



# Karol Bagh Westend CPE Study Circle of NIRC of ICAI



## DISCUSSION ON E-ASSESSMENT SCHEME, 2019

13-11-2019



Presented by

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# AGENDA FOR TODAY

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- Timeline
- Amendments under section 143 of the Income Tax Act, 1961
- E-assessment Scheme
  - Important Definitions
  - E-assessment Centers
  - Procedure
  - Transfer of case back to AO
  - Miscellaneous Provisions
  - Delivery of electronic records
- Circular No. 27/2019

# Timeline of e-assessment

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## 2015

- Rule 127(2)(b) inserted which provided service of notice, summons, requisition, order and other communication electronically

## 2016

- Finance Act 2016
  - Inserted section 2(23C) to provide that "hearing" includes communication of data and documents through electronic mode
  - Section 282A(1) amended to allow electronic issue of notices and other documents.
  - Section 143(2) amended to allow service of notice by prescribed Income Tax Authority.

# Timeline of e-assessment

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## 2016

- **NOTIFICATION NO.2/2016 DATED 3-2-2016 (for e-assessment on pilot basis)**
  - Provided the procedure, formats and standards for ensuring secured transmission of electronic communication is specified as under.

## 2018

- **Finance Act 2018**
  - Insertion of sub-section **3A, 3B and 3C under section 143**
- **INSTRUCTION NO.1/2018 DATED 12-2-2018**
  - E-assessment scheme framed (but assessment was carried out by jurisdictional AO)

# Timeline of e-assessment

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## 2019

- **E-ASSESSMENT SCHEME, 2019** notified vide notification dated 12-09-2019.
- **Assistant Commissioner of Income-tax (e-Verification), Delhi** designated as **prescribed Income-tax Authority** for the purpose of Section 143(2) read with rule 12E

# Amendments under section 143

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## Section 143

- Sub-section 3A, 3B and 3C have been inserted
- **Sub-section 3A**
  - ❖ Granted power to Central Govt. to make a scheme for the purposes of making assessment of total income or loss under section 143(3) so as to impart greater efficiency, transparency and accountability by—
    - a) **eliminating the interface** between AO and assessee
    - b) optimizing utilization of the resources through economies of scale and functional specialization;
    - c) introducing a **team-based assessment with dynamic jurisdiction.**

# Amendments under section 143

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## Section 143(2)

### ➤ Sub-section 3B

- ❖ For the purpose of the scheme Granted Central Government power to direct that any of the **provisions of this Act shall not apply or shall apply with such exceptions, modifications** and adaptations as may be specified in the notification:
- ❖ No direction shall be issued after the March 31, 2020.

### ➤ Sub-section 3C

- ❖ Laying of scheme before the Parliament



**E-Assessment Scheme 2019**



# Applicability

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Date from which it is applicable : September 12, 2019

Scope of Applicability : Such territorial area, or class of persons, or class of incomes, or class of cases, specified by the CBDT



# Important Definitions

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## Registered e-mail address

- Defined u/s 2(1)(xxii) of the Scheme
- means the e-mail address at which an electronic communication may be delivered or transmitted to the addressee, including-
  - a) the email address available in the electronic filing account of the addressee registered in designated portal; or
  - b) the e-mail address available in the last income-tax return or
  - c) the e-mail address available in the PAN database; or
  - d) in the case of individual who possesses the Aadhaar number, the e-mail address of addressee available in the database of UIDAI; or

# Important Definitions

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## Registered e-mail address

- Defined u/s 2(1)(xxii) of the Scheme
- means the e-mail address at which an electronic communication may be delivered or transmitted to the addressee, including-
  - e) in the case of **company**, the e-mail address of the company as available on the official website of **Ministry of Corporate Affairs**; or
  - f) any **e-mail address made available by** the addressee to the income-tax authority or any **person authorized** by such authority.

# Important Definitions

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## Registered mobile number

➤ Defined u/s 2(1)(xxiii) of the Scheme

➤ means the mobile number of

a) the assessee, or

b) his authorized representative,

appearing in the user profile of the electronic filing account registered by the assessee in designated portal

# E-assessment Centers

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## National e-assessment Centre ('NeAC')

- Will facilitate the conduct of e-assessment proceedings in a centralized manner
- Is vested with the jurisdiction to make assessment
- Has been set up at Saket, New Delhi
- Sh. K M Prasad (IRS 1984) has been appointed as Pr. CCIT of NeAC
- Sh. Ashish Abrol (IRS 1993) has been appointed as CIT of NeAC

# E-assessment Centers

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## Regional e-assessment Centre ('ReAC')

- Will facilitate the conduct of e-assessment proceedings in in the region which has been vested with the jurisdiction. Headed by Pr. CCIT.

## Assessment Unit ('AU')

- Perform the function of making assessment

## Verification Unit ('VU')

- Performs the function of verification, which includes
  - enquiry,
  - cross verification,
  - examination of books of accounts,
  - examination of witnesses and recording of statements

# E-assessment Centers

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## Technical Unit (“TU”)

- 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

## Review Unit (“RU”)

- Perform the function of **review of the draft assessment order**,
- **Example:** Checking
  - All relevant and material evidence has been brought on record
  - All fact and law have been duly incorporated
  - Whether the issues on which addition or disallowance should be made have been discussed in the draft order,
  - Applicable judicial decisions have been considered



# E-assessment Centers

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- All communication between AU or VU or TU or RU or assessee shall be through NeAC.
- Even department won't communicate amongst themselves directly.
- Notification No. 77/2019 dated 3rd October, 2019 prescribed 609 authorities in Delhi, Ahmedabad, Mumbai, Pune, Chennai, Bangalore Kolkata Hyderabad for carrying out e-assessment.
- AU, VU, TU, RU shall comprise of Additional / Joint / Deputy / Assistant Commissioner or Director / ITO

# E-assessment Procedure

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## Step 1

- NeAC to issue notice u/s 143(2) on the Assessee

## Step 2

- Assessee to reply within 15 days

## Step 3

- NeAC to assign the case selected for of e-assessment to **a specific AU** in any one **ReAC** through an **automated allocation system**

# E-assessment Procedure

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## Step 4

- AU after receipt of case, may **request NeAC** for :
  - **Requisite information**, documents or evidence from the assessee or any other person
  - conducting of certain **enquiry or verification by VU**
  - seeking **technical assistance from the TU**

## Step 5

- In response to AU's **request for further information**, **NeAC shall issue appropriate notice** or requisition to the assessee or any other person

# E-assessment Procedure

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## Step 6

- In response to AU's request for verification by VU, NeAC shall assign the request to a VU through an automated allocation system;

## Step 7

- In response to AU's request for technical assistance by TU, NeAC shall assign the request to a TU through an automated allocation system;

## Step 8

- AU to make draft assessment order in writing, either accepting the returned income or modifying it. Copy of such order to be sent to NeAC.

## Step 9

- While making Draft Order, AU to also provide details of the penalty proceedings to be initiated therein

# E-assessment Procedure

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## Step 10

➤ NeAC to examine the draft order and decide to

- i. Finalize the assessment as per draft order and serve a copy of such order, notice for initiating penalty and demand notice to assessee
- ii. Provide an opportunity to the assessee, in case a modification is proposed, by serving SCN or
- iii. Assign the draft assessment order to a RU through an automated allocation system, for conducting review of such orders

# E-assessment Procedure

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## Step 11

➤ RU to conduct review of draft order and decide to

i. Concur with the draft assessment order and intimate to NeAC about such concurrence

ii. Suggest such modification, as it may deem fit, to the draft order and send its suggestions to the NeAC

## Step 12

➤ RU concurs, NeAC to follow procedures under part (i) and (ii) of Step 10

# E-assessment Procedure

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## Step 13

- RU suggests modification, NeAC to communicate suggestions to AU

## Step 14

- AU to **consider modifications suggested** by RU and **send the final draft order** to NeAC;

## Step 15

- NeAC shall, upon receiving final order, follow the procedure laid clause (i) and (ii) of Step 10

## Step 16

- Where SCN served on assessee as per Step 10, furnish reply to NeAC

# E-assessment Procedure

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## Step 17

- NEAC shall, :
  - Reply to SCN not received, finalise assessment as per clause (i) of Step 10
  - Reply is received, send response to AU

## Step 18

- AU after considering reply to SCN, **make a revised draft order** and send it to the NeAC



# E-assessment Procedure

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## Step 20

- NEAC upon receiving the revised draft shall, :
- i. in case **no modification prejudicial to assessee is proposed** in the revised draft order, finalize the assessment as per the procedure laid down in clause (i) of Step 10 or
  - ii. in case a **modification prejudicial to assessee is proposed** in the revised draft order, provide an opportunity to the assessee, as per the procedure laid down clause (ii) of Step 10
  - iii. The response now received from assessee will be dealt as per Step 16, 17 & 18

# After Completion of Assessment

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- NeAC shall, after completion of assessment, **transfer all the electronic records** of the case **to the AO 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 representation or any record 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;

# Miscellaneous Provisions

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## Transfer of Case to AO

- NeAC may at any stage of the assessment, if considered necessary, transfer the case to the Assessing Officer having jurisdiction over such case.

## Appellate Proceedings

- Appeal against an assessment made by the NeAC shall lie before the **CIT(A)** **having jurisdiction over the jurisdictional AO**

## No personal appearance in the Centers or Units

- A person shall **not be allowed to appear either personally or through AR** in connection with any proceedings under this Scheme before any unit.
- **Personal hearing** for oral submissions or presentation of case before any unit shall be through **video conferencing**
- **Examination or recording of the statement** shall be conducted by through **video conferencing**

# Delivery of electronic record

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## Delivery to Assessee

- Every notice or order or any other electronic communication under this Scheme shall be delivered to the addressee, being the assessee, by way of-
  - i. placing authenticated copy thereof in **assessee's registered account**; or
  - ii. sending an authenticated copy thereof to the **registered email address** of **the assessee** or **his authorized representative**; or
  - iii. uploading an authenticated copy on the **assessee's Mobile App**; and **followed by a real time alert.**

## Delivery to Person other than assessee

- by sending an authenticated copy thereof to the **registered email address** of such person, followed by a real time alert

# Delivery of electronic record

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## Response by assessee

- The Assessee shall file his response through his registered account,
- Once an acknowledgement is sent by the NeAC, response shall be deemed to be authenticated.

## Time and Place of Dispatch

- Will be determined as per section 13 of the Information Technology Act, 2000

# CIRCULAR NO. 27/2019 DATED 26-9-2019

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## Cases 'E-Proceeding' shall not be mandatory:

- a) Assessment is to be framed under section(s) **153A, 153C and 144** of the Act.
- b) Assessment is to be framed under section(s) **147 ONLY IF** covered by **clause (g)** below
- c) In **set aside** assessments
- d) Assessments being framed in **non-PAN cases**
- e) Cases where **ITR filed in paper mode** and the **assessee** concerned **doesn't yet have an 'E-filing' account;**
- f) In all cases at stations connected through the VSAT or with limited capacity of bandwidth

# CIRCULAR NO. 27/2019 DATED 26-9-2019

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## Cases 'E-Proceeding' shall not be mandatory:

- g) With sanction of the jurisdictional Pr. CIT/CIT, in extraordinary circumstances such as complexities of the case or administrative difficulties in conduct of assessment through 'E-Proceeding',

Pr.CIT/CIT is required to provide such relaxation only in extraordinary circumstances after examining the necessity for such relaxation and recording the reasons for providing such relaxations.

# CIRCULAR NO. 27/2019 DATED 26-9-2019

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## Personal hearing/attendance allowed in following situations:

- a) Where **books** of account have to be **examined**;
- b) Where Assessing Officer invokes provisions of **section 131** of the Act;
- c) Where **examination of witness** is required to be made by the assessee or the Department;
- d) Where a **show-cause notice contemplating any adverse view** is issued by the Assessing Officer and **assessee requests** through their 'E-filing' account for **personal hearing** to explain the matter.



# THANK YOU



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