

NaFAC issues comprehensive SOP on functions of various units under Faceless Assessment regime

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National Faceless Assessment Centre (NaFAC), with prior approval of CBDT, issues Standard Operating Procedure (SOP) for Assessment Unit (AU), Verification Units (VU), Technical Units (TU) and Review Units (RU) under faceless assessment provisions contained in Section 144B; The SOP covers a wide range of issues viz., assignment of cases to AU, preliminary examination and action, questionnaire under Section 142(1) and the process to issue notice thereunder, analysis of response received from Assessee and issuance of further questionnaire and reference to other units, among other procedures; With respect to Verification Unit, the SOP covers its functions & role, types and modes of verification, procedure for handling references and elements of verification report; For Technical Unit, the SOP outlines the scope of technical assistance and tools for facilitating such assistance, procedure for handling reference made by AU and procedure for handling TP references, valuation, cases involving DTAA's, withdrawal of registration/approval/exemption and any other technical reference (forensic, accounting, IT, data analytics, etc.); As regards SOP for Review Units, the SOP details on handling of cases received for review and submission of review report; The SOP also prescribes various formats for AU and TU including notice under Section 142(1), reference to other units by AU, show cause notice, final assessment order, TP reference made to TU and information request by TU under DTAA provisions.

1. SOP for Assessment Units

I. Assignment of Cases: Following cases shall be assigned to AU, other than those cases excluded under Section 144B(2): (i) CASS, (ii) Compulsory Scrutiny cases, (iii) Set Aside cases and (iv) reopened cases.

II. Preliminary Examination and Action:

(i) Verify if the case has been correctly assigned for faceless assessment and if not, refer to NaFAC.

(ii) Refer for transfer if it falls within exclusions provided in Section 144B(2), within 5 days of assignment or receipt of information based on which it is held that the case is covered by exclusion in Section 144B(2)

(iii) Reopened cases: In case return in response to Section 148 notice has been filed, notice under Section 142(1) shall be issued. Where such return is not filed, notice under Section 143(2) shall be issued.

III. Initial Questionnaire under Section 142(1): The questionnaire should be issued within 15 days of assignment. Before issuing the questionnaire, AU shall:

a. Consider all internal data - ITBA, Insight, e-filing portal

b. Consider structured questions/guidance notes for each issue maintained by insight, on points of enquiry and modify the questions if required

c. In reopened cases, questions specific to information which led to reopening. Likewise, in set aside cases, information/ evidence which led to case being set aside may be sought.

d. In compulsory scrutiny cases, the questionnaire shall seek specific information arising from the return that led to selection for compulsory scrutiny.

It shall be ensured that: (i) the Assessee is not asked to furnish information which is already accessible by AU, (ii) the questionnaire is comprehensive, (iii) where there is change in status, specific information in relation to such change is asked.

IV. Process for issuance of notice under Section 142(1):

- Notice to be issued with approval of unit head of AU under its digital signature through NaFAC
- Timelines to be given for obtaining response to the initial questionnaire:

Notice	timeline
Initial Notice	Response time of 15 days from date of final generation of notice, which may be curtailed keeping in view the limitation date for completing assessment
Subsequent Notice	Response time of 7 days from date of final generation of notice, which may be curtailed keeping in view the limitation date for completing assessment

- Where no response is received to the initial notice under Section 142(1) within compliance date, AU shall issue a communication, in the prescribed format, on all registered email IDs of the Assessee, with a request to comply within 5 days. The communication shall refer only to non-compliance to notice without giving specific details of the case.
- Where an adjournment is granted, AU should ensure that adequate time is given to the Assessee to respond.

V. Analysis of Information received in response to Section 142(1) questionnaire: Examine and cross verify the reply of Assessee with the information available with the AU. AU will decide, generally within 10 days of receipt of reply, whether reference to TU/VU is required and whether additional questionnaire is required under Section 142(1) to obtain further clarification/information.

VI. Non-Compliance of notice under Section 142(1)

Following procedure to be followed:

- Penalty under Section 272A/271(1)(b)
- Issuance of SCN under Section 144 as per Section 144B(1)(ix) after due application of mind
- Centralised communication to improve compliance of notice under Section 142(1)
- Where variation is prejudicial to the Assessee is proposed in non-responsive cases, a SCN for passing order under Section 144 shall be issued. If a response is received against such SCN, assessment shall be framed under Section 143(3). Further in order to ensure reasonability in all best judgement assessments framed under Section 144, AU shall ensure that details of all attributes of communications including address, speed post tracking ID, date on which communication is sent, mobile number etc, shall be mentioned in the final order.

VII. Enquiry/Verification by AU shall be conducted in Faceless mode only

VIII. Reference to VU may be made in following cases:

- Non availability of digital footprint of 'any other person'
- E-verification not possible due to non-response of 'any other person'
- Need for Physical verification

Prior to reference, reasons for such reference may be recorded in writing and prior approval of PCIT of AU must be obtained in cases (b) and (c) above. Also AU must analyse all material available on record before making reference. Care must be taken to avoid multiple references in the same case.

IX. Reference to VU where Assessee seeks cross examination of witnesses not having digital footprint: In

such cases, AU shall schedule for VC for the Assessee, giving at least 15 days to facilitate service of summons to witness by VU. The cross examination shall be conducted in presence of VU and AU through VC.

X. Reference to TU: Reference may be made in respect of issues provided in Section 144B(1)(iv)(c) and 144B(3)(iv). Prior to seeking legal assistance from TU, AU must take care that legal issues already covered by jurisdictional HC/ SC are not referred to TU and also prior approval of PCIT of AU is obtained. In other technical matters, approval of PCIT of AU shall be obtained as per requirement of law.

Timelines for reference to TU:

Where information is received from Assessee/third party	Within 10 days of receipt
Where requisite information is already available	Within 15 days from allocation of case

XI. Reference to NaFAC for Special Audit:

a. Opinion that reference is required to be made shall be formed by AU considering nature & complexity of accounts, volume, doubts about correctness, multiplicity of transaction and in interest of revenue.

b. Reasonable opportunity is provided to the Assessee. Detailed reasoning for reference is to be submitted along with supporting documents to PCCIT(NaFAC), at least 2 months before the limitation date.

c. If the PCCIT(NaFAC) considers it appropriate to invoke provisions of Section 142(2A), the case shall be forwarded to concerned PCCIT and the AU shall stop working on the case.

XII. Process of Assessment:

- SOP outlines the process for completion of assessment by issuance of SCN and also prescribes the attributes of the SCN. Timelines for obtaining response against SCN (issued in cases where variation prejudicial to Assessee is proposed) shall be 7 days from date of issue of SCN, which may be curtailed keeping in view the limitation date for completion of assessment.
- AU shall also grant personal hearing through VC where it is sought by Assessee and also ensure adherence to principles of natural justice. VC must be given within 2-3 days of Assessee's request.
- Income & Loss Determination Proposal (ILDLP) to be prepared in all cases. Assessee's response to SCN must be considered in cases where the variation proposed is prejudicial to the Assessee. ILDP shall be submitted for risk analysis, generally not later than 10 days from receipt of information and 45 days prior to the date of limitation. ILDP flagged for review shall be referred to RU. The modifications suggested by RU may be accepted/rejected by the AU within 5 days from receipt of report after recording detailed reasons in the case history for rejection of modification, if any.
- Draft order to be prepared within 3-5 days of completion of risk analysis/ review report and using specific functionality in ITBA for eligible assessee under Section 144C. All draft orders shall be sent to NaFAC through ITBA.
- Final Assessment order: In case of eligible Assessee, the response of the Assessee shall be captured in the ITBA and relevant penalty proceedings, if any shall be initiated and the final order shall be passed within 3 days of communication of Assessee's response accepting the draft order. Where the Assessee has raised objections before the DRP, AU shall capture the communication in the ITBA and upon receipt of directions from DRP, pass final order in conformity with such directions within 3 days.
- The final assessment order shall include: complete description of issues involved, details of all communications, details of compliance/ non-compliance by the Assessee, summary of submissions, summary of personal hearing through VC, inferences on basis of which variations are made.

XIII. Where PAN has been marked as fraud by ITBA, AU shall refer the matter to VU through Insight. Where an adverse report is received from VU, AU shall forward the same to TU for appropriate action, to

JAO for information and shall be taken into account while passing the Assessment order.

XIV. Handling clarifications sought by TU/VU: AU shall respond to such clarifications within 2-3 days of receipt.

XV. Other functions:

- With reference to Section 241A, where grant of refund is likely to affect the Revenue, (after examining the records of relevant AY), AU shall record reasons in writing for approval by PCIT for withholding refund and communicate the same to JAO through drop down on ITBA.
- With reference to Section 281B, where AU is of the opinion that provisional attachment is necessary, it shall record reasons in writing, obtain approval of PCIT and pass order in writing. The order shall be communicated to JAO for giving effect to the order.

2. SOP for Verification Units

I. Functions and Role of VU: Enquiry, cross-verification, examination of books of account/witness

II. Modes of verification: Information on public domain, portals of regulatory authorities, address verification, physical verification, document verification, summons and follow up with reporting entries.

III. Procedure for handling reference from AU: Ensure that complete requisite documents are received and approval of PCIT is accorded and seek clarification where necessary within 2-3 days of receipt of reference. Carry out necessary verification as requested and prepare a report as per prescribed format along with case history details and other findings, generally within 2-3 days of completion of verification, which shall be forwarded to AU through insight.

IV. Procedure for cross examination of witnesses not having digital footprint, by Assessee: AU shall schedule VC and intimate the details through ITBA. VU shall issue summons to enforce attendance by witness. Cross examination shall be conducted in the presence of VU and AU. After the cross examination, VU shall prepare a report and send it to AU immediately in the prescribed format.

V. Elements of the Verification report: The report shall include reasons for verification, mode, facts gathered in verification, evidences collected, findings emanating from verification/enquiry, statements recorded, reference to AU to initiate penalty, if any for non-compliance to notice under Section 133(6) and hindrances faced, if any.

3. SOP for Technical Units

I. Scope of TU, clarification from AU and tools for facilitating technical assistance: Scope of technical assistance shall be as per Section 144B(1)(iv). TU may seek clarification from AU in prescribed format within 2-3 days of receipt of reference. TU shall take all assistance of all resources available including knowledge management portal, insight, public domain, CMIE, MCA and other databases.

II. Procedure for handling and forwarding reference by TU: References shall be forwarded to designated authority in the matters of transfer pricing, valuation of property, withdrawal of registration/ approval/ exemption, agreement under Section 90/90A or any other technical matter. All references must be made within 7 days of receipt of reference from AU and should be followed up periodically.

III. Procedure for rendering technical assistance:

a. Legal Reference: Evaluate the reference and consider judgements of SC, HC and ITAT (HC and ITAT having jurisdiction over the Assessee). In absence of binding decision, all interpretation must be referred to PCIT of TU, who along with his team shall ensure that consistency is maintained in interpretation. The report of TU must be sent within 10 days of receipt of reference, answering the specific question posed by AU along with detailed reasoning. Interpretation arrived at by PCIT and his team, along with facts and circumstances shall be forwarded to NaFAC for compilation of guidance notes.

b. TP Reference: Where reference is received for determination of ALP by TPO, TU shall ensure that

reference is complete and contains requisite documents and the reference has approval of PCIT in prescribed format. The reference shall be forwarded to TPO within 2-3 days of receipt of reference. The TP order shall be forwarded to concerned AU within 2 days of receipt.

c. Valuation of property/ asset/ investment: Where reference is received for valuation of property/ asset/ investment TU shall ensure that reference is complete and contains requisite documents and the reference has approval of PCIT in prescribed format. The reference shall be forwarded to the Valuation officer within 2-3 days of receipt of reference. The Valuation report shall be forwarded within 1-2 days of receipt, to the concerned AU where relevant proceedings are pending or to JAO where the relevant proceedings are completed. On receipt of technical objection against valuation report, the same shall be forwarded by AU to valuation officer within 1-2 days for appropriate action. Report on objection shall be forwarded to AU/JAO as the case may be.

d. Reference involving information relating to agreement entered under Section 90/90A: TU must examine whether request for information is sought from foreign jurisdictions with which India has agreement and whether the request is in conformity with CBDT's manual on exchange of information. Reference shall be forwarded to concerned JS (FT&TR) - Competent Authority within 7 days of receipt of reference.

e. Reference relating to withdrawal of registration/approval/exemption: Reference to concerned Approving authority to be made within 2-3 days and the decision of approving authority shall be forwarded to AU within 1-2 days of receipt.

f. Other Technical reference: Reference to concerned resource person shall be made within 2-3 days of receipt. TU must follow up with the resource person to monitor timely submission of report. The report shall be forwarded to AU within 1-2 days.

4. SOP for Review Units

RU shall review the ILDP in light of records and material accessible to RU and prepare a report in prescribed format. The review report may accept or propose modifications to ILDP after giving reasons for the same and forward the report to NaFAC. Where variation is proposed, a note along with facts and circumstances of the case shall be forwarded to NaFAC for compilation of Guidance notes for future reference.