



Key Highlights of the amendments made to the Vivad Se Vishwas Bill

The Hon'ble Finance Minister ('FM') of India introduced the Vivad Se Vishwas ('VSV') Scheme in Union Budget 2020 in order to resolve pending litigation under the Income-tax Act ('the Act'). The Draft Bill was introduced on 5 February 2020 providing a one-time opportunity to taxpayers to settle tax disputes. Subsequently, on 14 February 2020, the amendments to the Draft Bill was given to the Parliament in order to address certain concerns raised by the stakeholders. A copy of the amendments to the Draft Bill was released on 24 February 2020

The key highlights of the amendments made to the Bill is as under:

i. Who can opt for the Scheme?:

Earlier the bill proposed to cover appeals filed by the Assessee and pending (as on 31 January 2020) before the Commissioner of Income Tax (Appeals) ['CIT(A)'], Income Tax Appellate Tribunal ['ITAT'], High Court ['HC'] and Supreme Court ['SC']

However, through the amendment it is proposed to include the following:

- A person in whose case an appeal (before the aforesaid body) has been filed either by him or by the income-tax authority or by both [now amended to include appeals filed by income-tax authority];
- A person in whose case the time limit of filing an appeal or SLP against the order has not expired as on 31 January 2020;
- A person in whose case matter is pending before the Dispute Resolution Panel ('DRP');
- A person in whose case the DRP has issued its direction and the assessing officer is pending to give effect by passing a final order; and
- A person who has filed an application for revision under Section 264 of the Act and such application is pending as on 31 January 2020

2. Payment schedules under the Scheme:

SR. NO.	NATURE OF TAX ARREAR	AMOUNT PAYABLE UNDER THIS ACT BEFORE THE 31 MARCH 2020	AMOUNT PAYABLE UNDER THIS ACT ON OR AFTER 1 APRIL 2020 BUT ON OR BEFORE THE LAST DATE
APPEALS FILED BY ASSESSEE			
a.	Appeal against the assessment order	100% of disputed tax (excluding the interest, penalty and fees)	100% disputed tax + 10%* of disputed tax *If 10% of disputed tax exceeds total disputed interest and penalty, excess to be ignored
b.	Appeal against the assessment order in Search cases	100% disputed tax + 25%* of disputed tax *If 25% of disputed tax exceeds total disputed interest and penalty, excess to be ignored	100% disputed tax + 35%* of disputed tax *If 35% of disputed tax exceeds total disputed interest and penalty, excess to be ignored
c.	Appeal against the penalty order/ any order levying any interest or fees	25% of disputed penalty/interest/ fees	30% of disputed penalty/interest/ fees

2. Payment schedules under the Scheme:

SR. NO.	NATURE OF TAX ARREAR	AMOUNT PAYABLE UNDER THIS ACT BEFORE THE 31 MARCH 2020	AMOUNT PAYABLE UNDER THIS ACT ON OR AFTER 1 APRIL 2020 BUT ON OR BEFORE THE LAST DATE
APPEALS FILED BY ASSESSEE			
d.	Appeal filed before CIT(A) or objections filed before DRP where Appellant has a favourable order from ITAT or HC (not reversed by SC) OR Appeal filed before ITAT where Appellant has a favourable order from HC (not reversed by SC)	In Normal cases: 50% of disputed tax (excluding the interest, penalty and fees) In Search cases: 62.5% of disputed tax (excluding the interest, penalty and fees) Penalty/ Interest/ Fees Order: 12.5% of disputed penalty/interest/ fees	In Normal cases: 55% of disputed tax (excluding the interest, penalty and fees) In Search cases: 67.5% of disputed tax (excluding the interest, penalty and fees) Penalty/ Interest/ Fees Order: 15% of disputed penalty/interest/ fees
APPEALS FILED BY DEPARTMENT			
a.	Appeal against the assessment order	50% of disputed tax (excluding the interest, penalty and fees)	55% of disputed tax (excluding the interest, penalty and fees)
b.	Appeal against the assessment order in Search cases	62.5% of disputed tax (excluding the interest, penalty and fees)	67.5% of disputed tax (excluding the interest, penalty and fees)
c.	Appeal against the penalty order/ any order levying any interest or fees	12.5% of disputed penalty/interest/ fees	15% of disputed penalty/interest/ fees

3. Situations where the benefit of the Scheme cannot be availed:

- Benefit of the Scheme cannot be availed where tax arrears are relating to:
 - i. AY in respect of which an assessment has been made u/s 153A or 153C of the Income-tax Act, if it relates to any tax arrears **if the amount of disputed tax exceeds five crore rupees [amended]**;
 - ii. AY in respect of which prosecution (including prosecution initiated by the Income-tax Authority) has been instituted on or before the date of filing of declaration **[amended]**;
 - iii. any undisclosed income from a source located outside India or undisclosed asset located outside India;
 - iv. 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 arrears; and
 - v. ~~appeal before the CIT (Appeals) in respect of which notice of enhancement under section 251 of the Income-tax Act has been issued on or before the specified date [amended]~~

4. Clarifications provided in the Amendment:

- The amended Scheme now proposes to provide for refund of 'excess tax paid by taxpayer before filing declaration' over 'the amount payable under the Scheme'. However, no interest under Section 244A of the Act will be paid on the refund;
- Provide for the manner of calculating the amount payable under this Scheme including the manner of set-off in respect of brought forward or carry forward of tax credit u/s. 115JAA / 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; and
- Provides that filing of declaration will not set any precedence and it cannot be claimed in any other proceedings that the taxpayer or the Department has conceded its tax position by settling the dispute