

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**Case No: WP(C) No. 536/2025
CM No.1253/2025**

*Reserved on: 03.02.2026
Pronounced on:13.02.2026
Uploaded on: 13.02.2026*

*Whether the operative part or full
Judgment is pronounced : **Full***

Vidya Sagar Sharma.

...Petitioner(s)/Appellant(s)

Through: Mr. Ajay Gandotra, Advocate.

v/s

Union of India and others

.... Respondent(s)

Through: Mr. Suraj Singh Wazir, Advocate

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.**

JUDGMENT

PER OSWAL-J

1. Pursuant to an order passed under Sections 144/147 of the Income Tax Act, 1961 (for short- 'the Act'), the respondent No. 3 assessed the tax liability of the petitioner for the Assessment Year 2011-2012 and called upon the petitioner to deposit a sum of Rs.29,73,640/-. Further,

by a separate order dated 14.06.2019 passed under Section 271(1)(c) of the Act, the petitioner was directed to deposit a penalty amounting to Rs.10,62,037/- on account of concealment of income.

2. The aforesaid two orders were assailed by the petitioner by way of separate Revision Petitions filed before the Revisional Authority under Section 264 of the Act on 16.03.2020. During the pendency of the said Revision Petitions, the Government of India, Ministry of Finance, introduced the Direct Tax Vivad Se Vishwas Act, 2020 (for short, “the Act of 2020”). The rules under the Scheme were framed vide Notification No. S.O. 1129(E).
3. The petitioner claims to have applied under the Act of 2020 before the respondent No. 2 by submitting online Forms 1 and 2 within the prescribed time for availing the benefits under the Act of 2020. In order to claim the benefit of the Scheme, the petitioner furnished a declaration on 23.02.2021 and undertaking that he would not pursue any remedy in relation to the tax arrears. Thereafter, Form 3 dated 04.03.2021 was issued to the petitioner by respondent No. 2. Subsequently, through his Tax Consultant, the petitioner sought withdrawal of the two Revision Petitions, and respondent No. 2 vide a common order dated 17.03.2021, disposed of the said Revision Petitions accordingly.
4. Thereafter, the petitioner received a communication dated 14.05.2022 informing him that Form-4 under the Act of 2020 had not been submitted for the Assessment Year 2011-2012. Vide letter dated 16.05.2022, the petitioner sought time to make the requisite deposit on the ground that he was to superannuate on 30.09.2022 and was

expecting release of his retiral benefits. The petitioner further claims to have made a representation to the Ministry of Finance on 27.10.2023 explaining the reasons for his inability to comply with the requirements of the Act of 2020.

5. In the meantime, respondent No. 1 reintroduced the DTVSV Scheme in the year 2024 (for short- 'the scheme of 2024'), providing a mechanism for extending benefits to those Assesses whose litigation(s) was/were pending as on the specified date, i.e., 22.07.2024. The petitioner once again submitted Form-1 and, in Schedule-X thereof, declared his liability to pay the tax assessed for the Financial Year 2011-2012 amounting to Rs.11,68,241/- on 25.11.2024, which was subsequently revised on 23.12.2024, well before the cut-off date of 31.12.2024. However, the respondent No. 2 rejected the said application (Form-1) vide order dated 10.01.2025, observing that in terms of Section 89 of the Scheme of 2024, a revision petition under Section 264 of the Act must be pending on 22.07.2024. Since, in the petitioner's case, the Revision Petitions had already been disposed of by the PCIT, Srinagar, vide order dated 17.03.2021, no such proceedings were pending on the cut-off date, i.e. 22.07.2024. The petitioner was, therefore, held ineligible to claim the benefit under the Scheme of 2024.
6. The order dated 10.01.2025 is the subject matter of challenge in the present writ petition. The petitioner contends that the respondents have erred in rejecting his application for availing the benefit under the Scheme of 2024. According to the petitioner, in terms of Section 4(6) of the Act of 2020, upon his failure to make the payment within

the stipulated period, the Revision Petitions filed by him and withdrawn stood revived automatically. It is, thus, the precise case of the petitioner that his inability to comply with the mandate of the Act within stipulated timeline resulted in automatic revival of the Revision Petitions, by operation of Section 4(6) of the Act of 2020. However, the respondent No. 2, in disregard of the said statutory provision, proceeded to pass the impugned order rejecting the petitioner's claim.

7. The respondent No.2 has filed its response stating therein that for the Assessment Year 2011-2012, the petitioner did not file any Return and total taxable income was Rs.39,23,680/-, and accordingly, a demand for an amount Rs. 29,73,640 was created as per the said assessment order. Through separate order dated 14.06.2019, a penalty of Rs.10,62,040.00 was also imposed upon the petitioner in terms of Section 271(1)(c) of the Income Tax Act. The respondents have admitted the filing of the Revision Petitions and the enactment of Act of 2020 and further as per the said Act, any litigant who has filed the appeal/writ petition/SLP, be the Assessee of the Income Tax or the Income Tax Department may, subject to being eligible, apply for remission/concession in the payment of Income tax and recall of any penalty/interest. The petitioner applied by way of submitting online Form-1 and undertaking under sub-section 5 of Section 4 of the Act of 2020 on 23.02.2021. Form-3 under sub-section (1) of the section 5 of Act of 2020 was issued to the petitioner by respondent No.3 on 04.03.2021 determining that as against the assessed amount of tax, interest and penalty to the tune of Rs.39,23,680/- , the amount payable on or before 31.03.2021 would be Rs.10,62,037/-. The petitioner was

required to deposit Rs.11,68,241/- if the payment was to be made after 31.03.2021 and thereafter file Form No.4.

8. It is also contended that the dates to make above mentioned payments were extended to 30.09.2021 without additional amount and after 01.10.2021 with additional amount vide different Notifications. The last date to make the payment with additional amount was also notified to be 31.10.2021, but the petitioner did not make the payment till the extended date of 31.10.2021. And as Form-4 was not received from the petitioner, a letter was written to the petitioner on 14.05.2022 to furnish the reasons for not submitting the Form-4 under the Act of 2020. It is contended that once the petitioner failed to deposit the said amount within the extended time as stated above and submit Form-4, the declaration filed by him under the Act of 2020 became void and was deemed to have never been made as provided in Form-3 issued by the respondents. The respondents have admitted the issuance of DTVSV Scheme of 2024 and the contention of the petitioner that he applied and filled the Form-1 on 03.12.2024 and determined amount of Rs.11,68,241/- payable under DTVSV Scheme on or before 31.12.2024 as old appellant case in respect of tax arrears of Rs.40,35,674/- for the Assessment Year 2011-2012. Thereafter, the petitioner filed a revised Form-1 on 23.12.2024. Vide order impugned dated 10.01.2025, the claim of the petitioner was rejected as no Revision Petition was pending in the case of the petitioner as on the cut-off date, i.e. 22.07.2024.

9. In nutshell, the stand of the respondents is that once the Revision Petitions preferred by the petitioner stood disposed of vide order dated

17.03.2021, no proceedings were pending as on 22.07.2024. Consequently, the petitioner was rendered ineligible to avail the benefit under the DTVSV Scheme, 2024, and his claim came to be rejected by way of the impugned order challenged in the present petition.

10.Mr. Ajay Gandotra, learned counsel for the petitioner has submitted that sub-section (2) of Section 4 of the Act of 2020 provides that upon filing the declaration, any appeal pending before any authority in respect of disputed income or disputed interest or disputed penalty shall be deemed to have been withdrawn from the date on which the certificate under sub-section (1) of section 5 is issued by the designated authority. And in the instant case, the certificate was issued by the designated authority on 04.03.2021 meaning thereby that the Revision Petitions preferred by the petitioner in fact were deemed to have been withdrawn on 04.03.2021 notwithstanding the formal order of disposal of the Revision Petitions in terms of order dated 17.03.2021. He has further submitted that Section 4(6) of the Act of 2020 provides that declaration under sub section (1) of Section 4 shall be presumed never to have been made if 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 the claims which were withdrawn under Section 4 of the Act shall be deemed to have been revived. Lastly, he submitted that for whatever the reasons the petitioner could not follow the mandate of the Act of 2020 in view of the provisions contained in Section 4(6) of the Act of 2020, the Revision Petitions preferred by the petitioner stood

automatically revived. It is further submitted that in Form-1, the petitioner made reference only to Section 147 of the Income Tax Act and did not specifically mention Section 271(1)(c) of the said Act but in Schedule-X, the petitioner clearly referred not only to the alleged concealed income, but also to the penalty. Any omission of section 271(1)(c) of the Income Tax Act in Form-1, was *bona fide* error on the part of the petitioner.

11. *Per contra*, Mr. Suraj Wazir, learned counsel for the respondents, submitted that Section 4(6) of the Act of 2020 does not come to the aid of the petitioner inasmuch as the Revision Petitions had been withdrawn at the petitioner's own instance and stood disposed of on 17.03.2021. Since no revision proceedings were pending as on 22.07.2024, i.e., the cut-off date prescribed under the DTVSV Scheme, 2024 for availing its benefit, the petitioner was not entitled to seek relief under the said Scheme. It was further argued that Section 4(6) of the Act of 2020 is couched in terms which do not envisage revival of the proceedings at the instance of the Assessee in the manner sought to be projected by the petitioner. He has further submitted that in the Form-1 submitted pursuant to DTVSV Scheme of 2024, yet again the petitioner did not apply for availing the benefit in respect of order passed under Section 271(1)(C) of the Act.

12. Heard learned counsel appearing for the parties and perused the record.

13. It is undisputed that the petitioner submitted Form-1 along with the requisite undertaking on 23.02.2021, pursuant to which respondent No. 3 issued Form-3 under Section 5(1) of the Act of 2020 on

04.03.2021. Subsequently, the petitioner withdrew the Revision Petitions on 17.03.2021. While the petitioner failed to meet the timelines stipulated in the Form-3 and subsequent extension notifications, the record shows he challenged the order under Section 147 of Income Tax Act without specifically assailing the order of penalty issued under Section 271(1)(c) of Income Tax Act. Crucially, however, Schedule-X made reference to both the alleged concealed income and the penalty. Despite the same, respondent No. 2 issued Form-3 only in respect of the tax arrears. Given these facts, the failure to explicitly mention challenge to order under Section 271(1)(c) of the Income Tax Act, appears to be a *bona fide* and inadvertent error for which the petitioner should not be penalized.

14. The pivotal question for this Court's consideration is whether the Revision Petitions, withdrawn by the petitioner on 17.03.2021, were automatically revived upon his failure to comply with the mandate of Form-3. To resolve this issue, it is necessary to examine the relevant provisions of Section 4 of the Act of 2020, which are extracted below:

4. Filing of declaration and particulars to be furnished-(1)

The declaration referred to in section 3 shall be filed by the declarant before the designated authority in such form and verified in such manner as may be prescribed.

(2) Upon the filing the declaration, any appeal pending before the Income Tax Appellate Tribunal or Commissioner (Appeals), in respect of the disputed income or disputed interest or disputed penalty or disputed fee and tax 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 alongwith 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 alongwith 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."

15.A perusal of Section 4 of the Act of 2020 reveals that a declaration under Section 4 is a *sine qua non* for availing the benefits under the

Act of 2020. Section 4(2) of the Act of 2020 mandates that upon filing such a declaration, any pending appeal before the Income Tax Appellate Tribunal or the Commissioner (Appeals) shall be deemed withdrawn from the date the Designated Authority issues the certificate under Section 5(1) of the Act.

16. This provision of 'deemed withdrawal' operates automatically by operation of law and is independent of any formal order passed by the concerned authority. In the instant case, it is the admitted position of the respondents that the petitioner submitted Form-1 and the requisite undertaking under Section 4(5) of the Act on 23.02.2021. Consequently, the Revision Petitions are deemed to have been withdrawn on 04.03.2021 when the Form-3 under Section 5(1) of the Act of 2020 was issued, notwithstanding that the formal order of withdrawal was passed only on 17.03.2021.

17. It is further undisputed that the petitioner failed to adhere to the Act's requirements by not depositing the amounts stipulated in the Form-3. Specifically, the petitioner was obligated to pay ₹10,62,037 on or before 31.03.2021, or ₹11,68,241 thereafter. Despite multiple extensions of the deadline, the petitioner failed to deposit the amounts specified in the Form-3.

18. Section 4(6) of the Act of 2020, as extracted above, creates a legal fiction that a declaration under sub-section (1) is presumed never to have been made if the declarant fails to satisfy the statutory conditions. Specifically, if a declarant violates any condition of the Act or fails to act in accordance with the undertaking given under sub-section (5) of Section 4 of the Act of 2020, all the proceedings and the

claims withdrawn under Section 4 of the Act of 2020 along and the consequences against the declarant under the Income Tax Act are deemed to have been revived by operation of law.

19.It is undisputed that the petitioner failed to comply with the mandate of the Act by not depositing the amount determined in the Form-3. The petitioner contends that this violation triggers the consequences under Section 4(6) of the Act of 2020, resulting in the automatic revival of his Revision Petitions. Conversely, the respondents argue that the phrase 'all the proceedings and the claims' followed by 'all the consequences under the Income Tax Act' refers exclusively to the proceedings or the claims initiated by the Department.

20.A plain reading of Section 4(6) of the Act of 2020 refutes this restrictive interpretation. The provision encompasses 'all the proceedings and claims' without distinction; it does not differentiate between those initiated by the Assessee and those by the Income Tax Authority. Had the Legislature intended to limit the scope of 'revival' solely to Departmental actions, it would have employed specific qualifying language to that effect.

21.Furthermore, the statutory definition of 'appellant' under the Act is expansive, including any person who has filed an appeal, writ petition, SLP, or an application for Revision under Section 264 of the Income Tax Act, whether filed by the individual or the Income Tax Authority. In the present case, the petitioner had invoked the Revision jurisdiction under Section 264 of the Income Tax Act. Consequently, we are of the considered view that the expression 'all the proceedings and claims' withdrawn under Section 4 of the Act of 2020 must

include those filed by the Assessee also. To hold otherwise would be to read a limitation into the statute that does not exist.

22. Applying the principle of harmonious construction, we are of the considered opinion that the expression 'consequences under the Income Tax Act against the declarant' necessarily implies that any adverse orders previously passed against the declarant-assessee are also revived. This ensures that upon the failure of the declaration, the parties are restored to their original positions, including the petitioner's right to pursue his challenge against such orders.

23. Accordingly, we are of the considered view that by virtue of Section 4(6) of the Act of 2020, once the petitioner failed to comply with the statutory mandate within the stipulated time, the Revision Petitions stood automatically revived by operation of law. The parties are, therefore, restored to the same legal position they occupied prior to the filing of the declaration.

24. Authorities administering a beneficial scheme designed for the resolution of tax disputes are expected to adopt a purposive approach that furthers its underlying objectives, particularly where an assessee demonstrates a clear intent to settle. In the present case, we find that the respondents proceeded on the erroneous premise that the petitioner was ineligible under the DTVSV Scheme, 2024, on the ground that no Revision Petitions were pending on the relevant date. This conclusion was reached in complete disregard of the statutory mandate under Section 4(6) of the Act of 2020, which provides for the automatic revival of such proceedings upon a default. Consequently, the impugned order dated 10.01.2025 suffers from a manifest error of law

and cannot be sustained. The respondents are correct in submitting that the petitioner in the Form-1 submitted to avail the benefit of DTVSV Scheme of 2024 has again committed the same mistake, which he committed while applying under the Act of 2020.

25. In view of the foregoing discussion and findings, the impugned order dated 10.01.2025 is set aside. The petitioner shall approach the respondents within a period of thirty days from today for completion of all the requisite formalities for availing the benefit of the DTVSV Scheme, 2024, in respect of both the tax arrears and the penalty imposed. Upon such approach, the respondents shall permit the petitioner to do the needful within the aforesaid period. After the petitioner completes the necessary formalities within the stipulated time, the respondents shall grant the benefit of the DTVSV Scheme, 2024 to the petitioner within a further period of thirty days thereafter. In the event the petitioner fails to approach the respondents within the stipulated period or fails to comply with the mandate for grant of benefit within the time prescribed, the respondents shall be at liberty to proceed against the petitioner in accordance with law.

26. **Disposed** of as above along with connected CM(s) if any.

(Rajnish Oswal)
Judge

(Arun Palli)
Chief Justice

Jammu
13.02.2026
Madan Verma-Secy

Whether order is speaking? **Yes.**
Whether order is reportable? **Yes.**