

# **TDS & TCS Issues & Faceless Appeals**



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**Shared at**

**Webinar, Karnal Branch of NIRC of ICAI**

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# TDS – 194 - N

- Introduced by Finance Act (No. 2) 2019
- Every bank, co-operative bank or post office who is responsible for paying amounts aggregating Rs. 1 Crore during a PY in cash shall deduct tax @ 2% of sum exceeding Rs. 1 Crore.

Substituted w.e.f. 1<sup>st</sup> July 2020

# TDS – 194 - N

- In case of a recipient who has not filed ITR for all 3 AYs for which time limit to file ITR u/s 139(1) has expired, immediately preceding the PY in which the payment of the sum is made to him, limits would be:
  - From 20 L to 1 Cr. – 2%
  - Above 1 Cr – 5%
  - Belated ITRs??
  - New Assessee??
- Banks workings – CBDT has created a utility
- Auditor reporting!!!

# **S-194 – N - EXEMPTIONS**

- **Not. 68/2019 dt 18.09.2019 - Cash Replenishment Agencies (CRAs) & franchise agents of White Label Automated Teller Machine Operators for purpose of replenishing cash in ATM.**
- **Not. 70/2019 dt. 20.09.2019 - Commission agent or trader operating under Agriculture Produce market Committee (APMC) & registered under any law relating to Agriculture Produce Market of concerned State**
- **Not. 80/2019 dt 15.10.2019 - Authorized dealer, its franchise agent, sub-agent & Full Fledged Money Changer licensed by RBI & its franchise agent for purposes of:**
  - **Purchase of foreign currency from foreign tourists or non-residents visiting India or from resident Indians on their return to India, in cash as per RBI**
  - Disbursement of inward remittances to recipient beneficiaries in India in cash under Money Transfer Service Scheme of RBI**

# TDS – 194 – 0

- Effective from 1.10.2020
- Payment of certain sums by e-commerce operator to e-commerce participant
- "e-commerce operator" means a person who owns, operates or manages digital or electronic facility or platform for electronic commerce
- "electronic commerce" means the supply of goods or services or both, including digital products, over digital or electronic network

# TDS – 194 – 0

- TDS @ 1% on sale of goods or service or both
- Individual / HUF - No TDS if total sale / service do not exceed 5 L & furnish PAN / Aadhar
- If no PAN – 5%
- Exemption for amount received or receivable by an e-com operator for hosting advertisements or providing any other service as w.r.t sale or services or both
- S. 197 benefit available

# TDS – 194 - O

- Any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant shall be deemed to be the amount credited or paid by e-commerce operator to the e-commerce participant
- A transaction in respect of which TDS is made by the e-commerce operator under 194-O(1), or which is not liable to deduction u/s 194-O(2), shall not be liable to TDS under any other provision

# TDS – 194 - O

- M/c ABC Pvt. Ltd. hires a consultant through an e-commerce platform. Pays the professional fee of Rs. 2 lacs.
- TDS deductible under which section?

**Applicability of s. 40(a)(ia)!!**



# **RECENT CLARIFICATIONS**

- **Circular No. 17/2020 Dt. 29.9.2020**

- **S. 194-O not applicable to:**

- **Payment gateway will not be covered u/s 194-o, if the tax has been deducted by ecommerce operator u/s 194-o, on the same transaction**
- **Payment Gateway, may take an undertaking to this effect from ecommerce operator**

# RECENT CLARIFICATIONS

- S. 194-O not applicable to:
  - In years subsequent to first year, if insurance agent or insurance aggregator has no involvement in transactions between insurance company and the buyer of insurance policy, he would not be liable to TDS u/s 194-o for those subsequent years. However, insurance company to deduct tax on commission payment for those subsequent years.

# **CBDT CLARIFICATIONS**

- S. 194-O not applicable to:
  - Transactions in securities & commodities traded through recognized SE or cleared & settled by recognized clearing corp., including recognized SE or recognized clearing corporation located in IFSC
  - Transactions in electricity, renewable energy certificates & energy saving certificates traded through power exchanges registered in accordance with Regulation 21 of CERC

# TCS W.E.F. 1/10/2020

Section 206C	Particulars	Seller	Time of Deduction	Amt	TCS Rate
(1G)(a)	Remittance given out of India under LRS of RBI	Authorized Dealer of Foreign Exchange	Debit in books of a/cs or receipt of payment, whichever is earlier	7 L	5%
(1G)(b)	Buyer of Overseas Tour Package	Seller	Debit in books of a/cs or receipt of payment, whichever is earlier	-	5%
(1H)	Sale of any <b>goods</b> to buyer	Seller (Turnover > 10 Crs)	<b>On receipt of</b> Payment except export / Imports	50 L	0.1%

# TCS – S. 206C(1G)(A)

- w.e.f. 1st October 2020
- Foreign remittance through LRS to be collected by Authorised Dealer where collection exceed Rs. 7 Lakhs other than for Tour Package
- TCS - debit in books of a/cs or receipt of payment, whichever is earlier @ 5%
- Where amount being remitted is from a loan obtained from any FI as defined in s. 80E, for purpose of pursuing any education - @ 0.5%

# TCS – S. 206C(1G)(A)

- If students avail loans for pursuing studies abroad - may not have taxable income in India. Will have to file ITR to claim refund.
- Where a salaried individual remits money to pay for overseas higher education of his children - may have to claim a refund if having only salary income subject to TDS.

# TCS – S. 206C(1G)(B)

- On selling of overseas tour package
- TCS - debit in books of a/cs or receipt of payment, whichever is earlier @ 5%
- Overseas tour programme package - any tour package which offers visit to a country(ies) outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto

# TCS RETURN – R. 31AA

- Details in TCS Return Form 27EQ to be filled where TCS **NOT** collected due to:
  - If collection by AD is less than Rs. 7 L
  - AD - TCS collected by seller
  - TDS made
  - From CG, SG, etc
  - Exempt under any notification
- Non-resident seller of overseas tour packages u/s 206C(1G)(b)?



# TCS – S. 206C(1H)

- Seller - Turnover > 10 Crs in immediate preceding FY
- TCS on sale consideration of any goods exceeding Rs. 50 Lakhs in any PY @ 0.1%
- **Time - on receipt of** sale consideration
- If No PAN / Aadhar TCS @ 1%
- Exceptions:
  - S. 206C (1)
  - S. 206C (1F) – Motor Car
  - S. 206C (1G) – LRS / Overseas tour package
- Exports

# TCS – S. 206C(1H)

• Exceptions when buyer is:

- Central Government,
- State Government,
- An Embassy,
- A High Commission, Legation, Commission, Consulate and Trade representation of a Foreign State;
- A local authority as defined in the Explanation to S. 10(20)

Person importing goods into India

# TCS – S. 206C(1H) !!!

- Goods?
- Charging on Bill... or at time of collection through Debit note !!
- TCS on GST??
- Inter branch sales??
- Receipts – 40 lacs before September 2020, 20 lacs in October 2020. TCS on??

# TCS – S. 206C(1H) !!!

- Sales effected after 1.10.2020 or receipts after 1.10.2020?
  - Debtors since 2017 -18 – Rs. 2 Crs, all received in October 2020?
  - Discounts, Credit notes, debit notes, sales returns!!
  - Advance sales consideration received before 1.10.2020 for sales made after that date?
- Buying / Selling from same person!!**

# TCS – S. 206C(1H)

- There may be no need to collect TCS u/s 206(1H) if both of the following conditions are satisfied:
  - Buyer is liable to deduct TDS, AND
  - Such amount has been deducted
- Is TCS applicable in case of Nil / Lower TDS certificate of seller. In this case, buyer is not liable to deduct TDS??

# RULE 31AA(4)(VII)

- Details in TCS Return Form 27EQ to be filled where TCS not collected due to:
  - TDS made
  - From CG, SG, Importer, etc
  - Exempt under any notification
- For purposes of section 206C (1F) / (1G) / (1H) credit for TCS shall be given to the person from whose account tax is collected and paid to CG account for the AY relevant to the PY in which such tax collection is made

# CBDT CLARIFICATIONS

- S. 206C(1H) v/s 206C(1F)

- Receipt from a dealer of motor vehicle covered u/s 206C(1H), if not subjected to s. 206C(1F)

- Sale to consumer:

- Receipt of Rs. 10 L or less from buyer would be subjected to 206C(1H), if the receipt of sale consideration for such vehicles during PY exceeds Rs. 50 L during PY
- Receipt of sale consideration for sale of motor vehicle exceeding Rs. 10 L would not be subjected to 206C(1H) if subjected to 206C(1F)

# **CBDT CLARIFICATIONS**

- S. 206C(1H) shall not apply on any sale consideration received before 1.10.2020. Consequently it would apply on all sale consideration (including advance received for sale) received on or after 1.10.2020 even if the sale was carried out before 1.10.2020.
- Threshold of Rs. 50 Lacs is with respect to PY, calculation of receipt of sale consideration for triggering TCS shall be computed from 1<sup>st</sup> April, 2020
- S. 206C(1H) shall not apply on the sale consideration received for fuel supplied to non-resident airlines at airports in India



*CA. Pramod Jain*

# ASSESSMENT / APPEAL



# FACELESS ASSESSMENT

NeAC

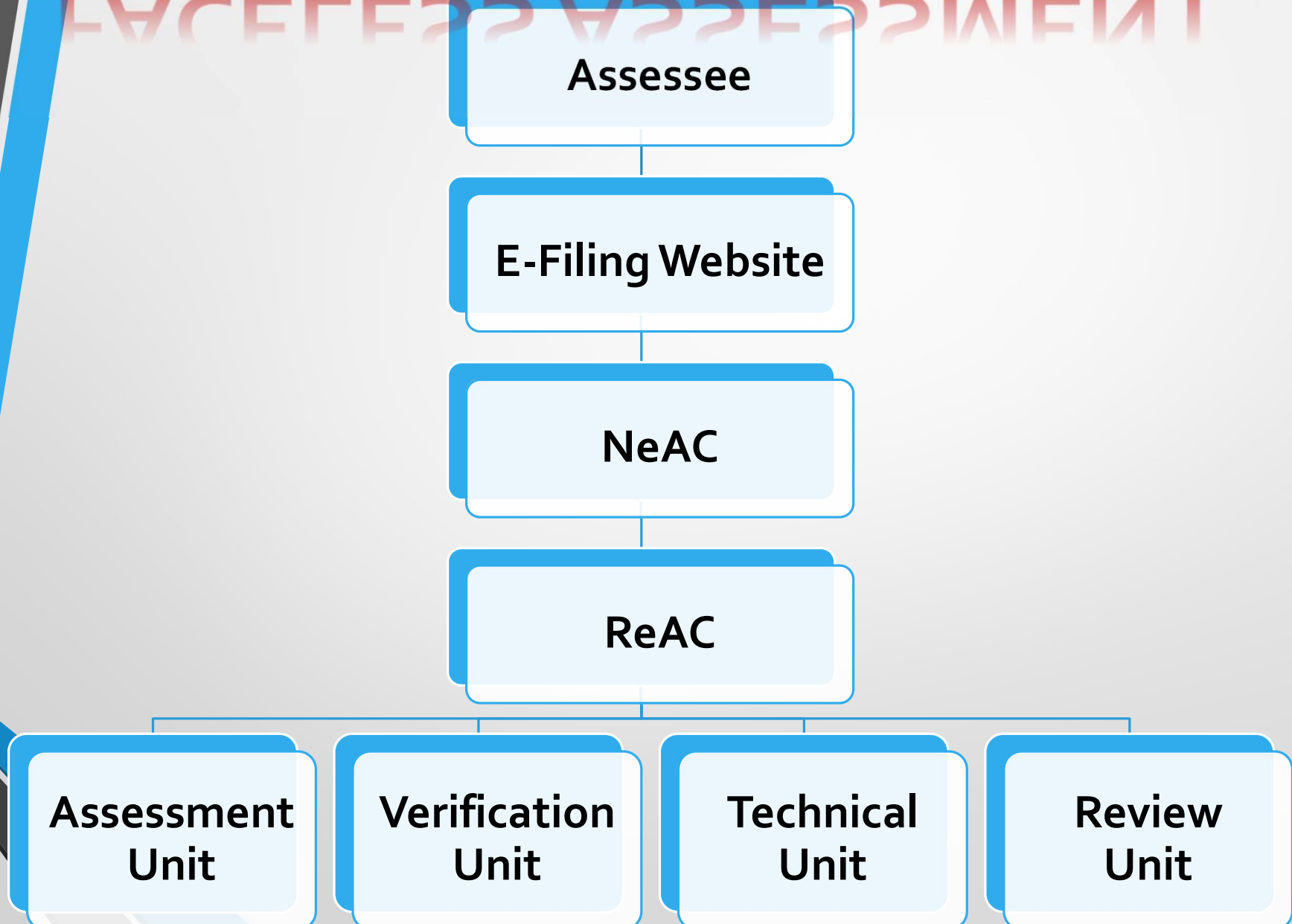
95 AU

35 VU

20 RU

4 TU

# FACELESS ASSESSMENT



# Faceless Appeal Centers

## NFAC

- National Faceless Appeal Centre
- To facilitate conduct of e-appeal proceedings in Centralized manner

## RFCA

- Regional Faceless Appeal Centre
- To facilitate conduct of e-appeal proceedings

## Appeal Units

- Perform function of disposing appeal

# Appeal units

- Admitting additional grounds of appeal
- Making required inquiry
- Directing NeAC or AO for making further inquiry,
- Seeking information or clarification on admitted grounds of appeal,
- Providing opportunity of being heard to appellant,
- Analysis of material furnished by appellant,
- Review of draft order
- Other functions as may be required

**Assessee**

**E-Filing Website**

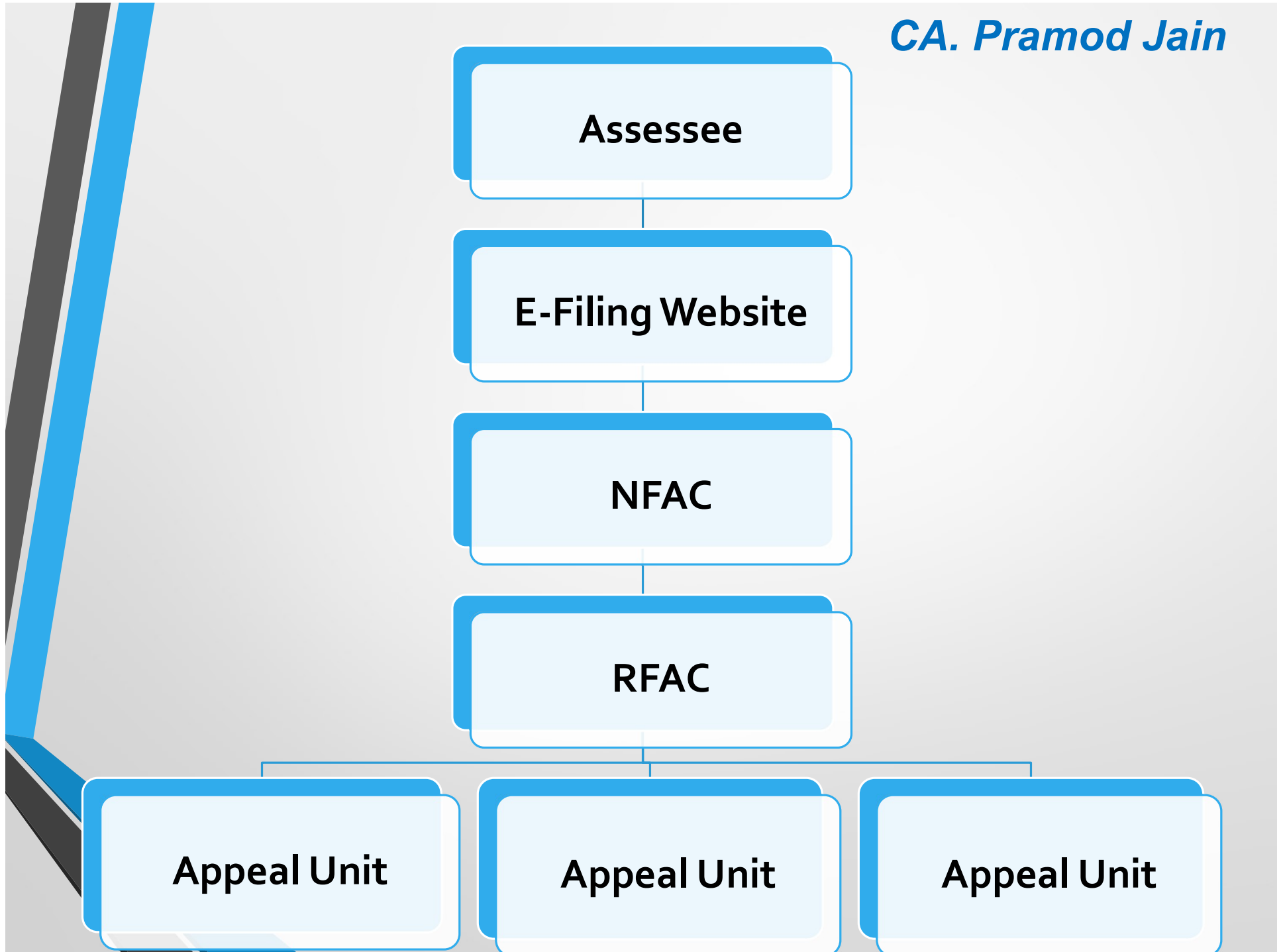
**NFAC**

**RFAC**

**Appeal Unit**

**Appeal Unit**

**Appeal Unit**



# PROCEEDINGS

- Admission of appeal – delayed
- Additional grounds
- Additional evidence
- Enhancement of penalty
- Draft order
- Personal hearing

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Question added **1 hour** ago **Income Tax** By Vljay Kumar, CA, New delhi

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answers

**Q. How I file income tax return**

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# THANKS



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