

India introduces Transparent Taxation platform

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Executive summary

The Indian Government, on 13 August 2020, formally launched the "Transparent Taxation - Honouring the Honest" platform (the Platform). The Platform addresses the following three areas: (i) faceless assessments; (ii) faceless appeals; and (iii) the Taxpayers' Charter (TC). The Platform has been introduced primarily to give effect to certain statutory provisions of the Income Tax Laws (ITL), for e-assessment, e-appeals and declaration of the TC to enhance fairness and efficiency in tax administration and to protect citizens' rights.

Detailed discussion

Background

The Indian tax administration has evolved by embracing the latest technology to simplify various tax compliance practices and improve internal administration via electronic filing of tax returns and forms including centralized processing of tax returns; electronic compliance verification process; and electronic assessment scheme.

The *Finance Act 2020* introduced provisions enabling the Central Government to develop a platform to conduct faceless appeal proceedings before the First Appellate Authority. In addition, the Central Board of Direct Taxes (CBDT) was empowered to declare and adopt a TC.

Faceless assessments

With the greater use of technology by the Central Government, the CBDT, in September 2019, launched the *E-assessment Scheme, 2019* (the Scheme). The Scheme automated various regular assessment proceedings under the ITL but was only applicable to a limited class of taxpayers that had been issued statutory notices under the Scheme.

The CBDT has now directed that, with effect from 13 August 2020, all assessment orders are required to be passed only under the Scheme, except in the following cases:

- ▶ Assessment orders in cases assigned to central charges (appears to apply to assessments in cases of search and seizure action)
- ▶ Assessment orders in cases assigned to international tax charges (further clarity required from the CBDT on the exact scope of such exception)

Any assessment order passed on or after 13 August 2020 outside the Scheme (except for two exceptions as stated above) is to be treated as invalid and deemed to have never been passed.

In addition, the CBDT has also made several modifications to the Scheme, including:

- ▶ The Scheme now includes procedures for conducting "best judgment" assessment proceedings, including providing for a specific opportunity to the taxpayer.
- ▶ The Scheme now extends to all ongoing assessment/reassessment proceedings which are being carried on by the jurisdictional Tax Authority.
- ▶ The Scheme provides detailed procedures for scrutiny of assessments which have now been modified to include an additional layer of screening by requiring a different Assessment Unit to finalize the draft assessment order after review comments are received from Review Unit.
- ▶ The National e-assessment Center (NeAC) is authorized to shift assessment proceedings to the jurisdictional Tax Authority only after prior approval of the CBDT.
- ▶ All communications between NeAC and the taxpayer or among the different units is to be only through electronic means. The Verification Unit will be permitted to conduct verification physically only in circumstances specified by the NeAC with the approval of the CBDT.
- ▶ All communications under the Scheme by a taxpayer who is required to provide tax returns using a digital signature are to be authenticated only using the digital signature.

- ▶ The NeAC, with prior approval of the CBDT, is authorized to provide the circumstances under which video conferencing facilities for on-demand personal hearings shall be provided to the taxpayer.

Faceless appeals

As announced by the Prime Minister, the Faceless Appeals Scheme will be effective from 25 September 2020. However, the scheme is yet to be announced by Central Government.

Centralization of powers for conducting survey proceedings

The ITL currently authorizes the jurisdictional Tax Authority to conduct survey proceedings at the business premises of a taxpayer or its other place of business to inspect books of accounts, verify cash, stock and other valuable articles or for such other purposes as required under the ITL.

Recognizing that these powers are very wide and intrusive in nature and should be invoked with the utmost responsibility and accountability, the CBDT has now withdrawn the power to conduct survey proceedings from the jurisdictional Tax Authority and confers *only and exclusive authority* to conduct a survey by the specified Tax Authority¹.

Taxpayers' Charter

The TC provides for various rights and obligations of taxpayers and will now have legal backing pursuant to statutory provisions under the ITL.

- ▶ As part of taxpayer's rights, the obligations of the Tax Authority include providing fair, courteous and reasonable treatment while dealing with income tax matters; treating the taxpayer to be an honest taxpayer; providing complete and accurate information to the taxpayer; completing income tax proceedings within prescribed timeframes; collecting only correct dues; protecting and respecting the privacy of the taxpayer; holding tax authorities accountable; efficiently managing tax issues by publishing standards for service delivery periodically, among others.
- ▶ Taxpayers' duties require taxpayers to be honest, compliant, and be informed; maintaining accurate records required under the law and to be aware of the information provided by any representative on his/her behalf; adhering to timely submissions of information required under the law; and paying all his/her dues in a time-bound manner.
- ▶ Taxpayers can approach the TC Cell under the Principal Chief Commissioner of Income Tax in each zone for compliance issues arising under this Charter.

Implications

With the world moving towards a customer-centric focus, the platform is an attempt to make India's tax administration taxpayer-focused and taxpayer-friendly. This is expected to improve the way in which the Indian tax administration works with taxpayers. In addition to providing better customer service, it also has the potential to increase tax revenue due to improved compliance.

The Central Government's decision to expand the faceless assessment proceedings to almost all taxpayers, including large taxpayers, reveals the Central Government's confidence in its technology and the Tax Authority. The amendments are a bold move by the Central Government and will bring a paradigm shift from the traditional manner of conducting assessment proceedings under the ITL. Although the modifications in the Scheme are effective immediately, migration of ongoing assessment proceedings may create inconveniences for some taxpayers.

Endnote

1. Directorates of Investigation (Investigation Wing) and Commissionerate of TDS.

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