

# Faceless Assessment Scheme, 2019

[Applicable to assessment order to be passed up to  
31/03/2021]

part of “Transparent Taxation-Honoring the Honest”-Platform

Seamless, Painless and Faceless Tax System

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- Background**
- Objective**
- Scope**
- Set Up for Conducting of Faceless Assessment**
- Procedure for Faceless Assessment**
- Initiation of Penalty Proceedings**
- Practical Issues**

## Background [1/3]:

- ❑ October-2015- Introduction of use of email id to communicate with tax payers on pilot basis
- ❑ September-2017- Enabling of E-proceeding module in e-filing portal
- ❑ February-2018- Announcement in Budget-2018-e-assessment scheme [new enabling Sections 143(3A) and 143(3B) to implement a PAN India E-Assessment]

## Background [2/3]:

- ❑ September-2019-Notification of E-assessment Scheme, 2019
- ❑ 58,322 cases have been selected after launch of scheme for scrutiny assessment for AY 2018-19.
- ❑ Some of the cases of limited scrutiny of A.Y. 2018-19, were selected for Faceless assessment by National e-assessment Centre (NeAC).
- ❑ February-2020- Announcement in Budget 2020-to widen Faceless Assessment and introduction of concept of Faceless Appeal and Tax Payers' Charter
- ❑ August-2020-Launch of “Transparent Taxation - Honoring the Honest” platform



## Background [3/3]:

- ❑ As on 19<sup>th</sup> July, 2020, I-T department disposed 7,116 assessments under first phase of faceless Assessment
- ❑ As per Notification F No. 187/3/2020 Dt 13<sup>th</sup> August ,2020, all the assessment orders [except of Central and International Tax Charges] shall be passed by NeAC through the Faceless Assessment Scheme, 2019. Any assessment order passed on or after that date otherwise than through NeAC shall be treated as *non-est* and shall be deemed to have never been passed.

## Objective of the Scheme:

to impart greater efficiency, transparency and accountability by—

- ❑ eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible;
- ❑ optimizing utilization of the resources through economies of scale and functional specialization;
- ❑ introducing a team-based assessment with dynamic jurisdiction.

## Role of Digital Technology and Digital Evidence In Selecting Cases For Scrutiny Assessment

The way we are communicating has drastically changed with increased use of smart devices like Smart Phone, Tablets/IPAD, wearable's etc. . The world has changed a lot with technological advancement of various communication devices. Internet Chat, Internet Call though VoiP like telegram Whatsapp and online meeting though various Apps have changed everything through which people interact with each other. With this technological advancement, income tax department has also shifted its approach from conventional way of collecting information to digital surveillance.



# Project Insight

Recently Department has shifted to online data-analytics tools. In this era of information technology, department will always try to corroborate the information collected from one source with other independent sources. Department has started to use Big Data Analytics tools, to keep eye on the tax evasion which can be used to identify the possible case of scrutiny assessment. The programme is named “Project Insight” which is as per media report, worth Rs 1,000 crore. Reportedly, tax officials were given permission by the Income Tax Department to access the software from March 15, 2019.



## The task of Big Data Analytics tools include following :-

- ❑ tracing social media profiles of citizen and tabulate their expenditure patterns observing the visual media including photos and videos uploaded on it.
- ❑ informing The Income Tax authorities if there is any mismatch between the income and expenditure ratio of a person and actions would be taken accordingly. For example - If someone is spending vacations in a foreign country or buying luxury cars and posting pictures about it on social networking site, then the big data software used by IT department can track it and do the needful action required.

Contd..

## The task of Big Data Analytics tools include following :-

- ❑ incorporating an Integrated Information Management System that would help to take the **right decision at the right hour** by applying machine learning. Thus it will gather information by **collecting web pages and documents that can be later examined by Income Tax Department**. It will capture the information that assessee should have declared but have not, by analyzing the records of other agencies and industry like RoC, Registrar of Immovable Properties, GST, RBI Records, Motor Vehicle Registration Department, Hotel Industries, etc.
- ❑ It will keep **eye specially on the sectors prone to unaccounted wealth generation in the country** like real estate, mining, film industry and educational institutions.

## Scope [1/2]:

In view of power given in Section 143(3B)-Notification -S.O. 2746(E)-Dt 13/08/2020-provides that the provisions of :-

- ❑ Section 2(7A)-"Assessing Officer"
- ❑ Section 92CA-Reference to Transfer Pricing Officer.
- ❑ Section 120-Jurisdiction of income-tax authorities
- ❑ Section 124-Jurisdiction of Assessing Officers.
- ❑ Section 127-Power to transfer cases
- ❑ Section 129-Change of incumbent of an office
- ❑ Section 131, section 133, section 133A, section 133C, section 134,
- ❑ Chapter XIV-Procedure for Assessment
- ❑ Chapter XXI-Penalties Imposable

of the Act shall apply to the assessment made in accordance with the said scheme, **subject to the exceptions, modifications and adaptations provided in the Scheme**



## Scope [2/2]:

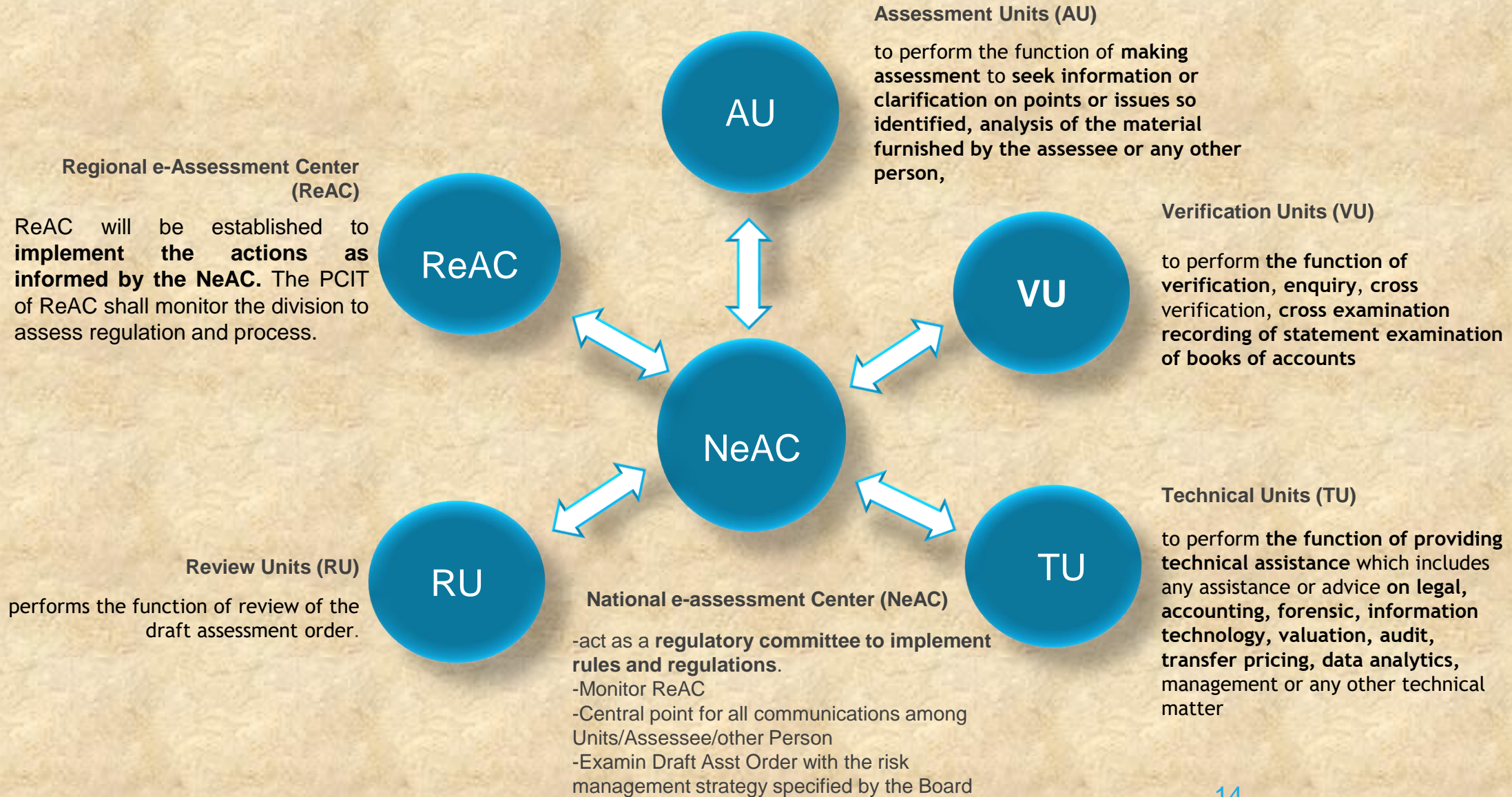
- **Assessment of total income or loss u/s 143(3)/144 or Reassessment u/s 147/148 of the Act**

## Set Up for Conducting of Faceless assessment :

- ❑ National e-assessment Centre (NeAC)
- ❑ Regional e-assessment Centres(ReAC)
- ❑ Assessment units (AU)
- ❑ Verification Units (VU)
- ❑ Technical Units (TU)
- ❑ Review Units (RU)

**Basic Framework of the scheme is given on next slide →**

# BASIC FRAMEWORK OF THE SCHEME





# Set Up for Conducting of Faceless assessment :

## ❑ National e-Assessment Center (NeAC):

It act as a regulatory committee to implement rules and regulations and monitor ReAC. It also assesses, verifies, modifies and send show-cause notices to the assessee if necessary.

## ❑ Regional e-Assessment Center (ReAC):

ReAC will be established to implement the actions as informed by the NeAC. The PCIT in charge of NeAC, shall monitor the division to assess regulation and process.

## ❑ Assessment Unit (AU):

to facilitate the conduct of e-assessment,

- -to perform the function of making assessment, including identification of points or issues material for the determination of any liability (including refund) under the Act. It shall provide details of the penalty proceedings to be initiated to NeAC.
- -to seek 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

## Set Up for Conducting of Faceless assessment :

### □ Verification Units:

- to perform the function of verification, which includes enquiry, cross verification, examination of books of accounts,
- examination of witnesses and recording of statements [Except u/s 133A], and such other functions as may be required for the purposes of verification.

## Set Up for Conducting of Faceless assessment :

- Verification unit shall derive its power to call for details/information from Assessee or other person through NeAC from section 133C of the Act.
- Section 133C-”Power to call for information by prescribed income-tax authority” r.w Notification No. 66/2020, S.O. 2758(E). Dt 13th August,2020, empowers PCIT and Addl /Jt CIT to act as Prescribed Authority for the purpose of discharging function of VU
- As per para 6.1 of Notification no F. No.173/165/2020 -ITA-I Dt 14th August, 2020 the VU may be spread out to cover large geographical area



## Set Up for Conducting of Faceless assessment :

### □ Technical Units:

- to perform the function of providing technical assistance which includes any assistance or
- advice on legal, accounting, forensic, information technology, valuation, audit, 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

# Set Up for Conducting of Faceless assessment :

## □ Review Units :

RU performs 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, and specify their respective jurisdiction.

## Mode of Communications-Para-8 of the Scheme

- ❑ all communication among the AU, RU, VU or TU or with the assessee or any other person as may be necessary under this Scheme shall be through NeAC

[Exception provided in para 8(2) r.w. para 12 of the Scheme-PCIT/PDIT in-charge of NeAC, with prior approval of Board, may provide exception to the above (As per Sub-para (2) of Para (4) r.w. para 8(1) of the Scheme)]



## Mode of Communication :

- ❑ all communications from the department to the taxpayer/assessee/third-party for the purposes will be in the name of the NeAC.
- ❑ No communication of any nature such as above will be made by any of the ReACs.

## Procedure for Faceless Assessment : Notice u/s 143(2) shall be issued by NeAC:

- ❑ As per Section 143(2), provides that “the prescribed income tax authority” can issue notice for selection of case for scrutiny assessment.
- ❑ For the purpose of Faceless Assessment Scheme, ACIT (e-Verification), Delhi, has been notified vide Notification No. 65/2019- dated 13th September, 2019, to act as “prescribed Income-tax authority” u/s Section 143(2) r.w. Rule 12E of the Income-tax Rules, 1962.
- ❑ All notices u/s 143(2) [except for search and international taxation cases] shall be issued by ACIT (e-Verification), Delhi within time limit prescribed u/s 143(2) of the Act.
- ❑ Notice u/s 142(1) or u/s 148 of the Act, as the case may be, shall be issued by jurisdictional AO [prior to issue of notice u/s 143(2) by NeAC].

## Service of Notices and other communications through NeAC:

As per para-10 of the Scheme- Notice u/s 143(2) may be served in either of the following manner :

- ❑ in the assessee's registered account; or
- ❑ to the registered email address of the assessee or his authorised representative; or
- ❑ uploading on the assessee's Mobile App; and followed by a real time SMS alert to registered mobile no on e-filing portal.



## Service of Notices and other communications through NeAC:

- "registered account" of the assessee means the electronic filing account registered by the assessee in designated portal [As per para 2(1)(xxi)].
  
- "registered e-mail address" means the e-mail address at which an electronic communication may be delivered or transmitted to the addressee, including [inclusive definition]-
  - I. the email address available in the **electronic filing account** of the addressee registered in designated portal; or
  - II. the e-mail address available in the last **income-tax return** furnished by the addressee; or

# Service of Notices and other communications through NeAC:

- iii. the e-mail address available in the Permanent Account Number database relating to the addressee; or
- iv. in the case of addressee being an individual who possesses the Aadhaar number, the e-mail address of addressee available in the database of Unique Identification Authority of India ;or
- v. in the case of addressee being a company, the e-mail address of the company as available on the official website of Ministry of Corporate Affairs; or any e-mail address made available by the addressee to the income-tax authority or any person authorised by such authority.

[As per para 2(1)(xxii)]

## Service of Notices and other communications through NeAC:

- "registered mobile number" of the assessee means the mobile number of the assessee, or his authorised representative, appearing in the user profile of the electronic filing account registered by the assessee in designated portal

[As per para 2(1)(xxii)]



## Initial Response by Assessee and communication from NeAC:

- ❑ Assessee, within 15 days of receipt of notice u/s 143(2) of the Act, may respond through **electronic filing account**. The assessee or any other person, shall file response electronically by affixing digital signature if he is required under the Rule 12 of Income Tax Rules, 1962 to furnish his return of income under digital signature, and in any other case by affixing his digital signature or under electronic verification code (EVC);
- ❑ This is first available opportunity with the Assessee to counter the selection criteria provided in notice u/s 143(2) issued as discussed above. In case allegation(s) made in said notice are not true as per Assessee, a detailed reply should be filed within 15 days' time by the Assessee along with all supporting evidence to make the case strong in his favour.

# Procedure after lapse of 15 days' time provided in notice u/s 143(2):

- Assignment of case to a AU in any one ReAC through an automated allocation system :-
  - AU-may request to NeAC:
    - to collect details from Assessee / Other person
    - AU may request NeAC such further information, documents or evidence from the assessee or any other person-Notice shall be issued by NeAC to Assessee or to other person [e.g notice 133(6)] to obtain such information.

# Procedure after lapse of 15 days' time provided in notice u/s 143(2):

- AU-may request to NeAC for the support of a VU :
  - to make enquiry/cross examination/recording of statement/verification of books of account.
  - As per sub-para (3B) of para 10 of the Scheme, VU shall records statement (other than u/s 133A) exclusively through video conferencing [exceptions provided in Para 12 of the Scheme].
  
- AU-may request to NeAC for the support of a TU :
  - TU shall provide technical assistance including advice on legal, accounting, forensic, information technology, valuation (e.g. u/s 50C), audit [may refer u/s 142(2A)], transfer pricing, data analytics, management or any other technical matter.



## Procedure after lapse of 15 days' time provided in notice u/s 143(2):

- All communication from VU/TU with NeAC and from NeAC to Assessee/Other person shall be through electronic mode [internal communication among various units/NeAC may not be available to Assessee in e-filing portal. However, any information, which are called for through notice/letter, on the basis of report of VU/TU, from the Assessee, shall be available to Assessee on such portal]. [Exceptions provided in para 12].
- In case of non-compliance of notices by Assessee, show cause notice for making best judgement assessment u/s 144 of the Act, shall be issued to Assessee .

## Procedure after lapse of 15 days' time provided in notice u/s 143(2):

- the assessee or any other person, shall file response electronically by affixing his digital signature/EVC as explained earlier
- NeAC shall send report received from VU/TU to the concerned AU (including non-compliance report if any).

## Preparation of Draft Assessment Order with details of Penalty by AU [Para 5(xiv) of the Scheme]:

- AU shall prepare a draft assessment order either accepting or modifying returned income [u/s 144/143(3) as the case may be]
- AU shall give details of penalty proceedings to be initiated, if any.
- no show cause notice prior to draft assessment order through NeAC except for non-compliance and/or for making best judgement assessment



## Post-Draft Assessment order by AU:

NeAC shall analyze the draft assessment order through Risk Management System [RMS]:

RMS has a two-fold purpose :-

- ❑ To ensure Risk criteria under which cases selected are looked into
- ❑ To prevent High Pitched addition
- ❑ Whether required additions/disallowances are made or not

All cases, flagged by RMS, shall be sent for Review to RU

# Quality Control of Draft Assessment Order

To ensure quality control:-

- ❑ AUs to submit feedback response in the System before sending Draft assessment order to NeAC
- ❑ VU & TU to submit feedback response in the System before sending their Reports
- ❑ Review Unit to a Submit feedback response in the System before submitting Review Report
- ❑ In Case of Difference Between AU and RU, PCIT (AU New) to examine the report and take necessary action

## Post-Draft Assessment order by AU:

### DRAFT ASSESMSNET ORDER MAY PROVIDE :-

- ❑ No modification of Returned income OR
- ❑ Modification of Returned Income

(a) If no modification of Returned income is proposed by AU, NeAC may :-

- I. finalise the assessment as per the draft assessment order and **serve a copy of such order and notice for initiating penalty proceedings**, if any, to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment; OR
- II. **assign the non- modified draft assessment order to a RU**, through an automated allocation system, for conducting review of such order;



## Post-Draft Assessment order by AU:

### (b) If Modification of Returned Income is proposed by AU,

NeAC, may :-

- i. directly issue show cause notice to the assessee, asking as to why the assessment should not be completed as per the draft assessment order;

or before show cause notice

- i. assign the draft assessment order to a RU, through an automated allocation system, for conducting review of such order;
  - if RU concurs with non-modified draft assessment order of AU then , NeAC may finalise the assessment as per the draft assessment order and **serve a copy of such order and notice for initiating penalty proceedings**, if any, to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;

## Post-Draft Assessment order by AU:

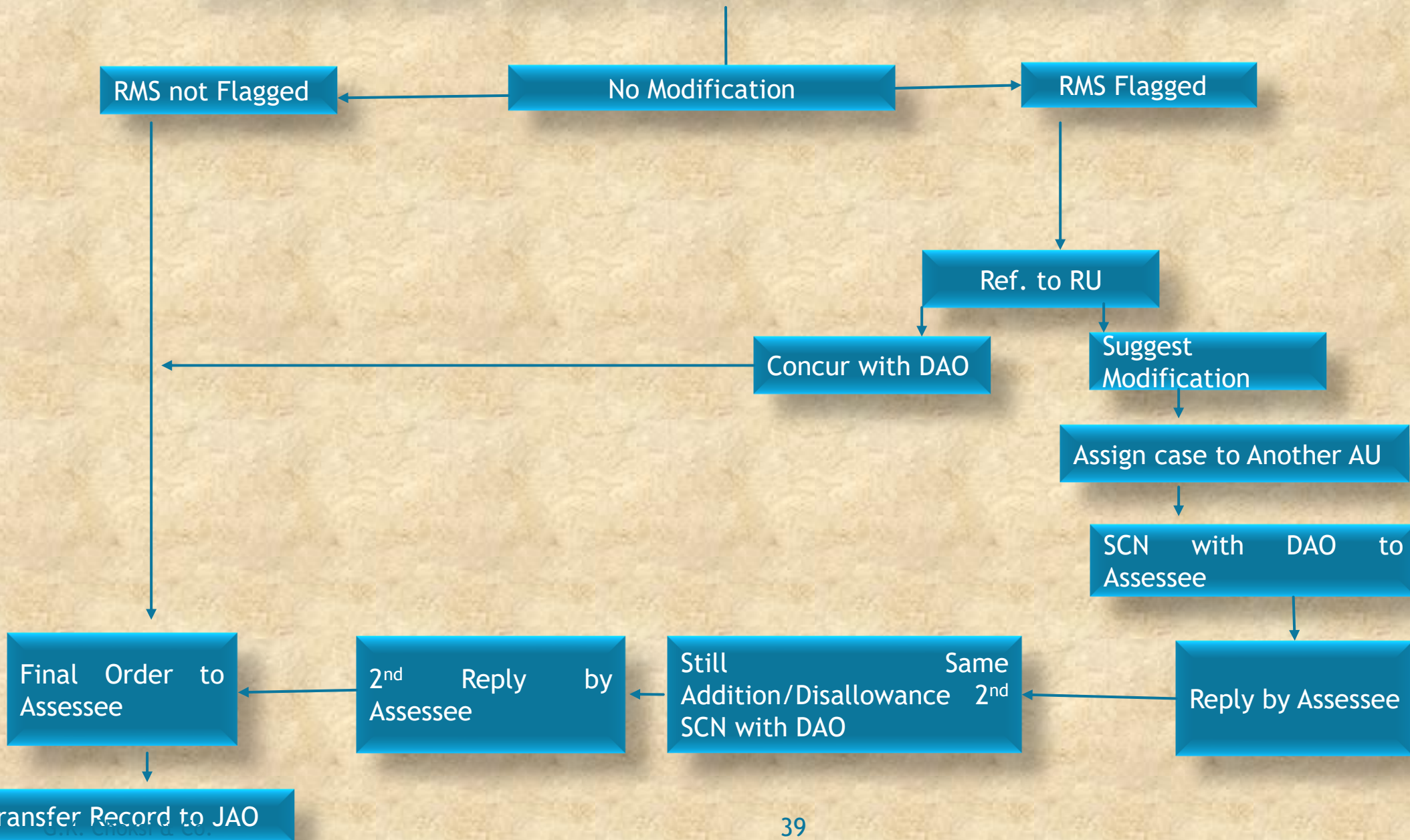
- If RU proposes modification in draft assessment order of AU [modified or non-modified draft assessment of AU], then such modification suggested by RU shall be provided to ANOTHER AU for making revised draft assessment order. Then NeAC shall issue show cause notice and draft assessment order to Assessee asking as to why the assessment should not be completed as per the draft assessment order.
  - after considering the response from Assessee, AU shall prepare revised final draft assessment order and will send it to NeAC.
  - if revised draft assessment order is prejudicial to the interest of Assessee then one more opportunity of being heard shall be given to him and after considering response of Assessee final assessment order shall be prepared by AU and shall be passed by NeAC.

## Post-Draft Assessment order by AU:

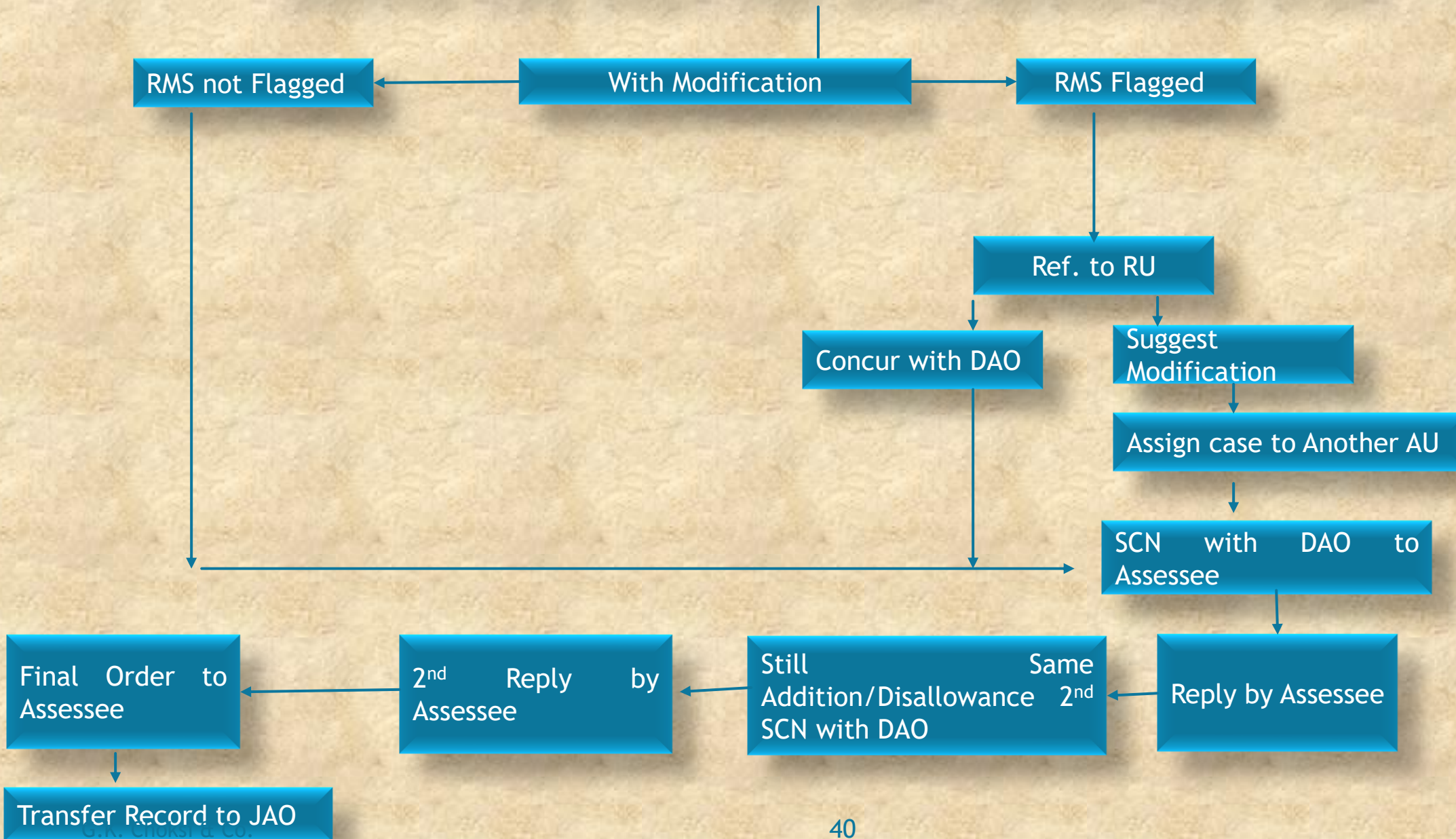
- ❑ If revised draft assessment order is not prejudicial to the interest of Assessee then such order shall be considered as final assessment order and a copy of such order and notice for initiating penalty proceedings, if any, shall be served to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment.
  
- ❑ It should be noted that at least two opportunities of being heard shall be given to Assessee i.e.
  - (a) First, while proposing initial modification in assessment order by AU
  - (b) Second, while finalising draft assessment order, after considering reply in response to first show cause notice



# Summarized Steps-Post Draft Assessment Order



# Summarized Steps-Post Draft Assessment Order



## No personal appearance in the Centers or Units [Para -11 of the Scheme]:

-In case of any addition/disallowance is proposed in draft assessment order :-

- ❑ an opportunity is provided to the assessee by serving a notice calling upon him to show cause as to why the assessment should not be completed as per the such draft assessment order,
- ❑ Assessee or AR may request for personal hearing [through video conferencing and not personal physical appearance] so as to make his oral submissions in any unit under this Scheme;
- ❑ Assessee needs to write letter specifying that he want personal hearing before respective unit proposing modification in draft assessment order [AU/TU/VU/RU]



## No personal appearance in the Centres or Units [Para -11 of the Scheme]:

- ❑ CIT or DG, in charge of the ReAC, under which the concerned unit is set up, may approve the request for personal hearing referred to in sub-para (2) of Para 11 of the Scheme, if he is of the opinion that the request is covered by the circumstances referred to in clause (vib) of Para12 of the Scheme.
- ❑ Where the request for personal hearing has been approved by the CCIT or DG in charge of the ReAC, such hearing shall be conducted exclusively through video conferencing, including use of any telecommunication application software which supports video telephony, in accordance with the procedure laid down by the Board;

## No personal appearance in the Centres or Units [Para -11 of the Scheme]:

- Any examination or recording of the statement of the assessee or any other person (other than statement recorded in u/s 133A) shall be conducted in any unit under this Scheme, exclusively through video conferencing, including use of any telecommunication application software which supports video telephony in accordance with the procedure laid down by the Board.

[exceptions provided in the sub-para(2) of para 8 r.w. Para 12]

## No personal appearance in the Centre or Units [Para -11 of the Scheme]:

- ❑ **Establishment of Suitable Facility for Video Conferencing :** The Board shall establish suitable facilities for video conferencing at such locations as may be necessary, so as to ensure that the assessee, or his AR, or any other person is not denied the benefit of this Scheme merely because of not having such facilities at his at his end.
- ❑ **As per sub-para (2) of Para 5 of the Scheme-** notwithstanding anything contained in sub-para (1) of para 5, the Ld. PCIT /Pr DG in charge of NeAC, may at any stage of the assessment, if considered necessary, **transfer the case to the jurisdictional Assessing Officer over such case, with the prior approval of the Board**



# PARA-12-Power of PCIT/DG of NeAC- Exceptions

PCIT or PDG of NeAC with prior approval of CBDT shall lay down standards , procedures and processes including format, mode, procedure and processes providing exceptions from provisions of this scheme regarding:-

- ❑ Service of the notice, order or any other communication
- ❑ Receipt of any information / documents from assessee or any other person
- ❑ Issue of acknowledgement of response
- ❑ Management of E-Proceeding Tab
- ❑ Accessing, Verification and authentication of any information / documents
- ❑ Receipt, storage and Retrieval of any information / documents
- ❑ General administration and Grievance redressal mechanism of centres & Units
- ❑ Communication or Exchange of Information / documents
- ❑ **Personal Hearing through video conferencing**

## Final Assessment order:

- ❑ After considering the report of various units, if any, and response submitted by assessee or other person, AU shall submit final draft assessment order to NeAC.
- ❑ The NeAC shall, upon receiving final draft assessment order, shall finalise the assessment as per the draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment.

## Final Assessment order:

- ❑ NeAc shall also initiate and complete the penalty proceedings for non compliance of any notice issued during Faceless Assessment Proceeding.
- ❑ The NeAC shall, after completion of assessment, transfer all the electronic records of the case to the Assessing Officer having jurisdiction over the said case for such action as may be required under the Act.



## Consequences for non-compliance of notices e.g. u/s 142(1)/142(2A)

- ❑ NeAC shall inform concerned unit (calling details) of non-compliance and direct AU to frame best judgement assessment u/s 144 of the Act. After receiving draft assessment order from AU u/s 144 of the Act, NeAC may directly issue show cause notice to Assessee asking as to why the assessment u/s 144 or assign case to RU. Here procedure mentioned above shall be followed.
- ❑ In case of non-compliance by Assessee or any other person, respective unit may proposes to NeAC to initiate penalty proceeding under Chapter XXI of the Act.

## Consequences for non-compliance of notices :

- ❑ NeAC shall service notice to initiate appropriate penalty proceeding to such person calling upon him to show cause as to why penalty should not be imposed on him under the relevant provisions of the Act.
- ❑ response of Assessee or other person, shall be forwarded by NeAC to concerned unit proposing penalty (not necessarily AU)

## Consequences for non-compliance of notices :

- ❑ **Concerned unit, after considering reply of Assessee or other person, may drop penalty proceeding after recording reasons and after intimating to NeAC or may confirm penalty**
- ❑ **In case concerned unit confirms the penalty, NeAC shall levy the penalty as per the said draft order of penalty and serve a copy of the same along with demand notice on the assessee or any other person, as the case may be, and thereafter transfer electronic records of the penalty proceedings to the Assessing Officer having jurisdiction over the said case for such action as may be required under the Act.**



# Summarised Steps of Faceless Assessment Procedure:

01

1. NeAC -Issue and Serve Notice u/s 143(2) to Assessee

02

2. Reply by Assessee within 15 days of service of notice

03

3. Assignment of Case to AU

04

4. AU may seek details from Assessee or ask for help of TU/VU (NeAC has to allow request of AU for help from TU/VU.)

05

5. VU/TU - through NeAC ask for Details from Assessee/Other person - VU/TU shall submit verification/ technical report to NeAC

06

6. NeAC-submits report of VU/TU to AU and AU prepare draft assessment order on the basis of the same

Contd..

07

7. NeAC may sent Draft assessment order to RU (before issuing show cause notice to Assessee)

08

8. If modification by RU then such modification to assign to another AU by NeAC

09

9. If Final draft Assessment Order, having modification prejudicial to interest of Assessee then show cause notice to issue by NeAC

10

10. After considering reply of Assessee, if still modification exist then again to issue show cause notice to Assessee

11

11. Final assessment order to serve to Assessee along with demand and penalty notice by NeAC [270A as the case may be]

12

12. levy of penalty for non-compliance by NeAC

13

13. NeAC shall transfer all electronic records to jurisdiction AO

# CONVENTIONAL Vs FACELESS ASSESSMENT

Conventional Assessment System	Faceless Assessment System
1. Case Selection through a) System b) <b>Manual</b> c) Tax evasion information	1. <b>No discretion to any officer</b> in selection 2. <b>No Selection</b> <u>except</u> through <b>system red alerts</b> 3. <b>No Selection</b> other than information-based
1. Cases were permanently assigned to a <b><u>territorial jurisdiction</u></b>	1. <b><u>Automated</u></b> random allocation of cases 2. <b><u>Dynamic jurisdiction</u></b> to any <b><u>faceless team</u></b> anywhere in the country – <b>95 AUs, 35 VUs, 20 RUs and 4 TUs</b>
<b>Issue of notices</b> both manually and on System	1. <b>No discretion</b> in issue of notices 2. <b>System generated notices</b> triggered by alert 3. Notices without <b>DIN</b> are invalid 4. Notices to be issued electronically and centrally from the NeAC. 5. The NeAC is the <b>single point of faceless contact</b> between the taxpayer and the Department.



# CONVENTIONAL Vs FACELESS ASSESSMENT

Conventional Assessment System	Faceless Assessment System
<ol style="list-style-type: none"> <li>1. During scrutiny proceedings <b>multiple physical meetings</b> between the taxpayer and the Officers</li> <li>2. <b>Long waiting time</b> before meeting the officers</li> </ol>	<ol style="list-style-type: none"> <li>1. <b>No physical meetings</b> with any officer</li> <li>2. <b>No officer will call you</b> to office</li> <li>3. <b>No more waiting</b> outside the office</li> <li>4. <b>Officer identity to remain unknown</b></li> <li>5. No human interface at any stage</li> <li>6. Assessments in electronic mode</li> </ol>
<ol style="list-style-type: none"> <li>1. <b>Wide discretion with officers leads to 7 subjective approach</b> and varying interpretations</li> </ol>	<ol style="list-style-type: none"> <li>1. No discretion with any individual officer. <b>Team based assessment</b></li> <li>2. Draft in <b>one city, review in another city, finalization in third city</b></li> <li>3. Objective, <b>Fair and just order</b></li> </ol>
<ol style="list-style-type: none"> <li>1. 6584 officers and 33750 subordinate staff totaling to <b><u>40334</u></b> <b>were performing various</b> assessment functions</li> </ol>	<p>Faceless Assessment now has <b>4224 officers and 17193 subordinate staff totaling to <u>21417</u></b>. All functions in faceless manner except those shown in exception</p>

# Practical Issues:

## 1. Language / Communication Barrier:

Even with personal hearing through video conferencing it might be possible that the department may misunderstand the contentions of the taxpayer.

## 2. Technical Bottleneck/Challenges:

-lack of bandwidth and infrastructure either with the assessee or department or both.

-Glitches may surface at the time of hearing, through video calls

-in the current e-filing of responses with respect to the file size, non-use of special characters in naming of the file, etc.

## 3. Old Notices already issued by Jurisdictional AO :

-whether compliance made before JAO will again need to submit to NeAC?

## Practical Issues:

### 4. Issues while conducting video conferencing:

No clarification on whether video conference would be recorded, is provided in scheme.

### 5. Regarding Cross-Examination:

Whether the cross Examination would involve all three parties and whether a record of cross examination would be submitted to the assesse for purpose of evidence before higher authorities? Whether re-examination would be permitted and whether NeAC/any other unit under the scheme/representative of any unit, would have any right to ask questions to both the parties?



## Practical Issues:

### 6. Reference to Valuation Officer u/s 50C and Conduct of Audit u/s 142(2A):

- Who will appoint Auditor/Valuer -whether VU would appoint or NeAC
- How Auditor will communicate with AO/VU/NeAC
- If personal meeting is sought by Auditor with ASSESSING OFFICER or Assessee, whether it will be permitted ? how the same will be held ?
- How voluminous books of account/documents and other evidence will be exchanged among Auditor /AO/Assessee ?
- whether such cases would be covered under exception as per para 5(2) and or / para 12 of the Scheme?
- Similar issues as discussed above may arise in the case of valuation u/s 50C

## Practical Issues:

### 7. Reference to Jt CIT u/s 144A of the Act:

Situation may arise for reference to jurisdictional Jt CIT u/s 144A of the Act. Prima facie, no such mechanism is covered in Faceless Assessment Scheme.

### 8. Mistake apparent on record and multiplicity of proceedings

will increase, if huge and complex cases referred here in above, will be assessed under faceless assessment scheme. In the absence of face to face interaction of Assessee and AO, the complex and technical claim of deduction/exemption would not be possible to explain.

## Practical Issues:

9. **No time limit for preparation of draft assessment order by AU** more particularly no mechanism of issuing show cause notice prior to preparation of draft assessment order is provided. This will increase pressure on AU to prepare high pitched draft assessment order and unwarranted litigation may increase.
10. **Whether Deemed Coverage of Assessment u/s u/s 143 (3) r.w.s 263/254 of the Act ?**

**Set Aside Assessment- Denovo Assessment by NeAC-Limited Direction by ITAT** then Jurisdictional AO [As per JCIT, CBDT in one webinar]

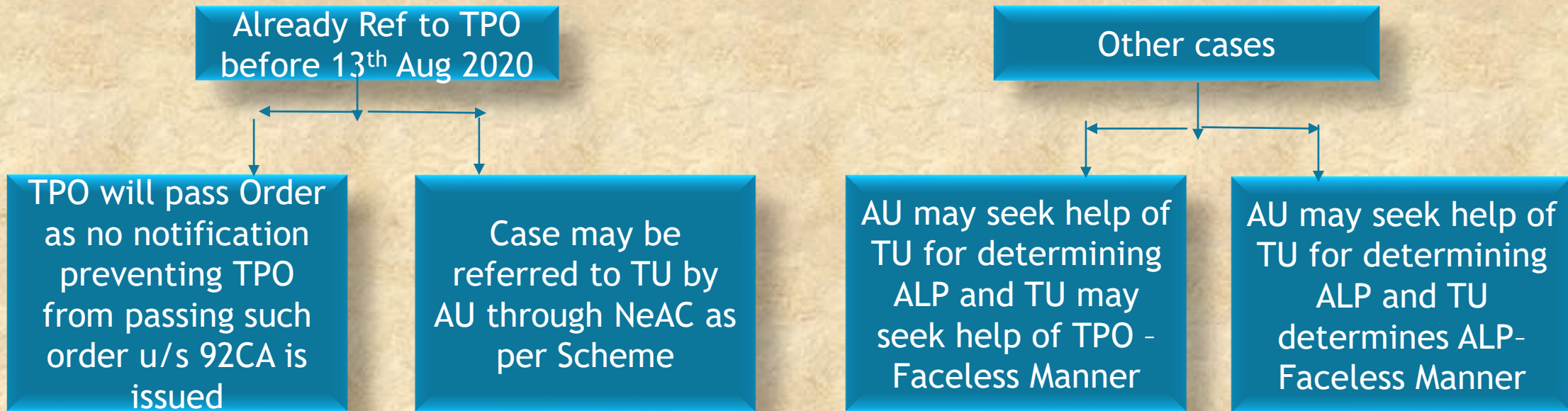
**Rare chances of Revision u/s 263** as higher authority of ReAC and RU monitoring assessment



# Practical Issues:

## 11. How Transfer pricing Assessment will be referred ?

As per notification no S.O. 2746(E) Dt 13<sup>th</sup> August, 2020, issued u/s 143(3B) of the Act, provision of section 92CA is applicable subject to provisions of the Scheme. In other words procedure laid down in scheme shall prevail over provisions of section 92CA. However for reference already made to TPO prior to 13<sup>th</sup> August, 2020, no Notification similar notification F No. 187/3/2020 Dt 13<sup>th</sup> August ,2020, is issued till date and TPO wings exist even today.



## Practical Issues:

Further, As stated by JCIT, CBDT in one webinar-

- (a) **Resident Assessee-** As per Scheme, AU may ask NeAC to refer the case to TU [having functional experts of transfer pricing assessment]. TU submits report of Transfer pricing and assessment shall be completed through NeAC
- (b) **Non-Resident Assessee-** In such case the Assessee will fall under the jurisdiction of International Charge and assessment shall be framed in Wing by Jurisdictional AO

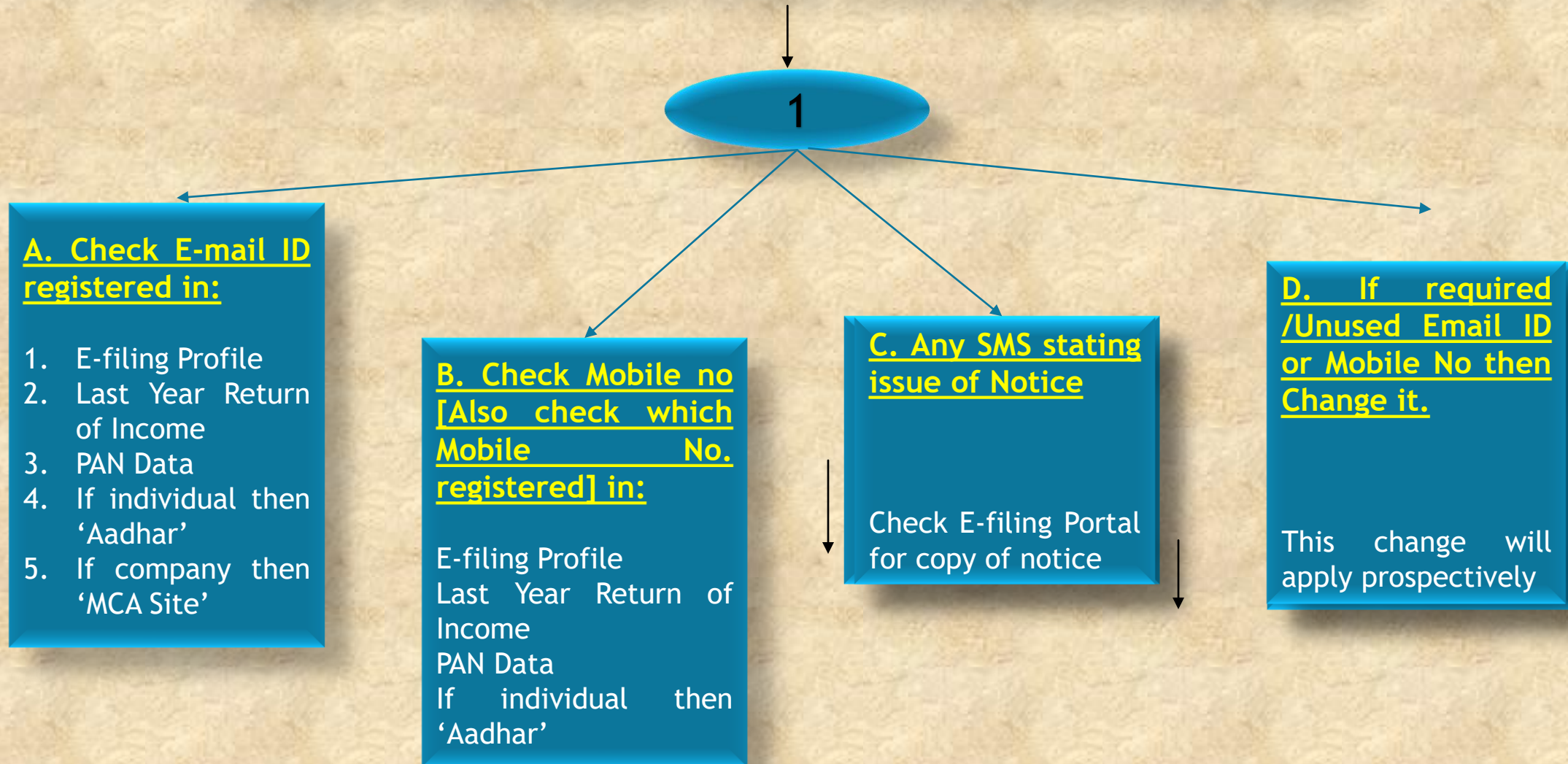
# Practical Issues:

## 12. Levy of the Penalty u/s 270A:-

- No mechanism in Scheme to cover such penalty
- jurisdictional AO shall continue with Penalty Proceeding
- However in Function of Residual Authorities penalty proceeding is not covered



# Steps to be taken from Client/Assessee Side:



Contd...

## Steps to be taken from Client/Assessee Side:

2

Any Notice Received then  
Immediately forward to respective Email-ID of respective AR

3

Start preparing details in consultation with team in  
AR office

4

- Details/Information must be precise, to the point and must be supported by cogent evidence. In case of bulk details, cross reference of bill/ledger and Chart to be given.
- Details must be in the form of information and not merely 'Data'.
- Details must be in PDF Format and within prescribed size limit.

## Steps to be taken from Client/ Assessee Side:

5

- To submit the information before at least 10 days of due date.
- If Submission to be uploaded by AR, Digital Signature of Authorised Person should be made available AR [official clarification regarding whose DIGITAL SIGNATURE will require, is yet to come]
- If submission to be uploaded by client then submit Acknowledgement to AR Team after uploading.



# THANK YOU

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