

Real test for new tax assessment plan is execution

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Topics

Tax Assessment

Prime Minister Narendra Modi recently announced the implementation of the Faceless Assessment Scheme (FAS) with immediate effect. This is perhaps the first time that a Prime Minister, and not a Finance Minister, has launched a tax initiative, which shows the importance that the government attaches to it. All pending and future assessments, other than international taxation cases, search cases and serious frauds, major tax evasion and sensitive cases, would now be continued under FAS. It is a modified version of the existing e-assessment scheme notified in 2019.

There is a major difference between e-assessment and FAS. Under e-assessment, the assessment was conducted by the local assessing officer having jurisdiction over your case, while assessment under FAS will be done by a team of officers, assisted by verification, technical and review teams, whose identity and location will remain undisclosed to you. FAS, therefore, seeks to eliminate the possibility of a taxpayer exercising undue influence on the local officer, while ensuring that the order is passed not just by one officer, who may not have properly understood the facts, but by a team, after a review of the order by another team.

Theoretically, this does seem to be the right approach, and if implemented properly, it should result in much better quality of assessment orders, saving the taxpayer the agony of the appellate process and ensuring proper assessment for the tax department. The initiative is, therefore, welcome. The real test will, however, lie in the manner in which the scheme is implemented. The best of initiatives have resulted in grief for many taxpayers in the past.

The centralised scheme for the issue of refunds by ECS, supposed to ensure hassle-free issue of refunds, saw a significant number of large refunds withheld without any logic for a year or more, forcing some taxpayers to file writ petitions before the high courts. Many of these refunds were issued only after the lockdown this year, ostensibly as a relief measure to taxpayers. The present scheme of assessments, through the e-filing process, has also seen some terrible outcomes. Just last week, I was shown a limited scrutiny assessment order, where the taxpayer submissions filed online were totally ignored, the addition made was triple the amount stated in the show-cause notice and no reason or basis was provided for the addition made.

The important missing factor of all the past initiatives, as also in the current one, has been the lack of any provision for accountability of tax officers, who do not follow the guidelines or instructions. Under the new scheme, the hope is that since many officers are involved in the process, guidelines and instructions will be adhered to. Past experience shows that an officer's behaviour is often driven

by the instructions and approach of superiors. Just having a team of superiors and juniors acting in conjunction may not really address the issue or solve the problem.

Another aspect not addressed in the new scheme is that of ensuring that taxpayers receive the notices seeking information. These notices are to be uploaded in the taxpayer account in the portal, or sent by SMS or e mail, with a real-time alert informing him of the notice. Often, the taxpayer does not receive such a notice or alert, and is unaware of such notice being uploaded in his account, resulting in a default in responding to such notice. The scheme ought to have provided for a better means of ensuring that the taxpayer is made aware of the notice after the first default, perhaps through a call made by the call centre. Proper service of notice was an essential and important ingredient of the assessment process when the process was in physical form. Similar importance needs to be attached to the service of the notice on the taxpayer in e-forms as well, to ensure that there is proper service, irrespective of system problems.

Under e-assessment, the taxpayer was entitled to seek a personal hearing to present his case through video-conferencing, if an addition was proposed to his returned income. Under FAS, such personal hearing has to be approved by the chief commissioner and that, too, only if it falls within certain circumstances, which are yet to be specified. One fails to understand why such videoconferencing would be permitted only under limited circumstances if an addition is proposed to be made. Experience shows that, often, tax officers are unaware of the nuances of certain industries or business practices, which need to be explained properly, and written submissions may not be enough to do so. Above all, assessment proceedings are quasi-judicial proceedings, and the right to be heard is essential for justice to be done.

One hopes that these shortcomings will be addressed by the government, which is keen to ensure that the initiative succeeds, and acts as a showcase for other countries' tax systems.

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