

Vivad se Vishwas: Direct tax dispute resolution scheme may be extended

Updated at December 30, 2020 06:10 IST

With two days to go for Vivad se Vishwas (VsV) direct tax dispute resolution scheme’s closure, the government is mulling an extension — by at least a month — amid dismal participation and industry representations seeking more time for declaration.

Besides, technical systems issues, under the newly-introduced faceless appeals mechanism, have made it challenging for officers to send fresh notices for verifying appeals.

It is learnt that the scheme gathered momentum in the second half of December, but only close to 12 per cent of potential cases have come under it. Industry representations have sought an extension of the window with several other tax deadlines such as income tax returns and goods and services tax (GST) annual returns for FY18 and FY19 also falling on December 31.

“Several representations have come asking for more time to declare under the dispute resolution window with a lot of tax deadlines falling on the same day. The scheme has finally picked up and more declarations have come. While extending the scheme further may be appropriate, given the technical issues under the newly-introduced faceless appeals mechanism, the decision will be taken at the highest level,” said a government official.

The scheme, announced in the Budget presented on February 1, allows waiver of interest, penalty and prosecution for tax disputes due up to January 31, 2020. This is on payment of 100 per cent of the disputed tax and 25 per cent of the disputed penalty or interest or fee.

While declarations under the scheme have to be filed by December 31, 2020, the government, in October, extended the deadline for making payment by three months to March 31, 2021, in view of the Covid-19 pandemic.

SUCCESS RATE OF APPEALS BY I-T IS LOW

Cases involving smaller dispute amounts participating under Vivad se Vishwas

Outcome of appeal* ■ In favour of department ■ In favor of assessee ■ In favor of both (%)



*Data for 2015-16; CIT(A)– Commissioner of Income Tax (Appeals); ITAT– Income Tax Appellate Tribunal; HC– High Court; SC– Supreme Court
Source: CAG report

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According to sources, the tax department reached out to large players to settle dispute under the scheme, but the response has been muted. “It is mainly the small players that have come up, where the cost of litigation is more than the cost of the disputed amount,” said another official.

Most cases at the level of income tax appellate tribunal (ITAT), high court (HC) and the Supreme Court (SC) are decided in favour of the assesses, making participation in the scheme unattractive.

Only about 15-20 per cent of cases at the SC, HC and ITAT are decided in favour of the department, and 40 per cent are settled in favour of the tax department at commissioners of income tax (appeals) or CIT (A).

The CIT (A)s were allocated around 1,400 cases each on December 15 under the faceless system, which was introduced on September 25. They were asked to quickly pass withdrawal orders for those participating in the scheme and send out fresh notices to the rest, informing them about the option to settle the matter under VsV scheme or fix a hearing.

“The systems are not in place and there are a lot of glitches. There is hardly any time to send out notices to verify appeals. Most of us have only been able to send notices to just about half the assesses so far with two days for the declaration window to close,” said another officer.

Before faceless appeals mechanism was introduced, CIT(A)s were given informal instructions to hold orders and encourage assesses to participate in the VsV scheme.

According to government estimates, there are more than 400,000 such cases eligible to avail the scheme, involving at least Rs.9.3 trillion. But, as on November 17, the government collected Rs.72,480 crore tax through the scheme. A total of 45,855 declarations were filed under the scheme, involving disputed tax demand of Rs.31,734 crore (till November 17). As for central public sector enterprises, tax disputes worth Rs.1 trillion are being settled under the scheme.