

NOTIFICATION

New Delhi, the 25th September, 2020

(INCOME-TAX)

S.O. 3297(E).—In exercise of the powers conferred by sub-section (6C) of section 250 of the Income-tax Act, 1961 (43 of 1961), for the purposes of giving effect to the Faceless Appeal Scheme, 2020 made under sub-section (6B) of section 250 of the Act, the Central Government hereby makes the following directions, namely:-

1. The provisions of clause (16A) of section 2, section 120, section 129, section 131, section 133, section 134, section 136 and Chapter XX of the Act shall apply to the procedure in appeal in accordance with the said Scheme subject to the following exceptions, modifications and adaptations, namely:—

“**A.** (1) The appeal, as referred to in paragraph 3 of the said Scheme, shall be disposed of under the said Scheme as per the following procedure, namely:—

- (i) the National Faceless Appeal Centre shall assign the appeal to a specific appeal unit in any one Regional Faceless Appeal Centre through an automated allocation system;

- (ii) where the appellant has filed the appeal after the expiration of time specified in sub-section (2) of section 249 of the Act, the appeal unit may, —
- (a) in case, it is satisfied that the appellant had sufficient cause for not filing the appeal within the said time, admit the appeal; or
 - (b) in any other case, reject the appeal,
under intimation to the National Faceless Appeal Centre;
- (iii) where the appellant has applied for exemption from the operation of clause (b) of sub-section (4) of section 249 of the Act, the appeal unit may, —
- (a) admit the appeal and exempt the appellant from the operation of provisions of said clause for any good and sufficient reason to be recorded in writing; or
 - (b) in any other case, reject the appeal,
under intimation to the National Faceless Appeal Centre;
- (iv) the National Faceless Appeal Centre shall intimate the admission or rejection of appeal, as the case may be, to the appellant;
- (v) where the appeal is admitted, —
- (a) the appeal unit may request the National Faceless Appeal Centre to obtain such further information, document or evidence from the appellant or any other person, as it may specify;
 - (b) the appeal unit may request the National Faceless Appeal Centre to obtain a report of the National e-Assessment Centre or the Assessing Officer, as the case may be, on grounds of appeal or information, document or evidence filed by the appellant;
 - (c) the appeal unit may request the National Faceless Appeal Centre to direct the National e-Assessment Centre or the Assessing Officer, as the case may be, for making further inquiry under sub-section (4) of section 250 of the Act and submit a report thereof;
 - (d) the National Faceless Appeal Centre shall serve a notice upon the appellant or any other person, as the case may be, or the National e-Assessment Centre or the Assessing Officer, as the case may be, to submit such information, document or evidence or report, as the case may be, as may be specified by the appeal unit or as may be relevant to the appellate proceedings, on a specified date and time;
- (vi) the appellant or any other person, as the case may be, shall file a response to the notice referred to in sub-clause (d) of clause (v), within the date and time specified therein, or such extended date and time as may be allowed on the basis of an application made in this behalf, with the National Faceless Appeal Centre;
- (vii) the National e-Assessment Centre or the Assessing Officer, as the case may be, shall furnish a report in response to the notice referred to in sub-clause (d) of clause (v), within the date and time specified therein or such extended date and time as may be allowed on the basis of an application made in this behalf, to the National Faceless Appeal Centre;
- (viii) where response is filed by the appellant or any other person, as the case may be, or a report is furnished by the National e-Assessment Centre or the Assessing Officer, as the case may be, the National Faceless Appeal Centre shall send such response or report to the appeal unit, and where no such response or report is filed, inform the appeal unit;
- (ix) the appellant may file additional ground of appeal in such form, as may be specified by the National Faceless Appeal Centre, specifying therein the reason for omission of such ground in the appeal filed by him;
- (x) where the additional ground of appeal is filed,-
- (a) the National Faceless Appeal Centre shall send the additional ground of appeal to the National e-Assessment Centre or the Assessing Officer, as the case may be, for providing comments, if any, and to the appeal unit;
 - (b) the National e-Assessment Centre or the Assessing Officer, as the case may be, shall furnish their comments, within the date and time specified or such extended date and time as may be allowed on the basis of an application made in this behalf, to the National Faceless Appeal Centre;
 - (c) where comments are filed by the National e-Assessment Centre or the Assessing Officer, as the case may be, the National Faceless Appeal Centre shall send such comments to the appeal unit, and where no such comments are filed, inform the appeal unit;

- (d) the appeal unit shall, after taking into consideration the comments, if any, received from the National e-Assessment Centre or the Assessing Officer, as the case may be, —
- i. if it is satisfied that the omission of additional ground from the form of appeal was not wilful or unreasonable, admit such ground; or
 - ii. in any other case, not admit the additional ground,
- for reasons to be recorded in writing and intimate the National Faceless Appeal Centre;
- (xi) the National Faceless Appeal Centre shall intimate the admission or rejection of the additional ground, as the case may be, to the appellant;
- (xii) the appellant may file additional evidence, other than the evidence produced by him during the course of proceedings before the National e-Assessment Centre or the Assessing Officer, as the case may be, in such form, as may be specified by the National Faceless Appeal Centre, specifying therein as to how his case is covered by the exceptional circumstances specified in sub-rule (1) of rule 46A of the Rules.
- (xiii) where the additional evidence is filed,—
- (a) the National Faceless Appeal Centre shall send the additional evidence to the National e-Assessment Centre or the Assessing Officer, as the case may be, for furnishing a report within the specified date and time on the admissibility of additional evidence under rule 46A of the said Rules;
 - (b) the National e-Assessment Centre or the Assessing Officer, as the case may be, shall furnish the report, as referred to in sub-clause (a), to the National Faceless Appeal Centre within the date and time specified, or such extended date and time as may be allowed on the basis of an application made in this behalf, by the National Faceless Appeal Centre.
 - (c) where the report, as referred to in sub-clause (a), is furnished by the National e-Assessment Centre or the Assessing Officer, as the case may be, the National Faceless Appeal Centre shall send such report to the appeal unit, and where no such report is furnished, inform the appeal unit;
 - (d) the appeal unit may, after considering the additional evidence and the report, if any, furnished by the National e-Assessment Centre or the Assessing Officer, as the case may be, admit or reject the additional evidence, for reasons to be recorded in writing, and intimate the National Faceless Appeal Centre;
 - (e) the National Faceless Appeal Centre shall intimate the admission or rejection of additional evidence, as the case may be, to the appellant and the National e-Assessment Centre or the Assessing Officer, as the case may be;
- (xiv) where the additional evidence is admitted,—
- (a) the appeal unit shall, before taking such evidence into account in the appellate proceedings, prepare a notice to provide an opportunity to the National e-Assessment Centre or the Assessing Officer, as the case may be, within the date and time specified therein to examine such evidence or to cross-examine such witness, as may be produced by the appellant, or to produce any evidence or document, or any witness in rebuttal of the evidence or witness produced by the appellant, and to furnish a report thereof, and send such notice to the National Faceless Appeal Centre;
 - (b) the National Faceless Appeal Centre shall serve the notice, as referred to in sub-clause (a), upon the National e-Assessment Centre or the Assessing Officer, as the case may be;
 - (c) the National e-Assessment Centre or the Assessing Officer, as the case may be, shall furnish the report, as referred to in sub-clause (a), to the National Faceless Appeal Centre, within the date and time specified, or such extended date and time as may be allowed on the basis of an application made in this behalf, by the National Faceless Appeal Centre;
 - (d) the National Faceless Appeal Centre shall send the report furnished by the National e-Assessment Centre or the Assessing Officer, as the case may be, to the appeal unit or where no such report is furnished, inform the appeal unit;
- (xv) the National e-Assessment Centre or the Assessing Officer, as the case may be, may request the National Faceless Appeal Centre to direct the production of any document or evidence by the appellant, or the examination of any witness, as may be relevant to the appellate proceedings;
- (xvi) where the request referred to in clause (xv) is received, -
- (a) the National Faceless Appeal Centre shall send such request to the appeal unit;
 - (b) the appeal unit shall consider such request and may, if it deems fit, prepare a notice,—

- i. directing the appellant to produce such document or evidence, as it may specify; or
 - ii. for examination of any other person, being a witness;
- and send such notice to the National Faceless Appeal Centre;
- (c) the National Faceless Appeal Centre shall serve the notice referred to in sub-clause (b) upon the appellant or any other person, being a witness, as the case may be;
 - (d) the appellant or any other person, as the case may be, shall file his response to the notice referred to in sub-clause (c), within the date and time specified in the notice or such extended date and time as may be allowed on the basis of application made in this behalf, to the National Faceless Appeal Centre;
 - (e) where a response is filed by the appellant or any other person, as the case may be, the National Faceless Appeal Centre shall send such response to the appeal unit, or where no such response is filed, inform the appeal unit;
- (xvii) where the appeal unit intends to enhance an assessment or a penalty or reduce the amount of refund, -
- (a) the appeal unit shall prepare a show-cause notice containing the reasons for such enhancement or reduction, as the case may be, and send such notice to the National Faceless Appeal Centre.
 - (b) the National Faceless Appeal Centre shall serve the notice, as referred to in sub-clause (a), upon the appellant.
 - (c) the appellant shall, within the date and time specified in the notice or such extended date and time as may be allowed on the basis of application made in this behalf, file his response to the National Faceless Appeal Centre.
 - (d) where a response is filed by the appellant, the National Faceless Appeal Centre shall send such response to the appeal unit, or where no such response is filed, inform the appeal unit;
- (xviii) The appeal unit shall, after taking into account all the relevant material available on the record, including the response filed, if any, by the appellant or any other person, as the case may be, or report furnished by the National e-Assessment Centre or the Assessing Officer, as the case may be, and after considering any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised in the appeal, —
- (a) prepare in writing, a draft order in accordance with the provisions of section 251 of the Act; and
 - (b) send such order to the National Faceless Appeal Centre along with the details of the penalty proceedings, if any, to be initiated therein;
- (xix) the National Faceless Appeal Centre shall upon receipt of the draft order, as referred to in sub-clause (a) of clause (xviii), —
- (a) where the aggregate amount of tax, penalty, interest or fee, including surcharge and cess, payable in respect of issues disputed in appeal, is more than a specified amount, as referred to in clause (x) of paragraph 13 of the said Scheme, send the draft order to an appeal unit, other than the appeal unit which prepared such order, in any one Regional Faceless Appeal Centre through an automated allocation system, for conducting review of such order.
 - (b) in any other case, examine the draft order in accordance with the risk management strategy specified by the Board, including by way of an automated examination tool, whereupon it may decide to —
 - i. finalise the appeal as per the draft order; or
 - ii. send the draft order to an appeal unit, other than the unit which prepared such order, in any one Regional Faceless Appeal Centre through an automated allocation system, for conducting review of such order;
- (xx) the appeal unit shall review the draft order, referred to it by the National Faceless Appeal Centre, whereupon it may decide to,—
- (a) concur with the draft order and intimate the National Faceless Appeal Centre about such concurrence; or
 - (b) suggest such variation, as it may deem fit, to the draft order and send its suggestions to the National Faceless Appeal Centre;
- (xxi) the National Faceless Appeal Centre shall, upon receiving concurrence of the appeal unit, finalise the appeal as per the draft order;

- (xxii) the National Faceless Appeal Centre shall, upon receiving suggestion for variation from the appeal unit, assign the appeal to an appeal unit, other than the appeal unit which prepared or reviewed the draft order, in any one Regional Faceless Appeal Centre through an automated allocation system;
- (xxiii) the appeal unit, to whom appeal is assigned under clause (xxii), shall, after considering the suggestions for variation,-
- (a) where such suggestions intend to enhance an assessment or a penalty or reduce the amount of refund, follow the procedure laid down in clause (xvii) and prepare a revised draft order as per the procedure laid down in clause (xviii); or
 - (b) in any other case, prepare a revised draft order as per procedure laid down in clause (xviii);

and send such order to the National Faceless Appeal Centre along with the details of the penalty proceedings, if any, to be initiated therein;

- (xxiv) the National Faceless Appeal Centre shall after finalising the appeal as per item (i) of sub-clause (b) of clause (xix) or clause (xxi) or upon receipt of revised draft order as per clause (xxiii), pass the appeal order and,-
- (a) communicate such order to the appellant;
 - (b) communicate such order to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner as per sub-section (7) of section 250 of the Act;
 - (c) communicate such order to the National e-Assessment Centre or the Assessing Officer, as the case may be, for such action as may be required under the Act;
 - (d) where initiation of penalty has been recommended in the order, serve a notice on the appellant calling upon him to show cause as to why penalty should not be imposed upon him under the relevant provisions of the Act;

(2) Notwithstanding anything contained in sub-paragraph (1), the Principal Chief Commissioner or the Principal Director General, in charge of National Faceless Appeal Centre, may at any stage of the appellate proceedings, if considered necessary, transfer, by an order, the appeal with the prior approval of the Board to such Commissioner (Appeals) as may be specified in the order.

B. (1) A person shall not be required to appear either personally or through authorised representative in connection with any proceedings under the said Scheme before the income-tax authority at the National Faceless Appeal Centre or Regional Faceless Appeal Centre or appeal unit set up under the said Scheme.

(2) The appellant or his authorised representative, as the case may be, may request for personal hearing so as to make his oral submissions or present his case before the appeal unit under the said Scheme.

(3) The Chief Commissioner or the Director General, in charge of the Regional Faceless Appeal Centre, under which the concerned appeal unit is set up, may approve the request for personal hearing referred to in sub-paragraph (2) if he is of the opinion that the request is covered by the circumstances referred to in clause (xi) of paragraph 13 of the said Scheme.

(4) Where the request for personal hearing has been approved by the Chief Commissioner or the Director General, in charge of the Regional Faceless Appeal Centre, such hearing shall be conducted exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, in accordance with the procedure laid down by the Board.

(5) Any examination or recording of the statement of the appellant or any other person shall be conducted by Commissioner (Appeals) in any appeal unit under the said Scheme, exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony in accordance with the procedure laid down by the Board.

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

C.(1) An appeal against an order passed by the National Faceless Appeal Centre under the said Scheme shall lie before the Income Tax Appellate Tribunal having jurisdiction over the jurisdictional Assessing Officer.

(2) Subject to the provisions of paragraph (3) of the said Scheme, where any order passed by the National Faceless Appeal Centre or Commissioner (Appeals) is set-aside and remanded back to the National Faceless Appeal Centre or

Commissioner (Appeals) by the Income Tax Appellate Tribunal or High Court or Supreme Court, the National Faceless Appeal Centre shall pass the order in accordance with the provisions of the said Scheme.”.

2. The provisions of section 140 and section 282A of the Act shall apply to appellate proceedings in accordance with the said Scheme subject to the following, exceptions, modifications and adaptations, namely: -

“an electronic record shall be authenticated by the—

(i) National Faceless Appeal Centre by affixing its digital signature;

(ii) the appellant 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 affixing his digital signature or under electronic verification code.

Explanation. – For the purpose of this paragraph, “electronic verification code” shall have the same meaning as referred to in rule 12 of the Rules.”

3. The provisions of section 154 and section 155 of the Act shall apply to the order passed in accordance with the said Scheme subject to the following exceptions, modifications and adaptations, namely:-

“(1)With a view to rectifying any mistake apparent from the record the National Faceless Appeal Centre may amend any order passed by it, by an order to be passed in writing.

(2) Subject to the other provisions of the said Scheme, an application for rectification of mistake referred to in sub-paragraph (1) may be filed with the National Faceless Appeal Centre by the, —

(a) appellant or any other person, as the case may be; or

(b) appeal unit preparing or reviewing or revising the draft order; or

(c) the National e-Assessment Centre or the Assessing Officer, as the case may be.

(3)Where any application referred to in sub-paragraph (2) is received by the National Faceless Appeal Centre, it shall assign such application to a specific appeal unit in any one Regional Faceless Appeal Centre through an automated allocation system.

(4) The appeal unit shall examine the application and prepare a notice for granting an opportunity—

(a) to the appellant or any other person, as the case may be, where the application has been filed by the National e-Assessment Centre or the Assessing Officer, as the case may be; or

(b) to the National e-Assessment Centre or the Assessing Officer, as the case may be, where the application has been filed by the appellant or any other person, as the case may be; or

(c) to the appellant or any other person, as the case may be, and the National e-Assessment Centre or the Assessing Officer, as the case may be, where the application has been filed by an appeal unit referred to in clause (b) of sub-paragraph (2); and

send the notice to the National Faceless Appeal Centre.

(5)The National Faceless Appeal Centre shall serve the notice referred to in sub-paragraph (4) upon the appellant or any other person, as the case may be, or the National e-Assessment Centre or the Assessing Officer, as the case may be, calling upon him to show cause as to why rectification of mistake should not be carried out under the relevant provisions of the Act.

(6) The appellant or any other person, as the case may be, or the National e-Assessment Centre or the Assessing Officer, as the case may be, shall file a response to the notice, as referred to in sub-paragraph (5), within the date and time specified in such notice, or such extended date and time as may be allowed on the basis of an application made in this behalf, to the National Faceless Appeal Centre.

(7) Where a response, as referred to in sub-paragraph (6), is filed by the appellant or any other person, as the case may be, or the National e-Assessment Centre or the Assessing Officer, as the case may be, the National Faceless Appeal Centre shall send such response to the appeal unit, or where no such response is filed, inform the appeal unit.

(8) The appeal unit shall, after taking into consideration the application and response, if any, filed by the appellant or any other person, as the case may be, or the National e-Assessment Centre or the Assessing Officer, as the case may be, prepare a draft order, —

(a) for rectification of mistake; or

(b) for rejection of application for rectification, citing reasons thereof;

and send the order to the National Faceless Appeal Centre.

(9) The National Faceless Appeal Centre shall upon receipt of draft order, as referred to in sub-paragraph (8), pass an order as per such draft and communicate such order, –

(a) to the appellant or any other person, as the case may be; and

(b) to the National e-Assessment Centre or the Assessing Officer, as the case may be, for such action as may be required under the Act;”.

4. The provisions of Chapter XXI of the Act shall apply to penalties imposable in accordance with the said Scheme subject to the following exceptions, modifications and adaptations, namely:-

“(1)Appeal unit may, in the course of appeal proceedings, for non-compliance of any notice, direction or order issued under the said Scheme on the part of the appellant or any other person, as the case may be, send recommendation for initiation of any penalty proceedings to the National Faceless Appeal Centre.

(2) The National Faceless Appeal Centre shall, upon receipt of recommendation under sub-paragraph (1), serve a notice on the appellant or any other person, as the case may be, calling upon him to show cause as to why penalty should not be imposed upon him under the relevant provisions of the Act.

(3) The appellant or any other person, as the case may be, shall file a response to the show-cause notice referred to in sub-paragraph (2) or in sub-clause (d) of clause (xxiv) of sub-paragraph (1) of paragraph 5 of the said Scheme, within the date and time specified in such notice, or such extended date and time as may be allowed on the basis of an application made in this behalf, to the National Faceless Appeal Centre.

(4) The National Faceless Appeal Centre shall assign the recommendation for initiation of penalty proceedings, as referred to in sub-paragraph (1), along with the response filed, if any, by the appellant or any other person, as the case may be, to a specific appeal unit in any one Regional Faceless Appeal Centre through an automated allocation system.

(5) The appeal unit shall, after taking into account all the relevant material available on the record, including the response filed, if any, by the appellant or any other person, as the case may be, —

(a) prepare a draft order and send a copy of such order to National Faceless Appeal Centre; or

(b) drop the penalty after recording reasons, under intimation to the National Faceless Appeal Centre.

(6) where the appeal unit has dropped the penalty, the National Faceless Appeal Centre shall send an intimation thereof, or where the appeal unit sends a draft order, the National Faceless Appeal Centre shall pass the order for imposition of penalty as per such draft, and communicate such order, to, —

(a) the appellant or any other person, as the case may be; and

(b) the National e-Assessment Centre or the Assessing Officer for such action as may be required under the Act.”

5. The provisions of section 282, section 283 and section 284 of the Act shall apply to the said Scheme subject to the following exceptions, modifications and adaptations, namely: -

“A. (1) Every notice or order or any other electronic communication under the said Scheme shall be delivered to the addressee, being the appellant, by way of,-

(a) placing an authenticated copy thereof in the appellant’s registered account; or

(b) sending an authenticated copy thereof to the registered email address of the appellant or his authorised representative; or

(c) uploading an authenticated copy on the appellant’s Mobile App; and

followed by a real time alert.

(2) Every notice or order or any other electronic communication under the said 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 appellant shall file his response to any notice or order or any other electronic communication, under the said Scheme, through his registered account, and once an acknowledgement is sent by the National Faceless Appeal Centre containing the hash result generated upon successful submission of response, 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).

B. The Principal Chief Commissioner or the Principal Director General, in charge of the National Faceless Appeal Centre shall, with the prior approval of Board, lay down the standards, procedures and processes for effective functioning of the National Faceless Appeal Centre, Regional Faceless Appeal Centres and the appeal unit set-up under

the said Scheme, in an automated and mechanised environment, including format, mode, procedure and processes in respect of the following, namely:—

- (i) service of the notice, 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 acknowledgment of the response furnished by the person;
- (iv) provision of “e-appeal” facility including login account facility, tracking status of appeal, display of relevant details, and facility of download;
- (v) accessing, verification and authentication of information and response including documents submitted during the appellate proceedings;
- (vi) receipt, storage and retrieval of information or documents in a centralized manner;
- (vii) general administration and grievance redressal mechanism in the respective Centres and units;
- (viii) filing of additional ground of appeal;
- (ix) filing of additional evidence;
- (x) specified amount referred to in sub-clause (a) of clause (xix) of sub-paragraph (1) of paragraph 5 of the said Scheme;
- (xi) circumstances in which personal hearing referred to in sub-paragraph (3) of paragraph 12 of the said Scheme shall be approved.”

6. This notification shall come into force on the date of its publication in the Official Gazette.

[Notification No. 77/2020/F.No. 370142/33/2020-TPL]

ANKUR GOYAL, Under Secy.