

Direct Taxes

Removal of time limit to implement 'Faceless Appeal Scheme' from the functioning of the Hon'ble Income Tax Appellate Tribunal

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EXISTING PROVISIONS

Section 253(8) of the Income-tax Act, 1961 (herein after referred to as the 'Act') dealing with 'Appeals to the Appellate Tribunal and section 255(7) of the Act dealing with Procedure of Appellate Tribunal (herein after referred to as the 'ITAT') inter-alia, empowers the Central Government to issue directions for framing a faceless scheme for conducting the proceedings before the Hon'ble Income Tax Appellate Tribunal in a faceless manner so as to impart greater efficiency, transparency and accountability. Further, it is also provided that no such directions shall be issued after 31 March 2025.

PROPOSED AMENDMENT

Clause 70 and 71 of the Finance Bill, 2025 proposes to amend the aforesaid provisions by omitting the end date prescribed for notifying faceless schemes under sections 253 and 255 of the Act. The aforesaid proposed amendment aims to provide that Central Government may issue directions beyond the cut-off date of 31st day of March, 2025, if required.

Separately, it may also be noted that Clause 362 and 364 of the Income-tax Bill, 2025 proposes to amend the said provisions of the Act respectively in as much as the provisions which empowers the Central Government to frame a faceless scheme for conducting the proceedings before the Hon'ble Income Tax Appellate Tribunal, are altogether being omitted.

RATIONALE

Several representations were being made pointing out the inherent hardships which would be faced by the taxpayers if the proceedings before the Hon'ble Income Tax Appellate Tribunal, were being conducted in a faceless manner.

EFFECTIVE DATE

These amendments will take effect from the 1st day of April, 2025.

ANALYSIS

Vide the Finance Act, 2021, section 253 of the Act dealing with 'Appeals to the Appellate Tribunal and section 255 of the Act dealing with Procedure of Appellate Tribunal were amended to empower the Central Government to frame a faceless scheme for conducting the proceedings before the Hon'ble Income Tax Appellate Tribunal in a faceless manner so as to impart greater efficiency, transparency and accountability.

Under the Act, the ITAT is the final fact-finding authority as per section 254(4) of the Act, except as provided in Section 260A where orders passed by the Appellate Tribunal are considered final. The assessee or the department can file an appeal before the High Court as per Section 260A(1) of the Act and this appeal can be entertained by the High Court only if the Court is satisfied that the case involves a substantial question of law. At present the arguments of opposing representatives are made in open court. When the argument of the appellant is over, the respondent gives their reply and the appellant has right to bring correct facts or positions of law on record in rejoinder. In the course of hearing, the case laws cited by the both the sides are discussed often intricately about the provisions of law and the interpretation to be given to them.

Several representations were made in response to the aforesaid amendments. As per section 255(5) of the Income -tax Act, 1961 it is the Appellate Tribunal that shall have the power to regulate its own procedure and procedure of the Benches thereof, in all matters arising out of the exercise of its powers or in the discharge of its functions, including the places at which the Benches shall hold their sittings. The Income tax department functions under the Ministry of Finance whereas the ITAT functions under the Ministry of law and Justice. The Income tax department is always one of the parties before the ITAT either as appellant or respondent. If at all any scheme is to be framed it should be by the Ministry of law and Justice and not by the Ministry of Finance headed by the CBDT.

However, given the fact that the end date prescribed for notifying faceless schemes under sections 253 and 255 of the Act, are being proposed to be deleted, effectively it would empower the Central Government to issue directions beyond the cut-off date of 31st day of March, 2025. Interestingly, it may be noted that, the Income-tax Bill, 2025 altogether omits such provisions governing the conduct of ITAT proceedings in a faceless mode.

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