

Faceless Assessment



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Evolution

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Let's have a look at the chronology of events in respect of digitization:

| Year | Event |
|------------------------|---|
| 2006 | E-Filing of TDS Returns/statments and Income Tax Returns of Companies |
| Oct. 2015 | CBDT initiated the concept of using email-based communication for paperless scrutiny proceedings |
| Dec. 2015 | CBDT amended Income Tax Rules, 1962 to provide that service of notice, summons, requisition, order and other communication may be done by email. [N.N. 89/2015] |
| Feb. 2016 & April 2017 | CBDT notified the procedures and standards to be followed to ensure secure transmission of electronic communication [N.N. 2/2016 & N.N. 4/2017] |
| Sept. 2017 | CBDT stated that its ITBA project was ready to conduct various tax proceedings electronically through the 'e-proceedings' facility in an end to end manner [Instruction No. 8/2017] |

Evolution

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| Year | Event |
|-------------|--|
| Budget 2018 | Late Arun Jaitley in his budget speech proposed to amend the Income Tax Act to notify a new scheme of assessment where the assessment will be done through electronic mode which would almost eliminate person to person contact leading to greater efficiency and transparency |
| Feb. 2018 | CBDT directed that except for search related assessment, proceedings in other pending scrutiny assessments shall be conducted only through 'E-Proceeding' functionality in ITBA. In cases where the assessee objected to the conduct of assessment proceedings electronically, such cases may be kept on hold [Instruction No. 1/2018] |
| Aug. 2018 | CBDT issued instructions for conduct of assessment proceedings through 'E-Proceeding' facility during 2018-19 |
| Sept. 2019 | CBDT notifies E-Assessment Scheme, 2019 |

Evolution

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| Year | Event |
|-------------|--|
| Aug, 2020 | E-Assessment Scheme ,2019 stands amended and known as Faceless Assessment Scheme ,2019 |
| Sept , 2020 | Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 [TOLA] (Notified in Sept, 2020 deemed to have come into force on the 31 st March,2020) |

What is ITBA?

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- The Income Tax Department has developed an integrated platform i.e. Income Tax Business Application (ITBA) for electronic conduct of various functions/proceedings including assessments
- This is integrated with the e-filing portal which is used by the assessee to electronically communicate with the Income Tax Department
- During the course of assessment proceeding, assessing officer is required to send communications through the 'Assessment Module' of ITBA which is delivered in e-filing account of the concerned assessee

What is ITBA?

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- Upon receipt of departmental communication, assessee is able to submit the response along with the attachments by uploading the same through his e-filing account on the e-filing portal
- The response submitted by the assessee is viewed by the assessing officer electronically in ITBA
- This communication of data and document between the Income Tax Department and assessee through electronic mode is termed as 'E-Proceeding'

Features

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- In e-proceedings, all the letters, notices, questionnaires, order and other communication from the Assessing Officer would be directly sent to the taxpayers e-filing account.
- The taxpayer would also be able to submit the response online by uploading the same along with attachments on the 'e-Filing' portal.
- The response submitted by the assessee would be viewed by the Assessing officer electronically in Income-Tax Business Application (ITBA) module.
- This would, besides saving precious time of the assessee, would also provide a 24x7 anytime/anywhere convenience to submit response to the departmental queries in course of assessment proceedings.

DIN

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- As per Circular No. 19/2019, “No communication shall be issued by any income-tax authority relating to assessment, appeals, orders, statutory or otherwise, exemptions, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval, etc. to the assessee or any other person, on or after the 1st day of October, 2019 unless a computer-generated Document Identification Number (DIN) has been allotted and is duly quoted in the body of the communication.”

DIN

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- Exceptions –
 - ✓ When there are technical difficulties in generating/allotting/quoting the DIN and the issuance of communication electronically.
 - ✓ When the communication is required to be issued by an income-tax authority who is outside the office for discharging his official duties.
 - ✓ When due to delay in PAN migration, PAN is lying with non-jurisdictional Assessing Officer.
 - ✓ When PAN of the assessee is not available and where a proceeding under the Act other than u/s 131 or u/s 133 of the Act is sought to be initiated.
 - ✓ When the functionality to issue communication is not available in the system.

Electronic Communication

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- **In case of electronic communication what would be the time and place of dispatch and receipt?**
 - The time and place of dispatch and receipt of electronic record or electronic communication shall have the same meaning as provided under section 13 of the Information Technology Act, 2000
 - The registered account of the assessee on the e-filing website is deemed to be computer resource designated by the assessee in accordance with section 13 of the Information Technology Act, 2000

Electronic Communication

- **Section 13 of The Information Technology Act, 2000 –**

“Time and place of dispatch and receipt of electronic record –

(1) Save as otherwise agreed to between the originator and the addressee, the dispatch of an electronic record occurs when it enters a computer resource outside the control of the originator.

(2) Save as otherwise agreed between the originator and the addressee, the time of receipt of an electronic record shall be determined as follows, namely:-

(a) if the addressee has designated a computer resource for the purpose of receiving electronic records,-

(i) receipt occurs at the time when the electronic record enters the designated computer resource; or

(ii) if the electronic record is sent to a computer resource of the addressee that is not the designated computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee;

Electronic Communication

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(b) if the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resource of the addressee.

(3) Save as otherwise agreed to between the originator and the addressee, an electronic record is deemed to be dispatched at the place where the originator has his place of business, and is deemed to be received at the place where the addressee has his place of business."

- Computer Resource as per section 2(k) of The Information Technology Act, 2000 means, "computer, computer system, computer network, data, computer data base or software"

Authorized representative

Option, wherein the assessee can appoint an Authorized Representative who, after giving his consent to be so appointed, may receive all communications from the Income Tax Department and reply to such communications on behalf of the assessee.

Introduction

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- The new scheme, called the 'Faceless Assessment Scheme, 2019 (Scheme), is notified by CBDT on 12 September, 2019 as amended on 18 August, 2020
- It is an online system, which uses artificial intelligence, machine learning and technology tools to randomly and automatically allocate cases for assessment within the Income Tax Department
- It aims to eliminate human interface, reduce corruption, bring in transparency and accountability
- It is a team-based assessment with dynamic jurisdiction

Introduction

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- The entire scheme/ the success of the entire scheme is based on the assumption that :
 - i. All assesseees are literate and, that too, in English. The same is the assumption for the assessee's authorized representative who, in terms of Section 288 of the Act, may or may not be proficient in English.
 - ii. All assesseees have access to computer/computer resource and ,that too, of the kind and the capacity to handle the scheme.[The provision in the scheme to make available computer facility to various locations for the assesseees who may not have such facility of their own may not be sufficient]
 - iii. There will be uninterrupted/continuous availability of high speed, good quality internet facilities in entire India.

Legislative Amendments

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Sections 143 (3A), (3B) and (3C) inserted by Finance Act. 2018:

“143. Assessment

.....

(3A) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of making assessment of total income or loss of the assessee under sub-section (3) or section 144 so as to impart greater efficiency, transparency and accountability by –

(a) eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible;

(b) optimizing utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a team-based assessment with dynamic jurisdiction.{Emphasis supplied}

(3B) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (3A), by notification in the Official Gazette, direct that any of the provisions of this Act relating to assessment of total income or loss shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2021.

(3C) Every notification issued under sub-section (3A) and sub-section (3B) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.”

Legislative Amendments

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Section 144B

- On 13 August 2020, the Prime Minister launched the platform for 'Transparent Taxation - Honouring the Honest' to make the tax system 'Seamless, Painless and Faceless'. The Government issued a series of notifications to implement the faceless assessment scheme. Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 [TOLA] has legislated these provisions vide a new section 144B, which has been inserted with effect from 1 April 2021.
- The provisions of section 144B of the Act are mostly in line with the procedure notified earlier. However, some additions have been made to these provisions, as follows –

Legislative Amendments

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- Additional procedures have been laid down in the context of faceless assessment when a taxpayer has opted for dispute resolution panel (DRP) proceedings.
- The authorities to be assigned for assessment unit, verification unit, technical unit and the review unit have been specified.
- Every notice, or any order, or any other communication shall be delivered to the taxpayer by way of –
 - a) Placing an authenticated copy in the taxpayer's registered account; or
 - b) Sending an authenticated copy to the registered email address of the taxpayer or his authorized representative; or
 - c) Uploading an authenticated copy on the taxpayer's mobile app (taxpayer downloads and installs an application software of the Income-tax Department developed for mobile devices, on its registered mobile number).

Legislative Amendments

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- In addition, new provisions have been inserted under the Act to widen the scope of the faceless mechanism to conduct other income-tax proceedings, which inter alia covers transfer pricing proceedings, DRP, rectifications, giving effect to an appeal order, TDS proceedings, etc.
- In this regard, the following have been inserted in the Act, which would be effective from 1 November 2020 –
- Determination of arm's length price by transfer pricing officer in relation to domestic / international transaction with the associate enterprises
- Proceedings before the DRP
- Reassessment and related proceedings.
- Issuance of lower or nil withholding tax certificates
- Withholding tax proceedings deeming the taxpayer to be an assessee-in-default
- Proceedings in relation to issuance of tax clearance certificate
- Proceedings in relation to initiation of prosecution and compounding thereof
- Granting of approval or registration under any provision of the ITA
- Rectification of mistake apparent from record and carrying out other amendments

Legislative Amendments

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- Proceedings in relation to giving effect to the orders of various authorities and courts
- Proceedings in relation to levy of penalty in relation to withholding tax proceedings
- Filing of appeal before the Income-tax Appellate Tribunal by the income-tax department
- Revision of orders issued by the tax authorities
- Proceedings / exercise of powers by the income-tax authorities in relation to the following:
 - i. Payment of advance tax
 - ii. Reduction or waiver of interest paid / payable by a taxpayer
 - iii. Extension of time line for payment of tax installment by the taxpayer
 - iv. Treating the taxpayer as not being in default

Legislative Amendments

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- Proceedings in relation to tax collected at source and issuance of certificate for collection of lower tax
- Issuance of notice of demand and various matters in relation tax recovery proceedings and intimation of loss³¹ etc.
- Procedures in relation to:
 - i. Issuance of notice for calling filing of return, information etc. for making an assessment;
 - ii. Conducting inquiry before making an assessment;
 - iii. Directions to the taxpayer to get his accounts audited; and
 - iv. Estimation of value of any asset, property or investment by a valuation officer .
- Exercise of powers by tax authorities in relation to:
 - i. Calling for any information (including from any income-tax authority);
 - ii. Collection of any information;
 - iii. Inspection of registers of companies and
 - iv. Conduct of any enquiry by income-tax authorities etc.
- Exercise of powers and performance of functions assigned to income-tax authorities, vesting of jurisdiction with assessing officer, to transfer cases, etc.

Notifications Issued

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- Notification No. 61/2019 Dated 12/09/2019----- amendments vide notification No. 60/2020 Dated 13/08/2020. Further amended by Notification No. 6/2021 Dated 17/02/2021.
- Notification No. 62/2019 Dated 12/09/2019----- amendments vide notification No. 61/2020 Dated 13/08/2020. Further amended by Notification No. 7/2021 Dated 17/02/2021.
- Notification no 78/2020 dated 25/09/2020.

Important terminologies under Faceless Assessment Scheme, 2019

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- Assessment means assessment of total income of the assessee u/s 143(3) or 144 of the Act
- Designated Portal means the web portal designated by the Pr. Chief Commissioner or Pr. Director General in-charge of National E-Assessment Centre
- E-Assessment means assessment proceedings conducted electronically in 'e-Proceeding' facility through assessee's registered account in the designated portal
- Mobile App means the application of the Income Tax Department installed on the registered mobile number of the assessee
- Real Time Alert means an alert sent to the assessee by way of SMS or email registered with the designated portal or as an update on his Mobile App

Important terminologies under Faceless Assessment Scheme, 2019

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- Registered Account means the electronic filing account registered by the assessee on the designated portal
- Registered Email Address means the email address at which and electronic communication may be delivered or transmitted and includes:
 - ✓ Email address available in the electronic filing account registered in designated portal; or
 - ✓ Email address available in the last income-tax return furnished: or
 - ✓ Email address available in the PAN database; or
 - ✓ Email address available in the UIDAI database in case where the assessee is an individual; or
 - ✓ Email address available on the MCA website in case of companies; or
 - ✓ Any Email address made available by the addressee to the Income Tax

Important terminologies under Faceless Assessment Scheme, 2019

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- ✓ Any email address made available by the address to the income-tax authority or any other person authorized by such authority
 - Registered Mobile Number means mobile number of the assessee or his authorized representative appearing in the user profile of the e-filing account in the designated portal
 - Video telephony means equipment used for communication between users at different locations in real-time
- **Scope of the Scheme**
- The assessment under this Scheme shall be made in respect of such territorial area, or persons or class of persons, or incomes or class of income, or cases or class of cases, as may be specified by the Board

Structure

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- Dedicated E-assessment Centres and Units: National E-assessment Centre, Regional E-assessment Centre, Assessment units, Verification units, Technical units and Review units.
- Each Centre and Unit have a clearly defined role and process to follow.
- National E-Assessment Centre (NEC) –
 - ✓ To facilitate and centrally control the e-assessment
 - ✓ Single point of contact for the taxpayer as well as for all units involve in assessment.
 - ✓ Interact with the taxpayer to obtain evidence, issue notices, receive information, issue draft assessment order, raise demand, etc., and also interact with all units for smooth conduct and completion of assessment proceedings.
 - ✓ All communication between the NEC, the taxpayer and various units would be done online and would be digitally signed.

Functions of Centre and Units

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- Regional E-Assessment Centre (REC) –
 - ✓ Ensure smooth conduct of E-assessment under the region of a Principal Chief Commissioner.
- Assessment units (AU) –
 - ✓ Function of making assessment, which includes identifying points or issues material for the determination of any liability (including refund), analyzing information, analyzing material furnished by the assessee or other person and such other functions as may be required for making assessment.
 - ✓ Request, if any verification or technical assistance is required.
- Verification units (VU)
 - ✓ Function of verification.
 - ✓ Including enquire, cross verification, examine books of accounts, examination of witness and recording statements and such other functions as required for verification.

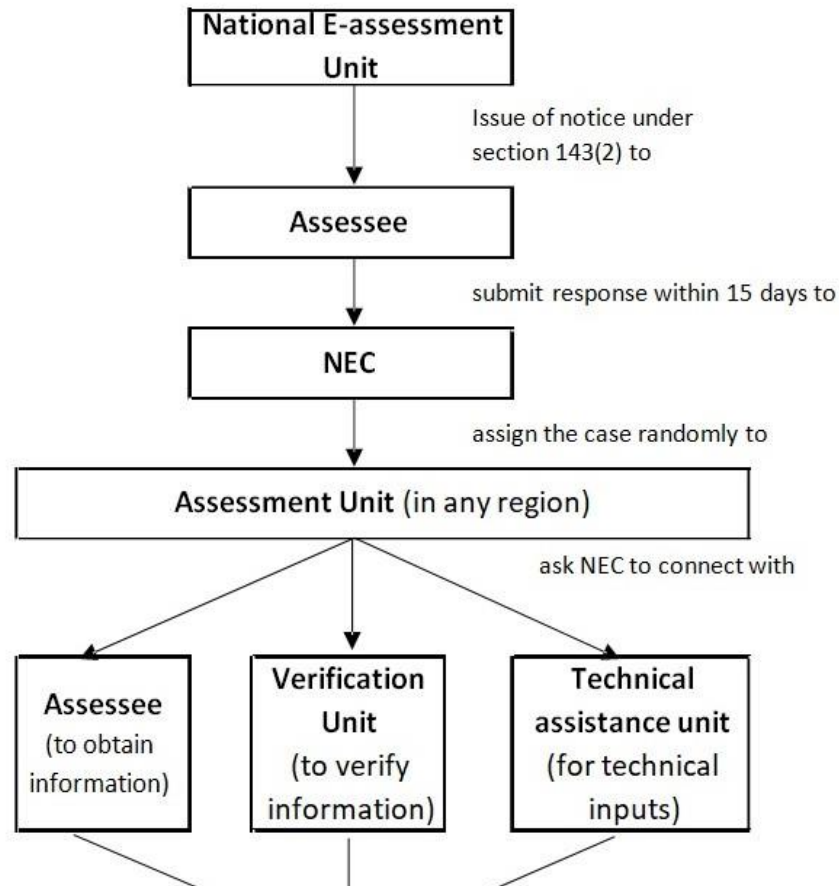
Functions of Centre and Units

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- Technical units (TU) –
 - ✓ technical assistance including any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter.
- Review units (RU) –
 - ✓ reviewing the draft assessment order, to check whether the facts, relevant evidence and law and judicial decisions have been considered in the draft order.
 - ✓ ensure the arithmetical accuracy of modifications proposed and perform other functions as may be required for review.
- All the communications between all the units mentioned above or with the assessee or with any other person with respect to the information or documents or evidence or any other details, for the purpose of making an assessment under this scheme would be through the National e-Assessment Centre

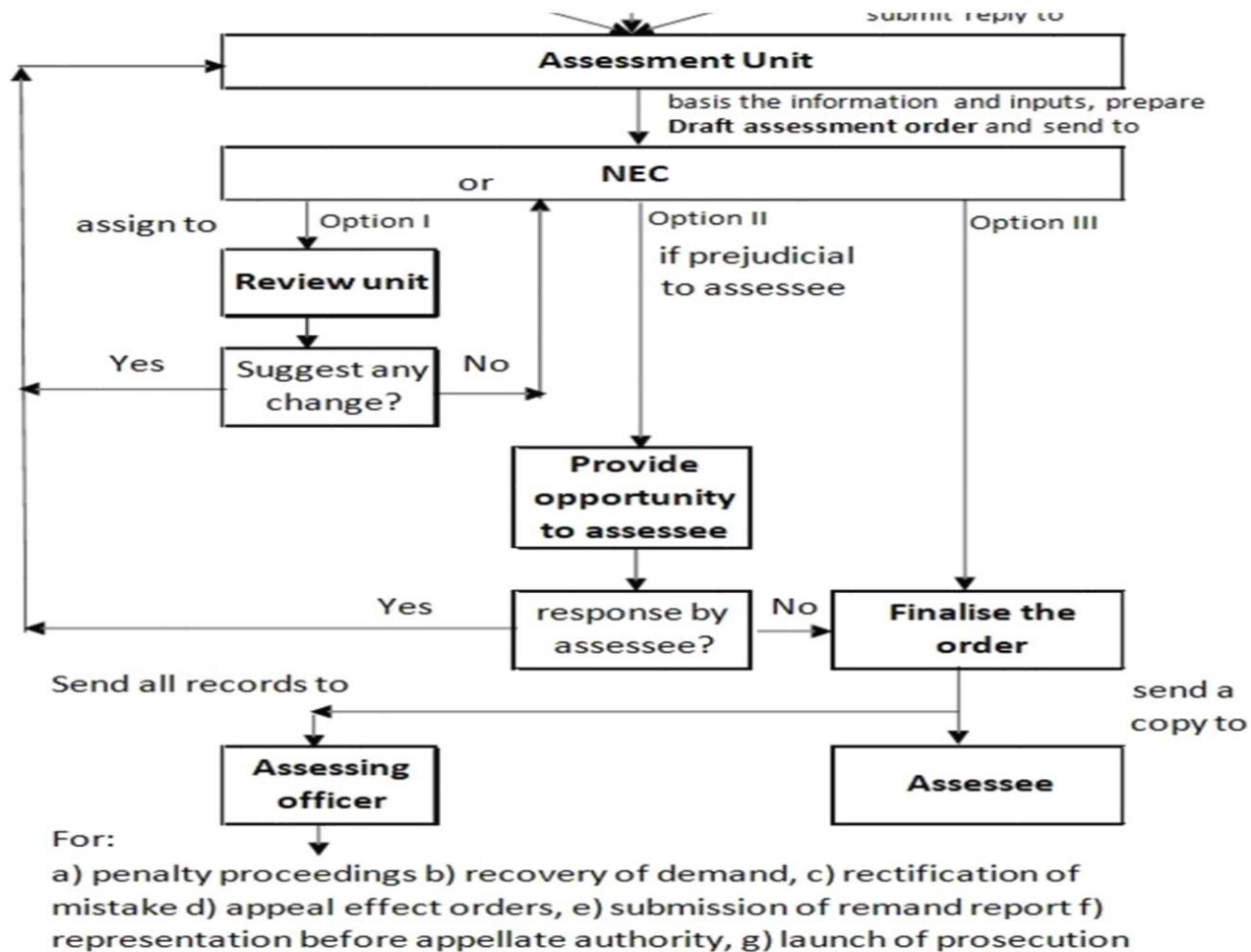
Summary of Procedure for E-Assessment (Refer Para 5 of Notification)

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Summary of Procedure for E-Assessment

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Source: CTC Presentation

Questions/Doubts

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THANK YOU