

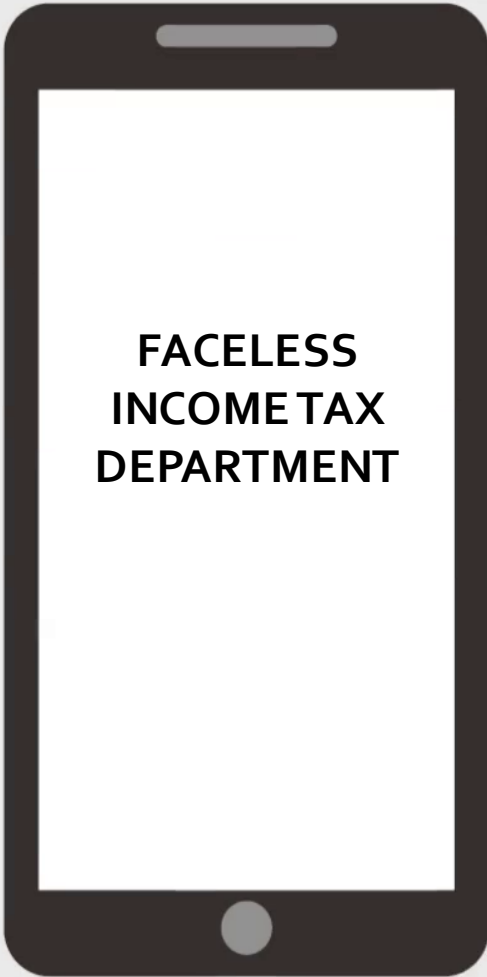
**ALL INDIA FEDERATION OF TAX PRACTITIONERS
NORTH ZONE**

&

THE UTTAR PRADESH TAX BAR ASSOCIATION

TOPIC : FACELESS SCRUTINY AND APPEALS

PRESENTATION BY - CA. RAJESH MEHTA



**FACELESS
INCOME TAX
DEPARTMENT**

BACKGROUND

- **E-Assessment Scheme introduced in September, 2019 in the Income Tax Act, 1961 ('the Act') [Notification No. 61/2019 and 62/2019 dated 12.09.2019 under Section 143(3A) and Section 143(3B)]**
- **In Budget 2020, Amendments proposed in Section 250 of the Act to enable the Faceless Commissioner (Appeals)**
- **On 13th August, 2020, Hon'ble Prime Minister announced Faceless Appeals w.e.f 25th September, 2020**

BACKGROUND

- Hon'ble Prime Minister launched platform for 'Transparent Taxation'
- 'E-assessment Scheme' substituted by 'Faceless Assessment Scheme'
- Faceless Assessment Scheme notified on **13th August, 2020**. [Notification No. 60/2020 and Notification No. 61/2020]
- Faceless Assessment Scheme also introduced in **Customs** for import of goods.

SALIENT FEATURES

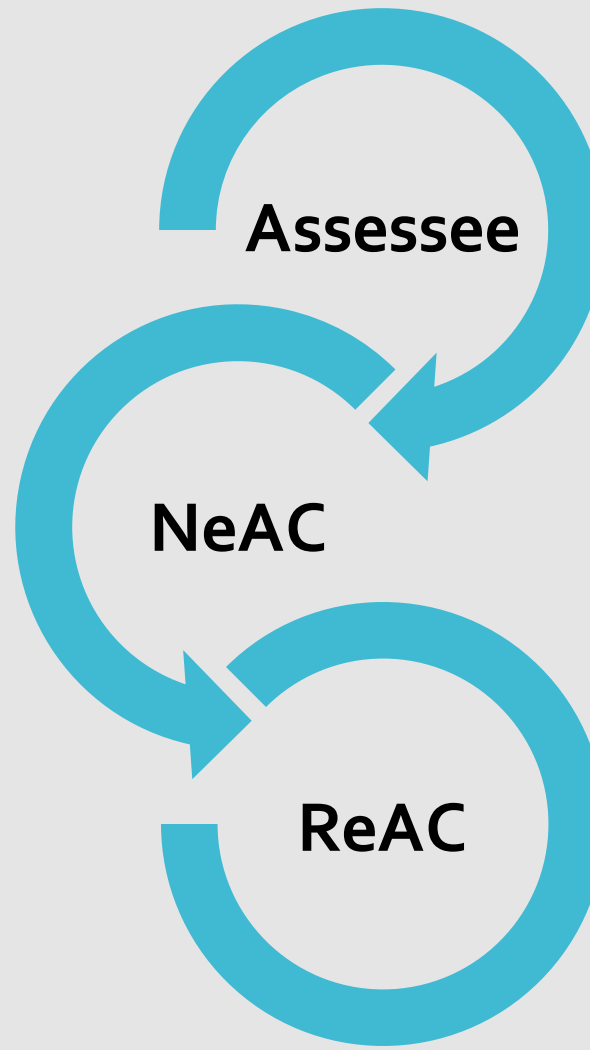
- Assessments to be undertaken without any personal interface between the assessee and the Income Tax Authority
- Single point of contact between the Department and the Assessee through **National E-Assessment Centre.**
- **Dynamic Jurisdiction – abolition of territorial jurisdiction**
- **Selection of cases through Data Analysis and use of Artificial Intelligence**
- Assessments to be done by Assessment Unit and not an Assessing Officer

EXCLUSIONS

- **Serious frauds**
- **Major Tax Evasion**
- **Sensitive and Search matters**
- **Cases under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.**
- **Cases under Prohibition of Benami Property Transactions Act, 1988**
- **International Taxation**

Note : The above exclusions have not been formally notified.

INTERACTION UNDER FACELESS ASSESSMENT SCHEME



Taxpayer to be contacted only through the NeAC and not the Regional E-Assessment Centre (ReAC)

PILLARS OF FACELESS SCHEME

- Assessment Unit : To conduct the assessment proceedings
- Review Unit : To Review the draft assessment orders prepared by the Assessment Unit
- Verification Unit : For verification of information as requested by the NeAC (upon request of the Assessment Unit)

PILLARS OF FACELESS SCHEME – NeAC

National E-Assessment Centre (NeAC) :

NeAC to facilitate the conduct of e-assessment proceedings **(faceless)** in a centralised manner, which shall be vested with the jurisdiction to make assessment in accordance with the provisions of the Scheme.

PILLARS OF FACELESS SCHEME – ReAC

Regional E-Assessment Centres (ReAC) :

REAC's as it may deem necessary to facilitate the conduct of e-assessment **(faceless)** proceedings in the cadre controlling region of a **Principal Chief Commissioner**, which shall be **vested with the jurisdiction** to make assessment in accordance with the provisions of the Scheme.

PILLARS OF FACELESS SCHEME – Assessment Unit

Assessment Units (AU) :

To perform the function of making assessment, which includes **identification of points or issues material for the determination of any liability** (including refund) under the Act, **seeking information or clarification** on points or issues so identified, **analysis of the material furnished** by the assessee or any other person, and such other functions as may be required for the purposes of making assessment.

PILLARS OF FACELESS SCHEME – Verification Unit

Verification Units (VU) :

To perform the function of verification, which includes **enquiry, cross verification, examination of books of accounts, examination of witnesses and recording of statements**, and such other functions as may be required for the purposes of verification

PILLARS OF FACELESS SCHEME – Technical Unit

Technical Units (TU) :

To perform the function of providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter which may be required in a particular case or a class of cases, under this Scheme

PILLARS OF FACELESS SCHEME – Review Unit

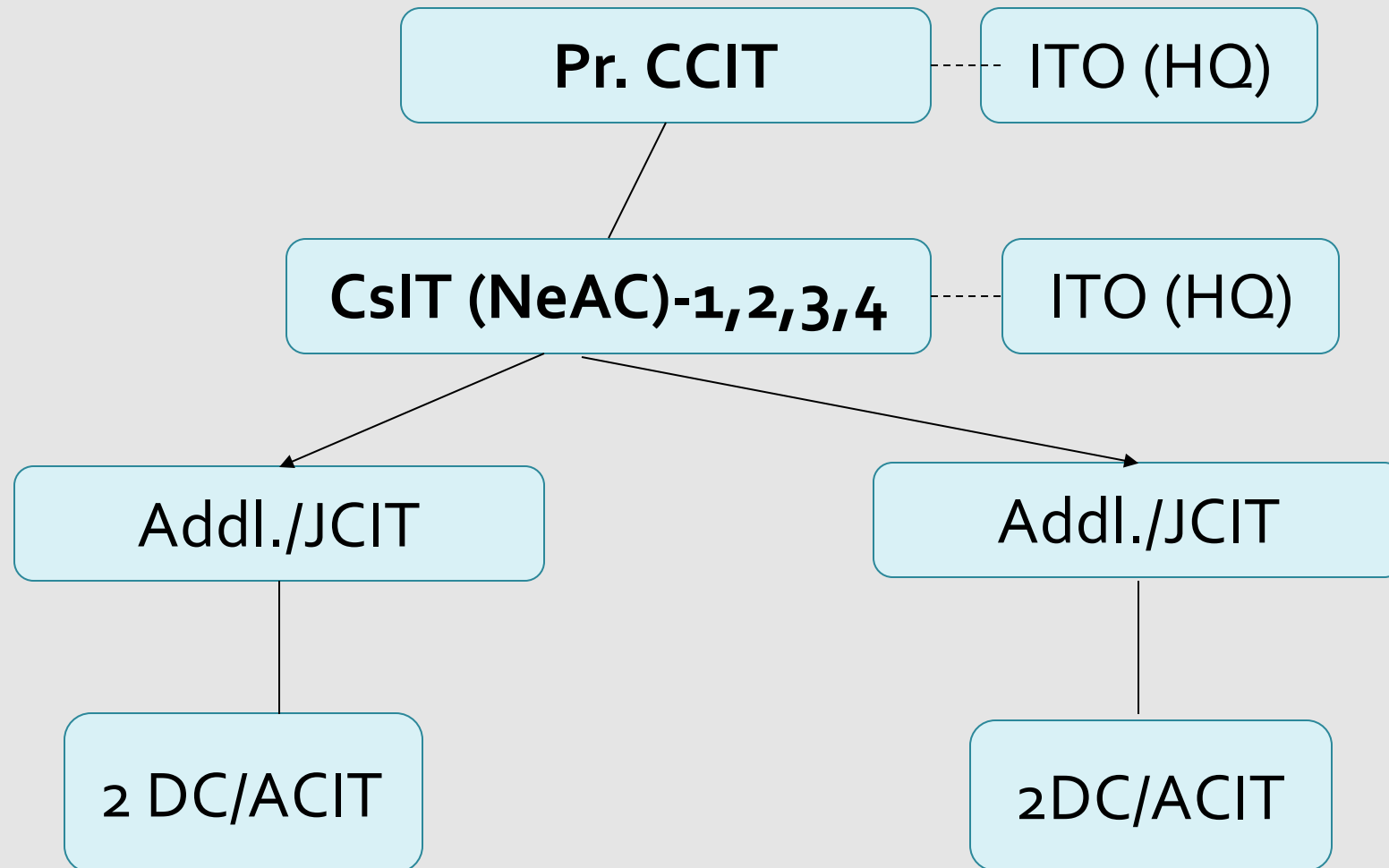
Review Units (RU) :

To perform the function of review of the draft assessment order, which includes checking whether the relevant and material evidence has been brought on record, whether the relevant points of fact and law have been duly incorporated in the draft order, whether the issues on which addition or disallowance should be made have been discussed in the draft order, whether the applicable judicial decisions have been considered and dealt with in the draft order, checking for arithmetical correctness of modifications proposed, if any, and such other functions as may be required for the purposes of review.

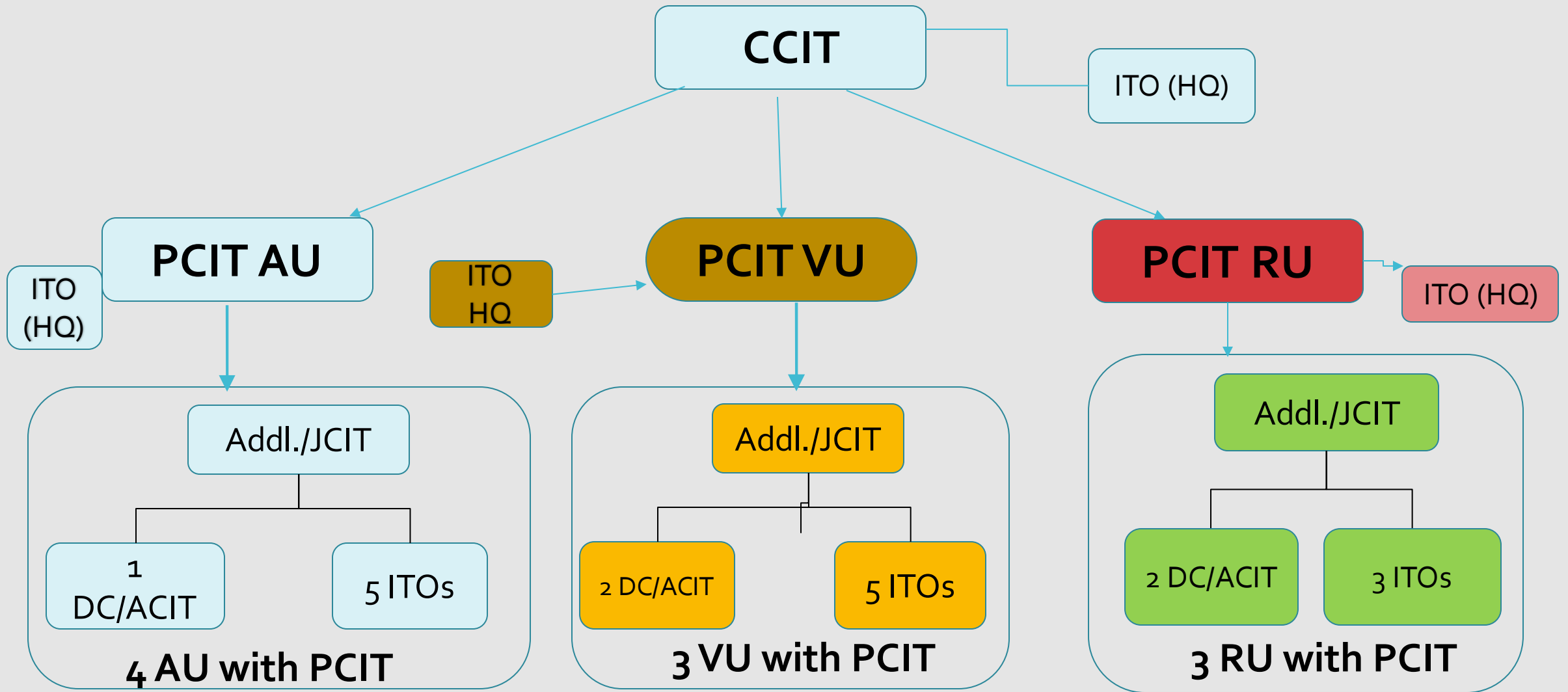
INTERACTION BETWEEN the units under the NeAC

- **The 3 units of the NeAC, namely the Assessment Unit, the Review Unit and the Verification Unit shall not directly interact with each other. They will interact via the NeAC.**
- **NeAC shall act as a single point of contact between the units as well, i.e. the units shall not interact within themselves.**
- **Internal communications shall also take place exclusively by electronic mode.**

COMPOSITION OF NeAC, DELHI



COMPOSITION OF ReAC



PROCEDURE

1. Case selection through data analytics and Artificial Intelligence



2. NeAC to issue Notice specifying issues for selection for assessment



3. Assessee to reply within 15 days

PROCEDURE

4. NeAC to assign case to Assessment unit(AU) in ReAC



5. AU may request NeAC to obtain further information, etc.



6. AU may request NeAC for verification by verification unit.

PROCEDURE

7. Assessment Unit can request NeAC for technical assistance from Technical Unit



8. Request of AU to seek help from Technical / Verification Unit shall be routed through NeAC



9. If AU requests information, NeAC to issue notice to the assessee.

PROCEDURE

10. Assessee to reply within time specified in notice or may seek adjournment



11. Reply of assessee to be shared with AU



12. If no Reply, NeAC to issue show cause notice u/s. 144

PROCEDURE

13. Assessee to reply to SCN u/s. 144.



14. Assessee's Reply / Such failure to be communicated to AU.



15. AU to proceed with best judgment assessment if no reply.

PROCEDURE

16. AU to specify details of penalty to be levied in the draft assessment order



17. Draft Assessment Order prepared by AU and send its copy to NeAC.



18. NeAC to examine the draft as per the Board's Risk Management Strategy

PROCEDURE

19(a). NeAC may finalise the draft Order, Demand Notice, SCN for penalty and issue to assessee, OR



19(b). Or, If modifications suggested – Notice to assessee why assessment should not be finalised as per Draft Assessment Order, OR



19(c). NeAC may assign draft Assessment Order to any Review Unit

PROCEDURE

20. Review Unit may concur Draft Order or suggest modification to NeAC.



21. If modifications suggested – then NeAC to assign to **OTHER ASSESSMENT UNIT**



22. Other Assessment Unit to prepare revised draft assessment Order and send to NeAC.

PROCEDURE

23. The revised Draft Assessment Order to be shared with assessee



24. Assessee to submit his reply on the Draft Assessment Order



25. Assessee's reply to shared with AU.

PROCEDURE

26. AU to prepare Assessment Order after considering the assessee's reply.



27. Thereafter, the Final Order will be served to the assessee.



28. Transfer of case record to the jurisdictional AO

REQUEST FOR PERSONAL HEARING

- No personal hearings
- However, if modification is proposed in the draft assessment order, the assessee (or Authorized representative) MAY REQUEST FOR PERSONAL HEARING.
- CCIT/DGIT to approve such request.
- Personal hearing shall be conducted exclusively through video conferencing and not be personal meeting.
- CBDT to setup video-conferencing centers, from where the Assessee or his AR can attend the video-conferencing.

Transfer of Cases to Jurisdictional AO

- Pr.CCIT or Pr.DGIT, in charge of NeAC may, at any stage of the assessment, if considered necessary, transfer the case to the Jurisdictional AO, with prior approval of the CBDT.

DIVERSION OF POSTS – to facilitate Faceless Assessments

- **The existing manpower ($2/3^{\text{rd}}$) of the Income Tax Department (ITD) to be utilised for effective management of the Faceless Scheme.**
- **Remaining ($1/3^{\text{rd}}$) manpower shall perform residuary functions, such as:**
 - **Recovery of taxes / Demand management**
 - **Rectification proceedings**
 - **Addressing grievance**
 - **Pass orders giving effect to appellate orders**
 - **Management of case records**
 - **Outreach programme**

SURVEY u/s. 133A

- Assessments where survey u/s. 133A (including cases where documents have been impounded) shall also be carried out by the NeAC under the Faceless Scheme.
- Further, w.e.f 13th August, 2020, CBDT has directed that officers posted in the Directorates of Investigation (Investigation wing) and Commissionerates of TDS only and exclusively act as 'income-tax authority' for the purposes of power of Survey u/s. 133A.
- Competent authority for approval of survey – DGIT(Inv.) for Investigation wing or Pr.CCIT/CCIT(TDS) for TDS charges.

PENALTY PROCEEDINGS

- **Any Unit (Assessment Unit / Review Unit / Verification Unit)** may recommend during the course of assessment proceedings, **for non-compliance of any notice, direction or order issued under this Scheme** send recommendation for initiation of any penalty proceedings to NeAC.
- NeAC shall issue SCN to the assessee or any other person and shall pass Penalty Order after considering the submission of the assessee and send Demand Notice.

PENALTY PROCEEDINGS

Amendment to 'Sec. 274 - Procedure' vide Finance Act, 2020

“(2A) The Central Government may **make a scheme**, by notification in the Official Gazette, **for the purposes of imposing penalty under this Chapter** so as to impart greater efficiency, transparency and accountability by -

- (a) eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible;
- (b) optimising utilisation of the resources through economies of scale and functional specialisation;
- (c) introducing a mechanism for imposing of penalty with dynamic jurisdiction in which penalty shall be imposed by one or more income-tax authorities.”

PENALTY PROCEEDINGS

- **Thus, it can be understood as under:**
 - The Assessment Unit shall specify the penalty to be levied in the Assessment Order, if any.
 - Penalty for non-compliance of Notice/Order /Direction of the NeAC shall be dealt with by the NeAC.
 - SCN for Penalty levied upon the additions made in the Assessment (u/s. 270A, 271AAC, etc.) shall be issued by the NeAC. Thereafter, the penalty proceedings shall be transferred to the Jurisdictional AO.

DELIVERY OF NOTICES

- **DIGITAL SIGNATURE:** All the Communications from the NeAC shall be **digitally signed** as per the provisions of Information technology Act, 2000.
- All the **Notices shall be delivered to the assessee:**
 - placing an authenticated copy thereof in the assessee's registered account, or
 - sending an authenticated copy thereof to the registered email address of the assessee or his authorised representative, or
 - uploading an authenticated copy on the assessee's Mobile App, **and**
- Followed by a **real time alert (SMS/E-mail)**
- **Notices without Document Identification Number (DIN) invalid.**

OTHER RELEVANT POINTS

- Applicability of RTI Act, 2005 on the Faceless proceedings.
- Reference to Divisional Valuation Officer
- Manner of dealing **Set aside Cases** - Faceless
- Pre-filled ITR's and information from Annual Information Statement, Statement of Financial Transactions.
- Physical verification of existence of taxpayer
- Details to be matched with GST Returns
- PAN Quoting rules u/s. 139A(5) r.w.r 114B
- TDS liability determination u/s. 201 – not covered in Faceless Scheme.

FACELESS APPEALS

- All the Appeals before the Commissioner of Income Tax (Appeals) shall be carried out in faceless manner w.e.f **25th September, 2020**.
- As the assessments as well as the CIT(Appeals) shall be done in faceless manner completely electronically, all the data submitted during the course of assessment proceedings should be accessible by the **TEAM OF COMMISSIONER (APPEALS)** acting under the Faceless Scheme.
- Additional evidence shall be required to be submitted during
- Scheme for faceless appeals yet to be introduced.

FACELESS APPEALS

Amendment to 'Sec. 250 – Procedure in appeal' vide Finance Act, 2020

“(6B) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of disposal of appeal by Commissioner (Appeals), so as to impart greater efficiency, transparency and accountability by -

- (a) **eliminating the interface between the Commissioner (Appeals) and the appellant** in the course of appellate proceedings to the extent technologically feasible;
- (b) optimising utilisation of the resources through economies of scale and functional specialisation;
- (c) introducing an appellate system with **dynamic jurisdiction** in which appeal shall be disposed of by one or more Commissioner (Appeals).”

THANK YOU !

CA. RAJESH MEHTA

INDORE

Mob: 98270-36956

Email : rajeshmehta_indore@yahoo.com