

FACELESS ASSESSMENT AND APPEAL

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- EFFICIENCY
- TRANSPARENCY
- ACCOUNTABILITY

- FACELESS ASSESSMENT- earlier known as e-proceedings
- It is the digitized mode of conducting tax proceedings.
- E-Nivaran scheme in 2016- Both side online communication- Quick compliance

FA 2018- (3A), (3B), (3C) inserted in section 143 w.e.f. 01.04.2018

Enabling launch of e-assessment

Eliminating interface between AO and Assessee

Optimum Utilization of resources

Team-based Assessment

Dynamic Jurisdiction

12.09.2019

E-assessment scheme 2019 vide notification no. 61 & 62 of 2019

13.08.2019

E-assessment scheme was amended

Later on 13.08.2020

- E-assessment was renamed as Faceless Assessment
- Section 144 was also included
- Income Tax Authorities NeAC and ReAC announced
- PCsIT of VU to act as prescribed authority u/s 133C- Power to call for information
- Investigation Wing and TDS Commissionerate only where authorise to carry out survey under 133A
- All assessment orders except central charge, International Tax were brought within the ambit of Faceless
- All assessment whether pending or initiated on or after 13.08.2020 shall be covered

19.10.2020

Some ITDs were given powers of survey and verification

- 17.02.2021- 1st Amendment to Faceless Assessment Scheme
- 01.04.2021- TOLA- Sub-section (3A),(3B) of 143 were removed and 144B was inserted w.e.f. 01.04.2021
- 01.04.2022- Sub-section 1 to 8 of section 144B were substituted with the new clause.
- Section 144B(9) as per its original version talks about non-est assessment order, e-procedure is not followed. However this section 144B(9) stands omitted with retrospective effect from 01.04.2021 (its date of inception) by FA 2022.

Overview of Faceless

Following six units were set up by the CBDT: -

1. National Faceless Assessment Centre (NFAC) - It has the jurisdiction for all assessment proceedings.
2. Regional Faceless Assessment Centre (RFAC) – These centres work under the jurisdiction of Pr.CCIT
3. Assessment Units (AU) – These units are mainly concerned with identifying issues, determining tax liability/refund, obtaining explanations from the Assessee etc
4. Verification Units (VU) – The tasks interested to this units are enquiries, examination of books/records/witnesses along with cross verification.
5. Technical Units (TU)– These units provide assistance like forensic, valuation, legal, transfer pricing etc
6. Review units (RU) – This principle task is to review draft assessment orders in the light of binding judicial precedents. It also checks the arithmetical calculations in the order.

The communication inter-se between the above units or with assessee or with any other person shall be through NFAC only. All communication shall be only in electronic mode as per the faceless scheme u/s 144B.

On 03.08.2022- Internal SOP announced by ITD

ISSUES-

1. Stare Decisis
2. NJP (Natural Justice Principal) - Not providing personal hearing inspite of request made, very short time allowed for compliance, SCN not issued
3. Non-Compliance of scheme
4. Aggressive Tax demand
5. Denial of hearings
6. Over reliance on data without validation through human intervention
7. Response window getting closed before the scheduled date

CBDT on 23.04.2022 issued revised instructions for constitution and functioning of local committees to deal with taxpayer grievances from high peached scrutiny assessment

Grievance relating to completed assessment under faceless may be sent at *samadhan.faceless.assessment@incometax.gov.in*

Revised instruction for constitution and functioning of ‘Local Committees to deal with Taxpayers’ Grievances from High-Pitched Scrutiny Assessment’

CBDT has issued revised Instruction for Constitution and Functioning of Local Committees (LC) through F.No. 225/101/2021-ITA-II, dated 23.04.2022 to deal with taxpayers’ grievances arising out of high-pitched Scrutiny Assessment. The salient features are:

- LCs, comprising 3 members of Pr.CIT/CIT rank, have been constituted in each Pr.CCIT region, including the Pr.CCIT (Exemptions) and Pr.CCIT (International Taxation).
- Grievances, if any, relating to assessments completed under Faceless Assessment may be sent at e-mail id samadhan.faceless.assessment@incometax.gov.in For non-faceless assessments, the same may be sent to the office of Pr.CCIT concerned, physically or through email.
- The grievances so received shall be forwarded to LC of the Pr.CCIT concerned, which shall acknowledge the same.
- After due examination, the LC shall submit a report, preferably within 2 months from the end of the month of receipt of grievance, treating the order as High-pitched/Not High-Pitched, along with the reasons, to the Pr.CCIT concerned.
- The instruction also provides for initiation of suitable administrative action against the officer concerned, in cases where assessments are found by the LC to be high-pitched or where there is non-observance of principles of natural justice, non-application of mind or gross negligence of Assessing Officer/Assessment Unit.

The complete Revised Instruction dated 23.04.2022 in F.No. 225/101/2021-ITA-II is available at <https://incometaxindia.gov.in/Lists/Latest%20News/Attachments/518/Instruction-225-101-2021.pdf>

Faceless Appeal

It is notified under sub-section 6-B and 6-C of section 250

Faceless Penalty

It is notified under sub-section 2-A and 2-B of section 274

E-Verification scheme,2021

It is notified under sub-section 1 & 2 of section 135-A - Calling for information under section 133, Collecting information under section 133B, Calling for information under section 133C, Power of inspection under section 134 & 135

E-Settlement Scheme

It is notified under sub-section 11 & 12 of section 245D regarding pending applications by interim board

E-Advance Ruling

Notified under sub-section 9 & 10 of 245R

Section 130 deals with Faceless jurisdiction of Income Tax Authorities

CASE LAWS	Decisions/Judgements
<p>Ramco Cements Limited Vs Faceless Assessment (WP No.- 1631 of 2022)</p> <p>Omkar Nath Vs. National Faceless Assessment Centre, Delhi[2022] 138 taxmann.com (Delhi)</p>	<p>Judgement delivered on 03.02.2022 , Madras High Court asked the department to make fresh order in case of a penalty hearing. The Madras High Court did not accept the ITD Argument that providing of personal hearing is the prerogative of department.</p> <p>Similarly, the assessment to be non-est if personal hearing is denied.</p>
<p>Pichila Jayachandra Reddy Vs. National Faceless Assessment Centre, Addl./Joint/Deputy/Assistant Commissioner of Income Tax/ Income Tax Officer, [2022] 140 taxmann.com 138 (Karnataka);</p> <p>Urdu Education Society Vs. National Faceless Assessment Centre,[2022] 145 taxmann.com (Bombay)</p>	<p>The faceless assessment order were to be remanded/ set aside where very short timeline was provided to reply.</p>
<p>Green Valley Industries Limited Vs. Assessment Unit, Income Tax Department and Others in M.A.T No.1930 of 2022</p>	<p>Judgement delivered on 20.12.2022 , Calcutta High Court has held that the assessing officer shall provide the necessary documents sought for by the assessee in interim reply dated 19th September,2022 and grant sufficient time to enable the assessee reconcile the alleged differences after affording reasonable time to submit a final reply to the show cause notice. The case shall be adjudicated and a speaking order be passed on merits.</p>

Vasanthakumar Bhistappa Shamanur Vs. Assessing Officer National Faceless Assessment Centre, [2022] 144 taxmann.com 43 (Karnataka)	The faceless assessment order was set aside where reply of the assessee was not considered by the Assessing Officer
RMSI (P.) Ltd. Vs. National Faceless Centre, Delhi,[2022] 136 taxmann.com 61 (Delhi); Paradesi Developers (P.) Vs. National Faceless Centre, Delhi,[2021] 131 taxmann.com 246 (Delhi)	The faceless assessment considered to be non-est where show cause notice was sent by the assessing officer
SR Cold Storage Vs UOI and 3 others (Writ Tax No. 723 of 2022)	Judgement delivered on August 2022, Allahabad Court held that cross checking of facts on its insight portal should not be an empty formality and field officers be accountable for breach of natural justice. The learned Allahabad High Court quashed the reassessment order and issued notice to the department why the cost of Rs 50 lakhs should not be imposed?
Rati Ram Bambewal Vs NFAC (D.B. Civil Writ Petition No. 1053/2021)	Rajasthan High Court viewed that NFAC was wrong in not considering assessee reply and therefore asked to make the order afresh after considering the reply.
Gandhi Realty (India) Private Limited Vs Assistant/Joint/Deputy/Assistant Commissioner of Income Tax/Income Tax Officer (Special Civil Application No. 7662 of 2021)	Judgement delivered on 05.10.2021, Gujarat High Court noted the following facts: additions made without issuing any show cause notice- Draft assessment order not served- CIT Appeal has no power to set aside- DIN not generated – The court asked all the processes to be followed and redo the assessment.

THANK YOU