



CBDT issues instruction with respect to the conduct of assessment proceedings in scrutiny cases electronically

Background

In October 2015, the Central Board of Direct Taxes (CBDT) initiated a pilot project on the concept of using emails to correspond with taxpayers at the time of scrutiny assessments. Under the pilot project, tax officers were to send questionnaires, notices, etc. electronically and taxpayers had the option to respond through emails. The pilot project was introduced only in major cities for a limited number of cases. The objective of the project was to improve taxpayer services, enhance efficiency, and usher in a paperless environment for assessment proceedings.

The Finance Act, 2016 introduced Section 2(23C) in the Income-tax Act, 1961 (the Act) to provide that 'hearing' includes communication of data and documents through electronic mode. Accordingly, to facilitate the conduct of assessment proceedings electronically, CBDT¹ had issued a revised format of notice(s) under Section 143(2) of the Act. Para 3 of these notice(s) provided that assessment proceedings in cases selected for scrutiny would be conducted electronically in 'E-Proceeding' facility through taxpayer's account in e-filing website of the income-tax department.

CBDT Instruction

On 12 February 2018, CBDT has issued an Instruction² stating that in accordance with the procedure outlined in revised 143(2) notice(s) for conduct of assessment proceedings electronically, it is directed that except for search related assessments proceedings, in other pending scrutiny assessment, cases shall be conducted only through the 'E-Proceeding' functionality in Income-tax Business Application (ITBA)/e-filing.

However, in cases where the concerned taxpayer objects to conduct of assessment proceedings electronically through the e-Proceeding facility, such cases, for the time-being, may be kept on hold.

In the cases where some of the stations have limited bandwidth, being VSAT stations and stations with limited capacity where bandwidth is in the process of being upgraded, it is stated that till 31 March 2018, such stations, in accordance with target stipulated in Central Action Plan financial year 2017-18, may undertake and complete only ten percent scrutiny cases (which are getting barred by limitation on 31 December 2018) having the potential to effect recovery during the current year itself. The list of such stations shall be specified by the Pr.DGIT(Systems). At these stations, till 31 March 2018, the assessment proceedings in cases to be completed as per Central Action Plan target, may be conducted manually if e-assessment is not possible. CBDT stated that in other stations as specified above, subject to exceptions mentioned therein, the assessments would be conducted electronically only.

Some of the important procedural aspects while conducting assessment proceedings through 'E-Proceeding' are specified as under:

Enquiry before assessment in electronic mode

For enquiries before assessment in terms of Section 142(1)(ii) of the Act, a notice shall be issued electronically and delivered upon the taxpayer in his/her 'E-Filing' account. While filing the response electronically in compliance with a notice under Section 142(1)(ii) of the Act, the concerned taxpayer shall verify it in a prescribed manner³.

¹ CBDT letter, dated 23 June 2017

² CBDT Instruction No. 01/2018, dated 12 February 2018

³ Specified under Rule 14 of Income-tax Rules, 1962 (the Rules)

Use of digital signature by the Assessing Officer

All departmental orders/communications/notices being issued to the taxpayer through the 'e-Proceeding' facility are to be signed digitally by the Assessing Officer (AO).

Time for compliance

Online submissions may be filed till the office hours on the date stipulated for compliance.

Availability of facility for electronic submission of documents in time barring situation or where case has been finally heard by the AO

The facility for electronic submission of documents through 'E-Proceeding' shall be automatically closed seven days before the time barring date. In other situations, upon completion of proceedings, before passing the final order, the concerned AO, on his/her own volition, shall close the e-submission facility after mentioning in electronic order sheet that 'hearing has been concluded'. However, if required, in exceptional circumstances, the concerned AO may enable further filing of submissions electronically under intimation to the Range Head in ITBA.

In assessment proceedings being carried out through the 'E-Proceeding' facility, a particular proceeding may take place manually in following situation(s)

- Where manual books of accounts or original documents have to be examined
- Where AO invokes provisions of Section 131⁴ of the Act, or a notice is issued for carrying out third party enquiries/investigations
- Where examination of witness is required to be made by the concerned taxpayer or the department
- Where a show-cause notice contemplating any adverse view is issued by the AO and taxpayer requests for a personal hearing to explain the matter.

Maintenance of 'Record' in the context of 'E-Proceeding'

In cases being assessed through 'E-Proceeding', case-records as well as note sheet of proceedings shall be maintained electronically.

Our comments

The e-governance initiative introduced by the government to facilitate the conduct of assessment proceedings is a simple way of communication between the tax department and taxpayer without the necessity of visiting the Income-tax office. This is a taxpayer-friendly measure and could substantially reduce the compliance burden for the taxpayer. The initiative helps in curbing corruption.

The tax department has decided to deepen the use of the digital platform for the conduct of scrutiny assessment proceedings. Accordingly, the pending scrutiny proceedings (getting barred by limitation in Financial Year 2017-18), being conducted through 'e-mail based communication' stand migrated to the 'E-Proceeding' facility on ITBA platform of the tax department.

The Instruction issued by CBDT will provide guidance for shifting manual assessment proceedings to e-assessment proceedings. As such, there is an imperative need to re-deploy the available manpower in the light of the proposed e-assessment.

The Finance Bill 2018 proposed a new scheme for the purpose of making assessments so as to impart greater transparency and accountability, by eliminating the interface between the AO and the taxpayer, optimal utilisation of the resources, and introduction of team-based assessment. However, there are few issues where clarity is required, e.g. the term 'team based assessment' is not defined. Further, a jurisdiction-free assessment implies that a taxpayer residing in one part of a country could be assessed by a tax officer located in another part of the country. These issues may create significant difficulties, and therefore it would be helpful if these issues will be addressed appropriately in the new scheme.

⁴ Power regarding discovery, production of evidence, etc.)

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