



FACELESS ASSESSMENT SCHEME

Shri Rakesh Mishra, IRS
Chief Commissioner of Income Tax (CCIT) Ranchi &
Chief of ReAC Jharkhand & Bihar

INTRODUCTION

Over the last few years, in order to provide a non-intrusive and non-adversarial tax ecosystem, the Government of India has taken various measures which include rationalisation of tax rates, simplification of income-tax return forms, faster processing of refunds, speedy resolution of grievances and introduction of faceless processes to ease the compliance burden on taxpayers & minimise the physical interface between the taxpayer and the income tax authorities. In August 2020, Hon'ble Prime Minister of India launched 'Transparent Taxation-Honouring the Honest', which is a platform to meet the requirements of the 21st century taxation system. The platform has major transformations like Faceless Assessment, Faceless Appeal and Taxpayers' Charter. The Faceless Assessment Scheme, 2019 (earlier known as the E-assessment Scheme, 2019) was introduced in 2019 to impart efficiency, transparency and accountability to the assessment process by inter alia eliminating the interface between the Assessing Officer and the assessee and introduced a team-based assessment with dynamic jurisdiction. Similar Scheme has been introduced for disposal of appeals by the Commissioner (Appeals) in a faceless manner on 25.09.2020. Earlier, the cases were selected manually with the approval of the Range Head, which was later on changed to the approval by the Commissioner of Income-tax. Subsequently computer aided selection for scrutiny (CASS) was implemented for selecting cases for scrutiny. The Department went for e-assessment on a pilot basis in 5 metros and the experience was further utilised for moving on to e-proceeding using Income Tax Business Administration (ITBA) platform. The Hon'ble FM, in her Budget Speech on 5th July 2019 had announced assessment in electronic mode with no human interface, notices to be issued electronically by a Central cell, cases to be allocated to Assessment Units in a random manner and a Central Cell to be the single point of contact between the taxpayer and the Department. Phase I of the Faceless Assessment Scheme was inaugurated 7th Oct 2019 with 58,320 assigned cases. On 13th August, 2020, Hon'ble Prime Minister, Shri Narendra Modi ji launched a platform for 'Transparent Taxation – Honouring the Honest' comprising Faceless Assessments, Faceless Appeals and Taxpayers' Charter. The Faceless Assessment Scheme has been implemented from 13th August, 2020 whereas Faceless Appeal has also been notified on 25th September, 2020. Notification 60/2020, dated 13-08-2020 and others specify the modalities of Faceless Assessments.

KEY FEATURES

The key features of Faceless Assessment Scheme for Transparent Taxation are:

- Taxpayers' Charter giving legal basis to taxpayer's rights & duties
- E Communication of information with department
- E-Confirmation by Taxpayer
- E-verification

E-Response & Faceless Assessment are the main pillars of the platform for transparent taxation & focus of the ITD in future. All Cases other than those assigned to Central & International Taxes are to be done through Faceless e-Assessment.

LEGAL FRAMEWORK FOR FACELESS ASSESSMENT

The I.T. Act, 1961 was earlier amended to incorporate sub-sections (3A), (3B) and (3C) as under:

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.

(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, 2022.

(3C) Every notification issued under sub-section (3A) and sub-section (3B) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

E-assessment Scheme 2019 was notified on 12.09.2019 vide SO 3264 and 3265 and Finance Act 2020 further amended the provisions. Consequently, amended notification of the Faceless Assessment Scheme was issued on 13.08.2020 along with various other changes and the scheme has been renamed as Faceless Assessment Scheme. Up to the assessment year 2019-20, only the scrutiny assessments under Section 143(3) were covered within the ambit of e-assessment and with effect from assessment year 2020-21, the assessments under section 144 have also been included. Accordingly, the e-assessment scheme has been amended to cover best judgement assessments also. Barring the exceptions mentioned, all other cases including reopened assessments would be done under the scheme.

STRUCTURAL FRAMEWORK

The Faceless Assessment Scheme comprises the following units:

1) NATIONAL E-ASSESSMENT CENTRE:

All communication among the other units or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making an assessment under this scheme shall be through the National e-Assessment Centre (NeAC). The functions of NeAC consist of:

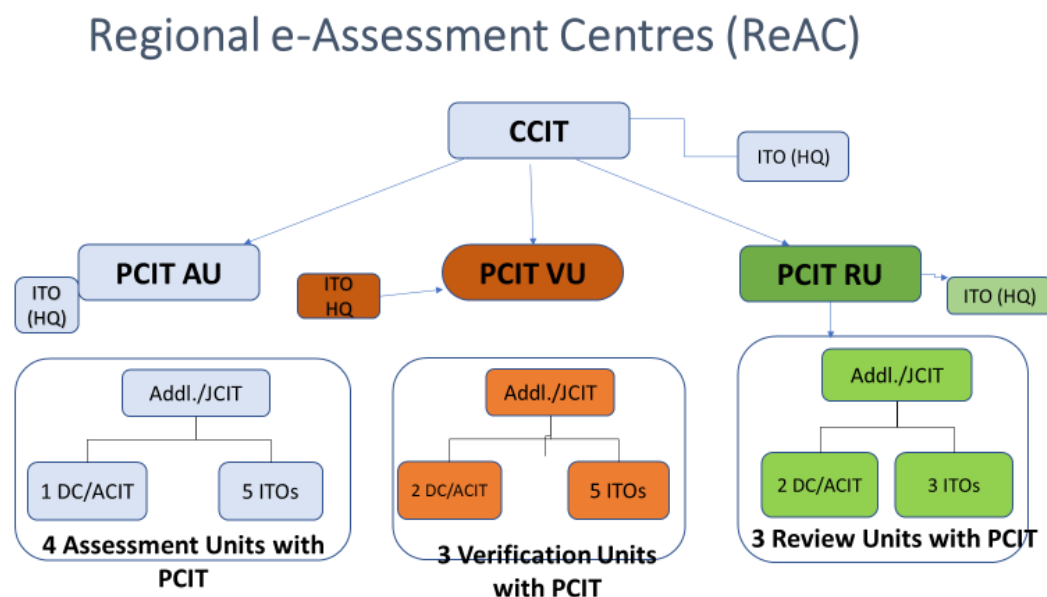
- Specify format, mode, procedure and processes after approval from Board
- Allocate E-verification under Section 133C to Verification Units through Automated allocation tool
- Send all notices/communication electronically
- Assign cases to AUs through automated allocation system
- On a request for verification by an AU allocated case to verification units (ReAC) through automated allocation system.
- Provide Technical Inputs through Technical Units including on Issues such as Legal, Technical, Data Analytics, Forensic Accounting forensic, information technology, valuation and audit
- Inform AU if Assessee fails to comply with a notice
- Select Draft Assessment Order (DAO) for review & allocate to review unit through automated allocation system
- Where RU suggests modification allocate case to an AU other than original AU through automated allocation system
- Providing opportunity to taxpayer in case of any order prejudicial to Assessee before finalising assessment order

- Finalize assessment orders
- Transfer all electronic records to jurisdictional AO for post assessment work
- Transfer Cases to Jurisdictional AO after Approval from Board

Format Modes Process & Procedures (FMPP) are to be specified by Pr.CCIT (NeAC), with the prior approval of the CBDT for laying out circumstances where exclusive electronic communication to Assessee or his AR as required in provisions of sub-paragraph (1) of paragraph 8 of the said Scheme (SO.3264) shall not apply, circumstances in which personal hearing through Video Conference in sub-paragraph (3) of paragraph (11) of the said Scheme (SO.3264) shall be approved. Transfer of a Case to Jurisdictional AO, if considered necessary at any stage of assessment shall be done by Pr. CCIT, (NeAC) with prior approval of Board.

2) REGIONAL E-ASSESSMENT CENTRES

Thirty Regional e-Assessment Centres (ReACs) each headed by a CCIT have been set up. Regional e-Assessment Centre's major function is 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 the assessment in accordance with the provisions of this scheme. The structure of ReAC would be as follows:



The number may be variable in some cases.

3) ASSESSMENT UNITS

Ninety-Five Assessment Units (AUs) headed by the PCIT each having 4 Ranges with DCIT/ACIT and ITOs are under the ReAC. They will identify issues, seek information and analyse material to frame draft assessment orders. They shall perform the function of making assessment, which includes identification of points or issuing 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.

4) VERIFICATION UNITS (VUs)

Thirty-Five Verification Units are part of ReACs, each headed by the PCIT and having Range Head with DCIT/ACIT and ITOs with functions to:

- Conduct E-verification u/s 133C
- Conduct enquiry, examination of books of account, examination of witnesses and recording of statement
- Conduct Physical Enquiry only in instances covered by Pr.CCIT NeACs order 12(vi) of the scheme

They shall 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.

5) REVIEW UNITS

Twenty Review Units headed by the PCIT each having Range Head with DCIT/ACIT and ITOs for Review of Draft Assessment Order are part of the set up. They would examine whether material evidence has been brought on record, points of facts and law incorporated, application of judicial decisions considered and ensure arithmetic correctness etc. They shall perform the function of review of the draft assessment order, which includes checking the following:

- 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;
- Arithmetical correctness of modifications proposed, if any; and
- Any other functions required for the purposes of review.

6) TECHNICAL UNITS

Four Technical Units headed by the PCIT each having Range Head with DCIT/ACIT and ITOs shall be under the Pr. CCIT (NeAC) and will provide the technical support and input. They shall perform the functions 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. All actions of AU, VU, RU & TU Officers are to be approved by the respective Range Heads. All communication among the units or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making an assessment under this scheme shall be through the National e-Assessment Centre.

DIFFERENCE BETWEEN THE CURRENT ASSESSMENT AND FACELESS ASSESSMENT SCHEME

The difference between the Current scheme of assessment and Faceless Assessment is as under:

S. No.	Present Assessment System	Faceless Assessment System
1.	Case selection through: a. System b. Manual c. Tax evasion information	1) No discretion to any officer in selection 2) No selection except through system red alerts 3) No selection other than information based
2.	Cases were permanently assigned to a territorial jurisdiction	1) Automated random allocation of cases 2) Dynamic division to any faceless team anywhere in the country – 95 AUs, 30 VUs, 20 RUs and 4 TUs.
3.	Issue of notices both manually and on system	1) No discretion in issue of notices 2) System generated notices triggered by alert 3) Notices without DIN are invalid 4) Notices to be issued electronically and centrally from the NeAC in New Delhi. 5) The NeAC is the single point of faceless contact

		between the taxpayer and the Department
4.	1) During scrutiny proceedings multiple physical meetings between the taxpayer and the officers 2) Long waiting time before meeting the officers	1) No physical meeting with any officer 2) No officer to call the taxpayer to office 3) No more waiting outside the office 4) The identity of the officer to remain unknown 5) No human interface at any stage 6) Assessments in electronic mode
5.	Wide discretion with officers leads to subjective approach and varying interpretations	1) No discretion with any individual officer, team-based assessment 2) Draft in one city, review in another city, finalization in the third city 3) Objective, Fair and just order
6.	6,584 officers and 33,750 subordinate staff, totalling to 40,334 were performing various assessment functions	1) Faceless Assessment now has 4,224 officers and 17,193 subordinate staff totalling to 21,417. 2) All other functions also in faceless manner except those shown as exceptions

THE E-ASSESSMENT PROCEEDINGS

The National e-Assessment Centre shall serve a notice on the assessee under section 143(2) of the I.T. Act, 1961 specifying the issues for selection of his case for scrutiny assessment. The assessee is required to file his response to the National e-Assessment Centre within 15 days from the date of receipt of such notice or as specified. The National e-assessment centre shall intimate the assessee that assessment in his case shall be completed under this scheme where assessee:

- a) has furnished his return of income under section 139 or in response to notice issued under section 142(1) or under section 148(1) and a notice has been issued for scrutiny assessment under section 143(2) of the I.T. Act, 1961 by the Assessing officer or prescribed Income-tax authority, as the case may be;
- b) has not furnished his return of income in response to a notice issued under section 142(1) of the I.T. Act, 1961 for enquiry by the assessing officer; or
- c) has not furnished his return of income in response to a notice issued for reassessment under Section 148(1) and a notice is issued under section 142(1) of the I.T. Act, 1961 for enquiry by the assessing officer.

The case shall be assigned by the National e-Assessment Centre to a specific Assessment Unit in any one Regional e-Assessment Centre through an automated allocation system. Such allocation of the case shall be made randomly by the system using Artificial Intelligence and Machine Learning. An Assessment Unit may request the National e-Assessment Centre for the following:

- a) To obtain further information, documents or evidences;
- b) To conduct certain enquiry or verification by the Verification Unit; or
- c) To seek technical assistance from the Technical Unit.

The National e-Assessment Centre shall issue an appropriate notice to the assessee or any other person for obtaining information, documents or evidence as required by the Assessment Unit for the purpose of conducting faceless assessment. Assessee or any other person shall file response to the notice issued by National e-Assessment Centre within the time-period specified therein or time extended by it on the basis of application made in this regard. Where a request has been raised for conducting enquiry or verification, the National e-assessment Centre shall assign such request to a Verification Unit through an automated allocation system; and where a request has been raised for seeking technical assistance, the National e-Assessment Centre shall assign such request to a Technical Unit in any one Regional e-Assessment Centres through an automated allocation system. The National e-Assessment Centre shall send the report received from the Verification Unit or the Technical Unit to the concerned Assessment Unit. The National e-Assessment Centre shall serve a notice under Section 144 to provide assessee an

opportunity to show-cause, on a date and time to be specified therein, why the best-judgment assessment in his case should not be completed if he fails to comply with any of the following:

- a) The notice issued by National e-Assessment Centre for obtaining information, documents or evidence requisitioned by assessment unit;
- b) Notice issued under section 142(1) for enquiry; or
- c) Direction issued for special audit under section 142(2A).

The assessee is required to file his response to the National e-Assessment Centre within the time specified in the notice or within the time extended on the basis of an application filed in this regard. In case the assessee fails to furnish any response, the National e-Assessment Centre shall intimate such failure to the assessment unit.

After considering all the relevant material available on the record, the assessment unit shall make a draft assessment order in writing. Where an intimation is received from the National e-Assessment Centre regarding assessee's failure as mentioned, the assessment unit shall make in writing a draft assessment order to the best of his judgement, either accepting the returned income or sum payable by or refundable to assessee or modifying it. A copy of such order shall be sent to National e-Assessment Centre. The assessment unit shall also provide the details of penalty proceedings to be initiated in such a draft assessment order, if any. The National e-Assessment Centre shall examine the draft assessment order in accordance with the risk management strategy specified by the Board and through an automated examination tool.

After examination of the draft assessment order, the National e-Assessment Centre may decide to:

- a) Finalize the assessment as per the draft assessment order and serve a copy of such order and notice to initiate penalty to the assessee along with the demand notice specifying the sum payable or refund due to the assessee;
- b) Where a modification is proposed in the income returned by the assessee, provide an opportunity to the assessee 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 a review of such order.

Where National e-Assessment Centre assigns the draft assessment order to a Review Unit, it shall, after conducting the review of the draft assessment order, suggest such modifications as it may deem fit or concur with the draft order and intimate the same to the National e-Assessment Centre. The National e-Assessment Centre shall, after receiving the concurrence of the Review Unit, finalise the draft assessment order or provide an opportunity of being heard to the assessee as referred earlier. However, where the review unit has suggested any modification, the National e-Assessment Centre shall assign the case to an assessment unit, other than the assessment unit which has made the draft assessment order, through an automated allocation system. Assessment unit shall, after considering the suggestions, send a final draft order to the National e-Assessment Centre. Thereafter, the National e-Assessment Centre shall finalise the final assessment order or provide an opportunity of being heard to the assessee as referred earlier.

Where a modification is proposed in the income returned by the assessee, the National e-Assessment Centre shall provide an opportunity to the assessee 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. Where no response to the show-cause notice is received from the assessee, the National e-Assessment Centre shall finalize the assessment as per the draft assessment order. If a response is received by the National e-Assessment centre, the same shall be forwarded to the Assessment Unit. The Assessment Unit shall make a revised draft assessment order after considering the response furnished by the assessee and forward it to the National e-Assessment Centre. The National e-Assessment Centre upon receiving the revised draft assessment order, shall finalize the draft order if matter proposed is not prejudicial to the assessee. If any matter proposed in the order is prejudicial to the interest of the assessee, it shall give the assessee an opportunity of being heard. If any response is furnished by the assessee thereafter, it shall be dealt with in accordance with the procedure prescribed. The National e-Assessment Centre shall transfer all the electronic records of the case to the jurisdictional Assessing Officer after the completion of assessment for the purpose of such actions as may be required under the Act. The Principal Chief Commissioner or the Principal Director General, in charge of national e-assessment centre, may transfer the case to the assessing officer having jurisdiction over such cases at any stage of the assessment with the prior approval of CBDT.

During the course of proceedings, any Unit may send a recommendation to the National e-Assessment centre for initiation of penalty proceedings under the Act against the assessee or any other person for non-compliance of any notice, direction or order issued under this Scheme. On receipt of such recommendation, the National e-Assessment Centre shall serve a show-cause notice upon the assessee or any other person to give him an opportunity to explain why the penalty shall not be imposed on him. The response submitted by the assessee or any other person shall be forwarded to the concerned Unit which has made the recommendation. The concerned Unit after considering the response shall either make a draft order of penalty or drop it after recording reasons and forward the copy of the order to the national e-assessment centre. The National e-Assessment Centre shall levy penalty as per the draft penalty order and serve a copy of same along with demand notice on the assessee or any other person. Thereafter, it shall transfer electronic records of the penalty proceedings to the jurisdictional Assessing Officer for action required under the Act.

JURISDICTIONAL HIERARCHY:

The jurisdictional hierarchy will now have 32 Pr. Chief Commissioners/Chief Commissioners, 96 Principal Commissioners, 252 Ranges, 261 AC /DCs and 1274 ITOs with attendant staff and the following residual non-assessment functions:

- Statutory powers under section 263 / 264 of the IT Act, 1961.
- Prosecution and compounding proceedings and related court matters.
- Administrative, HRD and cadre control matters including related court matters.
- Custody and management of Case records.
- Management and control of infrastructure
- All the above Functions have to be done in Faceless Manner through ITBA Portal

APPEAL AGAINST ASSESSMENT

The appeal can be filed against an assessment order or penalty order made by the National e-Assessment Centre under this scheme before the Commissioner (Appeals) having jurisdiction over the jurisdictional Assessing Officer. All the communications between the National e-Assessment Centre and assessee or his authorised representative or any other person or National e-Assessment Centre and other subordinate units shall be done electronically. However, these provisions shall not be applicable to enquiry or verification conducted by verification unit to the extent prescribed. The notification for faceless appeals has also been issued on 25.09.2020 and National Faceless Appeal Centre (NFAC) has been established for faceless appeals.

AUTHENTICATION OF RECORDS

The National e-Assessment Centre shall authenticate all the electronic records by affixing a digital signature. The electronic records shall be authenticated by the assessee or any other person by affixing his digital signature, if he is required to furnish his return of income under digital signature, and by affixing his digital signature or under electronic verification code in any other case. Every notice or order shall be delivered to the assessee by way of the following means and followed by a real-time alert:

- a) Placing an authenticated copy thereof in the assessee's registered account;
- b) Sending an authenticated copy thereof to the registered email address of the assessee or his authorized representative; or
- c) Uploading an authenticated copy on the assessee's Mobile App.

Every notice or order or any other electronic communication under this scheme shall be delivered to any other person, by sending an authenticated copy thereof to the registered email address of such person, followed by a real-time alert. The assessee shall submit his response to any notice or any other electronic communication through his registered account. Once an acknowledgement is sent by the National e-Assessment Centre containing the hash result generated upon successful submission of a response, the response shall be deemed to be authenticated. Registered e-mail address means the e-mail address at which an electronic communication may be delivered or transmitted to the addressee, including:

- a) The email address available in the e-filing account of the addressee registered in the designated portal;
- b) The e-mail address available in the last income-tax return furnished by the addressee;
- c) The e-mail address available in the PAN database relating to the addressee;

- d) In the case of addressee being an individual who possesses the Aadhaar number, the e-mail address of addressee available in the database of Unique Identification Authority of India (UIDAI);
- e) In the case of addressee being a company, the e-mail address of the company as available on the official website of Ministry of Corporate Affairs (MCA); or
- f) Any e-mail address made available by the addressee to the income-tax authority or any person authorised by such authority.

As per the Faceless Assessment Scheme, a person shall not be required to appear either personally or through an authorized representative in connection with e-assessment. However, an assessee may request for personal hearing to make his oral submissions or present his case against the draft assessment order. The Chief Commissioner or the Director General, in charge of the Regional e-assessment Centre, under which the concerned unit is set up, may approve the request for personal hearing. In such cases, a hearing shall be conducted exclusively through video conferencing, including use of any telecommunication application software which supports video telephony. Any examination or recording of the statement of the assessee or any other person, other than statement recorded in the course of survey under Section 133A, shall be conducted by an Income-tax authority in any unit under this scheme, exclusively through video conferencing, including use of any telecommunication application software which supports video telephony. The CBDT shall establish suitable facilities for video conferencing including telecommunication application software which supports video telephony at such locations as may be necessary.

Personal Hearing

- In case a show cause notice (SCN) along with the draft assessment order (DAO) is issued, the assessee or the authorised representative (AR) may request for personal hearing.
- The CCIT (ReAC) of the concerned Unit may approve the request for personal hearing only if covered by the circumstances to be specified under clause (vib) of Paragraph 12 of the Scheme by Pr.CCIT (NeAC) after approval from CBDT.
- The personal hearing shall be conducted exclusively through Video Conference specified by Board.

The facility for allotting e-PAN also exists now. PAN allotment is e-enabled and Individuals can be allocated e-PAN allotment online through NSDL & UTISL. Instant PAN in cases where Individual possesses Aadhaar linked to a mobile number

CONCLUSION

Thus, Faceless Assessment Scheme has brought about a sea change and a paradigm shift in the functioning of the assessment function in the Income-tax Department. The Scheme relies on the use of technology like machine learning and artificial intelligence and applies risk management system for arriving at the conclusions in the assessment order. The assessee as well as the assessing officers have been made opaque to each other with enhanced transparency and professionalism in the functioning of the Department. The Taxpayers' Charter defines the commitment of the tax authorities and also specifies certain expectations from the taxpayers. The Charter now has a legal basis which was earlier only administrative in nature. The taxpayer is expected to be conversant with the rules of procedure, update the mode of communication viz. emails, mobile numbers and also regularly visit the e-filing portal for responding to communications received from the Department so as to obviate the consequences of default in non-compliance to the statutory notices issued. The assessment orders are expected to be in accordance with law after considering the facts of the case and applying law in force and will not only reduce litigation because of application of minds at several stages but with the use of information technology, will also result in qualitatively improved orders which are likely to stand the test of appeals. The cost of compliance to the taxpayer as well as the cost of tax collection is likely to be reduced and with the utilisation of information available and information being prefilled in the return of the assessee while filing the return, the tax base would increase and there would be better compliance in the days to come. The Scheme develops on the learnings of the pilot scheme carried out last year in selected metros. The scheme has been made operational by posting of officers in various units. The queries and issues raised by the stakeholders are likely to be resolved by issuance of FAQs in the days to come.

{The views expressed are personal}