

THE DIRECT TAX VIVAD SE VISHWAS BILL, 2020

(BILL NO. 29 OF 2020)- Introduced in Lok Sabha on 05.02.2020

In her budget speech, Finance Minister propose to bring a scheme reducing litigations in the direct taxes called 'Vivad Se Vishwas' scheme wherein 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. **Today on 05.02.2020, FM introduced this bill in Lok Sabha, below is presentation on the same for understanding.**

Clause 3 of Bill

Amount payable by declarant.

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 arrears**, 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: —

Serial No	Nature of tax arrear	Amount payable on or before March 31, 2020	Amount payable on or after 1 st April, 2020 but on or before last date
(a)	Where the tax arrear is the aggregate amount of disputed tax, interest chargeable or charged on such disputed tax and penalty leviable or levied on such disputed tax.	Amount of Disputed Tax	Amount of Disputed Tax + 10% of Disputed Tax [10% can't be more than interest chargeable or charged on such disputed tax and penalty leviable or levied on such disputed tax]
(b)	Where tax arrear relates to disputed interest or disputed penalty or disputed fees	25% of disputed interest or disputed penalty or disputed fees	30% of disputed interest or disputed penalty or disputed fees



Important definitions

Tax Arrear- Clause 2(1)(o)

- Disputed tax + interest chargeable or charged on such disputed tax + penalty leviable or levied on such disputed tax or
- Disputed interest or
- Disputed penalty or
- Disputed fee

Disputed Tax (Other than TDS/TCS)- Clause 2(1)(j)(i)

- Tax determined under the Income-tax Act, 1961 in accordance with formula: $(A - B) + (C - D)$

A = Tax on Assessed Income other than the provisions contained in section 115JB or section 115JC of the Income-tax Act, 1961(herein after called general provisions);

B = an amount of tax on

Assessed Income under general provisions **Minus** Income in respect of which appeal filed i.e. disputed assessed income

For example: -

- An assessee filed income tax return declaring returned income of Rs. 1 crore.
- Case was assessed under section 143(3) and addition of Rs. 50 Lacs made by assessing officer.
- Total income assessed Rs. 1.50 Crore (1 Crore returned income+ addition Rs. 50 Lacs)
- Assessee filed appeal with CIT (Appeal) against order of Assessing officer for additions of Rs. 50 Lacs.



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Now

Tax as per A above: 30% on 1.50 Crore: 45 Lacs

Tax as per B above: 30% on Rs. 1 Crore: 30 Lacs

(Assessed income Rs. 1.50 Crore minus
Rs. 50 Lacs-Income in respect of which
appeal filed)

So Disputed Tax is (A-B): 15 lacs

In this case while computing tax on addition of Rs. 50 lacs, assessing officer charged tax Rs. 15 Lacs and also interest of let's say Rs. 3 Lacs, so total demand i.e. arrear of tax as defined above would be Rs. 18 Lacs but **assessee required to pay only Rs. 15 Lacs under these provisions on or before 31st March, 2020.**

C = Tax on Assessed Income as per provisions contained in section 115JB (MAT) or section 115JC (AMT) of the Income-tax Act, 1961

D = an amount of tax on

Assessed Income under section 115JB (MAT) or section 115JC (AMT) **Minus**
Income in respect of which appeal filed i.e. disputed assessed income

2nd proviso of sub-clause (i) to clause 2(1)(j)

in a case where the provisions contained in section 115JB or section 115JC of the Income-tax Act, 1961 are not applicable, the item (C – D) in the formula shall be ignored.

Disputed Tax- TDS/TCS- Clause 2(1)(j)(ii)

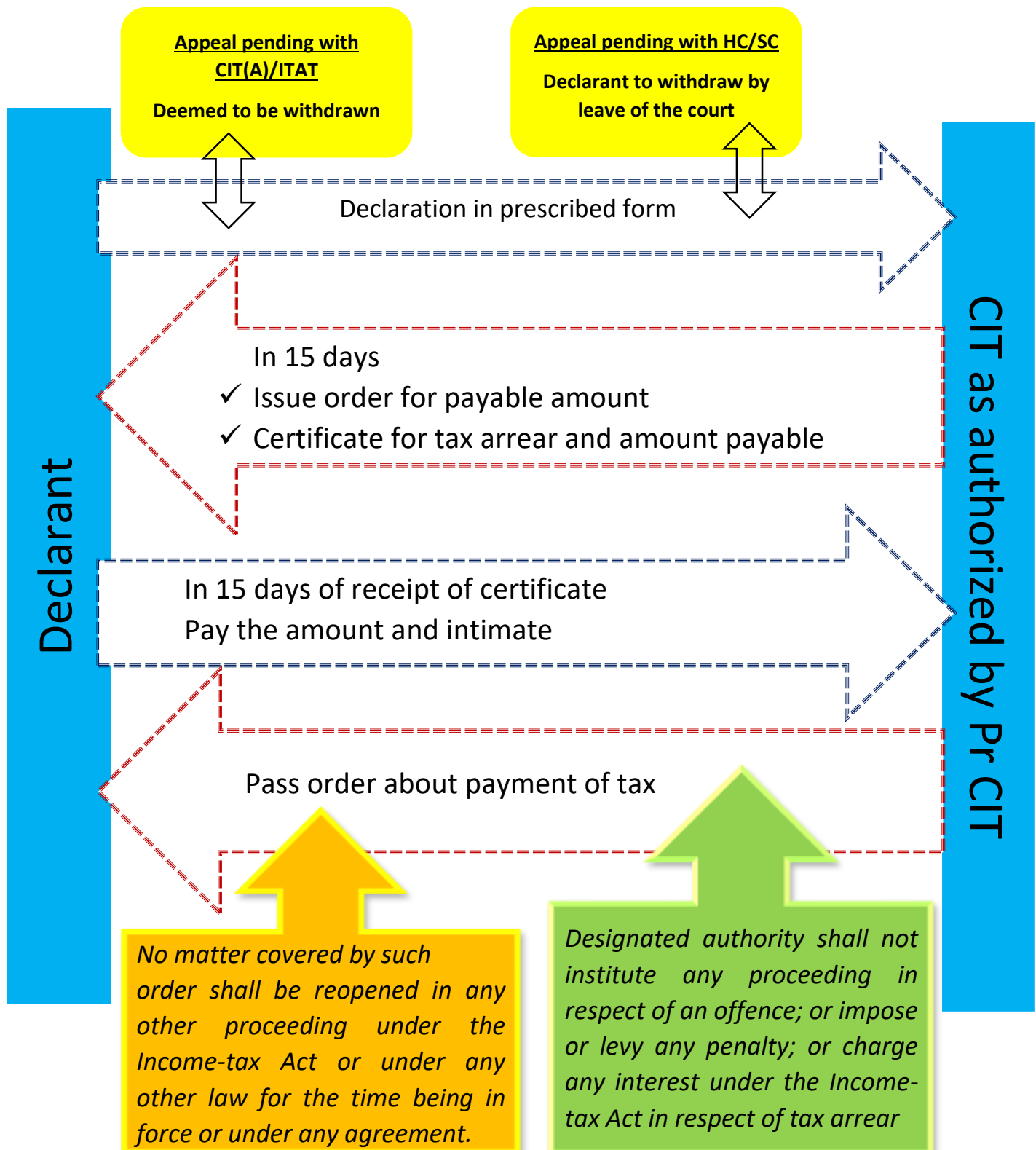
- Tax determined under the section 200A or section 201 or subsection (6A) of section 206C or section 206CB of the Income-tax Act, 1961 in respect of which appeal has been filed by the appellant.



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PROCESS



CASES NOT COVERED IN THIS SCHEME

The provisions of this Act shall not apply (Clause 9 of bill)

(a) in respect of tax arrear, —

(i) relating to an assessment year in respect of which an assessment has been made under section 153A or section 153C of the Income-tax Act, if it relates to any tax arrear;

(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;

(v) relating to an appeal before the Commissioner (Appeals) in respect of which notice of enhancement under section 251 of the Income-tax Act has been issued on or before the specified date;

(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.

(c) to any person in respect of whom prosecution for any offence punishable under the provisions of the Indian Penal Code, 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 or for the purpose of enforcement of any civil liability 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 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.



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Source: -

Bill as introduced in Lok Sabha on 05/02/2020

Taken from web portal of Lok Sabha.

[Download copy of bill here](#)

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