

Presentation on
Digital
Audit & Assessment Procedure
On the occasion of 'GST Day-2021'
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GST – A Good and Simple Tax?

It's serious.....

“The Parliament had intended the GST to be a citizen-friendly tax structure. The purpose of the Act is lost by the manner in which tax law is **enforced** in our country” -- *Justice D.Y. Chandrachud*.

“The country needs to **come out of this tax culture** that ‘businesses are all fraudulent!’ Even where 12 crore tax has been paid, just because some tax is still due, you can’t start attaching property! If there is any alienation of assets or the assessee is winding up or going into liquidation, it is understandable...but just because you have the account numbers, you can’t start attaching and even block the receivables!”, -- *Justice Chandrachud*

“Tax officers raise huge demands after assessment – of 10,000 crores! If this is reduced to 1000 crores by the Appellate Tribunal or the Supreme Court, it must go into the assessment of the tax officer! There is no accountability at all” -- *Justice Chandrachud*

Why Digital Audits & Assessments is under **Fire**

Experience with Government schemes:

In past, we have seen that many initiatives by the Government fails not due to flaw in the system but due to the way a scheme is implemented:

- the lack of necessary infrastructure,
- lack of flexibility required during transitional phase,
- lack of guidance and support required for implementation,
- lack of timely measures to resolve the unforeseen issues which may arise after implementation

Digital Audit / Assessment or **faceless assessment** and **faceless appeal** may also face similar constraints on following grounds:

- lack of home work and 360 degree analysis of transactions
- timely measures to resolve these constraints
- flexibility
- decision making and officials support
- IT infrastructure
- and so on.....

Thus, the purpose of the scheme may not be served in its letter and spirit, if remedial actions are not taken, wherever necessary.

Fear in the minds of Officers, Professionals and Assesses

- procedural hearings are relatively manageable, but evidentiary hearings –witness examination or personal hearing– pose real challenges.
- during cross-examination, for example, the authorities may not have the **same ability to analyze** the answers and **the body language of the witnesses or experts** as during in-person testimony.
- a assesse unfamiliar with online meeting platforms might not convincingly look directly at a questioner, inadvertently raising concerns about credibility where no such concerns exist.
- the **visual, verbal and behavioral clues** used to categories others based on **age, gender or social background** might be muted through online witness testimony

Practical Challenges :

- **Understanding the nature of business and of transaction :**
 - Majority of the officials are from **non-commerce back ground**,
 - Accounting Standards and Principles need to be understood
 - SAP or other accounting software need special skill
 - Even, in face to face hearings, the tax officials have, at certain times, faced issues to comprehend the nature of businesses and transactions in true spirit

this could haunt the taxpayer due to incorrect application of law.

- **Even the expert tax professionals** require meeting with clients and briefings to arrive at a particular conclusion. This is an inherent limitation of faceless scheme.
- **Worry is that complex issue of law** and fact is not lost in the wilderness and thereby, increasing the litigations in higher courts

Lack of IT Infrastructure:

- The **Digital Audit or faceless assessment and faceless appeal requires** robust infrastructure in the form of IT equipment's, internet connection with good bandwidth, software to transform the data in size and form in which the same is desired by system, technical guidance, good drafting skills, etc.
- The notices issued by the department, at times, contains numerous details, and the responses for which runs into many box files.
- However, with faceless assessment, the taxpayer will have no choice but to scan all the data and transform the data in reduced size and form. Therefore, a robust infrastructure is imperative.
- **International arbitration proceedings** involve parties situated at the four corners of the world. A witness situated in a developing country in the Middle East or in Africa may not have access to the same technology equipment or high-speed internet as a witness or expert in Europe. The technological standard should be agreed between the parties, before the hearing.

Lack of coordination within the departments

- The help desk / customer care staff deployed to resolve the taxpayer's issues does not have necessary skills and technical knowledge about the problems faced by the taxpayers.
- They are not even aware of the ground reality.
- There is no co-ordination between the help desk/ customer care staff and the person handling the assessment to arrive at the possible solutions.
- Considering the faceless scheme, the decision makers in the Ministry should have relook at the framework for proper coordination.

Rigid approach

- In Digital Audit or Assessments or in faceless assessment, more weightage has been given to assessment based on set of instructions and SOP's. This method has its own limitations as it cannot encompass all possible business scenarios.
- The tax officer may in order to comply with the set of instructions and SOP's and to avoid audit risk on them, may follow the instructions and SOP's in rigid manner without applying his own mind,
- Though set of instructions and SOP's will lead to same conclusion, the same is not warranted in each and every case.

Increased Responsibility on the Taxpayer as per the Taxpayer Charter

With the implementation of the taxpayer charter, the small taxpayers shall also be required to maintain a robust IT systems and have dedicated IT staff to work on real-time issues

Interaction with the government

- In most of the government departments there is still more of paper work and less digitalisation.
- This becomes an obstacle when the organisations who go for digital auditing to interact with government bodies.
- Organisations have to go for paper work too that means doing the work twice.

Others

- **Increase in Cost** : IT need big budget and that too so frequently,
- **Cyber Security issues**: In July 2015, the Permanent Court of Arbitration was hacked in the midst of an ongoing maritime border dispute between China and the Philippines. Malware was implanted on the PCA's website which infected the computers of visitors, potentially exposing them to data theft.
- **Language** : India being state of multiple languages, tastes, culture and religions

Thank You