

HOW TO HANDLE FACELESS ASSESSMENT?

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INTRODUCTION

The faceless assessment scheme legally called as '*E-assessment scheme*', is a new scheme which has been brought to avoid physical interaction of the assessee or their authorised representatives with the Income Tax Authorities for the purpose of assessment. The entire assessment proceedings will be electronically, right from issue of notice to service of assessment order. It may be difficult for the assessee and their authorised representative to handle their cases properly under this scheme.

The income tax department has started issuing notices to those assesses whose cases for scrutiny assessment has been selected under faceless assessment scheme. The notices issued to our various assessee u/s142(1) of the Income Tax Act,1961, are very lengthy and complicated and also require so many details and explanations that if not replied and complied properly heavy additions may be made in the faceless assessment order. It will lead to litigation and loss of money, time and peace.

STRUCTURE FOR E-ASSESSMENT

The CBDT has set up the below 'centres' and 'units' –

'National e-Assessment Centre' to facilitate and centrally control the e-assessment.

'Regional e-Assessment Centres' under the jurisdiction of the regional Principal Chief Commissioner for making e-assessment.

'Assessment units' for identifying points or issues, the determination of any liability (including refund), analysing information, and such other functions.

'Verification units' for enquiry, examination of books of accounts, recording of statements etc. and such other functions.

'Technical units' for technical assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, any other technical matter.

'Review units' for reviewing the draft assessment order to check whether the facts, relevant evidence and law and judicial decisions have been considered in the draft order.

All the communications between all the units mentioned above, for the purpose of making an assessment under this scheme would be through the National e-Assessment Centre.

PROCEDURE

The procedure for e-assessment is as below:

- A notice under section 143(2) would be served by the National e-Assessment Centre specifying the reasons for selection of taxpayer's case for assessment.

- The taxpayer has a period of fifteen days for filing a response with the National e-Assessment Centre.
- The National e-Assessment Centre will assign the case selected for the purposes of e-assessment to a specific '*assessment unit*' in any one '*Regional e-Assessment Centre*' through an automated allocation system.
- After 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.
 - Conducting of certain enquiry or verification by verification unit; and
 - Seeking technical assistance from the technical unit.
- On receipt of request being made by assessment scheme for any of the purpose mentioned in above para by the National e-assessment centre, it will assign the work to the respective unit through an automated allocation system.
- The '*assessment unit*' shall, after taking into account all the relevant material gathered as above, pass a draft order and send a copy of such order to the National e-Assessment Centre.
- The '*assessment unit*' shall, while making draft assessment order, provide details of the penalty proceedings to be initiated therein, if any.
- The National e-Assessment Centre shall examine the draft assessment order in accordance with the risk management strategy specified by the CBDT, including by way of an automated examination tool, whereupon it may decide to:
 - Finalise the assessment as per the draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, on the taxpayer, alongwith the demand notice, ; or
 - Provide an opportunity to the taxpayer, in case a modification is proposed, by serving a notice calling upon him to show cause as to why the assessment should not be completed as per the draft assessment order; or
 - Assign the draft assessment order to a review unit in any one Regional e-Assessment Centre, through an automated allocation system, for conducting review of such order.
- The review unit shall make review of the draft assessment order, and may decide to:
 - Concur with the draft assessment order and intimate the National e-Assessment Centre about such concurrence; or
 - Suggest such modification, as it may deem fit, to the draft assessment order and send its suggestions to the National e-Assessment Centre.

- The National e-Assessment Centre shall, upon receiving concurrence of the review unit finalise the draft assessment order or provide an opportunity to the taxpayer in case a modification is proposed.
- The National e-Assessment Centre shall, upon receiving suggestions for modifications from the review unit, communicate the same to the assessment unit.
- The assessment unit shall, after considering the modifications suggested by the review unit, send the final draft assessment order to the National e-Assessment Centre.
- The National e-assessment Centre shall, upon receiving final draft assessment order, finalise the draft assessment order, or provide an opportunity to the taxpayer in case a modification is proposed, as the case may be.
- The taxpayer may, in a case where notice is issued for making submissions against the draft assessment order, furnish his response to the National e-Assessment Centre on or before the date and time specified in the notice.
- The National e-Assessment Centre shall:
 - In a case where no response to the show-cause notice is received, finalise the assessment as per the draft assessment order; or
 - In any other case, send the response received from the taxpayer to the assessment unit.
- The assessment unit shall, after taking into account the response furnished by the taxpayer, make a revised draft assessment order and send it to the National e-Assessment Centre.
- The National e-Assessment Centre shall, upon receiving the revised draft assessment order:
 - In case no modification against the interest of the taxpayer is proposed with reference to the draft assessment order, finalise the draft assessment; or
 - In case a modification against the interest of the assessee is proposed with reference to the draft assessment order, provide an opportunity to the taxpayer for hearing and making submissions.
- The response furnished by the taxpayer shall be dealt with by the National e-Assessment centre and the draft assessment order finalised.
- The National e-Assessment Centre shall, after completion of assessment, transfer all the electronic records of the case to the Assessing Officer having jurisdiction over such case for:
 - Imposition of penalty;
 - Collection and recovery of demand;
 - Rectification of mistake;
 - Giving effect to appellate orders;

- Submission of remand report,
- proposal seeking sanction for launch of prosecution and filing of complaint before the Court

Note: The National e-Assessment Centre may at any stage of the assessment, if it considers necessary, transfer the case to the Assessing Officer having jurisdiction over such case.

HANDLING OF E-ASSESSMENT:

The assessee's are not fully aware of this scheme and authorised representative also do not have practical experience of handling this scheme. It will be difficult to handle the scrutiny cases under this scheme rather than handling assessment by physical appearance. Since there will be no human interference, the drafting of reply to notice u/s 142(1) and show cause notices will play an important role for proper assessment. Therefore, the A/R should focus mainly on drafting of submissions and therefore, certain suggestions are given below for drafting –

- ❖ First of all Read entire notice minutely and properly.
- ❖ Draft reply of each and every point mentioned in the notices one by one.
- ❖ The details asked for in the notice should be filed along with written submission in the performa, if any, given in notice.
- ❖ If due to any reason it is not possible to furnish such details either completely or as per performa, state the plausible reason for non-furnishing of such detail.
- ❖ If any explanation is required, it should be drafted in detail mentioning all legal and factual aspects. Points which may crop up in the mind of the assessing officer after reading written explanation should be covered in explanation being filed. The case laws in favour of the assessee should be cited and case laws against the assessee should also be discussed and distinguished in written submission giving no scope to AO for addition or disallowance in the assessment order.
- ❖ All evidences must be enclosed with the written submission in regard to explanation made in response to notice.
- ❖ Written submission should be drafted in easy language so that anyone can understand it. Strict legal term should not be used in such submission if especially not required.
- ❖ Points relating to natural justice wherever required should also be covered in written submission.

COMPLIANCE:

Apart from drafting, in this proceeding the timely compliance is another important factor to deal face less scheme. Some suggestions are explained below –

- ❖ Every compliance should be made strictly in time.

- ❖ The assessee should try to make full compliance of the notice. But due to any reason if it is not possible to furnish all details and documents at one go at least make partial compliance in order to avoid ex-parte order.
- ❖ The authorised representative should ask his clients to give all details and documents for drafting at least three days in advance for proper and timely compliance of the notices.
- ❖ Non-compliance to hearing may attract penalties u/s 272A(1)(d) which may be initiated immediately. So for any non-compliance, submit adjournment letter stating reasons for non-compliance. Assessee will be required to respond immediately for quick compliance of notices otherwise window will be closed and order will be passed ex-parte.

Other points to be considered –

- ❖ The assessee or his A/R should read, check and verify details documents and submission very carefully uploading in portal, because any mistake may cost too much, as opportunity to rectify may not be availed before assessment order is passed.
- ❖ Assessee should send details and documents to the A/ R at least three days in advance from date of hearing of the case.
- ❖ The authorised representative should hire qualified persons for handling cases under this scheme. Low paid staff of the assessee or the A/R may ruin the case.
- ❖ The assessee should also provide details, documents and other evidences as per requirement. Half or incomplete details may lead to disallowances or additions.

BENEFITS OF THIS SCHEME:

- ❖ The assessee or his representative will be able to save expenses for transportation. The assessee and their representatives will be able to save time also. They are not required to wait for the officers to be free.
- ❖ Any sort of favour whether in cash, kind or services will not be required for the officers.
- ❖ Sometimes notices are not served properly or place is not found or postal authority returns the notices and therefore assessment is made ex-parte. Now there will be no such fear as notices will only be sent through e-mail.
- ❖ There will be no chance of manipulation by the assessing officer as regards order sheet notice is concerned during assessment proceeding.
- ❖ There will be no back dated proceeding hence forth.
- ❖ There will be no fear of appearance before the assessing officer by the assesseees.

WHAT ARE THE DEMERITS?

- ❖ Since it is fully computer friendly, it will be very difficult for small assesses particularly assesseees of small towns to upload submissions personally.

- ❖ It is easy to convince and argue face to face but very difficult to convince or argue in writing only. Presently, if the AO is unable to understand certain things by a written submission, he is explained verbally and if the AO also ask certain queries for his satisfaction and when the matter is clear to him, he proceeds further but in the faceless scheme he is unable to do so. Ultimately it may lead to heavy additions.

CONCLUSION:

Undoubtly, this scheme is a assessee friendly scheme to remove corruption and harassment due to non-intervention of human faces. Since the assessment will pass through several authorities and there will be supervision oh higher authorities, there will be very little chances of high pitch assessment if the assessee or their authorised representative deal with the case properly. The assessee and the authorised representative are required to change their mind set completely to deal with assessment proceeding under this scheme so that unnecessary additions or disallowances are not made.