



### **Digitisation In Tax Administration**

Tax Administrations globally are in the midst of a New Era of Digitalisation and upgrading their tax administration systems to process the taxpayer's relevant information, review it & examine data and financial transactions on real time basis, using advanced data analytics, data mining and artificial intelligence tools.

India is no exception and has initiated processes and procedures to automate tax administration functions and data processing. The Tax Administration Reforms Commission (TARC) headed by Dr. Parthasarathi Shome submitted its report in four volumes containing a total of 385 recommendations. The broad recommendations inter-alia included enhanced use of Information and Communication Technology, Impact Assessment, Revenue Forecasting, Predictive Analysis and Research for Tax Governance etc.

CBDT introduced various key technology-oriented initiatives such as E- TDS, E-payment of taxes, E-filing of returns, E-registrations, 360 degree data profiling of the tax payer, ITBA systems and now E-Assessment and E Appeals.

### **E- Assessment And Other Proceedings**

The new feather in the cap of 'Digital Indian Tax Administration' is the introduction of the 'E-Assessment Scheme, 2019' encompassing within its fold the use of new technologies like 'artificial intelligence' and 'advanced algorithm-based data analytical tools', in the conduct of the 'faceless' and 'jurisdiction-less' e-assessments. →

### **Faceless Appeal Scheme 2020 – an Overview**

Pursuant to sub section 6B to section 250 enacted by the Finance Act 2020, on September 25, 2020, the Central Government has notified the Faceless Appeal Scheme 2020 ('Scheme') →

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## E- Assessment And Other Proceedings

E-assessment initiation is one of the tax reforms introduced with a view to encourage voluntary compliance, non-adversarial tax regime and transparency. The purpose behind introduction of the e-assessment scheme is to (a) eliminate the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible; (b) optimize utilization of the resources through economies of scale and functional specialisation; (c) introduce a team-based assessment, reassessment, re-computation or issuance of notices, making enquiries, issuance of directions, valuations, rectification of mistakes, amendment of orders, issuance of notice of demand or intimation of loss, with dynamic jurisdiction.

The Finance Minister Late Shri Arun Jaitely in the budget speech on July 5, 2019 introduced the e-assessment system which was inaugurated on October 7, 2019 by the Finance Minister Smt. Nirmala Sitharaman. Further, during the outbreak of Covid 19 pandemic, the Prime Minister on August 13, 2020 launched the Transparent Taxation “Honouring the Honest” platform and listed therein rights of assesseees under the Income Tax law.

New sections have been inserted in the Taxation Laws and Other Laws (Relaxations and Amendment of Certain Provisions) Act, 2020 (**‘the Act’**) to enable faceless mode of adjudication and administration in addition to the already introduced e-assessments functions.

All the legislative provisions concerning the Faceless Assessment Scheme, 2019, as enunciated in the CBDT Notification S.O 3264 (E) dated September 12, 2019 and as amended vide S.O. 2745 dated August 13, 2020, viz. definitions, procedure for faceless assessments, exchange of communication between the assessee and the income-tax



department in electronic mode, authentication of electronic records, no personal appearance of assesseees in the income tax department offices or centres etc., have been kept virtually the same.

All external and internal communication will be exclusively through electronic mode. Authentication of record will be through digital signature or other electronic verification code.

#### **Section 144B**

Section 144B of the Act shall be the governing section which is applicable w.e.f April 01, 2021 in terms of which the National Faceless Assessment Centre will act as the Nodal Centre and Regional Faceless Assessment Centres as the Regional Assessment Centre's

The section 144B specifies the procedure and manner in which the faceless assessment will be conducted under section 143(3) and 144 of the Act. Specific procedure has been laid down for reference to be made to DRP. It also lays down the role of the National Faceless Assessment Centre and the Regional Faceless Assessment Centre having various units viz. Assessment Unit, Verification Unit, Technical Unit and Review Unit.

Further to extend the scope of faceless procedures, the Central government may make a scheme by notification in the official Gazette for the purposes /cases mentioned below.

Following provisions are inserted w.e.f. November 1, 2020:

- a) **Section 135A** for the purposes of calling for information u/s 133, collecting certain information u/s 133B, or calling for information by prescribed income-tax authority u/s 133C, or exercise of power to inspect register of companies' u/s 134, or exercise of power of Assessing Officer u/s 135;



- b) **Section 142B** for the purposes of issuing notice u/s 142(1) or making inquiry before completing assessment u/s 142(2), or directing the assessee to get his accounts audited u/s 142(2A), or estimating the value of any asset, property or investment by a Valuation Officer u/s 142A;
- c) **Section 144C(14B)** for the purposes of issuance of directions by the dispute resolution panel;
- d) **Section 151A** for the purposes of assessment, reassessment or re-computation u/s 147 or issuance of notice u/s 148 or sanction for issue of such notice u/s 151;
- e) **Section 157A** for the purposes of rectification of any mistake apparent from the record u/s 154 or other amendments u/s 155 or issue of notice of demand u/s 156, or intimation of loss u/s 157;
- f) **Section 231** for the purposes of issuance of certificate for deduction of income-tax at lower/ nil rate u/s 197 or u/s 206C or for Collection & Recovery of Tax, Grant of Stay of Demand;
- g) **Section 264A** for the purposes of revision of orders u/s 263 or u/s 264 of the Act;
- h) **Section 264B** for the purposes of giving effect to orders passed u/s 250, 254, 260, 262, 263 or 264;
- i) **Section 279(4)** for the purpose of granting sanction under section 279(1) or compounding under section 279(2);
- j) **Section 293D** for the purposes of granting approval or registration, as the case may be, by the income-tax authority under any provision of the Act; and
- k) **Subsection (8) and (9) u/s 92CA** for determining the Arm's Length Price by Transfer Pricing Officer (TPO) u/s 92CA in Transfer Pricing Cases.



**Our Comments:**

It bears vital notice that detailed procedures are yet to be notified. Clarification is required as to when and under what circumstances personal hearing can be requested and granted and whether recording of the video conferencing for assessee's future references would be allowed.

The four functions/limbs viz. assessment, review, verification and technical would be required to act as 'One cohesive unit' handling the faceless assessment.

Needless to add robust documentation, self-explanatory and concise submissions, timely updation of personal details/ information on the e filing portal and responses through electronic medium would be required to be ensured on the part of the assessee for participating in and completing the faceless assessment.



# Faceless Appeal Scheme 2020 – An Overview

Pursuant to sub section 6B to section 250 enacted by the Finance Act 2020, on September 25, 2020, the Central Government has notified the Faceless Appeal Scheme 2020 (**'Scheme'**) and also notified certain directions in respect thereof. This Scheme comes into effect from September 25, 2020 and also applies to pending appeals before the CIT(A). The Scheme introduces several new concepts and new expressions which have been defined therein. Several expressions have been adopted from the Information Technology Act 2020. Some of the key highlights of the Scheme are as follows:

- The set-up of Faceless Appeal Centres would comprise of a National Faceless Appeal Centre (**'NFAC'**), Regional Appeal Centres (**'RAC'**) and Appeal Units (**'AU'**). Appeal unit is the equivalent of the present set-up of a CIT(A).
- All communications, internally and externally would be through NFAC.
- Allocation of appeals to an AU will be by NFAC through an automated allocation system.
- Condonation of delay in filing appeals, exemption from compliance with the provisions of section 249(4) (payment of tax due on returned income before filing of an appeal) would be dealt with by the AU. The AU shall communicate its decision to NFAC, which shall then intimate the same to the appellant.
- All communication by the AU, whether with the appellant or the National e-Assessment Centre (**'NFAC'**) or the Assessing Officer (**'AO'**) shall will be through the NFAC – seeking further information, inquiry, reports etc., which would then serve a notice on the appellant (or the concerned person, etc.) calling for the requisite information, material, etc. Replies thereto will have to be likewise be routed through the NFAC.



- Additional grounds of appeal will also have to be filed with the NFAC, which will then take all internal steps and send the additional ground and the response from the NFAC/AO to the AU, which will then take a decision on admission or rejection of the additional ground. This decision will be communicated to the appellant by the NFAC.
- Request for filing of additional evidence, examination of witnesses, etc., will also be similarly dealt with.
- Similarly, enhancement of an assessment or penalty or reduction of refund will be initiated by the AU but will be routed through the NFAC.
- On the basis of the aforesaid, the AU will prepare a draft order, which will be sent to NFAC.
- Where the amount of tax, interest, penalty or fee exceeds the specified amount, the order will be reviewed by another AU in any one RAC, which will be selected through an automated selection system.
- In any other case, NFAC will examine the draft order in accordance with the risk management strategy specified by the Board, including with an automated tool and thereafter, either finalize the appeal in accordance with the draft order or send it to another AU (as mentioned herein above).
- The reviewing appeal unit may either concur with the draft order or may suggest variations therein. Any variation suggested would have to pass through similar procedure as above.
- Once the appeal order is finalized after passing through the above process the final order will be issued by NFAC.
- In the course of appellate proceedings, if penalty has been recommended by the AU, a show-cause notice for the same will be issued by NFAC. Initiation of penalty for non-compliance, etc. will be by the AY, but would be sent to NFAC, with the recommendation for initiation of such penalty proceedings, which will then issue a show cause notice. NFAC will forward the show cause notice and the response thereto



to another AU selected by the automated allocation system. The said other AY may either drop the penalty proceedings or may proceed to prepare a draft order. Communication of either of these orders will be through the NFAC

- Rectification proceedings, application or proposal, response thereto, etc. will also similarly pass back and forth through a similar multiple authority process.
- Appeal against the order passed by the NFAC will be to the Tribunal having jurisdiction over the AO.
- No personal appearances are provided for, except where an approved by the concerned CCIT or Director General is granted and the oral submissions will be through video conferencing or video telephony and the like.
- Where matters are remanded back to the NFAC, similar process will be followed
- Authentication of record will be through digital signature or other electronic verification code.

**Our Comments:**

The scheme may look complicated at first blush, but will be not, once it settles down. Time taken for the back and forth flow of orders, etc. would be crucial and there should be a proposal to limit the time that may be taken at each step. Completeness and crispness of the written submissions along with the submission of all the required material and evidences will becomes crucial.

While Faceless appeals are a welcome step, they should not end up being heart-less or robotic. Also, they should neither become procedurally tedious nor can human ingenuity be lost sight of.