

Re-assessment u/s 147 of Income Tax Act

By CMA Niranjan Swain. B.Com,CS,FCMA, LLB



What is Assessment Procedure ?

- Every Person, who is earning, which is chargeable to tax, has to furnish his return of income to the Income Tax Department. ... The process of examination of the return by the Income Tax Department .
- Is called "Assessment"

- Assessment simply means determination of Tax
- It is Procedure for determining of Tax Liability and **Recovery of Tax**
- This is determined as per Taxation law existing in that particular Assessment Year



How Much did you earn ?

File your ROI

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Checking your ITR by Dept

2/26/2021

Various Sections under which ITR is filled

- ➡ 139 (1) - Normal Return
- ➡ 139 (3) – Return of Loss
- ➡ 139 (4) – Belated Return
- ➡ 139 (5) – Revised Return
- ➡ 142(1) – Directions by AO to file the ROI
- ➡ 148 – Re-assessment of Income U/s 147
- ➡ 153 A/C – Block Assessment in case of Action U/s 132





Assessee / Tax Payer



2/26/2021

IT - DEPARTMENT

Various Sections of Assessment under Income Tax Act



140 (A) - Self Assessment



143 (1)- Summary Assessment



143 (3) - Regular Assessment

→ Limited Scrutiny
→ Complete Scrutiny



144 – Best Judgement

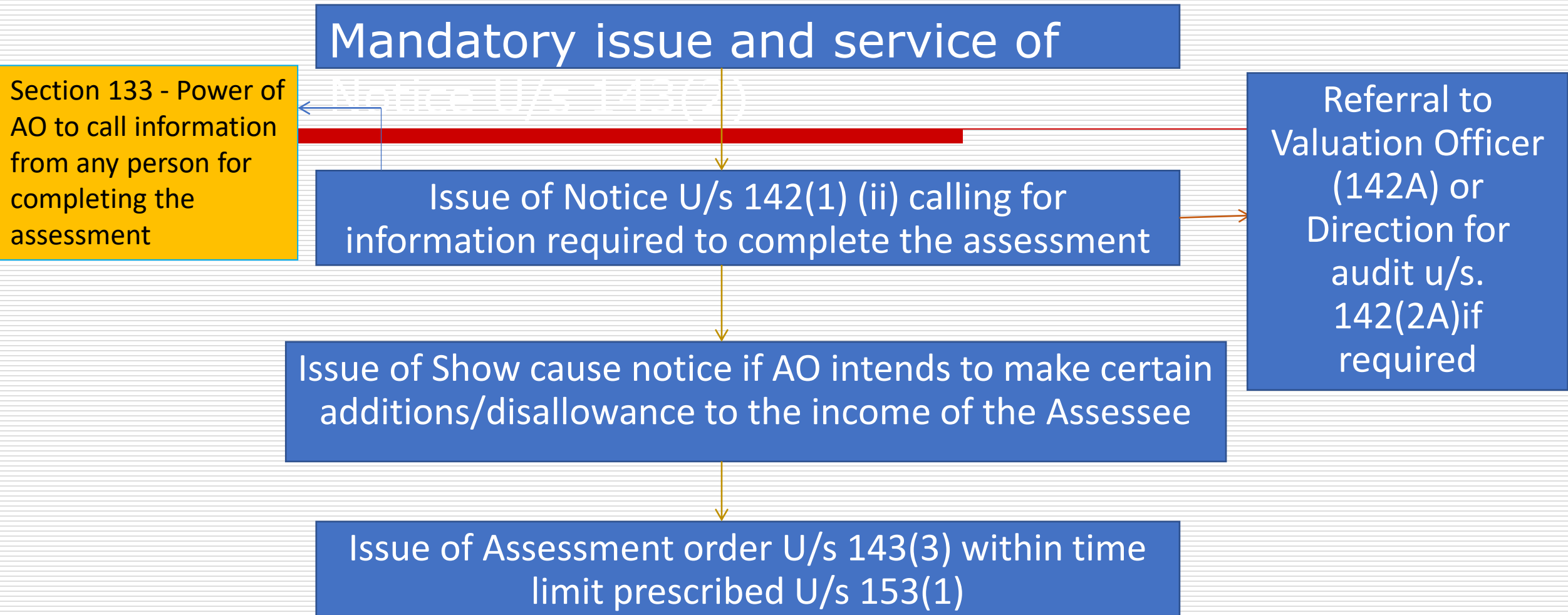


147 - Re- Assessment



153 (A)/(C) Block Assessment

Procedure for Assessment Proceedings under section 143(3)



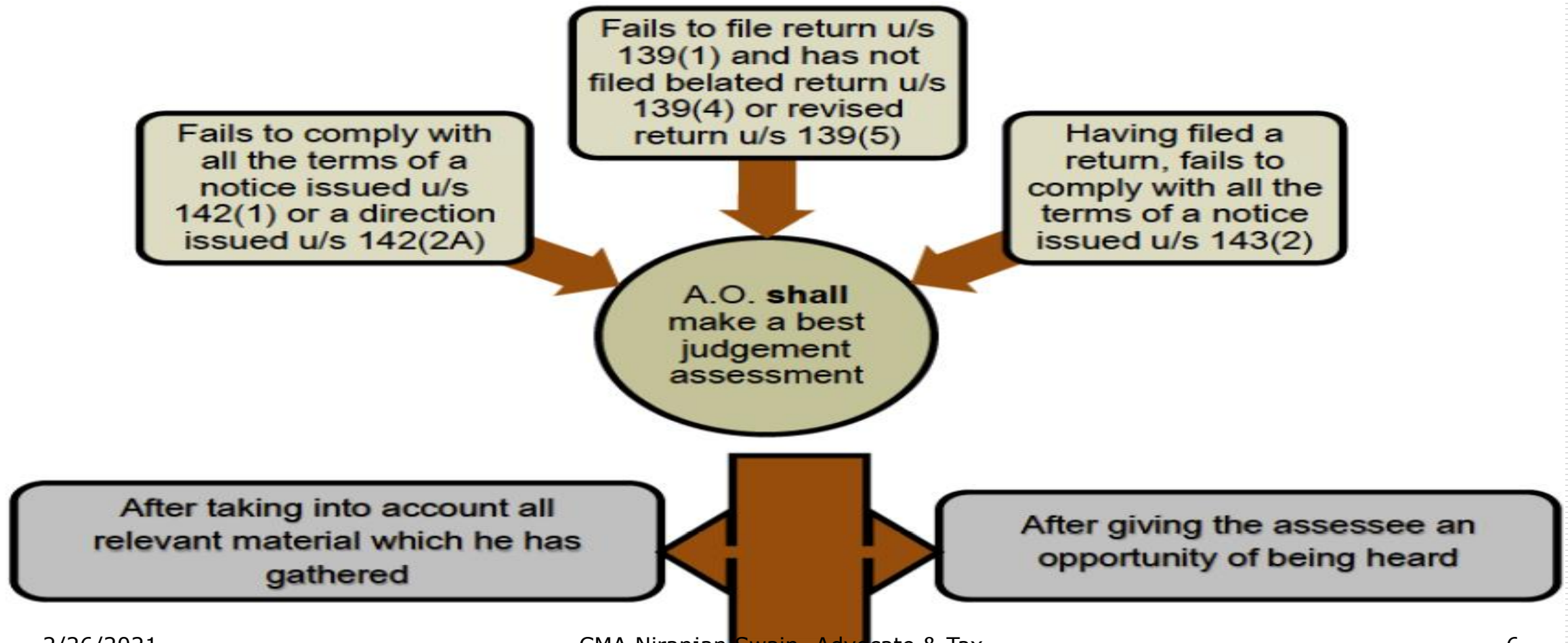
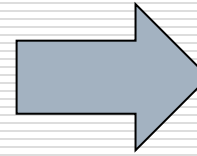
- The Assessing officer shall not require the production of any accounts relating to a period more than 3 years prior to the previous year

2/26/2021

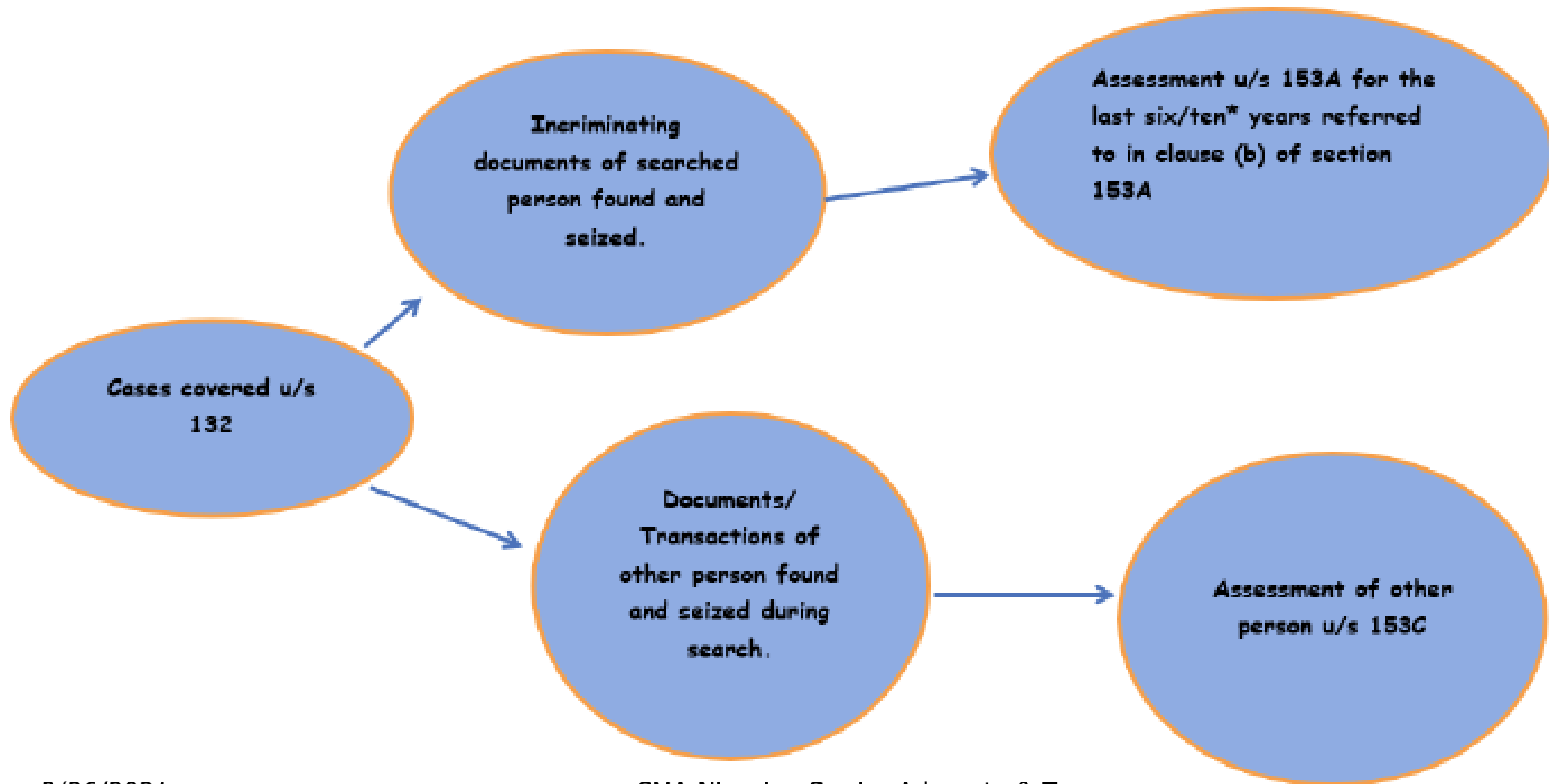
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Best Judgment Assessment U/s. 144



Search Assessments



Assessment in case of Search and Seizure :- (Sec 153A to 153C) Also known as 'Block Assessment'

Assessment under
Search and Seizure

www.thetaxtalk.com

Procedure of Assessment under Section 153A

Search is initiated under section 132

Books of accounts, any document or any
asset requisitioned under section 132A

YES

Issue of notice under section 153A(1) for filling of Return of Income for 6 Assessment years

Assessee is require to file Return of Income for relevant assessment year and 6 previous assessment year as if return is under section 139(1) – Return to be filed U/s 153A

Assess or Reassess the total income of relevant assessment year and 6 previous assessment years after filling Return of Income

Tax is calculated at the rate applicable for the respective assessment year

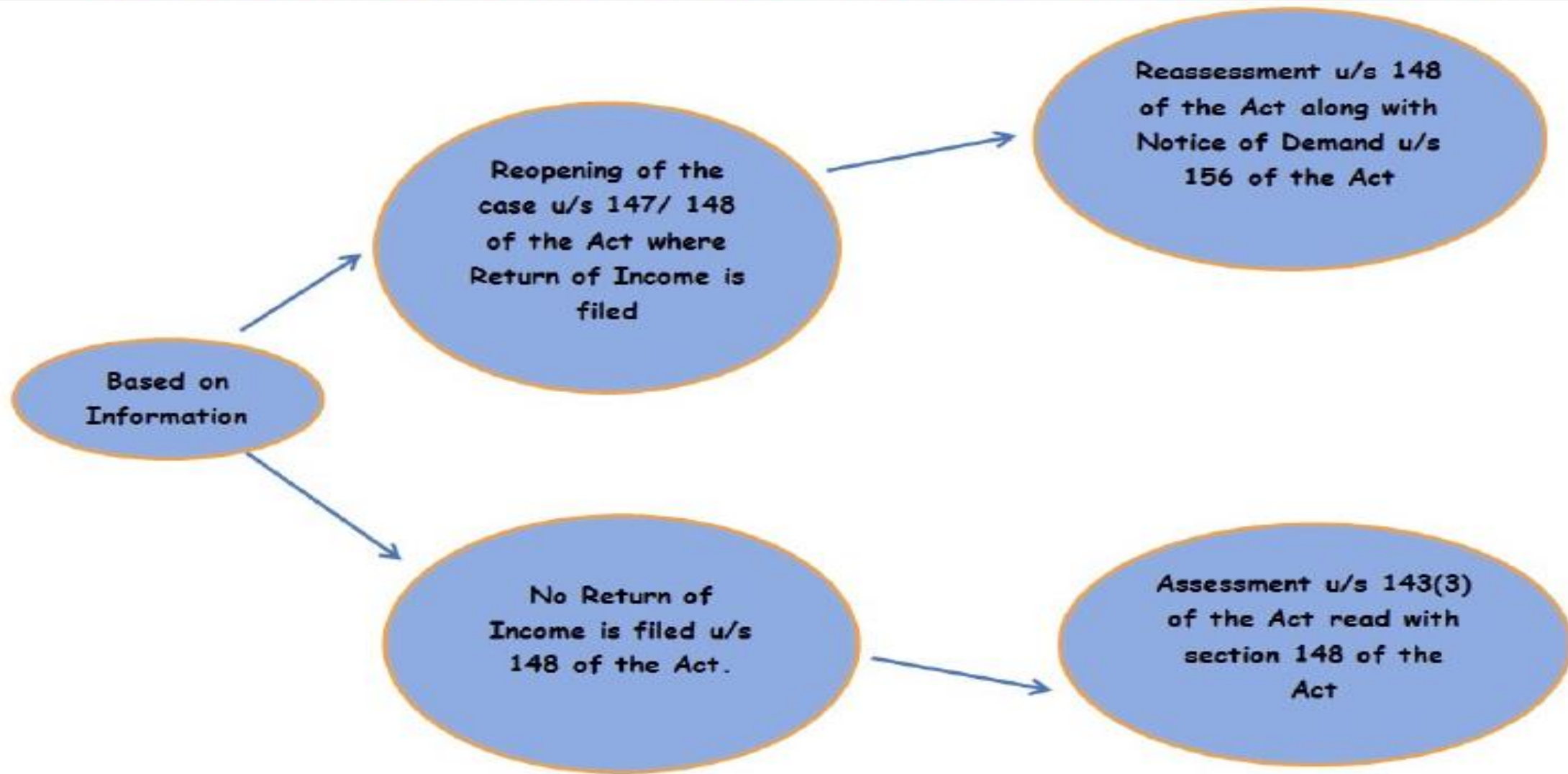
U/s 153A -No notice for assessment or reassessment if income escaped likely to amount to be less than Rs. 50 Lakhs in relevant AY or in aggregate.

153A – All the proceeding of Assessment or Re-assement (relating to 6 AY) as on the date of initiating 132 shall abate

Scope of Assessment under Section 147

- ❑ (i) to bring under the tax net any income which has escaped assessment in original assessment.
- ❑ (ii) Original assessment – sec. 143(1), 143(3), 144 and 147.
- ❑ (ii) if any income has escaped from being taxed in the original assessment, same can be brought under tax net by resorting to assessment u/s 147.

Reopened Assessment/ Information based Assessment



Procedure for Assessment Proceedings U/s. 147

Assessing Officer should have 'Reason to Believe' and record it to assess or re-assess the income escaping assessment

Issue of notice under section 148 for income escaping assessment within the time limit

Time Limit for issue of notice under section 148 is specified under section 149

Assessee is required to file return of income in pursuance to notice under section 148

Assessee should seek for the reasons recorded by the Assessing Officer

Assessing officer should issue notice under section 143(2)

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graph TD; A[Assessing Officer Should issue notice under section 142(1)(ii)] --> B[Assessing Officer Should complete and pass the final assessment order under section 147 r. w. s. 143(3) within the time limit]; C[Time limit for passing the assessment order is specified under section 153 (1) i.e within 12 months from the end of the Financial year in which notice U/s 148 was issued] --> B;
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Assessing Officer Should issue notice under section 142(1)(ii)

Assessing Officer Should complete and pass the final assessment order under section 147 r. w. s. 143(3) within the time limit

Time limit for passing the assessment order is specified under section 153 (1) i.e within 12 months from the end of the Financial year in which notice U/s 148 was issued

Reason to Believe

Note - The CBDT has, vide Circular No.40/2016 dated 9.12.2016, clarified that reopening of cases under section 147 is feasible only when the Assessing Officer "has reason to believe that any income chargeable to tax has escaped assessment for any assessment year" and not merely on the basis of any reason to suspect. Mere increase in turnover, because of use of digital means of payment or otherwise, in a particular year cannot be a sole reason to believe that income has escaped assessment in earlier years. Hence, past assessments cannot be reopened merely on the ground that the current year's turnover has increased.

Reassessment of matters other than subject matter of appeal or revision - The Assessing Officer may assess or reassess an income which is chargeable to tax and has escaped assessment other than the income involving matters which are the subject matter of any appeal, reference or revision.

Circumstances under which income deemed to be escaped

	Case	When income is deemed to have escaped assessment
(i)	No return of income has been furnished by the assessee	Where the assessee's total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the basic exemption limit
(ii)	Where a return of income has <u>not</u> been furnished by the assessee	On the basis of information or document received from the prescribed income-tax authority, under section 133C(2), it is noticed by the Assessing Officer that the income of the assessee exceeds the basic exemption limit

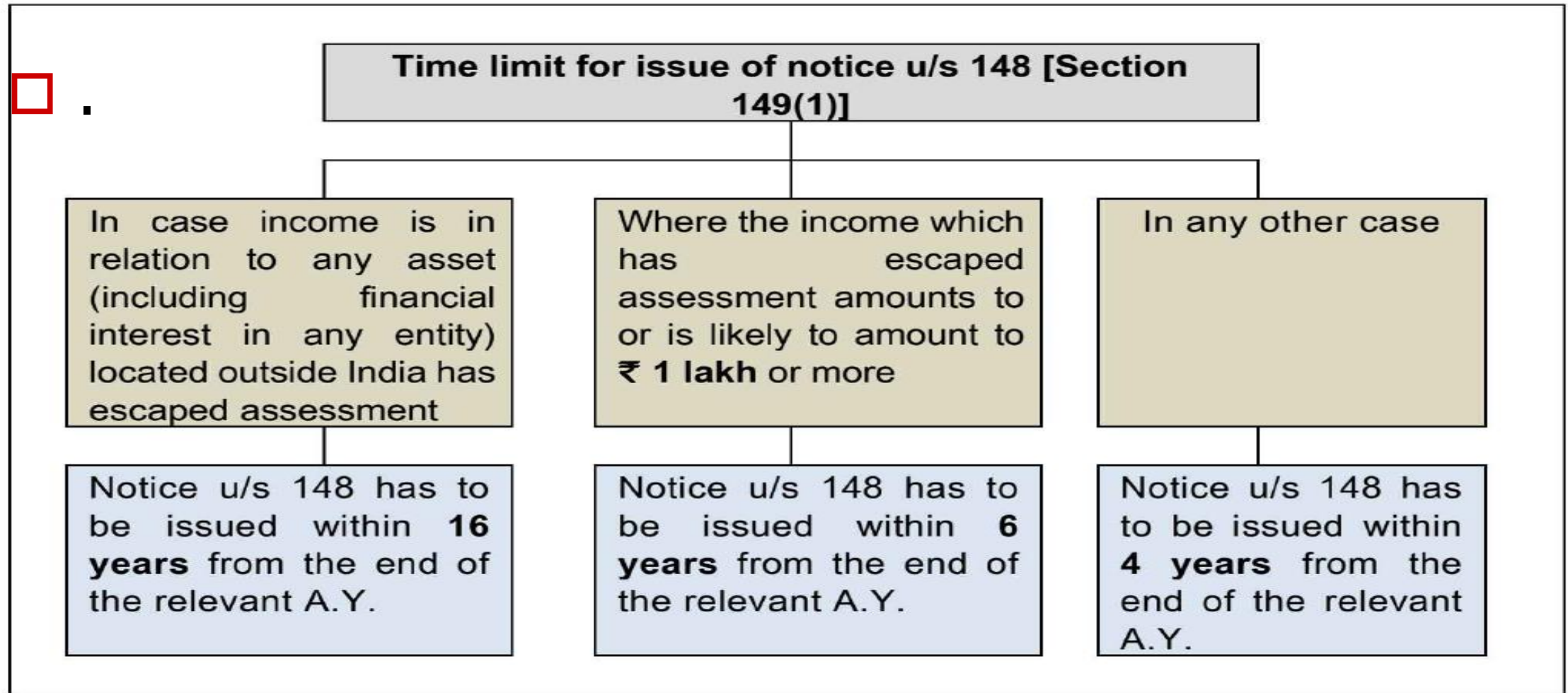
Circumstances under which income deemed to be escaped

	Case	When income is deemed to have escaped assessment
(iii)	Where a return of income has been furnished by the assessee	On the basis of information or document received from the prescribed income-tax authority, under section 133C(2), it is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return
(iv)	Where a return of income has been furnished by the assessee but no assessment has been made	It is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return.
(v)	Where an assessment has been made	<p>(a) income chargeable to tax has been under-assessed</p> <p>(b) such income has been assessed at too low a rate</p> <p>(c) such income has been made the subject of excessive relief under this Act</p> <p>(d) excessive loss or depreciation or any other allowance under this Act has been computed.</p>

Circumstances under which income deemed to be escaped

	Case	When income is deemed to have escaped assessment
(vi)	Where the assessee is required to furnish a report in respect of any international transaction under section 92E.	The assessee has failed to furnish such report
In addition, where a person is found to have any asset (including financial interest in any entity) located outside India.		

Time limit for notice [Section 149]: Notice under section 148 must be issued within the following time limit:



Some Important points in issue of Notice u/s 148

It may be noted that when the income escaping assessment does not exceed ₹1 lakh, no notice can be issued after the expiry of 4 years from the end of the relevant assessment year. However, as per section 149(3), if the person on whom a notice under section 148 is to be served is a person treated as an agent of a non-resident under section 163 and the assessment, reassessment or re-computation in pursuance of the notice is to be made on him as the agent of such non-resident, notice for reassessment can be issued upto 6 years from the end of the relevant assessment year.

Further, the first proviso to section 147 provides that when income escaping assessment exceeds or is likely to exceed Rs.1 lakh, notice for reassessment can be issued beyond 4 years but upto 6 years from the end of the relevant assessment years. However, no action shall be taken under this section after the expiry of **four years from the end of the relevant assessment year**, when

- a) an assessment under section 143(3) or 147 has already been made by the Assessing Officer for the relevant assessment year
- b) there is no failure on the part of the assessee to make a return under section 139, or in response to a notice issued under section 142(1) or section 148

Some Important points in issue of Notice u/s 148

- c) there is no failure on the part of the assessee to disclose, fully and truly, all material facts necessary for his assessment for that assessment year.

It has been clarified that production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure of material facts.

The above time limit shall also not apply in a case where income chargeable to tax, in relation to an asset (including financial interest in an entity) located outside India, has escaped assessment for any assessment year. In effect, in such cases, the Assessing Officer can initiate assessment proceedings under section 147 even after the expiry of 4 years but upto 16 years in spite of the assessee having –

- (i) duly furnished his return of income and
- (ii) fully and truly disclosing all material facts necessary for his assessment for that assessment year and
- (iii) Assessment has already been made under section 143(3) or 147.

It may be noted that except in a case where there is income in relation to an asset (including financial interest in an entity) located outside India, notice for income escaping assessment cannot be issued after the expiry of 6 years from the end of the relevant assessment year.

Provision for cases where assessment is in pursuance of an order on appeal, etc.

[Section 150]

- (i) As per section 149, no notice can be issued after the expiry of 6 years [unless the income in relation to any asset (including financial interest in any entity) located outside India] for assessment, reassessment or recomputation where income has escaped assessment.
- (ii) The restriction of time limit under section 149(1) is not applicable where notice u/s 148 is issued for making an assessment, reassessment or re-computation to give effect to any finding or direction contained in an order passed by any authority in any proceeding by way of appeal, reference or revision or by a Court in any proceeding under any other law. This relaxation is contained in section 150(1).
- (iii) However, such relaxation will not apply where any such assessment or reassessment relates to an assessment year in respect of which an assessment or reassessment could not have been made at the time **the order which was the subject matter of appeal, reference or revision**, as the case may be, was made on account of the expiry of the time limit at that point of time itself. This restriction is contained in section 150(2)

Provision for cases where assessment is in pursuance of an order on appeal, etc.

[Section 150]

- (iv) Section 150(1) operates to relax the time restriction stipulated under section 149. Such relaxation can be made use of by the Assessing Officer only if the restriction placed under section 150(2) does not affect the operation of section 150(1). It may be noted that the restriction placed under section 150(2) is applicable only in respect of appeal, reference or revision referred to in section 150(1) but it does not apply with reference to an order passed by a Court in any proceeding under any law.

ILLUSTRATION

The assessment of Mr. Hari for A.Y.2013-14 was made on 28.3.2015 making an addition of ₹ 3,25,000 for a certain income received during the P.Y.2012-13. The assessee contested the addition before Commissioner (Appeals) but lost the case. The Appellate Tribunal passed an order on 26.2.2020 holding that the said income was not taxable in the P.Y.2012-13 but the same was taxable in the year of accrual, being P.Y.2007-08 relevant to A.Y.2008-09. The Assessing Officer issued notice under section 148 for A.Y.2008-09 in March 2020 bringing to tax the sum of ₹ 3,25,000. Is the notice valid?

Would your answer change if in the said case, the assessment order for A.Y.2013-14 was made on 4.4.2015 instead of 28.3.2015?

SOLUTION

Section 149 requires issue of notice under section 148 within a period of 6 years from the end of the relevant assessment year, where income escaping assessment exceeds ₹ 1 lakh. Accordingly, in respect of A.Y.2013-14, notice can be issued upto 31.3.2020. Section 150(1) enables issue of notice at any time to give effect to a finding contained in an appellate order. However, this is subject to the provisions of section 150(2), which places a restriction that, if on the date of passing of the order which was the subject-matter of appeal, no notice could have been issued, then, such notice cannot be issued by virtue of the enabling provision contained in section 150(1).

In this case, the income was taxable in the A.Y.2008-09 as per the order of the Appellate Tribunal. The six year time limit, in this case, expires on 31.3.2015. Since the original assessment in respect of such income was made on 28.3.2015, the notice issued under section 148 consequent to the Appellate Tribunal order is valid.

Had the assessment order for A.Y.2013-14 been made on 4.4.2015 (instead of 28.3.2015), then, the same would have been outside the six year time limit from A.Y.2008-09. Hence, since notice could not have been issued at that point of time, it cannot be now issued invoking the provisions of section 150(1).

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Following illustrative table provides the last date for different Assessment Year up to which the Assessing Officer can issue a notice to re-open the assessment:

<i>Income escaping assessment belonged to the Assessment year</i>	<i>Time limits if notice can be issued up to 4 years</i>		<i>Time limits if notice can be issued up to 6 years</i>	
	<i>Last date to issue notice</i>	<i>Last date to issue notice</i>	<i>Last date to issue notice</i>	<i>Last date to pass the order</i>
2018-19	March 31, 2023	March 31, 2024	March 31, 2025	March 31, 2026
2017-18	March 31, 2022	March 31, 2023	March 31, 2024	March 31, 2025
2016-17	March 31, 2021	March 31, 2022	March 31, 2023	March 31, 2024
2015-16	March 31, 2020	March 31, 2021	March 31, 2022	March 31, 2023

Replying to notice under Section 148

- ☐ The key thing to bear in mind is to not to take the notice lightly.
- ☐ In case you receive the notice u/s 148, please follow the below-mentioned pointers:
 - Firstly, check the notice for reasons to believe which are recorded by the assessing officer for issuing the notice under section 148. If the notice doesn't include the reasons, then you could request the assessing officer to send a copy of the recorded reasons.
 - In case you're satisfied with reasons to believe which was recorded by the assessing officer, file the return at the earliest. In the case already filed, send the copy to the assessing officer.

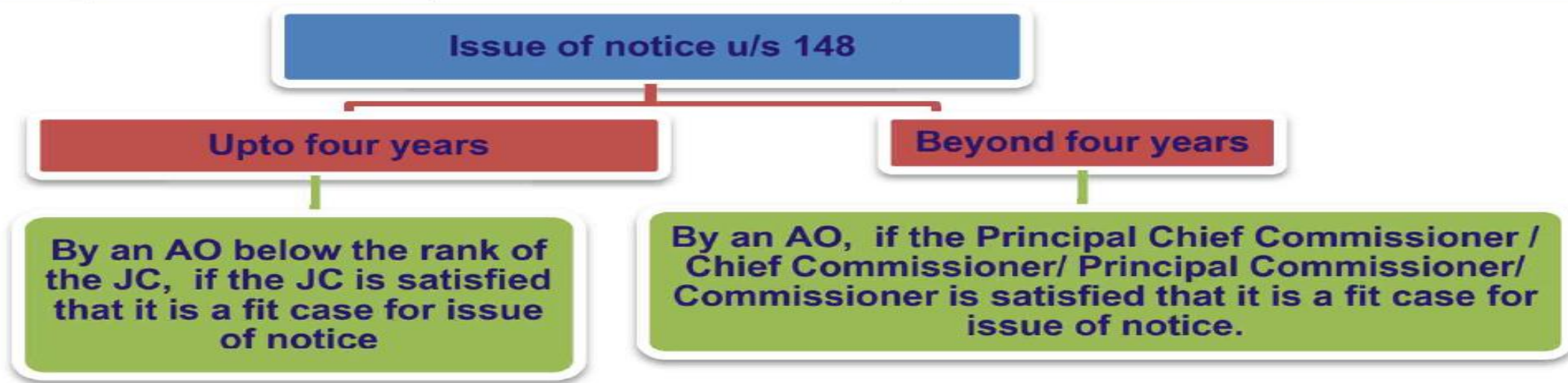
Replying to notice under Section 148

- In case you're filing the income tax return in response to notice issued under section 148, ensure that you file it after performing proper due diligence that you declare all your income and expenses carefully. In case you miss reporting any of your income correctly then it could result in unnecessary penalties.
- If you believe that notice isn't served validly or reasons provided by the assessing officer for opening assessment under section 147 aren't proper then you could challenge the validity of such notice before the assessing officer or higher authorities.
- In case you win your case, the Court would halt your assessment proceedings. However, in case the decision doesn't go in your favour, then the assessing officer could proceed with the reassessment.

Sanction for issue of Notice

The simplified approval regime for issue of notice for reassessment is given hereunder -

	Time limit (from the end of the relevant A.Y.)	Issue of Notice under section 148 by	Competent authority who has to be satisfied on the reasons recorded by the A.O., that it is a fit case for the issue of such notice
(1)	Upto 4 years	Assessing Officer below the rank of Joint Commissioner	Joint Commissioner
(2)	After 4 years	Assessing Officer	Principal Chief Commissioner/ Chief Commissioner/Principal Commissioner/Commissioner



New Regime of Re- Assessment – Finance Act 2021

- ☐ (a) Section 147: Assessment of income escaping assessment;
- ☐ (b) Section 148: Issue of notice for re-assessment;
- ☐ (c) Section 148A: Procedure to be followed before issuing a notice for re-assessment;
- ☐ (d) Section 149: Time limit for issuing a notice for re-assessment;
- ☐ (e) Section 150: Assessment in pursuance of an order on appeal, etc.
- ☐ (f) Section 151: Specified Authorities for authorizing the issue of notice for re-assessment;
- ☐ (g) Section 151A: Faceless assessment of income escaping assessment;
- ☐ (h) Section 153: Time limit for completion of assessment or re-assessment.

New Regime of Re- Assessment – Finance Act 2021

(a) Section 147: Assessment of income escaping assessment;

(a) Any income chargeable to tax has escaped assessment for any assessment year; and

(b) The assessing officer follows the provisions of sections 148 to 153.

AO can assess or reassess

such income or recompute the loss or the depreciation allowance or any other allowance or deduction for such assessment year.

all those incomes which have escaped assessment and which come to his notice subsequently in the course of such proceeding

New Regime of Re- Assessment – Finance Act 2021

(b) Section 148: Issue of notice for re-assessment;

- ☐ a notice is required to be issued to the assessee under Section 148
- ☐ requiring him to furnish within such period, a return of his income or the income of any other person in respect of which he is assessable under this Act.
- ☐ return shall be furnished in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

- ☐ Notice to be issued only if the AO has the information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year.

- ☐ Prior approval of the specified authority is also required to be obtained before issuing such notice by the AO.

New Regime of Re- Assessment – Finance Act 2021

Section 148A: Procedure to be followed before issuing a notice for re-assessment;

- ☐ Before issuing a notice u/s 148, the AO
 - ❖ shall conduct inquiries,
 - ❖ if required, and provide an opportunity of being heard to the assessee.
 - ❖ after considering his reply, shall decide, after passing an order, whether it is a fit case for the issue of notice u/s 148 and
 - ❖ serve a copy of such order along with such notice on the assessee.
- ☐ Assessee cannot file an appeal against such order with the CIT(A) or the ITAT but only can challenge this by filing a Writ in the High Court.
- ☐ Aforesaid procedure does not apply in search or requisition cases.
- ☐ In the case of a survey, the AO has to follow the procedure laid down in Section 148A before issuing a notice u/s 148.

New Regime of Re- Assessment – Finance Act 2021

Section 149: Time limit for issuing a notice for re-assessment;

- ❑ No notice shall be issued if 3 years have elapsed from the end of the relevant AY.
- ❑ Where the AO has evidence in his possession which reveals that the income escaping assessment, represented in the form of asset, amounts to or is likely to amount to Rs. 50 lakhs or more. Notice can be issued beyond a period of 3 years but not beyond the period of 10 years from the end of the relevant AY.

Exclusion in computing Time Limit:

- ❖ the time or extended time allowed to the assessee in providing an opportunity of being heard or period during which such proceedings before issuance of notice u/s 148 are stayed by an order or injunction of any court, shall be excluded.
- ❖ If after excluding such period, time available to the Assessing Officer for passing an order, about the fitness of a case for the issue of notice under Section 148, is less than 7 days, the remaining time shall be extended to 7 days.

New Regime of Re- Assessment – Finance Act 2021

Section 150: Assessment in pursuance of an order on appeal, etc.

- ☐ No amendment has been proposed;

Section 151: Specified Authorities for authorizing the issue of notice for re-assessment;

- ☐ Notice to be issued with approval of specified Authority.

Time Limit Specified Authority

- ☐ -If 3 years or less than 3 years have elapsed from the end of the relevant AY
 - ❖ Principal Commissioner of Income-tax (PCIT) or Principal Director of Income-tax (PDIT) or Commissioner of Income-tax (CIT) or Director of Income-tax (DIT)
- ☐ -If more than 3 years have elapsed from the end of the relevant AY PCIT or PDIT, or where there is no PCIT or PDIT, CCIT or DGIT

New Regime of Re- Assessment – Finance Act 2021

Section 151A: Faceless assessment of income escaping assessment;

- ☐ All of the following procedures shall be conducted in a faceless manner:
 - ❖ **Assessment, reassessment or re-computation under Section 147;**
 - Issuance of notice under Section 148;**
 - Conducting of inquiries or issuance of show-cause notice or passing of an order under section 148A;**
 - Sanction for issue of such notice under Section 151.**
- ☐ The Central Govt. will bring a scheme in this regard to carry out the re-assessment proceedings in a faceless manner.

Section 153: Time limit for completion of assessment or re-assessment.

- ☐ **Within 12 months from the end of the financial year in which notice was served.**
- ☐ **This time limit shall be extended by 12 months if reference is made to the TPO**

Information is the basis of Reassessment

- ☐ **Assessing Officer can initiate the proceedings if he has the information which suggests that some income has escaped the assessment**
- ☐ **In cases other than search, survey or requisition [Explanation 1 to Section 148]**

In the following situations, the information shall be deemed to be suggesting that the income chargeable to tax has escaped assessment:

- ❖ (a) any information flagged in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time;**
- ❖ (b) any final objection raised by the CAG to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act.**

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- Supreme Court in the case of *CIT v. A. Raman & Co. [1968] 67ITR11 (SC)* held that

the expression 'information' means 'instruction or knowledge derived from an external source concerning facts or particulars, or as to law relating to a matter bearing on the assessment'.

- Supreme Court in the case of *Maharaj Kumar Kamal Singh v. CIT [1959] 35 ITR 1 (SC)* held that

word 'information' includes information as to the true and correct state of the law and so would cover information as to relevant judicial decisions.

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- ❑ **Supreme Court of India in the case of *Parashuram Pottery Works Co. Ltd. [1977] 106 ITR 1 (SC)* held that**
there must be a finality in all legal proceedings and reopening is not permitted unless a case falls strictly within four corners of the law providing for reopening of assessment

 - ❑ **Supreme court in the case of *FIS Global Business Solutions India (P.) Ltd [2019] 104 taxmann.com 169 (SC)***
dismissed an SLP against the decision of the Delhi High Court that the audit objection being only information, reassessment notice based on said audit objection is not sustainable.

What is ITBA?

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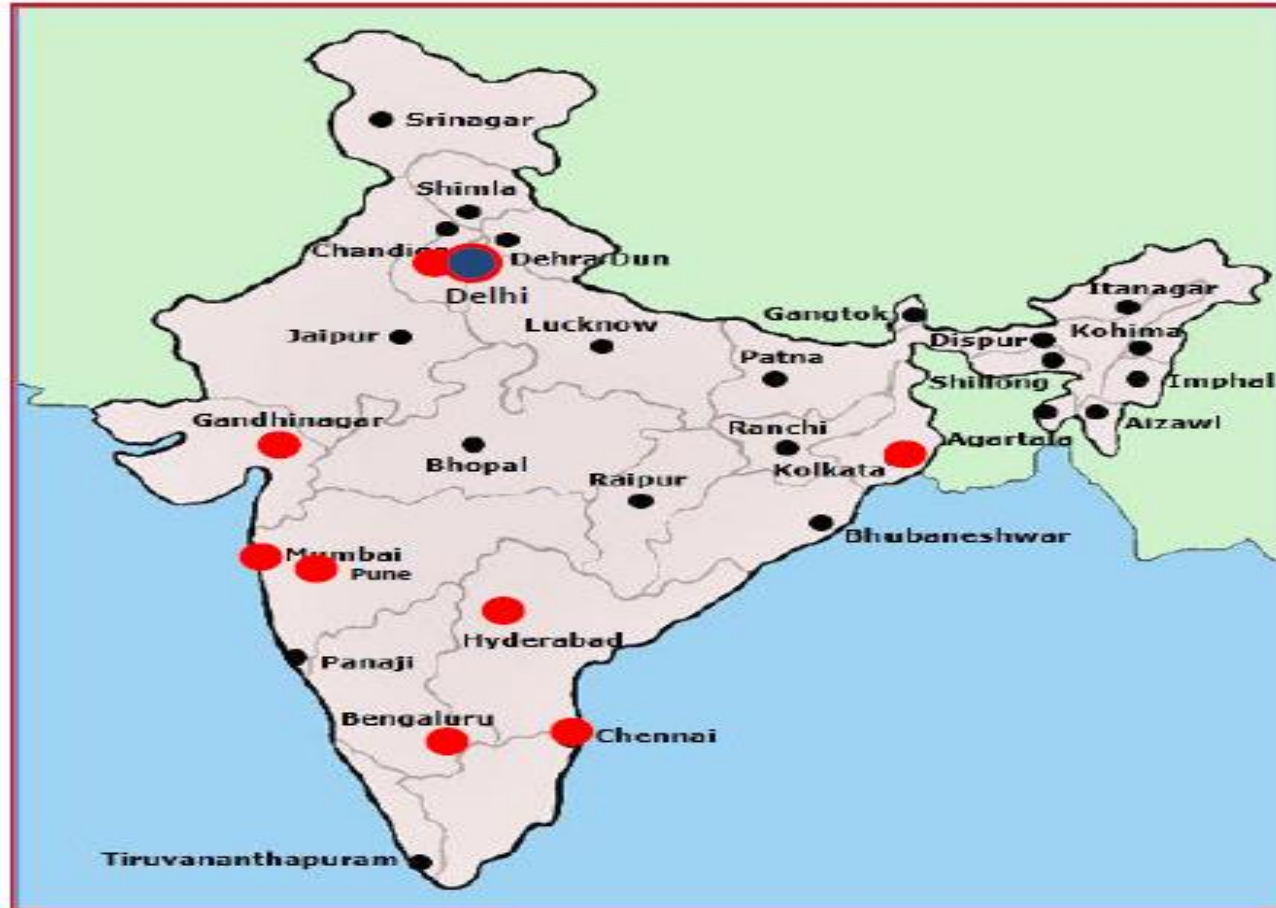
- The Income Tax Department has developed an integrated platform i.e. Income Tax Business Application (ITBA) for electronic conduct of various functions/proceedings including assessments
- This is integrated with the e-filing portal which is used by the assessee to electronically communicate with the Income Tax Department
- During the course of assessment proceeding, assessing officer is required to send communications through the 'Assessment Module' of ITBA which is delivered in e-filing account of the concerned assessee

Features

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- In e-proceedings, all the letters, notices, questionnaires, order and other communication from the Assessing Officer would be directly sent to the taxpayers e-filing account.
- The taxpayer would also be able to submit the response online by uploading the same along with attachments on the 'e-Filing' portal.
- The response submitted by the assessee would be viewed by the Assessing officer electronically in Income-Tax Business Application (ITBA) module.
- This would, besides saving precious time of the assessee, would also provide a 24x7 anytime/ anywhere convenience to submit response to the departmental queries in course of assessment proceedings

E- Assessment Scheme 2019 – Organisation Structure.



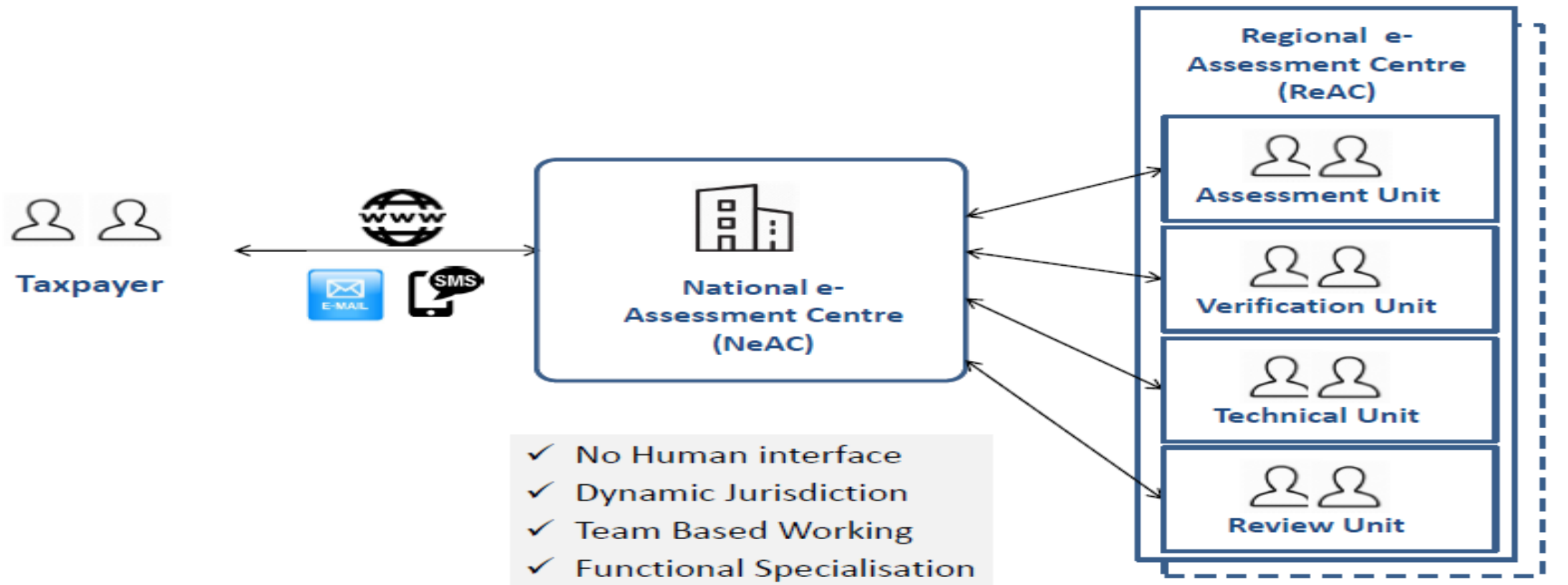
National e-Assessment Center (NeAC)

- Headed by Pr. CCIT
- Located at Delhi

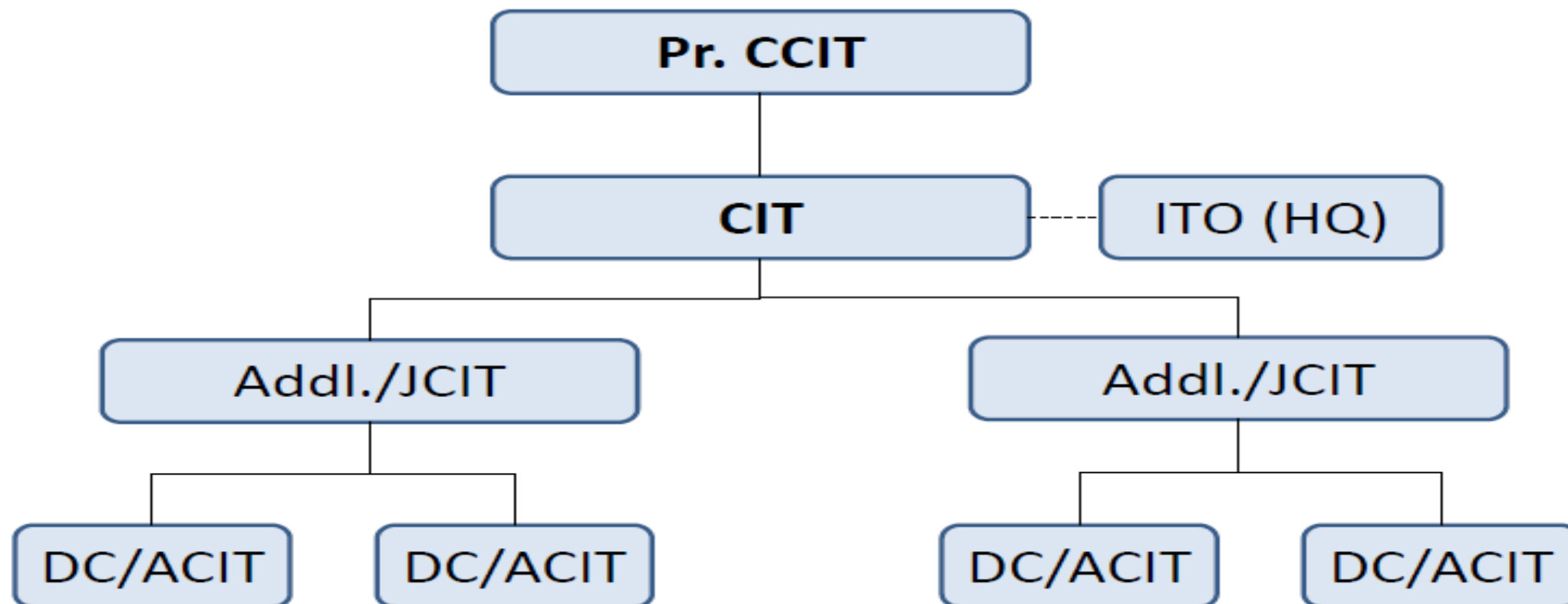
8 Regional e-Assessment Centers (ReAC)

- Headed by CCIT
- Located at Delhi, Mumbai, Chennai, Kolkata, Ahmedabad, Pune, Bangalore and Hyderabad

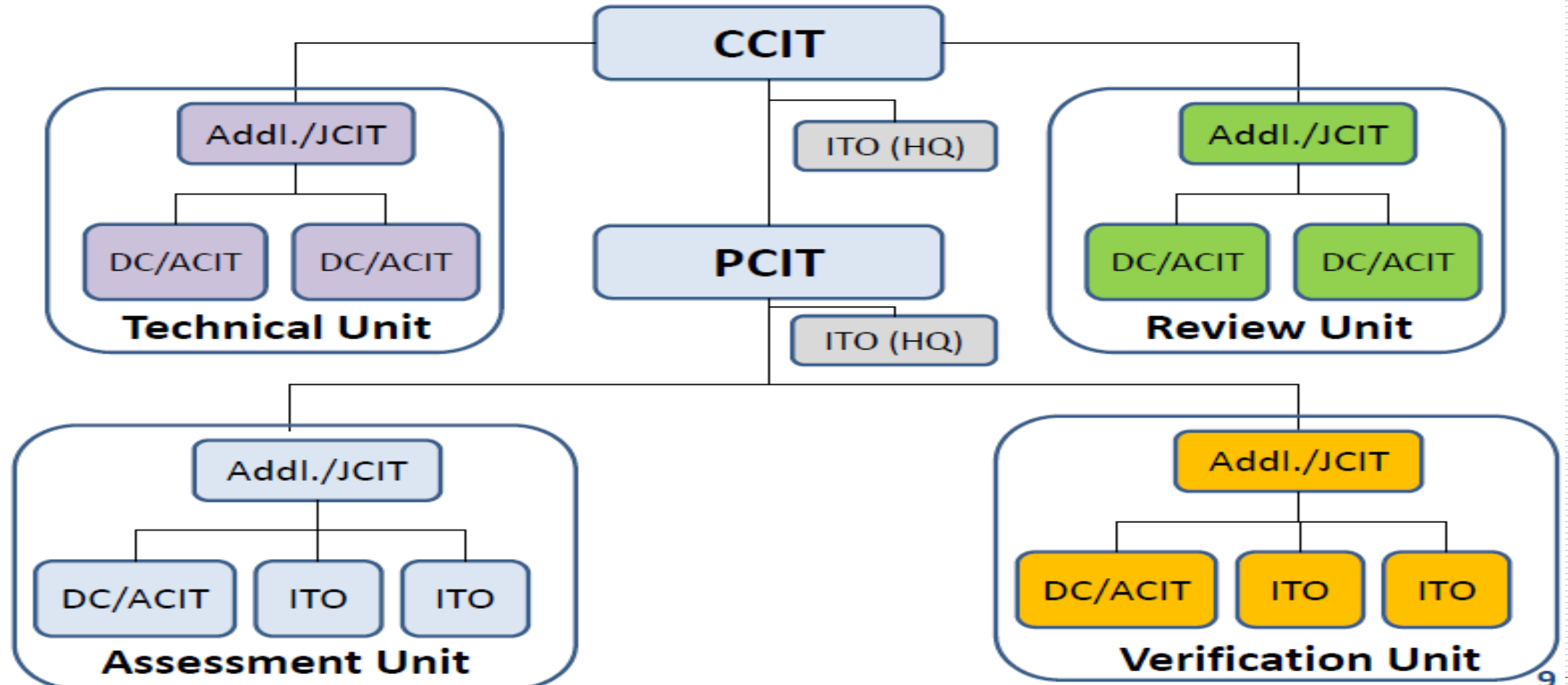
Functional Classification of the different Assessment Units under new e- Assessment 2019 Ecosystem is presented as follows



National E- Assessment Centre (NeAC), Delhi



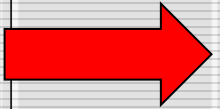
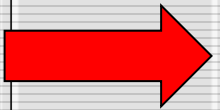
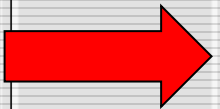
Regional e-Assessment Centre (ReAC)




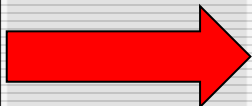
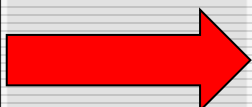
NeAC & ReAC Manpower

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
Inspector	635
Executive Assistant	400
Multi-Tasking Staff	558
Stenographer	474
Total	2686



Functions of E-Assessment Units

National e-assessment Centre (NeAC)		facilitate the conduct of e-assessment proceedings in a centralised manner
Regional e-assessment Centres (ReAC)		facilitate the conduct of e-assessment proceedings in the cadre controlling region of a Pr CCIT.
		Pr. CIT vested with the jurisdiction to make assessment in accordance with the provisions of this Scheme;



Functions of E-Assessment Units

Assessment Units (AU):		facilitate the conduct of e-assessment & to perform the function of making assessment.,
		<u>seeking information or clarification on points or issues so identified</u>
		analysis of the material furnished by the assessee or any other person

Functions of E-Assessment Units

Verification Unit (VU)		facilitate the conduct of e-assessment, to perform the function of verification.
		<u>enquiry, cross verification, examination of books of accounts, examination of witnesses and recording of statements</u> and other functions required for the purposes of verification.

Functions of E-Assessment Units

Technical Units (TU)		facilitate the conduct of e-assessment, to perform the function of providing technical assistance.
		any <u>assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management</u> or any other technical matter - case / class of cases under this Scheme

Functions of E-Assessment Units

Review Units (RU):

review of the draft assessment order

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,

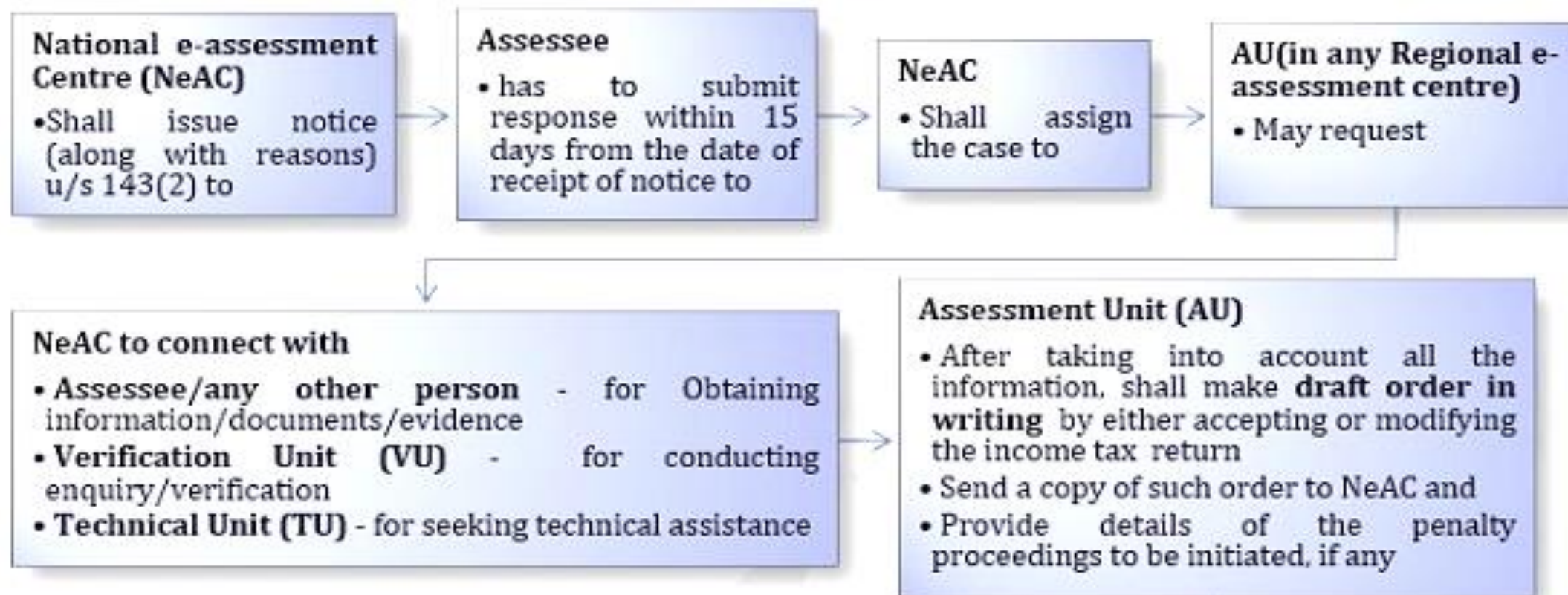
whether the applicable judicial decisions have been considered and dealt with in the draft order,

checking arithmetical correctness of modifications proposed, if any,

and such other functions as may be required for the purposes of review, and specify their respective and such other functions as may be required for the purposes of review, and specify jurisdiction.

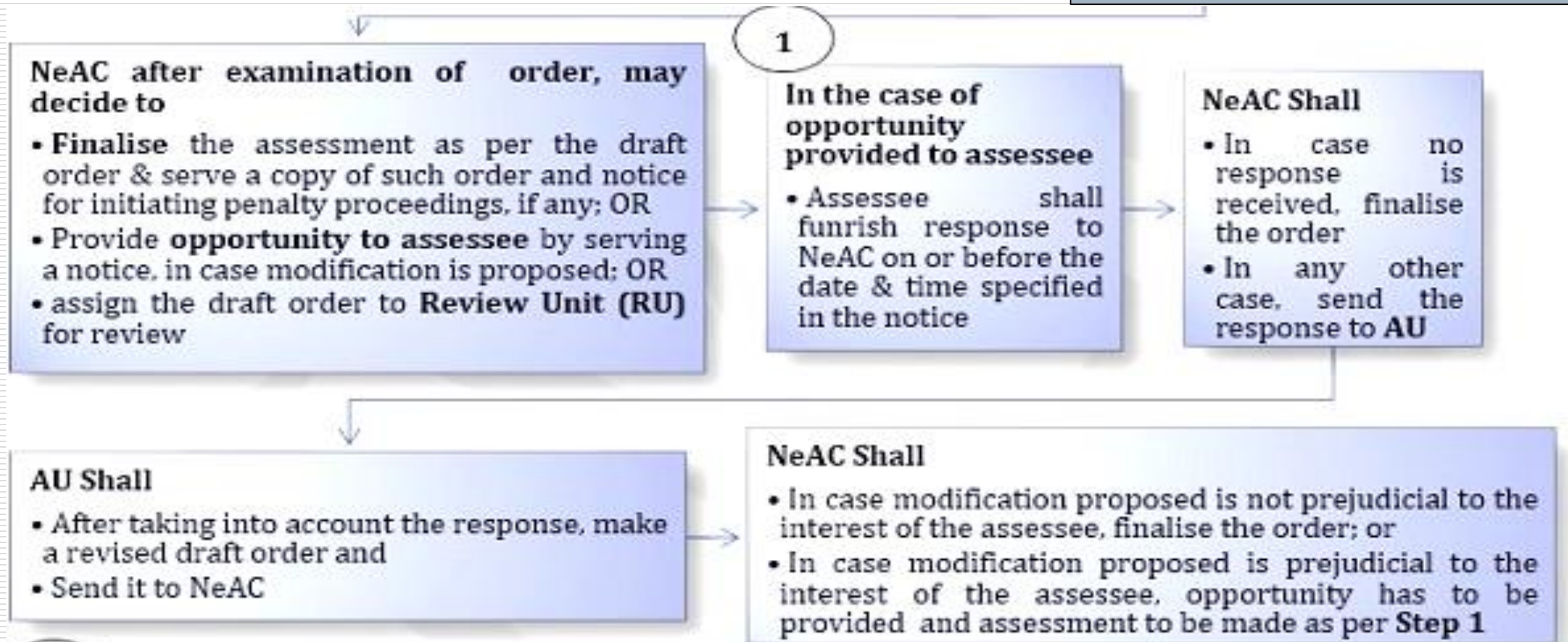
Procedures of conducting e-Assessment under Scheme 2019

Procedure for E-assessment Scheme, 2019



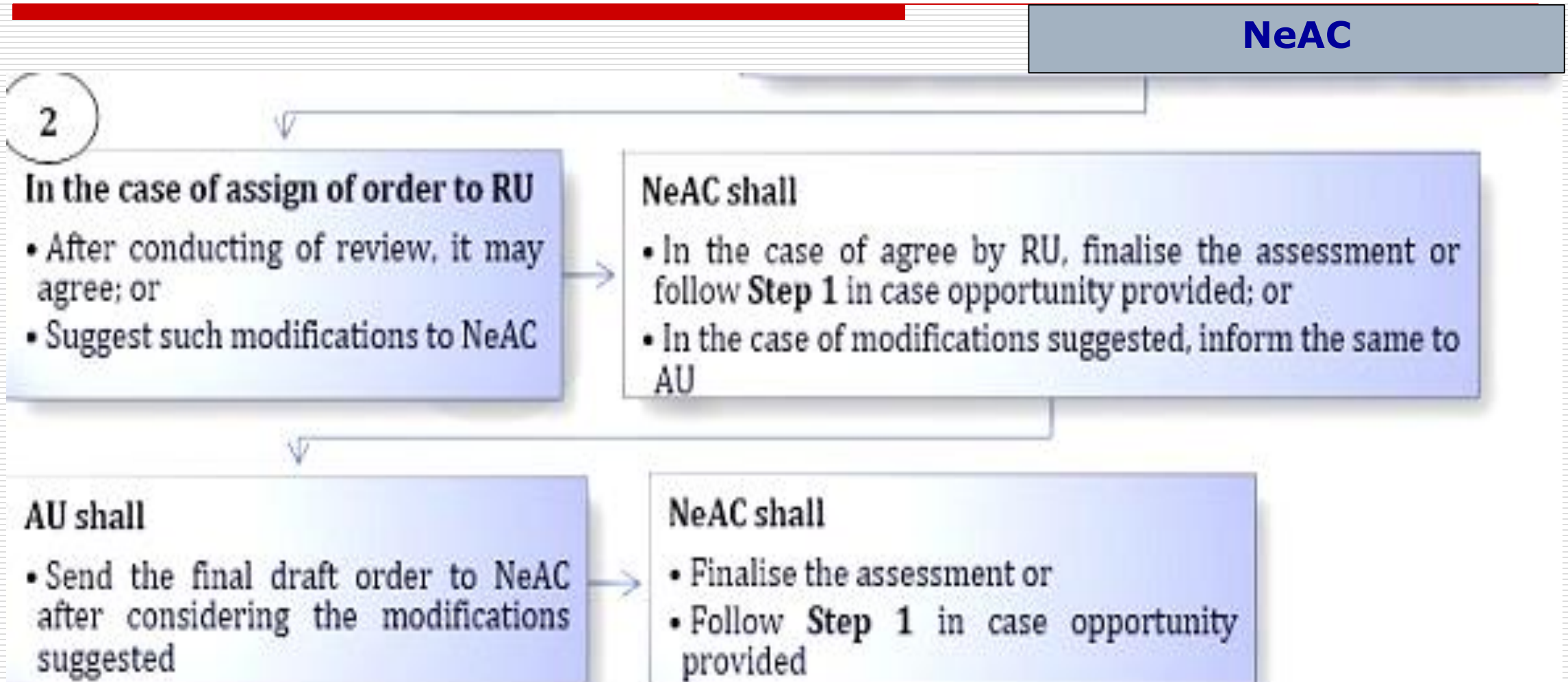
Procedures of conducting e-Assessment under Scheme 2019

Assessment Unit

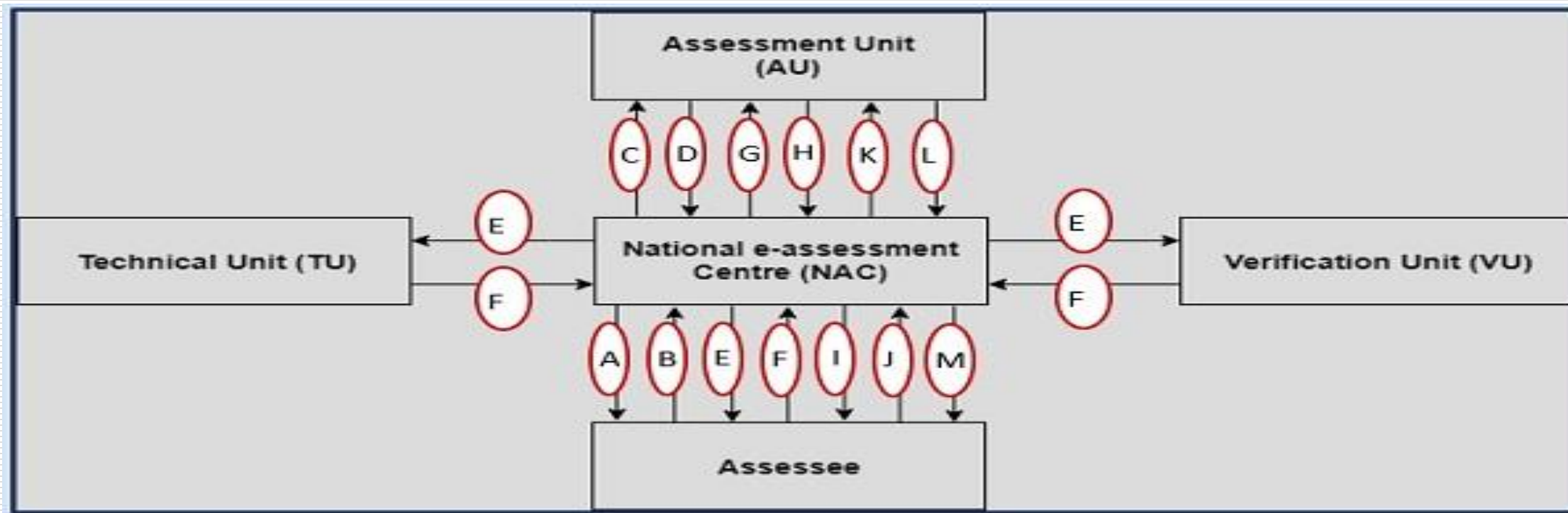


2/26/2021

Procedures of conducting e-Assessment under Scheme 2019



Allocation of Assessee and Process of Assessment under e-Assessment Scheme 2019



Allocation through an automated allocation system - ;

Procedures of conducting e-Assessment under Scheme 2019

National e-Assessment Centres (NeAC)		<p>after completion of assessment, transfer all the electronic records of the case to AO having jurisdiction over such case for —</p>
		<p>imposition of penalty; collection and recovery of demand; rectification of mistake; giving effect to appellate orders; submission of remand report, or any other report to be furnished, or any representation to be made, or any record to be produced before CIT(Appeals) / ITAT / or Courts proposal seeking sanction for launch of prosecution and filing of complaint before the Court;</p>
		<p>may at any stage of the assessment, if considered necessary, transfer the case to the AO having jurisdiction over such case.</p>

2/26/2021

CMA Niranjan Swain, Advocate & Tax

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Consultant. Reached at
nswain2008@gmail.com

PENALTY PROCEEDING FOR NON COMPLIANCE:

- ☐ (i) Any UNIT may send recommendation to the NeAC, if it considers necessary or expedient to do so in the course of assessment proceedings,
 - ❖ for non-compliance of any notice, direction or order issued under this Scheme on the part of the assessee or any other person
 - ❖ for initiation of any penalty proceedings under Chapter XXI of the IT Act
 - ❖ against such assessee or any other person, as the case may be,
- ☐ (ii) NeAC, on receipt of such recommendation
 - ❖ serve a notice on the assessee or any other person,
 - ❖ calling upon him to show cause as to why penalty should not be imposed on him

PENALTY PROCEEDING FOR NON COMPLIANCE:

(iii) Response to show cause notice furnished by the assessee or any other person - Shall be sent by the NeAC to the concerned unit which has made the recommendation for penalty.

(iv) The said unit shall, after taking into consideration the response furnished by the assessee or any other person –

(a) make a draft order of penalty and send a copy of such draft to NeAC, or

(b) drop the penalty after recording reasons, under intimation to the NeAC.

(v) The NeAC shall levy the penalty as per the said draft order of penalty and serve a copy of the same on the assessee or any other person,

NO PERSONAL APPERANCE IN THE CENTRES OR UNITS:

No personal appearance by Assessee / through authorised representative

Assessee / AR, shall be entitled to seek personal hearing to make his oral submissions or present his case before the IT Authority in any unit

Hearing shall be conducted exclusively through video conferencing, including use of any telecommunication application software which supports video telephony.

in a case modification proposed in draft assessment order, and an opportunity is provided to the assessee by serving a notice calling upon him to show-cause as to why the assessment should not be completed as per draft assessment order,

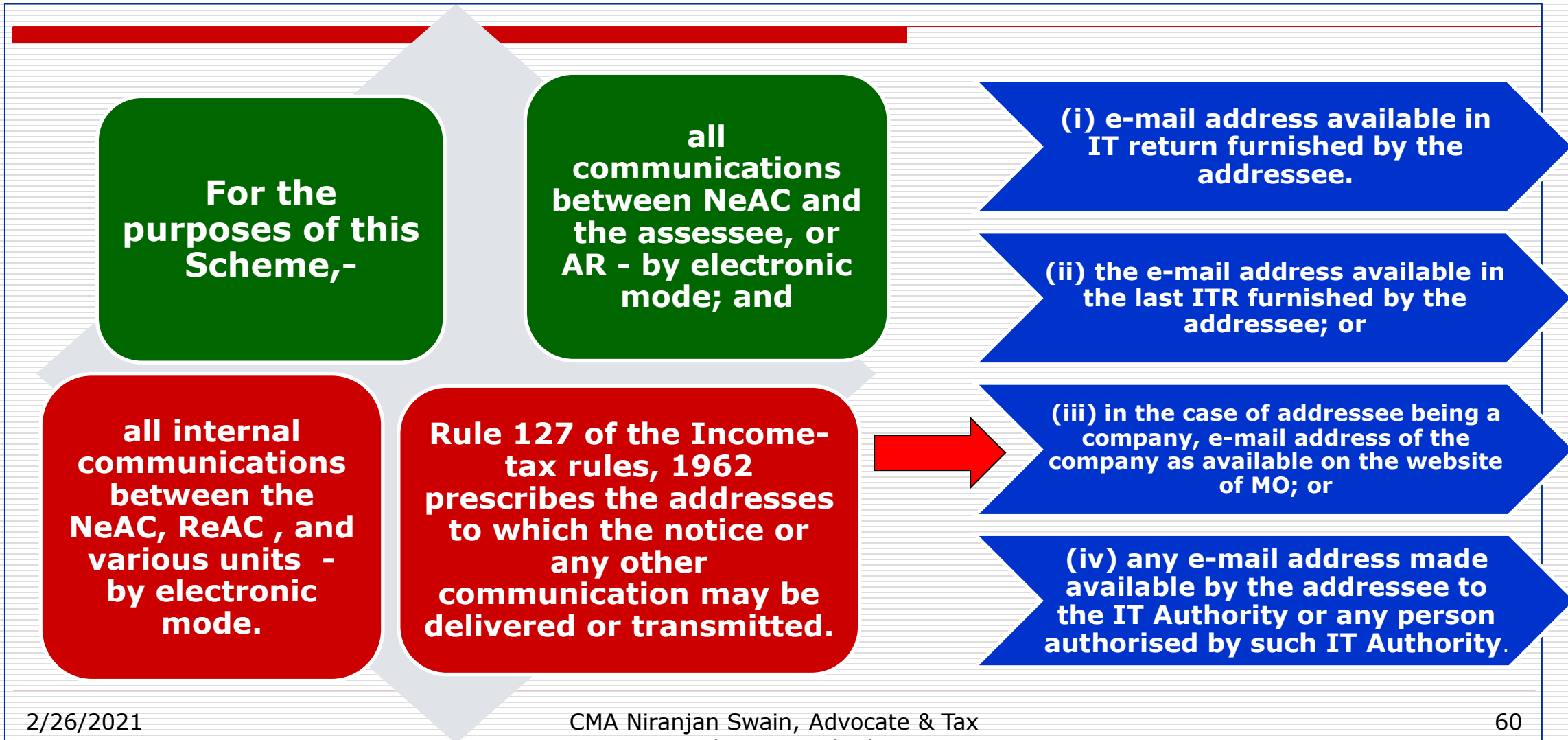
examination or recording of the statement of the assessee or any other person (other than statement recorded in the course of survey under section 133A of the Act)

Board shall establish suitable facilities for video conferencing including telecommunication application software which supports video telephony at such locations as may be necessary,

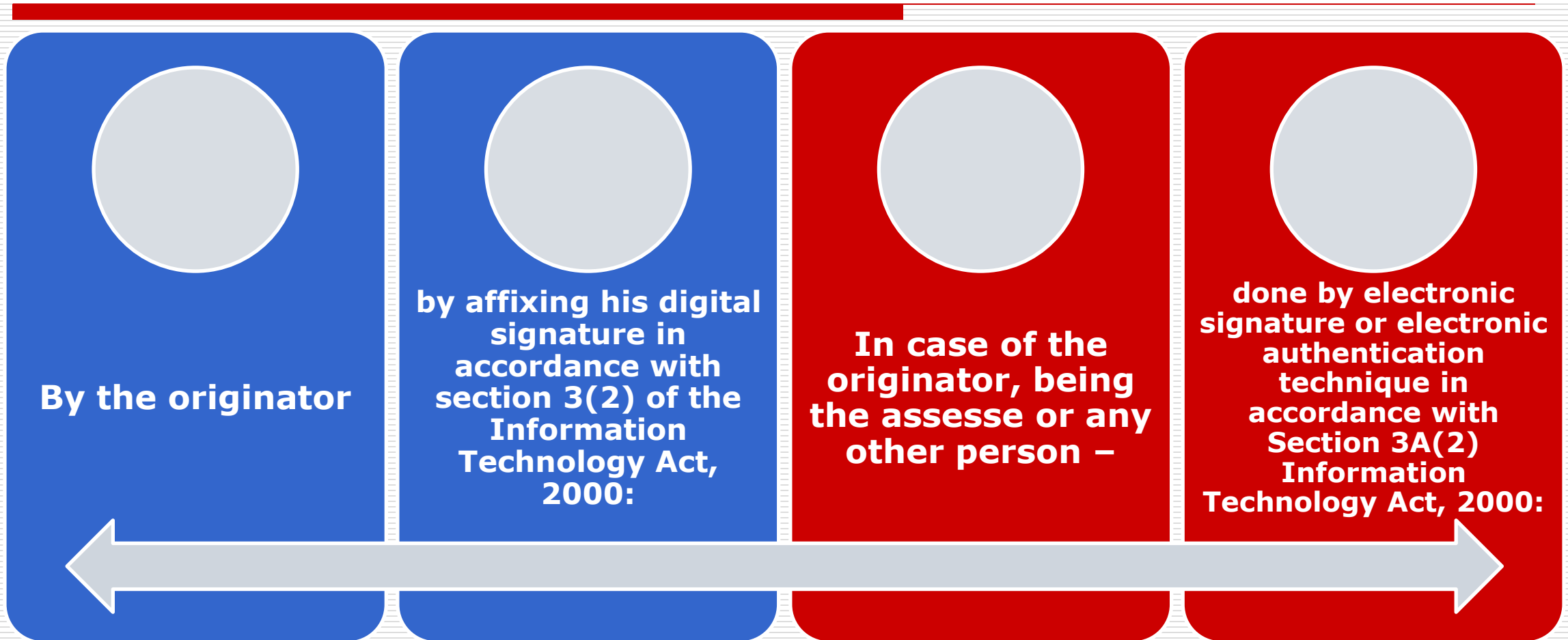
APPELLATE PROCEEDINGS:

- ❖ **An appeal against an assessment made by the NeAC –**
- ❖ **Before the CIT (Appeals) having jurisdiction over the jurisdictional AO**
- ❖ **Any reference to the CIT(Appeals) in any communication from the NeAC shall mean such jurisdictional CIT (Appeals).**

EXCHANGE OF COMMUNICATION EXCLUSIVELY BY ELECTRONIC MODE:



AUTHETICATION OF ELECTRONIC RECORD:



DELIVERY OF ELECTRONIC RECORD:

Notice or Order or any Electronic Communication shall be delivered to Assessee

placing an authenticated copy thereof in the assessee's registered account; or

sending an authenticated copy thereof to the registered email address of the assessee or his authorised representative; or

uploading an authenticated copy on the assessee's Mobile App; and

followed by a real time alert.

Notice / Order / Electronic Communication shall be delivered to other person:

by sending an authenticated copy thereof to the registered email address of such person,

followed by a real time alert.

DELIVERY OF ELECTRONIC RECORD:

***Assessee shall
file his response
to any notice /
order /
electronic
communication,***

***through his registered
account, and once an
acknowledgement is sent
by the NeAC containing the
hash result generated upon
successful submission of
response, the response
shall be deemed to be
authenticated.***

***Time and place of dispatch
and receipt of electronic
record shall be determined in
accordance with Section 13 of
the Information Technology
Act, 2000***

NO PERSONAL APPERANCE IN THE CENTRES OR UNITS:

**No
appearance
by Assessee
/ or AR**

**Assessee or
AR, shall be
entitled to
seek personal
hearing so as
to make his
oral
submissions
or present his
case before
the IT
Authority in
any unit**

**Hearing shall
be conducted
exclusively
through video
conferencing,
including use
of any
telecommunic
ation
application
software
which
supports
video
telephony.**

**in a case
where a
modification
is proposed in
the draft
assessment
order, and an
opportunity is
provided 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 such
draft
assessment
order**

**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
of the Act)**

**Board shall
establish
suitable
facilities for
video
conferencing
including
telecommunic
ation
software
which
supports
video
telephony at
such locations
as may be
necessary.**

Difference between E- Assessment and Old system of Assessment

Sl. No,	Particulars	Assessment under E- Proceedings	New E-Assessment Scheme 2019
1	Applicability from Assessment Year (AY)	Up to AY 2017-18	From AY 2018-19
2	Type of Assessment Covered	Assessment under section 143(3) and Assessment under 147	Assessment under section 143(3)
3	Type of Assessment not covered.	Assessment u/s. 153A in case of search. Best judgment assessment u/s. 144	Reassessment u/s.147. Assessment u/s. 153A in case of search. Best judgment assessment u/s. 144
4	Assessing Authority (AO)	Jurisdictional Assessing Officer	National e-Assessment Centre (NeAC)

Difference between E- Assessment and Old system of Assessment

Sl. No,	Particulars	Assessment under E- Proceedings	New E-Assessment Scheme 2019
5	Mode of Interface between Assessee and Assessing Officer	Electronic Mode through e- Proceedings facility available in ITBA Module is the interface between Assessee and Assessing Officer. However the cases where show cause notices issued, an opportunity is provided for personal hearing to the Assessee involving physical interface between assessee and Assessing Officer	Electronic Mode through e- Proceedings facility available in ITBA Module is the interface between Assessee and Assessing Officer. However the cases where show cause notices issued, an opportunity is provided for personal hearing to the Assessee via video telephony and involving physical interface between assessee and National e – Assessing Centre.

Difference between E- Assessment and Old system of Assessment

Sl. No,	Particulars	Assessment under E- Proceedings	New E-Assessment Scheme 2019
6	Issue of Notice under section 143(2)	The notice for scrutiny was issued by the jurisdictional Assessing Officers.	National E-assessment Centre shall issue and serve the notice.
7	Submission of Reply to the Notice by the Assessee	As per the time provided / allowed in the notice.	Within 15 days from the date of receipt of such notice issued by NeAC.
8	Assignment of Case	Jurisdictional Assessing Officer.	The case shall be assigned to a specific assessment unit in any one Regional e-Assessment Centre through an automated allocation system.

Difference between E- Assessment and Old system of Assessment

Sl. No,	Particulars	Assessment under E- Proceedings	New E-Assessment Scheme 2019
9	Inquiry before Assessment	Assessing officer issues Notice u/s 142(1)	National E-assessment Centre may issue appropriate notice to assessee for obtaining information, documents or evidence as required by the assigned assessment unit for the purpose of conducting e-assessment.
10	Issue of Draft Assessment Order	No provision for issue of draft assessment order except the case where reference made by the Assessing Officer to Transfer Pricing Officer (TPO) or foreign company.	After considering all the relevant material available on the record, the 'Assessment Unit' shall make a draft assessment order and a copy of such order shall be sent to National E-assessment Centre.

Difference between E- Assessment and Old system of Assessment

Sl. No,	Particulars	Assessment under E-Proceedings	New E-Assessment Scheme 2019
11	Action on Draft Assessment Order	Not Applicable	<p>Draft Assessment Order shall be examined by the National E-assessment Centre and may either:</p> <p>i.Finalise the assessment and serve a copy of such order to the assessee along with the demand notice or refund of any amount due to him; or</p> <p>ii.Issue a Show Cause Notice on the assessee and provide an opportunity by calling him to show cause why the assessment should not be completed as per draft assessment order or</p> <p>iii.Assign the draft order to the 'review unit' in any one Regional E-Assessment Centre, through an automated allocation system, for conducting review of such order.</p>

Difference between E- Assessment and Old system of Assessment

Sl. No,	Particulars	Assessment under E- Proceedings	New E-Assessment Scheme 2019
12	Final Assessment Order	The Jurisdictional Assessing Offer shall pass the order after considering the oral and / or written submissions made the assessee or its authorised representatives u/s 143(3) IT Act ,	If the reply has been submitted by the assessee, the same shall be forwarded by National e-assessment Centre to the assessment for revision of the draft assessment order.
			Or
			Otherwise, it shall finalise the assessment based on the draft order itself.

Difference between E- Assessment and Old system of Assessment

Sl. No,	Particulars	Assessment under E-Proceedings	New E-Assessment Scheme 2019
13	Action on Revised Assessment Order	Not Applicable	National E-assessment Centre (NeAC) on receipt of the revised draft assessment order,
			(i) In case no modification prejudicial to the interest of the assessee is proposed, finalise the assessment and serve a copy of the final order upon the assessee; or
			(ii) In case modification prejudicial to the interest of the assessee is proposed, an opportunity of being heard shall again be provided to the assessee and based on the response the same procedure of revision and finalisation shall be followed.

E-Proceeding facilities available with Income Tax Dept. Web Portal

- ☐ **View and respond to an e-Proceeding by self.**
- ☐ **Respond to Defective Notice u/s 139(9)**
- ☐ **Response to Notice under section 142(1)/148/153A/153C**
- ☐ **Rectification of Order/Intimation**
- ☐ **View and Respond to an Outstanding Demand**
- ☐ **Service Request - Refund Re-issue**
- ☐ **Service Request - Intimation u/s 143(1)/154/ 16(1)/35**
- ☐ **Service Request- Condonation Request**
- ☐ **Assign an Authorized Representative for responding to an e-Proceeding.**
- ☐ **Filing of Income Tax Returns and Forms**
- ☐ **Quoting of Aadhaar number in Income Tax Returns**

E-Proceeding facilities available with Income Tax Dept. Web Portal

- ☐ **Quoting of Aadhaar number in Income Tax Returns**
- ☐ **Manage your Profile**
- ☐ **Link Aadhaar with PAN**
- ☐ **Filing of Tax Audit Reports**
- ☐ **Service Request-Change ITR Form Particulars**
- ☐ **View Tax Credit Statement (Form 26AS) / View Tax Credit Mismatch**
- ☐ **Compliances**
- ☐ **Resolve the Mismatch related Information in ITRs**
- ☐ **Submit Response if you have not filed your ITR regularly**
- ☐ **Respond against the Large Value Transaction**

E-Proceeding facilities available with Income Tax Dept. Web Portal

- ☐ **Respond to the notices related to High Value Cash Transaction**
- ☐ **e-Nivaran - Lodge your Grievance Online**
- ☐ **Authorize another person to act on behalf of self Or Register to act on behalf of another person**
- ☐ **Register as Representative**
- ☐ **ITDREIN Income Tax Department Reporting Entity Identification Number (ITDREIN)**
- ☐ **Generate ITDREIN to upload Form 15CC and Form V**
- ☐ **Upload Form 15CC and Form V**
- ☐ **De-activate Authorised Person**

DOCUMENT IDENTIFICATION NUMBER:

- ❑ **Allotment of DIN for all Communication:** *assessment, appeals, orders, statutory or otherwise, exemptions, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval etc.*
- ❑ Communication which is not in conformity with DIN - treated as invalid & deemed as not issued.
- ❑ **Exceptions:**
 - ❖ technical difficulties in generating/allotting/quoting the DIN & issue.
 - ❖ communication regarding enquiry, verification etc. is required to be issued by ITA who is outside the office.
 - ❖ delay in PAN migration / PAN of assessee is not available & a proceeding under the Act (other than sec. 131/ 133) is sought to be initiated; or
 - ❖ functionality to issue communication is not available in the system,

Non Applicability of E- Proceedings – 2019-20

- ❑ **'E-Proceeding'** shall not be mandatory FY 2019-20:
- ❖ ***assessment is to be framed under section(s) 153A /153C/ 144 / 147***
- ❖ ***In set aside assessments;***
- ❖ ***Assessments being framed in non-PAN cases;***
- ❖ ***Cases where ITR was filed in paper mode and the assessee concerned does not yet have an E-filing' account;***
- ❖ ***In all cases at stations connected through the VSAT or with limited capacity of bandwidth***

Personal Hearing during E- Proceedings

- ❑ **Personal hearing/attendance may take place in following situation(s):**
 - ❖ **Where books of account have to be examined;**
 - ❖ **Where Assessing Officer invokes provisions of section 131 of the Act;**
 - ❖ **Where examination of witness is required to be made by the assessee or the Department;**
 - ❖ **Where a show-cause notice contemplating any adverse view is issued by the AO and assessee requests through their 'E-filing' account for personal hearing to explain the matter.**

Q&A

