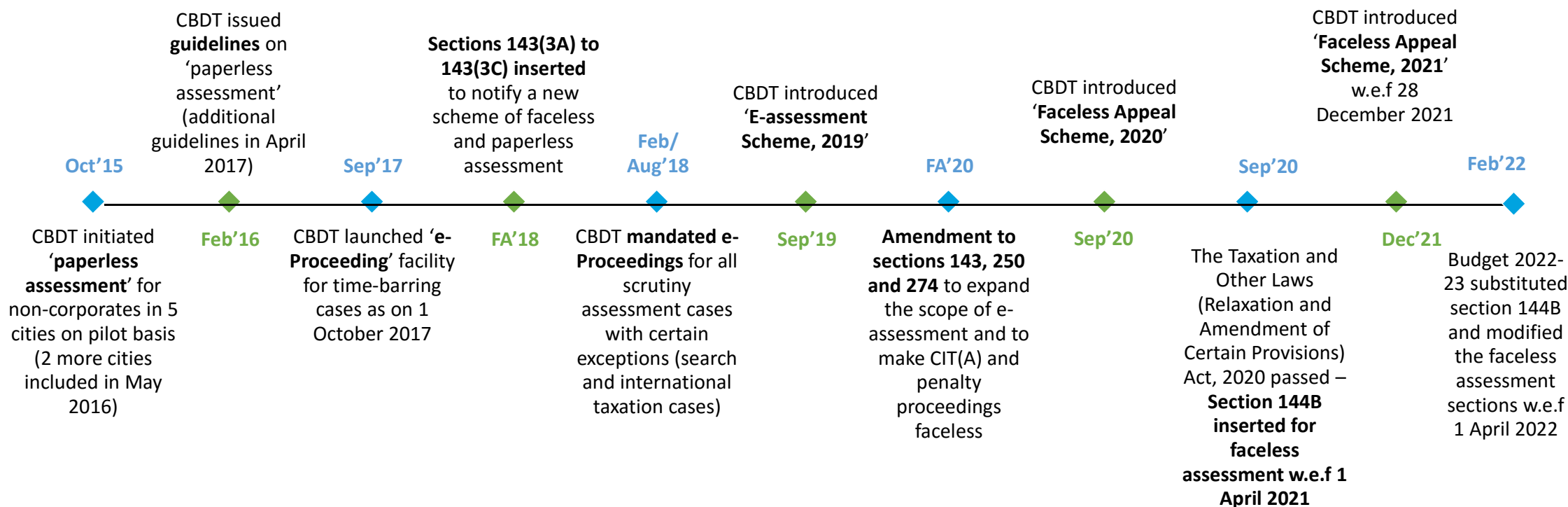


# Faceless Assessment and Appeals

# Introduction



## Section 144B – As proposed by Budget 2022-23 (1/2)

**Objective:** To impart greater efficiency, transparency and accountability in assessment proceedings by eliminating interface between tax officer and taxpayer and by introducing a team-based assessment with dynamic jurisdiction

**Scope:** All scrutiny assessments under section 143(3), best judgement assessments under section 144, and re-assessments under section 147

**Scope exclusion:** Cases assigned to 'Central Charges' and '[International Tax Charges](#)'

**Manner:** All communication to be mandatorily carried out in electronic mode through National Faceless Assessment Centre (NFAC). However, under certain circumstances (not specified yet), Verification Unit (VU) allowed to conduct enquiry/ verification physically

**Penalty and appellate proceedings:** NFAC may initiate penalty proceedings on recommendation from any unit in case of non-compliance of any notice, direction or order by the taxpayer. Taxpayer can file an appeal before the jurisdictional CIT(A) against the assessment and penalty order issued

**Transfer to jurisdictional AO:** PrCCIT (NFAC)/ PDGIT (NFAC) may transfer the case to jurisdictional AO, at any stage of assessment, with CBDT's approval

## Section 144B – As proposed by Budget 2022-23 (2/2)

**Personal hearing:** If variation is proposed in the income or loss determination proposal an an opportunity is provided by way of a show cause, taxpayer may request for personal hearing. The income tax authority of the relevant unit shall allow such personal hearing through video conferencing or vide telephony

**Power to specify format, mode, procedure and processes:** PCCIT (NFAC)/ PDGIT (NFAC) to lay down standards, procedures and processes with CBDT's approval

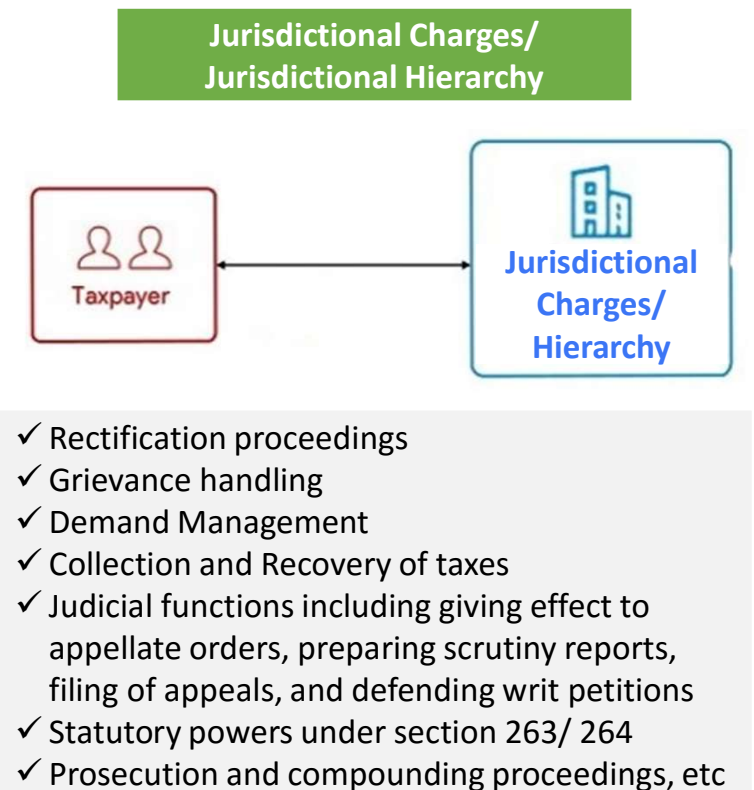
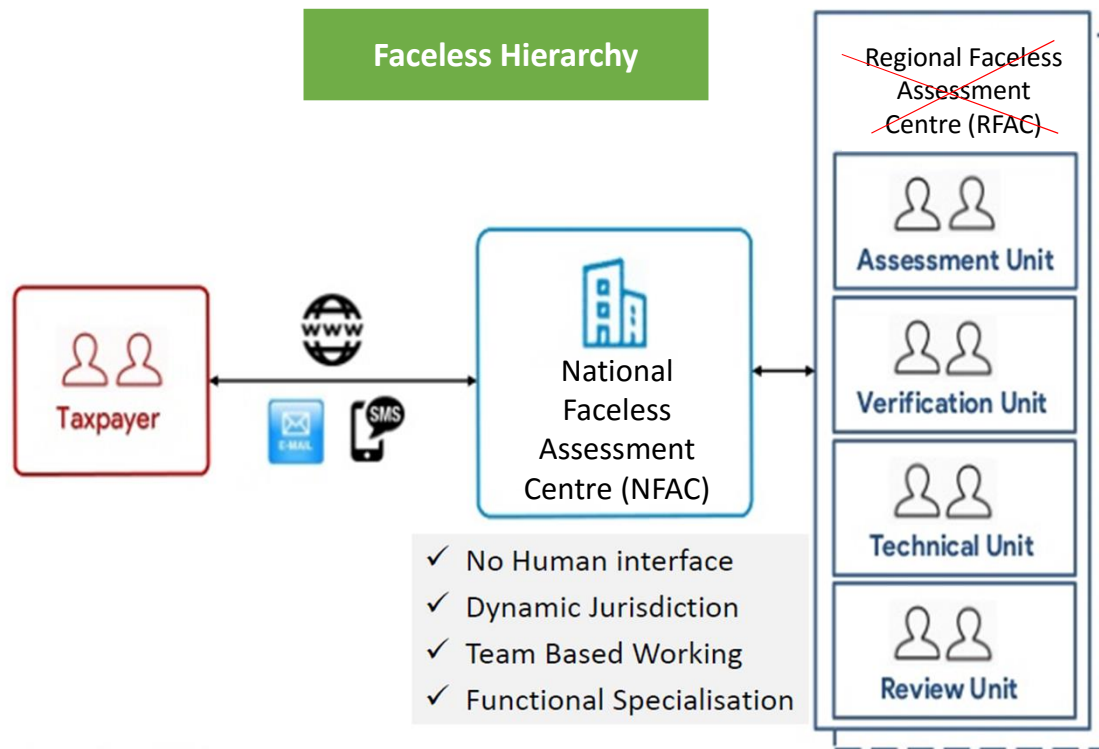
**Transfer to TPO:** Section 92CA amended (w.e.f. 1 November 2020) by Amendment Act, 2020 to notify a scheme of faceless and paperless determination of ALP (not notified yet). Time limit extended till 31 March 2024

**Proceedings before DRP:** Section 144C amended (w.e.f. 1 November 2020) by Amendment Act, 2020 to notify a scheme of faceless and paperless proceedings before DRP (not notified yet). Time limit extended till 31 March 2024

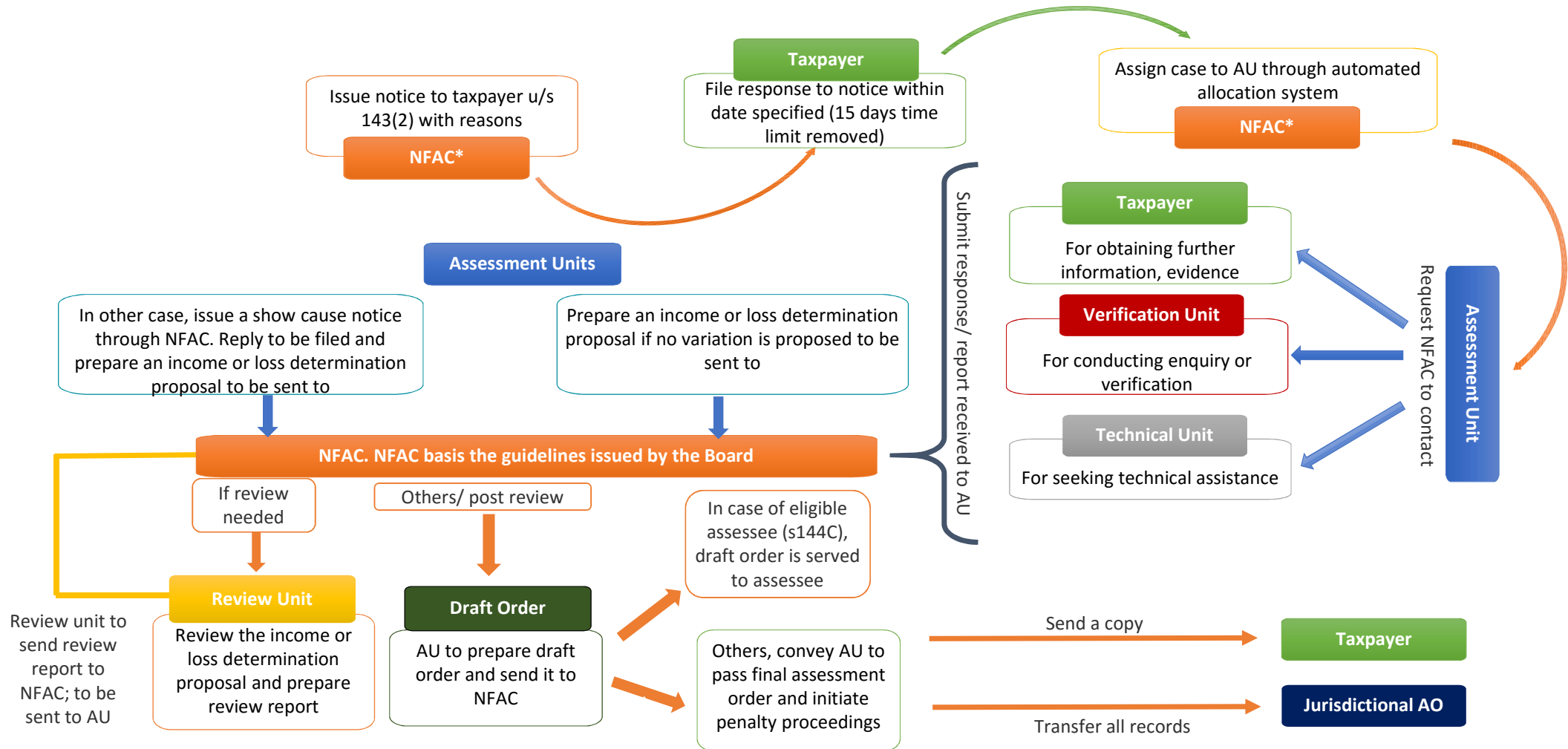
**Authentication of electronic record:** NFAC – by way of an electronic communication  
Assessment unit, Technical Unit, Verification Unit – using DSC  
Taxpayer - using DSC/ electronic verification code/ logging into registered a/c

Regional Faceless Assessment Centre removed and requirement to issue draft assessment order in all the cases removed (Draft assessment order to be issued where assessee can file objections before the DRP)

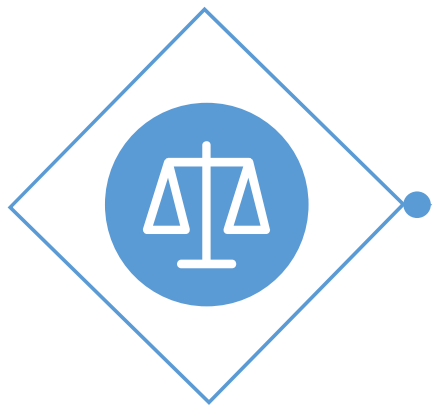
## Section 144B – As proposed by Budget 2022-23



# Faceless Assessment – Procedural flow



*\*If taxpayer fails to comply with notices, NFAC may issue show-cause notice to taxpayer and direct AU to make assessment as per section 144*



# Faceless Appeal Scheme

## Faceless Appeal Scheme, 2021: Key Features (1/2)

**Objective:** To impart greater efficiency, transparency and accountability in disposal of appeal by CIT(A), by eliminating interface between CIT(A) and taxpayer and by introducing an appellate system with dynamic jurisdiction

**Scope:** All appeals pending before CIT(A)

**Scope exclusion:** Appeals relating to serious frauds, major tax evasion, sensitive and search matters, international tax, and Black Money Act (as per press release by CBDT)

**Manner:** All communication to be mandatorily carried out in electronic mode through NFAPC

**Penalty and appellate proceedings:** NFAPC may initiate penalty proceedings in case of non-compliance of any notice, direction or order by the taxpayer. Taxpayer can file an appeal before the jurisdictional ITAT against the order passed by NFAPC

**Rectification proceedings:** NFAPC may amend any order passed by it to rectify any mistake apparent from record: (a) on its own accord, or (b) on application filed by the taxpayer/ AUs/ NFAC/ AO



## Faceless Appeal Scheme, 2021: Key Features (2/2)

**Personal hearing:** Taxpayer may request for personal hearing. CIT(A) of the NFAPC shall allow the request for personal hearing through video conferencing or video telephony

**Power to specify format, mode, procedure and processes:** PCCIT (NFAPC)/ PDGIT (NFAPC) to lay down standards, procedures and processes with CBDT's approval

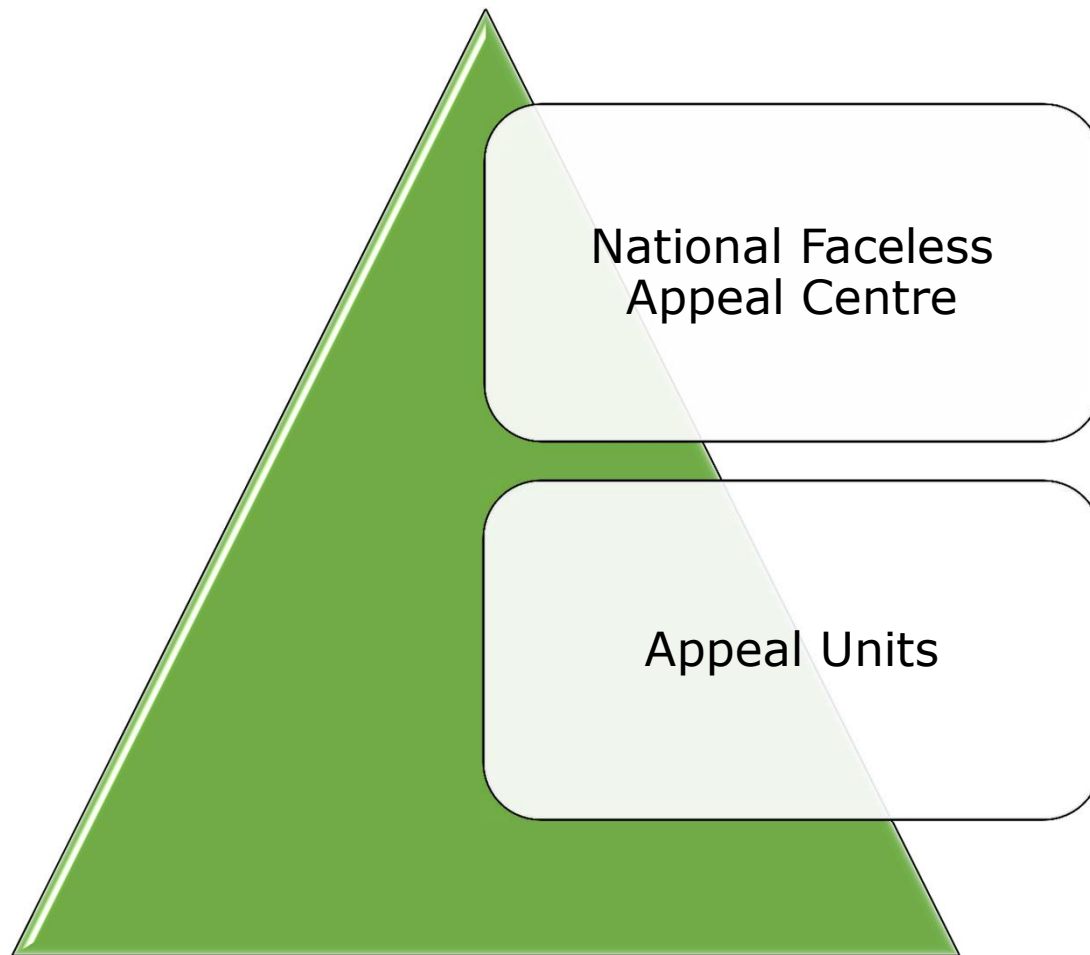
**Authentication of electronic record:** NFAPC – using DSC  
Taxpayer - using DSC or under electronic verification code or by logging into registered account

**Admission of appeal:** CIT(A) may admit the appeal filed after expiry of specified time limit if it is satisfied that taxpayer had sufficient cause for not filing the appeal within the time limit

**Admission of additional grounds:** Taxpayer may file additional grounds. NFAPC to send such grounds to AO directly or through NFAC for comments. CIT(A) may admit such grounds if it is satisfied that omission of such ground was not willful or unreasonable and intimate the taxpayer through NFAPC

**Admission of additional evidence:** NFAPC to send evidence to AO directly or through NFAC for furnishing a report to CIT(A) through NFAPC. CIT(A) may admit such evidence for reasons to be recorded in writing and intimate taxpayer through NFAPC. If admitted, CIT(A) to provide an opportunity to NFAC/ AO to examine the evidence and furnish a report

## Faceless Appeal Scheme, 2021: Eco-system

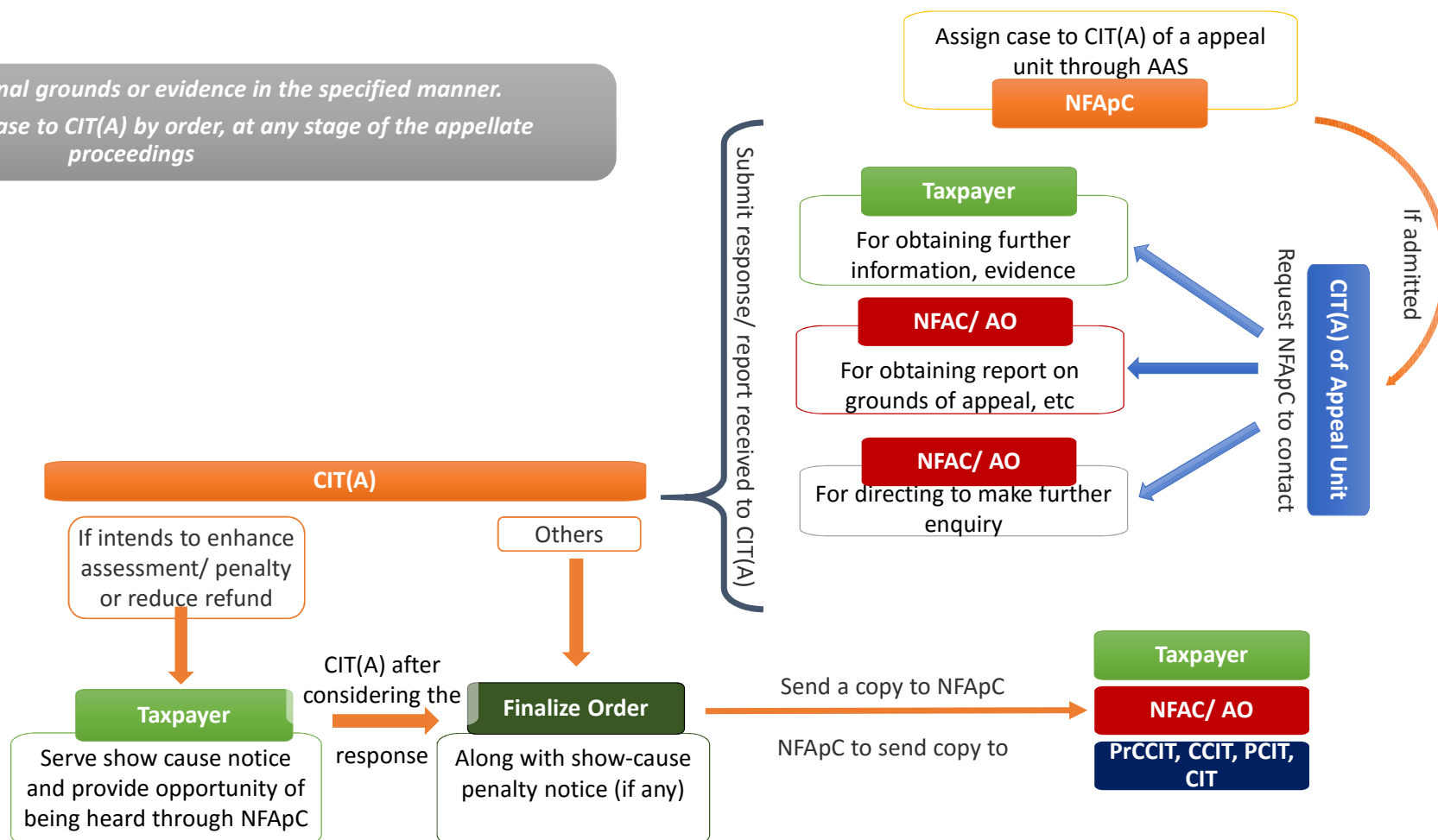


- To facilitate conduct of e-appeal proceedings in a centralized manner
- To act as an interface between the taxpayer, jurisdictional AO, NFAC, and AUs

- To perform the function of disposing appeal (includes admitting additional grounds, making further inquiry, directing NFAC/ AO for making further inquiry, seeking information/ clarification, providing opportunity of being heard, etc)

# Faceless Appeal Scheme, 2021: Procedural flow

*AU may admit additional grounds or evidence in the specified manner.  
NFApC may transfer the case to CIT(A) by order, at any stage of the appellate proceedings*



## Faceless Assessment: Making headlines!!

# THE ECONOMIC TIMES | News

English Edition | 15 February, 2022, 01:57 PM IST | E-Paper

## CBDT orders restructuring of I-T dept; Aims to weed out anomalies in faceless regime

### Synopsis

The Central Board of Direct Taxes (CBDT) has constituted a task force to restructure the entire Income-tax department. The panel, which comprises 10 senior officials of the department, will reassess the role and functions of the department and weed out the anomalies in the new faceless regime meant to cut down physical interface between a taxpayer and the department.



The Central Board of Direct Taxes ([CBDT](#)) has constituted a task force to restructure the entire Income-tax department.

The panel, which comprises 10 senior officials of the department, will reassess the role and functions of the department and weed out the anomalies in the new faceless regime meant to cut down physical interface between a taxpayer and the department.

A copy accessed by the ET showed that the CBDT had given the panel a seven-point agenda, including restructuring the department and rationalizing the national and regional e-assessment centres -

Activate Windows  
Go to Settings to activate Windows

# Faceless Assessment: Making headlines!!

**mint**

## Facing problems with faceless assessment? I-T Dept issues 3 email IDs for registering grievances



Income Tax Department has created the email IDs to record grievances in pending cases under faceless assessment.

1 min read . Updated: 07 Aug 2021, 11:38 PM IST

Livemint, Edited By Vivek Punj

Grievances related to the faceless assessment process, penalties and appeals can be furnished under three separate email IDs created for the purpose, informed the Income Tax Department

**mint**

## Plenty of issues hinder faceless tax assessment



istockphoto

3 min read . Updated: 21 Apr 2021, 06:36 AM IST

Gautam Nayak

Many did not receive draft assessment orders as contemplated by the scheme



# Faceless Assessment: Making headlines!!

## India's first year of 'faceless' tax assessments runs into legal issues

🕒 August 3, 2021 📁 Asia-Pacific, Australia, Digital Economy, Europe, Featured News, India, Multinational, OECD, United Kingdom

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By *Suranjali Tandon*, National Institute of Public Finance and Policy, New Delhi, India

Several court decisions issued in June and July highlight implementation issues with India's new "faceless" – i.e., digital – tax assessment scheme, which was intended to be a more taxpayer friendly assessment regime. The litigation and taxpayer experiences with the new scheme suggest some areas for improvement.

## Web Exclusive Faceless assessment: Taxpayers seek redress from courts over thorny issues

Experts say that the system is a mixed bag of experiences for the taxpayer, but agree that it largely circumvents the principle of natural justice

### Topics

Income tax | Income Tax Act | Income tax assessment

Indivjal Dhasmana | New Delhi

Last Updated at November 24, 2021 15:37 IST

# Issues in Faceless Assessment

# Main issues in Faceless Assessment (1/7)

## Violation of “Principle of Natural Justice”

- In several instances, taxpayers have complained that the assessment order was passed without considering the request for an adjournment or without considering the submission filed or giving very short deadline to respond to the notices
- Assessment orders have been issued within 2-3 days of issuance of show-cause notices thereby not giving enough opportunity and time of being heard to the taxpayer.
- In some cases, assessment order has been finalized making addition without issuing show-cause notice or the draft assessment order (required as per the existing scheme) or before the time limit to respond to the show cause notice.
- Many writ petitions have been filed before the High Courts and High Courts have stayed the demand and allowed the taxpayer to make the submission. In many cases, the High Courts have even ruled that the assessment has been concluded contrary to the “principle of natural justice” and hence the order was quashed, set aside or stayed.
- **Floral Realcon Pvt. Ltd. vs National Faceless Assessment Centre (2021) 283 TAXMAN 0488 (Delhi):** Assessment order set aside and matter remanded back to tax officer as mandatory show cause notice and draft assessment order not issued
- **Shreeji Investment & Advisory Services vs. National Faceless Assessment Centre & ors (2021) 112 CCH 88 (Mum HC):** Assessment order quashed, cancelled and set aside as draft assessment order was not issued
- **Blue Square Infrastructure LLP (2021) 321 CTR 0102 (Del):** Assessment order passed before end of show cause time limit is bad in law and thus set aside to the tax officer to proceed from the stage of show cause notice-cum-draft assessment order



## Main issues in Faceless Assessment (2/7)

### Violation of “Principle of Natural Justice”

- **Berry Developers and Infrastructure Pvt. Ltd. Vs. National e-assessment Centre (2021) 111 CCH 201 (DelHC):** Principles of natural justice violated as petitioner was not given adequate and meaningful opportunity to respond to the draft assessment order cum show cause notice and therefore the assessment order was set aside and the matter is remanded back to the tax officer
- **KBB Nuts Private Limited (W.P.(C) 5234/2021) (Delhi):** Assessment order set aside to tax officer as it was concluded without considering the taxpayers request for adjournment and response to the show cause notice
- **Raja Builders (W.P. (L) NO. 11224 OF 2021) (Bombay):** Assessment order and penalty notice stayed as they were passed without considering taxpayers detailed response to the show cause notice (SCN) and request for a personal hearing

## Main issues in Faceless Assessment (3/7)

### Lack of opportunity of being heard

- Faceless assessment eliminates human intervention and places substantial emphasis on written submissions
- Many a times, written submission is not perceived in the intended manner, thereby resulting in ambiguity, lack of clarify and finally addition
- Thus, personal interaction is imperative to explain the facts, issues and supporting documentation so that the assessing officer gets a complete and correct perspective of the issue to enable a fair adjudication of the matter
- **Assessment orders have been passed by the NFAC without granting an opportunity of being heard, making substantial addition and thereby violating principles of natural justice**
- **Budget 2022 has made it mandatory to grant personal hearing through video conferencing or video telephony if requested by taxpayer – a much needed and welcomed change**

## **Main issues in Faceless Assessment (4/7)**

### **Arbitrary Allotment of Cases**

- Delegation of cases by NFAC to AU is done arbitrarily through an automated system and is not based on experience or expertise of a particular Faceless Assessing Officer
- Complex cases gets assigned to a relatively less experienced officer or vice-versa resulting in inappropriate disposal of the case as the Faceless Assessing Officer will not be able to appreciate the facts due to lack of requisite experience and knowledge to assess the case thereby resulting in litigation

# Main issues in Faceless Assessment (5/7)

## Technical Challenges

- The information sought in notices are very bulky and voluminous
- **Due to restriction in uploading the documents beyond a particular size in one submission (individually 5MB attachment and aggregate 50MB attachments allowed), significant time is wasted in scanning and reducing the size of the documents to upload them**
- Numerous attachments have to be uploaded to ensure compliance requiring steady and stable internet connection
- Many a times, technical glitches are experienced and the e-filing portal throws the user back to login page at the time of uploading
- The Faceless Assessing Officer also sometimes face challenges in downloading the bulky data and perusing it over computer screen due to lack of resources/ non-availability of hard copy documents

# Main issues in Faceless Assessment (6/7)

## Challenges in Taxpayer's Database

- Faceless assessment focuses on removing human intervention. Thus, it is very important that the Email ID/ mobile number of the taxpayer is updated in the database as it is the only mode of communication
- In some cases, the Email IDs of taxpayers were not updated due to change in the concerned person or the Authorised Representative's (AR'S) resulting in non-submission or delays in submitting the information sought

## **Main issues in Faceless Assessment (7/7)**

### **Crunched time limits**

- Time limit given to comply with the notice is very short and therefore makes it difficult for taxpayer to comply
- Paucity of time prevents taxpayer from making detailed submission and therefore justice is not served as arbitrary additions are made



# THANK YOU

## Contact us

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