

**WEBINAR ON FACELESS
ASSESSMENT & FACELESS
APPEALS-PRACTICAL ISSUES &
GUIDANCE**

**ORGANISED BY
ALL INDIA FEDERATION OF TAX
PRACTITIONERS (NZ)**

SPEAKER:

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On

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1. TYPES OF ASSESSMENT

1. Summary Assessment u/s 143(1)

Akin to faceless – Done in a centralized manner by CPC at Bangalore, we all know, but not approachable
– Processing is technology based without any human intervention.



2. Scrutiny assessment u/s 143(3) r.w sec 144 – Faceless

➤ Traditionally, most assessments under this category. However, nowadays very few cases are taken up – that also, information / AIR based – property purchased – difference in SDV and purchase consideration.

Exceptions

- International Taxation

- Central Circle cases

3. Re-opening cases u/s 147 r.w sec 143(3)/144– Faceless

- Floodgates had opened up. Last 4 years was a gala time for high court lawyers.
- Unprecedented number of writ petitions were being filed in High Courts post amendment w.e.f. 01.04.2021.
- Article 226 – it is extra ordinary jurisdiction and admission is the discretion of the judge.

4. Assessments pursuant to search cases – (Central Circle)

- ❑ W.e.f. 01.04.2021, change in law
- ❑ Earlier, assessments of search cases done u/s 153A or section 153C w.e.f. 01.06.2003
- ❑ First Interpretation by Kolkata Tribunal in LMJ International – items of regular assessment cannot be added back.
- ❑ Adopted by maximum High Courts including Calcutta High Court in Veerprabhu Marketing
- ❑ Supreme Court in Abhisar Buildwell Pvt Ltd (2023) approved this view.

4. Assessments pursuant to search cases – (Central Circle)

❑ It took the government 20 years to change the law – sudden realization- lot of leakage of revenue.

❑ Amendment has been made in section 153A/153C that these provisions will not apply in cases of searches initiated after 31.03.2021, meaning thereby, provisions of section 147 to section 149 will apply.

❑ Proviso to section 148A provides that section 148A would not apply, *inter alia*, to search cases

❑ Explanation 2 below section 148 provides that in search case, it shall be deemed that the A.O. has information which suggests that that the income chargeable to tax has escaped assessment

4. Assessments pursuant to search cases – (Central Circle)

□ Provisions of limitation provided in section 149 and its proviso will also apply to search cases.

□ Clock has turned full circle- Now old block assessment provisions u/s 158BC to 158BD has been activated with amendments in respect of searches initiated w.e.f 01.09.2025

5. Transfer Pricing Assessments and International Taxation matters – Not faceless – International tax wing does it physically.

1. F.A.O. : Faceless A.O.
2. J.A.O.: Jurisdictional A.O.

➤ Jurisdictional A.O.'s function

1. Collection / Recovery of Demand
2. Preparation of Remand Report
3. Issuing Appeal Effect Order
4. Proposal seeking launching of prosecution
5. NFAC, if considered necessary, may at any stage of assessment, transfer the case to JAO

6. How does the faceless assessment scheme function?

- Spadework towards faceless assessments was done by the Finance Act, 2018 by inserting sub sections (3A), (3B) and (3C) in section 143.
- Sub section (3A) enabled the Central Government to frame a scheme for the purpose of assessment so as to impart greater efficiency, transparency and accountability.
- The scheme was replaced by the statutory provision i.e. section 144B by TOLA Act, 2020 w.e.f. 01.04.2021.
- The entire provision has been replaced by the new section by Finance Act, 2022 w.e.f. 01.04.2022.

6. How does the faceless assessment scheme function?

In short, the entire scheme works like this-

NFAC headed by the Principal CCIT, is the nodal agency

▪ It coordinates between the **four units working under it** and also with the assessee concerned.

4 units –

(i) Assessment Unit

(ii) Verification Unit

○ Enquiry-Cross Verification

[Notice u/s 133(6)]

○ Examination of books of accounts

• So far not seen

• so advisable to state in reply – books of accounts, supporting evidences available in our office and can be produced physically.

6. How does the faceless assessment scheme function?

□ Examination of Witness/ recording of statements –case laws-

(a) Action Global 441 ITR 550 (Del) – Justice

RajivShakdher

- Bogus billing case:- Adverse material to be provided.
- Opportunity of cross examination to be provided.

(b) T.Tickano (2022) SCC online (SC) 979 vs SEBI

- Investigation report sought – Bombay High Court held against the party.
- Supreme Court held in favour of the party. Held, in supplying the material, 3 principles are to be followed.
 - (a) Relevancy
 - (b) Transparency and
 - (c) Fairness
- Material to be supplied even if not asked for

6. How does the faceless assessment scheme function?

(c) Arissan Energy Ltd vs UOI APO/90/2023

- ❑ [Reopening case – challenge to order passed u/s 148A(d)]
 - Assessee's contention-No transactions with the alleged company-No material provided-merely information in inside portal is not enough.
 - Held, adverse material ought to have been supplied
 - If material is lengthy, right of inspection to be provided
 - Relied upon- **Anurag Gupta, Bombay High Court-WP No. 10184/2022** dated 13.03.2023 and
 - **Excel Commodities- APOT / 132/2022** dated 29.08.2022
 - **CBDT Instruction** dated 22.08.2022
 - Instruction to the A.O. to check the data, which maybe faulty
 - Background- **S.R Cold Storage vs UOI 448 ITR 37(All.)**
 - Rs. 50 lakhs cost was imposed upon the A.O..
 - Assessee denied allegation of unexplained deposits
 - But department failed to prove its case.

7. Important Observations

➤ New procedure of re-assessment was brought in w.e.f. 01.04.2021 to reduce litigation – but it has increased manifold.

(iii) Technical Units

Gives advice on

1. Legal
2. Accounting
3. Forensic
4. Info Tech
5. Valuation
6. T.P. issues

(iv) Review Unit

NFAC may send DAO to it

To check whether assessment has been properly framed

8. REGULAR ASSESSMENT PROCEEDINGS

(Section 143(2) → 142(1) → 144B Procedure)

➤ Regular scrutiny assessment under the Income-tax Act is **not an informal enquiry** and certainly not an administrative exercise.

➤ It is a **structured statutory adjudicatory proceeding** governed by interlocking provisions, each carrying **legal consequence**.

➤ The **principal sections forming the backbone** of scrutiny are Sections 143(2), 142(1), 143(3), 144, 144B, and 153.

➤ These provisions do not operate in isolation; they **form a sequential framework** that must be followed with precision.

9. Section 143(2)

- It is the jurisdictional gateway.
- It empowers the Assessing Officer to issue notice where he considers it necessary to ensure that **income has not been understated** or **tax has not been underpaid**.
- But this power is **not open-ended**. It is time-bound and procedural.
- Without a **validly issued and properly served 143(2)**, the Assessing Officer lacks authority to enter into scrutiny.
- This is **not** a procedural irregularity; it is a **jurisdictional defect**.

10. NOTICE UNDER SECTION 143(2)- check list

➤ When a notice under Section 143(2) is received, the natural instinct is to move into **compliance mode**. But the correct professional instinct should be to move into **verification mode**.

➤ The 143(2) notice is the **foundation of scrutiny**. If the foundation is defective, the entire structure collapses.

1. **First check: limitation.**

- Was the notice issued within the statutory period from the end of the financial year in which the return was filed?

- **Even a delay of one day is fatal. The Act does not allow elasticity in limitation.**

10. NOTICE UNDER SECTION 143(2)- check list

➤ **Second check: DIN validity.**

- Under the current regime, communications must bear a valid Document Identification Number.
- Absence of DIN or defective DIN may render communication invalid unless it falls within recognized exceptions.

➤ **Third check: Service.**

-Was the notice correctly served as per prescribed mode?

- Was it issued against the correct PAN?

In cases involving amalgamation, succession, or PAN migration, incorrect issuance can create jurisdictional defects.

11. Uncomfortable but important observation.

- Many assessments survive because practitioners assume validity instead of verifying it. Jurisdictional errors often go unnoticed because the focus shifts immediately to explaining income. Professional discipline demands that before replying to scrutiny, you confirm that scrutiny is validly initiated.
- If 143(2) itself is defective, the battle is substantially won before it begins.

12. Section 142(1) - The investigative instrument.

- Through it, the **officer may require production of books**, statements, documents, reconciliations, confirmations, explanations and any other material considered necessary.

This is the **stage where fact-building happens**. What is placed on record here becomes the evidentiary foundation of the assessment.

In the faceless regime, there is no opportunity to clarify tone through conversation. There is **no ability to sense** how the officer is perceiving your reply. Your written submission becomes your entire representation.

13. Guiding principles

The first principle is disciplined disclosure.

Answer exactly what is asked — not more, not less. But over-exhaustion can expand the scope of enquiry. If the notice asks for loan confirmations, do not volunteer personal balance sheets of directors unless necessary. If asked for bank statements of a particular account, do not upload unrelated accounts. Each additional document can trigger new questions. Transparency does not mean self-exposure. It means accurate, focused disclosure.

13. Guiding principles

-Replies must be drafted in a point-wise manner.

-Reproduce the query and respond below it. Annexures must be indexed and referenced in the reply.

- If explaining a cash deposit, correlate it with cash book entries and prior withdrawals. If explaining a loan, correlate with confirmation, ITR of lender, bank trail and ledger entry. **The officer is reading on a screen; clarity reduces suspicion.**

13. Guiding principles

#The third principle is **defensive planning in weak cases.**

Consider a **case involving unsecured loans under Section 68.** Or high cash deposits during demonetisation. Or sudden fall in gross profit. In such cases, immediate aggressive explanation without understanding the department's precise theory may be counterproductive.

Sometimes it is **strategically sound to initially comply broadly, seek time** for compilation of deeper material, and allow the enquiry to progress through multiple rounds. Under the **faceless** system, files move through Assessment Units, Verification Units, Technical Units and Review Units. Each movement **consumes** time and often sharpens the issue.

13. Guiding principles

In weak cases, allowing the proceeding to mature until a show-cause notice is issued can be tactically advantageous. Because until the show-cause stage, the department has not formally committed itself to a defined allegation. Once the show-cause crystallizes the proposed addition, you know exactly what you are fighting.

Thus, in weak matters, compliance must be measured, calm, and strategically layered — not reactive and panicked.

14. HANDLING MULTIPLE 142(1) NOTICES

- It is common to receive multiple 142(1) notices. This often reflects **internal review comments, verification findings, AIS mismatches**, or analytical flags generated by data systems.
 - Do not treat **multiple notices as hostility**. Treat them as process.
 - However, **consistency becomes critical**. **Contradictions** between earlier and later replies can irreparably damage credibility. For example, if you explained a deposit as loan in the first reply and as sale receipt in the second, the inconsistency becomes stronger than the addition itself.
 - **Maintain a comprehensive internal “fact master file” for every scrutiny case**. Document chronology, transaction explanations, reconciliations and narrative positions. Before responding to any subsequent notice, re-read your earlier submissions.
- Credibility is capital. Once damaged in faceless proceedings, it is extremely difficult to repair.**

15. SHOW CAUSE NOTICE BEFORE VARIATION – SECTION 144B

- The show-cause notice before variation- **decisive stage**
- Section 144B mandates that **before making any addition prejudicial to the assessee**, the department must issue a show-cause notice explaining the proposed variation. **This is a statutory safeguard, not a courtesy.**
- When you receive a show-cause notice, **do not rush into reply. First dissect it.**
- **What exactly is proposed?** Is it addition under Section 68? Section 69? Disallowance under Section 37? Estimation of profit? Rejection of books?

15. SHOW CAUSE NOTICE BEFORE VARIATION – SECTION 144B

-- Is the allegation factual or legal? Is it based on **third-party information**? Is it based on **suspicion**? Is it supported by evidence?

Your reply must be structured issue-wise. Address each proposed addition separately. If the allegation is vague, record that vagueness. **If reliance is placed on third-party statements, demand copy and opportunity of cross-examination.** If addition is based on human probability theory, emphasize absence of direct evidence and presence of documentary trail.

If time granted is short, record that objection. If earlier submissions were ignored, record that fact.

This is not the stage for emotional rebuttal. It is the stage for strategic, legally sound dismantling of the proposed addition. A well-drafted show-cause response often determines whether the final order will be robust or fragile.

16. PERSONAL HEARING – VIDEO CONFERENCE

-Section 144B permits personal hearing through video conference upon request. While not automatically granted, it should be requested in complex or high-stakes matters.

For example, in high-pitched additions, technical valuation disputes, Section 68 cases involving layered transactions, or treaty interpretation matters, oral clarification can help reduce misunderstanding.

Even if hearing is denied, your request forms part of record. Denial without reason can later support appeal on ground of denial of meaningful opportunity.

Never underestimate the importance of recording objection and preserving procedural rights.

17. FINAL ORDER – CHECKLIST AFTER RECEIPT

- Once the final assessment order is received, the **first task is not panic** — it is forensic review.
- Check **whether show-cause was properly issued**. Check whether your **reply is meaningfully discussed**. Check **whether additions exceed what was proposed**. Check whether computation errors exist. Check whether **penalty initiation is specific or mechanical**.
- Many faceless orders are template-driven and **non-speaking**. Non-speaking orders — where reasoning is mechanical or generic — are vulnerable.
- Prepare **an internal defect note immediately**. Identify procedural lapses, jurisdictional errors, reasoning gaps, and computational mistakes.

The appellate strategy begins the day the assessment order is received — not the day the appeal is filed.

18. APPEAL PROCEEDINGS

Section 246A → Section 249 → Section 250 → Section 251

INTRODUCTION

The appellate stage before the Commissioner (Appeals) is not merely a **continuation of assessment proceedings**, it is the **first independent quasi-judicial forum** where the assessee receives a fresh adjudication.

In faceless regime, this stage has become more technical, more **drafting-oriented**, and more **procedure-driven** than ever before.

In faceless appeals, **your written submission is your entire advocacy**. The file is read electronically. There is no opportunity to sense the reaction of the authority. There is no opportunity to clarify ambiguity through discussion. **Your drafting is your voice**.

19. FILING APPEAL

An appeal under Section 246A must be filed **within thirty days** from the date of service of the assessment order, as prescribed under **Section 249**.

The period of limitation begins from the date on which the order is served on the portal/mail — not from the date the assessee casually notices it.

The **first discipline** in appeal practice is **limitation monitoring**.

The moment an assessment order is received, calculate:

- * **Date of service**
- * **Last date for filing appeal**
- **Buffer period for drafting**

Do not wait until the 25th or 28th day to start preparing.

20. Drafting of grounds

Grounds of appeal determine the scope of litigation. What is not raised may not be argued later.

Nature of Grounds

- * Jurisdictional**
- * Procedural**
- * On Merit**

Examples of jurisdictional objections:

- * Invalid service of notice**
- * Lack of territorial/pecuniary jurisdiction**
- * Notices/assessment barred by limitation**
- * Lack of sanction/proper sanction**
- * Improper reopening under Section 148/148A**

20. Drafting of grounds

- Examples of **procedural objections**
- Violation of Section 144B
- Denial of proper opportunity
- Violation of principles of natural justice
- Non-speaking order

Note: Jurisdictional/ procedural objections act as protective shield

21. Adjournments

By the time appeal notice is issued by CIT(A), **months may have passed** since assessment. Files must be reopened. Ledger accounts must be re-examined. Documentary trails must be reconstructed. Often clients have forgotten details. Sometimes accountants have left employment.

When first notice from CIT(A) is received, and time granted is insufficient, **seek reasonable adjournment**. But do so formally. Upload request. Mention genuine reasons.

Never ignore notice. Non-compliance is often interpreted as disinterest.

Note: Compliance culture at appellate stage is critical.

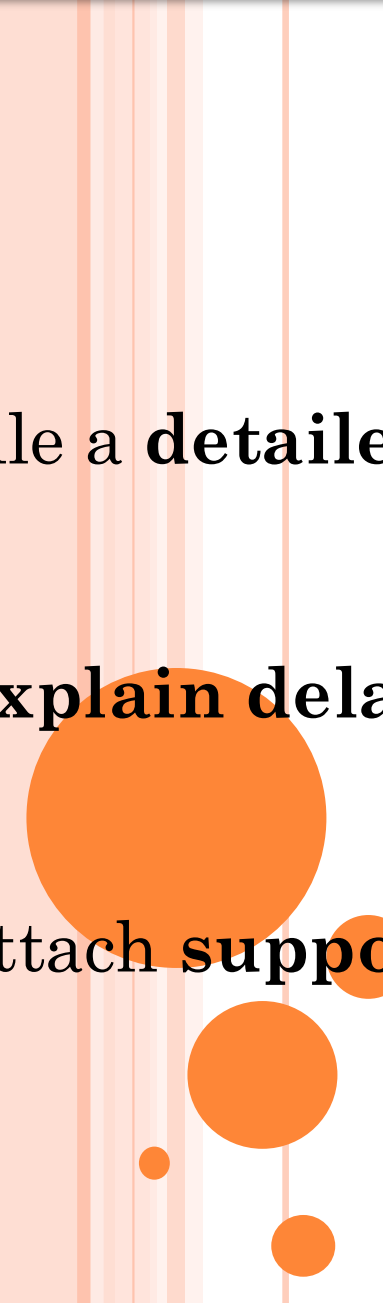
22. DELAY IN FILING APPEAL – CONDONATION OF DELAY

Reasons For Delay-

- Assessee unaware of portal communication
- Illness
- Accountant left job
- Counsel mistake
- Miscommunication
- Technical portal issues
- Financial hardship
- Pandemic disruptions

Imp Note: Many CIT(A)s dismiss appeals solely on limitation without examining merits. Condonation of delay must be handled with utmost seriousness.

23. Where appeal is delayed-

- File a **detailed** condonation petition.
 - **Explain delay day-wise** if possible.
 - Attach **supporting documents**.
- 

24. Possible supporting documents may include:

- Medical certificates
- Hospital discharge summary
- Affidavit of assessee
- Affidavit of counsel
- Proof of accountant proceeding on leave/ leaving employment
- Evidence of portal inaccessibility
- Communication records- notice/order in wrong mail id

24. Possible supporting documents may include:

Imp Notes:

***Affidavit must be precise, not generic.** It must state:

- Date of receipt of order
- Date when assessee became aware
- Circumstances causing delay
- Steps taken once aware

***Avoid vague statements** like “due to unavoidable circumstances.”

24. Possible supporting documents may include:

Courts generally adopt liberal approach in condonation, if sufficient cause is shown. But CIT(A) may dismiss mechanically if explanation appears casual.

***Condonation petition is not formality.** It must be drafted with seriousness equal to main appeal.

•Remember — if appeal is dismissed on limitation, merits are never examined.

*** Procedural discipline begins with timely filing.**

25. WRITTEN SUBMISSIONS BEFORE CIT(A)

In faceless appeals, **structure replaces persuasion.**

-Written submission should be drafted in **organized manner:**

-**First**, background facts — date of return, scrutiny, additions made.


-**Second**, deal with grounds on jurisdictional lapses- it may lead to quashing of assessment

-**Third**, identify procedural violations — was 144B followed? Was show-cause meaningful? Was reply considered?

- **Fourth**, address each addition separately.

25. WRITTEN SUBMISSIONS BEFORE CIT(A)

-For each issue:

- Reproduce AO's finding
 - Explain factual rebuttal
 - Point out documentary evidence
 - Explain legal position
 - Cite relevant case laws
- 

26. How to deal with adverse inferences?

Often AO writes:

“The assessee failed to discharge burden.”

“The explanation is not satisfactory.”

“Transactions appear doubtful.”

“Human probability suggests otherwise.”

-Dismantle each adverse inference systematically.

- If AO says burden not discharged, demonstrate how identity, creditworthiness and genuineness were established.

- If AO relies on suspicion, emphasize documentary trail.

- If AO ignores documents, highlight that omission.

- Never ignore adverse inference. Address it directly.

- DISTINGUISHING CASE LAWS RELIED UPON BY AO

This is extremely important and often neglected.

- If AO relies on Supreme Court or High Court decisions, do not ignore them- distinguish the

- **For example**

-If AO relies on human probability doctrine case, show factual difference.

-If AO relies on accommodation entry judgment, show that facts in your

case are different — no cash trail, no layering, no investigation report.

-Distinguishing is stronger than counter-citing.

- Never merely dump case laws. Relevance matters more than volume.

27. RULE 46A – ADDITIONAL EVIDENCE

Rule 46A permits filing of additional evidence in **limited circumstances**.

-Many appeals fail because we upload new documents **without Rule 46A application**.

-If **additional evidence is needed**:

-File formal Rule 46A petition.

- Explain why evidence was not filed earlier.

- Establish sufficient cause.

- Show that evidence is crucial for justice.

27. RULE 46A – ADDITIONAL EVIDENCE

-For example:

- Short time given at assessment stage.
- Portal technical issues.
- Evidence newly discovered.
- Accountant was on leave/resigned.
- Loan creditors/parties were not co-operating

Imp. Note: If additional evidence is admitted, CIT(A) may call for remand report from AO. Prepare for remand rebuttal carefully.

28. HANDLING ENHANCEMENT

-Under Section 251, Commissioner (Appeals) has **widempower to enhance assessment.**

- **Enhancement may cover:**

New addition on same issue

Disallowance of different expenditure

Recharacterization of income

- Always **analyze file** for possible enhancement risk.

- **If enhancement notice** is issued:

-Study it carefully.

-Seek detailed basis.

- Respond comprehensively.

- Enhancement without notice is illegal. But if notice is issued and poorly responded to, exposure increases.

- Never ignore enhancement communication.


29. IN WEAK CASES AT APPEAL

There will be cases where merits are not strong.

In such cases:

- Shift emphasis to procedural lapses.
- Violation of 144B.
- Improper reopening.
- Denial of cross-examination.
- Non-speaking order.
- Addition beyond show-cause.
- Jurisdictional/Procedural defects often succeed where factual defence fails.
- Seek partial relief if full deletion unlikely. For example:
 - Reduce quantum.
 - Seek telescoping.
 - Argue peak theory.
 - Argue estimation rather than full addition.

30. PRACTICAL PRECAUTIONS FOR PRACTITIONERS

- Never admit casually in writing. Written admissions bind.
 - Never over-explain. Over-explanation may create contradictions.
 - Never volunteer unrelated documents.
 - Maintain consistency with earlier submissions.
 - Record objections politely but clearly.
- 

31. STRATEGIC PRINCIPLES UNDER FACELESS REGIME

Let us now summarize the philosophy of faceless appellate practice.

-Written advocacy replaces oral persuasion.

-Procedure becomes litigation tool.

-Limitation becomes strategic factor.

-Show-cause stage determines scope.

-Jurisdiction becomes protective shield.

-Documentation becomes credibility.

-In faceless regime, drafting quality determines outcome.

Earlier, personality could influence proceedings. Today, precision influences outcome.

32. Final Closing Observation for webinar

- Assessment is fact battle.
- Reassessment is jurisdiction battle.
- Appeal is structured legal battle.
- In appeal stage, victory often belongs not to the loudest argument
— but to the most structured and disciplined one.
- Delay can destroy merits.
- Casual drafting can weaken strong cases.
- Procedural vigilance can rescue weak cases.
- Master limitation.
- Master drafting.
- Master jurisdiction.
- And you master faceless litigation.

33. CONCLUSION

As we conclude this webinar on Faceless Assessment and Faceless Appeals, let us step back and understand the larger transformation that has taken place in tax administration.

-The faceless regime is not merely a change in medium — it is a change in mindset.

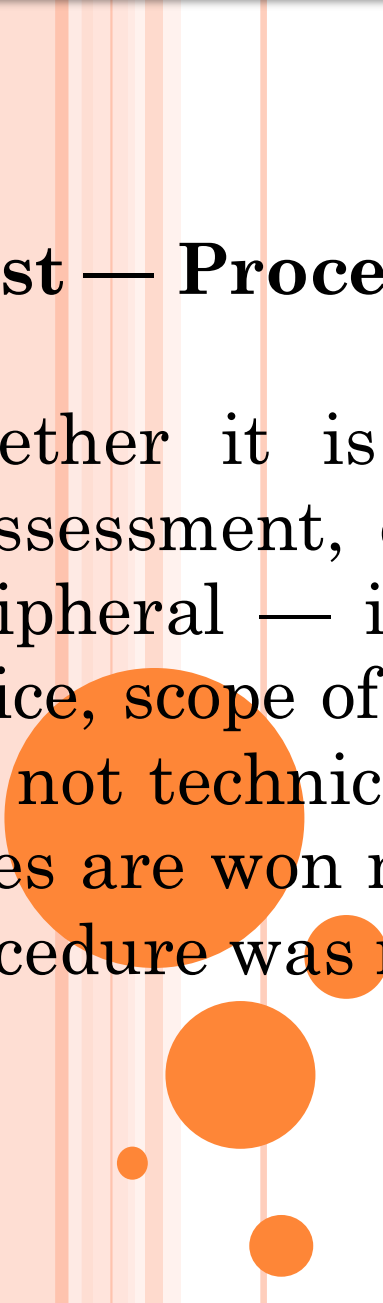
-Earlier, assessment proceedings were personality-driven. Advocacy often relied upon personal interaction, persuasion across the table, and iterative clarification. Today, that era has ended. -- We are in a documentation-driven, sequence-driven, jurisdiction-sensitive regime where every step is recorded electronically and every omission is visible on record.

- Faceless proceedings demand three core competencies from a practitioner:

33. CONCLUSION

First — Procedural Awareness.

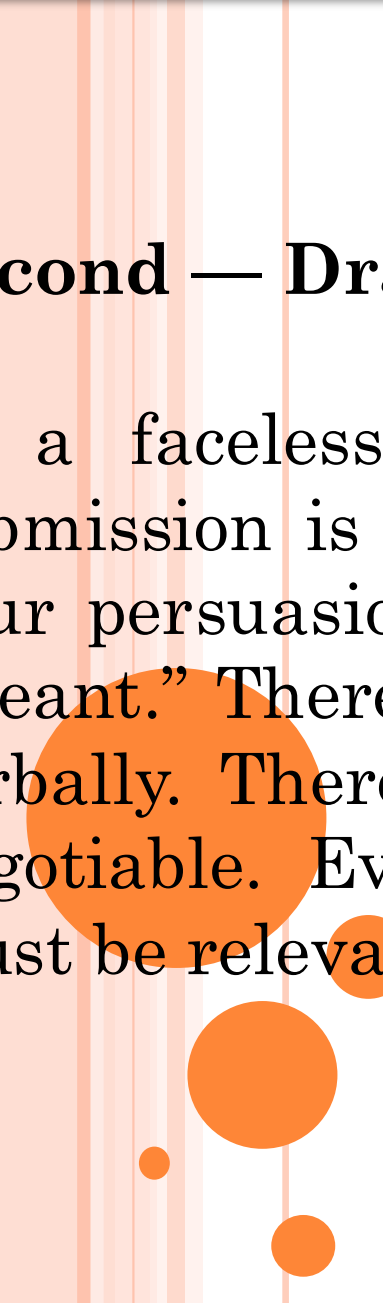
Whether it is Section 144B in scrutiny, Section 148A in reassessment, or Rule 46A in appeal, procedure is no longer peripheral — it is central. Jurisdiction, limitation, service of notice, scope of show-cause, compliance with sequence — these are not technical defenses; they are substantive shields. Many cases are won not because facts are extraordinary, but because procedure was not followed.



33. CONCLUSION

Second — Drafting Discipline.

In a faceless regime, drafting is advocacy. Your written submission is your argument, your tone, your emphasis, and your persuasion. There is no opportunity to clarify what you “meant.” There is no chance to correct an imprecise statement verbally. Therefore, clarity, structure, and precision are non-negotiable. Every line must have purpose. Every annexure must be relevant. Every objection must be recorded.



33. CONCLUSION

Third — Strategic Calmness.

Faceless proceedings can feel impersonal and rigid. Notices may appear aggressive. Timelines may appear short. But reaction must never be emotional. Strategy must be layered. In weak cases, control disclosure. In reassessment, focus on jurisdiction. In appeal, build structured arguments. Patience often achieves more than panic.

Let us also remember the three battles we discussed:

Assessment is primarily a **fact battle**.
Reassessment is fundamentally a **jurisdiction battle**.
Appeal is ultimately a **structured legal battle**.

If you understand which battle you are fighting, you will choose the correct weapon.

THANK YOU

Namaskar!!!

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