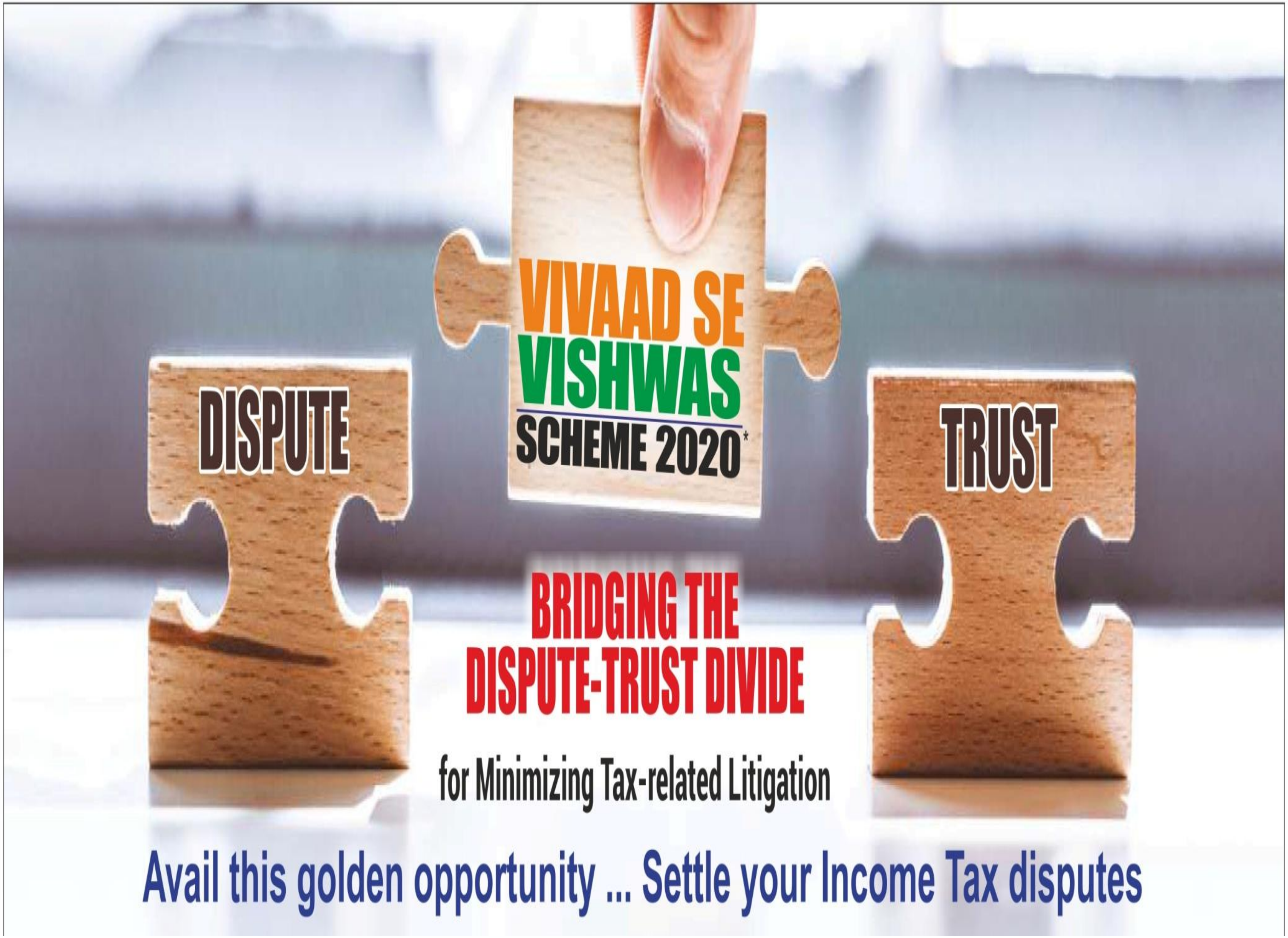
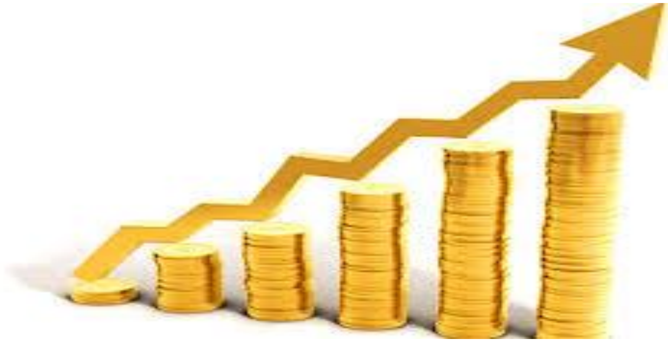
VIVAD SE VISHWAS SCHEME, 2020

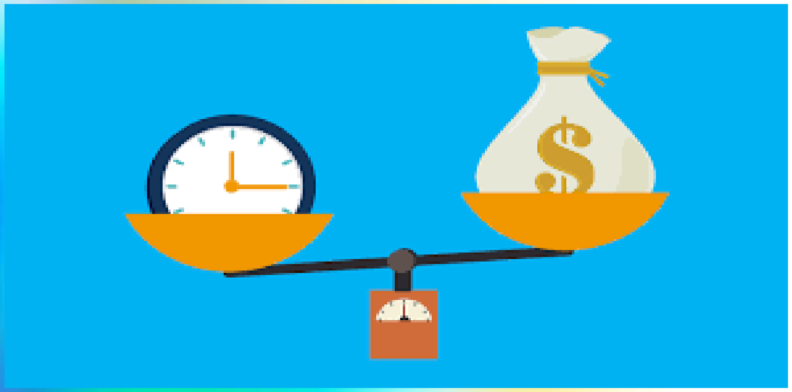

VIVAAD SE
VISHWAS
SCHEME 2020*
DISPUTE
TRUST
BRIDGING THE
DISPUTE-TRUST DIVIDE
for Minimizing Tax-related Litigation
Avail this golden opportunity ... Settle your Income Tax disputes

Why this Scheme?

To reduce the disputed tax demand pending before appellate authorities i.e. CIT(A), ITAT, High Court and Supreme Court.

To generate timely revenue.





To save the time, energy and resources of tax payer as well as Government of India.

Benefits of the Scheme

Complete waiver of Interest, Penalty and Prosecution.

Sensible way to resolve disputes without moving to court.

Advantageous scheme for the taxpayers.

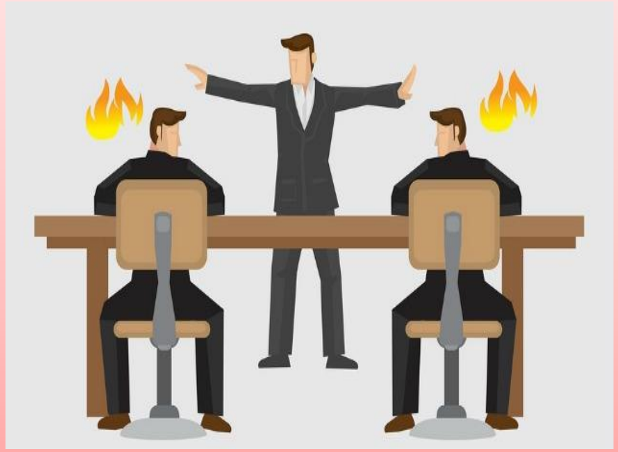
Applicability of the Scheme

In case of all pending appeals before CIT(A), ITAT, High Court and Supreme Court as on **31st January, 2020.**

Disputes Covered:

All disputes, subject to some exclusion, in relation to the-

- **Disputed Tax**
- **Disputed Penalty**
- **Disputed Interest**
- **Disputed Fee**
- **Disputed TDS/TCS**



Eligibility Conditions

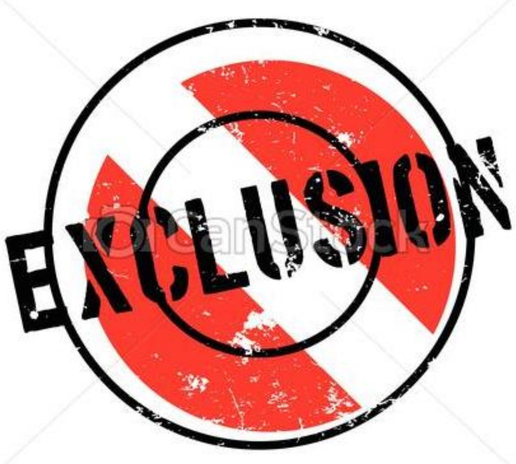
- Appeals/writs filed on or before 31.01.2020 and pending.
- Orders for which time for filing appeal has not expired on 31.01.2020
- Case pending before Dispute Resolution Panel (DRP) on 31.01.2020
- Cases where DRP issued direction on or before 31.01.2020 but no order has been passed.
- Cases where assessee filed revision (Section 264) on or before 31.01.2020.
- Search case if the disputed demand is less than Rs. 5 Crore for a particular financial year.

Eligibility Conditions

- The appeals/writs filed by the taxpayers or the department.
- Disputes where the payment has already been made shall also be eligible.
- Cases in arbitration in India or Abroad.

EXCLUSIONS UNDER THE SCHEME

- Search cases if disputed tax is more than Rs. 5 Crore.
- Prosecution cases under the Income-tax Act or IPC filed by the Department.
- Cases relating to undisclosed foreign income and assets.
- Cases completed on the basis of information from foreign countries as per section 90 or 90A.
- Cases covered under offense under IPC, the Unlawful Activities (Prevention) Act, 1967, NDPS Act, 1985, PC Act, 1988, PMLA Act, 2002, COFEPOSA Act, 1974, Prohibition of Benami Property Transactions Act, 1988 and Special Court Trial in Securities Act, 1992.



SALIENT FEATURES... PAYMENT TERMS

Payment made on or before	Appeal relates to disputed tax	Appeal relates only to disputed penalty or interest or fee
31st March 2020	100% of the disputed tax (125% in search cases)	25% of the disputed penalty or interest or fee
End date (30th June 2020)	110% of the disputed tax (135% in search cases) such that it does not increase total demand	30% of the disputed penalty or interest or fee

If an issue in taxpayer's pending appeal already decided in his favour by appellate forum or if Department has filed appeal on an issue, amount payable is 50% of aforesaid amounts.

What is **Disputed tax**?

"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.

What is **Disputed interest**?

“ **Disputed interest**“ means the interest determined in any case under the provisions of the Income-tax Act, 1961, where—

- such interest is not charged or chargeable on disputed tax;
- an appeal has been filed by the appellant in respect of such interest;
- It covers those cases wherein the assessee is not disputing quantum addition but calculation of interest u/s 234B etc.

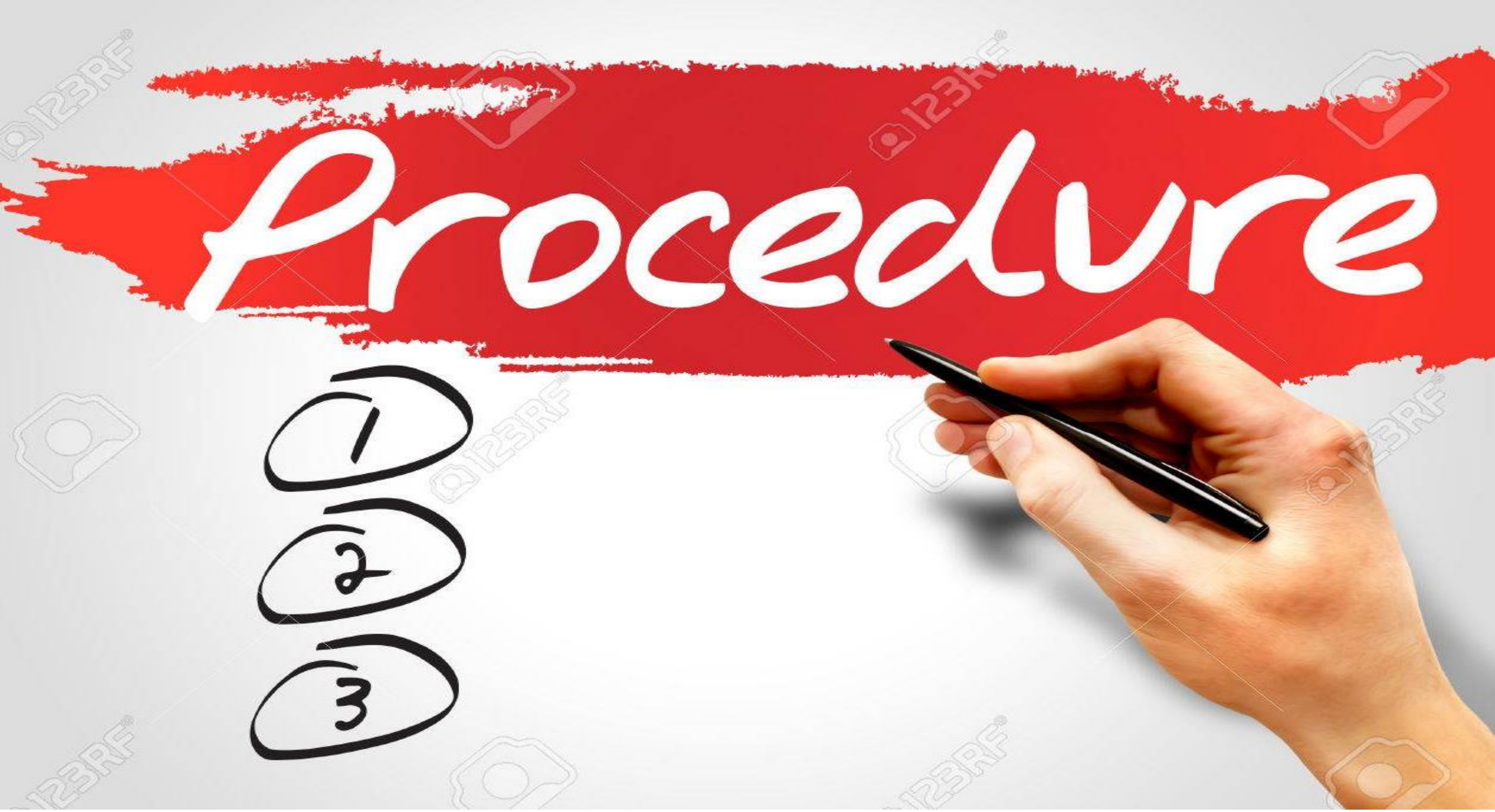
What is disputed
Disputed Penalty?

“ **Disputed Penalty**" means the penalty determined in any case under the provisions of the Income-tax Act, 1961, where—

- such penalty is not levied or leviable in respect of disputed income or disputed tax, as the case may be;
- an appeal has been filed by the appellant in respect of such penalty;
- It covers penalties like 271B, 271A etc….

What is Disputed fee?

"**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.



Under this Scheme…

Procedures

- Taxpayer to file declaration in specified form before the designated authority.
- Taxpayer to furnish an undertaking waiving his right direct or indirect to seek or pursue any remedy or claim in relation to the tax arrears under any law.
- Designated authority within 15 days from the date of receipt of declaration to determine the amount payable by the Taxpayer and grant a certificate to the declarant containing particulars of tax arrears and amount payable in prescribed form

Procedures

- Upon filing of the declaration, the appeal is deemed to have been withdrawn from the date of issue of certificate U/s 5(1)

- The taxpayer would be required to submit the **proof of withdrawal of appeal / writ with the intimation of payment** i.e. before the issuance of final certificate for settling dispute and not with the declaration

- Taxpayer to pay the amount determined by the designated authority within 15 days from the date of receipt of the certificate and inform the designated authority of such payment made in prescribed form

Procedures

- Order passed under Section 5(1) by the designated authority to be conclusive as to matters mentioned therein and such matters cannot be reopened in any other proceedings.

- No institution of any proceedings in respect of an offence, penalty or interest. [**Section 6**] (For the benefit of declarant)

- Appellate forums / arbitrator, conciliator or mediator not to decide the issue in respect of cases where an order under clause 5(1) is passed by the designated authority. [**Section 4(7)**]

OTHER

Features

OF THE SCHEME

Features

- **REFUND OF EXCESS AMOUNT:** If the amount paid by the taxpayer before filing declaration exceeds the amount payable under the Scheme, he would be granted the refund for such excess amount.
- **NO REFUND:** Any amount paid in pursuance of the scheme shall not be refundable under any circumstances.
- **REMOVAL OF DIFFICULTY:** The Central Government may by order not inconsistent with the provisions of the scheme remove the difficulty.

Features

- If there are more than one issues involved in the appeal, the taxpayer would be required to file declaration for all issues, he cannot file declaration for some issues and litigate the balance issues.
- In a case where the taxpayer has got a favourable decision on an issue at higher forum, he would be required to pay only 50% of disputed tax on that issue even in the cases in which he has filed appeal.
- The taxpayer would be required to submit the proof of withdrawal of appeal/writ with the intimation of payment i.e. before the issuance of final certificate for setting dispute and not with the declaration as originally proposed in the Bill. The department would also withdraw the appeal/writ before the issuance of final certificate for setting dispute.

Features

- In case where the Assessing Officer has reduced the returned loss by making addition of income/disallowing expenditure, the taxpayer shall have an option to either pay the notional tax on amount by which the loss has been reduced and carry forward the claimed loss without reduction or by accepting the reduced carry forward of loss without making any payment under the Scheme. Same mechanism would apply for reduction in MAT credit.

- The setting of dispute regarding transfer pricing adjustment would not have any effect on the secondary adjustment, both being independent provisions, and the taxpayer would be required to repatriate found to India in respect of settled transfer pricing adjustment.

- The revised Scheme now provides that filing of declaration will **not set any precedence** and it cannot be claimed in any other proceedings that the taxpayer or the Department has conceded its tax position by settling the dispute.


Why
Wait?


TIME IS
NOW

File your declaration today itself.....

For any assistance, approach your assessing officer today only.


Thank
you