

FIN-0-SCOPE

Dec 18th, 2024



DTVSV Scheme 2024: A New Path to Tax Resolution

The Direct Tax Vivad Se Vishwas Scheme (DTVSV Scheme, 2024) was introduced to facilitate the swift resolution of income tax disputes, aiming to reduce litigation and offer taxpayers a streamlined, cost-effective way to settle their tax matters. Enacted under Chapter IV of the Finance (No. 2) Act, 2024, the scheme provides an opportunity for taxpayers to resolve outstanding tax disputes, ultimately saving them time and resources by avoiding prolonged legal proceedings.

The recent guidance note dated December 16, 2024, offers clarity on various provisions under the DTVSV Scheme, including eligibility criteria, the settlement process, and issues such as penalty disputes and the scope of appeals. These updates are aimed at ensuring a smoother, more transparent settlement process, enhancing taxpayer confidence in the scheme's implementation.

Key Facts

- Key Forms:
- Form 1: Declaration of disputed tax and willingness to settle under the scheme.
- Form 2: Taxpayer's confirmation to forgo further legal proceedings for resolved disputes.
- Form 3: Certificate from tax authorities validating tax arrears and settlement conditions.
- Form 4: Payment form for disputed taxes under the scheme.

Key Facts

- **Form 5: Final settlement certificate** issued by tax authorities after payment completion.
- **Eligibility for Pending Appeals:** Taxpayers with appeals pending as of 22nd July 2024, even if disposed of later, are eligible for the scheme.
- **Scheme Benefits for Penalty Appeals:** Penalty appeals unrelated to tax disputes can be settled independently under the scheme.
- **Disputed Tax Calculation:** Disputed taxes are calculated as if appeals hadn't been disposed of, in line with the revised circular.
- **Taxpayer Payment Obligations:** Taxpayers must pay the disputed tax amount, with reduced penalties and interest, depending on the payment timeline.
- **Penalty Disputes in APA/MAP Cases:** Taxpayers involved in APA/MAP disputes can apply for the settlement if the appeal is still pending.

The previous circular, issued on October 15, 2024, outlined the provisions of the DTVSV Scheme, including its scope, eligibility, and the process for filing declarations. However, several issues remained unclear, leading to further clarifications in the Revised Circular dated December 16, 2024, which addressed these ambiguities. The original circular included the following key points:

- **Eligibility:** The scheme applied only to cases where the appeal or dispute was pending as of July 22, 2024.
- **Process:** Taxpayers were required to file declarations specifying the nature of their disputes and agree to settle them by paying a specified sum.
- **Excluded Cases:** Certain categories of taxpayers, such as those involved in tax evasion or criminal prosecution, were excluded.

Despite these clarifications, the circular left some areas open to interpretation, prompting Delhi High Court Judgment on December 12, 2024, which further addressed the eligibility of taxpayers whose appeals were disposed of post-July 22, 2024.

Delhi High Court Judgment

W.P.(C) 17014/2024 | Dated 9-12-2024

The Delhi High Court ruled that taxpayers whose appeals were pending as of July 22, 2024, but were disposed of after that date, should still be eligible to apply under the DTVSV Scheme. This judgment clarified a point that had caused confusion, ensuring that taxpayers could avail themselves of the scheme even if their appeal was settled after the eligibility date.

In response to this ruling, the Revised Circular issued on December 16, 2024, incorporated key changes. Notably, FAQ No. 8 from the previous circular was revised and included as FAQ No. 36, clarifying that taxpayers whose appeals were pending on July 22, 2024, but disposed of afterward, can still apply under the scheme, with disputed tax calculated as if the appeal had not been resolved.

Additionally, the revised circular addresses several important aspects such as penalty appeals, the settlement process for pending assessments, and the eligibility of taxpayers facing search actions before 2021.

Key Differences Between the Previous and Revised Circulars:

Eligibility of Cases Post-July 22, 2024:

- Previous Circular: Left ambiguity around cases where appeals were disposed of after July 22, 2024.
- Revised Circular: Explicitly confirms that taxpayers whose appeals were pending on July 22, 2024, but disposed of after this date, are still eligible, provided the tax dispute remains unresolved.

Penalty Appeals:

- Previous Circular: Did not clarify the status of penalty appeals unrelated to the main tax dispute.
- Revised Circular: Specifies that penalty appeals, even if not directly related to the tax dispute, can be independently settled under the scheme, as long as they were pending on July 22, 2024.

Taxpayer's Rights in Specific Dispute Categories:

- Previous Circular: The provisions regarding disputes linked to APA/MAP cases were somewhat restrictive.
- Revised Circular: Clearly states that taxpayers involved in APA/MAP disputes can opt for settlement, provided the appeal is pending.

Impact of the Revised Circular:

The revisions made in the Revised Circular will significantly benefit taxpayers by expanding eligibility and offering a more inclusive approach to dispute resolution. The clarification regarding appeals disposed of after July 22, 2024, ensures greater flexibility, allowing more disputes to be resolved promptly. Furthermore, the provision for independent penalty appeals provides clarity and ensures a smoother settlement process.

In conclusion, the changes in the revised circular are designed to enhance taxpayer confidence, enabling them to swiftly resolve pending litigation. These updates are expected to streamline the tax system, promoting a more efficient resolution of disputes and contributing to timely revenue collection for the government.

Access the Circular issued on December 16, 2024



Download the Judgment dated December 9, 2024



Get a copy of the Circular released on October 15, 2024



Key Facts

- Exclusions from the Scheme: Cases involving tax evasion, criminal prosecution, or fraudulent activities are not eligible for the scheme.
- Application for Settling Disputes: The scheme is applicable to disputes at all appellate levels, including ITAT, High Court, and Supreme Court.
- Impact of Pending Assessments: If assessments are pending, taxpayers can still opt for the scheme to resolve disputes quickly.
- Applicability of 25% Payment on Penalty: Taxpayers only need to pay 25% of the penalty, interest, or fee that is not connected to the disputed tax.
- Adjustment for After-Deadline Payments: Payments made after 31st March 2020 are subject to a 10% excess charge on disputed taxes, capped by related penalty and interest.