

Tax Settlement Scheme Not Open to Launderers

BUDGET 2020 THE FINE PRINT

Will not cover cases related to overseas assets, or prosecutions under PMLA, benami Act or income tax Act

Our Bureau

New Delhi: The new direct tax dispute settlement scheme will not cover cases related to undisclosed overseas assets initiated on the basis of information from another country. Neither will it apply to prosecutions under the Prevention of Money Laundering Act (PMLA), the Benami Transactions (Prohibition) Act and the Income tax Act.

Those applying for the scheme



Clean The Slate

Why The Scheme?

483,000 cases
Pending at various fora

₹9.32 Lakh crore
Stuck in these cases

PAST EFFORTS
such as raising
appeals threshold
not effective

Who Can Avail Scheme?

All taxpayers
with cases at
various legal
fora

Those with
prosecution
cases under
PMLA,
benami law
not eligible

International
arbitration
cases also
covered

Individuals
with cases
of undisclosed
foreign
assets not
eligible

The Dates

LAST DATE:
MAR 31

WITH
10%
ADDITIONAL
PAYMENT:
JUN 30

can't appeal against the decision of the tax authorities and liability computations will be final.

Finance minister Nirmala Sitharaman introduced the Direct Tax Vivad Se Vishwas Bill, 2020, in the Lok Sabha on Wednesday, which she had announced during her February 1 budget speech.

The legislation is aimed at resolu-

ving disputed tax cases involving ₹9.32 lakh crore that has been stuck for more than a year through 483,000 cases pending in various courts.

"This Bill emphasises on trust building," the finance minister said, adding that the scheme will reduce needless litigation expenditure for the government and taxpayers.

Clamour for Review of Dividend Tax



Global institutional funds and industry associations are seeking an urgent review of the budget proposal to tax dividends in the hands of unit holders or investors of InvITs and REITs, reports Kallash Babar. **▶▶ 17**

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Govt's Tax Claim to Remain Intact

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Sitharaman said the government's tax claim will remain intact and "this structured and formula-based approach will help the taxpayer get relief without any discretion and the government to get the money".

Aside from the legislation cited above, the framework won't cover prosecutions under the Indian Penal Code, the Unlawful Activities (Prevention) Act, 1967, the Narcotic Drugs and Psychotropic Substances Act, 1985, and the Prevention of Corruption Act, 1988.

The Central Board of Direct Taxes (CBDT) has asked its offices to provide data on pending appeals in high courts. Revenue secretary Ajay Bhushan Pandey held a meeting with senior officials from CBDT and department of revenue for preparatory work on the scheme.

Income tax officers will be asked to convince taxpayers to opt for resolution under the scheme and will be rated on the success in this, said a person aware of the matter.

Taxpayers have up to March 31 to opt for the scheme. The tax authorities have to declare the amount that the entity or person has to pay within 15 days. They have to pay the amount within 15 days of being told how much they owe. Those who opt for the scheme after the date will have to pay an additional 10%. Sitha-

raman said the scheme will not be open ended. Those opting for the scheme will have to withdraw international arbitration, conciliation or mediation cases and provide proof to the department. Cases in the Supreme Court, high courts or Income Tax Appellate Tribunal (ITAT) will also have to be withdrawn. They will also have to waive their right to revive cases.

VODAFONE, CAIRN CASES

Tax experts said this should help settle cases and bring down litigation. "This can be a very beneficial scheme for settlement for cases such as additions of unexplained cash deposited during demonetisation period, additions for penny stocks... where factually the taxpayers have high exposures," said Rakesh Nangia, chairman, Nangia Andersen Consulting.

Vodafone and Cairn may be able to settle their tax disputes using this scheme as both are eligible, said Ved Jain, former president of the Indian Chartered Accountants of India. "Clause 2(j)(II) read with Section 4(4) provides withdrawal of arbitration proceedings in India or in any other country," Jain said.

The government may have to elaborate on some aspects.

"Though the scheme is a welcome step, some aspects require clarification. For instance, whether the interest already pa-

id by a taxpayer will be refunded if he opts for this scheme," said Sanjay Sanghvi, tax partner, Khaitan & Co. "Given that the scheme has a limited window, taxpayers will have to quickly evaluate whether to opt for this scheme depending on merits of their pending tax disputes."

If the order is not acceptable, the taxpayer doesn't appear to have any recourse to reinstate the withdrawn appeals, said Amit Maheshwari, partner, Ashok Maheshwari & Associates LLP. "This would require careful evaluation on the part of taxpayers on whether to opt for this scheme or not," he said.

CBDT WRITES TO FIELD OFFICES

CBDT, which frames the policy for the income tax department, wrote to all principal chief commissioners on Tuesday, asking them to collate and send the data by next week. "In order to implement the scheme, the CBDT needs database on such litigations pending at high court level," the communication read. "It is therefore, requested that the data on pending appeals at high court level as on January 31, 2020, be obtained with the help of court registry and the same may be supplemented with the records of the field office."

The CBDT has asked the regional income tax department chiefs to "personally monitor" the exercise and submit the data by February 14 by email.

Bill to settle tax disputes introduced in Lok Sabha

'Vivad se Vishwas' scheme could be a game changer in resolving tax disputes

OUR BUREAU

New Delhi, February 5

Finance Minister Nirmala Sitharaman on Wednesday introduced in the Lok Sabha the much-awaited 'Direct Tax Vivad se Vishwas' Bill 2020 to provide for resolution of disputed direct taxes.

The Bill provides a lucrative option to taxpayers to settle their cases pending before the Commissioner (Appeals), Income Tax Appellate Tribunal, High Court or Supreme Court as on January 31, 2020, irrespective of whether the demand in such cases is pending or has been paid. It also provides for waiver of interest, penalty and prosecution.

The pending appeal may be against disputed tax, interest or penalty in relation to an assessment or reassessment order or against disputed interest/ fee where there is no disputed tax. In fact, an appeal may even be against tax determined on defaults in respect of tax deducted/collected at source.

The tax litigation process in India is time-consuming and cumbersome. A plethora of cases is pending before various appellate forums and a humongous amount is locked up in appeals. As on November 30, 2019, the amount of disputed direct tax arrears stood at ₹9.32 lakh crore, and considering the

sources tax disputes consume, a dispute-litigation scheme was the need of the hour for both taxpayers and the government.

Taxpayers willing to settle disputes under the scheme shall be allowed a complete waiver of interest and penalty if they pay the entire amount of tax in dispute up to March 31, 2020, after which 10 per cent additional disputed tax will have to be paid over and above the tax liability.

Further, where the tax arrears relate to disputed interest or penalty only, then 25 per cent of disputed penalty/interest will have to be paid only while settling appeals relating to interest/penalty if payment is made up to March 31, 2020, beyond which the same shall be enhanced to 30 per cent.

The scheme would not apply where tax in arrears related to assessments in the nature of search and requisition.



Nirmala Sitharaman

Experts' take

Rakesh Nangia, Chairman, Nangia Andersen Consulting, said this can be a beneficial scheme for settlement of cases such as additions of unexplained cash deposited during the demonetisation period, additions for penny stocks, where factually the taxpayers have high exposures.

"It would be beneficial for such taxpayers, to pay the tax amount and settle the disputes without imposition of interest & penalty," he said.

Abhay Sharma, Partner, Shardul Amarchand Mangaldas & Co, said that the proposed scheme, once enacted into law, will in all probability help in shrinking the mountain of

Last resort: FinMin eyes ₹9.3 tn from tax disputes

Govt offers chance to pay disputed tax arrears without interest or penalty

Gireesh Chandra Prasad

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NEW DELHI

The finance ministry on Wednesday unveiled details of a new scheme that could fetch the exchequer part of the ₹9.32 trillion direct taxes under dispute and free up courts and tribunals crippled by prolonged litigation.

The Direct Tax Vivad se Vishwas Bill, 2020, tabled in Parliament by finance minister Nirmala Sitharaman, offers immunity from prosecution to those who sign up for the scheme, which opens on the date it is signed into law.

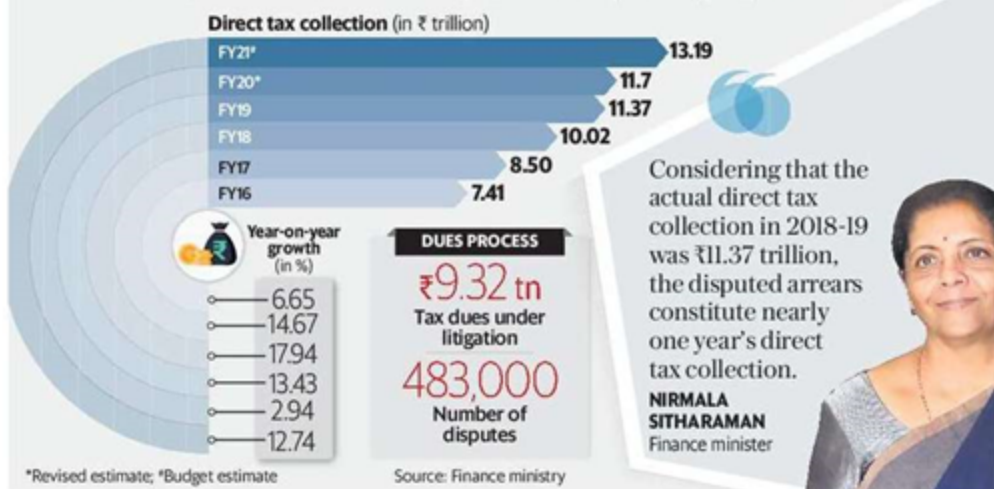
The scheme offers companies a chance to pay disputed tax arrears without interest and penalty if paid before 31 March. If paid later, but before a due date to be announced later, the amount due will go up by 10%, Sitharaman said in a statement explaining the provisions of the Bill.

If the scheme is successful in collecting revenue, it will offer relief to the Narendra Modi administration, which has estimated that its fiscal deficit for FY20 would slip from the earlier projected 3.3% of GDP to 3.8% of GDP.

A similar scheme announced last year to settle indirect tax disputes related to central excise duty, service tax and various cesses had collected more than ₹39,000 crore, *Mint* reported on 30

MINT GRAPHITI TAX TALLY

The scheme is expected to boost direct tax receipts, which are expected to grow just 2.94% in FY20.



January.

This is an opportunity for assesses to clear long-pending disputes and many tax payers, especially those having small amounts under dispute, are likely to lap it up, according to Neeru Ahuja, partner at Deloitte India.

In case the tax dispute is over penalty, interest or fee, the settlement amount payable is 25% of the dues if paid before the end of March.

If paid subsequently, but before the date to be announced in due course, the payable amount would be 30% of the dues, the statement explained.

The scheme, however, will not cover tax demands related to undisclosed foreign income or assets or tax demands raised after the government secured information from other countries.

If the scheme is successful, it will offer relief to the govt, which has estimated that FY20 fiscal deficit will slip to 3.8%

“Tax disputes consume copious amount of time, energy and resources both on the part of the government and taxpayers. Moreover, they also deprive the government of the

timely collection of revenue,” said the government statement. “This will not only benefit the government by generating timely revenue but also taxpayers who will be able to deploy the time, energy and

resources saved by opting for such dispute resolution towards their business activities.”

The proposed scheme is applicable to appeals filed by taxpayers or the government, which are pending before the commissioner (appeals), tribunals, high courts or the Supreme Court as on 31 January.

Central Board of Direct Taxes chairman P.C. Mody said at a post-budget industry interaction organized by the PHD Chamber of Commerce and Industry on Wednesday that it has been the government's intention to settle disputes to the extent possible and that it had recently raised the monetary threshold for fil-

FinMin eyes resolution for ₹9.3 trillion tax disputes

FROM PAGE 1

ing of appeals.

The tax department had also decided not to contest certain judicial pronouncements to reduce litigation, said Mody. "All taxpayers should review their issues and take the benefit of the scheme."

According to Rakesh Nangia, chairman of Nangia Andersen Consulting, the scheme can be beneficial for settling cases such as additions of unexplained cash deposited during the demonetization period and additions for penny stocks.

"It would be beneficial for such taxpayers to pay the tax amount and settle the disputes without imposition of interest and penalty," he said.

● **BILL TABLED IN LS**

Vivad Se Vishwas: No interest or penalty till March end

FE BUREAU

New Delhi, February 5

THE DIRECT TAX Vivad Se Vishwas Bill, 2020, tabled in the Lok Sabha on Wednesday seeks to cut down on nearly 4.8 lakh tax disputes involv-

ing an amount of ₹9.32 lakh crore (up to November 30, 2019) by giving the taxpayers the facility to escape interest on the disputed tax amount and any penalty. All direct tax-related cases pending before the Commissioner

(Appeals), Income Tax Appellate Tribunal, high courts or the Supreme Court as on January 31, 2020 are eligible for the scheme.

The scheme provides that if a taxpayer avails it by March 31, 2020, then he

would get complete waiver of interest and penalty. However, a taxpayer who chooses the scheme post this cut-off date will have to pay the disputed tax and 10% of it extra.

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of the 23.5 lakh persons, a total 4.15 PAN holders had never filed income-tax returns.

Bill tabled in LS: No interest, penalty till March end under Vivad Se Vishwas

FURTHER, IF the tax arrears relate to disputed interest or penalty only, then only 25% of disputed penalty/interest is payable if scheme is availed by March 31. Cases coming for resolution after this date would have to pay 30% of penalty and interest.

Introducing the Bill, finance minister Nirmala Sitharaman said it emphasises on trust building. The scheme, she said, would not be opened. The government will later notify the end date for the scheme.

Rakesh Nangia, chairman, Nangia Andersen Consulting, said: "This can be a very beneficial scheme for settlement for cases such as additions of unexplained cash deposited during demonetisation period, additions for penny stocks, etc. where factually the taxpayers have high exposures. It would be beneficial for such taxpayers, to pay the tax amount and settle the disputes without imposition of interest and penalty."

However, certain cases including tax in arrears relating to undisclosed foreign income/asset, assessment or reassessment made on the basis of information received under DTAA are out of the ambit of the scheme. Further, cases where prosecution for any offence under the Indian Penal Code/Prevention of Money Laundering Act/Prohibition of Benami Property Transactions Act has been instituted or a person who has been convicted under the Acts can't avail the scheme.

"The exclusion from its ambit of cases involving either undisclosed foreign income or based on exchange of information with foreign tax authorities is not ideal," Abhay Sharma, partner, Shardul Amarchand Mangaldas & Co, said.

The scheme is modelled on a similar scheme for indirect tax which was

announced in last year's Budget and the window to avail it closed on January 15 this year. The government has said that nearly 95% of 1.9 lakh outstanding cases were resolved resulting in over Rs 35,000 crore of revenue for the government. The total revenue stuck in such cases was, of course, estimated to be Rs 3.6 lakh crore.

Amit Maheshwari, partner, Ashok Maheshwari & Associates LLP said: "Under the scheme, the order passed by the designated authority determining the amount payable shall be final and no further recourse in terms of appeals, arbitration, mediation or conciliation shall be available to the taxpayer."

Explaining the purpose of the Bill, the government said that disputed arrears constitute nearly one-year direct tax collection. Further, it added that tax disputes consume copious amount of time, energy and resources both on the part of the government as well as taxpayers.

"Moreover, they also deprive the government of the timely collection of revenue. Therefore, there is an urgent need to provide for resolution of pending tax disputes. This will not only benefit the government by generating timely revenue but also the taxpayers who will be able to deploy the time, energy and resources saved by opting for such dispute resolution towards their business activities," it said.

Meanwhile, PTI reported that CBDT on Tuesday wrote to all principal chief commissioners asking them to collate the data on pending appeals in high courts and send it to it by next week. "In order to implement the (Vivad Se Vishwas) scheme, the CBDT needs database on such litigations pending at high court level," the communication to the commissioners read.

"It is therefore, requested that the data on pending appeals at high court level as on January 31, 2020, be obtained with the help of court registry and the same may be supplemented with the records of the field office," it stated.

The CBDT also asked the regional Income Tax Department chiefs to "personally monitor" the exercise and submit the data by February 14 to it through e-mail, as per the communication.

