

CHAPTER X

THE DIRECT TAX DISPUTE RESOLUTION SCHEME, 2016

Short title and commencement.

- 200.** (1) This Scheme may be called the Direct Tax Dispute Resolution Scheme, 2016.
 (2) It shall come into force on the 1st day of June, 2016.

Definitions.

- 201.** (1) In this Scheme, unless the context otherwise requires,—
- (a) “declarant” means a person making a declaration under section 202;
- (b) “designated authority” means an officer not below the rank of a Commissioner of Income-tax and notified by the Principal Chief Commissioner for the purposes of this Scheme;
- (c) “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;
- (d) “disputed tax” means the tax determined under the Income-tax Act, or the Wealth-tax Act, which is disputed by the assessee or the declarant, as the case may be;
- (e) “disputed wealth”, in relation to an assessment year, means the whole or so much of the net wealth as is relatable to the disputed tax;
- (f) “Income-tax Act” means the Income-tax Act, 1961; 43 of 1961.
- (g) “specified tax” means a tax—
- (i) the determination of which is in consequence of or validated by any amendment made to the Income-tax Act or the Wealth-tax Act with retrospective effect and relates to a period prior to the date on which the Act amending the Income-tax Act or the Wealth-tax Act, as the case may be, received the assent of the President; and
- (ii) a dispute in respect of such tax is pending as on the 29th day of February, 2016;
- (h) “tax arrear” means, the amount of tax, interest or penalty determined under the Income-tax Act or the Wealth-tax Act, in respect of which appeal is pending before the Commissioner of Income-tax (Appeals) or the Commissioner of Wealth-tax (Appeals) as on the 29th day of February, 2016;
- (i) “Wealth-tax Act” means the Wealth-tax Act, 1957. 27 of 1957.

(2) All other words and expressions used herein but not defined and defined in the Income-tax Act or the Wealth-tax Act, as the case may be, shall have the meanings respectively assigned to them in those Acts.

Declaration of tax payable.

202. Subject to the provisions of this Scheme, where a declarant files, on or after the 1st day of June, 2016 but on or before a date to be notified by the Central Government in the Official Gazette, a declaration to the designated authority in accordance with the provisions of section 203 in respect of tax arrear, or specified tax, then, notwithstanding anything contained in the Income-tax Act or the Wealth-tax Act or any other provision of any law for the time being in force, the amount payable under this Scheme by the declarant shall be as under, namely:—

(1) in case of pending appeal related to tax arrear

being— (a) tax and interest,—

(i) in a case where the disputed tax does not exceed ten lakh rupees, the whole of the disputed tax and the interest on disputed tax till the date of assessment or reassessment, as the case may be; or

(ii) in any other case, the whole of disputed tax, twenty-five per cent. of the minimum penalty leviable and the interest on disputed tax till the date of assessment or reassessment, as the case may be;

(b) penalty, twenty-five per cent. of the minimum penalty leviable and the tax and interest payable on the total income finally determined.

(II) in case of specified tax, the amount of such tax so determined.

203. (1) A declaration under section 202 shall be made to the designated authority in such form and verified in such manner as may be prescribed.

Particulars to be furnished.

(2) Where the declaration is in respect of tax arrear, consequent to such declaration, appeal in respect of the disputed income, disputed wealth and tax arrear pending before the Commissioner of Income-tax (Appeals) or the Commissioner of Wealth-tax (Appeals), as the case may be, shall be deemed to have been withdrawn.

(3) Where the declaration is in respect of specified tax and the declarant has,—

(a) filed any appeal before the Commissioner of Income-tax (Appeals) or the Commissioner of Wealth-tax (Appeals) or the Appellate Tribunal or the High Court or the Supreme Court or any writ petition before the High Court or the Supreme Court against any order in respect of the specified tax, he shall withdraw such appeal or writ petition with the leave of the court wherever required and furnish proof of such withdrawal along with the declaration referred to in sub-section (1);

(b) initiated any proceeding for arbitration, conciliation or mediation or has given any notice thereof under any law for the time being in force or under any agreement entered into by India with any other country or territory outside India whether for protection of investment or otherwise, he shall withdraw such notice or the claim, if any, in such proceedings prior to making the declaration and furnish proof thereof along with the declaration referred to in sub-section (1).

(4) Where the declaration is in respect of specified tax, the declarant shall, without prejudice to the provisions of sub-section (3), furnish an undertaking, in such form and verified in such manner as may be prescribed, waiving his right, whether direct or indirect, to seek or pursue any remedy or any claim in relation to the specified tax which may otherwise be available to him under any law for the time being in force, in equity, by statute or under an agreement referred to in clause (b) of sub-section (3) or otherwise.

(5) Where,—

(a) any material particular furnished in the declaration is found to be false at any stage; or

(b) the declarant violates any of the conditions referred to in this Scheme; or

(c) the declarant acts in a manner which is not in accordance with the undertaking given by him under sub-section (4),

it shall be presumed as if the declaration was never made under the Scheme and all the consequences under the Income-tax Act or the Wealth-tax Act, as the case may be, under which the proceedings against the declarant are or were pending, shall be deemed to have been revived.

(6) No appellate authority or arbitrator, conciliator or mediator shall proceed to decide any issue relating to the specified tax mentioned in the declaration and in respect of which an order had been made under sub-section (1) of section 204 by the designated authority or the payment of the sum determined under that section.

204. (1) The designated authority shall, within a period of sixty days from the date of receipt of the declaration, determine the amount payable by the declarant in accordance with the provisions of this Scheme and grant a certificate in such form as may be prescribed, to the declarant setting forth therein the particulars of the tax arrear or the specified tax, as the case may be, and the sum payable after such determination.

Time and manner of payment.

(2) The declarant shall pay the sum determined by the designated authority as per the certificate granted under sub-section (1) within thirty days of the date of receipt of the certificate and intimate the fact of such payment to the designated authority along with proof thereof and the designated authority shall thereupon pass an order stating that the declarant has paid the sum.

(3) Every order passed under sub-section (1), determining the sum payable under this Scheme, shall be conclusive as to the matters stated therein and no matter covered by such order shall be re-opened in any other proceeding under the Income-tax Act or the Wealth-tax Act or under any other law for the time being in force, or as the case may be, under any agreement, whether for protection of investment or otherwise, entered into by India with any other country or territory outside India.

Immunity from initiation of proceedings in respect of offence and imposition of penalty in certain cases.

205. The designated authority shall, subject to the conditions provided in section 204, grant—

(a) immunity from instituting any proceedings in respect of an offence under the Income-tax Act or the Wealth-tax Act, as the case may be; or

(b) immunity from imposition or waiver, as the case may be, of penalty under the Income-tax Act or the Wealth-tax Act, as the case may be, in respect of,—

(i) specified tax covered in the declaration under section 202; or

(ii) tax arrear covered in the declaration to the extent the penalty exceeds the amount of penalty referred to in clause (1) of section 202;

(c) waiver of interest under the Income-tax Act or the Wealth-tax Act, as the case may be, in respect of,—

(i) specified tax covered in the declaration under the section 202;

(ii) tax arrear covered in the declaration to the extent the interest exceeds the amount of interest referred to in sub-clause (a) of clause (1) of section 202.

No refund of amount paid under scheme.

206. Any amount paid in pursuance of a declaration made under section 202 shall not be refundable under any circumstances.

No other benefit, concession or immunity to declarant.

207. Save as otherwise expressly provided in sub-section (3) of section 204 and section 205, nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant in any proceedings other than those in relation to which the declaration has been made.

Scheme not to apply in certain cases.

208. The provisions of this Scheme shall not apply—

(a) in respect of tax arrear or specified tax,—

(i) relating to an assessment year in respect of which an assessment has been made under section 153A or 153C of the Income-tax Act or assessment or reassessment for any of the assessment years, in consequence of a search initiated under section 37A or requisition made under section 37B of the Wealth-tax Act if it relates to any tax arrear;

(ii) relating to an assessment or reassessment in respect of which a survey conducted under section 133A of the Income-tax Act or section 38A of the Wealth-tax Act, has a bearing if it relates to any tax arrear;

(iii) relating to an assessment year in respect of which prosecution has been instituted on or before the date of filing of declaration under section 202;

(iv) relating to any undisclosed income from a source located outside India or undisclosed asset located outside India;

(v) relating to an assessment or reassessment made on the basis of information received under an agreement referred to in section 90 or section 90A of the Income-tax Act, if it relates to any tax arrear;

(b) to any person in respect of whom an order of detention has been made under the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974:

52 of 1974.

Provided that—

(i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or

(ii) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9, of the said Act; or

(iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; or

(iv) such order of detention has not been set aside by a court of competent jurisdiction;

(c) to any person in respect of whom prosecution for any offence punishable under the provisions of the Indian Penal Code, the Unlawful Activities (Prevention) Act, 1967, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Prevention of Corruption Act, 1988 or for the purpose of enforcement of any civil liability has been instituted on or before the filing of the declaration or such person has been convicted of any such offence punishable under any of those Acts;

45 of 1860.
37 of 1967.
61 of 1985.
49 of 1988

(d) to any person notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992.

27 of 1992.

209. (1) The Central Government may, from time to time, issue such directions or orders to the authorities, as it may deem fit, for the proper administration of this Scheme:

Power of
Central
Government
to issue
directions, etc.

Provided that no direction or order shall be issued so as to require any designated authority to dispose of a particular case in a particular manner.

(2) Without prejudice to the generality of the foregoing power, the Central Government may, if it considers necessary or expedient so to do, for the purpose of proper and efficient administration of the Scheme and collection of revenue, issue, from time to time, general or special orders in respect of any class of cases, setting forth directions or instructions as to the guidelines, principles or procedures to be followed by the authorities in the work relating to administration of the Scheme and collection of revenue and any such order may, if the Central Government is of the opinion that it is necessary in the public interest so to do, be published in the Official Gazette in such manner as may be prescribed.

210. (1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Scheme come into force.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

211. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

Power to make
rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which a declaration may be made and the manner in which such declaration may be verified under sub-section (1) of section 203;

(b) the form of certificate which may be granted under sub-section (1) of section 204; (c) the manner in which orders may be published under sub-section (2) of section 209;

(d) any other matter which by this scheme is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(3) Every rule made by the Central Government under this Scheme shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.