

## **‘Faceless Assessment and Appeals’**

### **Introduction**

The Faceless scheme was first announced by our Hon’ble Finance Minister Ms. Nirmala Sitharaman in the 2019 budget speech, and the same is seen as a big reform and steps towards transparent tax administration in India. It is a landmark move on the part of the Modi Government to remove grey areas of the tax-administration and to achieve the Government objective of “Tax system aims to be Seamless, Painless, Faceless”. It is a win-win situation for both the tax payers and Government Treasury as it will not only provide taxpayers with great convenience as E-Assessments will vanish the need of visiting Income Tax Department which saves lots of their time and other resources, but will also ensure just and fair appeal orders on the part of the Taxation Authorities. The Faceless Assessment mechanism will be resulting in imparting greater efficiency, transparency and accountability. It also took away the discretionary powers of the Assessing officers on each case thus; it will result in minimising further litigation on already settled issues.

Our Hon’ble Finance Minister Mrs. Nirmala Sitharaman in her Budget speech 2019-20 had mentioned that “The existing system of scrutiny assessments in the Income-tax Department involves a high level of personal interaction between the taxpayer and the Department, which leads to certain undesirable practices on the part of tax officials. To eliminate such instances, and to give shape to the vision of the Hon’ble Prime Minister, a scheme of faceless assessment in electronic mode involving no human interface is being launched this year in a phased manner. To start with, such E- assessments shall be carried out in cases requiring verification of certain specified transactions or discrepancies”.

According to the economic survey for the year 2017-18, “Tax department should exercise self-restraint in filing appeals”. As per the survey, the success rate of the Department at all three levels of appeal-- Appellate Tribunals, High Courts, and Supreme Court-- and for both direct and indirect tax litigation is under 30%. In some cases it is as low as 12%. The Department unambiguously loses 65% of its cases. Over a period of time, the success rate of the Department has only been declining, while that of the assesseees has been increasing. Nonetheless, the Department is the largest litigant. As per below table, the Department’s appeals constitute nearly 85% of the total number of appeals filed in the case of direct taxes. Of the total number of direct tax cases pending by the quarter ending March, 2017, the Department initiated 88% of the litigation at ITATs and the Supreme Court and 83% of the litigation pending at High Courts.

**Petition Rate and Success Rate of the Tax Department, as on 31.03.2017**

<b>Direct Tax</b>		
<b>Court</b>	<b>Success Rate</b>	<b>Petition Rate</b>
Supreme Court	27%	87%
High Court	13%	83%
ITAT/ CESTAT	27%	88%

**Implementation of the Faceless Scheme**

Initially Sub-sections (3A) to (3C) under section 143 inserted by the Finance Act, 2018 , these sections aims at eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible. In order to implement the same, the Central Board of Direct Taxes (CBDT) Board has diverted the existing manpower at all levels of the department to the Faceless Assessment. The CBDT has notified the bodies

such as National e-Assessment Center (NeAC) at Delhi and various Regional e-Assessment Centers (ReACs) covering 20 cities in the country for implementation of the Faceless Scheme. The officers and the personnel in the ReACs will carry out the functions relating to the assessment and verification function under the Income Tax Act, but all communications from the department to the taxpayer/assessee/third-party for the purposes of the Act will be in the name of the NeAC. No communication of any nature such as above will be made by any of the ReACs. Wherever communication under the income tax proceedings is required to be made with the taxpayer/assessee/ third-party, the same shall be made through electronic means using the ITBA/ Department Portal. The power of survey u/s 133A of the Act henceforth will be exercised by the Investigation Directorates and the TDS charges only. In cases of surveys of the International Taxation charge or any other charges, the same will be conducted in collaboration with the Investigation Directorates.

Soon after the notification of the Scheme in September 2019, 58,319 cases were selected for faceless assessments randomly. Till August 2020, the Income-Tax Department has disposed of around 8,000 cases without raising tax demand for additional tax through faceless assessment process which is a remarkable figure.

In the Budget 2020, clause 6B and 6C has been inserted in to section 250 of the income tax Act to deal with the procedures of Faceless appeals. The section aims at eliminating the interface between the Commissioner (Appeals) and the appellant in the course of appellate proceedings to the extent technologically feasible.

On 13th August, 2020, our Hon'ble Prime Minister Shri Narendra Modi Ji launches the platform "Transparent Taxation – Honouring the Honest" in which he praised the honest tax payers of India and said that making the lives of such taxpayers easy is the responsibility of the government. The main objectives behind the launch are:

- To bring in to force the facility of faceless appeal will be available for citizens across the country.
- To provide the maximum governance with minimum government.
- The new platform will boost the confidence of the taxpayer and making him/her fearless.
- To Urge people to come forward and pay the due taxes as currently only 1.5 Crore out of 130 crores of Population pay the taxes .
- To build a self reliant India

The CBDT also issued Notifications No.60 and 61 in 2020 to align the e-assessment scheme for 2019 assessment proceedings with the faceless assessment feature of the new platform (including renaming the E-assessment Scheme, 2019 as the "Faceless Assessment Scheme, 2019").

### **Conclusion**

Though the intention behind faceless appeals is to eliminate the undesirable practices on the part of the Tax Officials and to reduce hardships of the Tax Payers in the hands of Tax administration but the effective implementation of the mechanism would be essential to ensure all steps are taken to achieve the desired objectives of the government. The successful implementation of the proper IT infrastructure is the major concern in the achievement of the goal of Faceless assessments which requires rigorous trainings not only at Income tax department level but also across the country so that moto behind the introduction of such scheme can be met with.

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