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E-APPEALS SCHEME 2023

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e-Appeals Scheme 2023

1. Finance Act 2023 substituted section 246 of the IT Act with effect from 1 April 2023 to establish a new authority – Joint Commissioner of Income-tax (Appeals) (JCIT(A)) – who shall dispose of a certain type of appeals. Section 246(5) of the IT Act grants power to Central Government to make a scheme to dispose of appeals in an expedient manner with transparency and accountability, by eliminating the interface between the JCIT(A) and taxpayer, during appellate proceedings to the extent technologically feasible.

2. To facilitate the functioning of the JCIT (Appeals), the Central Board of Direct Taxes (CBDT) has introduced the e-Appeals Scheme 2023, which came into effect on 29th May 2023.

3. Following are the summarised key provisions of the said notification:

3.1 Applicability to whom:

The Scheme shall apply to appeals, in respect of such persons or incomes or cases as covered under section 246 of the IT Act. However, it shall not apply to cases mentioned in section 246(6) of the IT Act.

3.2 Applicable from?

The Scheme shall be effective from 29 May 2023.

3.3 Who shall dispose of appeals which are covered by the Scheme?

The JCIT(A) shall dispose of appeals filed before it or allocated/transferred to it.

3.4 How will the appeals be allocated?

The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall, with the approval of the CBDT, devise a process to randomly allocate or transfer the appeal to JCIT(A).

3.5 What is the procedure for the disposal of appeals?

On assignment of an appeal, the JCIT(A):

- In case of delayed appeal, may condone the delay in filing of appeal after recording reasons for such condonation;
- Shall give notice to the taxpayer to file his submissions within the date and time specified therein and also send a copy of such notice to the tax officer;
- May obtain further information, document or evidence from the taxpayer or any other person;
- May obtain a report from the tax officer on the grounds of appeal or information, document or evidence furnished by the taxpayer;
- May request the tax officer to make further enquiry as permitted under section 250(4) of the IT Act and submit a report thereof;

Shall serve a notice to the taxpayer, any other person or the tax officer to submit such information, document or evidence or report, as the case may be, on a specified date and time.

3.6 Where the taxpayer raises additional ground, what is the procedure followed by JCIT(A)?

The taxpayer may file additional grounds of appeal with JCIT(A). Said submission should contain reasons for the omission of those grounds in the original grounds of appeal. In respect of additional ground, the JCIT(A) shall:

Type of Order	JCIT(A) action
where the orders are passed under section 143(1)/200A of the IT Act or any other case where the appealable order is passed by the Central Processing Centre	admit such additional grounds of appeal
In any other case	JCIT(A) is to send such additional grounds to the tax officer for his/her comments, if any, with a timeline for furnishing the response.

After taking cognisance of comments, if any, the JCIT(A) shall:

- Admit the additional ground, if satisfied that the omission was not wilful or there was the sufficient cause; or

In any other case, reject the additional grounds by recording reasons.

3.7 What is the procedure in case additional evidence is furnished?

The taxpayer may furnish additional evidence, other than the evidence furnished before the tax officer, to JCIT(A) in the specified form. The application should specify how the taxpayer's case is covered by the exceptional circumstance mentioned in Rule 46A of the Income-tax Rules, 1962 (IT Rules).

The JCIT(A), on receipt of such application, shall:

Type of Order	JCIT(A) action
where the orders are passed under section 143(1)/200A of the IT Act or any other case where the appealable order is passed by the Central Processing Centre	admit such evidence
In any other case	JCIT(A) to send such additional evidence to the tax officer for furnishing a report on the admissibility of additional evidence

- On considering the additional evidence and report (if any) furnished by the tax officer, the JCIT(A) may admit or reject the additional evidence with reasons recorded.
- Additional evidence can be admitted only after providing an opportunity to the tax officer to examine such evidence or cross-examine the witness of the taxpayer or produce the same in rebuttal and furnishing a report to JCIT(A) within a specified time.
- The Tax Officer may request the JCIT(A) to direct the production of any document or evidence by the taxpayer, or the examination of any witness, as may be relevant to the appellate proceedings.

The JCIT(A) for the purposes of making enquiries in the appeal proceedings, may send a notice directing the taxpayer to produce a specified document/ evidence/ witness for examination within the specified time.

3.8 Where JCIT(A) intends to enhance assessment/penalty or reduce refund, what will be the procedure followed?

- The JCIT(A) shall prepare and serve a show cause notice on the taxpayer, who shall furnish a response within the specified time.
- Thereafter, the JCIT(A) shall prepare an appeal order in accordance with section 251 of the IT Act stating points for determination, the decision thereon and the reason for the decision.
- JCIT(A) is to send a digitally signed order to the tax officer along with details of the penalty proceedings, if any, to be initiated therein.
- JCIT(A) shall also communicate such order to Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner and the Tax Officer. where initiation of penalty has been recommended in the order, JCIT(A) shall serve a notice upon the taxpayer calling upon him to show cause as to why penalty should not be imposed upon him under the relevant provisions of the IT Act.

3.9 Where JCIT(A) decides to initiate penalty proceedings, what procedure will be followed?

- The JCIT(A) may send a show cause notice for initiation of penalty proceedings to taxpayer or any other person for non-compliance with any notice, direction or order issued under this Scheme and seek a response within the specified time.
- After taking into account all the relevant material available on record, including the response furnished (if any), the JCIT(A) shall:

- i. prepare and serve penalty order after digitally signing the same;
- ii. Send an intimation about dropping the proceedings after recording reasons for the same.

3.10 What is the procedure for rectification proceeding?

- The JCIT(A) may amend any order passed by it with a view to rectifying any mistake apparent from the record on an application filed either by the taxpayer or any other person.
- The JCIT(A) shall examine the application and send a notice for granting an opportunity of hearing to a party other than the one that has filed the application.
- After considering the application and response (if any), the JCIT(A) shall either:
 - i. rectifying the mistakes; or
 - ii. rejecting the application with reasons recorded
- JCIT(A) shall send the digitally signed order to the applicant and tax officer for such action as may be required under the relevant provision of the IT Act.

3.11 How to determine jurisdictional tax tribunal when the order is passed by JCIT(A)?

An appeal against the order of JCIT(A) shall lie with the Tax Tribunal having jurisdiction over the jurisdictional tax officer of the taxpayer.

3.12 What will be the mode of communication between JCIT(A) and the taxpayer and JCIT(A) and Tax Authorities?

All communications between the JCIT(A) and the taxpayer or his authorised representative as well as between JCIT(A) and Tax Authorities shall be through electronic mode to the extent technologically feasible.

3.13 How can electronic records be authenticated?

- In the case of JCIT(A)- by affixing his/her digital signatures.
- In the case of taxpayers- by affixing their digital signatures or under an electronic verification code or by logging into their registered account in the designated portal.

3.14 How will the Electronic Record (i.e., notice or order or any other electronic communication) under the Scheme be delivered?

Addressee	Mode of communication
Taxpayer	<ol style="list-style-type: none"> 1. placing an authenticated copy thereof in the taxpayer's registered account; or 2. sending an authenticated copy thereof to the registered e-mail address of the taxpayer or his authorised representative; or 3. uploading an authenticated copy on the Mobile App of the taxpayer followed by a real-time alert.
Any other person	sending an authenticated copy thereof to the registered e-mail address of such person followed by a real-time alert

3.15 What will be the mode for the taxpayer to furnish his response?

The taxpayer shall furnish his response to any notice or order or any other electronic communication, under this Scheme, through his registered account, and once an acknowledgement is sent upon successful submission of the response, the response shall be deemed to be authenticated.

3.16 Can taxpayers request a personal hearing? If yes, how will the personal hearing be conducted?

- Request for a personal hearing can be made by the taxpayer or his authorised representation for making oral submissions or presenting his case before JCIT(A), who shall allow such request and communicate the date and time of the hearing to the taxpayer.
- The mode of hearing/ examination/ recording of the statement of the taxpayer or any other person shall be through video conferencing or video telephony.

3.17 What will be the function of the National Faceless Assessment Centre (NFAC) under this Scheme?

The Principal Chief Commissioner of Income-tax (NFAC), with the prior approval of CBDT, shall perform the following functions:

- Transfer in and out cases from the Scheme;
- Transfer cases from one JCIT(A) to another;
- Approval of formats of notices or letters;
- Issuing Standard Operating Procedures for various processes and for conducting video conferences;
- Co-ordinate and devise processes for allocation of appeals;

Notification shall be downloaded from the below link:

<https://incometaxindia.gov.in/communications/notification/notification-33-2023.pdf>