

Faceless Assessment – Ready or not, it's here to stay

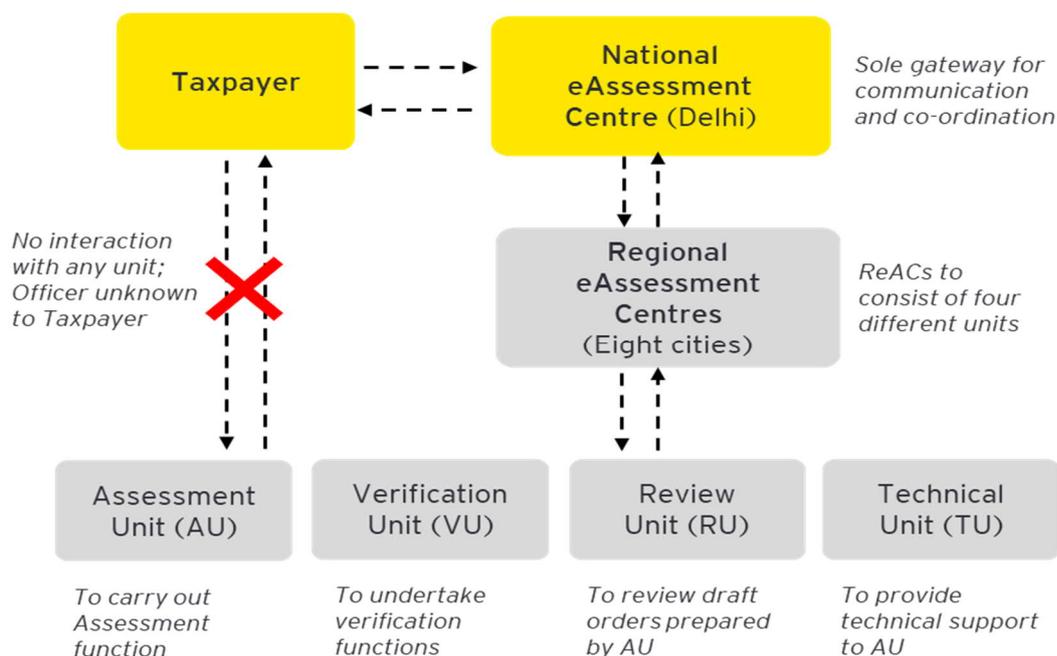
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What is it?

Faceless Assessment is the latest and probably the biggest transformation brought by the Government to income tax related processes. This completely changes the way assessment proceedings were conducted in the past and eliminates face to face interaction with the assessing officer except in very few circumstances.

In the faceless regime, assessment will be carried out by the National eAssessment Centre ['NeAC'] and the Regional eAssessment Centres ['ReAC'] under it. All communication with the taxpayer will happen through NeAC and at no stage taxpayer would know the details of the officer conducting the assessment and where he/she is located. It is a team based approach with no discretion with any individual officer - draft order in one city, review in another city, finalization in third city.

Pictorial depiction of the new assessment process is as under:



Government has already expanded the scope of faceless regime to cover appeals at commissioner level and penalty proceedings under it.

How does it impact the taxpayers?

Considering that the identity of the tax officer will not be known at any stage of the assessment process, existing relationship of the company or its authorised representatives/ Chartered Accountants with the local jurisdictional officer would not have any relevance.

Focus would now shift to robust documentation, written submissions covering not only facts and technical analysis but also detailed background of the business aspects. Without proper understanding of business aspects, which may be peculiar to each business, assessing officer may not be able to contextualise the facts and legal arguments.

The linkage of information obtained from sources such as banks, indirect tax authorities, stock exchanges, etc. coupled with use of data analytics and artificial intelligence tools, data is being analysed very effectively and focused queries are being sent to the taxpayers.

How has the experience been so far?

In the first cycle under the faceless regime which got concluded in April 2021, taxpayers faced various challenges which were not envisaged earlier. We would like to share with you our experience which may be useful to manage the next assessment cycle:

- Detailed reconciliations are being requested by tax authorities during assessment proceedings eg: 1) Revenue as per ITR vs Sales as per GST; 2) Detailed clause 34(a) reconciliation (of P&L expenses with TDS liability); 3) Import transactions as per Customs Duty records vs Financial statements; 4) Reconciliation of income (and TDS) as per financial statements vs amounts in Form 26AS and ITR
- Unlike in the past, queries raised were also more analytical in nature rather than simple details of expense ledgers
- Timelines to submit information were short. Further, ability to seek additional time for submissions or adjournments was also limited.

Challenges

- Absence of robust submissions meeting the requirement of the assessing officer may lead to additional tax demands. This may result in blockage of working capital as 20% of the additional tax demand would need to be paid 'under protest' to obtain a stay of demand. These demands may continue until a favourable Commissioner (Appeals) / Tribunal order is received which may take 3-7 years to resolve.
- Absence/ lack of readiness may lead to penalty exposure for non-compliance or for under-reporting/ misreporting of income

Areas of readiness

Some of the key areas of readiness to be kept in mind by the taxpayers are as follows:

- Precise and crisp submissions clearly explaining business aspects/ nuances, outlining facts along with legal positions and supporting judicial precedents.
- Be proactive and keep audit files ready as assessment proceedings are likely to be completed well in advance rather than current practice of rushing in the last three or four months.
- Maintain reconciled tax filing data across legislations to minimize unwarranted adjustments and proactively identify risks.
- Digital capabilities (e.g., email IDs/ other digital solutions) including documentation and evidences to respond and interact with the faceless income tax department in a timely and seamless manner

Conclusion

The eventual plan appears to be to make all interactions with the tax authorities completely virtual and to the extent possible, faceless. A taxpayer will have to be prepared and be ready for faceless proceedings as there is no looking back to the traditional system now.

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