

# The Direct Tax Vivad Se Vishwas Bill, 2020

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**Source:** PRS India & News on AIR

Union Finance Minister moved the Direct Tax 'Vivad Se Vishwas' Bill, 2020 for consideration and passing in the Lok Sabha in March 2020. In her remarks, the Minister said that the **bill would pave the way to provide resolution of disputed tax and related matters as there are four lakh 83 thousand cases amounting to over nine lakh crore rupees** related to direct tax are pending in different appellate forums including High Courts and Supreme Court.

## Key features of the Bill

- The Bill provides a mechanism for resolution of pending tax disputes related to income tax and corporation tax
- **Definition of an Appellant:** The proposed Bill defines an appellant as the income tax authority, or the person, or both, whose appeal is pending before any appellate forum as on January 31, 2020. These **appellate forums are the Supreme Court, the High Courts, the Income Tax Appellate Tribunals, and the Commissioner** (Appeals).
- **Resolution mechanism for pending Direct tax-related disputes:** It also proposes a resolution mechanism under which an appellant can file a declaration to the designated authority to initiate resolution of pending direct tax disputes.
- **Conditions for filing of declarations:**
  1. The last date to file such a declaration will be notified by the central government.
  2. Based on the declaration, the designated authority will determine the amount payable by the appellant against the dispute and grant a certificate,

containing particulars of the amount payable, within 15 days of the receipt of the declaration.

3. The appellant must pay this amount within 15 days of the receipt of the certificate and inform the designated authority of such payment.

4. Such an amount will not be refundable.

- **Withdrawing of appeals:** Once the designated authority issues the certificate, appeals pending before the Income Tax Appellate Tribunals and the Commissioner (Appeals) will be deemed to be withdrawn. In case of appeals or petitions pending before the Supreme Court and High Courts, the appellant is required to withdraw the appeal or petition.
- **Designated Authority:** The Principal Chief Commissioner will designate an officer, not below the rank of a Commissioner of Income Tax, as the **designated authority to manage the proposed resolution mechanism.**
- **The amount payable for resolution:** The amount payable by the appellant for resolution of disputes is determined based on whether the dispute relates to the payment of tax, or payment of interest, penalty, or fee. Further, he is required to pay an additional amount if such payment is made after March 31, 2020.

**The amount payable by the appellant for dispute resolution**

Disputes relating to	Payable before March 31, 2020	The additional amount payable after March 31, 2020
Payment of tax	Amount of disputed tax (any interest or penalty associated with such tax will be waived)	<ul style="list-style-type: none"> <li>• 10% of the amount of disputed tax, or</li> <li>• Interest and penalty relating to that tax, whichever is lower</li> </ul>

Payment of fee, interest, or penalty	25% of the amount under such dispute	Another 5% of the amount under such dispute
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- **Waiver of rights to seek remedy:** For dispute resolution, the appellant is required to furnish an undertaking waiving his rights to seek any remedy or claim in relation to that dispute under any law, including the Income Tax Act, 1961 (IT Act). All such claims already filed in relation to the dispute must be withdrawn before filing the declaration.
- **Immunity to appellant:** Once a dispute is resolved, the designated authority cannot levy interest or penalty in relation to that dispute. Further, no appellate forum can make a decision in relation to the matter of dispute once it is resolved. Such matters cannot be reopened in any proceeding under any law, including the IT Act.
- **The revival of disputes:** The declaration filed by an appellant will become invalid if:
  1. Its particulars are found to be false
  2. he violates any of the conditions referred to in the IT Act, or
  3. he seeks any remedy or claim in relation to that dispute. Consequently, all proceedings and claims withdrawn based on the declaration will be deemed to have been revived.
- **Disputes not covered this Mechanism:** The proposed mechanism will not cover certain disputes. These include disputes:
  1. Where **prosecution** has been initiated before the declaration is filed
  2. Which involve persons who have been **convicted or are being prosecuted for offences** under certain laws (such as the Indian Penal Code), or for enforcement of civil liabilities, and
  3. Involving **undisclosed foreign income or assets**

