

Transparent taxation-panacea for tax terrorism?

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The Income-tax Act, 1961 (the Act) was amended in 2019 to introduce the concept of faceless assessment and in 2020 to provide for statutory recognition of a tax-payers charter and to provide for an enabling provision for faceless appeals. The Hon'ble Prime Minister launched the 'Transparent Taxation-Honouring the Honest' platform on 13th August 2020 covering the aforesaid aspects. A transparent taxation regime is a pre-requisite for growth in every country and it assumes much more importance in a country like ours where the phrase 'tax terrorism' got coined for our tax administration. While these initiatives do make an attempt to do a makeover of the tax administration by putting in place a structure for transparent taxation but there is absolutely nothing in it for 'Honouring the Honest'. When you want to honour someone you make him feel special and the transparent taxation scheme does not do that. A tax payer feels honored not by receiving a certificate from the tax authorities but when he sees the amount collected by way of tax is used for nation building and when he is rewarded for his contribution as a nation builder. Many countries such as Japan, Korea have various ways of rewarding taxpayers. That aspect is missing in this new initiative, however, be that it may, one must not lose sight of the bold step which has been taken by the Government for which credit must be given to the Government.

As always it is the implementation which is the key. GST which was touted as the single biggest reform in indirect taxes since independence is still fraught with numerous challenges because of the way the law was conceived and implemented. However, if the transparent taxation scheme is implemented well it could be a game changer; let us see how.

As the name suggests the scheme removes the physical interaction between the actual Assessing Officer (AO) and the taxpayer. For the taxpayer it is only the National e-Assessment Centre (NeAC) which will be the contact point and all correspondence will take place between the taxpayer and the NeAC. The NeAC will in-turn allocate the case based on an automated allocation system to an Assessment Unit (AU) under the charge of a Regional e-Assessment Centre. The AU can then seek assistance of other specialized units i.e. the Verification Unit (VU) and Technical Unit (TU) for the purposes of the assessment. The scheme also has an in-built mechanism of a review of the order by a separate Review Unit (RU).

Coming to the merits of the scheme, firstly the waiting time at the tax office is going to be a thing of the past. Secondly, the taxpayer is not exposed to the whims and fancies of the AO. Thirdly, what this scheme is going to do is to increase the quality of the assessments manyfold. To expect one Assessing Officer (AO) to do a quality assessment was never possible. Imagine an AO who has spent 5 years in an exemption ward and is now transferred to a corporate ward and is asked to complete 100 assessments in a time bound manner. It is impossible for such an AO to do justice to the assessment proceedings and the orders that were passed were a testimony to that fact. However, now with the support of the technical unit, verification unit and the review by the review unit, the AO can actually do a quality assessment. Fourthly, for the taxpayer it gives the confidence that the response being submitted by the taxpayer is considered by an independent specialized unit set up for that purpose. Fifth and the most important, the mechanism of a review by the RU gives comfort that the order being passed has been reviewed thoroughly and would not have any frivolous additions. The above aspects to my mind are going to change the rules of the game.

The whole assessment process from being person driven now becomes process driven. One must remember that for every process to deliver quality output, the input for that process must be of a high standard and quality. Accordingly, it becomes imperative for taxpayers to ensure that what they are submitting to the NeAC in terms of their response is not garbage, because if you give garbage, you will get garbage. The drafting of responses to queries raised by the NeAC is now going to be critical. Therefore, the taxpayers and their authorized representatives will have to learn these new skills of drafting in a manner that their response speaks for itself.

The downside of this scheme is that it could get more intrusive and investigative as there would be specialized units looking at the whole assessment process which in-turn could lead to an increase in appellate proceedings. The other aspect to be noted is that assessment proceedings are quasi-judicial proceedings and to let the authorities decide whether the case merits an opportunity for oral submissions is not correct. It is a right of the taxpayer to be heard when an addition is being proposed to be made and experience shows that mere written submissions how good they may be, cannot substitute a face to face/oral hearing. Finally, the whole aspect of service of notice on the registered account of the taxpayer on the portal, through emails and messages is bound to raise disputes. There will no doubt be teething troubles on the roll out of the scheme and therefore the tax authorities should exercise restraint before imposing penalties for non-compliance.

To end in a lighter vein, I hope that what is being claimed as a faceless, fearless and painless process does not become a painful exercise both for the tax authorities and the taxpayer.