



Since 1957

# KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)



CA. Pramod Srihari  
President

CA. Vijay Kumar M  
Patel Secretary

Date: Saturday, September 24, 2022

To,  
Smt. Nirmala Sitharaman  
Hon. Union Minister of Finance and Corporate Affairs  
Government of India

Hon'ble Madam,

**SUBJECT: Request to issue SOP to the officers to improve the effectiveness of the Video Conference proceedings in the faceless regime**

The Karnataka State Chartered Accountants Association (R) (in short 'KSCAA') is an association of Chartered Accountants, registered under the Karnataka Societies Registration Act, in the year 1957. In the past, we have written to your good selves many times populating various issues, challenges and hardships being faced by taxpayers and suggesting possible solutions on the same. Through this representation, we would like to bring to your kind notice, a few practical issues being faced by taxpayers. For every issue, challenge or hardship highlighted, we have also made suggested solutions to address them all.

The adoption of technology by the introduction of faceless measures/ anonymous mode of conducting the proceedings under the provisions of the Income-tax Act, 1961 (the Act) has been a welcome step in promoting transparency in IT proceedings.

This measure has also promoted the government's vision of ease of doing business. Though certain instances of high-pitched assessments, technical

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glitches, miscommunications, etc were noticed during the initial days of its implementation, the proactive approach of the Government in addressing the same is much appreciated. Despite the provisions/scheme being in the nascent stage, many amendments have been made to ensure a taxpayer-friendly system and the same is laudable. One of the primary concerns around the faceless regime is with respect to the principle of natural justice being followed. The principle of audi alteram partem, meaning no person shall be judged without a fair hearing, should not be violated under no circumstance. Ensuring that the above principle is followed in the faceless regime is of paramount importance to ensure that there is no miscarriage of justice.

The assessment and penalty proceedings are ongoing and the due date for the same is 30.09.2022. In addition to the same, faceless appeal is an ongoing phenomenon. Since we are at the fag end of the proceedings, we are in receipt of the draft order and also notices for Video Conferencing, wherever requests have been made. Since our representation is with respect to the opportunity of being heard through video conferencing, we deem it appropriate to refer to the provisions dealing with it

## **Background**

1. Faceless Assessment: Clause (viii) Section 144B(6) of the Act provides "where the request for personal hearing has been received, the income-tax authority of relevant unit shall allow such hearing, through National Faceless Assessment Centre, which shall be conducted exclusively 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, in accordance with the procedure laid down by the Board"

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2. Faceless Appeals: During the pendency of the matter before the Supreme Court in CBDT V/s Lakshya Budhiraja [2021] 131 taxmann.com 51, on a proactive basis the CBDT via Notification dated 28th December 2021, has removed discretionary power for providing a “video hearing”.

The above amendments are a welcome move. However, based on the feedback with respect to the recently concluded VC proceedings, we are of the considered opinion that the opportunity of being heard is frustrating. The conduct of VC proceedings, in most cases, appears to be a mere legal formality and no actual relief or outcome is achieved.

## **Common grievances with respect to the VC proceedings in the faceless regime**

1. The VC proceedings are scheduled once the Assessee submits a response to the issue of a Show Cause Notice (SCN). In no case, the concerned officer in the Assessment Unit (AO) contests the submissions of the Assessee. There is no proactive approach to understand/resolving the issue/submissions/proposed additions. The proceedings are largely one-sided without any proactive effort on the part of the AO to discuss the contents of the SCN/submissions of the Assessee;

2. The concerned officer in the Assessment Unit does not switch on their camera and microphones;

3. When requests are made for VC vide written submissions due to the non-availability of the ‘seek video conference’ option against a notice, the VC option may be granted instead of issuing a fresh notice enabling such an option on the

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IT portal. The same will reduce the unnecessary efforts involved in availing the benefit of VC;

4. In cases where a written request for VC is placed on record and when the Assessee does not click the 'seek video conferencing' option on the IT portal, the AOs may be directed to refrain from passing ex parte order in the view of lack of technical background (given that the faceless regime is comparatively new).

5. The recorded version of the VC proceedings may be subject to quality checks and the option should be given to the Assessee to re-request VC if the quality of VC is not clear or if additional queries are raised/documents/clarifications are sought.

6. It is recommended to collect feedback form after every VC covering:

- a. Whether the audio quality of the VC was satisfactory?
- b. Whether the video quality of the VC was satisfactory?
- c. Whether the assessee was heard patiently by the AO?
- d. Whether the assessee seeks another round of VC?

## **Prayers**

Given the above issues faced by the taxpayers and their authorized representatives, the whole objective of providing fair opportunity through the issue of SCN has become null and void. There are no changes in the Final Order vis-a-vis the SCN despite honest and sincere efforts put in by the taxpayers in providing clarifications and explanations. The absence of an effective response from VC Officers has impacted negatively on the efforts put forth by the Govt.

Since the VC proceedings are not conducted in an effective manner, we request your goodself to issue appropriate Standard Operating Procedures to uphold the

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principles of natural justice and render substantial justice to the Assessess at large. Immediate action on this will not only help the Assesseees in cases where the proceedings are time-barred in the month of September 2022, but also in the ongoing proceedings under faceless appeals and assessment regime.

We are presenting before you the above-enumerated issues, challenges and hardships faced by the trade, industry and professionals due to ineffective implementation of the provisions of the Act. Wherever required, we have also given recommendations for your kind consideration.

We the members of Karnataka State Chartered Accountants Association, on behalf of the entire Chartered Accountants fraternity and also on behalf of the trade and industry in the state of Karnataka appeal to your good selves to kindly consider our above recommendations on various issues populated as above. Implementation of the above suggestions will be a major step in the direction of 'Ease of doing business'.

Yours sincerely,

**For Karnataka State Chartered Accountants Association ®**

CA PRAMOD SRIHARI  
President

CA VIJAYKUMAR M PATEL  
Secretary

CA SIDDESH NAGARAJ GADDI  
Chairman Representation Committee

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Cc to:

1. Dr. Bhagwat Kishanrao Karad Hon'ble Minister of State
2. Shri. Pankaj Choudhary, Hon'ble Minister of State for Finance, Government of India
3. Shri. Tarun Bajaj, Hon'ble Revenue Secretary, Department of Revenue, Ministry of Finance, Government of India
4. Shri. Nitin Gupta, Chairman – Central Board of Direct Taxes
5. Ms. R Ravichandran, Principal CCIT - Karnataka & Goa Region
6. The Director of Income Tax (Centralized Processing Centre), Bangalore.