

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

NOTIFICATION

New Delhi, the 29th May, 2023

(INCOME-TAX)

S.O. 2352(E).—In exercise of the powers conferred by sub-section (5) of section 246 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-Appeals Scheme, 2023.

(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, —

- (i) “Act” means the Income-tax Act, 1961 (43 of 1961);
- (ii) “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);
- (iii) “appeal” means appeal filed by a person under sub-section (1) of section 246 or section 246A of the Act;
- (iv) “appellant” means the person who files appeal under section 246 or section 246A of the Act;
- (v) “authorised representative” shall have the same meaning as assigned to it in sub-section (2) of section 288 of the Act;
- (vi) “automated allocation system” means an algorithm for randomised allocation of cases, by using suitable technological tools, including artificial intelligence and machine learning, with a view to optimise the use of resources;
- (vii) “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);
- (viii) “computer resource of appellant” shall include the registered account in the designated portal of the Income-tax Department, or the Mobile App linked to the registered mobile number or the registered e-mail account of the appellant;
- (ix) “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);
- (x) “designated portal” means the web portal designated as such by the Principal Chief Commissioner of Income-tax or the Principal Director General or the Director General of Income-tax, (Systems);
- (xi) “e-appeal” means the appellate proceedings conducted electronically in 'e-appeal' facility through the registered account of the appellant in the designated portal;
- (xii) “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);
- (xiii) “e-mail” 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;
- (xiv) “Mobile app” shall mean the application software of the Income-tax Department developed for mobile devices which is downloaded and installed on the registered mobile number of the appellant;
- (xv) “National Faceless Appeal Centre” shall mean the National Faceless Appeal Centre as set up and notified under the Faceless Appeal Scheme, 2021;
- (xvi) “real time alert” means any communication sent to the appellant, by way of Short Messaging Service on his registered mobile number, or by way of update on his Mobile App, or by way of an e-mail at his registered e-mail address, so as to alert him regarding delivery of an electronic communication;
- (xvii) “registered account” of the appellant means the electronic filing account registered by the appellant in the designated portal;

- (xviii) “registered e-mail address” means the e-mail address at which an electronic communication may be delivered or transmitted to the addressee, including-
- (a) the e-mail address available in the electronic filing account of the addressee registered in the designated portal; or
 - (b) the e-mail address available in the last income-tax return furnished by the addressee; or
 - (c) the e-mail address available in the permanent account number database relating to the addressee; or
 - (d) 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
 - (e) in the case of addressee being a company, the e-mail address of the company as available on the official website of the Ministry of Corporate Affairs; or
 - (f) any e-mail address made available by the addressee to the income-tax authority or any person authorised by such authority;
- (xix) “registered mobile number” means the mobile number of the appellant, or his authorised representative, appearing in the user profile of the electronic filing account registered by the appellant in the designated portal;
- (xx) “Rules” means the Income-tax Rules, 1962; and
- (xxi) “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 same meanings respectively as assigned to them in the Act.

3. Scope of the Scheme.— The Scheme shall apply to appeals, in respect of such persons or class of persons, incomes or class of incomes, cases or class of cases, as covered under section 246 of the Act except the cases excluded under sub-section(6) of that section.

4. Appeal Authority under the Scheme.—(1) The Joint Commissioner (Appeals) [hereinafter referred to as the JCIT (Appeals)], shall dispose of the appeals filed before it or allocated or transferred to it, in accordance with the provisions of this Scheme.

(2) The JCIT (Appeals) shall have such income-tax authority, ministerial staff, executive or consultant to assist in the disposal of appeals, as may be considered necessary by the Board.

5. Allocation of appeals.—The Principal Director General of Income-tax (Systems) or the Director General of Income tax (Systems), as the case may be, shall, with the approval of the Central Board of Direct Taxes, devise a process to randomly allocate or transfer the appeals, referred to in paragraph 3, to the JCIT(Appeals).

6. Procedure in appeal.—(1) The appeal referred to in paragraph 3 shall be disposed of by the JCIT(Appeals) under this Scheme as per the following procedure, namely:—

- (I) On assignment of an appeal, the JCIT (Appeals),—
- (a) may condone the delay in filing appeal if the appeal is filed beyond the time permitted under section 249 of the Act and record the reasons for such condonation or otherwise in the appeal order passed under clause (IX);
 - (b) shall give notice to the appellant asking him to file his submission within the date and time specified in such notice and also send a copy of such notice to the Assessing Officer;
 - (c) may obtain further information, document or evidence from the appellant or any other person;
 - (d) may obtain a report of the Assessing Officer on grounds of appeal or information, document or evidence furnished by the appellant;
 - (e) may request the Assessing Officer for making further inquiry under sub-section (4) of section 250 of the Act and submit a report thereof;
 - (f) shall serve a notice upon the appellant or any other person, or the Assessing Officer to submit such information, document or evidence or report, as the case may be, as may be specified by it or relevant to the appellate proceedings, on a specified date and time;

- (II) the appellant or any other person, as the case may be, shall furnish response as required in sub-clauses (b), (c) or (f) of clause (I), 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 JCIT (Appeals);
- (III) the Assessing Officer shall furnish a report as required under sub-clauses (d), (e) or (f) of clause (I), 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 JCIT (Appeals);
- (IV) the appellant may file additional grounds of appeal to the JCIT (Appeals), in such form, as may be specified, specifying therein the reason for omission of such grounds in the appeal filed by him;
- (V) where the additional ground of appeal is filed,—
 - (a) the JCIT (Appeals) shall admit such additional ground in case of orders passed under sub-section (1) of section 143 of the Act or under section 200A of the Act or in any other case where the appealable order is an order passed by the Central Processing Centre;
 - (b) in any other case, the JCIT (Appeals) shall send the additional ground to the Assessing Officer for providing comments if any;
 - (c) the Assessing Officer 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 JCIT (Appeals);
 - (d) the JCIT (Appeals) shall, after taking into consideration the comments, if any, received from the Assessing Officer,—
 - (A) if he is satisfied that the omission of such additional ground from the memorandum of appeal was not wilful or there was sufficient cause, admit the additional ground; or
 - (B) in any other case, for reasons to be recorded in writing in the appeal order passed under clause (IX) not admit the additional ground;
- (VI) the appellant may furnish additional evidence, other than the evidence produced by him during the course of proceedings before the Assessing Officer, to the JCIT (Appeals), in such form, as may be specified, specifying therein as to how his case is covered by the exceptional circumstances specified in sub-rule (1) of rule 46A of the Rules;
- (VII) where the additional evidence is furnished,—
 - (a) the JCIT (Appeals) shall admit such additional evidence in case of orders passed under sub-section (1) of section 143 of the Act or under section 200A of the Act or any such case where the appealable order is an order passed by the Central Processing Centre;
 - (b) in any other case, the JCIT (Appeals) shall send the additional evidence to the Assessing Officer for furnishing a report on the admissibility of additional evidence in accordance with rule 46A of the Rules;
 - (c) the Assessing Officer shall furnish the report, as referred to in sub-clause (b), within such date and time as specified or such extended date and time as may be allowed on the basis of an application made in this behalf, to the JCIT (Appeals);
 - (d) the JCIT (Appeals) may, after considering the additional evidence and the report, if any, furnished by the Assessing Officer admit or reject the additional evidence, for reasons to be recorded in writing, and the same shall form a part of the appeal order passed under clause (IX);
 - (e) the JCIT (Appeals) shall, if he admits such evidence, before taking such evidence into account in the appellate proceedings, prepare a notice to provide an opportunity to the Assessing Officer 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 furnish a report thereof and send such notice to the Assessing Officer;
 - (f) the Assessing Officer shall furnish the report 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 JCIT (Appeals);
 - (g) the Assessing Officer may request the JCIT (Appeals) 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;

- (h) the JCIT (Appeals) for the purposes of making enquiries in the appeal proceedings as referred to in sub-clauses (c) or (e) of clause (I) or where the request referred to in sub-clause (g) is received, may, if it deems fit, send a notice –
 - (A) directing the appellant to produce such document or evidence, as it may specify; or
 - (B) for examination of any other person, being a witness;
- (i) the appellant or any other person, as the case may be, shall furnish his response to the notice referred to in sub-clause (h), 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 JCIT (Appeals);
- (VIII) where the JCIT (Appeals) intends to enhance an assessment or a penalty or reduce the amount of refund,—
 - (a) the JCIT (Appeals) shall prepare a show-cause notice containing the reasons for such enhancement or reduction, as the case may be, and shall serve the notice upon the appellant;
 - (b) 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, furnish his response to the JCIT (Appeals).
- (IX) The JCIT (Appeals) shall, thereafter,—
 - (a) prepare in writing, an appeal order in accordance with the provisions of section 251 of the Act stating the points for determination, the decision thereon and the reason for decision; and
 - (b) send such order after signing the same digitally to the appellant along with the details of the penalty proceedings, if any, to be initiated therein;
 - (c) communicate such order to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in the line with sub-section (7) of section 250 of the Act;
 - (d) communicate such order to the Assessing Officer for such action as may be required under the Act;
 - (e) where initiation of penalty has been recommended in the order, serve a notice upon 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 appeal may be transferred at any stage of the appellate proceedings, if considered necessary, by an order in accordance with section 120 of the Act, to such JCIT (Appeals) as may be specified in the order.

7. Penalty proceedings— (1) The JCIT (Appeals) may, in the course of appeal proceedings, for non-compliance of any notice, direction or order issued under this Scheme on the part of the appellant or any other person, as the case may be, send a notice to the appellant or any other person for initiation of any penalty proceedings calling upon them to show cause as to why penalty should not be imposed upon him under the relevant provisions of the Act.

(2) The appellant or any other person, as the case may be, shall furnish a response to the show-cause notice referred to in sub-paragraph (1) of this paragraph or in sub-clause (e) of clause (IX) of sub-paragraph (1) of paragraph 6, within the date and time specified in such notice or such extended date and time as may be allowed on the basis of application made in this behalf, to the JCIT (Appeals).

(3) The JCIT (Appeals) shall, after taking into account all the relevant material available on the record, including the response furnished, if any, by the appellant or any other person, as the case may be, —

- (a) prepare a penalty order and serve a copy of such order after digitally signing the same; or
- (b) for reasons to be recorded in writing, drop the penalty and send an intimation thereof,

to the appellant or any other person, as the case may be, and the Assessing Officer, for such action as may be required under the Act.

8. Rectification Proceedings. — (1) With a view to rectifying any mistake apparent from the record the JCIT (Appeals) may amend any order passed by it in accordance with the provisions of the Act, by an order to be passed in writing.

(2) Subject to the other provisions of this Scheme, an application for rectification of mistake referred to in sub-paragraph (1) may be filed with the JCIT (Appeals) by,—

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

- (b) the Assessing Officer.

(3) The JCIT (Appeals) shall examine the application and send the notice for granting an opportunity to,—

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

calling upon them to show cause as to why rectification of mistake should not be carried out under the relevant provisions of the Act.

(4) The appellant or any other person, as the case may be, or the Assessing Officer shall furnish a response to the notice, as referred to in sub-paragraph (3), 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.

(5) The JCIT (Appeals) shall, after taking into consideration the application and response, if any, furnished by the appellant or any other person, as the case may be, or the Assessing Officer by an order in writing, —

- (a) rectify the mistakes; or
- (b) for reasons to be recorded in writing, reject the application for rectification.

(6) The JCIT (Appeals) shall send the order after digitally signing it to,—

- (a) the appellant or any other person, as the case may be; and
- (b) the Assessing Officer for such action as may be required under the relevant provisions of the Act.

9. Appellate Proceedings.—(1) An appeal against an order passed by the JCIT (Appeals) under this Scheme shall lie before the Income Tax Appellate Tribunal having jurisdiction over the jurisdictional Assessing Officer of the appellant assessee.

(2) Subject to the provisions of paragraph 3 of the Scheme, where any order passed by the JCIT (Appeals) is set-aside and remanded back to the JCIT (Appeals) by the Income Tax Appellate Tribunal or High Court or Supreme Court, the order shall be assigned to a JCIT (Appeals) for further action in accordance with the provisions of this Scheme.

10. Exchange of communication by electronic mode.—For the purposes of this Scheme,—

- (a) all communications between the JCIT (Appeals) and the appellant, or his authorised representative, shall be exchanged by electronic mode, to the extent technologically feasible; and
- (b) all internal communications between the JCIT (Appeals), the Assessing Officer and the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, shall be exchanged by electronic mode.

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

- (i) the JCIT (Appeals), in case of order passed under clause (IX) of sub-paragraph (1) of paragraph 6 or under sub-paragraph (3) of paragraph 7 or under sub-paragraph (5) of paragraph 8, by affixing his digital signature;
- (ii) the appellant or any other person, by affixing his digital signature or under electronic verification code or by logging into his registered account in the designated portal;

Explanation. – For the purposes of this paragraph, “electronic verification code” shall have the same meaning as referred to in sub-rule (3) of rule 12 of the Rules.

12. 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 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 e-mail address of the appellant or his authorised representative; or
- (c) uploading an authenticated copy on the Mobile App of the appellant followed by a real time alert.

(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 e-mail address of such person followed by a real time alert.

(3) The appellant shall furnish his response to any notice or order or any other electronic communication, under this Scheme, through his registered account, and once an acknowledgement is sent 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).

13. No personal appearance under the Scheme .—(1) A person shall not be required to appear either personally or through authorised representative in connection with any proceedings under this 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 JCIT (Appeals) and the concerned JCIT (Appeals) shall allow the request for personal hearing and communicate the date and time of hearing to the appellant.

(3) Such hearing shall be conducted through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, to the extent technologically feasible, in accordance with the procedure laid down by the Board.

(4) Any examination or recording of the statement of the appellant or any other person shall be conducted by the JCIT (Appeals) under this Scheme, exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or 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 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 this 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.

14. Functions of the Principal Chief Commissioner of Income-tax National Faceless Appeal Centre.—The Principal Chief Commissioner of Income-tax (National Faceless Appeal Centre), with the prior approval of Board, for the effective functioning of the Office of the JCIT (Appeals) set-up under this Scheme, shall perform the following functions, namely:—

- (i) transfer in and transfer out of cases from e-appeal Scheme;
- (ii) transfer of cases from one JCIT(Appeals) to another;
- (iii) co-ordinate with the Principal Director General or Director General of Income tax (Systems) for devising processes for allocation of appeals, if required;
- (iv) approval of Formats of notices or letter;
- (v) issuing Standard Operating Procedures for various processes and for conducting Video Conference; and
- (vi) any other procedural function assigned by the Board from time to time.

15. Power to specify format, mode, procedure and processes.—The Principal Director General or the Director General of Income-tax (Systems) shall, in consultation with the Principal Chief Commissioner of Income-tax National Faceless Appeal Centre, if required, lay down the standards, procedures and processes for effective functioning of the Office of the JCIT (Appeals) set-up under this Scheme, in an automated and mechanised environment, including format, mode, procedure and processes with the prior approval of the Board, 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 centralised manner; and
- (vii) any other function assigned by the Board from time to time.

16. Application of provisions of the Act.- Save as otherwise provided in this Scheme, the provisions of clause (28CA) of section 2, section 120, section 129, section 131, section 133, section 134, section 136, section 140, section 154, section 155, section 282, section 282A, section 283, section 284, Chapter XX and Chapter XXI, and other provisions of the Act, shall apply to the procedure in disposal of appeal by the JCIT (Appeals) under this Scheme.

[Notification No. 33/2023/F.No. 370142/10/2023-TPL]

RAMAN CHOPRA, Jt. Secy.