

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 7 | Issue 6

2024

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Modernizing Tax Processes: Addressing The Challenges in Digitized Income Tax Administration in India

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ABSTRACT

In the age of Industry 4.0, technology has become integral to various sectors, including tax administration. In India, the Central Board of Direct Taxes (CBDT) has embraced digitalization to enhance transparency, efficiency, and fairness in the income tax system. The COVID-19 pandemic further accelerated the shift towards digital platforms, transforming the way tax processes are managed. However, this transition is not without its challenges. Taxpayers, administrators, and other stakeholders face several technical and procedural hurdles. This paper explores the key challenges in India's digitized income tax administration, including issues with the Income Tax Portal 2.0, inconsistencies in the Annual Information Statement (AIS) and Taxpayer Information Summary (TIS), the proliferation of online portals, privacy concerns related to PAN-Aadhaar integration, and technical glitches in the e-PAN system. It also examines outdated demand and refund adjustments by the Centralized Processing Centre (CPC), inefficiencies in the online grievance resolution mechanism, and complications arising from faceless assessments and reassessment notices. Emerging challenges in this rapidly evolving landscape are also analyzed. The paper concludes by suggesting practical solutions to address these issues, aiming to improve the digital tax administration framework in India.

Keywords: Income tax, Tax Administration, Digitalization, Challenges, PAN.

I. INTRODUCTION

In India, income tax administration falls under the purview of the “Central Board of Direct Taxes” (CBDT), a statutory body under the “Ministry of Finance.”² The department aims to collect income taxes fairly and efficiently while upholding taxpayer rights and facilitating compliance.³ The Indian taxation laws have always been complex, making it difficult for taxpayers to understand and comply with regulations. Before the last decade, the whole tax administration procedure was manual, where the taxpayer used to file his income tax return

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² S Gupta, *Various Tax Authorities and their Powers under the Income Tax Act*. Asian Journal of Management, 6(1), 25-32 (2015).

³ A Das-Gupta, D Mookherjee, DP Pant, “*INCOME TAX ENFORCEMENT IN INDIA*” (1992).

(ITR) manually along with submitting documents to the concerned Assessing Officer (AO).⁴ Manual filing involves collecting and storing physical documents, leading to paperwork mismanagement and potential loss of crucial information. Processing of refunds, issuing notices, raising demands by the AO, submitting responses to the department and other regular tasks was a lengthy and tedious process. Moreover, physical submission centers had limited reach and operating hours, creating access barriers for taxpayers, especially in rural areas.⁵ Manual data entry was prone to errors, leading to incorrect assessments, penalties, and disputes. This system lacked transparency in processing returns and resolving queries, causing frustration and suspicion among taxpayers. These issues also resulted in corruption in the department.

By the end of the 20th century, computers started becoming popular. Consequently, in 2002, the ITD launched its national website, www.incometaxindia.gov.in, to act as a bridge between the department and taxpayers.⁶ However, these early initiatives had limited adoption and impact due to a lack of awareness, infrastructure, and user-friendliness. To add more functionality to the computerized system and facilitate the e-filing of ITR, the department introduced a project in 2006.⁷ This further challenged the processing and verification of ITRs and to overcome this, the Centralized Processing Centre (CPC) was established in Bangalore for processing paper and e-filed ITRs. Several IT measures were implemented to ensure effective tax administration, including 'Sevottam' to empower taxpayers to track refunds and credits for advanced taxes online. With the advent of time and technological advancements, the department made timely changes to the website and added new features and content. During 2018-20, the department launched online facilities for e-proceedings and e-assessment including faceless assessment and appeals.⁸

With the advent of time and increasing workload on the website, the portal was prone to crashes and outages, especially during peak filing seasons, causing frustration and missed deadlines. Inaccuracies in pre-filled information led to errors in tax calculations and required manual corrections, increasing workload and frustration. There was a lack of mechanisms for integration with other government databases to verify the pre-filled information by the department. The older portal interface was considered complex and difficult to navigate, especially for non-tech-savvy taxpayers. The grievance redressal mechanism was cumbersome

⁴ EY Satya Poddar, *Transforming the Income Tax Department in India through IT*.

⁵ R.Heeks, *Understanding e-governance for development*, (2001).

⁶ ITD, *History of Direct Taxation* (last visited February 3, 2024) <https://incometaxindia.gov.in/pages/about-us/history-of-direct-taxation.aspx>.

⁷ EY Satya Poddar, *Transforming the Income Tax Department in India through IT*.

⁸ ITD, *History of Direct Taxation* (last visited February 3, 2024) <https://incometaxindia.gov.in/pages/about-us/history-of-direct-taxation.aspx>.

and time-consuming, creating a burden on the taxpayers. These issues were addressed by the department and the “Ministry of Finance” while developing a new portal called the Income Tax Portal 2.0.

II. THE INCOME TAX PORTAL 2.0

Due to the implementation of GST, advancement of technology and shift towards a digital economy, the CBDT realized the need to replace the tax filing portal and launched a new portal www.incometax.gov.in in 2021. The main aim of the new ITR e-filing portal is to enhance user experience, expedite the tax filing procedure and integrate with the GST system by utilizing advanced technology.⁹ The new portal is mobile-compatible¹⁰ and developed to provide a more user-friendly interface, assisting taxpayers to navigate and access relevant information.¹¹ Further, it eliminates the need for manually entering information and saves time as the portal pre-fills certain fields of the ITR form automatically based on data available with the government.¹² It also automated various processing tasks including data validation and verification, resulting in speedier refund and return processing.¹³ This helps in reducing errors in tax filing and improving accuracy and compliance. The department seeks to make the whole procedure convenient for the taxpayers by establishing a single dashboard, where taxpayers can interact, upload and follow up on the action. Therefore, the portal tries to raise and resolve disputes related to tax assessments by enabling taxpayers to submit responses to Notices in Faceless Scrutiny of Appeals.

The new portal also provides free online and offline software with interactive questions to prepare ITR. The taxpayer will be able to monitor all conversations, uploads, and pending tasks on a single dashboard for easy follow-ups. Other important features include a new call centre, tutorials, videos, and a chatbot/live agent to provide solutions to queries taxpayers immediately. It further comes with multiple payment options like net banking, UPI, RTGS, and NEFT for the

⁹ K Shukla, A Singh, *THE ROLE OF DIGITALIZATION IN WIDENING THE INCOME-TAX BASE*. <https://itatonline.org/digest/articles/the-role-of-digitalization-in-widening-the-income-tax-base/>.

¹⁰ Press Release, *Launch of new e-filing Portal of the Income Tax Department - Non-availability of e-filing services from 01.06.2021 to 06.06.2021*, CBDT (May 20, 2021) https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/935/PressRelease_Launch_new_efiling_Portal_ITD_20_5_21.pdf

¹¹ H Singh, S Vardia, *OPINION OF TAXPAYERS ON NEW INCOME TAX E-PORTAL (E-FILING 2.0)*, Dogo Rangsang Research Journal (Sept. 02, 2021) [https://www.mlsu.ac.in/naac2023/3.4.4%20Offline%20Research%20Publications/Publication/P-024%20OPINION%20OF%20TAXPAYERS%20ON%20NEW%20INCOME%20TAX%20E-%20PORTAL%20\(E-FILING%202.0\).pdf](https://www.mlsu.ac.in/naac2023/3.4.4%20Offline%20Research%20Publications/Publication/P-024%20OPINION%20OF%20TAXPAYERS%20ON%20NEW%20INCOME%20TAX%20E-%20PORTAL%20(E-FILING%202.0).pdf).

¹² ITD, *Application Programming Interface (API) Specifications, Integrated e-filing and CPC 2.0 Project* (October 2021) https://www.incometax.gov.in/iec/foportal/sites/default/files/2021-10/API_Prefill.pdf.

¹³ Press release, CBDT committed to speedy processing of Income Tax Returns, CBDT (September 5, 2023) <https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1150/PressRelease-CBDT-committed-to-speedy-processing-of-ITR-5-9-23.pdf>.

convenience of taxpayers.

The new portal is developed and maintained by Infosys to modernize the system.¹⁴ While the Income Tax Portal 2.0 boasts promising features aimed at improving user experience and efficiency, several challenges persist, such as:¹⁵

- While **pre-filled information** saves time, inaccuracies can lead to incorrect tax calculations and require tedious manual corrections, negating the intended convenience.
- The portal still faces **crashes** or takes **more buffering time** during peak filing seasons, resulting in missed deadlines.
- Technical glitches may cause **loss of saved ITR drafts** on the portal.
- Lack of simplified user guides in **regional languages** and the **interface** might remain challenging for non-tech-savvy taxpayers.
- Despite a **new call centre and chatbot**, the overall mechanism remains cumbersome and time-consuming.
- While automated processes streamline simple returns, **complex cases** often require manual intervention, causing delays and potential discrepancies.

Let us now focus on recent developments in income tax administration and concerns related to them.

III. ANNUAL INFORMATION STATEMENT AND TAXPAYER INFORMATION SUMMARY

With the rise in the digital economy, the department introduced a new system¹⁶ where the IT department introduced a new mechanism, wherein the department issues 2 crucial documents to provide information about financial transactions and the tax status of taxpayers. This mechanism promotes streamlined tax filing, transparency and accountability in the system.

*Annual Information Statement (AIS)*¹⁷ is a statement of financial transactions of taxpayers during a particular financial year, in addition to Form 26AS, which provides all the information available with the department received from various sources like banks,¹⁸ Mutual funds,

¹⁴ Case study, *Infosys helps create a centralized tax administration platform*, Infosys <https://www.infosys.com/services/application-modernization/case-studies/centralized-administration-platform.html>.

¹⁵ RC Singh, *A critical analysis of direct taxes in India* (2022).

¹⁶ The Finance Act, 2021, No. 13, Acts of Parliament.

¹⁷ ITD, *Annual Information System* (May 2023) <https://incometaxindia.gov.in/Pages/annual-information-system.aspx>.

¹⁸ ITD, *Functional & System Requirement Specifications, Integrated e-Filing and CPC 2.0 Project - Integration with Banks (Version 1.1)* (November 2022) https://www.incometax.gov.in/iec/foportal/sites/default/files/2022-11/Bank-Integration_v1.1.1.pdf.

property transactions, and foreign remittances. It also includes details of various income sources like salary, interest, dividends, capital gains, and rental income. It is the cornerstone of the pre-filing of ITR with relevant financial data.

*Taxpayer Information Summary (TIS)*¹⁹ is a category-wise summary of information extracted from the AIS of the taxpayer for easier understanding. Thus, it highlights potential tax implications of financial transactions and is useful for verifying the accuracy of information pre-filled in the ITR.

AIS and TIS both facilitate accurate tax reporting and promote transparency as well as accountability in financial transactions because these 2 comprehensive documents include data about taxpayers' incomes, financial transactions, tax details, income-tax proceedings, etc. It empowers taxpayers with readily accessible financial data and helps to identify and reduce potential discrepancies in the financial data of the taxpayer. Therefore, it saves the time of tax authorities as well as taxpayers. It can curb tax evasion and provide ground for tax authorities to target audits more effectively. AIS is uploaded by the Principal Director General of Income-tax (Systems) the Director General of Income-tax (Systems), or any person authorized by him.²⁰ Through the 'AIS for Taxpayer' mobile app or by signing into his income-tax e-filing account, a taxpayer can obtain AIS/TIS information. The taxpayer can provide input on the information provided in AIS if he believes it is inaccurate, redundant, or pertains to another individual, among other reasons.

Although the AIS and TIS offer great potential, there are several barriers in the way of realizing that potential. In the initial implementation phase, the cases came before the department where mismatches and inconsistencies in sources persisted in the system, raising recurring concerns about data accuracy. The department clarified that, in case of inconsistencies between the data in AIS and Form26AS available on the webpage of TRACES, the taxpayer can depend upon the data available on the webpage of TRACES for filing ITR;²¹ and can raise queries against the data of AIS. The issue still exists, and the only solution provided by the department is to ignore the data provided in AIS, this raises a question mark on the AIS-TIS mechanism. There is also difficulty with integration between AIS and TIS, or with other government systems like GSTN or EPFO, which can lead to delays in data updates and irregularities that can bother

¹⁹ ITD, *Taxpayer Information Summary (TIS)* (last visited Feb. 3, 2024). <https://incometaxindia.gov.in/tutorials/61.taxpayer-information-summary-tis.pdf>.

²⁰ Income-tax Act, 1961, § 285BB; Income-tax Rules, 1962, r. 114-I.

²¹ Press release, *Roll out of the new AIS*, CBDT (Nov. 1, 2021). <https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1001/PressRelease-Roll-out-of-the-new-Annual-Information-Statement-AIS-1-11-21.pdf>.

taxpayers and government officials simultaneously. It might be difficult for non-tech-savvy to use and understand the user interface, especially for the TIS, because of its complexity. This can hinder their ability to access and understand their financial information accurately.

The platform provides taxpayers with the option of submitting responses in the form of feedback against the data available in AIS under certain circumstances²² like if the data is incorrect, the transaction is not taxable, or the receipt is different. However, this can be hampered by limited reporting choices and a lack of real-time data as the data is typically updated periodically. This can sometimes lead to delays in reflecting recent transactions or changes in financial data.

The information in AIS-TIS is used by the algorithm to pre-fill the ITR. Both these statements are dependent upon sources provided by third parties. Issues with data quality or accuracy from these sources can cause errors in AIS and TIS. In some cases, duplicate entries of the same transaction might appear leading to over-reporting of income or expenses. If any information is missing or incorrect, then the algorithm pre-fills the incorrect information in the draft ITR. Taxpayers don't have direct control over the data displayed in AIS and TIS.

IV. MULTIPLICITY OF ONLINE PORTALS

Portal 2.0 focused on creating a single portal for all Income Tax related information, compliance and grievance. The department has integrated different portals into the new income tax site. Though, various features are not available on the webpage for the income tax e-filing portal, rather it redirects the taxpayer to another portal. Single Sign-On (SSO) on the e-filing portal allows²³ users to access the Compliance Portal and Reporting Portal services, giving them easy access to features like DIN Authentication, e-Campaigns, e-Verifications, AIS, and more; without visiting and logging in to each site separately.

However, it poses a significant challenge for taxpayers and their IT preparers. The lack of data synchronization between these platforms can indeed create unnecessary complexity and burden. Information displayed on one portal might be missing or conflicting with another. The system takes time to synchronize information available on one platform with the data of others, leading to confusion and difficulty in verifying accuracy. This can range from basic PAN details to crucial tax statements or refund statuses.

Navigating multiple portals to gather complete information consumes time and often involves

²² ITD, *FAQs on AIS* (2022) (last visited February 3, 2024) <https://www.incometax.gov.in/iec/foportal/ais-faq>.

²³ ITD, Chandigarh, *First time login instructions: Insight Portal One Time Configuration User Guide* <https://incometaxchandigarh.org/admin/pdf/T/Insight%20Portal%20One%20Time%20Configuration%20User%20Guide.pdf>.

repetitive procedures. This not only causes inconvenience to the taxpayers but also creates a burden upon the tax authorities. Furthermore, while responding to pending notices or demands raised by the department, the lack of a centralized platform raises challenges for response preparers to switch between various portals, impacting their ability to efficiently serve clients. In a few cases, it has been noted that even after the settlement of demand, the web portal still shows the pending demands due to this issue of multiplicity.

V. PAN-AADHAAR INTEGRATION

The Act provides for '*Quoting of Aadhaar Number*'²⁴ therein making the linkage of Aadhaar with the already issued PAN (Permanent Account Number) mandatory as per the date declared by the Union Government. However, in case the 2 identity numbers are not linked, the PAN card will be rendered inoperative. The Aadhaar was made a pre-requisite for filing a new PAN application.²⁵

Meanwhile, Section 134AA was added, "*right to privacy*" was declared as a right derived from Article 21 of the Indian Constitution.²⁶ The information contained in Aadhaar is personal, biometric and demographic data of the individual.²⁷ Its integration with other data raises concerns about excessive data aggregation and the potential for government surveillance and profiling.²⁸ In the digital era, big data has become open data further raising privacy concerns.²⁹ The constitutional validity of this section was challenged contending infringement of the basic rights to privacy, human dignity, etc. under Article 21.³⁰ The Apex Court upheld the validity of the said provision; however, it was held that the section cannot be applied retrospectively to existing PAN card holders. The retrospective application would violate the PAN holder's right to procedural due process. Therefore, the PAN cannot be deleted for those who do not have an Aadhaar number. It is mandatory to provide information related to Aadhaar while making an application for a new PAN card, thus has a prospective effect only. The CBDT after providing an extension of the due date at various instances, the last date for linkage held to be 30th June 2023. The PAN cards which not linked by this date are rendered inoperative.³¹

²⁴ The Income Tax Act, 1961, §134AA, No. 43, Acts of Parliament, 1961.

²⁵ The Income Tax Act, 1961, §139AA (2), No. 43, Acts of Parliament, 1961.

²⁶ *Justice K.S. Puttasamy v. Union of India*, 2018 (4) KCCR SN 331 (SC).

²⁷ P. Singh, *Aadhaar and data privacy: biometric identification and anxieties of recognition in India*, Information, Communication & Society, 24(7), 978-993 (2021).

²⁸ I Pali, L Krishania, D Chadha, A Kandari, G Varshney, S Shukla, *A Comprehensive Survey of Aadhaar and Security Issues*, arXiv preprint arXiv:2007.09409 (2020).

²⁹ Office of the United Nations High Commissioner for Human Rights, *Report of the Special Rapporteur on the right to privacy*, A/73/438 (2018) <https://www.ohchr.org/en/documents/thematic-reports/a73438-report-special-rapporteur-right-privacy>.

³⁰ *Binoy Viswam v. Union of India*, (2017) 7 SCC 59.

³¹ Press release, Last date for linking of PAN-Aadhaar extended, CBDT (March 28, 2023)

VI. TECHNICAL ISSUES: THE E-PAN SYSTEM

The Central Government in pursuance of issuing PAN with Aadhaar number, introduced services of instant ePAN to provide quick and convenient PAN allocation, where anyone can apply anytime 24/7 and 365 days a year through the web portal of the income tax department with just the Aadhaar number and mobile number. The department took the initiative to allot the PAN number within 10 minutes.³²

- **Delays in PAN Generation:** In the initial phase of portal 2.0, applicants received the PAN number immediately. Later, various issues emerged that dampened the experience for taxpayers such as a lag in the issuance of PAN due to various factors including technical glitches and lack of awareness among the people. Sometimes, the system experienced errors in processing Aadhaar or mobile number data leading to application failures or incorrect PAN generation, questioning against the mandates of Section 134AA.³³

When various complaints were lodged by users reporting the issue of the pending status of ePAN for weeks, the department suggested users apply again for the PAN using the National Securities Depository Limited (NSDL) portal. This also created the problem of multiple applications and thereby multiple PANs allotted to one person. Furthermore, instead of updating details on their existing PAN, sometimes people apply for a new PAN for name changes or other corrections. This can result in having multiple PANs for the same person. Moreover, a practical challenge of the ePAN initiative is that even if an instant PAN is issued, it takes time of 15-20 days to get the details of PAN updated in the Income Tax database.

- **Inaccurate or Duplicate PAN Generation:** In some cases, reported to the authorities, duplicate PAN numbers are issued to more than one person, which means that one PAN number is mistakenly allotted to more than one person. This might happen due to the misinterpretation of similar names or birthdates linked to the same Aadhaar number by the system, as the ePAN initiative involves processing by machines with less human intervention for speedier processing.
- **Mislinked Aadhaar-PAN Combinations:** It refers to a situation where one person's

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1131/PressRelease-Last-date-for-linking-of-PAN-Aadhaar-extended-28-3-23.pdf>.

³² ITD, *Instant e-PAN User Manual* (last visited February 3, 2024) <https://www.incometax.gov.in/iec/foportal/help/how-to-generate-instant-e-pan>.

³³A. Kulshrestha, *Solved! Name Mismatch Problem (Aadhaar & PAN Card) for ITR?* Sage Infotech Blog (April 18, 2023) <https://blog.saginfectech.com/solved-name-mismatch-problem-aadhar-and-pan-card-for-itr-filing#>.

Aadhaar gets erroneously linked to another's PAN due to various reasons including typos or mismatching information during application and technical glitches during data processing or integration between databases.³⁴ In addition to this, delays in Aadhaar authentication due to technical issues or server inconsistencies prevented timely PAN generation.

- **Vulnerability to Misuse:** Malicious actors can exploit vulnerabilities in the instant e-PAN process to obtain multiple PANs for illegal purposes like tax evasion or identity theft.
- **Lack of PAN Search Using Aadhaar:** If a PAN holder loses his PAN, there is a lack of facility to search their PAN using Aadhaar, even after streamlining linking PAN with Aadhaar, causing a significant delay, inconvenience and an unnecessary hurdle in tax administration. The assessee must rely on traditional methods like filling out physical forms, visiting tax offices, or contacting their AO to retrieve their PAN details.
- **Additional Concerns:** The aim behind the introduction of Section 134AA of the Act is to make Aadhaar the central document for PAN attribution, aiming to prevent duplication and streamline the process. However, relying solely on Aadhaar led to other challenges such as repetition of existing errors made in the Aadhaar or inactive mobile numbers in the Aadhaar database requires a person to first update details in the Aadhaar database on the UIDAI website causing delays in getting PAN when required urgently. However, the journey towards a truly efficient and foolproof instant ePAN system requires multifaceted efforts. Taxpayers must use the service responsibly, promptly reporting issues, while the department needs to continuously refine the technology and implement robust security measures.

VII. DEALING WITH OUTDATED DEMAND AND REFUND ADJUSTMENT BY CPC

The Centralized Processing Center (CPC) deals with the processing of ITRs, issuing tax assessment orders, managing refunds and demands, reconciling tax information and maintaining taxpayer records. The Act empowers the department to adjust the amount of due demand of tax payable from any previous year from the refund of the current year, by sending intimation to the taxpayers on registered email ID and SMS and allowing them to submit their response on it whether they agree with it or not.³⁵ The CPC will promptly forward the matter to

³⁴ FAQs, UIDAI (last visited February 3, 2024) <https://uidai.gov.in/en/292-faqs/your-aadhaar-pan-aadhaar/1955-my-name-is-different-in-pan-and-aadhaar-it-is-not-allowing-me-to-link-both-what-to-do.html>.

³⁵ The Income Tax Act, 1961, §245, No. 43, Acts of Parliament, 1961.

the concerned AO if the assessee either partly or fails to agree to adjustment. If the AO decides to make a partial adjustment, it must specify the amount of demand that needs to be adjusted for each year. The AO must respond to CPC on whether the adjustment should be made or not within 21 days of the date of such reference.

This can be resolved by contacting the concerned AO and clarifying the status of the outdated demand.³⁶ If the AO confirms the error lies with the CPC, the taxpayer can complain to the CPC through their online grievance redressal portal or dedicated email address. Then the taxpayer must regularly check the status of the complaint until the issue is resolved. However, this can cause frustration among the taxpayers.

This may cause communication discrepancies or delays in data processing between the AO and CPC leading to outdated demands persisting in the system. Technical glitches within the CPC system can also prevent information about paid demands from being reflected accurately. Also, data entry errors at either the AO or CPC level can result in outdated demands being listed. All these might result in delays in refunds and create unexpected financial burdens upon the taxpayer.³⁷ Furthermore, if one has multiple demands raised across different years, it can be more difficult for the system to track which ones have been paid or adjusted.

In *Graphite India Ltd's case*,³⁸ the refund amount was adjusted against an outstanding demand. The AO didn't consider objections raised by the assessee and issued an intimation proposing to adjust the demand from the due refund. The CIT, respondent argued that hearings are not mandatory under Section 245, only intimation is required. It was decided that the lack of consideration for the petitioner's objection and application before adjustment violated their right to be heard and was against established law. The amount adjusted cannot be more than the amount of outstanding demand and the balance has to be refunded.³⁹ If the refund request is not taken into consideration and the payable amount of the refund is not processed, then the department may be directed to refund the amount along with interest at 12% p.a. on the amount due after the expiry of four weeks.⁴⁰ If the assessee is deemed in default, then the department is only permitted to request a pre-deposit of 20% of the contested demand and any amount beyond

³⁶ ITD, *Response to Outstanding Demand User Manual* (last visited February 3, 2024) <https://incometaxindia.gov.in/Pages/tax-services/response-to-outstanding-tax-demand.aspx>.

³⁷ A. Kulshrestha, *Brief Guide to Intimations U/S 245 for Old Tax Demand*, Sage Infotech Blog. (November 17, 2022) <https://blog.saginfectech.com/intimations-section-245-notice-old-tax-demand>.

³⁸ *M/S Graphite India Ltd vs. Dy. Commissioner of Income Tax* (2022) 448 ITR 292 (Cal. HC)

³⁹ *Eko India Financial Services (P.) Ltd. v. ACIT* (2021) 205 DTR 113 / 322 CTR 201 / 283 Taxman 584 (Del. HC)

⁴⁰ *Mohandas Isardas Chatlani v. ITO* (2021) 439 ITR 577 / 205 DTR 102 / 322 CTR 365 (Bom. HC).

20% is to be refunded.⁴¹

VIII. GRIEVANCE RESOLUTION MECHANISM

Through the new IT portal, the department provides the facility of filing grievances on the e-filing portal which aims to provide speedy and easy access to grievance resolution mechanisms. Nevertheless, the department failed to properly construct this process and is unable to maintain track of it. Grievances submitted on the e-filing portal can languish for weeks or even months without acknowledgement or resolution. Usually, it takes up to 8 weeks for the department to respond to the grievance.⁴² In many cases, taxpayers received ‘N/A’ as a response on the portal and at the same time received grievance acknowledgement on the registered mail.⁴³

Even when responses are received, they may be vague, generic, or fail to address the specific concerns raised in the grievance. Transparency is lacking in the process since it is difficult to follow the progress of a grievance or comprehend the reasoning behind a judgment. In addition to this, communication with concerned authorities regarding grievances filed on the e-filing portal is often limited to generic email addresses or online forms. Thus, this leads to a lack of personalized communication and can raise concerns among taxpayers about being unheard and helpless.

IX. FACELESS ASSESSMENT

“E-Assessment Scheme, 2019” was brought by the government to transform assessment procedures in the digital era.⁴⁴ Later on, “Faceless Assessments”, were added to the Act⁴⁵ to reduce corruption, provide better facilities for taxpayers and improve overall efficiency. However, transparency issues emerged as a barrier to the efficient execution of the initiative. The plan attempts to eliminate human intervention through technology-driven interfaces, data analytics, and artificial intelligence. COVID made the issuance of e-notices the new trend and the whole procedure was digitized.⁴⁶

Section 144B applies to all scrutiny assessments under Section 143(3). If the assessee is

⁴¹ *Skyline Engineering Contractors (India) (P) Ltd. Dy. CIT (2021) 206 DTR 60 / 322 CTR 745 (Del. HC)*

⁴² ITD, Bangalore, *Grievance Redressal Mechanism Procedure* (last visited March 30, 2024) <https://office.incometaxindia.gov.in/bengaluru/pages/grievance-redressal-mechanism.aspx#:~:text=In%20all%2C%20effective%20steps%20are,of%20receipt%20of%20the%20petition.>

⁴³ Bajaj Finserv, *Is the Income Tax Portal Not Working? Here's What You Need to Know!* (Last visited February 03, 2024) <https://www.bajajfinservmarkets.in/markets-insights/income-tax/new-itr-portal-not-working.html>.

⁴⁴ S Gupta, A Agarwal, A Srivastava, *E-Assessment—A Digital Solution for Promoting e-Governance*, Transforming Organizations Through Flexible Systems Management (Singapore: Springer) pp. 127-143 (2020).

⁴⁵ The Income Tax Act, 1961, §144B, No. 43, Acts of Parliament, 1961.

⁴⁶ A Kundu, T Bej, *Experiencing e-assessment during COVID-19: an analysis of Indian students' perception*, Higher Education Evaluation and Development, 15(2), 114-134 (2021).

dissatisfied with the order made by the AO, he can approach the “Dispute Resolution Panel (DRP),” appointed by the CBDT, which is required to provide an opportunity for an oral hearing to the taxpayer, if requested. The taxpayer is allowed to respond to the preliminary notice of cause passed by the AO within 30 days.⁴⁷

The appeals can be lodged by the taxpayer through the e-filing webpage before the Commissioner (Appeals). To make the appeal procedure online, new clauses were added to “Procedure in appeal.”⁴⁸ These provisions seek to empower the Central Government to make schemes for e-appeals to a certain extent which is technologically viable. These changes also introduced a system of dynamic jurisdiction for appeals to be disposed of by one or more Commissioners. The intention behind this was to eliminate the arbitrary discretion of the tax officers⁴⁹ and establish a team-based approach. If any issue related to jurisdiction arises, it cannot be dismissed on the ground that it was not challenged in the first round and thereby waived off. It can be questioned at any time before the matter has not reached finality.⁵⁰

The scheme has brought both new opportunities and challenges for taxpayers and the authorities. The nature of communication is impersonal. In the absence of in-person interactions with AOs, it might be challenging to properly express concerns as well as comprehend the rationale behind decisions.

Generally, it involves the production of documents and information in the electronic form. Technology is used to interpret the written submissions. Also, there is a limitation on the size of electronic documents. To meet this criterion, the assessee wastes their time in scanning and compressing the document, making the text blurry and difficult to read. The communication channel in the faceless system remains unclear in various situations. Lack of clarity on accepted formats or incomplete information sharing can lead to delays, misinterpretation of crucial data and unnecessary complications, especially in complicated cases. Also, the automated processing prima facie faces technical glitches and violates the principle of “Audi Alteram Partem.”⁵¹

The timeline for submitting a response on the portal is very limited, as it is auto-generated.

⁴⁷ The Income Tax Act, 1961, §144B, No. 43, Acts of Parliament, 1961.

⁴⁸ The Income Tax Act, 1961, §250, No. 43, Acts of Parliament, 1961.

⁴⁹ M. Chauhan, *The Faceless Regime in the Income-Tax Department and Its Impact on Principles of Natural Justice*, Issue 6 Int'l JL Mgmt. & Human, 5, 618 (2022).

⁵⁰ *YCH Logistics (India) (P.) Ltd. v. Deputy Commissioner of Income-tax* [2023] 148 taxmann.com 118 (Chennai Trib.)

⁵¹ P Malpani, DM Hake, *Evaluating the Constitutional Validity of E-Assessment, Faceless Hearing and Appeal Scheme Under the Indian Income Tax Act, 1961 in the Light of Application of the Principles of Natural Justice*, Journal of Positive School Psychology, 4445-4452 (2022).

Therefore, it sets a strict timeline does not allow uploading necessary information on the portal beyond the set timeframe and gives reasons for late submission. It may be difficult for taxpayers to gather all relevant information within a set timeframe, to reply to show cause notices. When the complete information cannot be submitted, the adjustments are made erroneously, violating the “*Principles of Natural Justice*”.

Technology-driven automated system is also used by the National e-Assessment Centre (NeAC) to delegate the cases to the Assessment Unit (AU). This allotment might be considered arbitrary, as allotment is made without considering the experience or expertise of the concerned Faceless Assessing Officer (FAO). This can contribute to the assignment of a complicated case to an officer with less competence, or vice versa. Also, FAO cannot access the past case records of the assessee available with the Jurisdictional Assessing Officer (JAO). Owing to these, FAOs are unable to evaluate the facts, and the case will be improperly dismissed, which will lead to more lawsuits.

The basis of this scheme is to eliminate human intervention and automate the process. Email serves as the sole mode of communication between the tax department and the assessee. Further, the assessee has the discretion to hire any person as his authorized representative. In case the assessee changes his representative, e-mail ID may remain unchanged; leading to non-submission or delays in submitting responses.⁵²

In the event of a challenging issue or whenever the assessee feels, they can request the concerned authorities for proceedings through video conferencing. The income tax department, however, has the discretion to decide whether to permit video conferencing or not, which might result in the infringement of fundamental rights as the assessee fails to receive the chance to make an appearance.

Recently, the Calcutta High Court invalidated the order passed by the Department under Section 143(3) in conjunction with Section 144B of the Act in faceless assessment, citing a violation of the “*Principles of Natural Justice*” because AO failed to adhere to the Standard Operating Procedure (SOP).⁵³ SOP is framed by the “*National Faceless Assessment Centre*” (NFAC) under Section 144B of the Act and thus AO is bound to consider SOP while passing orders under faceless assessment.

The Delhi High Court upheld the abovementioned decision and clarified that it is mandatory to

⁵² S Sahana, *Types of Assessment-Critical Analysis of Faceless Assessment Scheme, 2020*, Supremo Amicus, 23, 202 (2021).

⁵³ *Indu Goenka Vs. Assessment Unit, ITD & Ors.* MAT 306 Of 2023 DATED 16.03.2023

issue a notice of show cause and draft assessment order to the assessee before issuing a final order for assessment under Section 144B of the Act. If notice and order are not issued, it will be considered as a violation of the “*Principle of Natural Justice*” along with the mandatory procedure laid down in Section 144B.⁵⁴ The Court further held that when the principles are violated, one can directly approach the concerned High Court within the scope of “*Article 226, Constitution of India,*” irrespective of the fact that whether any alternative remedy including statutory appeal is available or not.

In a particular case, the assessment order issued by NFAC with a timeframe of 2 days to be responded to by the assessee was objected to as against the “*Principles of Natural Justice.*” The Kerala High Court held that providing sufficient opportunity to object to assessment is necessary as per the “*Principles of Natural Justice.*” However, here the assessee has availed of the provided short duration by objecting to the order within the said duration. Hence, the principles have not been violated in this specific case.⁵⁵

X. RE-ASSESSMENT NOTICES AND EMERGING CHALLENGES

Assessment refers to the system for figuring out the assessee’s tax obligation for a particular assessment year and involves the filing of an ITR as the primary step under the 1961 Act. Sections 143 to 153 lay down the assessment procedure. If the AO holds a “*reason to believe*” that income has escaped prior assessment or has been inaccurately assessed, reassessment can be initiated by the AO by issuing a notice to reassess the ITR of the assessee.⁵⁶

During the global COVID-19 pandemic and ensuing lockdowns, there were delays in issuing reassessment notices and complying with due dates. To address this, TOLA, 2020⁵⁷ was enacted and its Section 3 empowered the Central Government to extend time limits through notifications, thereby shifting the notice deadline under Section 148 by a gazette notification to 30/04/2021 and then further changed it to 30/06/2021.

The Finance Act of 2021 changed the process of reassessment. The new provision requires the AO to conduct an inquiry before issuing a notice under Section 148 and also mandates granting the taxpayer an opportunity to present their case within a period ranging from 7 to 30 days beforehand.⁵⁸ The information to show escape of income has to be included in the notice under

⁵⁴ *Jindal Realty Limited v. National Faceless Assessment Centre*, Delhi 2022 LiveLaw (Del) 376.

⁵⁵ *Shanavas M.v. Additional/Joint/Deputy/Assistant Commissioner of Income-tax, National Faceless Assessment Centre, Delhi*, WP(C) NO. 14803 OF 2022.

⁵⁶ The Income Tax Act, 1961, §148, No. 43, Acts of Parliament, 1961.

⁵⁷ Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, No. 38, Act of Parliament, 2020.

⁵⁸ The Income Tax Act, 1961, §148A, No. 43, Acts of Parliament, 1961.

Section 148A(b), to which the assessee can respond with their material and evidence. The aim is to adhere to the principles of natural justice and reduce litigation. Upon reviewing the response of the assessee regarding why a notice under Section 148 should not be issued, the relevant officer can assess whether issuing a reassessment notice under Section 148 is warranted. The notice of Section 148A is appealable before the Income Tax authorities. However, if AO exceeds jurisdictional powers,⁵⁹ then the assessee can approach the concerned High Court by filing a writ petition. In a nutshell, Section 148A seeks to establish a procedure for enquiry before a notice the issue of notice of Section 148 w.e.f. April 01, 2021.

The enactment of TOLA and new provisions for reassessment raised nuanced problems in the system, particularly in determining the application of the new provision to notices for reassessment sent during the period ranging from April 1, 2021, to June 30, 2021. These notices were supposed to be issued before April 1, 2021, but were not issued before the time limit and the limit was extended by the TOLA till June 30, 2021. The issue was whether the new provision could be applied to the reassessment notices which are issued within the said period, or the notices are to be issued under old provisions.

This overlap was addressed by the Hon'ble Supreme Court which held that notices under previous provisions cannot be issued under section 148 from April 1, 2021, and therefore those notices under the old law issued between April 1, 2021, and June 30, 2021, would be deemed notices under Section 148A(b) of the new law.⁶⁰ The judgment clarified that AO shall provide recorded reasons for deemed notices within one month from the date of judgment. The Court further clarified that all the exceptions provided under Section 149 i.e. "*Time limit for notice*" are also available for Section 148A. The court provided a structured process for handling such cases, ensuring the principles of natural justice are upheld.

However, the Ashish Agarwal judgment has triggered debates and concerns in the taxation jurisprudence. By deeming old law notices as Section 148A(b) notices, the Supreme Court invoked Article 142, attempting complete justice. While the decision has eliminated the need for Section 148A(a), it may lead to confusion for both the revenue and the assessee, potentially causing a backlog in the courts.

Several practical issues arise from this judgment, including the retrospective nature of the amendments and their implications on cases before 2021. Questions about the legality of these notices as well as their possible implication on specific assessment years add complexity. The

⁵⁹ The Income Tax Act, 1961, §147, No. 43, Acts of Parliament, 1961.

⁶⁰ *Union of India v. Ashish Agarwal* 2022 SCC Online SC 543.

judgment's interpretation of the retrospective nature of the amendments raises concerns about the writ jurisdiction before the High Court.

Further, the judgment's application to re-assessment cases, especially those exceeding Rs. 50 lakhs and the potential limitations under Section 149 provoke uncertainty. Until clarifications are issued by the CBDT, these issues may lead to increased litigation, reflecting the need for comprehensive guidance in navigating the evolving landscape of tax reassessment.

XI. FUTURISTIC VIEW

The digitalization of India's tax administration offers substantial benefits in efficiency and transparency. However, the current challenges highlighted in this chapter hinder its effectiveness and fairness. The challenges can be resolved through joint efforts of the government, the department, the officials and the taxpayers. It requires policy interventions such as simplifying compliance procedures, advocating for pre-filled information with rigorous accuracy checks and accessible correction mechanisms, and streamlining reporting requirements. There is a requirement to address the issue of technical glitches. This can be achieved by implementing a grace period or waiving penalties for missed deadlines demonstrably caused by portal crashes or technical issues. This would foster trust and mitigate taxpayer frustration. Moreover, data privacy concerns are alarming and necessitate enhanced data security measures. Additionally, providing taxpayers with clear options to control their data access and usage would empower them and promote transparency.

Bridging the technological gap is crucial for a seamless taxpayer experience. The portal interface needs a change with spontaneous navigation and clear instructions. Accessibility features for differently abled users are essential for inclusivity. Robust data verification for pre-filled information can minimize errors and frustrations. Moreover, seamless correction mechanisms within the portal are required. Streamlining the grievance redressal system is important, requiring timely responses and transparent escalation options. Additionally, ensuring accessibility for non-tech-savvy users is also important. Offering multilingual user guides, more descriptive video tutorials, and readily available phone/email support in regional languages would empower wider participation and reduce confusion. Further, building a robust taxpayer support system is crucial for addressing the complexities of digital tax administration. This requires enhanced training for support staff. Equipping them to handle complex queries, troubleshoot technical issues, and provide efficient assistance is crucial for resolving taxpayer concerns effectively. Additionally, encouraging inclusivity necessitates the development of multilingual user guides and FAQs. Finally, improving the efficiency of grievance redressal is

paramount. This involves ensuring timely responses to taxpayers' concerns and providing clear updates on the resolution process.

Implementing the suggested policy, technological, and taxpayer support improvements can significantly enhance the taxpayer experience, reduce compliance burdens, and ensure a more equitable and efficient tax system. The government, tax authorities, and technology providers must work collaboratively to address these challenges and continuously adapt the system to meet the evolving needs of taxpayers in the digital age. By prioritizing user-centricity, data security, and accessibility, India can leverage the full potential of its digital tax landscape to promote voluntary compliance and foster a more robust and inclusive tax ecosystem.
