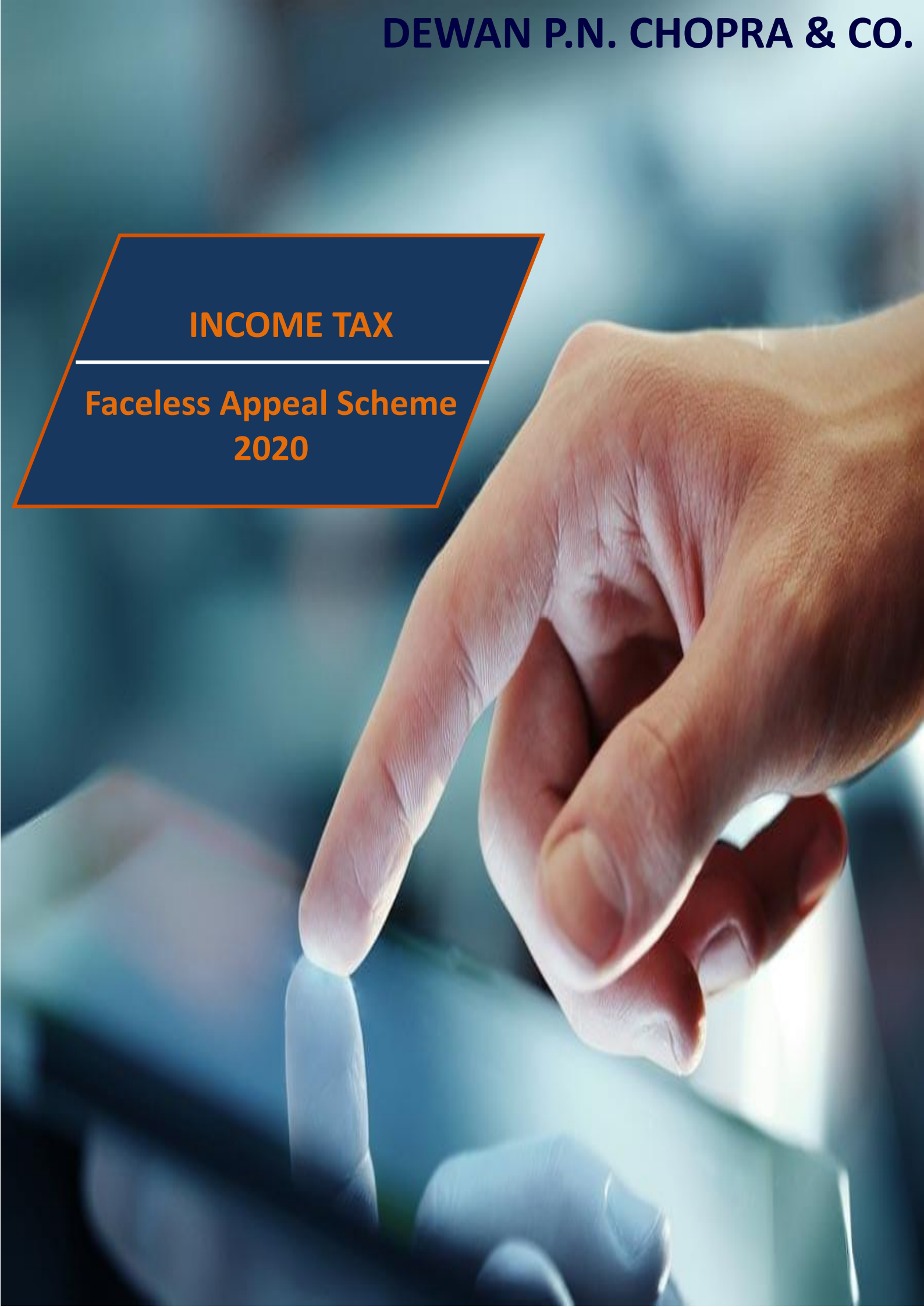


INCOME TAX

**Faceless Appeal Scheme
2020**



NOTE ON FACELESS APPEAL SCHEME 2020

Background:

The CBDT has notified the Faceless Appeal Scheme 2020 which has become effective from 25th September 2020.

Salient Features of Faceless Appeal Scheme

A) Scope

The appeal under this Scheme shall be disposed of in respect of such territorial area or persons or class of persons or incomes or class of incomes or cases or class of cases, as may be specified by the Board.

B) Faceless Appeal Centres

1. The Board shall set-up below centres and also specify their jurisdiction:

- (a) **National Faceless Appeal Centre ('NFAC')** to facilitate the conduct of e-appeal proceedings in a centralised manner and also undertake disposal of appeals;

- (b) **Regional Faceless Appeal Centres ('RFAC')** to facilitate the conduct of e-appeal proceedings and also undertake disposal of appeals;
- (c) **Appeal Unit ('AU')** to facilitate the conduct of e-appeal proceedings, to perform the function of disposing appeal.

Functions of AU include:

- (i) admitting additional grounds of appeal;
- (ii) admitting additional evidence;
- (iii) Condonation of delay in filing appeals;
- (iv) making inquiry;
- (v) directing the NeAC or the AO for making further inquiry, seeking information or clarification on admitted grounds of appeal;
- (vi) providing opportunity of being heard to the appellant;
- (vii) analysis of the material furnished by the appellant;

(viii) review of draft order assigned of other AUs;
and

(ix) such other functions as may be required for the
purposes of this Scheme.

2. **All communication** between the AU and the appellant or any other person or the NeAC or the AO with respect to the information or documents or evidence or any other details, as may be necessary under this Scheme shall be **through the NFAC in electronic mode**.

3. AU shall comprise of the following authorities:

(a) One or more CIT(A); and

(b) Such other income-tax authority, ministerial staff, executive or consultant to assist the Commissioner (Appeals) as considered necessary by the Board

C) Procedure in Appeals

1. NFAC shall **assign appeal to a specific AU** in any one RFAC through **automated allocation system**.

2. Where **appeal has been filed beyond the due date**, the AU may:

- (a) Admit the appeal where it is satisfied that there exists sufficient cause for not filing appeal within timeline; or
- (b) Reject the appeal

NFAC shall further intimate rejection or admission of appeal to the Appellant.

3. During Appellate proceedings, the AU may request NFAC:

- (a) to **obtain further information/documents** from the appellant/any other person;
- (b) to **obtain a report of the NeAC or the AO**, on grounds of appeal, or information or evidence filed by the appellant;
- (c) to direct the NeAC for making **further enquiry** and submit a report as per section 250(4).

NFAC shall serve notice in response to the above to the Appellant/any other person/AO/NeAC.

4. **Appellant or any other person shall file response** to the notice issued as mentioned in Point No.3 within the date and time specified therein or extended time as may be allowed on the basis of an application made to NFAC.
5. **NeAC or AO shall furnish a report** as mentioned in Point No. 3 within the date and time specified or such extended date and time as may be allowed on the basis of an application made to NFAC.
6. **NFAC shall send the response or report filed to the AU** and where no such report or response, inform the AU about it.

Filing of additional grounds of appeal

7. The Appellant may file additional grounds of appeal (in a form to be specified) with the NFAC **specifying** therein the **reason for omission** of such ground of appeal.

8. Where the additional ground of appeal is filed:

- (a) NFAC shall send additional grounds of appeal to the NeAC or the AO for **providing comments** and to the AU;
- (b) NeAC or the AO shall furnish their comments which shall be sent to the AU. In case no comments are filed, AU will be informed.
- (c) AU after receiving the comments shall record in **writing and intimate the admission** (where satisfied that the omission was not wilful or unreasonable) or rejection of additional ground to the NFAC.

NFAC would further intimate the decision of admission/rejection to the Appellant.

Filing of Additional Evidence

9. Appellant may file additional evidences in such form as may be prescribed specifying as to how his case is covered by the exceptional circumstances specified in Rule 46A.

For the purpose of admission of additional evidences the same procedure as explained above in the case of additional grounds shall be applicable.

10. Where additional evidence has been admitted, before taking such evidence in account, the AU shall provide opportunity to NeAC or the AO to examine the evidence or cross examine any witness or to produce any evidence/document/witness in rebuttal of evidence/witness produced by the appellant and furnish its report.
11. NFAC shall send the report to the AU or inform AU where no such report is received.
12. Where the NeAC or AO, requests the NFAC to direct the production of any document or evidence by the appellant, or the examination of any witness:
 - (a) The NFAC shall send such request to the AU, who shall consider the same and prepare a notice as it may deem fit, directing submission of such further information/document or for examination of a witness.

- (b) The Notice prepared by the AU shall be forwarded by the NFAC to the appellant or any such other person.
- (c) Appellant shall file his response to the notice within the specified date & time with the NFAC, for the perusal of the AU.

Enhancement of assessment or penalty or reduction of amount of refund

13. AU shall prepare show cause notice containing reasons for enhancement or reduction of amount of refund and send such notice to the Appellant through NFAC.

Preparation of draft appeal order (including in case of enhancement etc.)

14. AU after considering the relevant material available including the response filed, if any, by the appellant or any other person, as the case may be, or report furnished by the NeAC or the AO, as the case may be, and after considering any matter arising out of the proceedings in which the order appealed against was

passed, notwithstanding that such matter was not raised in the appeal, prepare and send a draft order along with details of initiation of penalty (if any) to the NFAC.

Review of draft order

15. NFAC on receipt of draft order shall:

- (a) where the aggregate amount of tax, penalty, interest or fee, including surcharge and cess, payable in respect of issues disputed in appeal, is more than a **specified amount (to be prescribed)**, send the draft order to an AU, other than the AU which prepared such order, in any one RFAC 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 Board, including by way of an automated examination tool and **Finalize the appeal as per the draft order**; or **send the draft order for review** to some other AU in any one RFAC through an automated allocation system.

16. Such AU shall review the draft order and decide to:

- (a) Concur with the draft order. Accordingly, NFAC shall finalize the appeal as per the said draft order.
- (b) Suggest variations and send to NFAC.

Reference to the 3rd AU where variation in the draft order is suggested by the review unit

- Where suggestions result in enhancement of assessment/penalty or reduction of refund, NFAC shall send the suggestions to a 3rd AU (other than the AU which prepared the draft order or the AU which reviewed it) which shall follow the procedure of providing opportunity to the appellant (similar to the case of enhancement) [refer Point 12 & 13] and accordingly prepare a revised draft order along with details of penalty proceedings (if any) and send to NFAC.
- In any other case, AU shall prepare revised draft order as it may deem fit along with penalty proceedings (if any) and send it to NFAC.

17. NFAC shall send the final appeal order to the Appellant, Pr.CCIT/Pr CIT & NeAC/AO.

D) No Personal Appearances in the Centres or Units:

1. The scheme provides that a person shall not be required to appear either personally or through authorized representative in connection with any proceedings under this Scheme before the income-tax authority.
2. However, the appellant may **request for personal hearing** so as to make his oral submissions or present his case before the AU under this Scheme.
3. The Chief Commissioner or the Director General, in charge of the Regional Faceless Appeal Centre, under which the concerned AU is set up, may approve the request for personal hearing **only in certain circumstances which are yet to be specified**. Upon approval, 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, in accordance with the procedure laid down by the Board.

E) Penalty proceedings for any non-compliance in appellate proceedings

1. AU in the course of appeal proceedings for non-compliance of any notice, direction or order issued send recommendation for initiation of any penalty proceedings to the NFAC.
2. NFAC shall serve notice on the appellant or any other person. NFAC shall allocate penalty proceedings to a specific AU in any one RFAC through automated allocation system.
3. The AU after considering the response of Appellant shall either:
 - (a) Prepare draft order and send to NFAC or
 - (b) Drop the penalty proceedings

NFAC shall send the order of penalty to the Appellant or intimation of dropping of penalty proceedings.

F) Rectification Proceedings against appeal order

1. Application of rectification of mistake may be filed with the NFAC by the following:
 - (a) Appellant or any other person or
 - (b) AU preparing or reviewing or revising the draft order or
 - (c) NeAC or AO
2. Application received by NFAC shall be assigned to a specific AU in any one RFAC through automated allocation system.
3. The AU shall examine application and prepare notice for granting an opportunity to the appellant or any other person as the case may be, which shall be sent to the NFAC.
4. Response filed by the Appellant or any other person, as the case may be shall be sent to the AU by the NFAC.

5. AU shall prepare draft order for rectification of mistake or rejection of application for rectification and send it to NFAC.
6. NFAC shall pass final order as per draft order and send to the Appellant or any other person as the case may be (as mentioned in Point 1)

G) Appeal before the ITAT:

An appeal against an order passed by the NFAC shall lie before the ITAT having jurisdiction over the jurisdictional AO.

H) Exchange of communication exclusively by electronic mode:

The Scheme provides that all communications between the NFAC and the appellant and all internal communications between the NFAC, the RFAC, the NeAC, the AO and the AU shall be exchanged exclusively by electronic mode.

I) Authentication and Delivery of Electronic Record:

All electronic record shall be authenticated by the NFAC or the appellant by affixing his digital signature or under electronic verification code [where appellant is not required to furnish return of income with digital signature]. Further, every notice/order or communication shall be delivered to the addressee, being the appellant, by way of:

- (a) delivered to the addressee, being the appellant, by way of sending an authenticated copy thereof to the registered email address of the appellant or his authorised representative; or
- (b) uploading an authenticated copy on the appellant's Mobile App; and followed by a real time alert.

J) Power to specify format, mode, procedure and processes:

The Principal Chief Commissioner or the Principal Director General, in charge of the NFAC shall, with the prior approval of Board, lay down the standards,

procedures and processes for effective functioning of Centres/units set-up under this Scheme, in an automated and mechanised environment including format, mode, procedure and processes in respect of the following, namely:

- (a) service of the notice, order or any other communication;
- (b) receipt of any information or documents from the person in response to the notice, order or any other communication;
- (c) issue of acknowledgment of the response furnished by the person;
- (d) provision of “e-appeal” facility including login account facility, tracking status of appeal, display of relevant details, and facility of download;
- (e) accessing, verification and authentication of information and response including documents submitted during the appellate proceedings;
- (f) receipt, storage and retrieval of information or documents in a centralised manner;

- (g) general administration and grievance redressal mechanism in the respective Centres and units;
- (h) filing of additional ground of appeal;
- (i) filing of additional evidence;
- (j) specified amount referred to in sub-clause (a) of clause (xix) of sub-paragraph (1) of paragraph 5;
- (k) circumstances in which personal hearing referred to in sub-paragraph (3) of paragraph 12 shall be approved

For details refer the Faceless Appeal Scheme 2020 at the below link:

<https://www.taxsutra.com/news/26511/CBDT-notifies-Faceless-Appeal-Scheme-2020-effective-immediately>

DISCLAIMER:

The information contained herein is in summary form based on interpretation of Faceless Appeal Scheme 2020 issued by CBDT vide Notifications dated 25.09.2020. While the information is believed to be accurate to the best of our knowledge, we do not make any representations or warranties, express or implied, as to the accuracy or completeness of this information. Reader should conduct and rely upon their own examination and analysis and are advised to seek their own professional advice. This document is not an offer, invitation, advice or solicitation of any kind. We accept no responsibility for any errors it may contain, whether caused by negligence or otherwise or for any loss, howsoever caused or sustained, by the person who relies upon it.