



PROCESS OF FACELESS ASSESSMENT

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EVOLUTION OF FACELESS ASSESSMENT

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2015

Paperless Assessment on pilot basis in 5 cities for Non-corporate charges

2016

Scope of e-assessment expanded to all Assessees in 7 Mega Cities in Budget Speech 2016

2018

Section 143(3A) and (3B) inserted giving CG the power to make the scheme

2019

E-Assessment scheme notified (Notification No. 61&62 of 2019)

2020

“E-Assessment scheme” substituted by “Faceless Assessment Scheme” (Notification No. 60&61 of 2020)

The Scheme is now incorporated in section 144B of the Act vide The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020



OBJECTIVE OF FACELESS ASSESSMENT

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As contained in sec. 143(3A) of the Act, objective of the Scheme is to impart greater efficiency, transparency and accountability by -

- eliminating the interface between the income-tax authority and the A'ee or any other person to the extent technologically feasible;

- optimising utilisation of the resources through economies of scale and functional specialisation;

- introducing a team-based exercise of powers and performance, with dynamic jurisdiction.



FEATURES OF FACELESS ASSESSMENT

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No physical interface. Only video conferencing in certain cases.

The A'ee will not be aware of the whereabouts of the assessing officer.

Scrutiny Selection Process only through automated system.

Centralized issuance of notice with mandatory Document Identification Number (“DIN”). [Circular No. 19/2019]

All communication whether internal, with various centres and units or external, with the A'ee or any other person, shall be carried out electronically.

Team based assessment & review in place of single person handling the assessment.



SCOPE OF FACELESS ASSESSMENT

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The Scheme covers in its ambit:

- Assessment u/s. 143(3) of the Act
- Assessment u/s. 144 of the Act [included vide Notification No. 60 of 2020]

But does not include*:

- Cases assigned to Central Charges
- Cases assigned to International Tax Charges

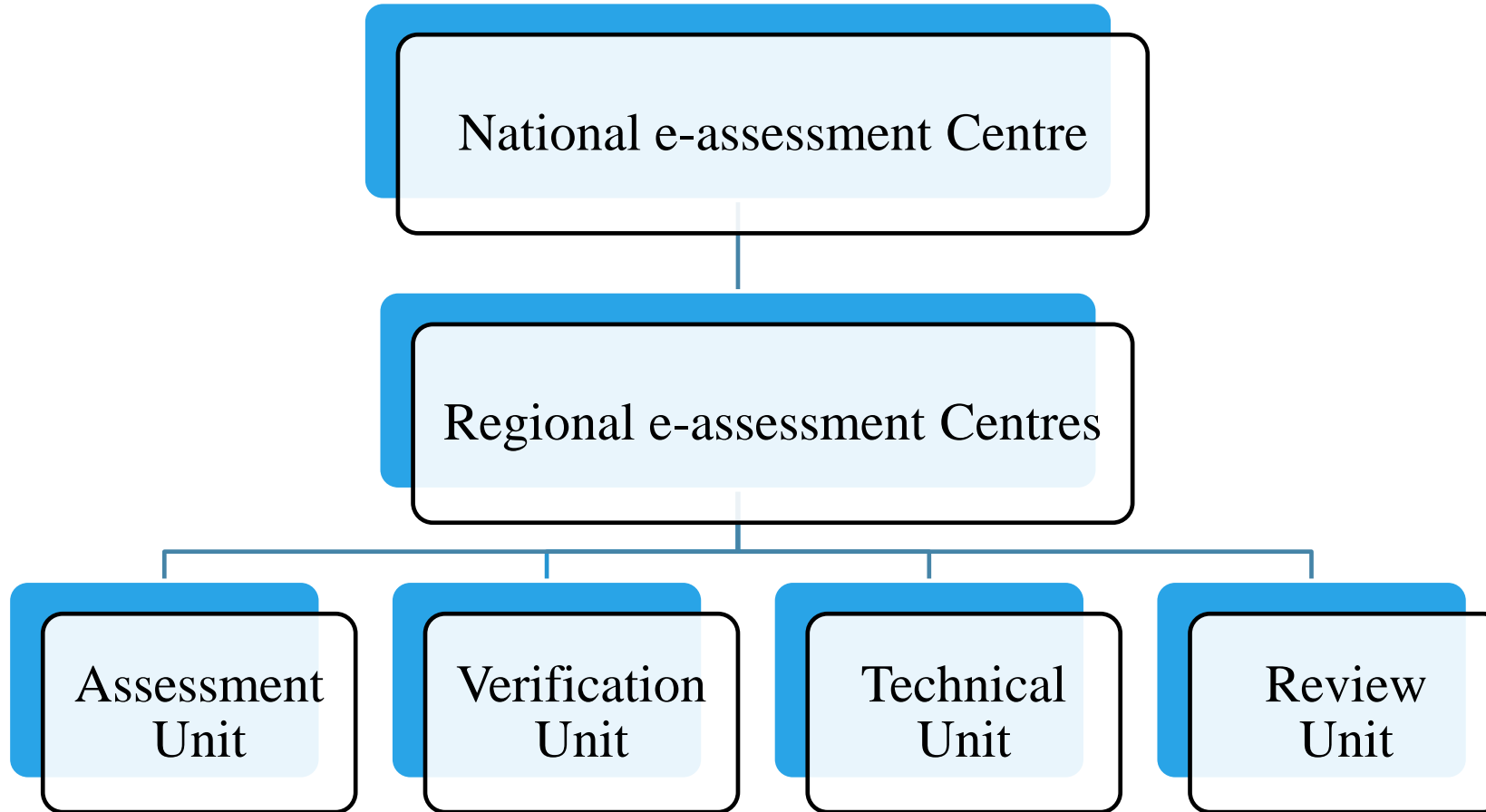
***Inserted vide order u/s. 119 of the Income Tax Act, 1961 dated August 13, 2020**

Any assessment order not in conformity with this order shall be treated as non-est and shall be deemed to have never been passed.



FACELESS ASSESSMENT SCHEME DECODED

E-ASSESSMENT CENTRES



NATIONAL E-ASSESSMENT CENTRE [NeAC]

- NeAC will facilitate conduct of e-assessment in a centralized manner.
- NeAC shall be vested with the jurisdiction to make assessment
- All the communications to the A'ee shall be sent by NeAC.

REGIONAL E-ASSESSMENT CENTRE [ReAC]

ReAC shall be set up to facilitate the conduct of e-assessment proceedings in the cadre controlling region of a Principal Chief Commissioner.

ReAC shall be vested with the jurisdiction to make assessment

ASSESSMENT UNIT [AU]

- Facilitate the conduct of e-assessment
- Perform the function of making assessment
- Identification of points or issues material for the determination of any liability
- Seek information or clarification on points or issues identified
- Analyse the material furnished by the A'ee or any other person
- Such other functions as may be required for the purposes of making assessment

ASSESSMENT UNIT [AU] (CONT.)

- Request to NeAC for conducting certain enquiry or verification by verification unit
- Request to NeAC seeking technical assistance from the technical unit
- Prepare Draft Assessment Order, Revised Draft Assessment Order, Final Assessment Order and communicate the same to NeAC

VERIFICATION UNIT [VU]

Facilitate the conduct of e-assessment

Perform the function of verification

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

TECHNICAL UNIT [TU]

Facilitate the conduct of e-assessment

Perform the function of providing technical assistance

Assistance or advice on legal, accounting, forensic, information technology, valuation, *audit**, transfer pricing, data analytics, management

Such other technical functions as may be required in a particular case or a class of cases

*Inserted vide Notification No. 60 of 2020

REVIEW UNIT [RU]

Facilitate the conduct of e-assessment

Perform the function of review of the draft assessment order upon assignment by NeAC

Checking whether the relevant and material evidence has been brought on record

Checking whether the relevant points of fact and law have been duly incorporated in the draft order

REVIEW UNIT [RU] (CONT.)

Checking whether the issues on which addition or disallowance should be made have been discussed in the draft order

Checking whether the applicable judicial decisions have been considered and dealt with in the draft order

Checking for arithmetical correctness of modifications proposed, if any

Such other functions as may be required for the purposes of review

PROCEDURE FOR ASSESSMENT

Step	Flow of Communication	Particulars
1	NeAC to A'ee	Issue and serve notice u/s. 143(2)
2	A'ee to NeAC	File a response within 15 Days of receipt of notice u/s. 143(2)
3	NeAC to AU	Assign the case through an automated allocation system
4	AU to NeAC	Requesting to : a. obtain such further information, documents or evidence from the A'ee or another person b. Conduct certain enquiry or verification by VU c. Seeking technical assistance from the TU
5	NeAC to A'ee or any other person	Issue notice or requisition for obtaining the information, documents or evidence requisitioned by the AU
6	A'ee or any other person to NeAC	File response to the notice within the time specified therein or such time as may be extended on the basis of an application in this regard
7	NeAC to VU	On request by AU, assign the case through an automated allocation system

PROCEDURE FOR ASSESSMENT (CONT.)

Step	Flow of Communication	Particulars
8	NeAC to TU	On request by AU, assign the case through an automated allocation system
9	NeAC to AU	Send the report received from the VU or TU
10	NeAC to A'ee	On failure to comply with notice of NeAC or notice u/s. 142(1) or direction u/s. 142(2A), issue show cause notice u/s. 144 as to why assessment should not be completed as per best judgement assessment
11	A'ee to NeAC	File response to the notice within the time specified therein or such time as may be extended on the basis of an application in this regard
12	NeAC to AU	Where the A'ee fails to file the response, intimate the same
13	AU	While making draft assessment order, provide details of the penalty proceedings to be initiated therein, if any
14	AU to NeAC	Considering all the relevant materials available on record, make a draft assessment order in writing either accepting the income or modifying the said income and compute the tax liability

PROCEDURE FOR ASSESSMENT (CONT.)

Upon receipt of draft assessment order, NeAC shall

A

FINALISE THE ASSESSMENT

as per the draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the A'ee, alongwith the demand notice, specifying the sum payable by, or refund of any amount due to, the A'ee on the basis of such assessment

B

PROVIDE AN OPPORTUNITY TO THE A'ee

in case a modification is proposed, by serving a notice calling upon him to show cause as to why the assessment should not be completed as per the draft assessment order

OR

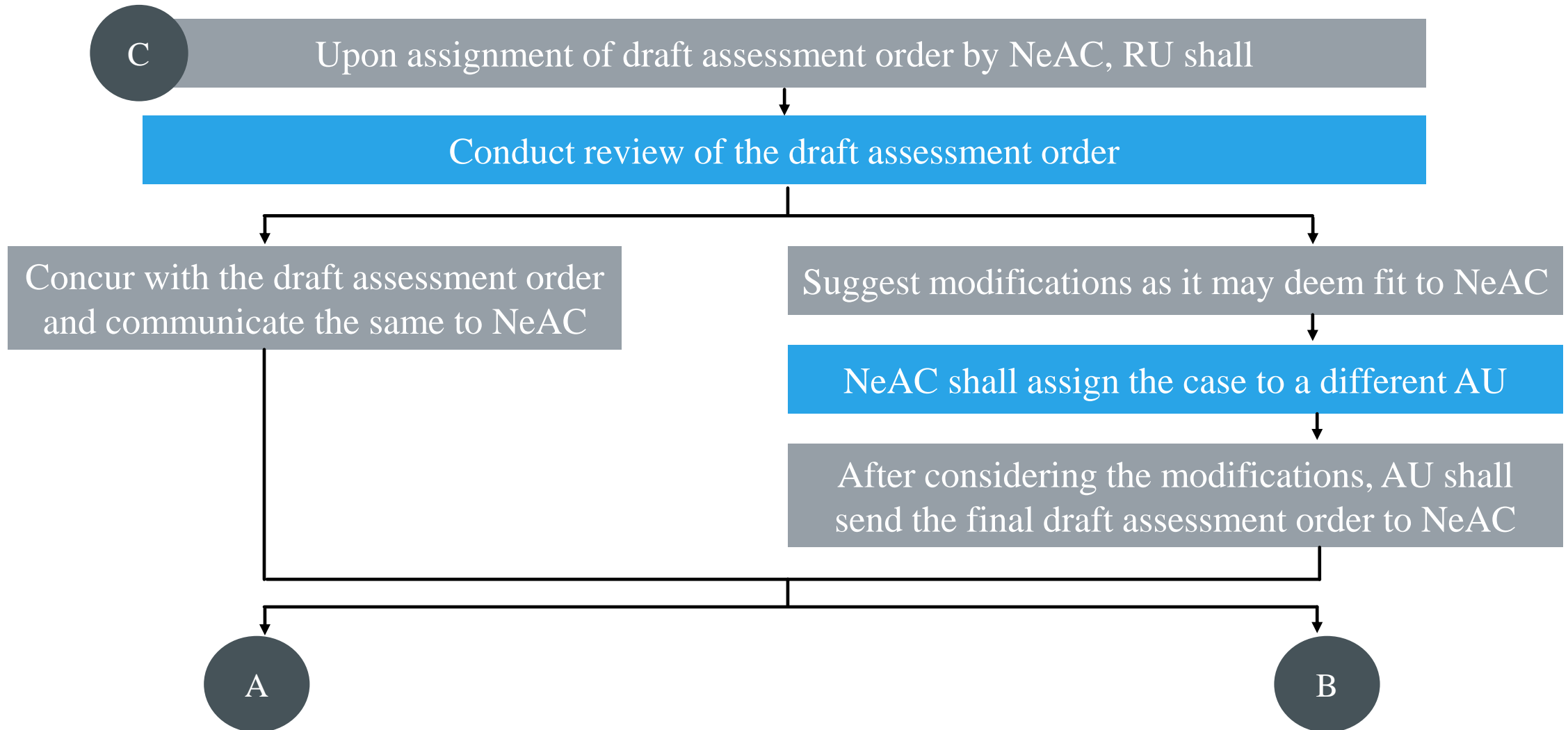
C

ASSIGN THE DRAFT ASSESSMENT ORDER TO A REVIEW UNIT

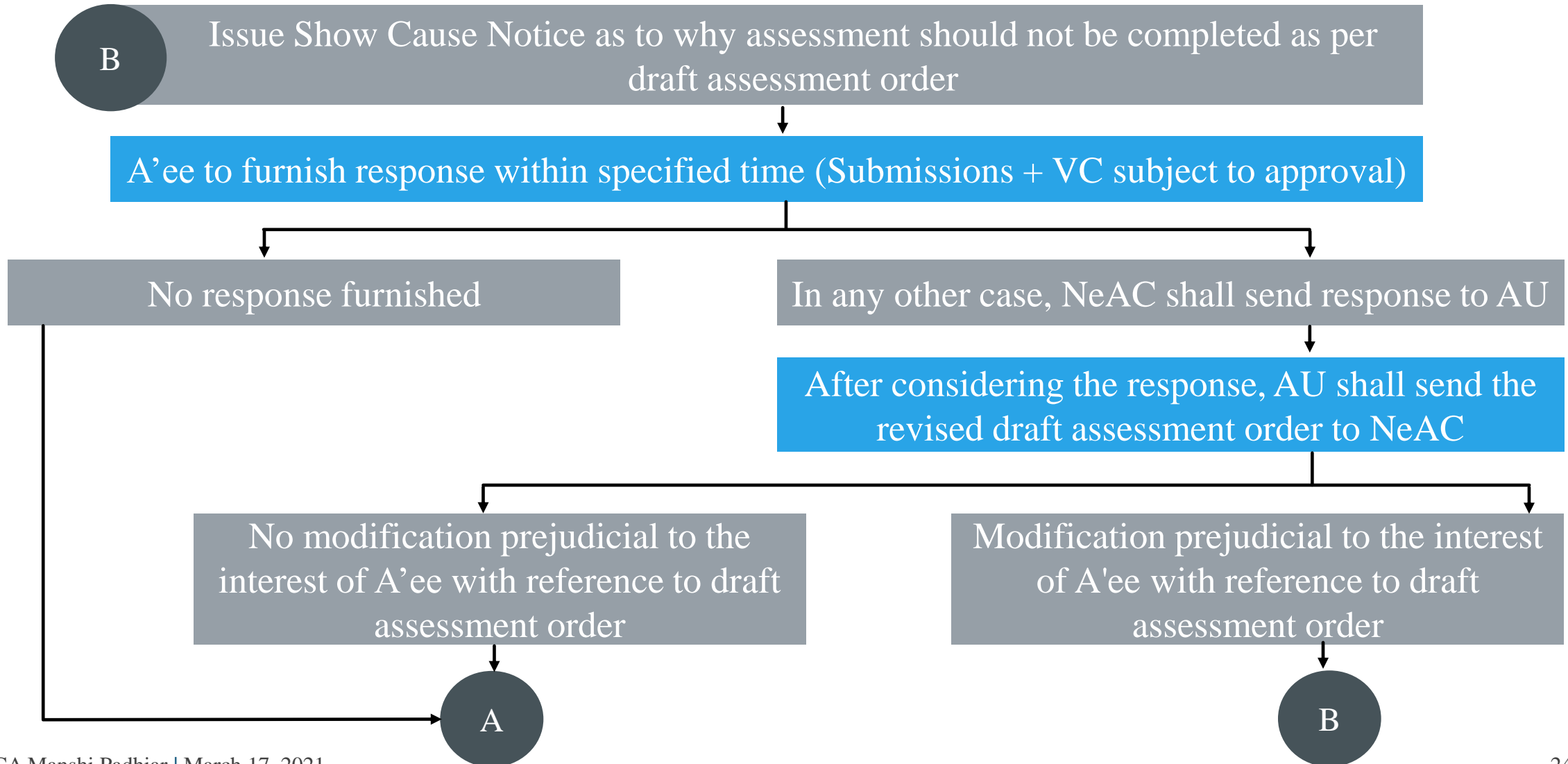
in any one Regional e-assessment Centre, through an automated allocation system, for conducting review of such order

OR

PROCEDURE FOR ASSESSMENT (CONT.)



PROCEDURE FOR ASSESSMENT (CONT.)



PROCEDURE FOR ASSESSMENT (CONT.)

NeAC shall on completion of the assessment



Transfer all the electronic records of the case to the AO having jurisdiction over the said case for such action as may be required under the Act

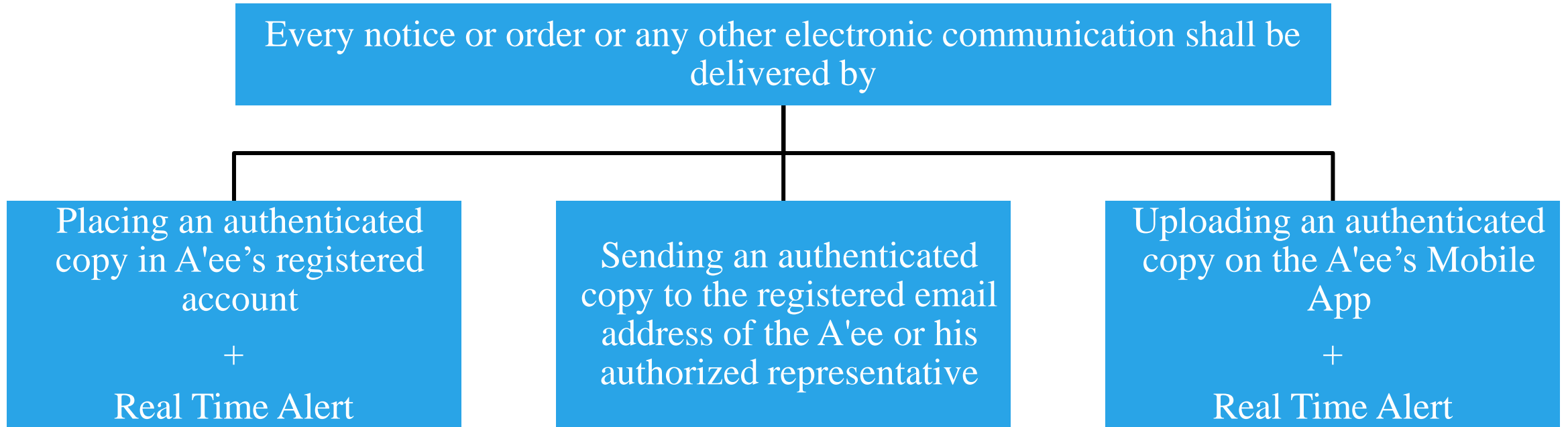
EXCHANGE OF COMMUNICATION

All communication among AU, RU, VU or TU or with the A'ee or any other person shall be through the NeAC

All the communication between the NeAC and the A'ee or his Authorized Representative shall be exclusively by electronic mode

All the communication between the NeAC, ReAC, AU, VU, TU and RU shall be exclusively by electronic mode

DELIVERY OF ELECTRONIC RECORD





PRACTICAL ASPECTS

ADDING AUTHORIZED REPRESENTATIVE [AR]

S. 288 of the Act deals with provisions of appointing Authorized Representative

Under the e-proceedings tab, against each Assessment Proceedings, there is a tab “Add/View Authorized Representative [AR]”

e-Proceedings

Proceedings Related to self

PAN	Financial Year	Assessment Year	Proceeding Name	Proceeding Status	Proceeding Limitation Date	Proceeding Closure Date	Action
	2016-17	2017-18	Adjustment u/s 143(1)(a)	Open	-	-	Add/View Authorized Representative [AR]
	2018-19	2019-20	Adjustment u/s 143(1)(a)	Open	-	-	Add/View Authorized Representative [AR]
	2017-18	2018-19	Assessment Proceeding u/s 143(3)	Open	31/03/2021	-	Add/View Authorized Representative [AR]

ADDING AUTHORIZED REPRESENTATIVE [AR] (CONT.)

Following persons can be added as Authorized Representative:

The screenshot shows a web form for adding an Authorized Representative. The form has the following fields and options:

- Authorised Representative Type ***: A dropdown menu with the following options:
 - Select
 - Select
 - Chartered Accountant
 - Related Person
 - Employee
 - Officer of a Scheduled Bank
 - Any Legal Practitioner
 - Person who has passed Recognized Accountancy Examination
 - Person with prescribed Education qualification
 - Income-tax Practitioner or others qualified practitioner as per section 288
- Membership Number ***: A text input field.
- PAN ***: A text input field.
- Name***: A text input field.
- Mobile***: A text input field.
- Email***: A text input field.

At the bottom of the form, there are two buttons: **Add Authorised Representative** and **Cancel**.

ADDING AUTHORIZED REPRESENTATIVE [AR] (CONT.)

The A'ee can select the AR from the list. If the AR is a Chartered Accountant, membership number is to be entered and for others PAN is to be entered

Once a request is submitted by the A'ee, the AR will get an alert message on registered e-mail address and mobile number

The AR must either Accept/Reject the request under the 'Worklist' tab by login into his portal within 7 days

If the AR wishes to accept the request, the AR must click on Accept and attach a PDF copy of notarized power of attorney (POA). E-Verifying the acceptance through EVC or DSC is mandatory

The AR can reject the request by clicking on reject and providing comments for the same

FURNISHING REPLIES

The A'ee must click on the “Proceeding Name” Hyperlink in which they want to furnish the reply

e-Proceedings

Proceedings Related to self

PAN	Financial Year	Assessment Year	Proceeding Name	Proceeding Status	Proceeding Limitation Date	Proceeding Closure Date	Action
	2016-17	2017-18	Adjustment u/s 143(1)(a)	Open	-	-	Add/View Authorized Representative [AR]
	2018-19	2019-20	Adjustment u/s 143(1)(a)	Open	-	-	Add/View Authorized Representative [AR]
	2017-18	2018-19	Assessment Proceeding u/s 143(3)	Open	31/03/2021	-	Add/View Authorized Representative [AR]

FURNISHING REPLIES (CONT.)

All the notices issued under a captioned proceedings will be displayed. The A'ee must then select “Submit Response” Hyperlink against the notice for which he proposes to submit the reply

Proceeding Name - Assessment Proceeding u/s 143(3)										
Notice/Communication reference ID	Notice u/s	Description	Issued On	Document ID	Served On	Response Due date	Response	Response viewed by AO on	Seek/View Adjournment	Video Conferencing
100000031964983	143(2)	[ITBA]Notice under section 143(2) of the Income Tax Act, 1961	28/09/2019	ITBA/AST/S/143(2)/2019-20/1018429781(1)	-	07/10/2019	Submit View	-	Seek	-
100000346839614	142(1)	[ITBA]Notice u/s 142(1)of Income Tax Act 1961.	30/11/2019	ITBA/AST/F/142(1)/2019-20/1021402939(1)	-	30/12/2019	Submit View	-	Seek	-
100000403534016	142(1)	[ITBA]Notice u/s 142(1)of Income Tax Act 1961.	13/01/2021	ITBA/AST/F/142(1)/2020-21/1029736438(1)	-	28/01/2021	Submit View	-	Seek	-
100000404439464	142(1)	[ITBA]Notice u/s 142(1)of Income Tax Act 1961.	20/02/2021	ITBA/AST/F/142(1)/2020-21/1030810235(1)	-	26/02/2021	Submit View	-	Seek	-
100000404832082	142(1)	[ITBA]Notice u/s 142(1)of Income Tax Act 1961.	05/03/2021	ITBA/AST/F/142(1)/2020-21/1031244126(1)	-	12/03/2021	Submit View	-	View	-

FURNISHING REPLIES (CONT.)

The A'ee has an option of filing either partial or full response to the notice. The character limit is upto 4000 characters and maximum 10 attachments with each not exceeding 10MB can be filed in .pdf, .xlsx, .xls and .csv format.

e-Proceedings

PAN	AANPM6077G	
Proceeding Name	Assessment Proceeding u/s 143(3)	
Assessment Year	2018-19	
Financial Year	2017-18	
Document Reference ID	100000404832082	
Notice Section	142(1)	
Response Type	Select	
Response/Remarks (Not exceeding 4000 characters)*		
SI. No.	Attachment Description	Attach scanned documents in .pdf, .xls, .xlsx and .csv format (Maximum 10 attachments with each not exceeding 10 MB)
1	Select	Choose File No file chosen

If the A'ee wishes to file more than 10 attachments, same can be done by filing 2 or more partial responses against the same notice, each containing maximum 10 attachments.

FURNISHING REPLIES (CONT.)

The submissions to be filed can be e-verified using Electronic Verification Code (EVC)/Aadhaar OTP/ Digital Signature Certificate (DSC)

Once the response is filed, a success message will be displayed on the screen confirming the submission of the response

FURNISHING REPLIES (CONT.)

The acknowledgements for various replies filed against any particular notice can be downloaded by the A'ee from the 'View' option available against the notice. In said 'view' tab, all the responses filed by the A'ee against that notice will be displayed.

100000397219866	142(1)	[ITBA]Notice u/s 142(1)of Income Tax Act 1961.	09/12/2019	ITBA/AST/F/142(1)/ 2019- 20/1021930029(1)	-	11/01/2020	Submit View	-	Seek	-
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Proceeding Name		Assessment Proceeding u/s 143(3)
Document Reference ID		100000397219866
Notice Section		142(1)
Response Date	Response	Response filed by
08/10/2020	View Details	Self
24/12/2019	View Details	Self
Back		

FURNISHING REPLIES (CONT.)

The A'ee will also be able to download the attachments filed in the course of assessment and the acknowledgment thereof from the 'view' tab.

[Click here to download the Acknowledgement Receipt](#)

PAN			
Proceeding Name	Assessment Proceeding u/s 143(3)		
Assessment Year	2018-19		
Financial Year	2017-18		
Document Reference ID	100000397219866		
Notice Section	142(1)		
Served On			
Description	[ITBA]Notice u/s 142(1)of Income Tax Act 1961.		
Response Type	Partial Response		
Response/Remarks	Balance Details will submitted in due course		
SI.No.	Attachment Description	Others Description	Attachment
1	Others	Reply Letter	Submission Letter_24 12 19.pdf
2	Others	Purchase Details	Annexure A _ Purchase_ FY 17 18.xlsx
3	Details of other expenditure		Annexure B _ expense details.xlsx
4	Others	bifurcation of other expenses	Ann C and D _ Other Expenses Details.xlsx

SEEKING ADJOURNMENT

The department has come up with FAQ's dated February 26, 2021 on how to seek an adjournment in the e-proceedings tab.

The A'ee can seek adjournment against the notice in which he is required to make submissions by a particular date.

Proceeding Name - Assessment Proceeding u/s 143(3)										
Notice/Communication reference ID	Notice u/s	Description	Issued On	Document ID	Served On	Response Due date	Response	Response viewed by AO on	Seek/View Adjournment	Video Conferencing
100000031964983	143(2)	[ITBA]Notice under section 143(2) of the Income Tax Act, 1961	28/09/2019	ITBA/AST/S/143(2)/2019-20/1018429781(1)	-	07/10/2019	Submit View	-	Seek	-
100000346839614	142(1)	[ITBA]Notice u/s 142(1)of Income Tax Act 1961.	30/11/2019	ITBA/AST/F/142(1)/2019-20/1021402939(1)	-	30/12/2019	Submit View	-	Seek	-

SEEKING ADJOURNMENT (CONT.)

The A'ee has to state the reason by selecting an option in the dropdown for seeking adjournment, which are as under:

e-Proceedings Seek adjournment

Adjournment sought up to*
(Adjournment cannot be sought for greater than 15 calendar days from notice response date /system date whichever is later.)

Reason for seeking Adjournment*

Reason in detail*

Select

- Select
- Out of station
- Gathering of material from multiple sources requires time
- Medical grounds
- Pre-occupied with return filing activity
- Others

SEEKING ADJOURNMENT (CONT.)

- The A'ee can seek adjournment only upto 15 calendar days from the due date for making response specified in the notice in case adjournment is sought on or before the due date
- In case adjournment is sought after the due date, the A'ee can seek adjournment up to 15 calendar days from the date of seeking adjournment
- No adjournment request for a date falling within 7 days prior to the proceeding limitation date
- The request for seeking adjournment should be either approved or rejected by the department
- Department shall send both an SMS and email on the status of the request submitted
- If rejected, A'ee can submit the response till the existing response due date or till such period as permitted by the authority
- If approved, extended date of submissions shall be communicated to the A'ee and he can make submissions till such extended date

SEEKING VIDEO CONFERENCE [VC]

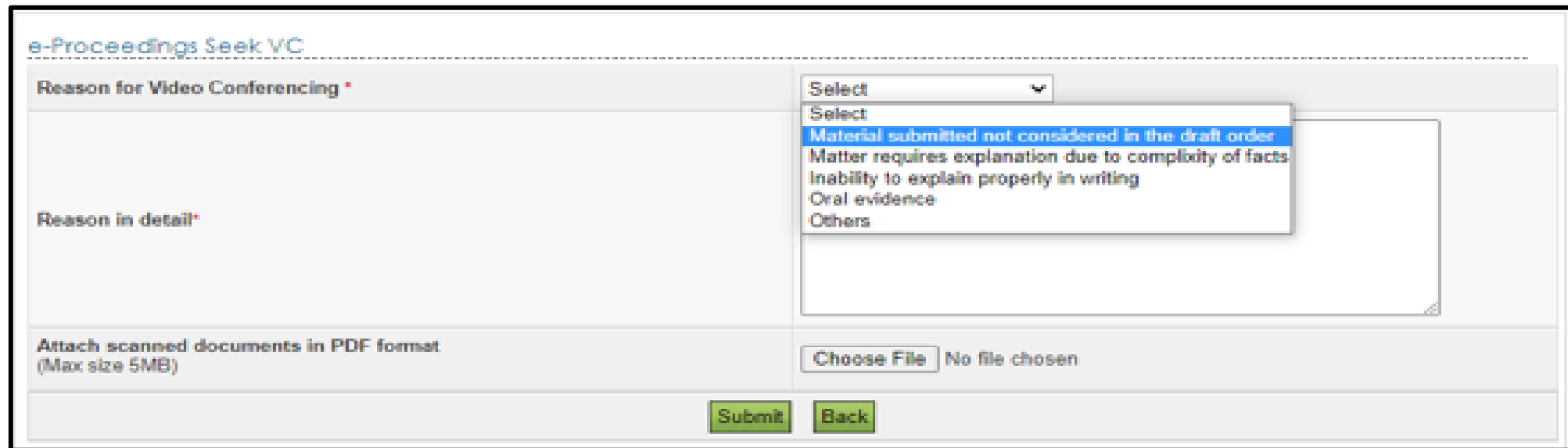
The department has provided feature of seeking Video Conferencing, the process of which is detailed in FAQ's dated February 26, 2021.

This feature is not available to everyone and for all notices. The request for VC can be made only if VC hyperlink is enabled against a particular notice.

Proceeding Name - Assessment Proceeding u/s 143(3)										
Notice/Communication reference ID	Notice u/s	Description	Issued On	Document ID	Served On	Response Due date	Response	Response viewed by AO on	Seek/View Adjournment	Video Conferencing
100000000056087	143(3)	[ITBA]Show Cause Notice for Proceedings u/s 143(3)of Income Tax Act 1961.	24/12/2020	ITBA/AST/F/143(3) (SCN)/2020-21/1000450972(1)	-	02/02/2021	Submit -	-	Seek	VC

SEEKING VIDEO CONFERENCE [VC] (CONT.)

The request is to be made by selecting reason from the drop down options as under:



The screenshot displays a web form titled "e-Proceedings Seek VC". The form is divided into several sections:

- Reason for Video Conferencing ***: A dropdown menu is open, showing the following options:
 - Select
 - Select
 - Material submitted not considered in the draft order
 - Matter requires explanation due to complexity of facts
 - Inability to explain properly in writing
 - Oral evidence
 - Others
- Reason in detail***: A large text area for providing further details.
- Attach scanned documents in PDF format (Max size 5MB)**: A file upload section with a "Choose File" button and the text "No file chosen".
- Submit** and **Back**: Two green buttons at the bottom of the form.

SEEKING VIDEO CONFERENCE [VC] (CONT.)

The request for seeking VC should be either approved or rejected by the department

If rejected, the department must serve a rejection letter by an SMS and email and upload the same on the portal

If approved, the department must communicate the date and time for VC by an SMS and email and upload the same on the portal

The A'ee can claim adjournment for the hearing of video conferencing which shall also either be approved or rejected by the department

The A'ee and the AR duly appointed on e-filing portal can join the VC. The attendees shall keep identification document like Aadhar card, PAN card, etc. ready and display the same when asked for.

If VC cannot be conducted on scheduled date and time due to technical/ other issue, department will cancel the VC and share new date and time.

The Video Conference hearing shall be recorded, and the A'ee can seek a copy of the same. The same shall be available on the portal within two days of the recording and can be downloaded from the portal



PRACTICAL ISSUES

DYNAMIC JURISDICTION

When assessment unit is located in a jurisdiction different than that of the A'ee, which jurisdictional High Court decision would be binding?

Different High Courts may have differing views on taxability of same issue. This may result into unnecessary hardship to taxpayers.

Example: Bom. HC and Del. HC allows employees' contribution to PF on payment basis u/s 43B(b) of the Act whereas Guj. HC and Kerala HC. have taken a contrary view

JURISDICTIONAL ASSESSING OFFICER

The Jurisdictional AO will have to revisit the entire set of documents in order to understand the case and then take the necessary action.

Will the AO be inclined to rectify order passed by NeAC after considering reports and comments from multiple and even higher income tax authorities?

Section 157A of the Act provides for the Board to frame Scheme for Faceless rectification.

INSPECTION OF RECORDS

How will the A'ee be aware if all fit cases are referred to VU/TU?

How will A'ee know whether case is referred to RU in accordance with Risk Management Strategy?

A'ee can ask for inspection of records but can the procedure followed be challenged since the request is at the option of AU and NeAC, respectively?

PERSONAL HEARING

Definition of “Hearing” under Income Tax Act, 1961:


S. 2(23C) - "hearing" includes communication of data and documents through electronic mode

Therefore, the definition includes communication via electronic mode but is not restricted to it.

In cases where no virtual hearing is given, can the A'ee argue that it is not provided an opportunity of being heard and will the same lead to violation of principal of natural justice?

The scheme requires an A'ee to request for a personal hearing which shall then be approved by Chief Commissioner or Director General. Can opportunity of fair hearing be subject to approval of tax authorities?

LIMITATIONS



Once the case is assigned to VU/TU, there is no provision in the Scheme that VU/TU can request NeAC for calling further information.

Thus, is the reference to these specialized unit really effective where it is required to furnish report only on the basis of the materials gathered by AU.



Transfer to another AU, pursuant to the suggestions for modification by RU would require a complete reexamination by another unit.

How effective will this be given the time limitation to conclude assessments?

SUO-MOTO SUBMISSIONS/CLAIMS

Article 265 of the Constitution of India permits the Income Tax Department to only collect the tax which is payable under the Income Tax Act, 1961.

CBDT Circular No. 14 (XL-35), dated 11-4-1955 states that the AO is bound to assess the correct income and for this purpose, the AO may grant reliefs/refunds suo moto or can do so on being pointed out by the A'ee in the course of assessment proceedings

Whether additional claim made by the A'ee be considered under faceless assessment? If yes, What is the appropriate stage of making an additional claim – relevance of reference to VU/TU?

SUO-MOTO SUBMISSIONS/CLAIMS

A'ee is not aware as to whether or not (and if yes, when) is the reference made to the VU/TU. If the claim requires report from VU/TU, can the requisition be made again by the AU to NeAC? No provision in the scheme where the A'ee can request that a particular issue/aspect be examined by verification unit/ technical unit.

Can the A'ee make fresh claim after the draft assessment is passed?

Will suo-moto claim be considered as a 'modification'/'modification prejudicial to the interest of the A'ee' for grant of opportunity of being heard?

BIBLIOGRAPHY

- The Income Tax Act, 1961 (“the Act”)
- The Income Tax Rules, 1962 (“the Rules”)
- Notification issued by the CBDT dated October 19, 2015
- Budget Speech 2016
- The Finance Act, 2018
- Instruction. No 1 /2018 dated February 12, 2018
- Notification No.5 dated January 30, 2019
- Circular No 19/2019 dated August 14, 2019
- Notification No. 61 and 62 dated September 12, 2019
- Notification No. 60 dated August 13, 2020
- Order u/s 119 of the Act issued by the CBDT on August 13, 2020
- The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020
- FAQ's for Video Conference and seeking Adjournment dated February 26, 2021



THANK YOU