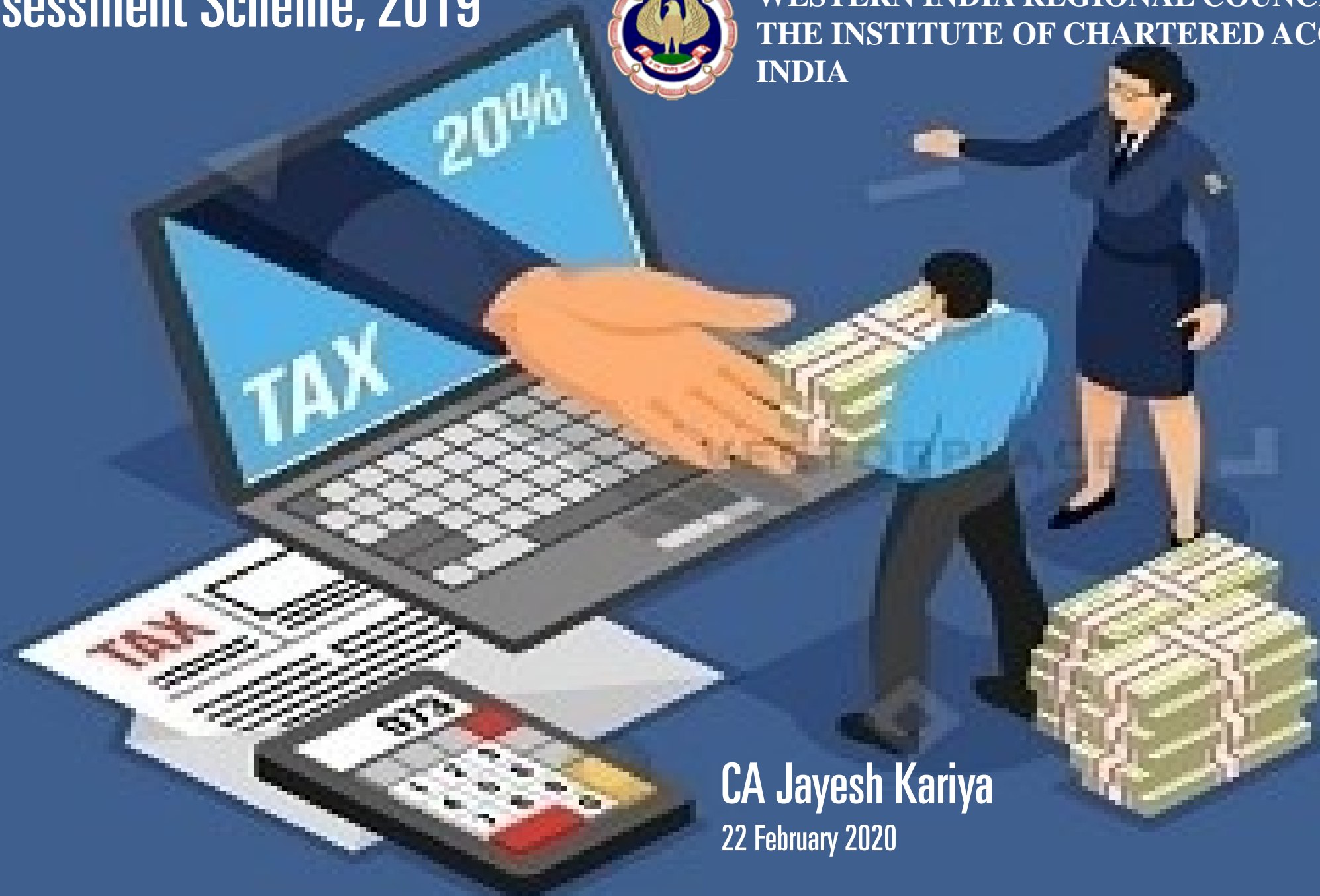


E Assessment Scheme, 2019



WESTERN INDIA REGIONAL COUNCIL OF
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF
INDIA



CA Jayesh Kariya
22 February 2020

Agenda For Discussion

1. Digital India Movement
2. Objectives of E-assessment
3. What is E-assessment
4. Structure and Composition
5. Procedure
6. Mechanism and Communication
7. Coverage & Exceptions
8. Advantages and Disadvantages
9. Key challenges and infrastructure required
10. Way Forward
11. Opportunities and Challenges for us



Digital India Movement - The Revolution so far

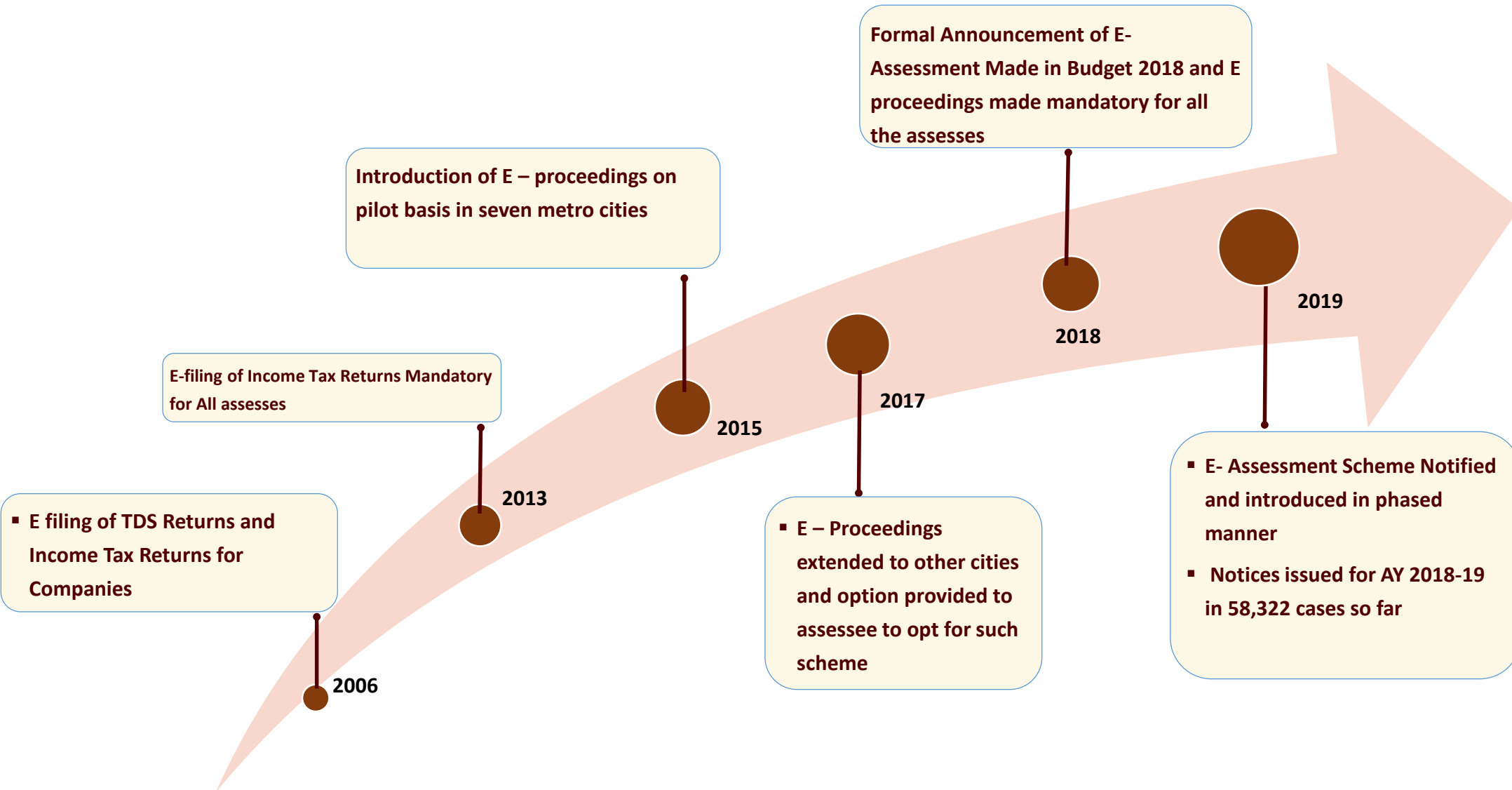


#startupindia



राष्ट्रीय मतदाता सेवा पोर्टल
NATIONAL VOTERS' SERVICES PORTAL

Digitization by Income Tax Department - The Journey So far



Digitization of Tax Function

Income Tax Business Application (ITBA), covers all the core processes of the Tax department comprehensively

The revolutionary ITBA application facilitates and support, an entire gamut of 'e-services' including:

- (a) e-Registration;
- (b) e-Filing of ITRs;
- (c) e-Proceedings;
- (d) e-Payment of Taxes
- (e) e-Nivaran
- (f) e-Sahyog
- (g) e-Submission of Responses to Outstanding Demands
- (h) e-Filing of Rectification Application u/s 154 of the Income Tax Act

Gone are the days when the Income-tax Department had to organise camps on the return-filing due date to facilitate filing of returns, and taxpayers had to queue up to obtain stamped acknowledgements.

From return filing on hard copies until only a few years ago, e-Filing of Income-tax and TDS returns and their e-Processing by Central Processing Unit (CPC) and generation of e-Refunds, has now become the order of day for most taxpayers.

Experience of Digitization of Tax Function

- Ease of compliance
- **Manipulation of data and malpractices curbed**
- Virtual compliance possible, anytime and anywhere
- Smaller and remote locations still faces challenges
- **More Governance less Government**
- Timely compliances and completion of processes
- Cumbersome where piles of data is to be provided electronically
- **Information accessible “At Finger Tips”**
- Digital data trail available both for Tax payers and Tax Department
- **Free flow of data amongst revenue departments including data from ADBs/RBI – ‘Hide and Seek’ game over**
- **Old records still not digitized – hampers rectification and other similar records**

Digital Interaction has become the New Normal

Assessment - Current Process and Issues

- Face to Face Multiple Hearings with bulk paperwork
- Bureaucratic approach by Officer, with limited expertise on complicated matters
- Unreasonable demands and expectations
- Difference in approach of officers as well as different tax positions are adopted in different jurisdiction on same issues – even within the same city
- No review mechanism
- **High pitched assessments and adjustments**
- Resolution to tax litigation takes 5-10 years
- Waste of time- both on travel and waiting
- **Significant subjectivities**
- **Inconsistent approach and behaviors**
- **Malpractices and manipulations leads to frustration**

Legal Framework for E-Assessment Scheme

**Finance Act 2018 amended provisions of Section 143 –
Section 143(3A), 143(3B) and 143(3C) inserted to empower
the Government to frame E-assessment Scheme**

**Notification N0. S. O. 3624 E dated 12th September 2019 (Also
known as Notification N0. 61/2019 of 12th September 2019**

**Notification N0. S. O. 3625 E dated 12th September 2019
(Also known as Notification N0. 62/2019 of 12th September
2019**

**Specified Sections like 2(7A), 92CA,
120,124,127,129,131,133,133A,133C,134,142,142A,143,144A,144BA,14
4C and Chapter XXI shall apply to the Scheme subject to certain
exceptions, modifications and adaptations**

Objectives of E-Assessments

As a part of Indian Government E-governance Programm – Digital India Movement

To Curb and fight against corruption

Reduced Turnaround time by Elimination of Face to Face Communication

Increased transparency , efficiency, and accountability in the Assessment Proceedings

Ease of doing Business in India

In Line with global Practices across other countries

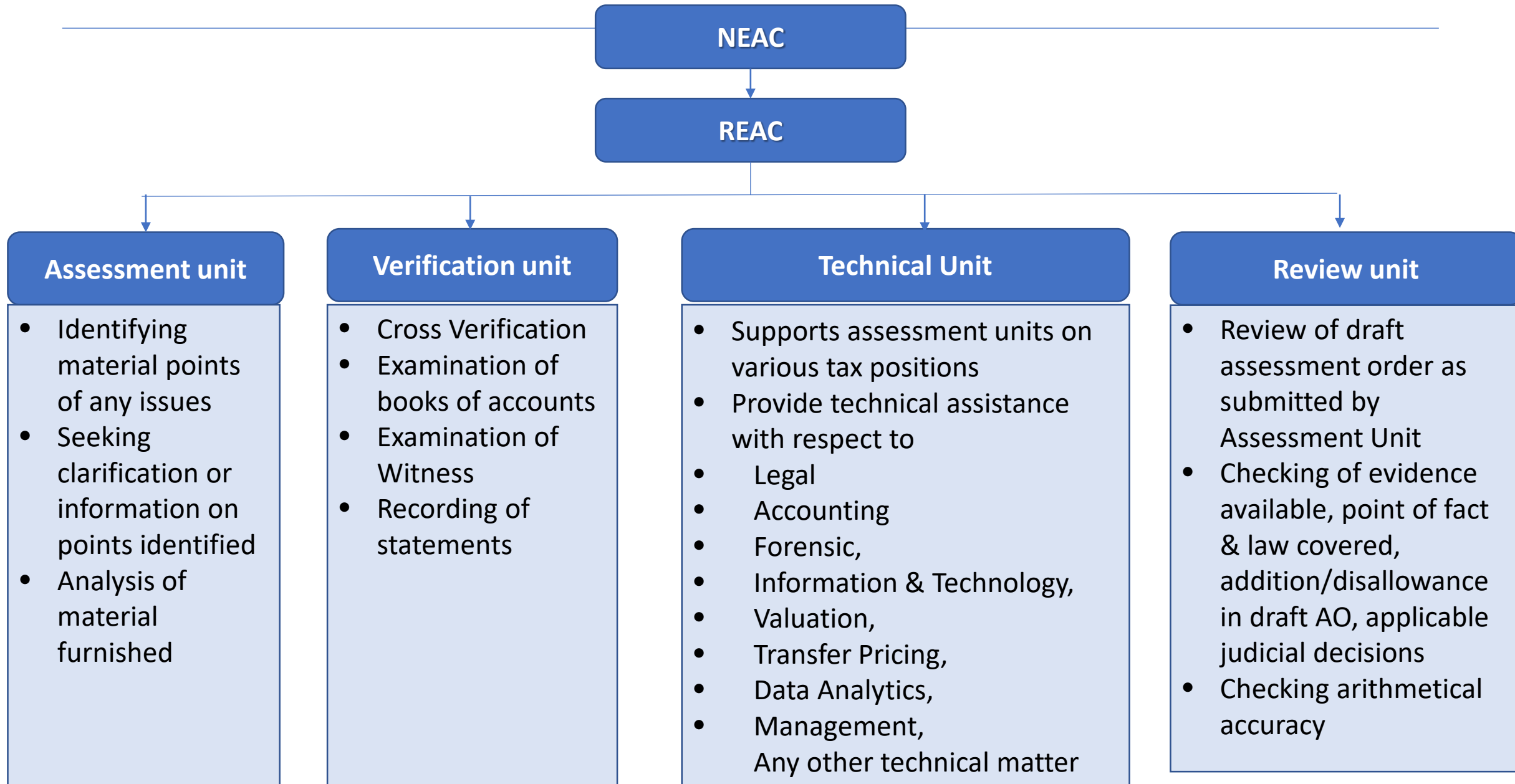
What is E - Assessments

- Conducting the assessment proceeding (start to end) via an **electronic platform** created by the Income Tax department. without any face to face communications
- Under the '**e-proceeding**' **Tab** - We can see and check for all the letters/notices/intimations issued by the Income-tax department and also can file for responses along with uploading documents.
- Responses are then viewed electronically by in ITBA eventually saving time of not only the assessee but also of the Income Tax department.
- Referred to as '**Faceless assessments**' because these completely eliminates the physical interface between the assessee and the Tax officer
- Also being referred to as '**Jurisdiction-less**' or '**Group assessment**' because these are conducted by a Team/Group of Expert Income Tax Officers at multiple-level assessment units

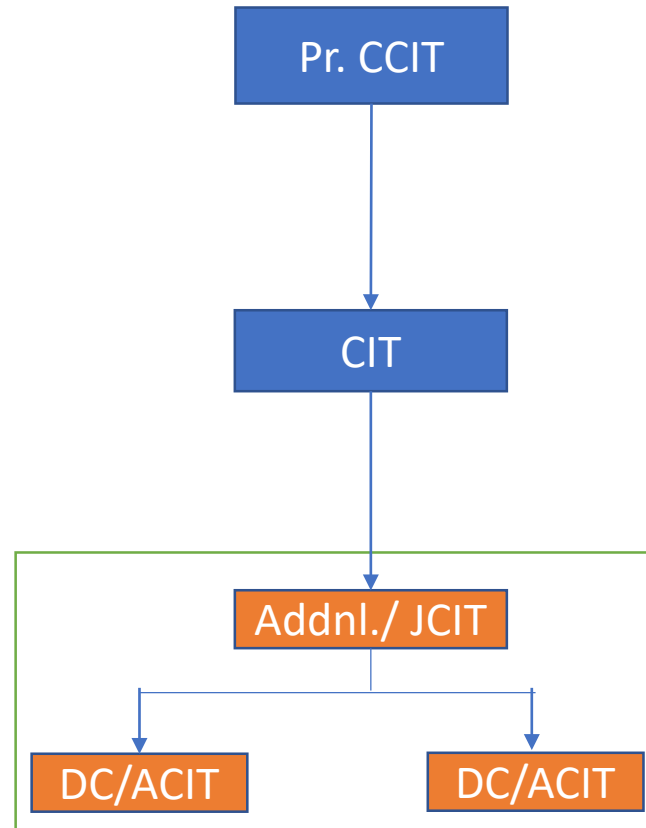
E- Proceedings Vs E-Assessment Scheme

Sr.	Similarity / Difference	E- Proceedings	E-Assessments
1	Came into Force	Through Modification of Definition of 'Hearing'	Delegations of Power to Central Government
2	Applicability	All Proceedings Except Search Proceedings	Notice u/s 143(2)
3	Mode of Communication	E – Proceedings window at the e-fling portal / SMS/ Email	
4	Face to Face Hearing	Yes. Under Exceptional Circumstances	Largely No. Only through Video Conferencing
5	Who shall conduct the assessment	<ul style="list-style-type: none"> - Tax Officer (Including Hearing, verification and Examination) - No Concept of Review / Technical Assistance 	<ul style="list-style-type: none"> - Various functions / Team based assessments with dynamic jurisdiction

Structure for E - Assessment

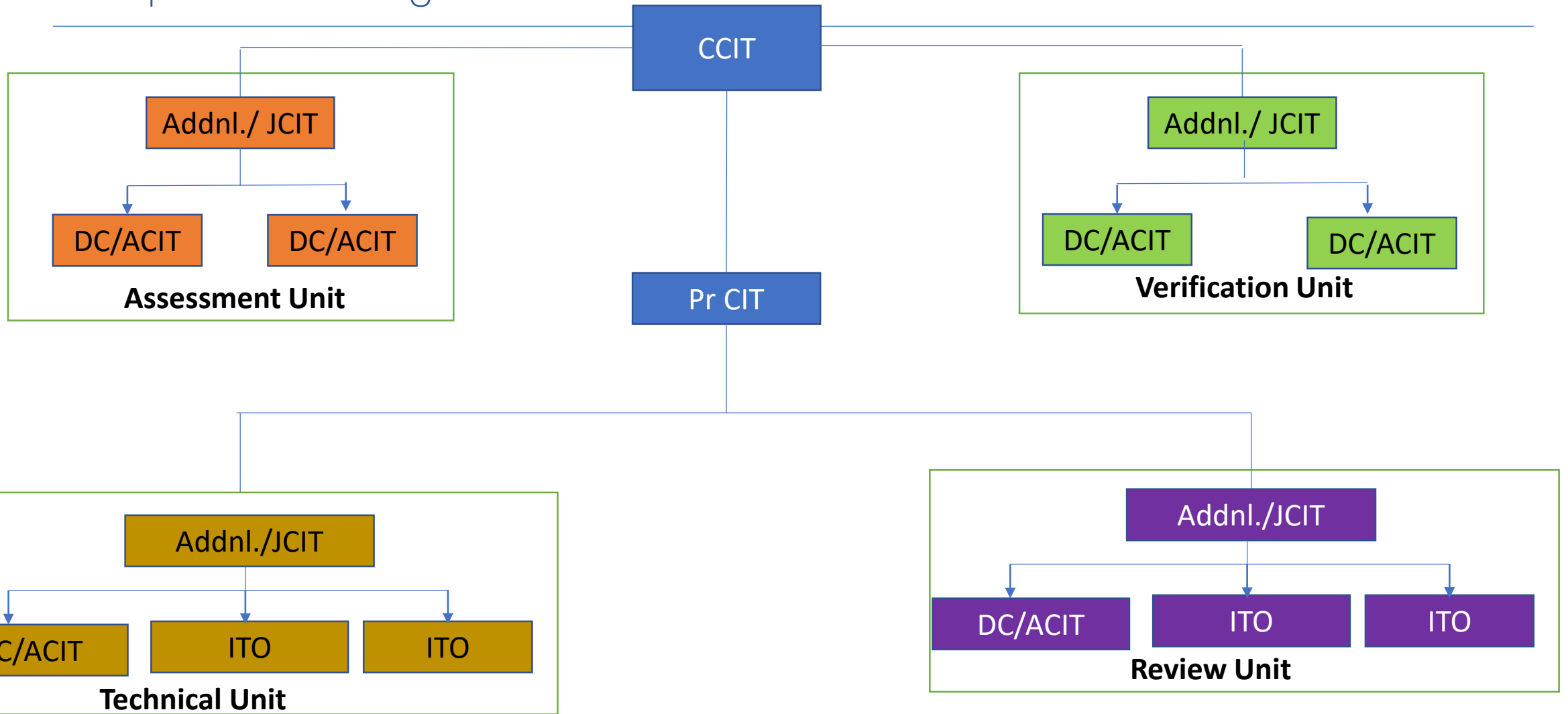


Composition of National E-assessment Center (Delhi)



NeAC will be an independent office situated at Delhi, to facilitate the conduct of e-assessment proceedings in a centralised manner

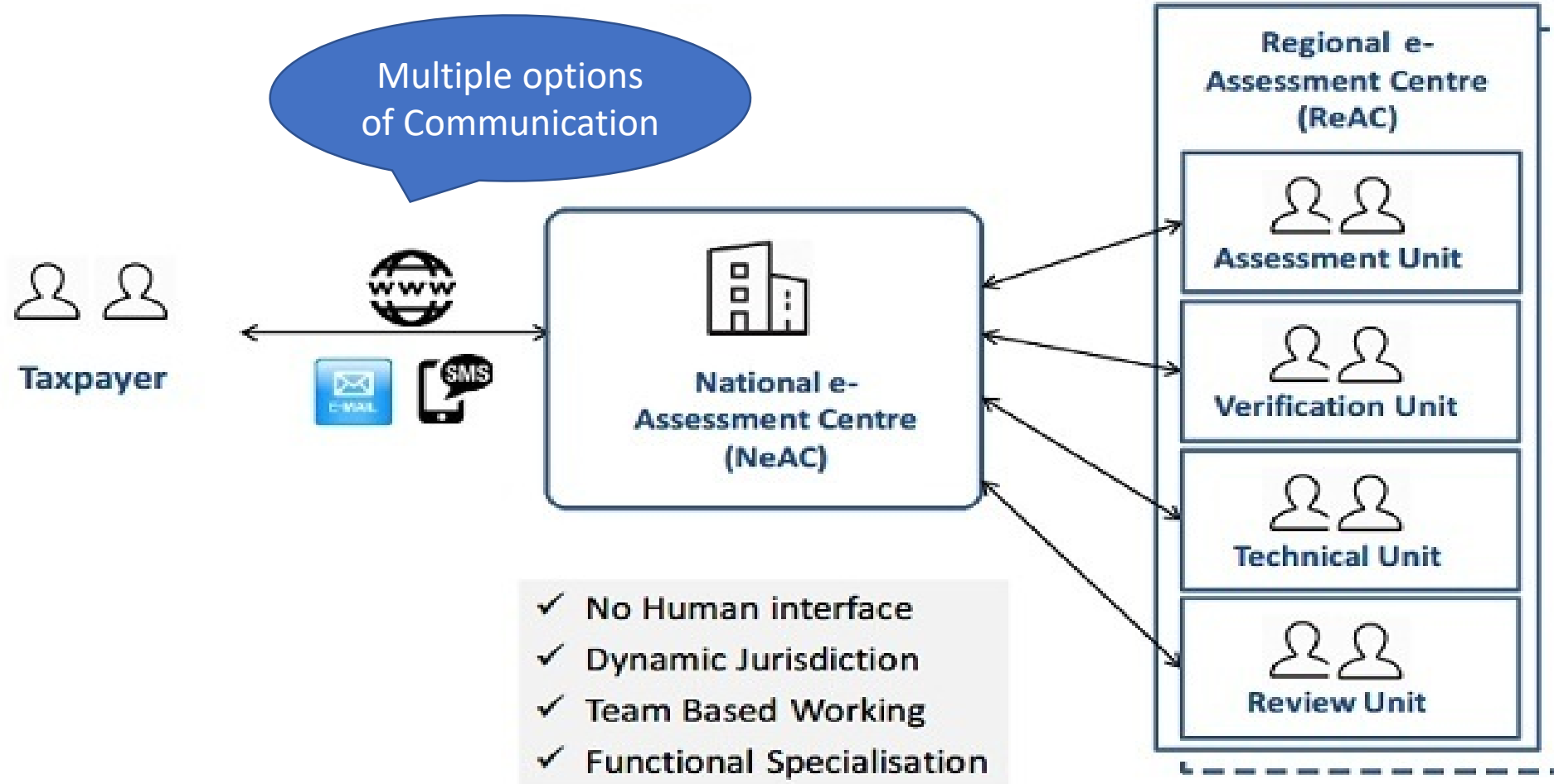
Composition of Regional E-assessment Centers



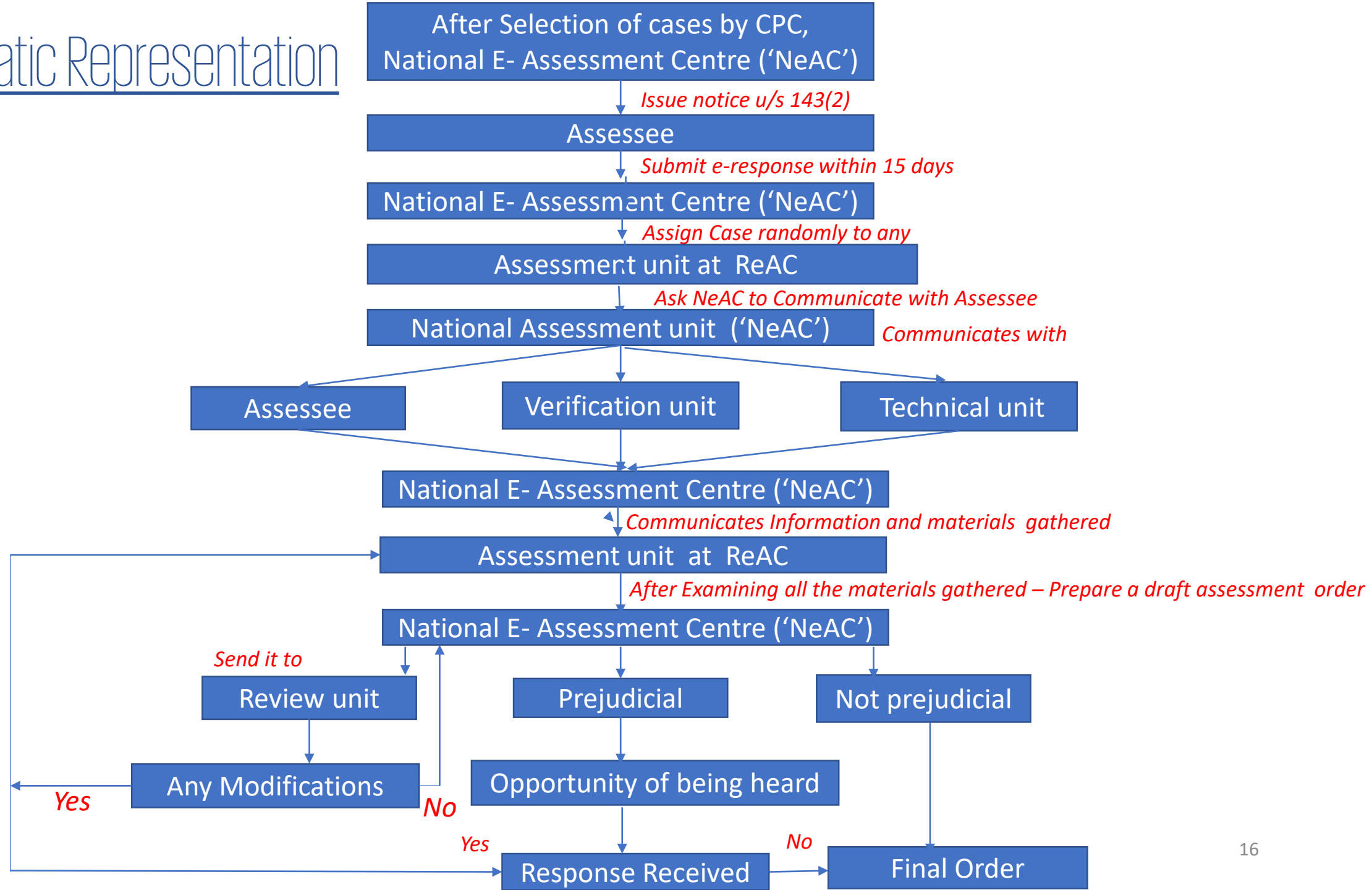
There are 8 Regional e-Assessment Centres (ReAC) set up at Delhi, Mumbai, Chennai, Kolkata Ahmedabad, Pune, Bengaluru and Hyderabad which would comprise Assessment unit, Review unit, Technical unit and Verification units. **Total 144 Units established and 2832 Officers posted.** Each ReAC will be headed by Chief Commissioner of Income Tax (CCIT).

E-Assessments Eco System

All the communications between all the units mentioned above, for the purpose of making an assessment under this scheme would be done exclusively by electronic mode through the National e-Assessment Centre.



Diagrammatic Representation



Procedure for E - Assessment (1/6)

The procedure for e-assessment is as below:

- A notice under section 142(1) / 143(2) would be served by the National e-Assessment Centre specifying the issues for selection of taxpayer's case for assessment.
- The taxpayer has a period of fifteen days for filing a response with the National e-Assessment Centre.
- **The National e-Assessment Centre will assign the case selected for the purposes of e-assessment to a specific 'assessment unit' in any one 'Regional e-Assessment Centre' through an automated allocation system on the basis of algorithm for randomized allocation of cases by using suitable technological tools, including artificial intelligence and machine learning**
- Once a case is assigned to an **assessment unit, it may make a request to the National e-Assessment Centre** for:
 - a) Obtaining such further information, documents or evidence from the taxpayer or any other person, as it may specify
 - b) Conducting of certain enquiry or verification by verification unit; and
 - c) Seeking technical assistance from the technical unit

Procedure for E - Assessment (2/6)

- Upon a request being made by the assessment unit for any documents or evidence, the National e-Assessment Centre shall issue appropriate notice or requisition to the taxpayer or any other person for obtaining the information, documents or evidence requisitioned by the assessment unit
- Upon a **request being made for certain enquiry or verification** as above, the request shall be **assigned** by the National e-Assessment Centre **to a verification unit** through an automated allocation system
- Upon a **request being made seeking technical assistance** as above, the request shall be **assigned** by the National e-Assessment Centre to a **technical unit** in any one Regional e-Assessment Centres through an automated allocation system
- **The 'assessment unit' shall**, after taking into account all the relevant material gathered from technical and verification unit, **pass a draft assessment order** either accepting the returned income of the taxpayer or modifying the returned income of the taxpayer, as the case may be, and **send a copy of such order to the National e-Assessment Centre**
- **The 'assessment unit' shall, while making draft assessment order, provide details of the penalty proceedings to be initiated therein, if any**

Procedure for E - Assessment (3/6)

- The **National e-Assessment Centre shall examine the draft assessment order in accordance with the risk management strategy specified by the CBDT**, including by way of an automated examination tool, whereupon it may decide to:
 - 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, on the taxpayer, along with the demand notice, specifying the sum payable by, or refund of any amount due to the taxpayer on the basis of such assessment; or
 - b) **Provide an opportunity to the taxpayer, 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 – First Opportunity for Tax Payers to Object the Draft Order**
 - 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
- **The review unit shall conduct review** of the draft assessment order, referred to it by the National e-Assessment Centre, whereupon it may decide to:
 - a) Concur with the draft assessment order and intimate the National e-Assessment Centre about such concurrence; or
 - b) Suggest such modification, as it may deem fit, to the draft assessment order and send its suggestions to the National e-Assessment Centre.

Procedure for E - Assessment (4/6)

- The National e-Assessment Centre shall, upon receiving concurrence of the review unit finalise the draft assessment order or provide an opportunity to the taxpayer in case a modification is proposed - **Second Opportunity for Tax Payers to Object the Draft Order**
- **The National e-Assessment Centre shall, upon receiving suggestions for modifications from the review unit, communicate the same to the assessment unit**
- **The assessment unit shall, after considering the modifications suggested by the review unit, send the final draft assessment order** to the National e-Assessment Centre
- The National e-assessment Centre shall, upon receiving final draft assessment order, **finalise the draft assessment order, or provide an opportunity to the taxpayer in case a modification is proposed**, as the case may be – **Third Opportunity for Tax Payers to Object the Final Draft Order**
- The taxpayer may, in a case where notice is issued for making submissions against the draft assessment order, furnish his response to the National e-Assessment Centre on or before the date and time specified in the notice

Procedure for E - Assessment (5/6)

- The National e-Assessment Centre shall:
 - a) In a case where no response to the show-cause notice is received, finalise the assessment as per the draft assessment order; or
 - b) In any other case, send the response received from the taxpayer to the assessment unit
- **The assessment unit shall, after taking into account the response furnished by the taxpayer, make a revised draft assessment order** and send it to the National e-Assessment Centre
- The National e-Assessment Centre shall, upon receiving the revised draft assessment order:
 - a) In case no modification against the interest of the taxpayer is proposed with reference to the draft assessment order, finalise the draft assessment; or
 - b) In case a modification against the interest of the assessee is proposed with reference to the draft assessment order, shall provide an opportunity to the taxpayer for hearing and making submissions – **Fourth Opportunity for Tax Payers to Object the Revised Draft Order**

Procedure for E - Assessment (6/6)

- The response furnished by the taxpayer shall be dealt with by the National e-Assessment center and the draft assessment order finalised
- **The National e-Assessment Centre shall, after completion of assessment, transfer all the electronic records of the case to the Assessing Officer having jurisdiction over such case for:**
 - a) Imposition of penalty;
 - b) Collection and recovery of demand;
 - c) Rectification of mistake;
 - d) Giving effect to appellate orders;
 - e) Submission of remand report, or any other report to be furnished, or any representation to be made, or any record to be produced before the Commissioner (Appeals), Appellate Tribunal or Courts, as the case may be;
 - f) proposal seeking sanction for launch of prosecution and filing of complaint before the Court

Mechanism for E-Assessment

- A person is not required to appear either personally or through authorised representative in connection to any proceedings before the income tax authority at the centres and at units set up under this scheme.
- Where a show cause notice is issued to the taxpayer in connection with modifications proposed to be made, **the taxpayer or his authorised representative can seek personal hearing to make oral submissions or present his case before the income tax authority** in any unit set up under this scheme
- **Such hearing shall be exclusively through video conferencing**, including use of any telecommunication application software which supports video telephony.
- Any examination or recording of statement of the taxpayer or any other person (other than in survey cases) will be conducted through video conferencing, including use of any telecommunication application software which supports video telephony.
- CBDT shall establish suitable facilities for video conferencing at necessary locations to ensure that this benefit is available to the taxpayer or his authorised representative or any other person whose statement needs to be examined or recorded.
- **Appeal lies with the jurisdictional Commissioner of Income-tax (Appeals) having jurisdiction over the AO.**

Communication and Electronic Record

- All communications between the NeAc and the taxpayer/authorised representative, shall be exchanged exclusively by electronic mode; **and**.
- All internal communications between the NeAc, ReAc and various units shall be exchanged exclusively by electronic mode.
- **All the electronic records issued under the scheme shall be authenticated by the originator by affixing his Digital Signature.**
- Every notice or order or any other electronic communication under this scheme shall be delivered to the taxpayer, by way of:
 - i) Placing an authenticated copy of the communication in the **taxpayer's registered account; or**
 - ii) Sending an authenticated copy thereof to the registered **email address of the taxpayer** or authorised representative; **and**
 - iii) Uploading an authenticated copy on the **assessee's Mobile App**; and followed by a **real-time alert to the taxpayer.**

Procedure for Penalty

- Any unit may, in the course of assessment proceedings, **for non-compliance of any notice, direction or order issued under this scheme on the part of the taxpayer or any other person**, send recommendation for initiation of any penalty proceedings under the income tax law, against such taxpayer or any other person, as the case may be, to the NeAC, if it considers necessary or expedient to do so
- The NeAC shall, on receipt of such recommendation, serve a notice on the taxpayer or any other person, as the case may be, calling upon him to show cause as to why penalty should not be imposed on him under the income tax law
- The response to show – cause notice furnished by the taxpayer or any other person, if any, **shall be sent by the NeAC to the concerned unit which has made the recommendation for penalty**
- The said unit shall, after taking into consideration the response furnished by the taxpayer or any other person, as the case may be:
 - a) Make a draft order of penalty and send a copy of such draft to NeAC; or
 - b) Drop the penalty after recording reasons, under intimation to the NeAC
- **The NeAC shall levy the penalty as per the said draft order of penalty** and serve a copy of the same on the taxpayer or any other person, as the case may be
- Further Hon'ble Finance Minister has proposed in Finance Bill 2020, E-penalty scheme to be launched in line with E-assessment Scheme 2019 to eliminate interface between the Tax officer and Assessee

No Review Mechanism nor multiple opportunities of objections given to the Tax Payers like e-assessment

E- Penalty and E- Appeal Schemes - the next agenda

The Government had in 2019 introduced an e-assessment scheme in order to ease the tax litigation process. Taking the process further, an E-appeal Scheme for disposal of appeals by the Commissioner of Income Tax (Appeals) and E-penalty Scheme has been proposed.



Coverage and Exceptions (1/2)

- **Covered**

- Scrutiny Assessment u/s 143(3)

- **Not Covered**

- Best Judgement Assessment: Section 144
- Income Escaped Assessment : Section 147
- Search Assessment : Section 153A
- Set-Aside Assessment

Coverage and Exceptions (2/2)

- **Exceptions**
- **Cases where Income Tax Return filed in the paper mode, i.e. Manual mode and cases where earlier substantial hearings have been completed in physical mode**
- Assessment being framed in Non-PAN cases and cases with a person with no E-filing Account.
- **Cases where there are administrative difficulties, complex cases or there are certain extraordinary circumstances in such scenario, the National e-Assessment Centre may at any stage of the assessment, if it considers necessary, transfer the case to the Assessing Officer having jurisdiction over such case**
- Cases of assessment in search or raids, set-aside assessments due to an earlier probe issue.
- Instances where books of accounts have to be examined, **where the taxman has invoked provisions of section 131 of the I-T Act**, where examination of witness is required to be made by the assessee or the department and **where a show cause notice contemplating any adverse view is issued by the assessing officer and assessee requests through for personal hearing to explain the matter.**

Not clear these cases will be processed through personal hearings

Advantages of the Scheme

- Ease of compliance for taxpayers
- Elimination of harassments, unethical practices and corruption
- Transparency and efficiency
- Functional specialization
- Improvement in Quality of Assessment
- Expeditious and timely disposal of Cases
- Decrease in the cost of compliance - saving in time of visiting tax office and also waiting time at tax office
- Eliminates cases of non-receipt or delayed receipt of notices
- **Uniform position on various legal issues across different Tax jurisdictions**
- **Review mechanism should result in fair and reasonable assessment**

Disadvantage of the scheme

- Crunched Time lines- expectations of timely compliances increases
- Could build pressure in certain situations - both on Tax Authorities and Tax payers
- Complex issues may not get addressed or apprehended properly
- Personal rapport and influences goes away
- Constant monitoring of emails and tax payers accounts on portals
- Additional cost of investment in Hardware & Software requirements
- Proper justification could be difficult without personal hearing in certain complex cases
- Extra time and efforts in digitizing documents and uploading lengthy submission pose more challenges
- All taxpayers could be painted with same “Brush”

Key challenges

- Cases u/s 263 & 264 of the Act not covered
- Direction issued u/s 144A of the Act not covered
- **Risk Management strategy by CBDT – Whether available in Public Domain?**
- **Jurisdiction no longer to be based on location of the tax payer**
- Review clause – May dilute the effectiveness of CIT (A) process?
- Video Recordings - Evidence can be used for the benefit of assesses or Department
- **Technological Issues / glitches – Could attract penalty**
- Exceptions for Physical Interaction possible ?
- Formal Grievance Mechanism not prescribed
- **Will it act at “Dark Box”?**
- Submission and handling of bulk data requested during assessments
- **Maintenance of books of accounts and documents in Original for 8 years?**

Infrastructure required for seamless implementation of the scheme

- Easily Accessible Video Conferencing centers at various locations in the Country
- Dedicated Helpline / Customer Care Number
- Use of robust Technology software to avoid any glitches
- **Acceptance of bulk files with no restriction on file size**
- Appropriate training of Tax officers / staff
- Mega servers to store and retrieve data
- High Speed internet infrastructure in tax offices
- **Digitization of old records- Smooth transition and updated trail of records**

Opportunities and Challenges for Us

- Leveraging technology to meet the requirements
- Ability to handle larger volume of clients/ data
- **Re-skilling and building capabilities**
- **Opportunity to add more value to clients - More time to provide high end services/ solutions**
- Requirement of Domain / Sectoral knowledge and expertise
- **Time for Value Billing**
- **Diversification of practice and service offerings**
- Cost of compliance reduces – be competitive

Way Forward

- **Transformation of tax function within the office of the Advisors and tax payers**
- Investment in IT infrastructure, technology and changes in processes
- **Ongoing training to the team members**
- **“Change in the mind-set” of stakeholders**
- Timely compliances with notices to avoid stringent penalties for non-compliance
- **Focus on Quality Vs. Quantity – Proper review submissions being filed**
- **“More Strategic Thinking” to be applied on technical submissions**
- Maintain exhaustive documentation for each and every transaction, detailing the complete sequence of events / trail depicting the intention clearly