

Direct Tax Alert

August 17, 2020



Transparent Taxation – Honouring the Honest: A step in the right direction

Background

In a major boost to the e-Governance initiatives implemented by the Government of India, the Hon'ble Prime Minister launched a platform for "Transparent Taxation – Honouring the Honest" ('the platform') on August 13, 2020.

The launch of the multi-faceted platform is an extension to announcements made by the Government in the past and as emphasized by the Hon'ble Finance Minister in her Budget 2020 speech.

Through this platform, major reforms have been announced to make direct tax administration seamless, painless and faceless. The announcements made focus broadly on three aspects as under:

- Faceless assessment;
- Faceless appeal; and
- Taxpayers' charter.

Salient features of the announcements have been discussed in this alert.

I. Faceless Assessment

The evolution of assessment proceedings through electronic mode dates back to 2015 when a pilot project was launched in major cities of the country. Subsequently, an e-Proceeding module was introduced to broad-base scrutiny assessments using electronic means. Even in such scenario, cases were administered by the jurisdictional Assessing Officer ('AO') of the taxpayer.

With a view to eliminate physical interface between the Income Tax Department and the taxpayer, amendments were made vide the Finance Act, 2018 to provide for a detailed e-Assessment Scheme ('the scheme').

The scheme was notified on 12 September 2019¹, whereby the National e-Assessment Centre ('NeAC') was established to make an assessment in accordance with the provisions of the scheme. Simultaneously, Regional e-Assessment Centres ('ReAC') which comprise of an Assessment unit, Verification unit, Technical unit and Review unit were formed to support the functioning of NeAC.

Effective August 13, 2020, the e-Assessment Scheme, 2019 has been amended and renamed

¹ Please refer to Dhruva Alert on e-Assessment Scheme, 2019 at: https://dhruvaadvisors.com/insights/files/Dhruva_Direct_Tax_Alert_Eassessment_scheme.pdf



as “Faceless Assessment Scheme, 2019”². Certain modifications have been made to the earlier scheme which have been summarized hereunder.

Key modifications in the Faceless Assessment Scheme:

- All assessment orders are now required to be passed by NeAC:
 - Until now only limited number of cases were selected under the scheme³. However, as per the amended scheme, effectively all assessments/ reassessments, pending or new, will now become faceless.
 - Such migration of assessment/ reassessment proceedings to NeAC is required to be intimated to the taxpayer.
 - Cases assigned to Central Charges (typically pertaining to search and seizure cases) and International Tax Charges will continue to be assessed by the jurisdictional AO⁴.
 - Any assessment order passed outside the scheme (barring the exceptions stated above) will be considered to have not been passed at all.
- The scope of the scheme has been expanded to include best judgment assessment cases under section 144 of the Income-tax Act, 1961 (‘the Act’).
- Any modification to the draft assessment order made by the Review unit will now be assigned to an Assessment unit other than the unit which prepared the initial draft assessment order.
- Transfer of assessment proceedings from NeAC to the jurisdictional AO, if considered necessary, will now require prior approval of the Central Board of Direct Taxes (‘CBDT’).
- The taxpayer can now seek extension of time for filing response to details in relation to its assessment proceedings under the scheme.
- The NeAC is authorized to prescribe circumstances under which:
 - a personal hearing (through video conferencing) may be granted to the taxpayer;

- communication may be exchanged between NeAC and taxpayer/ internal communications between NeAC, ReAC and various units, other than by way of electronic mode.

However, approval of CBDT is now required for prescribing such circumstances.

- Appeal against a penalty order passed by NeAC for non-compliance of any notice, direction or order issued under the scheme shall lie before the Commissioner (Appeals).
- Survey action under section 133A of the Act shall henceforth be carried out only by Directorates of Investigation and Commissionerate of TDS (and not by the jurisdictional AO)⁴. The survey action would require approval of DGIT (Inv.) for investigation wing or CCIT (TDS) for TDS charges.
- Tax authorities outside the NeAC and ReAC will perform functions of rectification, recovery of taxes, passing orders giving effect to appellate orders, revision proceedings under section 263/ 264 of the Act, etc. in a faceless manner to the extent possible⁵.
 - communication shall be made through electronic means using the Income tax Department’s portal.
- Keeping the pace of reforms, CBDT has re-constituted and expanded the ReAC into 30 headquarters spread over 20 cities (from earlier headquarters in 8 cities).

To give effect to the above aspects, appropriate amendments have been made by way of notifications, orders and letters issued by CBDT.

II. Faceless Appeal

The Finance Act, 2020 introduced provisions for enabling faceless appeals in line with the faceless assessments. While the platform has been officially launched, the facility for faceless appeals will be available only from September 25, 2020.

While no notification or further clarifications have been issued on this aspect so far, snippets from the official website of the Income Tax Department provide that the scheme will involve random allotment of cases, electronic replies to notices, no personal visits required and review before the final order is issued by Commissioner (Appeals).

² Notification Nos. 60/2020 and 61/2020 dated August 13, 2020

³ 58,319 cases as per Press Release issued by Ministry of Finance dated August 4, 2020

⁴ CBDT order under section 119 of the Income-tax Act, 1961 dated August 13, 2020

⁵ Letter from CBDT to all Principal CCITs dated August 14, 2020



III. Taxpayers' Charter

Another announcement which is in line with amendments made vide Finance Act, 2020 and has seen light of the day is the introduction of the Taxpayers' Charter.

The Income Tax Department already had a Citizen's Charter in public domain since over a decade. However, since this stood outside the statutory books, it was not mandatory for Revenue authorities to follow it.

The Taxpayers' Charter on the other hand is codified⁶ and reiterates the government's stance to provide a transparent and taxpayer-friendly regime. The Charter, inter-alia, commits that Revenue authorities will be held accountable for their actions. It also commits to reduce the cost of compliance when administering tax legislation.

However, unlike the earlier version, the Taxpayers' Charter does not suggest any timelines for delivery of services by the Income Tax Department.

The Charter, inter-alia, also lays down that the taxpayer is expected to be honest, pay its taxes in a timely manner and be aware of the details filed by its authorised representative.

A separate Taxpayers' Charter Cell shall be constituted in each zone which the taxpayers can approach for compliance with the Charter.

Dhruva Comments:

The Government has been committed to implementing tax-friendly measures as well as using technology as a tool for improving efficiency, and there could be no better time to merge the two. The COVID-19 pandemic might have just played its role in shifting gears with respect to the pace in implementing digital reforms.

It is possible that certain challenges could arise in early days of implementing the scheme, especially considering the coordination between the NeAC, ReAC and various units.

Having regard to the interplay between jurisdictional AO and the NeAC, obtaining various taxpayer services from the jurisdictional AO especially issuance of tax refunds claimed in the Return of Income could possibly become more difficult and cumbersome.

While faceless assessments and appeals will make life simpler for taxpayers by eliminating physical interface, details required to be submitted to the Revenue will now be more time-bound. It is, therefore, imperative that taxpayers are well-prepared and have a strategy in place for effective representation in faceless proceedings.

With physical interactions between the taxpayer and Revenue authorities are not just blurring but almost disappearing, it is extremely crucial to make the most of limited opportunities available to the taxpayer and make all-encompassing technical and factual submissions on tax positions adopted by them.

⁶ Section 119A of the Income-tax Act, 1961



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