

Sub: Clarification on queries raised by stakeholders in AP&TS – Regarding.

Ref: Office Order F.No. PCCIT/AP&TS/VsV Scheme/2020-21 dated 13.11.2020.

In pursuance of meeting with stakeholders on 13-11-2020 in context of resolving issues related to administration of Direct Tax Vivad Se Vishwas Scheme, 2020 and constitution of Direct Tax Vivad Se Vishwas Local Co-ordination Committee (DTVSV LCC), several queries have been received by DTVSV LCC from the stakeholders in AP & TS Region. The said queries are being clarified in form of answers to FAQs. These clarifications are in terms of Direct Tax Vivad Se Vishwas Act, 2020, Board's circular No. 09/2020 dated 22.04.2020 and circular No. 21/2020 dated 04.12.2020 and are issued with the approval of DTVSV Local Coordination Committee of AP & TS region.

QUESTION ON SCOPE / ELIGIBILITY

<u>Question 7</u>	In this case, the assessee has submitted that after announcement of the Scheme and before the Gazette Notification, he filed a letter before the CIT(A) requesting for withdrawal of appeal to file declaration under Vsv scheme. The CIT(A) has passed order on 30/01/2020, In the appeal order, the request of the assessee was reproduced at page 13 of the order and the Appeal of the assessee was dismissed as withdrawn. Whether the assessee is eligible under VsVs?
<u>Answer</u>	In this case the DIN for Appeal order was generated on 13/02/2020. As per the instructions of the CBDT, any communication to the assessee without DIN is not valid one w.e.f. 01/10/2019. Further the appeal was dismissed as withdrawn only on the request of assessee that the assessee wants to opt for VsVs. In view of the above, it is opined that the appeal is pending as on 31.01.2020 and the assessee is eligible for filing declaration under VsVs.

<p>Question 8</p>	<p>If assessee has a search assessment case where disputed tax is more than 5 crore (addition is u/s 40a(ia) and is pending in appeal). Connected TDS appeal (common issue) is also pending for same financial year but disputed tax is less than 1 crore. Can assessee avail VsVs for TDS appeal? Also assessee has not mentioned in Form 1 that it is a search case. Can the application w.r.t TDS appeal for availing VsVs be rejected on this ground?</p>
<p>Answer</p>	<p>Tax arrears in excess of Rs.5 crore relating to assessment u/s 143(3)/144 or u/s 153A/153C on the basis of search u/s 132/132A alone are excluded from the scheme as per FAQ No. 6 of circular No. 9/2020 dated 22.04.2020. There is no specific bar on inclusion of tax arrears arising from an order u/s 201 under this scheme even though the cause of action stems from a search proceeding. In the considered opinion of the committee not mentioning in Form 1 that it is a search case may not be fatal, if a different decision can't be reached basing on that fact.</p>

<p>Question 9</p>	<p>If the assessee has filed Declaration in Form 1 & 2 in the portal using PAN as Part B information relating to dispute fee u/s 234E ,as the Appeal against u/s 234E was also filed with PAN in the Portal which is pending on the specified date. Now if the jurisdictional assessing officer of the Department says that the Declaration filed will be rejected and a New Declaration is to be filed using the TAN as user ID in the Portal.</p> <p>a) Whether the declaration already filed using PAN in the portal is valid or not ?</p> <p>b) If it is not valid, can I file fresh Declaration after rejection of the Declaration filed or basing on the word of Jurisdictional Assessing officer can I go ahead and file another Declaration using TAN in portal ?</p> <p>c) If another Declaration is filed either after rejection or now, shall I have to mention it as original or Revised?</p>
<p>Answer</p>	<p>a) Deductor is advised to file fresh declaration before CIT(TDS) by quoting TAN.</p>

	<p>b) Yes, another declaration with TAN may be filed immediately without waiting for communication on validity of the previous declarations filed with PAN.</p> <p>c) There is no need of mentioning either original or revised.</p>
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Question10	Can assessee file Revised Declaration after the original Declaration is rejected by the Competent Authority. Does the rejection of Declaration indicate reasons, so that the same can be rectified by the Assessee in filing Revised Declaration?
Answer	Yes. Rejection remarks are available to reject the declaration

Question11	The Scheme is available up to 31/12/2020, If the Competent authority rejects an Application on the Last date, how can the Assessee file Revised Declaration?
Answer	Declarant must see the timeline statutorily available to a Designated Authority (15 days u/s 5(1)) and try to eliminate possibilities of revision of claims made at the fag end of the Scheme.

Question12	Assessee's Appeal was disposed of by Ld.Commissioner of Income Tax(A),ex-parte in the month of October19. The Assessee has preferred an appeal before the Honourable Income Tax Appellate Tribunal, which has restored the matter back to Ld.Commissioner of Income Tax(A) in November 2020, Can it be construed that the Appeal is pending before the Ld.Commissioner of Income Tax(A) on the specified date i.e 31/01/2020, as the Assessee is interested in opting the Scheme.
Answer	Yes. In this case it can be construed that the appeal is pending before CIT(A) as on specified date i.e., 31.01.2020.Please refer the FAQ 7 of Circular 09/2020, dt.22.04.2020.

Question13	In one particular case for Financial Year 2012-13, the Assessee has filed Appeal against Orders u/s.271C and also against order u/s.234E for each Quarter, making total Appeals pending as 5. Now how can he opt the Scheme in one Declaration ?
Answer	Since order u/s. 271C is an independent order, a separate declaration may be filed, whereas for order u/s.234E, a single declaration may be filed for all quarters of the year.

Question14	A situation may arise, when an Assessee opting the Scheme files declaration on 31 st December 2020, which was rejected by the Competent Authority for any Reason, how can the Assessee file revised declaration after 31/12/2020?
Answer	The assessee is advised to file declaration at the earliest from now so that the assessee may not miss any chance to revise his declaration.

Neeraj Gupta

(NEEJU GUPTA)
JCIT (Hqrs.) (Tech.)
(Member Secretary,
DTVSV Local Co-Ordination Committee)