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NEWSLETTER

SEPTEMBER 2020

Covering Updates for the Month of August'20

For private circulation and clients only

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GUJARAT INDUSTRIAL POLICY, 2020

1. Policy period

This policy shall be valid for a period of five years from August 07, 2020.

2. Land Banks

The state government has earmarked land parcels available for industrial use across the state the details of which are available on an online portal <https://gujarat.ncog.gov.in/indextb>.

3. Government land to be given on long term lease basis:

The government will facilitate industries in getting “Government Land” on lease to industrial enterprises at 6% of market rate for long term up to 50 years for setting up an industrial project. The lease can be further extended after 50 years based on the prevailing government policy.

4. Relocation incentives

In light of COVID - 19, several industries are planning to relocate their operations and / or diversify supply chains. Gujarat will offer Special Incentives to such companies planning to relocate from other countries on a case to case basis.

5. MSMEs:

5.1 Capital and Interest subsidy Incentives to MSMEs will be provided in terms of Capital and Interest Subsidy on term loans based on the category of talukas.

Taluka Category	Capital subsidy	Interest subsidy
Taluka category 1	@25 % of eligible Term Loan Amount subject to a maximum amount of Rs. 35 lakhs; If the Eligible FCI is over 10 Crores, additional RS. 10 lakhs will be given.	@7% of term loan amount disbursed with the maximum amount of Rs. 35 lakhs per annum for 7 years.
Taluka category 2	@20 % of eligible Term Loan Amount subject to a maximum amount of Rs. 30 lakhs; If the Eligible FCI is over 10 Crores, additional Rs. 7.5 lakhs will be given.	@6% of term loan amount disbursed with the maximum amount of Rs. 30 lakhs per annum for 6 years.
Taluka category 3 (including municipal corporation area)	@10 % of eligible Term Loan Amount subject to a maximum amount of Rs.10 lakhs; If the Eligible FCI is over 10 Crores, additional Rs. 5 lakhs will be given.	@5% of term loan amount disbursed with the maximum amount of Rs. 25 lakhs per annum for 5 years.

- 1% additional interest subsidy will be given to SC/ST Entrepreneur/ physically challenged entrepreneur/ Women entrepreneur/ Start Up in manufacturing sector.
- 1% additional interest subsidy will be given to young entrepreneur below the age of 35 years on the date of sanction of loan.
- Maximum interest subsidy to be capped at 9% for all the categories.
- The interest subsidy will be so given that in any case, the unit will have to bear minimum 2% of total interest levied on term loan.
- For Existing units, who switch to Solar Power, Interest Subsidy will be provided on term loan as per rates specified above.
- 1% additional interest subsidy to SC / ST Entrepreneur / physically challenged entrepreneur / Women entrepreneur / Start Up in manufacturing sector.

5.2 Besides above, MSMEs will be given financial support / assistance on

- Quality certification in respect of domestic products
- Information and Communication Technology adoption
- Technology upgradation and acquisition support
- Patent support
- Market Development Assistance
- Raised capital through SME Exchange
- Energy and water conservation
- Collateral free loans
- Service line and power connection charges
- Promotion of women entrepreneurs, SC / ST entrepreneurs, physically challenged, young entrepreneurs and startups
- for implementation of Enterprise Resource Planning (ERP), Information & communication Technology, obtaining quality certifications including ZED certification, patent filing, Service line and Power Connection charges, Rent assistance etc.

5.3 Use of rooftop solar power by MSMEs

To encourage MSME for reduction in electricity cost, the State had introduced a special Solar policy under which MSME are eligible to set-up rooftop solar power and provision is made to purchase surplus power from them. Under the new policy, the Government has increased the power cycle for calculation of consumption of unites from 15 minutes to 11 hours i.e. 7 a.m. to 6 p.m. and also increase the price for purchase of surplus solar power from MSMEs from Rs. 1.75/ unit to Rs. 2.25/ unit.

6. Promote startup and innovation

The new policy aims to further accelerate and strengthen the startup ecosystem in the state. Various allowance / assistance given on:

- Sustenance allowance
- Seed support
- Soft skill assistance
- Mid-level pre series funding
- Acceleration programs
- Promotional events
- Nodal institutes and mentoring assistance

7. Support for Research and Development

- 7.1 Assistance up to 30% of the project cost of machinery and equipment maximum up to **Rs. 5 crore to private companies / institutions** who wish to set up Research and Product Development center in the state.

7.2 Assistance in setting up of laboratories established by Industries Association with the help of Government up to 60% of the project cost of machinery and equipment cost.

7.3 Assistance for contract / sponsored research work from any industrial enterprise / industrial association to recognised R&D institution / technical colleges approved by AICTE, at 50% of project cost, excluding cost of land and building, subject to maximum Rs. 50 Lakhs.

8. Promotion of service sector MSMEs

In the Gujarat Industrial Policy 2020, besides, 22 service categories already defined in the earlier industry policy, following services are covered for incentives:

- Financial services
- Health services
- Transport and logistics services
- Audio Visual services
- Construction related engineering services
- Environmental services

Taluka Category	Interest subsidy
Taluka category 1	@7% of term loan amount disbursed with the maximum amount of Rs. 35 lakhs per annum for 7 years.
Taluka category 2	@6% of term loan amount disbursed with the maximum amount of Rs. 30 lakhs per annum for 6 years.
Taluka category 3 (including Municipal Corporation Area)	@5% of term loan amount disbursed with the maximum amount of Rs. 25 lakhs per annum for 5 years.

- 1% additional subsidy will be given to SC/ST Entrepreneur
- The interest subsidy will be so given that in any case, the unit will have to bear minimum 2% of total interest levied on term loan.

9. Promotion of Thrust Sectors

15 thrust sectors have been conceptualized with a view on global investment trends, the need of strengthening the integrated value chains, exports, and policies by Government of India, NITI Aayog etc. Thrust sectors will be given incremental incentive as a part of this policy. The thrust sectors have been categorized in two major groups' i.e. Core sectors & Sunrise Sectors.

Core sectors	Sunrise sectors
Electrical machinery & equipment	Industry 4.0 manufacturing
Industrial Machinery & equipment	Electric Vehicle and its components
Auto & Auto Components	Waste management projects
Ceramics	Green Energy (Solar & Wind Equipment)
Technical Textiles	Eco-friendly compostable material (substitutes to traditional plastics)
Agro & Food Processing	100% export oriented units, irrespective of sector
Pharmaceuticals & Medical devices	
Gems & Jewelry	
Chemicals (in designated area)	

10. Large / Mega and Ultra-mega investments

Up to 12% of fixed Capital investment (FCI) will be given to large industries for setting up manufacturing operations in the state

Taluka Category	General sector	Thrust sector
Taluka category 1	10% of eligible FCI (excluding land)	12% of eligible FCI (excluding land)
Taluka category 2	6% of eligible FCI (excluding land)	8% of eligible FCI (excluding land)
Taluka category 3	4% of eligible FCI (excluding land)	6% of eligible FCI (excluding land)

- The eligible cash subsidy benefit will be given over a period of 10 years subject to annual ceiling of Rs. 40 Crore.
- If the eligible cash subsidy could not be disbursed within period of 10 years due to upper ceiling of Rs. 40 crore per annum, for such unit the eligible period of 10 years will be extended up to additional 10 years with the condition that annual ceiling will remain Rs. 40 crore per annum.
- If the eligible cash subsidy is not disbursable within period of 20 years due to upper ceiling of Rs. 40 crore per annum, the total entitlement of cash subsidy will be disbursed in equal installments of 20 years without any upper ceiling
- The SME enterprises are entitled to opt for this scheme subject to condition that it will not be eligible for cash subsidy and interest subsidy under the incentive scheme of MSME under Gujarat Industrial Policy 2020.

11. Conducive Industrial Infrastructure

11.1 Industrial infrastructure - The policy will support in setting up new infrastructure or up-gradation of existing infrastructure like roads, warehousing, facilities, fire stations, underground utilities etc. at 80% of the project cost up to Rs. 25 crore.

11.2 Establishment of industrial park by private investors - 25% of fixed capital investment up to Rs. 30 crore for parks developed on minimum area of 20 hectares and minimum 10 units. 50% of fixed capital investment up to Rs. 30 crore on minimum area of 5 hectares and minimum 5 units for setting up industrial park in Vanbandhu Talukas

12. Support for Environmental Infrastructure and Incentive for Sustainable Development

12.1 Common environmental infrastructure facilities such as Common Effluent Treatment Plant, Waste Management System, Augmentation and Technology Upgradation of existing CETP, Common Spray Dryer, Common Multiple Effect Evaporator etc. at 40% of the project cost up to Rs. 50 crore. Total support by Government of India and Government of Gujarat shall not exceed 75% of the total fixed capital investment.

12.2 Besides above, incentives are also given to

- Industries practicing at least 50% waste recovery through Zero Liquid Discharge
- Development of Green Estate
- Common boiler Project
- Strengthening the regulation and environmental compliances and implementation of cleaner production technology

The Industrial policy can be accessed at:

<https://ic.gujarat.gov.in/documents/mondoc/2020/Industrial-Policy2020.pdf>



INCOME TAX UPDATES

1. Faceless Assessment Scheme (Notification No. 2745/2020 & 2746/2020 dated 13.08.2020)

CBDT has made few amendments to the E-assessment Scheme, 2019 implemented vide Notification No. 3264 & 3265 dated 12.09.2019 and renamed it to Faceless Assessment Scheme.

2. Guidelines for Faceless Assessment Scheme (Notification No. 173/165/2020 dated 14.08.2020)

CBDT issued Notification for Guidelines for the implementation of Faceless Assessment Scheme

3. Mutual Agreement Procedure (MAP) Guidelines - (Circular No. F.No. 500/09/2016 Dated 07.08.2020)

Earlier, detailed information regarding MAP processes and guidance on issues related to such processes were not available in a comprehensive and consolidated manner. Therefore, in order to fill this gap and following the OECD's recommendation (Article 14 of the BEPS project), CBDT issued MAP guidance for the benefit of taxpayers, tax practitioners, tax authorities, and Competent Authorities of India and of treaty partners in the following four parts:

Part A: Introduction and Basic Information;
Part B: Access and Denial of Access to MAP;
Part C: Technical Issues; and
Part D: Implementation of MAP outcomes.

It is clarified that if any element of the MAP guidance comes in conflict with the domestic legislation, rules, instructions, and circulars in India or with the DTAA's entered into by India, the provisions of such domestic legislation, rules, instructions, and circulars or the DTAA's, as the case may be, shall prevail.

4. New Rule 114AB for Non applicability of Sec 206AA for Higher Rate of TDS - Notification NO. 58/2020 Dated 10-8-2020

A new Rule 114AAB has been inserted which provides for non-applicability of higher rate of T.D.S. U/sec 206AA on payment to a non-resident assessee including a foreign company, has made investments in specified fund (which has been granted a certificate of registration as a Category I or Category II Alternative Investment Fund and is regulated under the SEBI (Alternative Investment Funds) Regulations, 2012, and which is located in any International Financial Services Centre) shall not be applicable subject to certain conditions. The specified fund will have to furnish a quarterly statement in Form 49BA. Corresponding amendment to Rule 37BC and Sec 139A (PAN Application) has also been made.

5. Under Faceless Assessment Scheme, All Assessment Orders To Be Passed By National E- Assessment Centre - (Order F. No. 187/3/2020, Dated 13-8-2020)

CBDT has passed an order stating that w.e.f 13.08.2020, all the assessment orders shall hereafter be passed by National e- Assessment Centre through the Faceless Assessment Scheme, 2019, except as provided hereunder :-

- i. Assessment orders in cases assigned to Central Charges.
- ii. Assessment orders in cases assigned to International Tax Charges.

Any assessment order which is not in conformity with above, shall be treated as non-est and shall be deemed to have never been passed.

6. Income Tax Authority U/S 133A (Survey) - Order F. NO. 187/3/2020, DATED 13-8-2020

In order to achieve greater transparency in the working of the department, the CBDT has issued a direction that w.e.f 13.08.2020, that the officers posted in Directorates of Investigation (Investigation Wing) and Commission rates of TDS, only, shall act as "Income- tax Authority" for the purposes of power of survey under section 133A of the Income-tax Act. The competent authority for approval of such survey action u/s 133A of the Act shall henceforth be DGIT (Inv) for investigation wing and Pr. CCIT/CCIT (TDS) for TDS charges, as the case may be.

7. Taxpayer's charter

"New section 119A inserted in the Income-tax Act effective from 01.04.2020 by the Finance Act 2020 provides that CBDT shall adopt and declare a "Taxpayer's Charter" and issue such orders, instructions, directions, and guidelines to the Income-tax Authorities for administration of such Charter. This Charter will explain the rights and duties of taxpayers. On 13th August 2020, the Prime Minister, Shri Narendra Modi released the above Tax Payer's Charter to honour honest tax payers in India. The main object of this Charter is to nurture a relationship of mutual trust and respect between the taxpayers and the Tax Department. The effort is to provide fair and efficient service to taxpayers.



GST UPDATES

1. E-Invoice under GST :

Advanced use of technology is must to curb the tax evasions and towards this the Government has introduced E-invoicing to keep a check on fake invoices, claiming bogus ITC and others. The taxpayers are required to generate their invoices using their existing software as they used to do earlier. The details of already generated invoices should be uploaded in IRP (Invoice Registration Portal) where the GSTN will authenticate and validate the information provided and in return and generates a) Unique Invoice Reference Number (IRN) b) QR Code and c) Digitally sign the Invoice. The IRN and QR code should be printed on the Invoice. With the help of QR Code any external agencies can know the details of the Invoice.

The Central Government has vide Notification No. 60/2020- Central Tax dated 30th July, 2020 substituted the "FORM GST INV-01" with new "FORM GST INV - 1" & vide Notification No. 61/2020- Central Tax dated 30th July, 2020 and made it applicable for registered persons having aggregate turnover on PAN India basis above 500 crore rupees (with enhanced aggregate turnover) in a financial year w.e.f 1st Oct, 2020. Insurance, Banking, financial institutions, NBFCs, GTA, passenger transportation services and SEZ units are excluded from the list of eligible taxpayers.

2. Amendment in section 50 relating to interest of the CGST Act, 2017 w.e.f. 01.09.2020:

Central Board of Indirect Taxes and Customs i.e., CBIC issued Notification Number 63/2020 - Central Tax dated 25th August 2020 regarding effective date of notification from 01-Sep-2020 with respect to section 100 of the Finance (No.2) Act, 2019 (23 of 2019) which inter alia discusses about levy of interest under section 50 of CGST Act is on Gross or Net tax Liability.

In section 50 of the Central Goods and Services Tax Act, in sub-section (1), the following proviso shall be inserted, namely: --

"Provided that the interest on tax payable in respect of supplies made during a tax with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger."

It may be noted that the GST Council, comprising of center and state finance ministers, in its 39th meeting in March had decided that interest for delay in payment of GST to be charged on net tax liability with effect from July 1, 2017, and law would be amended retrospectively. However, the CBIC on August 25, notified September 1, 2020, as the date from which interest would be charged on net tax liability. This notification seems not to be in line with the decisions of GST Council wherein it was assured to the taxpayers that the said benefit would be available retrospectively from July 1, 2017. Businesses were expected to approach the High Courts on this unjustified and illegal demand of interest on gross tax liability for the period from 1st July 2017 to 31st August 2020. Therefore, CBIC on Wednesday clarified through press release that the August 25 notification has been issued prospectively due to certain “technical limitations”. However, it has been assured that no recoveries shall be made for the past period in accordance with the decision taken in the 39th meeting of GST Council. The press release issued by CBIC is as under:

Press Release: Interest on delayed payment of GST : CBIC

The Central Board of Indirect Taxes & Customs (CBIC) has clarified that the Notification No. 63/2020-Central Tax dated 25th August 2020 relating to interest on delayed payment of GST has been issued prospectively due to certain technical limitations. However, it has assured that no recoveries shall be made for the past period as well by the Central and State tax administration in accordance with the decision taken in the 39th Meeting of GST Council. This will ensure full relief to the taxpayers as decided by the GST Council.

CBIC explanation came in response to an assortment of comments in the social media with respect to Notification dated 25th August 2020 regarding charging of interest on delayed payment of GST on net liability (the tax liability discharged in cash) w.e.f. 1st September 2020.

3. Registration – Amendments in Aadhar based authentication process:

The Central Board of Indirect Tax and Customs (CBIC) had issued a notification on 23rd March 2020, about Aadhaar authentication for GST registration from 1st April 2020. However, the same has been amended vide notification 62/2020 dated 20th August 2020 to be made optional. The aadhaar authentication for GST registration is not required for non-residents, persons other than citizens of India and persons who have already been registered under GST. As per this notification, every applicant for GST registration can opt for the Aadhaar authentication. The exceptions are persons exempted by the Central government under the CGST Act or those who must mandatorily undergo the Aadhaar authentication under section 25(6C) of the CGST Act. The revised rule will be effective for applications made on or after 21st August 2020.

The procedure for Aadhar based registration is as under:

- a) The applicants who opt for it must submit an Aadhaar Card along with the application for registration under GST.
- b) After this, they need to e-verify the same on the GST portal.
- c) An OTP will be sent on the mobile number and email ID linked to the Aadhaar card.
- d) Only upon entering this OTP, the Aadhaar will get e-validated.

After this, whenever a taxpayer files his returns or uses any services on the GST portal, an OTP will be sent on the mobile number and email ID, which is linked to its Aadhaar number. Only after entering this OTP, a taxpayer can proceed to file the return.

If a person fails to do an Aadhaar authentication when opted or has not opted for it, the registration will be granted after a physical verification of the principal place of business. The officers can instead verify the documents on obtaining a permission from the officer not below the rank of Joint Commissioner and in writing. In such cases, a notice in form GST REG-3 within shall be issued within 20 working days from the date of submitting the application. The date of submission of application is earlier of the 'date of Aadhaar authentication' or the 'date after counting 15 days from the submission of Part B of form GST REG-01, being the registration application'. The assessee must reply within 7 working days from the date of receipt of notice in form GST REG-4.

Earlier, the registration would be granted only on physical verification of principal place of business within 60 days from the date of application.





COMPANY LAW UPDATES

1. Amendment in Corporate Social Responsibility [CSR] Policy:

CSR policy excludes activities undertaken in normal course of business of the company. However an amendment has been made by adding proviso that:

Any company engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business may undertake research and development activity of new vaccine, drugs and medical devices related to COVID-19 for financial years 2020-21, 2021-22 and 2022-23 subject to conditions that:

1. Such research and development activities shall be carried out in collaboration with any of the institutes or organizations mentioned in item (ix) of Schedule VII to the Act.
2. Details of such activity shall be disclosed separately in the Annual Report on CSR included in the Board's Report".

Further, following two items are added in activities for CSR policies

1. Contribution to incubators or research and development projects in the field of science, technology, engineering and medicine, funded by the Central Government or State Government or Public Sector Undertaking or any agency of the Central Government or State Government; and
2. Contributions to public funded Universities; Indian Institute of Technology (IITs); National Laboratories and autonomous bodies established under Department of Atomic Energy (DAE); Department of Biotechnology (DBT); Department of Science and Technology (DST); Department of Pharmaceuticals; Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH); Ministry of Electronics and Information Technology and other bodies, namely Defence Research and Development Organisation (DRDO); Indian Council of Agricultural Research (ICAR); Indian Council of Medical Research (ICMR) and Council of Scientific and Industrial Research (CSIR), engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs).]

2. Section made effective:

Sections	Particulars	Effective from
92 (3)	Every company shall place a copy of the annual return on the website of the company, if any, and the web-link of such annual return shall be disclosed in the Board's report	28th August, 2020

3. Important Circulars and Notifications:

Clarification on dispatch of notice under section 62(2) of Companies Act, 2013 by listed companies for rights issues opening up to 31st December, 2020:

In case of listed companies, inability to dispatch the relevant notice to shareholders would not be viewed as violation of section 62(2) of the Act for the rights issues opening up to 31st December, 2020.

4. Extension of time for holding of Annual General Meeting [AGM] for the financial year ended on 31.03.2020.

Registrar of Companies, Gujarat, Dadra & Nagar Haveli & Maharashtra have extended the time to hold the AGM, other than first AGM, for the financial year ended on 31 March, 2020, by a period of three months from due date i.e. up to 31.12.2020 , without requiring the companies to file applications for seeking such extension.

Further, it is also clarified that the extension granted under this order shall also cover the:

1. Pending applications filed in Form No. GNL-1 for the extension of AGM for the financial year ended on 31.03 2020, which are yet to be approved.
2. Applications filed in Form No. GNL-1 for the extension of AGM for the financial year ended on 31.03.2020, which are rejected.



SEBI UPDATES

Amendments are made in Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015

A new clause 8(3) has been inserted which allows an entity, based in India or in a foreign jurisdiction, to provide financial services in IFSC, subject to compliance with the applicable regulatory framework / guidelines for such financial services, as specified by the Board, from time to time.

https://www.sebi.gov.in/legal/circulars/aug-2020/securities-and-exchange-board-of-india-international-financial-services-centres-guidelines-2015-amendments_47375.html

It has been clarified that the entities issuing and / or listing their debt securities in IFSC shall prepare their statement of accounts in accordance with IFRS/ US GAAP/ IND AS or accounting standards as applicable to them in their place of incorporation. In case an entity does not prepare its statement of accounts in accordance with IFRS/ US GAAP/ IND AS, a quantitative summary of significant differences between national accounting standards and IFRS shall be prepared by such entity and incorporated in the relevant disclosure documents to be filed with the exchange.

https://www.sebi.gov.in/legal/circulars/aug-2020/securities-and-exchange-board-of-india-international-financial-services-centres-guidelines-2015-amendments_47374.html

In order to further streamline the operations at IFSC, based on consultations held with the stakeholders, an eligibility criteria and shareholding limit for clearing corporations desirous of operating in IFSC, has been amended.

https://www.sebi.gov.in/legal/circulars/aug-2020/sebi-international-financial-services-centres-guidelines-2015-amendment_47281.html



OTHER LAWS UPDATES

1. COVID Measures- Reduction in Stamp Duty in the State of Maharashtra

The State Government of Maharashtra (Revenue And Forest Department), issued a Notification dated 28.08.2020 for reduction in Stamp Duty as a part of COVID Measures & to boost up real estate transactions in the State of Maharashtra. The reduction in the rate of Stamp Duty on registration of Conveyance or Agreement to Sell of any immovable property under the Maharashtra Stamp Act, is as under:

	from 01.09.2020 to 31.12.2020	from 01.01.2021 to 31.03.2021
Reduction in rate of Stamp Duty rates	By 2%	By 1.5%

However there is no reduction in Local Body Taxes (LBT) which is levied in few cities of the State of Maharashtra.

2. Right of a Daughter in the property of HUF- Amendment to Sec 6 of Hindu Succession Act is retrospective :

The Larger Bench of the Hon'ble Supreme Court in the case of Vineeta Sharma V/s Rakesh Sharma & Others (Civil Appeal Diary No. 232601 of 2018) has interpreted Sec 6 of the Hindu Succession Act,1956 as amended w.e.f. 09.09.2005, by the Hindu Succession (Amendment) Act,2005. The daughters cannot be deprived of their right of equality conferred upon them by Section 6, since the right in coparcenary is by birth, it is not necessary that father of the coparcenary should be living as on 9.9.2005.



ARTICLE - SCHEME FOR FACELESS ASSESSMENTS UNDER THE INCOME TAX ACT.

BACKGROUND:

The E-Assessment Scheme was introduced by the Finance Act 2018 to impart greater efficiency, transparency and accountability. The Central Government notified the “E-Assessment Scheme, 2019” under section 143(3A) vide Notification No.61/2019 dated 12.09.2019. Now the Ministry of Finance vide its Notification No. 2745 dated 13.08.2020 has amended the said Scheme as a part of ‘Transparent Taxation’ platform which was launched by the Hon’ble Prime Minister Shri Narendra Modi. In this Article some of the important changes made in the erstwhile ‘E-Assessment Scheme’ are discussed:

1. **Name of the Scheme has been changed to “Faceless Assessment Scheme’ from ‘E-Assessment Scheme’.**
2. **The scope of the Scheme has been extended to assessment proceedings U/sec 144, i.e., Best Judgement Assessment’ also. So the Faceless Assessment Scheme is applicable to scrutiny proceedings under sec 143(3) and Best Judgement assessment under sec 144.**

3. AUTHORITIES TO ADMINISTER THE SCHEME:

Para 4 of the Scheme authorizes CBDT to set up -

- a) **A National E-Assessment Centre (National Centre):** to facilitate Centralized conduct of e-assessment proceedings.
- b) **Regional E- Assessment Centres (Regional Centre):** to facilitate jurisdictional Principal Chief Commissioner to conduct e- assessment proceedings in the Region.
- c) **Assessment Units:** to facilitate the conduct of e-assessments.
- d) **Verification Units:** to enquire, Cross Verify, examine the books of accounts, examine witnesses, recording statements and carry out such other functions as may be required for such verification to facilitate the e-assessment proceedings.

- e) **Technical Units:** to provide technical assistance on legal, accounting, forensic, information technology, audit, valuation, transfer pricing, data analytics, and other technical matters to facilitate the e-assessment proceedings.
- f) **Review Units:** to perform the function of Review of draft assessment orders ,relevant evidence, relevant facts and applicable law, judicial decisions, arithmetical correctness and
- g) Such other functions as may be necessary. This unit can also propose modifications to be made in the draft assessment orders.

4. EXCEPTIONS AND MODIFICATIONS:

However, following functions will not be performed by the National Centre but by the Jurisdictional Officer as provided vide the C.B.D.T. Notification No.173/165/2020 dated 14.08.2020:

- i. Rectification proceedings.
- ii. Grievance handling.
- iii. Tax demand Collection and recovery
- iv. Audit functions
- v. Judicial functions including giving effect to the appellate orders, preparing scrutiny reports and filing of appeal, defending writ petitions; recommendation of SLPs etc.
- vi. Powers U/sec 263/264 of the IT Act, 1961.

5. Procedure under Faceless Assessment

Procedure under E-assessment' has been substituted by following procedure under the 'Faceless Assessment" as under:

- i. The National Centre shall serve a notice to the assessee u/sec, 143(2) specifying the issues for selection of the case.
- ii. The assessee may, within 15 days of receipt of the said notice, file his response to the National Centre.
- iii. The National Centre shall intimate to the assessee that his assessment shall be completed under the Scheme whether he has filed or not filed his return U/sec 139 or in response to Notice U/sec 142(1), U/sec 143(2) or Sec 148(1).
- iv. The National Centre shall assign the case to a specific Assessment Unit in any one Regional Centre through an automated allocation system.
- v. The Assessment Unit may request to the National Centre for :-
 - a) Obtaining documents, information or evidence from the assessee or any other person.
 - b) Conducting enquiry or verification by Verification Unit, or
 - c) Seeking technical assistance from the Technical Unit:
- vi. Where such a request is received, the National Centre shall, issue notice or requisition to the assessee or other person for obtaining the information, documents or evidence required by Assessment Unit, or

- vii. The assessee or any other person, as the case may be, shall file his response to the notice within the specified or extended time on the basis of an application in this regard, to the National e-Assessment Centre;
- viii. National Centre shall assign to a verification unit in any one Regional e-assessment Centers through an automated allocation system for conducting of certain enquiry or verification on receipt of a request from the assessment unit.
- ix. Similarly, National Centre shall assign to a technical unit in any one Regional e-assessment Centre through an automated allocation system for any technical assistance on receipt of a request from the assessment unit.
- x. National Centre shall forward the report received from Verification unit or Technical unit to the concerned assessment unit.
- xi. Where the assessee fails to comply with the notice issued for seeking information, documents, etc. by the assessment unit or notice issued under section 142(1) or section 142(2A), the National Centre shall serve upon such assessee a show-cause notice for completion of assessment to the best of its judgment.
- xii. On failure of the assessee in filing his response to the show caused notice for best judgement assessment, within the specified or extended time , the National Centre shall intimate such failure to the assessment unit.
- xiii. The assessment unit shall draft an assessment order after taking into account all the relevant material available on the record make in writing, a draft assessment order u/Sec 143(3) or U/sec 144, either accepting the income, as per his return or modifying the said income and send a copy of such order to the National Centre. In the said draft order, details of penalty proceedings initiated, if any, shall be provided.
- xiv. The National Centre shall examine the draft assessment order in accordance with the specified risk management strategy specified by CBDT and use automated examination tool and decide to-
 - a) finalise the assessment order as per the draft assessment order and send a copy of such order and notice for initiating penalty proceedings, if any, to the assessee along with the demand notice or
 - b) provide an opportunity to the assessee, in case a modification is proposed, by serving a show cause notice as to why the assessment as per the draft order should not be completed, or
 - c) assign the draft assessment order to a Review Unit in any one Regional Centre through an automated allocation system for conducting review of such order.
- xv. The Review Unit shall review the draft order referred by the National Centre and may decide to agree with the same or may suggest such modification as it may deem fit. The Review Unit shall then forward its suggestions to the National Centre.
- xvi. The National Centre shall, upon receiving concurrence of the Review Unit, either finalise the assessment or provide opportunity to the assessee for any proposed modification as mentioned in (xiv) (a) or (b) above.

- xvii. If the Review Unit has suggested any modifications, the National Centre shall communicate the suggestions of the Review Unit to the Assessment Unit other than the assessment unit which has made the draft assessment order, through an automated allocation system.
- xviii. Thereafter, the Assessment Unit, after considering these suggestions of the review unit, shall send the final draft of the assessment order to the National Centre.
- xix. The National Centre shall, on receiving the final draft of assessment order, follow the procedure as laid down in para (xiv) (a) or (b) above.
- xx. The assessee can respond to the show-cause notice for proposed modification. The National Centre shall send the response of the assessee to the Assessment Unit. If no response is received from the assessee, the National Centre shall finalise the assessment as stated in (xiv) (a) above.
- xxi. If any response is received from the assessee, the Assessment Unit, after considering the same, shall revise the draft assessment order and send it to the National Centre.
- xxii. On receiving the revised draft assessment order, the National Centre shall
 - a) finalise the assessment order as per the procedure mentioned in Para (xiv)(a) in case the modified order is not prejudicial to the assessee
 - b) In case the modified order is prejudicial to the interest of assessee, the National Centre shall again follow the procedure mentioned in Para (xiv)(b) and the response received from the assessee shall be dealt with as per the procedure mentioned in (xx) to (xxii).
- xxiii. After completion of the assessment, the National Centre shall transfer all the electronic records to the jurisdictional AO for his further course of action as provided under the Act.

However, the National Centre may, at any stage of assessment, transfer the case to the jurisdictional AO with prior approval of the Board, if it is considered necessary.

6. It is provided that under the Scheme that all the communication amongst the National Center, assessee, his authorized representative or internal communications between various units and National Center, shall be exclusively in electronic mode only, except the enquiry or verification conducted by the verification unit in the circumstances as approved by the Board.

7. PERSONAL APPEARANCE:

- i. Personal appearance for any proceedings under this Scheme shall not be required
- ii. However, when a modification is proposed in the draft order, in response to a show-cause, the assessee or his authorized representative shall be entitled to seek personal hearing to make his oral submissions. The Chief Commissioner or the Director General, in charge of the Regional e-assessment Centre, may approve the request for personal hearing if he is of the opinion that the request is covered by the specified circumstances and such hearing shall be conducted exclusively through Video Conferencing or telecommunication application software in accordance with the procedure prescribed by the CBDT.

- iii. It may be noted that the above facility for representing the assessee's case before the National Centre through Video Conferencing etc. is not provided in the Scheme in the case where it is proposed to levy penalty in any case.
- iv. Any examination or recording of the statement of the assessee or any other person (other than statement recorded in the course of survey u/s 133(A)) shall be conducted exclusively through Video Conferencing in accordance with the procedure laid down by CBDT.

CONCLUDING THOUGHTS:

The new E-Assessment Scheme, since its implementation on 12.09.2019, has gained success as it has served the object of transparency, convenience and speedy process. However, under the renamed Scheme 'Faceless Assessment Scheme', few of the problems faced under the 'E-assessment Scheme' are still unaddressed:

- i. Section 274 of the Income tax Act provides that no order imposing Penalty shall be made unless the assessee has been heard or has been given reasonable opportunity of being heard. As stated above, there is no provision of giving personal hearing to the assessee before passing the Penalty Order by the National Centre under the Scheme. This is against the principles of natural justice.
- ii. Another issue relates to the documents to be produced electronically. If they are in different languages say in Gujarati, Marathi, Hindi, Bengali or any South Indian Language, a question will arise whether the assessee can upload the documents in that language or he has to get the same translated in English before sending the same to the concerned Unit.

DUE DATES



DUE DATES OF VARIOUS COMPLIANCES FALLING IN THE MONTH OF SEPTEMBER 2020

Due Date	Act / Authority	Compliance Description
07-09-2020	Income Tax	Deposit of Tax Deducted/Collected (TDS/TCS) during the month of August-2020
10-09-2020	GST	GSTR-7/GSTR-8 for the month of August-2020 for persons required to deduct TDS
10-09-2020	GST	GSTR-8 for the month of August-2020 for e-commerce operator required to Collect TCS
11-09-2020	GST	GSTR-1 for the month of August-2020
12-09-2020 15-09-2020	GST	Payment of GST & Filing of GSTR-3B for taxpayers having turnover up to Rs.5 Crore in preceding Financial Year for the month of May - 2020 depending on place of business (State)
15-09-2020	Income Tax	Payment of 2nd Instalment of Advance Tax for the F.Y. 2020-21 / A.Y. 2021-22
15-09-2020	PF / ESIC	Payment of PF / ESIC for the month of August-2020
20-09-2020	GST	Payment of GST & Filing of GSTR-3B for the month of August-2020, for taxpayers having turnover of more than Rs. 5 Crore in preceding financial Year
20-09-2020	GST	GSTR-5 & 5A by Non-resident taxable person & OIDAR for the month of August-2020
21-09-2020	Guj RERA	Quarterly Return for Project having original due date of 7th July, 2020, 7th August, 2020 and 7th September, 2020
23-09-2020 25-09-2020	GST	Payment of GST & Filing of GSTR-3B for taxpayers having turnover up to Rs.5 Crore in preceding Financial year for the month of June-2020 depending on place of business (State)
27-09-2020 29-09-2020	GST	Payment of GST & Filing of GSTR-3B for taxpayers having turnover upto Rs.5 Crore in preceding Financial year for the month of July-2020 depending on place of business (State)

29-09-2020	MCA	Application in Form GNL-1 for extension of AGM for Financial Year ended on 31st March, 2020
30-09-2020	GST	GSTR-9 Annual Return for Financial year 2018-2019
30-09-2020	GST	GSTR-9C Annual Audit and Reconciliation Statement for Financial year 2018-2019
30-09-2020	GST	Annual Return for Composition Dealer for the Financial year 2018-2019
30-09-2020	MCA	Filing of DIR-3 KYC, DPT-3, MSME-1, BEN-2, LLP-Form 11 without late filing fees
30-09-2020	MCA	Availing benefits of Company Fresh Start Scheme - 2020
30-09-2020	Income Tax	Belated / Revised return for Financial year 2018-2019



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