

The Direct Tax Vivad se Vishwas Bill, 2020 (*the Bill*) was introduced in the Parliament on 5th Feb, 2020. After introduction of *the Bill*, a notice for moving the following amendments to the provisions of *the Bill* has been given to the Parliament on 14th Feb, 2020, which is subject to the approval of and passing by the Parliament and receiving assent of the President.

S. No	Text of amendments	Clause number
1.	Page 1, <i>for</i> lines 4-6, <i>substitute</i> —	2
43 of 1961.	<p>‘(a) “appellant” means —</p> <p>(i) a person in whose case an appeal or a writ petition or special leave petition 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;</p> <p>(ii) a person in whose case an order has been passed by the Assessing Officer, or an order has been passed by the Commissioner(Appeals) or the Income Tax Appellate Tribunal in an appeal, or by the High Court in a writ petition, on or before the specified date, and the time for filing any appeal or special leave petition against such order by that person has not expired as on that date;</p> <p>(iii) a person who has filed his objections before the Dispute Resolution Panel under section 144C of the Income-tax Act, 1961 and the Dispute Resolution Panel has not issued any direction on or before the specified date;</p> <p>(iv) a person in whose case the Dispute Resolution Panel has issued direction under sub-section (5) of section 144C of the Income-tax Act and the Assessing Officer has not passed any order under sub-section (13) of that section on or before the specified date;</p> <p>(v) a person who has filed an application for revision under section 264 of the Income-tax Act and such application is pending as on the specified date;”</p>	

<p>2.</p> <p>43 of 1961.</p>	<p>Page 2, <i>for</i> lines 19-50, <i>substitute</i> —</p> <p>(j) “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:-</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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:</p> <p>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</p>	<p>2</p>
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	<p>which notice of enhancement has been issued:</p> <p>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.</p>				
3.	Page 3, <i>omit</i> lines 1-3.	2			
4.	<p>Page 3, <i>after</i> line 41, <i>insert</i> —</p> <table border="1"> <tr> <td>(aa) where the tax arrear includes the tax, interest or penalty determined in any assessment on the basis of search under section 132 or section 132A of the Income-tax Act.</td> <td> <p>The aggregate of the amount of disputed tax and twenty-five per cent. of the disputed tax:</p> <p>Provided that where the twenty-five per cent. of disputed tax exceeds the aggregate amount of interest chargeable or charged on such disputed tax and penalty leviable or levied on such disputed tax, the excess shall be ignored for the purpose of computation of amount payable under this Act.</p> </td> <td> <p>The aggregate of the amount of disputed tax and thirty-five per cent. of disputed tax:</p> <p>Provided that where the thirty-five per cent. of disputed tax exceeds the aggregate amount of interest chargeable or charged on such disputed tax and penalty leviable or levied on such disputed tax, the excess shall be ignored for the purpose of computation of amount payable.</p> </td> </tr> </table>	(aa) where the tax arrear includes the tax, interest or penalty determined in any assessment on the basis of search under section 132 or section 132A of the Income-tax Act.	<p>The aggregate of the amount of disputed tax and twenty-five per cent. of the disputed tax:</p> <p>Provided that where the twenty-five per cent. of disputed tax exceeds the aggregate amount of interest chargeable or charged on such disputed tax and penalty leviable or levied on such disputed tax, the excess shall be ignored for the purpose of computation of amount payable under this Act.</p>	<p>The aggregate of the amount of disputed tax and thirty-five per cent. of disputed tax:</p> <p>Provided that where the thirty-five per cent. of disputed tax exceeds the aggregate amount of interest chargeable or charged on such disputed tax and penalty leviable or levied on such disputed tax, the excess shall be ignored for the purpose of computation of amount payable.</p>	3
(aa) where the tax arrear includes the tax, interest or penalty determined in any assessment on the basis of search under section 132 or section 132A of the Income-tax Act.	<p>The aggregate of the amount of disputed tax and twenty-five per cent. of the disputed tax:</p> <p>Provided that where the twenty-five per cent. of disputed tax exceeds the aggregate amount of interest chargeable or charged on such disputed tax and penalty leviable or levied on such disputed tax, the excess shall be ignored for the purpose of computation of amount payable under this Act.</p>	<p>The aggregate of the amount of disputed tax and thirty-five per cent. of disputed tax:</p> <p>Provided that where the thirty-five per cent. of disputed tax exceeds the aggregate amount of interest chargeable or charged on such disputed tax and penalty leviable or levied on such disputed tax, the excess shall be ignored for the purpose of computation of amount payable.</p>			
5.	Page 3, <i>after</i> line 45, <i>insert</i> —	3			

	<p>“Provided that in a case where an appeal or writ petition or special leave petition is filed by the income-tax authority on any issue before the appellate forum, the amount payable shall be one-half of the amount in the Table above calculated on such issue, in such manner as may be prescribed:</p> <p>Provided further that in a case where an appeal is filed before the Commissioner (Appeals) or objections is filed before the Dispute Resolution Panel by the appellant on any issue on which he has already got a decision in his favour from Income Tax Appellate Tribunal (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 one-half of the amount in the Table above calculated on such issue, in such manner as may be prescribed:</p> <p>Provided also that in a case where an appeal is filed by the appellant on any issue before Income Tax Appellate Tribunal 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 one-half of the amount in the Table above calculated on such issue, in such manner as may be prescribed.”.</p>	
6.	<p>Page 4, <i>for</i> lines 8-18, <i>substitute</i> —</p> <p>“(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 along with the intimation of payment to the designated authority under sub-section (2) of section 5.</p> <p>(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 along with the intimation of payment to the designated authority under sub-section (2) of section 5.”</p>	4
7.	<p>Page 5, <i>after</i> line 5, <i>insert</i>—</p> <p>“<i>Explanation.</i>— For the removal of doubts, it is hereby clarified that making a declaration under this Act shall not amount to</p>	5

	conceding the tax position and it shall not be lawful for the income-tax authority or the declarant being a party in appeal or writ petition or special leave petition to contend that the declarant or the income-tax authority, as the case may be, has acquiesced in the decision on the disputed issue by settling the dispute.”.	
8.	Page 5, <i>after</i> line 10, <i>insert</i> — “ <i>Explanation.</i> — For the removal of doubts, it is hereby clarified that where the declarant had, before filing the declaration under sub-section (1) of section 4, paid any amount under the Income-tax Act in respect of his tax arrear which exceeds the amount payable under section 3, he shall be entitled to a refund of such excess amount, but shall not be entitled to interest on such excess amount under section 244A of the Income-tax Act.”.	7
9.	Page 5, <i>for</i> lines 17-19, <i>substitute</i> — “(i) relating to an assessment year in respect of which an assessment has been made under sub-section (3) of section 143 or section 144 or section 153A or section 153C of the Income-tax Act on the basis of search initiated under section 132 or section 132A of the Income-tax Act, if the amount of disputed tax exceeds five crore rupees;”.	9
10.	Page 5, <i>omit</i> lines 27-29	9
11.	Page 6, <i>for</i> lines 6-12, <i>substitute</i> —	9
37 of 1967. 61 of 1985. 49 of 1988. 15 of 2003. 45 of 1988.	“(c) to any person in respect of whom prosecution for any offence punishable under the provisions of 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 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; (ca) to any person in respect of whom prosecution has been initiated by an Income-tax authority for any offence punishable under the provisions of the Indian Penal Code or for the purpose of enforcement of any civil liability under any law for the time being in force, on or before the filing of the declaration or such person has been convicted of any such offence consequent to the prosecution initiated by an Income-tax authority;”	

45 of 1860.		
12.	<p>Page 6, <i>after</i> line 42, <i>insert</i>—</p> <p>“(da) determination of disputed tax including the manner of set-off in respect of brought forward or carry forward of tax credit under section 115JAA or section 115JD of the Income-tax Act or set-off in respect of brought forward or carry forward of loss or allowance of depreciation under the provisions of the Income-tax Act;</p> <p>(db) the manner of calculating the amount payable under this Act.”.</p>	12