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Income Tax Department introduces

Faceless Penalty Scheme 2021



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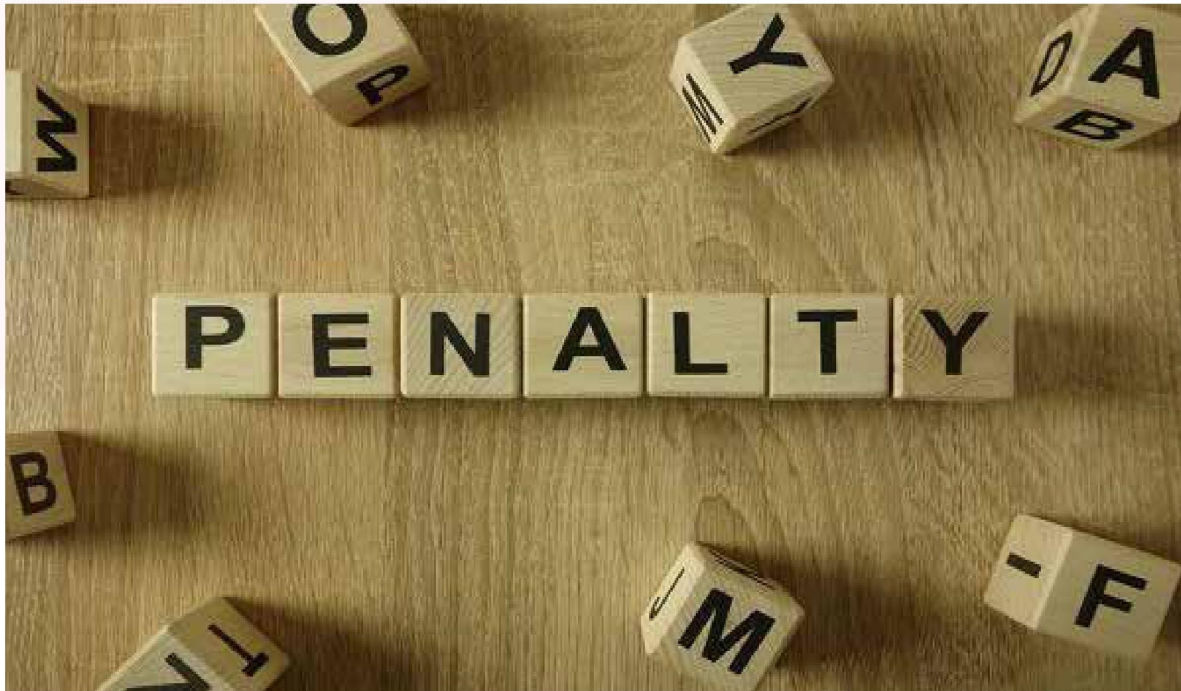


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FACELESS PENALTY SCHEME 2021 – PREAMBLE :



Keeping in mind the motto “Honoring the Honest” and to bring in transparency into taxation system, in line with Faceless Assessment and Faceless Appeals, the government has come out with Faceless Penalty Scheme. The scheme is more or less replica of existing Faceless Schemes i.e. Assessment and Appeal. It is expected that with faceless regime settling down, the scheme will benefit both assessee and tax administrators and most important of all, ease of doing business will be achieved.

BIRD'S EYE VIEW :

- Central Board of Direct Tax (CBDT) on Wednesday i.e. 12th January, 2021 introduced Faceless Penalty Scheme 2021, which will digitise handling of penalty proceedings on assessee under the Faceless Taxation regime.
- The Scheme notified by the board is on similar lines with the Faceless Assessment Scheme, 2020 and Faceless Appeal Scheme, 2020.
- Like Faceless Assessment and Faceless Appeal Scheme, the Faceless Penalty shall be done in a centralised manner.
- The CBDT may set-up the following centres & units and specify their respective jurisdiction:
 - a) National Faceless Penalty Centre (NFPC in short);
 - b) Regional Faceless Penalty Centres (RFPC in short);
 - c) Penalty Units (PU in short); and
 - d) Penalty Review Units (PRU in short).



FUNCTIONS OF VARIOUS CENTRES AND UNITS :

- NFPC shall facilitate the conduct of faceless penalty proceedings in a centralised manner and **shall assign the case to a specific Penalty Unit in any One RFPC** through an automated allocation system. NFPC shall be overall responsible body to dispose of appeal.

- RFPC shall facilitate the conduct of faceless penalty proceedings and which shall be vested with the jurisdiction to impose penalty in accordance with the provisions of this Scheme;
- PU shall perform the following tasks :
 1. Facilitate the conduct of faceless penalty proceedings
 2. To perform function of **drafting penalty orders**, after considering following:
 - Identification of points or issues for the imposition of penalty
 - Seeking information
 - Making further inquiry
 - Providing opportunity of being heard to the assessee.
 - Analysis of the material furnished by the appellant
 - Such other functions as may be required
- PRU shall perform the functions of **review of draft penalty order** after considering following points:
 - Arithmetical calculation and Computation of Penalty
 - Whether all material evidence has been brought on record.
 - Issues for which penalty has been imposed has been discussed in draft order.

FACELESS PENALTY– THE WAY OF FORWARD

- NFAC shall refer the case to NFPC where penalty proceedings have been initiated or penalty proceedings are recommended.
- NFPC shall assign the case to specific PU in any one of the RFPC.
- PU shall thereupon after examination of material available on record agree or disagree with recommendation of penalty and prepare draft show cause notice.
- NFPC on receipt of draft show cause notice shall serve the notice and specify the date and time of filling response.
- Assessee or such other person shall **furnish response** to the NFPC who in turn shall forward the same to Penalty Unit. In absence of receipt of information, the NFPC shall intimate the same to Penalty Unit.
- Request for **production of any document evidence** by assessee, or the examination of any document from Income Tax Authority or NFAC shall be through NFPC who in turn shall forward the same NFAC or Income Tax Authority.

■ OUTCOME OF CO-ORDINATION – PENALTY ORDER

- The **PU** shall prepare Draft Penalty Order for imposition of penalty or non-imposition of penalty based on all the relevant material available on record, responses of the assessee & NFAC and shall send such order to the NFPC
- Upon receipt of the Draft Penalty Order, the NFPC shall :
 - a. Send the Draft Order to a Penalty Review Unit in any one RFPC through an automated allocation system, for conducting review of such order.
 - b. **In any other case**, examine the draft order in accordance with the risk management strategy specified by the CBDT, including by way of an automated examination tool and **finalise the order and serve the copy to assessee**.
- Where this Penalty Review Unit, suggests any variance in such draft order, the NFPC shall, assign the case to a specific PU, **other than the PU which prepared or reviewed the draft order**, in any one RFPC through an automated allocation system. Such PU shall prepare a revised Draft Order in the same manner specified above, and send it to NFPC.
- Ultimately, the NFPC shall finalise the Draft Order as the case may be and communicate it to:
 - a. Assessee
 - b. NFAC
 - c. Income Tax Authority

■ TRANSFER OF PROCEEDINGS:

- Principal Chief Commissioner or Principal Director General, in charge of the NFPC, may at any stage of the penalty proceedings, if considered necessary, transfer the case to the Income Tax Authority or 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.

HOW TO GO ABOUT PERSONAL REPRESENTATION

- Personal hearing is **available only on request**.
- Where a request for personal hearing is made by the assessee or authorised representative so as **to make oral submissions or present case** before the PU the Chief Commissioner or Director General in charge of RFPC, **may approve the request** if he is of the opinion that the request is covered under the circumstances as may be notified by the Pr.CC/Pr.DG in charge of NFPC and further where request for personal hearing.
- Such hearing shall be conducted **exclusively through video conferencing or video telephony**, including use of any telecommunication application software which supports video conferencing or video telephony.

RECTIFICATION OF MISTAKE

- Upon receipt of a request for rectifying a mistake apparent from records by assessee, NFAC or AO or any Penalty Unit preparing or reviewing or revising the Draft Order, the NFPC shall assign such application to **a specific Penalty Unit in any one RFPC** through an automated allocation system.
- Such PU shall examine the application and prepare the notice for appropriate authority and send to NFPC.
- NFPC shall serve the notice to appropriate authority specifying the date and time for filling response. NFPC after receiving response shall send the same to Penalty unit.
- After taking into consideration the response filed against the notice, the Penalty Unit shall prepare a Draft Order rectifying the mistake or rejecting the application citing reasons thereof, and send the order to the NFPC for communicating it to the appellant, NFAC or AO as the case may be.

STILL AGGRIEVED BY THE PENALTY ORDER??

- An appeal against an order passed by the NFPC shall lie before the Commissioner (Appeals) having jurisdiction over the Income-tax authority or before the NFAC.

THE INFORMATION TECHNOLOGY ERA

- All electronic record shall be **authenticated** by the NFPC or the appellant by affixing digital signature or under Electronic Verification Code (EVC in short).
- Every notice / order or communication **shall be delivered to registered** e-mail address of the assessee or authorised representative only.

KEY DIFFERENTIATORS OF FACELESS SCHEME WITH EXISTING SCHEME:

- Dynamic Jurisdiction – abolition of territorial Jurisdiction
- Random allocation of cases
- Central issuing of notices with Document Identification Number (DIN)
- No physical interface
- No visit to department
- Technology Driven Interface
- Ease of compliance for tax payers
- Transparency and efficiency
- Functional specialisation
- Expeditious disposal of cases
- Power of NFPC to lay down standards, procedures and processes for effective functioning

Some important documents outlining Faceless Scheme are:

Sr. No.	Particulars
1	Notification No. 02 and 03 introducing Faceless Penalty Scheme, 2021 Link 1: https://tinyurl.com/y37gth2q Link 2: https://tinyurl.com/yygjt2je

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