Income tax Reforms 2020 :- Faceless assessment, faceless appeal, taxpayer’s charter

Looking ahead

– Faceless

– Fair

– Fearless

– PM’s big new push for tax Reforms.

CA. Gauri Chadha
B.COM(H), CA , LL.B

Narendra Modi Tweet

Our aim is to make the tax system:

- Seamless.
- Painless.
- Faceless.

In order to achieve that, key reforms have been introduced.

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Narendra Modi Tweet

As far as the tax system is concerned, we have:

- ➢ Decreased complexity.
- ➢ Decreased taxes.
- ➢ Decreased litigation.
- ➢ Increased transparency.
- ➢ Increased tax compliance.
- ➢ Increased trust on the tax payer.

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Nirmala Sitharaman Tweet

Any communication from the Income Tax Department without a computer-generated DIN, be it a notice, letter, order or summon or any other correspondence, will be invalid and shall be non-est in the eyes of law.

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Nirmala Sitharaman Tweet

The Taxpayers Charter is a historic document laying out the various commitments made to the taxpayer.

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Transparent Taxation
Honouring the honest
Faceless assessment and taxpayer's charter will be in force from 13th Aug 2020 faceless appeal will be available from Sep 25

- ***Benefits of faceless assessments :-***
  - *Ease of compliance for taxpayers*
  - *No human interface*
  - *Transparency & efficiency*
  - *Functional specialisation*
  - *Improvement in quality of assessment*
  - *Expeditious disposal of cases*

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Features of faceless Assessment

- The selection of a taxpayer is possible only through systems using data analytics and AI artificial intelligence.
- The system abolished Territorial jurisdiction.
- A taxpayer may belong to a particular city but the assessment order, the review and the finalization will take place in different cases.

Continue…

- Cases will be automatically allotted on a random.
- Central issuance of notice with DIN (Document identification no.)
- There will be no need for the taxpayer to Visit the income tax office or the officer.
- The appellate decision will be team Based and Reviewed.

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- Now all communications will be electronic, for authentication no notice will be issued without digital signatures and DIN
- Manually Sign and stamped notice will be considered invalid
- Assessees reply will also submitted digitally
- If it’s a corporate or tax audit assessee, DSC is mandatory
- Other’s will have option of DSC or EVC

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E- Assessment Ecosystem

- National E-Assessment centre (Located in Delhi).
- Regional E-Assessment centres based in.

Delhi | Pune | Mumbai | Bengaluru | Chennai | Kolkata | Hyderabad | Ahmedabad

Assessment unit

Technical Unit

Review Unit

Verification Unit

30 Assessment centres in 20 Cities

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PROCEDURE

- Earlier cases were picked-up for scrutiny through CASS (risk based assessment) or few cases by manual selection.
- Now no more manual selection of scrutiny cases will be done only CASS will be used.

ASSESSMENT UNIT

- Identification of points or issues material for the determination of any liability (including refund) under the Act,
- Seeking information or clarification on points or issues so identified,
- Analysis of the material furnished by the assessee or any other person, and such other functions as may be required for the purposes of making assessment

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VERIFICATION UNIT

- Enquiry,
- Cross verification,
- Examination of books of accounts,
- Examination of witnesses and recording of statements,
- Such other functions as may be required for the purposes of verification

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TECHNICAL UNIT

❖ **Any assistance or advice on:**

- Legal,
- Accounting,
- Forensic,
- Information Technology,
- Valuation,
- Audit (inserted w.e.f. 13.8.2020)
- Transfer pricing,
- Data analytics,
- Management

REVIEW UNIT

❖ **Review of draft assessment order including**

- ➢ Checking whether relevant and material evidence has been brought on record,
- ➢ Whether relevant points of fact and law have been duly incorporated in the draft order,
- ➢ Whether issues on which addition/disallowance should be made have been discussed in draft order,
- ➢ Whether applicable judicial decisions have been considered and dealt with in draft order,
- ➢ Checking for arithmetical correctness of modifications proposed

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National E-Assessment centre directly allocates cases for technical, review, assessment and verification units through automated allocation system.

❖ Exceptions to faceless Assessment

- Serious frauds
- Major tax Evasion
- Sensitive and search matters
- The system also excludes international taxation and black money Act & benami property

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Faceless Appeal

- Appeals to be randomly allotted to any officer in county.
- The identification of officer deciding appeal will remain unknown.
- Taxpayer will Not be required to visit the Income tax Department or officer.
- The appellate decision will be team based and reviewed.

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Exceptions

- Serious frauds
- Major Tax Evasion
- Sensitive and search matters
- The system also excludes international taxation & black money Act & benami property

Taxpayer's Charter

- Right to be treated will fairness and impartiality
- Right to be treated as honest and tax compliant – At the same time the government is taking many measures to make sure that assesses cannot evade taxes, like expansion of SFT (Statement of financial transactions) like hotel bills, insurance premium, foreign travel, business class air travel, payment of property tax, payment of education fee etc above a certain limit. Other expenditures and investments were already covered like investment in shares, mutual funds, purchase of property etc.

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Taxpayer's Charter

- Right for certainly
- Right for assistance and information from the tax department
- Right to pay no more than the correct amount of tax
- Right not to be subject to retrospective taxation.
- Right to minimize compliance cost.
- Right to be advised and represented by any person on taxation matter.

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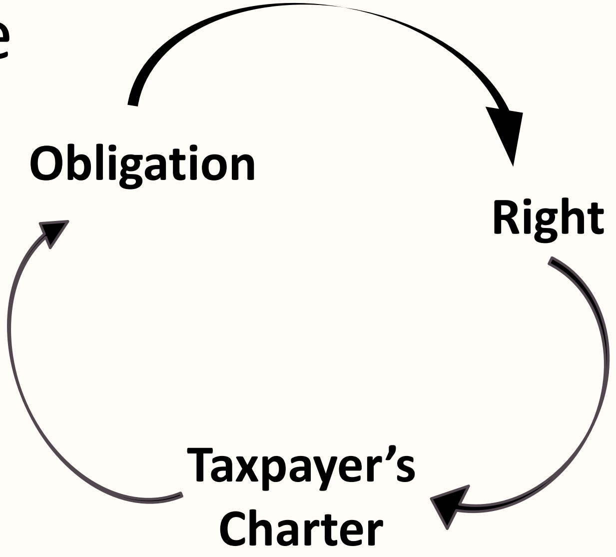
- Right to appeal.
- Right to privacy and confidentiality of information we hold about you.
- Right to know what information we hold about you
- Right for the licit arrangement of your tax officers that minimized liability
- Right to request a payment plan.
- Right to complain about our service



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Taxpayer's Charter

- Obligation to be honest.
- Obligation to be compliant & co-operate when you deal with the tax department.
- Obligation to keep proper records in accordance with the law.
- Obligation to file proper and complete tax documents and effect payment by the statutory due dates.
- Obligation to inform the tax deposit about changes in circumstances.
- Obligation to know your tax responsibilities and the consequences for non-compliance.

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Commitment to Taxpayers

- To provide fair, courteous, and reasonable treatment.
- Treat taxpayer as Honest.
- To provide mechanism for appeal and review.
- To provide complete and accurate information.
- To provide timely decisions.
- To collect the correct amount of tax.
- To respect privacy of taxpayers.

Continue…

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Commitment to Taxpayers

- To maintain confidentiality.
- To hold its authorities accountable.
- To enable representative of choice.
- To provide Mechanism to lodge Complaint.
- To provide a fair & just system.
- To public service standards & report periodically.
- To reduce cost of compliance.

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How Will It Work

- Tax payers selected for Scrutiny to receive notices over email on their registered email ids and in their accounts created on the Income tax e-filing portal www.incometaxindiaefiling.gov.in & SMS alerts on registered mobile number thru NeAC
- Response to notices within 15 days electronically or seek extension
- Any notice / communication to have DIN

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How Will It Work

- On receipt of response from Tax payer, NeAC to allocate the matter to Assessing Unit of any one ReAC via an Automated allocation system
- AU, may make a request to NeAC for:
  - obtaining further information, documents or evidence from assessee or any other person
  - conducting of certain enquiry or verification by verification unit;
  - seeking technical assistance from technical unit;.
- All routing would be thru NeAC. No direct communications amongst Units of ReAC

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How Will It Work

- ➢ Where assessee fails to comply with notices including u/s 142(1) or 142(2A), NeAC may issue Show Cause Notice (SCN) to assess him u/s 144
- ▪ On failure to reply to such SCN, NeAC to intimate to Regional AU
- ▪ Draft assessment order to be sent by the Regional AU to NeAC.
- ▪ AU to also provide details of the penalty proceedings to be initiated therein, if any

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How Will It Work

- ➢ NeAC to examine draft assessment order in accordance with risk management strategy specified by CBDT, including by way of an automated examination tool, to:
- finalize assessment as per draft assessment order & serve a copy of such order, etc., to assessee; or
- provide opportunity to assessee, where modification is proposed, by serving SCN as to why assessment should not be completed as per draft order; or
- assign draft assessment order to a review unit in any one ReAC, through automated allocation system, to review the draft assessment order

How Will It Work

- On receiving the concurrence of Review Unit NeAC to:
  - finalize assessment as per draft assessment order & serve a copy of such order, etc., to assessee; or
  - provide opportunity to assessee, where modification is proposed, by serving SCN as to why assessment should not be completed as per draft order
- eAC upon receiving suggestions for modifications from review unit, assign case to an AU, other than the AU which has made the draft assessment order, through an automated allocation system

How Will It Work

- The new AU shall, after considering the modifications suggested by the review unit, send the final draft assessment order to NeAC
- On receiving final draft asses. Order, NeAC to:
  - finalize assessment as per draft assessment order & serve a copy of such order, etc., to assessee; or
  - provide opportunity to assessee, where modification is proposed, by serving SCN as to why assessment should not be completed as per draft order
- Response submitted by tax payer on SCN shall be sent by NeAC to the AU. If no response received, NeAC would finalise order as per draft.

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How Will It Work

- ➢ AU shall, after taking into account the response furnished by assessee, make a revised draft assessment order and send it to NeAC
- ➢ NeAC upon receiving the revised draft assessment order:
  - ▪ in case no modification prejudicial to the interest of the assessee is proposed with reference to the draft assessment order, finalise the assessment or
  - ▪ in case a modification prejudicial to the interest of the assessee is proposed with reference to the draft assessment order, provide an opportunity to the assessee, by serving a SCN

How Will It Work

- All communications to be in electronic mode except when done by verification unit for statements or personal hearing
- Personal hearing with the tax payer and/or his representative may be allowed in where SCN issued for modification but exclusively through video conferencing and/or through video telephony in any unit of this scheme.
- Personal hearing to be approved by head of ReAC

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How Will It Work

- NeAC shall, after completion of assessment / penalty, transfer all electronic records of the case to the AO having jurisdiction over such case,
- Appeal against the assessment order passed by NeAC can be filed with the CIT (A) having jurisdiction over such jurisdictional AO

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NEAC

Notice Issue

Assessee Response

Case Allotted to Assessment unit

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Assessment unit will take help of
Technical Unit, Verification Unit

Draft order

NEAC + Intimation of Initiation Penalty

Nil Order

Demand Order

Remaining Cases

Review Unit (Few Selected Cases)

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Remaining Cases

NEAC will send Order

NIl Order

Demand Order

Show cause Notice

“No show cause & No personal Hearing”

Review Unit (Few Selected Cases)

Confirmed

Will Inform NEAC

Not Confirmed

Inform NEAC

Next Assessment unit

Again Modification

Can Demand Personal Hearing

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Survey Power

- Order u/s 119 dated 13.8.2020
- Officers posted in Directorates of Investigation (Investigation Wing) and Commission rates of TDS, only and exclusively shall act as "Income-tax Authority" for purposes of power of survey u/s 133A
- Competent authority for approval of such survey - DGIT (Inv) for investigation wing & Pr.CCIT/CCIT (TDS) for TDS charges.

Issues- Department

- Robust & secure data servers for storage of data gathered at level of NeAC & ReACs
- Requisite Internet band width & secured communication channels for implementation
- Availability/Development of facilities to support video conferencing and/or video telephony
- Capability of handling bulk submission online and resolving real time technical glitches
- Development of systems for Automated allocation of cases to ReACs.
- Adequate training

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Issues- Assessees

- Necessity to keep address, email-id & mobile number updated in the Income tax database
- Lot of time & cost may be consumed in digitizing physical data.
- Hardships faced on account of Technical glitches due to lack of appropriate IT infrastructure.
- Ability to differentiate between genuine communication received from department vis-a vis fake communication
- Basic understanding of operation of this scheme

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Advantage and Disadvantage

- Saving of Time and Money of AR
- Not to face mood swings of Aos
- Assessment records available
- Change of Satisfaction Mode !!
- Whose Satisfaction now – NeAC or AU or Officer of AU !!!!
- AO did not remain AO in many cases – Instructions based assessments !!!!

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THANK YOU

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