

Prelude
to
Faceless income-tax administration
in
India

1. Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Bill, 2020 *{hereinafter referred to as the Bill}* was introduced in Lok Sabha on 18th September, 2020, which has since been passed by the Lok Sabha on 19th September, 2020.
2. As Parliament was not in session and in view of the urgency, the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (Ordinance 2 of 2020) *{hereinafter referred to as the Ordinance}* was promulgated on the 31st day of March, 2020 which, *inter alia*, relaxed certain provisions of the specified Acts relating to direct taxes, indirect taxes and prohibition of *Benami* property transactions. Further, certain notifications were also issued under the said Ordinance, especially following three Notifications for the purposes of the “specified Acts”:
 - CBDT Notification No. 35/2020 dated 24.6.2020
 - CBDT Notification No. 39/2020 dated 29.6.2020
 - CBDT Notification No. 56/2020 dated 29.7.2020
3. The Bill proposes to replace the “*Ordinance*”. Therefore, suitable amendments are considered necessary to be incorporated in the “*Bill*” proposing to replace the Ordinance.
4. Since the above mentioned notifications are fall out of the “*Ordinance*”, there it was necessary to regularise the relaxations, extensions and other effects emanated from the “*Ordinance*” vide above mentioned notifications. Therefore, the “*Bill*” proposes to enact such relaxations, extensions and other effects.
5. Accordingly the “*Bill*” which seeks to replace the said “*Ordinance*”, *inter alia*, provides for extension of various time limits for **completion or compliance** of actions under the specified Acts **and** reduction in interest, waiver of penalty and prosecution for delay in payment of certain taxes or levies during the specified period *etc.*
6. Further, in view of stakeholders' representations received by the Central Government after enactment of the Finance Act, 2020, and due to need for further rationalisation of some provisions of certain Acts,
7. Further, the “*Bill*” proposes amendments to the Income-tax Act, 1961 which , *inter alia*, include -
 - (i) providing of tax incentive for Category-III Alternative Investment Funds located in the International Financial Services Centre (IFSC) to encourage relocation of foreign funds to the IFSC,

- (ii) deferment of new procedure of registration and approval of certain entities introduced through the Finance Act, 2020,
- (iii) providing for deduction for donation made to the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND) and exemption to its income,
- (iv) incorporation of Faceless Assessment Scheme, 2019 therein, empowering the Central Government to notify schemes for faceless processes under certain provisions by eliminating physical interface to the extent technologically feasible,
- (v) to provide deduction or collection at source in respect of certain transactions at three fourth's rate for the period from 14th May, 2020 to 31st March, 2021,
- (vi) to amend the Direct Tax *Vivad se Vishwas* Act, 2020 to extend the date for payment without additional amount to 31st December, 2020 and to empower the Central Government to notify certain dates relating to filing of declaration and making of payment,
- (vii) to empower the Central Government to remove any difficulty up to a period of two years, **and**
- (viii) to provide for repeal and savings of the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020.

8. As per the “Financial Memorandum” appended to the “*Bill*”, it seeks to replace the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 and further to amend -

- the Income-tax Act, 1961,
- the Central Goods and Services Tax Act, 2017,
- the Finance (No.2) Act, 2019,
- the Direct Tax *Vivad se Vishwas* Act, 2020 and
- the Finance Act, 2020

which are administered by the Department of Revenue through two boards, namely, -

- the Central Board of Direct Taxes and
- the Central Board of Indirect Taxes.

Thus, no additional expenditure is contemplated on the enactment of the “*Bill*”.

- 9. One of the major move of the Government is proposals for “Face Less Assessments **and** Faceless completion and compliance of actions under Income Tax Act, 1961.
- 10. This article only surmises and provides bird’s eye view of the “Face Less Proposals”.

11. The “*Bill*” provides that the Central Government shall make several and different Schemes for faceless **completion or compliance** of actions under the Income Tax Act, 1961 as to impart greater efficiency, transparency and accountability by —
- (i) eliminating the interface between the income-tax authority and the assessee **or** any other person, to the extent technologically feasible;
 - (ii) optimising utilisation of the resources through economies of scale and functional specialisation;
 - (iii) introducing a team-based exercise of powers **and** performance of functions by two or more income-tax authorities, concurrently, in respect of any area **or** persons **or** classes of persons **or** incomes **or** classes of income **or** cases **or** classes of cases, with dynamic jurisdiction.
12. A summary of the proposed Schemes is as follows:

Summary of proposals
for
Faceless Schemes

SN	Section of the Amendment Act	Section of the Income Tax Act, 1961	w.e.f.	Scope	As per a Scheme to be made by the Central Government
1	4 (XVIII)	130	1.11.2020	<p>Faceless jurisdiction of income- tax authorities for the purposes of —</p> <p>(a) exercise of all or any of the powers and performance of all or any of the functions conferred on, or, as the case may be, assigned to income-tax authorities by or under this Act as referred to in section 120; or</p> <p>(b) vesting the jurisdiction with the Assessing Officer as referred to in section 124; or</p> <p>(c) exercise of power to transfer cases under section 127; or</p> <p>(d) exercise of jurisdiction in case of change of incumbency as referred to in section 129.</p>	Yes – Yet to be notified

2	4 (XXI)	135A	1.11.2020	Faceless collection of information - for the purposes of calling for information under section 133, collecting certain information under section 133B, or calling for information by prescribed income-tax authority under section 133C, or exercise of power to inspect register of companies under section 134, or exercise of power of Assessing Officer under section 135	Yes – Yet to be notified
3	4 (XXII)	142B	1.11.2020	Faceless inquiry or valuation - for the purposes of issuing notice under sub-section (1) or making inquiry before assessment under sub-section (2), or directing the assessee to get his accounts audited under sub-section (2A), of section 142, or estimating the value of any asset, property or investment by a Valuation Officer under section 142A	Yes – Yet to be notified
4	4 (XXIII)	143(3B)	1.4.2021	Restricting the issuance of direction - u/s 143(3B) up to 31 st March, 2021	-
5	4 (XXIII)	143(3D)	1.4.2021	Discontinuing e-assessment scheme notified u/s 143(3A) - <i>vide</i> insertion of following provision: “Nothing contained in sub-section (3A) and sub-section (3B) shall apply to the assessment made under sub-section (3) or under section 144, as the case may be, on or after the 1st day of April, 2021.”	-
6	4 (XXIV)	144B	1.4.2021	Faceless assessment – Assessment to be framed by “ <i>National Faceless Assessment Centre</i> ” through “ <i>Regional Faceless Assessment Centre</i> ” in accordance with the procedure laid down under this section 144B with the joint effort of following through automated allocation system and keeping in view the risk management strategy specified by the and 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,	-

				<p>exclusively by electronic mode:</p> <p>(i) assessment unit (ii) verification unit (iii) technical unit (iv) review unit (v) dispute resolution penal</p>	
7	4 (XXV)	144C (14B)	1.4.2021	Scheme , by notification in the Official Gazette, for the purposes of issuance of directions by the dispute resolution panel.	Yes – Yet to be notified
8	4 (XXVI)	151A	1.11.2020	Faceless assessment of income escaping assessment - for the purposes of assessment, reassessment or re-computation under section 147 or issuance of notice under section 148 or sanction for issue of such notice under section 151	Yes – Yet to be notified
9	4 (XXVII)	157A	1.11.2020	Faceless rectification, amendments and issuance of notice or communication - for the purposes of rectification of any mistake apparent from record under section 154 or other amendments under section 155 or issue of notice of demand under section 156, or intimation of loss under section 157	Yes – Yet to be notified
10	4 (XXXI)	231	1.11.2020	Faceless collection and recovery of tax - for the purposes of issuance of certificate for deduction of income-tax at any lower rates or no deduction of income-tax under section 197, or deeming a person to be an assessee in default under sub-section (1) of section 201 or sub-section (6A) of section 206C, issuance of certificate for lower collection of tax under sub-section (9) of section 206C or passing of order or amended order under sub-section (3) or sub-section (4) of section 210, or reduction or waiver of the amount of interest paid or payable by an assessee under sub-section (2A), or extending the time for payment or allowing payment by instalment under sub-section (3), or treating the assessee as not being in default under sub-section (6)	Yes – Yet to be notified

				or sub-section (7) of section 220, or levy of penalty under section 221, or drawing of certificate by the Tax Recovery Officer under section 222, or jurisdiction of Tax Recovery Officer under section 223, or stay of proceedings in pursuance of certificate and amendment or cancellation thereof by the Tax Recovery Officer under section 225, or other modes of recovery under section 226 or issuance of tax clearance certificate under section 230.	
11	4 (XXXII)(b)	253(8)	1.11.2020	Faceless appeal to Income Tax Appellate Tribunal - for the purposes of appeal to the Appellate Tribunal under sub-section (2).	Yes – Yet to be notified
12	4 (XXXV)	264A	1.11.2020	Faceless revision of orders - for the purposes of revision of orders under section 263 or section 264.	Yes – Yet to be notified
13	4 (XXXV)	264B	1.11.2020	Faceless effect or orders - for the purposes of giving effect to an order under section 250, 254, 260, 262, 263 or 264.	Yes – Yet to be notified
14	4 (XXXIX)	279(4)	1.11.2020	Faceless effect of orders - for the purposes of granting sanction under sub-section (1) or compounding under sub-section (2).	Yes – Yet to be notified
15	4 (XXXX)	293D	1.11.2020	Faceless approval or registration - for the purposes of granting approval or registration, as the case may be, by income-tax authority under any provision of the Act.	Yes – Yet to be notified

13. It may be noted that the above proposals does not include proposal for faceless **appellate proceedings before Commissioner (Appeals)**. It is because, The Finance Act, 202 had inserted sub-section (6B), sub-section (6C) and sub-section (6D) to section 250 of the Income Tax Act, 1961 *w.e.f.* 1.4.2020, empowering the Central Government to make a scheme for the purpose of disposal of appeal by Commissioner (Appeals). In this regards the Central Government **may direct** that any of the provisions of the Income Tax Act, 1961 relating to jurisdiction and procedure for disposal of appeals by Commissioner (Appeal) shall not apply **or** shall apply with such exceptions, modifications and adaptations as may be specified in the notification.

14. There are two common proposals in all the above proposals, which are as follows:

*“The Central Government **may**, for the purpose of giving effect to the scheme made under sub-section, by notification in the Official Gazette, **direct** that any of the provisions of this Act **shall not apply or shall apply** with such exceptions, modifications and adaptations as may be specified in the notification.”*

“Provided that no direction shall be issued after the 31st day of March, 2022.”

“Every notification issued under sub-section and sub-section shall, as soon as may be after the notification is issued, be laid before each House of Parliament.”

Disclaimer

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