

Circular No. 12 of 2024

F. No. 370142/22/2024 -TPL

Government of India

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

Dated: 15th October, 2024

Sub.: Guidance Note 1/2024 on provisions of the Direct Tax Vivad se Vishwas Scheme, 2024 – reg.

The Direct Tax Vivad Se Vishwas Scheme, 2024 (hereinafter referred as DTVSV Scheme, 2024) has been enacted vide Chapter IV of Finance (No.2) Act, 2024 to provide for dispute resolution in respect of pending income tax litigation. The objective of the Scheme 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.

2. The commencement date of the said Scheme has already been notified as 1.10.2024. Further, Rules and Forms for enabling the Scheme have also been notified on 20.09.2024. After enactment of the DTVSV Scheme, 2024, several queries were received from the stake-holders seeking guidance in respect of various provisions contained therein.

3. Accordingly, under Section 97 of the DTVSV Scheme, 2024 which empowers the Board to issue directions or instructions in public interest, following Guidance Note in the form of answers to the frequently asked questions (FAQs) is hereby issued. This will be helpful for the tax-payers for creating better awareness and understanding with respect to the provisions of the Scheme.

S. No.	Issue	Comments
Eligible cases		
1	Which appeals are covered under Direct Tax Vivad Se Vishwas Scheme, 2024?	Please refer to section 89 of the Direct Tax Vivad Se Vishwas Scheme, 2024 ('the DTVSV Scheme, 2024' or 'the Scheme') [contained in Chapter IV of the Finance (No.2) Act, 2024]. Section 89 of the Scheme provides for the definition of "appellant" which is – (i) a person in whose case an appeal or a writ petition (WP) or special leave petition (SLP) 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 i.e. 22.7.2024; or (ii) a person who has filed his objections before the Dispute Resolution Panel (DRP) under section 144C of the Income-tax Act, 1961 ('the Act') and the DRP has not issued any direction on or before 22.7.2024; or (iii) a person in whose case the DRP has issued direction under section 144C(5) of the Act and the AO has not completed the assessment under section 144C(13) on or before 22.7.2024; or



		(iv) a person who has filed an application for revision under section 264 of the Act and such application is pending as on 22.7.2024.																								
Non-eligible cases																										
2	Which cases are not covered under DTVSV Scheme 2024?	As per section 96 of the Scheme, the Scheme shall not, inter-alia, apply in respect of tax arrear,— (i) relating to an assessment year in respect of which an assessment has been made under section 143(3)/144/147/153A/153C of the Act on the basis of search initiated under section 132/132A of the Act; (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 Act, if it relates to any tax arrear. There are certain other cases where provisions of COFEPOSA Act, 1974; UAPA Act, 1967; NDPS Act 1985; PBPT Act, 1988; PC Act, 1988; PMLA 2002 etc. may apply. Such cases are also not covered in the Scheme. For further details, refer section 96 of the Scheme.																								
Rates																										
3	Kindly provide the amount payable on the tax arrears as per the DTVSV Scheme, 2024?	<table><tr><th colspan="4">Table-1</th></tr><tr><th>S. No.</th><th>Nature of tax arrears</th><th>Amount payable where declaration made on or before 31.12.2024</th><th>Amount payable where declaration made on or after 1.1.2025 & before last date</th></tr><tr><td>1</td><td>Tax arrears include disputed tax, interest, penalty (New appellant)</td><td>100% of disputed tax</td><td>110% of disputed tax</td></tr><tr><td>2</td><td>Tax arrears include disputed tax, interest, penalty (Old appellant)</td><td>110% of disputed tax</td><td>120% of disputed tax</td></tr><tr><td>3</td><td>Tax arrears related to disputed interest/ penalty/ fee (New appellant)</td><td>25% of disputed interest/ penalty/ fee</td><td>30% of disputed interest/ penalty/ fee</td></tr><tr><td>4</td><td>Tax arrears related to disputed interest/ penalty/ fee (Old appellant)</td><td>30% of disputed interest/ penalty/ fee</td><td>35% of disputed interest/ penalty/ fee</td></tr></table>	Table-1				S. No.	Nature of tax arrears	Amount payable where declaration made on or before 31.12.2024	Amount payable where declaration made on or after 1.1.2025 & before last date	1	Tax arrears include disputed tax, interest, penalty (New appellant)	100% of disputed tax	110% of disputed tax	2	Tax arrears include disputed tax, interest, penalty (Old appellant)	110% of disputed tax	120% of disputed tax	3	Tax arrears related to disputed interest/ penalty/ fee (New appellant)	25% of disputed interest/ penalty/ fee	30% of disputed interest/ penalty/ fee	4	Tax arrears related to disputed interest/ penalty/ fee (Old appellant)	30% of disputed interest/ penalty/ fee	35% of disputed interest/ penalty/ fee
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		- Where an appeal/writ petition/SLP is filed by the income-tax authority on any disputed issue, the amount payable shall be 50% of the amount payable specified in the Table above. - Where an appeal is filed by the appellant before the Commissioner (Appeals)/Joint Commissioner (Appeals) or objections are filed before the Dispute Resolution Panel on any issue on which he has already got a decision in his favour from the ITAT (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 50% of the amount payable specified in the Table above. - Where an appeal is filed by the appellant on any issue before the ITAT 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 amount payable specified in the Table above.
Types of Forms and Timelines		
4	What are the various Forms specified in the Scheme?	Four separate Forms have been notified for the purposes of the said Scheme. These are as under: Form-1: Form for filing declaration and undertaking by the declarant Form-2: Form for Certificate to be issued by Designated Authority Form-3: Form for Intimation of payment by the declarant Form-4: Order for Full and Final Settlement of tax arrears by Designated Authority - The Scheme also provides that Form-1 shall be filed separately for each dispute, provided that where appellant and the income-tax authority, both have filed an appeal in respect of the same order, single Form-1 shall be filed in such a case. - The intimation of payment is to be made in Form-3 and is to be furnished to the Designated Authority alongwith proof of withdrawal of appeal, objection, application, writ petition, special leave petition, or claim.
5	What are the various timelines specified in the Scheme?	Various timelines specified in the Scheme are as follows: - Declaration and Undertaking shall be filed by tax payer in Form-1 on or before 31.12.2024 to keep the amount payable on the lower threshold. In case of filing the declaration and undertaking beyond 31.12.2024, amount payable will increase as specified in rates Table-1 above. - The Designated Authority shall issue Form-2 within a period of fifteen days from the date of receipt of the declaration to determine the amount payable by the taxpayer. - The tax-payer shall pay the amount as determined in Form-2 within a period of fifteen days from the date of receipt of the certificate, and shall intimate the details of such payment in Form-3.



		(iv) Upon receipt of Form-3, Designated Authority shall pass an order in Form-4 stating that the taxpayer has paid the full and final amount.
Search assessments		
6	Kindly clarify which assessments shall be considered to have been made on the basis of search initiated under section 132/132A of the Act?	Assessments framed under section 153A or 153C are clearly made on the basis of search initiated u/s 132/132A. Therefore, such cases shall not be eligible for the DTVSV Scheme, 2024. For other cases where assessments have been made u/s 143(3)/144/147, following three sets of cases shall be considered as cases where assessments have been made on the basis of search initiated u/s 132/132A. These cases are:- (i) Where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A, on or after the 1st day of April, 2021, in the case of the assessee and assessments have been made consequently; or (ii) Where the Assessing Officer has drawn satisfaction, with the prior approval of the Principal Commissioner or Commissioner, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, belongs to the assessee and assessments have been made consequently; or (iii) Where the Assessing Officer has drawn satisfaction, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee and assessments have been made consequently.
Rollback years		
7	A taxpayer is evaluating to close few years in DTVSV Scheme, 2024 out of 4 rollback years. Whether Advance Pricing Agreement can be pursued for remaining years of the 4 rollback years?	As per CBDT Circular 15/2015 dt. 10.6.2015— <i>"The applicant does not have the option to choose the years for which it wants to apply for rollback. The applicant has to either apply for all the four years or not apply at all. However, if the covered international transaction(s) did not exist in a rollback year or there is some disqualification in a rollback year, then the applicant can apply for rollback for less than four years."</i> Thus, in certain exceptions, the rollback period could be less than 4 years also. On the same analogy, if few years are settled in the Scheme, the rollback can be applied for the remaining years.
Appeal disposed off		
8	Suppose a taxpayer is eligible to apply for DTVSV Scheme, 2024 as his appeal is pending as on	The DTVSV Scheme, 2024 is a Scheme for settlement of tax disputes. Where a decision has been given prior to the taxpayer filing a declaration, there is no dispute pending unless the

	22.7.2024. But subsequently, before the taxpayer could file declaration under the DTVS Scheme, 2024, his appeal has been disposed off. Can such a taxpayer still file declaration under the Scheme?	taxpayer or the Department again prefers an appeal. Therefore, where an appeal is pending as on 22.7.2024 but is not pending as on the date of making declaration under the Scheme, such cases shall not be eligible for the Scheme. However, in cases where a taxpayer files declaration under section 90 of the Scheme and intimates the same to the appellate authority, the concerned appellate authority may consider not disposing the appeal of the taxpayer.
<u>Time limit to file appeal not expired on 22.7.24</u>		
9	Extant provisions of DTVS Scheme, 2024 does not cover cases where Taxpayer would have received orders but the time limit to file an appeal / special leave petition had not expired as on 22 July 2024. Is there any possibility that such cases can be covered in the Scheme?	As per section 89(1) of the Scheme, it is clear that the appeal has to be pending as on the specified date i.e. 22.07.2024 for an appellant to be eligible for the Scheme. The definition of appellant also covers cases where the DRP has issued directions u/s 144C(5) but the AO has not completed the assessment u/s 144C(13). Therefore, the Scheme does not provide for eligibility of those cases where an appeal is not pending as on 22.7.2024 except for DRP cases referred above.
<u>Settling issues in part</u>		
10	Where disputed tax contains qualifying tax arrears along-with non-qualifying tax arrears (such as, tax arrears mentioned in section 96(a) for eg. tax arrear in respect of undisclosed foreign income), whether the taxpayer can apply for the Scheme in such a case?	As per section 91(2) of the Scheme, after filing of declaration, appeals before ITAT/ CIT(A)/ JCIT(A) are deemed to be withdrawn from the date of issue of certificate by the Designated Authority. Further as per section 91(3) of the Scheme, the taxpayer is required to withdraw appeals and furnish proof thereof alongwith intimation of payment u/s 92(2) of the Scheme. Therefore, the Scheme does not envisage settling issue in part. The dispute has to be settled in full as per the Scheme. Thus, where there are non-qualifying tax arrears, such disputes are not eligible to be covered under the Scheme.
<u>Settling penalty appeal while quantum appeal pending</u>		
11	Can a taxpayer settle penalty appeal while continuing to litigate the associated quantum appeal?	Reference may be made to section 89(1)(i) of the Scheme, which provides the definition of 'disputed penalty'. It provides that the disputed penalty is such penalty which is not levied or leviable in respect of disputed income or disputed tax. Thus, it would not be possible for the appellant to apply for settlement of penalty appeal only, when the appeal on disputed tax related to such penalty is still pending. If both quantum appeal covering disputed tax and appeal against penalty levied on such disputed tax for an assessment year are pending, the declarant is required to file a declaration form giving details of both disputed tax appeal and penalty appeal. However, he would be required to pay relevant percentage of disputed tax only.
<u>Protective & Substantive additions</u>		
12	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	Where substantive as well as protective additions have been made whether in the case of same taxpayer for different assessment years or in the hands of different taxpayers, then either of the two additions i.e. substantive or protective can be settled if the substantive addition is eligible for settlement

	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 DTVSV Scheme, 2024?	under the Scheme. On settlement of dispute related to substantive or the protective addition, AO shall pass rectification order deleting the protective or the substantive addition, as the case may be, relating to the same issue in the case of the same taxpayer or in the case of another taxpayer.
Disputes relating to other direct-taxes		
13	Are disputes relating to wealth tax, security transaction tax, commodity transaction tax and equalisation levy covered?	No. Only disputes relating to income-tax are covered.
Request for withdrawal of appeal made		
14	If a taxpayer has requested for withdrawal of appeal under section 91(3) of the Scheme and the appeal is not yet allowed to be withdrawn, how will the taxpayer furnish proof of withdrawal in such cases?	Where assessee has made request for withdrawal and such request is under process, proof of request made shall be enclosed.
Interest waiver applications		
15	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 22.7.2024? Will such cases be covered under the Scheme?	A taxpayer who has filed a waiver application is not an appellant u/s 89(1)(a) of the Scheme. Therefore, such cases are not covered.
Enhancement notice		
16	If JCIT(Appeals)/ CIT(Appeals) has given an enhancement notice, can the appellant avail the DTVSV Scheme, 2024 after including proposed enhanced income in the total assessed income?	Yes. Where an appeal is pending before the JCIT(A)/ CIT(A), the disputed tax is the amount that is payable by appellant if such appeal was to be decided against the appellant. This is as per the definition of 'disputed tax' in s. 89(1)(j) of the DTVSV Scheme, 2024. Hence, where JCIT(A)/ CIT(A) has given enhancement notice, the taxpayer can avail the Scheme after including proposed enhanced income in the total assessed income. Appropriate calculation of disputed tax is accordingly provided in the relevant Schedules of Form-1.
Refund issues		
17	Whether taxpayers can settle appeals under DTVSV Scheme, 2024 using the refunds which they are expecting from the department?	As per section 92(2) of the Scheme, the declarant shall pay the amount determined under section 92(1) of the Scheme within a period of fifteen days of the date of receipt of the certificate and intimate the details of such payment to the Designated Authority in the prescribed form and thereupon the Designated Authority shall pass an order stating that the declarant has paid the amount. There is no provision in the Scheme allowing payment of the amount determined u/s 92(1) of the Scheme through adjustment of any refund expected from the Department.
18	If taxes are paid after availing the benefits of the DTVSV Scheme, 2024 and later the taxpayer decides to take refund of these taxes paid, would it be possible?	No. Any amount paid in pursuance of a declaration made under the Scheme shall not be refundable under any circumstances as per provisions of section 94(1) of the Scheme.



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TDS/TCS issues		
19	Will delay in deposit of TDS/TCS be also covered under the Scheme?	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 the Scheme.
20	Where assessee settles TDS appeal (against order u/s 201 of the Act) as deductor of TDS, will credit of such tax be allowed to deductee?	Yes. 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.
21	When assessee settles his own appeal under DTVSV Scheme, 2024, will consequential relief be available to the deductor in default from liability determined under TDS order u/s 201 of the Act?	Yes. In such a case, the deductor in default would not be required to pay the corresponding TDS amount. However, he would be required to pay the interest under sub-section (1A) of section 201 of the Act. If such levy of interest under sub-section (1A) of section 201 of the Act qualifies for DTVSV Scheme, 2024, the deductor in default can settle this disputed interest by filing up the relevant schedule of disputed interest.
Consequential relief u/s 40(a)(i)/(ia)		
22	Where assessee settles TDS liability as deductor of TDS under DTVSV Scheme, 2024 (i.e. against order u/s 201), when will he get consequential relief of expenditure allowance under proviso to section 40(a)(i)/(ia) of the Act?	In such cases, the deductor shall be entitled to get consequential relief of allowable expenditure under proviso to section 40(a)(i)/(ia) of the Act in the year in which the tax was required to be deducted, if the disallowance under section 40(a)(i)/(ia) of the Act is with respect to same issue on which order under section 201 has been issued. However, if the assessee has already claimed deduction of the same amount under section 40(a)(i)/(ia) of the Act in subsequent year on account of recovery of TDS in such subsequent year, he shall not be entitled to consequential relief under section 40(a)(i)/(ia) of the Act on the basis of the settlement under DTVSV Scheme, 2024. 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) of the Act 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 of the Act would be ignored for calculating disputed tax.
Registration u/s 12AA		
23	A trust has been denied registration u/s 12AA of the Act. Whether appeal against such order is eligible for DTVSV Scheme, 2024?	No
Set-aside matters		
24	An order has been set aside, fully or partially, to the AO. Can the taxpayer avail the DTVSV Scheme, 2024 if the set-aside matter is pending as on 22.7.2024?	According to the Scheme, an appeal which is pending as on 22.7.2024 shall be eligible for settlement. A set-aside matter to the AO is not an appeal pending as such. Therefore, set-aside matters to the AO, whether fully set-aside or partially set-aside are not covered under the Scheme.



Two appeals for one AY in respect of the same order		
25	Where there are two appeals filed for an assessment year in respect of the same order – one by the appellant and one by the tax department, whether the appellant can opt for only one appeal? How would the disputed tax be computed in such a cases?	Yes. The appellant has an option to opt for settling appeal filed by him or appeal filed by the department or both. This has to be specified in the declaration to be made in Form-1. Also refer to the proviso to Rule 4 of the Direct Tax <i>Vivad se Vishwas</i> Rules, 2024 which is reproduced as under:- <i>“where the appellant and the income-tax authority have both filed an appeal or writ petition or special leave petition in respect of the same order, single Form-1 shall be filed by the appellant.”</i> Accordingly, relevant Schedules in Form-1 have to be filled out by the appellant and the disputed tax would be worked out.
Writ on 148/148A notice		
26	If a writ has been filed against a notice issued under section 148/148A of the Act and no assessment order has been passed consequent to that notice, whether such cases are eligible under the Scheme?	The income in such cases is yet to be determined. Therefore, the disputed tax is not ascertainable. Thus, the taxpayer would not be eligible for the Scheme in such cases.
Appeal before HC/SC yet to be admitted		
27	If appeal is filed before High Court or Supreme Court and is pending for admission as on 22.7.2024, whether the case is eligible for DTVSV Scheme, 2024?	Yes.
Cross objections & MA		
28	Whether cross objections filed and pending as on 22.7.2024 will also be covered by the Scheme?	Yes.
29	Whether Miscellaneous Application (MA) pending as on 22.7.2024 will also be covered by the Scheme?	No. MA is not an appeal. Therefore, there is no pending appeal as on 22.7.2024.
Assessment order stayed by HC/SC		
30	Whether the DTVSV Scheme, 2024 can be availed in a case where the enforceability of an assessment order passed by AO has been stayed by the High Court or Supreme Court?	No. A quantum appeal pending on 22.7.2024 can be settled under the Scheme. Where an assessment order has been stayed, it does not tantamount to an appeal pending as on 22.7.2024.
Other issues		
31	The assessment order under section 143(3) of the Act was passed in the case of an assessee for an assessment year. The said assessment order is pending with ITAT. Subsequently another order under section 147/143(3) was passed for the same assessment year and that is pending with CIT (Appeals)? Could both or one of the orders be settled under DTVSV Scheme, 2024?	The appellant in this case has an option to settle either of the two appeals or both appeals for the same assessment year. As per rule 4(1) of the Direct Tax <i>Vivad se Vishwas</i> Rules, 2024, the declaration shall be filed separately in respect of each order. Therefore, if a taxpayer decides to settle both appeals then he has to file separate declaration for the two orders.



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32	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 Supreme Court?	If the appellant has got decision in his favour from Supreme Court 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.
33	Addition was made u/s 143(3) on two issues whereas appeal is filed only for one addition. Whether interest and penalty be waived for both additions.	Under DTVSV Scheme, 2024 interest and penalty will be waived only in respect of the issue which is disputed in appeal and for which declaration is filed. Hence, for the undisputed issue, the tax, interest and penalty shall be payable.
34	Once declaration is filed under DTVSV Scheme, 2024, and for financial difficulties, payment is not made accordingly, will the declaration be null and void?	Yes. As per provisions of section 91(5) of the Scheme, it shall be deemed as if the declaration has not been made.
35	Whether the immunity from prosecution is only for the declarant or also for the Director of the company or partner of the firm with respect to the disputes settled under DTVSV Scheme, 2024?	If a dispute has been settled under the Scheme, the immunity from prosecution with respect to that dispute shall also extend to the director / partner of company / firm (being the declarant) in respect of same dispute under section 278B of the Act.



15.10.2024

(Surbendu Thakur)

Under Secretary to the Govt. of India

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