

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 27th May, 2022

(INCOME-TAX)

S.O. 2426(E).—In exercise of the powers conferred by sub-section (2B) of section 274 of the Income-tax Act, 1961 (43 of 1961)(hereinafter referred to as “the Act”) and in consequence to the amendments made in section 144B of the Act vide the Finance Act, 2022, for the purposes of giving effect to the Faceless Penalty (Amendment) Scheme, 2022 made under sub-section (2A) of section 274 of the Act, the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), Central Board of Direct Taxes published in the Gazette of India, Extraordinary *vide* number S.O. 118(E), dated the 12th January, 2021, namely:—

1. In the said notification,—

(i) in paragraph 1,—

(a) in sub-paragraph (A), in clause (1),—

(I) in sub-clause (ii), the words “in any one of the Regional Faceless Penalty Centres” shall be omitted;

(II) for the clauses (xv) to (xxii), the following clause shall be substituted, namely:—

“(xv) the penalty unit shall, after considering the material on record including response furnished, if any, as referred to in clauses (viii), (x) and (xii) or report, if any, as referred to in clause (xiv), propose for,—

(a) imposition of the penalty and prepare a penalty imposition proposal for imposition of such penalty;

(b) non-imposition of the penalty, for reasons to be recorded in writing

and send the penalty imposition proposal or reasons, as the case may be, to the National Faceless Penalty Centre;

(xvi) the National Faceless Penalty Centre, in accordance with the guidelines issued by the Board, may,—

(a) in a case where imposition of penalty has been proposed, convey to the penalty unit to pass the penalty order as per penalty imposition proposal referred to in sub-clause (a) of clause (xv); or

(b) in a case where non-imposition of penalty has been proposed, convey to the penalty unit to drop the penalty proceedings under intimation to the assessee or any other person, as the case may be; or

(c) assign the case to a penalty review unit through an automated allocation system, for conducting review of such proposal or reasons, as the case may be;

(xvii) the penalty unit shall, in the case referred to in sub-clause (a) of clause (xvi), pass the order imposing penalty and serve the same on the assessee through the National Faceless Penalty Centre;

(xviii) the penalty unit shall, in the case referred to in sub-clause (b) of clause (xvi), drop the penalty proceedings and send the intimation to the assessee through the National Faceless Penalty Centre;

(xix) the penalty review unit shall review the penalty imposition proposal or reasons for non-imposition of penalty, as referred to in sub-clause (c) of clause (xvi), whereupon it may concur with, or suggest modification to, such proposal or reasons, as the case may be, and prepare a review report and send such report to the National Faceless Penalty Centre;

(xx) the National Faceless Penalty Centre shall, upon receiving the review report under clause (xix), forward the same to the penalty unit which had proposed the penalty imposition proposal or reasons for non-imposition of penalty, as the case may be;

(xxi) the penalty unit shall, after considering such review report, accept or reject some or all of the modifications proposed therein and after recording reasons in case of rejection of such modifications, pass the order imposing penalty or drop the penalty proceedings, as the case may be, and serve the order imposing penalty or intimation for dropping penalty proceedings, as the case may be, on the assessee through the National Faceless Penalty Centre;

(xxii) where an order imposing penalty or intimation for dropping penalty, as the case may be, has been passed, the penalty unit shall send a copy of such order, or intimation for dropping penalty to the income-tax authority, referred to in clause (i), through the National Faceless Penalty Centre, for further action as may be required under the Act.”;

(b) in sub-paragraph (B),—

(I) in clause (1), the words “or Regional Faceless Penalty Centre” shall be omitted;

(II) for clauses (3) and (4), the following clause shall be substituted, namely:—

“(3) Where the request for personal hearing has been received, the income-tax authority of relevant unit shall allow such hearing, through National Faceless Penalty Centre.

(4) Hearing referred to in clause (3) shall be conducted 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.”;

(iii) for paragraph 2, the following paragraph shall be substituted, namely:—

“2. The provisions of section 140 and section 282A of the said Act shall apply to the penalty proceedings in accordance with the said Scheme subject to the following exceptions, modifications and adaptations, namely:—

“an electronic record shall be authenticated by,—

(i) the National Faceless Penalty Centre by way of an electronic communication;

(ii) the penalty unit or the penalty review unit or technical unit or verification unit, as the case may be, by affixing digital signature;

(ii) assessee 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 purpose of this paragraph, “electronic verification code” shall have the same meaning assigned to it in the Explanation to sub-rule (3) of rule 12 of the Income-tax Rules, 1962.”;

(iv) paragraph 3 shall be omitted;

(v) in paragraph 4, in sub-paragraph (B),—

(A) the words “the Regional Faceless Penalty Centre,” shall be omitted;

(B) clause (ix), shall be omitted.

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

[Notification No. 55/2022/F. No. 370142/51/2020-TPL(Part III)]

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Note : Principal Scheme was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) *vide* number S.O. 118(E) dated the 12th January, 2021.