

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

NOTIFICATION

New Delhi, the 12th January, 2021

(INCOME-TAX)

S.O. 118(E).—In exercise of the powers conferred by sub-section (2A) of section 274 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 Faceless Penalty Scheme, 2021.

(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) “assessment unit” means the assessment unit set up under the scheme notified under sub-section (3A) of section 143 of the Act or referred to in section 144B of the Act, as the case may be;
- (iv) “authorised representative” shall have the same meaning as assigned to it in sub-section (2) of section 288 of the Act;
- (v) “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;
- (vi) “Board” means the Central Board of Direct Taxes constituted under the Central Board of Revenues Act, 1963 (54 of 1963);
- (vii) “computer resource” shall have the same meaning as assigned to it in clause (k) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (viii) “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);
- (ix) “computer resource of assessee” shall include assessee’s registered account in designated portal of the Income-tax Department, the Mobile App linked to the registered mobile number of the assessee, or the registered email address of the assessee with his email service provider;
- (x) “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);
- (xi) “designated portal” means the web portal designated as such by the Principal Chief Commissioner or Principal Director General, in charge of the National Faceless Penalty Centre;
- (xii) “faceless penalty” means the penalty proceedings conducted electronically in 'e-proceeding' facility through assessee’s registered account in designated portal;

- (xiii) “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);
- (xiv) “email” 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.;
- (xv) “hash function” and “hash result” shall have the same meaning as assigned to them in the *Explanation* to sub-section (2) of section 3 of the Information Technology Act, 2000 (21 of 2000);
- (xvi) “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 assessee;
- (xvii) “National Faceless Assessment Centre” shall mean the National e-Assessment Centre set up under the scheme notified under sub-section (3A) of section 143 of the Act or the National Faceless Assessment Centre referred to in section 144B of the Act, as the case may be;
- (xviii) “originator” shall have the same meaning as assigned to it in clause (za) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (xix) “penalty” means the penalty imposable under the Act;
- (xx) “real time alert” means any communication sent to the assessee, 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 email at his registered email address, so as to alert him regarding delivery of an electronic communication;
- (xxi) “Regional Faceless Assessment Centre” shall mean the Regional e-Assessment Centre set up under the scheme notified under sub-section (3A) of section 143 of the Act or the Regional Faceless Assessment Centre referred to in section 144B of the Act, as the case may be;
- (xxii) “registered account” of the assessee means the electronic filing account registered by the assessee in the designated portal;
- (xxiii) “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 email 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 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;
- (xxiv) “registered mobile number” of the assessee means the mobile number of the assessee, or his authorised representative, appearing in the user profile of the electronic filing account registered by the assessee in the designated portal;
- (xxv) “review unit” means the review unit set up under the scheme notified under sub-section (3A) of section 143 of the Act or referred to in section 144B of the Act, as the case may be;
- (xxvi) “Rules” means the Income-tax Rules, 1962;
- (xxvii) “technical unit” means the technical unit set up under the scheme notified under sub-section (3A) of section 143 of the Act or referred to in section 144B of the Act, as the case may be;
- (xxviii) “verification unit” means the verification unit set up under the scheme notified under sub-section (3A) of section 143 of the Act or referred to in section 144B of the Act, as the case may be;
- (xxix) “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 meaning respectively assigned to them in the Act.

3. Scope of the Scheme.— The penalty under this Scheme shall be imposed in respect of such territorial area, or persons or class of persons, or income or class of income or cases or class of cases, or penalties or class of penalties as may be specified by the Board.

4. Faceless Penalty Centres.—(1) For the purposes of this Scheme, the Board may set up —

- (i) a National Faceless Penalty Centre to facilitate the conduct of faceless penalty proceedings in a centralised manner and vest it with the jurisdiction to impose penalty in accordance with the provisions of this Scheme;
- (ii) Regional Faceless Penalty Centres, as it may deem necessary, to facilitate the conduct of faceless penalty proceedings, which shall be vested with the jurisdiction to impose penalty in accordance with the provisions of this Scheme;
- (iii) penalty units, as it may deem necessary, to facilitate the conduct of faceless penalty proceedings, to perform the function of drafting penalty orders, which includes identification of points or issues for imposition of penalty under the Act, seeking information or clarification on points or issues so identified, providing opportunity of being heard to the assessee or any other person, analysis of the material furnished by the assessee or any other person, and such other functions as may be required for the purposes of imposing penalty;
- (iv) penalty review units, as it may deem necessary, to facilitate the conduct of faceless penalty proceedings, to perform the functions of review of draft penalty order, which includes checking whether the relevant material evidence has been brought on record, whether the relevant points of fact and law have been duly incorporated in the draft order, whether the issues on which penalty is to be imposed have been discussed in the draft order, whether the applicable judicial decisions have been considered and dealt with in the draft order, checking arithmetical correctness of computation of penalty, if any, and such other functions as may be required for the purposes of review,

and specify their respective jurisdiction.

(2) All communication among the penalty unit and penalty review unit or with the assessee or any other person, as the case may be, or any income-tax authority or the National Faceless Assessment Centre, with respect to the information or documents or evidence or any other details as may be necessary for the purposes of imposing penalty under this Scheme, shall be through the National Faceless Penalty Centre.

(3) The penalty unit and the penalty review unit shall have the following authorities, namely:—

- (a) Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, as the case may be;
- (b) Deputy Commissioner or Deputy Director or Assistant Commissioner or Assistant Director, or Income-tax Officer, as the case may be;
- (c) such other income-tax authority, ministerial staff, executive or consultant, as may be considered necessary by the Board.

(4) The Board for the purposes of this Scheme shall, until the date on which the National Faceless Penalty Centre or the Regional Faceless Penalty Centres, the penalty units or the penalty review units are set up, direct the National Faceless Assessment Centre, Regional Faceless Assessment Centre, assessment unit and review unit to also act as the National Faceless Penalty Centre, Regional Faceless Penalty Centre, the penalty unit and the penalty review unit, respectively.

5. Procedure in penalty.— (1) The penalty in a case referred to in paragraph 3 shall be levied under this Scheme as per the following procedure, namely:—

- (i) where any income-tax authority or the National Faceless Assessment Centre has, in a case,—
 - (a) initiated penalty proceedings and issued a show-cause notice for imposition of penalty; or
 - (b) recommended initiation of penalty proceedings,
 it shall refer such case, in the form specified in clause (viii) of paragraph 12, to the National Faceless Penalty Centre;

- (ii) the National Faceless Penalty Centre shall in a case, where reference has been received as per clause (i), assign such case to a specific penalty unit in any one of the Regional Faceless Penalty Centres through an automated allocation system;
- (iii) where in a case assigned to a penalty unit, initiation of penalty proceedings has been recommended, such unit, after examination of the material available on record, may decide to,—
- (a) agree with the recommendation and prepare a draft notice calling upon the assessee or any other person, as the case may be, to show cause as to why penalty should not be levied under the relevant provisions of the Act; or
- (b) disagree with the recommendation, for reasons to be recorded in writing, and send such draft notice or the reasons, as the case may be, to the National Faceless Penalty Centre;
- (iv) the National Faceless Penalty Centre shall upon receipt of the draft notice or reasons referred to in clause (iii) from the penalty unit,—
- (a) serve the show-cause notice, as per the draft referred to in sub-clause (a) of clause (iii), upon the assessee or any other person, as the case may be, specifying the date and time for filing a response; or
- (b) not initiate penalty in cases referred to in sub-clause (b) of clause (iii);
- (v) where in the case assigned to a penalty unit, penalty proceedings are already initiated, such unit shall prepare a draft notice calling upon the assessee or any other person, as the case may be, to show cause as to why penalty should not be levied under the relevant provisions of the Act and send such notice to the National Faceless Penalty Centre;
- (vi) the National Faceless Penalty Centre shall serve the show-cause notice, as per draft referred to in clause (v), upon the assessee or any other person, as the case may be, specifying the date and time for filing a response;
- (vii) the assessee or any other person, as the case may be, shall file a response to the show-cause notice, referred to in sub-clause (a) of clause (iv) or in clause (vi), 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, with the National Faceless Penalty Centre;
- (viii) where response is filed by the assessee or any other person, as the case may be, the National Faceless Penalty Centre shall send such response to the penalty unit, and where no such response is filed, inform the penalty unit;
- (ix) the penalty unit may make a request to the National Faceless Penalty Centre for,—
- (a) obtaining further information, documents or evidence from any income-tax authority or the National Faceless Assessment Centre; or
- (b) obtaining further information, documents or evidence from the assessee or any other person; or
- (c) seeking technical assistance or conducting verification;
- (x) the National Faceless Penalty Centre shall, upon receipt of request, referred to in sub-clauses (a) or (b) of clause (ix), issue appropriate notice or requisition to the income-tax authority or the National Faceless Assessment Centre or the assessee or any other person, as the case may be, to submit such information, documents or evidence, as may be specified by the penalty unit, specifying the date and time for furnishing a response;
- (xi) the income-tax authority or the National Faceless Assessment Centre or the assessee or any other person, as the case may be, shall furnish a response to the notice or requisition, as referred to in clause (x), 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 National Faceless Penalty Centre;

- (xii) where a request for conducting of certain enquiry or verification or seeking technical assistance has been made by the penalty unit, the National Faceless Penalty Unit shall send such request to the National Faceless Assessment Centre specifying a date and time for submitting a report;
- (xiii) where response to notice referred to in clause (x) is filed by the income-tax authority or the National Faceless Assessment Centre or the assessee or any other person, as the case may be, the National Faceless Penalty Centre shall send such response to the penalty unit, and where no such response is filed, inform the penalty unit;
- (xiv) where a report in response to request referred to in clause (xii) is received by the National Faceless Penalty Centre, it shall send such report to the penalty unit, and where no such report is received, inform the penalty unit;
- (xv) the penalty unit shall, after considering the material on record including response furnished, if any, as referred to in clauses (viii) and (xiii) or report, if any, as referred to in clause (xiv), propose for,—
- (a) imposition of the penalty and prepare a draft order for such imposition of penalty; or
 - (b) non-imposition of the penalty,
- for reasons to be recorded in writing and send the proposal along with such draft order or reasons, as the case may be, to the National Faceless Penalty Centre;
- (xvi) the National Faceless Penalty Centre shall examine the proposal, as referred to in clause (xv), in accordance with the risk management strategy specified by the Board, including by way of an automated examination tool, whereupon it may decide, -
- (a) in a case where imposition of penalty has been proposed, to pass the penalty order as per draft order referred to in sub-clause (a) of clause (xv), and serve a copy thereof upon the assessee or any other person, as the case may be; or
 - (b) in a case where non-imposition of penalty has been proposed, not to impose penalty under intimation to the assessee or any other person, as the case may be; or
 - (c) assign the case to a penalty review unit in any one of the Regional Faceless Penalty Centres through an automated allocation system, for conducting review of such proposal;
- (xvii) the penalty review unit shall review the proposal of penalty unit, as referred to in clause (xv), whereupon it may concur with, or suggest modification to, such proposal, for reasons to be recorded in writing, and intimate the National Faceless Penalty Centre;
- (xviii) where the penalty review unit concurs with the proposal of penalty unit, the National Faceless Penalty Centre shall follow the procedure laid down in sub-clause (a) or sub-clause (b) of clause (xvi);
- (xix) where the penalty review unit suggests modification to the proposal in sub-clause (a) or sub-clause (b) of clause (xv), the National Faceless Penalty Centre shall assign the case to a specific penalty unit, other than the penalty unit referred to in clause (xv), in any one of the Regional Faceless Penalty Centres through an automated allocation system;
- (xx) where the case is assigned to a penalty unit, as referred to in clause (xix), such penalty unit, after considering the material on record including suggestions for modification and reasons recorded by the penalty review unit,—
- (a) in a case where the modifications suggested by the penalty review unit are prejudicial to the interest of assessee or any other person, as the case may be, as compared to the proposal of the penalty unit under clause (xv), shall follow the procedure laid down in clauses (v) to (xiv) and prepare a revised draft order for imposition of penalty; or
 - (b) in a case where the modification are not prejudicial to the interest of assessee or any other person, as the case may be, shall prepare a revised draft order for imposition of penalty; or
 - (c) may propose non-imposition of penalty, for reasons to be recorded in writing,
- and send such order or reasons to the National Faceless Penalty Centre;

- (xxi) upon receipt of revised draft order from the penalty unit, as referred to in clause (xx), the National Faceless Penalty Centre shall pass the penalty order as per such draft and serve a copy thereof upon the assessee or any other person or not impose penalty under intimation to the assessee or any other person, as the case may be;
- (xxii) where in a case, as referred to in sub-clause (a) or (b) of clause (i), the National Faceless Penalty Centre has passed a penalty order, or not initiated or imposed penalty, as the case may be, it shall send a copy of such order or reasons for not initiating or imposing penalty to the income-tax authority, referred to in clause (i) or the National Faceless Assessment Centre, as the case may be, 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 the National Faceless Penalty Centre, may at any stage of the penalty proceedings, if considered necessary, transfer such proceedings to the income-tax authority or the National Faceless Assessment Centre having jurisdiction over the assessee or any other person, in whose case the penalty proceedings are initiated, with the prior approval of the Board.

6. Rectification Proceedings. – (1) With a view to rectifying any mistake apparent from the record the National Faceless Penalty Centre may, by an order to be passed in writing, amend any order passed by it under this Scheme.

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

- (a) assessee or any other person, as the case may be; or
- (b) penalty unit, which prepared the order; or
- (c) penalty review unit, which reviewed the order; or
- (d) income-tax authority; or
- (e) National Faceless Assessment Centre.

(3) Where an application, as referred to in sub-paragraph (2), is received by the National Faceless Penalty Centre, it shall assign such application to a specific penalty unit in any one of the Regional Faceless Penalty Centres through an automated allocation system.

(4) The penalty unit shall examine the application and prepare a notice for granting an opportunity,—

- (a) to the assessee or any other person, as the case may be, where the application has been filed by the authorities referred to in clauses (b) or (c) or (d) or (e) of sub-paragraph (2); or
- (b) to the authorities referred to in clauses (b) or (c) or (d) or (e) of sub-paragraph (2), where the application has been filed by the assessee or any other person, as the case may be, and

send the notice to the National Faceless Penalty Centre.

(5) The National Faceless Penalty Centre shall serve the notice, as per draft referred to in sub-paragraph (4), upon the assessee or any other person, as the case may be, or authorities referred to in clauses (b) or (c) or (d) or (e) of sub-paragraph (2) to show cause as to why rectification of mistake should not be carried out under the relevant provisions of the Act, specifying the date and time for filing a response.

(6) The response to the show-cause notice referred to in paragraph (5) shall be furnished within the specified date and time or such extended time as may be allowed on the basis of application made in this behalf, to the National Faceless Penalty Centre.

(7) Where a response, as referred to in sub-paragraph (6), is filed, the National Faceless Penalty Centre shall send such response to the penalty unit, or where no such response is filed, inform the penalty unit.

(8) The penalty unit shall, after taking into consideration the response, if any, referred to in sub-paragraph (7), prepare a draft order,—

- (a) for rectification of the mistake; or
- (b) for rejection of application for rectification, citing reasons thereof,

and send the order to the National Faceless Penalty Centre.

(9) The National Faceless Penalty Centre shall upon receipt of draft order, as referred to in sub-paragraph (8), pass an order as per such draft and communicate such order to, –

- (a) the assessee or any other person, as the case may be; and
- (b) the National Faceless Assessment Centre or the income-tax authority having jurisdiction over the case, for such action as may be required under the Act.

7. Appellate Proceedings. – An appeal against a penalty order made by the National Faceless Penalty Centre under this Scheme shall lie before the Commissioner (Appeals) having jurisdiction over the jurisdictional income-tax authority or before the National Faceless Appeal Centre, as the case may be; and any reference to the Commissioner (Appeals) in any communication from the National Faceless Penalty Centre shall mean such jurisdictional Commissioner (Appeals) or the National Faceless Appeal Centre, as the case may be.

8. Exchange of communication exclusively by electronic mode.— (1) For the purposes of this Scheme,—

- (a) all communications between the National Faceless Penalty Centre and the assessee or any other person, as the case may be, or his authorised representative, shall be exchanged exclusively by electronic mode; and
- (b) all internal communications between the National Faceless Penalty Centre, National Faceless Assessment Centre, Regional Faceless Penalty Centres, any income-tax authority, the penalty unit or the penalty review unit shall be exchanged exclusively by electronic mode.

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

- (i) National Faceless Penalty Centre by affixing its digital signature;
- (ii) 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.

10. 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 assessee or any other person, by way of,—

- (a) placing an authenticated copy thereof in the assessee’s or any other person’s registered account, as the case may be; or
- (b) sending an authenticated copy thereof to the registered email address of the assessee or any other person, as the case may be, or his authorised representative; or
- (c) uploading an authenticated copy on the assessee’s or any other person’s Mobile App, as the case may be, 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 or any other person, as the case may be, 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 Faceless Penalty 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).

11. No personal appearance in the Centres or Units.—(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 Faceless Penalty Centre or Regional Faceless Penalty Centre or penalty unit or penalty review unit set up under this Scheme.

(2) The assessee or any other person, as the case may be, or his authorised representative, may request for personal hearing so as to make his oral submissions or present his case before the penalty unit under this Scheme.

(3) The Chief Commissioner or the Director General, in charge of the Regional Faceless Penalty Centre, under which the concerned penalty unit is set up, may approve the request for personal hearing, as referred to in sub-paragraph (2), if he is of the opinion that the request is covered by the circumstances laid down under clause (ix) of paragraph 12.

(4) Where the request for personal hearing has been approved by the Chief Commissioner or the Director General, in charge of the Regional Faceless Penalty 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;

(5) 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 is not denied the benefit of this Scheme merely on the ground that such assessee or his authorised representative, or any other person does not have access to video conferencing at his end.

12. Power to specify format, mode, procedure and processes.— The Principal Chief Commissioner or the Principal Director General, in charge of the National Faceless Penalty Centre shall, with the approval of Board, lay down the standards, procedures and processes for effective functioning of the National Faceless Penalty Centre, the Regional Faceless Penalty Centre, the penalty unit and the penalty review unit 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-proceedings” facility including login account facility, tracking status of penalty proceedings, display of relevant details, and facility of download;
- (v) accessing, verification and authentication of information and response including documents submitted during the penalty 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;
- (viii) form for referring a case, in which penalty has been initiated or initiation of penalty has been recommended, as referred to in clause (i) of sub-paragraph (1) of paragraph 5 and
- (ix) circumstances in which personal hearing may be approved as per sub-paragraph (3) of paragraph 11.

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