

NOTIFICATION

New Delhi, the 12th September, 2019

(INCOME-TAX)

S.O. 3265(E).—In exercise of the powers conferred by sub-section (3B) of section 143 of the Income-tax Act, 1961 (43 of 1961), for the purposes of giving effect to the E-assessment Scheme, 2019 made under sub-section (3A) of section 143 of the Act, the Central Government hereby makes the following directions, 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, section 142, section 142A, section 143,

section 144A, section 144BA section 144C 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 sub-clause (i), file his response to the National e-assessment Centre;
- (iii) the National e-assessment Centre shall assign the case selected for the purposes of assessment under this Scheme to a specific assessment unit in any one Regional e-assessment Centre through an automated allocation system;
- (iv) 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;
- (v) 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;
- (vi) 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 through an automated allocation system;
- (vii) 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 Centre through an automated allocation system;
- (viii) the assessment unit shall, after taking into account all the relevant material available on the record, make in writing, a draft assessment order either accepting the returned income of the assessee or modifying the returned income of the assessee, as the case may be, and send a copy of such order to the National e-assessment Centre;
- (ix) the Assessment unit shall, while making draft assessment order, provide details of the penalty proceedings to be initiated therein, if any;
- (x) 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;
- (xi) 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;
- (xii) the National e-assessment Centre shall, upon receiving concurrence of the review unit, follow the procedure laid down in sub-paragraph (a) or sub-paragraph (b) of paragraph (x), as the case may be;
- (xiii) the National e-assessment Centre shall, upon receiving suggestions for modifications from the Review unit, communicate the same to the Assessment unit;
- (xiv) 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;
- (xv) The National e-assessment Centre shall, upon receiving final draft assessment order, follow the procedure laid down in sub-paragraph (a) or sub-paragraph (b) of paragraph (x), as the case may be;
- (xvi) The assessee may, in a case where show-cause notice under sub-paragraph (b) of paragraph (x) 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;
- (xvii) 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-paragraph (a) of paragraph (x); or
 - b. in any other case, send the response received from the assessee to the assessment unit;
- (xviii) 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;
- (xix) 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-paragraph (a) of paragraph (x); 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, as per the procedure laid down in sub-paragraph (b) of paragraph (x);
 - c. the response furnished by the assessee shall be dealt with as per the procedure laid down in paragraphs (xvi), (xvii) and (xviii);
- (xx) 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 such case., for –
- (a) imposition of penalty;
 - (b) collection and recovery of demand;
 - (c) rectification of mistake;
 - (d) giving effect to appellate orders;
 - (e) submission of remand report, or any other report to be furnished, or any representation to be made, or any record to be produced before the Commissioner (Appeals), Appellate Tribunal or Courts, as the case may be;
 - (f) proposal seeking sanction for launch of prosecution and filing of complaint before the Court;
- (xxi) Notwithstanding anything contained in paragraph (xx), the 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.

B. (1) A person shall not be required to appear either personally or through authorised representative in connection with any proceedings under this Scheme before the income-tax authority at the National e-assessment Centre or Regional e-assessment Centre or in any unit set-up under this 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, shall be entitled to seek personal hearing so as to make his oral submissions or present his case before the income-tax authority in any unit under this Scheme, and 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.

(3) 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 this 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 (3) is not denied the benefit of this 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.”.

2. The provisions of section 246A of the Act shall apply to appealable orders arising out of assessments made in accordance with the Scheme subject to the following, exceptions, modifications and adaptations, namely: -

“An appeal against an assessment made by the National e-assessment Centre under the Scheme shall lie before the Commissioner (Appeals) having jurisdiction over the jurisdictional Assessing Officer and any reference to the Commissioner (Appeals) in any communication from the National e-assessment Centre shall mean such jurisdictional Commissioner (Appeals).”.

3. The provisions of section 140, section 142 and section 282A of the Act shall apply to assessments made in accordance with the Scheme subject to the following, exceptions, modifications and adaptations, namely: -

“an electronic record shall be authenticated by the originator by affixing his digital signature in accordance with the provisions of sub-section (2) of section 3 of the Information Technology Act, 2000 (21 of 2000):

Provided that in case of the originator, being the assessee or any other person, such authentication may also be done by electronic signature or electronic authentication technique in accordance with the provisions of sub-section (2) of section 3A of the said Act.”.

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

“(1) Any unit may, in the course of assessment proceedings, for non-compliance of any notice, direction or order issued under this Scheme on the part of the assessee or any other person, send recommendation for initiation of any penalty proceedings under Chapter XXI of the Act, against such assessee or any other person, as the case may be, to the National e-assessment Centre, if it considers necessary or expedient to do so.

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

(3) The response to show - cause notice furnished by the assessee or any other person, if any, shall be sent by the National e-assessment Centre to the concerned unit which has made the recommendation for penalty.

(4) The said unit shall, after taking into consideration the response furnished by the assessee or any other person, as the case may be, -

- a. make a draft order of penalty and send a copy of such draft to National e-assessment Centre; or
- b. drop the penalty after recording reasons, under intimation to the National e-assessment Centre.

(5) The National e-assessment Centre shall levy the penalty as per the said draft order of penalty and serve a copy of the same on the assessee or any other person, as the case may be.”.

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

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

- (a) placing an authenticated copy thereof in the assessee's registered account; or
- (b) sending an authenticated copy thereof to the registered email address of the assessee or his authorised representative; or
- (c) uploading an authenticated copy on the assessee's Mobile App; and

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 email address of such person, followed by a real time alert.

(3) The Assessee shall file 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 by the National e-assessment 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 e-assessment Centre shall lay down the standards, procedures and processes for effective functioning of the National e-assessment Centre, Regional e-assessment Centre and the units set-up under this 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;
- (vii) general administration and grievance redressal mechanism in the respective Centres and units.”.

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

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ANKUR GOYAL, Under Secy.