

AN INSIGHT TO THE DIRECT TAX- VIVAD SE VISHWAS SCHEME 2020



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA
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CMA Balwinder Singh
PRESIDENT



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President's Message

The Vivad se Vishwas Scheme introduced by the Government of India in 2020, is a path-breaking step in India's economic history. This scheme is expected to resolve a major part of direct tax litigations worth about Rs 4.8 lakh crore by way of remission and waiver of interest, and penalty for all pending disputes for which an appeal is filed. The provisions of the scheme also provide relief to taxpayers who have won their appeal at any stage by way of 50% remission of tax liability and 100% waiver of interest and penalty.

The scheme will enable taxpayers, especially MSMEs, to settle their tax disputes and use their scarce resources for business, rather than litigating tax positions. It has been designed as a comprehensive dispute settlement mechanism and not one merely drafted to chase hoarders of black money.

The main objectives of this scheme may be enumerated as below:

- Reduce income tax pending litigation
- Generate timely revenues for the Government
- Help taxpayers end their tax disputes with the department by paying disputed tax and get waiver from payment of interest and penalty.
- Get immunity from prosecution.

We from, the Institute of Cost Accountants of India have visualised that there would be many queries and clarifications which may be required by the practitioners in this field of work and hence this handbook. Team TRD has today been successful in publishing this "Handbook on Vivad se Vishwas" solely because of their hard work and efforts. Not to forget also the support and encouragement given by our very own Resource contributors who mentored you to achieve your aim. So hearty congratulations on your achievement and all the best to you for more such value additions in the future.

With Warm Regards,

CMA Balwinder Singh
President
April 8, 2020

CMA Biswarup Basu
Vice President



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Vice President's Message

I am glad to know that the Taxation Research Department of the Institute is publishing a handbook on "Vivad se Vishwas". It is indeed great news, and I am sure that the team must be feeling proud too. I hope that this publication will be extremely useful to our members and other stakeholders.

The Vivad se Vishwas Scheme introduced by the Government of India, is taxpayer friendly, time bound and less cumbersome. In essence, the scheme is the government's initiative to reduce disputes and also collect the revenues clogged in long pending litigations. All these steps also show the eagerness of the government in reaching out to the taxpayer to enable settlement of long pending disputes. It offers a complete waiver on interest and penalty to the taxpayers who pay their disputed taxes.

I would like to acknowledge the dedicated efforts of Tax Research Department for releasing this Handbook and wish them success in all their future endeavors.

With best regards,

Biswarup Basu

CMA Biswarup Basu
Vice-President

April 8, 2020



Chairman's Message

Inspired by the success of the Sabka Vishwas Scheme, which reduced several Indirect Tax disputes, the Hon'ble Finance Minister, Government of India, announced The Direct Tax "**Vivad se Vishwas Bill, 2020**" in Parliament on February 5, 2020. The Scheme/ Bill has now become a law after completion of due procedure and accordingly published in the Gazette of India on 17th March 2020 as "**The Direct Tax Vivad se Vishwas Act, 2020**".

Vivad se Vishwas is an attempt by the Government of India to put an end to pending Direct Tax disputes. Its key objective 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 on or before March 31, 2020 (Extended to 30th June 2020). What was most intriguing to me about this scheme was its simple steps that a tax-payer may follow to reduce his tax penalties and litigations.

Firstly the assessee (declarant) shall furnish a declaration in 'Form 1' consisting details of eligibility, tax disputes, tax arrears etc. along with an undertaking in 'Form-2' regarding waiving his / her right, to seek or pursue any remedy etc. Next, based on the declaration, the designated authority shall grant a certificate in 'Form-3' to declarant within 15 days of receipts of declaration containing particulars of tax arrears and amount payable. It has been clarified that the applicant will not be able to file any appeal in case it does not agree to the amount determined by designated authority. Then, the applicant shall pay the amount within 15 days from the date of receipt of certificate in Form -3 and shall intimate the authority of such payment in 'Form-4'. Thereupon, the designated authority shall pass an order in 'Form-5' stating that declarant has paid the amount.

The government has decided to extend the deadline to settle tax disputes under the Vivad se Vishwas scheme from March 31, 2020 to June 30, 2020. Applicants will not have to pay any extra interest or penalty on the extension. Individuals would have had to pay 10 per cent on the disputed amount for settlements done after March 31. This announcement comes under the coronavirus lockdown imposed by the government in the country.

I am happy and deeply touched, that Team Tax Research along with contributions from its Resource Persons is on the verge of publishing such a noteworthy publication.

Jai Hind



(Rakesh Bhalla)

CMA Rakesh Bhalla

Chairman – Direct taxation Committee

April 10, 2020



Chairman's Message

'Vivad se Vishwas' translates 'Conflict to Faith' and truly this Scheme has reinstated and strengthened the faith of the Taxpayers in our Government. Just like resolving the indirect tax litigations under Sabka Vishwas Scheme now even direct tax litigations can be successfully addressed and resolved through this new scheme. These bold moves surely states that our Nation is in the right hands and our Government has a penchant for making India one of the leading economies of the world.

Apart from waiver of interest and penalty, the taxpayer shall also get the following immunities once the case is settled under the scheme:

- Such cases cannot be reopened in any other proceeding by any tax authority or designated authority;
- Once the dispute has been resolved, an appellate forum cannot issue an order in relation to the matter; and
- Opting for the scheme shall not amount to conceding the tax position and tax authority cannot claim that taxpayer has acquiesced to the decision on the disputed issue.

Having said these, a responsible Tax payer should also remember the scheme is attractive and it waives interest and penalty but the individual taxpayer has to analyze various aspects before opting to settle in the scheme. Some of the aspects to be looked at like how strong are merits of the case, expected cost of litigating the matter, implications of carried forward losses, cash flow considerations etc. It is also a burden for an individual to litigate a tax matter and therefore, if the merits of the case are weak and there is lack of adequate documentary evidences to substantiate ones claim, it is better to settle by paying taxes rather than unforeseen fate of litigation.

I congratulate Team – Tax Research, fabulous job by the entire Team by adding another feather to the cap of publications. I am happy and would like to congratulate other members of the Taxation Committee and knowledge contributors of the Institute for their efforts to bring this out.

Thank You.

A handwritten signature in blue ink, which appears to read 'Niranjan Mishra'.

CMA Niranjan Mishra

Chairman – Indirect Taxation Committee

April 10, 2020

P R E F A C E

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.

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 is an urgent need to provide for resolution of pending tax disputes and hence the 'Vivad se Vishwas'. 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 salient features of this scheme would include:

- Appeals, writs, SLPs, arbitration (filed by Department or taxpayer) filed on or before 31 Jan 2020.
- Orders for which time for filing appeal has not expired on 31 Jan 2020.
- Cases pending before Dispute Resolution Panel (DRP).
- Cases where DRP issued direction on or before 31 Jan 2020 but order has not yet been passed.
- Cases where assessee filed revision application under section 264 on or before 31 Jan 2020.
- Dispute where payment has already been made shall also be eligible.
- The pending appeal, writ, SLP, arbitration could be 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

We, Team – Tax Research are enlightened to work on this '**Handbook on Vivad se Vishwas**'. It was great learning experience which we would treasure all our lives. **CMA Niranjn Swain**, thank you very much for being our torch bearer.

Team – Tax Research Department
The Institute of Cost Accountants of India

April 10, 2020

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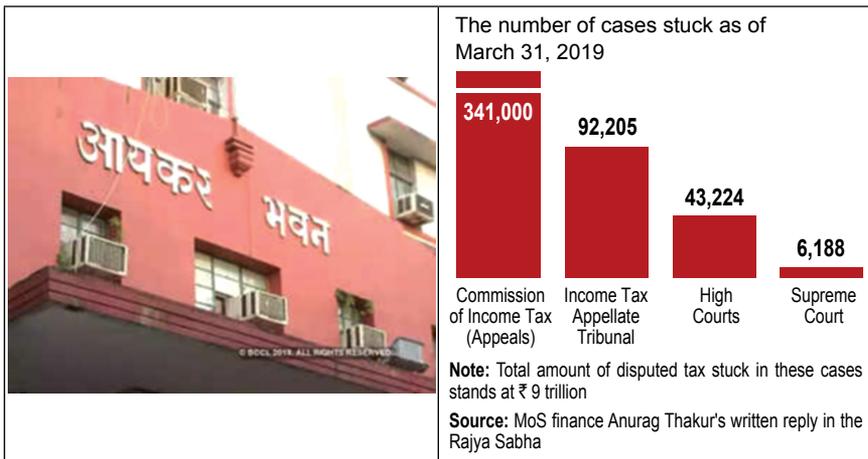
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THE DIRECT TAX VIVAD SE VISHWAS SCHEME 2020

1.1 BACKGROUND OF THE SCHEME:

Over the years, the pendency of appeals filed by taxpayers as well as Government of India under Income Tax Act has been 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. Nearly **4.83 lakh tax** disputes involving an amount of ₹**9.32 lakh** crore is lock-up in disputed tax matters as on the 30th November, 2019. 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 direct tax collection. Details of disputes pending at different appellate forums are given below (Sources – MoS Finance, Anurag Thakur’s written reply in the Rajya Sabha).



Total disputed direct tax cases pending at different appellate forum as reported above includes 3,41,000 pending before



CIT(A), 92,205 cases were pending before ITAT as on March 31, 2019. Besides, 43,224 and 6,188 direct taxes-related cases were pending before High Court and Supreme Court as on 31st March 2019, respectively. Above number shows that around 89% (approximately) of the cases are pending before lower appellate forum i.e CIT(A) and ITAT

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 is 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 Finance Minister, Smt. Nirmala Sitharaman, in her budget speech 2020, has proposed to bring a scheme similar to the *Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019* to reduce the litigation in the direct taxes. This will not only benefit the exchequer to recover the blocked revenue but also the taxpayers to save time, energy and resources to be spent on unwanted litigations. The proposed so called '**Vivad se Vishwas Scheme**' alternatively designed as '**No Dispute But Trust Scheme**'. As per the said proposal, the taxpayer will be required only to pay the disputed tax involved / locked in the litigation and will gain complete waiver of the ancillary charge of interest and penalty (which is due to addition of income) with a rider that the obligation to pay disputed tax is discharged by **31st March, 2020** (***the time has been extended to 30th June 2020 vide press release of Ministry of Finance dated.31.03.2020***). In case of interest, penalty and fee which are not due to increase with addition will be settled with certain percent. The benefits conferred by the above said proposal can be availed post 31st March, 2020 until 30th June, 2020 subject to payment of additional amount and the taxpayers can accordingly avail the benefit at any level of the appellate proceedings. (**No revised date in place of 30.06.2020 announced which may be expected**)



The proposal enshrined in Para No.126 associated with the '**No Dispute But Trust Scheme**' per verbatim stands produced as under:-

126. No Dispute but Trust Scheme - 'Vivad Se Vishwas Scheme'.

◆	Sir, in the past our Government has taken several measures to reduce tax litigations. In the last budget, Sabka Vishwas Scheme was brought in to reduce litigation in indirect taxes. It resulted in settling over 1,89,000 cases. Currently, there are 4,83,000 direct tax cases pending in various appellate forums <i>i.e.</i> Commissioner (Appeals), ITAT, High Court and Supreme Court. This year, I propose to bring a scheme similar to the indirect tax Sabka Vishwas for reducing litigations even in the direct taxes.
◆	Under the proposed 'Vivad Se Vishwas' scheme, a taxpayer would be required to pay only the amount of the disputed taxes and will get complete waiver of interest and penalty provided he pays by 31st March, 2020. Those who avail this scheme after 31st March, 2020* will have to pay some additional amount. The scheme will remain open till 30th June, 2020*.
◆	Taxpayers in whose cases appeals are pending at any level can benefit from this scheme.
◆	I hope that taxpayers will make use of this opportunity to get relief from vexatious litigation process.

It is pertinently submitted that the Chapter X of the Finance Act, 2016 introduced Direct Tax Dispute Resolution Scheme in order to ease out the monumental burden of amounts locked in direct tax litigation before various forums be it the Commissioner (Appeals), Income Tax Appellate Tribunal, High Court or the Supreme Court. In so far as the narratives of the proposals tabled by the Hon'ble Finance Minister *qua* Finance Bill No. 26 of 2020 were concerned, introduction of amnesty scheme on similar lines was the need of the hour. It is to be acknowledged that the



department from time to time has taken a strong lead in reducing the litigation cover by revising the monetary limits applicable for counter contesting the findings of appellate authorities at various level of the direct taxes regime.

1.2. FEW OBSERVATIONS OF HON'BLE SUPREME COURT ON DISPUTED TAX MATTER:

But at the same time, the path-breaking observations of the Hon'ble Supreme Court of India from time to time cannot be just by-passed and overlooked to say that there exist of a complete non-adversarial tax regime. Hon'ble Supreme Court of India in the landmark pronouncement of **Vodafone International Holdings B.V. v. Union of India [2012] 204 Taxman 408 (SC)** in Civil Appeal No.733 of 2012 vide Para No.188 of the pronouncement observed that the demand of nearly Rs.12,000 crores by way of capital gains tax, would amount to imposing capital punishment since it lacks authority of law and therefore, stand quashed.

On a similar note, Hon'ble Supreme Court of India in **Director of Income Tax, Circle 26(1), New Delhi v. S.R.M.B. Diary Farming (P.) Ltd. [2018] 252 Taxman 1** categorically observed :-

"2. The propensity of Government Departments and public authorities to keep litigating through different tiers of judicial scrutiny is one of the reasons for docket explosion. The Income Tax Department of the Government of India is one of the major litigants. There are two departmental scrutiny at the level of the Assessing Officer and the Commissioner of Income Tax (Appeals) and thereafter an independent judicial scrutiny at the Income Tax Appellate Tribunal (hereinafter referred to as the 'ITAT') level followed by the legal issue which can be inquired into by the High Courts. The last tier is, of course, the jurisdiction under Article 136 of the Constitution of India before the Supreme Court.

3. Mindful of the phenomenon of the docket explosion and the rising litigation in the country, the Union of India in order to ensure the conduct of responsible litigation framed what is today known as the National Litigation Policy, to bring down the pendency of cases and get meaningful issues decided from the judicial



forums rather than multiple tiers of scrutiny just for the sake of it. The Government, being a litigant in well over 50 per cent of the cases, has to take a lead in not being a compulsive litigant.”

From above observations and subsequent action on the part of Govt. of India by introducing the **`No Dispute But Trust Scheme’** with intent to settle disputes, is at the right path. It clearly shows that Government is in the interest of the revenue as well as stakeholders keen to reduce the tax disputes.

1.3. AMNESTY / DISPUTE RESOLUTION SCHEME SO FAR INTRODUCED BY GOVT. OF INDIA.

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 pay taxes. Here is a brief history of various amnesty schemes introduced in India by the Govt. of India.

Sr. No.	Year	Scheme name
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	Direct Tax Dispute Resolution Scheme, 2016
8	2016	Pradhan Mantri Garib Kalyan Yojana (PMGKY)

Apart from the above list, one cannot ignore the recently implemented “Sabka Vishwas – (Legacy Dispute Resolution) Scheme, 2019 (SVLDRS)” for indirect taxes.

1.4. WITHDRAWAL OF APPEALS BY INCOME TAX DEPARTMENT BASED UPON MONETARY LIMITS:

To effectively reduce taxpayer grievances/litigation and help the Department focus on litigation involving complex legal issues and high tax effect, the monetary limits for filing of



appeals by the Department were last revised on 11th July, 2018 vide CBDT **Circular No.3 of 2018**. As a step towards further management of litigation by the Government, the monetary limits for filing Departmental appeals before various appellate forums including ITAT, High Court & Supreme Court have been revised. A Table showing the monetary limits for withdrawal of appeals as well as not filing further appeals where Tax Payer / Assessee own the case in the appellate forum is given below.

Appellate Forum	<u>Circular No. 3 of 2018 / dated.11th July 2018-</u> Monetary Limit up to 8th August 2019 – in ₹	Circular No. 17/2019 / 8th August 2019 Revised Monetary Limit from 8th August 2019 – in ₹
Before Income Tax Appellate Tribunal	20,00,000	50,00,000
Before High Court	50,00,000	1,00,00,000
Before Supreme Court	1,00,00,000	2,00,00,000

This will further reduce time, effort and resources presently deployed in litigation to focus on issues involving litigation of substantial value.

Further, with a view to provide parity in filing of appeals in scenarios where separate order is passed by higher appellate authorities for each assessment year vis-à-vis where composite order for more than one assessment years is passed, **para 5 of the circular dated.11.07.2018 is substituted by the following para:**

"The Assessing Officer shall calculate the tax effect separately for every assessment year in respect of the disputed issues in the case of every assessee. If, in the case of an assessee, the disputed issues arise in more than one assessment year, appeal can be filed in respect of such assessment year or years in which the tax effect in respect of the disputed issues exceeds the monetary limit specified in para 3. No appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary' limit specified in para 3. Further, even in the case of composite order of any High Court or appellate authority which involves



more than one assessment year and common issues in more than one assessment year, no appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. In case where a composite order/ judgement involves more than one assessee,, each assessee shall be dealt with separately.”

In spite of such effort, still 4.83 lakhs tax dispute cases with around ₹9.32 lakhs crore pending at CIT(Appeal), ITAT, High Court / Supreme Court which is now subject matter of proposed settlement scheme.

1.5. INTRODUCTION OF DIRECT TAX VIVAD SE VIVAD BILL 2020:

The “Vivad se VishwasScheme” was announced during the Union Budget, 2020, to provide for dispute resolution in respect of pending income tax litigation. Pursuant to the Budget announcement, the Direct Tax Vivad se Vishwas Bill, 2020 (hereinafter called **Vivad se Vishwas**) was introduced in the Lok Sabha on 5th of February, 2020.

Subsequently, based on the representations received from the stakeholders regarding its various provisions, official amendments to **Vivad se Vishwas** have been proposed. These amendments seek to widen the scope of **Vivad se Vishwas** and reduce the compliance burden on taxpayers. After introduction of the Bill, a notice for moving number of amendments to the provisions of the Bill **has been given to the Parliament on 14th Feb, 2020**. The bill was passed by the Lok Sabha / lower house parliament with proposed amendments on 4th of March, 2020. The Direct Tax Vivad Se Vishwas Bill, 2020 was passed by the Parliament on March 13, 2020. The bill received assent of the President on dated.17th March 2020 and the **Direct Tax Vivad se Vishwas Act 2020** was published in the official gazettee on the same day. Subsequently the Direct Tax Vivad se Vishwas Rule 2020 was notified vide No.18/2020,F.No. IT (A) / 1/2020-TPL dated.18th March 2020.

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, certainty and savings on account of time and resources that would otherwise be spent on the long-drawn and vexatious litigation process.

After introduction of **Vivad se Vishwas** in Lok Sabha, several queries have been received from the stakeholders seeking clarifications in respect of various provisions contained in the Scheme.

After considering various queries received from stakeholders, CBDT has clarified the same in the form of answers to frequently asked questions (FAQs) vide **Circular No.7/2020 dated 04.03.2020** subject to approval and passing of the Vivad se Vishwas by parliament and receiving assent of the Hon'ble President of India. Since the bill has been passed and received assent of Hon'ble President of India and notified on dated.17th March 2020, the FAQs may be referred by the readers for better understanding and computing the final dispute tax, dispute penalty, dispute interest and dispute fee.

The FAQs contain clarifications on scope/eligibility, calculation of disputed tax, procedure related to payment of disputed tax and consequential benefits to the declarant.

Note: * Please note the Press Release of Ministry of Finance, Govt. of India dated. 31st March 2020 regarding substitution of dated. 31st March 2020 to 30th June 2020. The press release may be read as follows.

“(viii) Under Vivad se Vishwas Scheme, the date has also been extended up to 30.06.2020. Hence declaration and payment under the Scheme can be made up to 30.06.2020 without additional payment”.

ANALYSIS OF DIRECT TAX-VIVAD SE VISHWAS ACT, 2020

BACKGROUND:

The “Vivad se Vishwas Scheme” was announced during the Union Budget, 2020, to provide for dispute resolution in respect of pending income tax litigation. Pursuant to the Budget announcement, the Direct Tax Vivad se Vishwas Bill, 2020 (hereinafter called **Vivad se Vishwas**) was introduced in the Lok Sabha on 5th of February, 2020. Subsequently, based on the representations received from the stakeholders regarding its various provisions, official amendments to **Vivad se Vishwas** have been proposed. These amendments seek to widen the scope of **Vivad se Vishwas** and reduce the compliance burden on taxpayers. After introduction of the Bill, a notice for moving number of amendments to the provisions of the Bill **has been given to the Parliament on 14th Feb, 2020**. The bill was passed by the Lok Sabha / lower house parliament with proposed amendments on 4th of March, 2020. The Direct Tax Vivad Se Vishwas Bill, 2020 was passed by the Parliament on March 13, 2020. The bill received assent of the President on dated. 17th March 2020 and the **Direct Tax Vivad se Vishwas Act 2020** was published in the official gazettee on the same day. Subsequently the Direct Tax Vivad se Vishwas Rule 2020 was notified vide No.18/2020, F.No. IT (A) / 1/2020-TPL dated. 18th March 2020.

Detail of analysis of the provisions of the Direct Tax Vivad se Vishwas Act, 2020, Direct Tax Vivad se Vishwas Rule, 2020, circulars & notifications issued have been produced as follows.

Note: The words referred in the discussion such as “**Act**” means the Direct Tax Vivad se Vishwas Act, 2020,

“**Section**” means section of the Direct Tax Vivad se Vishwas Act, 2020 and 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 Acts



"Income-tax Act" means the Income-tax Act, 1961;

The **scheme** is formulated based upon a separate act that is the Direct Tax Vivad Se Vishwas Act 2020 and Direct Tax Vivad Se Vishwas Rules 2020. Any terms is not defined under same act is to be refer under the definition used in the income tax act, 1961.

"Rule" means rules of Direct Tax Vivad se Vishwas Rule 2020

2.1. WHO CAN BE APPELLANT UNDER THE SCHEME?

Section 2(1)(a) provides that "appellant" means 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;*
- 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;*
- 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;*
- 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;*
- 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;”*

*** - Specified date is the 31st January 2020**



2.1.1. "Appellate forum" means the Supreme Court or the High Court or the Income Appellate Tribunal or the Commissioner (Appeals);- Section 2(1)(b)

2.1.2.The appeal as above may be filed by the Assessee or the Income Tax Department who was aggrieved with the order passed by the lower forum.

2.1.3. Analysis of the Provisions and clarifications provided through FAQ:

- (i) In respect of revision application u/s 264, the same should have been filed before the specified date 31.01.2020. The eligibility is where application for revision has been filed and **does not cover cases where time period for filing revision petition has not expired**. In this case the extended period has not been given considering the fact that may be the time for filing such revision petition is one year from the date of communication of the order.
- (ii) All appeals/writs/ objections/ revision filed before CIT, CIT(A), DRP, ITAT, High Court or Supreme Court that are pending as on 31.01.2020 or all cases where the time limit to file an appeal has not expired as on 31.01.2020 will be eligible for the benefit of the Scheme. It may be noted that an appeal before the CIT(A) against an assessment order is required to be filed within 30 days from the date of receipt of assessment order, an appeal before ITAT against the order of the CIT(A) is required to be filed within 60 days, an appeal before High Court against the order of the ITAT is required to be filed within 120 days and an appeal before Supreme Court against the order of the High Court is required to be filed within 90 days of the receipt of the order. So in view of above time line of filing appeal before the appellate forum which may be considered by the taxpayer to determine its eligibility to fall under the scheme. The scheme also covers all disputed cases whether or not demand has been paid.
- (iii) The scheme also covers the appeals which are pending with CIT(A) including where notice for enhancement has been issued before the specified date i.e. 31.01.2020. In case the income for which notice for enhancement has been given u/s 251 will be considered as an addition to the income for the purpose of computing tax in dispute.



- (iv) If there is no appeal has been filed with respect to interest under section 234A, 234B or 234C, but the assessee has filed waiver application before the competent authority which is pending as on 31 Jan 2020, **such cases of waiver applications are not appeal within meaning of Vivad se Vishwas and covered under the scheme.**
- (v) Disputes related to wealth tax, security transaction tax, commodity transaction tax and equalisation levy covered are not covered and only disputes relating to income-tax are covered.
- (vi) If an appeal is filed before High Court and is **pending for admission as on 31.1.2020**, the same is eligible for Vivad se Vishwas Scheme
- (vii) The Vivad se Vishwas Scheme does not available for disputes pending before Authority of Advance Ruling.
- (viii) If Rulings of Authority of Advance Ruling is challenged in HC through writ and such order is pending in HC then in that case appellant will be eligible for VSV, but if the matter is related to permanent establishment in India and amount attributable to such PE is yet to be determined then in that case appellant cannot apply under the VsV Scheme.
- (ix) 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.
- (x) Assume in a situation where concealment penalty appeal is pending before CIT(A) and appeal for tax demand is pending with ITAT. In this case as both quantum appeal covering disputed tax and appeal against penalty levied on such disputed tax for an assessment year are pending, the declarant is required to file a declaration form giving details of both disputed tax appeal and penalty appeal. However, he would be required to pay relevant percentage



of disputed tax only. 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.

- (xi) 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, the assessee would not be eligible for Vivad se Vishwas as there is no determination of income against the said notice.
- (xii) An 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). 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 (**Ref FAQ -12 of CBDT Circular**). [**However in this case the assessee needs to examine both the orders and disputed tax as income taken in the order of assessment u/s 143(3) may also be include when order passed u/s 147 / 143(3) and decide accordingly**].

2.2. SCOPE OF VIVA SE VISHWAS SCHEME:

2.2.1. The benefit of the Vivad se Vishwas Scheme shall be available to cover all disputes in relation to tax, interest, penalty, fee as categorically specified.

As per Rule 2(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;

2.2.2. Under the Scheme, the disputes may broadly be categorized into four categories.



(i) First category covers the disputed tax, the interest and penalty in relation to such disputed tax. This covers disputed tax, the main subject matter of dispute is the tax on income or TDS / TCS. Disputed tax may arise on account of any addition or disallowances of expenses made vide an assessment order or a reassessment order. The assessment order may be an order issued u/s 143(3) or best judgment assessment order u/s 144 or a final assessment order u/s 144C(13) / 143(3). The reassessment order may be order u/s 143(3) / 147 or a best judgment assessment order u/s 144 / 147 or an order passed under section 144C(13) / 143(3) / 147.

The disputed tax may be on account of a demand raised under section 200A on account of processing of statements of tax determined at source, demand raised under section 201 on account of non-deduction or short deduction of tax at source, demand under section 206C(6A) on account of non-collection or short collection of tax at source, demand under section 206CB on processing of statements of tax collected at source.

(ii) The 2nd category of disputes i.e. disputed interest, disputed penalty or disputed fees covers such cases where the subject matter of dispute pending as on 31.01.2020 is not related to dispute on account of tax. Such cases may be where dispute in respect of tax on income stands settled and the dispute i.e. appeal pending is on account of levy of penalty such as penalty under section 271(1)(c), 271AAA, 271AAB etc. or appeal is pending on account of levy of interest or computation of interest levied. In many cases not disallowances of expenses/ addition to income in the assessment order, however interest is levied u/s 234A / 234B / 234C which has been challenged before the appellate forums, such a case may constitute a case of disputed interest as there is no dispute on account of tax.

Further, there may be cases where penalty or fees is subject matter of dispute i.e. appeal which is independent of the income such as fee levied under section 234E, 234G, penalty under section 271D, 271E, 271B etc. For instance, say a penalty order has been passed under section 271C for non-deduction of TDS, but there is no dispute pending for recovery of tax under section 201, the same may be considered to be a case of disputed penalty.



2.3. WHAT IS DISPUTED FEE?

Section 2(1)(f) provides that “**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,

Example: *In case the taxpayer fails to file the income tax return within the prescribed time limit, he would be liable to pay late fees for such default as per provisions of **section 234F of the Income Tax Act**. The Deductor of tax (TDS) or the Collector of tax (TCS) is required to file the TDS / TCS returns within prescribed due dates. In case of any delay, the Deductor or the Collector would be liable to pay a late fee for non-filing / late filing of TDS/ TCS returns as per provisions of **section 234E of the Income Tax Act**.*

2.4. WHAT IS DISPUTED INTEREST?

As per section 2(1)(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;

Note: *It may be noted that, a person is liable to pay interest for various delays/defaults like interest under section 234A for delay in filing the return of income, interest under section 234B for default in payment of advance tax, interest under section 234C for deferment of payment of individual instalment or instalments of advance tax, interest under section 234D for excess refund granted to the tax payer, interest under section 201(1A) for failure to deduct tax at source/delay in payment of tax deducted at source and interest under section 206C(7) is levied for failure to collect tax at source/delay in payment of tax collected at source. When a demand raised by the Income Tax Department the assessee would have disputed and filed appeals. As the interest computation depends upon tax dues, in similar situations is chargeable and assessee has disputed and filed appeal.*



2.5. WHAT IS THE DISPUTED PENALTY UNDER THE ACT:

2.5.1. As per section 2(1)(h) **“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 casemay be;
- (ii) an appeal has been filed by the appellant in respect of such penalty;

2.5.2. However for better understanding a table showing list of penalties provided under income come tax act is given below.

PENALTIES [AY 2020-21]

Section	Nature of default	Penalty leviable
(1)	(2)	(3)
140A(3)	Failure to pay wholly or partly—	Such amount as Assessing Officer may impose but not exceeding tax in arrears
	(a) self-assessment tax/ fringe benefit tax, or	
	(b) interest, and fee, or	
	(c) both	
	under section 140A(1)	
158BFA(2)	Determination of undisclosed income of block period	Minimum: 100 per cent of tax leviable in respect of undisclosed income Maximum: 300 per cent of tax leviable in respect of undisclosed income.
221(1)	Default in making payment of tax	Such amount as Assessing Officer may impose but not exceeding amount of tax in arrears
234E	Failure to file statement within time prescribed in section 200(3) or in proviso to section 206C(3)	₹200 for every day during which failure continues but not exceeding tax deductible/collectible



234F	Default in furnishing return of income within time as prescribed under section 139(1)	<p>a) ₹ 5000 if return is furnished on or before 31 December of assessment year.</p> <p>b) ₹ 10,000 in any other case</p> <p>Note: if total income of the person does not exceeds ₹ 5 lakh then fee payable shall be ₹ 1000</p>
270A(1)	Under-reporting and mis-reporting of income	<p>A sum equal to 50% of the amount of tax payable on under-reported income.</p> <p>However, if under-reported income is in consequence of any misreporting thereof by any person, the penalty shall be equal to 200% of the amount of tax payable on under-reported income</p>
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)	<p>Fixed at ₹10,000 for each failure</p> <p>Note:- However, the above penalty shall not be levied to and in relation to any assessment for the A.Y commencing on or after the 1st day of April, 2017.</p>
271(1)(c)	Concealment of particulars of income or fringe benefits or furnishing of inaccurate particulars of income or fringe benefits	<p>Minimum : 100 per cent</p> <p>Maximum : 300 per cent of tax sought to be evaded in addition to tax payable</p>



		<p>Note: 'Amount of tax sought to be evaded' shall be aggregate of tax sought to be evaded under the general provisions and the tax sought to be evaded under the provisions of MAT or AMT. However, if an amount of concealed income is considered both under the general provisions and provisions of MAT or AMT, such amount shall not be considered in computing tax sought to be evaded under provisions of MAT or AMT. Further, where provisions of MAT or AMT are not applicable, the computation of tax sought to be evaded under the provisions of MAT or AMT shall be ignored.</p> <p>Note:- However, the above penalty shall not be levied to and in relation to any assessment for the A.Y commencing on or after the 1st day of April, 2017.</p>
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	Not exceeding 150 per cent of difference between tax on partner's income assessed and tax on income returned, in addition to tax payable Note:- However, the above penalty shall not be levied to and in relation to any assessment for the A.Y commencing on or after the 1st day of April, 2017.



271A	Failure to keep, maintain, or retain books of account, documents, etc., as required under section 44AA	₹ 25,000
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 (3) Maintaining or furnishing incorrect information or document	2% of value of each international transaction/ or specified domestic transaction entered into
271AA(2)	Failure to furnish information and document as required under Section 92D(4)	₹ 5,00,000/-
271AAA	Where search has been initiated before 1-7-2012 and undisclosed income found	10% of undisclosed income
271AAB(1)	Where search has been initiated on or after 1-7-2012 but before 15-12-2016 and undisclosed income found	(a) 10% of undisclosed income of the specified previous year if assessee admits the undisclosed income; substantiates the manner in which it was derived; and on or before the specified date pays the tax, together with interest thereon and furnishes the return of income for the specified previous year declaring such undisclosed income



		<p>(b) 20% of undisclosed income of the specified previous year if assessee does not admit the undisclosed income, and on or before the specified date declare such income in the return of income furnished for the specified previous year and pays the tax, together with interest thereon;</p> <p>(c) 60% of undisclosed income of the specified previous year if it is not covered by (a) or (b) above</p>
271AAB(1A)	Where search has been initiated on or after 15-12-2016 and undisclosed income found	<p>(a) 30% of undisclosed income of the specified previous year if assessee admits the undisclosed income; substantiates the manner in which it was derived; and on or before the specified date pays the tax, together with interest thereon and furnishes the return of income for the specified previous year declaring such undisclosed income</p> <p>(b) 60% of undisclosed income of the specified previous year in any other case.</p>
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]	10% of tax payable under section 115BBE.



271B	Failure to get accounts audited or furnish a report of audit as required under section 44AB	One-half per cent of total sales, turnover or gross receipts, etc., or ₹ 1,50,000, which-ever is less
271BA	Failure to furnish a report from an accountant as required by section 92E	₹ 1,00,000
271BB	Failure to subscribe any amount to units issued under scheme referred to in section 88A(1)	20 per cent of such amount
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	Amount equal to tax not deducted or paid
271CA	Failure to collect tax at source as required under Chapter XVII-BB	Amount equal to tax not collected
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.	Amount equal to loan or deposit or specified sum so taken or accepted
271DA	Receipt of an amount of ₹2 lakh or more in contravention of provisions of Section 269ST.	Amount equal to such receipt
271DB	Failure to provide facility for accepting payment through prescribed electronic modes of payment as referred to in section 269SU	₹ 5,000 rupees for every day of default



271E	Repayment of any loan or deposit or specified advance otherwise than in accordance with provision of Section 269T. "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.	Amount equal to loan or deposit or specified advance so repaid
271F	Failure to furnish return as required by section 139(1) or by its provisos before the end of the relevant assessment year	₹ 5,000 Note: Applicable upto the Assessment year 2017-18
271FA ¹	Failure to furnish an annual information return as required under section 285BA(1) ²	₹ 500 per day of default
271FAA ¹	Furnishing of inaccurate information in statement of financial transaction or reportable account	₹ 50,000
	Failure to furnish annual information return within the period specified in notice u/s 285BA(5)	₹ 1,000 per day of default
271FAB	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).	₹ 5,00,000



	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.	
271FB	Failure by an employer to furnish the return of fringe benefits as required under section 115WD(1)	₹ 100 for every day of default
271G ³	Failure to furnish any information or document as required by section 92D(3)	2% of the value of the international transaction/specified domestic transaction for each failure
271GA	Section 285A provides for reporting by an Indian concern if following two conditions are satisfied: a) Shares or interest in a foreign company or entity derive substantial value, directly or indirectly, from assets located in India; and b) Such foreign company or entity holds such assets in India through or in such Indian concern.	Penalty shall be: a) a sum equal to 2% of value of transaction in respect of which such failure has taken place, if such transaction had effect of, directly or indirectly, transferring right of management or control in relation to the Indian concern; b) a sum of ₹ 5,000 in any other case.



	<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>	
271GB(1)	Failure to furnish report under section 286(2)	₹ 5,000 per day upto 30 days and ₹ 15,000 per day beyond 30 days
271GB(2)	Failure to produce the information and documents within the period allowed under section 271GB(6)	₹ 5,000 for every day during which the failure continues.
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)	₹ 50,000 for every day for which such failure continues beginning from the date of serving such order.
271GB(4)	Failure to inform about inaccuracy in report furnish under section 286(2)	₹ 5,00,000
	Or furnishing of inaccurate information or document in response to notice issued under section 286(6).	
271H ⁴	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	W.e.f. 1-10-2014 Assessing Officer may direct payment of penalty. Penalty shall not be less than ₹ 10,000 but may extend to ₹ 1,00,000



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.	₹1,00,000
271J	Furnishing of incorrect information in any report or certificate by an accountant or a merchant banker or a registered valuer	₹10,000 for each incorrect report or certificate
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).	₹10,000 for each failure/default



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., sections 133, 134, 139 (4A), 139 (4C), 192 (2C), 17A, 203, 206, 206C, 206C (1A) and 285B; 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)	₹10,000 for each failure/default. (In respect of penalty for failure, in relation to a declaration mentioned in section 197A, a certificate as required by section 203 and returns u/ss 206 and 206C and statements under Section 200(2A) or section 200(3) or proviso to section 206C(3) or section 206C (3A), penalty shall not exceed amount of tax deductible or collectible)
	(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)	Not exceeding ₹ 1,000
	(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.	₹ 10,000 for each default



	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.	
272BB(1)	Failure to comply with section 203A	₹ 10,000 for each failure/default
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)	₹ 10,000

Note: No penalty is imposable for any failure under section 271(1)(b), 271A, 271AA, 71B, 271BA, 271BB, 271C, 271CA, 271D, 271E, 271F, 271FA, 271FAB, 271FB, 271G, 271GA, 271GB, 271H, 271-I, 272A(1) (c) or (d), 272A(2), 272AA(1), 272B, 272BB(1), 272BB(1A) / 272BBB(1) 273(1)(b), 273(2)(b) and 273(2)(c) if the person or assessee proves that there was reasonable cause for such failure (section 273B)

Section 273AA provides that a person may make application to the Principal Commissioner/Commissioner for granting immunity from penalty, if

(a) he has made an application for settlement under section 245C and the proceedings for settlement have abated; and



(b) *penalty proceeding have been initiated under this Act. The application shall not be made after the imposition of penalty after abatement.*

1. *With effect from assessment year 2015-16 "annual information return" has been changed to "statement of financial transaction or reportable account" and word "return" has been changed to "statement"*
2. With effect from assessment year 2015-16 a new section 271FAA has been inserted to provide for a penalty of ₹ 50,000 for furnishing inaccurate statement of financial transaction or reportable account in certain cases.
3. With effect from 1-10-2014 TPO can also levy penalty.
4. Section 271H as amended with effect from 1-10-2014 provides that penalty shall be levied by Assessing Officer.

2.6.WHAT IS THE "DISPUTED TAX UNDER" THE SVHEME?

2.6.1.As per Section 2(1) (j) , the "**Disputed tax**", in relation to an assessment year or financial year, as the case may be, means the income-tax, including surcharge and cess payable by the appellant under the provisions of the Income-tax Act, 1961, as computed hereunder:-

Sub section	Nature of disputes	Tax determination
A	In a case where any appeal, writ petition or special leave petition is pending before the appellate forum as on the specified date / 31.01.2020	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 / 31.01.2020, 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 / 31.01.2020, 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 / 31.01.2020,	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 / 31.01.2020	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/ 31.01.2020,	the amount of tax payable by the appellant if such application for revision was not to be accepted:

Note: For computation of disputed tax, para 2.21.1 may be referred

2.6.2. Analysis of the Provisions:

- (i) 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 / 31.01.2020, the disputed tax shall be increased by the amount of tax pertaining to issues for which notice of enhancement has been issued:
- (ii) 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 **(Refer para – 2.10 & 2.11 for details as per the rule prescribed)**

(iii) Where an appeal or arbitration is pending on the specified date / 31.01.2020, but a rectification is also pending with the AO which if accepted will reduce the total assessed income. As the rectification order passed by the AO may have an impact on determination of disputed tax (may be reduction or increase in the income and tax liability), the disputed tax in such cases would be calculated after giving effect to the rectification order passed, if any.

(iv) 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 repealed by the AO. In such cases while filling the declaration form, appellant can indicate that with respect

EXAMPLE -1: *M/S X Ltd has filed the return of income. The tax on returned income was ₹10,000 and interest was ₹1,000. The amount of Rs 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. ₹6240/- plus ₹ 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).

2.7. WHAT CONSTITUTE TAX ARREAR UNDER THE SCHEME?

2.7.1. 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;

"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;

2.8. WHAT IS THE QUANTUM OF AMOUNT PAYABLE UNDER THE SCHEME?

Section 3 of the Act provides that 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, the amount payable by the declarant under this Act shall be as under (this is notwithstanding any thing contained in the Income-tax Act or any other law for the time being in force)



Sr. No.	Nature of tax arrear	Appeals filed by Taxpayer		Appeals filed by department/ Appeal filed by assessee decided in favour for earlier years before higher forum	
		Amount payable before 31 March 2020 Note-1	Amount payable after 1 April 2020 & up to 30 June 2020 / Note -1	Amount payable before 31 March 2020/ Note -1	Amount payable after 1 April 2020 & up to 30 June 2020 / Note -1
A.	Where tax arrears consists of disputed tax, interest or penalty	100% of disputed tax	110% of disputed tax	50% of Amount of disputed tax	55% of disputed tax
B.	Where tax arrears related to disputed interest/ penalty/ fee	25% of disputed interest/ penalty/ fee	30% of disputed interest/ penalty/ fee	12.5% of disputed interest/ penalty/ fee	15% of disputed interest/ penalty/ fee
C.	Search cases	125% of disputed tax	135% of disputed tax	62.5% of disputed tax	67.5% of disputed tax

Note:(1) The date 31st March 2020 has been extended to 30th June 2020 by press release dated.31st March 2020 of MOF, GoI. However it is expected that similar extension may be made the date 30th June 2020 as fixed with additional amount of settlement.

(2) Disputed tax arrears does not include tax 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 and the amount of **disputed tax exceeds five crore rupees.**



(3) Where 25% or 35% or 17.5% or 12.5% or 10% or 5% of disputed tax, as the case may be stated in the table, exceeds the total of interest and penalty, such excess amount shall be ignored.

(4) It is clarified that, 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 prescribes the manner of computation of disputed tax under above circumstances in Rule 9 of the Direct Tax Vivad se Vishwas Rule 2020 – Refer Para 2.9 and 2.10 in details the manner of computation as provided

2.8.3. “Issues covered in favour of the declarant” – Rule 2 (e) of DTVSV Rules 2020

It 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 is 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);



2.8.4. Analysis of provisions and views on important issues:

- (i) In case there are more than one issue or addition in respect of which the assessee is in appeal before higher forum and one of the addition is covered in favor of the assessee by the higher forum, then the benefit of the payment of tax at half of the normal rates prescribed shall be only available in respect of such issue which is covered in favor of the assessee and not all the issues.
- (ii) In case the appeal on one issue is decided by the appellate authority in favor of the assessee whereas the appeal on some other issue forming part of the said order is decided by the appellate forum in favor of the Department, then in case both the assessee and department files an appeal, the assessee shall be eligible for the benefit of making payment at half the normal rates only in respect of the Department appeal and in respect of appeal filed by him.
- (iii) In a case where an appeal or writ petition has been decided in favor of the assessee or department and the time for filing appeal or special leave petition against such order by the assessee or the Department has not expired, the disputed tax shall be the amount of tax payable by the assessee on the income after giving effect to the order so passed by the appellate forum.
- (iv) In case an appeal has been decided in favor of the assessee and the time limit to file the appeal by the Department is pending on 31.01.2020, so the disputed tax will be Nil. Since the amount payable under the Scheme is computed as a % of disputed tax, the same will also be Nil. As per section 3 whereby if an appeal has been filed by the Department, then on that issue, 50 per cent of the tax shall be payable. However, in case an issue has been decided in favor of the assessee and time for filing appeal by Department has not expired, then, no tax may be payable in respect of such issue which has been decided in favor of the assessee despite Department having time to file the appeal.
- (v) 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 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 table above calculated on such issue.

- (vi) In a case where an appeal is filed by the appellant on any issue 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), the amount payable shall be 50% of the disputed tax one-half of the amount in the Table above calculated on such issue.
- (v) It is clarified that, if the taxpayer avails Vivad se Vishwas for Transfer Pricing adjustment, the 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.

2.9 MANNER OF COMPUTATING DISPUTED TAX IN CASE WHERE LOSS OR UNABSORBED DEPRECIATION IS REDUCED – Rule 9 of DTVSV Rules 2020:

- (1)** Where the dispute in relation to an 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 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
- (i) 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:
 - (ii) 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 (50%)** 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:
 - (iii) 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 (125%)** 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:
 - (iv) 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 (62.50%)** 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.

2.10. MANNER OF COMPUTING DISPUTED TAX IN CASE WHERE MINIMUM ALTERNATE TAX (MAT) CREDIT IS REDUCED – RULE 9 OF DTVSV RULES 2020:

2.10.1. (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

(i) 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(50%)** by which MAT credit is reduced shall be considered for reduction, if such reduction is related to issues covered in favour of declarant:

(iii) 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 (125%)** 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 its reduction, such excess shall be ignored:

(iii) 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 (62.5%)** 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 (Alternative MAT) of the Income-tax Act.

2.10.2. Analysis of the Provisions:

Reduction of MAT credit or Loss or depreciation

As per the amendment in Vivad se Vishwas, in a case where the dispute in relation to an assessment year relates to reduction of



the 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 relate 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.

As per the above, the treatment in case of loss will be that either the taxpayer will pay tax on the income /loss added back by the Income Tax Department and will be allowed to carry forward the entire loss filed in his return. Alternatively the taxpayer will have to pay 25% of penalty leviable and carry forward only the loss allowed by the department.

Let us take one Example:

EXAMPLE: M/S KPL Ltd filed return of income u/s 139(1) declaring loss as ₹20 lakhs and paid self-assessment tax as Nil. The department conducted assessment u/s 143(3) and the loss reduced to ₹7.5 lakhs and also levied penalty on Under Reported income of ₹12.50 lakhs. Against the assessment order of the Assessing Officer, the assessee filed the appeal in respect of loss reduced to ₹7.5 lakhs

Now M/s KPL Ltd has 2 options under this scheme:

Option 1: Pay tax on ₹12.5 lakhs. Assessee will not have to pay Penalty leviable on this under reporting / undisclosed income. And also carry forward the loss of ₹20.00 lakhs (including ₹12.5 lakhs on which tax is paid)

OR

Option 2: To carry forward the reduced loss of ₹7.5 lakhs. Thus forgoing the loss of ₹12.5 lakhs to be carried forward Pay 25 % of the amount of penalty leviable on ₹12.5 lakhs under reporting

2.11. MANNER OF COMPUTATION OF DISPUTED TAX UNDER CERTAIN CASES:

Rule 11(1) provides that 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.

2.12. WHO CAN BE DECLARANT TO AVAIL THE SVHEME?

❖ Declarant means a person who files declaration under section 4 of the act (Section 2(1)(c). That the person who is liable to pay tax shall be the declarant. Income Tax authority shall not be the declarant even if appeal filed by the department in cases where the Assessee own the case in lower appellate forum as the settlement declaration to be initiated by the Taxpayer.

❖ Form of declaration and under taking :

- Rule 3 (1) provides that, the declaration under sub-section (1) of section 4 shall be made in **Form-1** to the designated authority. The Designated Authority who shall not be below the rank of Commissioner of Income Tax notified by the Principal Chief Commissioner for the purposes of this Act – (Ref section 2(1)(e)).
- Rule 3(2) provides that the undertaking referred to in sub-section (5) of section 4 shall be furnished in **Form-2** along with the declaration.
- 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 – Rule 3(3).
- The designated authority on receipt of declaration shall issue a receipt electronically in acknowledgement thereof.

2.13. WHAT ARE THE STEPS SHALL BE FOLLOWED IN AVAILING BENEFIT UNDER THE SCHEME?

Section 4 and 5 of the Act provides details of procedure to be followed by both the Appellant / Declarant and Designated



Authority from the starting of submission of declaration to till the close / settlement of tax disputes under the scheme.

It may be noted that if there are more than one additions or disallowances involved in the appeal, the declarant would be required to file declaration for all additions as well as disallowances. He cannot file declaration for some additions or disallowances and litigate on the remaining issues.

2.13.1. STEP -1-Declaration to be filed in respect of all issues in appeal / disputes:

- A declaration is required to be filed in accordance with the provision of section 4 of the Direct Tax Vivad se Vishwas Bill, 2020. Where there are two appeals filed for an assessment year – one by the appellant and one by the tax department, the appellant has an option to opt to settle appeal filed by it or appeal filed by the department or both.
- For different assessment years separate declarations have to be filed. So the appellant needs to specify in the declaration form 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. Declaration form is to be filed assessment year wise i.e. only one declaration for one assessment year.
- The declaration as referred in section 3 shall be file the declarant before the Designated Authority in the prescribed **Form-1** along with undertaking in **Form -2** (referred in section 4(5) of the act and 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.
- Designated authority has been defined to mean an officer not below the rank of a Commissioner of Income-tax notified by the Principal Chief Commissioner for the purposes of Direct Tax Vivad se Vishwas Act.



Note: (a) Deemed withdrawal of appeal before CIT(A) and ITAT

Up on 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 arrear 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 - Section 4(2)

(b) Proof of withdrawal of appeal before High Court or Supreme Court also within 15 days of receipt of order

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.- Section 4(3)

(c) Proof of withdrawal of claim in any proceeding for arbitration, conciliation or mediation and submission along with intimation of payment to Designated Authority.

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 – Section 4(4)



(d) Declarant to submit an undertaking.

*The declarant shall furnish an undertaking waiving his right, whether director 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, inequity, 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 **Form -2 and 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. The above is without prejudice to the provisions of sub-sections(2), (3)and (4) of section 4 as stated above.*

*It may be noted that, under the amended procedure no appeal is required to be withdrawn before the grant of certificate by Designated Authority (DA). After the grant of certificate by DA under clause 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 clause. **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.*

2.13.2. STEP -2:Form of certificate by designated authority:

Order to be passed determining the amount payable under the Act and certificate to be issued

- The designated authority (Not below the rank of Commissioner of Income Tax) shall, with in 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 **Form -3** [Section 5(1) read with Rule 4].



- The certificate in **Form -3** shall cover the details of disputes settled assessment year wise, tax arrear, amount payable under section 3, amount already paid and balance amount payable / refundable.
- The declarant is also directed to pay the balance amount within 15 days from the date of receipt of the certificate.
- In case of non-payment of amount payable within the said period of 15 days, the declaration under **Form -1** shall be treated as void and shall be deemed never to have been made.

2.13.3. STEP-3: Intimation of payment by the declarant:

Payment of amount within 15 days of the receipt of the order

- The **declarant** shall pay the amount determined under sub-section (1) of section 5 within 15 days of the date of receipt of the certificate- Section **5(2)**.
- 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, speed **al** leave petition, arbitration, conciliation, mediation or claim filed by the declarant to the designated authority in **Form-4**.
- In case the declarant has already made payment before filing of declaration, the excess amount paid by him shall be refunded without any interest u/s 244.

2.13.4. STEP-4: Order by designated authority:

- The designated authority on receipt of intimation in respect of payment under section 5(2) of the act, in the prescribed Form-4 shall pass an order in Form -5 for full and final settlement of tax arrear under section 5 (2) read with section 6 of the act.
- By exercising the power conferred under section 5(2) read with section 6 of the act, the designated authority shall certify that
 - (i) specified sum has been paid by the declarant towards full and final settlement of tax arrear determined referring to the order number and date of the order.



- (ii) the immunity is granted subject to provisions contained in the act, from instituting any proceedings for prosecution for any offence under the Income tax Act or from imposition of any penalty under the said enactment 9 as per section 6 of the act), in respect of tax arrear as determined in the said order which states the assessment year, details of disputes nature of tax arrear and the amount of tax arrear.
- (iii) the order also clarify 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.
- (iv) the copy of the order shall be issued not only to the declarant but also to the Assessing Officer, the concerned Principal Commissioner of Income-tax and concerned Appellate Forum.

Note: Every order passed under sub-section(1), determining the amount payable under this Act, shall be conclusive as to the matters stated there in 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 in to by India with any other country or territory out side India - Section 5 (3).

"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."



2.13.5. Analysis of the provisions and clarification (Pl refer the FAQ issued vide Circular No.7/202 dated.4th March 2020)

- (i) The Designated Authority(DA)shall be able to amend his order under clause 5 to rectify any apparent errors.
- (ii) 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.
- (iii) On intimation of payment to the DA by the appellant pertaining to department appeal / writ / SLP, the department shall withdraw such appeal / writ / SLP.
- (iv) Once declaration is filed under Vivad se Vishwas, and for financial difficulties, payment is not made accordingly, the declaration will become null and void.
- (v) Where the demand in case of an assessee has been reduced partly or fully by giving appeal effect to the order of appellate forum, 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.
- (vi) When addition was made u/s 143(3) on two issues whereas appeal is filed only for one addition, in such cases 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,
- (vii) Where there are two appeals filed for an assessment year— one by the appellant and one by the tax department, in such cases, 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 appellant needs to specify in the declaration form 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.

- (viii) Where there is substantive addition as well as protective addition in the case of same assessee for different assessment year or there is substantive addition in case of one assessee and protective addition on same issue in the case of another assessee, 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.
- (viii) (a) Where assessee settles TDS appeal or withdraws arbitration (against order U/S 201) as deductor of TDS. 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. (Refer Example below)
- (b) Where assessee settles TDS liability as deductor of TDS under Vivad se Vishwas (i.e against order u/s 201), 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 9Ref – Example below).

Example: In case of M/S LLK Ltd, 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.

- (ix) ITAT has passed an order giving relief on two issues and confirming three issues. Time to file appeal has not expired as on specified date. 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.



- (x) If taxes are paid after availing the benefits of the Vivad se Vishwas and later the amount shall not be refundable to the tax payer under any circumstances.
- (xi) The issues which are covered in the declaration under Vivad se Vishwas shall not be applied to same issues pending before the AO. The settlement of disputes shall be made without any prejudice to same issues pending before AO. 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.

2.13.6. Manner of furnishing of Form -1, Form -2, Form -3 and Form - 4 prescribes under the DTVSV Rule 2020. –

- Rule 6 of Direct Tax Vivad se Vishwas Act 2020 provides that 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.
- These forms are required to be signed by the declarant or any person who is competent to verify the return of income on his behalf in accordance with section 140 of the income tax act, 1961 shall be submitted by the declarant)electronically under
- As per Explanation to Rule 6, 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. An **Electronic Verification Code (EVC)** is a 10 digit alphanumeric **code** which is sent to the registered mobile number of the tax filer while filing his/her returns **online**. It helps **verify** the identity of the tax filers. An **EVC** can be generated through the **e-filing** portal of Income Tax Department.

Pl refer PARA 2.20.2 for detail procedures of online filing of different Forms:



2.14. WHAT ARE THE CIRCUMSTANCES WHERE IT IS TREATED THAT NO DECLARATION MADE U/S 4:

2.14.1. To avail the benefit under the Scheme, it is required step -1 to make declaration in the prescribed Form -1 & 2. However section 4(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 in under sub-section (5) of section 5 related to waiving his right, whether director 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, inequity, under statute or under any agreement entered in to by India with any country or territory outside India whether for protection of investment or other wise.
- (d) non-payment of amount payable within the said period of 15 days (declaration under Form -1 shall be treated as void and shall be deemed never to have been made).

So in above 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.

2.15. WHAT HAPPENED IF THE DECLARANT PAID THE AMOUNT AS PER SCHEME UNDER SETTLEMENT?

Section 4 (7) provides that, no appellate for 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.



As per section 6, 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 arrears. This shall be reiterated in the order under section 5(2) passed by designated authority.

2.16. REFUND OF EXCESS AMOUNT PAID UNDER THE SCHEME:

Section 7 provides that, any amount paid in pursuance of a declaration made under section 4 shall not be refundable under any circumstances.

However for removal of doubt, it is clarified vide "Explanation to this section 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..

Example: *It is 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



2.17. IMMUNITY FROM PROSECUTION, LEVY OF PENALTY AND CHARGING OF INTEREST.

As per the provision of section 6, immunity will be granted from institution of any proceeding for prosecution for any offence under the Income-tax Act in respect of matters covered in the declaration. Further, the immunity will also be provided from imposition of penalty and levy of interest in respect of such matters. The amount paid under the Scheme shall be full and final settlement in respect of such matter and shall be conclusive as to the matters stated in the Declaration and no matter covered by such certificate shall be reopened in any other proceeding under the Act or any other law for the time being in force. Further, it may be noted that filing of the declaration will not set any precedence and neither the Department nor the declarant can claim in any other proceedings that the taxpayer or the Department has conceded its tax position by settling the dispute.

2.18. WHICH CAESE ARE EXCLUDED FROM TAX VIVAD SE VISHWAS SCHEME?

As per section 9 of the Act, the provisions of this Act shall not apply to following cases

(a) In respect of Tax arrears,—

- (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;”,
 - *Search cases where the order is passed under section 153A or section 153C including year of search where order has been passed under section 143(3) or 144, if the amount of disputed tax is more than ₹ 5 crore in the relevant assessment year. This condition of ₹5 crore of disputed tax shall also apply to the search year where assessment is not completed under section 153A or 153C but under section 143(3) or 144.*



- *This limit of ₹5.00 crore of disputed tax is to be computed with reference to an assessment year and hence there is a possibility that an assessee may be eligible in one or more assessment year where disputed tax is less than ₹5.00 crore and may not be eligible in other assessment year/years if the disputed tax is ₹5.00 crore or more in those assessment years.*
 - *It may also be noted that as per the definition of disputed tax this amount of ₹5 crore apparently will be the tax on the income determined by the Assessing Officer which may include income declared by the assessee in its return.*
- (ii) relating to an assessment year in respect of which prosecution has been instituted on or before the date of filing of declaration.

In the case of an assessee prosecution has been instituted and is pending in court and he is not eligible for the Vivad se Vishwas. However, where only notice for initiation of prosecution has been issued with reference to tax arrears, the taxpayer has a choice to compound the offence and opt for Vivad se Vishwas.

- (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. (from foreign countries under Double Tax Avoidance Agreement or an agreement for exchange of information entered into with a foreign county).

(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, there view 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 aid 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 following acts 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;

- **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**

(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.

Barring the above cases / persons, the provisions of the Bill are applicable to all the other cases that are eligible. It may be noted that the benefit of the Scheme will be available regardless of the nature of addition or disallowance made. The addition may be made under section 68 on account of unexplained cash credit such as share capital, share application money, unsecured loan or under section 69 on account of unexplained investments or under section 69A on account of unexplained money or under section 69B on account of investments not fully disclosed in the accounts or under section 69C on account of unexplained expenditure, dispute on income claimed to be exempt such as capital gain, long term vs short term, business income vs capital gain, exemption under any provision of the Act, etc. The nature of addition or disallowance made is immaterial for the purpose of the Scheme.

2.19. MISCELLANEOUS PROVISIONS:

2.19.1.(a) Power of Board to issue direction:

Section 10 provides that

- 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 except requiring any designated authority to dispose of a particular case in a particular manner – section 10(1).
- 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 – section 10(2).



2.19.2.(b) Power to remove difficulties:

Section 11 provides that,

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.

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.

Every order made as above shall, as soon as may be after it is made, be laid before each House of Parliament.

2.19.3. (c) Power to make rules:

Section 12 provides that

- The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act which may provide for all or any of the following matters, namely:—
 - ✓ the form in which a declaration may be made, and the manner of its verification under section 4 (Form-1 under rule 3).
 - ✓ the form and manner in which declarant shall furnish undertaking under sub-section (5) of section 4; (Form – 2 under rule 3)
 - ✓ the form in which certificate shall be granted under sub-section (1) of section 5 (Form – 3 under rule 4);
 - ✓ the form in which payment shall be intimated under sub-section (2) of section 5; (Form 4 under rule 5)
 - ✓ 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;
 - ✓ the manner of calculating the amount payable under this Act.”.



any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules. Accordingly Form -5 has been prescribed under rule 7 which is related to order for full and final settlement.

- 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 – **Section 12(2)**. 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 – **section 12(3)**.

2.20. LAYING DOWN OF PROCEEDURE, FORMATS AND STANDARDS - Rule 8 of DTVSVA 2020:

2.20.1.The Rule 8 provides that 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-S under 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.



2.20.2. Procedures for online filing of different Forms under the Vivad se Vishwas Scheme

1. Central Board of Direct Tax vide **Notification No. 12 of 2020 New Delhi, the 19th March, 2020** has notified the procedure for making declaration in Form-1 under sub-rule (1) of Rule 3 and furnishing undertaking in Form-2 under sub-rule (2) of Rule 3 under The Direct Tax Vivad se Vishwas Rules, 2020.

In exercise of the powers conferred under Rule 8 of the **The Direct Tax Vivad se Vishwas Rules, 2020**, the Principal Director General of Income Tax (Systems) hereby lays down the following procedures:

2. Online filing of Form-1 and Form-2:

- i. All the declarants filing declaration under sub-section (1) of section 4 of the **The Direct Tax Vivad se Vishwas Act, 2020**, are required to file the declaration in Form -1 online on the e-Filing portal of the Department: www.incometaxindiaefiling.gov.in.
- ii. The declarants are further required to furnish the undertaking referred to in sub-section (5) of section 4 electronically in Form-2 along with the declaration online on the e-Filing portal of the Department: www.incometaxindiaefiling.gov.in.
- iii. The submission of Form-1 and Form-2 shall be done in conjunction as a single submission. The declaration and undertaking shall be verified in accordance with section 140 of the Income-tax Act, 1961.
- iv. Form-1 and Form-2 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.
- v. Please refer to Pr. DGIT Notification in F No. 1/23/CIT(OSD)/E-filing – Electronic Verification/ 2013-14 -Notification No. 2/2015 dt. 13th of July 2015 and F.No. 1/23/CIT(OSD)/E-filing-Electronic Verification/2015-16 – Notification No. 1/2016 dt. 19th of January, 2016 for details regarding Electronic Verification Code (EVC) for electronically filed Income Tax Return which will be applicable for the submission under this Notification.



3. Preparation and submission of Form-1 and Form-2:

- i. Form-1 and Form-2 shall be available for data entry and preparation online to the declarant after login.
- ii. The declarant is required to login into the e- Filing portal: www.incometaxindiaefiling.gov.in using their valid credentials.
- iii. A link for filing the Form -1 and Form -2 has been provided under e-Filing portal: www.incometaxindiaefiling.gov.in "Login using User name and password "Select Vivad se Vishwas Tab "Select 'Prepare and Submit DTVSV Forms'.
- iv. Select Form-1 and Assessment Year (or Financial Year as applicable for Tax Deduction/Collection at Source related cases) and filing type (original/revised) from the drop down.
- v. Form-1 contains specific schedules and the declarants are required to fill the relevant schedules and tables under the schedules with validations for proper submission of the declaration.
- vi. Form-2 shall also be submitted electronically on the e-Filing portal on the same path.
- vii. These Forms can be submitted by clicking on "Submit" button.
- viii. Digital Signature Certificate or Electronic Verification Code is mandatory to submit these Forms.
- ix. Acknowledgement number for submission of declaration shall be generated electronically.

4. Viewing submitted Forms

i. The submitted Forms would be available for view and download by going to www.incometaxindiaefiling.gov.in -Login using User name and password -Select Vivad se Vishwas Tab -***Select 'View DTVSV Forms'**

5. Submission to designated authority.-

i. Online submission of Form-1 and Form-2 in the manner prescribed herein would be treated as submission to the designated authority as prescribed under Clause (e) of Section 2 of the **The Direct Tax Vivad se Vishwas Act, 2020.**



6. Instructions and FAQs to fill the Forms are available on the e-Filing Portal: incometaxindiaefiling.gov.in.

2.21. DATES OF AVAILING OF BENEFITS OF THE SCHEME:

- The “**specified date**” provided under the act means the 31st day of January, 2020.
- The “**last date**” provides under the Act means such date as may be notified by the Central Government in the Official Gazette. *However the last date for availing the benefit under the scheme is kept as 30th June 2020 with additional payment.*

2.22. FEW EXAMPLES ON HOW TO DETERMINE DISPUTED TAX: ₹in lakhs

2.22.1. Computation of disputed tax:

EXAMPLE-1: Mr A is a resident Individual whose age is less than 60 years having following relevant information. Calculate disputed tax to be payable by the taxpayer opting for ‘Direct Tax Vivad Se Vishwas Bill’ and he pays disputed tax on or before March 31, 2020.

Relevant information as follows.

(a)	Relevant Assessment Year	2017-18
(b)	Taxable income as per income-tax return:	₹ 12,00,000
(c)	Total tax paid:	₹ 1,90,550
(d)	Addition made by the Assessing Officer:	₹ 3,50,000
(e)	Additions deleted by the CIT(A):	₹ 1,50,000
(f)	Additions confirmed by the CIT(A):	₹ 2,00,000.
(g)	Interest charged in respect of additions:	₹ 65,145
(h)	Penalty charged in respect of additions:	₹ 1,73,295

Scenario 1: Neither taxpayer nor Dept. challenge the order of CIT(A) and time limit for filing an appeal before ITAT has not expired on or before 31-01-2020.



Though none of the aggrieved party has filed an appeal before the appellate forum, the taxpayer can opt for the scheme as the time limit for filing an appeal has not expired on or before 31-01-2020.

The disputed tax in this scenario shall be calculated as per Section 2(j)(B) of Direct Tax Vivad se Vishwas Act 2020, which shall be the amount of tax payable by the taxpayer after giving effect to the order so passed. In this case, the disputed tax shall be computed after giving effect to the order passed by the CIT(A).

Particulars	Amount - ₹
Net taxable income	12,00,000
<i>Add:</i> Additions made by the Assessing Officer	3,50,000
<i>Less:</i> Additions deleted by CIT(A)	(1,50,000)
Total taxable income [A]	14,00,000
Income-tax (including cess) [B]	2,53,350
<i>Less:</i> Tax already paid with the return of income	(1,90,550)
Tax to be paid under the scheme	62,800

Mr A shall be required to pay ₹62,800 only and interest/penalty levied by AO shall be waived off completely.

Scenario 2: *Taxpayer files an appeal before the ITAT against the confirmed additions. However, dept. does not file a cross appeal against deleted additions. Appeal is pending before the ITAT as on 31-01-2020.*

The disputed tax in this scenario shall be calculated as per Section 2(j)(A) Direct Tax Vivad se Vishwas Act 2020, which shall be the amount of tax payable by the taxpayer if such appeal was to be decided against him. In this case, the disputed tax shall be computed assuming that the ITAT decides against taxpayer and confirms the order of the CIT(A). The amount of disputed tax under this scenario shall be similar to scenario - 1.

Scenario 3: *Taxpayer files an appeal before the ITAT against the confirmed additions and dept. also files cross appeal against deleted additions. Appeal is pending before the ITAT as on 31-01-2020.*



In this scenario, the taxpayer has a choice, he can settle issue related to confirmed additions or he can settle issue related to deleted additions or he can settle both.

If taxpayer wants to settle both the issues, the disputed tax in this scenario shall be calculated as per section 2(j)(A) Direct Tax Vivad se Vishwas Act 2020 , which shall be the amount of tax payable by the taxpayer if such appeal was to be decided against him. In this case, the disputed tax shall be computed assuming that the ITAT decides against taxpayer in both the appeals filed by him and the dept. However, on the part of additions deleted by CIT(A), only 50% of disputed tax is to be paid by the taxpayer.

Computation of the amount of disputed tax can be done in the following steps:

Step 1: Calculate tax on total income including all additions made by the assessing officer.

Particulars	Amount – ₹
Net taxable income	12,00,000
Add: Additions made AO	3,50,000
Total taxable income [A]	15,50,000
Income-tax (including cess) [B]	2,98,700
Average tax rate [C = B/A*100]	19.27%

Step 2: Calculate the disputed tax

Particulars	Tax on disputed income – ₹
Additions deleted by the CIT(A) [D]	1,50,000
Additions confirmed by the CIT(A) [E]	2,00,000
Total disputed income [F]	3,50,000
Total tax liability after assessment	2,98,700
Less: Tax on disputed income deleted by the CIT(A) [G = C * D] * 50%	(14,453)
Total disputed tax [H]	2,84,247



Less: Tax already paid with the return of income	(1,90,550)
Tax to be paid under the scheme	93,697

Mr A shall be required to pay ₹ 93,697 only and interest/penalty levied by AO shall be waived off completely.

Scenario 4: Dept. files an appeal before the ITAT against the additions deleted by the CIT(A) and taxpayer does not file cross appeal against confirmed additions. Appeal is pending before the ITAT as on 31-01-2020.

The disputed tax in this scenario shall be calculated as per clause section 2(j)(A) of Direct Tax Vivad se Vishwas Act 2020 , which shall be the amount of tax payable by the taxpayer if such appeal was to be decided against him. In this case, the disputed tax shall be computed assuming that the ITAT decides against taxpayer in the appeal filed by the dept. In respect of additions confirmed by the CIT(A), which is not challenged by the assessee before the ITAT, the assessee shall be liable to pay the amount of tax and the penalty & interest thereon.

The amount of disputed tax shall be the same as computed in Scenario 3. However, the total amount payable shall be different.

Calculation of total amount payable by the assessee for Assessment Year 2017-18 shall be as under:

Particulars	Amount – ₹
Additions by Assessing Officer [A]	3,50,000
Additions confirmed by CIT(A) in respect of which scheme cannot be availed [B]	2,00,000
Interest levied by the Assessing Officer [C]	65,145
Penalty levied by the Assessing Officer [D]	1,73,295
Tax payable (<i>calculated in scenario 3</i>)	93,697
<i>Add: Interest on confirmed additions [C/A*B]</i>	37,226
<i>Add: Penalty on confirmed additions [D/A*B]</i>	99,026
Total disputed tax [H]	2,29,949



Note: The above computation are given by of examples. However a different views may be taken by the uses by way of interpretation of provisions under the DTVSV Act / Rules 2020. The rate of tax as applicable for the relevant assessment year would be taken for computation. These basis of computation should not be taken for submission of application in the prescribed formats with designated authority. The declarant while submitting the prescribed forms should follow specified computation as provided in the respective formats and instructions given and provisions of relevant act / rules.

Note: * Please note the Press Release of Ministry of Finance, Govt. of India dated. 31st March 2020 regarding substitution of dated. 31st March 2020 to 30th June 2020. The press release may be read as follows.

“(viii) Under Vivad se Vishwas Scheme, the date has also been extended up to 30.06.2020. Hence declaration and payment under the Scheme can be made up to 30.06.2020 without additional payment”.

DIRECT TAX VIVAD SE VISHWAS ACT, 2020

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 17th March, 2020/Phalguna 27, 1941 (Saka)

The following Act of Parliament received the assent of the President on the 17th March, 2020, and is hereby published for general information:—

THE DIRECT TAX VIVAD SE VISHWAS ACT, 2020

NO. 3 OF 2020

[17th March, 2020.]

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

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;”;

Interpretation - According to this Scheme, the income tax authority, or the person, or both, whose appeal is pending before any appellate forum as on 31st January, 2020 will be treated as appellant

- (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. 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:—

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. (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 arrear 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 may be 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. (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.

Interpretation

Appellant will file declaration under this scheme



The designated authority shall determine the **amount payable** by the declarant **within 15 days** from the date of receipt of the declaration



The designated authority will 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.



The declarant shall **pay the amount** determined **within 15 days** of the date of receipt of the certificate and intimate the details of payment to the designated authority



The designated authority shall **pass an order** stating that the declarant has paid the amount.

6. 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. 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. 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. 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.

Interpretation with Example

- Disputed tax arising out of search or seizure proceedings;

The Income Tax Officer after getting the information that Mr. Y is in the possession of unaccounted cash of Rs. 50 Lakhs initiated search and seizure procedure u/s 132 since that unaccounted cash represents income which should be taxed. In this Case, Vivad se Viswas Scheme is not applicable

- The prosecution has been initiated before filing of the declaration;

An assessee had restrained and not allowed the officer authorized u/s 132 of the Act to inspect the documents maintained in electronic form and books of accounts.. In this situation assessee shall be liable for prosecution u/s 275B. In this situation, Vivad se Viswas Scheme is not applicable even if the assess wants to file declaration under this new scheme

- Tax arrears is in relation to undisclosed foreign source income

Mr. B, an Indian Resident , has earned prize money of Rs. 20 Lakhs by winning a lottery in Canada and suppressed this income in Income Tax Return which must be taxable in India. In this case Vivad se Viswas Scheme is not applicable

- Where an addition is based on the information received from a foreign country as part of an exchange of information u/s 90 or 90A;

An assessee having income from Foreign Country has suppressed his foreign income partly. However, under tax credit method, the total foreign income should be taxed in the country from where income has been arised, in addition to the country of residence. In this case Vivad se Viswas Scheme is not applicable



- Where enhancement proposed by the CIT(A).

A.O.(Assessing officer) has disallowed certain expenses of Rs. 1,00,000 to the returned income of PQR Ltd and this has been brought to the notice by A.O to CIT(A). Then CIT(A) rectified the mistake and as per instruction of CIT(A) A.O served demand notice to assessee. In this case Vivad se Viswas Scheme is not applicable

- Where any person who has been detained under The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, before the filing of a declaration;

An assessee was caught red handed for smuggling of gold and detained. That assessee is not eligible to take benefit of Vivad se Viswas Scheme

- Where, Any person, in whose case the prosecution has been initiated prior to the filing of a declaration under any of the specified acts

An assessee against whom prosecution under Prevention of Money Laundering Act, 2002 or Prohibition of Benami Property Transactions Act, 1988, etc. are pending is not eligible to take benefit of Vivad se Viswas Scheme

- Any person notified under Special Court (Trial of Offences Relating to Securities) Act, 1992, before the filing of a declaration

10. (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.(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.(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.

DR. G. NARAYANA RAJU,

Secretary to the Govt. of India.

DIRECT TAX VIVAD SE VISHWAS RULE, 2020

MINISTRY OF FINANCE

(Department of Revenue) NOTIFICATION

New Delhi, the 18th March, 2020

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 144C of the Income-tax Act, or application filed under section 264 of the Income-tax Act;
 - (c) “eligible search cases” means cases in 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 and the amount of disputed tax does not exceeds 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 is 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 Acts.

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 of amount payable by the declarant as per certificate 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-5 under 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 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 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 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.

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 its 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.

11. **Manner of computing disputed tax in certain cases –**
(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.

The following 5 types of Forms have been notified under the Rules.

Form No.	Purpose of Forms
Form-1	Form for filing declaration
Form-2	Undertaking u/s 4(5) of the Direct Tax Vivad Se Vishwas Act, 2020
Form-3	Form of Certificate u/s 5(1) of the Direct Tax Vivad Se Vishwas Act, 2020
Form-4	Intimation of payment u/s 5(2) of the Direct Tax Vivad Se Vishwas Act, 2020
Form-5	Order for Full and Final Settlement of Tax Arrear under section 5(2) read with section 6 of The Direct Tax Vivad Se Vishwas Act, 2020



FORM-1
(see rule 3)
Form for filing declaration

PART A – GENERAL INFORMATION											
PAN / Aadhaar No.			Name of appellant			TAN			Mobile No.		
Email Address											
INFORMATION RELATING TO ELIGIBILITY											
Whether the applicant is appellant in terms of section 2 of the Direct Tax Vivad se Vishwas Act, 2020 (DTVSV) and is not ineligible to apply in terms of section 9 of DTVSV?										Yes	No
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											
PART B – INFORMATION RELATING TO DISPUTE											
Nature of tax arrears			Disputed tax/ Disputed Interest/ Disputed Penalty/ Disputed Fee			Details of pending [*] appeal / writ / SLP / DRP Objections / Revision application/ Arbitration/ Conciliation/ Mediation – Whether Appeal /objection/revision/ Writ / LP/ Arbitration/ Conciliation/ Mediation?			(Drop down to be provided in e-filing utility) Based on the combination of nature of disputed tax, appellate forum and appellant relevant schedule will be filled by the declarant		
Details of order by which tax arrears determined (1) Assessment Year / Financial Year (2) Section under which order passed (there could be multiple sections for same assessment year)			Drop down to be provided in the e-filing utility) If declaration is with respect to appeal, writ, SLP, arbitration, conciliation or mediation for disputed tax including disputed TDS/TCS appeals there pending appeal, writ or SLP for interest or penalty imposed in relation to such disputed tax - YES/ NO			(1) Whether already filed? – Yes/No (2) Appellate Forum – CIT(A) / DRP/ CIT/ PCIT/ TAT / HC / SC (3) Whether already filed? – Yes/No (4) If No, date on which time-limit for filing expires in case of assesse (5) If yes, filed by – (Tick the relevant option) – Assesse/ Department / Both (6) Date on filing (7) Reference number (8) Whether DRP case? (9) If yes, whether directions passed by DRP on or before 31.1.2020? (10) If yes, whether order passed by AO? (If yes, not eligible) (11) Whether revision application case? (12) If yes, date of filing *Pending also include to be filed			If Yes, give details of such appeal, writ or SLP, (details to be captured in e-filing utility)		



<p>(3) Income-tax authority / Appellate Forum who passed the order (there could be multiple orders for same assessment year)</p> <p>(4) Date on which order passed (there could be multiple dates for same assessment year)</p> <p>(5) Whether search case with disputed tax less than Rs. 5 crores in the assessment year? (information flag relevant for rate at which amount payable is to be computed)</p>			
PART C – INFORMATION RELATED TO TAX ARREARS			
(i)	Tax arrears (as per schedule)		
PART D – INFORMATION RELATED TO AMOUNT PAYABLE			
(ii)	Total amount payable under DTVSV if paid on or before 31.3.2020	Pick up from X from relevant schedule (in case of both assessee and deptt appeal, add them up)	
(ii)	Total amount payable under DTVSV if paid after 31.03.2020	Pick up from Y from relevant schedule (in case of both assessee and deptt appeal, add them up)	
PART E – INFORMATION RELATED TO PAYMENTS AGAINST TAX ARREAR			
(i)	Whether the declarant has made any payment against tax arrears before filing of declaration?	Yes	No
(ii)	If yes, please fill following details		
S. No.	Date of payment	Amount	BSR Code
1.			
(iii)	Total payments against 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)		
VERIFICATION			
<p>I(name in block letters) son/daughter of Shri solemnly 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.</p> <p>I further declare that I am making this declaration in my capacity as (drop down to be provided) and that I am competent to make this declaration and verify it. I am holding permanent account number / Aadhaar No.(if allotted)</p> <p>Place</p> <p>.....</p> <p>Date</p> <p style="text-align: right;">Name and signature of the declarant</p>			



A Schedules applicable where declaration relates to disputed tax (Applicable in case of PAN)

Combination: Disputed tax + CIT(A) + Assessee

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**

A	Total income as per order against which appeal filed OR to be filed	A	
B	Disputed income out of A		
	(i) 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)	B(i)	
	(ii) relating to issues other than B(i)	B(ii)	
C	Disputed tax in relation to disputed income at B(i)	C	
D	Disputed tax in relation to disputed income at B(ii)	D	
E	Tax effect of enhancement, if any, by CIT(A)	E	
F	Total disputed tax (C+D+E)	F	
G	Interest charged on disputed tax	G	
H	Penalty levied on disputed tax	H	
I	Tax arrears (F+G+H)	I	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case $0.5 * C + D + E$ If search case $0.625 * C + 1.25 * D + 1.25 * E$	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case $0.55 * C + 1.1 * D + 1.1 * E$ If search case $0.675 * C + 1.35 * D + 1.35 * E$	Y	

**Combination: Disputed tax + DRP draft order + Assessee**

Schedule II. To be filed 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

A	Total income as per draft order against which objections filed OR to be filed		A	
B	Disputed income out of A -			
	(i)	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)	B(i)	
	(ii)	relating to issues other than B(i)	B(ii)	
C	Disputed tax in relation to disputed income at B(i)		C	
D	Disputed tax in relation to disputed income at B(ii)		D	
E	Total disputed tax (C+D)		E	
F	Interest charged on disputed tax		F	
G	Penalty levied on disputed tax		G	
H	Tax arrears (E+F+G)		H	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case $0.5 * C + D$ If search case $0.625 * C + 1.25 * D$		X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case $0.55 * C + 1.1 * D$ If search case $0.675 * C + 1.35 * D$		Y	

Combination: Disputed tax + DRP direction + Assessee

Schedule III. To be filed 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

A	Total income as per directions of DRP		A	
B	Disputed income out of A			
	(i)	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)	B(i)	
	(ii)	relating to issues other than B(i)	B(ii)	



C	Disputed tax in relation to disputed income at B(i)	C	
D	Disputed tax in relation to disputed income at B(ii)	D	
E	Total disputed tax (C+D)	E	
F	Interest charged on disputed tax	F	
G	Penalty levied on disputed tax	G	
H	Tax arrears (E+F+G)	H	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case $0.5 * C + D$ If search case $0.625 * C + 1.25 * D$	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case $0.55 * C + 1.1 * D$ If search case $0.675 * C + 1.35 * D$	Y	

Combination: Disputed tax + ITAT + Assessee

Schedule IV. To be filed 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

A	Total income as per order against which appeal filed OR to be filed		A	
B	Disputed income out of A			
	(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)	B(i)	
	(ii)	relating to issues other than B(i)	B(ii)	
C	Disputed tax in relation to disputed income at B(i)		C	
D	Disputed tax in relation to disputed income at B(ii)		D	
E	Total disputed tax (C+D)		E	
F	Interest charged on disputed tax		F	
G	Penalty levied on disputed tax		G	
H	Tax arrears (E+F+G)		H	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case $0.5 * C + D$ If search case $0.625 * C + 1.25 * D$		X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case $0.55 * C + 1.1 * D$ If search case $0.675 * C + 1.35 * D$		Y	

**Combination: Disputed tax + ITAT + Department**

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.**

A	Total income as per order against which appeal filed OR to be filed	A	
B	Disputed income out of A	B	
C	Disputed tax in relation to disputed income at B	C	
D	Interest charged on disputed tax	D	
E	Penalty levied on disputed tax	E	
F	Tax arrears (C+D+E)	F	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case $0.5 * C$ If search case $0.625 * C$	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case $0.55 * C$ If search case $0.675 * C$	Y	

Combination: Disputed tax + HC + Assessee

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**

A	Total income as per order against which appeal / writ filed OR appeal to be filed	A	
B	Disputed income out of A	B	
C	Disputed tax in relation to disputed income at B	C	
D	Interest charged on disputed tax	D	
E	Penalty levied on disputed tax	E	
F	Tax arrears (C+D+E)	F	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case C If search case $1.25 * C$	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case $1.1 * C$ If search case $1.35 * C$	Y	



Combination: Disputed tax + HC + Department

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.

A	Total income as per order against which appeal/ writ filed OR appeal to be filed	A	
B	Disputed income out of A	B	
C	Disputed tax in relation to disputed income at B	C	
D	Interest charged on disputed tax	D	
E	Penalty levied on disputed tax	E	
F	Tax arrears (C+D+E)	F	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case $0.5 * C$ If search case $0.625 * C$	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case $0.55 * C$ If search case $0.675 * C$	Y	

Combination: Disputed tax + SC + Assessee

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

A	Total income as per order against which appeal / writ / SLP filed OR appeal / SLP to be filed	A	
B	Disputed income out of A	B	
C	Disputed tax in relation to disputed income at B	C	
D	Interest charged on disputed tax	D	
E	Penalty levied on disputed tax	E	
F	Tax arrears (C+D+E)	F	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case C If search case $1.25 * C$	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case $1.1 * C$ If search case $1.35 * C$	Y	

**Combination: Disputed tax + SC + Department**

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.**

A	Total income as per order against which appeal / writ / SLP filed OR appeal /SLP to be filed	A	
B	Disputed income out of A	B	
C	Disputed tax in relation to disputed income at B	C	
D	Interest charged on disputed tax	D	
E	Penalty levied on disputed tax	E	
F	Tax arrears (C+D+E)	F	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case $0.5 * C$ If search case $0.625 * C$	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case $0.55 * C$ If search case $0.675 * C$	Y	

Combination : Disputed tax + 264 + Assessee

Schedule X. **To be filled in caserevision application of assessee u/s 264 is pending before PCIT/CIT as on 31.01.2020**

A	Total income as per order against which revision application filed	A	
B	Disputed income out of A	B	
C	Disputed tax in relation to disputed income at B	C	
D	Interest charged on disputed tax	D	
E	Penalty levied on disputed tax	E	
F	Tax arrears (C+D+E)	F	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case C If search case $1.25 * C$	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case $1.1 * C$ If search case $1.35 * C$	Y	



Combination: Disputed tax + Arbitration/Conciliation/Mediation + Assessee

Schedule XI. **To be filled in case arbitration or conciliation or mediation of assessee is pending as on 31.01.2020**

A	Total income as per order against which arbitration / conciliation / mediation has been filed	A	
B	Disputed income out of A	B	
C	Disputed tax in relation to disputed income at B	C	
D	Interest charged on disputed tax	D	
E	Penalty levied on disputed tax	E	
F	Tax arrears (C+D+E)	F	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case C If search case 1.25*C	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case 1.1*C If search case 1.35*C	Y	

B. Schedules applicable where declaration relates to disputed TDS/TCS (Applicable for TAN): Combination: Disputed TDS / TCS + CIT(A) + Deductor/Collector

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**

	<u>Appeal reference number</u>		
A	Amount of TDS / TCS disputed in appeal OR in appeal to be filed	A	A(i)+A(ii)
	(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)	A(i)	
	(ii) relating to issues other than A(i)	A(ii)	
B	Tax effect of enhancement, if any, by CIT(A)	B	
C	Interest charged on disputed TDS / TCS	C	
D	Penalty levied on disputed TDS / TCS	D	
E	TDS / TC Sarrears (A+B+C+D)	E	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case $0.5*A(i) + A(ii) + B$ If search case $0.625*A(i) + 1.25*A(ii) + 1.25*B$	X	



Y	Amount payable under DTVSV after 31.03.2020 If non-search case $0.55*A(i) + 1.1*A(ii) + 1.1*B$ If search case $0.675*A(i) + 1.35*A(ii) + 1.35*B$	Y	
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Combination : Disputed TDS/TCS + ITAT + Deductor/Collector

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

A	Amount of TDS / TCS disputed in appeal OR in appeal to be filed		A	A(i)+A(ii)
	(i)	relating to issues, which have been decided in favour of assessee in his case for any assessment financial year by High Court (and such order has not been subsequently reversed by the Supreme Court)	A(i)	
	(ii)	relating to issues other than A(i)	A(ii)	
B	Interest charged on disputed TDS / TCS		B	
C	Penalty levied on disputed TDS / TCS		C	
D	TDS / TCS arrears (A+B+C)		D	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case $0.5*A(i) + A(ii)$ If search case $0.625*A(i) + 1.25*A(ii)$		X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case $0.55*A(i) + 1.1*A(ii)$ If search case $0.675*A(i) + 1.35*A(ii)$		Y	

Combination : Disputed TDS/TCS + ITAT + Department

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.

	Amount of TDS / TCS disputed in appeal OR in appeal to be filed		
A	TDS/TCS default for which appeal is filed OR to be filed	A	
B	Interest charged on disputed TDS / TCS	B	
C	Penalty levied on disputed TDS / TCS	C	
D	TDS / TCS arrears (A+B+C)	D	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case $0.5*A$ If search case $0.625*A$	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case $0.55*A$ If search case $0.675*A$	Y	



Combination : Disputed TDS/TCS + HC + Deductor/Collector

Schedule IV. **To be filled in case appeal or writ of assessee is pending before High Courts 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**

Amount of TDS / TCS disputed in appeal OR in appeal to be filed			
A	TDS/TCS default for which writ or appeal is filed OR appeal to be filed	A	
B	Interest charged on disputed TDS / TCS	B	
C	Penalty levied on disputed TDS / TCS	C	
D	TDS / TCS arrears (A+B+C)	D	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case A If search case 1.25*A	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case 1.1*A If search case 1.35*A	Y	

Combination : Disputed TDS/TCS + HC + Department

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.**

Amount of TDS / TCS disputed in appeal OR in appeal to be filed			
A	TDS/TCS default for which writ or appeal is filed OR appeal to be filed	A	
B	Interest charged on disputed TDS / TCS	B	
C	Penalty levied on disputed TDS / TCS	C	
D	TDS / TCS arrears (A+B+C)	D	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case 0.5*A If search case 0.625*A	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case 0.55*A If search case 0.675*A	Y	

Combination : Disputed TDS/TCS + SC + Deductor/Collector

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**



Amount of TDS / TCS disputed in appeal OR in appeal to be filed			
A	TDS/TCS default for which writ or appeal or SLP is filed OR appeal / SLP to be filed	A	
B	Interest charged on disputed TDS / TCS	B	
C	Penalty levied on disputed TDS / TCS	C	
D	TDS / TCS arrears (A+B+C)	D	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case A If search case 1.25*A	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case 1.1*A If search case 1.35*A	Y	

Combination : Disputed TDS/TCS + SC + Department

Schedule VII. **To be filed 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.**

Amount of TDS / TCS disputed in appeal or in appeal to be filed			
A	TDS/TCS default for which writ or appeal or SLP is filed or appeal / SLP to be filed	A	
B	Interest charged on disputed TDS / TCS	B	
C	Penalty levied on disputed TDS / TCS	C	
D	TDS / TCS arrears (A+B+C)	D	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case 0.5*A If search case 0.625*A	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case 0.55*A If search case 0.675*A	Y	

Combination: Disputed TDS/TCS + 264 + Deductor/Collector

Schedule VIII. **To be filed in caserevision application of assessee u/s 264 is pending before PCIT/CIT as on 31.01.2020**

Amount of TDS / TCS disputed in appeal OR in appeal to be filed			
A	TDS/TCS default for which revision application filed	A	
B	Interest charged on disputed TDS / TCS	B	
C	Penalty levied on disputed TDS / TCS	C	
D	TDS / TCS arrears (A+B+C)	D	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case A If search case 1.25*A	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case 1.1*A If search case 1.35*A	Y	



Combination: Disputed TDS/TCS + Arbitration/Conciliation/Mediation + Assessee

Schedule IX. To be filed in case arbitration or conciliation or mediation of assessee is pending as on 31.01.2020

Amount of TDS / TCS disputed in appeal OR in appeal to be filed			
A	TDS/TCS default for which arbitration or conciliation or mediation has been filed	A	
B	Interest charged on disputed TDS / TCS	B	
C	Penalty levied on disputed TDS / TCS	C	
D	TDS / TCS arrears (A+B+C)	D	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case A If search case 1.25*A	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case 1.1*A If search case 1.35*A	Y	

C. Schedule applicable where declaration relates to disputed penalty, interest or fee only (Applicable for PAN & TAN)

Combination: Disputed penalty/interest/fee + CIT(A) + Assessee

Schedule I. To be filed 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

A	Total amount of penalty / interest / fees per order against which appeal filed OR to be filed		A	
B	Disputed amount of penalty / interest / fee out of A		B	B(i)+B (ii)
	(i)	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)	B(i)	
	(ii)	relating to issues other than B(i)	B(ii)	
C	Penalty or interest or fee proposed to be enhanced by CIT(A)		C	
D	Tax arrears (B(i)+B(ii)+C)		D	
X	Amount payable under DTVSV on or before 31.03.2020 = $0.125*B(i) + 0.25B(ii) + 0.25*C$		X	
Y	Amount payable under DTVSV after 31.03.2020 = $0.15*B(i) + 0.3*B(ii) + 0.3*C$		Y	

**Combination: Disputed penalty/interest/fee + ITAT + Assessee**

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**

A	Total amount of penalty / interest / fees per order against which appeal has been filed OR to be filed	A	
B	Disputed penalty / interest / fee due to appeal by assessee -	B	B(i)+B(ii)
	(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)	B(i)	
	(ii) relating to issues other than B(i)	B(ii)	
C	Tax arrears (B(i) + B(ii))	C	
X	Amount payable under DTVSV on or before 31.03.2020 = $0.125*B(i) + 0.25*B(ii)$	X	
Y	Amount payable under DTVSV after 31.03.2020 = $0.15*B(i) + 0.3*B(ii)$	Y	

Combination: Disputed penalty/interest/fee + ITAT + Department

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**

A	Total amount of penalty/interest/fee as per order against which appeal filed OR to be filed	A	
B	Disputed penalty / interest / fee relating to issues on which appeal has been filed or to be filed	B	
C	Tax arrears (B)	C	
X	Amount payable under DTVSV on or before 31.03.2020 = $0.125*B$	X	
Y	Amount payable under DTVSV after 31.03.2020 = $0.15*B$	Y	

Combination: Disputed penalty/interest/fee + HC + Assessee

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 by the assessee before High Court has not expired as on 31.01.2020**



A	Total amount of penalty / interest / fees per order against which appeal or writ has been filed OR appeal to be filed	A	
B	Disputed penalty / interest / fee due to appeal by assessee	B	
C	Tax arrears (B)	C	
X	Amount payable under DTVSV on or before 31.03.2020 = 0.25*B	X	
Y	Amount payable under DTVSV after 31.03.2020 = 0.3*B	Y	

Combination: Disputed penalty/interest/fee + HC + Department

Schedule V. To be filed in case appeal or writ of Department is pending before High Court as on 31.01.2020 or the time for filing appeal by the department before High Court has not expired as on 31.01.2020

A	Total amount of penalty / interest / fees per order against which appeal or writ has been filed or appeal to be filed	A	
B	Disputed penalty / interest / fee on issues raised in appeal	B	
C	Tax arrears (B)	C	
X	Amount payable under DTVSV on or before 31.03.2020 = 0.125*B	X	
Y	Amount payable under DTVSV after 31.03.2020 = 0.15*B	Y	

Combination: Disputed penalty/interest/fee + SC + Assessee

Schedule VI. To be filed 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

A	Total amount of penalty / interest / fees per order against which appeal or writ or SLP has been filed OR appeal / SLP to be filed	A	
B	Disputed penalty / interest / fee due to appeal by assessee	B	
C	Tax arrears (B)	C	
X	Amount payable under DTVSV on or before 31.03.2020 = 0.25*B	X	
Y	Amount payable under DTVSV after 31.03.2020 = 0.3*B	Y	

Combination: Disputed penalty/interest/fee + SC + Department

Schedule VII. To be filed 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 SLP by the department before Supreme Court has not expired as on 31.01.2020



A	Total amount of penalty / interest / fees per order against which appeal or writ or SLP has been filed OR appeal / SLP to be filed	A	
B	Disputed penalty / interest / fee on issues raised in appeal	B	
C	Tax arrears (B)	C	
X	Amount payable under DTVSV on or before 31.03.2020 = 0.125*B	X	
Y	Amount payable under DTVSV after 31.03.2020 = 0.15*B	Y	

Combination: Disputed penalty/interest/fee + 264 + Assessee

Schedule VIII. **To be filed in case revision application of assessee u/s 264 is pending before PCIT/CIT as on 31.01.2020**

Amount of TDS / TCS disputed in appeal or in appeal to be filed			
A	Total amount of penalty / interest / fees per order against which revision application filed	A	
B	Disputed penalty / interest / fee on issues raised in revision application	B	
D	Tax arrears (B)	D	
X	Amount payable under DTVSV on or before 31.03.2020 (0.25*B)	X	
Y	Amount payable under DTVSV after 31.03.2020 (0.3*B)	Y	

Combination: Disputed penalty/interest/fee+ Arbitration/ Conciliation/Mediation + Assessee

Schedule IX. **To be filed in case arbitration or conciliation or mediation of assessee is pending as on 31.01.2020**

Amount of TDS / TCS disputed in appeal or in appeal to be filed			
A	Total amount of penalty / interest / fees per order against which arbitration or conciliation or mediation has been filed	A	
B	Disputed penalty / interest / fee on issues raised in arbitration (B)	B	
X	Amount payable under DTVSV on or before 31.03.2020 If non-search case A If search case 1.25*A	X	
Y	Amount payable under DTVSV after 31.03.2020 If non-search case 1.1*A If search case 1.35*A	Y	



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.

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)			

* see instructions



Form-2 [See rule 3(2)]

UNDERTAKING UNDER SUB-SECTION (5) OF SECTION 4 OF THE DIRECT TAX
VIVAD SE VISHWAS ACT, 2020 (3 of 2020)

THE DIRECT TAX VIVAD SE VISHWAS RULES, 2020

To,

The Designated Authority

.....
.....

Sir/Madam,

*I,(name in block letters) son/
daughter of Shri having PAN/Aadhaar number/
TAN... 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 country or territory outside
India whether for protection of investment or otherwise.

*I, (name in block letters) son/daughter of Shri
designation.....on behalf of (name of
declarant) having PAN/Aadhaar number/TANbeing duly
authorised and competent in this regard, the..... (name of
declarant) 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 country or
territory outside India whether for protection of investment or otherwise.

The above undertaking is irrevocable.

I also confirm that I am aware of all the consequences of this undertaking.

Place:

.....
Signature/Verification

Date:

Note:

*Strike off whichever is not applicable.

The undertaking is to be furnished in respect of tax arrear along with the
declaration in Form-1.

**Form-3 [See rule 4]**

**FORM FOR CERTIFICATE UNDER SUB-SECTION (1) OF SECTION 5 OF THE
DIRECT TAX VIVAD SE VISHWAS ACT, 2020 (3 of 2020)**

THE DIRECT TAX VIVAD SE VISHWAS RULES, 2020

Whereas Mr./Mrs./M/s..... (hereinafter referred to as the declarant) having PAN/Aadhaar number/TAN... has filed a declaration under section 4 of the Act;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 5 of the Act and after consideration of relevant material, the following amounts are hereby determined to be payable by the declarant towards full and final settlement of the tax arrear covered by the said declaration under the Act:

Sl. No.	Assessment year/ Financial year	Details of dispute settled	Nature of tax arrear (disputed tax/ disputed penalty/ disputed interest/ disputed fee)	Tax arrear (₹)	Amount payable under section 3 (₹)	Amount already paid against tax arrear	Balance amount payable/ refundable after adjusting amount already paid
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8) = (6) - (7)

The declarant is hereby directed to make the payment of sum payable, if any, as per column (7) above within thirty days from the date of receipt of this certificate.

In case of non-payment of amount payable within the said period, the declaration under Form-1 shall be treated as void and shall be deemed never to have been made.

Certificate No.

Place

Date

.....
(Designated Authority)

**Form-5 [See rule 7]**

**ORDER FOR FULL AND FINAL SETTLEMENT OF TAX ARREAR
UNDER SECTION 5 (2) READ WITH SECTION 60F THE DIRECT TAX
VIVAD SE VISHWAS ACT, 2020 (3 of 2020)**

THE DIRECT TAX VIVAD SE VISHWAS RULES, 2020

Whereas.....(Name and PAN/Aadhaar number/TAN of the declarant)(hereinafter referred to as declarant) had made a declaration under section 4 of the Act; And whereas the designated authority by Certificate No.dated determined the amount of rupees payable by / refundable to the declarant in accordance with the provisions of the Act and granted a certificate setting forth therein the particulars of the tax arrear and the amount payable / refundable after such determination towards full and final settlement of tax arrear;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 5 read with section 6 of the Act, it is hereby certified that-

- (a) a sum of ₹ has been paid by the declarant towards full and final settlement of tax arrear determined in the order No.dated; and
- (b) the immunity is granted subject to the provisions contained in the Act, from instituting any proceeding for prosecution for any offence under the Income-tax Act or from the imposition of penalty under the said enactment[as per section 6 of the Act], in respect of the tax arrear as detailed in the table below:

Assessment year/ Financial year	Details of dispute settle	Nature of tax arrear (disputed tax / disputed penalty / disput interest / disputed fee)	Amount of tax arrear

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.

Place

Date (Designated Authority)



To

- (1) The declarant
- (2) Assessing Officer
- (3) Concerned Principal Commissioner of Income-tax
- (4) Concerned Appellate Forum

[Notification No.18/2020, F. No. IT(A)/1/2020-TPL]

ANKUR GOYAL, Under Secy.

CHAPTER - 5

INSTRUCTION TO FILL UP FORMS UNDER DTVSVS 2020

INSTRUCTIONS TO FILL FORM 1	
FIELD WISE INSTRUCTIONS TO FILL PART A TO F	
Field Name	Instruction
PART A - GENERAL INFORMATION	
Acknowledgement Number of Original Form 1	This field will 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	This shall be auto populated and non-editable.
Middle Name of appellant	This shall be auto populated and non- editable.
Last Name of appellant	This shall be auto populated and non- editable.



Mobile No.	Mobile number will be prefilled as per profile and non editable. In case appellant wants to update, please update the same in "My profile"
Email Address	Email will be prefilled as per profile and non editable. In case appellant wants to update, please 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?	Please select the option from below dropdowns: Yes No If selects "No", appellant is not allowed to file Form as he is not eligible under this scheme.
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	Please select the option from below dropdowns: Yes No If appellant selects "No", appellant has to fill schedule D along with applicable schedules. This question is not applicable in case of TAN login.
<p>Note : 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.</p> <p>Note: 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 arrears separately by clicking "Add Row".</p>	



PART B – INFORMATION RELATING TO DISPUTE		
Nature of tax arrear	<p>Please select nature of tax arrear from below dropdowns: Disputed Tax Disputed Interest Disputed Penalty Disputed Fee</p> <p>Note: 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". If an order, consists of only "Disputed Penalty", then appellant has to choose "Disputed Penalty". If an order, consists of only "Disputed Interest", then appellant has to choose "Disputed Interest". If an order, consists of only "Disputed fee", then appellant has to choose "Disputed fee".</p>	
Assessment Year	Year/Financial	This field shall be 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)	Please select the section under which order passed from the provided drop-downs.	
Read with section	Please select the 'read with section' under which order passed from the provided drop-downs.	
Income-tax authority / Appellate Forum who passed the order (there could be multiple orders for same assessment year)	<p>Please select the option from below dropdowns :</p> <p>Assessing Officer Addl CIT/Addl DIT/JCIT/JDIT PCIT/PDIT/CIT/DIT CIT(A) DRP AAR ITAT High Court</p>	



Date on which order passed (there could be multiple dates for same assessment year)	Please enter date of order passed against which appeal is being filed. Date cannot be after 31/01/2020
Whether Search case?	Please select the option from below dropdowns: Yes No
Whether search case with disputed tax less than or equal to ₹ 5 crores in the assessment year? (information flag relevant for rate at which amount payable is to be computed)	Please select the option from below dropdowns: Yes No <ul style="list-style-type: none">• In case, "Disputed Tax" is related to "Search case" with disputed tax =< Rs. 5 Crores , please select "Yes"• In case "Disputed Tax" is related to "Search case" with disputed tax > Rs. 5 Crores, Please select "No" If selects "No", appellant is not allowed to file Form 1 as he is not eligible under this scheme.
Details of pending	Header
Whether Appeal/objection/revision/Writ / SLP/ Arbitration/Conciliation/ Mediation?	Please select the option from below dropdowns: Arbitration/Conciliation/Mediation Appeal Objection Revision Writ SLP
Appellate Forum	If "Appeal" is selected above, then select one of below options : CIT(A) ITAT High Court Supreme Court If "Objection" is selected above, then "DRP" will be auto-populated and non- editable. If "Revision" is selected above, then "CIT/PCIT" will be auto-populated and non-editable. If "Writ" is selected above, then select one of below options : High Court Supreme Court



	<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?	<p>Please select the option from below dropdowns: Yes No</p>
If No, date on which time-limit for filing expires in case of Assessee	<p>Please enter date on which time-limit for filing appeal expires in case of Assessee.</p>
If yes, filed by	<p>Please select from below dropdowns : Assessee Department Both</p>
Date of filing - Filed by Assessee	<p>Please 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.</p>
Date of filing -Filed by Department	<p>Please 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.</p>
Reference number -Filed by Assessee	<p>Please 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.</p>
Reference number -Filed by Department	<p>Please 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.</p>
Whether DRP case?	<p>This field shall be auto populated based on dropdown selected at field "Income- tax authority/ Appellate Forum who passed the order"</p>



If yes, whether directions passed by DRP on or before 31.1.2020?	Please select the option from below dropdowns: Yes No
If yes, whether order passed by AO? (If yes, not eligible)	Please select the option from below dropdowns: 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?	Please select the option from below dropdowns:
If yes, date of filing	If above field is selected as "Yes" then 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	Please select the option from below dropdowns: Yes No If "Yes" is selected then appellant is to provide the connected penalty and interest details in below field.
For Penalty	Header
Appeal reference number	Please enter the "Appeal Reference Number".
Appellate authority where appeal is pending	Please select the option from below dropdowns : PCIT/CIT CIT(A) DRP ITAT High Court Supreme Court
Amount of Penalty	Please enter the disputed Penalty connected to disputed tax.
For Interest	Header
Appeal reference number	Please enter the "Appeal Reference Number".
Appellate authority where appeal is pending	Please select the option from below dropdowns : PCIT/CIT CIT(A) DRP ITAT High Court Supreme Court
Amount of Interest	Please 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.
PART D – INFORMATION RELATED TO AMOUNT PAYABLE	
Total amount payable under DTVSV if paid on or before 31.3.2020	This field is auto populated as sum of 'X' from all the schedules and non-editable.
Total amount payable under DTVSV if paid after 31.03.2020	This field is auto populated as sum of 'Y' from all the schedules and non-editable.
PART E – INFORMATION RELATED TO PAYMENTS AGAINST TAX ARREAR	
Whether the declarant has made any payment against tax arrears before filing of declaration?	Please select the option from below dropdowns: Yes or No
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	Please enter date of payment in DD/MM/YYYY format.
Serial Number of Challan	Please enter serial number of challan.
Amount	Please enter amount paid.
Add Row	Please 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	Please 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. in Form	Field Name	Instruction
	A. Schedules applicable where declaration relates to disputed tax (Applicable in case of PAN)	Incase 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. 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 incase 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.	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
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 on or before 31.03.2020 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 $0.675 * C + 1.35 * D + 1.35 * E$
	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 incase 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).
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 $0.55 * C + 1.1 * D$
	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).
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 $0.55 * C + 1.1 * D$
	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
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 $0.675*C + 1.35*D$
	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
	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. 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.
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 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.



	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. 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 number reference	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
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
	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.
	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. 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".
	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
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. 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
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
	Schedule XI. To be filled in case arbitration or conciliation 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.
	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):	Incase 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.
	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 incase 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.
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.
	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 incase 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.
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.



	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 incase 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
	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. 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 incase the appeal is related to "Disputed tax" and pending with "High court" filed by "Assessee"
	Appeal number reference	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
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. 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 incase 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.
	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.
	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. 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 incase 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
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
	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. 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 incase 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
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
	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. 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 incase '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



	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
	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. 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.
	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 DTFSV on or before 31.03.2020 and also ensure that this amount should not be less than 1.25*C
Y	Amount payable under DTFSV 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 DTFSV 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 DTFSV 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 appellants are 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)	In case 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.
	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	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". 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 "CIT(A)" 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 / fees 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



B	Disputed amount of penalty / interest / fee out of A	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 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 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)
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. 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	<p>Please fill the below details incase the appeal is related to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee" and pending with "ITAT" 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 "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.
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. 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 incase 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



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. 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 incase 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 number reference	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". 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. To be filed 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 incase the appeal is related to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee" and pending with High 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 High 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.



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.
	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 incase the appeal is related to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee" and pending with Supreme 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 Supreme Court and filed by Assessee / 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 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.
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. 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 incase 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.



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. 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 incase the appeal is related to "Disputed Penalty" or "Disputed Interest" or "Disputed Fee" and pending with CIT/PCIT 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 CIT/PCIT 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 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.
	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 incase 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.
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	Please fill this table if applicable.
	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.
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 Shrisolem nly 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.
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.



INSTRUCTIONS TO FILL FORM 1

FIELD WISE INSTRUCTIONS FOR FILLING FORM 2

Field	Instructions
I.....	This field will be auto populated and Non-editable.
Son/daughter of Shri.....	This field will be auto populated and Non-editable.
having PAN/ TAN.....	This field will be auto populated and Non-editable.
/Aadhaar number	This field shall 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 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.....	This field will be auto populated and Non-editable.
Son/daughter of Shri.....	This field will be auto populated and Non-editable.
designation.....	Below dropdowns to be provided: Karta Managing Partner Designated Partner Partner Managing Director Director Trustee Executor Principal officer Representative Assessee Authorised Signatory



on behalf of	This field will be 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.	Static content
Place.....	Please enter the place.
Date	System date shall be auto populated and non- editable.
Signature	Please submit the Form with DSC/ EVC as applicable.

Notification No. 12 of 2020

Date – 19th March 2020

Procedure for making declaration in Form -1 under sub-rule (1) of Rule 3 and furnishing undertaking in Form -2 under sub rule(2) of Rule 3 under The Direct Tax Vivad se Vishwas Rules 2020

In exercise of the powers conferred under rule 8 of The Direct Tax Vivad se Vishwas Rules 2020, The Principal Director General of Income Tax(Systems) has laid down the following procedures:

2. Online Filling of Form -1 and Form-2

- (i) All the declarants filing declaration under sub section (1) of section 4 of the Direct Tax Vivad se Vishwas Rules, 2020 are required to file the declaration in Form-1 online on the e-filing portal of the Department : www.incometaxindiaefiling.gov.in
- (ii) The declarants are further required to furnish the undertaking referred to in sub-section (5) of section 4 electronically in Form-2 along with declaration online on the e-filing portal of the Department : www.incometaxindiaefiling.gov.in
- (iii) The submission of Form-1 and Form-2 shall be done in conjunction as a single submission. The declaration and undertaking shall be verified in accordance with section of the Income Tax Act, 1961.
- (iv) Form-1 and Form-2 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.



- (v) Please refer to Pr. DGIT Notification in F. No. 1/23/CIT(OSD)/E-filing-Electronic Verification /2013-14 – Notification No. 02/2015 dt. 13th of July 2015 and F. No. 1/23/CIT(OSD)/E-filing-Electronic abcaus.in Verification /2015-16 – Notification No. 1/2016 dt. 19th January, 2016 for details regarding Electronic Verification Code (EVC) for electronically filed Income Tax Return which will be applicable for the submission under this Notification.

3. Preparation and submission of Form- and Form-2

- (i) Form-1 and Form-2 shall be available for data entry and preparation online to the declarant after login
- (ii) The declarant is required to login into the e-filing portal” www.incomtaxindiaefiling.gov.in using their valid credentials.
- (iii) A link for filing Form-1 and Form-2 has been provided under e-filing portal: www.incomtaxindiaefiling.gov.in > Login using User name and password > Select Vivad se Vishwas Tab > Select ‘Prepare and submit DTVSV Forms’.
- (iv) Select Form-1 and Assessment Year (or Financial Year as applicable for Tax deduction/collection at source related cases) and filing types (original/revised) from the drop down.
- (v) Form-1 contains specific schedules and the declarants are required to fill the relevant schedules and tables under the schedules with validation for proper submission of the declaration.
- (vi) Form-2 shall be submitted electronically on the e-filing portal on the same path.
- (vii) These Forms can be submitted by clicking on “Submit” button
- (viii) Digital Signature Certificate or Electronic Verification Code is mandatory to submit these forms.
- (ix) Acknowledgement number for submission of declaration shall be generated electronically.



4. Viewing submitted Forms

- (i) The submitted form would be available for view and download by going to www.incomtaxindiaefiling.gov.in > Login using User name and password > Select Vivad se Vishwas Tab > Select 'View DTVSV Forms'

5. Submission to Designated Authority

- (i) Online submission of form-1 and Form-2 in the manner prescribed herein would be treated as submission to the designated authority as prescribed under Clause (e) of Section 2 of the the Direct Tax Vivad se Vishwas Act, 2020.

Appendix – 2A

CBDT issues corrigendum to **The Direct Tax Vivad Se Vishwas Rules 2020 and notifies that in Form-3, for 'as per column (7) above within thirty days', read 'as per column (8) above within fifteen days'.**

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
CORRIGENDUM

Notification No. 21/2020-Income Tax

New Delhi, the 20th March, 2020

S.O. 1195(E).—In the notification of the Government of India, Ministry of Finance (Department of Revenue), published on the [18th March, 2020, vide S.O. 1129\(E\)](#), in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), at page 32, in Form-3, for "as per column (7) above within thirty days", read "as per column (8) above within fifteen days".



FREQUENT ASKED QUESTIONS

ON DIRECT TAX VIVAD SE VISHWAS SCHEME, 2020

3.1. The 'Vivad se Vishwas' Scheme was announced during the Union Budget, 2020, to provide for dispute resolution in respect of pending income tax litigation. Pursuant to the Budget announcement, the Direct Tax Vivad se Vishwas Bill, 2020 (hereinafter called **Vivad se Vishwas**) was introduced in the Lok Sabha on 5th of February, 2020 and passed by it on 4th of March, 2020. The Direct Tax Vivad Se Vishwas Bill, 2020 was passed by the Parliament on March 13, 2020. The bill received assent of the President on dated. 17th March 2020 and the **Direct Tax Vivad se Vishwas Act 2020** was published in the official gazettee on the same day. Subsequently the Direct Tax Vivad se Vishwas Rule 2020 was notified vide No.18 / 2020, F. No. IT (A)/ 1/2020-TPL dated. 18th March 2020.

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, certainty and savings on account of time and resources that would otherwise be spent on the long-drawn and vexatious litigation process.

Subsequently, based on the representations received from the stakeholders regarding its various provisions, official amendments to **Vivad se Vishwas** have been proposed. These amendments seek to widen the scope of **Vivad se Vishwas** and reduce the compliance burden on taxpayers.

After introduction of **Vivad se Vishwas** in Lok Sabha, several queries have been received from the stakeholders seeking clarifications in respect of various provisions contained in the Scheme.



After considering various queries received from stakeholders, CBDT has clarified the same in the form of answers to frequently asked questions (FAQs) vide **Circular No.7/2020 dated 04.03.2020.**

3.2. The FAQs contain clarifications on scope/eligibility, calculation of disputed tax, procedure related to payment of disputed tax and consequential benefits to the declarant.

Note: * Please note the Press Release of Ministry of Finance, Govt. of India dated. 31st March 2020 regarding substitution of dated. 31st March 2020 to 30th June 2020. The press release may be read as follows.

“(viii)Under Vivad se Vishwas Scheme, the date has also been extended up to 30.06.2020. Hence declaration and payment under the Scheme can be made up to 30.06.2020 without additional payment”.



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

Question No. 1	<i>Which appeals are covered tinder the Vivad se Vishwas?</i>
Answer:	<p>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 (HQ or Supreme Court (SC) or special leave petitions (S1.,Ps) 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 clause 4 of the Bill is also covered.</p>
Question No. 2	<i>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?</i>
Answer:	<p>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.</p>



Question No. 3	<i>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?</i>
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	<i>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?</i>
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	<i>What if the disputed demand including interest has been paid by the appellant while being in appeal?</i>
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	<i>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?</i>
Answer:	<p>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.</p> <p>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.</p>
Question No. 7	<i>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?</i>
Answer:	<p>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 <i>Vivad se Vis/mas</i>. 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.</p> <p>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).</p>



Question No. 8	<i>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?</i>
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 giving details of 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	<i>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?</i>
Answer:	<i>Vivad se Vishwas</i> 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	<i>Whether 234E and 234F appeals are covered?</i>
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 <i>Vivad se Vishwas</i> 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	<p><i>In case where disputed tax contains qualifying tax arrears as also non-qualifying tax arrears (such as, tax arrears relating to assessment made in respect of undisclosed foreign income):</i></p> <p>(i) <i>Whether assessee is eligible to the Vivad se Vishwas itself?</i></p> <p>(ii) <i>If eligible, whether quantification of disputed tax can exclude/ignore non-qualifying tax arrears?</i></p>
Answer:	<p>If the tax arrears include tax on issues that are excluded from the <i>Vivad se Vishwas</i>, such cases are not eligible to file declaration under <i>Vivad se Vishwas</i>. There is no provision under <i>Vivad se Vishwas</i> 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.</p>
Question No. 12	<p><i>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?</i></p>
Answer:	<p>The assessee would not be eligible for <i>Vivad se Vishwas</i> as there is no determination of income against the said notice.</p>
Question No. 13	<p><i>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?</i></p>
Answer:	<p>No, such cases are not covered. Waiver applications are not appeal within the meaning of <i>Vivad se Vishwas</i>.</p>
Question No. 14	<p><i>Whether assessee can avail of the Vivad se Vishwas for some of the issues and not accept other issues?</i></p>



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	<i>Will delay in deposit of TDS / TCS be also covered under Vivad se Vishwas?</i>
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 <i>Vivad se Vishwas</i> .
Question No. 16	<i>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?</i>
Answer:	<p>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 <i>Vivad se Vishwas</i>.</p> <p>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 <i>Vivad se Vishwas</i>. 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.</p>



Question No. 17	<i>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?</i>
Answer:	The amendment proposed in the <i>Vivad se Vishwas</i> allows the declaration even in cases where CIT (Appeals) has issued enhancement notice on or before 31 st 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	<i>Are disputes relating to wealth tax, security transaction tax, commodity transaction tax and equalisation levy covered?</i>
Answer:	No. Only disputes relating to income-tax are covered.
Question No. 19	<i>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?</i>
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	<i>In a case there is no disputed tax. However, there is appeal for disputed penalty which has been disposed off 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?</i>



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 <i>Vivad se Vishwas</i> 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 <i>Vivad se Vishwas</i> . In this case the appellant should indicate in the declaration form that time limit to file appeal in ITA T has not expired.
Question No. 21	<i>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?</i>
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	<i>In the case of an assessee prosecution has been instituted and is pending in court. Is assessee eligible for the Vivad se Vishwas?</i>
Answer:	No. However, where only notice for initiation of prosecution has been issued with reference to tax arrears, the taxpayer has a choice to compound the offence and opt for Vivad se Vishwas .
Question No. 23	<i>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?</i>
Answer:	Yes
Question No. 24	<i>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?</i>
Answer:	Yes
Question No. 25	<i>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?</i>



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	<i>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?</i>
Answer:	<p>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 Rs.30,000 and interest under section 234B of Rs.1,000. Assessee has paid this amount of Rs.31,000 at the time of filing his tax return. During assessment an addition is made and additional demand of Rs.16,000 has been raised, which comprises of disputed tax (including surcharge and cess) of Rs.10,000 and interest on such disputed tax of Rs.6000. Penalty has been initiated separately.</p> <p>Assessee has paid the demand of Rs.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 Rs 10,000 (at 100%) is to be paid on or before 31st March 2020. Since he has already paid Rs.14,000, he would be entitled to refund of Rs.4,000 (without section 244A interest). Further, the interest leviable under section 220 and penalty leviable shall also be waived.</p>
Question No. 27	<i>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?</i>



Answer:	<p>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.</p> <p>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. ₹6240/- plus ₹9,360/-.</p> <p>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).</p>
Question No. 28	<i>What amount of tax is required to be paid, if an assessee wants to avail the benefit of the Vivad se Vishwas?</i>
Answer:	<p>Under the Vivad se Vishwas, declarant is required to make following payment for settling disputes:</p> <p>A. In appeals/writ/SLP/DRP objections/revision application under section 264 / arbitration filed by the assessee –</p> <p>(a) In case payment is made till 31st March, 2020-</p> <p>(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</p> <p>(ii) 25% of the disputed penalty, interest or fee where dispute relates to disputed penalty, interest or fee only.</p>



	<p>(b) In case payment is made after 31 st March, 2020 –</p> <p>(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</p> <p>(ii) 30% of the disputed penalty, interest or fee in case of dispute related to disputed penalty, interest or fee only.</p> <p>However, if in an appeal before Commissioner(Appeals) or m 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.</p> <p>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.</p> <p>B. In appeals Writ / SLP filed by the Department–</p> <p>(a) In case payment is made till 31 “March, 2020-</p> <p>(i) 50% of the disputed tax (62.5% in search cases) in case of dispute related to disputed tax or</p> <p>(ii) 12.5% of the disputed penalty, interest or fee in case of dispute related to disputed penalty, interest or fee only.</p> <p>(b) In case payment is made after 31st March, 2020 –</p> <p>(i) 55% of the disputed tax (67.5% in search cases) in cases of dispute related to disputed tax, or</p> <p>(ii) 15% of the disputed penalty, interest or fee in case of dispute related to disputed penalty, interest or fee only.</p>
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Question No. 29	<i>Whether credit for earlier taxes paid against disputed tax will be available against the payment to be made under Vivad se Vishwas?</i>
Answer:	The amount payable by the declarant under <i>Vivad se Vishwas</i> shall be determined by the DA under clause 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 31st March 2020.
Question No. 30	<i>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?</i>
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 <i>Vivad se Vishwas</i> . 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	<i>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)?</i>
Answer:	<p>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.</p> <p>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.</p>



	<p>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.</p> <p>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.</p> <p>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 <i>Vivad se Vishwas</i>,</p> <p>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.</p>
<p>Question No. 32</p>	<p><i>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?</i></p>



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	<i>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?</i>
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	<i>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?</i>
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 for that year. However, in the annexure he is required to fill only the schedule relating to disputed tax.



Question No. 35	<i>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?</i>
Answer:	If the substantive addition is eligible to be covered under <i>Vivad se Vishwas</i> , 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	<i>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?</i>
Answer:	The <i>Vivad se Vishwas</i> allow declaration to be filed even when time to file appeal has not expired considering them to be a deemed appeal. <i>Vivad se Vishwas</i> 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	<i>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?</i>



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	<i>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.</i>
Answer:	Under <i>Vivad se Vishwas</i> , 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	<i>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%?</i>
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	<i>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?</i>



Answer:	<p>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.</p> <p>For different assessment years separate declarations have to be filed. So the appellant needs to specify in the declaration form 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.</p>
Question No. 41	<i>How much time shall be available for paying the taxes after filing a declaration under the Vivad se Vishwas?</i>
Answer:	<p>As per clause 5 of <i>Vivad se Vishwas</i>, 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.</p> <p>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 31stMarch, 2020 so that he can take benefit of reduced payment to settle the dispute.</p>
Question No. 42	<i>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?</i>
Answer:	No. Any amount paid in pursuance of a declaration made under the <i>Vivad se Vishwas</i> shall not be refundable under any circumstances.



Question No. 43	<i>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 DA 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</i>
Answer:	<p>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 clause 5, the appellant is required to withdraw appeal or writ or special leave petition pending before the appellate forum and submit proof of withdrawal with intimation of payment to the DA as per the same clause. Where assessee has made request for withdrawal and such request is under process, proof of request made shall be enclosed.</p> <p>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.</p>
Question No. 44	<i>Clause 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?</i>
Answer:	<p>As per clause 5(2), the declarant shall pay the amount determined under clause 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.</p>



Question No. 45	<i>Will DA also pass order granting expressly, immunity from levy of interest and penalty by the AO as well as immunity from prosecution?</i>
Answer:	As per clause 6, subject to the provisions of clause 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	<i>Whether DA can amend his order to rectify any patent errors?</i>
Answer:	Yes, the DA shall be able to amend his order under clause 5 to rectify any apparent errors.
Question No. 47	<i>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?</i>
Answer:	No. As per clause 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	<i>There is no provision for withdrawal of appeal/writ/SLP by the department on settlement of dispute</i>
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	<i>Once declaration is filed under Vivad se Vishwas, and for financial difficulties, payment is not made accordingly, will the declaration be null and void?</i>
Answer:	Yes it would be void.
Question No. 50	<i>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?</i>



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.
Question No. 51	<i>Will there be immunity from prosecution?</i>
Answer:	Yes, clause 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	<i>Will the result of this Vivad se Vishwas be applied to same issues pending before AO?</i>
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	<i>If loss is not allowed to be adjusted while calculating disputed tax, will that loss be allowed to be carried forward?</i>
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	<i>If the taxpayer avails Vivad se Vishwas for Transfer Pricing adjustment, will provisions of section 92CE of the Act apply separately?</i>
Answer:	<p>Yes, secondary adjustment under section 92CE will be applicable.</p> <p>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 nCE of the Act.</p>
Question No. 55	<i>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?</i>
Answer:	<p>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.</p>



FAQs on Filing forms under Vivad Se Vishwas Scheme-by CBDT

Q1: As per the form, the Assessee is required to mention reference number of appeal filed by it. When the matter is pending with CIT(A), Appeal No. may not be available with Assessee, as notice might not have been issued. Whether acknowledgement number of e- appeal can be mentioned?

Answer: The label of "Appeal Reference Number" may be treated as "Appeal Reference Number / Acknowledgment Number" in all schedules and in Part B "Reference Number" as "Reference Number / Acknowledgment Number"

Q2: When Hon'ble ITAT has decided the appeal before 31st January, 2020 and time limit for filing appeal has not yet expired and as per form when due date of filing of appeal is mentioned, Assessee cannot proceed to file details regarding disputed tax. Only when appeal number is mentioned, then only Assessee can fill up necessary schedule.

Answer: Department has enabled the schedules in above case on 26th March, 2020. Updated online Form is available on e-Filing portal.

Q3: As per Question-Answer No. 7 of FAQ, if 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 AO for giving proper opportunity, Assessee would be eligible to avail of Vivad Se Vishwas. However, in the prescribed form, no tab or schedule for such cases are available.

Answer: Declarant can fill the required details in Part B itself mentioning that the appeal is pending with CIT(A), as explained in FAQ No 7 issued by CBDT vide Circular 7/2020 dt 4th March 2020

Q4: As per the Scheme once the declaration made by Assessee is accepted by designated authority and Form 3 is issued, the declarant shall pay the amount determined within 15 days of receipt of certificate and intimate the details of such payment



to the designated authority. As per the Scheme Assessee has an option for making payment on or after 1st April, 2020 but before the last date after making additional payment as prescribed. Suppose, form No. 3 is issued by designated authority on or before 31st March, 2020, Assessee can pay taxes along with additional amount before the last date even if 15 days have lapsed or the form will be void.

Answer: As per the scheme, the declarant has to pay tax and intimate the same within 15 days of issue of Form 3.

Q5: How the TDS deductors will file in case they don't have PAN?? Kindly clarify as they can't login into e-filing website and they don't have facility on cpc-tds. Kindly guide.

Answer: Deductors have to login using TAN. They can do so 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. Taxpayers using their PAN based login cannot file TDS related Form 1. **The respective deductors have to login using TAN as user ID in the e-Filing portal.**

Q6: What has to be entered in the Part E(iv)- Refund?

Answer: In the Form 1, what is visualized in Part E is the reporting of claim of tax payment under Minor head 400 (incl Adjustment RO) after the assessment order is passed. Therefore, there is no requirement of TDS or prepaid taxes - advance tax or SAT. Since any RO adjusted against demand has a corresponding challan, same has to be reflected under tax payment as Regular Assessment Tax (Minor head 400).

The E(iv) is for cases where the refund claimed by taxpayer was reduced in assessment (not refund adjusted against arrears - the label is incorrect and will be changed). This is because the PART F visualizes the actual tax payment or Refund as case may be against the disputed tax amount payable under the scheme (this is post assessment)

Example - Refund adjusted will figure in tax payment itself as a challan. This is for refund reduction- when taxpayer claimed 100 ₹ but ITD raised additional demand of 80 ₹, so refund will be reduced to 20 ₹ To enable taxpayer to show this in E(iv) as ₹80, the refund row has been put.



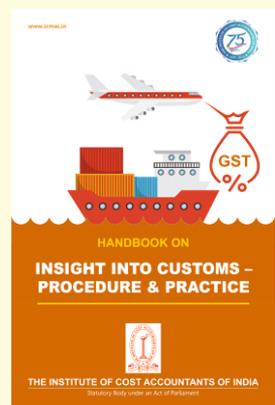
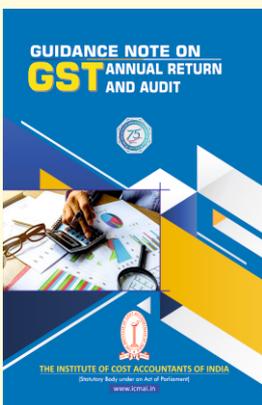
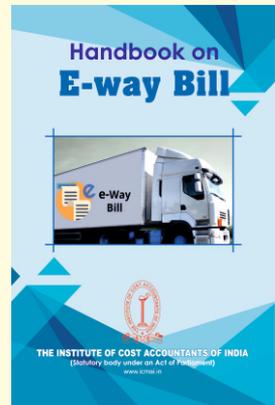
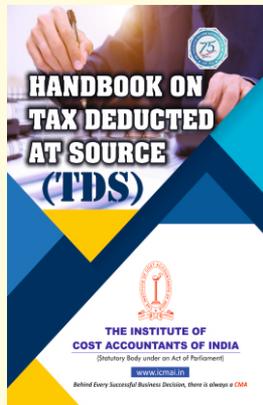
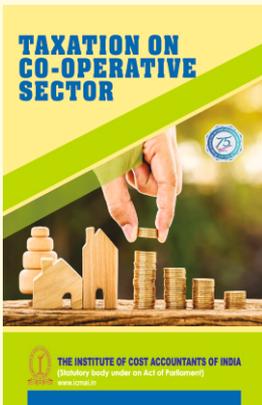
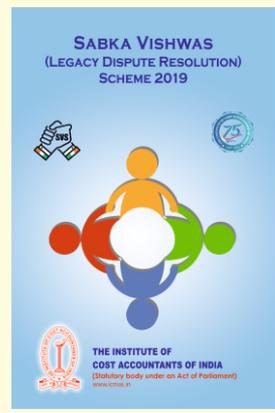
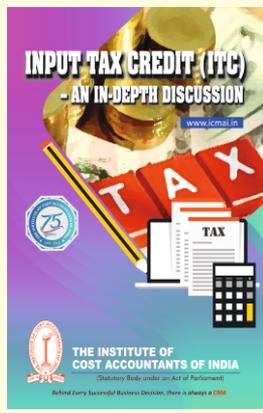
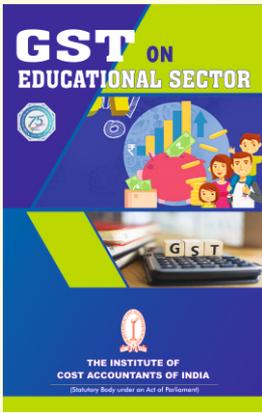
Q7. Whether it is possible to make payment of taxes under the VsV scheme before filing of Form 1.

Answer: Yes, such payments can be reflected in Form 1 itself in Part E.

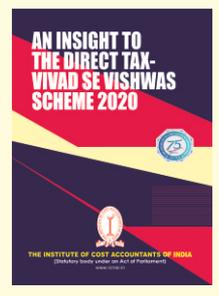
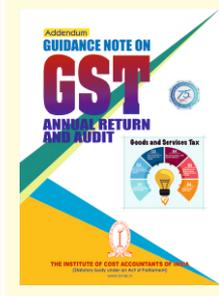
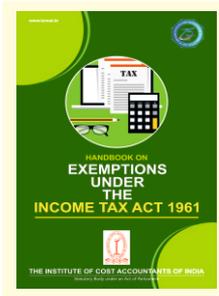
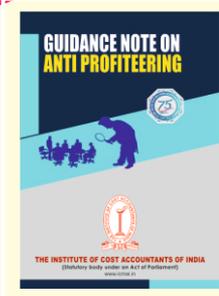
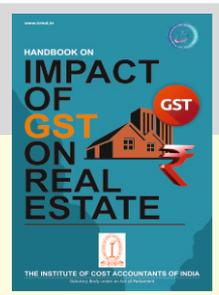
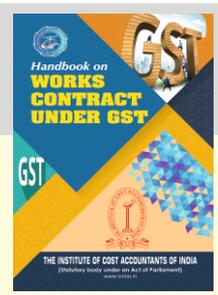
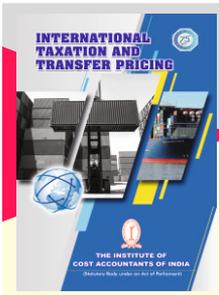
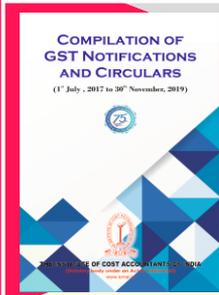
Q8. Whether challan for making payment of taxes under VsV scheme is the same as 400 (or any other existing codes) challan? Or any other new specific challan code is being introduced for the same. If yes, when is new challan code likely to be introduced.

Answer: Yes, Challan under VsV scheme 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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