



E - ASSESSMENT SCHEME A SCRUTINY MECHANISM WAY FORWARD

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Union Budget 2019 proposed Faceless Assessment Scheme. The scheme is finally passed by the parliament and subsequently implemented with issuance of notice U\S 143(2) of the Income Tax Act 1961 by designated authority authorized to issue notice U\S 143(2) of the Income Tax Act 1961. For the Assessment Year 2018-19 the notices are issued by said designated authority of the department and the scheme of faceless assessment has therefore been implemented.

The scheme seeks to eliminate human interface between the assessee and the Income Tax department. The Scheme lays down procedure to carry out faceless assessment through electronic mode. The Scheme lays following structures and procedures.

1. Structure for E Assessment
2. Procedure in E Assessment
3. Procedure for levy of penalty
4. Procedure for Appeal
5. Communication and electronic record
6. Appearance of taxpayer before centre and units

1. Structure for e-assessment

For the purpose of e-assessment, the CBDT has set up the below centers and units' and specify their respective jurisdiction:-

1. **National e-Assessment Centre:-** A National e-Assessment Centre to facilitate and centrally control the e-assessment. All the communications between all the units for the purpose of making an assessment under this scheme would be through the National e-Assessment Centre.
2. **Regional e-Assessment Centres:-** Regional e-Assessment Centres will be under the jurisdiction of the regional Principal Chief Commissioner for making assessment.
3. **Assessment units:-** Assessment units are for identifying points or issues, material for the determination of any liability (including refund), analysing information, and such other functions related to the assessment.
4. **Verification units:-** Verification units are established for conducting enquiry, cross verification, examination of books of accounts, witness and recording of statements, and such other functions.
5. **Technical units:-** Technical units are for technical assistance including any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter.
6. **Review units:-** Review units are 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.

2. Procedure in e-assessment

The procedure to be followed for e-assessment is as below:-

A notice under section 143(2) would be served by the National e-Assessment Centre specifying the issues 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.

Once a case is assigned to an assessment unit, it may make a request to the National e-Assessment Centre for:-

- a) Obtaining such further information, documents or evidence from the taxpayer 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

Upon a request being made by the assessment unit for any documents or evidence, the National e-Assessment Centre shall issue appropriate notice or requisition to the taxpayer or any other person for obtaining the information, documents or evidence requisitioned by the assessment unit.

Upon a request being made for certain enquiry or verification as above, the request shall be assigned by the National e-Assessment Centre to a verification unit through an automated allocation system

Upon a request being made seeking technical assistance as above, the request shall be assigned by the National e-Assessment Centre to a technical unit in any one Regional e-Assessment Centres through an automated allocation system

The 'assessment unit' shall, after taking into account all the relevant material gathered as above, pass a draft assessment order either accepting the returned income of the taxpayer or modifying the returned income of the taxpayer, as the case may be, 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:

- a) 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, along with the demand notice, specifying the sum payable by, or refund of any amount due to the taxpayer on the basis of such assessment; or
- b) 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
- c) 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 conduct review of the draft assessment order, referred to it by the National e-Assessment Centre, whereupon it may decide to:

- a) Concur with the draft assessment order and intimate the National e-Assessment Centre about such concurrence; or
- b) 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:

a) In a case where no response to the show-cause notice is received, finalise the assessment as per the draft assessment order; or

b) 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:

a) In case no modification against the interest of the taxpayer is proposed with reference to the draft assessment order, finalise the draft assessment; or

b) 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 finalized.

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:

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 any record to be produced before the Commissioner (Appeals), Appellate Tribunal or Courts, as the case may be;

f) proposal seeking sanction for launch of prosecution and filing of complaint before the Court

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

3. Procedure for penalty

Any unit may, in the course of assessment proceedings, for non-compliance of any notice, direction or order issued under this scheme on the part of the taxpayer or any other person, send recommendation for initiation of any penalty proceedings under the income tax law, against such taxpayer or any other person, as the case may be, to the National e-Assessment Centre, if it considers necessary or expedient to do so

The National e-Assessment Centre shall, on receipt of such recommendation, serve a notice on the taxpayer or any other person, as the case may be, calling upon him to show cause as to why penalty should not be imposed on him under the income tax law

The response to show – cause notice furnished by the taxpayer or any other person, if any, shall be sent by the National e-Assessment Centre to the concerned unit which has made the recommendation for penalty

The said unit shall, after taking into consideration the response furnished by the taxpayer or any other person, as the case may be:

- a) Make a draft order of penalty and send a copy of such draft to National e-Assessment Centre; or
- b) Drop the penalty after recording reasons, under intimation to the National e-Assessment Centre

The National e-Assessment Centre shall levy the penalty as per the said draft order of penalty and serve a copy of the same on the taxpayer or any other person, as the case may be

4. Procedure for appeal

An appeal against an assessment order made by the National e-Assessment Centre under this scheme can be filed before the Commissioner (Appeals) having jurisdiction over the jurisdictional Assessing Officer.

5. Communication and electronic record

- a) All communications between the National e-Assessment Centre and the taxpayer, or his authorised representative, shall be exchanged exclusively by electronic mode; and
- b) All internal communications between the National e-Assessment Centre, Regional e-Assessment Centres and various units shall be exchanged exclusively by electronic mode.

All the electronic records issued under the scheme shall be authenticated by the originator by affixing his digital signature.

Every notice or order or any other electronic communication under this scheme shall be delivered to the taxpayer, by way of:

- i) Placing an authenticated copy of the communication in the taxpayer's registered account; or
- ii) Sending an authenticated copy thereof to the registered email address of the taxpayer or his authorised representative; and
- iii) Uploading an authenticated copy on the assessee's Mobile App; and followed by a real-time alert to the taxpayer.

The taxpayer shall file his response to any notice or order or any other electronic communication, under this scheme, through his registered account, and once an acknowledgement is sent by the National e-Assessment Centre containing the hash result generated upon successful submission of response, the response shall be deemed to be authenticated.

6. Appearance of taxpayer before the centre and units

A person is not 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 Regional e-Assessment Centre or any unit set up under this scheme.

In a case where a modification is proposed in the draft assessment order, the taxpayer will be given an opportunity to make submissions against such modifications. The taxpayer or his authorised representative is also entitled to a personal hearing before income tax authority in any unit under this scheme. Such hearing would be conducted exclusively through video conferencing, including through video telephony, in accordance with the procedure laid down by the CBDT.

An income tax authority has the power to examine a taxpayer or record the statement of any taxpayer under this scheme. The income tax authority would do the same through video conferencing or video telephony.

For the purpose of facilitating the scheme, the CBDT shall establish suitable facilities for video conferencing and video telephony at such locations as may be necessary.

Merits and demerits of the Scheme

The E assessment scheme is expected to provide a proper revenue governance and is expected to reduce burden of appearance before assessing officers and carrying a physical voluminous record for verification and examination by the assessing officer. With the scheme the taxpayer can reply the queries at any time with the time frame allowed for reply at his own place without visiting income tax office.

However some inherent demerits of the system of e assessment can not be ruled out and some timely expected shortcomings which are generally seen can be as under:-

1. The Assessment under e assessment scheme will be quite time consuming as the information and responses and actions have to flow through multiple hands, offices etc.
2. Due to non human interface the assessing authorities may not understand issue properly and in certain cases lot of explanation is needed due to which there are chances of unjustified tax demands.
3. Uploading of information by taxpayer and downloading of information by different units and its verification and examination by the verification can be timely a big challenge.
4. Since the remand proceedings are left with the jurisdictional assessing officer who may not be familiar with the issue therefore the system of remand may be time consuming and cumbersome.
5. Rectification of mistakes, levy of penalty is also the responsibility of jurisdictional assessing officer who may not be familiar with the issue. This may result delay in rectification proceedings and the process of levy of penalty as cumbersome.

The above shortcomings are timely quite evident but the with the implementation of scheme and familiarity of both income department and the tax payers with the scheme may eliminate these shortcomings in future and the objective of faceless assessment for better tax administration will be definitely achieved.