

Faceless Appeal*

In order to impart greater efficiency, transparency and accountability to the assessment process under the Income Tax Act, 1961, Faceless Assessment Scheme has already been introduced in the Income Tax Act, 1961 ‘the Act’. With the introduction of the Faceless Assessment Scheme, most of the functions/ processes under the Act such as processing of returns, issuance of refunds or demand notices and assessment, which used to require person-to-person contact between the taxpayer and the Income-tax Department, are now in the electronic mode. All these processes are now not only faceless but also very taxpayer-friendly. Now a taxpayer can manage to comply with most of his obligations under the Act without any requirement for physical presence in the offices of the Income tax Department.

The first appeal process under the Commissioner (Appeals), which is one of the major functions/ processes are not yet in full electronic mode. A taxpayer can file an appeal through his registered account on the e-filing portal. However, the process that follows after the filing of an appeal is neither electronic nor faceless. In order to ensure that the reforms initiated by the Department to eliminate human interface from the system reach the next level, it is imperative that an e-appeal scheme be launched on the lines of the e-assessment scheme.

Accordingly, Central Board of Direct Taxes vide Notification No. 76/2020 dated September 25, 2020 has notified the Faceless Appeal Scheme, 2020 under the Income Tax Act, 1961 to provide for e-appeal and for the online hearing and disposal of appeals related to income-tax disputes by the Commissioner (Appeals). This scheme shall become effective from September 25, 2020 and shall apply to all the pending appeals and any further new appeals filed under the Income Tax Act.

“e-appeal” means the appellate proceedings conducted electronically in ‘e-appeal’ facility through the registered account of the appellant in designated portal.

Objectives of Faceless Appeal Scheme

The objectives of the Faceless Appeal Scheme 2020 are as under:

- To impart greater efficiency, transparency and accountability.
- Eliminating the interface between the Commissioner (Appeals) and the appellant in the course of appellate proceedings to the extent technologically feasible.
- Optimizing utilization of the resources through economies of scale and functional specialisation.
- Introducing an appellate system with dynamic jurisdiction in which appeal shall be disposed of by one or more Commissioner (Appeals).

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Views expressed in the Article are the sole expression of the Author and may not express the views of the Institute.

Salient features and Highlights of the Faceless Appeal Scheme 2020

1. In line of e-assessment centres, Faceless Appeal Centres i.e. National Faceless Appeal Centre and Regional Faceless Appeal Centres has been created. Under each Regional Faceless Appeal Centres, 'Appeal Units' has been created to conduct the appeal proceedings.
2. All the communication between the appeal unit and the appellant or Assessing Officer or any other person shall be through the National Faceless Appeal Centre only and in electronic mode only.
3. Additional evidence shall be filed with the National Faceless Appeal Centre only. The National Faceless Appeal Centre shall forward the additional evidence to the National e-Assessment centre.
4. National Faceless Appeal Centre shall have the power to impose penalty for non-compliance of any notice.
5. National Faceless Appeal Centre is empowered to pass the appeal order.

Procedure of Conducting Faceless Appeal

Under the 'Faceless Appeal Scheme, 2020' the conventional manual mode of conducting of regular assessments involving physical interface and verbal communication between the assessees and the assessing authorities has been completely done away with and all the communication/interface between the assessees and the assessing authorities shall be done electronically only via the 'e-Proceedings' utility in the registered 'e-Filing' accounts of the assessees.

1.	The National Faceless Appeal Center shall assign the appeal to a specific Appeal unit (AU) in any one Regional Faceless Appeal Centre through an automated allocation system.
2.	The Appeal unit may, if satisfied that the appellant had sufficient cause for not filing the appeal within the prescribed time, admit the appeal; or in any other case, reject the appeal under intimation to the National Faceless Appeal Centre.
3.	The Appeal unit may, where the appellant has applied for exemption, admit the appeal and exempt the appellant from the operation of provisions of section 249(4)(b) for any good and sufficient reason to be recorded in writing; or reject the appeal under intimation to the National Faceless Appeal Centre.
4.	National Faceless Appeal Centre shall intimate the admission or rejection of appeal, as the case may be, to the appellant.
5.	Where the appeal is admitted, 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;

	<p>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;</p> <p>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;</p>
6.	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;
7.	The appellant or any other person shall file a response to the notice within the date and time specified therein, or such extended date and time as may be Allowed with the National Faceless Appeal Centre.
8.	The National e-Assessment Centre or the Assessing Officer shall furnish a report in response to the notice within the date and time specified therein, or such extended date and time as may be Allowed with the National Faceless Appeal Centre.
9.	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 about the same.
10.	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
11.	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 Rules
12.	The National e-Assessment Centre or the Assessing Officer shall furnish the report to the National Faceless Appeal Centre
13.	the National Faceless Appeal Centre shall send such report to the appeal unit, and where no such report is furnished, inform the appeal unit
14.	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
15.	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;

16.	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.
17.	the National Faceless Appeal Centre shall send such request to the appeal unit and the appeal unit shall consider such request and may, if it deems fit, prepare a notice <ul style="list-style-type: none"> • directing the appellant to produce such document or evidence, as it may specify; or • for examination of any other person, being a witness and send such notice to the National Faceless Appeal Centre.
18.	The National Faceless Appeal Centre shall serve the notice upon the appellant or any other person, being a witness, as the case may be. The appellant or any other person shall file his response to the notice.
19.	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;
20.	where the appeal unit intends to enhance an assessment or a penalty or reduce the amount of refund
21.	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, <ol style="list-style-type: none"> a) prepare in writing, a draft order b) send such order to the National Faceless Appeal Centre along with the details of the penalty proceedings, if any, to be initiated therein
22.	the National Faceless Appeal Centre shall upon receipt of the draft order 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
23.	the appeal unit shall review the draft order, referred to it by the National Faceless Appeal Centre and concur with the draft order or suggest such variation
24.	the National Faceless Appeal Centre shall, upon receiving concurrence of the appeal unit, finalise the appeal as per the draft order

25.	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;
26.	the appeal unit, to whom appeal is assigned shall, after considering the suggestions for variation prepare a revised draft order and send the such order to the National Faceless Appeal Centre along with the details of the penalty proceedings, if any, to be initiated therein
27.	<p>the National Faceless Appeal Centre shall upon receipt of revised draft order pass the appeal order and-</p> <ul style="list-style-type: none"> a) communicate such order to the appellant; b) communicate such order to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner c) communicate such order to the National e-Assessment Centre or the Assessing Officer, 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

In Faceless Appeal Scheme, 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. However, the appellant or his authorised representative may request for personal hearing so as to make his oral submissions or present his case before the appeal unit.

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 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.

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.

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.

References:

https://www.incometaxindia.gov.in/communications/notification/notification_76_2020.pdf

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