

'e-Appeals Scheme, 2023' prescribes extant procedure for personal hearing, additional grounds/evidence, penalty etc.

May 30, 2023

CBDT notifies [e-Appeals Scheme, 2023](#) pursuant to amendment in Section 246 of the Income-tax Act by the Finance Act, 2023 (w.e.f. Apr 1, 2023); The Finance Act, 2023 established a new authority Joint Commissioner of Income-tax (Appeals) [JCIT(A)] to hear the appeals arising from the prescribed orders passed by an AO below the rank of JCIT whereas the appeal does not lie before JCIT(A) if an order is passed after seeking approval of an authority above the rank of DCIT; The e-Appeals Scheme, 2023 prescribes a procedure for assignment of appeal to JCIT(A), admission of additional grounds of appeal and additional evidence apart from rectification and penalty proceedings; As per the new scheme where additional grounds or additional evidence is filed against order passed by CPC, the JCIT(A) shall admit such additional grounds or additional evidence as the case may be, without any further procedure whereas in all other cases, comment of concerned AO would be sought on such additional ground/evidence before admitting or rejecting the same; The Scheme categorially provides that correspondence between JCIT(A) and assessee shall be in electronic mode and where the request for personal hearing is made by the assessee, JCIT(A) "shall allow" such request and hear the assessee through video conference or video telephony to the extent it is technologically feasible as per the procedure prescribed by CBDT

Salient Features of e-Appeals Scheme, 2023

Scope

1. The Scheme shall apply to appeals, in respect of such persons or class of persons, incomes or class of incomes, cases or class of cases, as covered under section 246 except the cases excluded under sub-section(6)

Appeal Authority under the Scheme

2. JCIT(A) shall dispose of the appeals filed before it or allocated or transferred to it, in accordance with the provisions of this Scheme.

3. JCIT(A) shall have such income-tax authority, ministerial staff, executive or consultant to assist in the disposal of appeals, as may be considered necessary by the Board.

Allocation of appeals

4. PDGIT(Systems) or DGIT(systems) with prior approval of CBDT, shall devise a process to randomly allocate or transfer the appeals to JCIT(A).

Procedure

5. On being assigned an appeal, the JCIT(A):

(a) May condone the delay in filing appeal as permitted under Section 249 with reasons recorded for the condonation;

(b) Give notice to the assessee to file his submissions within time specified in the notice and send a copy to the AO;

(c) May obtain further information, document or evidence from the assessee or any other person

(d) May obtain a report of AO on the grounds of appeal or information, document or evidence furnished by the assessee;

(e) May request the AO to make further inquiry under 250(4) and submit a report;

(f) Serve a notice on the Assessee, any other person or the AO to submit such information, document or evidence or report, as the case may be, as may be specified by it or relevant to the appellate proceedings, on a specified date and time;

For additional grounds

6. The assessee may file additional grounds to the appeal before JCIT(A) specifying reasons for omission of those grounds.

7. Where additional grounds of appeal are filed, JCIT(A) shall admit such additional ground in case of orders passed under Section 143(1)/Section 200A or any other case where the appealable order is an order passed by CPC.

8. In any other case, the JCIT(A) shall send the additional grounds to the AO for providing comments.

9. The AO shall furnish the comments within the date and time specified in the application to JCIT(A).

10. JCIT(A) may admit the additional grounds if the omission is found to be not wilful or there was sufficient cause was such omission. In any other case, the JCIT(A) shall reject the additional ground by recording reasons.

For additional evidence

11. The assessee may also furnish additional evidence other than the evidence furnished before the AO during the proceedings, to the JCIT(A) in such form as specified by JCIT(A) specifying in which the exceptional circumstances specified under Rule 46(1) is it covered.

12. JCIT(A) shall admit the additional evidence in case of orders passed under Section 143(1)/Section 200A or any other case where the appealable order is an order passed by CPC.

13. In any other case, the JCIT(A) shall send the additional evidence to AO to furnish a report on its admissibility as per Rule 46A of the Rules.

14. The AO shall furnish the report within the date and time specified in the application to the JCIT(A).

15. On considering the additional evidence and report, the JCIT(A) may admit or reject the additional evidence with reasons recorded and the same shall be part of the appeal order.

16. If the additional evidence is admitted, JCIT(A) shall, before taking such evidence into account in the appellate proceedings, by a notice, provide an opportunity to the AO to examine the evidence and cross-examine the witness of the assessee or produce the same in rebuttal and furnish a report.

17. The AO shall furnish the report within specified date and time to the JCIT(A)

18. The AO may request JCIT(A) to direct the production of the document and evidence by the assessee or examination of witness as relevant to the appellate proceedings.

19. JCIT(A) for the purpose of making enquiries in the appeal proceedings, may send a notice directing assessee to produce such document or evidence, as it may specify or for examination of any other person being a witness.

20. The assessee shall furnish his response within specified date and time to JCIT(A)

For enhancement of assessment or penalty or reduction of refund

21. JCIT(A) shall prepare a show cause notice and shall serve it upon the assessee, who shall furnish a response within specified date and time.

22. The JCIT(A) will prepare an appeal order as per provisions of Section 251 stating the reasons therein with details of penalty proceedings, if any, and send it after digitally signing it to the assessee, AO, PCCIT or CCIT or PCIT or CIT as per Section 250(7).

23. Where penalty initiation is recommended in the order, JCIT(A) shall serve a notice to the assessee to show cause as to why it should not be imposed.

24. The appeal may be transferred at any stage of the appellate proceedings, if considered necessary, by an order in accordance with section 120, to such JCIT(A) as may be specified in the order.

Penalty Proceedings

25. The JCIT(A) may send a notice to the assessee or any other person for non-compliance of any notice, direction or order, for initiation of penalty proceedings and to show cause as to why penalty should not be imposed.

26. The assessee or any other person, shall furnish a response within specified date and time as allowed in the application.

27. The JCIT(A) shall, after taking into account all the relevant material available on the record, including the response furnished, prepare a penalty order and serve a copy of such order after digitally signing the same or drop the proceedings after recording reasons for the same and send intimation thereof.

Rectification Proceedings

28. With a view to rectifying any mistake apparent from the record the JCIT(A) may amend any order passed by it.

29. An application for rectification of mistake may be filed with the JCIT(A) by the assessee, or any other person or the AO.

30. The JCIT(A) shall examine the application and send notice for granting an opportunity of hearing to the party other than the one who filed the application for rectification, calling upon them to show cause as to why rectification of mistake should not be carried out

31. The JCIT(A) shall, after taking into consideration application and response, either rectify the mistake or reject the application with reasons recorded and send it digitally signed to the assessee and the AO.

Appeal against order of JCIT(A)

32. An appeal against an order of JCIT(A) shall lie before ITAT having jurisdiction over the jurisdictional AO of the assessee.

33. Subject to the scope of the Scheme, where any order passed by JCIT(A) is set-aside and remanded back to JCIT(A) by ITAT or HC or SC, the order shall be assigned to JCIT(A) for further action in accordance with the provisions of this Scheme.

Exchange of communication by electronic mode

34. All communications between the JCIT(A) and assessee or his authorised representative shall be through electronic mode, to the extent technologically feasible. Similarly, all internal communications between the JCIT(A), AO, PCCIT, PCIT or CIT shall be exchanged by electronic mode.

Authentication of electronic record

35. The Scheme provides the JCIT(A) shall affix his digital signatures for authentication of electronic

record

36. Assessee shall authenticate electronic records by affixing their digital signatures or under electronic verification code or by logging into his registered account in the designated portal

Delivery of electronic record

37. The authenticated copy of the notice, order or electronic communication to be sent to the assessee or any other person, by way of it being placed to its registered account, sent to his or his AR's registered email address or uploaded on the Mobile App followed by real time alert.

38. The assessee shall respond to any notice or order through his registered account and the response shall be deemed to be authenticated once an acknowledgment is sent upon successful submission of response.

Request for Personal Hearing

39. A request for personal hearing can be requested by the assessee for making oral submissions or present his case before JCIT(A) and concerned JCIT(A) shall allow such request and communicate the date and time of hearing to the assessee.

40. Hearing shall be conducted through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, to the extent technologically feasible as per the procedure laid down by the CBDT.

41. Any examination or recording of the statement of the appellant or any other person shall be conducted by the JCIT(A) exclusively through video conferencing or video telephony.

42. CBDT shall establish suitable facilities for video conferencing or video telephony including telecommunication application software which supports video conferencing or video telephony at such locations as may be necessary, to ensure that assessee or any other person is not denied benefit merely due to inability to access such communication medium.

Functions of PCCIT (NFAC)

43. PCCIT(NFAC) with prior approval of CBDT shall perform following functions for effective functioning of JCIT(A):

- (i) transfer in and transfer out of cases from e-appeal Scheme;
- (ii) transfer of cases from one JCIT(A) to another;
- (iii) co-ordinate with the PDGIT(Systems)/DGIT(Systems) for devising processes for allocation of appeals, if required;
- (iv) approval of Formats of notices or letter;
- (v) issuing SOPs for various processes and for conducting Video Conference; and
- (vi) any other procedural function assigned by the CBDT from time to time.

Power to specify format, mode, procedure and processes

44. PDGIT(Systems)/DGIT(Systems) in consultation with PCCIT(NFAC) shall, if required, with the prior approval of CBDT, lay down the standards, procedures and processes for effective functioning of the JCIT(A) in an automated and mechanised environment, including format, mode, procedure and processes for:

- (i) service of the notice, order or any other communication;

- (ii) receipt of any information or documents from the person in response to the notice, order or any other communication;
- (iii) issue of acknowledgment of the response furnished by the person;
- (iv) provision of “e-appeal” facility including login account facility, tracking status of appeal, display of relevant details, and facility of download;
- (v) accessing, verification and authentication of information and response including documents submitted during the appellate proceedings;
- (vi) receipt, storage and retrieval of information or documents in a centralised manner;
- (vii) any other function assigned by the CBDT from time to time.

Application of provisions of the Act

45. The Scheme clarifies that save as otherwise provided, the provisions of Sections 2(28CA), 120, 129, 131, 133, 134, 136, 140, 154, 155, 282, 282A, 283, 284, Chapter XX and Chapter XXI, and other provisions of the Act, shall apply to the procedure in disposal of appeal by JCIT(A)