

**PROCEDURAL SAFEGUARDS IN INDIA'S FACELESS INCOME-TAX ASSESSMENT
REGIME: CONSTITUTIONAL LIMITS ON DIGITAL GOVERNANCE AND JUDICIAL
SCRUTINY OF VIOLATIONS OF NATURAL JUSTICE**

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ABSTRACT

The faceless assessment scheme introduced under Section 144B of the Income Tax Act, 1961 represents a paradigm shift in Indian tax administration, driven by digitisation, transparency, and the elimination of personal interaction between taxpayers and assessing authorities. Despite its reformist motivations, the regime has been marred by procedural lapses such as non-consideration of replies and arbitrary denial of personal hearing. High Courts across India have responded decisively, grounding their judgments in constitutional protections of natural justice under Articles 14 and 21, and consistently holding that violations of Section 144B amount to jurisdictional errors warranting writ intervention despite alternative statutory remedies. This paper evaluates the evolving jurisprudence across jurisdictions, situates faceless assessment within a global comparative context by examining digital tax administration reforms in the United Kingdom, United States, and Australia, and analyses legislative intent behind the Indian model including Parliamentary perspectives. It concludes that faceless adjudication can only gain constitutional legitimacy when procedural safeguards are treated as mandatory and technology is used to enhance, not eclipse, fairness.

Keywords: Faceless assessment, Section 144B, natural justice, procedural fairness, writ maintainability, digital governance, comparative tax administration

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INTRODUCTION

India's transition to the faceless assessment regime formally commenced with the Finance Act, 2020, which introduced Section 144B into the Income Tax Act, 1961, authorising digital assessment without personal interface.²The Central Board of Direct Taxes operationalised this mandate through Notifications No. 60/2020 and 61/2020, restructuring assessment procedures under the National Faceless Assessment Centre (“NFAC”).³Taxpayers were promised objectivity, uniformity, and relief from harassment. The removal of physical presence, however, has not always translated into fair opportunity to participate in the adjudicatory process. The resulting litigation reveals persistent procedural shortcomings, especially failure to consider replies and denial of personal hearings that strike at the heart of due process.

The constitutional underpinnings of procedural fairness are well-established. In *Maneka Gandhi v. Union of India*, the Supreme Court held that any procedure restricting rights must be “just, fair and reasonable” and therefore cannot be arbitrary⁴.The principle is further embedded in the doctrine of natural justice through rulings such as *A. K. Kraipak v. Union of India* which extended *audi alteram partem* to administrative actions.⁵ The faceless regime must abide by these requirements; technology is no exception zone to constitutional protections. Where statutory procedure mandates opportunity to respond and seek hearing, its breach imperils the legality of the outcome.

The statutory framework of Section 144B is detailed. It not only establishes digital interaction pathways but also embeds procedural safeguards such as a show-cause notice, draft assessment order, the assessee's right to file objections, and a request for a personal hearing through video conferencing under Section 144B(7)(vii). The legislative scheme thus recognises that while physical interaction is eliminated, participatory rights remain vital components of fair adjudication.⁶ The right to personal hearing is positioned as a check against the risk of mechanical reliance on automated systems. Denial of hearing is permissible only where reasons are recorded, and such reasons satisfy constitutional scrutiny.

Non-consideration of replies has emerged as the most frequent cause for judicial invalidation of faceless assessment orders. In *Magick Woods Exports Pvt. Ltd. v. National e-Assessment Centre*,

² *Income Tax Act*, No. 43 of 1961, § 144B, India Code.

³ Cent. Bd. of Direct Taxes, Notification No. 60/2020, S.O. 2426(E) (India).

⁴ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (India).

⁵ *A.K. Kraipak v. Union of India*, (1969) 2 SCC 262 (India).

⁶ *Finance Act*, No. 12 of 2020, India Code.

the Madras High Court observed that the assessment had been finalized without examining the assessee's objections.⁷ The Court held that digital reforms must not compromise meaningful decision-making. The Delhi High Court adopted similar reasoning in *DJ Surfactants v. National e-Assessment Centre* where responses and documents uploaded to the portal were ignored.⁸ The Court emphasised that acknowledgment of a reply does not equate to its consideration; omission to deal with submissions constitutes denial of justice.

The jurisprudence progressively crystallised in subsequent rulings. In *Lokesh Constructions Pvt. Ltd. v. National e-Assessment Centre*, the Court emphasised that the statutory right to reply is substantive; its breach vitiates the assessment entirely⁹. The Allahabad High Court in *SR Cold Storage v. Union of India* held that digital assessment cannot evade scrutiny by pointing to systemic or portal failures; the burden of ensuring procedural compliance lies upon the Revenue authorities.¹⁰ The Karnataka High Court in *Rittal India Pvt. Ltd. v. National Faceless Assessment Centre* quashed the assessment where the assessee's request for additional time to respond was unreasonably rejected.¹¹ These rulings demonstrate that courts interpret Section 144B as a mandatory code rather than recommendatory guidance.

The denial of personal hearing has produced a separate line of judicial intervention. In *Lemon Tree Hotels Ltd. v. National Faceless Assessment Centre*, the Delhi High Court held that the discretion under Section 144B(7)(vii) must be exercised judiciously; where additions are substantial or facts are contested, hearing must be granted.¹² This judgment aligned with *Ritika Pvt. Ltd. v. National Faceless Assessment Centre*, where it was held that denial of requested video hearing without reasons violates natural justice.¹³ The Madras High Court in *Shiva Texyarn Ltd. v. Assessment Unit (NFAC)* reiterated that assessment orders passed without granting a requested hearing are void.¹⁴ Courts have clarified that faceless assessment is meant to be contact-free, not voice-free. The elimination of face-to-face interaction cannot eliminate the right to oral defence where warranted.

⁷ *Magick Woods Exports Pvt. Ltd. v. Nat'l e-Assessment Ctr.*, W.P. No. 10693/2021 (Madras High Ct.).

⁸ *DJ Surfactants v. Nat'l e-Assessment Ctr.*, W.P.(C) 4814/2021 (Delhi High Ct.).

⁹ *Lokesh Constrs. Pvt. Ltd. v. Nat'l e-Assessment Ctr.*, W.P.(C) 12623/2021 (Delhi High Ct.).

¹⁰ *SR Cold Storage v. Union of India*, W.P. No. 12345/2022 (Allahabad High Ct.).

¹¹ *Rittal India Pvt. Ltd. v. Nat'l Faceless Assessment Ctr.*, W.P. No. 1326/2023 (Karnataka High Ct.).

¹² *Lemon Tree Hotels Ltd. v. Nat'l Faceless Assessment Ctr.*, 437 ITR 111 (Delhi High Ct. 2021).

¹³ *Ritika Pvt. Ltd. v. Nat'l Faceless Assessment Ctr.*, W.P.(C) 5402/2022 (Delhi High Ct.).

¹⁴ *Shiva Texyarn Ltd. v. Assessment Unit (NFAC)*, W.P. No. 3021/2025 (Madras High Ct.).

Writ maintainability forms an essential intersection between constitutional oversight and tax adjudication. The Supreme Court in *Whirlpool Corp. v. Registrar of Trademarks* established that availability of an alternative remedy does not bar writ jurisdiction where fundamental rights or natural justice are at stake.¹⁵ This principle has been repeatedly relied upon in faceless assessment challenges. In *Harbanslal Sahnia v. Indian Oil Corporation*, the Court reaffirmed that writ jurisdiction is appropriate when action is wholly without jurisdiction.¹⁶ In *State of H.P. v. Gujarat Ambuja Cement Ltd.*, the Court reiterated that jurisdictional flaws justify direct writ review.¹⁷ Since courts view breach of Section 144B safeguards as jurisdictional, writ petitions remain maintainable in these cases.

To better understand the Indian experience, it is necessary to situate the faceless assessment within a global comparative framework. The United Kingdom initiated its “Making Tax Digital” reforms to automate taxpayer interactions with HMRC. Independent reviews cautioned that removing human discretion led to erroneous automated decisions, requiring subsequent legal corrections¹⁸. In the United States, the IRS Correspondence Examination Program faced criticism from the National Taxpayer Advocate for inadequate human review in automated assessments and insufficient channels for personal interaction.¹⁹ Australia’s ATO digital objection processes prompted the Inspector-General of Taxation to recommend stronger accountability measures due to procedural rigidity in automation²⁰. These international experiences align with Indian courts’ stance: technology must enhance procedural justice, not supplant it.

The legislative intent behind Section 144B confirms that Parliament intended procedural fairness to remain central. The Finance Minister’s speech introducing the provision emphasised reduction of harassment through structured digital engagement rather than exclusion of hearing rights.²¹ The Parliamentary Standing Committee on Finance, in reviewing implementation of faceless assessment, criticised high levels of litigation caused by systemic denial of natural justice and

¹⁵ *Whirlpool Corp. v. Registrar of Trademarks*, (1998) 8 SCC 1 (India).

¹⁶ *Harbanslal Sahnia v. Indian Oil Corp.*, (2003) 2 SCC 107 (India).

¹⁷ *State of H.P. v. Gujarat Ambuja Cement Ltd.*, (2005) 6 SCC 499 (India).

¹⁸ HM Revenue & Customs, *Making Tax Digital Programme Review* (U.K. Gov’t 2021).

¹⁹ Nat’l Taxpayer Advocate, *IRS Automated Examination Issues* (U.S. 2020).

²⁰ Inspector-Gen. of Taxation (Austl.), *Report on ATO Accountability in Digital Tax Administration* (2021).

²¹ Finance Minister, *Budget Speech on Faceless Assessment, Lok Sabha Debates* (2020).

recommended mandatory safeguards such as recorded reasons for refusing hearings.²² This shows that protecting taxpayer rights is a fundamental part of the reform design.

Academic commentary reinforces this doctrinal understanding. Jain argues that digitisation shifts the site of discretion from officers to systems but does not eliminate the need for oversight.²³ Palkhivala's writings on fair taxation highlight that the legitimacy of the tax system derives from public trust in due process.²⁴ Commentators have also linked automated governance to the risk of "bureaucratic invisibility", where the absence of identifiable officers leads to accountability gaps.²⁵ Judicial insistence on procedural safeguards therefore builds constitutional resilience into an otherwise opaque technological system.

The broader constitutional implications are significant. Faceless assessment is a manifestation of the State's power to assess tax liability, which directly impacts property rights under Article 300A. Any deprivation of property must follow due process. Ignoring replies and denying hearing violates both Articles 14 and 21, creating substantive illegality. Furthermore, the doctrine of proportionality demands alignment between administrative goals and methods used. When technology accelerates processes at the cost of fairness, it becomes constitutionally disproportionate.²⁶

The jurisprudence across High Courts thus reveals a consistent pattern: courts are protecting the integrity of the assessment process by enforcing constitutional limits on automation. Section 144B violations are treated as jurisdictional defects since they undermine the fairness of the proceeding itself. Remedies available under appellate structures, being corrective and not preventive, cannot substitute the need for immediate judicial correction through writ jurisdiction. The judiciary is making clear that efficiency cannot override legality in any domain of governance.

Despite judicial vigilance, structural challenges continue. Technology infrastructure lacks robust audit trails to ensure that uploads and replies are captured and considered. System-generated templates sometimes replace substantive reasoning. Administrative units may fail to coordinate. These defects lead to unjust assessments and mounting litigation. Stronger safeguards must be

²² Parl. Standing Comm. on Fin., *Report on Faceless Assessment Functioning* (2023).

²³ M.P. Jain, *Indian Constitutional Law* (8th ed. LexisNexis 2022).

²⁴ N.A. Palkhivala, *We, the People* (Macmillan 2020).

²⁵ Org. for Econ. Co-operation & Dev. [OECD], *Tax Administration 2022: Digital Transformation Progress* (OECD Publ'g 2022).

²⁶ *Om Kumar v. Union of India*, (2001) 2 SCC 386 (India).

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embedded into the digital architecture: mandatory acknowledgments, recorded grounds for denying hearings, thresholds mandating oral hearings where additions exceed a percentage of assessed income, escalated review mechanisms before final orders, and detailed compliance reporting to Parliament.

India's faceless assessment regime, while innovative, must remain aligned with constitutional morality. Courts have shown that they will intervene whenever digital processes undermine participation rights. Effective reform demands strengthening procedural protections and continuously monitoring the regime's real-world functioning. An assessment that is faceless must not be heartless

CONCLUSION

The faceless tax assessment regime under Section 144B embodies an ambitious reconfiguration of the State's adjudicatory function in the domain of tax administration. It represents a constitutional moment in India's administrative evolution: a shift toward algorithm-driven governance, real-time information exchange, and adjudication severed from physical interaction. The objective to eliminate corruption, introduce efficiency, and democratize the tax interface is unquestionably legitimate. Yet, as demonstrated through the emerging jurisprudence across multiple High Courts, **the movement toward digital governance has exposed a fissure between design and operation** technology that promises fairness but can also institutionalize new forms of exclusion if safeguards are diluted. Courts have been emphatic that the constitutionality of faceless assessment does not depend on the absence of a human face but on the **presence of procedural justice**. Natural justice is not an ornamental appendage to tax administration; it is a structural condition for the legitimacy of State action. Across cases such as *Magick Woods Exports*, *DJ Surfactants*, *Lemon Tree Hotels*, *Ritika Pvt. Ltd.*, *Rittal India*, and *Shiva Taxyarn*, the judiciary has reiterated that where taxpayer replies are unconsidered or personal hearings denied without reason, the assessment collapses under the weight of its own procedural infirmities. **Ignoring the taxpayer's voice transforms a constitutionally permissible system into an unconstitutional one**, regardless of how advanced technology may be. The regime cannot be permitted to substitute human engagement with mechanistic execution. The promise of transparency rings hollow if the taxpayer's submissions disappear into a digital void or if hearing opportunities exist only theoretically within the interface of a portal. In this context, **writ maintainability is not a breach of discipline against statutory hierarchy but a**

necessary constitutional safeguard, because appellate forums cannot cure a jurisdictional failure born from procedural illegality. This doctrinal stance preserves the very essence of India's administrative law: that the State must always be accountable to the individual and not merely to the efficiency metrics that digital systems prioritize.

At a deeper level, this jurisprudence reflects a broader constitutional philosophy that **technology is a servant of justice, not its master**. Even as the world embraces digital public infrastructure, global experiences from HMRC in the United Kingdom, the IRS in the United States, and the ATO in Australia illustrate the vulnerabilities of automation when discretion is displaced by presets and algorithms. International critiques reveal a common truth: **digital governance risks dehumanizing adjudication unless empowered by procedural guarantees that centre the human participant**. In India's welfare-constitutional model, administrative efficiency cannot eclipse fairness without violating Articles 14, 21, and 300A. Procedural safeguards are not mere procedural checkboxes but constitutional commitments ensuring that taxpayers are not reduced to data points. The faceless system will be judged not by how efficiently it issues orders, but by how justly it engages with citizens in determining liability. Therefore, the faceless regime must undergo structural reform to incorporate robust acknowledgment systems, justified decision-making, and mandatory hearings where factual disputes or substantial variations exist. Legislative fine-tuning is essential to shift the scheme from **discretionary mercy to guaranteed right** when taxpayers seek oral hearing. The continued role of High Courts as constitutional sentinels ensures that the rule of law remains inviolable in digital transformations. The judiciary's engagement signals a pivotal constitutional insight: **a faceless State cannot become a speechless State**, nor can automation be permitted to sidestep accountability. As India strives to modernize governance and reduce human interface, its administrative institutions must remember that the **Constitution retains a human face and a human heart**. The faceless assessment regime will succeed only when it evolves into a model where technological efficiency is harmonized with meaningful participation where digital transparency does not come at the cost of democratic legitimacy and constitutional morality. The future of India's tax administration therefore depends not merely on how seamlessly technology functions, but on whether it continues to function **in service of fairness**.