

Faceless Assessment Scheme, 2019

(erstwhile e-assessment scheme)

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About CA. Deepak Bholusaria

- Mr. Deepak Bholusaria is a commerce graduate and fellow member of the Institute of Chartered Accountants of India.
- He has also completed various certificate courses of ICAI on Indirect taxes, Blockchain, Information Systems Audit and Valuation.
- A seasoned professional, author, speaker, public figure and YouTuber with 21+ years of experience.



What is e-assessment?

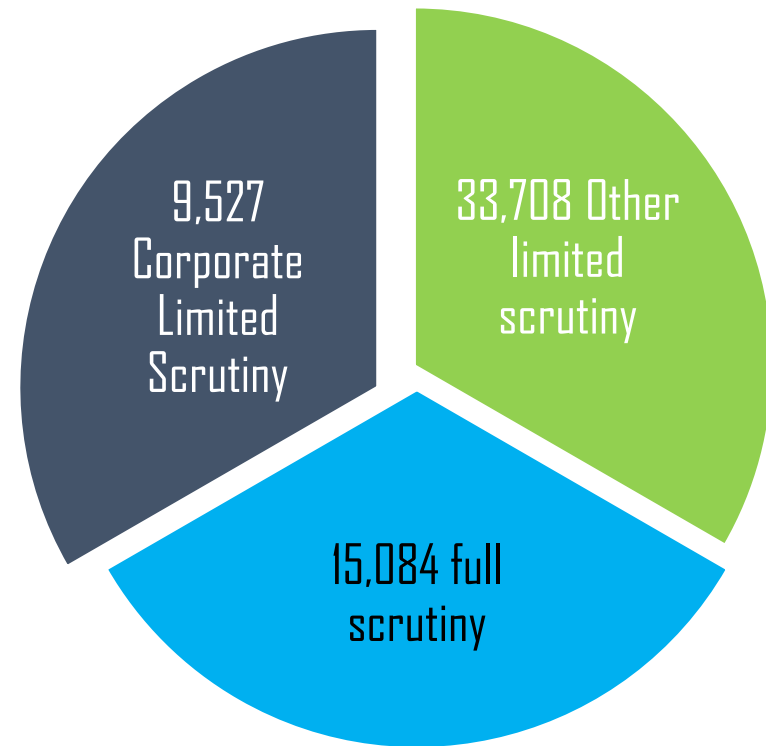
"e-assessment" means

- the assessment proceedings
- conducted electronically
- in 'e-Proceeding' facility
- through assessee's registered account
- in designated portal (incometaxindiaefiling.gov.in)

(clause 2(xiii) of scheme)

Allocation of cases – 1st Phase

- 58,319 cases in first phase – More like a pilot project.
- In 2nd phase more complex cases shall be taken up and probably 50% of total assessments in country shall be through faceless e-assessment.





Features of faceless assessment

- All communications will be conducted electronically.
- Eliminates person-to-person contact i.e. faceless assessments.
- Taxpayers or CAs shall not remain physically present.
- In some cases, video conferencing may be allowed.

E-exchange of information



- All the communication, whether internal between the various centres and units or externally with the taxpayer, shall be carried out only by electronic mode.
- The electronic modes include emails, upload of documents on e-filing portal, mobile app, real time alerts and messages to taxpayers, etc.

Delivery of notice

- Section 282 of the IT Act specifically provides that notice can be served in the form of any electronic record as provided in chapter IV of the Information Technology Act, 2000.
- Explanation to section 282(2) provides that the expressions “Electronic Mail” and “Electronic Mail Message” are assigned the meaning as in explanation to section 66A of the Information Technology Act, 2000.
- The notification in its definition Clause 2(xvi) expands the scope so as to include even ‘message on WhatsApp’.

Expected benefits

- Ease of compliance for taxpayers
- No human interface
- Transparency and efficiency
- Functional Specialisation
- Improvement in Quality of Assessment
- Risk based and focussed approach
- Systematic and specific verification
- Standardisation and quality management
- Better monitoring
- Expeditious Disposal of Cases

E-proceedings v/s faceless assessment

- Virtually there is no difference.
- Only difference is -
 - in case of e-proceedings, assessment shall be conducted by jurisdictional AO; and
 - in case of e-assessment, it shall be conducted in accordance with E-assessment scheme.
- For assessee, user interface shall be same in both scenarios.
- For both, you may now add "Authorised Representative" and then AR may submit replies on assessee's behalf directly.

E-proceedings v/s e-assessment

- For a particular assessment year –

either faceless e-assessment

or

Conventional e-proceedings assessment.

- Once e-assessment starts, access to AO shall be blocked.

Legal provisions



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Section 143(3A)/(3B)

Section 143(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) optimising utilisation of the resources through economies of scale and functional **specialisation;**
- c) introducing a **team-based** assessment with dynamic jurisdiction.

Section 143(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, 2020.

Notifications issued so far

Notifications / circulars



Sl#	Notification / circulars Number	Subject
1.	61/2019	E-Assessment Scheme, 2019
2.	62/2019	Directions u/s 143(3B)
3.	65/2019	Prescribed authority to issue notices
4.	72/2019	National E-assessment centre, Delhi
5.	77/2019	Regional E-assessment centres and units
6.	Cir. 27/2019	Conduct of assessment proceedings through 'E-Proceeding' facility
7.	60 / 2000 66 / 2000	Amendment in scheme and relevant changes

Notifications page



Notifications and orders related to faceless scheme can be downloaded from -

<https://www.incometaxindia.gov.in/Pages/faceless-assessment.aspx>

Sections/chapter covered by directions u/s 143(3B)



Section	Subject matter
2(7A)	Meaning of AO
92CA	TP Officer
120	Jurisdiction of IT Authorities
124	Jurisdiction of AO
127	Power to transfer cases
129	Change of incumbent
131	Power regarding discovery, production of evidence
133	Power to call for information
133A	Power of survey
133C	Power to call for information by prescribed income tax authorities
134	Power to inspect register of companies
142	Inquiry before assessment

Sections/chapter covered by directions u/s 143(3B)



Section	Subject matter
142A	Estimate of value of assets by Valuation officer
143	Assessment
144A	Power of JCIT to issue directions on certain cases
144BA	Power of PCIT or CIT in certain cases
144C	DRP
246A	Appealable Orders
Chapter XXI	Penalties Imposable
Chapter XIV	Procedure for assessment

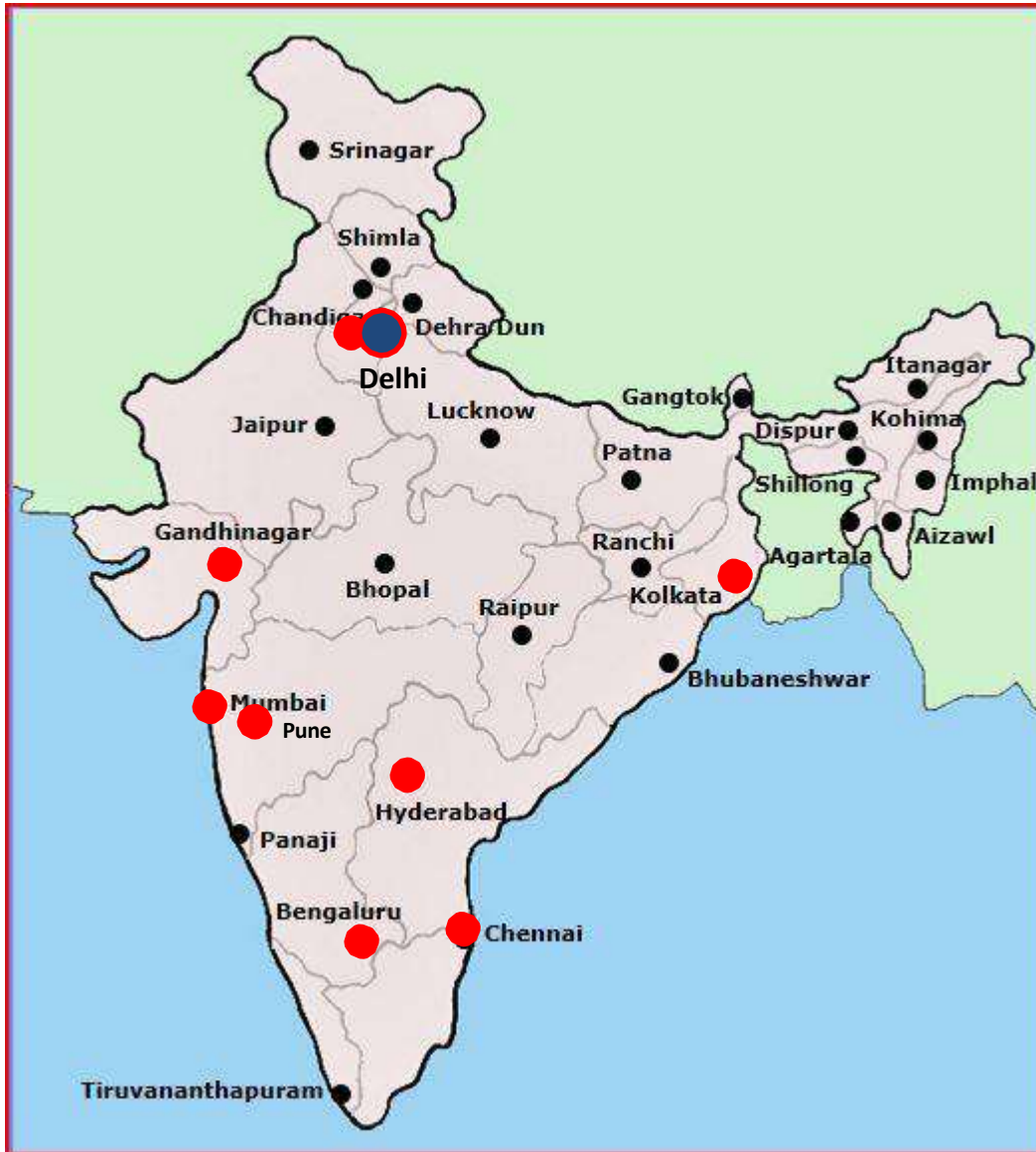
Old circulars / instructions

- **SoP for Limited scrutiny cases** - Instruction No. 20/2015 [F.NO.225/269/2015-ITA-II], dated 29-12-2015 – Para 3
- **Conversion to full scrutiny** - Instruction no. 5/ 2016 dated 14-07-2016
- **Format of notices** - F.No. 225/162/2016/ITA.II dated 11-07-2016

Organisational structure



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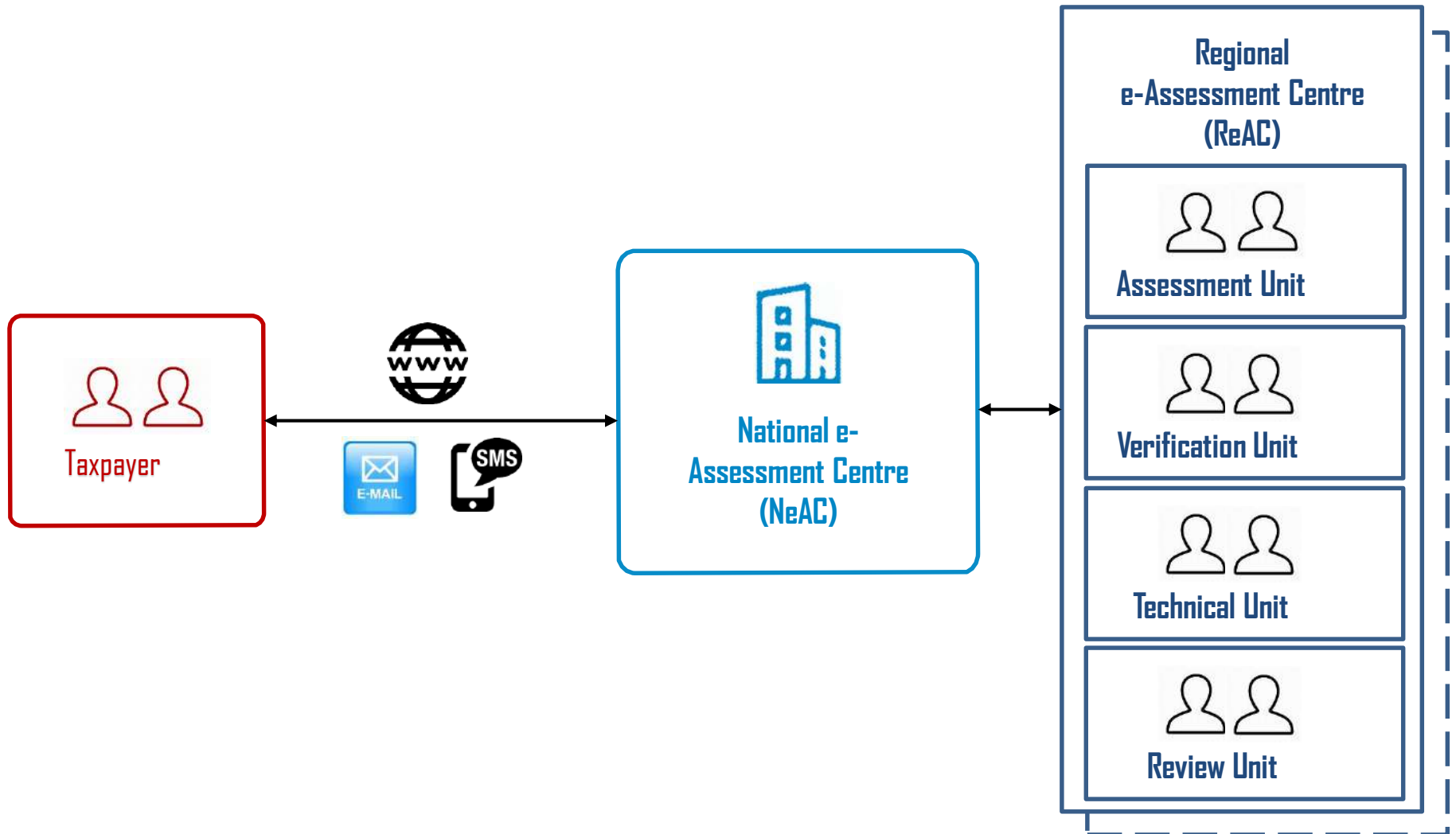
E-assessment Scheme 2019

Organisation Structure

1 National e-assessment Centre (NeAC)

8 Regional e-assessment Centres (ReAC)

e-Assessment Ecosystem



E-assessment organisational hierarchy



National E-Assessment Centre (NeAC)
Headquartered at New Delhi

Regional E-Assessment Centre n1
(ReAC)

Regional E-Assessment Centre n2
(ReAC)

Regional E-Assessment Centre n3
(ReAC)

Technical Unit

Review Unit

Assessment Unit

Verification Unit

Technical Unit

Review Unit

Assessment Unit

Verification Unit

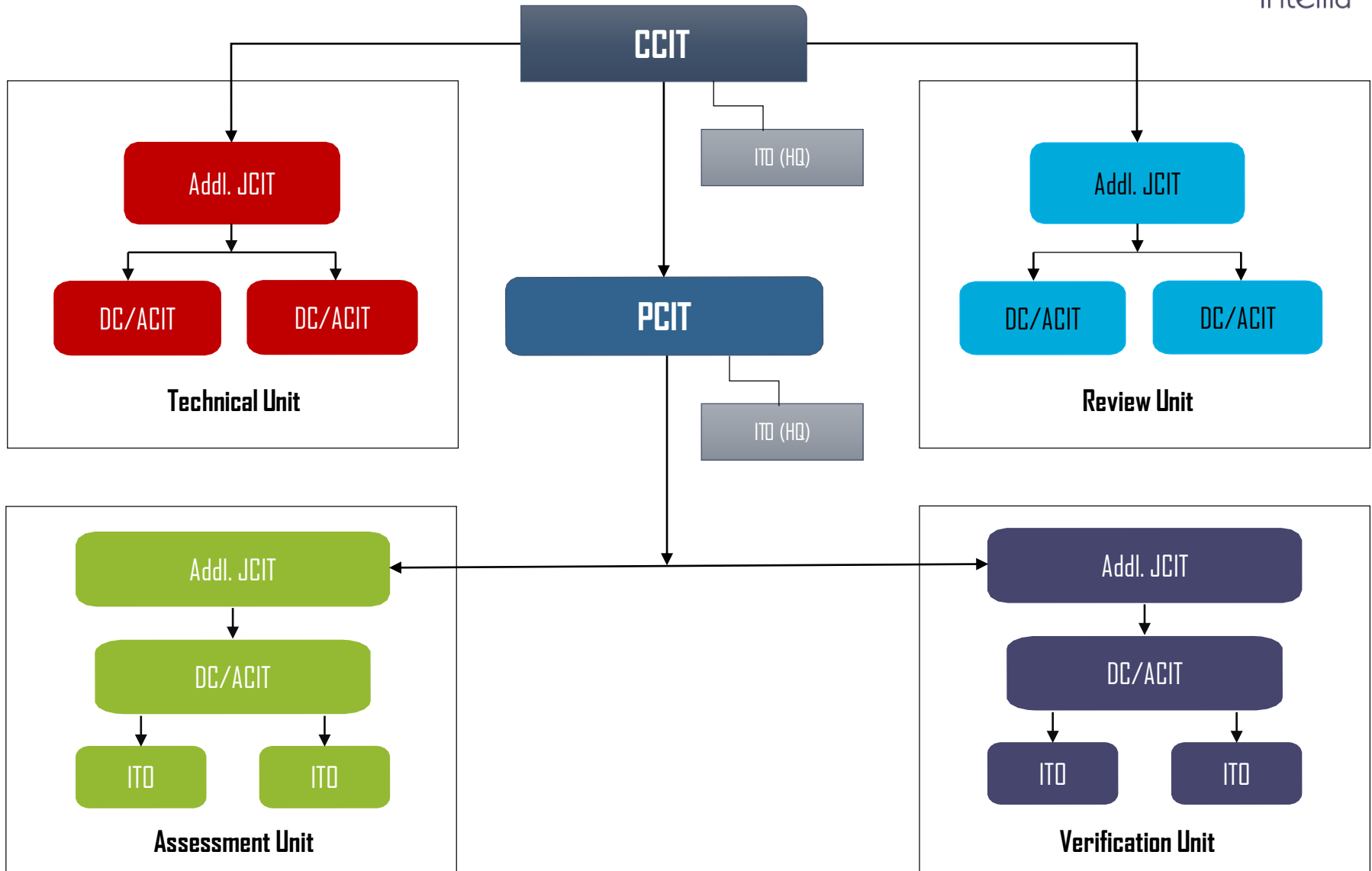
Technical Unit

Review Unit

Assessment Unit

Verification Unit

Regional e-Assessment Centers(ReAC)



NeAC / ReAC Manpower (old)



Post	Number
Pr. Chief Commissioner of Income Tax	1
Chief Commissioner of Income Tax	4
Pr. Commissioner of Income Tax	25
Commissioner of Income Tax	1
Additional/Joint Commissioner of Income Tax	144
Deputy/Assistant Commissioner of Income Tax	163
Income Tax Officer	281
Sub total	618
<i>Inspector</i>	<i>635</i>
<i>Executive Assistant</i>	<i>400</i>
<i>Multi-Tasking Staff</i>	<i>558</i>
<i>Stenographer</i>	<i>474</i>
Total	2686

Source: Income Tax Department

Role of each unit



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National e-assessment centre

- to *facilitate* the conduct of e-assessment proceedings in a centralised manner,
- which shall be vested with the *jurisdiction to make assessment* in accordance with the provisions of this scheme

Role of National e-assessment centre

- National e-assessment centre (NeAC) is the face of income tax department for e-assessments.
- All interactions of assessee with department will be routed through NeAC.
- Assessment unit shall be selected by NeAC only (under one of ReAC)
- NeAC has authority as good as AO

Role of National e-assessment centre

NeAC will be the sole point of contact

- between the Department and the taxpayer.
- It will communicate all the relevant details, for the purposes of making assessment
- among the assessment units, review units, verification units, and technical units.
- All communication with regard to assessment shall be exchanged exclusively by electronic mode.
- An electronic record shall be authenticated by the originator by affixing his digital signature.

Regional e-assessment centre



- To *facilitate* the conduct of e-assessment proceedings
- in the cadre controlling region of a Principal Chief Commissioner,
- which shall be vested with the *jurisdiction to make assessment* in accordance with the provisions of this Scheme;

Assessment Units



To perform the function of making assessment, which includes -

- Identification of points or issues material for the determination of any liability (including refund) under the Act,
- Seeking information or clarification on points or issues so identified
- Analysis of the material furnished by the assessee or any other person, and such other functions as may be required for the purposes of making assessment;

Verification units



To perform the function of verification, which includes -

- enquiry
- cross verification
- examination of books of accounts
- examination of witnesses and
- recording of statements,
- and such other functions as may be required for the purposes of verification.

Technical unit



To perform the function of

- providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, **audit**, transfer pricing, data analytics, management
- or any other technical matter which may be required in a particular case or a class of cases, under this Scheme

Review unit



To perform the function of

- Review of the draft assessment order, which includes checking whether the relevant and material evidence has been brought on record,
- Whether the relevant points of fact and law have been duly incorporated in the draft order,
- Whether the issues on which addition or disallowance should be made have been discussed in the draft order,
- Whether the applicable judicial decisions have been considered and dealt with in the draft order,
- Checking for arithmetical correctness of modifications proposed, if any,
- and such other functions as may be required for the purposes of review.

Inclusions and exclusions



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Inclusions -

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 incomes,
- or cases or class of cases,

as may be specified by the Board.

100% faceless (order dated 13-08-2020)



Except –

- a. Assessments of central Charge
- b. International charge

Optional e-proceedings

(not e-assessments)



- In all cases at station connected through the VAST or with limited capacity of bandwidth {list of such station shall be specified by the Pr. DGIT (System)}
- The jurisdictional Pr. CIT / CIT, in extraordinary circumstances such as complexities of the cases or administrative difficulties in conduct of assessment through 'E-Proceeding', can permit conduct of assessment proceedings through the conventional mode.
- Pr. CIT / CIT is required to provide such relaxation only in extraordinary circumstances after examining the necessity for such relaxation and recording the reasons for providing such relaxations.

Can assessee suo-moto opt out of e-assessment? (*not e-proceedings*)



No!

e-Assessment Procedures



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Notice and response

- National e-Assessment Centre shall serve a notice on the assessee under section 143(2).
- Such Notice shall specify the issues selected for assessment.
- ACIT (e-Verification), having headquarter at Delhi, to act as prescribed Income-tax Authority for the purpose of section 143(2) *(Not: 65/2019)*.
- Assessee may, within fifteen days from the date of receipt of notice, file his response to the NeAC.

Only e-notices

- Only e-notices shall be sent. No physical notice shall be delivered under e-assessment.
- E-notice shall be available in e-proceedings account of assessee, on ITD portal.
- Department has facility to check if assessee has accessed his e-proceedings account.
- In case email is not delivered, NeAC may take help of local jurisdictional office to contact assessee to access his e-proceedings account and respond to notice.

Process of allocation of cases

- NeAC shall *assign* the case
- to a specific assessment unit in *any one ReAC*
- through an **automated allocation** system, based on machine learning

Assessment initiation



Post allocation, assessment unit, may make a request to the NeAC for -

- a) obtaining such further information, documents or evidence from the assessee or any other person, as it may specify;
- b) conducting of certain enquiry or verification by verification unit;
and
- c) seeking technical assistance from the technical unit;

Information gathering from assessee

On receipt of request from assessment unit

- for obtaining further information, documents or evidence from the assessee or any other person

NeAC shall :

- issue appropriate notice or requisition
- to the assessee or any other person
- for obtaining the information, documents or evidence requisitioned by the assessment unit;

Enquiry or verification



- Request for conducting of certain enquiry or verification by the verification unit can be made by the assessment unit.
- Such requests shall be assigned by the NeAC to a verification unit through an automated allocation system.

Notices and timelines

- For 142(1) notice, 15 days' time window shall be given and after that access shall be blocked for reply to that notice.
- If you do not reply or sought adjournment against 142(1) notice – Penalty proceedings may be initiated.
- For 143(2) notice, auto closure shall not happen (*to be provisioned*).
- If assessee does not respond against 143(2) notice – 2nd opportunity shall be provided

Adjournment



- You may file adjournment against any notice of 142(1).
- You need to file application through submit option in proceedings, giving justification for adjournment.
- Separate procedure for adjournment to be introduced shortly.
- Department is making provisions to accept reply till 11.59 PM (end of the day) of deadline mentioned in notice.

Next phase of notices

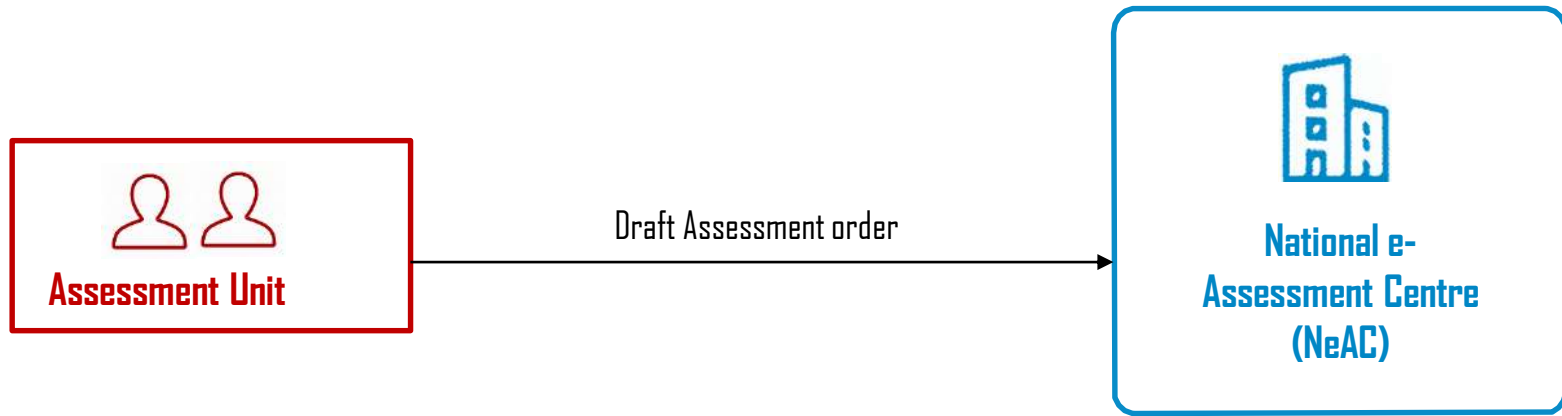
- By 15th Jan 2020, most of notices u/s 142(1) shall be issued and by 31st March 2020, 50% of e-assessments shall be closed.
- Notices shall be issued along with detailed questionnaire.
- FMPP – a term for NeAC' Standard Operating Procedure (SoP).
- FMPP being formulated for full scrutiny cases.

Technical assistance to assessment units



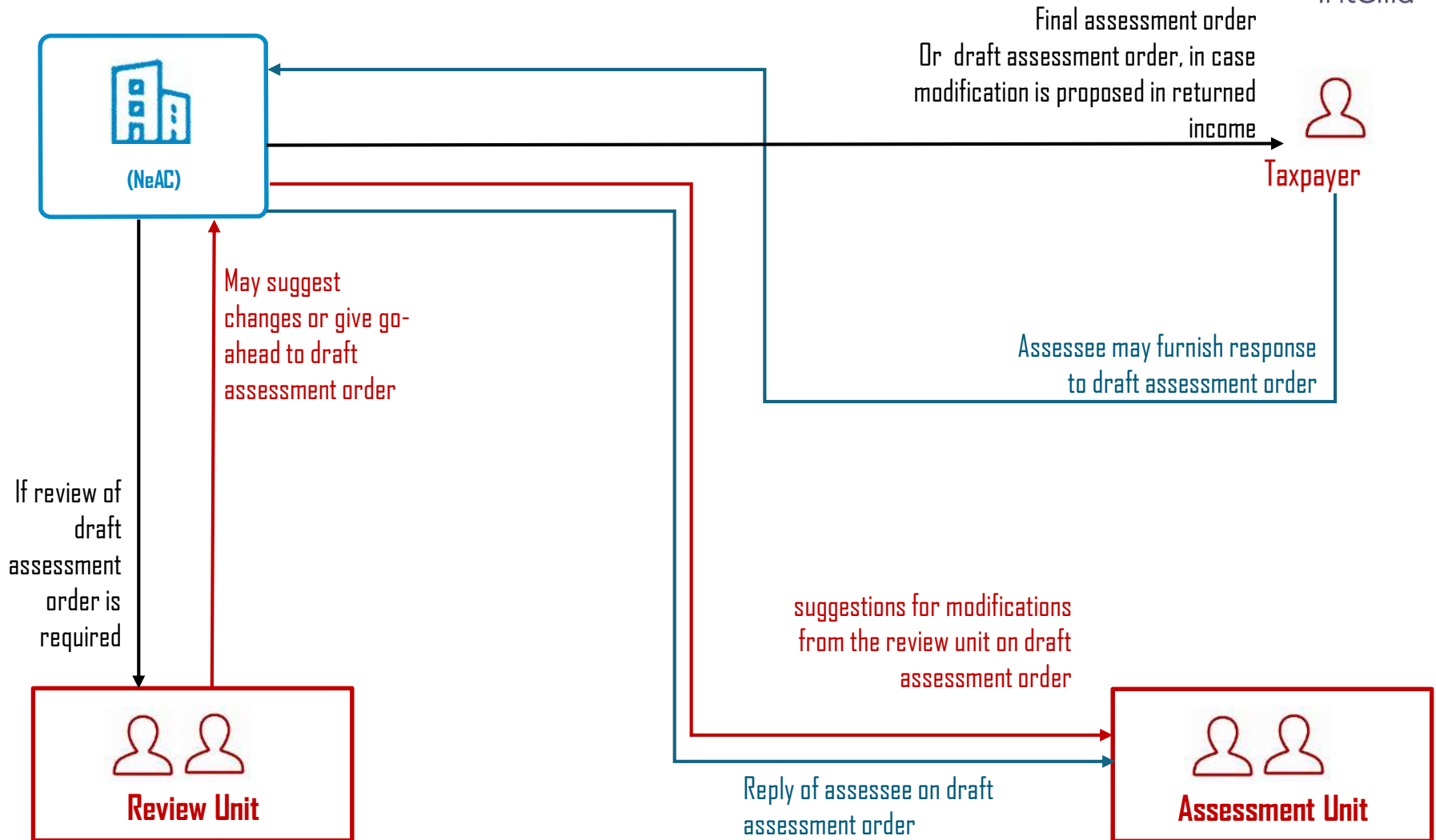
- Assessment units may place a request for technical assistance from the technical unit to NeAC.
- Such request shall be assigned by the NeAC to a technical unit in any one ReAC through an automated allocation system.

Assessment orders



- Assessment unit shall, after taking into account all the relevant material available on the record, make in writing, a draft assessment order either accepting the returned income of the assessee or modifying the returned income of the assessee, as the case may be, and send a copy of such order to the NeAC.
- the assessment unit shall, while making draft assessment order, provide details of the penalty proceedings to be initiated therein, if any;

Assessment orders...



Note sheet



- After completion of e-assessment digital copy of note sheet shall also be provided to assessee.

Role of AO Post e-assessment

- a) imposition of penalty;
- b) collection and recovery of demand;
- c) rectification of mistake;
- d) giving effect to appellate orders;
- e) submission of remand report, or any other report to be furnished, or any representation to be made, or
- f) any record to be produced before the Commissioner (Appeals), Appellate Tribunal or Courts, as the case may be;
- g) proposal seeking sanction for launch of prosecution and filing of complaint before the Court;



Transfer of case to AO by NeAC



National e-
Assessment Centre
(NeAC)

the National e-assessment Centre may

- at any stage of the assessment,
- if considered necessary,
- transfer the case
- to the Assessing Officer having jurisdiction over such case.

Personal appearance



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No personal appearance in the Centres or Units

A person shall not be required

- to appear either personally or through authorised representative
- in connection with any proceedings under this Scheme before the income-tax authority
- at the National e-assessment Centre or
- at the Regional e-assessment Centre or
- at any unit set up under this Scheme

Unless...



1. There is a modification proposed in returned income.
2. Where books of accounts have to be examined.
3. Where Assessing Officer invokes provisions of section 131 of the Act.
4. Where examination of witness is required to be made by the assessee or the Department.

Personal hearing

- Assessee or his authorised representative shall be entitled to personal hearing for oral submissions
- such hearing shall be conducted exclusively through video conferencing, including use of any telecommunication application software which supports video telephony, in *accordance with the procedure laid down by the Board*
- *Such video conferencing can be from your own office*



E-conferencing centres

- CBDT shall establish suitable video conferencing centres
- This is to ensure that the assessee, or his authorised representative, etc. is not denied the benefit of this scheme merely on the consideration that such assessee etc. does not have access to video conferencing at his end.
- As of today, there is no word from CBDT on locations of such centres.
- ***National e-governance Division (NeGD)*** is working on tele-conferencing facility. A guidance note shall be soon issued.

Recording of sessions

- Facility of recording of tele-conferencing shall be available and assessee shall be provided with copy of such recording.
 - Recording of video conferences would help the assessee as well as the department in understanding the questions asked and the submissions made during the assessment proceedings.
 - Recording of such video conferences would also be vital evidences before the higher authorities to understand as to what had transpired before the lower authorities.
- Opportunity of cross examination shall be provided to assessee or his AR.

Books of accounts

- Data structure is being developed.
- Assessee will need to submit books of accounts in soft copy.
- 256 accounting software and 3 customised accounts audit software have been examined.
- In 1st phase, books of accounts examination shall not be required.

Appeals and penalties



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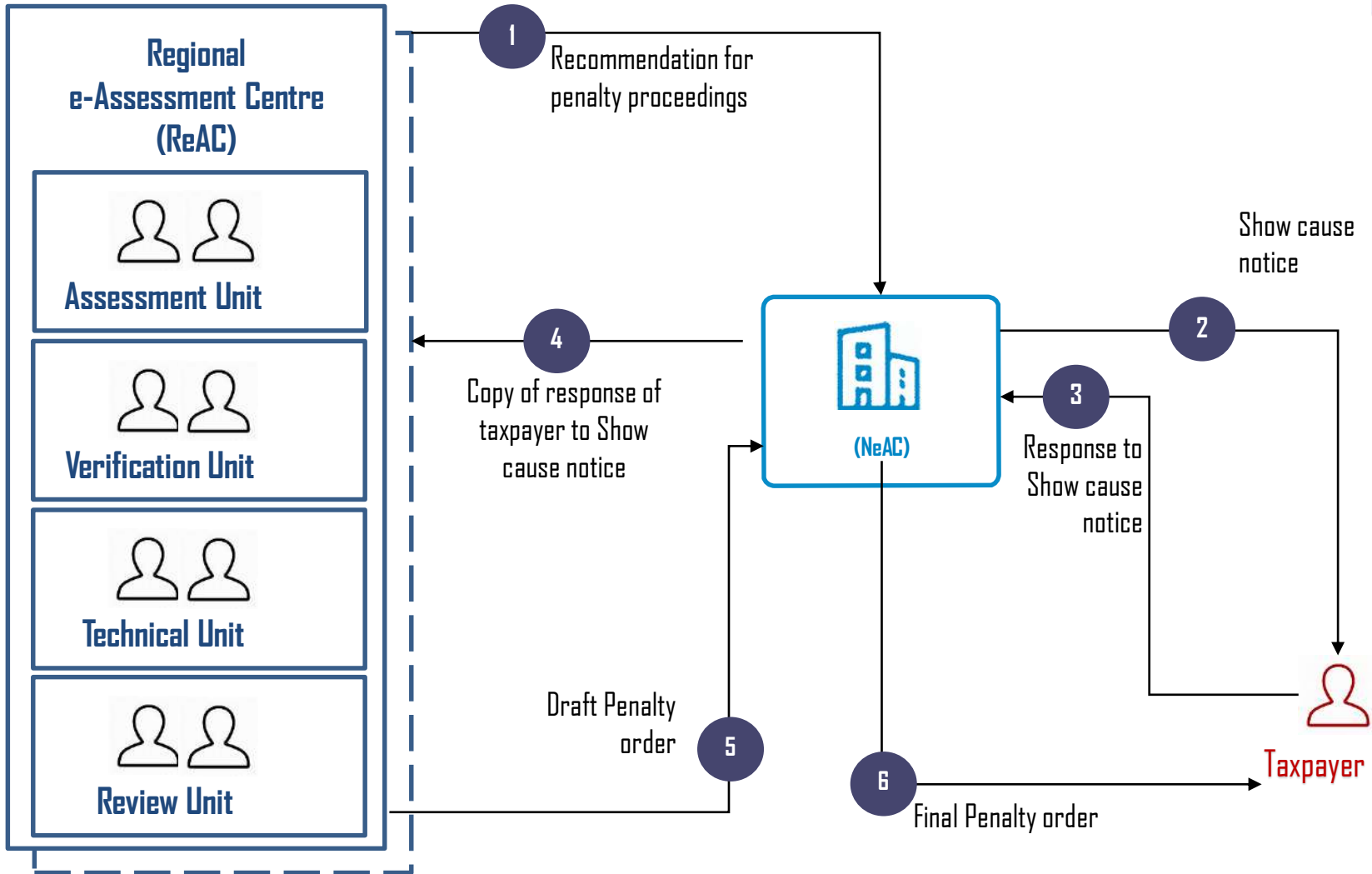
Appeal



Appeal against e-assessment order shall
lie with

Jurisdictional CIT (Appeals)

Penalties



Any unit (out of 4), during any stage of e-assessment, can send recommendation for penalty proceedings

Penalties imposable by NeAC



Section	Subject matter
270A	Penalty for under-reporting and misreporting of income
271A	Failure to keep, maintain, or retain books of account, documents etc.
271AA(1)	Penalty for failure to keep and maintain info and docs etc.
271AAC	Penalty in respect of certain income (68/69/69A/69B/69C/69D)
271B	Failure to get accounts audited u/s 44AB
271BA	Failure to furnish TP report u/s 92E
271D	Failure to comply with provisions of section 269SS
271DA	Failure to comply with provisions of section 269ST
271E	Failure to comply with provisions of section 269T
271G	Penalty for failure to furnish information or document under section 92D
271J	Penalty for furnishing incorrect information in reports or certificates
272A	Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc

Misc.



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Issue Based Assessment or General Assessment



- Per scheme, a notice would be served under section 143(2) **specifying the issues for selection of the case** for assessment.
- Would this mean that the selection of cases for assessment, be issue based?

A: As per clarification given by PCCIT, AU can not go beyond such issues raised (*if notice does not specify if it is a limited scrutiny*) assessment shall be restricted based on the issues raised only in notice.

Misc.



- Size limits for upload being increased after discussion with NeGD (under process).
- If someone from any unit of ReAC tries to contact you, file complaint with NeAC immediately and appropriate action shall be taken.
- No vague requirements like furnish 3 years bank statement shall be asked for. Most of these information shall be sourced by VU directly from bank.

Unanswered issues so far



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Technological challenges

- Technological glitches may surface at the time of hearing, through video calls.
- Even with personal hearing through video conferencing it is possible that the department may misunderstand the contentions of the taxpayer.
- There are many challenges encountered by various taxpayers in the current e-filing of responses with respect to the file size, non-use of special characters in naming of the file, etc.

Awareness challenges

- Assessee and their consultants may have to unlearn and re-learn themselves to embrace new technological changes.
- With low levels of digital connectivity and awareness in India's hinterland, requiring taxpayers to respond within 15 days to demand notices through the e-filing system is an uphill tall ask.
- Owing to the complex tax laws, it would still require a lot of toing and froing and uploading of voluminous documents, before a taxpayer can convince the AU of his tax claims.



Questions



Thanks for your time!

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