



The Direct tax Vivad se Vishwas Scheme

BILL NO 29 OF 2020

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Overview

- ❑ The announcement of this scheme was made in the budget speech on 01st February 2020 by finance minister tabled as “**The Direct Tax Vivad se Vishwas Bill, 2020**”
- ❑ It aims to provide resolution mechanism for pending direct tax disputes across various appellate authorities viz. **Commissioner of Income Tax (Appeals), Income tax Appellate Tribunal, Dispute Resolution Panel, The High court and The Supreme court of India.**
- ❑ All Direct tax appeals (related to disputed tax, interest, penalty and fees) pending as on **31st January 2020** are eligible for this scheme.

Who can apply?

- ❑ A person in whose case an appeal or a writ petition or special leave petition is pending as on 31.01.2020
- ❑ A person in whose case an order has been passed on or before 31.01.2020, and the time for filing appeal has not expired as on 31.01.2020.
- ❑ A person who has filed his objections before the Dispute Resolution Panel and the Dispute Resolution Panel has not issued any direction on or before 31.01.2020
- ❑ A person in whose case the Dispute Resolution Panel has issued direction, but the Assessing Officer has not passed any order on or before 31.01.2020
- ❑ A person who has filed an application for revision under section 264 such application is pending as on 31.01.2020

Exceptions

The Provisions shall not apply to –

- In respect of tax arrears,
 - a) Relating to A.Y. in respect of which an assessment has been made under section 153A or section 153C of the IT 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
 - b) Relating to A.Y. in respect of which prosecution has been instituted on or before the date of filing declaration
 - c) Relating to any undisclosed income from a source located outside India or undisclosed asset located outside India
 - d) Relating to an assessment or reassessment made on the basis of information received under an agreement referred to in sec 90 or 90A of the I. T Act

Features

- ❑ The scheme provides for complete waiver of Interest, Fees, Penalties as well as prosecution where 100% of the disputed tax is paid by 31st March 2020.
- ❑ Also, if appeal related to only disputed interest, penalty, fee – 25% of the disputed interest, penalty, fee needs to be paid where the same is deposited before 31st March 2020.
- ❑ The amount of disputed tax will also include the imputed tax on the reduction of loss resulting from the dispute.



Features

- The resolution needs to be applied on an order by order basis and not on separate issue basis.
- The taxpayer will have to give up its right of litigation in respect of all the issues under dispute in respect of that appeal.
- The taxpayer is required to withdraw the appeal from the appellate forums and is required to file proof of such withdrawal along with the declaration.

Important Definitions

❑ **Designated authority** means an officer not below the rank of a Commissioner of Income-tax notified by the Principal Chief Commissioner for the purposes of this Act.

❑ **Disputed income** in relation to an assessment year, means the whole or so much of the total income as is relatable to the disputed tax;

❑ **Tax arrear** means

(i) the aggregate amount of disputed tax, interest chargeable or charged on such disputed tax, and penalty leviable or levied on such disputed tax; or

(ii) disputed interest; or

(iii) disputed penalty; or

(vi) disputed fee,

as determined under the provisions of the Income-tax Act;

Important Definitions

□ **Disputed tax** in relation to any assessment year means tax determined under the Income tax Act, 1961 in accordance with the formula (A-B)

Where

A = amount of tax on the total income assessed as per the provisions of income tax act 1961

B = amount of tax that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of income in respect of which appeal has been filed by the appellant

Important Definitions

❑ **Disputed interest** means the interest determined in any case under the provisions of the Income-tax Act, 1961, where—

- (i) such interest is not charged or chargeable on disputed tax;
- (ii) an appeal has been filed by the appellant in respect of such interest

❑ **Disputed penalty** means the penalty determined in any case under the provisions of the Income-tax Act, 1961, where—

- (i) such penalty is not levied or leviable in respect of disputed income or disputed tax, as the case may be;
- (ii) an appeal has been filed by the appellant in respect of such penalty

● Procedure

The declaration shall be filed by the declarant before the designated authority in such form and verified in such manner as may be prescribed.

Stage - 1

Designated Authority - within 15 days from the date of receipt of declaration

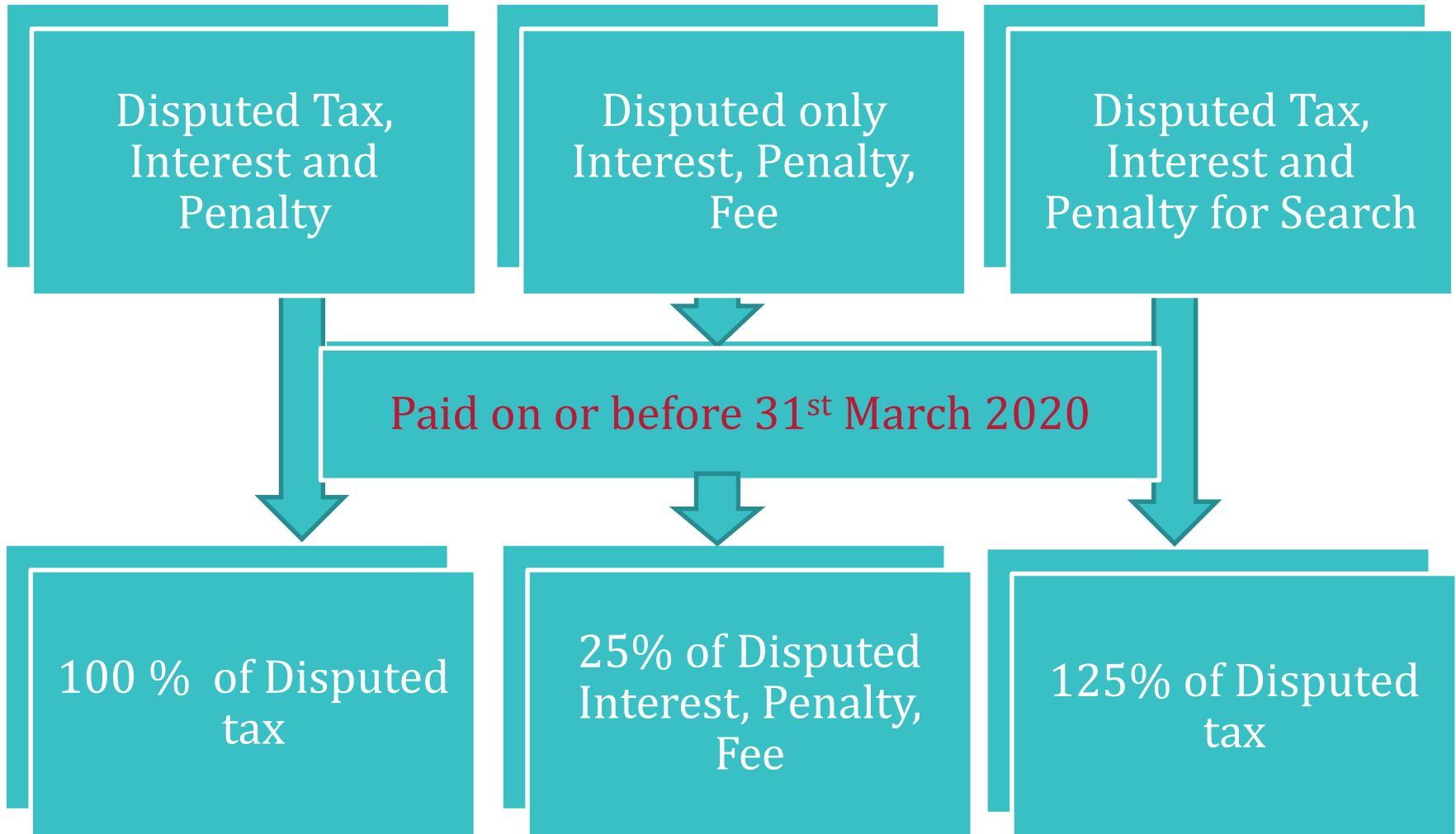
Grant a certificate stating details about particulars of tax arrears and total amount payable

Stage - 2

Declarant - within 15 days from the date of receipt of certificate

Pay the amount and intimate the details of such payment to the designated authority

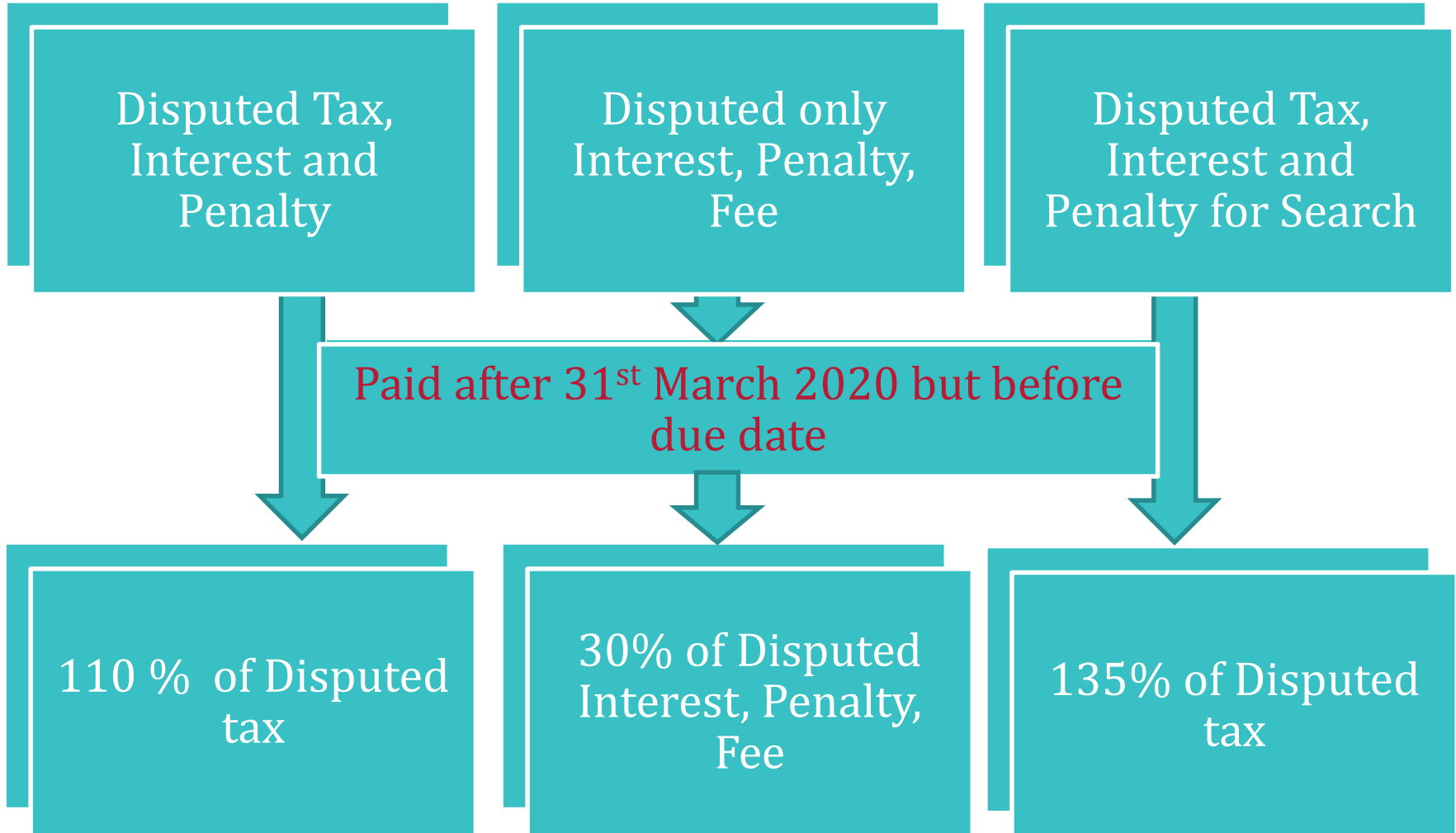
Amount Payable



Note: 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 calculated.

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Amount Payable



Note: 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 calculated.

Thank You



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