

NOTIFICATION

New Delhi, the 13th August, 2020

INCOME-TAX

S.O. 2746(E). —In exercise of the powers conferred by sub-section (3B) of section 143 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), Central Board of Direct Taxes, published in the Gazette of India, Extraordinary, *vide* number S.O 3265 (E) dated the 12th September, 2019, namely: —

1. In the said notification, —

- (1) in the opening portion, for the word “E-assessment”, the words “Faceless Assessment” shall be substituted.
- (2) for clause 1, the following clause shall be substituted, namely:—

“1. The provisions of clause (7A) of section 2, section 92CA, section 120, section 124, section 127, section 129, section 131, section 133, section 133A, section 133C, section 134, Chapter XIV, and Chapter XXI of the Act shall apply to the assessment made in accordance with the said Scheme subject to the following exceptions, modifications and adaptations, namely:

“A. (1) The assessment shall be made as per the following procedure, namely:—

- (i) the National e-Assessment Centre shall serve a notice on the assessee under sub-section (2) of section 143, specifying the issues for selection of his case for assessment;
- (ii) the assessee may, within fifteen days from the date of receipt of notice referred to in clause (i), file his response to the National e-assessment Centre;
- (iii) where the assessee –
 - (a) has furnished his return of income under section 139 or in response to a notice issued under sub-section (1) of 142 or sub-section (1) of section 148; and a notice under sub-section (2) of section 143 has been issued by the Assessing Officer or the prescribed income-tax authority, as the case may be; or
 - (b) has not furnished his return of income in response to a notice issued under sub-section (1) of section 142 by the Assessing Officer; or
 - (c) has not furnished his return of income under sub-section (1) of section 148 and a notice under sub-section (1) of section 142 has been issued by the Assessing Officer;
 the National e-Assessment Centre shall intimate the assessee that assessment in his case shall be completed under the said Scheme
- (iv) the National e-assessment Centre shall assign the case selected for the purposes of e-assessment under the said Scheme to a specific assessment unit in any one Regional e-assessment Centre through an automated allocation system;
- (v) where a case is assigned to the assessment unit, it may make a request to the National e-assessment Centre for __
 - (a) obtaining such further information, documents or evidence from the assessee or any other person, as it may specify;
 - (b) conducting of certain enquiry or verification by verification unit; and
 - (c) seeking technical assistance from the technical unit;
- (vi) where a request for obtaining further information, documents or evidence from the assessee or any other person has been made by the assessment unit, the National e-assessment Centre shall issue appropriate notice or requisition to the assessee or any other person for obtaining the information, documents or evidence requisitioned by the assessment unit;
- (vii) the assessee or any other person, as the case may be, shall file his response to the notice referred to in clause (vi), within the time specified therein or such time as may be extended on the basis of an application in this regard, to the National e-Assessment Centre;
- (viii) where a request for conducting of certain enquiry or verification by the verification unit has been made by the assessment unit, the request shall be assigned by the National e-assessment Centre to a verification unit in any one Regional e-assessment Centres through an automated allocation system;
- (ix) where a request for seeking technical assistance from the technical unit has been made by the assessment unit, the request shall be assigned by the National e-assessment Centre to a technical unit in any one Regional e-assessment Centres through an automated allocation system;

- (x) the National e-assessment Centre shall send the report received from the verification unit or the technical unit, based on the request referred to in clause (viii) or (ix) to the concerned assessment unit;
- (xi) where the assessee fails to comply with the notice referred to in clause (vi) or notice issued under sub-section (1) of section 142 or with a direction issued under sub-section (2A) of section 142, the National e-Assessment Centre shall serve upon such assessee a notice under section 144 giving him an opportunity to show-cause, on a date and time to be specified in the notice, why the assessment in his case should not be completed to the best of its judgment;
- (xii) the assessee shall, within the time specified in the notice referred to in clause (xi) or such time as may be extended on the basis of an application in this regard, file his response to the National e-Assessment Centre;
- (xiii) where the assessee fails to file response to the notice referred to in clause (xi) within the time specified in the notice or within the extended time, if any, the National e-Assessment Centre shall intimate such failure to the assessment unit;
- (xiv) the assessment unit shall, after taking into account all the relevant material available on the record make in writing, a draft assessment order or, in a case where intimation referred to in clause (xiii) is received from the National e-Assessment Centre, make in writing, a draft assessment order to the best of its judgment, either accepting the income, or sum payable by, or sum refundable to, the assessee as per his return or modifying the said income or sum, and send a copy of such order to the National e-assessment Centre;
- (xv) the assessment unit shall, while making draft assessment order, provide details of the penalty proceedings to be initiated therein, if any;
- (xvi) the National e-assessment Centre shall examine the draft assessment 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, —
 - (a) finalise the assessment as per the draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, alongwith the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment; or
 - (b) provide an opportunity to the assessee, in case a modification is proposed, by serving a notice calling upon him to show cause as to why the assessment should not be completed as per the draft assessment order; or
 - (c) assign the draft assessment order to a review unit in any one Regional e-assessment Centre, through an automated allocation system, for conducting review of such order;
- (xvii) the review unit shall conduct review of the draft assessment order, referred to it by the National e-assessment Centre whereupon it may decide to, —
 - (a) concur with the draft assessment order and intimate the National e-assessment Centre about such concurrence; or
 - (b) suggest such modification, as it may deem fit, to the draft assessment order and send its suggestions to the National e-assessment Centre;
- (xviii) the National e-assessment Centre shall, upon receiving concurrence of the review unit, follow the procedure laid down in sub-clause (a) or sub-clause (b) of clause (xvi), as the case may be;
- (xix) the National e-assessment Centre shall, upon receiving suggestions for modifications from the review unit, assign the case to an assessment unit, other than the assessment unit which has made the draft assessment order, through an automated allocation system;
- (xx) the assessment unit shall, after considering the modifications suggested by the review unit, send the final draft assessment order to the National e-assessment Centre;
- (xxi) The National e-assessment Centre shall, upon receiving final draft assessment order, follow the procedure laid down in sub-clause (a) or sub-clause (b) of clause (xvi), as the case may be;
- (xxii) the assessee may, in a case where show-cause notice under sub-clause (b) of clause (xvi) has been served upon him, furnish his response to the National e-assessment Centre on or before the date and time specified in the notice or within the extended time, if any;
- (xxiii) the National e-assessment Centre shall,-
 - (a) in a case where no response to the show-cause notice is received, finalise the assessment as per the draft assessment order, as per the procedure laid down in sub-clause (a) of clause (xvi); or

- (b) in any other case, send the response received from the assessee to the assessment unit;
- (xxiv) the assessment unit shall, after taking into account the response furnished by the assessee, make a revised draft assessment order and send it to the National e-assessment Centre;
- (xxv) the National e-assessment Centre shall, upon receiving the revised draft assessment order,—
- (a) in case no modification prejudicial to the interest of the assessee is proposed with reference to the draft assessment order, finalise the assessment as per the procedure laid down in sub-clause (a) of clause (xvi); or
- (b) in case a modification prejudicial to the interest of the assessee is proposed with reference to the draft assessment order, provide an opportunity to the assessee, by serving a notice as per the procedure laid down in sub-clause (b) of clause (xvi);
- (c) the response furnished by the assessee shall be dealt with as per the procedure laid down in clauses (xxii), (xxiii), and (xxiv);
- (xxvi) The National e-assessment Centre shall, after completion of assessment, transfer all the electronic records of the case to the Assessing Officer having jurisdiction over the said case for such action as may be required under the Act;

(2) Notwithstanding anything contained in sub-paragraph (1), the Principal Chief Commissioner or the Principal Director General, in charge of National e-assessment Centre, may at any stage of the assessment, if considered necessary, transfer the case to the Assessing Officer having jurisdiction over such case, with the prior approval of the Board.

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 e-assessment Centre or Regional e-assessment Centre or any unit set up under the said Scheme.

(2) In a case where a modification is proposed in the draft assessment order, and an opportunity is provided to the assessee by serving a notice calling upon him to show cause as to why the assessment should not be completed as per the such draft assessment order, the assessee 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 income-tax authority in any unit under the said Scheme.

(3) The Chief Commissioner or the Director General, in charge of the Regional e-assessment Centre, under which the concerned 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 (vib) of Paragraph 12 of the said Scheme.

(3A) Where the request for personal hearing has been approved by the Chief Commissioner or the Director General, in charge of the Regional e-assessment Centre, such hearing shall be conducted exclusively through video conferencing, including use of any telecommunication application software which supports video telephony, in accordance with the procedure laid down by the Board.

(3B) Subject to the sub-paragraph (2) of paragraph (8) of the said Scheme, any examination or recording of the statement of the assessee or any other person (other than statement recorded in the course of survey under section 133A of the Act) shall be conducted by an income-tax authority in any unit under the said Scheme, exclusively through video conferencing, including use of any telecommunication application software which supports video telephony in accordance with the procedure laid down by the Board.

(4) 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 referred to in sub-paragraph (2) or sub-paragraph (3B) is not denied the benefit of the said Scheme merely on the consideration that such assessee or his authorised representative, or any other person does not have access to video conferencing at his end. ”.

- (3) in clause 2, —
- (i) after the words “arising out of assessments made”, the words “and penalty imposed” shall be inserted; and
- (ii) within quotes, after the words “appeal against an assessment”, the words “order, or penalty order” shall be inserted
- (4) in clause 3, within quotes, for the portion beginning with the words “an electronic record” and ending with the words “said Act”, the following shall be substituted, namely:—
- “an electronic record shall be authenticated by —

- (i) the National e-Assessment Centre by affixing its digital signature; and
- (ii) the 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 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.”

- (5) in clause 4, within quotes, for the portion beginning with the words “The National e-assessment Centre shall levy the penalty” and ending with the words “as the case may be”, the following shall be substituted, namely: —

“The National e-assessment Centre shall levy the penalty as per the said draft order of penalty and serve a copy of the same along with demand notice on the assessee or any other person, as the case may be, and thereafter transfer electronic records of the penalty proceedings to the Assessing Officer having jurisdiction over the said case for such action as may be required under the Act.”

- (6) in clause 5, for item B, the following item shall be substituted, namely: —

“**B.** The Principal Chief Commissioner or the Principal Director General, in charge of the National e-assessment Centre shall, with the prior approval of the Board, lay down the standards, procedures and processes for effective functioning of the National e-assessment Centre, Regional e-assessment Centres and the 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-proceeding” facility including login account facility, tracking status of assessment, display of relevant details, and facility of download;
- (v) accessing, verification and authentication of information and response including documents submitted during the assessment proceedings;
- (vi) receipt, storage and retrieval of information or documents in a centralised manner;
- (via) circumstances in which provisions of sub-paragraph (1) of paragraph 8 of the said Scheme shall not apply;
- (vib) circumstances in which personal hearing referred to in sub-paragraph (3) of paragraph (11) of the said Scheme shall be approved;
- (vii) general administration and grievance redressal mechanism in the respective Centres and units.”

- (7) for the word “assesse”, wherever they occur the word “assessee” shall be substituted.

- (8) for the words “this Scheme” or “the Scheme” wherever they occur the words “the said Scheme” shall be substituted.

2. This notification shall come into force with effect from the date of its publication in the Official Gazette.

[Notification No. 61/2020/F.No. 370149/154/2019-TPL]

ANKUR GOYAL, Under Secy.

Note: The principal Notification was published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii) *vide* notification number S.O.3265 (E), dated the 12th September, 2019.