



## India tax litigation settlement - The Direct Tax Vivad-Se-Vishwas Scheme, 2024

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## Today's panel



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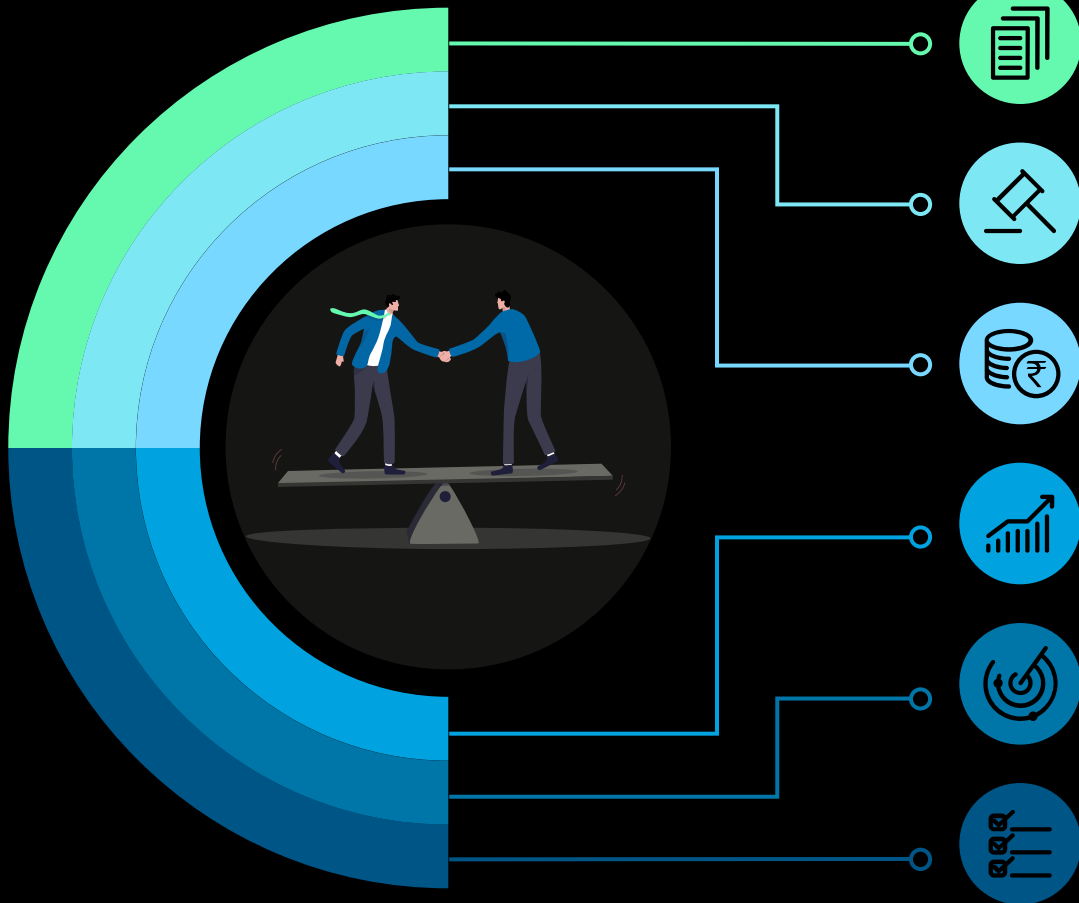
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## VSV 2.0 Background and Overview

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- Pendency before CIT(A) was around 5.44 lacs appeals at the start of this year
- Whereas cases pending in ITATs were 20,266, High Courts, 37,436 and Supreme Court 5,544



Tax certainty and reducing litigation are focus areas for the Government



- With the above objective, monetary thresholds for revenue appeals are also increased
- ITAT – Rs. 60 Lacs, High Court – Rs. 2 Crores, Supreme Court – Rs. 5 Crores



Success of VSV 1.0 has given the Government confidence to attract taxpayers for the settlement option



Scope of VSV 2.0 is limited as compared to VSV 1.0



Majority guidance will come in shape of FAQs and Circulars that will be issued by the CBDT



**Appeals covered, amounts payable and salient features**

# Applicability



## Eligible Cases

1. **Appeals** or Writ Petitions or Special Leave Petition **pending as on 22 July 24**
2. Where objections are filed with the Dispute Resolution Panel and **directions are not issued as on 22 July 24**
3. Dispute Resolution Panel has issued its direction, but **final assessment order is not passed as on 22 July 24**
4. **Sec. 264** application **pending on 22 July 24**



## Ought to have been included

1. Cases where orders are passed and appeal is not filed, **but time to file an appeal has not elapsed** on 22 July 24
2. Cases that are **remanded back to** the file of the **Assessing Officer**, except de-novo adjudication



## Excluded Appeals/Petition

1. Arising from assessment or reassessment **based on search** initiated under Section 132 or Section 132A
2. Relating to AYs where **prosecution** has been initiated
3. Relating to **undisclosed asset outside India**
4. Arising from assessment or reassessment based on information received as per **Sec. 90 and 90A**



## Excluded Persons

1. Order of detention under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974
2. Prosecution has been instituted or conviction has taken place under certain Acts
3. Prosecution by Income-tax authorities for offences punishable by BNS, 2023, or enforcement of civil liability or convicted of any such offence

## Amounts payable



Nature of tax arrears	Amounts payable on or before 31 December 2024	Amounts payable from 1 January 2025 till end date which will be notified
<b>a. aggregate amount of disputed tax, interest on such disputed tax and penalty levied or leviable on such disputed tax:</b>		
i. Appeal filed after 31 January 2020 but on or before 22 July 2024	100 % of disputed tax	110% of disputed tax
ii. Appeal pending at the same forum on or before 31 January 2020	110% of disputed tax	120% of disputed tax
<b>b. disputed interest, disputed penalty, disputed fee:</b>		
i. Appeal filed after 31 January 2020 but on or before 22 July 2024	25% of disputed tax	30% of disputed tax
ii. Appeal pending at the same forum on or before 31 January 2020	30% of disputed tax	35% of disputed tax

### Amount payable would be reduced to 50% in the following cases:

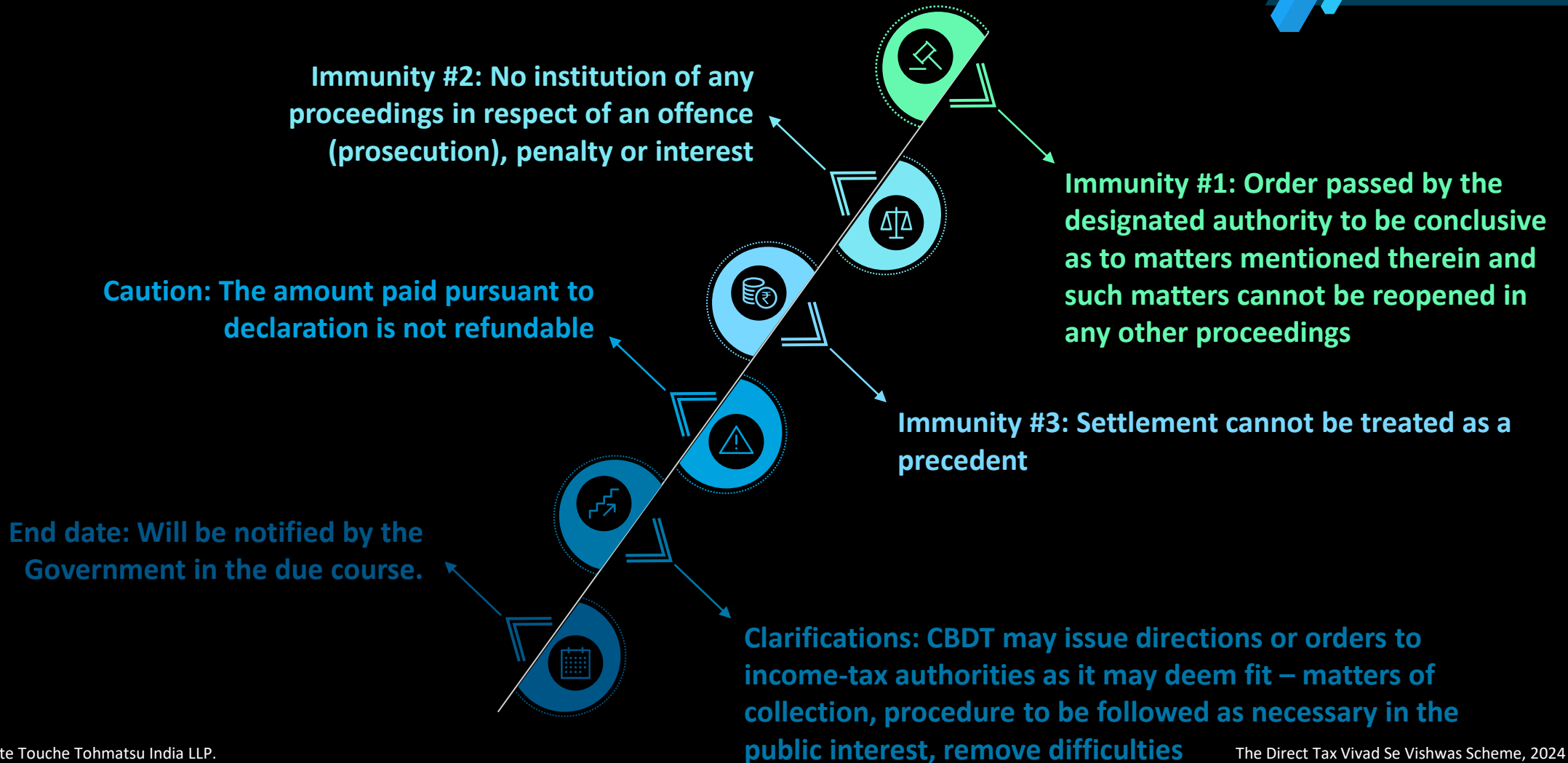
- Where the taxpayers appeal relates to an issue which has been decided in his favor by a higher appellate forum, i.e., ITAT, HC or SC
- Appeal has been filed by tax authorities

### No interest shall be granted on refunds arising from VSV 2.0

In cases where the dispute relates to the reduction of MAT/AMT credit or loss/depreciation, an option will be available to include the amount of tax related to such tax credit/loss/depreciation in the disputed taxes or carry forward the reduced MAT/AMT credit or loss/depreciation



## Salient features





## Practical Considerations for VSV 2.0

# Practical Considerations for VSV 2.0



## Fin 48 Rules

Cases where taxpayers have made provisions pursuant to Fin 48 rules thus resulting in no significant shocks to business accounts

## Mergers and Acquisitions (M&A)

Lends certainty to target entities currently being evaluated for M&A related activity

## Response to Tax Department

VsV analysis required to equip CEOs/CFOs who may be invited by Tax department for discussion on VsV

## Focus on Business Aspects

Allows tax teams to focus on business tax planning by freeing up time involved in litigation

## Audit clearance & reporting

Clearance of outstanding litigation results in faster audit clearances and reduced reporting requirements

## Analysis for listed entities

In case of listed entities, Company Board may request for evaluation of VsV scheme

# Practical Considerations for VSV 2.0



- Avoids protracted litigation
- Provides certainty from a tax and financial disclosure perspective
- Significant savings in litigation costs
- Waiver of interest and penalty
- Utilization of losses or MAT credit already lapsed/likely to lapse
- Settlement under scheme will not be viewed as a precedence for future cases
- Trust building measure between taxpayer and tax department



## Benefits of VSV 2.0



## Caution points of VSV 2.0

- No option for partially availing the scheme i.e. option to only settle some grounds and pursue litigation for others
- Results in cash outflow in near future and likely to cause diversion of cash resources away from budgeted expenses
- Does not provide relief from double taxation. If that is the objective, then taxpayers may opt for APA or MAP in such cases
- Secondary adjustment impact



**Clarification sought and suggestions**



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