

FACELESS APPEALS

As per CBDT:

- National Faceless Assessment Centre → NaFAC
- National Faceless Appeal Centre → NFAC

♦ ANALYSIS OF FACELESS APPEAL SCHEME, 2021 ♦

1. Faceless Appeal Bodies:

- National Faceless Appeal Centre (**NFAC**) (**Centralised Body**)
- Appeal Units (**AU**) [Comprised of one Commissioner (Appeals) and other prescribed income-tax authority]

Note: The final order of appeal shall be passed by the Commissioner (Appeals) of the Appeal Unit

2. All communication under this scheme to be through National Faceless Appeal Centre. (NFAC)

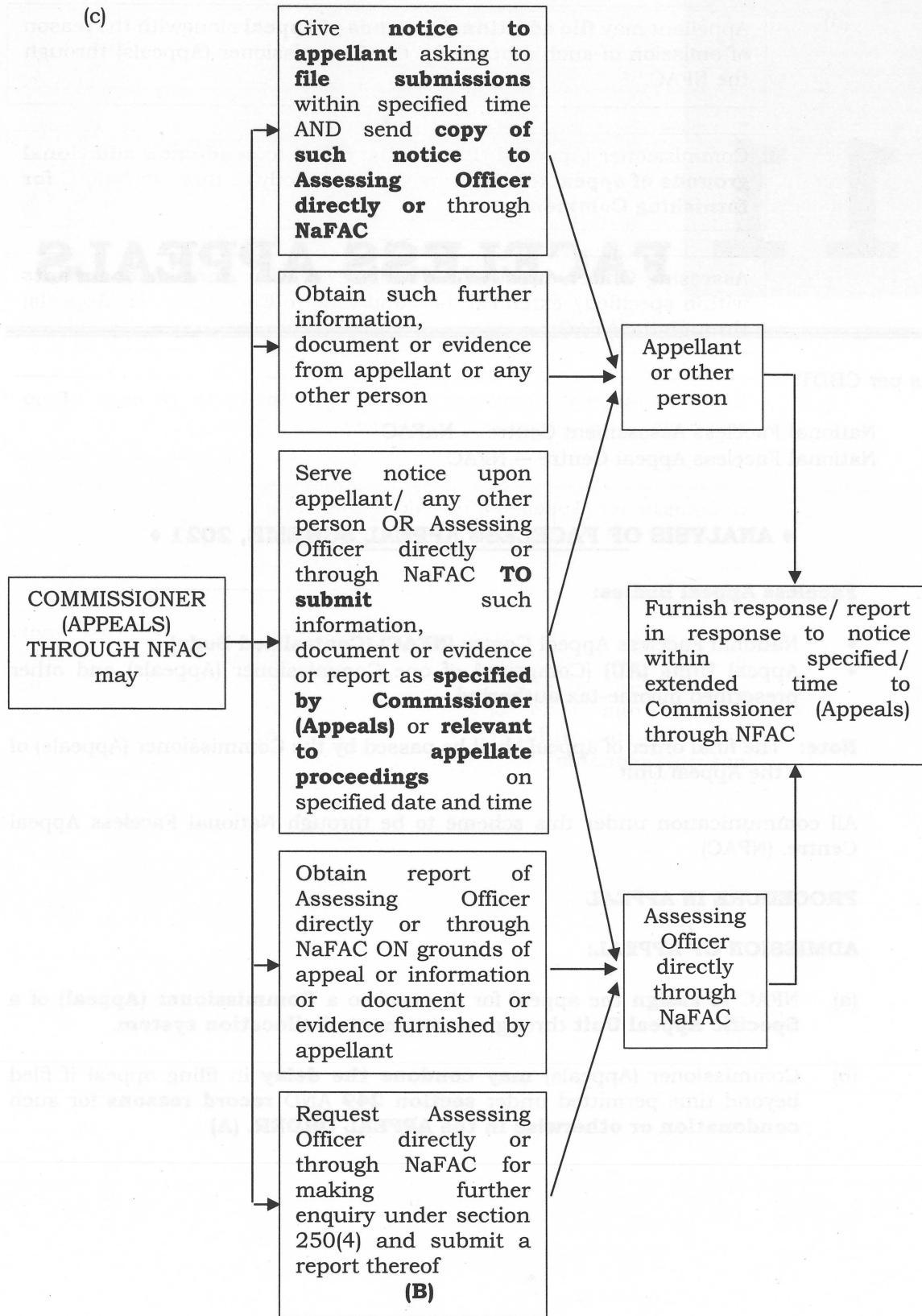
3. PROCEDURE IN APPEAL

ADMISSION OF APPEAL:

- (a) NFAC to **assign** the appeal for disposal to a **Commissioner (Appeal)** of a **Specific Appeal Unit** through an **automated allocation system**.
- (b) Commissioner (Appeals) **may condone the delay** in filing appeal if filed beyond time permitted under **section 249 AND record reasons** for such **condonation or otherwise in the APPEAL ORDER. (A)**

OBTAINING SUBMISSIONS/ INFORMATIONS:

(c)



ADDITIONAL GROUNDS OF APPEAL:

(d)

Appellant may **file additional grounds of appeal** alongwith the reason of omission of such grounds to the Commissioner (Appeals) through the NFAC.



Commissioner (Appeals) through the NFAC to **send such additional grounds of appeal** to Assessing Officer directly or through NaFAC **for furnishing Comments**, if any



Assessing Officer directly or through NaFAC to **furnish comments** within specified/ extended date and time to Commissioner (Appeals) through the NFAC



NFAC to **forward comments received or intimate in case of no response** to the Commissioner (Appeals)



Commissioner (Appeals) after taking into comments if any



Admit such ground(s) if, it is satisfied that the omission of additional ground from form of appeal was **not wilful or not unreasonable**

In any other case, **not admit** additional ground for **reasons** to be recorded in writing **in APPEAL ORDER (C)**

ADDITIONAL EVIDENCE: REPORT FROM ASSESSING OFFICER ON ITS ADMISSIBILITY

- (e) Appellant may file to **Commissioner (Appeals)** through the NFAC, any **additional evidence** as permitted according to **Rule 46A** and **specify how** additional evidence is covered by Rule 46A(1).

Where the **additional evidence** is furnished

Commissioner (Appeals) through the NFAC to **send such evidence** to **Assessing Officer** directly or through NaFAC for furnishing a report on admissibility of same as per Rule 46A

Assessing Officer directly or through NaFAC to **furnish such report to Commissioner (Appeals) through the NFAC** within prescribed/ extended time

NFAC to forward such report to Commissioner (Appeals) or intimate in case no response is received

Commissioner (Appeals) to consider the additional evidence and report, if any, and admit or reject the additional evidence for reasons to be recorded in writing & the same shall form part of the APPEAL ORDER

(D)

ADDITIONAL EVIDENCE: OPPORTUNITY TO ASSESSING OFFICER TO EXAMINE/ REBUT EVIDENCE

- (f)

Where the **additional evidence** is admitted

Commissioner (Appeals) before considering it in appellate proceedings shall **prepare a notice providing an opportunity of being heard** through NFAC to the **Assessing Officer** directly or through NaFAC to

- **examine such evidence/ cross examine such witness** produced by appellant OR
- **produce evidence/ document/witness in rebuttal of evidence** or witness produced by the appellant and to **furnish a report** thereof

Such notice to be sent by **Commissioner (Appeals)** through NFAC to **Assessing Officer** either directly or through NaFAC

Assessing Officer either directly or through NaFAC to **furnish the report** within the specified/extended date and time to the **Commissioner (Appeals)** through NFAC

NFAC to forward the report to **Commissioner (Appeals)** or inform the latter in case no report is furnished

APPELLATE PROCEEDINGS: REQUEST BY ASSESSING OFFICER FOR OBTAINING INFORMATION

- (g) The **Assessing Officer** either directly or through NaFAC may **request** the Commissioner (Appeals) through NFAC to direct the production of document/ evidence by appellant **or examination of witness** as relevant to appellate proceedings

(E)

PROCEDURE FOR MAKING ENQUIRIES:

- (h) **Commissioner (Appeals)** for the purpose of making enquiries in appeal proceedings as referred in (B) or where request (E) is received if deems fit, to **prepare a notice** to be sent to NFAC
- **Directing the appellant to produce** such document/ evidence as it may specify; or
 - **For examination of any other person, being a witness**

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NFAC to forward the notice to the appellant or witness

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Appellant/ witness to file response within the specified or extended time to the **Commissioner (Appeals)** through NFAC

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NFAC to forward such response to Commissioner (Appeals) or **inform** it in case of no response

OPPORTUNITY TO ASSESSEE BEFORE PASSING ORDER:

- (i) Where Commissioner (Appeals) **intends** to
- **Enhance Assessment;** OR
 - **Enhance Penalty;** OR
 - **Reduce Refund**

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Commissioner (Appeals) to **prepare a show-cause notice** containing the **reasons** for such enhancement/ reduction and forward it through NFAC upon the appellant

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Appellant to file response within prescribed/ extended time to NFAC

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NFAC to forward response to Commissioner (Appeals) or **intimate** in case of no response.

APPEAL ORDER:

(j)

Commissioner (Appeals) to prepare an appeal order and send the same alongwith details of penalty proceeding (if any, to be initiated therein) to the NFAC. [Reasons (A), (C) and (D) also to be mentioned in such order]

COMMUNICATION OF APPEAL ORDER:

(k)

The **NFAC upon receipt** of APPEAL ORDER to **communicate** such order to:

- **Appellant**
- Principal Chief/ Chief Commissioner or Principal Commissioner/ Commissioner
- **Assessing Officer** either directly or through NaFAC

The NFAC shall **also serve a show-cause notice** on appellant **as to why penalty should not be levied** where initiation of penalty has been recommended in the appeal order. (F)

Note: The **appeal**, may be **transferred at any stage of appellate proceedings**, if considered necessary, **to such Commissioner (Appeals) as may be specified**

4.

PENALTY PROCEEDINGS:

Commissioner (Appeals) may in **course of appeal proceedings** for **non-compliance** of any **notice, direction or order** on the part of appellant or any other person to **serve a show-cause notice** through NFAC, on appellant or any other person **for initiation of penalty proceeding** and to show cause as to why penalty should not be imposed upon him under the relevant provisions of the Act



Appellant or other person to file response to the show-cause notice referred above or in (F) within the prescribed/ extended date and time to Commissioner (Appeals) through NFAC



NFAC to send the response above to Commissioner (Appeals), or inform him in case of no response



Commissioner (Appeals) to consider all material on record including the response furnished if any and **prepare a penalty order or drop** the penalty proceedings **recording reasons** therefor and send such penalty order or intimation of dropping the proceedings **to NFAC**



NFAC to send intimation of dropping the proceedings or the order of penalty passed by Commissioner (Appeals) **to:**

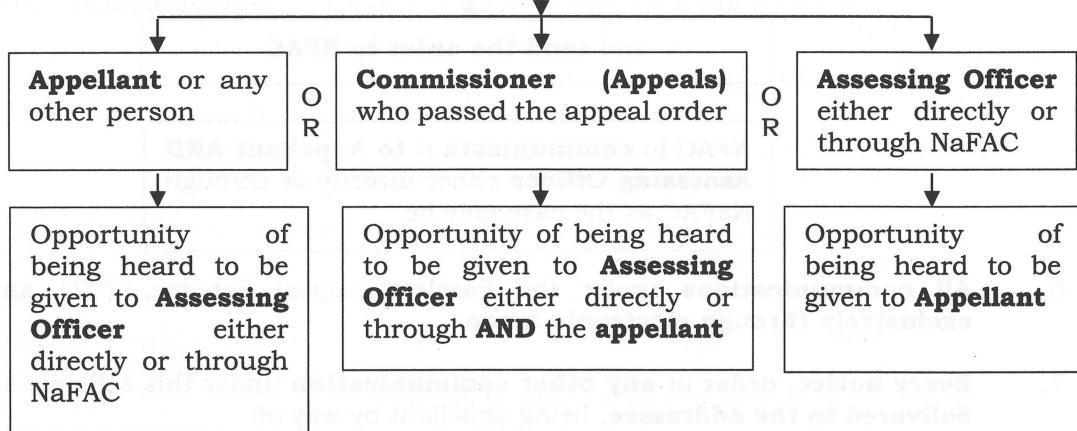
- **Appellant** or any other person and
- **Assessing Officer** either directly or through NaFAC

5. **RECTIFICATION PROCEEDINGS:**

Commissioner (Appeals) may amend any order passed by it, by an order in writing to rectify any mistake apparent from record.

On receipt of an application for rectification, NFAC shall assign such application to a **Commissioner (Appeals)** through AAS.

Application for rectification of mistake may be filed with the NFAC by



The opportunity shall be given by the **Commissioner (Appeals)** to whom the NFAC assigns the application through AAS. The **Commissioner (Appeals)** to examine the application and send the show-cause notice for providing such opportunity to NFAC

NFAC to send the notice to Assessing Officer either directly or through NaFAC or to the appellant as the case may be to show-cause as to why rectification of mistake should not be carried out

Appellant or Assessing Officer either directly or through NaFAC to file response within prescribed/ extended date and time to NFAC

NFAC to send the response to Commissioner (Appeals) or intimate in case of no response

Commissioner (Appeals) to consider application and responses (if any) and

Prepare an order for rectification of mistake

Reject application of rectification citing reasons thereof

and send the order to NFAC

NFAC to communicate it to Appellant AND Assessing Officer either directly or through NaFAC as the case may be

6. All communications under the Faceless Appeal Scheme, 2021 shall be exclusively through electronic mode.

7. Every notice, order or any other communication under this scheme, shall be delivered to the addressee, being appellant by way of:

- Placing it in appellant's registered account; or
- Sending it to registered email address of appellant or his authorized representative followed by real time alert; or
- uploading it on Mobile App of appellant followed by real time alert.

8. A person shall not be REQUIRED to appear either personally or through authorized representative in connection with any proceedings under this Scheme. However, the appellant or his authorised representative may request for personal hearing so as to make his oral submissions or present his case before Commissioner (Appeals).

The concerned Commissioner (Appeals) SHALL allow the request for personal hearing and communicate the date and time of hearing to the appellant which shall thereafter be conducted through video conferencing or video telephony.

The Central Board of Direct taxes shall establish suitable facilities for video conferencing or video telephony at such locations to ensure that the appellant/ his authorized representative or any other person is not denied the benefit of his Scheme merely on the ground that such appellant or his authorised representative, or any other person does not have access to video conferencing or video telephony at his end.

CIRCULAR F.NO. 279/MISC./M-44/2018 – ITJ, DATED 23.03.2021

After implementation of Faceless Appeal Scheme, 2020, Income-tax appeals shall be finalized in a faceless manner with the exception of appeals relating to **SERIOUS FRAUDS, MAJOR TAX EVASION, SENSITIVE & SEARCH MATTERS, INTERNATIONAL TAX AND BLACK MONEY (UNDISCLOSED FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX ACT, 2015.**