

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 13th August, 2020

S.O. 2745 (E). —In exercise of the powers conferred by sub-section (3A) of section 143 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following amendments in the E-assessment Scheme, 2019 published *vide* notification of the Government of India, Ministry of Finance (Department of Revenue), Central Board of Direct Taxes, in the Gazette of India, Extraordinary, *vide* number S.O 3264 (E) dated the 12th September, 2019, namely: —

1. In the said Scheme, —
 - (1) in sub-paragraph (1) of paragraph 1, for the word “E-assessment”, the words “Faceless Assessment” shall be substituted;
 - (2) in sub-paragraph (1) of paragraph 2, —
 - (i) in clause (iii), after the words, brackets, and figures “under sub-section (3) of section 143”, the words and figures “or section 144” shall be inserted;
 - (ii) after clause (xxiii), the following clause shall be inserted, namely: —

“(xxiiiia) “Rules” means the Income-tax Rules, 1962;”
 - (3) in paragraph 4, —
 - (i) in clause (v) of sub-paragraph (1), after the words “forensic, information technology, valuation,”, the word “audit,” shall be inserted; and
 - (ii) in sub-paragraph (3), the word “sub-paragraphs” shall be substituted by the word “clauses” and the word “paragraph” shall be substituted by the word “sub-paragraph”.
 - (4) for paragraph 5, the following paragraph shall be substituted, namely,—

“5. Procedure for assessment. — (1) The assessment under this Scheme 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 this Scheme;

- (iv) the National e-assessment Centre shall assign the case selected for the purposes of e-assessment under this 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 modifications, 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.”

- (5) in paragraph 6, for sub-paragraph (5), the following sub-paragraph shall be substituted, namely: —

“(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 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 paragraph 7, after the words “appeal against an assessment”, the words “order, or penalty order” shall be inserted.

- (7) for paragraphs 8 and 9, following paragraphs shall be substituted, namely: —

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

(a) all communications between the National e-assessment Centre and the assessee, or his authorised representative, or any other person shall be exchanged exclusively by electronic mode; and

(b) all internal communications between the National e-assessment Centre, Regional e-assessment Centres and various units shall be exchanged exclusively by electronic mode;

(2) The provisions of sub-paragraph (1) shall not apply to the enquiry or verification conducted by the verification unit in the circumstances referred to in clause (via) of Paragraph 12.

9. Authentication of electronic record. — For the purposes of this Scheme, 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.”

- (8) in paragraph (11), —

(i) for sub-paragraphs (2) and (3), following sub-paragraphs shall be substituted, namely: —

“(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 this 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;

(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), 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.”

- (9) in paragraph (12), —

(i) numbering of sub-paragraph (1) shall be omitted; and

(ii) in the paragraph so as renumbered, —

A. after the words “in charge of the National e-assessment Centre shall”, the words “, with the approval of the Board,” shall be inserted; and

B. after clause (vi), following clauses shall be inserted, namely: —

“(via) circumstances in which provisions of sub-paragraph (1) of paragraph 8 shall not apply;

(vib) circumstances in which personal hearing referred to in sub-paragraph (3) of paragraph (11) shall be approved;”

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

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

[Notification No. 60 / 2020/F.No. 370149/154/2019-TPL]

ANKUR GOYAL, Under Secy.

Note: The principal Scheme was published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii) *vide* notification number S.O.3264(E), dated the 12th September,2019.