

## **INCOME TAX (APPELLATE TRIBUNAL) RULES, 1963**

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<sup>1</sup>Published in the Gazette of India, Part III, section (i), p. 496, dated 18-5-1963 Rules to regulate the procedure of the Appellate Tribunal and procedure of the Benches of the Tribunal In exercise of the powers conferred by sub-section (5) of section 255 of the Income-tax Act, 1961 (43 of 1961), the Appellate Tribunal is pleased to make the following rules, namely:

**1. Short title and commencement :-**

(1) These rules may be called the Income-tax (Appellate Tribunal) Rules, 1963.

(2) They shall come into force at once.

**2. Definitions :-**

In these rules, unless there is anything repugnant in the subject or context-

(i) "Act" means the Income-tax Act, 1961 (43 of 1961);

(ii) "authorised representative" means-

(a) in relation to an assessee, a person duly authorised by the assessee under section 288 to attend before the Tribunal; and

(b) in relation to an income-tax authority who is a party to any proceeding before the Tribunal, a person duly appointed by the Central Government by notification in the Official Gazette as authorised representative to appear, plead and act for such authority in any such proceeding and any other person acting on behalf of the person so appointed;

<sup>1</sup>[(iii) "Bench" means a Bench of the Tribunal constituted under sub-section (1) of section 255 read with sub-section (2) thereof and includes the President <sup>2</sup>[Senior Vice-President,] Vice-President or any other Member sitting singly under the provisions of sub-section (3) of the said section and a special Bench constituted under the same provision;]

(iv) "member" means a member of the Tribunal;

(v) "prescribed form" means a form prescribed in the rules made by the Central Board of Direct Taxes under section 295 ;

(vi) "President" means the President of the Tribunal;

(vii) "Registrar" means the person who is for the time being discharging the functions of the Registrar of the Tribunal <sup>3</sup>[and includes a Deputy Registrar and Assistant Registrar where the context so requires];

(viii) "section" means a section of the Act;

<sup>4</sup>[(ix) "Senior Vice-President" means the Senior Vice-President of the Tribunal]

;

**5** [(x)] "Tribunal" means the Appellate Tribunal constituted by the Central Government under section 252, and includes, where the context so requires, a Bench exercising and discharging the powers and functions of the Tribunal.

**6** [(xi)] "Vice-President" means a Vice-President of the Tribunal.]

1. Substituted by the Income-tax (Appellate Tribunal) Amendment Rules, 1983, w.e.f 27-1-1983.
2. Inserted by the Income-tax (Appellate Tribunal) Amendment Rules, 1987. w.e.f 1-8-1987.
3. The Income-tax (Appellate Tribunal) Amendment Rules, 1987. w.e.f 1-8-1987
4. Inserted by the Income-tax (Appellate Tribunal) Amendment Rules, 1987, w.e.f. 1-8-1987.
5. Clause (ix) renumbered as clause (x), the Income-tax (Appellate Tribunal) Amendment Rules, 1987, w.e.f. 1-8-1987.
6. Clause (x), as inserted by the Income-tax (Appellate Tribunal) Amendment Rules, 1985, renumbered as clause (xi) by the Income-tax (Appellate Tribunal) Amendment Rules, 1987, w.e.f. 1-8-1987.

### **3. Sittings of Bench :-**

**1** [A Bench shall hold its sittings at its headquarters or at such other place or places as may be authorised by the President.]

1. Substituted by the Income-tax (Appellate Tribunal) Amendment Rules, 1987, w.e.f. 1-8-1987. Prior to substitution, rule 3 read as under: "3. A Bench shall hold its sittings at its headquarters or such other place as it may consider convenient."

### **4. Powers of Bench :-**

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(1) A Bench shall hear and determine such appeals and applications made under the Act as the President may by general or special order direct.

**1 2** [(2) Where there are two or more Benches of the Tribunal working at any headquarters, the President or, in his absence, the Senior Vice- President/Vice-President of the concerned zone or, in his absence, the seniormost Member of the station present at the headquarters may transfer an appeal or an application from any one of such Benches to any other.]

1. The following Order issued vide F. No. 63-Ad (AT)/97 is relevant here: "In pursuance of sub-rule (1) of rule 4 of the Income-tax (Appellate Tribunal) Rules, 1963, and in supersession of Standing Order No. 1 of 1987, dated the 17th July, 1987, as amended from time to time till date, it is hereby directed that subject to any special order, all appeals and applications from the Districts, States and Union Territories specified in column (3) shall, with effect from 1st October, 1997, be heard and determined by the Benches specified in column (2) of the Table below:

SI	Name and Number	Districts/States/Union Territories	No of Bench(es)
(1)	(2)	(3)	

1. Agra Bench (1) Districts of Agra, Aligarh, Etah, Etawah, Farrukhabad, Firozabad, Jalaun, Jhansi, Lalitpur, Mahamayanagar, Mainpuri and Mathura of Uttar Pradesh Bhind, Datia, Guna, Gwalior, Morena and Shivpuri districts of Madhya Pradesh 2. Ahmedabad Benches (3) Gujarat (excluding the districts of Ameli, Bhavnagar, Jamnagar, Junagarh, Kachchh, Rajkot and Surendernagar) Union Territory of Dadra and Nagar Haveli Territory of Daman of the Union Territory of Daman and Diu.

3. Allahabad Benches (2) Uttar Pradesh (excluding the districts of Agra, Aligarh, Almorah, Budaun, Bareilly, Bijnor, Bulandshahr, Chamoli, Dehradun, Etah, Etawah, Farrukhabad, Firozabad, Gautam Budh Nagar, Ghaziabad, Haridwar, Jalaun, Jhansi, Jvotiba Rao Phule Nagar, Lalilpur, Mahamayanagai-, Mainpuri, Mathura, Meei-ut, Moradabad, Mu/.affar Nagar, Nainital, Pauri Garhwal, Pilibhit, Pithoragarh, Rampur, Saharanpur, Tehri Garhwal, Udham Singh Nagar and Uttarkashi). 4. Arnritsar Bench (1) Districts of Arnritsar, Bhatinda, Faridkot, Fero/.pur, Gurdaspur, Hoshiarpur, Jalandhar and Kapuilhala of Punjab State of Jammu and Kashmir. 5. Bangalore Benches (3) Karnataka (excluding the district of Belgalim)6. Calcutta Benches (5) West Bengal Sikkim Union Territory of Andaman and Nicobar Islands. 7. Chandigarh Benches (2) Punjab (excluding the districts of Arnritsar, Bhatinda, Faridkot, Ferozpur, Gurdaspur, Hoshiarpur, Jalandhar and Kapurthala) Haryana (excluding the districts of Bhiwani, Faridabad, Gurgaon, Hissar, Jhajjar, Kainal, Mohindergarh, Panipat, Rewari, Rohtak and Sonapat) Himachal Pradesh Union Territory of Chandigarh. 8. Chennai Benches (4) Tamil Nadu Union Territory of Pondicherry excluding Mahe. 9. Cochin Bench (1) Kerala Union Territories of Lakshadweep, Minicoy and Amindivi Islands Mahe of the Union Territory of Pondicherry. 10. Cuttack Bench (1) Orissa. 11. Delhi Benches (7) National Capital Territory of Delhi Districts of Bhiwani, Faridabad, Gurgaon, Hissar, Jhajjar, Karnal, Mohindergarh, Panipat, Rewari, Rohtak and Sonapat of Harvana Districts of Almorah, Blidaun, - Bareilly, Bijnor, Bulandshahr, Chamoli, Dehradun, Gautam Budh Nagar, Ghaziabad, Haridwar, Jvotiba Rao Phule Nagar, Meerut, Moradabad, Mu/.allar Nagar, Nainilal, Pauri Garhwal, Pilibhil, Pithoragarh, Rampur, Saharanpur, Tehri Garhwal, Udham Singh Nagar and Ultarkashi ol Uttar Pradesh. 12. Guwahati Bench (1) Arunachal Pradesh Assam Manipur Meghalaya Mizoram Nagaland Tripura 13. Hyderabad Benches (2) Andhra Pradesh (excluding the districts of East Godawari, West Godawari, Glinlur, Krishna, Srikakulam, Vishakhapatnam and Vi/.ianagaram). 14. Indore Bench (1) Districts of Bhopal, Dewas, Dhar, Indore, Jhabua, Khandvva, Khargon, Mandasaur, Raisen, Rajgarh, Ratlam, Sehore, Shajapur, Ujjain and Vidisha ol Madhya Pradesh. 15. Jabalpur Bench (1) Madhya Pradesh (excluding the districts of Bastar, Bhind, Bhopal, Datia, Dewas, Dhar, Durg, Guna, Gwalior, Indore, Jhabua. Khandwa, Khargon, Mandasaur, Morena, Raipalir, Raisen, Rajgaih, Rajnandgaon, Ratlam, Sehore, Shajaplii, Shivplili, Ujjaiiii and Vidisha)16. Jaipur Bench (1) Rajasthan (excluding the disliicls, Banswai-a, Barnicr. Bhilwaia, Bikaner, Chitloi-gaili, CliiiiTi, Dungarplir, Jaisalmer, Jaloic, Jodlipur, Nagaur, Pali, Rajsarnand, Sirohi, Sriganganagar and Udaipalir). 17. JodhpalirBench(1) Disti-icls ol Banswai-a, Bai-mcr, Bliil^aia, Bikaner, Chinorgarh, Churu, Diingaipi.ir, Jaisalmer, Jalore Jodhpur, Nagalir, Pali, Raisarnand, Sirolii Sriganganagar and Udaipalir ol Rajasthan. 18. Mlimbai Benches (10) Mumbai city, IVIlinibai Snhnrhan and Tlianc disiricis ol Mahaia.slitra. 19. Nagplir Bench (1) Bhandara, Chandraplir, Gadchiroli, Nagpnr and Wardha districts of Maharashtra Bastar, Durg, Raipur and Rajnandgaon districts ol Madhya Pradesh. 20. Panaji Bench (1) Goa Belgaum district of Kariataka. 21. Patna Bench (1) Bihar. 22. Pline Bench (1) Maharashtra (excluding the districts ol Bhandara, Chandraplir, Gadchiroli, IVIuinbai city, IVIUumbai Suburban, Nagplir, Thane and Wardlia). 23. Rajkot Bench (1) Districts of Arnreli, Bhavnagaf, Janinagai, Jiinagarli Kachclili, Rajkot and Surendernagar ol Guialal Territory ol Diu ol the Union Terrilorv ol Danian and Diu. 24. Vishakhapatnam Bench (1) Districts ol East Godavari, West Godavaii, Gunlur, KrishnaSrikakniani, Vishakliapatnani and Vi/.ianagaram of Andhra Pradesh.

2. All pending appeals and applications, except those in which orders have been reserved after hearing, will be governed by the above order. Appeals and applications already fixed for hearing will be heard by the Bench before which they are so fixed. 3. It is further directed that the reference applications, arising out of the orders passed by the Bench wherefrom the jurisdiction is transferred, shall be heard and decided by the Bench to which the jurisdiction now stands transferred. 4. The ordinary jurisdiction of the Bench will be determined not by the place of business or residence of the assessee but by the location of the office of the Assessing Officer. 5. All appeals and applications pertaining to the Rajkot, Panaji, Vishakhapatnam, Agra and Jodhpur Benches shall, however, be received at the Ahmedahad, Pune, Hyderabad, Delhi and Jaipur Benches respectively till the abovesaid newly created Benches become functional. All such appeals and applications shall be separately registered/entered in the relevant registers, meant for these newly created Benches, and shall be handed over to the concerned Bench(es) as and when the said Bench(es) become(s) functional."

2. Substituted by the Income-tax (Appellate Tribunal) Amendment Rules, 1987, w.e.f. 1-8-1987. Prior to the substitution, sub-rule (2), as substituted by the Income-tax (Appellate Tribunal) Amendment Rules, 1970, w.e.f. 12-2-1970, read as under: "(2) Where there are two or more Benches of the Tribunal working at any headquarters, the President or, in his absence, the seniormost Member present may transfer an appeal or an application from any one such Bench to any other."

#### **4A. Powers and functions of the Registrar :-**

[.

(1) The Registrar shall have the custody of the records of the Tribunal and shall exercise such other functions including weeding out of old records as may be assigned to him under these rules

by the President.

(2) Subject to any general or special order of the President, the Registrar shall have the following powers and duties, namely:-

(i) to receive all appeals and reference applications and miscellaneous applications for stay as well as the other documents including applications for early hearings, transfer of appeals, applications for adjournment:

(ii) to endorse on such appeals and applications the date of receipt for the purpose of calculating limitation:

(iii) to scrutinize all appeals and applications so received to find out whether they are in conformity with rules;

(iv) to point out defects in such appeals and applications to the parties requiring them to rectify by affording reasonable opportunity and, if within the time so granted defects are not rectified, to obtain the orders of the Bench for the return of the appeals and applications;

(v) to check whether the appeal or appeals are barred by limitation and, if so, intimate the party and place the matter before the Bench for orders;

(vi) subject to the directions of the President, Senior Vice-President, Vice-President and Senior Member of the Bench, to fix the date of hearing of the appeals and applications and direct the issue of notices therefor;

(vii) to ensure that sufficient number of cases are fixed before the Bench or Benches under the directions of the President, Senior Vice-President, Vice-President or Senior Member, as the case may be;

(viii) to bring on record legal representatives, in case of death of any party to the proceedings;

(ix) to verify the service of notice or other processes and to ensure that the parties are properly served, after obtaining the orders of the Bench whenever required for substituted service;

(x) to requisition records from the custody of any authority;

(xi) to allow inspection of records of the Tribunal;

(xii) to return the documents filed by any authority on orders of the Bench;

(xiii) to consolidate the appeals relating to the same assessee or the same issue or for any reason on the direction of the President, Senior Vice-President, Vice-President or Senior Member;

(xiv) to fix cases out of turn on the direction of the President, Senior Vice-President, Vice President or Senior Member;

(xv) to certify and issue copies of the orders of the Tribunal to the parties;

(xvi) to grant certified copies of documents filed in the proceedings to the parties, in accordance with the rules;

(xvii) to grant certified copies of the orders of Tribunal for publication, in accordance with the rules;

(xviii) to segregate cases to be heard by Single Member and fix them for hearing separately;

(xix) to ensure that remand reports are submitted in time whenever called for by the Bench by issuing necessary reminders to the authority concerned;

(xx) to obtain orders of the Bench on applications for withdrawal of appeals and applications and put up before the Bench;

(xxi) to refund the institution fee on the direction of the Bench.]

## **5. Language of the Tribunal :-**

The language of the Tribunal shall be English.

### **5A. Filing of documents in Hindi :-**

[Notwithstanding anything contained in these rules; the parties may file documents drawn up in Hindi, if they so desire, in the Benches located in such States as may be notified by the President in this behalf from time to time.]

### **5B. Use of Hindi in proceedings and orders :-**

[Notwithstanding anything contained in these rules, the Tribunal in its discretion may permit the use of Hindi in its proceedings or may pass orders in Hindi, in such States as may be notified by the President <sup>1</sup> in this behalf from time to time: Provided that where the order is passed in Hindi it shall be accompanied by an authorised English translation thereof.]

1. The following notification (No. F. 71-Ad(AT)/74, dated 5-5-1975 has been issued: "In exercise of the powers conferred by sub-section (5) of section 255 of the Income-tax Act, 1961 (43 of 1961) read with rule 5B of the Income-tax (Appellate Tribunal) Amendment Rules, 1975, the President, Income-tax Appellate Tribunal hereby notifies that the Tribunal in its discretion may permit the use of Hindi in its proceedings or may pass orders in Hindi in the States of Gujarat, Maharashtra, Uttar Pradesh, Punjab, Madhya Pradesh, Rajasthan, Bihar and the Union territories of Chandigarh and Delhi at the following stations where Benches of the Tribunal are located: 1. Ahmedabad, 2. Bombay, 3. Nagpur, 4. Allahabad, 5. Amritsar, 6. Chandigarh, 7. Delhi, 8. Indore, 9. Jabalpur, 10. Jaipur, 11. Patna."

## **6. Procedure for filing appeals :-**

(1) A memorandum of appeal to the Tribunal shall be presented by the appellant in person or by an agent to the Registrar at the headquarters of the Tribunal at Bombay, or to an officer authorised in this behalf by the Registrar, or sent by registered post addressed to the Registrar or to such officer.

(2) A memorandum of appeal sent by post under sub-rule (1) shall be deemed to have been presented to the Registrar or to the officer authorised by the Registrar, on the day on which it is received in the office of the Tribunal at Bombay, or, as the case may be, in the office of such officer.

### **7. Date of presentation of appeals :-**

**1** The Registrar, or, as the case may be, the authorised officer, shall endorse on every memorandum of appeal the date on which it is presented or deemed to have been presented under rule 6 and shall sign the endorsement.

1. The following Order (No. 1 of 1973, dated 10-7-1973) is relevant here: "Presentation of appeal/application-Authorisation to Assistant Registrars--Section 255(5).-In pursuance of rule 7 of the Income-tax (Appellate Tribunal) Rules, 1963 and. in supersession of all previous orders on the subject, I hereby authorise the Assistant Registrars of the Appellate Tribunal at Bombay/Allahabad/Madras/Calcutta/Delhi/Hyderabad/Patna/Cochin/Ahmedabad/Bangalore/Indore/Chandigarh/Nagpur/Cuttack/Jabalpur/Jaipur/ Amritsar/ Poona and Gauhati for the purpose of that rule: Provided that if at the time of presentation of appeal/application, the Assistant Registrar is absent from office, the appeal or application may be presented to the Superintendent/Assistant Superintendent/Seniormost Head Clerk of the office at Bombay/Delhi/Calcutta or the head-clerk at Madras/Allahabad/Patna/Hyderabad/ Cochin/ Ahmedabad/Bangalore/Indore/Chandigarh/Nagpur/Cuttack/Jabalpur/Jaipur/Amritsar/Poona and Gauhati in the office during office hours: Provided further that if the appellant or applicant apprehends that it is the last day of the limitation for presentation of his appeal or application, he may present it to any Assistant Registrar at Bombay/Allahabad/Madras/Calcutta/Delhi/Hyderabad/Patna/ Cochin/Ahmedabad/Bangalore/Indore/Chandigarh/Nagpur/Cuttack/Jabalpur/Jaipur/Amrit sar/Poona and Gauhati at his respective residence or any other place wherever they may be, or to a Member of the Tribunal at his residence or wherever he may be."

### **8. Contents of memorandum of appeal :-**

Every memorandum of appeal shall be written in English and shall set forth, concisely and under distinct heads, the grounds of appeal without any argument or narrative; and such grounds shall be numbered consecutively.

### **9. What to accompany memorandum of appeal :-**

**1**[(1) Every memorandum of appeal shall be in triplicate and shall be accompanied by two copies (at least one of which shall be a certified copy) of the order appealed against, two copies of the order of the Income-tax Officer, two copies of the grounds of appeal before the first appellate authority and two copies of the statement of facts, if any, filed before the said appellate authority.]

**23**[(2)

(i) In the case of appeal against the order of penalty, the memorandum of appeal shall also be accompanied by two copies of the assessment order;

(a) In the case of appeal against the assessment under section 143(3) read with section 144B , the memorandum of appeal shall also be accom- panied by two copies of the draft assessment order and two copies of the Inspecting Assistant Commissioners directions under section 144B ;

(iii) In the case of assessment under section 143(3) read with section 144A , the memorandum of

appeal shall also be accompanied by two copies of the Inspecting Assistant Commissioners directions under section 144A ; and

(iv) In the case of assessment under section 143 read with section 147 , the memorandum of appeal shall also be accompanied by two copies of the original assessment order, if any].

<sup>4</sup>[(3)] The Tribunal may in its discretion accept a memorandum of appeal which is not accompanied by all or any of the documents referred to in sub-rule (1). <sup>5</sup> [Explanation.-For the purpose of this rule, certified copy will include the copy which was originally supplied to the appellant as well as a photostat copy thereof duly authenticated by the appellant or his authorised representative as a true copy.]

1. Substituted by the Income-tax (Appellate Tribunal) Amendment Rules, 1984, w.e.f. 1-4-1984.

2. The following clarification (UO No. F. 38-J5(AT)/71, dated 9-8-1971) is relevant for the purposes of this rule: "Certified copy of the order appealed against in appeals filed before the Income- tax Appellate Tribunal-Rule 9 of the Income-tax (Appellate Tribunal) Rules, 1963.-Rule 9 of the Income-tax (Appellate Tribunal) Rules, 1963 requires the memo of appeal to be accompanied by two copies (at least one of which should be a certified copy) of the order appealed against. The said rule is to be interpreted in the light of the decision taken in 1946 and conveyed to all Assistant Registrars of the Benches then in existence vide Letter No. 5068 AT/46, dated 17-12-46 addressed to M/s SK Sawday and Co, No. 7, Wellesely Place, Calcutta and copyendorsed to the Assistant Registrars. It is understood that some Benches are not following the instructions contained in the aforesaid communication. On receipt of the representation from the Upper Assam Chamber of Commerce, Jorhat on the above subject, President, Income-tax Appellate Tribunal after re- examination of the matter, has decided that the aforesaid decision may continue to be followed viz., to treat the copy of the order appealed against bearing the signature of the issuing or authorised officer and the seal of the office which issue the copy as equivalent to a certified copy of the order appealed against. The Assistant Registrar is requested to place this UO before the members for their information and to circulate it in the office for information and guidance of the officials concerned."

3. Inserted by the Income-tax (Appellate Tribunal) Amendment Rules, 1984, w.e.f. 1-4-1984.

4. Sub-rule (2) renumbered as sub-rule (3),the Income-tax (Appellate Tribunal) Amendment Rules, 1984, w.e.f. 1-4-1984

5. Inserted by the Income-tax (Appellate Tribunal) Amendment Rules, 1987, w.e.f. 1-8-1987.

#### **10. Filing of affidavits :-**

Where a fact which cannot be borne out by, or is contrary to, the record is alleged, it shall be stated clearly and concisely and supported by a duly sworn affidavit.

#### **11. Grounds which may be taken in appeal :-**

The appellant shall not, except by leave of the Tribunal, urge or be heard in support of any ground not set forth in the memorandum of appeal, but the Tribunal, in deciding the appeal, shall not be confined to the grounds set forth in the memorandum of appeal or taken by leave of the Tribunal under this rule: Provided that the Tribunal shall not rest its decision on any other ground unless the party who may be affected thereby has had a sufficient opportunity of being heard on that ground.

#### **12. Rejection or amendment of memorandum of appeal :-**

The Tribunal may reject a memorandum of appeal, if it is not in the prescribed form or return it for being amended within such time as it may allow. On representation after such amendment, the memorandum shall be signed and dated by the officer competent to make an endorsement under rule 7.

#### **13. Who may be joined as respondent in an appeal by assessee :-**

In an appeal by an assessee under sub-section (1) of section 253 , the Income-tax Officer concerned shall be made a respondent to the appeal.

**14. Who may be joined as respondent in an appeal by the Income-tax Officer :-**

In an appeal by the Income-tax Officer under sub-section (2) of section 253 , the appellant before the Appellate Assistant Commissioner shall be made a respondent to the appeal.

**15. What to accompany memorandum of appeal under section 253(2) :-**

In an appeal under sub-section (2) of section 253 , a certified copy of the order of the Commissioner directing that an appeal be preferred, shall be appended to the memorandum of appeal.

**16. Authorising a representative to appear :-**

In any appeal by any assessee, where the memorandum, of appeal is signed by his authorised representative, the assessee shall append to the memorandum a document authorising the representative to appear for him and if the representative is a relative of the assessee, the document shall state what his relationship is with the assessee, or if he is a person regularly employed by the assessee, the document shall state the capacity in which he is at the time employed.

**17. Authorisation to be filed :-**

An authorised representative appearing for the assessee at the hearing of an appeal shall, unless the document referred to in rule 16 has been appended, file such a document before the commencement of the hearing.

**17A. Dress regulations for the members and for the representatives of the parties :-**

[.

(i) Summer dress for the Members shall be white pant with black coat and black tie or a buttoned-up black coat. In winter, striped or black trousers may be worn in place of white trousers. In the case of female Members, however, the dress shall be black coat over white saree.

(ii) Dress for the authorised representatives of the parties (other than

(a) In the case of male, a suit with a tie or buttoned-up coat over a pant or national dress, i.e., a long buttoned-up coat on dhoti or churidar pyjama. The colour of the coat shall, preferably, be black.

(b) In the case of female, black coat over white or any other sober coloured saree. Where, however, the authorised representatives belong to a profession like that of lawyers or Chartered Accountants and they have been prescribed a dress for appearing in their professional capacity before any court. Tribunal or other such authority, they may, at their option, appear in that dress, in lieu of the dress mentioned above.

(iii) All other persons appearing before the Tribunal shall be properly dressed.]

**18. Preparation of paper books, etc :-**

[..

**1** [(1) If the appellant or the respondent as the case may be, proposes to refer or rely upon any document or statements or other papers on the file of or referred to in the assessment or appellate orders, he may submit a paper book in duplicate containing such papers duly indexed and paged at least a day before the date of hearing of the appeal along with proof of service of a copy of the same on the other side at least a week before: Provided, however, the Bench may in an appropriate case condone the delay and admit the paper book.]

(2) The Tribunal may suo motu direct the preparation of a paper book in triplicate by and at the cost of the appellant or the respondent containing copies of such statements, papers and documents as it may consider necessary for the proper disposal of the appeal.]

**2** [(3) The papers referred to in sub-rule (1) above must always be legibly written or type-written in double space or printed. If xerox copy of a document is filed, then the same should be legible. Each paper should be certified as true copy by the party filing the same, or his authorised representative and indexed in such a manner as to give the brief description of the relevance of the document, with page numbers and the Authority before whom it was filed.

(4) The additional evidence, if any, shall not form part of the same paper book. If any party desires to file additional evidence, then the same shall be filed by way of a separate paper book containing such particulars

(5) The parties shall not be entitled to submit any supplementary paper book, except with the leave of the Bench.

(6) Paper/paper books not conforming to the above rules are liable to be ignored.]

1. Substituted by the Income-tax (Appellate Tribunal) Amendment Rules, 1992, w.e.f. 24-7-1992. Prior to substitution, sub-rule (1) read as under: "(1) The appellant shall, within a month of the filing of the appeal, submit in triplicate a paper book containing copies of the documents, statements of witnesses and other papers on the file of, or referred to in the order of, the Income-tax Officer or Appellate Assistant Commissioner or Inspecting Assistant Commissioner or Commissioner of Income-tax, as the case may be, which he proposes to refer to or rely upon at the hearing of the appeal and the respondent shall also file such a paper book in triplicate within a month of the service of the notice of the filing of the appeal on him."

2. Inserted by the Income-tax (Appellate Tribunal) Amendment Rules, 1993, w.e.f. 7-10-1993.

### **19. Date and place for hearing of appeal to be notified :-**

(1) The Tribunal shall notify to the parties specifying the date and place of hearing of the appeal and send a copy of the memorandum of appeal to the respondent either before or with such notice.

(2) The issue of the notice referred to in sub-rule (1) shall not by itself be deemed to mean that the appeal has been admitted.

### **20. Date and place of hearing of appeal, how fixed :-**

The date and place of hearing of the appeal shall be fixed with reference to the current business of the Tribunal and the time necessary for the service of the notice of appeal, so as to allow the

parties sufficient time to appear and be heard in support of or against the appeal.

**21. Grant of time to answer in an appeal under section 253(1) :-**

In an appeal under sub-section (1) of section 253 , in fixing the date for the respondent to appear and answer to the appeal, a reasonable time shall be allowed for the necessary communication with the Commissioner through the proper channel and for the issue of instructions to an authorised representative to appear and answer on behalf of the respondent.

**22. Cross-objections :-**

A memorandum of cross-objections filed under sub-section (4) of section 253 shall be registered and numbered as an appeal- and all the rules, so far as may be, shall apply to such appeal.

**23. Hearing of the appeal :-**

On the day fixed, or any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Tribunal shall, then, if necessary, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.

**24. Hearing of appeal ex parte for default by the appellant :-**

[ . Where, on the day fixed for hearing or on any other date to which the hearing may be adjourned, the appellant does not appear in person or through an authorised representative when the appeal is called on for hearing, the Tribunal may dispose of the appeal on merits after hearing the respondent: Provided that where an appeal has been disposed of as provided above and the appellant appears afterwards and satisfies the Tribunal that there was sufficient cause for his non-appearance when the appeal was called on for hearing, the Tribunal shall make an order setting aside the ex parte order and restoring the appeal.]

**25. Hearing of appeal ex parte for default by the respondent :-**

[Where, on the day fixed for hearing or any other day to which the hearing may be adjourned, the appellant appears and the respondent does not appear in person or through an authorised representative when the appeal is called on for hearing, the Tribunal may dispose of the appeal on merits after hearing the appellant.]

**26. Continuation of proceedings after the death or adjudication of a party to the appeal :-**

Where an assessee whether he be the appellant or the respondent to an appeal dies or is adjudicated insolvent or in the case of a company is being wound-up, the appeal shall not abate and may, if the assessee was the appellant, be continued by, and if he was the respondent be continued against, the executor, administrator or other legal representative of the assessee or by or against the assignee, receiver or liquidator, as the case may be.

**27. Respondent may support order on grounds decided against him :-**

The respondent, though he may not have appealed, may support the order appealed against on any of the grounds decided against him.

**28. Remand of the case by the Tribunal :-**

Where the Tribunal is of the opinion that the case should be remanded, it may remand it to the authority from whose order the appeal has been preferred or to the Income-tax Officer, with such directions as the Tribunal may think fit.

**29. Production of additional evidence before the Tribunal :-**

[The parties to the appeal shall not be entitled to produce additional evidence either oral or documentary before the Tribunal, but if the Tribunal requires any documents to be produced or any witness to be examined or any affidavit to be filed to enable it to pass orders or for any other

substantial cause, or, if the income-tax authorities have decided the case without giving sufficient opportunity to the assessee to adduce evidence either on points specified by them, or not specified by them, the Tribunal, for reasons to be recorded, may allow such document to be produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced.]

**30. Mode of taking additional evidence :-**

Such document may be produced or such witness examined or such evidence adduced either before the Tribunal or before such income-tax authority as the Tribunal may direct.

**31. Additional evidence to be submitted to the Tribunal :-**

If the document is directed to be produced or witness examined or evidence adduced before any income-tax authority he shall comply with the direction of the Tribunal and after compliance send the document, the record of the deposition of the witness or the record of the evidence adduced, to the Tribunal.

**32. Adjournment of appeal :-**

The Tribunal may, on such terms as it thinks fit, and at any stage adjourn the hearing of the appeal.

**33. Proceedings before the Tribunal :-**

[Except in cases to which the provisions of Section 54 of the Income tax Act, 1922 , and/or section 137 of the Act are applicable and cases in respect of which the Central Government has issued a notification under sub-section (2) of section 138 of the Act, the proceedings before the Tribunal shall be open to the public. However, the Tribunal may, in its discretion, direct that proceedings before it in a particular case will not be open to the public.]

**34. Order to be signed and dated :-**

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(1) The order of the Bench shall be in writing and shall be signed and dated by the members constituting it. <sup>1</sup>[The members constituting the Bench or, in the event of their absence by retirement or otherwise, the Vice-President <sup>2</sup> [, Senior Vice-President] or the President may mark an order as fit for publication.]

(2) Where a case is referred under sub-section (4) of section 255 , the order of the member or members to whom it is referred shall be signed and dated by him or them, as the case may be.

1. Inserted, the Income-tax (Appellate Tribunal) Amendment Rules, 1982, w.e.f. 20-2-1982.

2. Inserted by the Income-tax (Appellate Tribunal) Amendment Rules, 1987, w.e.f. 1-8-1987.

**34A. Procedure for dealing with applications under section 254(2) :-**

[.

(1) An application under section 254(2) of the Act shall clearly and concisely state the mistake apparent from the record of which the rectification is sought.

(2) Every application made under sub-rule (1) shall be in triplicate and the procedure for filing of appeals in these rules will apply mutatis mutandis to such applications.

(3) The Bench which heard the matter giving rise to the application (unless the President, the Senior Vice-President, the Vice-President or the Senior Member present at the station otherwise

directs) shall dispose it after giving both the parties to the application a reasonable opportunity of being heard: Provided it shall not be necessary to post miscellaneous application for hearing if it prima facie appears to be a petition for review.

(4) An order disposing of an application, under sub-rule (3), shall be in writing giving reasons in support of its decision.]

**35. Order to be communicated to parties :-**

The Tribunal shall, after the order is signed, cause it to be communicated to the assessee and to the Commissioner.

**35A. Procedure for filing and disposal of stay-petition :-**

[.

(1)

(a) Every application for stay of recovery of demand of tax, interest, penalty, fine, estate duty or any other sum shall be presented in triplicate by the applicant in person, or by his duly authorised agent, or sent by registered post to the Registrar or the Assistant Registrar, as the case may be, at the headquarters of a Bench or Benches having jurisdiction to hear the appeals in respect of which the stay application arises.

(b) Separate applications shall be filed for stay of recovery of demands under different enactments.

(2) Every application shall be neatly typed on one side of the paper and shall be in English and shall set forth concisely the following:-

(i) short facts regarding the demand of the tax, interest, penalty, fine, estate duty or any other sum, recovery of which is sought to be stayed;

(ii) the result of the appeal filed before the Appellate Assistant Commissioner, if any;

(iii) the exact amount of tax, interest, penalty, fine, estate duty or any other sum demanded, as the case may be, and the amount undisputed therefrom and the amount outstanding;

(iv) the date of filing the appeal before the Tribunal and its number, if known;

(v) whether any application for stay was made to the revenue authorities concerned, and if so, the result thereof (copies of correspondence, if any, with the revenue authorities to be attached);

(vi) reasons in brief for seeking stay;

(vii) whether the applicant is prepared to offer security, and if so, in what form;

(viii) prayers to be mentioned clearly and concisely (stating exact amount sought to be stayed);

(ix) the contents of the application shall be supported by an affidavit sworn by the applicant or his duly authorised agent;

**1** [(x) \* \* \*]

(3) An application which does not conform with the above requirements is liable to be summarily rejected.]

1. Omitted by the Income-tax (Appellate Tribunal) Amendment Rules, 1980, w.e.f. 1-6-1980.

**36. What to accompany an application for reference under section 256(1) :-**

[. An application for reference under sub-section (1) of section 256 shall be in triplicate and shall be accompanied by documents referred to in item No. 7 of Form No. 37 prescribed under rule 48 of the Income-tax Rules, 1962, which in the opinion of the applicant should form part of the case and a translation in English of any such document where necessary.]

**37. Procedure in respect of application under section 256(1) :-**

rule 6, rule 7, Rule 12, Rule 19, Rule 20, Rule 21, Rule 23, rule 26 and Rule 34 shall apply mutatis mutandis to an application under sub-section (1) of section 256

**38. Who may be joined as a respondent in an application by the assessee :-**

Where the application is by an assessee, the Commissioner to whom the Income-tax Officer is subordinate shall be made a respondent.

**39. Who may be Joined as a respondent in an application by the Commissioner :-**

Where the application is by the Commissioner, the assessee shall be made a respondent.

**40. Same Bench to hear the application :-**

. **1** [The Bench which heard the appeal giving rise to the application shall hear it unless the President, the Senior Vice-President or the Vice- President, as the case may be, directs otherwise.]

1. Substituted by the Income-tax (Appellate Tribunal) Amendment Rules, 1987, w.e.f. 1-8-1987. Prior to the substitution, rule 40 read as under: "40. The Bench which heard the appeal giving rise to the application shall hear it unless the President directs otherwise."

**41. Time for submission of reply by the respondent :-**

On receipt of the notice of the date of hearing of the application, the respondent shall, at least 7 days before the date of hearing submit a reply in writing to the application.

**42. Contents of the reply :-**

The reply to the application shall specifically admit or deny whether the question of law formulated by the applicant arises out of the order under sub-section (1) of section 254. If the question formulated by the applicant is defective, the reply shall state in what particular the question is defective and what is the exact question of law which arises out of the said order. The reply shall be accompanied by two copies thereof, a list of documents (the particulars of which shall be stated) which in the opinion of the respondent should form part of the case and a translation in English of any such document, where necessary.

**43. Dismissal if no question of law arises :-**

On the day fixed for the hearing of the application or any other day to which the hearing may have been adjourned, after hearing the parties, the Tribunal shall dismiss the application, if it is of the opinion that no question of law arises out of the order passed under sub-section (1) of section 254

**44. Statement of case to be prepared, if a question of law arises :-**

Where the Tribunal is of the opinion that a question of law arises out of the order under sub-section (1) of section 254 , it shall draw up a statement of the case.

**45. What to accompany the statement of the case :-**

[The Tribunal shall append to the statement documents which, in its opinion, form part of the case and as supplied to it by the parties. Within such time after the statement of the case is drawn up, as the Tribunal may direct, the applicant or the respondent, as the case may be, shall, in addition to the documents already filed in accordance with rule 36, file as many certified copies of the documents which form annexures to the case as the Tribunal may direct, and in case the party responsible for filing defaults, the Tribunal may send the statement to the High Court without annexures.]

**46. Order on application to be communicated to the parties :-**

The order on the application for reference shall be communicated to the assessee and the Commissioner.

**47. Same Bench to deal with requisition from High Court under section 256(2) :-**

. <sup>1</sup> [Where a requisition is received from the High Court under sub- section (2) of section 256 , or where the case is referred back under section 258 , it shall be dealt with by the Bench referred to in rule 40 unless otherwise directed by the President or the Senior Vice-President or the Vice-President, as the case may be.]

1. Substituted by the Income-tax (Appellate Tribunal) Amendment Rules, 1987, w.e.f. 1-8-1987. Prior to the substitution, rule 47 read as under: "47. Where a requisition is received from the High Court under sub-section (2) of section 256 or where the case is referred back under section 258, it shall be dealt with by the Bench referred to in rule 40 unless otherwise directed by the President or the Vice-President, as the case may be." The italicised words were inserted by the Income-tax (Appellate Tribunal) Second Amendment Rules, 1983, w.e.f. 1-7-1983.

**48. Copy of the judgment of the High Court to be sent to the Bench :-**

. <sup>1</sup> [When a copy of the judgment of the High Court is received by the Tribunal under sub-section (1) of section 260 , it shall be sent to the Bench referred to in rule 40, or any other Bench as directed by the President, the Senior Vice-President or the Vice-President, for such order as may be necessary.]

1. Substituted by the Income-tax (Appellate Tribunal) Amendment Rules, 1987, w.e.f 1-4-1987. Prior to the substitution, rule 48 read as under: "48. When a copy of the judgment of the High Court is received by the Tribunal under sub-section (1) of section 260, it shall be sent to the Bench referred to in rule 40, or any other Bench as directed by the President for such orders as may be necessary."

**49. Scale of copying fees :-**

(1) Copying fees for supply of certified copies shall be charged as under:

(i) For a full page or part thereof, Rs. 3 irrespective of whether the copy is typed or xeroxed.

(2) Except in cases where copies are supplied free under the rules or instructions for the time being in force and in cases covered by sub-rule (3), the scale of fees to be charged for the supply of copies urgently shall be twice those prescribed by sub-rule (1) where the copies are typed and

in such cases, fifty per cent of the fees so charged shall be paid to the official who types such copies.

(3) Where a party applies for immediate delivery of a copy of evidence taken down by a stenographer, the fee charged shall be twice those prescribed by sub-rule (1), and in case a typed copy is supplied, fifty per cent of the fees so charged shall be paid to the official who types such copies.

(4) If a publisher applies for a copy of an order of the Tribunal for the purpose of publication, the fee for such copy shall be Rs. 5 per page or part thereof.

(5) Copying fees for supply of certified copies, whether typed or xeroxed, shall be recovered in advance in cash.]

#### **50. Fees for inspection of records :-**

(1) Fees for inspecting records and registers of the Tribunal shall be charged as follows:-

(a) For the first hour or part thereof .. <sup>1</sup>[Rs. 2]

(b) For every additional hour or part thereof .. <sup>2</sup> [Re. 1]

(2) Fees for inspection shall be recovered in advance in cash.

(3) No fee shall be charged for inspecting records of a pending appeal or application by a party thereto.

1. Substituted for "Re. 1" by the Income-tax (Appellate Tribunal) Second Amendment Rules, 1983, w.e.f. 1-7-1983. Earlier. "Re. 1" was substituted for "80 P." by the Income- tax (Appellate Tribunal) Amendment Rules, 1980. w.e.f. 1-6-1980.

2. Substituted for "50 P." by the Income-tax (Appellate Tribunal) Second Amendment Rules, 1983, w.e.f. 1-7-1983.

#### **51. Repeal and saving :-**

Appellate Tribunal Rules, 1946, are hereby repealed except as to proceedings to which Income-tax Act, 1922, applies.

#### **52. Rules to apply mutatis mutandis under other Acts for adjudication of disputes by the Income-tax Appellate Tribunal :-**

[. <sup>1</sup> These rules shall apply mutatis mutandis to proceedings under all such Acts which provide for adjudication of disputes by the Income-tax Appellate Tribunal.]

1. Heading improvised - Not provided in the Amendment Rules.