



E-assessment Scheme, 2019

Background

The Finance Act 2018 introduced provisions [sections 143(3A), 143(3B), 143(3C)] enabling the Central Government to prescribe a new Scheme for the purpose of making assessments - to impart greater transparency and accountability, by eliminating the interface between the Assessing Officer and the assessee, optimise utilization of the resources and introduction of team based assessment with dynamic jurisdiction. Towards this end, the Central Board of Direct Taxes (CBDT) has on 12 September 2019 notified E-assessment Scheme, 2019 (Scheme)¹.

The Scheme provides for establishment of a National e-assessment Centre ('NeAC') which shall have the authority to conduct assessments in accordance with the provisions of the Act.

The proceedings shall be conducted electronically in 'e-Proceeding' facility through assessee's registered account in designated portal. All communications shall be exchanged exclusively by electronic mode.

The salient features of the Scheme have been discussed in this alert.

Features of the E-assessment Scheme, 2019

I. General

CBDT will specify the territorial area or persons or class of persons or incomes or class of incomes or cases or class of cases for whom the assessment under this Scheme shall be made.

¹ Notification S. O. 3264(E)



NeAC is tasked to conduct the e-assessment proceedings in a centralised manner as provided in the Scheme.

The NeAC will comprise of four units whose function shall be as under:

- Assessment Unit – Identification of points / issues material for determination of liability (including refund), seeking information on such identified points, analysis of information furnished by assesseees;
- Verification Unit – enquiry, cross-verification, examination of books of accounts, witnesses and recording of statements;
- Technical Unit – assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter;
- Review Unit – review of draft assessment order including whether the relevant and material evidence has been brought on record, whether points of facts and law have been incorporated, whether the issues on which addition / disallowance should have been made have been considered, whether applicable judicial precedents have been considered etc.

The units shall have the following authorities

- Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, as the case may be;
- Deputy Commissioner or Deputy Director or Assistant Commissioner or Assistant Director, or Income-tax Officer, as the case may be;
- Such other income-tax authority, ministerial staff, executive or consultant, as considered necessary by CBDT

II. Procedure of e-assessment:

(a) The NeAC will issue notice under section 143(2) of the Act to the assessee specifying the issues for selection of his case. Assessee will have 15 days to respond to the notice. NeAC shall assign the case to an assessment unit in any of the Regional e-assessment Centre (ReAC) through automated allocation system.

(b) On receipt of case, the assessment unit may request NeAC for:

Action of assessment unit	Corresponding action of NeAC
Obtaining further information from assesseees / any other person	Issue appropriate notice to assesseees / any other person to seek further information
Conducting enquiry or verification by verification unit	Assign the request for verification to the verification unit through automated allocation system
Seek assistance from technical unit	Assign the request to technical unit through automated allocation system



- (c) The assessment unit shall prepare the draft assessment order (also provide details of penalty proceedings) after receipt of relevant information and forward the copy thereof to the NeAC.
- (d) The NeAC shall examine the draft assessment order and in accordance with the risk management strategy specified by CBDT (including by way of automated examination tool), it may,
- (i) finalise the assessment order as per draft assessment order and serve a copy of the order (along with notice for initiating penalty proceedings, notice of demand, specify sum payable/refundable etc) to the assessee, or
 - (ii) provide an opportunity to assessee in case a modification is proposed to the returned income by issuing a show cause notice, or
 - (iii) assign the draft assessment order to review unit for conducting review of the draft assessment order.
- (e) On receipt of the draft assessment order, the review unit may:

Action of review unit	Corresponding action of NeAC
Concur with the draft assessment order	Finalise the assessment order / Issue show cause notice to the assessee as mentioned in point d (i) and (ii) above
Suggest modifications	Communicate the modifications to the assessment unit

- (f) The assessment unit shall send the final draft assessment order to the NeAC after considering the modifications suggested by review unit. The NeAC may then follow the procedure prescribed in point d (i) or (ii) above.
- (g) In case of issuance of a show cause notice, the assessee may provide his response to the NeAC which in turn will send the same to the assessment unit which will in turn send the revised draft assessment order to NeAC after taking into account the response furnished by the assessee. In case no response is received from the assessee, NeAC to finalise the assessment as per the draft assessment order.
- (h) NeAC shall on receiving the revised draft assessment order shall
- in case no modification prejudicial to the assessee is proposed with regard to the modification proposed in the draft assessment order, finalise the assessment as per point d(i) discussed above, or



- in case a modification prejudicial to the assessee is proposed with regard to the draft assessment order, NeAC shall provide an opportunity to the assessee as per point d(ii) discussed above;
 - The assessee may provide his response as per the process mentioned in point g above.
- (i) Post completion of assessment, NeAC shall transfer all the electronic records of the case to the Assessing Officer having jurisdiction over such case for imposition of penalty / collection and recovery of demand / rectification of mistakes / giving effect to appellate orders / submission of remand report / sanction and launch of prosecution proceedings.
- (j) NeAC has the power to transfer the case to jurisdictional Assessing Officer at any stage of the proceedings, if it considers necessary. In such a case, the assessment will be completed in accordance with normal assessment procedure.

III. Other considerations:

- (k) Any unit (i.e. assessment, verification, technical or review unit) may send recommendation to NeAC for initiation of penalty proceedings for non-compliance of notice, direction or order issued under the Scheme. The NeAC shall serve a notice to the assessee / any other person calling him to show cause why penalty should not be imposed. The response of the assessee shall be sent to the relevant unit which shall either drop the penalty proceedings on receipt of response or make a draft penalty order and send it to NeAC for onward forwarding.
- (l) All communications between NeAC and the assesseees / units shall be exchanged exclusively by electronic mode. All correspondence, time and place of dispatch and receipt of electronic record etc shall be determined by provisions of Information Technology Act, 2000. Many terms used in the Scheme in relation to user of electronic mode are as defined in the Information Technology Act, 2000.
- (m) In case of issuance of show cause notice for modification proposed in the draft assessment order, the assesseees shall be entitled to seek personal hearing to make oral submissions or present his case before the tax authorities in any unit. Such proceedings shall be conducted exclusively through video conferencing or other telecommunication application software which supports video telephoning.
- (n) Examination or recording of statement of assessee / any other person (other than statement recorded in the course of survey proceedings) shall be conducted through video conferencing or any other telecommunication application software.



(o) CBDT shall establish facilities for video conferencing to ensure that the assesseees are not denied the benefits of the Scheme merely because they did not have access to video conferencing at their end.

(p) An appeal against the assessment made by NeAC can be made before the jurisdictional Commissioner of Income-tax (Appeals) of the assessee.

IV. Applicability of the Scheme to other provisions

(q) A separate notification² has been also issued to notify that, in accordance with the provisions of section 143(3B), various other provisions of the Act shall apply to the e-assessments with such exceptions, modifications and adaptations. The additional notification covers various provisions of the Act notably reference to Transfer Pricing Officer under section 92CA, power of Joint Commissioner to issue directions under section 144A, reference to Principal Commissioner / Commissioner under section 144BA, reference to Dispute Resolution Panel under section 144C, penalties imposable under Chapter XXI, estimation of value of assets by valuation officer under section 142A, power regarding discovery, production of evidence under section 131, power to call for information under section 133, power of survey under section 133A, power of special audit under section 142 etc.

The same procedure as provided for in the Scheme is also required to be followed in the proceedings of the notified sections.

Dhruva comments

The introduction of this faceless and centralised assessment scheme has been in discussion for some time now. The CBDT has finally released the Scheme detailing the procedure and manner in which the Scheme will run. Effective implementation of the Scheme will require a quick set up of the NeAC, ReAC and other units and seamless coordination between these units. Given the limited window of interaction between the assesseees and the authorities, it will of paramount importance for the assesseees to provide detailed and clear submissions on the tax positions adopted by them.

² Notification S.O. 3265(E) dated September 12, 2019



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