the designated authority.

The aggrieved taxpayer has initiated any proceedings for arbitration, conciliation or mediation or has given notice under any law for the time being in force or has entered into any agreement by India with any other country or territory outside India then that taxpayer shall withdraw the claim, if any after acquiring the certificate from the designated authority and submit proof of such withdrawal along with the intimation of payment to the designated authority.

7.5 Intimation of Payment of Taxes in Form-4 :-

Once certificate mentioning amount payable is issued to the aggrieved taxpayer, the aggrieved taxpayer within 15 days from the receipt of Certificate will have to pay the same & intimate within said 15 days the details of payment along with proof of withdrawal of appeal/writ, except in the case of matter pending before HC or SC. Further it is to be noted that the aggrieved taxpayer shall submit an undertaking waiving his or her right with regard to pursue any remedy or any claim in relation to relaxing the tax arrear which may be otherwise available to the taxpayer under any law.

7.6 Order for full and final settlement of tax arrears in Form-5 :-

Upon receipt of Form-4 from the declarant, the designated authority shall pass an Order in 'Form-5 – Order for full and final settlement u/s. 5(2) r.w.s. 6 of the VSV Act' certifying the following:

- i. The declarant has paid the amount payable under the VSV Act.
- ii. Immunity has been granted from prosecution/penalty in respect of the settled tax arrears.
- iii. Declaration under the VSV Act shall not amount to conceding the tax position by the declarant.

7.7 Proceeding become invalid

The presumption under the Act is that all the declarations made by the declarant would be nullified and all the consequences under the Act against the declarant would be deemed to be revived if:

- (a) any material particular furnished in the declaration is found to be false at any stage;
- (b) the declarant violates any of the conditions referred to in this Act;
- (c) the declarant violates any of the conditions referred to in this Act;

The consequences of declaration and the proceedings becoming invalid are

enumerated in Section 4(6) and as a result all the consequences under the Income-tax Act against the declarant shall be deemed to have been revived. The intent of the legislation being that the interest waived, penalty waived and the prosecutions dropped shall get revived and the Law did not provide for reinstatement or revival of the Appeals hitherto made and withdrawn consequent to the situations specified in section 4(6).

The declarant is also required to give an undertaking in respect of the tax arrear, whereby he waives all rights under any law or in equity or agreement entered into by India with any country or territory outside India of any nature.

7.8 Failure in depositing the tax amount

It is mandatory for a declarant to pay off the liability determined by the designated authority within 15 days. Non-payment within the said period would be violative of provisions of the Act. Any such violation would render the declaration as presumed to have never been made.

The CBDT also in question no. 49 of the Circular no 9 of 2020 which is reproduced below, also state that non payment of taxes would render the declaration void.

Question No. 49. Once declaration is filed under Vivad se Vishwas, and for financial difficulties, payment is not made accordingly, will the declaration be null and void?

Answer: Yes it would be void.

7.9 Role of Designated Authority:

Designated Authority will grant Certificate only after analysing the mistakes in the declaration including whether the case is covered by the decision of Higher Authority, highlight the mistakes in the Declaration and accordingly grant Certificate to the eligible assessee.

Section 5(3) provides that every order passed under sub-section (1) of section 5, determining the amount payable under this Act, shall be conclusive as to the matters stated therein and no matter covered by such order shall be reopened in any other proceeding under the Income-tax Act or under any other law for the time being in force or under any agreement, whether for protection of investment or otherwise, entered into by India with any other country or territory outside India.

The exception to the provisions of section 5(3) shall be those related to giving effect to allowance of deductibility of expenses u/s 40(a)(ia) on payment of TDS,

granting credit to the TDS to the deductee, refund of tax amounts, orders giving effect to CFL/BFL, etc., which are more of procedural in nature.

7.10 Excess amount Refund

Explanation to section 7 provides clarity to a great extent in regard to refund. This Explanation reads as under:

"Explanation. — For the removal of doubts, it is hereby clarified that where the declarant had, before filing the declaration under sub-section (1) of section 4, paid any amount under the Income-tax Act in respect of his tax arrear which exceeds the amount payable under section 3, he shall be entitled to a refund of such excess amount, but shall not be entitled to interest on such excess amount under section 244A of the Income-tax Act."

Therefore, the assessee shall not be entitled to interest on such excess amount of refund under section 244A of the IT Act. This has been further clarified in the Circular in Question Nos. 5, 26 and 31.

Any amount paid in pursuance of a declaration made under the VSV shall not be refundable under any circumstances. However, If the amount in dispute has been paid before filing declaration under VsV then the amount, to the extent it exceeds the disputed amount determined under VsV will be refunded without any interest u/s 244A.

Ex. During assessment an addition is made and additional demand of ₹ 1,40,000/- has been raised, which comprises of disputed tax of ₹ 1,00,000 and interest on such disputed tax of ₹ 40,000. Penalty has been initiated separately. Assessee has paid the demand of ₹ 1,20,000/- during pendency of appeal; however, interest under section 220 of the Act is yet to be calculated. In such cases the disputed tax of ₹ 1,00,000 (at 100%) is to be paid. Since he has already paid ₹ 1,20,000/-, he would be entitled to refund of ₹ 20,000/- (without section 244A interest). Further, the interest leviable under section 220 and penalty leviable shall also be waived.

Thus, the law makes it clear that what is paid prior to making declaration is refundable and amount paid in pursuance of the declaration u/s 4 shall not be refundable under any circumstances. Therefore, the declarants need to be careful in making payment either prior to making declaration v/s in pursuance of the declaration. In the former case, it is refundable and in the latter case it is not refundable. The applicants, who are in border line of doubtful categories of eligibility, should be careful in choosing the dates of payment.

This issue has been further clarified at Question No. 42 of the Circular, which is as under:

Question No. 42: If taxes are paid after availing the benefits of the Viva se Vishwas and later the taxpayer decides to take refund of these taxes paid, would it be possible?

Answer: Any amount paid in pursuance of a declaration made under the Vivad se Vishwas shall not be refundable under any circumstances.

7.11 Immunities will be granted to the declarant

Section 8 tends to constrict the immunity granted under the VsV in terms of section 5(3) and 6 by stating that nothing contained in the VsV can be construed to give any benefit or concession in any other proceedings under any law in India other than those in relation to which the declaration is made. Therefore, the VsV does provide for benefits/concessions/immunity and only in relation to the declaration and not anything beyond that.

7.12 “Appeal Reference Number” may be treated as “Acknowledgment Number” in all schedules.

7.13 TDS deductors who do not have the PAN can apply under VsVas follows:

Deductors have to login using TAN and file in a similar manner when they filed appeal in TDS cases or how they file TDS statements on e-filing portal -they use their TAN as user ID. The respective deductors have to login using TAN as user ID in the e-Filing portal.

7.14 Challan Payment: Challan under VsV will be usual Regular Assessment Tax challan – Corporation Tax or Income Tax (as the case may be)- with minor head 400. Please take care to ensure that PAN and AY are correctly mentioned. NO NEW CHALLAN has been released for DTVS.

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CHAPTER 8

The Direct Tax Vivad Se Vishwas Act, 2020

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

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows: —

1. This Act may be called the Direct Tax Vivad se Vishwas Act, 2020.
2. (1) In this Act, unless the context otherwise requires, —
 - (a) “appellant” means—
 - (i) a person in whose case an appeal or a writ petition or special leave petition has been filed either by him or by the income-tax authority or by both, before an appellate forum and such appeal or petition is pending as on the specified date;
 - (ii) a person in whose case an order has been passed by the Assessing Officer, or an order has been passed by the Commissioner (Appeals) or the Income Tax Appellate Tribunal in an appeal, or by the High Court in a writ petition, on or before the specified date, and the time for filing any appeal or special leave petition against such order by that person has not expired as on that date;
 - (iii) a person who has filed his objections before the Dispute Resolution Panel under section 144C of the Income-tax Act, 1961 and the Dispute Resolution Panel has not issued any direction on or before the specified date;
 - (iv) a person in whose case the Dispute Resolution Panel has issued direction under sub-section (5) of section 144C of the Income-tax Act and the Assessing Officer has not passed any order under sub-section (13) of that section on or before the specified date;
 - (v) 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;”;
 - (b) “appellate forum” means the Supreme Court or the High Court or the Income Tax Appellate Tribunal or the Commissioner (Appeals);

- (c) "declarant" means a person who files declaration under section 4;
- (d) "declaration" means the declaration filed under section 4;
- (e) "designated authority" means an officer not below the rank of a Commissioner of Income-tax notified by the Principal Chief Commissioner for the purposes of this Act;
- (f) "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;
- (g) "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;
- (h) "disputed interest" means the interest determined in any case under the provisions of the Income-tax Act, 1961, where—
 - (i) such interest is not charged or chargeable on disputed tax;
 - (ii) an appeal has been filed by the appellant in respect of such interest;
- (i) "disputed penalty" means the penalty determined in any case under the provisions of the Income-tax Act, 1961, where—
 - (i) such penalty is not levied or leviable in respect of disputed income or disputed tax, as the case may be;
 - (ii) an appeal has been filed by the appellant in respect of such penalty;
- (j) "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 clause referred to as the amount of tax) payable by the appellant under the provisions of the Income-tax Act, 1961, 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 an order in an appeal or in writ petition has been passed by the appellate forum on or before the specified date, and the time for filing appeal or special leave petition against such order has not expired as on that date, the amount of tax payable by the appellant after giving effect to the order so passed;

- (C) in a case where the order has been passed by the Assessing Officer on or before the specified date, and the time for filing appeal against such order has not expired as on that date, the amount of tax payable by the appellant in accordance with such order;
- (D) 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;
- (E) 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 passed the order 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 under sub-section (13) thereof;
- (F) 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 Commissioner (Appeals) has issued notice of enhancement under section 251 of the Income-tax Act 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:

Provided further that in a case where the dispute in relation to an assessment year relates to reduction of tax credit under section 115JAA or section 115D 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.

- (k) "Income-tax Act" means the Income-tax Act, 1961;
- (l) "last date" means such date as may be notified by the Central Government in the Official Gazette;
- (m) "prescribed" means prescribed by rules made under this Act;
- (n) "specified date" means the 31st day of January, 2020;
- (o) "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,

as determined under the provisions of the Income-tax Act.

(2) The words and expressions used herein and not defined but defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

3. Amount Payable by Declarant:

Subject to the provisions of this Act, where a declarant files under the provisions of this Act on or before the last date, a declaration to the designated authority in accordance with the provisions of section 4 in respect of tax arrear, then, notwithstanding anything contained in the Income-tax Act or any other law for the time being in force, the amount payable by the declarant under this Act shall be as under, namely: —

Sl. No	Nature of tax arrear	Amount payable under this Act on or before the 31st day of March, 2020	Amount payable under this Act on or after the 1st day of April, 2020 but on or before the last date.
(a)	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.	Amount of the disputed tax.	The aggregate of the amount of disputed tax and ten percent. of disputed tax: Provided that where the ten percent. of disputed tax exceeds the aggregate amount of interest chargeable or charged on such disputed tax and penalty leviable or levied on such disputed tax, the excess shall be ignored for the purpose of computation of amount payable under this Act.

Sl. No	Nature of tax arrear	Amount payable under this Act on or before the 31st day of March, 2020	Amount payable under this Act on or after the 1st day of April, 2020 but on or before the last date.
(b)	where the tax arrear includes the tax, interest or penalty determined in any assessment on the basis of search under section 132 or section 132A of the Income-tax Act.	The aggregate of the amount of disputed tax and twenty-five percent of the disputed tax: provided that where the twenty-five percent of disputed tax exceeds the aggregate amount of interest chargeable or charged on such disputed tax and penalty leviable or levied on such disputed tax, the excess shall be ignored for the purpose of computation of amount payable under this Act.	The aggregate of the amount of disputed tax and thirty-five per cent. of disputed tax: provided that where the thirty five percent of disputed tax exceeds the aggregate amount of interest chargeable or charged on such disputed tax and penalty leviable or levied on such disputed tax, the excess shall be ignored for the purpose of computation of amount payable.
(c)	Where the tax arrear relates to disputed interest or disputed penalty or disputed fee.	Twenty-five percent of disputed interest or disputed penalty or disputed fee.	Thirty per cent. of disputed interest or disputed penalty or disputed fee:

Provided that 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:

Provided further that in a case where an appeal is filed before the Commissioner (Appeals) or objections is filed before the Dispute Resolution Panel by the appellant on any issue on which he has already got a decision in his favour from the Income Tax Appellate Tribunal (where the decision on such issue is not reversed by the High Court or the Supreme Court) or the High Court (where the decision on such issue is not reversed by 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:

Provided also that in a case where an appeal is filed by the appellant on any issue before the Income Tax Appellate Tribunal on which he has already got a decision in his favour from the High Court (where the decision on such issue is not reversed by 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.

4. Filing of declaration and particulars to be furnished.

- (1) The declaration referred to in section 3 shall be filed by the declarant before the designated authority in such form and verified in such manner as may be prescribed.
- (2) Upon the filing the declaration, any appeal pending before the Income Tax Appellate Tribunal or Commissioner (Appeals), in respect of the disputed income or disputed interest or disputed penalty or disputed fee and tax arrears shall be deemed to have been withdrawn from the date on which certificate under sub-section (1) of section 5 is issued by the designated authority.
- (3) Where the declarant has filed any appeal before the appellate forum or any writ petition before the High Court or the Supreme Court against any order in respect of tax arrear, he shall withdraw such appeal or writ petition with the leave of the Court wherever required after issuance of certificate under sub-section (1) of section 5 and furnish proof of such withdrawal along with the intimation of payment to the designated authority under sub-section (2) of section 5.
- (4) Where the declarant has initiated any proceeding for arbitration, conciliation or mediation, or has given any notice thereof 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 whether for protection of investment or otherwise, he shall withdraw the claim, if any, in such proceedings or notice after issuance of certificate under sub-section (1) of section 5 and furnish proof of such withdrawal along with the intimation of payment to the designated authority under sub-section (2) of section 5.
- (5) Without prejudice to the provisions of sub-sections (2), (3) and (4), the declarant shall furnish an undertaking waiving his right, whether direct or indirect, to seek or pursue any remedy or any claim in relation to the

tax arrear which may otherwise be available to him under any law for the time being in force, in equity, under statute or under any agreement entered into by India with any country or territory outside India whether for protection of investment or otherwise and the undertaking shall be made in such form and manner as maybe prescribed.

- (6) The declaration under sub-section (1) shall be presumed never to have been made if, —
 - (a) any material particular furnished in the declaration is found to be false at any stage;
 - (b) the declarant violates any of the conditions referred to in this Act;
 - (c) the declarant acts in any manner which is not in accordance with the undertaking given by him under sub-section (5), and in such cases, all the proceedings and claims which were withdrawn under section 4 and all the consequences under the Income-tax Act against the declarant shall be deemed to have been revived.
- (7) No appellate forum or arbitrator, conciliator or mediator shall proceed to decide any issue relating to the tax arrear mentioned in the declaration in respect of which an order has been made under sub-section (1) of section 5 by the designated authority or the payment of sum determined under that section.

5. Time and manner of payment.

- (1) The designated authority shall, within a period of fifteen days from the date of receipt of the declaration, by order, determine the amount payable by the declarant in accordance with the provisions of this Act and grant a certificate to the declarant containing particulars of the tax arrear and the amount payable after such determination, in such form as may be prescribed.
- (2) The declarant shall pay the amount determined under sub-section (1) within 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.
- (3) Every order passed under sub-section (1), determining the amount payable under this Act, shall be conclusive as to the matters stated therein and no matter covered by such order shall be reopened in any other proceeding

under the Income-tax Act or under any other law for the time being in force or under any agreement, whether for protection of investment or otherwise, entered into by India with any other country or territory outside India.

Explanation.— For the removal of doubts, it is hereby clarified that making a declaration under this Act shall not amount to conceding the tax position and it shall not be lawful for the income-tax authority or the declarant being a party in appeal or writ petition or special leave petition to contend that the declarant or the income-tax authority, as the case may be, has acquiesced in the decision on the disputed issue by settling the dispute.

6. Immunity from initiation of proceedings in respect of offence and imposition of penalty in certain cases.

Subject to the provisions of section 5, the designated authority shall not institute any proceeding in respect of an offence; or impose or levy any penalty; or charge any interest under the Income-tax Act in respect of tax arrear.

7. No refund of amount paid.

Any amount paid in pursuance of a declaration made under section 4 shall not be refundable under any circumstances.

Explanation.— For the removal of doubts, it is hereby clarified that where the declarant had, before filing the declaration under sub-section (1) of section 4, paid any amount under the Income-tax Act in respect of his tax arrear which exceeds the amount payable under section 3, he shall be entitled to a refund of such excess amount, but shall not be entitled to interest on such excess amount under section 244A of the Income-tax Act.

8. No benefit, concession or immunity to declarant.

Save as otherwise expressly provided in sub-section (3) of section 5 or section 6, nothing contained in this Act shall be construed as conferring any benefit, concession or immunity on the declarant in any proceedings other than those in relation to which the declaration has been made.

9. Act not to apply in certain cases.

The provisions of this Act shall not apply—

(a) in respect of tax arrear, —

(i) relating to an assessment year in respect of which an assessment has been made under sub-section (3) of section 143 or section 144 or

- section 153A or section 153C of the Income-tax Act on the basis of search initiated under section 132 or section 132A of the Income-tax Act, if the amount of disputed tax exceeds five crore rupees;
- (ii) relating to an assessment year in respect of which prosecution has been instituted on or before the date of filing of declaration;
 - (iii) relating to any undisclosed income from a source located outside India or undisclosed asset located outside India;
 - (iv) relating to 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;
- (b) 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:

Provided that—

- (i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or
 - (ii) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9, of the said Act; or
 - (iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; or
 - (iv) such order of detention has not been set aside by a court of competent jurisdiction;
- (c) 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;

- (d) 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;
- (e) 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.

10. Power of Board to issue directions, etc.

- (1) The Central Board of Direct Taxes may, from time to time, issue such directions or orders to the income-tax authorities, as it may deem fit:

Provided that no direction or order shall be issued so as to require any designated authority to dispose of a particular case in a particular manner.

- (2) Without prejudice to the generality of the foregoing power, the said Board may, if it considers necessary or expedient so to do, for the purpose of this Act, including collection of revenue, issue from time to time, general or special orders in respect of any class of cases, setting forth directions or instructions as to the guidelines, principles or procedures to be followed by the authorities in any work relating to this Act, including collection of revenue and issue such order, if the Board is of the opinion that it is necessary in the public interest so to do.

11. Power to remove difficulties.

- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Act come into force.

- (2) Every order made under sub-section (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

12. Power to make rules.

- (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.
- (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —
 - (a) the form in which a declaration may be made, and the manner of its verification under section 4;
 - (b) the form and manner in which declarant shall furnish undertaking under sub-section (5) of section 4;
 - (c) the form in which certificate shall be granted under sub-section (1) of section 5;
 - (d) the form in which payment shall be intimated under sub-section (2) of section 5;
 - (e) determination of disputed tax including the manner of set-off in respect of brought forward or carry forward of tax credit under section 115JAA or section 115JD of the Income-tax Act or set-off in respect of brought forward or carry forward of loss or allowance of depreciation under the provisions of the Income-tax Act;
 - (f) the manner of calculating the amount payable under this Act;
 - (g) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.
- (3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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CHAPTER 9

The Direct Tax Vivad Se Vishwas Rules 2020

S.O. 1129(E).— In exercise of the powers conferred by sub-section (2) of section 12 read with sub-sections (1) and (5) of section 4 and sub-sections (1) and (2) of section 5 of the Direct Tax Vivad se Vishwas Act, 2020 (3 of 2020), the Central Government hereby makes the following rules, namely:

1. Short title and commencement -

- (1) These rules may be called the Direct Tax Vivad se Vishwas Rules, 2020.
- (2) They shall come into force on the date of their notification in the Official Gazette.

2. Definitions- In these rules, unless the context otherwise requires,-

- (a) "Act" means the Direct Tax Vivad se Vishwas Act, 2020 (3 of 2020);
- (b) "dispute" means appeal, writ or special leave petition filed or appeal or special leave petition to be filed by the declarant or the income-tax authority before the Appellate Forum, or arbitration, conciliation or mediation initiated or given notice thereof, or objections filed or to be filed before the Dispute Resolution Panel under section 144 or section 264 of the Income-tax Act;
- (c) "eligible search cases" means search cases made under sub-section (3) of section 143 or section 144 or section 153A or section 153C of the Income-tax Act on the basis of search initiated under section 132 or section 132A of the Income-tax Act and the amount of disputed tax does not exceed five crore rupees;
- (d) "Form" means the Forms appended to these rules;
- (e) "issues covered in favour of the declarant" means issues in respect of which –
 - (i) an appeal or writ or special leave petition is filed or appeal or special leave petition is to be filed by the income-tax authority before the appellate forum or
 - (ii) an appeal is filed or to be filed before the Commissioner (Appeals) or objections are filed or to be filed before the Dispute Resolution Panel by the declarant, on which he has already got a decision in his

favour from Income Tax Appellate Tribunal (where the decision on such issue is not reversed by the High Court or the Supreme Court) or the High Court (where the decision on such issue is not reversed by the Supreme Court), or

- (iii) an appeal is filed or to be filed by the declarant before Income Tax Appellate Tribunal on which he has already got a decision in his favour from the High Court (where the decision on such issue is not reversed by the Supreme Court);
- (f) "section" means section of the Direct Tax Vivad se Vishwas Act, 2020 (3 of 2020);
- (g) the words and expressions used in these rules and not defined but defined in the Act or Income-tax Act, 1961 shall have the same meanings respectively as assigned to them in those Act

3. Form of declaration and undertaking-

- (1) The declaration under sub-section (1) of section 4 shall be made in Form-1 to the designated authority.
- (2) The undertaking referred to in sub-section (5) of section 4 shall be furnished in Form-2 along with the declaration.
- (3) The declaration under sub-rule (1) and the undertaking under sub-rule (2), as the case may be, shall be signed and verified by the declarant or any person competent to verify the return of income on his behalf in accordance with section 140 of the Income-tax Act, 1961.
- (4) The designated authority on receipt of declaration shall issue a receipt electronically in acknowledgement thereof.

4. Form of certificate by designated authority- The designated authority shall grant a certificate electronically referred to in sub-section (1) of section 5 in Form-3.

5. Intimation of payment- The detail of payments made pursuant to the certificate issued by the designated authority shall be furnished along with proof of withdrawal of appeal, objection, application, writ petition, special leave petition, arbitration, conciliation, mediation or claim filed by the declarant to the designated authority in Form-4.

6. Manner of furnishing- The Form-1 and Form-2 referred to in rule 3 and Form-4 referred to in rule 5 shall be furnished electronically under digital signature,

if the return of income is required to be furnished under digital signature or, in other cases through electronic verification code.

Explanation. – For the purpose of this rule, “electronic verification code” shall have the same meaning as referred to in rule 12 of the Income-tax Rules, 1962.

7. **Order by designated authority-** The order by the designated authority under sub-section (2) of section 5, in respect of payment sate granted under sub-section (1) of section 5, shall be in Form-5.
8. **Laying down of procedure, formats and standards-** The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall lay down procedures, formats and standards for furnishing and verifying the declaration in Form-1 under sub-rule (1) of rule 3, furnishing and verifying the undertaking in Form-2 under sub-rule (2) of rule 3, granting of certificate in Form-3 under rule 4, intimation of payment and proof of withdrawal in Form-4 under rule 5 and issuance of order in Form-Sunder rule 7 and the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the said declaration, undertaking, certificate, intimation and order.
9. **Manner of computing disputed tax in caws where loss or unabsorbed depreciation is reduced -**
 - (1) Where the dispute in relation to assessment year relates to reduction in loss or unabsorbed deprecation to be carried forward under the Income-tax Act, the declarant shall have an option to
 - (i) include the tax, including surcharge and cess, payable on the amount by which loss or unabsorbed deprecation is reduced in the disputed tax and carry forward the loss or unabsorbed deprecation by ignoring such amount of reduction in loss or unabsorbed depreciation; or
 - (ii) Carry forward the reduced amount of loss or unabsorbed depreciation.
 - (2) Where the declarant exercises the option as per clause (ii) of sub-rule (1), he shall be able to pay tax, including surcharge and cess, along with interest, if any, as a consequence of carrying forward the reduced amount of loss or unabsorbed depreciation in subsequent years:

Provided that the written down value of the block of asset on the last day of the year, in respect of which unabsorbed deprecation has been reduced, shall not be increased by the amount of reduction in unabsorbed deprecation:

Provided further that in cases other than the eligible search cases, in computing the reduced amount of loss or unabsorbed depreciation to be carried forward in clause (ii) of sub-rule (1), one-half of the amount by which loss or unabsorbed depreciation is reduced shall be considered for reduction, if such reduction is related to issues covered in favour of declarant:

Provided also that in case of eligible search cases, in computing the reduced amount of loss or unabsorbed deprecation to be carried forward in clause (ii) of sub-rule (1), one and one-fourth times of the amount by which loss or unabsorbed depreciation is reduced shall be considered for reduction and where the one and one-fourth times of the amount by which loss or unabsorbed depreciation is reduced exceeds the amount of loss to be carried forward before it's reduction, such excess shall be ignored:

Provided also that in case of eligible search cases in computing the reduced amount of loss or unabsorbed deprecation to be carried forward in clause (ii) of sub-rule (1), five-eighth of the amount by which loss or unabsorbed depreciation is reduced shall be considered for reduction, if such reduction is related to issues covered in favour of declarant.

10. Manner of computing disputed tax in cases where Minimum Alternate Tax (MAT) credit is reduced-

- (1) Where the dispute in relation to an assessment year relates to reduction in Minimum Alternate Tax (MAT) credit to be carried forward, the declarant shall have an option to
 - (i) include the amount by which MAT credit to be carried forward is reduced in disputed tax and carry forward the MAT credit by ignoring such amount of reduction, or
 - (ii) Carry forward the reduced MAT credit.
- (2) Where the declarant exercises the option as per cause (ii) of sub-rule (1), he shall be able to pay tax, including surcharge and cess, along with interest, if any, as a consequence of carrying forward reduced MAT credit in subsequent years:

Provided that in cases other than the eligible search cases, in computing the reduced amount of MAT credit to be carried forward in clause (ii) of sub-rule (1), one-half of the amount by which MAT credit is reduced shall be considered for reduction, if such reduction is related to issues covered in favour of declarant:

Provided further that in case of eligible search cases, in computing the reduced amount of MAT credit to be carried forward in clause (ii) of sub-rule (1), one and one-fourth times of the amount by which MAT credit is reduced shall be considered for reduction and where the one and one-fourth times the amount by which MAT credit is reduced exceeds the amount of MAT credit to be carried forward before it's reduction, such excess shall be ignored:

Provided also that in case of eligible search cases in computing the reduced amount of MAT credit to be called forward in clause (ii) of sub-rule (1), five-eighth of the amount by which MAT credit is reduced shall be considered for reduction, if such reduction is related to issues covered in favour of declarant.

Explanation– For the purpose of this rule MAT credit means tax credit as per the provisions of section 115JAA or 115JD of the Income-tax Act.

- 11. Manner of computing disputed tax in certain cams–** (1) Where the dispute includes issues covered in favour of declarant, the disputed tax in respect of such issues shall be the amount, which bears to tax, including surcharge and cess, payable on all the issues in dispute, the same proportion as the disputed income in relation to issues covered in favour of declarant bear to the disputed income in relation to all the issues in dispute.

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CHAPTER 10

Frequently Asked Questions

The Circular No. 7/2020 dated 04.03.2020 was issued by the Board in the form of FAQ's to clarify its position in certain circumstances. The said Circular issued under section 10 of the Direct Tax Vivad Se Vishwas Act, 2020.

CBDT re-issues FAQs on the Direct Tax Vivad se Vishwas Act, 2020 with modifications, replaces circular no. 7 of 2020; Stating that the clarifications forming part of earlier circular No. 7 were subject to approval and passing of the VsV Bill by the Parliament and receiving Presidential assent, the FAQs are now re-issued in wake of the enactment of the Direct Tax Vivad se Vishwas Act, 2020; Apart from few referencing changes, CBDT modifies answer to question no. 22 in relation to prosecution clarified that where only notice for initiation of prosecution has been issued without prosecution being instituted, the assessee is eligible to file declaration under Vivad se Vishwas. However, where the prosecution has been instituted with respect to an assessment year, the assessee is not eligible to file declaration for that assessment year under Vivad se Vishwas, unless the prosecution is compounded before filing the declaration.

In this Circular, the CBDT has enlarged the scope of the Scheme in various cases. Some of the instances are summarized below:

- **Eligible cases which are covered under the scheme: -**
 - Appeal pending for admission by High Court [FAQ 24]
 - where assessee does not file any objection before DRP and is awaiting final order. However, assessee to write in declaration that time for filing objections before DRP has not expired. [FAQ 16]
 - Settlement of TDS liability u/s 201 of the Income Tax Act. [FAQ 31]
 - Arbitration, Conciliation or mediation proceedings initiated by declarant [FAQ 1]
 - Cases where total income has been determined by AAR and appeal against AAR decision is pending before High Court [FAQ 3]
 - Enhancement Notice u/s 251 issued by CIT A. Disputed Tax to be calculated on the basis of Enhancement notice [FAQ 17]

- Departmental appeal against DRP Order. Amount payable shall be 50% of normal amount [FAQ 33]
- Where multiple years are involved in search cases, each such year in which disputed tax is less than 5 crores shall get covered [FAQ 6]
- Prosecution cases can get covered by compounding the offence [FAQ 22]
- Cases set aside to AO for giving proper opportunity or to carry out fresh examination of the issue with specific direction shall be covered. In such cases while filling the declaration form, appellant can indicate that with respect to the set-aside issues the appeal is pending with the Commissioner(Appeals). [FAQ 7]
- In cases where appeal is set aside on some issue and other issues are not in appeal and have attained finality because of appeal not having been filed, still declaration can also be filed in respect of concluded issues [FAQ 7]
- **Cases not eligible under the Scheme**
 - Disputes pending before AAR [FAQ 3]
 - Cases where income has not been determined by AAR and consequential order is yet to be passed by AO [FAQ 3]
 - Interest Waiver application [FAQ 13]
 - Settlement of disputed tax will not settle disputed Fee. Both need to be separately settled [FAQ10]
 - Standalone settlement of penalty without settling quantum is not possible [FAQ 8]
 - Wealth Tax, CTT, STT and Equalization Levy [FAQ 18]
 - Writ filed against section 148 in High Court where income is not determined [FAQ 12]
- **Qualifying and Non qualifying amounts**
 - If the tax arrears include tax on issues that are excluded from the Vivad se Vishwas, such cases are not eligible to file declaration under Vivad se Vishwas. There is no provision under Vivad se Vishwas to settle part of a pending dispute in relation to an appeal or writ or SLP for an assessment

year. For one pending appeal, all the issues are required to be settled and if anyone of the issues makes the declaration invalid, no declaration can be filed. [FAQ 11]

- **Multiple Appeals for same assessment year**

- Where assessment has been framed for an assessment year and then reassessment is done for the same assessment year and both assessment and reassessment are in appeal. [FAQ 19]
- Where both department as well as assessee are in appeal [FAQ 40]
- Where assessee has filed appeal on certain issue but time to file appeal by the department has not expired and assessee is not sure whether department shall file appeal or not on issues decided in his favour [FAQ 36]

- **Consequential Reliefs for TDS Settlements**

- Disallowance u/s 40(a)(ia) in order u/s 143(3) shall get waived where assessee settles TDS issue u/s 201 under the Scheme. Where matter relating to order u/s 201 has already been finally decided in favor of assessee, still 40(a)(ia) disallowance shall get waived. If other issues are also involved in order u/s 143(3) and assessee wishes to settle order u/s 143(3) then disputed tax in respect of 40(a)(ia) may be taken as NIL [FAQ 31]
- Deductee to be allowed credit of TDS liability settled by deductor. [FAQ 30]
- Where deductee settles his income dispute and tax was deductible on such income then deductor shall also get relief from liability to deduct tax. 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 (IA) of section 201 qualifies for Vivad se Vishwas, the deductor in default can settle this dispute at 25% or 30% of the disputed interest [FAQ 32]

- **Concessions/Credits allowed in FAQ**

- Where DRP confirms addition on matter already decided in favour of assessee. The amounts payable shall be reduced to 50% of normal amount [FAQ 39]
- Where department is in appeal against matter decided by High Court and SC has already decided the issue in favour of assessee, the amount payable on such issue shall be NIL [FAQ 37]

- Credit of amount already paid towards demand and prepaid taxes shall be allowed [FAQ 5,26]
- **Other Clarifications in FAQ**
 - No Interest for refund on account of 40(a)(ia) disputed tax getting waived due to settlement of TDS issues u/s 201[FAQ 31]
 - No Interest u/s 244A on excess deposit against demand under this Scheme [FAQ 5]
 - Order of Designated Authority is not appealable [FAQ 47]
 - Interest to be paid by deductee till the date of settlement on credit obtained due to TDS dispute settled by deductor. [FAQ 30]
- **FAQ relating to Withdrawal of Appeal**
 - Withdrawal of appeal to made only after issue of Certificate by Designated Authority [FAQ 43]
 - Proof of request for withdrawal of appeal to be provided to Designated Authority [FAQ 43]
 - Department to withdraw appeal/writ/SLP on intimation of payment to Designated Authority by appellants [FAQ 48]
- **FAQ relating to Rectifications**
 - Disputed Tax to be calculated after giving effect to rectification u/s 154 [FAQ 25]
 - Designated Authority has been empowered to rectify its order [FAQ 46]
 - Where substantive assessment is settled, AO shall delete protective assessment by rectification order [FAQ 35]
- **Other Important Issues clarified in FAQ**
 - One Declaration to be filed for each assessment year. For different assessment years' different declarations to be filed [FAQ 40]
 - The designated authority shall be instructed to grant a certificate at an early date enabling the appellants to pay the amount on or before 31st March, 2020 so that he can take benefit of reduced payment to settle the dispute. [FAQ 41]

- Declarant should apply for waiver of Interest u/s 220 even if it is not charged [FAQ 26]
- If both quantum and penalty appeals are pending, then detail of both appeals to be provided in declaration form though disputed tax to be paid for quantum appeal only. [FAQ 34]
- Designated Authority shall mention in his order that Designated Authority shall not institute any proceeding in respect of an offence; or impose or levy any penalty; or charge any interest under the Income-tax Act in respect of tax arrears [FAQ 45]
- Making Declaration does not tantamount to conceding tax position [FAQ 52, 55]
- Picking and choosing issues for settlement of an appeal is not allowed. With respect to one order, the appellant must choose to settle all issues and then only he would be eligible to file declaration. [FAQ 14]

**F. No. IT(A)/1/2020-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes**

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Circular No. 9/2020

Dated: 22nd April, 2020

Sub.: Clarifications on provisions of the Direct Tax Vivad se Vishwas Act, 2020 reg.

During the Union Budget, 2020 presentation, the 'Vivad se Vishwas' Scheme was announced to provide for dispute resolution in respect of pending income tax litigation. Pursuant to Budget announcement, the Direct Tax Vivad se Vishwas Bill, 2020 (the Bill) was introduced in the Lok Sabha on 5th Feb, 2020. Subsequently, based on the representations received from the stakeholders regarding its various provisions, official amendments to the Bill were proposed. These amendments sought to widen the scope of the bill and reduce the compliance burden on taxpayers.

2. After introduction of the bill in Lok Sabha, several queries were received from the stakeholders seeking clarifications in respect of various provisions contained therein. Government had considered these queries and had decided to clarify the same in form of answers to frequently asked questions (FAQs) vide circular no 7 of 2020 dated 4th March 2020. These clarifications were, however, subject to approval and passing of the bill by the Parliament and receiving assent of the Hon'ble President of India.
3. The Bill has since been passed by the Parliament and has also received the assent of the Hon'ble President of India and has now been enacted as The Direct Tax Vivad Se Vishwas Act, 2020 (Vivad se Vishwas). The objective of Vivad se Vishwas is to inter alia reduce pending income tax litigation, generate timely revenue for the Government and benefit taxpayers by providing them peace of mind, clarity and savings on account of time and resources that would otherwise be spent on the long-drawn and vexatious litigation process.
4. 55 questions contained in circular no 7 of 2020 are reissued under this circular with following modifications
 - (i) Vivad se Vishwas referred to Direct Tax Vivad se Vishwas Bill, 2020 in circular no 7. However, in this circular it refers to The Direct Tax Vivad Se Vishwas Act, 2020;
 - (ii) Since clauses of the Bill have now become sections in the Vivad Se Vishwas, the reference to "clause" in circular no 7 has been replaced with "section";
 - (iii) Reference to declaration form in circular no 7 has been replaced with referencing of relevant form, since rules and forms have now been notified; and
 - (iv) Answer to question no 22 has been modified to reflect the correct intent of the law. It has now been clarified that where only notice for initiation of prosecution has been issued without prosecution being instituted, the assessee is eligible to file declaration under Vivad se Vishwas. However, where the prosecution has been instituted with respect to an assessment year, the assessee is not eligible to file declaration for that assessment year under Vivad se Vishwas, unless the prosecution is compounded before filing the declaration.
5. Section 10 and II of the Vivad se Vishwas empowers the Board or the Central Government to issue directions or orders in public interest or to remove difficulties. This circular is such direction/order issued under section 10 and section II of the Vivad se Vishwas. Thus answers to some of the questions in

this circular extend the application of Vivad se Vishwas in public interest or to remove difficulties, under section 10 and section II of Vivad se Vishwas.

“QUESTIONS ON SCOPE/ ELIGIBILITY (Q. No.1 - 24)”

Question No. 1. Which appeals are covered under the Vivad se Vishwas?

Answer: Appeals pending before the appellate forum [Commissioner (Appeals), Income Tax Appellate Tribunal (ITAT), High Court or Supreme Court], and writ petitions pending before High Court (HC) or Supreme Court (SC) or special leave petitions (SLPs) pending before SC as on the 31st day of January, 2020 (specified date) are covered. Cases where the order has been passed but the time limit for filing appeal under the Income-tax Act, 1961 (the Act) against the order has not expired as on the specified date are also covered. Similarly, cases where objections filed by the assessee against draft order are pending with Dispute Resolution Panel (DRP) or where DRP has given the directions but the Assessing Officer (AO) has not yet passed the final order on or before the specified date are also covered. Cases where revision application under section 264 of the Act is pending before the Principal Commissioner or Commissioner are covered as well. Further, where a declarant has initiated any proceeding or given any notice for arbitration, conciliation or mediation as referred to in section 4 of the Act is also covered.

Question No. 2. If there is no appeal pending but the case is pending in arbitration, will the taxpayer be eligible to apply under Vivad se Vishwas? If yes what will be the disputed tax?

Answer: An assessee whose case is pending in arbitration is eligible to apply for settlement under Vivad se Vishwas even if no appeal is pending. In such case assessee should fill the relevant details applicable in his case in the declaration form. The disputed tax in this case would be the tax (including surcharge and cess) on the disputed income with reference to which the arbitration has been filed.

Question No. 3. Whether Vivad se Vishwas can be availed for proceedings pending before Authority of Advance Ruling (AAR)? If a writ is pending against order passed by AAR in a HC will that case be covered and how disputed tax to be calculated?

Answer: Vivad se Vishwas is not available for disputes pending before AAR. However, if the order passed by AAR has determined the total income of an assessment year and writ against such order is pending in HC, the appellant would be eligible to apply for the Vivad se Vishwas. The disputed tax in that case shall be calculated as per the order of the AAR and accordingly, wherever required, consequential order shall be passed by the AO. However, if the order of AAR has not determined the total income, it would not be possible to calculate disputed tax and hence such cases would not be covered. To illustrate, if AAR has given a

ruling that there exists Permanent Establishment (PE) in India but the AO has not yet determined the amount to be attributed to such PE, such cases cannot be covered since total income has not yet been determined.

Question No. 4. An appeal has been filed against the interest levied on assessed tax; however, there is no dispute against the amount of assessed tax. Can the benefit of the Vivad se Vishwas be availed?

Answer: Declarations covering disputed interest (where there is no dispute on tax corresponding to such interest) are eligible under Vivad se Vishwas. It may be clarified that if there is a dispute on tax amount, and a declaration is filed for the disputed tax, the full amount of interest levied or leviable related to the disputed tax shall be waived.

Question No. 5. What if the disputed demand including interest has been paid by the appellant while being in appeal?

Answer: Appeals in which appellant has already paid the disputed demand either partly or fully are also covered. If the amount of tax paid is more than amount payable under Vivad se Vishwas, the appellant will be entitled to refund without interest under section 244A of the Act.

Question No. 6. Can the benefit of the Vivad se Vishwas be availed, if a search and seizure action by the Income-tax Department has been initiated against a taxpayer?

Answer: Case where the tax arrears relate to an assessment made under section 143(3) or section 144 or section 153A or section 153C of the Act on the basis of search initiated under section 132 or section 132A of the Act are excluded if the amount of disputed tax exceeds five crore rupees in that assessment year. Thus, if there are 7 assessments of an assessee relating to search & seizure, out of which in 4 assessments, disputed tax is five crore rupees or less in each year and in remaining 3 assessments, disputed tax is more than five crore rupees in each year, declaration can be filed for 4 assessments where disputed tax is five crore rupees or less in each year.

Question No. 7. If assessment has been set aside for giving proper opportunity to an assessee on the additions carried out by the AO. Can he avail the Vivad se Vishwas with respect to such additions?

Answer: If an appellate authority has set aside an order (except where assessment is cancelled with a direction that assessment is to be framed de novo) to the file of the AO for giving proper opportunity or to carry out fresh examination of the issue with specific direction, the assessee would be eligible to avail Vivad se Vishwas. However, the appellant shall also be required to settle other issues, if any, which

have not been set aside in that assessment and in respect of which either appeal is pending or time to file appeal has not expired. In such a case disputed tax shall be the tax (including surcharge and cess) which would have been payable had the addition in respect of which the order was set aside by the appellate authority was to be repeated by the AO.

In such cases while filling the declaration form, appellant can indicate that with respect to the set-aside issues the appeal is pending with the Commissioner (Appeals).

Question No. 8. Imagine a case where an appellant desires to settle concealment penalty appeal pending before CIT(A), while continuing to litigate quantum appeal that has travelled to higher appellate forum. Considering these are two independent and different appeals, whether appellant can settle one to exclusion of others? If yes, whether settlement of penalty appeal will have any impact on quantum appeal?

Answer: 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 covering both disputed tax appeal and penalty appeal. However, he would be required to pay relevant percentage of disputed tax only. Further, 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.

Question No. 9. Is there any necessity that to qualify under the Vivad se Vishwas, the appellant should have tax demand in arrears as on the date of filing declaration?

Answer: Vivad se Vishwas can be availed by the appellant irrespective of whether the tax arrears have been paid either partly or fully or are outstanding.

Question No. 10. Whether 234E and 234F appeals are covered?

Answer: If appeal has been filed against imposition of fees under sections 234E or 234F of the Act, the appellant would be eligible to file declaration for disputed fee and amount payable under Vivad se Vishwas shall be 25% or 30% of the disputed fee, as the case may be.

If the fee imposed under section 234E or 234F pertains to a year in which there is disputed tax, the settlement of disputed tax will not settle the disputed fee. If assessee wants to settle disputed fee, he will need to settle it separately by paying 25% or 30% of the disputed fee, as the case may be.

Question No. 11. In case where disputed tax contains qualifying tax arrears as also non-qualifying tax arrears (such as, tax arrears relating 10 assessment made in respect of undisclosed foreign income):

- (i) Whether assessee is eligible to the Vivad se Vishwas itself?
- (ii) If eligible, whether quantification of disputed tax can

Answer: If the tax arrears include tax on issues that are excluded from the Vivad se Vishwas, such cases are not eligible to file declaration under Vivad se Vishwas. There is no provision under Vivad se Vishwas to settle part of a pending dispute in relation to an appeal or writ or SLP for an assessment year. For one pending appeal, all the issues are required to be settled and if anyone of the issues makes the declaration invalid, no declaration can be filed.

Question No. 12. If a writ has been filed against a notice issued under section 148 of the Act and no assessment order has been passed consequent to that section 148 notice, will such case be eligible to file declaration under Vivad se Vishwas?

Answer: The assessee would not be eligible for Vivad se Vishwas as there is no determination of income against the said notice.

Question No. 13. With respect to interest under section 234A, 234B or 234C, there is no appeal but the assessee has filed waiver application before the competent authority which is pending as on 31 Jan 2020? Will such cases be covered under Vivad se Vishwas?

Answer: No, such cases are not covered. Waiver applications are not appeal within the meaning of Vivad se Vishwas.

Question No. 14. Whether assessee can avail of the Vivad se Vishwas for some of the issues and not accept other issues?

Answer: Refer to answer to question no 11. Picking and choosing issues for settlement of an appeal is not allowed. With respect to one order, the appellant must chose to settle all issues and then only he would be eligible to file declaration.

Question No. 15. Will delay in deposit of TDS/TCS be also covered under Vivad se Vishwas?

Answer: The disputed tax includes tax related to tax deducted at source (TDS) and tax collection at source (TCS) which are disputed and pending in appeal. However, if there is no dispute related to TDS or TCS and there is delay in depositing such TDS/TCS, then the dispute pending in appeal related to interest levied due to such delay will be covered under Vivad se Vishwas.

Question No. 16. Are cases pending before DRP covered? What if the assessee has not filed objections with DRP and the AO has not yet passed the final order?

Answer: Yes, a person who has filed his objections before the DRP under section 144C of the Act and the DRP has not issued any direction on or before the specified date as well as a person in whose case the DRP has issued directions but the AO has not passed the final assessment order on or before the specified date, is eligible under Vivad se Vishwas.

It is further clarified that there could be a situation where the AO has passed a draft assessment order before the specified date. Assessee decides not to file objection with the DRP and is waiting for final order to be passed by the AO against which he can file appeal with Commissioner (Appeals). In this situation even if the final assessment order is not passed on or before the specified date, the assessee would be considered as the appellant and would be eligible to settle his dispute under Vivad se Vishwas. Disputed tax in such case would be computed based on the draft order. In the declaration form, the appellant in this situation should indicate that time to file objection with DRP has not expired.

Question No. 17. If CIT (Appeals) has given an enhancement notice, can the appellant avail the Vivad se Vishwas after including proposed enhanced income in the total assessed income?

Answer: The amendment proposed in the Vivad se Vishwas allows the declaration even in cases where CIT (Appeals) has issued enhancement notice on or before 31st January, 2020. However, the disputed tax in such cases shall be increased by the amount of tax pertaining to issues for which notice of enhancement has been issued.

Question No. 18. Are disputes relating to wealth tax, security transaction tax, commodity transaction tax and equalisation levy covered?

Answer: No. Only disputes relating to income-tax are covered.

Question No. 19. The assessment order under section 143(3) of the Act was passed in the case of an assessee for the assessment year 2015-16. 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 (Appeals)? Could both or one of the orders be settled under Vivad se Vishwas?

Answer:- The appellant in this case has an option to settle either of the two appeals or both appeals for the same assessment year. If he decides to settle both appeals, then he has to file only one declaration form. The disputed tax in this case would be the aggregate amount of disputed tax in both appeals.

Question No. 20. In a case there is no disputed tax. However, there is appeal for disputed penalty which has been disposed of by CIT (Appeals) on 5th January 2020. Time to file appeal in ITAT against the order of Commissioner (Appeals) is still available but the appeal has not yet been filed. Will such case be eligible to avail the benefit?

Answer: Yes, the appellant in this case would also be eligible to avail the benefit of Vivad se Vishwas. In this case, the terms of availing Vivad se Vishwas in case of disputed penalty/interest/fee are similar to terms in case of disputed tax. Thus, if the time to file appeal has not expired as on specified date, the appellant is eligible to avail benefit of Vivad se Vishwas. In this case the declarant should indicate in the declaration Form No. 1, in the appropriate schedule, that time limit to file appeal in ITAT has not expired.

Question No. 21. In a case ITAT has quashed the assessment order based on lack of jurisdiction by the AO. The department has filed an appeal in HC which is pending. Is the assessee eligible to settle this dispute under Vivad se Vishwas and if yes how disputed tax be calculated as there is no assessment order?

Answer: The assessee in this case is eligible to settle the department appeal in HC. The amount payable shall be calculated at half rate of 100%, 110%, 125% or 135%, as the case may be, on the disputed tax that would be restored if the department was to win the appeal in HC.

Question No. 22. In the case of an assessee prosecution has been instituted and is pending in court. Is assessee eligible for the Vivad se Vishwas? Further, where the prosecution has been instituted but the notice has been issued, whether the assessee is eligible for Vivad se Vishwas?

Answer: Where only notice for initiation of prosecution has been issued without prosecution being instituted, the assessee is eligible to file declaration under Vivad se Vishwas. However, where the prosecution has been instituted with respect to an assessment year, the assessee is not eligible to file declaration for that assessment year under Vivad se Vishwas, unless the prosecution is compounded before filing the declaration.

Question No. 23. If the due date of filing appeal is after 31.1.2020 the appeal has not been filed, will such case be eligible for Vivad se Vishwas?

Answer: Yes

Question No. 24. If appeal is filed before High Court and is pending for admission as on 31.1.2020, whether the case is eligible for Vivad se Vishwas?

Answer: Yes

“QUESTIONS RELATED TO CALCULATION (Q. No. 25-40)”

Question No. 25. In a case appeal or arbitration is pending on the specified date, but a rectification is also pending with the AO which if accepted will reduce the total assessed income. Will the calculation of disputed tax be calculated on rectified total assessed income?

Answer: The rectification order passed by the AO may have an impact on determination of disputed tax, if there is reduction or increase in the income and tax liability of the assessee as a result of rectification. The disputed tax in such cases would be calculated after giving effect to the rectification order passed, if any.

Question No. 26. Refer to question number 5. How will disputed tax be calculated in a case where disputed demand including interest has been paid by the assessee while being in appeal?

Answer: Please refer to answer to question no. 5. To illustrate, consider a non-search case where an assessee is in appeal before Commissioner (Appeals). The tax on returned income (including surcharge and cess) comes to ₹ 30,000 and interest under section 234B of ₹ 1,000/-. Assessee has paid this amount of ₹ 31,000 at the time of filing his tax return. During assessment an addition is made and additional demand of ₹ 16,000 has been raised, which comprises of disputed tax (including surcharge and cess) of ₹ 10,000 and interest on such disputed tax of ₹ 6000. Penalty has been initiated separately. Assessee has paid the demand of ₹ 14,000 during pendency of appeal; however, interest under section 220 of the Act is yet to be calculated. Assessee files a declaration, which is accepted and certificate is issued by the designated authority (DA). The disputed tax of ₹ 10,000 (at 100%) is to be paid on or before 31st March 2020. Since he has already paid ₹ 14,000, he would be entitled to refund of ₹ 4,000 (without section 244A interest). Further, the interest leviable under section 220 and penalty leviable shall also be waived.

Question No. 27. Refer to question no 7. How will disputed tax be computed in a case where assessment has been set aside for giving proper opportunity to an assessee on the additions carried out by the AO?

Answer: Please refer to answer to question no. 7. To illustrate, return of income was filed by the assessee. The tax on returned income was ₹ 10,000 and interest was ₹ 1,000. The amount of ₹ 11,000 was paid before filing the return. The AO made two additions of ₹ 20,000/- and ₹ 30,000/-. The tax (including surcharge and cess) on this comes to ₹ 6,240/- and ₹ 9,360/- and interest comes to ₹ 2,500 and ₹ 3,500 respectively. Commissioner (Appeals) has confirmed the two additions. ITAT confirmed the first addition (₹ 20,000/-) and set aside the second addition (₹ 30,000/-) to the file of AO for verification with a specific direction. Assessee

appeals against the order of ITAT with respect to first addition (or has not filed appeal as time limit to file appeal against the order has not expired). The assessee can avail the Vivad se Vishwas if declaration covers both the additions. In this case the disputed tax would be the sum of disputed tax on both the additions i.e. Rs. 6240/- plus Rs. 9,360/-.

In such cases while filling the declaration form, appellant can indicate that with respect to the set-aside issues the appeal is pending with the Commissioner (Appeals).

Question No. 28. What amount of tax is required to be paid, if an assessee wants to avail the benefit of the Vivad se Vishwas?

Answer: Under the Vivad se Vishwas, declarant is required to make following payment for settling disputes:

- A. In appeals / writ / SLP / DRP objections / revision application under section 264 / arbitration filed by the assessee -
 - (a) In case payment is made till 31st March, 2020-
 - (i) 100% of the disputed tax (125% in search cases) where dispute relates to disputed tax (excess amount over 100% limited to the amount of interest and penalty levied or leviable), or
 - (ii) 25% of the disputed penalty, interest or fee where dispute relates to disputed penalty, interest or fee only.
 - (b) In case payment is made after 31st March, 2020 -
 - (i) 110% of the disputed tax (135% in search cases) where dispute relates to disputed tax (excess amount over 100% limited to the amount of interest and penalty), or
 - (ii) 30% of the disputed penalty, interest or fee in case of dispute related to disputed penalty, interest or fee only.

However, if in an appeal before Commissioner(Appeals) or in objections pending before DRP, there is an issue on which the appellant has got favourable decision from ITAT (not reversed by HC or SC) or from the High Court (not reversed by SC) in earlier years then the amount payable shall be half or 50% of above amount.

Similarly, if in an appeal before IT AT, there is an issue on which the appellant has got favourable decision from the High Court (not reversed by SC) in earlier years then the amount payable shall be half or 50% of above amount.

- B. In appeals/writ/SLP filed by the Department -
- (a) In case payment is made till 31 "March, 2020-
 - (i) 50% of the disputed tax (62.5% in search cases) in case of dispute related to disputed tax or
 - (ii) 12.5% of the disputed penalty, interest or fee in case of dispute related to disputed penalty, interest or fee only.
 - (b) In case payment is made after 31" March, 2020 -
 - (i) 55% of the disputed tax (67.5% in search cases) in cases of dispute related to disputed tax, or
 - (ii) 15% of the disputed penalty, interest or fee in case of dispute related to disputed penalty, interest or fee only.

Question No. 29. Whether credit for earlier taxes paid against disputed tax will be available against the payment to be made under Vivad se Vishwas?

Answer: The amount payable by the declarant under Vivad se Vishwas shall be determined by the DA under section 5. Credit for taxes paid against the disputed tax before filing declaration shall be available to the declarant. Please refer to example at question no. 26 above. If in that example against disputed tax of ₹ 10,000/- an amount of ₹ 8,000/- has already been paid, the appellant would be required to pay only the remaining ₹ 2,000/- by 31" March 2020.

Question No. 30. Where assessee settles TDS appeal or withdraws arbitration (against order U/S 201) as deductor of TDS, will credit of such tax be allowed to deductee?

Answer: In such cases, the deductee shall be allowed to claim credit of taxes in respect of which the deductor has availed of dispute resolution under Vivad se Vishwas. However, the credit will be allowed as on the date of settlement of dispute by the deductor and hence the interest as applicable to deductee shall apply.

Question No. 31. Where assessee settles TDS liability as deductor of TDS under Vivad se Vishwas (i.e. against order u/s 201), when will he get consequential relief of expenditure allowance under proviso to section 40(a)(i)/(ia)?

Answer: In such cases, the deductor shall be entitled to get consequential relief of allowable expenditure under proviso to section 40(a)(i)/(ia) in the year in which the tax was required to be deducted. To illustrate, let us assume that there are two appeals pending; one against the order under section 201 of the Act for non-deduction of TDS and another one against the order under section 143 (3)

of the Act for disallowance under section 40(a)(i)/(ia) of the Act. The disallowance under section 40 is with respect to same issue on which order under section 201 has been issued. If the dispute is settled with respect to order under section 201, assessee will not be required to pay any tax on the issue relating to disallowance under section 40(a)(i)/(ia) of the Act, in accordance with the provision of section 40(a)(i)/(ia) of the Act. In case, in the order under section 143(3) there are other issues as well, and the appellant wants to settle the dispute with respect to order under section 143(3) as well, then the disallowance under section 40(a)(i)/(ia) of the Act relating to the issue on which he has already settled liability under section 201 would be ignored for calculating disputed tax.

If the assessee has challenged the order under section 201 on merits and has won in the Supreme Court or the order of any appellate authority below Supreme Court on this issue in favour of the assessee has not been challenged by the Department on merit (not because appeal was not filed on account of monetary limit for filing of appeal as per applicable CEDT circular), then in a case where disallowance under section 40(a)(i)/(ia) of the Act is in consequence of such order under section 201 and is part of disputed income as per order under section 143(3) in his case, such disallowance would be ignored for calculating disputed tax, in accordance with the proviso to section 40(a)(i)/(ia) of the Act.

It is clarified that if the assessee has made payment against the addition representing section 40(a)(i)/(ia) disallowance, the assessee shall not be entitled to interest under section 244A of the Act on amount refundable, if any, under Vivad se Vishwas,

It is further clarified that if the assessee wish to settle disallowance under section 40(a)(i)/(ia) in a search case on the basis of settlement of the dispute under section 201, he shall be required to pay higher amount as applicable for search cases for settling dispute in respect of that TDS default under section 201.

Question No. 32. When assessee settles his own appeal or arbitration under Vivad se Vishwas, will consequential relief be available to the deductor in default from liability determined under TDS order U/S 201?

Answer: When an assessee (being a person receiving an income) settles his own appeal or arbitration under Vivad se Vishwas and such appeal or arbitration is with reference to assessment of an income which was not subjected to TDS by the payer of such income (deductor in default) and an order under section 201 of the Act has been passed against such deductor in default, then such 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 (IA) of section 201 qualifies for Vivad se Vishwas, the deductor in default can settle this dispute at 25% or 30%

of the disputed interest, as the case may be, by filing up the relevant schedule of disputed interest.

Question No. 33. Where DRP order passed on or after 1st July, 2012 and before 1st June, 2016 have given relief to assessee and Department has filed appeal, how assessed tax to be calculated?

Answer: If department appeal is required to be settled, then against that appeal the appellant is required to pay only 50% of the amount that is otherwise payable if it was his appeal.

Question No. 34. Appeals against assessment order and against penalty order are filed separately on same issue. Hence there are separate appeals for both. In such a case how disputed tax to be calculated?

Answer: Please see question no. 8. Further, it is clarified that if the appellant has both appeal against assessment order and appeal against penalty relating to same assessment pending for the same assessment year, and he wishes to settle the appeal against assessment order (with penalty appeal automatically covered), he is required to give details of both appeals in one declaration form (form No. 1) for that year.

Question No. 35. If there is substantive addition as well as protective addition in the case of same assessee for different assessment year, how will that be covered? Similarly, if there is substantive addition in case of one assessee and protective addition on same issue in the case of another assessee, how will that be covered under Vivad se Vishwas?

Answer: If the substantive addition is eligible to be covered under Vivad se Vishwas, then on settlement of dispute related to substantive addition AO shall pass rectification order deleting the protective addition relating to the same issue in the case of the assessee or in the case of another assessee.

Question No. 36. In a case ITAT has passed order giving relief on two issues and confirming three issues. Time to file appeal has not expired as on specified date. The taxpayer wishes to file declaration for the three issues which have gone against him. What about the other two issues as the taxpayer is not sure if the department will file appeal or not?

Answer: The Vivad se Vishwas allow declaration to be filed even when time to file appeal has not expired considering them to be a deemed appeal. Vivad se Vishwas also envisages option to assessee to file declaration for only his appeal or declaration for department appeal or declaration for both. Thus, in a given situation the appellant has a choice, he can only settle his deemed appeal on three issues, or he can settle department deemed appeal on two issues or he can settle both.

If he decides to settle only his deemed appeal, then department would be free to file appeal on the two issues (where the assessee has got relief) as per the extant procedure laid down and directions issued by the CBDT.

Question No. 37. There is no provision for 50% concession in appeal pending in HC on an issue where the assessee has got relief on that issue from the SC?

Answer: If the appellant has got decision in his favour from SC on an issue, there is no dispute now with regard to that issue and he need not settle that issue. If that issue is part of the multiple issues, the disputed tax may be calculated on other issues considering nil tax on this issue.

Question No. 38. Addition was made u/s 143(3) on two issues whereas appeal filed only for one addition. Whether interest and penalty be waived for both additions.

Answer: Under Vivad se Vishwas, 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,

Question No. 39. DRP has issued directions confirming all the proposed additions in the draft order and the AO has passed the order accordingly. The issues confirmed by DRP include an issue on which the taxpayer has got favourable order from ITAT (not reversed by HC or SC) in an earlier year. The time limit to file appeal in ITAT is still available. The taxpayer is eligible for Vivad se Vishwas treating the situation as taxpayer's deemed appeal in ITAT. In this case how will disputed tax be calculated? Will it be 100% on the issue allowed by ITAT in earlier years or 50%?

Answer: In this case, on the issue where the taxpayer has got relief from ITAT in an earlier year (not reversed by He or SC) the disputed tax shall be computed at half of normal rate of 100%, 110%, 125% or 135%, as the case maybe.

Question No. 40. Where there are two appeals filed for an assessment year-- one by the appellant and one by the tax department, whether the appellant can opt for only one appeal? If yes, how would the disputed tax be computed?

Answer: The appellant has an option to opt to settle appeal filed by it or appeal filed by the department or both. Declaration form is to be filed assessment year wise i.e. only one declaration for one assessment year. For different assessment years separate declarations have to be filed. So the declarant needs to specify in the declaration Form No 1, whether he wants to settle his appeal, or department's appeal in his case or both for a particular assessment year. The computation of tax payable would be carried out accordingly.

“QUESTIONS RELATED TO PROCEDURE (Q. No. 41-50)”

Question No. 41. How much time shall be available for paying the taxes after filing a declaration under the Vivad se Vishwas?

Answer: As per section 5 of Vivad se Vishwas, the DA shall determine the amount payable by the declarant within fifteen days from the date of receipt of the declaration and grant a certificate to the declarant containing particulars of the tax-arrear and the amount payable after such determination. The declarant shall pay the amount so determined within fifteen days of the date of receipt of the certificate and intimate the details of such payment to the DA in the prescribed form.

Thereafter, the DA shall pass an order stating that the declarant has paid the amount. It may be clarified that 15 days is outer limit. The DAs shall be instructed to grant a certificate at an early date enabling the appellant to pay the amount on or before 31 st March, 2020 so that he can take benefit of reduced payment to settle the dispute.

Question No. 42. If taxes are paid after availing the benefits of the Vivad se Vishwas and later the taxpayer decides to take refund of these taxes paid, would it be possible?

Answer: No. Any amount paid in pursuance of a declaration made under the Vivad se Vishwas shall not be refundable under any circumstances.

Question No. 43. Where appeals are withdrawn from the appellate forum, and the declarant is declared to be ineligible under the Vivad se Vishwas by DA at the stage of determination of amount payable under section 5(1) or, amount determined by]A is at variance of amount declared by declarant and declarant is not agreeable to DA’s determination of amount payable, then whether the appeals are automatically reinstated or a separate application needs to be filed for reinstating the appeal before the appellate authorities.

Answer: Under the amended procedure no appeal is required to be withdrawn before the grant of certificate by DA. After the grant of certificate by DA under section 5, the appellant is required to withdraw appeal or writ or special leave petition pending before the appellant forum and submit proof of withdrawal with intimation of payment to the DA as per the same section. Where assessee has made request for withdrawal and such request is under process, proof of request made shall be enclosed.

Similarly, in case of arbitration, conciliation or mediation, proof of withdrawal of arbitration/conciliation/mediation is to be enclosed along with intimation of payment to the DA.

Question No. 44. Section 5(2) requires declarant to pay amount determined by DA within 15 days of receipt of certificate from DA. Clarification is required on whether declarant is to also intimate DA about fact of having made payment pursuant to declaration within the period of 15 days?

Answer: As per section 5(2), the declarant shall pay the amount determined under section 5(1) within fifteen days of the date of receipt of the certificate and intimate the details of such payment to the DA in the prescribed form and thereupon the DA shall pass an order stating that the declarant has paid the amount.

Question No. 45. Will DA also pass order granting expressly, immunity from levy of interest and penalty by the AO as well as immunity from prosecution?

Answer: As per section 6, subject to the provisions of section 5, the DA shall not institute any proceeding in respect of an offence; or impose or levy any penalty; or charge any interest under the Income-tax Act in respect of tax arrears. This shall be reiterated in the order under section 5(2) passed by DA.

Question No. 46. Whether DA can amend his order to rectify any patent errors?

Answer: Yes, the DA shall be able to amend his order under section 5 to rectify any apparent errors.

Question No. 47. Where tax determined by DA is not acceptable can appeal be filed against the order of designated authority before ITAT, High Court or Supreme Court?

Answer: No. As per section 4(7), no appellate forum or arbitrator, conciliator or mediator shall proceed to decide any issue relating to the tax arrears mentioned in the declaration in respect of which order is passed by the DA or the payment of sum determined by the DA.

Question No. 48. There is no provision for withdrawal of appeal/writ/SLP by the department on settlement of dispute.

Answer: On intimation of payment to the DA by the appellant pertaining to department appeal/writ/SLP, the department shall withdraw such appeal/writ/SLP.

Question No. 49. Once declaration is filed under Vivad se Vishwas, and for financial difficulties, payment is not made accordingly, will the declaration be null and void?

Answer: Yes, it would be void.

Question No. 50. Where the demand in case of an assessee has been reduced partly or fully by giving appeal effect to the order of appellate forum, how would the amount payable under Vivad se Vishwas be adjusted?

Answer: In such cases, after getting the proof of payment of the amount payable under Vivad se Vishwas, the AO shall pass order under the relevant provisions of Vivad se Vishwas to create demand in case of assessee against which the amount payable shall be adjusted.

“QUESTIONS RELATED TO CONSEQUENCES (Q. No. 51-55)”

Question No. 51. Will/here be immunity from prosecution?

Answer: Yes, section 6 provides for immunity from prosecution to a declarant in relation to a tax arrears for which declaration is filed under Vivad se Vishwas and in whose case an order is passed by the DA that the amount payable under Vivad se Vishwas has been paid by the declarant.

Question No. 52. Will the result of this Vivad se Vishwas be applied to same issues pending before AO?

Answer: No, only the issues covered in the declaration are settled in the dispute without any prejudice to same issues pending in other cases. It has been clarified that making a declaration under this Act shall not amount to conceding the tax position and it shall not be lawful for the income-tax authority or the declarant being a part in appeal or writ or in SLP to contend that the declarant or the income-tax authority, as the case may be, has acquiesced in the decision on the disputed issue by settling the dispute.

Question No. 53. If loss is not allowed to be adjusted while calculating disputed tax, will that loss be allowed to be carried forward?

Answer: As per the amendment proposed in Vivad se Vishwas, in a case where the dispute in relation to an assessment year relates to reduction of Minimum Alternate Tax (MAT) credit or reduction of loss or depreciation, the appellant shall have an option either to (i) include the amount of tax related to such MAT credit or loss or depreciation in the amount of disputed tax and carry forward the MAT credit or loss or depreciation or (ii) to carry forward the reduced tax credit or loss or depreciation. CBDT will prescribe the manner of calculation in such cases.

Question No. 54. If the taxpayer avails Vivad se Vishwas for Transfer Pricing adjustment, will provisions of section 92CE of the Act apply separately?

Answer: Yes, secondary adjustment under section 92CE will be applicable. However, it may be noted that the provision of secondary adjustment as contained in section

92CE of the Act is not applicable for primary adjustment made in respect of an assessment year commencing on or before the 1st day of April 2016. That means, if there is any primary adjustment for assessment year 2016-17 or earlier assessment year, it is not subjected to secondary adjustment under section 92CE of the Act.

Question No. 55. The appellant has settled the dispute under Vivad se Vishwas in an assessment year. Whether it is open for Revenue to take a stand that the additions have been accepted by the appellant and hence he cannot dispute it in future assessment years?

Answer: Please refer answer to question no 52. It has been clarified in Explanation to clause 5 that making a declaration under Vivad se Vishwas shall not amount to conceding the tax position and it shall not be lawful for the income-tax authority or the declarant being a part in appeal or writ or in SLP to contend that the declarant or the income tax authority, as the case may be, has acquiesced in the decision on the disputed issue by settling the dispute.

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CHAPTER 11

Various Forms issued under the Act

CBDT has released Direct Tax Vivad Se Vishwas Rules 2020 vide Notification No. 18/2020-Income Tax Dated-18/03/2020 and also released following forms-

1. FORM-1- Form for filing declaration,

A. Schedules applicable where declaration relates to disputed tax	
Schedule I	To be filled in case appeal of assessee is pending before CIT(A) as on 31.01.2020 or the time for filing appeal by the assessee before CIT(A) has not expired as on 31.01.2020
Schedule II	To be filled in case assessee has filed objections with DRP against draft assessment order and DRP has not issued any directions as on 31.01.2020 or the time-limit to file objections against draft order passed by AO has not expired as on 31.01.2020
Schedule III	To be filled in case DRP has issued directions under section 144C of the Act in response to objections filed by the assessee and Assessing Officer has not passed the order as per such directions issued by DRP as on 31.01.2020
Schedule IV	To be filled in case appeal of assessee is pending before ITAT as on 31.01.2020 or the time for filing appeal by the assessee before ITAT has not expired as on 31.01.2020
Schedule V	To be filled in case appeal of Department is pending before ITAT as on 31.01.2020 or the time to file appeal by the department in ITAT has not expired on 31.01.2020.
Schedule VI	To be filled in case appeal or writ of assessee is pending before High Court as on 31.01.2020 or the time for filing appeal by the assessee before High Court has not expired as on 31.01.2020
Schedule VII	To be filled in case appeal or writ of Department is pending before High Court as on 31.01.2020 or the time to file appeal by the department in HC has not expired on 31.01.2020.
Schedule VIII	To be filled in case appeal or writ or SLP of assessee is pending before Supreme Court as on 31.01.2020 or the time for filing appeal or SLP by the assessee before Supreme Court has not expired as on 31.01.2020

Schedule IX	To be filled in case appeal or writ or SLP of Department is pending before Supreme Court as on 31.01.2020 or the time to file appeal or SLP by the department in SC has not expired on 31.01.2020.
Schedule X	To be filled in case of a revision application of assessee under section 264 is pending before PCIT/CIT as on 31.01.2020
Schedule XI	To be filled in case arbitration or conciliation or mediation of assessee is pending as on 31.01.2020
B. Schedules applicable where declaration relates to disputed TDS/TCS	
Schedule I	To be filled in case appeal of assessee is pending before CIT(A) as on 31.01.2020 or the time for filing appeal by the assessee before CIT(A) has not expired as on 31.01.2020
Schedule II	To be filled in case appeal of assessee is pending before ITAT as on 31.01.2020 or the time for filing appeal by the assessee before ITAT has not expired as on 31.01.2020
Schedule III	To be filled in case appeal of Department is pending before ITAT as on 31.01.2020 or the time to file appeal by the department in ITAT has not expired on 31.01.2020.
Schedule IV	To be filled in case appeal or writ of assessee is pending before High Court as on 31.01.2020 or the time for filing appeal by the assessee before High Court has not expired as on 31.01.2020
Schedule V	To be filled in case appeal or writ of Department is pending before High Court as on 31.01.2020 or the time to file appeal by the department in HC has not expired on 31.01.2020.
Schedule VI	To be filled in case appeal or writ or SLP of assessee is pending before Supreme Court as on 31.01.2020 or the time for filing appeal or SLP by the assessee before Supreme Court has not expired as on 31.01.2020
Schedule VII	To be filled in case appeal or writ or SLP of Department is pending before Supreme Court as on 31.01.2020 or the time to file appeal or SLP by the department in SC has not expired on 31.01.2020
Schedule VIII	To be filled in case of revision application of assessee under section 264 is pending before PCIT/CIT as on 31.01.2020
Schedule IX	To be filled in case arbitration or conciliation or mediation of assessee is pending as on 31.01.2020

C. Schedule applicable where declaration relates to disputed penalty, interest or fee only	
Schedule I	To be filled in case appeal of assessee is pending before CIT(A) as on 31.01.2020 or the time for filing appeal by the assessee before CIT(A) has not expired as on 31.01.2020
Schedule II	To be filled in case appeal of assessee is pending before ITAT as on 31.01.2020 or the time for filing appeal by the assessee before ITAT has not expired as on 31.01.2020
Schedule III	To be filled in case appeal of Department is pending before ITAT as on 31.01.2020 or the time to file appeal by the department in ITAT has not expired on 31.01.2020.
Schedule IV	To be filled in case appeal or writ of assessee is pending before High Court as on 31.01.2020 or the time for filing appeal by the assessee before High Court has not expired as on 31.01.2020
Schedule V	To be filled in case appeal or writ of Department is pending before High Court as on 31.01.2020 or the time to file appeal by the department in HC has not expired on 31.01.2020.
Schedule VI	To be filled in case appeal or writ or SLP of assessee is pending before Supreme Court as on 31.01.2020 or the time for filing appeal or SLP by the assessee before Supreme Court has not expired as on 31.01.2020
Schedule VII	To be filled in case appeal or writ or SLP of Department is pending before Supreme Court as on 31.01.2020 or the time to file appeal or SLP by the department in SC has not expired on 31.01.2020
Schedule VIII	To be filled in case of revision application of assessee under section 264 is pending before PCIT/CIT as on 31.01.2020
Schedule IX	To be filled in case arbitration or conciliation or mediation of assessee is pending as on 31.01.2020
Schedule D: In case the appellant opts not to pay tax on additions having effect of reducing loss/depreciation or MAT credit carried forward then the relevant column of the following schedule is to be filled up.	

2. Form-2 – Undertaking Under Sub-Section (5) Of Section 4 Of The Direct Tax Vivad Se Vishwas Act, 2020 (3 Of 2020),
3. Form-3- Form For Certificate Under Sub-Section (1) Of Section 5 Of The Direct Tax Vivad Se Vishwas Act, 2020 (3 Of 2020),
4. Form-4- Intimation of Payment Under Sub-Section (2) Of Section 5 Of The Direct Tax Vivad Se Vishwas Act, 2020 (3 Of 2020) and

5. Form-5 – Order for Full and Final Settlement of Tax Arrear Under Section 5 (2) Read with Section 6of The Direct Tax Vivad Se Vishwas Act, 2020 (3 Of 2020)

FORM 1:

FORM FOR FILING DECLARATION

Field Name	Instruction
PART A – GENERAL INFORMATION	
Acknowledgement Number of Original Form 1	Auto populate as acknowledgment number of Original Form 1 filed for that AY/FY in PAN/TAN login respectively.
PAN / TAN	PAN/ TAN will be auto populated from Login profile and is non-editable.
	For PAN users, Schedule A or/and Schedule C are applicable.
	For TAN users, Schedule B or/and Schedule C are applicable.
Aadhaar No.	This field is applicable only for individuals and in PAN login. If "Aadhaar" is updated in profile and linked with PAN, then the same will be auto populated. Else, Assessee may enter the Aadhaar.
	For TAN users, this field is not applicable.
First Name of appellant	Auto populated and non- editable.
Middle Name of appellant	Auto populated and non- editable.
Last Name of appellant	Auto populated and non- editable.
Mobile No.	Mobile number will be prefilled as per profile and non-editable. In case appellant wants to update, First update the same in "My profile"
Email Address	E-mail will be pre-filled as per profile and If appellant wants to update, First update the same in "My profile"
Whether the applicant is appellant in terms of section 2 of the DTVSV and is not ineligible to apply in terms of section 9 of DTVSV?	"Yes" If "No", appellant is not allowed to file Form as he is not eligible under this scheme.

Field Name	Instruction
Option exercised by Appellant	
Whether opting to pay tax on reduction of losses or depreciation or MAT credit If Yes go to relevant schedule under A; If No fill up schedule D	If appellant selects "No", appellant has to fill schedule D along with applicable. This question is not applicable in case of TAN login.
In case of appellant is having more than one order for the selected assessment year, please provide the "order details, appeal filed for that order and with whom appeal is pending and tax arrears for such order" separately by clicking "Add Row" given in Part B.	
In case of appellant is having, more than one 'nature of tax arrears', for the selected AY/FY, then please provide the details of each tax arrear separately by clicking "Add Row".	

PART B – INFORMATION RELATING TO DISPUTE

Nature of tax arrear	Disputed Tax "or" Disputed Interest "or" Disputed Penalty "or" Disputed Fee * If a single order consists of "Disputed Tax, Interest on such Disputed Tax, penalty on such disputed tax, then appellant has to choose "Disputed tax".
Assessment Year/Financial Year	Auto populated from the "Assessment Year" / "Financial Year" selected before proceeding to form.
Section under which order passed (there could be multiple sections for same assessment year)	section under which order passed from the provided in dropdowns.
Read with section	Select the 'read with section' under which order passed from the provided in dropdowns.
Income-tax authority / Appellate Forum who passed the order (there could be multiple orders for same assessment year)	Assessing Officer/Addl CIT/Addl DIT /JCIT/ JDIT/PCIT/PDIT/CIT/DIT/CIT(A)/DRP /AAR/ ITAT/ High Court

Date on which order passed (there could be multiple dates for same assessment year)	Enter date of order passed against which appeal is being filed. Date cannot be after 31-01-2020
Whether Search case?	Yes/No
Whether search case with disputed tax less than or equal to Rs. 5 crores in the assessment year? (information flag relevant for rate at which amount payable is to be computed)	If selects "No", appellant is not allowed to file Form 1 as he is not eligible under this scheme.
Details of pending	
Whether Appeal/objection/revision/ Writ / SLP/Arbitration/Conciliation/ Mediation?	Select the option from the dropdowns: Arbitration/Conciliation/ Mediation Appeal Objection Revision Writ SLP
Appellate Forum	<p>CIT(A)/ITAT/ High Court/Supreme Court.</p> <p>If "Objection" is selected above, then "DRP" will be auto-populated and non-editable.</p> <p>If "Revision" is selected above, then "CIT/ PCIT" will be auto-populated and non-editable.</p> <p>If "Writ" is selected above, then select one of below options: High Court / Supreme Court</p> <p>If "SLP" is selected above, then "Supreme Court" will be auto-populated and non-editable.</p> <p>If "Arbitration/Conciliation/ Mediation" is selected above, then Appellate Forum is not applicable.</p>
Whether already filed?	Yes / No
If No, date on which time-limit for filing expires in case of Assessee	Enter date on which time-limit for filing appeal expires in case of Assessee.
If yes, filed by	Assessee/Department/Both
Date of filing – Filed by Assessee	Enter the date of filing of appeal filed by Assessee.

	However, if appeal filed by “both” then enter the date of filing of appeal filed by the Assessee.
Date of filing -Filed by Department	Enter the date of filing of appeal filed by department. However, if appeal filed by “both” then enter the date of filing of appeal filed by the department.
Reference number -Filed by Assessee	Enter the reference number of appeal filed by Assessee. However, if appeal filed by “both” then enter the reference number of appeal filed by the Assessee.
Reference number - Filed by Department	Enter the reference number of appeal filed by department. However if appeal filed by “both” then enter the reference number of appeal filed by the department.
Whether DRP case?	This field shall be auto populated based on dropdown selected at field “Income-tax authority / Appellate Forum who passed the order”
If yes, whether directions passed by DRP on or before 31.1.2020?	Yes/No
If yes, whether order passed by AO? (If yes, not eligible)	Yes/No
	If “Yes” is selected, appellant will not be allowed to proceed further as it is not covered under the scheme
Whether revision application case?	Yes/No
If yes, date of filing	Please enter the date of filing of revision application.

If declaration is with respect to appeal, writ, SLP, arbitration, conciliation or mediation for disputed tax including disputed TDS/TCS appeal, is there pending appeal, writ or SLP for interest or penalty imposed in relation to such disputed tax	Yes/No, If "Yes" is selected then appellant is to provide the connected penalty and interest details in below field.
For Penalty	
Appeal reference number	Enter the "Appeal Reference Number".
Appellate authority where appeal is pending	PCIT/CIT/CIT(A)/DRP/ITAT/ High Court/ Supreme Court
Amount of Penalty	Enter the disputed Penalty connected to disputed tax.
For Interest	
Appeal reference number	Enter the "Appeal Reference Number".
Appellate authority where appeal is pending	PCIT/CIT/CIT(A)/DRP/ITAT/ High Court/ Supreme Court
Amount of Interest	Enter the disputed interest connected to disputed tax.

PART C – INFORMATION RELATED TO TAX ARREAR

Tax arrears (as per schedule)	This field is auto populated as sum of tax arrear from all the schedules.
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PART D – INFORMATION RELATED TO AMOUNT PAYABLE

Total amount payable under DTVSV	This field is auto populated as sum of 'X' from all the schedules and non-editable.
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PART E – INFORMATION RELATED TO PAYMENTS AGAINST TAX ARREAR

Whether the declarant has made any payment against tax arrears before filing of declaration?	Yes/No
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BSR Code	If "Yes" is selected in above field, Please enter the seven digit BSR code of Bank at which tax was deposited.
Date of Payment	Enter date of payment in DD/MM/YYYY format.
Serial Number of Challan	Enter serial number of challan.
Amount	Enter amount paid.
Add Row	Add rows to enter details of more than one challan.
Total payments against tax arrears	This field is auto populated from total of amount paid in above table.
Refund Adjusted against tax arrears	Enter the amount which was adjusted against the tax arrears.
Part F -Net amount payable/ refundable by the appellant: Part D (i) or D (ii), as the case may be, less [Part E (iii)+E(iv)]	This field is auto populated as D(i) or D(ii), as the case may be, less [Part E(iii)+E(iv)] and non-editable.

INSTRUCTIONS FOR FILLING SCHEDULE A

Sl. no.	Field Name	Instruction
	A. Schedules applicable where declaration relates to disputed tax (Applicable in case of PAN)	In case of appeals related 'Disputed Tax', this schedule need to be filled. This will be applicable for PAN users. Please ensure to fill the details regarding each appeal in different tables by using add row.
Schedule I		
	Schedule I. To be filled in case appeal of Assessee is pending before CIT(A) as on 31.01.2020 or the time for filing appeal by the Assessee before CIT(A) has not expired as on 31.01.2020	Please fill the below details in case the appeal is related to "Disputed tax" and pending with "CIT(A)" filed by "Assessee"

Sl. no.	Field Name	Instruction
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to "Disputed tax" and pending with "CIT(A)" filed by "Assessee". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
A.	Total income as per draft order against which objections filed or to be filed	Please enter the total income as per issued order against which appeal filed or to be filed
B(i)	Disputed income# out of A – relating to issues, which have been decided in favor of Assessee in his case for any assessment year by ITAT (and such order has not been subsequently reversed by the High Court) or High Court (and such order has not been subsequently reversed by the Supreme Court)	Please enter the disputed income which have been decided in favor of Assessee in his case for any financial year by ITAT (and such order has not been subsequently reversed by the High Court) or High Court (and such order has not been subsequently reversed by the Supreme Court)
B(ii)	Disputed income out of A – relating to issues other than B(i)	Please enter the disputed tax amount related to other than amount mentioned in B(i).
C	Disputed tax in relation to disputed income at B(i)	Please enter the disputed tax on disputed income at B(i).
D	Disputed tax in relation to disputed income at B(ii)	Please enter the disputed tax on disputed income at B(ii).
E	Tax effect of enhancement, if any, by CIT(A)	Please enter the tax effect of enhancement made by the CIT(A)
F	Total disputed tax (C+D+E)	This field shall be auto populated as C+D+E and non-editable.
G	Interest charged on disputed tax	Please enter the Interest charged on disputed tax
H	Penalty levied on disputed tax	Please enter the Penalty levied on disputed tax

Sl. no.	Field Name	Instruction
I	Tax arrears (F+G+H)	This field shall be auto populated as F+G+H and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.5 * C + D + E$	If dispute is not related to search case then please enter tax payable under DTVSV and also ensure that this amount should not be less than $0.5 * C + D + E$
	If search case $0.625 * C + 1.25 * D + 1.25 * E$	If dispute is related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.625 * C + 1.25 * D + 1.25 * E$
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.55 * C + 1.1 * D + 1.1 * E$	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than $0.55 * C + 1.1 * D + 1.1 * E$
	If non search case $0.675 * C + 1.35 * D + 1.35 * E$	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than $0.675 * C + 1.35 * D + 1.35 * E$

Sl. no.	Field Name	Instruction
Schedule II		
	Schedule II- To be filled in case Assessee has filed objections with DRP against draft assessment order and DRP has not issued any directions as on 31.01.2020 or the time-limit to file objections against draft order passed by AO has not expired as on 31.01.2020	Please fill the below details in case the appeal is related to "Disputed tax" and pending with "DRP" against draft assessment order filed by "Assessee"
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to "Disputed tax" and pending with "DRP" filed by "Assessee". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
A.	Total income as per draft order against which objections filed or to be filed	Please enter the total income as per draft order against which objection filed or to be filed
B(i)	Disputed income out of A – relating to issues, which have been decided in favor of Assessee in his case for any assessment year by ITAT (and such order has not been subsequently reversed by the High Court) or High Court (and such order has not been subsequently reversed by the Supreme Court)	Please enter the disputed income which have been decided in favor of Assessee in his case for any financial year by ITAT (and such order has not been subsequently reversed by the High Court) or High Court (and such order has not been subsequently reversed by the Supreme Court)
B(ii)	Disputed income out of A – relating to issues other than B(i)	Please enter the disputed tax amount related to other than amount mentioned in B(i).
C	Disputed tax in relation to disputed income at B(i)	Please enter the disputed tax on disputed income at B(i).
D	Disputed tax in relation to disputed income at B(ii)	Please enter the disputed tax on disputed income at B(ii).

Sl. no.	Field Name	Instruction
E	Total disputed tax (C+D)	This field shall be auto populated as C+D and non- editable.
F	Interest charged on disputed tax	Please enter the Interest charged on disputed tax
G	Penalty levied on disputed tax	Please enter the Penalty levied on disputed tax
H	Tax arrears (E+F+G)	This field shall be auto populated as E+F+G and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.5 * C + D$	If dispute is not related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.5 * C + D$
	If search case $0.625 * C + 1.25 * D$	If dispute is related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.625 * C + 1.25 * D$
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.55 * C + 1.1 * D$	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than $0.55 * C + 1.1 * D$
	If search case $0.675 * C + 1.35 * D$	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than $0.55 * C + 1.1 * D$

Sl. no.	Field Name	Instruction
Schedule III		
	Schedule III. To be filled in case DRP has issued directions u/s 144C of the Act in response to objections filed by the Assessee and Assessing Officer has not passed the order as per such directions issued by DRP as on 31.01.2020	Please fill the below details in case the appeal is related to direction issued by DRP and Assessing Officer has not passed the order related to the disputed tax.
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to direction issued by DRP and Assessing Officer has not passed the order related to the disputed tax. Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
A.	Total income as per directions of DRP	Please enter the total income as per direction issued by DRP against which objection filed or to be filed
B(i)	Disputed income out of A – relating to issues, which have been decided in favor of Assessee in his case for any assessment year by ITAT (and such order has not been subsequently reversed by the High Court) or High Court (and such order has not been subsequently reversed by the Supreme Court)	Please enter the disputed income which have been decided in favor of Assessee in his case for any financial year by ITAT (and such order has not been subsequently reversed by the High Court) or High Court (and such order has not been subsequently reversed by the Supreme Court)
B(ii)	Disputed income out of A – relating to issues other than B(i)	Please enter the disputed tax amount related to other than amount mentioned in B(i).
C	Disputed tax in relation to disputed income at B(i)	Please enter the disputed tax on disputed income at B(i).
D	Disputed tax in relation to disputed income at B(ii)	Please enter the disputed tax on disputed income at B(ii).

Sl. no.	Field Name	Instruction
E	Total disputed tax (C+D)	This field shall be auto populated as C+D and non- editable.
F	Interest charged on disputed tax	Please enter the Interest charged on disputed tax
G	Penalty levied on disputed tax	Please enter the Penalty levied on disputed tax
H	Tax arrears (E+F+G)	This field shall be auto populated as E+F+G and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.5 * C + D$	If dispute is not related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.5 * C + D$
	If search case $0.625 * C + 1.25 * D$	If dispute is related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.625 * C + 1.25 * D$
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.55 * C + 1.1 * D$	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than $0.55 * C + 1.1 * D$
	If search case $0.675 * C + 1.35 * D$	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than $0.55 * C + 1.1 * D$

Sl. no.	Field Name	Instruction
Schedule IV		
	Schedule IV. To be filled in case appeal of Assessee is pending before ITAT as on 31.01.2020 or the time for filing appeal by the Assessee before ITAT has not expired as on 31.01.2020	Please fill the below details in case the appeal is related to "Disputed tax" and pending with "ITAT" filed by "Assessee/Both"
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to "Disputed tax" and pending with "ITAT" filed by "Assessee/Both". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
A.	Total income as per order against which appeal filed or to be filed	Please enter the total income as per order against which appeal filed or to be filed
B(i)	Disputed income out of A – relating to issues, which have been decided in favor of Assessee in his case for any assessment year by High Court (and such order has not been subsequently reversed by the Supreme Court)	Please enter the disputed income which have been decided in favor of Assessee in his case for any assessment year by High Court (and such order has not been subsequently reversed by the Supreme Court)
B(ii)	Disputed income out of A – relating to issues other than B(i)	Please enter the disputed tax amount related to other than amount mentioned in B(i).
C	Disputed tax in relation to disputed income at B(i)	Please enter the disputed tax on disputed income at B(i).
D	Disputed tax in relation to disputed income at B(ii)	Please enter the disputed tax on disputed income at B(ii).
E	Total disputed tax (C+D)	This field shall be auto populated as C+D and non- editable.
F	Interest charged on disputed tax	Please enter the Interest charged on disputed tax

Sl. no.	Field Name	Instruction
G	Penalty levied on disputed tax	Please enter the Penalty levied on disputed tax
H	Tax arrears (E+F+G)	This field shall be auto populated as E+F+G and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.5 * C + D$	If dispute is not related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.5 * C + D$
	If search case $0.625 * C + 1.25 * D$	If dispute is related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.625 * C + 1.25 * D$
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.55 * C + 1.1 * D$	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than $0.55 * C + 1.1 * D$
	If search case $0.675 * C + 1.35 * D$	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than $0.675 * C + 1.35 * D$

Sl. no.	Field Name	Instruction
Schedule V		
	Schedule V. To be filled in case appeal of Department is pending before ITAT as on 31.01.2020 or the time to file appeal by the department in ITAT has not expired on 31.01.2020.	Please fill the below details in case the appeal is related to "Disputed tax" and pending with "ITAT" filed by "Department/Both"
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to "Disputed tax" and pending with "ITAT" filed by "Department/Both". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
A.	Total income as per order against which appeal filed or to be filed	Please enter the total income as per order against which appeal filed or to be filed
B.	Disputed income out of A	Please enter the Disputed income.
C	Disputed tax in relation to disputed income at B	Please enter the disputed Tax.
D	Interest charged on disputed tax	Please enter the Interest charged on disputed tax
E	Penalty levied on disputed tax	Please enter the Penalty levied on disputed tax
F	Tax arrears (C+D+E)	This field shall be auto populated as C+D+E and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.5 * C$	If dispute is not related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.5 * C$

Sl. no.	Field Name	Instruction
	If search case 0.625*C	If dispute is related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than 0.625*C
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case 0.55*C	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 0.55*C
	If search case 0.675*C	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 0.675*C
Schedule VI.		
	Schedule VI. To be filled in case appeal or writ of Assessee is pending before High Court as on 31.01.2020 or the time for filing appeal or writ by the Assessee before High Court has not expired as on 31.01.2020	Please fill the below details in case the appeal/writ is related to "Disputed tax" and pending with "High Court" filed by "Assessee/Both".
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to "Disputed tax" and pending with "High court" filed by "Assessee/Both". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.

Sl. no.	Field Name	Instruction
	Total income as per order	Please enter the total income as per order against which appeal filed or to be filed
A.	against which appeal or writ filed or appeal to be filed	
B.	Disputed income out of A	Please enter the Disputed income out of A
C	Disputed tax in relation to disputed income at B	Please enter the disputed Tax.
D	Interest charged on disputed tax	Please enter the Interest charged on disputed tax
E	Penalty levied on disputed tax	Please enter the Penalty levied on disputed tax
F	Tax arrears (C+D+E)	This field shall be auto populated as C+D+E and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case C	If dispute is not related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than C
	If search case 1.25*C	If dispute is related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than 1.25*C
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.

Sl. no.	Field Name	Instruction
	If non search case 1.1*C	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 1.1*C
	If search case 1.35*C	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 1.35*C
Schedule VII.		
	Schedule VII. To be filled in case appeal or writ of Department is pending before High Court as on 31.01.2020 or the time to file appeal or writ by the department in HC has not expired on 31.01.2020.	Please fill the below details in case the appeal/writ is related to "Disputed tax" and pending with "High Court" filed by "Department/Both".
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to "Disputed tax" and pending with "High court" filed by "Department/Both". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
A.	Total income as per order against which appeal or writ filed or appeal to be filed	Please enter the total income as per order against which appeal filed or to be filed
B.	Disputed income out of A	Please enter the Disputed income.
C	Disputed tax in relation to disputed income at B	Please enter the disputed Tax in relation to disputed income at B
D	Interest charged on disputed tax	Please enter the Interest charged on disputed tax

Sl. no.	Field Name	Instruction
E	Penalty levied on disputed tax	Please enter the Penalty levied on disputed tax
F	Tax arrears (C+D+E)	This field shall be auto populated as C+D+E and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.5 * C$	If dispute is not related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.5 * C$
	If search case $0.625 * C$	If dispute is related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.625 * C$
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.55 * C$	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than $0.55 * C$
	If search case $0.675 * C$	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than $0.675 * C$

Sl. no.	Field Name	Instruction
Schedule VIII		
	Schedule VIII. To be filled in case appeal or writ or SLP of Assessee is pending before Supreme Court as on 31.01.2020 or the time for filing appeal or writ or SLP by the Assessee before Supreme Court has not expired as on 31.01.2020	Please fill the below details in case the appeal/writ is related to "Disputed tax" and pending with "Supreme Court" filed by "Assessee/Both".
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to "Disputed tax" and pending with "Supreme Court" filed by "Assessee/Both". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
A.	Total income as per order against which appeal or writ or SLP filed or appeal or SLP to be filed	Please enter the total income as per order against which appeal/writ/SLP filed or to be filed
B.	Disputed income out of A	Please enter the Disputed income out of A
C	Disputed tax in relation to disputed income at B	Please enter the disputed Tax in relation to disputed income at B
D	Interest charged on disputed tax	Please enter the Interest charged on disputed tax
E	Penalty levied on disputed tax	Please enter the Penalty levied on disputed tax
F	Tax arrears (C+D+E)	This field shall be auto populated as C+D+E and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.

Sl. no.	Field Name	Instruction
	If non search case C	If dispute is not related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than C
	If search case 1.25*C	If dispute is related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than 1.25*C
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case 1.1*C	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 1.1*C
	If search case 1.35*C	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 1.35*C
Schedule IX.		
	Schedule IX. To be filled in case appeal or writ or SLP of Department is pending before Supreme Court as on 31.01.2020 or the time to file appeal or writ or SLP by the department in SC has not expired on 31.01.2020.	Please fill the below details in case the appeal/writ is related to "Disputed tax" and pending with "Supreme Court" filed by "Department/Both".

Sl. no.	Field Name	Instruction
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to "Disputed tax" and pending with "Supreme court" filed by "Department/Both". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
A.	Total income as per order against which appeal or writ or SLP filed or appeal or SLP to be filed	Please enter the total income as per order against which appeal/writ/SLP filed or to be filed
B.	Disputed income out of A	Please enter the Disputed income out of A
C	Disputed tax in relation to disputed income at B	Please enter the disputed Tax in relation to disputed income at B
D	Interest charged on disputed tax	Please enter the Interest charged on disputed tax
E	Penalty levied on disputed tax	Please enter the Penalty levied on disputed tax
F	Tax arrears (C+D+E)	This field shall be auto populated as C+D+E and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.5 * C$	If dispute is not related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.5 * C$
	If search case $0.625 * C$	If dispute is related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.625 * C$

Sl. no.	Field Name	Instruction
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case 0.55*C	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 0.55*C
	If search case 0.675*C	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 0.675*C
Schedule X.		
	Schedule X. To be filled in case revision application of Assessee u/s 264 is pending before PCIT/ CIT as on 31.01.2020	Please fill the below details in case the revision is related to "Disputed tax" and pending with "PCIT/CIT" filed by "Assessee".
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to "Disputed tax" and pending with "PCIT/CIT" filed by "Assessee". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
A.	Total income as per order against which revision application filed	Please enter the total income as per issued order against which appeal filed or to be filed
B	Disputed income out of A	Please enter the disputed income out of A.
C	Disputed tax in relation to disputed income at B	Please enter the disputed tax on disputed income at B.
D	Interest charged on disputed tax	Please enter the Interest charged on disputed tax

Sl. no.	Field Name	Instruction
E	Penalty levied on disputed tax	Please enter the Penalty levied on disputed tax
F	Tax arrears (C+D+E)	This field shall be auto populated as C+D+E and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case C	If dispute is not related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than C
	If search case 1.25*C	If dispute is related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than 1.25*C
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case 1.1*C	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 1.1*C
	If search case 1.35*C	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 1.35*C

Sl. no.	Field Name	Instruction
Schedule XI		
	Schedule XI. To be filled in case arbitration or conciliation or mediation of Assessee is pending as on 31.01.2020	Please fill the below details in case the appeal is related to "Disputed tax" pending before arbitration or conciliation or mediation which is filed by "Assessee".
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal is pending before arbitration or conciliation or mediation which is filed by "Assessee". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
A	Total income as per order against which arbitration or conciliation or mediation has been filed	Please enter the total income as per issued order against which appeal filed or to be filed
B	Disputed income out of A	Please enter the disputed income out of Total income as per order against which arbitration or conciliation or mediation has been filed.
C	Disputed tax in relation to disputed income at B	Please enter the disputed tax amount in relation to disputed income at B.
D	Interest charged on disputed tax	Please enter the Interest charged on disputed tax
E	Penalty levied on disputed tax	Please enter the Penalty levied on disputed tax
F	Tax arrears (C+D+E)	This field shall be auto populated as E+F+G and non-editable.
	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.

Sl. no.	Field Name	Instruction
	If non search case C	If dispute is not related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than C
	If search case 1.25*C	If dispute is related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than 1.25*C
	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case 1.1*C	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 1.1*C
	If search case 1.35*C	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 1.35*C

FIELD WISE INSTRUCTIONS FOR FILLING ANNEXURE B

Note: If appellant is having more than one appeal pending with same combination for selected FY, please click on add row and please fill the details accordingly.

Sl. no. in Form	Field	Instructions
	B. Schedules applicable where declaration relates to disputed TDS/TCS (Applicable for TAN):	In case of TDS/ TCS appeals, this schedule need to be filled. Please ensure to fill the details regarding each appeal in different tables by using add row.

Sl. no. in Form	Field	Instructions
	Schedule I. To be filled in case appeal of Assessee is pending before CIT(A) as on 31.01.2020 or the time for filing appeal by the Assessee before CIT(A) has not expired as on 31.01.2020	Please fill the below details in case the appeal is related to "Disputed tax" and pending with "CIT(A)" filed by "Assessee"
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to "Disputed tax" and pending with "CIT(A)" filed by "Assessee". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
A.	Amount of TDS / TCS disputed in appeal or in appeal to be filed-	This field shall be auto populated as A(i)+A(ii) and non-editable.
A(i)	relating to issues, which have been decided in favour of Assessee in his case for any financial year by ITAT (and such order has not been subsequently reversed by the High Court) or High Court (and such order has not been subsequently reversed by the Supreme Court)	Please enter the amount of TDS/ TCS which have been decided in favour of Assessee in his case for any financial year by ITAT (and such order has not been subsequently reversed by the High Court) or High Court (and such order has not been subsequently reversed by the Supreme Court)
A(ii)	relating to issues other than A(i)	Please enter the amount of TDS/ TCS related to other than amount mentioned in A(i).
B	Tax effect of enhancement*, if any, by CIT(A)	Please enter the TDS/ TCS effect of enhancement, if any, by CIT(A)
C	Interest charged on disputed TDS / TCS	Please enter the Interest charged on disputed TDS / TCS
D	Penalty levied on disputed TDS / TCS	Please enter the Penalty levied on disputed TDS / TCS
E	TDS / TCS arrears (A+B+C+D)	This field shall be auto populated as A+B+C+D and non-editable.

Sl. no. in Form	Field	Instructions
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.5*A(i) + A(ii) + B$	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.5*A(i) + A(ii) + B$
	If search case $0.625*A(i) + 1.25*A(ii) + 1.25*B$	If dispute is related to search case then please enter TDS / TCS payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.625*A(i) + 1.25*A(ii) + 1.25*B$.
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.55*A(i) + 1.1*A(ii) + 1.1*B$	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than $0.55*A(i) + 1.1*A(ii) + 1.1*B$
	If search case $0.675*A(i) + 1.35*A(ii) + 1.35*B$	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than $0.675*A(i) + 1.35*A(ii) + 1.35*B$
	Add Row	If user is having more than one appeal pending with same combination for that FY, please click on add row and enter the details properly.

Sl. no. in Form	Field	Instructions
Schedule II		
	Schedule II. To be filled in case appeal of Assessee is pending before ITAT as on 31.01.2020 or the time for filing appeal by the Assessee before ITAT has not expired as on 31.01.2020	Please fill the below details in case the appeal is related to "Disputed tax" and pending with "ITAT" filed by Assessee/Both
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to "Disputed tax" and pending with "ITAT" filed by Assessee/Both. Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
A.	Amount of TDS / TCS disputed in appeal or in appeal to be filed-	This field shall be auto populated as A(i)+A(ii) and non-editable.
A(i)	relating to issues, which have been decided in favour of Assessee in his case for any financial year by High Court (and such order has not been subsequently reversed by the Supreme Court)	Please enter the amount of TDS/ TCS which have been decided in favour of Assessee in his case for any financial year by High Court (and such order has not been subsequently reversed by the Supreme Court)
A(ii)	relating to issues other than A(i)	Please enter the amount of TDS/ TCS related to other than amount mentioned in A(i).
B	Interest charged on disputed TDS / TCS	Please enter the Interest charged on disputed TDS / TCS
C	Penalty levied on disputed TDS / TCS	Please enter the Penalty levied on disputed TDS / TCS
D	TDS / TCS arrears (A+B+C)	This field shall be auto populated as A+B+C and non-editable.

Sl. no. in Form	Field	Instructions
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.5*A(i) + A(ii)$	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.5*A(i) + A(ii)$
	If search case $0.625*A(i) + 1.25*A(ii)$	If dispute is related to search case then please enter TDS / TCS payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.625*A(i) + 1.25*A(ii)$
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.55*A(i) + 1.1*A(ii)$	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than $0.55*A(i) + 1.1*A(ii)$
	If search case $0.675*A(i) + 1.35*A(ii)$	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than $0.675*A(i) + 1.35*A(ii)$
	Add Row	If user is having more than one appeal pending with same combination for that FY, please click on add row and enter the details properly.

Sl. no. in Form	Field	Instructions
Schedule III.		
	Schedule III. To be filled in case appeal of Department is pending before ITAT as on 31.01.2020 or the time to file appeal by the department in ITAT has not expired on 31.01.2020.	Please fill the below details in case the appeal is related to "Disputed tax" and pending with "ITAT" filed by "Department"
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to "Disputed tax" and pending with "ITAT" filed by "Department". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
	Amount of TDS / TCS disputed in appeal or in appeal to be filed	Header
A	TDS/TCS default for which appeal is filed or to be filed	Please enter the amount of TDS/ TCS default for which appeal is filed or to be filed
B	Interest charged on disputed TDS / TCS	Please enter the Interest charged on disputed TDS / TCS
C	Penalty levied on disputed TDS / TCS	Please enter the Penalty levied on disputed TDS / TCS
D	TDS / TCS arrears (A+B+C)	This field shall be auto populated as A+B+C and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case 0.5*A	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than 0.5*A

Sl. no. in Form	Field	Instructions
	If search case 0.625*A	If dispute is related to search case then please enter TDS / TCS payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than 0.625*A
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case 0.55*A	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 0.55*A
	If search case 0.675*A	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 0.675*A
	Add Row	If user is having more than one appeal pending with same combination for that FY, please click on add row and enter the details properly.
Schedule IV.		
	Schedule IV. To be filled in case appeal or writ of Assessee is pending before High Court as on 31.01.2020 or the time for filing appeal or writ by the Assessee before High Court has not expired as on 31.01.2020	Please fill the below details in case the appeal is related to "Disputed tax" and pending with "High court" filed by "Assessee"

Sl. no. in Form	Field	Instructions
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to "Disputed tax" and pending with "High Court" filed by "Assessee". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
	Amount of TDS / TCS disputed in appeal or in appeal to be filed	Header
A	TDS/TCS default for which writ or appeal is filed or to be filed	Please enter the amount of TDS/ TCS default for which writ or appeal is filed or to be filed
B	Interest charged on disputed TDS / TCS	Please enter the Interest charged on disputed TDS / TCS
C	Penalty levied on disputed TDS / TCS	Please enter the Penalty levied on disputed TDS / TCS
D	TDS / TCS arrears (A+B+C)	This field shall be auto populated as A+B+C and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case A	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than amount at field A
	If search case 1.25*A	If dispute is related to search case then please enter TDS / TCS payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than 1.25*value at field A

Sl. no. in Form	Field	Instructions
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case 1.1*A	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 1.1*A
	If search case 1.35*A	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 1.35*A
	Add Row	If user is having more than one appeal pending with same combination for that FY, please click on add row and enter the details properly.
Schedule V		
	Schedule V. To be filled in case appeal or writ of Department is pending before High Court as on 31.01.2020 or the time to file appeal or writ by the department in HC has not expired on 31.01.2020.	Please fill the below details in case the appeal is related to "Disputed tax" and pending with "High Court" filed by "Department"
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to "Disputed tax" and pending with "High Court" filed by "Department". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.

Sl. no. in Form	Field	Instructions
	Amount of TDS / TCS disputed in appeal or in appeal to be filed	Header
A	TDS/TCS default for which writ or appeal is filed or to be filed	Please enter the amount of TDS/ TCS default for which writ or appeal is filed or to be filed
B	Interest charged on disputed TDS / TCS	Please enter the Interest charged on disputed TDS / TCS
C	Penalty levied on disputed TDS / TCS	Please enter the Penalty levied on disputed TDS / TCS
D	TDS / TCS arrears (A+B+C)	This field shall be auto populated as A+B+C and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.5*A$	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.5*$ amount at field A
	If search case $0.625*A$	If dispute is related to search case then please enter TDS / TCS payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.625*$ value at field A
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.

Sl. no. in Form	Field	Instructions
	If non search case 0.55*A	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 0.55*A
	If search case 0.675*A	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 0.675*A
	Add Row	If user is having more than one appeal pending with same combination for that FY, please click on add row and enter the details properly.
Schedule VI.		
	Schedule VI. To be filled in case appeal or writ or SLP of Assessee is pending before Supreme Court as on 31.01.2020 or the time for filing appeal or writ or SLP by the Assessee before Supreme Court has not expired as on 31.01.2020	Please fill the below details in case the appeal is related to "Disputed tax" and pending with "Supreme Court" filed by Assessee / Both
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to "Disputed tax" and pending with Supreme Court" filed by "Assessee" / Both. Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
	Amount of TDS / TCS disputed in appeal or in appeal to be filed	Header

Sl. no. in Form	Field	Instructions
A	TDS/TCS default for which writ or appeal or SLP is filed or appeal / SLP to be filed	Please enter the amount of TDS/ TCS default for which writ or appeal is filed or to be filed
B	Interest charged on disputed TDS / TCS	Please enter the Interest charged on disputed TDS / TCS
C	Penalty levied on disputed TDS / TCS	Please enter the Penalty levied on disputed TDS / TCS
D	TDS / TCS arrears (A+B+C)	This field shall be auto populated as A+B+C and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case A	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than amount at field A
	If search case 1.25*A	If dispute is related to search case then please enter TDS / TCS payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than 1.25*value at field A
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case 1.1*A	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 1.1*A

Sl. no. in Form	Field	Instructions
	If search case 1.35*A	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 1.35*A
	Add Row	If user is having more than one appeal pending with same combination for that FY, please click on add row and enter the details properly.
Schedule VII.		
	Schedule VII. To be filled in case appeal or writ or SLP of Department is pending before Supreme Court as on 31.01.2020 or the time to file appeal or writ or SLP by the department in SC has not expired on 31.01.2020.	Please fill the below details in case the appeal is related to "Disputed tax" and pending with Supreme Court" filed by "Department" / Both
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal related to "Disputed tax" and pending with "Supreme Court" filed by "Department" / Both.
		Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
	Amount of TDS / TCS disputed in appeal or in appeal to be filed	Header
A	TDS/TCS default for which writ or appeal or SLP is filed or appeal / SLP to be filed	Please enter the amount of TDS/ TCS default for which writ or appeal is filed or to be filed
B	Interest charged on disputed TDS / TCS	Please enter the Interest charged on disputed TDS / TCS

Sl. no. in Form	Field	Instructions
C	Penalty levied on disputed TDS / TCS	Please enter the Penalty levied on disputed TDS / TCS
D	TDS / TCS arrears (A+B+C)	This field shall be auto populated as A+B+C and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.5*A$	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.5*$ amount at field A
	If search case $0.625*A$	If dispute is related to search case then please enter TDS / TCS payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than $0.625*$ value at field A
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case $0.55*A$	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than $0.55*A$
	If search case $0.675*A$	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than $0.675*A$

Sl. no. in Form	Field	Instructions
	Add Row	If user is having more than one appeal pending with same combination for that FY, please click on add row and enter the details properly.
Schedule VIII		
	Schedule VIII. To be filled in case revision application of Assessee u/s 264 is pending before PCIT/ CIT as on 31.01.2020	Please fill the below details in case 'revision' application of Assessee u/s 264 is pending before 'PCIT/ CIT'
	Appeal reference number	Please enter the "Appeal Reference Number" and please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
	Amount of TDS / TCS disputed in revision application filed	Header
A	TDS/TCS default for which revision application filed	Please enter the TDS/TCS default for which revision application filed.
B	Interest charged on disputed TDS / TCS	Please enter the Interest charged on disputed TDS / TCS
C	Penalty levied on disputed TDS / TCS	Please enter the Penalty levied on disputed TDS / TCS
D	TDS / TCS arrears (A+B+C)	This field shall be auto populated as A+B+C and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case A	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than A

Sl. no. in Form	Field	Instructions
	If search case 1.25*A	If dispute is related to search case then please enter TDS / TCS payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than 1.25*A
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case 1.1*A	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 1.1*A
	If search case 1.35*A	If dispute is not related to search case then please enter TDS / TCS payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 1.35*A
	Add Row	If user is having more than one appeal pending with same combination for that FY, please click on add row and enter the details properly.
Schedule IX.		
	Schedule IX. To be filled in case arbitration or conciliation or mediation of Assessee is pending as on 31.01.2020	Please fill the below details in case the appeal is related to "Disputed tax" pending before arbitration or conciliation or mediation which is filed by "Assessee".

Sl. no. in Form	Field	Instructions
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal is pending before arbitration or conciliation or mediation which is filed by "Assessee". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B.
	Amount of TDS / TCS disputed in appeal or in appeal to be filed	Header
A	TDS/TCS default for which arbitration or conciliation or mediation has been filed	Please enter the TDS/TCS default for which arbitration or conciliation or mediation has been filed
B	Interest charged on disputed TDS / TCS	Please enter the Interest charged on disputed TDS / TCS
C	Penalty levied on disputed TDS / TCS	Please enter the Penalty levied on disputed TDS / TCS
D	TDS / TCS arrears (A+B+C)	This field shall be auto populated as A+B+C and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case C	If dispute is not related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than C
	If search case 1.25*C	If dispute is related to search case then please enter tax payable under DTVSV on or before 31.03.2020 and also ensure that this amount should not be less than 1.25*C

Sl. no. in Form	Field	Instructions
Y	Amount payable under DTVSV after 31.03.2020	This field shall be auto populated as sum of below fields and non editable.
	If non search case 1.1*C	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 1.1*C
	If search case 1.35*C	If dispute is not related to search case then please enter tax payable under DTVSV after 31.03.2020 and also ensure that this amount should not be less than 1.35*C
	Add Row	If user is having more than one appeal pending with same combination for that FY, please click on add row and enter the details properly.

FIELD WISE INSTRUCTIONS FOR FILLING ANNEXURE C

Note : If appellant is having more than one appeal pending with same combination for that AY, please click on add row and enter the details accordingly.

Sl. no. in Form	Field	Instructions
	C. Schedule applicable where declaration relates to disputed penalty, interest or fee only (Applicable for PAN & TAN)	Incase of PAN / TAN appeal is related to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee", this schedule need to be filled. Please ensure to fill the details regarding each appeal in different tables by using add row.

Sl. no. in Form	Field	Instructions
	<p>Schedule I. To be filled in case appeal of Assessee is pending before CIT(A) as on 31.01.2020 or the time for filing appeal before CIT(A) has not expired as on 31.01.2020</p>	<p>Please fill the below details in case the appeal is related to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee" and pending with "CIT(A)" filed by "Assessee".</p> <p>If appeal is pending for all "Disputed Penalty", "Disputed Interest" & "Disputed Fee", then click on "Add row" and enter details separately against each appeal reference number.</p>
	<p>Appeal reference number</p>	<p>Please enter the "Appeal Reference Number" for the appeal pending with "CIT(A)" filed by "Assessee" with respect to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee".</p> <p>Please ensure that the same should match with the "Appeal Reference Number" entered in Part B for the same combination.</p>
<p>A</p>	<p>Total amount of penalty / interest / fees per order against which appeal filed or to be filed</p>	<p>Please enter the total amount of penalty / interest / fees as per order against which appeal filed or to be filed</p>
<p>B</p>	<p>Disputed amount of penalty / interest / fee out of A</p>	<p>This field shall be auto populated as B(i)+B(ii) and non-editable.</p>
<p>B(i)</p>	<p>relating to issues, which have been decided in favour of Assessee in his case for any assessment year by ITAT (and such order has not been subsequently reversed by the High Court) or High Court (and such order has not been subsequently reversed by the Supreme Court)</p>	<p>Please enter the amount of disputed penalty / interest / fee which have been decided in favour of Assessee in his case for any financial year by ITAT (and such order has not been subsequently reversed by the High Court) or High Court (and such order has not been subsequently reversed by the Supreme Court)</p>

Sl. no. in Form	Field	Instructions
B(ii)	relating to issues other than B(i)	Please enter the amount of disputed penalty / interest / fee related to other than amount mentioned in B(i).
C	Penalty or interest or fee proposed to be enhanced by CIT(A)	Please enter the amount of Penalty or interest or fee proposed to be enhanced by CIT(A)
D	Tax arrears (B(i)+B(ii)+C)	This field shall be auto populated as B(i)+B(ii)+C and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020 = $0.125*B(i) + 0.25B(ii) + 0.25*C$	This field shall be auto populated as $0.125*B(i) + 0.25B(ii) + 0.25*C$ and non-editable.
Y	Amount payable under DTVSV after 31.03.2020 = $0.15*B(i) + 0.3*B(ii) + 0.3*C$	This field shall be auto populated as $0.15*B(i) + 0.3*B(ii) + 0.3*C$ and non-editable.
	Add Row	If user is having more than one appeal pending with same combination for that AY/FY, please click on add row and enter the details properly.
Schedule II		
	Schedule II. To be filled in case appeal of Assessee is pending before ITAT as on 31.01.2020 or the time for filing appeal by the Assessee before ITAT has not expired as on 31.01.2020	Please fill the below details in case the appeal is related to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee" and pending with "ITAT" filed by "Assessee" or "both". If appeal is pending for all "Disputed Penalty", "Disputed Interest" & "Disputed Fee", then click on "Add row" and enter details separately against each appeal reference number.

Sl. no. in Form	Field	Instructions
	Appeal reference number	<p>Please enter the "Appeal Reference Number" for the appeal pending with "ITAT" filed by "Assessee/ Both" with respect to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee".</p> <p>Please ensure that the same should match with the "Appeal Reference Number" entered in Part B for the same combination.</p>
A	Total amount of penalty / interest / fee as per order against which appeal has been filed or to be filed	Please enter the total amount of penalty / interest / fees as per order against which appeal filed or to be filed
B	Disputed penalty / interest / fee due to appeal by Assessee –	This field shall be auto populated as B(i)+B(ii) and non-editable.
B(i)	relating to issues, which have been decided in favour of Assessee in his case for any assessment year by High Court (and such order has not been subsequently reversed by the Supreme Court)	Please enter the amount of disputed penalty / interest / fee which have been decided in favour of Assessee in his case for any assessment year by High Court (and such order has not been subsequently reversed by the Supreme Court)
B(ii)	relating to issues other than B(i)	Please enter the amount of disputed penalty / interest / fee related to other than amount mentioned in B(i).
C	Tax arrears (B(i) + B(ii))	This field shall be auto populated as B(i)+B(ii) and non-editable.
X	Amount payable under DTVSV on or before 31.03.2020 = 0.125*B(i) + 0.25*B(ii)	This field shall be auto populated as 0.125*B(i) + 0.25*B(ii) and non-editable.

Sl. no. in Form	Field	Instructions
Y	Amount payable under DTVSV after 31.03.2020 = 0.15*B(i) + 0.3*B(ii)	This field shall be auto populated as $0.15*B(i) + 0.3*B(ii)$ and non-editable.
	Add Row	If user is having more than one appeal pending with same combination for that AY/FY, please click on add row and enter the details properly.
Schedule III		
	Schedule III. To be filled in case appeal of Department is pending before ITAT as on 31.01.2020 or the time for filing appeal by the department before ITAT has not expired as on 31.01.2020	Please fill the below details in case the appeal is related to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee" and pending with "ITAT" filed by "Department" or "both".
		If appeal is pending for all "Disputed Penalty", "Disputed Interest" & "Disputed Fee", then click on "Add row" and enter details separately against each appeal reference number.
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal pending with "ITAT" filed by Department / Both" with respect to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee".
		Please ensure that the same should match with the "Appeal Reference Number" entered in Part B for the same combination.
A	Total amount of penalty/interest/fee as per order against which appeal filed or to be filed	Please enter the total amount of penalty / interest / fees as per order against which appeal filed or to be filed

Sl. no. in Form	Field	Instructions
B	Disputed penalty / interest / fee relating to issues on which appeal has been filed or to be filed	Please enter 'Disputed penalty / interest / fee' relating to issues on which appeal has been filed or to be filed
C	Tax arrears (B)	This field shall be auto populated as B and non- editable.
X	Amount payable under DTVSV on or before 31.03.2020 = 0.125*B	This field shall be auto populated as 0.125*B and non-editable.
Y	Amount payable under DTVSV after 31.03.2020 = 0.15*B	This field shall be auto populated as 0.15*B and non-editable.
	Add Row	If user is having more than one appeal pending with same combination for that AY/FY, please click on add row and enter the details properly.
Schedule IV		
	Schedule IV. To be filled in case appeal or writ of Assessee is pending before High Court as on 31.01.2020 or time for filing appeal or writ by the Assessee before High Court has not expired as on 31.01.2020	Please fill the below details in case the appeal is related to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee" and pending with High court filed by "Assessee" or "both". If appeal is pending for all "Disputed Penalty", "Disputed Interest" & "Disputed Fee", then click on "Add row" and enter details separately against each appeal reference number.
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal pending with High Court and filed by Assessee / Both" with respect to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee".

Sl. no. in Form	Field	Instructions
		Please ensure that the same should match with the "Appeal Reference Number" entered in Part B for the same combination.
A	Total amount of penalty / interest / fee as per order against which appeal or writ has been filed or to be filed	Please enter the total amount of penalty / interest / fees as per order against which appeal or writ has been filed or to be filed
B	Disputed penalty / interest / fee due to appeal by Assessee	Please enter 'Disputed penalty / interest / fee due to appeal by Assessee
C	Tax arrears (B)	This field shall be auto populated as B and non- editable.
X	Amount payable under DTVSV on or before 31.03.2020 = 0.25*B	This field shall be auto populated as 0.25*B and non-editable.
Y	Amount payable under DTVSV after 31.03.2020 = 0.3*B	This field shall be auto populated as 0.3*B and non- editable.
	Add Row	If user is having more than one appeal pending with same combination for that AY/FY, please click on add row and enter the details properly.
Schedule V		
	Schedule V. To be filled in case appeal or writ of Department is pending before High Court as on 31.01.2020 or the time for filing appeal or writ by the department before High Court has not expired as on 31.01.2020	Please fill the below details in case the appeal is related to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee" and pending with High court filed by Department or "both".

Sl. no. in Form	Field	Instructions
		If appeal is pending for all "Disputed Penalty", "Disputed Interest" & "Disputed Fee", then click on "Add row" and enter details separately against each appeal reference number.
	Appeal reference number	<p>Please enter the "Appeal Reference Number" for the appeal pending with High Court and filed by Department / Both" with respect to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee".</p> <p>Please ensure that the same should match with the "Appeal Reference Number" entered in Part B for the same combination.</p>
A	Total amount of penalty / interest / fee as per order against which appeal or writ has been filed or to be filed	Please enter the total amount of penalty / interest / fees as per order against which appeal or writ has been filed or to be filed
B	Disputed penalty / interest / fee on issues raised in appeal	Please enter 'Disputed penalty / interest / fee due to appeal by Assessee
C	Tax arrears (B)	This field shall be auto populated as B and non- editable.
X	Amount payable under DTVSV on or before 31.03.2020 = 0.125*B	This field shall be auto populated as 0.125*B and non-editable.
Y	Amount payable under DTVSV after 31.03.2020 = 0.15*B	This field shall be auto populated as 0.15*B and non-editable.
	Add Row	If user is having more than one appeal pending with same combination for that AY/FY, please click on add row and enter the details properly.

Sl. no. in Form	Field	Instructions
Schedule VI		
	Schedule VI. To be filled in case appeal or writ or SLP of Assessee is pending before Supreme Court as on 31.01.2020 or the time for filing appeal or writ or SLP by the Assessee before Supreme Court has not expired as on 31.01.2020	<p>Please fill the below details in case the appeal is related to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee" and pending with Supreme court filed by "Assessee" or "both".</p> <p>If appeal is pending for all "Disputed Penalty", "Disputed Interest" & "Disputed Fee", then click on "Add row" and enter details separately against each appeal reference number.</p>
	Appeal reference number	<p>Please enter the "Appeal Reference Number" for the appeal pending with Supreme Court and filed by Assessee / Both" with respect to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee".</p> <p>Please ensure that the same should match with the "Appeal Reference Number" entered in Part B for the same combination.</p>
A	Total amount of penalty / interest / fee as per order against which appeal or writ or SLP has been filed or to be filed	Please enter Total amount of penalty / interest / fee as per order against which appeal or writ or SLP has been filed or to be filed
B	Disputed penalty / interest / fee due to appeal by Assessee	Please enter Disputed penalty / interest / fee due to appeal by Assessee
C	Tax arrears (B)	This field shall be auto populated as B and non- editable.

Sl. no. in Form	Field	Instructions
X	Amount payable under DTVSV on or before 31.03.2020 = 0.25*B	This field shall be auto populated as 0.25*B and non-editable.
Y	Amount payable under DTVSV after 31.03.2020 = 0.3*B	This field shall be auto populated as 0.3*B and non- editable.
	Add Row	If user is having more than one appeal pending with same combination for that AY/FY, please click on add row and enter the details properly.
Schedule VII		
	Schedule VII. To be filled in case appeal or writ or SLP of Department is pending before Supreme Court as on 31.01.2020 or time for filing appeal or writ or SLP by the department before Supreme Court has not expired as on 31.01.2020	Please fill the below details in case the appeal is related to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee" and pending with Supreme court filed by Department or "both". If appeal is pending for all "Disputed Penalty", "Disputed Interest" & "Disputed Fee", then click on "Add row" and enter details separately against each appeal reference number.
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal pending with Supreme Court and filed by Department / Both" with respect to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B for the same combination.

Sl. no. in Form	Field	Instructions
A	Total amount of penalty / interest / fee as per order against which appeal or writ or SLP has been filed or to be filed	Please enter Total amount of penalty / interest / fee as per order against which appeal or writ or SLP has been filed or to be filed
B	Disputed penalty / interest / fee on issues raised in appeal	Please enter Disputed penalty / interest / fee on issues raised in appeal
C	Tax arrears (B)	This field shall be auto populated as B and non- editable.
X	Amount payable under DTVSV on or before 31.03.2020 = 0.125*B	This field shall be auto populated as 0.125*B and Non-editable.
Y	Amount payable under DTVSV after 31.03.2020 = 0.15*B	This field shall be auto populated as 0.15*B and Non-editable.
	Add Row	If appellant is having more than one appeal pending with same combination for that AY/FY, please click on add row and enter the details properly.
Schedule VIII		
	Schedule VIII. To be filled in case revision application of assessee u/s 264 is pending before PCIT/CIT as on 31.01.2020	<p>Please fill the below details in case the appeal is related to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee" and pending with CIT/PCIT filed by Assessee.</p> <p>If appeal is pending for all "Disputed Penalty", "Disputed Interest" & "Disputed Fee", then click on</p> <p>"Add row" and enter details separately against each appeal reference number.</p>

Sl. no. in Form	Field	Instructions
	Appeal reference number	<p>Please enter the "Appeal Reference Number" for the appeal pending with CIT/PCIT and filed by Assessee with respect to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee".</p> <p>Please ensure that the same should match with the "Appeal Reference Number" entered in Part B for the same combination.</p>
A	Total amount of penalty / interest / fee as per order against which revision application filed	Please enter Total amount of penalty / interest / fee as per order against which revision application filed.
B	Disputed penalty / interest / fee on issues raised in revision application	Please enter Disputed penalty / interest / fee on issues raised in appeal
C	Tax arrears (B)	This field shall be auto populated as B and non- editable.
X	Amount payable under DTVSV on or before 31.03.2020 (0.25*B)	This field shall be auto populated as 0.25*B and Non-editable.
Y	Amount payable under DTVSV after 31.03.2020 (0.3*B)	This field shall be auto populated as 0.3*B and Non- editable.
	Add Row	If appellant is having more than one appeal pending with same combination for that AY/FY, please click on add row and enter the details properly.

Sl. no. in Form	Field	Instructions
Schedule IX		
	Schedule IX. To be filled in case arbitration or conciliation or mediation of assessee is pending as on 31.01.2020	Please fill the below details in case the appeal is related to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee" and pending with Arbitration/Conciliation/Mediation filed by assessee. If appeal is pending for all "Disputed Penalty", "Disputed Interest" & "Disputed Fee", then click on "Add row" and enter details separately against each appeal reference number.
	Appeal reference number	Please enter the "Appeal Reference Number" for the appeal pending with Department or "both". and filed by assessee with respect to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee". Please ensure that the same should match with the "Appeal Reference Number" entered in Part B for the same combination.
A	Total amount of penalty / interest / fee as per order against which arbitration or conciliation or mediation has been filed	Please enter Total amount of penalty / interest / fee as per order against arbitration or conciliation or mediation has been filed.
B	Disputed penalty / interest / fee on issues raised in arbitration or conciliation or mediation	Please enter Disputed penalty / interest / fee on issues raised in appeal
C	Tax arrears (B)	This field shall be auto populated as B and non- editable.
X	Amount payable under DTVSV on or before 31.03.2020 = 0.25*C	This field shall be auto populated as 0.25*B and Non-editable.

Sl. no. in Form	Field	Instructions
Y	Amount payable under DTVSV after 31.03.2020 = 0.30*C	This field shall be auto populated as 0.30*B and Non-editable.
	Add Row	If appellant is having more than one appeal pending with same combination for that AY/FY, please click on add row and enter the details properly.

FIELD WISE INSTRUCTIONS FOR FILLING ANNEXURE D

Sl.no. in form	Field	Instructions
Schedule D : In case the appellant opt not to pay tax on addition reducing loss/depreciation or increasing income under MAT then the relevant column of the following schedule is to be filled Up		
	Unabsorbed loss	Column header
	Unabsorbed depreciation	Column header
	MAT Credit	Column header
	The following fields shall be provided to the above column headings	
A	Brought forward as claimed by assessee (A)	Please enter brought forward of "Unabsorbed loss", "Unabsorbed depreciation" and "MAT Credit" in respective column.
B	Carried forward as claimed by assessee (B)	Please enter carried forward of "Unabsorbed loss", "Unabsorbed depreciation" and "MAT Credit" in respective column.
C	Disputed income (C)	Please enter disputed income related to "Unabsorbed loss", "Unabsorbed depreciation" and "MAT Credit" in respective column.

Sl.no. in form	Field	Instructions
D	Brought forward as per order of income-tax authorities (D)	Please enter brought forward of "Unabsorbed loss", "Unabsorbed depreciation" and "MAT Credit" in respective column as per order of income tax authorities.
E	Carried forward as per order of income-tax authorities (E)	Please enter carried forward of "Unabsorbed loss", "Unabsorbed depreciation" and "MAT Credit" in respective column as per order of income-tax authorities.

FIELD WISE INSTRUCTIONS FOR FILLING VERIFICATION

Field	Instructions
VERIFICATION	
I	This field will be auto populated and Non-editable.
son/daughter of Shrisolemnly declare that to the best of my knowledge and belief the information given in this declaration is correct and complete and is in accordance with the provisions of the Direct Tax Vivad se Vishwas Act, 2020.	This field will be auto populated and Non-editable.
I further declare that I am making this declaration in my capacity as.....	Below dropdowns to be provided : Self/ Karta/ Managing Partner/ Designated Partner/ Partner/ Managing Director/ Director /Trustee /Executor/ Principal officer/ Representative Assessee/ Authorised Signatory
and that I am competent to make this declaration and verify it. I am holding permanent account number.....	This field will be auto populated and Non-editable.

Field	Instructions
Aadhaar number..... (if allotted)	Please enter the Aadhaar number, if allotted.
Place	Please enter the place.
Date	System date should be auto populated and non editable
Name and signature of the declarant	Please submit the Form with DSC/ EVC as applicable.

FIELD WISE INSTRUCTIONS FOR FILLING FORM 2

Field	Instructions
I.....	Auto populated and Non-editable.
Son/daughter of Shri.....	Auto populated and Non-editable.
having PAN/ TAN.....	Auto populated and Non-editable.
/Aadhaar number _____	Auto-populated and non-editable.
having decided to avail the benefit of the Direct Tax Vivad se Vishwas Act, 2020 do hereby voluntarily waive all my rights, whether direct or indirect, to seek or pursue any remedy or any claim in relation to the tax-arrear which may otherwise be available to me under any law for the time being in force, in equity, by statute or under any agreement entered into by India with any other country or territory outside India whether for protection of investment or otherwise.	Static content
I.....	Auto populated and Non-editable.
Son/daughter of Shri.....	Auto populated and Non-editable.

Field	Instructions
Designation	Karta/Managing Partner/ Designated Partner/Partner/ Managing Director/ Director/ Trustee Executor/Principal officer/ Representative Assessee/ Authorised Signatory
on behalf of	Auto populated and Non-editable.
having PAN/TAN	This field will be auto populated and Non-editable.
Aadhaar number	This field will be auto populated and Non-editable.
being duly authorised and competent in this regard, the	This field will be auto populated and Non-editable.
having decided to avail the benefit of the Direct Tax Vivad se Vishwas Act, 2020 do hereby voluntarily waive all its rights, whether direct or indirect, to seek or pursue any remedy or any claim in relation to the tax-arrear which may otherwise be available to me under any law for the time being in force, in equity, by statute or under any agreement entered into by India with any other country or territory outside India whether for protection of investment or otherwise.	Static content
The above undertaking is irrevocable.	
I also confirm that I am aware of all the consequences of this undertaking.	
Place	
Date	Auto populated and non- editable.
Signature	Please submit the Form with DSC/ EVC (as applicable).





**Western India Regional Council of
The Institute of Chartered Accountants of India**
(Set up by an Act of Parliament)

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