

DIRECT TAX

VIVAD SE VISHWAS SCHEME, 2020 ['VSV']

Embroided in Income Tax Litigation ? Avail the scheme to put an end to the Ordeal

Advantages of VSV

- Order passed under VSV determining the amount payable in respect of tax dues is conclusive in entirety
- No matter covered by order under VSV to be reopened in any other proceedings under the Income tax Act/ any other law
- Immunity granted from institution of any proceedings w.r.t. any offence/ imposition of any penalty/ charging of any interest in respect of tax arrear

Refund

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

Why VSV?



Due to profuse amount of time, energy and resources being consumed in tax disputes, the government has recently *proposed* a mechanism to resolve the pending tax disputes which will help the taxpayers to alternatively deploy their efforts towards their business activities. Correspondingly, this will benefit the government in releasing the tax arrears blocked in these appeals. It is interesting to note that as per the reported data, the amount of disputed tax arrears locked up in appeals is approximately equivalent to one year's direct tax collection. It may be noted that the said proposal is yet to be enacted.

Eligibility

- Cases* where Appeal/ WRIT/SLP Revision u/s 264 have been filed on or before 31.01.2020
- Orders for which time for filing appeal/SLP has not yet expired as on 31.01.2020
- Cases pending before Dispute Resolution Panel (DRP) as on 31.01.2020
- Cases where DRP issued directions on or before 31.01.2020 but no order has been passed by the AO
- Cases where notice of enhancement has been issued by CIT(Appeal) u/s 251

**Search cases also covered if the disputed tax is upto Rs. 5 Crore in a year (assessee wise; year wise)*

Disputes Covered

- All disputes, subject to some exclusions, in relation to the -
 - Disputed tax
 - Disputed penalty
 - Disputed interest
 - Disputed fee
 - Disputed tax deducted at source (TDS) or tax collected at source (TCS)
- The appeal/ writ/SLP filed by taxpayers or the department are eligible
- Disputes where the payment has already been made shall also be eligible



What are the next steps

- Identifying whether you are eligible for the scheme
- Calculation of “disputed tax” or “disputed penalty” or “disputed interest” in accordance with the provisions of the scheme;
- Preparation and filing of the declaration before the “Designated Authority” in the prescribed form;
- Follow up with the “Designated Authority” for obtaining an order as to the amount payable in accordance with the scheme;
- Intimating the “Designated Authority” with regard to the payment of tax and obtaining the requisite order under the scheme.

For any Queries on the above issues, please contact us:

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Payment Matrix

	Where payment made upto 31.03.2020	Where payment made on or after 01.04.2020
Appeals filed by the assessee		
Search cases* involving dispute relating to tax, interest, penalty, etc.	125% of the disputed tax. Penalty and interest would be waived	135% of disputed tax, penalty and interest would be waived
Other than search cases where dispute involves tax, interest, penalty, etc.	100% of the disputed tax, penalty and interest would be waived	110% of disputed tax, penalty and interest would be waived
Where dispute relates to only interest, penalty or levy	25% of disputed interest, penalty or fee	30% of disputed interest, penalty or fee
Appeals filed by Department or the Department has lost an issue		
Search cases* involving dispute relating to tax, interest, penalty, etc.	62.5% of the disputed tax. Penalty and interest would be waived	67.5% of disputed tax, penalty and interest would be waived
Other than search cases where dispute involves tax, interest, penalty, etc.	50% of the disputed tax, penalty and interest would be waived	55% of disputed tax, penalty and interest would be waived
Where dispute relates to only interest, penalty or levy	12.5% of disputed interest, penalty or fee	15% of disputed interest, penalty or fee

Exclusions

The cases excluded from the Scheme are cases –

- Search case if disputed tax is more than Rs. 5 crores in a year
- Prosecution cases under the Income-tax Act or Indian Penal Code filed by the Department
- Cases relating to undisclosed foreign income and asset
- Cases completed on the basis of information from foreign countries
- Cases covered under Narcotic Drugs and Psychotropic Substances Act, Special Courts Act, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, the Prevention of Money Laundering Act, 2002 or the Prohibition of Benami Property Transactions Act, 2016.

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