



JOURNAL OF EMERGING TECHNOLOGIES AND INNOVATIVE RESEARCH (JETIR)

An International Scholarly Open Access, Peer-reviewed, Refereed Journal

FACELESS ASSESSMENT: A REVOLUTIONARY CHANGE

Mrs. Asmita Tyagi

(Assistant Professor, Swami Shraddhanand College, University of Delhi)

Dr. Madhu Monga

(Assistant Professor, Swami Shraddhanand College, University of Delhi)

Abstract:

The assessee visits the office of the Income Tax department if some error occurs in the return or when he/ she faces a dispute with a rule. The Government of India has introduced a faceless income tax assessment system to eliminate the harassment from the tax officials. This paper covers a comprehensive study of importance, issues and challenges for taxpayers in the faceless assessment scheme. This paper also suggests the ways to tackle these challenges.

Key words:

Faceless assessment, Artificial Intelligence, National e-assessment centre.

Introduction:

The faceless assessment scheme introduced by Government of India on 7 October 2019, is one of the biggest direct tax reforms founded on the principles of Data Analytics and Artificial Intelligence.¹ It seeks to eliminate the interface between the assessee and the taxation department. It aims to provide a non-intrusive and simplified taxation system with faster processing of refunds and faster resolution of grievances. The e-assessment scheme of 2019 was amended and thereby called the Faceless scheme of 2020.

The structure of this scheme is as follows

1. A National e-assessment centre to issue notices and centralize proceedings.
2. 30 Regional e-assessment centres under a Principal Chief Commissioner.
3. 95 Assessment units to identify issues, analyze information and draft orders.

¹ https://icmai.in/TaxationPortal/upload/DT/Article/63_1903_21.pdf

4. 35 Verification units to enquire, cross verify documents, examine witnesses
5. 4 Technical units which may provide documents and evidence or any technical assistance required for making an assessment.
6. Review units for scrutinising the e-assessment order to check if the relevant facts and laws have been incorporated while drafting the order.²

Objectives:

1. To study the importance of faceless assessment.
2. To study the issues and challenges in this revolutionary change.
3. To study the ways to deal with these issues and challenges.

Key features:

1. Use of data analytics and AI to select cases for scrutiny.
2. Anonymous assessment of a taxpayers returns from one jurisdiction by AO of another jurisdiction.
3. Random automated allocation of cases to assessment units.
4. Use of document identification number for centralised issue of notices.
5. Submission of all responses to be done electronically.
6. Team based assessment and team-based review.
7. Specialised units create functional specialization by assessment of specific parts.
8. Sole point of faceless contact between assessee and IT department.
9. Dynamic jurisdiction and uniformity in application of law.
10. In case of an adverse order, providing an opportunity to assessee before finalising the assessment order.³

Process of Faceless Tax Assessment:

² https://www.incometaxindia.gov.in/communications/notification/notification_no_2_2021.pdf

³ <https://incometaxindia.gov.in/booklets%20%20pamphlets/faceless-assessment-under-income-tax-act-1961.pdf>

Step 1

A notice under section 143(2) will be sent to assessee by the national e-assessment centre. Then assessee may file his/her response to the centre within 15 days from the date of receiving the notice.

Step 2

Selected case shall be assigned to Assessment unit by the National e-assessment centre through automated allocation system. The assessment unit can ask for further information, evidences, documents, and inquiry. Then a draft assessment order is prepared by the assessment unit and sent to national e-assessment centre.

Step 3

Draft assessment order shall be examined by National e-assessment centre, it may implement it or provide an opportunity to the assessee to showcase the reasons or send it to the Review unit. Then Review unit may agree with the draft or may suggest some modifications. The assessment unit on receiving the suggestions regarding the modifications from review unit shall prepare the final draft assessment order and send to National e-assessment centre.

Step 5

Upon receiving the revised draft assessment order by National e-assessment centre, it shall finalize the draft and shall complete the assessment.

Importance Of Faceless Assessment:

1. This provides relief to the honest taxpayers.

In present scheme of physical assessment, sometimes the taxpayers are asked to bribe the tax department and officials but, in this assessment, the taxpayers can easily submit their tax returns to the tax department or officials online without meeting them personally which eliminates the chances of corruption. Earlier innocent people were getting harassed by the misuse of government machinery but through the faceless mechanism this issue could be resolved.

2. Need of time:

Earlier the taxpayers had to visit department for any kind of scrutiny but now there is an electronic mechanism through which the grievances of taxpayers are reported and resolved. The response to any query will be sent to the registered e-mail id of the concerned assessee. The assessee can get to know all responses online and there is no need to contact any official.

3. Mechanism to reduce the corruption:

Through the use of automated examination tool, artificial intelligence, and machine learning, it is assured that there would be no or least human intervention from IT department. It provides transparency and efficiency in the transactions.

4. Easy to understand and time saving

As the process of assessment is digital, it saves the travel time of taxpayers and also no efforts are to be made by the taxpayers in finding the place or jurisdiction of assessing officers.

5. Economical for the government

As the entire procedure is digital therefore this initiative is environment friendly also.

Recent developments:

1. To reduce the no. of appeals against the assessee by the income tax department, Govt. has taken some important decisions like:
 - In matters below INR 20 lacs, there will be no appeal before ITAT.
 - In matters below INR 50 lacs, there will be no appeal before the high court.
 - Also, in matters below INR 1 crore, there will be no appeal before the Supreme Court.

These decisions have really helped in reducing the no. of never-ending litigations.

2. 'Direct Tax Vivad se Vishwas Act, 2020' has been successfully introduced by the Indian Government. An Act to provide for resolution of disputed tax and for matters connected therewith or incidental thereto. The taxpayers, whose appeals are pending, can avail this scheme. Under this scheme, there is a complete waiver of interest and penalty. It has proved very useful in the cases where taxpayers have very weak case and have been in litigation for a long time.
3. The Government has again put emphasis on minimizing the tax litigations in the current budget.
4. In the present budget, many repetitive issues have been resolved, to eliminate the scope of future litigation.
5. The present budget is clearer and more transparent about the foreign laws, cess and surcharges.
6. For stable, predictable tax regimes, and in the interest of equity, the Indian government has now made application of the amendments proposed to section 9 and 195 of Income Tax Act, retrospective only.

Challenges:

Although, the use of digital interface and AI enhanced the transparency, efficiency and accountability in the Indian tax litigation system but is facing many challenges both by officers and the assessee. Lack of tactful correspondence between the 2 parties is leading to unnecessary litigation and harassment for the assessee. The high courts too have observed that the draft orders are against the principles of natural justice.

1. It has been observed that the orders were passed without conceding the assessee's submission.

2. On occasions, their requests for adjournment or personal hearing were ignored. Denial of hearing opportunity via video conferencing also leads to violation of constitutional rights.
3. In some cases, orders were also passed within 2-3 days of issuance of notices.
4. Also, an AO sitting in South India might face difficulties in verifying the evidence of cases randomly allotted to them from a national centre.
5. The technical glitches are also another area of concern where the AOs are yet to master the software.
6. Random allotment of cases may lead to a complex case being allotted to an inexperienced AO, also extra workload may affect the efficiency of their responses.
7. The database for faceless assessment is based on the email ids of taxpayers which may not be always updated and may lead to lag in response by the assessee.
8. The response times are also crunched at 15 days for the first submission and 7 days for successive submissions.

The way forward:

1. CBDT must implement policies to enforce accountability for the adversarial orders of the AOs so as to uphold the principles of natural justice.
2. Peer review of the assessment orders should be done by an autonomous panel of experts.
3. By creating quality questionnaire and giving reasonable time to assessee to respond to the notices, the faceless scheme will become more robust.
4. More sophisticated cases should be flagged for personal hearings.
5. The allotment of cases should match the skills of the AO with the complexities of the case.
6. The assessee should maintain verifiable and self-explanatory documents, update their contact information and respond to notices in a prompt manner.
7. All inter and intra-departmental interactions should be digitized with special emphasis on data connectivity data storage and data security.
8. A strong grievance redressal system is imperative for effective resolution of taxpayers grievances.
9. In budget 2021, recommendation for the formation of a dispute Resolution committee was made to provide effective aid to small taxpayer with a taxable income of 50 lakhs and a disputed income of 10 lakhs.

Conclusion:

Whilst faceless assessment is a welcome step in the right direction to establish India as a preferred investment jurisdiction, the actual potential will be realised when more clarifications are issued and the assesses are made more aware.

Bibliography:

1. <https://taxguru.in/income-tax/developments-direct-tax-law.html>
2. <https://thc.nic.in/Central%20Governmental%20Acts/Direct%20Tax%20Se%20Vivad%20Act,%202020.pdf>

3. https://icmai.in/TaxationPortal/upload/DT/Article/63_1903_21.pdf

References:

1. Rakesh Mishra 2021, The Institute of cost Accountants of India, accessed 24 March 2022
https://icmai.in/TaxationPortal/upload/DT/Article/63_1903_21.pdf

2. Shefali Singh 2021, Ministry of Finance, accessed 25 March 2022

https://www.incometaxindia.gov.in/communications/notification/notification_no_2_2021.pdf

3. Directorate of Income Tax 2021, accessed 24 March 2022

<https://incometaxindia.gov.in/booklets%20%20pamphlets/faceless-assessment-under-income-tax-act-1961.pdf>

