

**INCOME TAX APPELLATE TRIBUNAL
(COMMITTEE FOR REVISION OF THE INCOME TAX APPELLATE TRIBUNAL RULES)**

11th floor, Lok Nayak Bhawan
Khan Market, New Delhi 110 003

P U B L I C N O T I C E

May 11, 2017


1. Over a period of time, it was widely felt that the Income-tax (Appellate Tribunal) Rules, 1963, have outlived their utility to some extent in view of changing circumstances and the use of technology in the Tribunal's functioning. In the times to come, the use of technology in the Tribunal's day to day functioning will increase manifold. It is in this background that a need is felt to revisit the existing rules and substitute the same by the new rules. This committee was entrusted with the work of preparing the new Income Tax Appellate Tribunal Rules 2017 in the place of the existing Income-tax (Appellate Tribunal) Rules, 1963.

2. The Committee is pleased to present a draft of the Income Tax (Appellate Tribunal) Rules, 2017 and place the same in public domain for inviting valuable suggestions of all the stakeholders. It is in the light of comments and the feedback of the stakeholders that the substitution of present Income-tax (Appellate Tribunal) Rules 1963, by the proposed Income Tax Appellate Tribunal Rules 2017, will be processed further.

3. The comments and suggestions of all the stakeholders may please be sent by email to itad.rulescommittee@gmail.com or by post at the address given below:

Shri R S Syal
Vice President
Income Tax Appellate Tribunal
11th floor, Lok Nayak Bhawan
Khan Market, New Delhi 110 003

4. All the comments and suggestions should reach the Committee latest by 12th June 2017. The Committee deeply values inputs from all the stakeholders and respectfully invites the same for its consideration.


Pramod Kumar
Member


R S Syal
Vice President


Sunil K Yadav
Committee Chairman

INCOME TAX APPELLATE TRIBUNAL RULES, 2017

In exercise of the powers conferred by Section 255(5) of the Income Tax Act, 1961, the Income Tax Appellate Tribunal hereby makes the following rules, namely-

Short title and commencement

1. (1) These rules may be called the Income Tax Appellate Tribunal, Rules, 2017.
- (2) They shall come into force at once.

Definitions.

2. In these rules, unless the context otherwise requires,-
 - (i) 'Act' means the Income Tax Act, 1961 (43 of 1961);
 - (ii) 'Appellate Tribunal Rules' mean Income Tax Appellate Tribunal Rules, 2017
 - (iii) 'appeal' means an appeal, filed before the Tribunal, under section 253 of the Act;
 - (iv) 'Assistant Registrar' means a person appointed as assistant registrar by the Government of India, and includes any person, under general or special orders of the President, performing the functions and duties of an Assistant Registrar;
 - (v) 'authorised representative' means—
 - (a) in relation to an assessee, a person duly authorised by the assessee under section 288 to appear before the Tribunal; and
 - (b) in relation to an income-tax authority who is a party to any proceedings before the Tribunal, a person appointed by an income tax authority, duly authorised by the Central Board of Direct Taxes in this behalf, as 'authorised representative' to appear, plead and act on behalf of the income-tax department

(vi) 'Bench' means 'Single Member Bench', 'Division Bench', 'Special Bench' and 'Third Member Bench', as defined under section 255 of the Act;

(vii) 'certified copy' means a true copy of any order passed by the Tribunal, under section 254 of the Act, or of any document forming part of the judicial records, duly authenticated, or digitally signed, by the Registrar, Deputy Registrar or Assistant Registrar, or, in the absence of any these officers ,any other Officer authorised in this behalf by the President, Vice President or Sr Member- as the case as may be;

(viii) 'Deputy Registrar' means a person appointed as a Deputy Registrar by the Government of India, and shall include any person, under general or special orders of the President, performing the functions and duties of a Deputy Registrar;

(ix) 'Income Tax Rules' mean Income-tax Rules 1962 or any other rules, as may be introduced from time to time, in substitution thereof;

(x) 'Member' means a member of the Income Tax Appellate Tribunal, whether judicial member or accountant member, and, for the limited purpose of constitution of bench, includes President and Vice President;

(xi) 'rectification application' means an application filed before the Tribunal under section 254(2) of the Act;

(xii) 'miscellaneous application' means any application, other than a rectification application or a stay application, filed before the Tribunal;

(xiii) 'prescribed form' means a form prescribed under the Income Tax Rules or the Appellate Tribunal Rules;

(xiv) 'President' means a person appointed as President of the Tribunal by the Government of India, and includes a person, who, for the time being, is discharging the functions and duties of the President;

(xv) 'Registrar' means a person appointed as Registrar of the Tribunal by the Government of India, and includes any person, who, for the time being, under the general and special orders of the President, is discharging the functions and duties of the Registrar of the Tribunal;

(xvi) 'section' means a section of the Act;

(xvii) 'Senior Member' means a Member of the Tribunal who, at the relevant point of time, is generally the senior most member of the Tribunal posted at a place under whose superintendence and control the administrative affairs of the benches are conducted, and in a case where a Member other than senior most Member is to be treated as 'Senior Member', any Member given charge of administrative affairs of a bench, by way of general or specific order in this behalf of the President, and includes, subject to general or special order by the President, a member who is given charge of a bench, which, at the relevant point of time, is not functioning;

(xviii) 'stay application' means an application filed before the Tribunal, under rule 15 of the Appellate Tribunal Rules;

(xix) 'Tribunal' means the Income Tax Appellate Tribunal constituted by the Government of India under section 252, and includes, where the context so requires, a Bench exercising and discharging the powers and functions of the Tribunal; and

(xx) 'Vice-President' means a person appointed by the Government of India as a Vice-President of the Tribunal, and includes a Member, who, for the time being, has been authorised by the President, by way of a special or general order, to discharge the duties and functions of a Vice-President.

Working hours of the Tribunal

3. Except on Saturdays, Sundays and other public holidays, the office of the Tribunal shall, subject to any order made by the President, remain open from 9.30 am to 6 pm, with a lunch break between 1.30 pm to 2 pm.

Sittings of Bench.

4. (1) A Bench shall hold its sittings, either physically or through the video conferencing, at any of the places where benches are situated or at such other place as may be authorised by the President in this behalf.

(2) A bench of the Tribunal will start functioning from 10.30 am.

Powers of Bench.

5. (1) A Bench shall hear and adjudicate upon such appeals and applications as are listed before it, or, as the President or Vice President may- as the case may be, by a general or special order, direct.

(2) Where there are two or more benches of the Tribunal working at any station, the President, the Vice President or Sr Member at the station, if so authorised, may transfer an appeal or an application from any one of such benches to any other bench.

Powers and functions of the Registrar.

6. (1) The Registrar shall have the custody of the headquarter records of the Tribunal, except for such records as the President may direct, and shall exercise, apart from performing such duties and functions as the Government may assign to him or as are vested in him under these rules, such other functions as may be assigned to him by the President. or the Vice President at the headquarter.

(2) The Registrar shall perform his duties and functions under the general superintendence and control of the President, or the Vice President at the headquarter-as the case may be.

(3) A Deputy Registrar or an Assistant Registrar shall have the custody of records of the Tribunal at the respective Zone or the bench, except for such records as the Vice President or the Sr Member may direct, and shall exercise such other powers and perform such other functions, as may be vested in him under these rules, or as may be assigned to him by the Vice President or the Sr Member.

(4) A Deputy Registrar and an Assistant Registrar shall perform his duties and functions under the general superintendence and control of the Vice President or the Sr Member posted at the bench at which he is posted.

(5) Subject to any general or special order of the President, the Vice President or the Sr Member, the Registrar, the Deputy Registrar and the Assistant Registrar shall have the following powers and duties, namely:

- (i) to receive the appeals, rectification applications, stay applications, and miscellaneous applications, and make an entry of the same into respective receipt register;

- (ii) to endorse on such appeals and applications the date of receipt, for the purpose of calculating limitation, and the amount of fee received;
- (iii) to scrutinize all appeals and applications so received, to find out whether they are in conformity with the rules, as may be applicable;
- (iv) to point out defects, in such appeals and applications, through email, by post or by display on the notice board, to the appellant or the applicant requiring him to rectify the same by affording reasonable opportunity and, if within the time so granted, defects are not rectified, to place such appeals or applications before the Vice President or the Sr Member, for necessary orders;
- (v) to register the appeals and applications, after removal of defects, and grant the registration numbers;
- (vi) to check whether the appeals or rectification applications are barred by limitation and, if so, intimate the appellant or the applicant- as the case may be, through email or by post, and place the matter before the Bench for orders;
- (vii) to send the memo of appeals and applications, along with enclosures, to respondents, within a reasonable time from their institution, and to receive cross-objection, if any, on the appeal filed by the appellant, and to carry out similar functions as indicated in clause (i) to (vi) of this sub rule;
- (viii) subject to the directions of the 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;
- (ix) to ensure that sufficient number of cases are fixed before the Bench or Benches under the directions of the President, Vice-President or Senior Member, as the case may be;
- (x) to receive applications for substitution, on account of death, or otherwise, of an appellant or a respondent- as the case may be, of legal representatives of a party to the appeal, during the pendency of related proceedings before the Tribunal, and place them before the bench;
- (xi) to verify the service of notice or other processes and to ensure that the parties are properly served, and to prepare an office report for the same;

- (xii) to requisition records from the custody of any authority;
- (xiii) to allow inspection of records of the Tribunal;
- (xiii) to return the documents filed by any authority on orders of the Bench;
- (xiv) to consolidate the appeals relating to the same assessee, pertaining to the same issue, or, for any other reason, on the direction of the 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, pertaining to the proceedings relating to the applicant, in accordance with the rules;
- (xvii) to grant certified copies of the orders of Tribunal, 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 refund the filing fees on the direction of the Bench.

Procedure for filing appeals, cross objections and applications

7 (1) A memorandum of appeal, a cross objection or any application filed before the Tribunal shall be presented by the appellant, cross objector or the applicant- as the case may be, in person or through an authorised agent, either by registered post or by hand, to the Registrar, Deputy Registrar, Assistant Registrar, or such official as may be nominated in this behalf of the bench(es), having jurisdiction over the assessee.

Provided, however, the President may, by general or special order, notify the date wherefrom the memorandum of appeal, cross objection, application and related documents shall be e-filed and lay down procedure to be followed for such e filing and their disposal.

Contents of memorandum of appeal

8. A memorandum of appeal shall have such details as specified in the columns given in the prescribed form, i.e form no. 36 of the Income Tax Rules, and will clearly set out, in the respective column, the consecutively numbered concise grounds of appeal, without any argument or narrative.

What to accompany memorandum of appeal

9. (1) An appeal, in respect of assessment of income, shall be accompanied by copies of (a) the order appealed against, or, in case the appeal against the order of the Assessing Officer under section 253(1)(d), the order of the Dispute Resolution Panel; (b) the grounds of appeal or objections, as filed before the first appellate authority or the Dispute Resolution Panel, as the case may be; (c) the statement of fact filed before the first appellate authority or the dispute resolution panel, as the case may be; (d) the order passed by the Assessing Officer in respect of which the appeal is filed; (e) the assessment order passed in the original proceedings and the reasons for reopening the assessment, if the appeal relates to the order of assessment under section 143(3) or 144 read with Section 147 of the Act; (f) the directions given by the Joint Commissioner under section 144A, if applicable; and (g) an application seeking condonation of delay, in case the appeal is filed after the expiry of time limit, prescribed under the statute, before the Tribunal.

(2) An appeal, filed in respect of penalty, shall be accompanied by copies of (a) the order appealed against (b) the grounds of appeal filed before the first appellate authority; (c) the statement of fact filed before the first appellate authority or the dispute resolution panel, as the case may be; (d) the penalty order passed by the Assessing Officer in respect of which the appeal is filed; (e) the assessment order passed by the Assessing Officer in the course of which impugned penalty is levied; and (f) an application seeking condonation of delay, in case the appeal is filed after the expiry of time limit, prescribed under the statute, before the Tribunal.

(3) An appeal in respect of an order passed by the Commissioner or Principal Commissioner of Income Tax, in exercise of powers of revision under section 263, shall be accompanied by copies of (a) the revision order appealed against; (b) notice(s) requiring the assessee to show cause as to why the revision power not be exercised in this case (c) the order subjected to the revision proceedings; and (d) an application seeking condonation of delay, in case the appeal is filed after the expiry of time limit, prescribed under the statute, before the Tribunal.

DRAFT FINALIZED ON 11th May, 2017.

(4) An appeal against an order passed by the Commissioner or Principal Commissioner of Income Tax, declining grant of registration under section 12 AA or grant of approval under section 80G, or in any other case. shall be accompanied by copies of (a) the order appealed against; (b) a copy of the relevant application filed by the assessee; and (c) an application seeking condonation of delay, in case the appeal is filed after the expiry of time limit, prescribed under the statute, before the Tribunal.

(5) An appeal in respect of any other order, against which an appeal lies before the Tribunal, passed by the Commissioner, Principal Commissioner, Chief Commissioner, Principal Chief Commissioner, Director, Principal Director, Director General or Principal Director General, of Income Tax, shall be accompanied by a copy of the order appealed against, grounds of appeal and statement of facts before the first appellate authority, if any, and (c) an application seeking condonation of delay, in case the appeal is filed after the expiry of time limit, prescribed under the statute, before the Tribunal.

(6) An appeal will be in form number 36 of the Income Tax Rules and shall be submitted in triplicate, accompanied by two self-certified copies of the attachments referred to in sub rule (1), (2), (3), (4) and (5) of this rule, along with evidence of payment of appeal filing fees, if applicable.

What to accompany memorandum of appeal by the Assessing Officer

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

Cross-objection to be treated as an appeal

11. A memorandum of cross-objection 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.

Contents of cross objection

12. A memorandum of cross objection shall have such details as specified in the columns given in the prescribed form, i.e. form no. 36A of the Income Tax Rules, and

will clearly set out, in the respective column, the consecutively numbered concise grounds of cross objection, without any argument or narrative.

Contents of rectification petition

13. A rectification petition shall have such details as specified in the columns given in the prescribed form, i.e. form no. AT -1 of these rules, and will clearly set out brief nature of mistakes which are said to have crept in the order

What to accompany a rectification application

14. (1) An application seeking rectification of a mistake apparent on record under section 254(2), shall be accompanied by a copy the order in respect of which the such application has been filed.

(2) A rectification application in the prescribed form, i.e. form number AT-1 of these rules, shall be submitted in triplicate, and will be accompanied by two self-certified copies of the attachments referred to in sub rule (1) of this rule, along with evidence of payment of application filing fees, if applicable.

Communication of change of address, and other related details, in respect of any appeal, cross objection or application pending before the Tribunal

15. (1) In the event of any change in the address and other related details of the parties to the appeal as provided in column Nos. 10 and 11 of form No. 36 of the Income Tax Rules, column nos 6 and 7 of form no. 36A of the Income Tax Rules or column nos 1,2 and 4 of form no. AT-1 of these rules, the appellant, the cross objector or the applicant, as the case may be, shall inform the Tribunal by filing the revised form, as above, containing the updated details.

(2) No cognizance of change of address and other related details of the parties shall be taken, unless the revised form, as above, containing updated details is submitted.

Contents of stay application

16. (1) An application for stay shall have such details as specified in the columns given in the prescribed form, i.e. form no. AT-2 of these rules, and will clearly set out, in the respective column, the consecutively numbered concise grounds on which the relief prayed for is sought.

(2) A separate stay application is required to be filed by the applicant in respect of outstanding demands, i.e. tax, penalty and interest demands, impugned in each appeal separately.

What to accompany a stay application

17. (1) An application for stay on recovery of demands of tax, penalty or interest impugned in the appeal before the Tribunal shall be accompanied by (a) a statement of financial position as on the date on which stay is sought; (b) a copy each of the applications moved to the income tax authorities seeking stay, and, orders passed thereon, if any; (c) a copy each of any other document that the applicant may consider relevant in this regard.

(2) An application for stay, filed by hand or by registered post, in the prescribed form, shall be submitted in triplicate, duly accompanied by two self-certified copies of the attachments referred to in sub rule (1) of this rule, along with the evidence of payment of stay application filing fees.

Date of presentation of appeals, cross objections and applications

18. (1) The date of presentation of appeal, cross objection or application will be the date on which it is successfully e-filed.

(2) An appeal, cross objection or application filed before the Tribunal, except through the e-filing, shall be endorsed, in respect of the date on which it is presented, by the Registrar, Deputy Registrar or the Assistant Registrar- as the case may be.

Rejection of, and modification in, appeal, cross objection and application

19. (1) An appeal, cross objection or application filed before the Tribunal, will be subject to scrutiny by the registry.

(2) In case any defects are noticed in the appeals or applications filed before the Tribunal, the appellant or the applicant, as the case may be, will be informed of such defects, and called upon to rectify the same.

(3) In the event of the appellant or the applicant not rectifying the defects pointed out by the registry within a reasonable time, the Tribunal will be at liberty not to register the same, and consign it to the records, with the permission of the Vice President or the Sr Member, as the case may be.

Who may be joined as respondent in an appeal by assessee.

20. (1) In an appeal by an assessee under section 253(1)(a)(b)(ba) (d) and (e) , the Assessing Officer concerned shall be made a respondent to the appeal,

(2) In appeal by the assessee under Section 253(1)(c) and (f), the officer passing the order shall be made the respondent

Who may be joined as respondent in an appeal by the Assessing Officer

21. In an appeal by the Assessing Officer under sub-section (2) of section 253, the assessee shall be made respondent to the appeal.

Procedure for listing of appeals

22. (1) The appeals, filed before the Tribunal, shall be listed for hearing, subject to sub-rules (2) and (3), in the same order in which the appeals are received in the respective category.

(2) The following categories of appeals shall be fixed for hearing, in such manner, as the President, Vice President or the Sr Member may direct:

- (i) appeals involving the adjudication on issues relating to transfer pricing and international taxation;
- (ii) appeals to be heard by single member bench under section 255(3) of the Act;
- (iii) all other appeals

(3) The appellant or the respondent, for the specific reasons to be set out, may make an application to the President, the Vice President or the Sr Member, as the case may be, seeking an out of turn hearing of the appeal. The President, the Vice President or the Sr Member, on being so satisfied, may grant an out of turn hearing of the appeal.

(4) The President, Vice President or Sr Member, where it is considered appropriate, may direct that an application for out of turn hearing of an appeal be placed before the bench for consideration and passing appropriate order thereon, after hearing the parties.

(5) An appeal in respect of which an early hearing is granted, and in the event of the related bench not functioning on the scheduled date of hearing, the appeal may be temporarily transferred to any other functioning bench., as per the directions of Hon'ble President, Vice President or Sr Member- as the case may be.

Provided however, if the hearing is not concluded by the bench to which it is so transferred, the appeal will stand reverted to the original bench.

(6) An out of turn hearing may ordinarily be granted, at the request of the appellant or the respondent, as the case may be, in the following cases:

- (i) where appeal pertains to a charitable institution;
- (ii) where appeal pertains to a senior citizen, salaried employee or a non-resident having no income under the head 'profits and gains of business or profession';
- (iii) where appeal is filed by or against an individual aged more than eighty years as on the date of application for out of turn hearing;
- (iv) where the assessee has passed away;

DRAFT FINALIZED ON 11th May, 2017.

(v) where the issue in appeal is covered by a decision of the Tribunal or of the higher judicial forums, in assessee's own case, for any other assessment year;

(vi) where the issue in appeal is directly covered by a decision of the Supreme Court, the High Court or the Tribunal.

(v) where appeal is directed against a revision order under section 263 or against an order holding assessee in default, for failure to deduct tax at source, under section 201; and

(vi) where undue hardship is likely to be caused to the appellant or the respondent by waiting for disposal of appeal in ordinary course of business.

Provided that the Tribunal, on its own, may also take up appeals on out of turn basis as the President, the Vice President or the Sr Member, as the case may be, may consider expedient and necessary. In such a case, however, office order granting the out of turn hearing clearly setting out the reasons for so taking up such appeals on out of turn basis will be recorded in writing and a copy thereof will be placed in the related appeal folders also.

(7) All applications received by the Tribunal, for out of turn hearing of appeals, shall be serially entered in a separate register, and outcome of such applications will be noted therein.

Date and place for hearing of appeal to be notified.

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

(2) The notice of hearing of the appeal may be served in person or by post at the address given in the memorandum of appeal or through such other mode as the Tribunal may deem fit and proper.

Provided however, in terms of general or special order issued by the President in this respect, a notice of hearing, or intimation of adjournment, may also be sent by email, by text message or by such other mode as may be prescribed from time to time.

Preparation of paper books, etc.

24. (1) In case a party to the appeal wishes to refer to, or rely upon, any document which is a part of, or is referred to in, the records of the proceedings before the authorities below, he may submit a paper book, in duplicate, containing copies of such documents, duly indexed, at least a day before the hearing, along with proof of service of the same on the opposite party at least a week before. In case more than one paper book are filed by a party to the appeal, the pagination will be in continuation and a consolidated index of documents will also be filed.

Provided, however, the Bench may in an appropriate case condone the delay and admit the paper book;

Provided further that the parties may, by way of a general or special order issued in this respect by the President, be required to furnish a copy of the paper book in digital form by way of a compact disk or in such other manner, or subject to such conditions, as may be prescribed accordingly;

Provided even further that in a case in which hearing is to take place through the video conferencing, parties will file paper books, if any, at least one week in advance.

(2) The Tribunal may *suo motu* issue directions, to the appellant or the respondent, for filing of the paper book in triplicate containing copies of such documents as it may consider necessary for proper disposal of the appeal.

(3) The documents referred to in sub-rule (1) above must be legible. Each document should be certified as a true copy by the party filing the same, or his authorised representative. The paper book filed by a party will be accompanied with an index, duly certified by the assessee or his authorised representative, as per prescribed form, i.e. form no. AT-4 attached to and forming part of these rules.

(4) The additional evidence, if any, shall not form part of the same paper book. If any party desires to file additional evidence, the same shall be filed by way of a separate paper book, in accordance with sub rule (3), accompanied by an application stating the reasons for filing such additional evidence.

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

(6) Documents that are referred to and relied upon by the parties during the course of arguments shall alone be treated as part of the record of the Tribunal.

- (7) Paper book(s) not conforming to the above rules are liable to be ignored.

Production of additional evidence before the Tribunal.

25. (1) The parties to the appeal shall not be entitled to produce any additional evidence, either oral or documentary, before the Tribunal, unless the Tribunal is satisfied with the explanation of the applicant for not producing the same before the lower authorities. However, even when an additional evidence is admitted by the Tribunal, it can do so only after hearing the other party thereon.

(2) The Tribunal may admit any additional evidence including deposition of an expert, if it considers so necessary, for enabling it to pass orders or for any other substantial cause, after providing a reasonable opportunity of hearing to both the parties. Any costs incurred in deposition of expert will be borne by the parties, as directed by the Tribunal.

(3) In case of admission of an additional evidence, by way of examination of a witness, the parties will have a right to cross examine the witness.

Grounds which may be taken in appeal.

26. 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 been communicated that ground and has been afforded a sufficient opportunity of being heard in respect thereof.

Respondent may support the order on any grounds

27. The respondent, though he may not have appealed, may support the conclusion on an issue arrived at in the impugned order on any of the grounds on that issue, including the grounds decided against him.

Provided that the respondent shall make an application, setting out such precise grounds he wishes to so take up, before the Tribunal at least one day before the scheduled hearing of the appeal, along with evidence of having served a copy of the said application to the other party at least one week in advance.

Hearing of the appeal.

28. (1) On the day fixed, or any other day to which the hearing may be adjourned, the appellant shall be heard, in person or through the authorised representative, in support of the appeal. The Tribunal shall, then, if necessary, hear the respondent against the appeal, and in such a case, the appellant shall be entitled to reply.

(2) The hearing of an appeal through video conferencing will be at the option of the assessee.

(3) In a case where hearing is to take place through the videoconferencing, the appellant and the respondent will appear at the bench at which the appeal is filed and the Members will hear the arguments of the parties, through video conferencing, from such place as may be directed by the President.

(4) Parties to the appeal shall furnish the communication details, in form no. AT-3, at any point of time before the hearing commences, so as to facilitate electronic transmission of orders by emails, immediately upon uploading, and keep them informed, about related developments, through text message alerts.

Proceedings before the Tribunal.

29. 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.

Adjournment of appeal.

30. (1) The Tribunal may on its own, or at the request of the parties, adjourn the hearing of the appeal on such terms as it thinks fit.

(2) No adjournment request from the parties shall ordinarily be entertained unless the same is filed in the registry, latest by 1.30 pm of the working day preceding the scheduled date of hearing, along with the proof of service of a copy of the same upon the opposite party.

(3) Even when a party has *bonafide* reasons for seeking adjournment, the hearing shall not ordinarily be adjourned beyond five occasions. In case, however, the Tribunal deems it appropriate to grant adjournment thereafter, it may do so on such terms and conditions as it deems fit.

(4) In case hearing is adjourned at the instance of the assessee, it shall be his duty to ascertain the next date of hearing. In case the hearing is adjourned by the Tribunal at its own, or at the request of the revenue, the fresh date of the hearing will be communicated to the assessee, or his representative, in the court room or by issuance of notice.

(5) Where hearing is adjourned due to non functioning of the bench, the Tribunal shall inform the fresh date of hearing to the parties through the notice board and also display the same on the official website of the Tribunal.

(6) The Tribunal shall, with effect from the date to be notified in this regard by the President, communicate the adjourned date of scheduled hearing by email and by text message.

Continuation of proceedings after the death or insolvency of a party to the appeal.

31. Where an assessee, whether he be an appellant or the respondent to an appeal, dies or is adjudged insolvent or in the case of a company being wound up, the appeal shall not abate.

Provided that in such a case, the appeal will continue in the name of the successor, subject to the filing of revised form No. 36 duly filled up, giving particulars of such successor, verified in the same manner as the original appeal

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

32. Where, on the day fixed for hearing, the appellant does not appear in person or through an authorised representative when the appeal is called out for hearing, the Tribunal may dismiss the appeal in default.

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 out for hearing, the Tribunal shall make an order setting aside the *ex parte* order and restore the appeal.

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

33. 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 out for hearing, the Tribunal may dispose of the appeal on merits after hearing the appellant:

Provided that where an appeal has been disposed of as provided above and the respondent appears afterwards and satisfies the Tribunal that there was sufficient cause for his non-appearance when the appeal was called out for hearing, the Tribunal shall make an order setting aside the *ex parte* order and restore the appeal.

Remand by the Tribunal

34. (1) The Tribunal may, if it considers necessary, remand a case for adjudication to a lower authority, with such directions as it deems fit.

(2) The Tribunal may, if it considers necessary for disposal of an appeal, call for a remand report from appropriate income tax authority.

(3) Such remand report shall be placed before the same coram of the Tribunal, for disposal of the appeal. In case any of the Members is no longer available at that bench, on account of retirement or transfer, the Vice President or the Sr Member, as the case may be, shall nominate another Member in his place.

Award of costs.

35. (1) The Tribunal, at its discretion, may award costs for an appeal, for an adjournment or for any other reason.

(2) The costs awarded by the Tribunal shall be paid or recovered as if it were a tax payable or a refund due to a party.

(3) Notwithstanding anything contained hereinabove, the Tribunal may in its discretion, direct such costs to be deposited in any other manner as it deems fit.

Procedure for dealing with a stay petition.

36. (1) A stay application, in respect of an appeal which is to be normally heard by a division bench under the provisions of Section 255(2), will be placed before the division bench.

(2) A stay application, in respect of an appeal which is to be normally heard by a single member bench under the provisions of Section 255(3), will be placed before the single member bench.

(3) A stay application will be placed before such coram of Members, as the President or the Vice President, or in their absence, the Sr Member may direct.

(4) A stay application filed by the assessee on or before Wednesday of a week will be listed for hearing on Friday of that week.

(5) In case of an emergency, an applicant may mention the matter before the Vice President or Sr Member at the station, for appropriate orders regarding hearing of the stay petition.

(6) Where any defects are pointed out by the Registry, and the defects are not removed, the stay application along-with defect memo, and reply thereto, if any, shall be placed for hearing before the bench.

DRAFT FINALIZED ON 11th May, 2017.

(7) A stay application will ordinarily be disposed of before the end of next working day following the day on which the hearing is concluded.

(8) The provisions of the rules 40 and 41 will apply *mutatis mutandis* to the orders on stay applications as well.

Procedure for dealing with a rectification application

37. (1) A rectification application shall be listed for hearing, within four weeks of its presentation, before the same coram which had passed the order giving rise to such an application.

Provided, however, when one or both of the Members of the coram of the bench have retired, or are transferred, the President or the Vice President, as the case may be, may nominate other members in their place.

(2) In a case in which any defects are pointed out by the Registry, and the defects are not removed, the rectification application along-with defect memo, and reply thereto, if any, shall be placed for hearing before the bench.

(3) The Tribunal shall dispose of the rectification application, after hearing both the parties, by an order in writing.

(4) The provisions of the rules 40 and 41 will apply *mutatis mutandis* to the orders on rectification application as well.

Procedure for dealing with the requisition from the Supreme Court or the High Court.

38. Where a requisition is received under sub-section (2) of section 256, or the case is referred back under section 258, the same shall be dealt with by a bench consisting of such members as may be nominated by the President or the Vice President, as the case may be.

Giving effect to the judgment in reference jurisdiction

39. (1) When a copy of the judgment is received by the Tribunal under sub-section (1) of section 260, it shall be placed for orders before bench consisting of the such Members as nominated by the President or the Vice-President, as the case may be.

(2) The order of the Tribunal, giving effect to the judgment of the Supreme Court or the High Court, shall be signed, dated and pronounced in the open court, and the provisions of rule 40 and 41 will apply *mutatis mutandis* to such orders as well.

Order to be pronounced, signed and dated.

40. (1) The order of the Bench shall be in writing and shall be signed and dated by the Members constituting it.

(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.

(3) The Bench shall pronounce its orders in the Court. However, where the Bench is not functioning or for any other good reason the pronouncement of order in the Court is not possible or practicable, a list of such order(s) shall be prepared duly signed by the Members showing the result of the appeal and the same would be put on the Notice Board of the Bench and it shall be deemed pronouncement of the order.

(4) The pronouncement may be in any of the following manner:—

(a) The Bench may pronounce the order immediately upon the conclusion of the hearing.

(b) In case the order is not pronounced upon the conclusion of the hearing, such order will be pronounced as soon as possible and the date of its pronouncement will be displayed on the notice board. Effective from the date to be notified by the President in this behalf, the parties will also be informed the date of such pronouncement by text message and e mail.

(c) Every endeavour shall be made by the Bench to pronounce the order within 60 days from the date on which the hearing of the case was concluded but, where it is not practicable to do so, the Bench may, after recording reasons for such delay on the order sheet, pronounce the order within a further period of 30 days.

(d) No order shall be passed after the expiry of 90 days from the date of conclusion of hearing.

(5) The order of the Bench shall ordinarily be pronounced by the Members who heard the appeal. However, if the said Members or any of them is or are not available for pronouncement for any reason, then the order will be pronounced by such Member or Members as may be nominated by the President, the Vice-President, or the Senior Member, as the case may be, provided the order is signed by both the Members who have heard the appeal.

(6) The Members constituting the Bench or, in the event of their absence by retirement or otherwise, the President, or the Vice- President may mark an order as "fit for publication".

Order to be communicated to parties.

41. (1) The Tribunal shall, after the order is signed and pronounced, serve a certified copy thereof to the parties to the appeal, the Principal Commissioner, the first appellate authority and the departmental representative. The Tribunal shall ordinarily upload a copy of such order on the official website within twenty four hours of its pronouncement.

(2) A copy of the order will be certified by the Registrar, the Deputy Registrar, the Assistant Registrar, or, in the absence of these officers, by any other Officer as may be nominated by the President, the Vice President or the Sr Member.

(3) With effect from a date to be notified by the President in this behalf, in addition to, or in substitution of, the order served on in the physical form, a digitally signed and certified copy of the order shall be sent on the email addresses specified in the prescribed form.

Language of the Tribunal.

42. (1) The language of the Tribunal shall be English.

Provided, however, the proceedings may also be conducted in Hindi, in an area notified in this regard, with the consent of the parties.

(2) No appeal, application, representation, document or paperbook containing any document in a language other than English shall be accepted by the Tribunal, unless the same is accompanied by a true copy of the translation thereof in English.

Authorising a representative to appear.

43. In any appeal by any assessee, where the memorandum of appeal is also signed by his authorised representative, the assessee shall append to the memorandum of appeal, a document authorising the representative to appear for him.

Authorisation to be filed.

44. An authorised representative appearing for the assessee at the hearing of an appeal shall, unless the document referred to in rule 43 has been appended, file such a document before the commencement of the hearing.

Dress regulations for the members and for the representatives of the parties.

45. (a) Dress for the Members shall be (a) white shirt; (b) white, black or striped trousers; and (c) a black tie, with an open black coat, or buttoned up black coat. The lady Members, at their option, may also wear white saree or any other sober saree, white or any other sober salwar suit, with black coat.

(b) Dress for the authorised representatives of the parties (including the departmental representatives) excluding relative, banker or regular employee of the assessee shall be (a) white shirt; (b) trousers of any sober colour; and (c) a black tie with an open coat of black or any other sober colour, or buttoned up coat of black or any other sober colour. The ladies, at their option, may also wear white saree or any

DRAFT FINALIZED ON 11th May, 2017.

other sober saree, or white or any other sober salwar suit, with coat of black or any other sober colour. Such authorised representatives, at their option, may also wear the national dress.

Provided, however, in case the authorised representative is a member of any statutory professional body, such as Bar Council of India or the Institute of Chartered Accountants of India, or belongs to Indian Revenue Service, and such a body or the Service has prescribed a dress code or a tie, he may, at his option, wear such prescribed dress or tie.

(c) All other persons, including relative, banker or regular employee of the assessee, appearing before the Tribunal, shall be properly dressed.

Scale of copying fees.

46. (1) Copying fees for supply of certified copies shall be charged at the rate of Rs 10 per page.

(2) The copying fees shall be recovered in cash and in advance

Fees for inspection of records.

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

- (a) For the first hour or part thereof Rs 100
- (b) For every additional hour or part thereof Rs 50 or part thereof

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

Repeal and saving.

48. The Income-tax (Appellate Tribunal) Rules, 1963, are hereby repealed and shall cease to be in force.

DRAFT FINALIZED ON 11th May, 2017.

Provided, however, any appeals or applications filed under the Appellate Tribunal Income-tax (Appellate Tribunal) Rules, 1963, will continue to be valid for all purposes and will be taken up for adjudication, in accordance with the law, as if these are filed under the present rules.

Application of Rules.

49. These rules shall apply *mutatis mutandis* to proceedings under all such Acts which provide for adjudication of disputes by the Income Tax Appellate Tribunal.

Form No.AT-1
Application for rectification of mistakes under section 254(2)
[See rule 13 of the Income Tax Appellate Tribunal Rules, 2017]

MA No _____ () 20__
ITA No _____ () 20__

_____ Vs _____
(Applicant) **(Respondent)**

1. Address of the applicant : _____

2. Address of the respondent : _____

3. E mail address of the applicant : _____

4. Mobile number on the applicant : _____

5. Date and ITA No. of the related appeal, the order in which mistake is claimed to have crept in : _____

6. Date on which the order, referred to in Column 5 above, is served on the applicant : _____

7. Brief nature of mistakes which are said to have crept in the order, and which are liable to be rectified under section 254(2) (Use a separate sheet of paper, if necessary) : _____

8. Relief prayed for : _____

Signatures
(Authorised representative, if any)

Signatures
(Applicant)

Verification

I, _____, the applicant, do hereby declare that what is stated above is true to the best of my knowledge and belief.

Verified, today on _____ day of _____,

Signatures
(Applicant)

Form No AT- 2

**Application for a stay on collection/ recovery of tax dues impugned in appeal,
or for the stay of related proceedings by the income tax department
[See rule 16 of the Income Tax Appellate Tribunal Rules, 2017]**

SA No _____ () 20__
ITA No _____ () 20__

_____ Vs _____
(Applicant) **(Respondent)**

1. Address of the applicant : _____

2. Address of the respondent : _____

3. E mail address of the applicant : _____

4. Mobile number on the applicant : _____

5. Date and ITA No (if known) of : _____
the related appeal, in respect of which
this stay application is filed _____

6. Short facts regarding the demand (of : _____
tax, interest, penalty or any other sum
recovery of which is sought to be
stayed) or the action which is sought
to be stayed (Use a separate sheet of
paper, if necessary) _____

7. Exact amount of tax, penalty and : _____
interest, which is payable by the assessee
in respect of the impugned demands, and
the amount sought to be stayed _____

8. The nature of action, viz penalty proceedings or the assessment as a result of revision order, which is sought to be stayed : _____

9. Whether the applicant is in a position to offer any security or any guarantee, and, if so, in what form _____

10. Brief details of financial position as on the date of this application, or the date nearest thereto : _____

11. Relief prayed for : _____

Grounds on which the stay is sought
 (Use a separate sheet of paper, if necessary)

- 1.
 - 2.
 - 3,
 - 4.
- etc

Signatures
 (Authorised representative, if any)

Signatures
 (Applicant)

Verification

I, _____, the applicant, do hereby declare that what is stated above is true to the best of my knowledge and belief.

Verified, today on _____ day of _____,

Signatures
 (Applicant)

