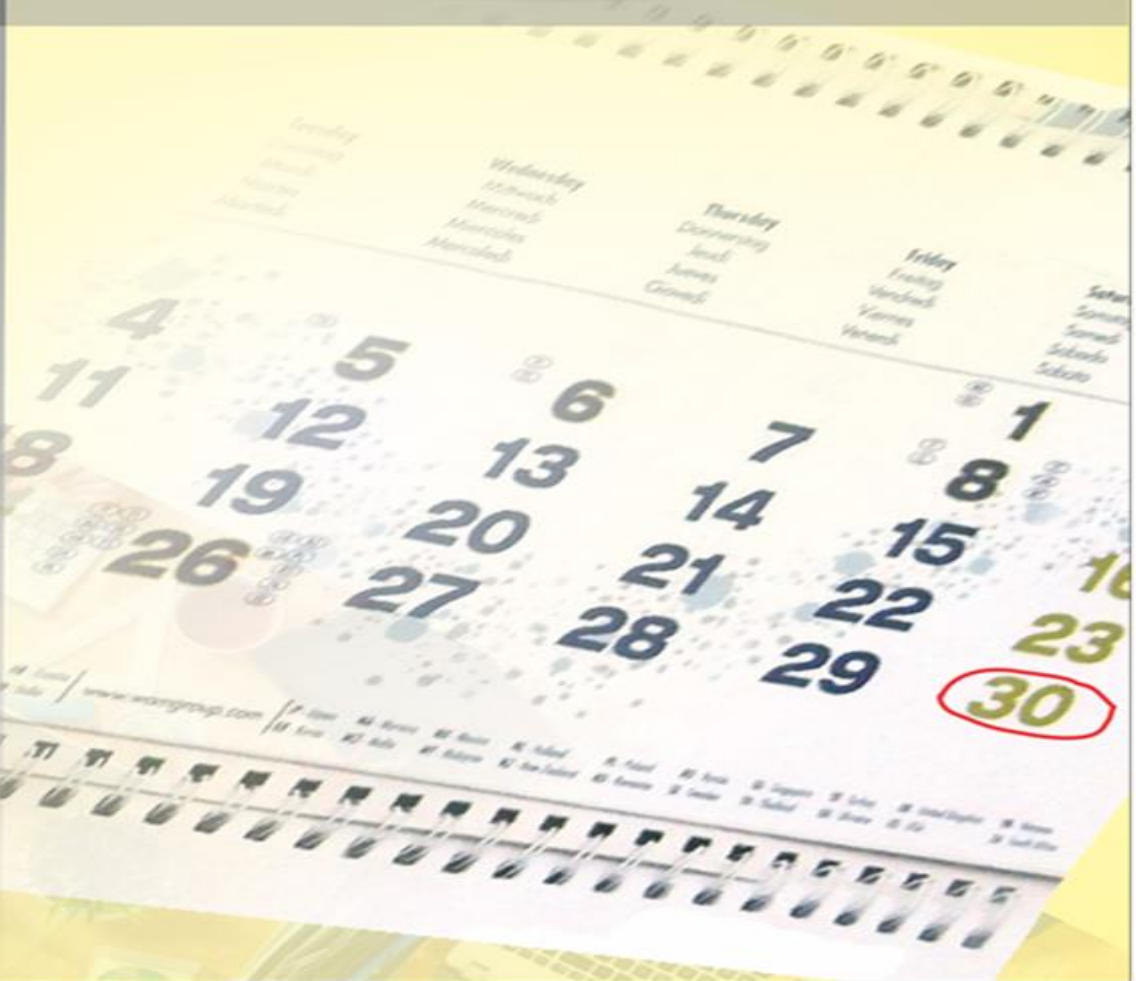


Dec 2024

NEWSLETTER

TAX

- Income Tax
- Goods and Services Tax



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Income Tax

1. Guidance note on the provisions of The Direct Tax Vivad se Vishwas Scheme, 2024 (DTVSV Scheme 2024)

CBDT
Circular No. 19/2024 dated 16.12.2024

The DTVSV Scheme 2024 is effective from 1st October 2024. The objective of the Scheme is to reduce pending income tax litigation, generate timely revenue for the Government and benefit taxpayers by providing them peace of mind, certainty and savings on account of time and resources that would otherwise be spent on the litigation process.

Vide this circular, CBDT has provided clarifications to certain issues faced by taxpayers in the DTVSV Scheme 2024:

Subject: Eligibility of cases under DTVSV Scheme 2024

Issues	Comments
Suppose a taxpayer is eligible to apply for DTVSV as his appeal was pending as on 22.7.2024. But subsequently before the taxpayer could file declaration under the DTVSV Scheme, 2024, his appeal has been disposed off on merits or dismissed as withdrawn for the purposes of the Scheme. Can such a taxpayer still file a declaration under the Scheme?	Yes , <i>such</i> cases are eligible for settlement under the scheme as appeal was pending as on 22.7.2024. Disputed tax will be calculated in the same manner as if the appeal pending on 22.7.2024 is yet to be disposed off.
Time limit for filing of appeal has expired before 22nd July 2024 but an appeal along with application for condonation of delay has been filed after 22nd July, 2024. Whether the taxpayer can opt for the Scheme in such a case?	No . Appeal has to be pending as on 22nd of July, 2024 for a taxpayer to opt for the Scheme. Thus, where an appeal along with application for condonation is filed after 22 nd July, 2024, it does not tantamount to pendency of appeal as on 22nd July, 2024. Accordingly, such cases shall not be eligible.
Suppose an appeal has been filed before 22nd July, 2024 with an application for condonation of delay which is also filed before 22nd July, 2024. This appeal has been admitted by allowing condonation of delay prior to the date of filing of declaration under the Scheme. Whether such a taxpayer can opt for the Scheme?	Yes . In such cases where the appeal as well as condonation application has been filed on or before 22nd July, 2024. On admission of condonation application, such cases convert into an appeal pending on 22nd of July, 2024. Therefore, the taxpayer can opt for settlement under the Scheme in such cases.
Suppose a taxpayer has filed a declaration in Form-I. After the declaration, the appeal has been disposed off by the concerned authority. Whether such a case is eligible for settlement?	Yes .
In the case of a search action carried out before 1.4.2021, assessments of previous years other than search year, have been made under section 153A or 153C of the Income-tax Act and assessment for the year of search has been made under section 143(3). Whether any of these assessment order can be covered under the DTVSV Scheme 2024?	No . Such cases are specifically barred under section 96(a)(i) of the DTVSV Scheme, 2024.
Whether appeal filed against intimation u/s 143(1) of the Income Tax Act and pending as on 22nd July, 2024 is eligible for DTVSV Scheme, 2024?	Yes . Any appeal filed against intimation u/s 143(1) and pending as on 22nd July, 2024 is eligible for settlement under the Scheme.

Section 248 of the Income Tax Act relates to appeal by a person denying liability to deduct tax in certain cases. As per the provisions of this section, no appeal can be filed where tax is paid to the credit of the Central government on or after 1.4.2022. Whether appeal filed prior to 1.4.2022 under section 248 of the Act is eligible for DTVSV Scheme,2024?	Yes
Whether DTVSV Scheme, 2024 can be availed in a case where proceedings are pending before Income Tax Settlement Commission (ITSC) or where writ has been filed against the order of ITSC?	No
Where review petitions are pending before High Courts or Supreme Court, whether such cases will be eligible under DTVSV Scheme, 2024?	No. Pendency of review petition does not tantamount to pendency of an appeal. Therefore, even if a review petition is pending as on 22nd July, 2024, it will not amount to pendency of an appeal.
Where information has been received under an agreement referred to in section 90 or section 90A of the Income Tax Act, however, such information has not been 'used' for making additions in assessment or re-assessment order, in such cases, whether the assessee can opt for DTVSV Scheme 2024?	Yes. Section 96 of the DTVSV Scheme, 2024 clearly states that the Scheme shall not apply where tax arrears relate to assessment or reassessment made on the basis of information received under section 90 or section 90A. Accordingly, where information has not been used for making additions in assessment or re-assessment order, assessee can opt for the Scheme for such orders
Subject: Prosecution	
Issues	Comments
Where the prosecution proceedings have not yet been filed before a court of law, whether the assessee is eligible for the Scheme?	Yes, the assessee is eligible for the Scheme in such cases.
If the prosecution is for different assessment year and the appeal for a different one, would it debar the assessee from benefit of this scheme?	No, prosecution in one assessment year does not debar the assessee from filing declaration for any other assessment year, if it is otherwise eligible.
Subject: Computation of amount payable	
Issues	Comments
The DTVSV Scheme, 2024 provides for different rates where declaration is filed on or before 31.12.2024 and where it is filed on or after 1.1.2025. Please clarify whether payment of disputed amount is also required to be made before 31.12.2024 for applicability of the lower rate?	Reference may be made to the provisions of the Scheme read with DTVSV Rules, 2024. As per Rule 3 of the DTVSV Rules, 2024, amount payable is linked to the date of filing of declaration. Accordingly, where declaration is filed on or before 31.12.2024, the amount payable by the declarant shall be as mentioned in column (3) of the Table specified in section 90 of the Finance (No.2) Act, 2024. However, where a declaration is filed on or after 1.1.2025, amount payable by the declarant shall be as mentioned in column (4) of the said Table. The payment of disputed amount is required to be made as per section 92(2) of the DTVSV Scheme i.e. within 15 days of the date of receipt of certificate in Form No.2.

Whether any additional ground which has been filed in relation to an appeal is to be considered while computing disputed tax?	If any additional ground has been filed on or before 22 nd July 2024 it shall be considered for the purpose of computing disputed tax.
Subject: Disputed penalty	
Issues	Comments
Suppose penalty has been levied after the taxpayer has filed a declaration for the settlement of the associated quantum appeal. In such a case, whether on settlement of tax arrears of the quantum appeal, penalty in relation to such tax arrears would be waived off?	Reference may be made to the definition of tax arrears in Sec 89(1)(O) of the Scheme. Interest chargeable or charged and penalty leviable or levied are included in tax arrears. However, the settlement for quantum appeal is made as a percentage of disputed tax, where disputed tax means income-tax including surcharge and cess. Thus, penalty leviable or levied are not included in disputed tax for settlement of quantum appeal. Accordingly, on settlement of quantum appeal, the Designated Authority will grant immunity from penalty leviable or levied in respect of tax arrears settled under the Scheme.
Suppose in a case, additions made in assessment have reached finality. There is no quantum appeal pending as on 22nd July, 2024 However, penalty appeal is pending as on 22nd July, 2024 which relates to additions made in the said assessment order. Can a penalty appeal be settled independent of appeal?	Penalties which are unrelated to quantum additions are clearly eligible for settlement where an appeal in respect of such penalty is pending as on 22nd July, 2024. These penalties are unrelated to quantum additions and therefore can be settled independently of quantum appeals. Further, where additions made in an assessment have reached finality and thus there is no quantum appeal pending as on 22nd July, 2024, there is no disputed income or disputed tax as on the specified date i.e. 22nd July, 2024. Therefore, such penalty can be settled separately under the Scheme as per SI. No. (c) & (d) of the Table in section 90 of the Scheme.
Subject: Taxes paid before filing declaration	
Issues	Comments
Whether credit for earlier taxes paid against disputed tax will be available against the payment to be made under DTVSV Scheme, 2024?	Yes
In such cases where appeal is pending as on 22nd July, 2024 but disputed tax demands have been already fully paid before filing of declaration. Are such cases eligible to avail DTVSV Scheme, 2024?	Yes
Subject: TDS related queries	
Issues	Comments
In such cases where deductee settled his appeal, whether TDS deductor would be relieved from its liability under section 201(1) of the Income Tax Act. Further, whether TDS deductor would be allowed to claim expense deduction under section 40(a) of the Income Tax Act?	Where a deductee has settled his tax liability, the deductor is relieved from his liability other than interest payable. However, consequential relief for expense deduction under section 40(a) of the Income Tax Act shall be available to such deductor.
Whether appeals filed before the Appellate Authority against intimation passed under section 200A of the Income Tax (regarding intimation on processing of TDS returns) can be settled under DTVSV Scheme 2024?	Yes , if appeal in respect of intimation under section 200A is pending as on 22 nd July, 2024.

Subject: Miscellaneous

Issues	Comments
Whether Designated Authority can amend his order to rectify any patent errors?	Yes , the Designated Authority shall be able to amend his order under section 92 of the Scheme.to rectify any apparent errors.
Where appeal is pending in respect of primary assessee which is a foreign entity not having adequate business presence in India. Whether such foreign entity can file declaration and settle its dispute through its representative assessee having presence in India?	Yes . With proper authorization, a representative assessee can opt for settlement under the Scheme. Even in the case of deceased tax-payer, the legal representative may also opt for settlement under the Scheme.
If the taxpayer avails DTVSV Scheme, 2024 for Transfer Pricing adjustment, will provisions of section 92CE of the Act apply separately?	Yes secondary adjustment under section 92CE will be applicable. However, the provision of secondary adjustment as contained in section 92CE of the Act is not applicable for primary adjustment made in respect of an assessment year commencing on or before the 1st day of April 2016.

[Circular No. 19](#)

2. Extension of due date for determining amount payable as per column (3) of Table specified in section 90 of Direct Tax Vivad Se Vishwas Scheme, 2024

CBDT
Circular No. 20/2024 dated 30.12.2024

Vide this circular, CBDT has extended the due date for determining amount payable as per column (3) of the Table specified in section 90 of the Scheme **from 31st December, 2024 to 31st January, 2025.**

Accordingly, in such cases where declaration in the DTVSV Scheme 2024 is filed on or before 31st January, 2025, amount payable shall be determined as per column (3) of the Table specified in section 90 of the Scheme, and where declaration is filed on or after 01st February, 2025, amount payable shall be determined as per column (4) of the said Table.

[Circular No.20](#)

3. Extension of due date for furnishing belated/revised return of income for the Assessment Year 2024-25 in specified cases

CBDT
Circular No. 21/2024 dated 30.12.2024

Vide this circular, CBDT has extended the last date for furnishing **belated return** of income under section 139(4) of the Income Tax Act or for furnishing **revised return** of income under section 139(5) of the Income Tax Act for the Assessment Year 2024-25 in the case of **resident individuals from 31st December, 2024 to 15th January, 2025.**

[Circular No.21](#)

Goods and Service Tax

1. Recommendations of the 55th GST Council Meeting

55th GST Council meeting was held on 21st December 2024 in which various recommendations were made including proposed amendments in the GST Law and rules. GST rate revision on goods and services were recommended and clarifications were also provided on various issues.

Major Recommendations are as following:

A. Changes in GST rate of Goods and Services:

Goods

1. To reduce the GST rate on Fortified Rice Kernel (FRK), classifiable under heading 1904, to 5%.
2. To exempt GST on gene therapy.
3. To extend IGST exemption to systems, sub-systems, equipment, parts, sub-parts, tools, test equipment, software meant assembly/manufacture of LRSAM system under Notification 19/2019-Customs.
4. To reduce the rate of Compensation Cess to 0.1% on supplies to merchant exporters at par with GST rate on such supplies.
5. To exempt from IGST imports of all equipment and consumable samples by Inspection Team of the International Atomic Energy Agency (IAEA) subject to specified conditions.
6. To extend the concessional 5% GST rate on food inputs of food preparations under HSN 19 or 21 that are supplied for food preparations intended for free distribution to economically weaker sections under a government program subject to the existing conditions

Services

7. To bring supply of the sponsorship services provided by the body corporates under Forward Charge Mechanism
8. To exempt GST on the contributions made by general insurance companies from the third-party motor vehicle premiums collected by them to the Motor Vehicle Accident Fund, constituted under section 164B of the Motor Vehicles Act, 1988. This fund is constituted for providing compensation/ cashless treatment to the victims of road accidents including hit and run cases.
9. To exclude taxpayers registered under composition levy scheme from the entry at Sr. No. 5AB introduced vide Notification No. 09/2024-CTR dated 08.10.2024 vide which renting of any

commercial/ immovable property (other than residential dwelling) by unregistered person to registered person was brought under reverse charge mechanism.

10. To omit the definition of declared tariff and suitably amend the definition of specified premises (from the services rate and exemption notifications) to link it with actual value of supply of any unit of accommodation provided by the hotel and to make the rate of GST applicable on restaurant services in such hotels, for a given financial year, dependent upon the 'value of supply' of units of accommodation made in the preceding financial year, i.e. **18% with ITC if the 'value of supply' exceeded Rs. 7,500 for any unit of accommodation in the preceding financial year, and 5% without ITC otherwise.**

Further, to give an option to pay tax on restaurant service in hotels at the rate of 18% with ITC, if the hotel so chooses, by giving a declaration to that effect on or before the beginning of the financial year or on obtaining registration. **The above changes to be made effective from 01.04.2025 to avoid any transition difficulties.**

B. Other changes related to Goods and Services

11. To clarify that Autoclaved Aerated Concrete (ACC) blocks containing more than 50% fly ash content will fall under HS 6815 and attract 12% GST.
12. **To levy GST @18% (Presently 12%) on sale of old and used vehicles including EVs on the margin of the supplier i.e. *The difference between the Purchase price and Selling price (depreciated value if depreciation is claimed)***
13. To clarify that pepper whether fresh green or dried pepper and raisins when supplied by an agriculturist is not liable to GST.
14. To clarify that RBI regulated Payment Aggregators are eligible for the exemption from GST. To also clarify that this exemption does not cover payment gateway (PG) and other fintech services which do not involve settlement of funds.
15. To clarify that no GST is payable on the 'penal charges' levied and collected by banks and NBFCs from borrowers for non-compliance with loan terms.
16. To reduce the payment of pre-deposit from 25% to 10% for filing an appeal to the Appellate Authority in respect of an order passed which involves only penalty amount.
17. To clarify that in respect of supply of 'Online Services' such as supply of online money gaming, OIDAR services, etc. to unregistered recipients, the supplier is required to mandatorily record the name of the State of the unregistered recipient on the tax invoice and such name of State of recipient shall be deemed to be the address on record of the recipient for the purpose of section 12(2)(b) of IGST Act, 2017 read with proviso to rule 46(f) of CGST Rules, 2017

Disclaimer:

This is not a complete listing of all circulars/notifications issued during the month.
Instead, it is only a listing of some of the circulars/notifications that we considered important



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