

TAX FLASH NEWS

19 February 2021

CBDT notification amending Faceless Assessment Scheme, 2019

In order to impart greater efficiency, transparency and accountability to the assessment process, a new E-Assessment Scheme was introduced in 2019. On 12 September 2019, the Central Board of Direct Taxes (CBDT) had notified¹ the E-assessment Scheme, 2019 under Section 143(3A) of the Income-tax Act, 1961 (the Act). In exercise of the powers conferred by Section 143(3B) to give effect to the Scheme, CBDT had also notified² the relevant directions.

On 13 August 2020, CBDT issued notification³ to amend E-assessment Scheme to Faceless Assessment Scheme. CBDT also amended the relevant directions⁴.

The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 incorporated Faceless Assessment Scheme under the Act with effect from 1 April 2021. However, assessment orders which are passed on or before 31 March 2021 will be governed by the Faceless Assessment Scheme provided under the earlier provisions of the Act and relevant notifications.

Recently, CBDT has issued a Notification⁵ to further amend the Faceless Assessment Scheme, 2019 and the same is summarised as follows:

CBDT Notification: Scheme

The scheme name has been changed from 'Faceless assessment Scheme, 2019' to 'Faceless Assessment (1st Amendment) Scheme, 2021'.

DRP

The new Scheme will now cover the Dispute Resolution Panel (DRP) routed assessment. The terms 'DRP' and 'eligible assessee' relating to the same have been defined under the new scheme. Under the new Scheme 'Eligible assessee' means any person in whose case the variation arises as a consequence of the order of the Transfer Pricing Officer passed under Section 92CA; and any non-resident not being a company, or any foreign company.

Changes in the procedure

- The amended scheme removed the requirement of specifying the issues for selection of taxpayer's case for assessment while serving a scrutiny notice on the taxpayer.
- In a case where the draft assessment order or the final draft assessment order is in respect of an eligible assessee (DRP cases) and NeAC proposes to make any variation which is prejudicial to the interest of such assessee, the NeAC is required to forward the draft assessment order or final draft assessment order to such assessee.
- After receipt of revised order, in case of an eligible assessee (DRP cases), if there is any variation prejudicial to the interest of such assessee proposed in the draft assessment order or the final draft assessment order, NeAC is required to forward such revised draft assessment order to the assessee.
- Where the draft assessment order or final draft assessment order or revised draft assessment order is forwarded to the eligible assessee, such assessee is required to file his acceptance of the variations to NeAC within the period specified in Section 144C(2) i.e. 30 days.

¹ Notification No. 61/2019, dated 12 September 2019

² Notification No. 62/2019, dated 12 September 2019

³ Notification No. 60/2020, dated 13 August 2020

⁴ Notification No. 61/2020, dated 13 August 2020

⁵ Notification No. 6/2021 and 7/2021, dated 17 February 2021

- NeAC is required to finalise the assessment upon receipt of acceptance of variation from eligible assessee or if no objections are received from the eligible assessee within specified time limit and serve a copy of such order and notice for initiating penalty proceedings along with a demand notice (sum payable or refund of any amount).
- Where the eligible assessee files his objections with the DRP, NeAC is required to forward the directions so received from DRP to the concerned assessment unit.
- Assessment unit is required to prepare a draft assessment order in accordance with Section 144C(13) and in conformity with DRP directions i.e. without providing further opportunity to the assessee and send it to NeAC.
- NeAC is required to finalise the assessment order within time limit specified in Section 144C(13) i.e. 30 days and serve a copy of such order and notice for initiating penalty proceedings along with demand notice (sum payable or refund of any amount).

Registered e-mail account

Under the existing scheme, the computer resource of the taxpayer shall include taxpayer's registered account in the designated portal of the tax department, the Mobile App linked to the registered mobile number of the taxpayer, or 'the email account' of the taxpayer with his email service provider.

The scheme is amended to include 'registered e-mail account' of the taxpayer instead of 'the email account'.

Video telephony

Under the existing scheme '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.

The amended scheme substituted the term 'video telephony' with the words 'video conferencing or video telephony'.

Our comments

Amendments made in the Faceless Assessments Scheme are actions in continuation to efforts of the government to smoothen the process. The new Scheme now provides detailed procedure for DRP routed assessments. This is in line with the Faceless Assessment Scheme introduced under The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.

Removal of the requirement of specifying the issues for selection of taxpayer's case for assessment while serving a scrutiny notice may not go well with the taxpayers. Requirement of specifying issues was for providing clarity to the taxpayers with respect to specific matters selected for scrutiny and thus allowing the taxpayers to prepare appropriate reply and documentation to justify their claims.



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