

Faceless Penalty Scheme, 2021

CBDT releases the Faceless Penalty Scheme, 2021



- [Introduction](#)

The Central Board for Direct taxes (CBDT) vide Notification No. 2/2021 dated January 12, 2021, has notified the “Faceless Penalty Scheme” for conducting penalty proceedings under the Income-tax Act, 1961 in a faceless manner and notified the directions for giving effect to Faceless Penalty Scheme 2021 vide Notification No. 3/2021 dated January 12, 2021. The said scheme is alignment with the Faceless Assessment Scheme and the Faceless Appeal Scheme.

The CBDT notifies that the provisions of section 2, section 120, section 127, section 129, section 131, section 133, section 133C, section 136 and Chapter XXI of the said Act shall apply to the procedure for imposing penalty in accordance with the said Scheme subject to the exceptions, modifications and adaptations.

The penalty shall be levied under Faceless Penalty Scheme 2021 as per the procedure notified by the government.

Firstly, where any income-tax authority or the National Faceless Assessment Centre has, in a case initiated penalty proceedings and issued a show-cause notice for imposition of penalty.

Secondly, the National Faceless Penalty Centre shall in a case, where reference has been received as per the above clause shall assign such case to a specific

penalty unit in any one of the Regional Faceless Penalty Centres through an automated allocation system.

Thirdly, once a case is assigned to an assessment unit, it may make a request to the National e-Assessment Centre for Obtaining such further information, documents or evidence from the taxpayer or any other person, as it may specify and Conducting of certain enquiry or verification by verification unit and shall seek technical assistance from the technical unit.

As per the Scheme upon a request being made by the assessment unit for any documents or evidence, the National e-Assessment Centre shall issue appropriate notice or requisition to the taxpayer or any other person for obtaining the information, documents or evidence requisitioned by the assessment unit and the taxpayer can submit a response to the notice within the time specified in the notice.

The Assessment Unit after taking into account all the relevant material gathered, passes a draft assessment order either accepting the returned income of the taxpayer or modifying the returned income of the taxpayer, as the case may be, and sends a copy of such order to the National e-Assessment Centre.

An appeal against an assessment order or penalty order made by the National e-Assessment Centre under this scheme can be filed before the Commissioner (Appeals) having jurisdiction over the jurisdictional Assessing Officer.

- **Applicability**

All pending and new Penalty Proceedings w.e.f. 12th January, 2021.

- **Penalty Adjudicating Authority**

Jurisdiction comprised in any Penalty Unit in Regional Faceless Penalty Centre (RFPC) under the overall monitoring and supervision of National Faceless

Penalty Centre (NFPC). Also penalty notice issuing authority is National Faceless Penalty Centre (NFPC).

- **Assignment of Penalty Proceedings**

The NFPC assigns the Penalty Proceedings to any Penalty Unit located in any one Regional Faceless Penalty Centre through an automated random allocation system.

- **Inquiries/Adjudication during the course of penalty proceedings**

The NFPC may issue appropriate notice or requisition u/s 274 read with 270A, to the assessee or NFAC/AO, for obtaining any further information, documents or evidence, as required by the Penalty Unit in the Regional Faceless Penalty Centre, to which the penalty proceedings has been assigned by the NFPC.

- **Provision of Draft Penalty Order**

Draft Penalty Order is to be passed by the Penalty unit in the Regional Faceless Penalty Centre, to which the penalty proceedings have been assigned by NFPC. This Draft Penalty Order shall be examined by NFPC based on Risk Management Parameters and this draft Penalty Order may be sent by NFPC for Review to a Penalty Review Unit.

- **Action on Draft Penalty Order**

The penalty review unit shall review the proposal of penalty unit, whereupon it may concur with, or suggest modification to, such proposal, for reasons to be recorded in writing, and intimate the National Faceless Penalty Centre. Where the penalty review unit concurs with the proposal of penalty unit, the National Faceless Penalty Centre shall pass the Final Penalty Order. Where the penalty review unit suggests modification, the National Faceless Penalty Centre shall assign the case to a specific penalty unit, other than the

original penalty unit in any one of the Regional Faceless Penalty Centres through an automated allocation system.

- **Final Penalty Order**

Where the case is assigned by NFPC to a new penalty unit, such penalty unit, after considering the material on record including suggestions for modification and reasons recorded by the penalty review unit, —

in a case where the modifications suggested by the penalty review unit are prejudicial to the interest of assessee, as compared to the draft penalty order of the original penalty, shall follow the same procedure as laid down in step-action on draft penalty order and prepare a revised draft order for imposition of penalty; or

in a case where the modification is not prejudicial to the interest of assessee, shall prepare a revised draft order for imposition of penalty; or

may propose non-imposition of penalty, for reasons to be recorded in writing, and send such order or reasons to the National Faceless Penalty Centre;

Upon receipt of revised draft order from the penalty unit, the National Faceless Penalty Centre shall pass the penalty order as per such draft and serve a copy thereof upon the assessee or not impose penalty under intimation to the assessee.

Where in a case, as referred to in sub-clause (a) or (b) of clause (i), the National Faceless Penalty Centre has passed a penalty order, or not initiated or imposed penalty, as the case may be, it shall send a copy of such order or reasons for not initiating or imposing penalty to the jurisdictional AO or the National Faceless Assessment Centre, as the case may be, for such action as may be required under the Act.

- **Mode of Interface between the Assessee and the Penalty Adjudicating Authority**

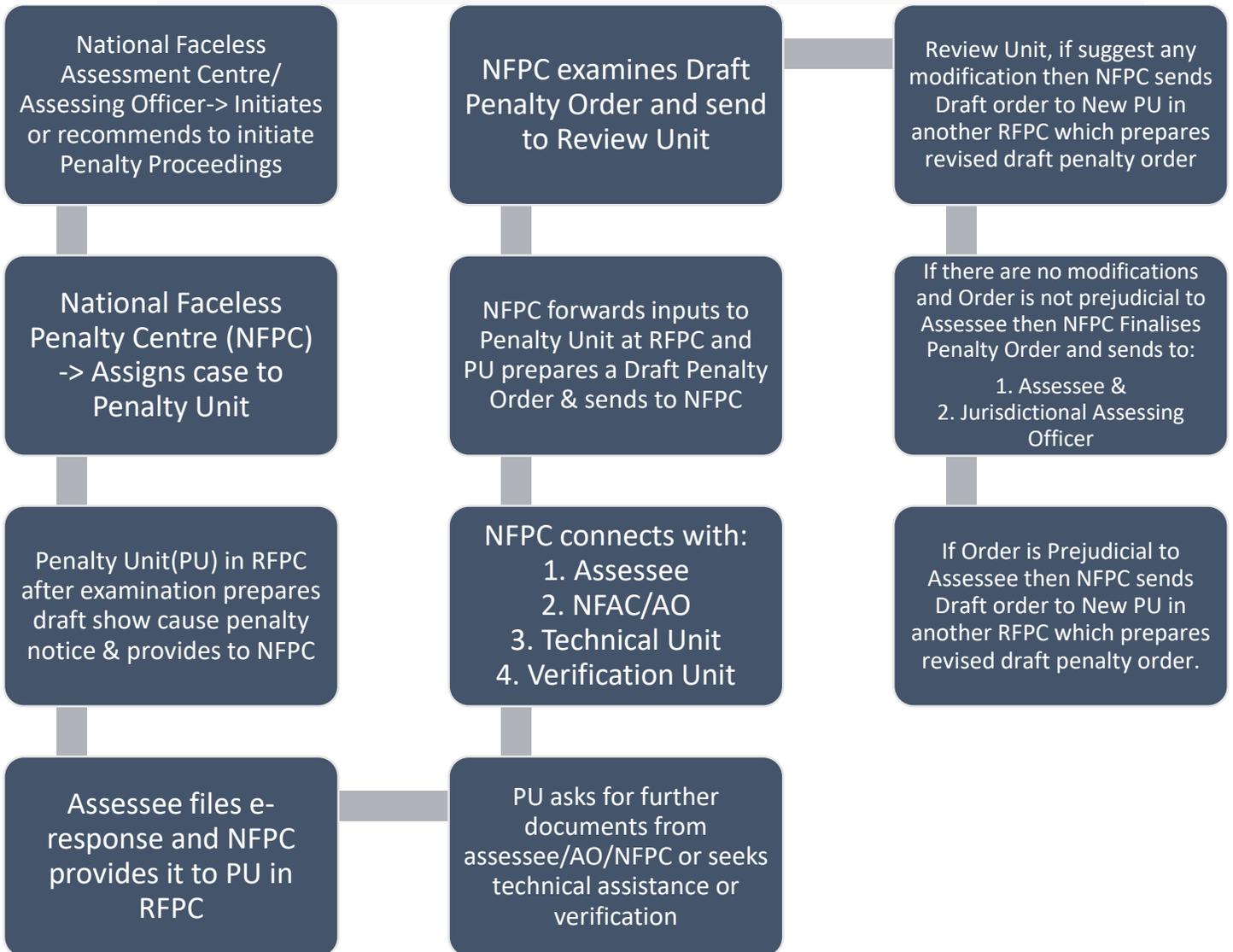
All the communication between the assessee and the NFPC is to be done exclusively through Electronic Mode via the 'e-Proceedings' functionality in the ITBA Module.

The assessee or his authorised representative, as the case may be, may request for personal hearing so as to make his oral submissions or present his case before the penalty unit under this Scheme.

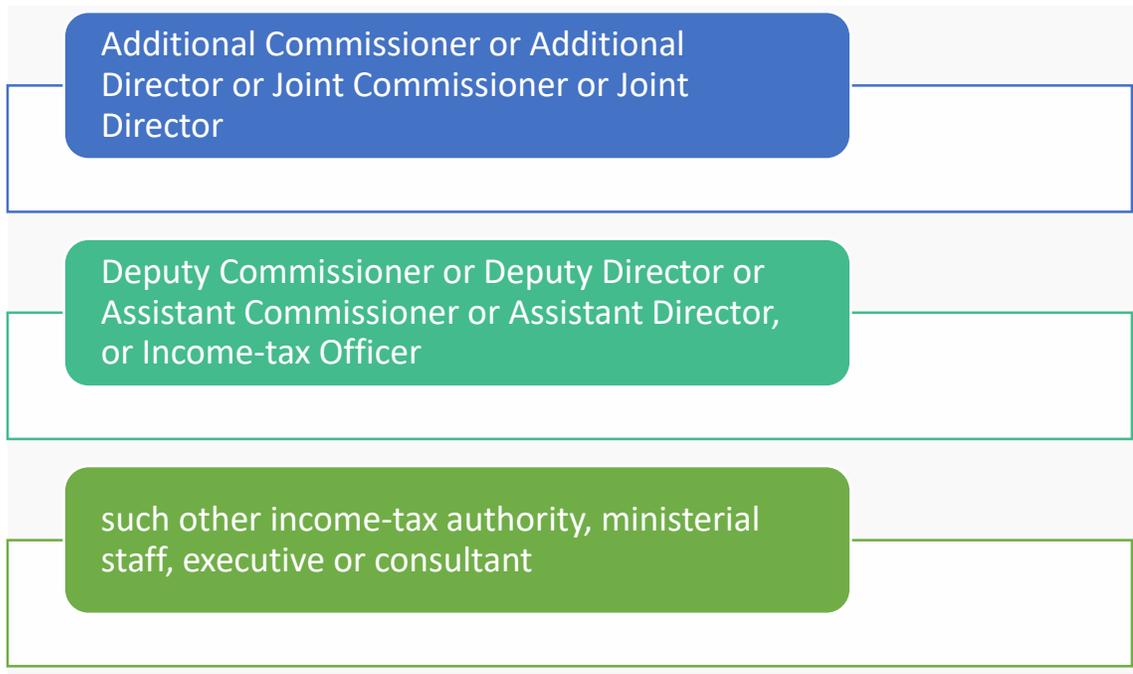
The Chief Commissioner or the Director General, in charge of the Regional Faceless Penalty Centre, under which the concerned appeal unit is set up, may approve the request for personal hearing, if he is of the opinion that the request is covered by the circumstances as may be notified by CBDT.

Where the request for personal hearing has been approved by the Chief Commissioner or the Director General, in charge of the Regional Faceless Penalty Centre, such hearing shall be conducted exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, in accordance with the procedure laid down by the Board.

• Procedure- Faceless Penalty Scheme, 2021



- **Penalty unit and the penalty review unit**



- **Digital interface**



The taxpayer will not be required to appear either personally or through an authorized representative before the income tax authority at NFPC, Regional Faceless Assessment Centers, Penalty Unit or Penalty Review Unit in connection with any proceedings under the scheme.

However, the taxpayer may request for a personal hearing to make oral submissions or present his case before the Penalty Unit under the scheme. The acceptance of a taxpayer's request for personal hearing will be at the discretion of the chief commissioner or director general in charge of RFPC.

Such hearing shall be conducted exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony.

- **More Transparency**



FPS is expected to reduce the chances of error in the penalty orders and rule out any bias on the part of tax officers by reducing human interaction which may, at times, lead to harassment of taxpayers.

The cases are decided in a uniform and standardized way on their merits and without any subjectivity. In the past, the levy of penalty on the taxpayers was at the discretion of a tax officer. The outcome was different for different taxpayers in the past (for similar cases).

The taxpayer may also benefit from the overall objective of fairness in the penalty orders due to the enhanced degree of transparency, efficiency and accountability in the final order

Bringing objectivity in the penalty proceedings may smoothen the experience of taxpayers and may help in achieving better compliance in the long term.