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CERTIFICATE COURSE ON INCOME TAX APPEALS & ASSESSMENTS

Today's Content – Faceless Appeals & more

Faceless Appeals under the Income-tax Act, 1961

Introduction

The system of **Faceless Appeals** was introduced in the Indian Income-tax framework as a landmark reform to make the appellate process more transparent, efficient, and accountable. Announced in August 2020 and notified under Section 250 of the Income-tax Act through the Faceless Appeal Scheme, 2020 (CBDT Notification Nos. 76 & 77 dated 25.09.2020), the scheme marked a significant shift from traditional appeal hearings. Its primary objective was to eliminate the need for physical interaction between taxpayers and the Commissioner of

Income-tax (Appeals) [CIT(A)], thereby reducing harassment, ensuring fairness, and promoting a seamless paperless system.

Objectives of Faceless Appeals

The faceless appeal system has several objectives. The foremost is the elimination of personal interface between taxpayers and tax authorities, which reduces subjectivity and scope for undue influence. Appeals are allocated through an automated system to ensure transparency and jurisdiction-free handling. By using technology-driven processes, efficiency is enhanced and cases can be resolved in a time-bound manner. Accountability is also strengthened because appeals are handled by multiple units, rather than a single officer, and orders undergo reviews before finalization.

Institutional Structure

The structure of faceless appeals involves multiple entities. At the top is the **National Faceless Appeal Centre (NFAC)**, which serves as the nodal agency for all communications. Appeals are distributed among various **Regional Faceless Appeal Centres (RFACs)** located across India, which allocate cases to different **Appeal Units (AUs)**. The AUs handle admission of appeals, examination of evidence, conduct of hearings, and drafting of orders. Draft orders are reviewed by **Review Units (RUs)**, ensuring that checks and balances are in place before a final decision is issued. This multi-level handling of appeals eliminates bias and ensures greater objectivity.

Procedure of Faceless Appeals

The procedure under faceless appeals begins with the taxpayer filing **Form 35** electronically on the income-tax e-filing portal. Once filed, NFAC acknowledges the appeal and assigns it to an AU through automated allocation. The AU examines the appeal and either admits or rejects the grounds, including requests for additional grounds or evidence. During the process, the AU may call for information from the taxpayer or the jurisdictional Assessing Officer (AO), with all communications routed only through NFAC to ensure transparency. If the taxpayer requests a personal hearing, it is granted solely through video conferencing, subject to approval by the Chief Commissioner or Director General of the RFAC. After examination, the AU prepares a draft order, which is reviewed by another unit if required, and finally the NFAC issues the order electronically to the taxpayer, the jurisdictional AO, and the Principal Chief Commissioner of Income-tax.

Exclusions from Faceless Appeals

Certain appeals are excluded from the faceless system, as notified by the CBDT. These exclusions include cases involving serious frauds, major tax evasion, matters relating to international taxation, cases under the Black Money (Undisclosed Foreign Income and Assets) Act, 2015, or the Prohibition of Benami Property Transactions Act, 1988, and appeals requiring compulsory personal hearing. Such matters continue to be handled in the traditional mode.

Advantages of Faceless Appeals

The faceless system offers several advantages to taxpayers. It eliminates corruption and harassment by reducing personal interactions, allows appeals to be filed and monitored from anywhere in the country, and ensures uniformity and objectivity in decision-making through automated allocation and multi-tier reviews. It also reduces compliance costs and promotes faster disposal of appeals.

Challenges in Faceless Appeals

Despite its benefits, challenges remain in the faceless appeals system. There is a heavy reliance on internet connectivity and digital literacy, which can pose difficulties for taxpayers in remote areas. In complex cases, the inability to explain issues in person may also present practical challenges. Additionally, as the system is still evolving, there are occasional delays in allocation and scheduling of video hearings.

Comparison with Traditional Appeals

A comparison of traditional appeals with faceless appeals highlights the transformation. In traditional appeals, jurisdiction lay with the local CIT(A) and hearings were conducted physically with paper-based submissions. In contrast, faceless appeals are jurisdiction-free, entirely electronic, and hearings are conducted only via video conferencing. The new scheme enhances transparency through automated allocation, ensures accountability by involving multiple units (AU, RU, and NFAC), and brings greater uniformity in orders compared to the traditional single-officer system.

Conclusion

In conclusion, the **Faceless Appeal Scheme, 2020** represents a major reform in India's income-tax administration. By leveraging technology, it seeks to bring efficiency, accountability, and transparency to the appellate process. While certain operational challenges remain, particularly in complex cases, faceless appeals are a crucial step towards building a modern, fair, and taxpayer-friendly system.

Filing Additional Grounds & Additional Evidence in Faceless Appeals

1. Additional Grounds of Appeal

- **Legal Basis:** Section 250(5) of the Income-tax Act, 1961.
- The appellant (taxpayer) can raise **additional grounds** of appeal, even if such grounds were not mentioned in the original Form 35.
- The Appeal Unit (AU) under faceless appeals has the power to **admit or reject** such additional grounds.
- Generally, additional grounds are allowed if:
 - They are purely **legal grounds** (e.g., validity of assessment, jurisdictional errors).
 - They do not require fresh investigation of facts.
 - They are necessary for a fair decision.
- Courts (SC in *NTPC Ltd. v. CIT* 229 ITR 383) have held that additional grounds can be raised before appellate authorities if they involve a **pure question of law**, even if not raised earlier.

Process under Faceless Appeals:

- The taxpayer files an electronic request for admission of additional grounds.
- AU examines and decides admission (with recorded reasons).
- If admitted, the case proceeds on those grounds as well.

2. Additional Evidence

- **Legal Basis:** Rule 46A of the Income-tax Rules, 1962.
- As a general rule, evidence not produced before the Assessing Officer cannot be admitted at the appellate stage.
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- Even if one of these conditions is satisfied, the Commissioner (Appeals)/Appeal Unit may allow the additional evidence.

Process under Faceless Appeals:

- Taxpayer files request through NFAC, explaining why evidence could not be filed earlier.
- AU considers request and records reasons for admission/rejection.
- If evidence is admitted, AU must give an opportunity to the AO to examine the evidence or file a remand report.
- Decision is taken only after considering both sides.

3. Practical Impact in Faceless Appeals

- Earlier, taxpayers could personally argue before CIT(A) why additional grounds/evidence should be allowed.
- In faceless mode, everything must be explained **in writing** through submissions.
- Therefore, drafting becomes very important — the reasons for non-filing earlier must be clearly justified.
- Video hearings (if granted) may also be used to argue for admission.

✓ In summary:

- **Additional Grounds** (Sec. 250(5)): Allowed if they are legal in nature or necessary for justice.
- **Additional Evidence** (Rule 46A): Allowed only under exceptional circumstances and after giving AO a chance to respond.
- Both are permitted in **Faceless Appeals**, but with strict adherence to procedure and proper documentation.

Reduction / Enhancement of Assessment, Benefits & Concerns in Faceless Appeals

1. Reduction and Enhancement of Assessment

- **Powers of CIT(A)/Appeal Unit:**
Under Section 251 of the Income-tax Act, the Commissioner of Income-tax (Appeals) has very wide powers while disposing of an appeal. These powers are also available to the **Appeal Unit (AU)** under faceless appeals.
 - **Reduction:** The AU can reduce or cancel the assessment if it finds that the AO has erred in law or fact. For example, disallowances wrongly made or additions without proper basis can be deleted.
 - **Enhancement:** Conversely, the AU also has the power to enhance the assessment, i.e., increase the assessed income or tax liability if it notices under-assessment, concealment, or omission.
- **Requirement of Notice:** Before making any enhancement, the AU must issue a **show cause notice** to the taxpayer (through NFAC) and provide an opportunity of being heard (including video conferencing, if requested).
- **Practical Note:** While taxpayers often approach appeals expecting relief, they should be aware of the risk of **enhancement** if new issues adverse to them are discovered.

2. Benefits from Faceless Appeals

Faceless appeals aim to bring several systemic advantages:

- **Transparency & Fairness:** Automated allocation reduces human discretion and eliminates personal bias.
- **Accountability:** Draft orders are subject to internal review by Review Units (RUs), ensuring consistency and reducing arbitrary decisions.
- **Convenience for Taxpayers:** Appeals can be filed and monitored online from anywhere, eliminating the need to visit tax offices.
- **Reduced Compliance Burden:** No physical paperwork, couriering of submissions, or personal appearances unless specifically required.
- **Uniformity of Decisions:** Centralized handling and checks improve consistency in appellate orders.
- **Reduced Scope for Harassment:** With no direct face-to-face meetings, opportunities for corruption and harassment are significantly curtailed.

3. Potential Pitfalls / Concerns

While the faceless system has several advantages, there are practical challenges and risks that need careful consideration:

- **Technical Dependence:** Taxpayers must rely heavily on digital infrastructure, stable internet, and technical literacy, which may be challenging for small taxpayers or those in remote areas.
- **Limited Personal Interaction:** Complex cases often benefit from detailed oral arguments. Written submissions may not always convey nuances effectively, and video hearings are granted only in limited cases.
- **Risk of Enhancement:** As discussed, the power to enhance assessment can backfire on taxpayers if the AU identifies additional issues during appeal.
- **Initial Delays in Implementation:** Some taxpayers have reported procedural delays in allocation of cases, scheduling of hearings, and issuance of orders.
- **Quality of Orders:** Since the system is still evolving, there are concerns about template-based or mechanical orders being issued without due appreciation of facts.
- **Appeals in Sensitive Matters:** Certain categories like international taxation or benami transactions are excluded, creating a dual system and some uncertainty.

✓ In summary:

- Faceless appeals empower appellate authorities not only to **reduce** but also to **enhance** assessments, making it essential for taxpayers to prepare carefully.
- The scheme offers **immense benefits** in terms of fairness, transparency, and convenience.
- However, **practical pitfalls** like limited oral hearings, risk of enhancement, and digital divide require attention for the system to achieve its full potential.

Discussion on any questions

