

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 5th April, 2022

(INCOME-TAX)

S.O. 1642(E).—In exercise of the powers conferred by sub-sections (3) and (4) of section 245MA of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following Scheme, namely:—

1. Short title and commencement.—(1) This Scheme may be called the e-Dispute Resolution Scheme, 2022.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. Definitions.— (1) In this Scheme, unless the context otherwise requires, —

- (a) “Act” means the Income-tax Act, 1961 (43 of 1961);
- (b) “addressee” shall have the same meaning as assigned to it in clause (b) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (c) “authorised representative” shall have the same meaning as assigned to it in sub-section (2) of section 288 of the Act;
- (d) “computer resource” shall have the same meaning as assigned to it in clause (k) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (e) “computer system” shall have the same meaning as assigned to it in clause (l) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (f) “computer resource of assessee” shall include assessee’s registered account in designated portal of the Income-tax Department, the Mobile App linked to the registered mobile number of the assessee, or the registered email address of the assessee with his email service provider;
- (g) “digital signature” shall have the same meaning as assigned to it in clause (p) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (h) “designated portal” means the web portal designated as such by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be;
- (i) “Dispute Resolution Committee” means the Dispute Resolution Committee constituted in accordance with the provisions of sub-section (1) of section 245MA of the Act read with rule 44DAA of the Income-tax Rules, 1962;

- (j) “electronic record” shall have the same meaning as assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (k) “email” or “electronic mail” and “electronic mail message” means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message;
- (l) “modified order” means an order passed by the assessing officer to give effect to the order of resolution of the Dispute Resolution Committee;
- (m) “Official email of the Dispute Resolution Committee” means the email allocated for the purpose of dispute resolution to each Dispute Resolution Committee by the Pr. DGIT (Systems) or DGIT (Systems), as the case may be;
- (n) “registered account” of the assessee means the electronic filing account registered by the assessee in designated portal;
- (o) “registered e-mail address” means the e-mail address at which an electronic communication may be delivered or transmitted to the addressee, including-
- (i) the email address available in the electronic filing account of the addressee registered in the designated portal; or
 - (ii) the e-mail address available in the last income-tax return furnished by the addressee; or
 - (iii) the e-mail address available in the permanent account number database relating to the addressee; or
 - (iv) in the case of addressee being an individual who possesses the Aadhaar number, the e-mail address of addressee available in the database of Unique Identification Authority of India; or
 - (v) in the case of addressee being a company, the e-mail address of the company as available on the official website of Ministry of Corporate Affairs; or
 - (vi) any e-mail address made available by the addressee to the income-tax authority or any person authorised by such authority;
- (p) “registered mobile number” of the assessee means the mobile number of the assessee, or his authorised representative, appearing in the user profile of the electronic filing account registered by the assessee in the designated portal;
- (q) “Rules” means the Income-tax Rules, 1962;
- (r) “specified conditions” means the specified conditions referred to in clause (a) of the Explanation to section 245MA of the Act;
- (s) “specified order” means the specified order referred to in clause (b) of the Explanation to section 245MA of the Act;
- (t) “video conferencing or video telephony” means the technological solutions for the reception and transmission of audio-video signals by users at different locations, for communication between people in real-time.

(2) Words and expressions used herein and not defined but defined in the Act shall have the meaning respectively assigned to them in the Act.

3. Scope of the Scheme.— The dispute resolution under this Scheme shall be made by the Dispute Resolution Committee on applications made for dispute resolution under Chapter XIX-AA of the Act in respect of dispute arising from any variation in the specified order by such persons or class of persons, as may be specified by the Board.

4. Procedure in dispute resolution.— (1) The application for dispute resolution, as referred to in paragraph 3, shall be dealt with in the following manner, namely:—

Application for dispute resolution

- (i) the assessee who fulfils the specified conditions may, in respect of any specified order, file an application electronically for dispute resolution to the Dispute Resolution Committee designated for the region of Principal Chief Commissioner of Income-tax having jurisdiction over the assessee;
- (ii) the application shall be filed in the Form No. 34BC referred to in rule 44DAB:
 - (a) within such time from the date of constitution of the Dispute Resolution Committee, as may be specified by the Board, for cases where appeal has already been filed and is pending before the Commissioner (Appeals); or
 - (b) within one month from the date of receipt of specified order, in any other case;
- (iii) the application shall be submitted by email to the official email of the Dispute Resolution Committee alongwith proof of payment of tax on the returned income, if available and accompany a fee of one thousand rupees as mentioned in sub-rule (2) of rule 44DAB.

Screening of application

- (iv) the Dispute Resolution Committee shall examine the application with respect to the specified conditions and criteria for specified order;
- (v) upon such examination the Dispute Resolution Committee, where it considers that the application for dispute resolution should be rejected, shall serve a notice calling upon the assessee to show cause as to why his application should not be rejected, specifying a date and time for filing a response;
- (vi) the Dispute Resolution Committee shall, on a request by the assessee, provide him an opportunity of being heard through video telephony or video conferencing facility, to the extent technologically feasible;
- (vii) the assessee shall furnish a response to the show-cause notice referred to in clause (v) within the specified date and time or such extended time as may be allowed on the basis of application made in this behalf, to the Dispute Resolution Committee;
- (viii) the Dispute Resolution Committee may, after considering the response furnished by the assessee in clause (vii), reject the application or proceed to decide the application on merits in accordance with the procedure laid out in clauses (ix) to (xiv) and where no such response is furnished reject the application;
- (ix) the decision of the Dispute Resolution Committee that the application for dispute resolution should be allowed to be proceeded with or rejected, shall be communicated to the assessee on his registered e-mail address;
- (x) the assessee shall, within thirty days of receipt of the communication that the application is admitted as referred to in clause (ix), be required to submit a proof of withdrawal of appeal filed under section 246A of the Act or withdrawal of application before the Dispute Resolution panel, if any, to the Dispute Resolution Committee or convey that there is no aforesaid proceeding pending in his case, failing which the Dispute Resolution Committee may reject the application.

Procedure to be followed by Dispute Resolution Committee

- (xi) the Dispute Resolution Committee may, upon admission of the application, as referred to in clause (ix), and subsequent to the receipt of the response of the assessee in clause (x), call for records from the income-tax authority and further examine, as it may deem fit, with respect to the issues covered in the application;
- (xii) the Dispute Resolution Committee may seek a report from the assessing officer on the issues covered in the application or on any other issue arising during the course of proceedings;

- (xiii) the Dispute Resolution Committee may before disposing off the application, call for further information from the assessee or any other person by sending an email to his registered email address;
- (xiv) the assessee shall electronically submit its response to the Dispute Resolution Committee, within the time specified or such time as may be extended by the Dispute Resolution Committee on the basis of an application in this behalf;
- (xv) the Dispute Resolution Committee may, after considering the material available on record, including any further information or evidence received from the assessee, income-tax authority or any other person, may decide —
 - (a) to make modifications to the variations in specified order, which are not prejudicial to the interest of the assessee, and decide for waiver of penalty and immunity from prosecution in accordance with the provisions of rule 44DAC, and pass an order of resolution accordingly; or
 - (b) to not make modifications to the variations in the specified order, but however may decide for waiver of penalty and immunity from prosecution provisions in accordance with the provisions of rule 44DAC, and pass an order of resolution accordingly, which shall be treated as an order not prejudicial to the interest of the assessee; or
 - (c) to not make any modification to the specified order, and pass an order disposing off the application, which shall be treated as an order 'not prejudicial to the interest of the assessee,

within six months from the end of the month in which application for dispute resolution is admitted by the Dispute Resolution Committee as per clause (viii);

- (xvi) the Dispute Resolution Committee shall serve a copy of the order of resolution or order disposing off the application, as the case may be, upon the assessee and also the assessing officer for giving effect to the same, if so required;
- (xvii) where the specified order is an order of the eligible assessee as referred to in sub-section (1) of section 144C of the Act, the assessee shall not be eligible to file any reference to the Dispute Resolution Panel or an appeal to the Commissioner (Appeals) against the modified order;
- (xviii) the assessing officer shall serve a copy of the modified order along with notice of demand upon the assessee specifying a date for making payment of demand;
- (xix) the assessee shall, furnish proof of payment of the said demand to the Dispute Resolution Committee and also to the assessing officer;
- (xx) the Dispute Resolution Committee shall, on receipt of confirmation of payment of demand, by an order in writing, grant immunity from prosecution and waiver of penalty if applicable, in accordance with the provisions of rule 44DAC.

(2) The order of the Dispute Resolution Committee for the resolution of a dispute shall be in accordance with the provisions of the Act.

(3) Notwithstanding anything contained in sub-paragraph (1), the Dispute Resolution Committee may at any stage of the dispute resolution proceedings, if considered necessary, for reasons to be recorded in writing and after giving an opportunity of being heard to the assessee, decide to terminate the dispute resolution proceedings if,—

- (i) the assessee fails to cooperate during the course of dispute resolution proceedings; or
- (ii) the assessee fails to respond to, or submit any information in response to, a notice issued to him; or
- (iii) the Committee is satisfied that the assessee has concealed any particular material to the proceedings or had given false evidence.

(iv) the assessee fails to pay the demand as required in clause (xviii) of sub-paragraph (1) of paragraph 4.

(4) Where the dispute resolution proceedings are terminated as per sub-paragraph (3), the Dispute Resolution Committee shall intimate the income-tax authority for taking necessary action as per the provisions of the Act.

(5) Where the application has not been allowed to be proceeded with as referred to in clause (viii) of sub-paragraph (1) of paragraph 4, the assessee may file an appeal to the Commissioner (Appeals) and the period taken by the Dispute Resolution Committee in deciding on the admission shall be excluded from the period available to file such appeal.

5. Powers of the Dispute Resolution Committee.- (1) The Dispute Resolution Committee shall have the power to waive penalty or grant immunity from the prosecution provisions of the Act on fulfilment of conditions specified in rule 44DAC.

(2) Any proceedings before the Dispute Resolution Committee shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and every income-tax authority shall be deemed to be a Civil Court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

(3) If any difficulty arises in giving effect to any order of the Dispute Resolution Committee, it may, on its own motion or on an application made by the assessee or the assessing officer through the Principal Commissioner of Income-tax or the Commissioner of Income-tax, as the case may be, remove the difficulty insofar as it is not inconsistent with the provisions of the Act.

6. Waiver of penalty imposable and Immunity from prosecution.- The Dispute Resolution Committee shall, upon receipt of proof of payment as per clause (xix) of sub-paragraph (1) of paragraph 4, grant to the person who made the application for dispute resolution under section 245MA of the Act, waiver of penalty imposable or immunity from prosecution or both under this Act in accordance with the rule 44DAC.

7. Appeal or revision. – No appeal or revision shall lie against the modified order.

8. Authorisation to be filed.- An authorised representative appearing for the assessee at the hearing shall electronically file, before the commencement of the hearing, a document authorising him to appear for the assessee and if he is a relative of the assessee, the document shall state the nature of his relationship with the assessee, or if he is a person regularly employed by the assessee the capacity in which he is at the time employed.

9. Exchange of communication exclusively by electronic mode.— For the purposes of this Scheme,-

(a) all communications between the Dispute Resolution Committee and the assessee or the authorised representative of the assessee or any other person, as the case may be, shall be exchanged exclusively by electronic mode, to the extent technologically feasible; and

(b) all internal communications between the Dispute Resolution Committee, or any income-tax authority shall be exchanged exclusively by electronic mode.

10. Authentication of electronic record.— For the purposes of this Scheme, an electronic record shall be authenticated by the—

(i) Dispute Resolution Committee, the Principal Commissioner of Income-tax or Commissioner of Income-tax, as the case may be, by affixing its digital signature;

(ii) assessee or any other person, by affixing his digital signature if he is required under the Rules to furnish his return of income under digital signature, and in any other case by communicating through his registered email address.

11. Delivery of electronic record.—(1) Every notice or order or any other electronic communication under this Scheme shall be delivered to the addressee, being the assessee or any other person, by way of-

(a) placing an authenticated copy thereof in the assessee's or any other person's registered account, as the case may be; or

(b) sending an authenticated copy thereof to the registered email address of the assessee or any other person, as the case may be, or his authorised representative.

(2) Every notice or order or any other electronic communication under this Scheme shall be delivered to the addressee, being any other person, by sending an authenticated copy thereof to the registered email address of such person, followed by a real time alert.

(3) The assessee or any other person, as the case may be, shall furnish his response to any notice or order or any other electronic communication, under this Scheme, through his registered account, to the official e-mail of the Dispute Resolution Committee and once an acknowledgement is sent by the Dispute Resolution Committee, the response shall be deemed to be authenticated.

(4) The time and place of dispatch and receipt of electronic record shall be determined in accordance with the provisions of section 13 of the Information Technology Act, 2000 (21 of 2000).

12. No personal appearance before the Dispute Resolution Committee.—(1) A person shall not be required to appear either personally or through authorised representative in connection with any proceedings under this Scheme before the Dispute Resolution Committee or income-tax authority.

(2) The assessee or any other person, as the case may be, or his authorised representative, may request for personal hearing so as to make his oral submissions or present his case before the Dispute Resolution Committee.

(3) The Dispute Resolution Committee may approve the request for personal hearing, as referred to in subparagraph (2).

(4) Where the request for personal hearing has been approved by the Dispute Resolution Committee, such hearing shall be conducted through video conferencing, including use of any telecommunication application software which supports video telephony, to the extent technologically feasible, in accordance with the procedure laid down by the Board.

(5) The Board shall establish suitable facilities for video conferencing including telecommunication application software which supports video telephony at such locations as may be necessary, so as to ensure that the assessee, or his authorised representative, or any other person is not denied the benefit of this Scheme merely on the ground that such assessee or his authorised representative, or any other person does not have access to video conferencing at his end.

13. Proceedings not open to the public.— The proceedings before the Dispute Resolution Committee shall not be open to the public and no person (other than the assessee, his employee, the concerned officers of the Dispute Resolution Committee or the income-tax authority or the authorised representatives) shall, without the permission of the Dispute Resolution Committee, remain present during such proceedings, even on video conferencing or video telephony.

14. Language of the Dispute Resolution Committee.—(1) The language of the Dispute Resolution Committee shall be Hindi or English, at the option of the assessee.

(2) Where any document is in a language other than English or Hindi, an English translation thereof should also be furnished along therewith.

(3) The resolution order and any other order passed by the Dispute Resolution Committee may, at the discretion of the Dispute Resolution Committee, be in Hindi or English.

15. Power to specify format, mode, procedure and processes.— The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be, shall, in consultation with the jurisdictional Principal Chief Commissioner of Income-tax or the Principal Director General of Income-tax, in charge of the Dispute Resolution Committee and with the approval of the Board, lay down the standards, procedures and processes for effective functioning of the Dispute Resolution Committees under this Scheme, in an automated and mechanised environment, including format, mode, procedure and processes in respect of the following, namely:—

- (i) service of the order or any other communication;
- (ii) receipt of any information or documents from the person in response to the notice, order or any other communication;
- (iii) issue of official email-id to the Dispute Resolution Committee;
- (iv) issue of acknowledgment of the response furnished by the person;

- (v) provision of “e-proceedings” facility including login account facility, tracking status of dispute resolution proceedings, display of relevant details, and facility of download if so required;
- (vi) accessing, verification and authentication of information and response including documents submitted during the dispute resolution proceedings;
- (vii) receipt, storage and retrieval of information or documents in a centralised manner; and
- (viii) general administration and grievance redressal mechanism in the respective Dispute Resolution Committees.

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SHEFALI SINGH, Under Secy. Tax Policy & Legislation