

Income -Tax Rules,1962 (Part-D):-

Div. (2) Income Computation And Disclosure Standards;

Div. (3) Income - Tax (Appellate Tribunal) Rules,1963;

Div. (4) Commodities Transaction Tax Rules, 2013;

Div.(5) Securities Transaction Tax Rules,2004;

Div.(6) Equalisation Levy Rules,2016;

Div.(7) Prohibition Of Benami Property Transactions Rules,2016;

Div.(8) Income Tax Settlement Commission (Procedure) Rules,1997;

Div.(9) Capital Gains Accounts Scheme,1988;

Div.(10) Income - Tax (Dispute Resolution Panel) Rules, 2009;

Div.(11) Authority for Advance Rulings (Procedure) Rules, 1996;

Div.(12) Reverse Mortgage Scheme, 2008;

DIVISION 2

**INCOME COMPUTATION
AND DISCLOSURE
STANDARDS**

INCOME COMPUTATION AND DISCLOSURE STANDARDS (2016 VERSION)*

S.O. 3079(E), DATED 29-9-2016†

In exercise of the powers conferred by sub-section (2) of section 145 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the income computation and disclosure standards as specified in the Annexure to this notification to be followed by all assessees (other than an individual or a Hindu undivided family who is not required to get his accounts of the previous year audited in accordance with the provisions of section 44AB of the said Act) following the mercantile system of accounting, for the purposes of computation of income chargeable to income-tax under the head "Profits and gains of business or profession" or "Income from other sources".

2. This notification shall apply to the assessment year 2017-18 and subsequent assessment years.

1

A. INCOME COMPUTATION AND DISCLOSURE STANDARD I RELATING TO ACCOUNTING POLICIES

Preamble

This Income Computation and Disclosure Standard is applicable for computation of income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" and not for the purpose of maintenance of books of account.

In the case of conflict between the provisions of the Income-tax Act, 1961 ('the Act') and this Income Computation and Disclosure Standard, the provisions of the Act shall prevail to that extent.

S.O. 3078(E), dated 29-9-2016 - In exercise of the powers conferred by sub-section (2) of section 145 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby rescinds the notification of the Government of India in the Ministry of Finance, Department of Revenue, published in the Gazette of India, Part II, section 3, sub-section (ii), vide notification number S.O. 892(E), dated the 31st March, 2015, except as respects things done or omitted to be done before such rescission.

†See also Circular No. 10/2017, dated 23-3-2017 and Chamber of Tax Consultants v. UOI [2017] 87 taxmann.com 92 (Delhi).

Scope

1. This Income Computation and Disclosure Standard deals with significant accounting policies.

Fundamental Accounting Assumptions

2. The following are fundamental accounting assumptions, namely:—

(a) Going Concern

"Going concern" refers to the assumption that the person has neither the intention nor the necessity of liquidation or of curtailing materially the scale of the business, profession or vocation and intends to continue his business, profession or vocation for the foreseeable future.

(b) Consistency

"Consistency" refers to the assumption that accounting policies are consistent from one period to another;

(c) Accrual

"Accrual" refers to the assumption that revenues and costs are accrued, that is, recognised as they are earned or incurred (and not as money is received or paid) and recorded in the previous year to which they relate.

Accounting Policies

3. The accounting policies refer to the specific accounting principles and the methods of applying those principles adopted by a person.

Considerations in the Selection and Change of Accounting Policies

4. Accounting policies adopted by a person shall be such so as to represent a true and fair view of the state of affairs and income of the business, profession or vocation. For this purpose,

- (i) the treatment and presentation of transactions and events shall be governed by their substance and not merely by the legal form; and
- (ii) marked to market loss or an expected loss shall not be recognised unless the recognition of such loss is in accordance with the provisions of any other Income Computation and Disclosure Standard.

5. An accounting policy shall not be changed without reasonable cause.

Disclosure of Accounting Policies

6. All significant accounting policies adopted by a person shall be disclosed.

7. Any change in an accounting policy which has a material effect shall be disclosed. The amount by which any item is affected by such change shall also be disclosed to the extent ascertainable. Where such amount is not ascertainable, wholly or in part, the fact shall be indicated. If a change is made in the accounting policies which has no material effect for the current previous year but which is reasonably expected to have a material effect in later previous years, the fact of such change shall be appropriately disclosed in the previous year in which the change is adopted and also in the previous year in which such change has material effect for the first time.

8. Disclosure of accounting policies or of changes therein cannot remedy a wrong or inappropriate treatment of the item.

9. If the fundamental accounting assumptions of Going Concern, Consistency and Accrual are followed, specific disclosure is not required. If a fundamental accounting assumption is not followed, the fact shall be disclosed.

Transitional Provisions

10. All contract or transaction existing on the 1st day of April, 2016 or entered into on or after the 1st day of April, 2016 shall be dealt with in accordance with the provisions of this standard after taking into account the income, expense or loss, if any, recognised in respect of the said contract or transaction for the previous year ending on or before the 31st March, 2016.

2

B. INCOME COMPUTATION AND DISCLOSURE STANDARD II RELATING TO VALUATION OF INVENTORIES

Preamble

This Income Computation and Disclosure Standard is applicable for computation of income chargeable under the head "Profits and gains of Business or profession" or "Income from other sources" and not for the purpose of maintenance of books of account.

In the case of conflict between the provisions of Income-tax Act, 1961 ('the Act') and this Income Computation and Disclosure Standard, the provisions of the Act shall prevail to that extent.

Scope

1. This Income Computation and Disclosure Standard shall be applied for valuation of inventories, except :

- (a) Work-in-progress arising under 'construction contract' including directly related service contract which is dealt with by the Income Computation and Disclosure Standard on construction contracts;
- (b) Work-in-progress which is dealt with by other Income Computation and Disclosure Standard;
- (c) Shares, debentures and other financial instruments held as stock-in-trade which are dealt with by the Income Computation and Disclosure Standard on securities;
- (d) Producers' inventories of livestock, agriculture and forest products, mineral oils, ores and gases to the extent that they are measured at net realisable value;
- (e) Machinery spares, which can be used only in connection with a tangible fixed asset and their use is expected to be irregular, shall be dealt with in accordance with the Income Computation and Disclosure Standard on tangible fixed assets.

Definitions

2. (1) The following terms are used in this Income Computation and Disclosure Standard with the meanings specified:

(a) **"Inventories"** are assets:

- (i) held for sale in the ordinary course of business;
- (ii) in the process of production for such sale;
- (iii) in the form of materials or supplies to be consumed in the production process or in the rendering of services.

(b) **"Net realisable value"** is the estimated selling price in the ordinary course of business less the estimated costs of completion and the estimated costs necessary to make the sale.

(2) Words and expressions used and not defined in this Income Computation and Disclosure Standard but defined in the Act shall have the meanings assigned to them in that Act.

Measurement

3. Inventories shall be valued at cost, or net realisable value, whichever is lower.

Cost of Inventories

4. Cost of inventories shall comprise of all costs of purchase, costs of services, costs of conversion and other costs incurred in bringing the inventories to their present location and condition.

Costs of Purchase

5. The costs of purchase shall consist of purchase price including duties and taxes, freight inwards and other expenditure directly attributable to the acquisition. Trade discounts, rebates and other similar items shall be deducted in determining the costs of purchase.

Costs of Services

6. The costs of services shall consist of labour and other costs of personnel directly engaged in providing the service including supervisory personnel and attributable overheads.

Costs of Conversion

7. The costs of conversion of inventories shall include costs directly related to the units of production and a systematic allocation of fixed and variable production overheads that are incurred in converting materials into finished goods. Fixed production overheads shall be those indirect costs of production that remain relatively constant regardless of the volume of production. Variable production overheads shall be those indirect costs of production that vary directly or nearly directly, with the volume of production.

8. The allocation of fixed production overheads for the purpose of their inclusion in the costs of conversion shall be based on the normal capacity of the production facilities. Normal capacity shall be the production expected to be achieved on an average over a number of periods or seasons under normal circumstances, taking

into account the loss of capacity resulting from planned maintenance. The actual level of production shall be used when it approximates to normal capacity. The amount of fixed production overheads allocated to each unit of production shall not be increased as a consequence of low production or idle plant. Unallocated overheads shall be recognised as an expense in the period in which they are incurred. In periods of abnormally high production, the amount of fixed production overheads allocated to each unit of production is decreased so that inventories are not measured above the cost. Variable production overheads shall be assigned to each unit of production on the basis of the actual use of the production facilities.

9. Where a production process results in more than one product being produced simultaneously and the costs of conversion of each product are not separately identifiable, the costs shall be allocated between the products on a rational and consistent basis. Where by-products, scrap or waste material are immaterial, they shall be measured at net realisable value and this value shall be deducted from the cost of the main product.

Other Costs

10. Other costs shall be included in the cost of inventories only to the extent that they are incurred in bringing the inventories to their present location and condition.

11. Interest and other borrowing costs shall not be included in the costs of inventories, unless they meet the criteria for recognition of interest as a component of the cost as specified in the Income Computation and Disclosure Standard on borrowing costs.

Exclusions from the Cost of Inventories

12. In determining the cost of inventories in accordance with paragraph 4 to paragraph 11, the following costs shall be excluded and recognised as expenses of the period in which they are incurred, namely:—

- (a) Abnormal amounts of wasted materials, labour, or other production costs;
- (b) Storage costs, unless those costs are necessary in the production process prior to a further production stage;
- (c) Administrative overheads that do not contribute to bringing the inventories to their present location and condition;
- (d) Selling costs.

Cost Formulae

13. The Cost of inventories of items

- (i) that are not ordinarily interchangeable; and
- (ii) goods or services produced and segregated for specific projects shall be assigned by specific identification of their individual costs.

14. 'Specific identification of cost' means specific costs are attributed to identified items of inventory.

15. Where there are a large numbers of items of inventory which are ordinarily interchangeable, specific identification of costs shall not be made

First-in First-out and Weighted Average Cost Formula

16. Cost of inventories, other than the inventory dealt with in paragraph 13, shall be assigned by using the First-in First-out (FIFO), or weighted average cost formula. The formula used shall reflect the fairest possible approximation to the cost incurred in bringing the items of inventory to their present location and condition.

17. The FIFO formula assumes that the items of inventory which were purchased or produced first are consumed or sold first, and consequently the items remaining in inventory at the end of the period are those most recently purchased or produced. Under the weighted average cost formula, the cost of each item is determined from the weighted average of the cost of similar items at the beginning of a period and the cost of similar items purchased or produced during the period. The average shall be calculated on a periodic basis, or as each additional shipment is received, depending upon the circumstances.

Techniques for the Measurement of Cost

18. (1) Techniques for the measurement of the cost of inventories, such as the standard cost method or the retail method, may be used for convenience if the results approximate the actual cost. Standard costs take into account normal levels of consumption of materials and supplies, labour, efficiency and capacity utilisation. They are regularly reviewed and, if necessary, revised in the light of the current conditions.

(2) The retail method can be used in the retail trade for measuring inventories of large number of rapidly changing items that have similar margins and for which it is impracticable to use other costing methods. The cost of the inventory is determined by reducing from the sales value of the inventory, the appropriate percentage gross margin. The percentage used takes into consideration inventory, which has been marked down to below its original selling price. An average percentage for each retail department is to be used.

Net Realisable Value

19. Inventories shall be written down to net realisable value on an item-by-item basis. Where 'items of inventory' relating to the same product line having similar purposes or end uses and are produced and marketed in the same geographical area and cannot be practicably evaluated separately from other items in that product line, such inventories shall be grouped together and written down to net realisable value on an aggregate basis.

20. Net realisable value shall be based on the most reliable evidence available at the time of valuation. The estimates of net realisable value shall also take into consideration the purpose for which the inventory is held. The estimates shall take into consideration fluctuations of price or cost directly relating to events occurring after the end of previous year to the extent that such events confirm the conditions existing on the last day of the previous year.

21. Materials and other supplies held for use in the production of inventories shall not be written down below the cost, where the finished products in which they shall be incorporated are expected to be sold at or above the cost. Where there has been a decline in the price of materials and it is estimated that the cost of finished

INCOME COMPUTATION AND DISCLOSURE STANDARDS

2.9

products will exceed the net realisable value, the value of materials shall be written down to net realisable value which shall be the replacement cost of such materials.

Value of Opening Inventory

22. The value of the inventory as on the beginning of the previous year shall be
- (i) the cost of inventory available, if any, on the day of the commencement of the business when the business has commenced during the previous year, and
 - (ii) the value of the inventory as on the close of the immediately preceding previous year, in any other case.

Change of Method of Valuation of Inventory

23. The method of valuation of inventories once adopted by a person in any previous year shall not be changed without reasonable cause.

Valuation of Inventory in Case of Certain Dissolutions

24. In case of dissolution of a partnership firm or association of person or body of individuals, notwithstanding whether business is discontinued or not, the inventory on the date of dissolution shall be valued at the net realisable value.

Transitional Provisions

25. Interest and other borrowing costs, which do not meet the criteria for recognition of interest as a component of the cost as per para 11, but included in the cost of the opening inventory as on the 1st day of April, 2016, shall be taken into account for determining cost of such inventory for valuation as on the close of the previous year beginning on or after 1st day of April, 2016 if such inventory continue to remain part of inventory as on the close of the previous year beginning on or after 1st day of April, 2016.

Disclosure

26. The following aspects shall be disclosed, namely:—

- (a) the accounting policies adopted in measuring inventories including the cost formulae used. Where Standard Costing has been used as a measurement of cost, details of such inventories and a confirmation of the fact that standard cost approximates the actual cost; and
- (b) the total carrying amount of inventories and its classification appropriate to a person.

3

C. INCOME COMPUTATION AND DISCLOSURE STANDARD III RELATING TO CONSTRUCTION CONTRACTS

Preamble

This Income Computation and Disclosure Standard is applicable for computation of income chargeable under the head "Profits and gains of business or profession"

or "Income from other sources" and not for the purpose of maintenance of books of account.

In the case of conflict between the provisions of the Income-tax Act, 1961 ('the Act') and this Income Computation and Disclosure Standard, the provisions of the Act shall prevail to that extent.

Scope

1. This Income Computation and Disclosure Standard should be applied in determination of income for a construction contract of a contractor.

Definitions

2. (1) The following terms are used in this Income Computation and Disclosure Standard with the meanings specified:

- (a) **"Construction contract"** is a contract specifically negotiated for the construction of an asset or a combination of assets that are closely interrelated or interdependent in terms of their design, technology and function or their ultimate purpose or use and includes :
 - (i) contract for the rendering of services which are directly related to the construction of the asset, for example, those for the services of project managers and architects;
 - (ii) contract for destruction or restoration of assets, and the restoration of the environment following the demolition of assets.
- (b) **"Fixed price contract"** is a construction contract in which the contractor agrees to a fixed contract price, or a fixed rate per unit of output, which may be subject to cost escalation clauses.
- (c) **"Cost plus contract"** is a construction contract in which the contractor is reimbursed for allowable or otherwise defined costs, plus a mark up on those costs or a fixed fee.
- (d) **"Retentions"** are amounts of progress billings which are not paid until the satisfaction of conditions specified in the contract for the payment of such amounts or until defects have been rectified.
- (e) **"Progress billings"** are amounts billed for work performed on a contract whether or not they have been paid by the customer.
- (f) **"Advances"** are amounts received by the contractor before the related work is performed.

(2) Words and expressions used and not defined in this Income Computation and Disclosure Standard but defined in the Act shall have the meaning respectively assigned to them in the Act.

3. A construction contract may be negotiated for the construction of a single asset. A construction contract may also deal with the construction of a number of assets which are closely interrelated or interdependent in terms of their design, technology and function or their ultimate purpose or use.

4. Construction contracts are formulated in a number of ways which, for the purposes of this Income Computation and Disclosure Standard, are classified as fixed price contracts and cost plus contracts. Some construction contracts may contain characteristics of both a fixed price contract and a cost plus contract, for example, in the case of a cost plus contract with an agreed maximum price.

Combining and Segmenting Construction Contracts

5. The requirements of this Income Computation and Disclosure Standard shall be applied separately to each construction contract except as provided for in paragraphs 6, 7 and 8 herein. For reflecting the substance of a contract or a group of contracts, where it is necessary, the Income Computation and Disclosure Standard should be applied to the separately identifiable components of a single contract or to a group of contracts together.

6. Where a contract covers a number of assets, the construction of each asset should be treated as a separate construction contract when:

- (a) separate proposals have been submitted for each asset;
- (b) each asset has been subject to separate negotiation and the contractor and customer have been able to accept or reject that part of the contract relating to each asset; and
- (c) the costs and revenues of each asset can be identified.

7. A group of contracts, whether with a single customer or with several customers, should be treated as a single construction contract when:

- (a) the group of contracts is negotiated as a single package;
- (b) the contracts are so closely interrelated that they are, in effect, part of a single project with an overall profit margin; and
- (c) the contracts are performed concurrently or in a continuous sequence.

8. Where a contract provides for the construction of an additional asset at the option of the customer or is amended to include the construction of an additional asset, the construction of the additional asset should be treated as a separate construction contract when:

- (a) the asset differs significantly in design, technology or function from the asset or assets covered by the original contract; or
- (b) the price of the asset is negotiated without having regard to the original contract price.

Contract Revenue

9. Contract revenue shall be recognised when there is reasonable certainty of its ultimate collection.

10. Contract revenue shall comprise of:

- (a) the initial amount of revenue agreed in the contract, including retentions; and
- (b) variations in contract work, claims and incentive payments:
 - (i) to the extent that it is probable that they will result in revenue; and
 - (ii) they are capable of being reliably measured.

11. Where contract revenue already recognised as income is subsequently written off in the books of account as uncollectible, the same shall be recognised as an expense and not as an adjustment of the amount of contract revenue.

Contract Costs

12. Contract costs shall comprise of :

- (a) costs that relate directly to the specific contract;
- (b) costs that are attributable to contract activity in general and can be allocated to the contract;
- (c) such other costs as are specifically chargeable to the customer under the terms of the contract; and
- (d) allocated borrowing costs in accordance with the Income Computation and Disclosure Standard on Borrowing Costs.

These costs shall be reduced by any incidental income, not being in the nature of interest, dividends or capital gains, that is not included in contract revenue.

13. Costs that cannot be attributed to any contract activity or cannot be allocated to a contract shall be excluded from the costs of a construction contract.

14. Contract costs include the costs attributable to a contract for the period from the date of securing the contract to the final completion of the contract. Costs that are incurred in securing the contract are also included as part of the contract costs, provided

- (a) they can be separately identified; and
- (b) it is probable that the contract shall be obtained.

When costs incurred in securing a contract are recognised as an expense in the period in which they are incurred, they are not included in contract costs when the contract is obtained in a subsequent period.

15. Contract costs that relate to future activity on the contract are recognised as an asset. Such costs represent an amount due from the customer and are classified as contract work in progress.

Recognition of Contract Revenue and Expenses

16. Contract revenue and contract costs associated with the construction contract should be recognised as revenue and expenses respectively by reference to the stage of completion of the contract activity at the reporting date.

17. The recognition of revenue and expenses by reference to the stage of completion of a contract is referred to as the percentage of completion method. Under this method, contract revenue is matched with the contract costs incurred in reaching the stage of completion, resulting in the reporting of revenue, expenses and profit which can be attributed to the proportion of work completed.

18. The stage of completion of a contract shall be determined with reference to:

- (a) the proportion that contract costs incurred for work performed up to the reporting date bear to the estimated total contract costs; or

- (b) surveys of work performed; or
- (c) completion of a physical proportion of the contract work.

Progress payments and advances received from customers are not determinative of the stage of completion of a contract.

19. When the stage of completion is determined by reference to the contract costs incurred upto the reporting date, only those contract costs that reflect work performed are included in costs incurred upto the reporting date. Contract costs which are excluded are:

- (a) contract costs that relate to future activity on the contract; and
- (b) payments made to sub-contractors in advance of work performed under the sub-contract.

20. During the early stages of a contract, where the outcome of the contract cannot be estimated reliably contract revenue is recognised only to the extent of costs incurred. The early stage of a contract shall not extend beyond 25% of the stage of completion.

Changes in Estimates

21. The percentage of completion method is applied on a cumulative basis in each previous year to the current estimates of contract revenue and contract costs. Where there is change in estimates, the changed estimates shall be used in determination of the amount of revenue and expenses in the period in which the change is made and in subsequent periods.

Transitional Provisions

22.1 Contract revenue and contract costs associated with the construction contract, which commenced on or after 1st day of April, 2016 shall be recognised in accordance with the provisions of this standard.

22.2 Contract revenue and contract costs associated with the construction contract, which commenced on or before the 31st day of March, 2016 but not completed by the said date, shall be recognised based on the method regularly followed by the person prior to the previous year beginning on the 1st day of April, 2016.

Disclosure

23. A person shall disclose:

- (a) the amount of contract revenue recognised as revenue in the period; and
- (b) the methods used to determine the stage of completion of contracts in progress.

24. A person shall disclose the following for contracts in progress at the reporting date, namely:—

- (a) amount of costs incurred and recognised profits (less recognised losses) upto the reporting date;
- (b) the amount of advances received; and
- (c) the amount of retentions.

4**D. INCOME COMPUTATION AND DISCLOSURE STANDARD IV
RELATING TO REVENUE RECOGNITION****Preamble**

This Income Computation and Disclosure Standard is applicable for computation of income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" and not for the purpose of maintenance of books of account.

In the case of conflict between the provisions of the Income-tax Act, 1961 ('the Act') and this Income Computation and Disclosure Standard, the provisions of the Act shall prevail to that extent.

Scope

1. (1) This Income Computation and Disclosure Standard deals with the bases for recognition of revenue arising in the course of the ordinary activities of a person from

- (i) the sale of goods;
- (ii) the rendering of services;
- (iii) the use by others of the person's resources yielding interest, royalties or dividends.

(2) This Income Computation and Disclosure Standard does not deal with the aspects of revenue recognition which are dealt with by other Income Computation and Disclosure Standards.

Definitions

2. (1) The following term is used in this Income Computation and Disclosure Standard with the meanings specified:

- (a) "**Revenue**" is the gross inflow of cash, receivables or other consideration arising in the course of the ordinary activities of a person from the sale of goods, from the rendering of services, or from the use by others of the person's resources yielding interest, royalties or dividends. In an agency relationship, the revenue is the amount of commission and not the gross inflow of cash, receivables or other consideration.

(2) Words and expressions used and not defined in this Income Computation and Disclosure Standard but defined in the Act shall have the meanings assigned to them in that Act.

Sale of Goods

3. In a transaction involving the sale of goods, the revenue shall be recognised when the seller of goods has transferred to the buyer the property in the goods for a price or all significant risks and rewards of ownership have been transferred to the buyer and the seller retains no effective control of the goods transferred to a degree usually associated with ownership. In a situation, where transfer of property in goods does not coincide with the transfer of significant risks and rewards of

ownership, revenue in such a situation shall be recognised at the time of transfer of significant risks and rewards of ownership to the buyer.

4. Revenue shall be recognised when there is reasonable certainty of its ultimate collection.

5. Where the ability to assess the ultimate collection with reasonable certainty is lacking at the time of raising any claim for escalation of price and export incentives, revenue recognition in respect of such claim shall be postponed to the extent of uncertainty involved.

Rendering of Services

6. Subject to Para 7, revenue from service transactions shall be recognised by the percentage completion method. Under this method, revenue from service transactions is matched with the service transaction costs incurred in reaching the stage of completion, resulting in the determination of revenue, expenses and profit which can be attributed to the proportion of work completed. Income Computation and Disclosure Standard on construction contract also requires the recognition of revenue on this basis. The requirements of that Standard shall *mutatis mutandis* apply to the recognition of revenue and the associated expenses for a service transaction. However, when services are provided by an indeterminate number of acts over a specific period of time, revenue may be recognised on a straight line basis over the specific period.

7. Revenue from service contracts with duration of not more than ninety days may be recognised when the rendering of services under that contract is completed or substantially completed.

The Use of Resources by Others Yielding Interest, Royalties or Dividends

8. (1) Subject to sub-paragraph (2), interest shall accrue on the time basis determined by the amount outstanding and the rate applicable.

(2) Interest on refund of any tax, duty or cess shall be deemed to be the income of the previous year in which such interest is received.

(3) Discount or premium on debt securities held is treated as though it were accruing over the period to maturity.

9. Royalties shall accrue in accordance with the terms of the relevant agreement and shall be recognised on that basis unless, having regard to the substance of the transaction, it is more appropriate to recognise revenue on some other systematic and rational basis.

10. Dividends are recognised in accordance with the provisions of the Act.

Transitional Provisions

11. The transitional provisions of Income Computation and Disclosure Standard on construction contract shall *mutatis mutandis* apply to the recognition of revenue and the associated costs for a service transaction undertaken on or before the 31st day of March, 2016 but not completed by the said date.

12. Revenue for a transaction, other than a service transaction referred to in Para 10*, undertaken on or before the 31st day of March, 2016 but not completed by the said date shall be recognised in accordance with the provisions of this standard

*Be read as 'Para 11' - Editor.

for the previous year commencing on the 1st day of April, 2016 and subsequent previous year. The amount of revenue, if any, recognised for the said transaction for any previous year commencing on or before the 1st day of April, 2015 shall be taken into account for recognising revenue for the said transaction for the previous year commencing on the 1st day of April, 2016 and subsequent previous years.

Disclosure

13. Following disclosures shall be made in respect of revenue recognition, namely:—

- (a) in a transaction involving sale of good, total amount not recognised as revenue during the previous year due to lack of reasonably certainty of its ultimate collection along with nature of uncertainty;
- (b) the amount of revenue from service transactions recognised as revenue during the previous year;
- (c) the method used to determine the stage of completion of service transactions in progress; and
- (d) for service transactions in progress at the end of previous year:
 - (i) amount of costs incurred and recognised profits (less recognised losses) upto end of previous year;
 - (ii) the amount of advances received; and
 - (iii) the amount of retentions.

5

E. INCOME COMPUTATION AND DISCLOSURE STANDARD V RELATING TO TANGIBLE FIXED ASSETS

Preamble

This Income Computation and Disclosure Standard is applicable for computation of income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" and not for the purpose of maintenance of books of account.

In the case of conflict between the provisions of the Income-tax Act, 1961 ('the Act') and this Income Computation and Disclosure Standard, the provisions of the Act shall prevail to that extent.

Scope

1. This Income Computation and Disclosure Standard deals with the treatment of tangible fixed assets.

Definitions

2. (1) The following terms are used in this Income Computation and Disclosure Standard with the meanings specified:

- (a) **"Tangible fixed asset"** is an asset being land, building, machinery, plant or furniture held with the intention of being used for the purpose of producing or providing goods or services and is not held for sale in the normal course of business.
- (b) **"Fair value"** of an asset is the amount for which that asset could be exchanged between knowledgeable, willing parties in an arm's length transaction.

(2) Words and expressions used and not defined in this Income Computation and Disclosure Standard but defined in the Act shall have the meanings assigned to them in that Act.

Identification of Tangible Fixed Assets

3. The definition in clause (a) of sub-paragraph (1) of paragraph 2 provides criteria for determining whether an item is to be classified as a tangible fixed asset.

4. Stand-by equipment and servicing equipment are to be capitalised. Machinery spares shall be charged to the revenue as and when consumed. When such spares can be used only in connection with an item of tangible fixed asset and their use is expected to be irregular, they shall be capitalised.

Components of Actual Cost

5. The actual cost of an acquired tangible fixed asset shall comprise its purchase price, import duties and other taxes, excluding those subsequently recoverable, and any directly attributable expenditure on making the asset ready for its intended use. Any trade discounts and rebates shall be deducted in arriving at the actual cost.

6. The cost of a tangible fixed asset may undergo changes subsequent to its acquisition or construction on account of

- (i) price adjustment, changes in duties or similar factors; or
- (ii) exchange fluctuation as specified in Income Computation and Disclosure Standard on the effects of changes in foreign exchange rates.

7. Administration and other general overhead expenses are to be excluded from the cost of tangible fixed assets if they do not relate to a specific tangible fixed asset. Expenses which are specifically attributable to construction of a project or to the acquisition of a tangible fixed asset or bringing it to its working condition, shall be included as a part of the cost of the project or as a part of the cost of the tangible fixed asset.

8. The expenditure incurred on start-up and commissioning of the project, including the expenditure incurred on test runs and experimental production, shall be capitalised. The expenditure incurred after the plant has begun commercial production, that is, production intended for sale or captive consumption, shall be treated as revenue expenditure.

Self-constructed Tangible Fixed Assets

9. In arriving at the actual cost of self-constructed tangible fixed assets, the same principles shall apply as those described in paragraphs 5 to 8. Cost of construction that relate directly to the specific tangible fixed asset and costs that are attributable to the construction activity in general and can be allocated to the specific tangible

fixed asset shall be included in actual cost. Any internal profits shall be eliminated in arriving at such costs.

Non-monetary Consideration

10. When a tangible fixed asset is acquired in exchange for another asset, the fair value of the tangible fixed asset so acquired shall be its actual cost.

11. When a tangible fixed asset is acquired in exchange for shares or other securities, the fair value of the tangible fixed asset so acquired shall be its actual cost.

Improvements and Repairs

12. An Expenditure that increases the future benefits from the existing asset beyond its previously assessed standard of performance is added to the actual cost.

13. The cost of an addition or extension to an existing tangible fixed asset which is of a capital nature and which becomes an integral part of the existing tangible fixed asset is to be added to its actual cost. Any addition or extension, which has a separate identity and is capable of being used after the existing tangible fixed asset is disposed of, shall be treated as separate asset.

Valuation of Tangible Fixed Assets in Special Cases

14. Where a person owns tangible fixed assets jointly with others, the proportion in the actual cost, accumulated depreciation and written down value is grouped together with similar fully owned tangible fixed assets.

15. Where several assets are purchased for a consolidated price, the consideration shall be apportioned to the various assets on a fair basis.

Transitional Provisions

16. The actual cost of tangible fixed assets, acquisition or construction of which commenced on or before the 31st day of March, 2016 but not completed by the said date, shall be recognised in accordance with the provisions of this standard. The amount of actual cost, if any, recognised for the said assets for any previous year commencing on or before the 1st day of April, 2015 shall be taken into account for recognising actual cost of the said assets for the previous year commencing on the 1st day of April, 2016 and subsequent previous years.

Depreciation

17. Depreciation on a tangible fixed asset shall be computed in accordance with the provisions of the Act.

Transfers

18. Income arising on transfer of a tangible fixed asset shall be computed in accordance with the provisions of the Act.

Disclosures

19. Following disclosure shall be made in respect of tangible fixed assets, namely:—

- (a) description of asset or block of assets;
- (b) rate of depreciation;
- (c) actual cost or written down value, as the case may be;

- (b) additions or deductions during the year with dates; in the case of any addition of an asset, date put to use; including adjustments on account of—
 - (i) Central Value Added Tax credit claimed and allowed under the CENVAT Credit Rules, 2004;
 - (ii) change in rate of exchange of currency;
 - (iii) subsidy or grant or reimbursement, by whatever name called;
- (c) depreciation Allowable; and
- (d) written down value at the end of year.

6

F. INCOME COMPUTATION AND DISCLOSURE STANDARD VI RELATING TO THE EFFECTS OF CHANGES IN FOREIGN EXCHANGE RATES

Preamble

This Income Computation and Disclosure Standard is applicable for computation of income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" and not for the purpose of maintenance of books of account.

In the case of conflict between the provisions of the Income-tax Act, 1961 ('the Act') and this Income Computation and Disclosure Standard, the provisions of the Act shall prevail to that extent.

Scope

1. This Income Computation and Disclosure Standard deals with:

- (a) treatment of transactions in foreign currencies;
- (b) translating the financial statements of foreign operations;
- (c) treatment of foreign currency transactions in the nature of forward exchange contracts.

Definitions

2. (1) The following terms are used in this Income Computation and Disclosure Standard with the meanings specified:

- (a) "**Average rate**" is the mean of the exchange rates in force during a period.
- (b) "**Closing rate**" is the exchange rate at the last day of the previous year.
- (c) "**Exchange difference**" is the difference resulting from reporting the same number of units of a foreign currency in the reporting currency of a person at different exchange rates.
- (d) "**Exchange rate**" is the ratio for exchange of two currencies.

- (e) **"Foreign currency"** is a currency other than the reporting currency of a person.
- (f) **"Foreign operations of a person"** is a branch, by whatever name called, of that person, the activities of which are based or conducted in a country other than India.
- (g) **"Foreign currency transaction"** is a transaction which is denominated in or requires settlement in a foreign currency, including transactions arising when a person:—
 - (i) buys or sells goods or services whose price is denominated in a foreign currency; or
 - (ii) borrows or lends funds when the amounts payable or receivable are denominated in a foreign currency; or
 - (iii) becomes a party to an unperformed forward exchange contract; or
 - (iv) otherwise acquires or disposes of assets, or incurs or settles liabilities, denominated in a foreign currency.
- (h) **"Forward exchange contract"** means an agreement to exchange different currencies at a forward rate, and includes a foreign currency option contract or another financial instrument of a similar nature;
- (i) **"Forward rate"** is the specified exchange rate for exchange of two currencies at a specified future date;
- (j) **"Indian currency"** shall have the meaning as assigned to it in section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);
- (k) **"Monetary items"** are money held and assets to be received or liabilities to be paid in fixed or determinable amounts of money. Cash, receivables, and payables are examples of monetary items;
- (l) **"Non-monetary items"** are assets and liabilities other than monetary items. Fixed assets, inventories, and investments in equity shares are examples of non-monetary items;
- (m) **"Reporting currency"** means Indian currency except for foreign operations where it shall mean currency of the country where the operations are carried out.

(2) Words and expressions used and not defined in this Income Computation and Disclosure Standard but defined in the Act shall have the meaning assigned to them in the Act.

Foreign Currency Transactions Initial Recognition

3. (1) A foreign currency transaction shall be recorded, on initial recognition in the reporting currency, by applying to the foreign currency amount the exchange rate between the reporting currency and the foreign currency at the date of the transaction.

(2) An average rate for a week or a month that approximates the actual rate at the date of the transaction may be used for all transaction in each foreign currency occurring during that period. If the exchange rate fluctuates significantly, the actual rate at the date of the transaction shall be used.

Conversion at Last Date of Previous Year

4. At last day of each previous year:

- (a) foreign currency monetary items shall be converted into reporting currency by applying the closing rate;
- (b) where the closing rate does not reflect with reasonable accuracy, the amount in reporting currency that is likely to be realised from or required to disburse, a foreign currency monetary item owing to restriction on remittances or the closing rate being unrealistic and it is not possible to effect an exchange of currencies at that rate, then the relevant monetary item shall be reported in the reporting currency at the amount which is likely to be realised from or required to disburse such item at the last date of the previous year; and
- (c) non-monetary items in a foreign currency shall be converted into reporting currency by using the exchange rate at the date of the transaction
- (d) non-monetary item being inventory which is carried at net realisable value denominated in a foreign currency shall be reported using the exchange rate that existed when such value was determined.

Recognition of Exchange Differences

5. (i) In respect of monetary items, exchange differences arising on the settlement thereof or on conversion thereof at last day of the previous year shall be recognised as income or as expense in that previous year.

(ii) In respect of non-monetary items, exchange differences arising on conversion thereof at the last day of the previous year shall not be recognised as income or as expense in that previous year.

Exceptions to Paragraphs 3, 4 and 5

6. Notwithstanding anything contained in paragraphs 3, 4 and 5, initial recognition, conversion and recognition of exchange difference shall be subject to provisions of section 43A of the Act or Rule 115 of Income-tax Rules, 1962, as the case may be.

Financial Statements of Foreign Operations

7. The financial statements of a foreign operation shall be translated using the principles and procedures in paragraphs 3 to 6 as if the transactions of the foreign operation had been those of the person himself.

Forward Exchange Contracts

8. (1) Any premium or discount arising at the inception of a forward exchange contract shall be amortised as expense or income over the life of the contract. Exchange differences on such a contract shall be recognised as income or as expense in the previous year in which the exchange rates change. Any profit or loss arising on cancellation or renewal shall be recognised as income or as expense for the previous year.

(2) The provisions of sub-para (1) shall apply provided that the contract:

- (a) is not intended for trading or speculation purposes; and

- (b) is entered into to establish the amount of the reporting currency required or available at the settlement date of the transaction.
- (3) The provisions of sub-para (1) shall not apply to the contract that is entered into to hedge the foreign currency risk of a firm commitment or a highly probable forecast transaction. For this purpose, firm commitment, shall not include assets and liabilities existing at the end of the previous year.
- (4) The premium or discount that arises on the contract is measured by the difference between the exchange rate at the date of the inception of the contract and the forward rate specified in the contract. Exchange difference on the contract is the difference between:
- (a) the foreign currency amount of the contract translated at the exchange rate at the last day of the previous year, or the settlement date where the transaction is settled during the previous year; and
 - (b) the same foreign currency amount translated at the date of inception of the contract or the last day of the immediately preceding previous year, whichever is later.
- (5) Premium, discount or exchange difference on contracts that are intended for trading or speculation purposes, or that are entered into to hedge the foreign currency risk of a firm commitment or a highly probable forecast transaction shall be recognised at the time of settlement.

Transitional Provisions

9. (1) All foreign currency transactions undertaken on or after 1st day of April, 2016 shall be recognised in accordance with the provisions of this standard.
- (2) Exchange differences arising in respect of monetary items or non-monetary items, on the settlement thereof during the previous year commencing on the 1st day of April, 2016 or on conversion thereof at the last day of the previous year commencing on the 1st day of April, 2016, shall be recognised in accordance with the provisions of this standard after taking into account the amount recognised on the last day of the previous year ending on the 31st March, 2016 for an item, if any, which is carried forward from said previous year.
- (3) The financial statements of foreign operations for the previous year commencing on the 1st day of April, 2016 shall be translated using the principles and procedures specified in this standard after taking into account the amount recognised on the last day of the previous year ending on the 31st March, 2016 for an item, if any, which is carried forward from said previous year.
- (4) All forward exchange contracts existing on the 1st day of April, 2016 or entered on or after 1st day of April, 2016 shall be dealt with in accordance with the provisions of this standard after taking into account the income or expenses, if any, recognised in respect of said contracts for the previous year ending on or before the 31st March, 2016.

7**G. INCOME COMPUTATION AND DISCLOSURE STANDARD VII
RELATING TO GOVERNMENT GRANTS****Preamble**

This Income Computation and Disclosure Standard is applicable for computation of income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" and not for the purpose of maintenance of books of account.

In case of conflict between the provisions of the Income-tax Act, 1961 ('the Act') and this Income Computation and Disclosure Standard, the provisions of the Act shall prevail to that extent.

Scope

1. This Income Computation and Disclosure Standard deals with the treatment of Government grants. The Government grants are sometimes called by other names such as subsidies, cash incentives, duty drawbacks, waiver, concessions, reimbursements, etc.

2. This Income Computation and Disclosure Standard does not deal with:—

- (a) Government assistance other than in the form of Government grants; and
- (b) Government participation in the ownership of the enterprise.

Definitions

3. (1) The following terms are used in the Income Computation and Disclosure Standard with the meanings specified:

- (a) "**Government**" refers to the Central Government, State Governments, agencies and similar bodies, whether local, national or international.
- (b) "**Government grants**" are assistance by Government in cash or kind to a person for past or future compliance with certain conditions. They exclude those forms of Government assistance which cannot have a value placed upon them and the transactions with Government which cannot be distinguished from the normal trading transactions of the person.

(2) Words and expressions used and not defined in this Income Computation and Disclosure Standard but defined in the Act shall have the meaning assigned to them in the Act.

Recognition of Government Grants

4. (1) Government grants should not be recognised until there is reasonable assurance that (i) the person shall comply with the conditions attached to them, and (ii) the grants shall be received.

(2) Recognition of Government grant shall not be postponed beyond the date of actual receipt.

Treatment of Government Grants

5. Where the Government grant relates to a depreciable fixed asset or assets of a person, the grant shall be deducted from the actual cost of the asset or assets concerned or from the written down value of block of assets to which concerned asset or assets belonged to.

6. Where the Government grant relates to a non-depreciable asset or assets of a person requiring fulfilment of certain obligations, the grant shall be recognised as income over the same period over which the cost of meeting such obligations is charged to income.

7. Where the Government grant is of such a nature that it cannot be directly relatable to the asset acquired, so much of the amount which bears to the total Government grant, the same proportion as such asset bears to all the assets in respect of or with reference to which the Government grant is so received, shall be deducted from the actual cost of the asset or shall be reduced from the written down value of block of assets to which the asset or assets belonged to.

8. The Government grant that is receivable as compensation for expenses or losses incurred in a previous financial year or for the purpose of giving immediate financial support to the person with no further related costs, shall be recognised as income of the period in which it is receivable.

9. The Government grants other than covered by paragraphs 5, 6, 7, and 8 shall be recognised as income over the periods necessary to match them with the related costs which they are intended to compensate.

10. The Government grants in the form of non-monetary assets, given at a concessional rate, shall be accounted for on the basis of their acquisition cost.

Refund of Government Grants

11. The amount refundable in respect of a Government grant referred to in paragraphs 6, 8 and 9 shall be applied first against any unamortised deferred credit remaining in respect of the Government grant. To the extent that the amount refundable exceeds any such deferred credit, or where no deferred credit exists, the amount shall be charged to profit and loss statement.

12. The amount refundable in respect of a Government grant related to a depreciable fixed asset or assets shall be recorded by increasing the actual cost or written down value of block of assets by the amount refundable. Where the actual cost of the asset is increased, depreciation on the revised actual cost or written down value shall be provided prospectively at the prescribed rate.

Transitional Provisions

13. All the Government grants which meet the recognition criteria of para 4 on or after 1st day of April, 2016 shall be recognised for the previous year commencing on or after 1st day of April, 2016 in accordance with the provisions of this standard after taking into account the amount, if any, of the said Government grant recognised for any previous year ending on or before 31st day of March, 2016.

Disclosures

14. Following disclosure shall be made in respect of Government grants, namely:—

- (a) nature and extent of Government grants recognised during the previous year by way of deduction from the actual cost of the asset or assets or from the written down value of block of assets during the previous year;
- (b) nature and extent of Government grants recognised during the previous year as income;
- (c) nature and extent of Government grants not recognised during the previous year by way of deduction from the actual cost of the asset or assets or from the written down value of block of assets and reasons thereof; and
- (d) nature and extent of Government grants not recognised during the previous year as income and reasons thereof.

8

H. INCOME COMPUTATION AND DISCLOSURE STANDARD VIII RELATING TO SECURITIES

Preamble

This Income Computation and Disclosure Standard is applicable for computation of income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" and not for the purpose of maintenance of books of account.

In the case of conflict between the provisions of the Income-tax Act, 1961 ('the Act') and this Income Computation and Disclosure Standard, the provisions of the Act shall prevail to that extent.

PART A

Scope

1. This part of Income Computation and Disclosure Standard deals with securities held as stock-in-trade.
2. This part of Income Computation and Disclosure Standard does not deal with:
 - (a) the bases for recognition of interest and dividends on securities which are covered by the Income Computation and Disclosure Standard on revenue recognition;
 - (b) securities held by a person engaged in the business of insurance;
 - (c) securities held by mutual funds, venture capital funds, banks and public financial institutions formed under a Central or a State Act or so declared under the Companies Act, 1956 (1 of 1956) or the Companies Act, 2013 (18 of 2013).

Definitions

3. (1) The following terms are used in this part of Income Computation and Disclosure Standard with the meanings specified:

- (a) "**Fair value**" is the amount for which an asset could be exchanged between a knowledgeable, willing buyer and a knowledgeable, willing seller in an arm's length transaction.
- (b) "**Securities**" shall have the meaning assigned to it in clause (h) of Section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and shall include share of a company in which public are not substantially interested but shall not include derivatives referred to in sub-clause (ia) of that clause (h).

(2) Words and expressions used and not defined in this part of Income Computation and Disclosure Standard but defined in the Act shall have the meaning respectively assigned to them in the Act.

Recognition and Initial Measurement of Securities

4. A security on acquisition shall be recognised at actual cost.

5. The actual cost of a security shall comprise of its purchase price and include acquisition charges such as brokerage, fees, tax, duty or cess.

6. Where a security is acquired in exchange for other securities, the fair value of the security so acquired shall be its actual cost.

7. Where a security is acquired in exchange for another asset, the fair value of the security so acquired shall be its actual cost.

8. Where unpaid interest has accrued before the acquisition of an interest-bearing security and is included in the price paid for the security, the subsequent receipt of interest is allocated between pre-acquisition and post-acquisition periods; the pre-acquisition portion of the interest is deducted from the actual cost.

Subsequent Measurement of Securities

9. At the end of any previous year, securities held as stock-in-trade shall be valued at actual cost initially recognised or net realisable value at the end of that previous year, whichever is lower.

10. For the purpose of para 9, the comparison of actual cost initially recognised and net realisable value shall be done category-wise and not for each individual security. For this purpose, securities shall be classified into the following categories, namely:—

- (a) shares;
- (b) debt securities;
- (c) convertible securities; and
- (d) any other securities not covered above.

11. The value of securities held as stock-in-trade of a business as on the beginning of the previous year shall be:

- (a) the cost of securities available, if any, on the day of the commencement of the business when the business has commenced during the previous year; and
- (b) the value of the securities of the business as on the close of the immediately preceding previous year, in any other case.

12. Notwithstanding anything contained in paras 9, 10 and 11, at the end of any previous year, securities not listed on a recognised stock exchange; or listed but not quoted on a recognised stock exchange with regularity from time to time, shall be valued at actual cost initially recognised.

13. For the purposes of paras 9, 10 and 11 where the actual cost initially recognised cannot be ascertained by reference to specific identification, the cost of such security shall be determined on the basis of first-in-first-out method or weighted average cost formula.

PART B

Scope

1. This part of Income Computation and Disclosure Standard deals with securities held by a scheduled bank or public financial institutions formed under a Central or a State Act or so declared under the Companies Act, 1956 (1 of 1956) or the Companies Act, 2013 (18 of 2013).

Definitions

2. (1) The following terms are used in this part of Income Computation and Disclosure Standard with the meanings specified:

- (a) **"Scheduled Bank"** shall have the meaning assigned to it in clause (ii) of the *Explanation* to clause (viii) of sub-section (1) of section 36 of the Act.
- (b) **"Securities"** shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contract (Regulation) Act, 1956 (42 of 1956) and shall include share of a company in which public are not substantially interested.

(2) Words and expressions used and not defined in this part of Income Computation and Disclosure Standard but defined in the Act shall have the meaning respectively assigned to them in the Act.

Classification, Recognition and Measurement of Securities

3. Securities shall be classified, recognised and measured in accordance with the extant guidelines issued by the Reserve Bank of India in this regard and any claim for deduction in excess of the said guidelines shall not be taken into account. To this extent, the provisions of Income Computation and Disclosure Standard VI on the effect of changes in foreign exchange rates relating to forward exchange contracts shall not apply.

9**I. INCOME COMPUTATION AND DISCLOSURE STANDARD IX
RELATING TO BORROWING COSTS****Preamble**

This Income Computation and Disclosure Standard is applicable for computation of income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" and not for the purpose of maintenance of books of account.

In the case of conflict between the provisions of the Income-tax Act, 1961 ('the Act') and this Income Computation and Disclosure Standard, the provisions of the Act shall prevail to that extent.

Scope

1. (1) This Income Computation and Disclosure Standard deals with treatment of borrowing costs.

(2) This Income Computation and Disclosure Standard does not deal with the actual or imputed cost of owners' equity and preference share capital.

Definitions

2. (1) The following terms are used in this Income Computation and Disclosure Standard with the meanings specified:

(a) "**Borrowing costs**" are interest and other costs incurred by a person in connection with the borrowing of funds and include:

- (i) commitment charges on borrowings;
- (ii) amortised amount of discounts or premiums relating to borrowings;
- (iii) amortised amount of ancillary costs incurred in connection with the arrangement of borrowings;
- (iv) finance charges in respect of assets acquired under finance leases or under other similar arrangements.

(b) "**Qualifying asset**" means:

- (i) land, building, machinery, plant or furniture, being tangible assets;
- (ii) know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets;
- (iii) inventories that require a period of twelve months or more to bring them to a saleable condition.

(2) Words and expressions used and not defined in this Income Computation and Disclosure Standard but defined in the Act shall have the meaning assigned to them in the Act.

Recognition

3. Borrowing costs that are directly attributable to the acquisition, construction or production of a qualifying asset shall be capitalised as part of the cost of that asset.

The amount of borrowing costs eligible for capitalisation shall be determined in accordance with this Income Computation and Disclosure Standard. Other borrowing costs shall be recognised in accordance with the provisions of the Act.

4. For the purposes of this Income Computation and Disclosure Standard, "capitalisation" in the context of inventory referred to in item (iii) of clause (b) of sub-paragraph (1) of paragraph 2 means addition of borrowing cost to the cost of inventory.

Borrowing Costs Eligible for Capitalisation

5. Subject to paragraph 8, the extent to which funds are borrowed specifically for the purposes of acquisition, construction or production of a qualifying asset, the amount of borrowing costs to be capitalised on that asset shall be the actual borrowing costs incurred during the period on the funds so borrowed.

6. Subject to Para 8, in respect of borrowing other than those referred to in Para 5, if any, the amount of borrowing costs to be capitalised shall be computed in accordance with the following formula namely:—

$$A \times \frac{B}{C}$$

Where A = borrowing costs incurred during the previous year except on borrowings referred to in Para 5 above;

B = (i) the average of costs of qualifying asset as appearing in the balance sheet of a person on the first day and the last day of the previous year;

(ii) in case the qualifying asset does not appear in the balance sheet of a person on the first day, half of the cost of qualifying asset; or

(iii) in case the qualifying asset does not appear in the balance sheet of a person on the last day of the previous year, the average of the costs of qualifying asset as appearing in the balance sheet of a person on the first day of the previous year and on the date of put to use or completion, as the case may be,

excluding the extent to which the qualifying assets are directly funded out of specific borrowings;

C = the average of the amount of total assets as appearing in the balance sheet of a person on the first day and the last day of the previous year, other than assets to the extent they are directly funded out of specific borrowings.

Explanation — For the purpose of this paragraph, a qualifying asset shall be such asset that necessarily require a period of twelve months or more for its acquisition, construction or production.

Commencement of Capitalisation

7. The capitalisation of borrowing costs shall commence:

(a) in a case referred to in paragraph 5, from the date on which funds were borrowed;

- (b) in a case referred to in paragraph 6, from the date on which funds were utilised.

Cessation of Capitalisation

8. Capitalisation of borrowing costs shall cease:

- (a) in case of a qualifying asset referred to in items (i) and (ii) of clause (b) of sub-paragraph (1) of paragraph 2, when such asset is first put to use;
- (b) in case of inventory referred to in item (iii) of clause (b) of sub-paragraph (1) of paragraph 2, when substantially all the activities necessary to prepare such inventory for its intended sale are complete.

9. When the construction of a qualifying asset is completed in parts and a completed part is capable of being used while construction continues for the other parts, capitalisation of borrowing costs in relation to a part shall cease:—

- (a) in case of part of a qualifying asset referred to in items (i) and (ii) of clause (b) of sub-paragraph (1) of paragraph 2, when such part of a qualifying asset is first put to use;
- (b) in case of part of inventory referred to in item (iii) of clause (b) of sub-paragraph (1) of paragraph 2, when substantially all the activities necessary to prepare such part of inventory for its intended sale are complete.

Transitional Provisions

10. All the borrowing costs incurred on or after 1st day of April, 2016 shall be capitalised for the previous year commencing on or after 1st day of April, 2016 in accordance with the provisions of this standard after taking into account the amount of borrowing costs capitalised, if any, for the same borrowing for any previous year ending on or before 31st day of March, 2016.

Disclosure

11. The following disclosure shall be made in respect of borrowing costs, namely:—

- (a) the accounting policy adopted for borrowing costs; and
- (b) the amount of borrowing costs capitalised during the previous year.

10

J. INCOME COMPUTATION AND DISCLOSURE STANDARD X RELATING TO PROVISIONS, CONTINGENT LIABILITIES AND CONTINGENT ASSETS

Preamble

This Income Computation and Disclosure Standard is applicable for computation of income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" and not for the purpose of maintenance of books of account.

In the case of conflict between the provisions of the Income-tax Act, 1961 ('the Act') and this Income Computation and Disclosure Standard, the provisions of the Act shall prevail to that extent.

Scope

1. This Income Computation and Disclosure Standard deals with provisions, contingent liabilities and contingent assets, except those:

- (a) resulting from financial instruments;
- (b) resulting from executory contracts;
- (c) arising in insurance business from contracts with policy-holders; and
- (d) covered by another Income Computation and Disclosure Standard.

2. This Income Computation and Disclosure Standard does not deal with the recognition of revenue which is dealt with by Income Computation and Disclosure Standard - Revenue Recognition.

3. The term 'provision' is also used in the context of items such as depreciation, impairment of assets and doubtful debts which are adjustments to the carrying amounts of assets and are not addressed in this Income Computation and Disclosure Standard.

Definitions

4. (1) The following terms are used in this Income Computation and Disclosure Standard with the meanings specified:

(a) **"Provision"** is a liability which can be measured only by using a substantial degree of estimation.

(b) **"Liability"** is a present obligation of the person arising from past events, the settlement of which is expected to result in an outflow from the person of resources embodying economic benefits.

(c) **"Obligating event"** is an event that creates an obligation that results in a person having no realistic alternative to settling that obligation.

(d) **"Contingent liability"** is:

(i) a possible obligation that arises from past events and the existence of which will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the person; or

(ii) a present obligation that arises from past events but is not recognized because:

(A) it is not reasonably certain that an outflow of resources embodying economic benefits will be required to settle the obligation; or

(B) a reliable estimate of the amount of the obligation cannot be made.

(e) **"Contingent asset"** is a possible asset that arises from past events the existence of which will be confirmed only by the occurrence or non-

occurrence of one or more uncertain future events not wholly within the control of the person.

(f) **"Executory contracts"** are contracts under which neither party has performed any of its obligations or both parties have partially performed their obligations to an equal extent.

(g) **"Present obligation"** is an obligation if, based on the evidence available, its existence at the end of the previous year is considered reasonably certain.

(2) Words and expressions used and not defined in this Income Computation and Disclosure Standard but defined in the Act shall have the meaning respectively assigned to them in the Act.

Recognition

Provisions

5. A provision shall be recognised when:

- (a) a person has a present obligation as a result of a past event;
- (b) it is reasonably certain that an outflow of resources embodying economic benefits will be required to settle the obligation; and
- (c) a reliable estimate can be made of the amount of the obligation.

If these conditions are not met, no provision shall be recognised.

6. No provision shall be recognised for costs that need to be incurred to operate in the future.

7. It is only those obligations arising from past events existing independently of a person's future actions, that is the future conduct of its business, that are recognised as provisions

8. Where details of a proposed new law have yet to be finalised, an obligation arises only when the legislation is enacted.

Contingent Liabilities

9. A person shall not recognise a contingent liability.

Contingent Assets

10. A person shall not recognise a contingent asset.

11. Contingent assets are assessed continually and when it becomes reasonably certain that inflow of economic benefit will arise, the asset and related income are recognised in the previous year in which the change occurs.

Measurement

Best Estimate

12. The amount recognised as a provision shall be the best estimate of the expenditure required to settle the present obligation at the end of the previous year. The amount of a provision shall not be discounted to its present value.

13. The amount recognised as asset and related income shall be the best estimate of the value of economic benefit arising at the end of the previous year. The amount and related income shall not be discounted to its present value.

Reimbursements

14. Where some or all of the expenditure required to settle a provision is expected to be reimbursed by another party, the reimbursement shall be recognised when it is reasonably certain that reimbursement will be received if the person settles the obligation. The amount recognised for the reimbursement shall not exceed the amount of the provision.

15. Where a person is not liable for payment of costs in case the third party fails to pay, no provision shall be made for those costs.

16. An obligation, for which a person is jointly and severally liable, is a contingent liability to the extent that it is expected that the obligation will be settled by the other parties.

Review

17. Provisions shall be reviewed at the end of each previous year and adjusted to reflect the current best estimate. If it is no longer reasonably certain that an outflow of resources embodying economic benefits will be required to settle the obligation, the provision should be reversed.

18. An asset and related income recognised as provided in para 11 shall be reviewed at the end of each previous year and adjusted to reflect the current best estimate. If it is no longer reasonably certain that an inflow of economic benefits will arise, the asset and related income shall be reversed.

Use of Provisions

19. A provision shall be used only for expenditures for which the provision was originally recognised.

Transitional Provisions

20. All the provisions or assets and related income shall be recognised for the previous year commencing on or after 1st day of April, 2016 in accordance with the provisions of this standard after taking into account the amount recognised, if any, for the same for any previous year ending on or before 31st day of March, 2016.

Disclosure

21. (1) Following disclosure shall be made in respect of each class of provision, namely:-

- (a) a brief description of the nature of the obligation;
- (b) the carrying amount at the beginning and end of the previous year;
- (c) additional provisions made during the previous year, including increases to existing provisions;
- (d) amounts used, that is incurred and charged against the provision, during the previous year;
- (e) unused amounts reversed during the previous year; and
- (f) the amount of any expected reimbursement, stating the amount of any asset that has been recognised for that expected reimbursement.

(2) Following disclosure shall be made in respect of each class of asset and related income recognised as provided in para 11, namely:—

- (a) a brief description of the nature of the asset and related income;
- (b) the carrying amount of asset at the beginning and end of the previous year;
- (c) additional amount of asset and related income recognised during the year, including increases to assets and related income already recognised; and
- (d) amount of asset and related income reversed during the previous year.

DIVISION 3

INCOME-TAX (APPELLATE TRIBUNAL) RULES, 1963

Arrangement of Rules

RULE	PAGE
1. Short title and commencement	3.3
2. Definitions	3.3
3. Sittings of Bench	3.4
4. Powers of Bench	3.4
4A. Powers and functions of the Registrar	3.5
5. Language of the Tribunal	3.6
5A. Filing of documents in Hindi	3.6
5B. Use of Hindi in proceedings and orders	3.6
6. Procedure for filing appeals	3.7
7. Date of presentation of appeals	3.7
8. Contents of memorandum of appeal	3.7
9. What to accompany memorandum of appeal	3.8
9A. Revised Form No. 36	3.8
10. Filing of affidavits	3.9
11. Grounds which may be taken in appeal	3.9
12. Rejection or amendment of memorandum of appeal	3.9
13. Who may be joined as respondent in an appeal by assessee	3.9
14. Who may be joined as respondent in an appeal by the Assessing Officer	3.9
15. What to accompany memorandum of appeal under section 253(2)	3.9
16. Authorising a representative to appear	3.10
17. Authorisation to be filed	3.10
17A. Dress regulations for the members and for the representatives of the parties	3.10
18. Preparation of paper books, etc.	3.11
19. Date and place for hearing of appeal to be notified	3.12
20. Date and place of hearing of appeal, how fixed	3.12
21. Grant of time to answer in an appeal under section 253(1)	3.12

APPELLATE TRIBUNAL RULES, 1963

3.2

RULE	PAGE
22. Cross-objections	3.12
23. Hearing of the appeal	3.12
24. Hearing of appeal <i>ex parte</i> for default by the appellant	3.12
25. Hearing of appeal <i>ex parte</i> for default by the respondent	3.12
26. Continuation of proceedings after the death or insolvency of a party to the appeal	3.13
27. Respondent may support order on grounds decided against him	3.13
28. Remand of the case by the Tribunal	3.13
29. Production of additional evidence before the Tribunal	3.14
30. Mode of taking additional evidence	3.14
31. Additional evidence to be submitted to the Tribunal	3.14
32. Adjournment of appeal	3.14
32A. Award of costs	3.14
33. Proceedings before the Tribunal	3.14
34. Order to be pronounced, signed and dated	3.15
34A. Procedure for dealing with applications under section 254(2)	3.16
35. Order to be communicated to parties	3.16
35A. Procedure for filing and disposal of stay petition	3.16
36. What to accompany an application for reference under section 256(1)	3.17
37. Procedure in respect of application under section 256(1)	3.17
38. Who may be joined as a respondent in an application by the assessee	3.17
39. Who may be joined as a respondent in an application by the Commissioner	3.17
40. Same Bench to hear the application	3.17
41. Time for submission of reply by the respondent	3.17
42. Contents of the reply	3.18
43. Dismissal if no question of law arises	3.18
44. Statement of case to be prepared, if a question of law arises	3.18
45. What to accompany the statement of the case	3.18
46. Order on application to be communicated to the parties	3.18
47. Same Bench to deal with requisition from High Court under section 256(2)	3.18
48. Copy of the judgment of the High Court to be sent to the Bench	3.18
49. Scale of copying fees	3.19
50. Fees for inspection of records	3.19
51. Repeal and saving	3.20
52. Application of Rules	3.20
STANDING ORDER UNDER INCOME-TAX (APPELLATE TRIBUNAL) RULES, 1963	3.22
OTHER NOTIFICATIONS AND INSTRUCTIONS	3.27
INCOME-TAX APPELLATE TRIBUNAL MEMBERS (RECRUITMENT AND CONDITIONS OF SERVICE) RULES, 1963	3.47
SUBJECT INDEX	3.55

INCOME-TAX (APPELLATE TRIBUNAL) RULES, 1963

[NOTIFICATION NO. I-AT/63, DATED 17-4-1963]

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:—

Rules to regulate the procedure of the Appellate Tribunal and the procedure of the Benches of the Tribunal

Short title and commencement.

1. (1) These rules may be called the Income-tax (Appellate Tribunal) Rules, 1963.
- (2) They shall come into force at once.

Definitions.

2. 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

¹[(b) in relation to an income-tax authority who is a party to any proceedings before the Tribunal—

(i) a person duly appointed by the Central Board of Direct Taxes as "authorised representative" to appear, plead and act on behalf of the income-tax department; and

(ii) a person duly authorised by the Chief Commissioner of Income-tax to appear, plead and act on behalf of the income-tax department;]

²[(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

-
1. Substituted by the IT (Appellate Tribunal) (Amendment) Rules, 2012, w.e.f. 7-2-2012. Prior to its substitution, item (b) read as under :

¹(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;

2. Substituted by the IT (Appellate Tribunal) (Amendment) Rules, 1983, w.e.f. 27-1-1983.

President, [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 [and includes a Deputy Registrar and Assistant Registrar where the context so requires];
- (viii) "section" means a section of the Act;
- [(ix) "Senior Vice-President" means the Senior Vice-President of the Tribunal;]
- [(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;
- [(xi)] "Vice-President" means a Vice-President of the Tribunal.

Sittings of Bench.

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

Powers of Bench.

4. (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.
- [(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.]

3. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 1987, w.e.f. 1-8-1987.

4. Renumbered as a result of insertion of new clause (ix). *ibid*.

5. As per the text of the Income-tax (Appellate Tribunal) Rules as reproduced in [1985] 12 ITD 11 (Journal Section).

6. Substituted for "such other place as it may consider convenient" by the IT (Appellate Tribunal) (Amendment) Rules, 1987, w.e.f. 1-8-1987.

7. Substituted by the IT (Appellate Tribunal) (Amendment) Rules, 1970, w.e.f. 12-2-1970.

8. Substituted for "seniormost member present" by the IT (Appellate Tribunal) (Amendment) Rules, 1987, w.e.f. 1-8-1987.

[Powers and functions of the Registrar.

4A. ¹⁰[(1) The Registrar/Deputy Registrar/Assistant Registrar shall have the custody of 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, Senior Vice-President, Vice-President of the concerned Zone or Senior Member of the Bench.]

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

- ^{10a}[(i) to receive all appeals, miscellaneous applications, stay petitions as well as other documents including applications for early hearing, transfer of appeals, applications for adjournment;]
- (ii) to endorse on such appeals and applications the date of receipt for the purpose of calculating limitation ¹¹[and the amount of fee received];
- (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;
- ¹¹[(va) to send the memo of appeals, applications, petitions along with enclosures to the opposite party (respondents) within a reasonable time from their institution by the applicant/Department and to receive cross objection on the appeal filed by the applicant/Department and to carry out similar functions as indicated in sub-rules (i) to (v) of this rule;]
- (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;

9. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 1991, w.e.f. 25-7-1991.

10. Substituted by the IT (Appellate Tribunal) (Amendment) Rules, 2002, w.e.f. 8-4-2002. Prior to its substitution, sub-rule (1) read as under :

"(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."

10a. Substituted by the IT (Appellate Tribunal) (Amendment) Rules, 2012, w.e.f. 7-2-2012. Prior to its substitution, clause (i) read as under :

"(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;"

11. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 2002, w.e.f. 8-4-2002.

- (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.]

Language of the Tribunal.

5. The language of the Tribunal shall be English.

¹²[Filing of documents in Hindi.]

5A. 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.]

NOTES

Vide Notification No. F. 186-Ad(AT)/71, dated 5-3-1974, documents drawn up in Hindi may be filed in the States of Gujarat, Maharashtra, Uttar Pradesh, Punjab, Chandigarh, Delhi, Madhya Pradesh, Rajasthan and Bihar at the following stations where Benches of the Tribunal are located, namely :—

Ahmedabad, Bombay, Nagpur, Allahabad, Amritsar, Chandigarh, Delhi, Indore, Jabalpur, Jaipur, and Patna.

¹³[Use of Hindi in proceedings and orders.]

5B. 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 in this behalf from time to time :

12. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 1974.

13. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 1975.

Provided that where the order is passed in Hindi, it shall be accompanied by an authorised English translation thereof.]

NOTES

New rule 5B, inserted by the Income-tax (Appellate Tribunal) (Amendment) Rules, 1975, permits the use of Hindi by the Appellate Tribunal in its proceedings and also enables them to pass order in Hindi in such States as may be notified by the President from time to time. However, where the order is passed in Hindi it shall be accompanied by an authorised English translation.

For this purpose, *vide* Notification No. F. 71-Ad(AT)/74, dated 5-5-1975, the President of the Appellate Tribunal has notified the States of Gujarat, Maharashtra, Uttar Pradesh, Punjab, Madhya Pradesh, Rajasthan, Bihar and the Union Territories of Chandigarh and Delhi and the following stations where Benches of the Tribunal are located, namely:—

- | | |
|----------------|--------------|
| 1. Ahmedabad, | 7. Delhi, |
| 2. Bombay, | 8. Indore, |
| 3. Nagpur, | 9. Jabalpur, |
| 4. Allahabad, | 10. Jaipur, |
| 5. Amritsar, | 11. Patna. |
| 6. Chandigarh, | |

Procedure for filing appeals.

6. (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.

Date of presentation of appeals.

7. 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.

NOTES

Vide Order No. 1 of 1973, dated 1-10-1973, the Assistant Registrar 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 have been authorised to endorse on memorandum of appeal the date on which it is presented or deemed to have been presented under rule 6. However, if at the time of presentation of appeal, the Assistant Registrar is absent from office, the appeal or application may be presented to the Superintendent/Assistant Superintendent/senior most Head Clerk during office hours. In case the applicant apprehends that it is last day of the limitation for presentation of his appeal and application, he may present it to the Assistant Registrar at his residence or any other place wherever he may be or to Member of the Tribunal at his residence or wherever he may be.

Contents of memorandum of appeal.

8. 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.

What to accompany memorandum of appeal.

9. ¹⁴[(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 ^{14a}[Assessing] 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.]

¹⁵[(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 ;

(ii) In the case of appeal against the assessment under section 143(3) read with section 144B, the memorandum of appeal shall also be accompanied by two copies of the draft assessment order and two copies of the Inspecting Assistant Commissioner's 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 Commissioner's 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.]

¹⁶[(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).

¹⁷[*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.]

NOTES

It has been clarified by the President, Income-tax Appellate Tribunal, in his letter No. F. 38-JS(AT)/71, dated 9-8-1971, that a copy of the order appealed against bearing the signature of the issuing or authorised officer and seal of the office which issued the copies, will be treated as equivalent to a certified copy of the order appealed against.

Revised Form No. 36*.

^{17a}[9A. (1) In the event of change in the address of the parties to the appeal as provided in column Nos. 10 & 11 of Form No. 36, the appellant should file a revised Form No. 36 duly filled up giving the new address of the party, duly verified in the same manner as required by rule 47 of the Income-tax Rules, 1962.

(2) The revised Form No. 36 shall specify the appeal No. as originally assigned or, in the event of non-availability of such No., the date of filing of the appeal shall be mentioned in the covering letter.

(3) No cognizance of change of address of the parties shall be taken for any purpose, unless a revised form as per sub-rules (1) and (2) is filed.

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

14a. Substituted for "Income-tax" by the IT (Appellate Tribunal) (Amendment) Rules, 2012, w.e.f. 7-2-2012.

15. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 1984, w.e.f. 1-4-1984.

16. Renumbered, *ibid*.

17. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 1987, w.e.f. 1-8-1987.

17a. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 2012, w.e.f. 7-2-2012.

*Heading is provided by Editors.

(4) The address furnished in the revised Form No. 36 shall be deemed to be the address of the parties for the purpose of service of all notices/orders.]
Filing of affidavits.

10. 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.

Grounds which may be taken in appeal.

11. 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.

Rejection or amendment of memorandum of appeal.

12. 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.

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

13. In an appeal by an assessee under sub-section (1) of section 253, the ¹⁸[Assessing Officer] concerned shall be made a respondent to the appeal.

Who may be joined as respondent in an appeal by the ¹⁸[Assessing Officer].

14. In an appeal by the ¹⁸[Assessing Officer] under sub-section (2) of section 253, the appellant before the ^{18a}[CIT (Appeals)] shall be made a respondent to the appeal.

What to accompany memorandum of appeal under section 253(2).

15. 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.

Authorising a representative to appear.

16. 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.

18. Substituted for "Income-tax Officer" by the IT (Appellate Tribunal) (Amendment) Rules, 2012, w.e.f. 7-2-2012.

18a. Substituted for "Appellate Assistant Commissioner", *ibid*.

NOTES

Where the power of attorney/vakalatnama is filed in favour of a firm, the constitution of the firm should also be intimated to the Tribunal *vide* Notification No. F. 161-Ad(AT)/70, dated 8-5-1973.

Authorisation to be filed.

17. 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.

¹⁹[**Dress regulations for the members and for the representatives of the parties.**

17A. ²⁰[(i) Summer dress for the Members shall be white shirt, white pant with black coat, a 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 or any other sober saree.]

(ii) Dress for the authorised representatives of the parties (other than a relative or regular employee of the assessee) appearing before the Tribunal shall be the following :

(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.]

²¹[**Preparation of paper books, etc.**

18. ²²[(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

19. Substituted by the IT (Appellate Tribunal) (Amendment) Rules, 1986, w.e.f. 17-2-1986. Earlier, it was inserted by the IT (Appellate Tribunal) (Amendment) Rules, 1984, w.e.f. 1-4-1984.

20. Substituted by the IT (Appellate Tribunal) (Amendment) Rules, 2002, w.e.f. 8-4-2002. Prior to its substitution, clause (i) read as under :

"(i) Summer dress for the Members shall be white pant with black coat and a 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."

21. Substituted by the IT (Appellate Tribunal) (Amendment) Rules, 1973.

22. Substituted by the IT (Appellate Tribunal) (Amendment) Rules, 1992, w.e.f. 24-7-1992. Prior to substitution sub-rule (1) read as under :

(Contd. on p. 3.11)

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.]

²³[(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 a 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 as are referred to in 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 Bench.

²⁴[(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.]

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

Date and place for hearing of appeal to be notified.

19. (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.

(Contd. from p. 3.10)

"(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."

23. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 1993, w.e.f. 7-10-1993.

24. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 2002, w.e.f. 8-4-2002.

25. Sub-rule (6) renumbered as sub-rule (7), *ibid*.

Date and place of hearing of appeal, how fixed.

20. 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.

Grant of time to answer in an appeal under section 253(1).

21. 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.

Cross-objections.

22. 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.

Hearing of the appeal.

23. 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.

²⁶**[Hearing of appeal ex parte for default by the appellant.**

24. 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.]

²⁷**[Hearing of appeal ex parte for default by the respondent.**

25. 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 :]

²⁸**[Provided** that where an appeal has been disposed of as provided above and the ²⁹[respondent] appears afterwards and satisfies the Tribunal that there was sufficient cause for his non-appearance when the appeal was called on for hearing,

26. Substituted by the IT (Appellate Tribunal) (Amendment) Rules, 1987, w.e.f. 1-8-1987.

27. Substituted, *ibid*.

28. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 2002, w.e.f. 8-4-2002.

29. Corrected by Notification No. F. 71-Ad(AT)/2002, dated 1-6-2004.

the Tribunal shall make an order setting aside the *ex parte* order and restore the appeal].

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

Where an assessee whether he be an appellant or the respondent to an appeal dies or is adjudicated insolvent or in the case of a company 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:

Provided that :

- (i) The assessee files a revised Form No. 36 duly filled up giving revised name of the party duly verified in the same manner as required by rule 47 of Income-tax Rules, 1962;
- (ii) The revised Form No. 36 shall specify the appeal number as originally assigned or, in the event of non-availability of such number on the date of filing the appeal shall be mentioned in the covering letter to enable the Registrar to place fresh Form No. 36 in the original file.]

Respondent may support order on grounds decided against him.

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

Remand of the case by the Tribunal.

28. 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 ^{29b}[Assessing Officer], with such directions as the Tribunal may think fit.

³⁰[Production of additional evidence before the Tribunal.

29. 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 document 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.]

29a. Substituted by the IT (Appellate Tribunal) (Amendment) Rules, 2012, w.e.f. 7-2-2012. Prior to its substitution, rule 26 read as under :

"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."

29b. Substituted for "Income-tax Officer" by the IT (Appellate Tribunal) (Amendment) Rules, 2012, w.e.f. 7-2-2012.

30. Substituted by the IT (Appellate Tribunal) (Amendment) Rules, 1973.

Mode of taking additional evidence.

30. 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.

Additional evidence to be submitted to the Tribunal.

31. 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.

Adjournment of appeal.

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

^{30a}**[Award of costs.**

32A. (1) The costs of any appeal shall be at the discretion of the Tribunal.

(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.]

³¹**[Proceedings before the Tribunal.**

33. Except in cases to which the provisions of section 54 of the Indian 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.]

³²**[Order to be pronounced, signed and dated.**

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

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

(3) 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.

30a. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 2006, w.e.f. 2-3-2006.

31. Substituted by the IT (Appellate Tribunal) (Amendment) Rules, 1982.

32. Substituted by the IT (Appellate Tribunal) (Amendment) Rules, 2006, w.e.f. 2-3-2006. Earlier rule 34 was amended by the IT (Appellate Tribunal) Rules, 1987, w.e.f. 1-8-1987 and IT (Appellate Tribunal) (Amendment) Rules, 1982.

(4) 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.]

(5) The pronouncement may be in any of the following manners :—

- (a) The Bench may pronounce the order immediately upon the conclusion of the hearing.
- (b) In case where the order is not pronounced immediately on the conclusion of the hearing, the Bench shall give a date for pronouncement.
- (c) In a case where no date of pronouncement is given by the Bench, 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 so to do on the ground of exceptional and extraordinary circumstances of the case, the Bench shall fix a future day for pronouncement of the order, and such date shall not ordinarily be a day beyond a further period of 30 days and due notice of the day so fixed shall be given on the notice board.

(6) 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, Senior Vice-President, Vice-President, or Senior Member, as the case may be.

(7) In the case where the order is ready in every respect and can be made available to the parties, the Bench may advance the date of pronouncement and put this information on the notice board and the order shall be pronounced accordingly.

(8) In a case where the order cannot be pronounced on the date given, the date of pronouncement may be deferred, subject to sub-rule (5)(c) above, to a further date and information thereof shall be given on the notice board.]

³³[Procedure for dealing with applications under section 254(2).

34A. (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.

³⁴(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.

33. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 2009, w.e.f. 1-5-2009.

34. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 1991, w.e.f. 25-7-1991.

34a. Substituted by the IT (Appellate Tribunal) (Amendment) Rules, 2012, w.e.f. 7-2-2012. Prior to its substitution, sub-rule (2) read as under :

"(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."

The Applicant shall also state whether any Miscellaneous Application under section 254(2) was filed earlier before the Tribunal against the same order and if so, the fate of such application. Copies of the orders passed by the Tribunal on such applications shall also be filed before the Tribunal in triplicate along with the Miscellaneous Application.]

(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 :

^{34b}[***]

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

Order to be communicated to parties.

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

³⁵[Procedure for filing and disposal of stay petition.

35A. (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 ^{35a}[CIT (Appeals)], 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);

^{34b}. Proviso omitted by the IT (Appellate Tribunal) (Amendment) Rules, 2012, w.e.f. 7-2-2012.
Prior to omission proviso, read as under :

"Provided it shall not be necessary to post Miscellaneous Application for hearing if it *prima facie* appears to be a petition for review."

³⁵. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 1970, w.e.f. 12-2-1970.

^{35a}. Substituted for "Appellate Assistant Commissioner" by the IT (Appellate Tribunal) (Amendment) Rules, 2012, w.e.f. 7-2-2012.

- (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 ;
- (x) ³⁶[***].

(3) ^{36a}[***]]

What to accompany an application for reference under section 256(1).

36. ³⁷[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.]

Procedure in respect of application under section 256(1).

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

Who may be joined as a respondent in an application by the assessee.

38. Where the application is by an assessee, the Commissioner to whom the ^{37a}[Assessing Officer] is subordinate shall be made a respondent.

Who may be joined as a respondent in an application by the Commissioner.

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

Same Bench to hear the application.

40. The Bench which heard the appeal giving rise to the application shall hear it unless the President ³⁸[, the Senior Vice-President or the Vice-President, as the case may be,] directs otherwise.

Time for submission of reply by the respondent.

41. 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.

Contents of the reply.

42. 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,

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

36a. Omitted by the IT (Appellate Tribunal) (Amendment) Rules, 2012, w.e.f. 7-2-2012. Prior to its substitution, sub-rule (3) read as under :

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

37. Substituted by the IT (Appellate Tribunal) (Second Amendment) Rules, 1983, w.e.f. 1-7-1983.

37a. Substituted for "Income-tax Officer" by the IT (Appellate Tribunal) Rules, 2012, w.e.f. 7-2-2012.

38. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 1987, w.e.f. 1-8-1987.

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.

Dismissal if no question of law arises.

43. 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.

Statement of case to be prepared, if a question of law arises.

44. 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.

What to accompany the statement of the case.

45. "[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.]

Order on application to be communicated to the parties.

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

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

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 ⁴⁰[or the Senior Vice-President] ⁴¹[or the Vice-President, as the case may be].

Copy of the judgment of the High Court to be sent to the Bench.

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, ⁴²[the Senior Vice-President or the Vice-President,] for such orders as may be necessary.

39. Substituted by the IT (Appellate Tribunal) (Second Amendment) Rules, 1983, w.e.f. 1-7-1983.

40. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 1987, w.e.f. 1-8-1987.

41. Inserted by the IT (Appellate Tribunal) (Second Amendment) Rules, 1983, w.e.f. 1-7-1983.

42. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 1987, w.e.f. 1-8-1987.

47 Scale of copying fees.

49. (1) Copying fees for supply of certified copies shall be charged as under :
- (i) For a full page or part thereof, "[Rs. 10] 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. 15] per page or part thereof.
 - (5) Copying fees for supply of certified copies, whether typed or xeroxed, shall be recovered in advance in cash.]]

Fees for inspection of records.

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

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

44. Substituted by the IT (Appellate Tribunal) (Amendment) Rules, 1992, w.e.f. 24-7-1992 for the following :

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

- | | |
|--|------------|
| (a) For the first 100 words or less | Re. 1.00 |
| (b) For every additional 100 words or fraction thereof | 0.50 Paise |

(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); in such case, 50 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 2½ times of those prescribed by sub-rule (1); in such case, 50 per cent of the fees prescribed by sub-rule (1) shall be paid to the stenographer.

(4) However, if the publisher of a tax journal requires a photostat copy of an order of the Tribunal for the purpose of publication in his journal, fees of Rs. 1.25 per page shall be charged for supply.

(5) Copying fees for supply of certified copies as well as fees for supply of photostat copies shall be recovered in advance in cash."

45. Substituted for "Rs. 3" by the IT (Appellate Tribunal) (Amendment) Rules, 2002, w.e.f. 8-4-2002.

46. Substituted for "Rs. 5", *ibid*.

(a) For the first hour or part thereof

⁴⁷[20]

(b) For every additional hour or part thereof

⁴⁸[10]

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

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

Repeal and saving.

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

Application of Rules.

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

NOTES

The Appellate Tribunal has, *vide* F. No. 114-Ad(AT)/69, dated 13-4-1970, laid down the following guidelines for the guidance of the assessee and their representatives :

1. In all communications addressed to the Tribunal by the parties with regard to appeals or applications or cross-objections the number thereof, or, if the number is not known, the date of filing thereof, should invariably be given. Failure to furnish the information will cause avoidable correspondence and needless delay in answering correspondence.

2. An application for adjournment of the hearing should be made at the earliest possible time. If it could be presented personally, it should be done so. If it cannot be presented personally, a stamped envelope with the address of the assessee or his representative should, as far as possible, accompany the application. If a reply is required telegraphically, the necessary postage stamps should accompany the application. If a telegram is sent asking for adjournment, arrangement should be made for a reply-paid telegram. The suggestion made in this paragraph is intended not so much as a measure of economy as a measure for greater efficiency. The Tribunal is not bound to reply to applications for adjournment. Replies will, however, be given as far as possible. Unless the assessee hears that his application for adjournment has been granted, he should remain present at the hearing of the appeal or application or cross-objection, as the case may be.

3. Whenever an appeal or application or cross-objection is filed which is connected with an appeal or application or cross-objection relating to the same party filed earlier, reference thereto should invariably be given with the latter appeal or application or cross-objection so that the various connected appeals or applications or cross-objections could be linked up together. This will be for the convenience of the parties themselves.

If any practitioner wishes that appeals and applications and cross-objections relating to different assessee in which he is engaged should be taken up on the same of consecutive days, he should intimate to the Tribunal the particulars of these appeals and applications and cross-objections including the dates of filing thereof, well in advance.

4. An application for an early hearing for an appeal should invariably give detailed reasons why the assessee wants that his appeal should be given preference over the appeals made by other assessee. The application should also state whether or not the tax has been paid and, if so, to what extent.

47. Substituted for "Rs. 2" by the IT (Appellate Tribunal) (Amendment) Rules, 2002, w.e.f. 8-4-2002. Earlier, it was substituted for "Re. 1" by the IT (Appellate Tribunal) (Second Amendment) Rules, 1983, w.e.f. 1-7-1983 and "Re. 1" was substituted for "50 P." by the IT (Appellate Tribunal) (Amendment) Rules, 1980, w.e.f. 1-6-1980.

48. Substituted for "Re. 1", *ibid*. Earlier, it was substituted for "50 P." by the IT (Appellate Tribunal) (Second Amendment) Rules, 1983, w.e.f. 1-7-1983.

49. Inserted by the IT (Appellate Tribunal) (Amendment) Rules, 1983, w.e.f. 27-1-1983.

5. An application for sending for the case of another assessee should also be made at the earliest possible opportunity. Cases will not ordinarily be sent for, for the purpose of making an assessment on the same basis in other cases.

6. Attention is invited to rule 10 of the Appellate Tribunal Rules, 1963. That rule provides that where a fact which cannot be borne out by or is contrary to record is alleged, it should be stated clearly and concisely and should be supported by a duly sworn affidavit. Complaints are at times made before the Tribunal that certain statements attributed to the assessee or their representatives were in fact not made. Unless rule 10 is complied with, it is not ordinarily possible to go outside the record. An application for time for filing an affidavit as required by rule 10 at the time of hearing of the appeal will not ordinarily be granted. The object of this suggestion is to save time in hearing and deciding appeals, applications and cross-objections.

7. If an appeal/reference application/cross-objection is barred by time, or if there are reasons for believing that it may be barred by time, an application for condoning the delay should be made well in advance before the hearing of the appeal/application/cross-objection. Such an application should ordinarily be supported by an affidavit and other documentary evidence, as for example, a medical certificate.

8. Three copies (typed, if possible) of the statements made by the assessee or the witnesses or of documents relied upon or of extracts of accounts, where necessary, should be produced at the time of the hearing of the appeal, application or cross-objection. As far as possible, all such documents and papers should be in English or translated into English. This suggestion has been accepted by many solicitors and auditors appearing before the Tribunal. This suggestion is intended to facilitate the hearing of the appeal, application or cross-objection. Extracts of accounts should, if possible, be certified by the assessee's representative or by any other reliable person and be in English.

9. Books of account should be kept handy at the time of hearing of the appeal, application or cross-objection. If books of account of the year preceding or succeeding year of account are relevant, they should also be kept handy.

10. Assessee should, as far as possible, be present at the hearing of the appeal, application or cross-objection. This suggestion is made entirely in the interest of the assessee.

11. It has been noticed that requests are made to block the appeals to await decision of the High Court or the Supreme Court in similar points involved in the appeals. In order to avoid multiplicity in proceedings, the Appellate Tribunal acceded to such request. It is, however, found that in many of such cases, the particulars of the case involving the identical points are not on record so as to find out whether that case has been disposed of by the High Court/the Supreme Court or not. This results in prolonging correspondence between the Tribunal and the parties causing long and avoidable delay in the disposal of those blocked appeals/applications/cross-objections. It is, therefore, suggested that an application for keeping the appeals/applications/cross-objections blocked should invariably furnish the particulars of the case pending with the High Court/the Supreme Court involving identical points for which the appeals or applications or cross-objections are sought to be blocked. The assessee and the departmental representatives should inform the Tribunal about the disposal of the case by the High Court or the Supreme Court immediately after its disposal so as to enable the Tribunal to dispose of such blocked cases soon thereafter. In this connection, it may be made clear that the Tribunal is not bound to keep such appeals/applications/cross-objections blocked for indefinite periods.

12. Whenever any appeal against the penalty order passed by the IAC is filed, the appellant should invariably inform the Tribunal in the forwarding letter whether any quantum appeal pertaining to the same assessment year is pending before the AAC concerned. The Tribunal should be informed immediately after the disposal of the said quantum appeal by the AAC. If the said quantum appeal has already been disposed of by the AAC at the time of filing of the penalty appeal before the Tribunal, the date of filing of the quantum appeal before the Tribunal may be intimated to enable it to link both the appeals and post them for hearing on one date. In case no such quantum appeal is proposed to be filed before the Tribunal, the fact may be intimated to the Tribunal, so that the penalty appeal may be posted for hearing.

STANDING ORDER UNDER INCOME-TAX (APPELLATE TRIBUNAL) RULES, 1963

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 :

<i>S. No.</i>	<i>Name & Number of Bench(es)</i>	<i>Districts/States/Union Territories</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
1.	Agra Bench (1)	<ul style="list-style-type: none"> - 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)	<ul style="list-style-type: none"> - Gujarat (excluding the Districts of Amreli, Bhavnagar, Jamnagar, Junagarh, Kachchh, Rajkot and Surendernagar). - Union Territory of Dadra and Nagar Haveli. - Territory of Daman of the Union Territory of Daman & Diu.
*3.	Allahabad Bench (1)	<ul style="list-style-type: none"> - Uttar Pradesh (excluding the districts of Agra, Aligarh, Bahraich, Barabanki, Basti, Badaun, Bareilly, Bijnor, Bulandshahr, Etah, Etawah, Faizabad, Farrukhabad, Firozabad, Gautam Budh Nagar, Ghaziabad, Gonda, Hardoi, Jalaun, Jhansi, Jyotiba Rao Phule Nagar, Kanpur (Rural), Kanpur (Urban), Lalitpur, Lucknow, Lakhimpur, Kheri, Mahamayanagar, Mainpuri, Mathura, Meerut, Moradabad, Muzaffar Nagar, Pilibhit, Raibareilly, Rampur, Saharanpur, Seetapur, Shahjahanpur and Unnao). - Uttaranchal (excluding the districts of Almora, Chamoli, Dehradun, Haridwar, Nainital, Pauri Garhwal, Pithoragarh,

*As amended by Notification No. F. No. 63-Ad(AT)/2001, dated 29-5-2001.

(1)	(2)	(3)
4.	Amritsar Bench (1)	<p>Tehri Garhwal, Udham Singh Nagar and Uttarkashi).</p> <ul style="list-style-type: none"> - Districts of Amritsar, Bhatinda, Faridkot, Firozpur, Gurdaspur, Hoshiarpur, Jalandhar and Kapurthala of Punjab. - State of Jammu & Kashmir.
†5.	Bangalore Benches (3)	<ul style="list-style-type: none"> - Karnataka (excluding the Districts of Belgaum, Mangalore, Karwar and North Kanara).
6.	Calcutta Benches (5)	<ul style="list-style-type: none"> - West Bengal. - Sikkim - Union Territory of Andaman and Nicobar Islands.
7.	Chandigarh Benches (2)	<ul style="list-style-type: none"> - Punjab (excluding the Districts of Amritsar, Bhatinda, Faridkot, Firozpur, Gurdaspur, Hoshiarpur, Jalandhar and Kapurthala). - Haryana (excluding the Districts of Bhiwani, Faridabad, Gurgaon, Hissar, Jhajjar, Karnal, Mohindergarh, Panipat, Rewari, Rohtak and Sonapat). - Himachal Pradesh. - Union Territory of Chandigarh.
8.	Chennai Benches (4)	<ul style="list-style-type: none"> - Tamil Nadu. - Union Territory of Pondicherry excluding Mahe.
9.	Cochin Bench (1)	<ul style="list-style-type: none"> - Kerala. - Union Territories of Lakshadweep, Minicoy and Amindivi Islands. - Mahe of the Union Territory of Pondicherry.
10.	Cuttack Bench (1)	<ul style="list-style-type: none"> - Orissa.
*11.	Delhi Benches (9)	<ul style="list-style-type: none"> - National Capital of Territory of Delhi, districts of Bhiwani, Faridabad, Gurgaon, Hissar, Jhajjar, Karnal, Mohindergarh, Panipat, Rewari, Rohtak and Sonapat of Haryana, Districts of Badaun, Bijnor, Bulandshahr, Gautam Budh Nagar, Ghaziabad, Jyotiba Rao Phule Nagar, Meerut, Moradabad, Muzaffar Nagar,

†As amended by Notification No. F. No. 63-Ad(AT)/2001, dated 19-10-2001.

*As amended by Notification No. F. No. 63-Ad(AT)/2019, dated 24-4-2019. Earlier, it was amended by Notification No. F. No. 63-Ad(AT)/2001, dated 29-5-2001.

(1)	(2)	(3)
		Rampur and Saharanpur of 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 Godavari, West Godavari, Guntur, Krishna, Srikakulam, Vishakhapatnam and Vizianagaram).
*14.	Indore Bench (1)	- Districts of Bhopal, Dewas, Dhar, Indore, Jhabua, Khandwa, Khargon, Mandsaur, Raisen, Ratlam, Sehore, Shajapur, Ujjain and Vidisha of Madhya Pradesh.
*15.	Jabalpur Bench (1)	- Madhya Pradesh (excluding the districts of Bhind, Bhopal, Datia, Dewas, Dhar, Guna, Gwalior, Indore, Jhabua, Khandwa, Khargon, Mandsaur, Morena, Raisen, Ratlam, Sehore, Shajapur, Shivpuri, Ujjain and Vidisha).
16.	Jaipur Bench (1)	- Rajasthan (excluding the Districts of Banswara, Barmer, Bhilwara, Bikaner, Chittorgarh, Churu, Dungarpur, Jaisalmer, Jalore, Jodhpur, Nagaur, Pali, Rajsamand, Sirohi, Sriganganagar and Udaipur).
17.	Jodhpur Bench (1)	- Districts of Banswara, Barmer, Bhilwara, Bikaner, Chittorgarh, Churu, Dungarpur, Jaisalmer, Jalore, Jodhpur, Nagaur, Pali, Rajsamand, Sirohi, Sriganganagar and Udaipur of Rajasthan.
18.	Mumbai Benches (10)	- Mumbai City, Mumbai Suburban and Thane Districts of Maharashtra.
*19.	Nagpur Bench (1)	- Akola, Amravati, Bhandara, Buldhana, Chandrapur, Gadchiroli, Nagpur, Wardha and Yeotmal districts of Maharashtra.
†20.	Panaji Bench (1)	- Goa. - Belgaum, Mangalore, Karwar and North Kanara districts of Karnataka.

*Substituted by Notification F. No. 63-Ad(AT)/2009, dated 16-3-2009. Earlier it was amended by Notification No. F. No. 63-Ad(AT)/2001, dated 29-5-2001.

†As amended by Notification No. F. No. 63-Ad(AT)/2001, dated 19-10-2001.

(i)	(ii)
Patna Bench (1)	State of Bihar
Pune Bench (1)	Maharashtra (excluding the Districts of Bhandara, Chandrapur, Gadchiroli, Mumbai City, Mumbai Suburban, Nagpur, Thane and Wardha).
Rajkot Bench (1)	Districts of Amreli, Bhavnagar, Jamnagar, Junagarh, Kachchh, Rajkot and Surendernagar of Gujarat.
Vishakhapatnam Bench (1)	Territory of Diu of the Union Territory of Daman & Diu.
	Districts of East Godavari, West Godavari, Guntur, Krishna, Srikakulam, Vishakhapatnam and Vizianagaram of Andhra Pradesh.
Lucknow (1)	The Districts of Barabanki, Bareilly, Basti, Bahraich, Faizabad, Gonda, Hardoi, Kanpur (Rural), Kanpur (Urban), Lucknow, Lakhimpur, Kheri, Pilibhit, Raibareilly, Shahjahanpur, Seetapur, Unnao.
Raipur Bench (1)	State of Chhattisgarh.
Ranchi Bench (1)	State of Jharkhand.
Circuit Bench of Dehradun (1)	State of Uttarakhand.

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 Ahmedabad, 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.

*Substituted by Notification F.No. 63-Ad(AT)/2009, dated 16-3-2009. Earlier it was amended by Notification No. F. No. 63-Ad(AT)/2001, dated 29-5-2001.

**Substituted by F.No. 63-Ad(AT)2013, dated 2-7-2013. Earlier, it was inserted by Notification F.No. 63-Ad(AT)/2009, dated 16-3-2009.

†Inserted by Notification No. F. No. 63-Ad(AT)/2019, dated 24-4-2019.

Notification No. F. No. 63-Ad (AT)/97, dated 16-9-1997 as amended by Notification F. No. 63-Ad (AT)/2001, dated 19-10-2001, No. F. No. 63-Ad(AT)/2001, dated 29-5-2001, F. No. 63Ad(AT)/2009, dated 16-3-2009, F. No. 63-Ad (AT)/2013, dated 2-7-2013 and F. No. 63-Ad (AT)/2019, dated 24-4-2019.

CLARIFICATION ONE**Income-tax Appellate Tribunal, Mumbai Amendment**

With reference to the Standing Order dated 16th September, 1997 as amended from time to time, in Column No. (3) against the existing entries at Sl. No. 4 pertaining to the Delhi Benches, the following entries shall be substituted namely:—

S.No.	Name & Number of Benches	Districts/States/Union Territories
(1)	(2)	(3)
1.	Delhi Benches (9)	National Capital of Territory of Delhi, districts of Bhiwani, Faridabad, Gurgaon, Hissar, Jhajjar, Karnal, Mohindergarh, Panipat, Rewari, Rohtak and Sonapat of Haryana, Districts of Badaun, Bijnor, Bulandshahr, Gautam Budh Nagar, Ghaziabad, Jyotiba Rao Phule Nagar, Meerut, Moradabad, Muzaffar Nagar, Rampur and Saharanpur of Uttar Pradesh.

2. Further, the following new entries shall be inserted at as Sl. No. 30 pertaining to the circuit Bench at Dehradun:—

S.No.	Name & Number of Benches	Districts/States/Union Territories
(1)	(2)	(3)
1.	Circuit Bench at Dehradun (1)	State of Uttarakhand.

3. All pending appeals and applications, except in which orders have been reserved after hearing will be governed by the above order.

4. It is further directed that the reference applications, arising out of the orders passed by the Bench where from the jurisdiction is transferred, shall be heard and decided by the Bench to which the jurisdiction now stands transferred.

5. The ordinary jurisdiction of the Bench will be determined not by the place of business or residence of the assessee but the location of the Assessing Officer.

6. All the Appeals and Applications pertaining to the Dehradun Bench shall, however, be received at Delhi Benches till the Dehradun Bench becomes functional. All such appeals and applications shall be separately registered/entered in the relevant registers, meant for the Dehradun Bench and shall be handed over to the Dehradun Bench as and when the said Bench becomes functional, for which the date shall be separately notified in due course.

7. The orders in respect of appeals and applications pertaining to the circuit Bench at Dehradun, which are heard but pending for pronouncement, shall be pronounced at Delhi or at any other station as may be decided and by such Members as may be nominated by the competent authority, till the Dehradun Bench becomes functional.

Notification : No. F. No. 63-Ad(AT)/2019, dated 24-4-2019.

OTHER NOTIFICATIONS AND INSTRUCTIONS

CIRCUIT BENCH OF THE INCOME-TAX APPELLATE TRIBUNAL AT RANCHI

NOTIFICATION ONE

In exercise of the powers conferred under sub-section (5) of section 255 of the Income-tax Act, 1961 read with sub-rule (1) of rule 4 of the Income-tax (Appellate Tribunal) Rules, 1963 the undersigned hereby directs that, subject to any special order, the appeals and applications from the State of Jharkhand shall be heard and determined by Circuit Bench at Ranchi/Jamshedpur during the 2nd fortnight of every alternative month, starting from September, 2001.

2. Due notice regarding the location of the Circuit Bench and specific dates of hearing of the appeals/applications shall be given to all concerned in due course.
3. All appeals and applications pertaining to the State of Jharkhand shall also be received at the Circuit Bench.
4. The above order shall remain effective until further orders.

Notification No. F. 63-Ad (AT)/2001, dated 20-8-2001.

NOTIFICATION TWO

It was directed *vide* Notification No. F. 63-Ad (AT)/2001, dated the 20th August, 2001 (*See Notification One*) of the Income-tax Appellate Tribunal that, subject to any special order, the appeals and applications from the State of Jharkhand shall be heard and determined by a Circuit Bench at Ranchi/Jamshedpur during the 2nd fortnight of every alternative month, starting from September, 2001.

2. In this connection, it is hereby ordered that the exact location of the Circuit Bench of the Income-tax Appellate Tribunal shall be at Ranchi. Specific address of the Circuit Bench shall be notified to all concerned, well in advance of the dates of hearing of Appeals and Applications.

3. It is further clarified and ordered that all appeals and applications pertaining to the State of Jharkhand shall be received at the Circuit Bench at Ranchi during the periods when the Circuit Bench holds its sittings at Ranchi. Till permanent office accommodation is allotted to the Tribunal, the Appeals and Applications shall continue to be received at the Income-tax Appellate Tribunal, Patna during the periods when the above said Circuit Bench is not holding its hearings at Ranchi.

Notification No. F. 63-Ad (AT)/2001, dated 14-9-2001.

DELEGATION OF POWERS & FUNCTIONS TO SENIOR VICE PRESIDENT & VICE PRESIDENTS

In supersession of Order No. VI(A)-Ad(A)/2006, dated the 20th September, 2006 and in exercise of the powers conferred by sub-section (5) of section 252 of the Income-tax Act, 1961 (43 of 1961) as amended by the Finance Act, 1984 (21 of 1984), the

President, Income-tax Appellate Tribunal, hereby delegates to the Senior Vice-President/Vice-Presidents of the various Zones of the Income Tax Appellate Tribunal mentioned in Column (2) of the Schedule below, the powers and functions specified in column (4) in respect of the Bench(es) specified in column (3) thereof, with immediate effect :

SCHEDULE

Sl. No.	Zone	Bench(es)	Powers & functions delegated
(1)	(2)	(3)	(4)
I	Mumbai Benches, Mumbai	1. Mumbai Benches	(i) To constitute Benches within the zonal jurisdiction unless constituted by the President. (ii) To sit in any Bench as one of the Members constituting the Bench.
II	Mumbai Zone	2. Pune Benches 3. Nagpur Bench 4. Panaji Bench 5. Bilaspur Bench	
III	Delhi Zone	6. Delhi Benches 7. Agra Bench	
IV	Kolkata Zone	8. Kolkata Benches 9. Patna Bench 10. Cuttack Bench 11. Guwahati Bench 12. Ranchi Bench	
V	Chennai Zone	13. Chennai Benches	(iii) To transfer any appeal or application from one Bench to another Bench within the zonal jurisdiction.
VI	Ahmedabad Zone	14. Ahmedabad Benches 15. Indore Bench 16. Rajkot Bench	
VII	Chandigarh Zone	17. Chandigarh Benches 18. Amritsar Bench 19. Jaipur Benches 20. Jodhpur Bench	(iv) To inspect, supervise and control the functioning of the Bench(es) within the Zonal jurisdiction.
VIII	Bangalore Zone	21. Bangalore Benches 22. Cochin Bench	
IX	Hyderabad Zone	23. Hyderabad Benches 24. Vishakhapatnam Bench	
X	Lucknow Zone	25. Lucknow Benches 26. Allahabad Bench 27. Jabalpur Bench	

2. The above mentioned powers and functions shall be exercised by the Senior Vice-President/Vice Presidents subject to the overall general superintendence and control of the President, Income Tax Appellate Tribunal.

Notification : No. VI(A)-Ad(AT)/2010, dated 19-10-2010.

INSTRUCTIONS REGARDING STANDARD OPERATING PROCEDURE ON FILING OF APPEALS TO ITAT UNDER SECTION 253 AND RELATED MATTERS

With a view to streamline the process of filing appeals to ITAT and in suppression of the existing Instructions on the subject in general, and Instruction No. 1274 dated 10-8-1979, Instruction No. 1353 dated 9-9-1980, Instruction No. 1387 dated 3-3-1981, Instruction No. 1493 dated 18-11-1982, Instruction No. 1570 dated 4-7-1984, Instruction No. 1894 dated 16-6-1992, and Instruction No. 1921 dated 23-1-1995, in particular, the following Instructions are issued herewith for compliance by all concerned:

Responsibility for Filing of Appeals to ITAT

2. Subject to the Instructions issued by the CBDT for the time being in force on monetary limits for filing appeals under section 268A, the jurisdictional CIT shall be the authority to decide whether to contest an order of the CIT(A), in the light of the facts and circumstances of a particular case and the statutory provisions. While taking decision in the matter, he shall, *inter alia*, take into consideration reports of the authorities below. Once the CIT communicates his decision to contest a particular order of CIT(A), it shall be the responsibility of the Range Head to ensure timely and proper filing of appeal in the ITAT and consequential follow up actions. The actual filing of appeal is to be ensured by the Assessing Officer (AO).

Time Lines for Filing of Appeals in ITAT under section 253 of the Act

3. Time lines, indicating clearly the responsibilities of each level involved in the process, for filing appeals to ITAT have been laid down in Annexure-I to this instruction for strict adherence by all concerned.

4. Appeal Effect and Scrutiny Report

- i. On receipt of the order of the CIT(A), the AO shall give appeal effect promptly and properly. The Range Head shall monitor correctness and timely appeal effect in respect of orders of CIT(A).
- ii. Any pendency in regard to the appeal effect beyond one month shall be reported by the Range Head to the CIT in the DO reporting monthly activities of the Range, along with reasons for the delay.
- iii. With a view to provide relevant inputs to the decision making authority for filing appeals to ITAT, a format for scrutiny report is prescribed herewith at Annexure-II.
- iv. In respect of appeals decided in favour of revenue, the AO shall submit only Part-I of the proforma in Annexure-II to the Range Head and there will be no need to fill in other parts of the proforma in such cases.

5. Quality of Appeals

- i. The CsIT shall ensure that appeals to ITAT are filed only where there is proper justification. Orders of CIT(A) on factual issues should be accepted unless the findings are perverse.
- ii. While giving comments/recommendations or taking decision to contest CIT(A)'s order, the officers concerned shall, *inter alia*, ensure that the following issues have been taken into consideration:

- (a) Facts of the case and basis of addition/disallowance are clearly brought out.
- (b) Reasons for granting relief by the CIT(A) on the relevant issues are clearly spelt out.
- (c) The reasons as to why the CIT(A) was not justified in recording the findings of fact or law on each issue are clearly brought out. Evasive stand or ambiguous language is to be avoided.
- (d) If any factual finding by CIT (A) is inconsistent with or contrary to the material on record, the relevant material should be clearly identified to show perversity.
- (e) Cogent reasons for the decision to file appeal on relevant issues are properly and clearly recorded by the CIT, as this will constitute the basis for further litigation in appropriate cases.
- (f) The grounds of appeal arising out of the order of CIT(A) are carefully drafted to clearly spell out the grievance of the department and the relief sought.
- (g) In case of mixed question of facts and law, the grounds of appeal should clearly bring out specific legal and factual issues to be contested.
- (h) The grounds are precise and not argumentative.
- iii. Along with authorization memo under section 253(2) and grounds of appeal, the CIT shall send a copy of comments of Range Head and reasons for his own decision authorizing appeal to the AO for his record and guidance.
- iv. In case appeal has not been authorized against adverse order of the CIT(A), the decision should be conveyed to the AO along with copy of scrutiny report containing reasons for acceptance.

6. Proper Judicial Record Management System

6.1 The CIT shall, *inter alia*, ensure that once appeal to ITAT is authorized against the order of CIT (A), a separate judicial folder for the assessee for a particular year is maintained in his office. Among other things, the folder should have a copy of relevant assessment order (along with copies of key documents used as evidence in support of additions made), a copy of the remand report, if any, and the scrutiny report submitted by the authorities below.

6.2 Such judicial folder should be easily retrievable for scrutiny of ITAT order or judgment of the High Court, as the case may be, at the time of considering further appeal in the case, if any. A similar judicial folder in respect of assessee's appeal under section 253 filed in ITAT, containing a copy of appeal memo filed by the assessee and other relevant documents should also be maintained for the aforesaid purpose.

7. Transfer of Jurisdiction outside CIT's Charge During Pendency of Appeal

7.1 In case of transfer of jurisdiction over a case from one CIT to another CIT charge during pendency of appeal, the transferor AO shall, while transferring the case records along with the judicial folders in CIT's office to the transferee AO, duly inform the change of jurisdiction to the Registrar ITAT with a copy to his CIT's office. This fact of intimation to the Registrar ITAT shall also be mentioned by him

in the transfer memo. This procedure shall apply to the appeals filed by the department as well as by the assessee.

7.2 In such cases, if the ITAT order is received by the transferor CIT, he shall immediately return the same to the Registrar ITAT referring to the earlier intimation of transfer of jurisdiction and informing that in view of the transfer of jurisdiction it is the transferee CIT who holds jurisdiction over the case and as such the service of the order should be made on him. A copy of the communication to the Registrar should be endorsed to the transferee CIT along with the copy of Tribunal's order for taking further necessary action.

7.3 In case of transfer of jurisdiction over a case involving two different Benches of ITAT during the pendency of appeal, necessary steps shall be taken by the transferor CIT to request the ITAT Bench where the case is pending to transfer the same to the Bench of ITAT having jurisdiction over the cases of transferee AO. The matter may also be coordinated with the transferee CIT.

8. Preparation of Memorandum of Appeals/Papers etc.

The Range Head shall ensure that:

- i. Once the grounds and authorization under section 253(2) for filing appeal are received from CIT, Form No. 36 i.e. Memo of appeal is duly filled-in and filed by AO, with all necessary annexures, in the registry of ITAT before expiry of limitation.
- ii. The ITA No. of the appeal filed is obtained by AO and recorded on other sets (including office copy) of the appeal papers. The Range Head should communicate the same to the CIT within the prescribed time limit as in Annexure-I.
- iii. There is proper vetting of Memorandum of Appeals as regards relevant facts therein before the appeal is actually filed.
- iv. Necessary particulars including the correct PAN, tax effect involved are mentioned.
- v. All annexures including copies of orders of authorities below are properly typed as per ITAT Rules to avoid defects/office objections.
- vi. In case, any document such as agreement, seized papers, depositions etc. are crucial to the issues involved and considered by lower authorities, a copy of the same must be referred to at relevant place in appeal memo and its copy annexed thereto.

9. Filing of Appeal and Subsequent Monitoring

The CIT shall put in place proper mechanism with defined responsibility of different levels of officials in his charge to ensure that:

- i. The appeal is filed in the ITAT within prescribed time limit as in Annexure-I.
- ii. ITA/ WTA Number allotted by the registry is obtained and recorded in judicial folder in CIT's office as mentioned in check list/proforma for scrutiny report on CIT(A) order at Annexure-II.

- iii. In case, the registry of the ITAT notifies any defect, immediate steps are taken by the AO concerned to remove the same with the assistance of the office of CIT (DR) or Senior DR as the case may be.
- iv. One set of appeal memo is kept with the AO for linking the same with the relevant assessment record.
- v. One set of appeal memo is kept in the office of CIT for placing the same in judicial folder.
- vi. The appeals are followed up and the Department is effectively represented at every hearing stage.
- vii. Proper coordination with the Departmental Representative is maintained at every stage by Range Head.
- viii. The details and information called for by the ITAT/DR should be furnished (in quadruplicate) at the earliest and, in any case at least three days before the date fixed for hearing before the ITAT.

10. Appeals/Cross Objections Filed by the Assessee

10.1 In cases where appeal to ITAT against the order of CIT(A) is filed by the assessee (whether department has filed appeal or not), the CIT shall ensure to put in place proper mechanism to examine the desirability of filing cross-objections (CO) in suitable cases. As soon as the memo of appeal filed by the assessee is received, a file should be opened in the office of CIT and assigned a proper identification number incorporating the ITA No. allotted by the ITAT and further necessary action taken.

10.2 Officers have to be alert particularly in those cases where CIT(A)'s order was not acceptable but appeal was not filed as tax effect was below the prescribed limit. If the assessee has filed appeal in ITAT in such cases, the CIT shall direct the AO to file cross-objections against that part of the CIT(A)'s order to which he objects, within statutory time limit.

Compliance of ITAT Directions

11. The CIT shall put in place proper mechanism to ensure timely and due compliance to the directions of the ITAT. Close co-ordination between field officers, CIT (DR) and Departmental Representative in the ITAT has to be ensured so that directions are communicated in time and proper compliance is made to the satisfaction of the Tribunal.

Orders of ITAT containing strictures etc.

12. Orders of the ITAT containing strictures or those which are contrary to Board's orders, notifications, instructions, circulars etc. shall be brought to the notice of the Board (concerned division) immediately by the CIT through CCIT/DGIT under intimation to ITJ section of the Board.

Assistance to Departmental Representatives

13. The Range Head shall ensure that the AO sends a copy of the scrutiny report, comments of Range Head and decision of CIT, to the DR office along with the DR's copy of appeal papers immediately after filing of appeal and obtaining ITA No. Whenever, DR requires any records, clarification or other material, including paper book to be submitted to ITAT, the CIT and Range Head shall ensure that the requirements are complied with promptly.

14. Monitoring Mechanism

i. The CIT shall ensure that appeals to ITAT are filed within prescribed time and pursued properly.

ii. The CIT shall intimate to the CCIT in his monthly DO, the instances of delayed appeals to ITAT along with the reasons and corrective actions taken. The CCIT shall review due adherence to this instruction on a quarterly basis and take appropriate measures in case of deviations.

iii. The cases of material deviations from this instruction, if any, shall be brought to the notice of ITJ section of the Board by the CCIT.

15. This Instruction shall apply to appeals to be filed in ITAT with effect from 22nd August, 2011.

16. Hindi version of instruction to follow.

Note: Reference to the CCIT/CIT in this Instruction includes DGIT/DIT as the case may be.

ANNEXURE I**TIMELINES FOR FILING APPEAL TO ITAT**

Sl No.	Stages	No. of days	Total Time
1.	Receipt of CIT(A)'s order in the office of CIT	0 day	0 day
2.	Sending the order to AO for necessary action along with a copy to Range Head	5 days	5 days
3.	Entry in the relevant register and submission of scrutiny report in prescribed proforma by AO to Range Head after giving appeal effect	25 days	30 days
4.	Submission of recommendation by Range Head on scrutiny report to CIT along with draft grounds of appeal	10 days	40 days
5.	Decision making by the CIT including finalisation of grounds of appeal and sending the same to AO	7 days	47 days
6.	Actual filing of appeal in ITAT by AO	6 days	53 days
7.	Intimation of Diary/lodging to the office of CIT	2 days	55 days

ANNEXURE II

PROFORMA FOR 'SCRUTINY REPORT' ON CIT(A)'S ORDER

Limitation to file appeal under section 253 expires on:

(Parts 1 to 4 are to be filled-in by the AO and 5 to 6 by Range Head)

◆ TO BE FILLED IN ALL THE CASES OF ORDERS OF CIT(A)

1. Particulars from the order under scrutiny

S. No.	Points	Particulars
i.	Name and address of the assessee	
ii.	PAN	
iii.	Assessment Year	
iv.	Appeal No. and date of the order	
v.	Date of receipt of the order in the office of CIT	
vi.	Date of giving appeal effect	
vii.	Overall Tax effect of the order	

◆ TO BE FILLED ONLY WHERE ORDERS OF CIT(A) ARE ADVERSE TO REVENUE

2. Analysis of the order under scrutiny

i.	Whether it is combined order for more than one assessment years	Yes / No
ii.	If yes, specify assessment years involved and identify specific issues related to different assessment years for filing separate appeals. Use Annexure, if required.	
iii.	Whether it is combined order for more than one assessee / group case?	Yes/No
iv.	If yes, whether jurisdiction of all assessees falls in the same Range?	Yes / No
v.	If reply to (iv) above is no, identify the AO/Range /CIT having jurisdiction over other assessees for communication of stand taken on common issues?	
vi.	If the proceeding of order under scrutiny was dependent on some other proceedings (say order under section 263/set aside order/Registration under section 12A/Approval etc.), specify the present appellate status of the other proceedings along with ITA No. /W.P. No. etc.	
vii.	Whether any additional ground was admitted by the CIT(A)?	Yes/No
viii.	If yes, whether the AO was intimated of the new grounds?	Yes/No

ix.	Whether any additional evidence was admitted by CIT(A)?	Yes/No
x.	If yes, whether opportunity to AO was granted under Rule 46A to give comments/counter the same?	Yes/No/NA

3. Scrutiny report on appellate order

A. If the tax effect in I(vii) above is below prescribed monetary limit and case does not fall in any exception of Instruction on monetary limits for filing appeals for the time being in force, detailed scrutiny may not be taken up and only general recommendation as to whether decision of CIT(A) is *prima facie* acceptable on merits or not, may be given.

B. In cases other than at 'A' above, the AO in his scrutiny report shall cover following points, as may be applicable, on each issue where relief is allowed by CIT(A), in a separate Annexure.

i.	Relief allowed by the CIT(A) :— <ul style="list-style-type: none"> ◆ Description of issue involved in brief, ◆ Basis of addition/disallowance made in assessment order, ◆ Reasons for grant of relief by CIT(A), <i>(Relevant page/para No. of assessment order and CIT(A)'s order for each issue may also be specified)</i>
ii.	Tax effect in respect of each issue on which relief is allowed by CIT(A) is to be worked out separately.
iii.	Whether any remand report was called for by the CIT(A)?
iv.	If yes, AO's comments in brief on relevant issues above should be given. Specify whether relief by CIT(A) is in conformity with AO's views in the remand report? <i>(Attach copy of CIT(A)'s letter/order calling for the report and also the remand report submitted by the AO along with assessment order).</i>
v.	Whether any factual finding given by CIT(A) is contrary to the material on record? If yes, specify in detail indicating specific para of order under scrutiny & material on record contradicting such a finding.
vi.	If the decision of CIT(A) is not acceptable, specify reasons (also taking into account the remand report, if any, on the issue)
vii.*	Whether similar issue was involved in the case of assessee in earlier years? If yes, status of appeal etc. may be indicated.
viii.	If the same issue is involved in subsequent year in the case of assessee, the stand/action taken by AO/status of appeal, if any, may be indicated.
ix.	Has CIT(A) relied upon any judicial decision? If yes, has a copy been annexed or citation given in case of reported decisions? (Note: Whether the relied upon decision has been challenged in further appeal? If so, the present status may be given.)

x.	Whether the issue arises out of audit objection?
xi.	If yes, whether audit objection is included in Draft Para? Also state whether Audit objection has been accepted by the department or not.

*Item vii is extremely important, if applicable, (the involvement of issue in earlier year may already be indicated in assessment order or CIT(A)'s order)

4. General

i.	Aggregate of tax effects in 3B(ii) above	
ii.	Whether the tax effect above is below the limit prescribed for filing of appeal in CBDT Instruction on monetary limits?	Yes No NA
iii.	Whether the case falls in any of the exceptions laid down in the said Instruction? If so, specify clause No.?	
iv.	Due date for submission of report to Range head (30 days from the date of receipt of CIT(A)'s order in the office of CIT)	

Submitted to the Addl./Jt. CIT, Range- for kind consideration & further action. The assessment records in volumes are also sent herewith.

Date:

Signature

Place:

Name & Designation of the AO

5. Recommendation of Range head on scrutiny report by AO

i.	For each issue on which relief is allowed by the CIT(A) specify the issue involved with proper referencing— (issues involved to be mentioned in brief, for illustration - <i>disallowance of interest for interest free loan given; repair expenses treated as capital accrual of interest income on Bonds; deduction under section 80-IB etc.</i>)
ii.	Whether any additional evidence was admitted without granting opportunity to AO? If yes, give details.
iii.	Whether any finding of fact given by CIT(A) is inconsistent with material on record, making his order perverse? (see Note below)
iv.	If so, give details and explain which parameters of perversity are satisfied and how? (Refer to Note below)
v.	Whether there are any mistakes apparent from record which require filing of rectification application before CIT(A)?
vi.	Whether the decision of CIT(A) is acceptable on merits? If not, give reasons for each issue.
vii.	Draft specific ground to be taken before ITAT.

6. Final Summary of report

Appeal is recommended on issues Nos. &
Aggregate tax effect on issues on which appeal is recommended	
Due date for submission of report in CIT office (40 days from the date of receipt of CIT(A) order in CIT office)	

Submitted to the CIT- for kind consideration & further action.

Date:

Signature of the Range head

Place:

Name & Designation

7. Decision by the CIT on the scrutiny report

A. Issue-wise decision of the CIT, as to whether appeal is to be filed or not, may be recorded **with reasons**, keeping in view the line of argument the DR is expected to take before ITAT at the time of hearing:

Issue No 1.

Issue No. 2 and so on

Aggregate tax effect on issues proposed to be contested in the ITAT	
---	--

B. Grounds of appeal to be raised before the ITAT may be framed in respect of the issues not accepted by the CIT.

C. In case of a combined order or order in a group case, involving more than one assessee falling under jurisdiction of different CsIT, the CIT shall communicate the stand taken on common issues to the CIT having jurisdiction over other case(s).

8. Categorization of final decision by CIT

A. The appeal is not to be filed

- i. As the order is acceptable on merits, or
- ii. Even though the order is not acceptable, appeal is not being filed only on the consideration that the tax effect is less than the limit prescribed in CBDT's Instruction on monetary limits.

B. Appeal is to be filed on the 'grounds of appeal' framed above

- i. As the order is not acceptable on merits, or
- ii. Though tax effect is below the prescribed limit, the case falls under the exceptions (to be specified) of the Instruction of CBDT on monetary limits.
- iii. Authorisation under section 253(2) of the I.T. Act is issued separately. Appeal to be filed accordingly.

Date:

Name & Signature

Place:

Commissioner of Income-tax

9. Filing of appeal

- i. After decision of the CIT, the DCIT/ACIT/ITO(J) shall send authorization letter and grounds of appeal along with the scrutiny report to the AO and ensure that appeal to ITAT is filed within time limit.
- ii. A copy of scrutiny report is to be sent to the DR along with his copy of appeal papers. (NOT TO BE ENCLOSED WITH OTHER SETS TO BE FILED IN ITAT)

The ITA No. and date of filing should be obtained from AO and recorded.

ITA No. : dated :

Note on perversity:

An order or finding is perverse on facts, if it falls under any of the following categories:

- (a) The finding is without any evidence. Briefly indicate how it is so.
- (b) The finding is contrary to the evidence. Briefly state how it is so with particular reference to documents on record.
- (c) There is no direct nexus between the conclusion of fact and primary fact upon which that conclusion is based? If it is so, briefly state how it is so.
- (d) When an authority draws a conclusion which cannot be drawn by any reasonable person or authority on the material and facts placed before it. (*Sudarshan Silk & Sarees v. CIT* [2008] 300 ITR 205 SC)

Instruction : No. 8/2011, dated 11-8-2011.

E-COURTS - ITAT'S PRACTICE NOTE

In exercise of powers vested in the Income Tax Appellate Tribunal under sub-section (5) of section 255 of the Income-tax Act, 1961, it is directed that appeals and applications fixed before the Income Tax Appellate Tribunal, Nagpur Bench will be heard through Video Conferencing by the Members of the ITAT sitting at ITAT, Mumbai. The President, ITAT will nominate from time to time the Members hearing the cases through Video Conferencing system. This system of hearing through Video Conferencing will be referred to as 'e-Bench'. For the purposes of e-Bench, detailed Regulations alongwith Do's, Don'ts and Forms for use under these Regulations are framed and issued herewith for compliance by all concerned. Appellants, Respondents, authorized representatives, Departmental Representatives and all others concerned are hereby informed accordingly.

**REGULATIONS REGARDING HEARING OF APPEALS
BY VIDEO CONFERENCE**

There shall be no change in the present procedure of filing, scrutiny, hearing and disposal of appeals except modifications stipulated below:

(A) Notifying hearing of appeal by Video Conferencing

1. The President may, by notification issued from time to time, direct that appeals pending before any Bench of the Tribunal shall be heard in addition to hearing in open court and at the option of the parties to an appeal or appeals, through Video Conferencing, by members of the same Bench or members of other Benches, sitting in any other place/Bench/Benches of the Tribunal.

2. For the purpose of E-courts, the Original Bench (OB) shall be the Bench where the appeal is filed or the Bench where such appeal is to be heard in ordinary course. Similarly the bench in which the appeal is fixed for hearing through video conferencing shall be referred to as E-Bench (EB).
3. Necessary infrastructure shall be created and maintained at OB as well as at EB so as to carry out the proceedings for hearing appeals through video conferencing.

(B) Procedure prior to hearing of appeal by Video Conferencing

1. In the notice of hearing, the place of hearing will be mentioned which will be the place of the Office of the OB or such other place within the same city. The notice of hearing shall also specify the place of EB.
2. Along with notice of hearing, a note duly signed by the Assistant Registrar will be enclosed, in which it will be clearly mentioned that hearing will take place at OB/EB through video-conferencing. The same shall be as per Annexure A annexed hereto. In case the assessee or the Department does not want the case to be heard through Video Conferencing, he/they may intimate the registry within a week. The form of such intimation may be as per Annexure B.
3. The cases other than in which the Annexure - B is received from either of the parties will be considered for hearing by the EB. These cases will be marked as EB and will be kept separately.
4. Thereafter, original files in duplicate shall be sent by the office of OB to the office of the EB. Prior to sending the original files, the OB shall create a duplicate copy of the file to be kept ready for the use at the time of hearing by the office of OB, for making office notings/directions etc.
5. One hour before the scheduled time of hearing on a given day, the Bench Clerks will be present in the EB and OB along with the files fixed for hearing for that day and ensure that electronic screen etc. are functioning well before the scheduled time of hearing.
6. Paper Book meant for the members of the E-Bench are to be filed at the place of OB as per existing Rules. However, it is advisable to file the same well in advance to ensure that they are available at EB on the date of hearing.
7. Existing rules do not provide for filing of any loose paper/document at the time of hearing which will be strictly followed in case of EB hearing. In case parties are relying on any un-reported judgments, a copy of the same has to be given to the Bench Clerk at OB who will immediately after hearing forward the same to the members of the EB.

(C) Procedure at the Hearing of Appeal by E-Bench

1. The same practice as is being followed by the Bench in hearing appeals in open court will be followed when the appeal is heard through Video Conferencing, as there is no difference in procedures except that the Bench and Bar are at different places connected electronically.
2. Without prejudice to the generality of what is stated above, the following procedure shall be adopted when the hearing of appeals takes place through Video Conferencing.

3. Bench Clerks sitting at EB and OB will make the entries in the order sheet simultaneously. In case of discrepancy in recording the order sheet at EB and OB, the entry in order sheet maintained at EB shall prevail as it will be signed by the Members. At the conclusion of hearings for the day both Bench Clerks will match the entries of the order sheets and discrepancy if any shall be rectified according to the order sheet of EB and parties may be informed accordingly.
4. As per the existing rules, additional evidence if any, to be filed by the parties has to be in the form of separate paper book which will have to be strictly followed as no loose documents can be accepted at the time of hearing, except with the permission of the Members of Bench subject to no objection by the other party.
5. In the concluded cases, if EB wants any clarification from either party then the same will be listed for rehearing before EB and will be heard in the like manner as adopted in regular course except such hearing will take place through video conference.
6. If the EB thinks fit to examine any witness necessary for deciding appeal before it, the same shall be done by Video Conferencing and the procedure for hearing appeal shall *mutatis mutandis* apply to recording of such evidence.
7. The fact regarding conclusion of hearing will be duly recorded in the file both at the OB as well as at EB, by the concerned Bench Officers of both the Benches.
8. The Registry will ensure that the order once it is signed by both the Members is put on the Net on the same date which will serve the purpose of pronouncement in Open Court as order will become accessible to public.
9. The pronouncement of the orders by the EB will be done by Video Conferencing and such pronouncement shall be done in the same manner as the hearing of appeals by the EB.
10. The same procedure will apply to miscellaneous applications and stay applications also.
11. Within the framework of the procedure referred to above, the EB will be at liberty to adopt its own procedure depending upon the circumstances prevailing at the time of hearing of such appeal. The EB shall ensure that such procedure affords reasonable opportunity of being heard to the parties.

(D) Miscellaneous Regulations

1. Since proceedings before EB are not being recorded nobody will be entitled to ask for replay / copy of the proceedings. However, certified copies of record can be issued to the parties on their application as per existing rules.
2. The records and record of the proceedings before the EB shall be maintained in the same manner and for the same period as the records are being maintained by the Tribunal of appeals which are heard in open court.
3. Certified copy of the order passed by the EB shall be issued to the parties by the OB in the same manner as orders of Benches are issued when appeals are heard in open court.

4. The President by notification issued from time to time, nominate members of the EB from and out of the existing members of the Tribunal. Such nomination shall be in accordance with the provisions of the Income-tax Act, 1961.
5. If any party who earlier has submitted Annexure-A, later on wants to get its appeal decided through E-court then he can submit fresh request as per **Annexure C** and after obtaining no objection from other party the appeal will be listed for hearing before E-court.

ANNEXURE A

DRAFT NOTE TO BE SIGNED BY ASSISTANT REGISTRAR AND TO BE ENCLOSED WITH NOTICE OF HEARING

It may please be noted that hearing of the appeal/application will take place at e-Bench located at

.....
through video conferencing. In case the assessee does not want the case to be heard through e-Bench he may intimate the registry within a week from receipt of this notice. In case no option is received, the hearing shall take place as notified above.

Assistant Registrar

ANNEXURE B

FORM FOR NOT OPTING FOR HEARING OF APPEAL THROUGH VIDEO CONFERENCING

From : The Assessee or A.R of the Assessee / DR

To : The Assistant Registrar of the concerned Bench.

Sir,

Ref: ITA No.....

..... VS.....

With reference to the above, I do not wish that the hearing of the above appeal should take place through Video Conferencing.

Yours faithfully

ANNEXURE C

INCOME TAX APPELLATE TRIBUNAL, MUMBAI

The Assistant Registrar,
Income Tax Appellate Tribunal,

.....
Sub : Withdrawal of Annexure B and option for hearing through E-court.

Ref: ITA No. VS.

I/We had submitted Annexure B opting out for hearing before E-court *vide* letter dated Now I/We withdraw Annexure B and give my/our option for

hearing of captioned appeal through E-Court. Permission may be granted and needful be done.

Thanking you,

Yours faithfully

Copy to:

1. Respondent/Appellant with a request to give their consent or objection as the case may be within a week of receipt of this letter.

ANNEXURE D

MEMORANDUM OF E-HEARING AT ORIGINAL BENCH

Original Bench at

E-Bench at

Date on which files sent to E-Bench

Dates of adjournments sought by assessee or revenue with signature of the AR on the fresh date granted

Documents sent by e-mail to E-Bench with date and time

Date on which case is finally heard

Stamp of hearing with Name of AR and DR

Date on which order finally pronounced at EB

Date on which file received back from E-Bench with the requisite number of copies of orders

Declaration by the BC at OB that all the documents including POA etc. have been received back in original from the EB.

ANNEXURE E

MEMORANDUM OF E-HEARING AT E-BENCH

Original Bench at

E-Bench at

Date on which file received from Original Bench

Date on which P.B. received from Original Bench

Dates of adjournments sought by assessee or revenue

Documents received by e-mail from original Bench with date and time

Date on which case is finally heard

Stamp of hearing with Name of AR and DR

Date on which order finally pronounced

OTHER NOTIFICATIONS AND INSTRUCTIONS

Date on which the order is uploaded

Date on which file sent back to Original Bench with the requisite number of copies of orders.....

Declaration by the BC at EB that all the documents including POA etc. have been sent back in original to the OB.

ANNEXURE F

Order Pronounced by EB at.....on.....BY

JM

AM

Persons Present at OB aton.....

For Assessee:.....

For Department.....

DO's

1. File your appeals normally at the Office of ITAT in your place as prescribed in the Rules.
2. When a notice of hearing comes with communication of hearing by E-Bench, reply immediately in case E-hearing was not acceptable.
3. File paper book, copies of orders etc., at least 15 days before the scheduled day of hearing.
4. Please note that there is no change in the rules, procedures or protocol in E-hearing.
5. Present at the place of Original Bench only.
6. While arguing the case, look at the screen *i.e.*, at the Members of the E-Bench.
7. Speak clearly. Make your submissions normally as if you are in the Court Room.
8. Maintain decorum and silence in the Court Room.

DON'Ts

1. Do not delay in sending Annexure-B in case you do not want E-hearing.
2. Do not delay filing paper book or other documents/orders till the last moment, including the Power of Attorney/Authorization.
3. Do not look at the Camera while arguing your case.
4. Do not shout, as the audio spoils the clarity in your speech.
5. Do not enter into/entertain cross talk in the Court Room.
6. Do not worry about camera angle. The technical aspects of presentation is taken care by Office.

7. Do not submit any documents at the time of hearing. If required, take leave of the Members and follow the instructions given.
8. Do not seek adjournments, unless absolutely necessary.
9. Do not appear at the place of E.B. No personal hearing shall take place at the place of E.B.

Office Order : No. F.1-AD (e-Bench)/AT/2012, dated 9-11-2012.

E-PAYMENTS

Advocates/Chartered Accountant/Authorized Representative and assesseees are hereby informed that in case of E-Payment of Tribunal Fees the respective Challans are to be countersigned by the concerned bank manager or attested by the Authorized Representatives or assesseees themselves. In case of non compliance of these instructions the remittent of Tribunal fees will not be treated valid.

Office Order : F. No. 19-AD(ATD)/2012, dated 13-12-2012.

NEW APPEALS SHOULD NOT BE FIXED ON 60TH DAY OF FILING OF APPEAL

The CIT-DR (Admn.), vide letter dated 27th December, 2012, has expressed their grievance with regard to cases fixed before each Bench, which usually exceed 20. She has stated that due to paucity of manpower with the Department and the large number of fixation, it becomes very difficult for the Departmental Representatives to handle those cases.

2. The policy of fixing the new appeals on the 60th day of filing of appeal was framed when the total pendency of Delhi Benches was reduced to around 5,000 appeals. However, now the pendency of Delhi Benches as on 1st January, 2013 has increased to 11,899. From the last several months, the institution of appeals is much more than the disposal. Out of the nine Benches sanctioned for Delhi, only six Benches are functional. In the above circumstances, the fixation of new appeals on the 60th day of the filing of appeal has become impracticable. Moreover, the variation in the number of appeals fixed for hearing each day is mainly because of fixation of new appeals on the 60th day. In the above circumstances, in my opinion, the policy of fixing the new appeals on the 60th day of the filing of appeal should be dispensed with for the time being. These new cases are to be fixed in regular course.

3. Accordingly, the following directions are issued:—

- (i) The new appeals should not be fixed on the 60th day of filing of appeal but should be kept pending and be fixed in due course.
- (ii) It is to be ensured that the cases fixed before each Bench every day should not exceed 20 except covered or group matters. If on any day the regular cases fixed are much more than 20, then, after taking the order from the Vice-President, the excess cases should be adjourned to the next available date.

4. The above letter of the Department is to be circulated to the learned Members of Delhi Benches so that they can keep in mind the grievance expressed by the Department.

Instruction : Dated 21-1-2013.

WORK ALLOCATION OF DEPARTMENTAL REPRESENTATIVES BEFORE ITAT

1. Reference is invited to Board's earlier Instruction No. 13/2008, dated 18-9-2008 on the subject of work allocation of CIT(DRs)/Sr. DRs.

In supersession of earlier instructions on this subject, the Board has decided to lay down the following parameters for allocation of work between the CIT(DRs) and the Sr. DRs for representation before ITAT.

2. The allocation of work between the CIT(DRs) and Sr. DRs would be as under :

[A] Cases to be argued by the CIT(DRs) :

- (i) All appeals relating to Search cases/Block assessments.
- (ii) All appeals referred to a Special Bench or Third Member Bench of ITAT and fixed for hearing. However, the Sr. DR/CIT(DR) who argued the matter earlier may assist/argue the matter before the Special or Third Member Bench.
- (iii) All appeals filed against order passed under section 263 of the Income-tax Act, 1961.
- (iv) All appeals in DRP Matters.
- (v) All appeals challenging the order of CIT under sections 12A and 80G of the Act.
- (vi) All appeals in assessment cases, in which the aggregate of the additions made by the A.O. which are under dispute/subject-matter of appeal in a case, is more than;
 - (a) Rs. 10 crores in the cities of Mumbai and Delhi.
 - (b) Rs. 6 crores in the cities of Chennai, Kolkata, Ahmedabad, Hyderabad, Bangalore and Pune.
 - (c) Rs. 3 crores in other cities.
- (vii) All appeals against imposition of penalty or levy of interest, in which the aggregate of penalty imposed or interest levied by the A.O. which are under dispute/subject-matter of appeal in a case, is more than;
 - (a) Rs. 3 crores in the cities of Mumbai and Delhi.
 - (b) Rs. 2 crores in the cities of Chennai, Kolkata, Ahmedabad, Hyderabad, Bangalore and Pune.
 - (c) Rs. 1 crore in other cities.

[B] Cases to be argued by Sr. DRs :

All cases other than those mentioned above.

3. The CIT(DR), in relaxation of 2[A](i), may allocate cases to Senior DRs, keeping in view the monetary limits stated in 2[A](vi), in cases where the appeal does not involve any issue which is either complex or has general applicability to other cases. The allocation, however, shall be made under intimation to CCIT and in case of any difficulty regarding allocation of cases, decision of the CCIT will be final.

4. The CCIT, in relaxation of the above parameters, may assign cases from CIT(DRs) to Sr. DRs or *vice versa* in consideration of administrative requirements.

5. The CIT(DRs)/Sr. DRs would also submit a monthly performance report on the cases/category of cases represented by them before the Bench in the prescribed proforma which is enclosed as Annexure 'A'. This should be brought to the notice of all CIT(DRs) and Sr. DRs for immediate compliance.

6. The CCIT referred to in this Instruction shall mean the Chief Commissioner of Income-tax incharge of ITAT matters.

ANNEXURE 'A'

PROFORMA FOR REPORTING CASES HANDLED BY CIT(DR) BEFORE ITAT

Name of the CCIT Charge/Region :

Name & Designation of the CIT(DR) :

REPORT FOR THE MONTH OF

Category	Appeals relating to cases of search/Block assessment	Appeals referred to Special Bench or Third Member Bench of ITAT	Appeals against order passed under section 263 of the Act	Appeals in DRP Matters	Appeals challenging the order of CIT under sections 12A and 80G of the Act	Cases required to be argued by the CIT(DR) as per para 2(A)(vi) of the Instruction	Cases required to be argued by the CIT(DR) as per para 2(A)(vii) of the Instruction	Cases assigned by the CCIT as per para 4 of the Instruction	Total
No. of cases represented									
No. of adjournment sought									

[CIT (DR) ITAT]

PROFORMA FOR REPORTING CASES HANDLED BY Sr. DR BEFORE ITAT

Name of the CCIT Charge/Region :

Name & Designation of the Sr. DR :

REPORT FOR THE MONTH OF

Category	Cases where amount of addition in dispute is below Rs. 3 crores	Cases where amount of addition in dispute is between Rs. 3 crores and Rs. 6 crores	Cases where amount of addition in dispute is between Rs. 6 crores and Rs. 10 crores	Cases where imposition of penalty or levy of interest is below Rs. 1 crore	Cases where imposition of penalty or levy of interest is between Rs. 1 crore and Rs. 2 crores	Cases where imposition of penalty or levy of interest is between Rs. 2 crores and Rs. 3 crores	Cases assigned as per para 3 of the Inst.	Cases assigned as per para 4 of the Inst.	Total
No. of cases represented									
No. of adjournment sought									

[Sr. DR ITAT]

Instruction : No. 9/2013 [F. No. 279/MISC./M-82/2011-ITJ], dated 22-7-2013

INCOME-TAX APPELLATE TRIBUNAL MEMBERS (RECRUITMENT AND CONDITIONS OF SERVICE) RULES, 1963

[NOTIFICATION NO. GSR 1265, DATED 27-7-1963]

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers enabling him in that behalf, the President hereby makes the following rules regulating the recruitment and conditions of service of persons appointed as members of the Income-tax Appellate Tribunal, namely:—

Short title and commencement.

1. (1) These rules may be called the Income-tax Appellate Tribunal Members (Recruitment and Conditions of Service) Rules, 1963;

(2) Rule 4 shall come into force at once, rule 3 shall be deemed to have come into force on 1st day of April, 1962 and the remaining rules shall be deemed to have come into force on the 1st day of September, 1960.

Definitions.

2. In these rules, unless the context otherwise requires,

- (a) an "accountant member" means an accountant member of the Tribunal;
- (b) a "judicial member" means a judicial member of the Tribunal;
- (c) a "member" means a member of the Tribunal but except for the purposes of rules 3(3), 3(4), 8, 12 and 13 does not include the President; Senior Vice-President and Vice-President;

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

(dd) "Vice-President" means Vice-President of the Tribunal;

(f) the "Tribunal" means the Appellate Tribunal constituted under section 252 of the Income-tax Act, 1961 (43 of 1961).

Qualifications for Recruitment.

3. (1) A person shall not be qualified for appointment as a judicial member unless:—

(i) he has for at least ten years held a judicial office in the territory of India;
or

(ii) he has been a member of the Indian Legal Service and has held a post in grade II of the Service or any equivalent or higher post for at least three years; or

(iii) he has been an advocate for at least ten years;

*Explanation:—*For the purposes of this sub-rule:—

- (i) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period after he has held any judicial office, during which the person has been an advocate or has held the office of a member of a Tribunal or any post under the Union or a State, requiring special knowledge of law;
- (ii) in computing the period during which a person has been an advocate, there shall be included any period during which the person has held judicial office or the office of a member of a Tribunal or any post, under the Union or a State, requiring special knowledge of law after he became an advocate.

(2) A person shall not be qualified for appointment as an accountant member unless:—

- (i) he has for at least ten years been in the practice of accountancy—
 - (a) as a chartered accountant under the Chartered Accountants Act, 1949 (38 of 1949); or
 - (b) as a registered accountant under any law formerly in force; or
 - (c) partly as such registered accountant and partly as a chartered accountant; or
- (ii) he has been a member of the Indian Income Tax Service Group 'A' and has held the post of Additional Commissioner of Income Tax or any equivalent or higher post for at least three years.

(3) A person shall not be qualified for appointment as a member if:—

- (i) he is less than thirty-five years of age; or
- (ii) he is more than fifty years of age; provided that the upper age limit may be relaxed:
 - (a) in the case of Government servants up to five years in accordance with the instructions or orders issued by the Central Government; and
 - (b) in case of a person belonging to a Scheduled Caste or a Scheduled Tribe or to any special category specified by the Central Government, to such extent as may be specified in the general orders made by the Central Government relating to recruitment of such persons to Government service.

(4) No person:—

- (a) who has entered into or contracted a marriage with a person having a spouse living; or
- (b) who, having a spouse living, has entered into or contracted a marriage with any person shall be eligible for appointment as member :

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and there are other grounds for so doing, exempt any person from the operation of this rule.

Method of Recruitment.

4. (1) There shall be a Selection Board consisting of:—

- (i) a nominee of the Minister of Law;
- (ii) the Secretary to the Government of India, Ministry of Law (Department of Legal Affairs);
- (iii) the President or the Senior Vice-President of the Tribunal, and
- (iv) such other person, if any, not exceeding two, as the Minister of Law may appoint.

(2) The nominee of the Minister of Law and Justice shall be the Chairman of the Selection Board.

(3) The Selection Board shall recommend persons for appointment as members from amongst the persons on the list of candidates prepared by the Ministry of Law after inviting applications therefor by advertisement or on the recommendations of the appropriate authorities.

(4) The Central Government shall after taking into consideration the recommendations of the Selection Board make a list of persons selected for appointment as member.

Procedure of selection.

4A. The Selection Board shall evolve its own procedure:

Provided that where the suitability of the candidate is judged from his or her *viva voce*, each member shall evaluate the performance and award marks out of the maximum marks fixed by the Board :

Provided further that where the Selection Board is of the opinion that it shall not be practicable to call all the candidates for the *viva voce*, it shall short list the candidates for this purpose by adopting such criteria which shall not be less than the following criteria:—

(i) for accountant member

- (a) a member of the Indian Income-tax Service Group 'A' and has held the post of Commissioner of Income-tax or any equivalent or higher post for at least three years; or
- (b) a person who has for at least twenty years been in the practice of accountancy as a Chartered Accountant under the Chartered Accountants Act, 1949 (38 of 1949) or partly as such registered accountant and partly as a Chartered Accountant and has net taxable income of not less than Rs.1,40,000 (after allowable exemptions or deductions).

(ii) for judicial member

- (a) a member of judicial service who has held a post of District and Sessions Judge or Additional District and Sessions Judge for not less than seven years; or
- (b) a person who has been practising as an Advocate for at least twenty years and who has net taxable income of not less than Rs. 1,40,000 (after allowable exemptions or deductions); or

- (c) a member of the Indian Legal Service who has held a post a Grade-I of that service or any equivalent or higher post for at least three years; or
- (d) a person who has held judicial office or the office of a member of a Tribunal or any post under the Union or a State requiring special knowledge of law after he became an Advocate or judicial officer, having a combined experience of twenty years :

Provided also that in case of candidates belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes Categories, the Selection Board may adopt such criteria as it may deem fit, but which shall not be less than the eligibility criteria prescribed under sub-sections (2) and (2A) of section 252 of the Income-tax Act, 1961 (43 of 1961) and rule 3.

Medical Fitness.

5. No person shall be appointed as a member unless he is included in the list made under sub-rule (4) of rule 4 and unless he is declared medically fit by a Medical Board to be constituted by the Central Government for the purpose, unless he has already been declared fit by an equivalent authority.

Probation.

6. (1) Every person appointed as member shall be on probation for a period of two years.

(2) The Central Government may in the case of any person extend or reduce the period of his probation.

(3) At any time during the period of probation and without any reasons being assigned, such person may be discharged from service as a member.

7. to 7B. *[Omitted by the Income-tax Appellate Tribunal Members (Recruitment and Conditions of Service) Amendment Rules, 2014, w.e.f. 10-3-2014.]*

Selection Committee to select President, etc.

2[7.] The Selection Committee consisting of a sitting Supreme Court Judge, to be nominated by the Chief Justice of India, the President and the Secretary, Ministry of Law and Justice (Department of Legal Affairs), based on merit, shall recommend persons for appointment as President, Senior Vice-President and Vice-Presidents.

1. Prior to their omission, rules 7 to 7B read as under :

***7. The President.**—(1) The Central Government shall appoint the Senior Vice-President or one of the Vice-Presidents of the Appellate Tribunal to be the President thereof.

(2) The appointment of the President may be in an officiating or substantive capacity.

7A. The Central Government may appoint from among the Members one or more persons as Vice-President or, as the case may be Vice-Presidents of the Tribunal to assist the President in the discharge of his functions.

7B. The Senior Vice-President.—The Central Government may appoint one of the Vice-Presidents of the Appellate Tribunal appointed under rule 7A, to be the Senior Vice-President thereof.

2. Rule 7C renumbered as rule 7 by the Income-tax Appellate Tribunal Members (Recruitment and Conditions of Service) Amendment Rules, 2014, w.e.f. 10-3-2014.

Classification.

8. A member shall be a member of the General Central Service, Class I (Now Group A), Gazetted unless he is a member of any other Central Government Civil Service.

Pay and Allowances.

9. (1) (a) The President shall be in the Apex Scale of Rs. 80,000 per month (fixed);
(b) the Senior Vice-President shall be in the Apex Scale of Rs. 80,000 per month (fixed);

(c) the Vice-President shall be in the Higher Administrative Grade plus Scale of Rs. 75,500 (annual increment @ 3%) - Rs. 80,000 per month; and

(d) Member shall be in the Higher Administrative Grade plus Scale of Rs. 75,500 (annual increment @ 3%) - Rs. 80,000 per month.

(2) In addition to the pay scale specified in sub-rule (1), the President, the Senior Vice-President, the Vice-President and the member shall be entitled to such allowances and other benefits as are admissible to the Central Government officers of the appropriate category and subject to the conditions laid down in rules and orders of the Central Government governing the grant of such allowances and benefits in force from time to time.

(3) Where a serving Judge of a High Court is appointed as the President, he shall be entitled to a monthly salary at the same rate as is admissible to a Judge of the High Court:

Provided that where a retired Judge of the High Court is appointed as the President, his monthly salary shall be reduced by the gross amount of pension or employer's contribution to the Contributory Provident Fund or any other form of retirement benefit, if any, drawn or to be drawn by him.

(4) A sitting or retired Judge of the High Court appointed as the President shall be entitled to such allowances and other benefits as are admissible to a sitting Judge of the High Court of Bombay.]

Seniority.

10. (1) Seniority of a member shall be determined in accordance with the date of the list of persons selected for appointment as members made under sub-rule (4) of rule 4.

(2) If two or more members are selected by the same list seniority of such members *inter se* shall be determined in accordance with their ranking in that list.

1. Substituted by the Income-tax Appellate Tribunal Members (Recruitment and Conditions of Service) Amendment Rules, 2014, w.e.f. 10-3-2014. Prior to its substitution, rule 9 read as under :

"9. Pay.—The pay of the :

1. President shall be Rs. 26000 p.m. (fixed)
2. Sr. Vice-President shall be Rs. 26000 p.m. (fixed)
3. Vice-President shall in the scale of Rs. 24050-650-26000 p.m.
4. Member shall be in the scale of Rs. 22400-600-26000 p.m."

Retirement.**11. The date of retirement of,—**

- (a) the President shall be the date on which he attains the age of sixty-five years;
- (b) the Senior Vice-President, Vice-President and Member shall be the date on which they attain the age of sixty-two years,

and not the last date of the month as in the case of other Government servants.

Retirement benefit.

12. (1) A member who, at the time of his appointment as member was holding a pensionable post under a Government in a permanent capacity shall be eligible for pension in accordance with the rules for pension applicable to him at the time of his retirement.

(2) A member to whom sub-rule (1) does not apply shall be entitled to Contributory Provident Fund benefits in accordance with the Contributory Provident Fund Rules (India), 1962 :

Provided that:

- (i) A member appointed in a substantive capacity prior to the commencement of this rule and serving as a member at such commencement and a member appointed in a substantive capacity after the commencement of this rule but before the commencement of rule 4 may, if he was a subscriber to the Contributory Provident Fund at the time of his appointment in a substantive capacity, elect, within three months from the date of publication of these rules in the Official Gazette, for pensionary benefits; and
- (ii) A member appointed in a substantive capacity after the commencement of rule 4 may elect for pensionary benefits within three months of his appointment in a substantive capacity.

(3) A member shall communicate his election under clause (i) or (ii) to the proviso to sub-rule (2), to the Accounts Officer concerned with a copy to the Secretary, Ministry of Law, Department of Legal Affairs, within the period specified therefor, and if no communication is received in the office of the Accounts Officer concerned within that period, the member shall be deemed to have exercised his election to continue to subscribe to the Contributory Provident Fund, in which case he shall not be entitled to any pension.

(4) Election once made under the proviso to sub-rule (2) shall be final.

(5) A member recruited directly from the profession (Legal Profession or accountants profession) after the age of thirty-five years shall be eligible to add to his service qualifying for superannuation pension (but not for any other class pension) the actual period not exceeding one-fourth of the length of service or the actual period by which the age at the time of recruitment exceeded twenty-five years, or a period of five years, whichever is less, provided that this concession shall not be admissible to a member unless the actual qualifying service at the time he quits Government Service is not less than ten years.

Other Conditions of Service.

13. The conditions of service of a member in respect of matters for which no provision is made in these rules shall be the same as may for the time being be applicable to other employees of the Government of India of a corresponding status.

13A. [Omitted.]

13B. [Omitted.]

13C. [Omitted.]

13D. [Omitted.]

13E. The President, the Senior Vice-President, the Vice-President and the Member of the Tribunal shall not practise before the Tribunal after retirement from the service of the Tribunal.

13F. The President, the Senior Vice-President, the Vice-President and the Member of the Tribunal shall not undertake any arbitration work while functioning in these capacities in the Tribunal.

Interpretation.

14. If any question arises relating to the interpretation of these rules the decision of the Central Government thereon shall be final.

Power to relax.

15. Where the Central Govt. is of the opinion that it is necessary or expedient so to do, it may, by order for reasons to be recorded in writing relax any of the provisions of these rules with respect to any class or category of persons.

Saving.

16. Nothing in these rules shall effect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, Ex-Servicemen and other special categories of persons, in accordance with the orders issued by the Central Government from time to time in this regard.

Subject Index

Act

- definition of, R. 2(i)

Additional evidence

- production of, before Tribunal, R. 29
- mode of taking, R. 30
- to be submitted to Tribunal, R. 31

Adjournment

- of appeal, R. 32

Affidavit

- filing of, R. 10

Appeal

- procedure for filing of, R. 6
- date of presentation of, R. 7
- contents of memorandum of, R. 8
- what to accompany memorandum of, R. 9
- grounds which may be taken in, R. 11
- rejection or amendment of memorandum of, R. 12
- by assessee, who may be joined as respondent, R. 13
- by AO, who may be joined as respondent, R. 14
- what to accompany memorandum of, u/s 253(2), R. 15
- date and place of hearing of, to be notified by Tribunal, R. 19
- date and place of hearing of, how fixed, R. 20
- grant of time to answer in, u/s 253(1), R. 21
- hearing of, R. 23
- hearing of, *ex parte* for default by appellant
 - restoration of, proviso to, R. 24
- hearing of, *ex parte* for default by respondent, R. 25
- adjournment of, R. 32
- applications
 - procedure for dealing with, u/s 254(2), R. 34A

Authorised representative

- definition of, R. 2(ii)
- authorising, to appear in appeal, R. 16
- to file authorisation, R. 17
- dress regulations for, R. 17A(ii)

Bench

- definition of, R. 2(iii)
- sittings of, R. 3
- powers of, R. 4
- order of the, to be signed and dated, R. 34
- same, to hear application, R. 40

- same, to deal with requisition from High Court, u/s 256(2), R. 47
- to receive judgment of High Court, R. 48

Commencement

- of Rules, R. 1(2)

Copying fees

- scale of, R. 49

Cross-objections

- memorandum of, to be registered and numbered, R. 22

Documents

- filing of, in Hindi, R. 5A

Dress

- for members, R. 17A(i)
- for authorised representatives, R. 17A(ii)

Hearing of appeal

- Tribunal to notify date and place for, R. 19
- date and place of, how fixed, R. 20
- procedure for, R. 23
- *ex parte*, R. 25

High Court

- requisition from, same Bench to deal with, R. 47
- copy of judgment of, to be sent to Bench, R. 48

Hindi

- filing of documents in, R. 5A
- use of, in proceeding and orders, R. 5B
- order passed in, to be accompanied by an authorised English translation, proviso to, R. 5B

Inspection of records

- fees for, R. 50

Member

- definition of, R. 2(iv)

Memorandum of appeal

- contents of, R. 8
- what to accompany, R. 9
- ground that may be taken in, R. 11
- rejection or amendment of, R. 12
- what to accompany, u/s 253(2), R. 15

Order

- passed in Hindi, to be accompanied by an authorised English translation, R. 5B
- to be signed and dated, R. 34
- to be communicated to parties, R. 35

Paper book

- preparation of, R. 18

Prescribed form

- definition of, R. 2(v)

President

- definition of, R. 2(vi)

Proceedings

- use of Hindi in, R. 5B
- continuation of, after death or adjudication of parties to the appeal, R. 26
- not open to the public, R. 33

Reference application

- what to accompany, R. 36
- procedure in respect of, R. 37
- by assessee, who may be joined as respondent, R. 38
- by Commissioner, who may be joined as respondent, R. 39
- the same Bench of Tribunal which heard appeal to hear, R. 40
- reply to, Rr. 41, 42
- dismissal of, if no question of law arises, R. 43
- order on, to be communicated to parties, R. 46

Registrar

- definition of, R. 2(vii)
- powers and functions of, R. 4A

Remand

- of the case by Tribunal, R. 28

Reply to reference application

- time for submission of, R. 41
- contents, R. 42

Respondent

- who may be joined as, in appeal by assessee, R. 13
- who may be joined as, in appeal by AO, R. 14
- may support order on grounds decided against him, R. 27
- who may be joined as in reference application by assessee, R. 38
- who may be joined as, in reference application by Commissioner, R. 39

Section

- definition of, R. 2(viii)

Senior Vice-President

- definition of, R. 2(ix)

Statement of case

- when to be prepared, R. 44
- what to accompany, R. 45

Stay petition

- procedure for filing and disposal of, R. 35A

Tribunal

- definition of, R. 2(x)
- language of, R. 5

Vice-President

- definition of, R. 2(xi)

DIVISION 4

COMMODITIES TRANSACTION TAX RULES, 2013

Arrangement of Rules

RULE	PAGE
1. Short title and commencement	4.3
2. Definitions	4.3
3. Agricultural commodities	4.3
4. Rounding off value of taxable commodities transaction, commodities transaction tax, etc.	4.5
5. Payment of commodities transaction tax	4.6
6. Return of taxable commodities transactions	4.6
7. Return by whom to be signed	4.6
8. Time limit to be specified in the notice calling for return of taxable commodities transaction	4.7
9. Notice of demand	4.7
10. Prescribed time for refund of tax to the person from whom such amount was collected	4.7
11. Form of appeal to Commissioner of Income-tax (Appeals)	4.7
12. Form of appeal to Appellate Tribunal	4.7
APPENDIX	
FORM NO. 1 : Return of taxable commodities transactions	4.7
FORM NO. 2 : Notice of demand	4.10
FORM NO. 3 : Appeal to the Commissioner of Income-tax (Appeals) Designation of the Commissioner (Appeals)	4.11
FORM NO. 4 : Form of appeal to the Appellate Tribunal	4.13

COMMODITIES TRANSACTION TAX RULES, 2013

NOTIFICATION NO. SO 1769(E), DATED 19-6-2013

In exercise of the powers conferred by sub-sections (1) and (2) of section 133 of the Finance Act, 2013 (17 of 2013), the Central Government hereby makes the following rules relating to commodities transaction tax, namely:—

Short title and commencement.

1. (1) These rules may be called the Commodities Transaction Tax Rules, 2013.
- (2) They shall come into force on the 1st day of July, 2013.

Definitions.

2. (1) In these rules, unless the context otherwise requires,—

- (a) "Act" means the Finance Act, 2013 (17 of 2013);
- (b) "authorised bank" means any bank as may be appointed by the Reserve Bank of India as its agent under the provisions of sub-section (1) of section 45 of the Reserve Bank of India Act, 1934 (2 of 1934);
- (c) "Form" means a Form set out in the Appendix to these rules.

(2) Words and expressions used and not defined in these rules but defined in the Act, the Forward Contracts (Regulation) Act, 1952 (74 of 1952), the Income-tax Act, 1961 (43 of 1961), or the rules made thereunder, shall have the meanings respectively assigned to them in those Acts and rules.

[Agricultural commodities.

3. For the purposes of clause (7) of section 116 of the Act, the agricultural commodities shall be the following, namely:—

- (i) Almond

1. Substituted by the Commodities Transaction Tax (First Amendment) Rules, 2015, w.e.f. 10-2-2015. Prior to its substitution, rule 3 read as under :

"3. *Agricultural commodities.*—For the purposes of clause (7) of section 116 of the Act, the agricultural commodities shall be the following, namely:—

- (i) Almond
- (ii) Barley
- (iii) Cardamom
- (iv) Castor Seed
- (v) Channa/Gram
- (vi) Copra
- (vii) Coriander/Dhaniya
- (viii) Cotton

(Contd. on p. 44)

- (ii) Barley
- (iii) Cardamom
- (iv) Castor Seed
- (v) Channa/Gram
- (vi) Copra
- (vii) Coriander/Dhaniya
- (viii) Cotton
- (ix) Guar Seed
- (x) Isabgul Seed
- (xi) Jeera (Cumin Seed)
- (xii) Kapas
- (xiii) Maize Feed/Maize
- (xiv) Pepper
- (xv) Potato
- (xvi) Rapeseed/Mustard Seed
- (xvii) Raw Jute
- (xviii) Red Chilli/Chillies
- (xix) Soya bean/seed
- (xx) Soymeal
- (xxi) Turmeric
- (xxii) Wheat
- (xxiii) Aniseed
- (xxiv) Arhar Chuni
- (xxv) Bajra
- (xxvi) Betelnuts
- (xxvii) Celeryseed

(Contd. from p. 4.3)

- (ix) Cotton seed Oilcake/Kapasias Khali
- (x) Guar Seed
- (xi) Isabgul Seed
- (xii) Jeera (Cumin Seed)
- (xiii) Kapas
- (xiv) Maize Seed
- (xv) Pepper
- (xvi) Potato
- (xvii) Rape/Mustard Seed
- (xviii) Raw Jute
- (xix) Red Chilli
- (xx) Soya bean/seed
- (xxi) Soymeal
- (xxii) Turmeric
- (xxiii) Wheat"

- (xxviii) Chara or Berseem (Including Chara seed or Berseem seed)
- (xxix) Cinnamon
- (xxx) Cloves
- (xxxi) Cotton pods
- (xxxii) Cotton seed
- (xxxiii) Ginger
- (xxxiv) Gram Dal
- (xxxv) Gram Husk (Gram Chilka)
- (xxxvi) Groundnut
- (xxxvii) Jowar
- (xxxviii) Kulthi
- (xxxix) Lakh (Khesari)
- (xl) Linseed
- (xli) Masur
- (xlii) Methi
- (xliii) Moth
- (xliv) Mung
- (xlv) Mung Chuni
- (xlv) Mung Dal
- (xlvii) Nutmeg
- (xlviii) Onion
- (xlix) Peas
- (l) Ragi
- (li) Rice Bran
- (lii) Rice or Paddy
- (liii) Safflower
- (liv) Seedlac
- (lv) Sesamum (Til or Jiljilli)
- (lvi) Small Millets (KodanKulti, Kodra, Korra, Vargu, Sawan, Rala, Kakun, Samai, Vari and Banti)
- (lvii) Sunflower seed
- (lviii) Tur (Arhar)
- (lix) Tur Dal (Arhar dal)
- (lx) Urad (Mash)
- (lxi) Urad Dal]

Rounding off value of taxable commodities transaction, commodities transaction tax, etc.

4. The value of taxable commodities transaction and the amount of commodities transaction tax, interest and penalty payable, and the amount of refund due,

under the provisions of Chapter VII of the Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

Payment of commodities transaction tax.

5. Every recognised association, who is required to collect and pay commodities transaction tax under section 119 of the Act, shall pay the amount of such tax to the credit of the Central Government by remitting it into any branch of the Reserve Bank of India or of the State Bank of India or of any authorised Bank accompanied by a commodities transaction tax challan.

Return of taxable commodities transactions.

6. (1) The return of taxable commodities transactions required to be furnished under sub-section (1) of section 120 of the Act shall be in Form No. 1, verified in the manner indicated therein, and may be furnished in any of the following manners, namely:—

- (i) furnishing the return in paper form;
- (ii) furnishing the return electronically under digital signature:

Provided that where the return is furnished in the manner provided in clause (i) the particulars required to be furnished in the Schedules to Form No. 1 referred to in sub-rule (1) shall be furnished on a computer media, in accordance with the following,—

- (a) the computer media conforms to the following specifications:—

- (i) CD ROM of 650 MB capacity or higher capacity; or
 - (ii) Digital Video Disc;

- (b) if the data relating to the Schedules are copied using data compression or backup software utility, the corresponding software utility or procedure for its decompression or restoration shall also be furnished; and
 - (c) the return shall be accompanied by a certificate regarding clean and virus free data.

(2) The return of taxable commodities transaction entered into during a financial year shall be furnished on or before the 30th June immediately following that financial year.

(3) The Director-General of Income-tax (Systems) shall specify the procedures, formats and standards for ensuring secure capture and transmission of data and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to furnishing the returns in the manners specified in clause (ii) of sub-rule (1).

Return by whom to be signed.

7. The return under sub-section (1) of section 120 of the Act shall be signed and verified in the case of a recognised association,—

- (i) being a company, by the managing director or a director thereof; and
- (ii) in any other case, by the principal officer thereof.

<div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div> <div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div> <div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div> <div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div> <div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div> <div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div>															Seal and Signature of Receiving Official
2. ADDRESS OF THE RECOGNISED ASSOCIATION															
<div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div> <div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div> <div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div> <div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div> <div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div>															
3. PERMANENT ACCOUNT NUMBER (PAN)															
<div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div>															
4. FINANCIAL YEAR															
(TRANSACTIONS RELATING TO WHICH ARE REPORTED) -															
<div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div>															
5. WARD/CIRCLE/RANGE															
<div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div>															
[Schedule] (In Rs.)															
6. VALUE OF TAXABLE COMMODITIES TRANSACTIONS (A[12])															
<div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div>															
7. TOTAL COMMODITIES TRANSACTION TAX COLLECTABLE (A[13])															
<div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div>															
8. TOTAL COMMODITIES TRANSACTION TAX COLLECTED (B[4])															
<div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div>															
9. TOTAL COMMODITIES TRANSACTION TAX PAID (B[5])															
<div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div>															
10. COMMODITIES TRANSACTION TAX PAYABLE/REFUNDABLE (7-9)															
<div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div>															
11. INTEREST PAYABLE UNDER SECTION 123 (B[6])															
<div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div>															
12. INTEREST PAID (B[7])															
<div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 2px;"></div>															

VERIFICATION

I, _____ (full name in block letters), son/daughter of _____ having permanent account number _____ solemnly declare that to the best of my knowledge and belief the information given in this return and schedules accompanying it is correct and complete and that the total value of taxable commodities transactions and other particulars shown therein are truly stated and are in accordance with provisions of Chapter VII of the Finance Act, 2013 and Commodities Transaction Tax Rules, 2013.

I further declare that I am making this return in my capacity as _____ and I am also competent to make this return and verify it.

Date _____

Place _____

(Name and Signature)

SCHEDULE-A

Sl No.	Clearing member code	Member name	Member Code		PAN of member	Details of intermediary, if any		Client name	Client PAN	Unique client code	Value of taxable commodities transactions (in Rs.)	Commodities transactions (in Rs.)
			Regulator/ FMC unique member code	Association Member code		Name	PAN					
1	2	3	4	5	6	7	8	9	10	11	12	13
TOTAL												

SCHEDULE-B

Month	Value of taxable commodities transactions during the month	Commodities transaction tax collectible (in Rs.)	Commodities transaction tax collected (in Rs.)	Commodities transaction tax paid (in Rs.)	Interest payable u/s. 123 (in Rs.)	Interest paid u/s. 123 (in Rs.)	Particulars of payment of commodities transaction tax u/s. 123					
							Tax/Interest (in Rs.)	Name of the bank branch	BSR code of bank branch	Date of deposit	Serial No. of cheques	Amount (in Rs.)
1	2	3	4	5	6	7	8	9	10	11	12	13
TOTAL							TOTAL					

NOTES:

1. This Form must be used by a recognised association only.
2. Details required in Schedules A & B may be furnished on computer media as specified in rule 6.
3. Details required in Schedules A & B may be given separately for each Member / Intermediary code and Clearing Member Code as the case may be. Particulars of Client Name, client PAN and unique client code should be given wherever available.
4. Details required in Schedule B may be given separately for each month giving sub-total for each month also.

FORM NO. 2[See rule 9 of *Commodities Transaction Tax Rules, 2013*]**Notice of demand**

CTTS-2

To

Status

PAN

1. This is to give you notice that for the financial year a sum of Rs. details of which are given on the reverse, has been determined to be payable by you.
2. The amount should be paid to the Manager, authorised Bank or State Bank of India or Reserve Bank of India at within days of the service of this notice. The previous approval of the Additional/ Joint Commissioner of Income-tax has been obtained for allowing a period of less than 30 days for the payment of the above sum. A challan is enclosed for the purpose of payment.
3. If you do not pay the amount within the period specified above, you shall be liable to pay simple interest at one per cent for every month or part of a month from the date commencing after the end of the period aforesaid in accordance with section 220(2) of the Income-tax Act, 1961 read with section 128 of the Finance Act, 2013.
4. If you do not pay the amount of the tax within the period specified above, penalty (which may be as much as the amount of tax in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with section 221 of the Income-tax Act, 1961 read with section 128 of the Finance Act, 2013.
5. If you do not pay the amount within the period specified above, proceedings for the recovery thereof will be taken in accordance with sections 222, 227, 229 and 232 of the Income-tax Act, 1961 read with section 128 of the Finance Act, 2013.
6. If you intend to appeal against the assessment or penalty, you may present an appeal under section 129 of the Finance Act, 2013, to the Commissioner of Income-tax (Appeals) within thirty days of the receipt of this notice, in Form No. 3, as prescribed in rule 11, duly stamped and verified as laid down in that form.
7. The amount has become due as a result of the order of the Commissioner of Income-tax (Appeals) under section 129 of the Finance Act, 2013. If you intend to appeal against the aforesaid order, you may present an appeal under section 130 of the said Act to the Income-tax Appellate Tribunal within sixty days of the receipt of that order, in Form No. 4, as prescribed in rule 12, duly stamped and verified as laid down in that form.

Place

Date

Assessing Officer

Address

Notes:

1. Delete inappropriate paragraphs and words.
2. If you wish to pay the amount by cheque, the cheque shall be drawn in favour of the Manager, authorised Bank or State Bank of India or Reserve Bank of India.
3. If you intend to seek extension of time for payment of the amount or propose to make the payment by instalments, the application for such extension or as the case may be, permission to pay by instalments, shall be made to the Assessing Officer before the expiry of the period specified in paragraph 2. Any request received after the expiry of the said period will not be entertained in view of the specific provisions of section 220(2) of the Income-tax Act, 1961.

FORM NO. 3

[See rule 11 of Commodities Transaction Tax Rules, 2013]

Appeal to the Commissioner of Income-tax (Appeals)**Designation of the Commissioner (Appeals)**

CTTS-3

*No. of 20

1.	Name and address of the appellant	
2.	Permanent Account Number	
3.	Financial year in connection with which the appeal is preferred	
4.	Assessing Officer passing the order appealed against	
5.	Section and sub-section of Chapter VII of the Finance Act, 2013, under which the Assessing Officer passed the order appealed against and the date of such order	
6.	Where the appeal relates to any assessment or penalty, the date of service of the relevant notice of demand	
7.	In any other case, the date of service of the intimation of the order appealed against	
8.	Section and sub-section of Chapter VII of the Finance Act, 2013, under which the appeal is preferred	
9.	Where a return has been filed by the appellant for the financial year in connection with which the appeal is preferred, whether tax due on the value of taxable commodities transaction returned has been paid in full (if the answer is in the affirmative, give details of date of payment and amount paid)	
10.	Relief claimed in appeal	
11.	<p>Where an appeal in relation to any other financial year is pending in the case of the appellant with any Commissioner (Appeals), give the details as to the -</p> <p>(a) Commissioner (Appeals), with whom the appeal is pending;</p> <p>(b) Financial year in connection with which the appeal has been preferred;</p> <p>(c) Assessing Officer passing the order appealed against;</p> <p>(d) Section and sub-section of Chapter VII of the Finance Act, 2013, under which the Assessing Officer passed the order appealed against and the date of such order</p>	
12.	Address to which notices may be sent to the appellant	

.....
Signed
(Appellant)

STATEMENT OF FACTS
GROUNDS OF APPEAL.....
Signed
(Appellant)*Form of Verification*

I, the appellant, do hereby declare that what is stated above is true to the best of my information and belief.

Verified today the day of

Place

.....
Signature**Notes:**

1. The form of appeal, grounds of appeal and the form of verification appended thereto shall be signed by a person in accordance with the provisions of rule 7 of Commodities Transaction Rules, 2013.
2. The memorandum of appeal, statement of facts and the grounds of appeal shall be in duplicate accompanied by a copy of the order appealed against and the notice of demand in original, if any.
3. Delete the inappropriate words.
4. *These particulars will be filled in in the office of the Commissioner (Appeals).
5. If the space provided herein is insufficient, separate enclosures may be used for the purpose.
6. **If appeals are pending in relation to more than one financial year, separate particulars in respect of each financial year may be given.
7. The memorandum of appeal shall be accompanied by a fee of one thousand rupees.
8. The fee should be credited in a branch of the authorised Bank or a branch of the State Bank of India or a branch of the Reserve Bank of India after obtaining a challan from the Assessing Officer.

FORM NO. 4

[See rule 12 of Commodities Transaction Tax Rules, 2013]

Form of appeal to the Appellate Tribunal

CTTS-4

In the Income-tax Appellate Tribunal

*Appeal No. of 20 20

APPELLANT

Versus

RESPONDENT

1.	The State in which the assessment was made	
2.	Section of Chapter VII of the Finance Act, 2013 under which the order appealed against was passed	
3.	The Commissioner (Appeals) passing the order appealed against	
4.	Financial year in connection with which the appeal is preferred	
5.	Total value of taxable commodities transactions declared by the assessee for the financial year referred to in item 4	
6.	Total value of taxable commodities transactions as computed by the Assessing Officer for the financial year referred to in item 4	
7.	The Assessing Officer passing the original order	
8.	Section of Chapter VII of Finance Act, 2013 under which the Assessing Officer passed the order	
9.	Date of communication of the order appealed against	
10.	Address to which notices may be sent to the appellant	
11.	Address to which notices may be sent to the respondent	
12.	Relief claimed in appeal	

GROUNDS OF APPEAL

1. 2. 3. 4. etc.

.....

Signed
(Authorised representative, if any)

Signed
(Appellant)

Verification

I,, the appellant, do hereby declare that what is stated above is true to the best of my information and belief.

Verified today the day of

Place

.....
Signed

Notes:

1. The memorandum of appeal shall be in triplicate accompanied by two copies (at least one of which should be a certified copy) of the order appealed against, two copies of the relevant order of the Assessing Officer, two copies of the grounds of appeal before the first appellate authority, two copies of the statement of facts, if any, filed before the said appellate authority.
2. The memorandum of appeal by an assessee under sub-section (1) of section 130 of Chapter VII of Finance Act, 2013 shall be accompanied by a fee of one thousand rupees.
3. The fee shall be credited in a branch of the authorised Bank or a branch of the State Bank of India or a branch of the Reserve Bank of India after obtaining a challan and the triplicate challan shall be sent to the Appellate Tribunal with a memorandum of appeal. The Appellate Tribunal shall not accept cheques, drafts, hundies or other negotiable instruments.
4. The memorandum of appeal shall be written in English or, if the appeal is filed in a Bench located in any such State as is for the time being notified by the President of the Appellate Tribunal for the purposes of rule 5A of the Income-tax (Appellate Tribunal) Rules, 1963, then, at the option of the appellant, in Hindi, 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.
5. *The number and year of appeal will be filled in the office of the Appellate Tribunal.
6. Delete the inapplicable columns. If the space provided is found insufficient, separate enclosures may be used for the purpose.

DIVISION 5

SECURITIES TRANSACTION TAX RULES, 2004

Arrangement of Rules

RULE	PAGE
1. Short title and commencement	5.3
2. Definitions	5.3
3. Value of taxable securities transaction	5.3
4. Rounding off value of taxable securities transaction, securities transaction tax, etc.	5.4
5. Person responsible for collection and payment of securities transaction tax in case of a Mutual Fund	5.5
6. Payment of Securities Transaction Tax	5.5
7. Return of taxable securities transactions	5.5
8. Return by whom to be signed	5.6
9. Time limit to be specified in the notice calling for return of taxable securities transaction	5.6
10. Notice of demand	5.6
11. Prescribed time for refund of tax to the person from whom such amount was collected	5.6
12. Form of appeal to Commissioner of Income-tax (Appeals)	5.6
13. Form of appeal to Appellate Tribunal	5.6

APPENDIX

FORM NO. 1	: Return of taxable securities transactions	5.7
FORM NO. 2	: Return of taxable securities transactions	5.11
FORM NO. 3	: Notice of demand	5.14
FORM NO. 4	: Appeal to the Commissioner of Income-tax (Appeals) Designation of the Commissioner (Appeals)	5.15
FORM NO. 5	: Form of appeal to the Appellate Tribunal	5.17

SECURITIES TRANSACTION TAX RULES, 2004

NOTIFICATION NO. SO 1059(E), DATED 28-9-2004

In exercise of the powers conferred by sub-section (1) read with sub-section (2) of section 114 of the Finance (No. 2) Act, 2004 (23 of 2004), the Central Government hereby makes the following rules for carrying out the provisions of Chapter VII of the said Act relating to securities transaction tax, namely:—
Short title and commencement.

1. (1) These rules may be called the Securities Transaction Tax Rules, 2004.
- (2) They shall come into force on the 1st day of October, 2004.

Definitions.

2. (1) In these rules, unless the context otherwise requires,—
 - (a) "Act" means the Finance (No. 2) Act, 2004 (23 of 2004);
 - (b) "authorised bank" means any bank as may be appointed by the Reserve Bank of India as its agent under the provisions of sub-section (1) of section 45 of the Reserve Bank of India Act, 1934 (2 of 1934);
 - (c) "Form" means a Form set out in the Appendix to these rules.
- (2) Words and expressions used and not defined in these rules but defined in the Act, or the Securities Contracts (Regulation) Act, 1956, or the Income-tax Act, 1961, shall have the meanings respectively assigned to them in those Acts.

Value of taxable securities transaction.

3. For the purposes of clause (c) of section 99 of the Act, the value of a taxable securities transaction, being a purchase or sale of an equity share in a company or a unit of an equity oriented fund, entered into in a recognised stock exchange, shall be determined in the following manner, namely:—

- (a) where the equity share or unit is purchased or sold by a person on a trading day in the netted settlement mode,—

- (i) the quantity of shares or units purchased or sold in each trade in that equity share or unit executed by the person on that day, shall be multiplied by the price at which the trade is executed, to determine the trade value of each such trade;
- (ii) the aggregate trade value of all trades in the equity share or unit by the person on that day shall be arrived at by totalling the trade values determined under sub-clause (i);
- (iii) the aggregate trade value arrived at under sub-clause (ii), shall be divided by the total quantity of the equity share or unit traded

by the person on that day, to determine the volume weighted average price of that equity share or unit for that person for that day;

- (iv) such volume weighted average price (rounded off to the nearest paisa) shall be taken to be the value of the taxable securities transaction relating to the equity share or unit.

Explanation - For the purposes of this clause, the determination of the value of taxable securities transaction in a case where the equity share or unit is purchased or sold through a member of the stock exchange, shall be made with reference to the trades executed in the equity share or unit under a particular client Code through that member;

- (b) where the equity share or unit is purchased or sold by a person in the trade-for-trade settlement mode, the value of the taxable securities transaction shall be the price at which the equity share or unit is purchased or sold;
- (c) where the equity share or unit is purchased in the auction settlement mode, the value of the taxable securities transaction shall be the volume weighted average price of the equity share or unit, determined in the manner specified in clause (a), in respect of all trades in that equity share or unit carried out in the auction session;
- (d) where the equity share or unit is sold in the auction settlement mode, the value of the taxable securities transaction shall be the price at which the equity share or unit is sold.

Explanation - For the purposes of this rule—

- (i) "netted settlement mode" means a mode of settlement of transactions in a recognised stock exchange where the quantity of an equity share or unit purchased by a person on a trading day is set off against the quantity of that equity share or unit sold by him on that day and actual delivery is required to be taken or given by him as the case may be, only in respect of the net quantity purchased or sold as has not been so set off;
- (ii) "trade-for-trade settlement mode" means a mode of settlement of transactions in a recognised stock exchange where each trade is compulsorily required to be settled by actual delivery;
- (iii) "auction settlement mode" means a mode of settlement, in a stock exchange, of transactions carried out in the auction session, being a trading session in which the stock exchange makes purchases of equity shares or units through an auction process initiated by it, so as to settle transactions where there has been a failure to deliver such equity shares or units which were required to be delivered.

Rounding off value of taxable securities transaction, securities transaction tax, etc.

4. The value of taxable securities transaction and the amount of securities transaction tax, interest and penalty payable, and the amount of refund due,

under the provisions of Chapter VII of the Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

Person responsible for collection and payment of securities transaction tax in case of a Mutual Fund.

5. In the case of a Mutual Fund, the person responsible for collection and payment of securities transaction tax in accordance with sub-sections (2), (3) and (4) of section 100 of the Act, shall be the trustee of the Fund, or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.

Payment of Securities Transaction Tax.

6. Every recognised stock exchange, or, as the case may be, the trustee of every Mutual Fund or such other person managing the affairs of the mutual fund as may be duly authorised by the trustee in this behalf, who is required to collect and pay securities transaction tax under section 100, shall pay the amount of such tax to the credit of the Central Government by remitting it into any branch of the Reserve Bank of India or of the State Bank of India or of any authorised bank accompanied by a securities transaction tax challan.

Return of taxable securities transactions.

7. (1) The return of taxable securities transactions required to be furnished under sub-section (1) of section 101 of the Act shall,—

- (a) in the case of a recognised stock exchange, be in Form No. 1 and be verified in the manner indicated therein;
- (b) in the case of a Mutual Fund, be in Form No. 2 and be verified in the manner indicated therein.

(2) The particulars required to be furnished in the schedules to Form No. 1 and Form No. 2 referred to in sub-rule (1) shall be furnished on a computer media, in accordance with the following,—

(a) the computer media conforms to the following specifications :—

- (i) CD ROM of 650 MB capacity or higher capacity; or
- (ii) 4mm 2GB/4GB (90M/120M) DAT Cartridge, or
- (iii) Digital Video Disc;

(b) if the data relating to the schedules is copied using data compression or backup software utility, the corresponding software utility or procedure for its decompression or restoration shall also be furnished;

(c) the return shall be accompanied by a certificate regarding clean and virus free data.

(3) In the case of a Mutual Fund, the return referred to in sub-rule (1) shall be furnished by the trustee of the Fund, or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.

(4) The return of taxable securities transaction entered into during a financial year shall be furnished on or before the 30th June immediately following that financial year.

Return by whom to be signed.

8. The return under sub-section (1) of section 101 of the Act shall be signed and verified—

(a) in the case of a recognised stock exchange—

(i) being a company, by the Managing Director or a Director thereof;

(ii) in any other case, by the principal officer thereof;

(b) in the case of a Mutual Fund, by the trustee or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.

Time limit to be specified in the notice calling for return of taxable securities transaction.

9. Where an assessee fails to furnish the return under sub-section (1) of section 101 of the Act within the time specified in sub-rule (4) of rule 7, the Assessing Officer may issue a notice to such person requiring him to furnish, within thirty days from the date of service of the notice, a return in the Form prescribed in rule 7 as applicable to him and verified in the manner indicated therein.

Notice of demand.

10. Where any tax, interest or penalty is payable in consequence of any order passed under the provisions of Chapter VII of the Act, the Assessing Officer shall serve upon the assessee a notice of demand in Form No. 3 specifying the sum so payable.

Prescribed time for refund of tax to the person from whom such amount was collected.

11. Every assessee, in case any amount is refunded to it on assessment under sub-section (2) of section 102 of the Act, shall, within thirty days from the date of receipt of such amount, refund the same to the concerned person from whom it was collected.

Form of appeal to Commissioner of Income-tax (Appeals).

12. (1) An appeal under sub-section (1) of section 110 to the Commissioner (Appeals) shall be made in Form No. 4.

(2) The form of appeal prescribed by sub-rule (1), the grounds of appeal and the form of verification appended thereto relating to an assessee shall be signed and verified by the person who is authorised to sign the return of taxable securities transactions under rule 8, as applicable to the assessee.

Form of appeal to Appellate Tribunal.

13. An appeal under sub-section (1) or sub-section (2) of section 111 of the Act to the Appellate Tribunal shall be made in Form No. 5, and where the appeal is made by the assessee, the form of appeal, the grounds of appeal and the form of verification appended thereto shall be signed by the person specified in rule 8.

(Schedule)

8. Total securities transaction tax collected (C[5])																				
9. Total securities transaction tax paid (C[6])																				
10. Securities transaction tax payable/ refundable (7-9)																				
11. Interest payable under section 104 (C[7])																				
12. Interest paid (C[8])																				

Verification

I,(full name in block letters), son/ daughter of solemnly declare that to the best of my knowledge and belief the information given in this return and schedules accompanying it is correct and complete and that the total value of taxable securities transactions and other particulars shown therein are truly stated and are in accordance with provisions of Chapter VII of the Finance (No. 2) Act, 2004 and Securities Transaction Tax Rules, 2004.

I further declare that I am making this return in my capacity asand I am also competent to make this return and verify it.

Date

Place

(Name and Signature)

***CODES IN RESPECT OF TAXABLE SECURITIES TRANSACTION**

S. No.	Nature of transaction	Code
1.	Purchase of an equity share in a company or a unit of an equity oriented fund, where— (a) the transaction of such purchase is entered into in a recognised stock exchange; and (b) the contract for the purchase of such share or unit is settled by the actual delivery or transfer of such share or unit.	01
2.	Sale of an equity share in a company or a unit of an equity oriented fund, where— (a) the transaction of such sale is entered into in a recognised stock exchange; and (b) the contract for the sale of such share or unit is settled by the actual delivery or transfer of such share or unit.	02
3.	Sale of an equity share in a company or a unit of an equity oriented fund, where— (a) the transaction of such sale is entered into in a recognised stock exchange; and (b) the contract for the sale of such share or unit is settled otherwise than by the actual delivery or transfer of such share or unit.	03
4.	Sale of a derivative being "option in securities", where the transaction of such sale is entered into in a recognised stock exchange.	04
5.	Sale of a derivative being "futures", where the transaction of such sale is entered into in a recognised stock exchange.	05

Notes:

1. This Form must be used by a recognised stock exchange only.
2. Details required in Schedules A, B & C may be furnished on computer media as specified in rule 7.
3. Details required in Schedules A & B may be given separately for each Stock Broker Code and Clearing Member Code as the case may be. Particulars of Client Name, PAN and MAPIN of client should be given wherever available.
4. Particulars of Trading Client Code in Schedule A need not be given in respect of purchase transactions conducted by the stock exchange during auction sessions on behalf of stock brokers who have failed to deliver shares or unit in settlement.
5. Details required in Schedule C may be given separately for each month for each type of transaction (Codes 01 to 05) and sub-total for each month be also given.

SCHEDULE B

Name of equity oriented fund	Unique Client Code of the fund	Folio number of person from whom units purchased	Name of person from whom units purchased	PAN of person from whom units purchased	MAPIN of person from whom units purchased	Value of taxable securities transactions (In Rs.)	Securities transaction tax collectible (In Rs.)	Securities transaction tax collected (In Rs.)
1	2	3	4	5	6	7	8	9
		Total						

SCHEDULE C

[illegible]

Notes:

1. This Form must be used by a Mutual Fund only.
2. Details required in Schedules A, B & C may be filed on computer media as specified in rule 7.
3. Details required in Schedule B be given separately for each equity oriented fund set up by the Mutual Fund and sub-total for each fund be also given.
4. Details required in Schedule C be given separately for each month for each equity oriented fund set up by the Mutual Fund and sub-total for each month be also given.

FORM NO. 3

[See rule 10 of Securities Transaction Tax Rules, 2004]

Notice of demand

STTS - 3

To

.....

Status.....

PAN.....

1. This is to give you notice that for the financial year..... a sum of Rs., details of which are given on the reverse, has been determined to be payable by you.

2. The amount should be paid to the Manager, authorised bank or State Bank of India or Reserve Bank of India at.....within 30..... days of the service of this notice. The previous approval of the Additional/ Joint Commissioner of Income-tax has been obtained for allowing a period of less than 30 days for the payment of the above sum. A challan is enclosed for the purpose of payment.

3. If you do not pay the amount within the period specified above, you shall be liable to pay simple interest at one per cent for every month or part of a month from the date commencing after the end of the period aforesaid in accordance with section 220(2) of the Income-tax Act read with section 109 of the Finance (No. 2) Act, 2004.

4. If you do not pay the amount of the tax within the period specified above, penalty (which may be as much as the amount of tax in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with section 221 of the Income-tax Act read with section 109 of the Finance (No.2) Act, 2004.

5. If you do not pay the amount within the period specified above, proceedings for the recovery thereof will be taken in accordance with sections 222, 227, 229 and 232 of the Income-tax Act, 1961 read with section 109 of the Finance (No.2) Act, 2004.

6. If you intend to appeal against the assessment or penalty, you may present an appeal under section 110 of Chapter VII of the Finance (No.2) Act, 2004, to the Commissioner of Income-tax (Appeals) within thirty days of the receipt of this notice, in Form No. 4 as prescribed in rule 12, duly stamped and verified as laid down in that form.

7. The amount has become due as a result of the order of the Commissioner of Income-tax (Appeals) under section 110 of Chapter VII of the Finance (No.2) Act, 2004. If you intend to appeal against the aforesaid order, you may present an appeal under section 111 of Chapter VII of the said Act to the Income-tax Appellate Tribunal.....within sixty days of the receipt of that order, in Form No. 5, as prescribed in rule 13, duly stamped and verified as laid down in that form.

Place.....

Date.....

.....
 Assessing Officer

.....
 Address

Notes :

1. Delete inappropriate paragraphs and words.
2. If you wish to pay the amount by cheque, the cheque should be drawn in favour of the Manager, authorised bank or State Bank of India or Reserve Bank of India.
3. If you intend to seek extension of time for payment of the amount or propose to make the payment by instalments, the application for such extension or as the case may be, permission to pay by instalments, should be made to the Assessing Officer before the expiry of the period specified in paragraph 2. Any request received after the expiry of the said period will not entertained in view of the specific provisions of section 220(3) of the Income-tax Act.

FORM NO. 4

[See rule 12 of Securities Transaction Tax Rules, 2004]

Appeal to the Commissioner of Income-tax (Appeals)**Designation of the Commissioner (Appeals)**

*No. of 20..... 20.....

STTS - 4

1. Name and address of the appellant
2. Permanent Account Number
3. Financial year in connection with which the appeal is preferred
4. Assessing Officer passing the order appealed against
5. Section and sub-section of Chapter VII of the Finance (No. 2) Act, 2004, under which the Assessing Officer passed the order appealed against and the date of such order
6. Where the appeal relates to any assessment or penalty, the date of service of the relevant notice of demand
7. In any other case, the date of service of the intimation of the order appealed against
8. Section and sub-section of Chapter VII of the Finance (No. 2) Act, 2004, under which the appeal is preferred
9. Where a return has been filed by the appellant for the financial year in connection with which the appeal is preferred, whether tax due on the value of taxable securities transaction returned has been paid in full (if the answer is in the affirmative, give details of date of payment and amount paid)
10. Relief claimed in appeal
11. **Where an appeal in relation to any other financial year is pending in the case of the appellant with any Commissioner (Appeals), give the details as to the—
 - (a) Commissioner (Appeals), with whom the appeal is pending;
 - (b) Financial year in connection with which the appeal has been preferred;
 - (c) Assessing Officer passing the order appealed against;
 - (d) Section and sub-section of Chapter VII of the Finance (No. 2) Act, under which the Assessing Officer passed the order appealed against and the date of such order

12. Address to which notices may be sent to the appellant

Signed
(Appellant)

STATEMENT OF FACTS
GROUNDS OF APPEAL

Signed
(Appellant)

Form of Verification

I,, the appellant, do hereby declare that what is stated above is true to the best of my information and belief.

Place.....

Date.....

Signature

Status of appellant

Notes :

1. The form of appeal, grounds of appeal and the form of verification appended thereto shall be signed by a person in accordance with the provisions of rule 8 of Securities Transaction Tax Rules, 2004.
2. The memorandum of appeal, statement of facts and the grounds of appeal must be in duplicate and should be accompanied by a copy of the order appealed against and the notice of demand in original, if any.
3. Delete the inappropriate words.
4. *These particulars will be filled in in the office of the Commissioner (Appeals).
5. If the space provided herein is insufficient, separate enclosures may be used for the purpose.
6. *If appeals are pending in relation to more than one financial year, separate particulars in respect of each financial year may be given.
7. The memorandum of appeal shall be accompanied by a fee of one thousand rupees.
8. The fee should be credited in a branch of the authorised bank or a branch of the State Bank of India or a branch of the Reserve Bank of India after obtaining a challan from the Assessing Officer.

FORM NO. 5

[See rule 13 of Securities Transaction Tax Rules, 2004]

Form of appeal to the Appellate Tribunal

STTS - 5

In the Income-tax Appellate Tribunal

*Appeal No.....of.....20.....20.....

Appellant

Versus

Respondent

1. The State in which the assessment was made
2. Section of the Chapter VII of the Finance (No. 2) Act, 2004 under which the order appealed against was passed
3. The Commissioner (Appeals) passing the order appealed against
4. Financial year in connection with which the appeal is preferred
5. Total value of taxable securities transactions declared by the assessee for the financial year referred to in item 4
6. Total value of taxable securities transactions as computed by the Assessing Officer for the financial year referred to in item 4
7. The Assessing Officer passing the original order
8. Section of the Chapter VII of Finance (No. 2) Act, 2004 under which the Assessing Officer passed the order
9. Date of communication of the order appealed against
10. Address to which notices may be sent to the appellant
11. Address to which notices may be sent to the respondent
12. Relief claimed in appeal

GROUND OFS OF APPEAL

1.

2.

3.

4. etc.

Signed

(Authorised representative, if any)

Signed

(Appellant)

Verification

I,, the appellant, do hereby declare that what is stated above is true to the best of my information and belief.

Place.....

Date.....

Signed

Notes :

1. The memorandum of appeal must be in triplicate and should be accompanied by two copies (at least one of which should be a certified copy) of the order appealed against, two copies of the relevant order of the Assessing Officer, two copies of the grounds of appeal before the first appellate authority, two copies of the statement of facts, if any, filed before the said appellate authority.
2. The memorandum of appeal by an assessee under section 111(1) of the Chapter VII of Finance (No. 2) Act, 2004 must be accompanied by a fee of one thousand rupees.
It is suggested that the fee should be credited in a branch of the authorised bank or a branch of the State Bank of India or a branch of the Reserve Bank of India after obtaining a challan and the triplicate challan sent to the Appellate Tribunal with a memorandum of appeal. The Appellate Tribunal will not accept cheques, drafts, hundies or other negotiable instruments.
3. The memorandum of appeal should be written in English or, if the appeal is filed in a Bench located in any such State as is for the time being notified by the President of the Appellate Tribunal for the purposes of rule 5A of the Income-tax (Appellate Tribunal) Rules, 1963, then, at the option of the appellant, in Hindi, and should set forth, concisely and under distinct heads, the grounds of appeal without any argument or narrative and such grounds should be numbered consecutively.
4. *The number and year of appeal will be filed in the office of the Appellate Tribunal.
5. Delete the inapplicable columns.
6. If the space provided is found insufficient, separate enclosures may be used for the purpose.

DIVISION 6

EQUALISATION LEVY RULES, 2016

Arrangement of Rules

RULE	PAGE
1. Short title and commencement	6.3
2. Definitions	6.3
3. Rounding off of consideration, equalisation levy, etc.	6.3
4. <i>Payment of Equalisation levy</i>	6.3
5. <i>Statement of specified services or e-commerce supply or services</i>	6.4
6. Time limit to be specified in the notice calling for statement of specified services or e-commerce supply or services	6.5
7. Notice of demand	6.5
8. Form of appeal to Commissioner of Income-tax (Appeals)	6.5
9. Form of appeal to Appellate Tribunal	6.6

APPENDIX

FORM NO. 1	: <i>Statement of Specified Services or E-Commerce Supply or Services</i>	6.7
FORM NO. 2	: Notice of Demand under Chapter VIII of the Finance Act, 2016	6.10
FORM NO. 3	: <i>Appeal to the Commissioner of Income-tax (Appeals) Designation of the Commissioner (Appeals)</i>	6.12
FORM NO. 4	: <i>Form of Appeal to the Appellate Tribunal</i>	6.14

EQUALISATION LEVY RULES, 2016

NOTIFICATION NO. SO 1905(E), DATED 27-5-2016

In exercise of the powers conferred by sub-section (1) and sub-section (2) of section 179 of the Finance Act, 2016 (28 of 2016), the Central Government hereby makes the following rules for carrying out the provisions of Chapter VIII of the said Act relating to Equalisation levy, namely:—

Short title and commencement.

1. (1) These rules may be called the Equalisation Levy Rules, 2016.
- (2) They shall come into force on the 1st day of June, 2016.

Definitions.

2. In these rules, unless the context otherwise requires,—

(a) "Act" means the Finance Act, 2016 (28 of 2016);

[(aa) "electronic verification code" means a code generated for the purpose of electronic verification of the person furnishing the statement of specified services as per the data structure and standards laid down by the Principal Director-General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be;]

(b) "Form" means Forms appended to these rules.

Rounding off of consideration ²["*"], equalisation levy, etc.

3. ³[The amount of consideration], the amount of Equalisation levy, interest and penalty payable, and the amount of refund due, under the provisions of Chapter VIII of the Act shall be rounded off to the nearest multiple of ten rupees and, for this purpose any part of a rupee consisting of paise shall be ignored and thereafter if such amount is not a multiple of ten, then, if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten.

⁴[Payment of Equalisation levy.

4. *The assessee or e-commerce operator, as the case may be, who are required to deduct and pay equalisation levy, shall pay the amount of such levy, by remitting*

1. Inserted by the Equalisation Levy (Amendment) Rules, 2020, w.e.f. 28-10-2020.

2. Words "for specified services" omitted, *ibid*.

3. Substituted for "The amount of consideration for specified services and", *ibid*.

4. Substituted, *ibid*. Prior to their substitution, rules 4 and 5 read as under :

⁴4. *Payment of Equalisation levy.*—Every assessee, who is required to deduct and pay equalisation levy, shall pay the amount of such levy to the credit of the Central

(Contd. on page 64)

it into the Reserve Bank of India or in any branch of the State Bank of India or of any authorised Bank accompanied by an equalisation levy challan.

Statement of specified services or e-commerce supply or services.

5. (1) The statement required to be furnished under sub-section (1) or sub-section (2) of section 167 of the Act shall be in Form No. 1, duly verified in the manner indicated therein, and may be furnished by the assessee or e-commerce operator, as the case may be, in the following manner, namely:—

- (i) electronically under digital signature; or
- (ii) electronically through electronic verification code.

(2) The statement in Form No. 1 required to be furnished under sub-section (1) of section 167 of the Act shall be furnished on or before the 30th day of June immediately following that financial year.

(3) The Principal Director-General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be, for the purpose of ensuring secure capture and transmission of data, shall—

- (i) lay down the procedure for electronic filing of Form No. 1;
- (ii) lay down the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule (2), for the purpose of verification of the person furnishing the said form;
- (iii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the said form so furnished; and
- (iv) specify the manner of furnishing the revised statement required to be furnished under sub-section (2) of section 167 of the Act.]

(Contd. from page 6.3)

Government by remitting it into the Reserve Bank of India or in any branch of the State Bank of India or of any authorised Bank accompanied by an equalisation levy challan.

5. *Statement of specified services.*—(1) The statement of specified services required to be furnished under sub-section (1) of section 167 of the Act shall be in Form No. 1, duly verified in the manner indicated therein, and may be furnished by the assessee in the following manner, namely:—

- (i) electronically under digital signature; or
- (ii) electronically through electronic verification code.

(2) The statement in Form No. 1 in respect of all the specified services chargeable to equalisation levy during any financial year shall be furnished on or before the 30th June immediately following that financial year.

(3) The Principal Director-General of Income-tax (Systems) shall, for the purpose of ensuring secure capture and transmission of data, lay down the specific procedures, formats and standards and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to furnishing the statement under sub-rule (1).

Explanation.—For the purposes of this rule “electronic verification code” means a code generated for the purpose of electronic verification of the person furnishing the statement of specified services as per the data structure and standards laid down by the Principal Director-General of Income-tax (Systems).’

Time limit to be specified in the notice calling for statement of specified services⁵ [or e-commerce supply or services].

6. *¶ [Where an assessee or e-commerce operator, as the case may be, fails] to furnish the statement within the time specified in sub-rule (2) of rule 5, the Assessing Officer may issue a notice to such person requiring him to furnish, within thirty days from the date of service of the notice, the statement in the Form prescribed in rule 5 and verified in the manner indicated therein.*

Notice of demand.

7. Where any levy, interest or penalty is payable in consequence of any order passed under the provisions of Chapter VIII of the Act, the Assessing Officer shall serve upon the assessee a notice of demand in Form No. 2 specifying the sum so payable:

Provided that where any sum is determined to be payable by the⁷ [assessee or e-commerce operator, as the case may be,] under sub-section (1) of section 168 of the Act, the intimation under the said section shall be deemed to be a notice of demand.

Form of appeal to Commissioner of Income-tax (Appeals).

8. (1) An appeal under sub-section (1) of section 174 of the Act to the Commissioner of Income-tax (Appeals) shall be made in Form No. 3 in the following manner, namely:—

- (i) electronically under digital signature; or
- (ii) electronically through electronic verification code.

¶ (2) The form of appeal referred to in sub-rule (1), shall be verified by the person who is authorised to verify the statement under rule 5, as applicable to the assessee or e-commerce operator, as the case may be.

(3) Any document accompanying Form No. 3 shall be furnished in the same manner in which the Form No. 3 is furnished.

(4) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be, for the purpose of ensuring secure capture and transmission of data, shall—

5. Inserted by the Equalisation Levy (Amendment) Rules, 2020, w.e.f. 28-10-2020.

6. Substituted for "Where an assessee fails", *ibid*.

7. Substituted for "assessee", *ibid*.

8. Substituted, *ibid*. Prior to their substitution, sub-rules (2), (3) and (4) read as under :

“(2) The form of appeal referred to in sub-rule (1), shall be verified by the person who is authorised to verify the statement of specified services under rule 5, as applicable to the assessee.

(3) Any document accompanying Form No. 3 shall be furnished in the manner in which the Form No. 3 is furnished.

(4) The Principal Director General of Income-tax (Systems) shall—

- (i) lay down the procedure for electronic filing of Form No. 3;*
- (ii) lay down the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule (2), for the purpose of verification of the person furnishing the said form; and*
- (iii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the said form so furnished.”*

- (i) *lay down the procedure for electronic filing of Form No. 3;*
- (ii) *lay down the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule (2), for the purpose of verification of the person furnishing the said form; and*
- (iii) *be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the said form so furnished]*

Form of appeal to Appellate Tribunal.

9. An appeal under sub-section (1) or sub-section (2) of section 175 of the Act to the Appellate Tribunal shall be made in Form No. 4, and where the appeal is made by the *‘[assessee or e-commerce operator, as the case may be]*, the form of appeal, the grounds of appeal and the form of verification appended thereto shall be signed by the person specified in Form No. 4, as applicable to the *‘[assessee or e-commerce operator, as the case may be]*.

9. Substituted for "assessee" by the Equalisation Levy (Amendment) Rules, 2020, w.e.f. 28-10-2020.

Verification

I, (full name in block letters), son*/daughter of having permanent account number of my knowledge and belief the information given in this statement is correct and complete and in accordance with provisions of Chapter VIII of the Finance Act, 2016 and Equalisation Levy Rules, 2016.

I further declare that I am making this statement in my capacity as and I am competent to make this statement and verify it.

Date

Place

.....
(Name and Signature)

Notes:

1. *Delete whichever is not applicable.
2. "Assessee" means a resident and carrying on business or profession or a non-resident having a permanent establishment in India, who is required to deduct the equalisation levy from the amount paid or payable to a non-resident in respect of specified service (section 166 of the Chapter VIII of the Finance Act, 2016).
3. "E-commerce operator" means a non-resident who owns, operates or manages digital or electronic facility or platform for online sale of goods or online provision of services or both, and is required to pay equalisation levy under section 166A of the Chapter VIII of the Finance Act, 2016.
4. This Form is to be furnished and verified by—
 - (i) in case of an Individual or HUF, the person authorised to verify the return of income under section 140 of the Income-tax Act, 1961;
 - (ii) in case of company, the person authorised to verify the return of income under section 140 of the Income-tax Act, 1961 or the Principal Officer;
 - (iii) in any other case; the Principal Officer.

FORM NO. 2

[See rule 7 of Equalisation Levy Rules, 2016]

Notice of demand under Chapter VIII of the Finance Act, 2016

EL-2

To

.....

.....

.....

Status.....

PAN.....

1. This is to give you notice that for the financial year a sum of Rs details of which are given on the reverse, has been determined to be payable by you.
2. The amount should be paid to the Manager, authorised Bank or State Bank of India or Reserve Bank of India at within thirty days of the service of this notice. The previous approval of the Additional/Joint Commissioner of Income-tax has been obtained for allowing a period of less than 30 days for the payment of the above sum. A challan is enclosed for the purpose of payment.
3. If you do not pay the amount within the period specified above, you shall be liable to pay simple interest at one per cent for every month or part of a month from the date commencing after the end of the period aforesaid in accordance with section 220(2) of the Income-tax Act, 1961 read with section 178 of the Finance Act, 2016.
4. If you do not pay the amount of the tax within the period specified above, penalty (which may be as much as the amount of levy in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with section 221 of the Income-tax Act, 1961 read with section 178 of the Finance Act, 2016.
5. If you do not pay the amount within the period specified above, proceedings for the recovery thereof will be taken in accordance with sections 222, 227, 229 and 232 of the Income-tax Act, 1961 read with section 178 of the Finance Act, 2016.
6. If you intend to appeal against the penalty, you may present an appeal under section 174 of the Finance Act, 2016, to the Commissioner of Income-tax (Appeals) within thirty days of the receipt of this notice, in Form No. 3 as prescribed in '[rule 8 of the Equalisation Levy Rules, 2016]'.
[rule 8 of the Equalisation Levy Rules, 2016]
7. The amount has become due as a result of the order of the Commissioner of Income-tax (Appeals) under section 174 of the Finance Act, 2016. If you intend to appeal against the aforesaid order, you may present an appeal under section 175 of the said Act to the Income-tax Appellate Tribunal within sixty days of the receipt of that order, in Form No. 4, as prescribed in '[rule 9 of the Equalisation Levy Rules, 2016]'.
[rule 9 of the Equalisation Levy Rules, 2016]

Place

Date

Assessing Officer

Address

Notes:

1. Delete inappropriate paragraphs and words.
2. If you wish to pay the amount by cheque, the cheque shall be drawn in favour of the Manager, authorised Bank or State Bank of India or Reserve Bank of India.

1. Substituted for "rule 8, duly stamped and verified as laid down in that form" by the Equalisation Levy (Amendment) Rules, 2020, w.e.f. 28-10-2020.

2. Substituted for "rule 9, duly stamped and verified as laid down in that form", *ibid*.

- 3 If you intend to seek extension of time for payment of the amount or propose to make the payment by instalments, the application for such extension or as the case may be, permission to pay by instalments, shall be made to the Assessing Officer before the expiry of the period specified in paragraph 2. Any request received after the expiry of the said period will not be entertained in view of the specific provisions of section 220(3) of the Income-tax Act, 1961.

FORM NO. 3

[See rule 8 of Equalisation Levy Rules, 2016]

**Appeal to the Commissioner of Income-tax (Appeals)
Designation of the Commissioner (Appeals)**

EL-3

*No. of

1.	Name and address of the appellant											
2.	Permanent Account Number/AADHAAR											
3.	Financial year in connection with which the appeal is preferred											
4.	Assessing Officer passing the order appealed against											
5.	Details of order appealed against											
	(a) Section and sub-section of Chapter VIII of the Finance Act, 2016, under which the order appealed against was passed											
	(b) Date of order											
	(c) Date of service of the notice of demand											
	(d) Document Identification Number											
6.	Whether a statement has been filed for the financial year in connection with which the appeal is preferred		Yes/No									
6.1	If reply to 6 is yes, date of filing of statement											
6.2	(a) Whether equalization levy deducted on specified services, if applicable, has been paid		Yes/No/Not Applicable									
	(b) whether equalization levy in respect of e-commerce supply or services made or provided or facilitated, if applicable, has been paid		Yes/No/Not Applicable									
6.3	If reply to 6.2 is yes, then enter details											
	<table border="1"> <thead> <tr> <th>BSR Code</th> <th>Date of payment</th> <th>Sl. No.</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>				BSR Code	Date of payment	Sl. No.	Amount				
BSR Code	Date of payment	Sl. No.	Amount									
7.	Whether an appeal in relation to any other financial year is pending in the case of the appellant with any Commissioner (Appeals)		Yes/No									
7.1	If reply to 7 is yes, then give following details:—											
	(a) Commissioner (Appeals), with whom the appeal is pending;											
	(b) Appeal No. and date of filing of appeal;											
	(c) Financial year in connection with which the appeal has been preferred;											

	(d) Assessing Officer passing the order appealed against;	
	(e) Section and sub-section of Chapter VIII of the Finance Act, 2016, under which the Assessing Officer passed the order appealed against;	
	(f) the date of such order	
8.	Statement of facts	
8.1	Facts of case in brief (not exceeding 1000 words)	
8.2	List of documentary evidence relied upon	
9.	Grounds of Appeal	
10.	Address to which notices may be sent to the appellant	
11.	Amount in dispute: (a) Equalisation levy : (b) Interest : (c) Penalty :	

Form of Verification

I,, the appellant, do hereby declare that what is stated above is true to the best of my information and belief.

Verified today the day of

Place

Date

.....
Signature

Notes:

1. The form of appeal shall be verified by a person who is authorised to verify the statement of specified services or e-commerce supply or services in Form No. 1.
2. *These particulars will be filled in the office of the Commissioner (Appeals).
3. **If appeals are pending in relation to more than one financial year, separate particulars in respect of each financial year may be given.
4. The memorandum of appeal shall be accompanied by a fee of one thousand rupees.
5. The fee should be credited in a branch of the authorised Bank or a branch of the State Bank of India or a branch of the Reserve Bank of India after obtaining a challan from the Assessing Officer.

FORM NO. 4

[See rule 9 of Equalisation Levy Rules, 2016]

Form of appeal to the Appellate Tribunal

EL-4

In the Income-tax Appellate Tribunal

*Appeal No. of

APPELLANT

Versus

RESPONDENT

1.	Permanent Account Number/AADHAAR of the Appellant	
2.	The State in which the order was made	
3.	Section of Chapter VIII of the Finance Act, 2016 under which the order appealed against was passed	
4.	The Commissioner (Appeals) passing the order appealed against	
5.	Financial year in connection with which the appeal is preferred	
6.	Total amount of consideration for the financial year referred to in item 5 (as applicable) (a) for specified services paid/credited (b) in respect of e-commerce supply or services	
7.	Total amount of penalty levied by the Assessing Officer for the financial year referred to in item 5	
8.	The Assessing Officer passing the original order	
9.	Section of Chapter VIII of the Finance Act, 2016 under which the Assessing Officer passed the order	
10.	Date of communication of the order appealed against	
11.	Address to which notices may be sent to the appellant	
12.	Address to which notices may be sent to the respondent	
13.	Relief claimed in appeal	

14	Amount in dispute	
	(a) Equalisation levy	
	(b) Interest	
	(c) Penalty	

1. 2. 3. 4 etc.

Signed
 (Authorised representative, if any)

Signed
 (Appellant)

Verification

I, the appellant, do hereby declare that what is stated above is true to the best of my information and belief.

Verified today the day of

Place

Signed

Notes:

- The memorandum of appeal shall be in triplicate accompanied by two copies (at least one of which should be a certified copy) of the order appealed against, two copies of the relevant order of the Assessing Officer, two copies of the grounds of appeal before the first appellate authority, two copies of the statement of facts, if any, filed before the said appellate authority.
- The memorandum of appeal under sub-section (1) of section 175 of Chapter VIII of Finance Act, 2016 shall be accompanied by a fee of one thousand rupees.
- The fee shall be credited in a branch of the authorised Bank or a branch of the State Bank of India or a branch of the Reserve Bank of India after obtaining a challan and the triplicate challan shall be sent to the Appellate Tribunal with a memorandum of appeal. The Appellate Tribunal shall not accept cheques, drafts, hundies or other negotiable instruments.
- The memorandum of appeal shall be written in English or, if the appeal is filed in a Bench located in any such State as is for the time being notified by the President of the Appellate Tribunal for the purposes of rule 5A of the Income-tax (Appellate Tribunal) Rules, 1963, then, at the option of the appellant, in Hindi, 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.
- The number and year of appeal will be filled in the office of the Appellate Tribunal.
- Delete the Inapplicable columns.
- If the space provided is found insufficient, separate enclosures may be used for the purpose.

*NOTES

- Please note that quoting false PAN/AADHAAR may attract a penalty of Rs. 10,000 as per section 272B of the Income-tax Act, 1961.
- Taxpayers may please draw/issue Cheque/DDs towards payment of income-tax as under:

Pay (Name of the Bank where the Challan is being deposited) A/c
Income-tax

KINDLY ENSURE THAT THE BANK'S ACKNOWLEDGEMENT CONTAINS THE FOLLOWING:—

- 1. 7 DIGIT BSR CODE OF THE BANK BRANCH**
- 2. DATE OF DEPOSIT OF CHALLAN (DD/MM/YYYY)**
- 3. CHALLAN SERIAL NUMBER**

THESE WILL HAVE TO BE QUOTED IN THE STATEMENT OF SPECIFIED SERVICES OR E-COMMERCE SUPPLY OR SERVICES.

DIVISION 7

PROHIBITION OF BENAMI PROPERTY TRANSACTIONS RULES, 2016

Arrangement of Rules

RULE	PAGE
1. Short title and commencement	7.3
2. Definitions	7.3
3. Determination of price in certain cases	7.3
4. Furnishing of Information	7.5
5. Provisional attachment	7.5
6. Confiscation of property under second proviso to sub-section (1) of section 27	7.5
7. Receipt of confiscated property under sub-section (1) of section 28	7.6
8. Management of confiscated property under sub-section (1) of section 28	7.6
9. Disposal of confiscated property under sub-section (3) of section 28	7.7
10. Appeals to the Appellate Tribunal	7.7
FORM 1 : Management of Confiscated Property Register (Movable)	7.7
FORM 2 : Management of Confiscated Property Register (Immovable)	7.8
FORM 3 : Appeals to the Appellate Tribunal	7.8

PROHIBITION OF BENAMI PROPERTY TRANSACTIONS RULES, 2016

[GSR 1004(E), DATED 25-10-2016]

In exercise of the powers conferred by section 68 of the Prohibition of Benami Property Transactions Act, 1988 (45 of 1988), the Central Government hereby makes the following rules, namely:—

Short title and commencement.

1. (1) These rules may be called the Prohibition of Benami Property Transactions Rules, 2016.

(2) They shall come into force on the 1st day of November, 2016.

Definitions.

2. (1) In these rules, unless the context otherwise requires,—

(a) "Act" means the Prohibition of Benami Property Transactions Act, 1988 (45 of 1988);

(b) "Chapter" means a Chapter of the Act;

(c) "Form" means a Form appended to these rules; and

(d) "Section" means a section of the Act.

(2) Words and expressions used and not defined in these rules but defined in the Act, the Indian Trusts Act, 1882 (2 of 1882), the Indian Succession Act, 1925 (39 of 1925), the Indian Partnership Act, 1932 (9 of 1932), the Income-tax Act, 1961 (43 of 1961), the Depositories Act, 1996 (22 of 1996), the Prevention of Money-Laundering Act, 2002 (15 of 2003), the Limited Liability Partnership Act, 2008 (6 of 2009) and the Companies Act, 2013 (18 of 2013) or the rules made under those Acts, shall have the same meanings respectively assigned to them in those Acts and rules.

Determination of price in certain cases.

3. (1) For the purposes of sub-clause (ii) of clause (16) of the section 2 of the Act, the price shall be determined in the following manner, namely:—

(a) the price of unquoted equity shares shall be the higher of,—

(i) its cost of acquisition;

- (II) the fair market value of such equity shares determined, on the date of transaction, by a merchant banker or an accountant as per the Discounted Free Cash Flow method; and
- (III) the value, on the date of transaction, of such equity shares as determined in the following manner, namely:—

The fair market value of unquoted equity shares = $(A + B - L) / (PV) / (PE)$

where,

A = book value of all the assets (other than bullion, jewellery, precious stone, artistic work, shares, securities and immovable property) as reduced by:— (i) any amount of income-tax paid, if any, less the amount of income-tax refund claimed, if any, and (ii) any amount shown as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset;

B = the price that the bullion, jewellery, precious stone, artistic work, shares, securities and immovable property would ordinarily fetch on sale in the open market on the date of transaction;

L = book value of liabilities, but not including the following amounts, namely:—

- (i) the paid-up capital in respect of equity shares;
- (ii) the amount set apart for payment of dividends on preference shares and equity shares;
- (iii) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation;
- (iv) any amount representing provision for taxation, other than amount of income-tax paid, if any, less the amount of income-tax claimed as refund, if any, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;
- (v) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;
- (vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares;

PE = total amount of paid up equity share capital as shown in the balance-sheet;

PV = the paid up value of such equity shares;

Furnishing of Information.

4. For the purpose of sub-section (2) of section 21, the income-tax authority referred to in sub-section (1) of the section 285BA of Income-tax Act, 1961 (43 of 1961) or such other authority or agency which is prescribed under sub-section (1) of section 285BA shall electronically transmit a copy of statement received by it under sub-section (1) of section 285BA of that Act to the Initiating Officer or such authority or agency authorised by the Initiating Officer on or before fifteen days from the end of the month in which said statement is received.

Provisional attachment.

5. For the purposes of sub-section (3) of section 24, the Initiating Officer shall provisionally attach any property in the manner provided in the Second Schedule of Income-tax Act, 1961 (43 of 1961).

Confiscation of property under second proviso to sub-section (1) of section 27.

6. (1) Where an order of confiscation of property under sub-section (1) of section 27 has been made, the Adjudicating Authority shall send a copy of the order to the Authorised Officer.

(2) Where an order referred to in sub-rule (1) has been received by the Authorised Officer in respect of any immovable property, he shall,—

- (i) forthwith issue notice to the authority of the Central Government or a State Government, as the case may be, having jurisdiction for the purposes of registration of such immovable property, intimating about the confiscation of the property;
- (ii) arrange to place copy of the notice at some conspicuous part of the immovable property for the benefit of general public mentioning clearly therein, in English and in vernacular language, that the property has been confiscated under the Act and vests absolutely in the Central Government;
- (iii) arrange to make a proclamation for the confiscation of immovable property at some place on or near such property by beat of drum or other customary mode.

(3) Where an order referred to in sub-rule (1) has been received by the Authorised Officer in respect of any movable property, he shall,—

- (i) forthwith issue a notice to the authority or person having the custody of such movable property informing him about the confiscation of such property; or
- (ii) sell the property, if the property is liable to speedy and natural decay or the expenses for maintenance is likely to exceed its value, with the leave of the concerned Adjudicating Authority, and deposit the sale proceeds in the nearest Government Treasury or branch of the State Bank of India or its subsidiaries or in any nationalised bank in fixed deposit and retain the receipt thereof:

Provided that where the owner of the property furnishes the fixed deposit receipt of State Bank of India or its subsidiaries or a nationalised

bank equivalent to the value of property in the name of Administrator, the authorised officer may accept and retain such fixed deposit receipt as security:

Provided further that where the movable property is a mode of conveyance of any description, the authorised officer, after obtaining its valuation report from the Motor Licensing Authority or any other authority, as the case may be, may accept and retain the fixed deposit receipt of State Bank of India or its subsidiaries or a nationalised bank, equivalent to the value of the movable property as security in the name of Administrator;

- (iii) cause to deposit the property consisting of cash, Government or other securities or bullion or jewellery or other valuables in a locker in the name of the Administrator or in the form of fixed deposit, as the case may be, in State Bank of India or its subsidiaries or in any nationalised bank and retain the receipt thereof;
- (iv) cause to get the property in the form of shares, debentures, units of Mutual Fund or instruments to be transferred in favour of Administrator;
- (v) issue a direction to the bank or financial institution, as the case may be, to transfer and credit the money to the account of the Administrator, where the property is in the form of money lying in a bank or a financial institution.

Explanation.—For the purposes of this rule, an “Authorised Officer” means an Income Tax Officer who is authorised by the Adjudicating Authority in this behalf.

Receipt of confiscated property under sub-section (1) of section 28.

7. The Administrator shall, at the time of receiving the confiscated property, ensure proper identification of such property with reference to its particulars mentioned in the order made under sub-section (1) of section 27.

Management of confiscated property under sub-section (1) of section 28.

8. (1) Where the property confiscated is of such a nature that its removal from the place of attachment is impracticable or its removal involves expenditure out of proportion to the value of the property, the Administrator shall arrange for the proper maintenance and custody of the property at the place of its attachment.

(2) If the property confiscated consists of cash, Government or other securities, bullion, jewellery or other valuables, the Administrator shall cause to deposit them for safe custody in the nearest Government Treasury or a branch of the Reserve Bank of India or the State Bank of India or its subsidiaries or in any authorised bank.

(3) The Administrator shall maintain a register containing the details in Form No. 1 annexed to these rules for recording entries in respect of movable property, such as cash, Government or other securities, bullion, jewellery or other valuables.

(4) The Administrator shall obtain a receipt from the Treasury or the bank, as the case may be, against the deposit of movable properties stated in sub-rule (2).

(5) The Administrator shall maintain a register containing the details in Form No. 2 annexed to these rules for recording entries in respect of property other than the properties referred to in sub-rule (2).

Disposal of confiscated property under sub-section (3) of section 28.

9. Where the Central Government directs that the property vested in it under sub-section (3) of section 27 be disposed of, then, the administrator shall arrange to dispose of the property in the manner provided in the Second Schedule to the Income-tax Act, 1961 (43 of 1961).

Appeals to the Appellate Tribunal.

10. (1) An appeal under sub-section (1) and sub-section (1A) of section 46 of the Act shall be made to the Appellate Tribunal in Form 3 annexed to these rules.

(2) An appeal filed under,—

(i) sub-section (1) of section 46 of the Act shall be accompanied by a fee of ten thousand rupees; and

(ii) sub-section (1A) of section 46 of the Act shall be accompanied by a fee of two thousand rupees.]

(3) The appeal shall set forth concisely and under distinct head the grounds of objection to the order appealed against and such grounds shall be numbered consecutively; and shall specify the address of service at which notice or other processes of the Appellate Tribunal may be served on the appellant and the date on which the order appealed against was served on the appellant.

(4) Where the appeal is preferred after the expiry of the period of forty-five days referred to in ²[sub-section (1) or sub-section (1A), as the case may be] of section 46, it shall be accompanied by a petition, in quadruplicate, duly verified and supported by the documents, if any, relied upon by the appellant, showing cause as to how the appellant had been prevented from preferring the appeal within the period of forty-five days.

FORM 1

[See rule 8(3)]

**MANAGEMENT OF CONFISCATED PROPERTY
REGISTER (MOVABLE)**

Order number :

Date of receipt of properties :

1. Substituted by the Prohibition of Benami Property Transactions (1st Amendment) Rules, 2019, w.e.f. 29-11-2019. Prior to their substitution, sub-rules (1) and (2) read as under :
“(1) An appeal to the Appellate Tribunal under sub-section (1) of section 46 of the Act shall be filed in Form No. 3 annexed to these rules.
(2) At the time of filing, every appeal shall be accompanied by a fee of ten thousand rupees.”
2. Substituted for “sub-section (1)”, *ibid*.

Description of properties (quantity, amount, estimated value) :

Name(s) and address(es) of the benamidar and beneficial owner, if his identity is known :

Name and address of the Treasury or bank where the properties are deposited for safe custody :

Date and time of deposit of confiscated properties in the Treasury or bank :

Receipt number with date of the receipt obtained from the Treasury or bank :

Remarks of the Administrator :

(Signature of the Administrator)

Name of the Administrator

Date :

(Seal)

FORM 2

[See rule 8(5)]

**MANAGEMENT OF CONFISCATED PROPERTY
REGISTER (IMMOVABLE)**

Order Number :

Date of receipt of properties :

Description of properties :

(In case of land : area, survey number, plot number, location and complete address. In case of building: house number, location and complete address)

Name(s) and address(es) of the benamidar and beneficial owner, if his identity is known :

Remarks of the Administrator :

(Signature of the Administrator)

Name of the Administrator

Date:

(Seal)

FORM 3

[See rule 10(1)]

From

(Mention name and address of the appellant here)

To

The Registrar,

Appellate Tribunal

(Address)

Sir,

The above-named appellant, begs to prefer this appeal under section 46 of the Prohibition of Benami Property Transactions Act, 1988 against order Number dated³ [passed by the authority (address of the authority)] under the said Act on the following facts and grounds.

FACTS

(Mention briefly the facts of the case here. Enclose copy of the order '[passed by the authority]' and copies of other relevant documents, if any.)

GROUND

(Mention here the grounds on which appeal is preferred).

PRAYER

In the light of what is stated above, the appellant prays for the following relief:—

RELIEF SOUGHT

(Specify the relief sought)

DECLARATION

The fee payable for this appeal as mentioned in sub-rule (2) of rule 10 has been deposited in the form of demand draft with the Registrar, Appellate Tribunal, (Address) vide receipt number dated

(Signature of the Appellant)

(Name of the Appellant)

VERIFICATION

I the appellant, do hereby declare that the facts stated above are true to the best of my information and belief.

Verified today the day of

(Signature of the Appellant)

(Name of the Appellant)

List of documents :

Place :

Date :

3. Substituted for "passed by the Adjudicating Authority (address of Adjudicating Authority" by the Prohibition of Benami Property Transactions (1st Amendment) Rules, 2019, w.e.f. 29-11-2019.

4. Substituted for "passed by the or Adjudicating Authority", *ibid*.

DIVISION 8

INCOME-TAX SETTLEMENT COMMISSION (PROCEDURE) RULES, 1997

Arrangement of Rules

RULE	PAGE
1. Short title and commencement	8.3
2. Definitions	8.3
3. Language of the Commission	8.4
4. Signing of notices, etc.	8.4
5. Procedure for filing settlement application	8.4
6. Report of the Commissioner under sub-section (2B) of section 245D	8.5
7. Preparation of paper books, etc.	8.5
8. Filing of affidavit	8.6
9. Commissioner's further report	8.6
9A. Applicant's comments on Commissioner's report under rule 9	8.7
10. Date and place of hearing of application to be notified	8.7
11. Sitting of Bench	8.7
12. Powers of a Bench	8.7
12A. Constitution of Two-member Bench	8.7
13. Constitution of Special Bench	8.8
14. Filing of authorisation	8.8
15. Verification of additional facts	8.8
16. Proceedings not open to the public	8.8
17. Publication of orders of the Special Bench	8.8
18. Adjournment of hearings	8.8
19. Special provisions in respect of settlement applications made before 1st day of October, 1984	8.8
SUBJECT INDEX	8.11

INCOME-TAX SETTLEMENT COMMISSION (PROCEDURE) RULES, 1997

[GSR 361(E), DATED 4-7-1997]

In exercise of the powers conferred by sub-section (7) of section 245F of the Income-tax Act, 1961 (43 of 1961), and in supersession of the Income-tax Settlement Commission (Procedure) Rules, 1987, except as respects things done or omitted to be made before such supersession, the Income-tax Settlement Commission hereby makes the following rules, namely:—

Short title and commencement.

1. (1) These rules may be called the Income-tax Settlement Commission (Procedure) Rules, 1997.
- (2) These shall come into force on the date of their publication in the Official Gazette.

Definitions.

2. In these rules, unless the context otherwise requires,—

- (i) "Act" means the Income-tax Act, 1961 (43 of 1961);
- (ii) "annexure" means the annexure to the application in Form No. 34B, set out in Appendix II to the Income-tax Rules, 1962;
- (iii) "applicant" means a person who makes an application to the Commission under sub-section (1) of section 245C to have a case relating to him settled;
- (iv) "authorised representative" means,—
 - (a) in relation to an applicant, except where such applicant is required under any of the provisions of Chapter XIX-A of the Act to attend in person, a person who would be entitled to represent him before any income-tax authority or the Appellate Tribunal under section 288;
 - (b) in relation to a Commissioner, a person,—
 - (i) authorised in writing by the Commissioner or the Chief Commissioner; or
 - (ii) duly appointed by the Central Government as authorised representative or duly authorised by the Central Board of Direct Taxes to appear, plead and act for the Commissioner in any proceeding before the Commission;
- (v) "Commission" means the Income-tax Settlement Commission constituted under sub-section (1) of section 245B and includes, where the context so requires, any Bench exercising or discharging the powers or functions of the Commission;

- ¹[(vi) "Officer of the Commission" means Secretary, Director of Income-tax (Investigation), Additional Director of Income-tax (Investigation), Joint Director of Income-tax (Investigation), Deputy Director of Income-tax (Investigation) and Assistant Director of Income-tax (Investigation)];
- (vii) "Secretary" means the Secretary of the Commission and includes an Administrative Officer ²[and a superintendent];
- (viii) "Section" means a section of the Act;
- (ix) "Settlement application" means an application made by a person to the Commission under sub-section (1) of section 245C to have a case relating to him settled;
- (x) all other words and expressions used in these rules and not defined but defined in the Act, shall have the same meaning respectively assigned to them in the Act.

Language of the Commission.

3. (1) All pleadings before the Commission may, at the option of the applicant, be in Hindi or in English.
- (2) All orders and other proceedings of the Commission may, at the option of the Commission, be in Hindi or in English.

Signing of notices, etc.

4. (1) Any requisition, direction, letter, authorisation, order or written notice to be issued by the Commission shall be signed by the Chairman or a Vice-Chairman or any other Member of the Commission or by the Secretary (or by any other officer of the Commission).
- (2) Nothing in sub-rule (1) shall apply to any requisition or direction which the Commission may, in the course of the hearing, issue to an applicant or a Commissioner or an authorised representative personally.

Procedure for filing settlement application.

5. ³[(1) A settlement application shall be made by the applicant in person or his authorised representative, to the Secretary at the headquarters of the Commission at New Delhi or of the Bench within whose jurisdiction his case falls or to an officer authorised in this behalf by the Secretary, or shall be sent by registered post addressed to the Secretary, or to such officer.]

1. Substituted by the IT Settlement Commission (Procedure) Amdt. Rules, 2010, w.e.f. 6-10-2010. Prior to its substitution, clause (vi) read as under:

'(vi) "Officer of the Commission" means Secretary, Director of Income-tax (Investigation), Additional Director of Income-tax (Investigation) and Deputy Director of Income-tax (Investigation);'

2. Inserted, *ibid*.

3. Substituted, *ibid*. Prior to its substitution, sub-rule (1) read as under.—

'(1) A settlement application shall be presented in Form No. 34B set out in Appendix II to the Income-tax Rules, 1962, by the applicant in person or by his agent, to the Secretary at the headquarters of the Commission at New Delhi or of the Bench within whose jurisdiction his case falls or to any officer authorised in this behalf by the Secretary, or shall be sent by registered post addressed to the Secretary, or to such officer.'

(2) A settlement application sent by post under sub-rule (1) shall be deemed to have been presented to the Secretary or the officer authorised by the Secretary on the day on which it is received in the office of the Commission.

[(3) The application shall be accompanied by a copy of self (-) attested challans or other documents as evidence in respect of payment of tax and interest by the applicant.]

[Report of the Commissioner under sub-section (2B) of section 245D.

6. The Commissioner shall furnish seven copies of report referred to in sub-section (2B) of section 245D, to the Commission and one copy to the applicant simultaneously.]

[Preparation of paper books, etc.

7. (1) If the applicant proposed to refer to or rely upon any documents or statements or other papers, during the course of hearing under sub-section (4) of section 245D of the Act, he may submit seven copies of a paper books containing such papers duly indexed and numbered, within thirty days of the receipt of an

1. Inserted by the IT Settlement Commission (Procedure) Amndt. Rules, 2010, w.e.f. 6-10-2010.

2. Substituted, *ibid*. Prior to its substitution, rule 6 read as under:

"6. *Commissioner's report, etc., under section 245D(1).*—On receipt of a settlement application, a copy of the said application (excluding the Annexure) shall be forwarded by the Commission to the Commissioner with the direction to furnish his report under sub-section (1) of section 245D within 45 days of the receipt of the said copy of the application by him."

3. Substituted, *ibid*. Prior to its substitution, rule 7 read as under:

"7. *Preparation of paper books, etc.*—(1) If the applicant or the Commissioner, as the case may be, proposes to refer or rely upon any documents or statements or other papers, he may submit six copies of a paper book containing such papers duly indexed and paged at least two weeks before the date of hearing under sub-section (1) of section 245D of the Act:

Provided, however, that the Commission may in an appropriate case condone the delay and admit the paper book.

(2) If the applicant proposes to refer to or rely upon any documents or statements or other papers, during the course of hearing under sub-section (4) of section 245D of the Act, he may submit six copies of a paper book containing such papers duly indexed and paged, within thirty days or within such extended period as may be allowed by the Commission, of the receipt of an order under sub-section (1) of section 245D.

(3) If the Commissioner proposes to refer to or rely upon any documents or statements or other papers during the course of hearing under sub-section (4) of section 245D of the Act, he may submit six copies of a paper book containing such papers duly indexed and paged along with his report referred to in rule 9.

(4) The Commission may, *suo motu*, direct the preparation of six copies of a paper book by and at the cost of the applicant or the Commissioner, as the case may be, containing copies of such statements, documents and papers, etc., as it may consider necessary for the proper disposal of the settlement application or matters arising therefrom.

(5) The papers referred to in sub-rules (1), (2), (3) and (4) must be legibly written or type-written in double space or printed. If xerox copy of the document is filed, then the same should be legible. Each paper should be certified as a true copy by the party filing the same, or his authorised representative and indexed in such a manner as to give a brief description of the documents, with page numbers and the authority before whom it was filed."

order under sub-section (2C) of section 245D, or within thirty days of the date by which the application was required to be declared invalid but has not been so declared :

Provided that the Commission may, in appropriate cases, condone the delay and admit the paper book.

(2) If the Commissioner proposes to refer to or rely upon any documents or statements or other papers during the course of hearing under sub-section (4) of section 245D of the Act, he may submit seven copies of a paper book containing such papers duly indexed and numbered along with his report referred to in rule 9.

(3) The papers referred to in sub-rules (1) and (2) must be legibly written or type-written in double space or printed and each paper shall be certified as a true copy by the party filing the same, or his authorised representative and indexed in such a manner as to give a brief description of the documents, with page numbers and the authority before whom it was filed.]

Filing of affidavit.

8. Where a fact, which is not borne out by or is contrary to the record relating to the case, is alleged in the settlement application (including the annexure and the statement or other documents accompanying such annexure), it shall be stated clearly and concisely and supported by a duly sworn affidavit.

[Commissioner's further report.

9. (1) Where an application has not been declared invalid under sub-section (2C) of section 245D or an application has been allowed to be further proceeded with under sub-section (2D) of section 245D, the information contained in the annexure and in the statements and other documents accompanying such annexure shall be sent to the Commissioner by the Commission with the direction that the Commissioner shall furnish a further report in seven copies within forty-five days of the receipt of said annexure or within such extended period as may be allowed by the Commission on a request made by the Commissioner.

(2) If the Commissioner fails to furnish his report on or before the expiry of the specified period of forty-five days or within further extended period as the Commission may allow, as the case may be, the Commission may proceed to hear the case without such report.

1. Substituted by the IT Settlement Commission (Procedure) Amdt. Rules, 2010, w.e.f. 6-10-2010. Prior to its substitution, rule 9 as amended by the IT Settlement Commission (Procedure) Amdt. Rules, 1999 w.e.f. 12-10-1999, read as under:

"9. *Commissioner's further report.*—Where an order is passed by the Commission under sub-section (1) of section 245D allowing the settlement application to be proceeded with, a copy of the annexure to the said application together with a copy of each of the statements and other documents accompanying such annexure, shall be forwarded to the Commissioner along with a copy of the said order with the direction that the Commissioner shall furnish a further report within ninety days of the receipt of the said annexure (including the statements and other documents accompanying it) or within such further period as the Commission may specify.

If the Commissioner fails to furnish his report on or before the expiry of the specified period of 90 days or such extended period, the Commission may pass the appropriate order without such report."

(3) A copy of the report of the Commissioner under sub-rule (1) of rule 9 shall be sent to the applicant by the Commission.]

[Applicant's Comments on Commissioner's report under rule 9.

9A. (1) The applicant may furnish comments on the Commissioner's report received under rule 9 within fifteen days of the receipt of the copy of the said report by him or within such extended period as may be allowed by the Commission on a written request made by the applicant.

(2) The comments of the applicant shall be accompanied by a paper book in support thereof, having the specifications referred to in rule 7.

(3) If the applicant fails to furnish comments on or before the expiry of the specified period of fifteen days or within further extended period under sub-rule (1), the Commission may proceed further with the case without such comments.]

Date and place of hearing of application to be notified.

10. On receipt of the Commissioner's further report, if any, referred to in rule 9, the Commission shall notify to the applicant and the Commissioner the date and place of hearing of the application.

Sitting of Bench.

11. A Bench shall hold its sittings at its headquarters. The Bench may, however, at the discretion of the Presiding Officer, hold its sittings at any place in its jurisdiction notified by the Commission.

Powers of a Bench.

12. A Bench shall dispose of such settlement applications or matters arising therefrom as the Chairman may by general or special order direct.

[Constitution of Two-member bench.

12A. Where one of the member (whether such person be the Presiding Officer or other member of the bench) is unable to discharge his function on the bench under the circumstances referred to in sub-section (5) of section 245BA, the remaining members with the approval of the Chairman or the Vice-Chairman, as the case may be, may function as a bench.]

Constitution of Special Bench.

13. (1) The Chairman may, for the disposal of any particular case, constitute a Special Bench consisting of at least five Members drawn from all the Benches of the Commission.

(2) The Special Bench shall be presided over by the Chairman or a Vice-Chairman.

(3) If the Members of the Special Bench are equally divided, they shall state the point or points on which they differ and make a reference to the Chairman who shall refer the case for hearing on such point or points by one or more of other Members of the Settlement Commission and such point or points shall be decided according to the opinion of the majority of the Members of the Settlement Commission who have heard the case.

(4) Notwithstanding anything contained in the foregoing provisions of this rule, if one or more persons constituting the Special Bench (whether such person is the Presiding Officer or any other Member of the Special Bench) are unable to function in the Special Bench owing to illness or any other cause or in the event of occurrence of a vacancy either in the office of the Presiding Officer or in the office of one or other Members of the Special Bench, the remaining Members, if more than three may function as the Special Bench, and the senior most of the remaining Members shall act as the Presiding Officer of the Special Bench.

Filing of authorisation.

14. An authorised representative appearing for the applicant at the hearing of an application shall file before the commencement of the hearing a document authorising him to appear for the applicant and if he is a relative of the applicant, the document shall state the nature of his relationship with the applicant, or if he is a person regularly employed by the applicant, the capacity in which he is at the time employed.

Verification of additional facts.

15. Where in the course of any proceedings before the Commission any facts not contained in the settlement application (including the annexure and the statements and other documents accompanying such annexure) are sought to be relied upon, they shall be submitted to the Commission in writing and shall be verified in the same manner as provided for in the settlement application.

Proceedings not open to the public.

16. The proceedings before the Commission shall not be open to the public and no person (other than the applicant, his employee, the concerned officers of the Commission or the Income-tax Department or the authorised representatives) shall, without the permission of the Commission, remain present during such proceedings.

Publication of orders of the Special Bench.

17. The Chairman may, at his discretion, direct the publication of orders or portions containing the rulings of the Special Bench with such modifications as to names and other particulars therein, as he may deem fit.

Adjournment of hearings.

18. The Commission may, on such terms as it thinks fit and at any stage of the proceedings, adjourn the hearing of the application or any matters arising therefrom.

Special provisions in respect of settlement applications made before 1st day of October, 1984.

19. (1) Where, in respect of a settlement application made before the 1st day of October, 1984, an order is passed by the Commission under sub-section (1) of section 245D of the Act allowing the application to be proceeded with, a notice shall be issued by the Commission to the applicant requiring him to furnish in quintuplicate :—

- (a) a full and true statement of facts regarding the matters to be settled (including the manner in which any income disclosed or proposed to be

disclosed by the applicant has been derived); and where the settlement involves determination of income, accompanied with annexures containing :—

- (i) computation of total income of the applicant for the assessment year or years to which the settlement application relates, in accordance with the provisions of the Act;
- (ii) copies of manufacturing account or trading account or both, as the case may be, profit and loss account or income and expenditure account or any other similar account, as the case may be, and balance sheet; and
- (iii) in the case of:—
 - (a) a proprietary business or profession, copy of the personal account of the proprietor;
 - (b) a firm or association of persons or body of individuals, copies of the personal accounts of the partners or members thereof, as the case may be; and
 - (c) a partner of a firm or a member of an association of persons or body of individuals, copies of the personal account of such partner or member in the firm or association of persons or body of individuals, as the case may be;
- (b) the terms of settlement sought for by the applicant.

(2) The statement of facts, the annexures thereto and the terms of settlement shall each be signed separately by the applicant and the statement of facts shall be verified in the following manner, namely :—

I....., son/daughter/wife of
(Name in full and in block letters)

.....solemnly declare that to the best of my knowledge and belief, the information given in this statement of facts and the annexures accompanying it is correct and complete and other particulars shown therein are truly stated. I further declare that I am making this statement in my capacity as
..... and that I am competent to make

(designation)

this statement of facts and to verify it.

Place :.....

Date :.....

.....
Signature

(3) Where a fact which cannot be borne out by or is contrary to the record relating to the case is alleged in the statement of facts furnished under sub-rule (1), it shall be stated clearly and concisely and supported by a duly sworn affidavit.

(4) On receipt of the statement of facts and the terms of settlement under sub-rule (1), the Commission shall forward a copy thereof to the Commissioner calling for his further report.

Subject Index

Act

- definition of, R. 2(i)

Additional facts

- verification of, in settlement application, R. 15

Affidavit

- filing of, R. 8

Annexure

- definition of, R. 2(ii)

Applicant

- definition of, R. 2(iii)
- to be notified by Commissioner *re* : date and place of hearing, R. 10

Authorised representative

- definition of, R. 2(iv)
- to file authorisation before commencement of hearing, R. 14

Bench

- sitting of, R. 11
- powers of, R. 12
- special bench, R. 13
- publication of orders of Special Bench, R. 17

Commencement

- of Rules, R. 1(2)

Commission

- definition of, R. 2(v)
- language of, R. 3
- notices, etc., issued by, who can sign, R. 4
- to notify date and place of hearing of application, R. 10
- proceedings before, not open to the public, R. 16
- may adjourn hearing of application, R. 18
- special provisions in respect of settlement applications made before 1-10-1984, R. 19

Commissioner

- report u/s 245D(1) by, to Commission, R. 6
- to furnish further report, R. 9

Hearing

- date and place of, R. 10
- adjournment of, R. 18
- authorisation to be filed by authorised representative before commencement of, R. 14

Notice(s)

- issued by Commission, who can sign, R. 4

Officer of Commission

- definition of, R. 2(vi)

Paper books

- preparation of, R. 7

Report

- Commissioner's report u/s 245D(1), R. 6
- Commissioner's further report, R. 9

Secretary

- definition of, R. 2(vii)

Section

- definition of, R. 2(viii)

Settlement application

- definition of, R. 2(x)
- procedure for filing, R. 5
- when sworn by affidavit, R. 8
- Commissioner's further report on, R. 9
- date and place, hearing of, R. 10
- verification of additional facts contained in, R. 15
- adjournment of hearing of, R. 18
- special provisions re : made before 1-10-1984, R. 19

Verification

- of additional facts contained in settlement application, R. 15

DIVISION 9

CAPITAL GAINS ACCOUNTS SCHEME, 1988

Arrangement of Paragraphs

PARA		PAGE
1.	Short title, commencement and application	9.3
2.	Definitions	9.3
3.	Deposits how to be made	9.4
4.	Types of deposits	9.4
5.	Application for opening account	9.4
6.	Issue of duplicate pass book or receipt	9.5
7.	Transfer and conversion of the account	9.5
8.	Interest	9.6
9.	Withdrawal from the account	9.7
10.	Utilisation of the amount of withdrawal	9.7
11.	Nomination by the depositor	9.8
12.	Charge or alienation	9.8
13.	Closure of the account	9.8
FORM		
A.	Application for opening an account under the Capital Gains Accounts Scheme, 1988	9.10
B.	Application for conversion of accounts under the Capital Gains Accounts Scheme, 1988	9.12
C.	Application for withdrawal of amount from account-A under the Capital Gains Accounts Scheme, 1988	9.14
D.	Details regarding the manner and extent of utilisation of the amount withdrawn from account under the Capital Gains Accounts Scheme, 1988	9.16
E.	Form of nomination under the Capital Gains Accounts Scheme, 1988	9.18

CAPITAL GAINS ACCOUNTS SCHEME, 1988

9.2

FORM

PAGE

F.	Application for cancellation or change of nomination previously made in respect of account under the Capital Gains Accounts Scheme, 1988	9.20
G.	Application for closing the account under the Capital Gains Accounts Scheme, 1988 by the depositor	9.22
H.	Application for closing the account under the Capital Gains Accounts Scheme, 1988, by the nominee/legal heir of the deceased depositor	9.24
Annex	Capital Gains Accounts Scheme, 1988 - Notification under paragraph 2(e) - Banks authorised to receive deposits under the Scheme	9.26

CAPITAL GAINS ACCOUNTS SCHEME, 1988

[GSR 724(E), DATED 22-6-1988]

In exercise of the powers conferred by sub-section (2) of section 54, sub-section (2) of section 54B, sub-section (2) of section 54D, sub-section (4) of section 54F [sub-section (2) of section 54G and sub-section (2) of section 54GB] of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby frames the following Scheme, namely:—

Short title, commencement and application.

1. (1) This Scheme may be called the Capital Gains Accounts Scheme, 1988.
- (2) It shall come into force on the date of its publication in the Official Gazette.
- (3) It applies to all assesseees who are eligible for exemption under section 54, 54B, 54D, 54F¹, 54G or 54GB] of the Income-tax Act, 1961 (43 of 1961).

Definitions.

2. In this Scheme, unless the context otherwise requires,—

- (a) "account" means a deposit account under this Scheme;
- (b) "account-A" means deposit account-A mentioned in paragraph 4 of this Scheme;
- (c) "account-B" means deposit account-B mentioned in paragraph 4 of this Scheme;
- (d) "Act" means the Income-tax Act, 1961 (43 of 1961);
- (e) "Deposit Office" means any branch or branch office of the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955) or of a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), or of a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), authorised by the Central Government, by notification in the Official Gazette, to receive deposit and maintain account of the depositor, under this Scheme;
- (f) "depositor" means an assessee who is eligible to make a deposit under section 54, 54B, 54D, 54F², 54G or an eligible company as referred to in section 54GB] of this Act;

1. Substituted for "and sub-section (2) of section 54G" by the Capital Gains Accounts (First Amendment) Scheme, 2012, w.e.f. 25-10-2012.

2. Substituted for "or 54G", *ibid*.

(g) all other words and expressions used herein but not defined and defined in the Act shall have the meanings respectively assigned to them in the Act;

(h) "Form" means a form appended to this Scheme.

Deposits how to be made.

3. A deposit or deposits may be made under the provisions of section 54 or section 54B or section 54D or section 54F or section 54G ¹[or section 54GB] of the Act by any depositor intending to avail of the benefit under the said section or sections of the Act, as the case may be, in accordance with the provisions of this Scheme.

Types of deposits.

4. (1) There shall be two types of deposit accounts, namely :—

(i) "Deposit account-A"; and

(ii) "Deposit account-B".

(2) The deposit made under account-A shall be in the form of 'savings deposit' and subject to the other provisions of this Scheme, withdrawals under this account can be made from time to time by the depositor.

(3) The deposit made under account-B shall be in the form of 'term deposit' with an option to the depositor to keep the deposit as cumulative or non-cumulative deposit. Except as provided under paragraph 7 and paragraph 9, withdrawals under this account can be made only after the expiry of the period for which the deposit under this account has been made and accepted.

²(4) Such deposits may be made in one lump sum or in instalments at any time on or before the due date of furnishing the return of income under sub-section (1) of section 139 of the Act as is applicable in the case of the depositor ¹[or the eligible assessee referred to in section 54GB].

Application for opening account.

5. (1) Every depositor who is desirous of opening an account or accounts, as the case may be, under this Scheme for the first time, shall apply to the deposit office in Form A or as near thereto as possible, in duplicate and tender the amount of deposit payable in the manner specified in sub-paragraph (4) and a depositor intending to avail of the benefit under more than one section of the Act, as referred to in paragraph 3, shall make separate applications in the same manner, for opening account or accounts under each of such sections.

(2) While applying under sub-paragraph (1) the depositor shall exercise his option as to whether the amount is to be deposited in account-A or in account-B or in both the accounts, and in case of the depositor exercising his option to open account-B, the depositor shall also exercise his option as to whether the deposit is to be made

1. Inserted by the Capital Gains Accounts (First Amendment) Scheme, 2012, w.e.f. 25-10-2012.

2. *Vide* Circular No. 520, dated 11-8-1988. In cases, where the due date of furnishing the return of income was 30th of June and the taxpayer made the deposit and furnished the return of income by 31-7-1988, no penalty and interest will be levied and the deposit itself will be treated as having been made in time and the concession in respect of tax on capital gains will be allowed.

as cumulative or non-cumulative deposit as referred in sub-paragraph (3) of paragraph 4.

(3) On receipt of an application under sub-paragraph (1), the deposit office shall open an account or accounts in the name of the depositor as opted by him under sub-paragraph (2).

(4) The payment of amount of deposit shall be made by the depositor either in cash or by crossed cheque or by draft along with the application.

(5) Every subsequent deposit shall be made into the deposit office at which the account stands, in the same manner as stipulated in sub-paragraph (4).

(6) If the deposit is made by a cheque or a draft then, subject to such cheque or draft being realised, the effective date of deposit for the purpose of claiming exemption under the Act will be the date on which the cheque or draft is received by the deposit office along with the application under sub-paragraph (1) or sub-paragraph (5), as the case may be.

(7) The interest on the amount of deposit shall accrue and will be calculated subject to the provisions of paragraph 8, with effect from the date of deposit in cash or the date of realisation of the proceeds of the cheque or the draft tendered by the depositor.

(8) In the case of deposit under account-A, the deposit office shall issue a pass book to the depositor wherein all amounts of deposits, withdrawals, together with interest due, shall be entered over the signature of the authorised officer of the deposit office.

(9) In the case of deposit under account-B, deposit office shall issue a deposit receipt wherein the principal amount of deposit, date of deposit, date of maturity of deposit, shall be entered over the signature of the authorised officer of the deposit office.

Issue of duplicate pass book or receipt.

6. In the event of loss or destruction of the pass book receipt referred to in sub-paragraph (8) or sub-paragraph (9) of paragraph 5, the deposit office may, on an application made to it in this behalf, issue a duplicate thereof.

Transfer and conversion of the account.

7. (1) A depositor may, if he so desires, apply for transfer of his account or accounts, from one deposit office to another deposit office of the same bank.

(2) A depositor having a deposit in account-B may, at any time, if he so desires, apply in Form-B or as near thereto as possible, together with his deposit receipt, for transfer of the amount standing to his credit in account-B to his deposit in account-A opened under the same section of the Act under which the said account-B was opened and the request of the depositor may be accepted subject to the other provisions of this Scheme.

(3)(a) A depositor while applying under sub-paragraph (2) shall furnish in Form B the requisite particulars of his account-A to which the amount from account-B is required to be transferred;

(b) Where the depositor is not having a deposit in account-A, he shall state such fact and also make a request for opening an account-A in his name, as specified in Form B.

(4) If the request under sub-paragraph (2) has been made for transfer of amount standing to the credit in account-B, before the expiry of the specified period for which the deposit in account-B was made, such request shall be treated as

premature withdrawal of amount from deposit in the said account-B and the amount of interest accrued, if any, in the said account-B shall be calculated by the deposit office in accordance with the provisions of sub-paragraph (4) of paragraph 8.

(5) If the request under sub-paragraph (2) has been made for transfer of amount standing to the credit in account-B on or after the expiry of the specified period for which the deposit in account-B was made, the amount of interest accrued in account-B shall be calculated at normal rate as specified by the Reserve Bank of India in pursuance of paragraph 8 in respect of a deposit in account-B.

(6) On receipt of an application under sub-paragraph (2), the deposit office shall calculate the amount of interest, if any, accrued in account-B till the date on which actual transfer of amount to account-A is made, subject to the provisions of paragraph 8 and close account-B after transferring the total amount standing to the credit in account-B to account-A:

Provided that where in such case of transfer the depositor does not have a deposit in account-A, an account-A shall be opened in the name of the depositor and the amount standing to his credit in account-B shall then be transferred to account-A as so opened.

(7) A depositor, if he so desires, may apply in Form B together with his pass book, for opening an account-B in his name, by way of transfer of the whole or any part of the amount standing to his credit in account-A, under the same section of the Act under which his account-A has been opened.

(8) After the conversion of account-B to account-A or *vice versa* in the manner specified above, the interest in newly opened account or accounts, as the case may be, shall accrue with effect from the date of opening of such account or accounts.

Interest.

8. (1) Interest at such rate as may be specified by the Reserve Bank of India, from time to time, shall be allowed for each calendar month on the lowest balance at the credit of a depositor under account-A, between the close of the 10th day and the end of the month and shall be credited to the account at the end of each half-year.

(2) Interest at such rate, as may be specified by the Reserve Bank of India, from time to time, shall be allowed in respect of deposit in account-B. In case of cumulative deposit in account-B, the amount of interest accrued will be deemed to have been reinvested and in case of non-cumulative deposit in account-B, the amount of interest will become due and payable at quarterly intervals.

(3) Interest due at the end of each half year in respect of account-A will be credited only when the amount is Re. 1 or more and the total amount of interest payable in respect of account-A or account-B will be rounded off to the nearest five paise.

(4) If a depositor applies under paragraph 7 or paragraph 9 or paragraph 13 for conversion of the account or withdrawal from the account or closure of the account, as the case may be, before completion of the period for which the deposit in account-B has been accepted by the deposit office, the rate of interest payable in respect of such deposit shall be the one applicable to the period for which the deposit remained with the deposit office less one per cent penalty for a premature withdrawal on account of such conversion or withdrawal or closure, as the case may be, and any adjustment required to be made on account of such premature conversion, withdrawal or closure with respect to amount of interest already

credited to the account of the depositor, shall be made by the deposit office against the amount lying to the credit of the depositor in account-B.

Withdrawal from the account.

9. (1) A depositor having account-A may, at any time after making the initial subscription, if he so desires, apply in Form C or as near thereto as possible, together with the pass book to the deposit office for the withdrawal of amount from the balance to his credit in account-A, subject to the other provisions of this Scheme.

(2) On receipt of an application under sub-paragraph (1) the deposit office shall, subject to the provisions of sub-paragraph (3), permit the withdrawal and enter the amount withdrawn in the pass book.

(3) At the time of any withdrawal from account-A, other than the initial withdrawal, the depositor shall furnish in Form D in duplicate the details regarding the manner and extent of utilisation of the amount of immediately preceding withdrawal. The deposit office will retain one copy of Form D and return the other copy to the depositor after duly authenticating it.

(4) Where the amount of withdrawal referred to in sub-paragraph (2) exceeds rupees twenty-five thousand, the deposit office shall make payment to the depositor, subject to the fulfilment of the conditions prescribed in sub-paragraph (3), by way of crossed demand draft drawn in favour of the person to whom the depositor intends to make the payment.

(5) A depositor intending to make withdrawal from his deposit in account-B, shall first apply in the manner prescribed in sub-paragraph (2) of paragraph 7 for transfer of the amount standing to his credit in account-B to account-A and may withdraw the requisite amount in the same manner and subject to the same conditions as stipulated in sub-paragraphs (1) and (3) after the amount standing to the credit in his account-B has been credited to his account-A by the deposit office.

(6) In case the application under sub-paragraph (5) is made before the expiry of the specific period for which the deposit in account-B was made, such withdrawal will be treated as premature withdrawal, and the amount of interest accrued, if any, shall be calculated subject to the provisions of sub-paragraph (4) of paragraph 8.

(7) On receipt of the application under sub-paragraph (5), the deposit office shall transfer the amount due and payable, together with the amount of interest accrued, in account-B, to account-A in the same manner and subject to the same conditions as stipulated in paragraph 7 and thereafter allow the request for withdrawal made by the depositor in the same manner and subject to the same conditions as stipulated in sub-paragraphs (1), (2), (3) and (4).

Explanation: For the removal of doubts, it is hereby clarified that the deposit office shall refuse the depositor to withdraw any amount lying in his account, in case of failure on his part to furnish all the details as required by sub-paragraph (3).

Utilisation of the amount of withdrawal.

10. (1) A depositor, withdrawing any amount out of the deposit made in pursuance of sub-section (2) of section 54 or sub-section (2) of section 54B or sub-section (2) of section 54D or sub-section (4) of section 54F or sub-section (2) of section 54G [or sub-section (2) of section 54GB], shall utilise the whole or any part of the amount so withdrawn for the purposes specified in sub-section (1) of the section in relation to which the deposit has been made.

(2) The amount withdrawn shall be utilised by the depositor within sixty days from the date of such withdrawal for the purposes specified in sub-paragraph (1) and the amount or any part thereof which has not been so utilised shall be re-deposited in account-A immediately thereafter.

Nomination by the depositor.*

11. (1) A depositor may nominate in Form E or as near thereto as possible, one or more persons but not exceeding three to receive the amount standing to his credit in account-A or account-B, as the case may be, in the event of his death before the amount has become payable or having become payable, has not been paid.

(2) No nominations shall be made in respect of an account opened on behalf of a minor or a Hindu undivided family or a firm or a company or an association of persons or a body of individuals.

(3) A nomination made by a depositor may be varied by a fresh nomination in Form F or as near thereto as possible, by giving notice in writing to the deposit office in which the account stands.

(4) Every nomination and every cancellation or variation thereof shall be registered in the deposit office and shall be effective from the date of such registration, the particulars of which in the case of a deposit in account-A shall be entered in the pass book and in the case of a deposit in account-B shall be entered in the deposit receipt issued by the deposit office.

(5) If the nominee is a minor, the depositor may appoint any person to receive the amount due under the account in the event of the death of the depositor during the minority of the nominee.

(6) Where the nomination is in favour of more than one person, the nominee first named shall alone have the right to receive the amount standing to the credit in the account of the deceased depositor.

(7) Where the nominee first named has pre-deceased the depositor and the depositor has not cancelled the nomination or substituted the nomination, the nominee second named shall be entitled to receive the amount standing to the credit in the account of the deceased depositor and so on in respect of other successive nominees :

Provided that if any nominee is dead, the surviving nominee or nominees shall, in addition to the proof of death of the depositor, also furnish proof of death of the deceased nominee or nominees, as the case may be.

Charge or alienation.

12. The amount standing to the credit of any depositor in any account shall not be placed or offered by him as security for any loan or guarantee and shall not be charged or alienated in any manner whatsoever.

Closure of the account.

13. (1) If a depositor ¹[, other than an eligible company as referred to in section 54GB] desires to close his account, an application shall be made with the approval of the Assessing Officer who has jurisdiction over the depositor to the deposit office in Form G or as near thereto as possible, and the deposit office shall pay the amount of balance including interest accrued, to the credit in the account

* See Circular No. 743, dated 6-5-1996 for CBDT's clarification on taxability of unutilised deposit under Capital Gains Account Scheme, 1988, in the hands of assessee's legal heirs.

1. Inserted by the Capital Gains Accounts (First Amendment) Scheme, 2012, w.e.f. 25-10-2012.

of the depositor by means of crediting such amount to any bank account of the depositor.

[(1A) If a depositor, being an eligible company, referred to in section 54GB, desires to close its account, then,—

- (i) it shall make a joint application signed by the eligible assessee referred to in section 54GB;
- (ii) the application shall be made with the approval of the Assessing Officer having jurisdiction over the eligible assessee referred to in section 54GB; and
- (iii) such application shall be made in Form G to the deposit office or as near thereto as possible,

and the deposit office shall pay the amount of balance including interest accrued, to the credit in the account of the depositor by means of crediting such amount to any bank account of the depositor.]

(2) If a depositor in respect of whose deposit account a nomination is in force, dies, the nominee, if he desires to close the account or accounts and obtain the payment of the balance standing to the credit in the account of the deceased depositor, shall make an application to the deposit office in Form H or as near thereto as possible with the approval of the Assessing Officer who has jurisdiction over the deceased depositor, and the deposit office shall pay the amount of balance standing to the credit in the account of the deceased depositor including amount of interest accrued, by means of crediting such amount to any bank account of the nominee.

(3) If a depositor, in respect of whose deposit no nomination is in force, the legal heir of the deceased depositor shall make an application to the deposit office in Form H or as near thereto as possible, with the approval of the Assessing Officer who has jurisdiction over the deceased depositor, and the deposit office shall pay the balance standing to the credit in the account of the deceased depositor including the amount of interest accrued, by means of crediting such amount to any bank account of the legal heir :

Provided that where there are more than one legal heir of the deceased depositor, the legal heir making the claim individually may do so by producing the letter of disclaimer or letter of authorisation from other legal heirs in his favour :

Provided further that before granting the approval for closure of the account under this sub-paragraph, the Assessing Officer shall obtain from the legal heir a succession certificate issued under Part V of the Indian Succession Act, 1925, or a probate of the will of the deceased depositor, if any, or letter of administration to the estate of the deceased in case there is no will in order to verify the claim of such legal heir to the account of the deceased depositor.

(4) The depositor or the nominee or the legal heir, in order to obtain payment of the amount standing to the credit in the account shall while applying in Form G or Form H, also submit the pass book of account-A or deposit receipt of account-B, as the case may be, to the deposit office.

(5) The payment made by the deposit office to the depositor or the nominee or the legal heir in accordance with the provisions of this paragraph shall constitute a full discharge to the deposit office of its liability in respect of the deposit.

(6) Nothing contained in this paragraph or in paragraph 11 shall affect the right or claim which any person may have against the person to whom any payment is made under this paragraph.

FORM A

[See sub-paragraph (1) of paragraph 5]
(To be submitted in duplicate)

.....
[Name of the Deposit Office]

Serial No.

**Application for opening an account under the
Capital Gains Accounts Scheme, 1988**

To
The Manager

.....
[Name and address of the Deposit Office]
.....

I, aged
[Name and address of the Applicant/Depositor]

years.....hereby apply for opening *account-A *and/*or account-B, under the Capital
Gains Accounts Scheme, 1988 (in terms of section *54/*54B/*54D/*54F/*54G/*54GB of the
Act)) *in my name/*in the name of.....
[Name of the depositor]

of whom I am the *guardian/*karta/*authorised officer, and tender herewith the amount of
Rs.in cash/by way of *Crossed Cheque/*Demand Draft, towards deposit as per
details below.

1. (a) Amount deposited

Rs.
[in figures]

Rs.
[in words]

*in Cash/by *Crossed Cheque/*Demand Draft No. dated.....
drawn on.....

(b) Address of the depositor :

****2.** *I wish to make a nomination in respect of the amount to my credit in the said account/
*I do not wish to make a nomination in respect of the amount to my credit in the said
account, at present.

3. (a) Applicant's relationship with the depositor :
[in case the depositor is minor]

**(b) Whether applicant is natural guardian/
guardian appointed by Court, for the minor
depositor :**

(c) Date of birth of minor :

**4. Depositor's permanent LT. Account No./District/
Ward/Circle/Range where assessed :**

5. Previous year : From..... to month.....
[as applicable in case of the depositor]

**6. Assessment year in respect of which deposit is to be
made :** 19.....

**7. (a) Whether deposit is to be made under account-A
or account-B or under account-A and account-B :**

1. Substituted for *54G of the Act* by the Capital Gains Accounts (First Amendment) Scheme, 2012, w.e.f. 25-10-2012.

(b) In case the deposit is to be made under account-A and account-B

(i) Amount to be deposited under account-A : Rs.
[in figures]

Rs.

[in words]

(ii) Amount to be deposited under account-B : Rs.
[in figures]

Rs.

[in words]

(c) In case of account-B

(i) period for which deposit is to be made :

(ii) whether the deposit is made as *Cumulative/*Non-cumulative

.....
*Signature/Thumb *impression of the depositor
*of the *Guardian/*Karta/*Authorised Officer of the depositor

.....
*Signature/Thumb impression of the eligible
assessee referred to in section 54GB of the Act
[applicable in case of section 54GB only]

Date :

Place :

.....
Additional specimen
.....
.....

FOR THE USE OF DEPOSIT OFFICE

1. (a) Account-A No. has been opened on with
Rs. in the name of

[Name of the depositor]

(b) Pass book No. has been issued to the applicant/depositor.

2. (a) Account-B No. has been opened on with
Rs. in the name of as

[Name of the depositor]

*cumulative/non-cumulative deposit.

(b) Deposit Receipt No. for Rs. dated has
been delivered on to the *applicant/*depositor.

3. Cheque No. dated for Rs. drawn on tendered by the
*applicant/*depositor, has not been realised, hence account has not been opened.

Date :

.....
Officer-in-charge

Notes :

1. *Delete what is not applicable.
2. Option with respect to type of account/accounts intended to be opened and amount to be deposited and other details (in case two accounts, i.e., account-A and account-B are to be opened) must be mentioned under the respective columns.
3. *Nomination Form E must be submitted along with this application in case of individual depositor intending to make nomination otherwise, the applicant should delete the portion under column 2 of the Form, whichever is not applicable.
4. Column 3 is for deposits made on behalf of a minor.
5. If space provided under the columns is not sufficient to furnish any detail, the same may be furnished by way of using separate enclosure and making reference of the same in respective columns.

FORM B

[See sub-paragraphs (2), (3) and (7) of paragraph 7]

[Name of the Deposit Office]

Serial No.

**Application for conversion of accounts under the
Capital Gains Accounts Scheme, 1988**To
The Manager

[Name and address of the Deposit Office]

I, hereby apply for

transfer of the principal amount of Rs. (Rs.)
[Name of the applicant/*depositor] [in figures] [in words]together with the amount of interest accrued in account-B No. (Deposit
Receipt No.) maintained with your office in *my name/*the name
of.....

[Name and address of the depositor]

1. (a) *To account-A No., Pass book No. maintained with your office
in my name/*the name of the aforesaid depositor ;
- (b) *To a new account-A which may please be opened in my name/*in the name of
aforesaid depositor.

I submit herewith the aforesaid Deposit Receipt No. (for the purpose of
transfer of said amount to aforesaid account-A which *is maintained with your
office/*which is to be opened.

- *2. (i) Opening a new account-B in *my name/*in the name of.....

[Name and address of
..... for a period of days/month/year with effect from
the depositor] [date]and to transfer the sum of Rs. (Rupees.....)
[in figures] [in words]to the credit in such new account-B, out of the balance standing to the credit in
account-A No. (Pass book No.), main-
tained with your office *in my name/*in the name of the said depositor

[Name of the depositor]

- (ii) I submit herewith the aforesaid pass book No. for the purpose of transfer
of said amount to a new account-B.

3. *The application is made by me as guardian on behalf of aforesaid.....
..... who is a minor.

[Name of the depositor]

4. *The application is made by me as karta of the aforesaid.....Hindu
undivided family.

5. The application is made by me as authorised officer of the aforesaid 'firm/
 'company/'association of persons/'body of individuals.

.....
**Signature/Thumb impression of the
 Depositor/the Guardian/Karta/
 Authorised Officer of the Depositor*

Date :

Place :

.....
Additional specimen

FOR THE USE OF DEPOSIT OFFICE

*1. The deposit in aforesaid account-B No. Deposit Receipt
 No. has been allowed to be withdrawn 'before maturity/'on
 maturity/'after maturity and total sum of principal amount Rs.
 [in figures]

(Rupees.....) and sum of Rs.
 [in words] [in figures]

(Rupees.....) of interest accrued in said
 [in words]

account-B No. has been transferred on.....
 [date]

to account-A No. pass book No. 'which is
 already maintained/'which has been opened on....., in the name of
 [date]

the aforesaid depositor..... 'and the pass book No.
 of the newly opened account-A No. has been delivered on.....
 [date]

to the above mentioned 'applicant/'depositor.

*2. A new account-B No. deposit receipt No. for
 sum of Rs. (Rupees.....) has
 [in figures] [in words]

been opened on..... for a period of..... days/
 [date]

month/year/s in the name of aforesaid depositor.....
 [Name of the depositor]

and the sum of Rs. (Rupees.....)
 [in figures] [in words]

has been transferred to said new account-B No. on.....
 [date]

out of the balance standing to the credit in the aforesaid account-A No.
 of the said depositor.

Date :

.....
Officer-in-charge

Notes :

*1. *Score out whichever is not applicable.

2. If space provided in a column or columns is not sufficient to furnish the requisite details, same may
 be furnished by way of using separate enclosure and referring the same under the respective
 column.

FORM C

[See sub-paragraph (1) of paragraph 9]

[Name of the Deposit Office]

Serial No.

**Application for withdrawal of amount from account-A under
the Capital Gains Accounts Scheme, 1988**To
The Manager

[Name and address of the Deposit Office]

I, son of
[Name of the *Applicant/*Depositor]residing at
[Address of the *applicant/depositor]wish to withdraw a sum of Rs. (Rupees)
[in figures] [in words]from the account-A No. (pass book No.) main-
tained with your office, in *my name/*the name of
[Name & address of the depositor]**2. I hereby declare and confirm that the amount sought to be withdrawn is proposed to be
utilised in terms of the provisions of *section 54/*section 54B/*section 54D/*section 54F/
*section 54G I/*section 54GB of the Act for the following purposes.**

- *(i)
- (ii)
- (iii)
- (iv)
- (v)
- (vi)
- (vii)

3. I request you to please pay the aforesaid amount of withdrawal in the following manner:*(i) Amount of Rs. (Rupees)
[in figures] [in words]may be paid in cash for the purposes mentioned at Serial No. of
column 2 hereinabove;*(ii) Amount of Rs. (Rupees)
[in figures] [in words]may be paid to
[Name and address of the party to whom payment is to be made]by way of Pay Order/Demand Draft for the purposes mentioned at Serial No.
of column 2 hereinabove.**4. The application is made by me as guardian on behalf of aforesaid depositor
who is a minor.**
[Name of the depositor]

5. The application is made by me as authorised officer of the aforesaid depositor
 *firm...../..... *company/association of persons/
 body of individuals.
6. The application is made by me as karta of the aforesaid depositor.....
 Hindu undivided family.

.....
**Signature/Thumb impression of the
 Depositor/*the Guardian/*Karta/
 Authorised Officer of the Depositor.

Date :

Place :

.....
Additional specimen

FOR THE USE OF DEPOSIT OFFICE

- (i) Withdrawal for total amount of Rs. *allowed/*not allowed because the
 depositor has not furnished the requisite details in respect of his preceding withdrawal/
 not allowed in terms of the provision of sub-paragraph (4) of paragraph 9 as the
 withdrawal has been sought in cash.
- (ii) Amount of withdrawal has been made as per below :
- (a) Cash Rs.
- (b) Cheque/Demand Draft issued.....

[Details may be noted]

Date.....

.....
Officer-in-charge

Notes :

1. Delete whatever is not applicable.
2. Please mention the details of purpose for which amount is sought to be withdrawn.
3. Please mention the details of amount sought to be paid in cash and by way of Pay Order/Demand Draft with reference to the specific purpose and serial number at which such purpose has been mentioned under column 2 of the application and also the name of the party, account number (if any) of the party in whose favour Demand Draft/Pay Order is sought to be issued.
4. Columns 4, 5, 6 pertain to deposits made on behalf of a minor, a company, a firm, a Hindu undivided family, association of persons, body of individuals. Hence in case of individual deposit these columns may be scored out and in other cases one column which is applicable may be retained and the remaining two columns may be scored out.
5. Details pertaining to column No. 2/3 may be furnished by way of Annexure or Annexures if the space provided in the columns is not sufficient to furnish the details.

FORM D

[See sub-paragraph (3) of paragraph 9]

(To be submitted in duplicate)

[Name of the Deposit Office]

Serial No.

Details regarding the manner and extent of utilisation of the amount withdrawn from account under the Capital Gains Accounts Scheme, 1988

To
The Manager

.....
.....
.....
[Name and address of the Deposit Office]
.....

I, son of
[Name of the applicant/Depositor]

residing at
[Address]

am furnishing in terms of sub-paragraph (3) of paragraph 9, the requisite details regarding the manner and extent of utilisation of the amount of Rs.
[in figures]

(Rupees) withdrawn by me on
[in words] [date]

out of the balance to the credit in *account-A No. (Pass book No.) maintained with your office in *my name/*in the name of aforesaid
[mention the name and address of the depositor]

2. Manner/purpose for which amount withdrawn, mentioned hereinabove has been utilised :

Purpose	Amount Rs. P.	Party to whom payment has been made	Voucher No. Receipt No. (with date)

3. I hereby declare and confirm that the amount withdrawn, which is mentioned hereinabove has been utilised partly and the balance of Rs. was redeposited on to the credit of aforesaid account/*wholly, for the purpose mentioned hereinafter under column 2.

4. This declaration is made by me on behalf of the aforesaid minor depositor of whom I am guardian.

5. This declaration is made by me on behalf of the aforesaid *firm/*company/*association of persons/*body of individuals..... of whom I am the authorised officer to make this declaration.

6. This declaration is made by me as karta of the aforesaid..... Hindu undivided family.

.....
Signature/Thumb impression of the
Depositor/Guardian/Karta/Authorised
Officer of the Depositor

Date :

Place :

.....
Additional specimen
.....

.....
PAN and Dist./Ward/Circle/Range where assessed

FOR THE USE OF DEPOSIT OFFICE

Withdrawal of Rs. "permitted/"not permitted as
the details in respect of total amount of Rs.
withdrawn on.....have not been furnished.

*Applicant/*Depositor has been advised to furnish the details.

Date :

.....
Officer-in-charge

Notes :

1. Delete whatever is not applicable.
2. Columns 4, 5, 6 pertain to deposit made on behalf of a minor, firm, company, a Hindu undivided family, association of persons, body of individuals. Hence, individual depositor may score out these columns and in other cases only one column which is applicable may be retained and the remaining columns may be scored out.
3. If space provided under column 2 is not sufficient to furnish the requisite details, same may be furnished by way of using separate enclosure and referring to the same under the respective column.

FORM E

[See sub-paragraph (1) of paragraph 11]
(To be submitted only in case of individual depositor)

.....
[Name of the Deposit Office]

Serial No.

Form of nomination under the Capital Gains Accounts Scheme, 1988

To
The Manager

.....
[Name and address of the Deposit Office]

I, son of
[Name of the Depositor]

residing at
[Address]

hereby nominate the person(s) mentioned below to whom, to the exclusion of all other persons, in the event of my death, the amount standing to my credit in account-A No.
Pass Book No.
account-B No. Deposit Receipt No.
under the Capital Gains Accounts Scheme, 1988, would be payable.

Sl. No.	Name(s) of the nominee(s)	Relationship	Full address(es)	Date of birth of nominee in case of minor
1.				
2.				
3.				

*As the nominee(s) at Serial No.(s) specified above is/are minor(s), I appoint Shri/Smt./Kumari.....

[Name and full address]

as the person to receive the sum due under the said account(s) in the event of my death during the minority of the nominee(s).

Signature of witness :

Signature/Thumb impression of the depositor

Name and Address :

PAN & Distt./Ward/Circle/Range where assessed

Date :

Place :

Signature of witness

Name and Address :
.....
.....
.....

Date :

FOR THE USE OF DEPOSIT OFFICE

The above nomination has been registered on..... and entry has
 been made in the Pass book No. for account-A No.
 Deposit Receipt No. for account-B No.

Date :

Officer-in-charge

Note :

Delete whatever is not applicable. If space provided under the columns hereinabove is not sufficient to furnish the requisite details, the same may be done by way of using separate enclosure and referring to the same under the respective columns.

FORM F

[See sub-paragraph (3) of paragraph 11]

[Name of the Deposit Office]

Serial No.

Application for cancellation or change of nomination previously made in respect of account under the Capital Gains Accounts Scheme, 1988To
The Manager

[Name and address of the Deposit Office]

I, son of
residing at
[Address of the depositor]

hereby cancel the nomination made by me in respect of my Account/Accounts mentioned under column 2 hereunder:

2. Details of Account/Accounts

(1) Account-A No.

Nomination made on
in favour of

(2) Account-B No.

Nomination made on
in favour of

3. In the place of the cancelled nomination referred to under column 2 hereinabove, I hereby nominate the person(s) mentioned below to whom, to the exclusion of all other persons, in the event of my death, the amount standing to my credit in the account/accounts mentioned under column 2 hereinabove would be payable.

Sl. No.	Name(s) of the nominee(s)	Relationship	Full address(es)	Date of birth of nominee in case of minor
1.				
2.				
3.				

As the nominee(s) at Serial No.(s) stated above
is/are minor(s), I appoint Shri/Smt./Kumari

[Name and full address]

9.21 APPLICATION FOR CANCELLATION OR CHANGE OF NOMINATION Form F

as the person to receive the sum due under the said account(s) in the event of my death during the minority of the nominee(s).

Signature of witness:

.....
Name and Address;

.....
Signature/Thumb impression of the Depositor

PAN & Distt./Ward/Circle/Range where assessed

Date.....

Place.....

FOR THE USE OF DEPOSIT OFFICE

The nomination referred to under column 2 hereinabove has been cancelled* and fresh nomination as per column 3 hereinabove has been registered on..... and accordingly entry has been made in the Pass book for account-A No..... Deposit Receipt No..... for account-B No..... referred to under the column 2 hereinabove.

Date.....

.....
Officer-in-charge

Note:

*Delete whatever is not applicable. If space provided under the columns hereinabove is not sufficient to furnish the requisite details, the same may be done by way of using separate enclosure and referring to the same under the respective columns.

FORM G

[See sub-paragraph (1) of paragraph 13]
(To be submitted by the depositor)

.....
[Name of the Deposit Office]

Serial No.....

**Application for closing the account under the Capital
Gains Accounts Scheme, 1988
by the depositor**

To
The Manager

.....
.....
.....
[Name and address of the Deposit Office]

I..... son of.....
[Name of the "Depositor"/"Applicant"]

residing at.....
[Address of the "applicant"/"depositor"]

hereby apply in terms of sub-paragraph (1) of paragraph 13 of the Scheme, to close the
"account"/"accounts mentioned below, which "is"/"are maintained, with your office "in my
name/"in the name of.....

[Name and address of the depositor]

2. Details of Account/Accounts :

(i) Account-A No..... Pass book No.....

(ii) Account-B No..... Deposit Receipt No.

3. I tender herewith the "Pass book"/"Deposit Receipt mentioned hereinabove.

4. The application is made by me as guardian on behalf of aforesaid depositor who is a
minor and whose date of birth is.....

5. The application is made by me as authorised officer of the aforesaid depositor, the
"firm..... "company, association of persons..... body
of individuals.....

6. The application is made by me as karta of the aforesaid depositor.....
a Hindu undivided family.

.....
*Signature/Thumb impression of the
Depositor/Guardian/Karta/Authorised
Officer of the Depositor*

.....
["" Signature/Thumb impression of the eligible
assessee referred to in section 54GB of the Act
[applicable in case of section 54GB only]]

Date.....

Place.....

.....
Additional specimen

APPROVED

[Signature (with date) and stamp of Assessing Officer having jurisdiction]

FOR THE USE OF DEPOSIT OFFICE

(Details of *Account/*Accounts closed and total amount paid may be recorded)

1.

2.

3.

4.

5.

6.

Date.....

.....
Officer-in-charge

Notes :

1. *Delete whatever is not applicable.
2. Columns 4, 5, 6 pertain to deposit made on behalf of a minor, firm, company, association of persons, body of individuals, a Hindu undivided family. Hence, in case of individual depositor, these columns may be scored out. In other cases, only one respective column may be retained and the remaining two may be scored out.
3. ** In case the account to be closed pertains to an eligible company as referred to in section 54GB, the form shall also be signed by the eligible assessee referred to in the said section.]

FORM H

[See sub-paragraphs (2) and (3) of paragraph 13]
 (To be submitted by the nominee/legal heir of the deceased depositor)

.....
 [Name of the Deposit Office]

Serial No.....

**Application for closing the account under the Capital Gains Accounts Scheme, 1988, by
 the nominee/legal heir of the deceased depositor**

To
 The Manager

.....
 [Name and address of the Deposit Office]

I/We,
 [Name and address of the nominee/legal heir of the deceased depositor]
 hereby apply in terms of sub-paragraph (2)/(3) of paragraph 13 of the Scheme to close the
 'account/'accounts mentioned below, which 'is/'are maintained with your office in the
 name of the deceased depositor.....
 [Name and address of the depositor and PAN and Dist./

.....
 Ward/Circle/Range where assessed]

2. In terms of 'sub-paragraph (6) of paragraph 11, I,
 [Name of the nominee]
 aged..... years, son of.....
 [full address]

am entitled to obtain payment due to the credit in the 'account/'accounts mentioned under
 column 4 hereunder (in case application is made by the nominee).

3. I,
 [Name of the legal heir]
 resident of.....
 [full address]

am making this application to obtain the payment due to the credit in the 'account/'accounts
 mentioned under column 4 hereunder and submit herewith the letter(s) of disclaimer given
 by all other legal heirs.

4. Details of 'Account/'Accounts

(i) Account-A No..... Pass book No.....
 (ii) Account-B No..... Deposit Receipt No.....

5. "I/We tender herewith the "Pass book/"Deposit Receipt mentioned hereinabove.

Date :

Place :

Signature/Thumb impression of the
Nominee/Legal heir of the
deceased depositor

Additional specimen

APPROVED

[Signature (with date) and stamp of Assessing Officer having jurisdiction]

FOR THE USE OF DEPOSIT OFFICE

(Details of Account/Accounts closed and total amount paid to the nominee/legal heir,
may be recorded)

1.
2.
3.
4.
5.

Date :

Officer-in-charge

Notes :

1. Delete whatever is not applicable.
2. Pass Book/Deposit Receipt, as the case may be, should be enclosed.
3. Column 2 pertains to claim made by nominee and column 3 pertains to claim made by legal heir(s). Hence, the column which is not applicable may be scored out.

ANNEX**Capital Gains Accounts Scheme, 1988 - Notification under paragraph 2(e) -
Banks authorised to receive deposits under the Scheme****NOTIFICATION ONE**

In pursuance of clause (e) of paragraph 2 of the Capital Gains Accounts Scheme, 1988, the Central Government hereby authorises all the branches (except rural branches) of the banks specified in column (2) of the Table below to receive deposits and maintain accounts, under the said Scheme :

TABLE

<i>Sl. No.</i>	<i>Name of the Bank</i>
1.	State Bank of India
2.	State Bank of Bikaner & Jaipur
3.	State Bank of Hyderabad
4.	State Bank of Indore
5.	State Bank of Mysore
6.	State Bank of Patiala
7.	State Bank of Saurashtra
8.	State Bank of Travancore
9.	Central Bank of India
10.	Bank of India
11.	Punjab National Bank
12.	Bank of Baroda
13.	UCO Bank
14.	Canara Bank
15.	United Bank of India
16.	Dena Bank
17.	Syndicate Bank
18.	Union Bank of India
19.	Allahabad Bank
20.	Indian Bank
21.	Bank of Maharashtra
22.	Indian Overseas Bank
23.	Andhra Bank
24.	Corporation Bank
25.	New Bank of India
26.	Oriental Bank of Commerce
27.	Punjab & Sind Bank
28.	Vijaya Bank

Explanation : For the purposes of this notification, a rural branch, in relation to the bank specified in column (2) of the Table, means a branch which is situate and is functioning at a centre, the population whereof, in accordance with the 1981 census, is less than ten thousand.

NOTIFICATION NO. GSR 725(E), DATED 22-6-1988.

NOTIFICATION TWO

in continuation to the earlier Notification No. G.S.R. 725(E), dated 22-6-1988, and in pursuance of clause (e) of paragraph 2 of the Capital Gains Account Scheme, 1988, the Central Government hereby authorises all the branches (except rural branches) of IDBI Bank Ltd. to receive deposits and maintain accounts under the said scheme.

Explanation. - For the purpose of this notification, a rural branch, in relation to the IDBI Bank Ltd., means a branch which is situate and is functioning at a centre, the population whereof, in accordance with the 2001 census is less than ten thousand.

NOTIFICATION NO. GSR 859(E), DATED 30-11-2012

DIVISION 10**INCOME-TAX (DISPUTE
RESOLUTION PANEL) RULES,
2009*****Arrangement of Rules***

RULE	PAGE
1. Short title and commencement	10.3
2. Definitions	10.3
3. Constitution of the Panel	10.3
4. Procedure for filing objections	10.5
5. Notice for hearing	10.6
6. Call for records	10.6
7. Hearing of objections	10.6
8. No abatement of proceedings	10.6
9. Power to call for or permit additional evidence	10.7
10. Issue of directions	10.7
11. Directions to be communicated to parties	10.7
12. Passing of Assessment Order	10.7
13. Rectification of mistake or error	10.7
14. Appeal against Assessment Order	10.7
FORM NO. 35A : Objections to the draft order	10.7
FORM NO. 36B : Form of appeal to the Appellate Tribunal	10.8

INCOME-TAX (DISPUTE RESOLUTION PANEL) RULES, 2009

NOTIFICATION NO. 84/2009[S.O. 2958(E)/F.NO. 142/22/2009-TPL],
DATED 20-11-2009

In exercise of the powers conferred by sub-section (14) of section 144C of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes makes the following rules to regulate the procedure of the Dispute Resolution Panel, namely:—
Short title and commencement.

1. (1) These rules may be called the Income-tax (Dispute Resolution Panel) Rules, 2009.

(2) They shall come into force on the date of their publication in the Official Gazette.

Definitions.

2. In these rules, unless the context otherwise requires,—

- (i) "Act" means the Income-tax Act, 1961 (43 of 1961);
- (ii) "panel" means the Dispute Resolution Panel;
- (iii) "Form" means a form appended to these rules;
- (iv) "Secretariat", in relation to panel, means the designated office for filing of objections by the eligible assessee under section 144C;
- (v) "section" means a section of the Act;
- (vi) words and expressions used herein but not defined and defined in the Act shall have the meanings respectively assigned to them in the Act.

Constitution of the Panel.

3. [(1) The Board may, on the basis of workload and for efficient functioning, constitute panel in the places specified in column (2) of the Table below, having jurisdiction over the areas specified in column (3) thereof.

1. Substituted by the Income-tax (Dispute Resolution Panel) (First Amendment) Rules, 2014, w.e.f. 1-1-2015. Prior to its substitution, sub-rule (1) read as under :

"(1) The Board may, on the basis of workload and for efficient functioning, constitute panel in the places specified in column (2) on the Table below, having jurisdiction over the areas specified in column (3) thereof.

TABLE

Sl No	Name of the Headquarters	Jurisdiction
(1)	(2)	(3)
1.	Delhi	(1) NCT of Delhi (2) Punjab, Haryana and Chandigarh, J&K (3) Uttar Pradesh, Uttaranchal, Rajasthan and Himachal Pradesh

(Contd. on p. 104)

TABLE

Sl. No.	Name of the Headquarters	Jurisdiction
(1)	(2)	(3)
1.	Delhi	(1) National Capital Territory of Delhi (2) States of Punjab, Haryana, Jammu and Kashmir and Union territory of Chandigarh (3) States of Uttar Pradesh, Uttarakhand, Rajasthan and Himachal Pradesh (4) States of Bihar, Odisha and Jharkhand (5) States of West Bengal, Sikkim, Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura and Union territory of Andaman and Nicobar Islands
2.	Mumbai	(1) Mumbai (Area lying within the territorial limits of Municipal Corporation of Greater Mumbai and Navi Mumbai Municipal Corporation) (2) Rest of Maharashtra (3) States of Gujarat, Madhya Pradesh, Chhattisgarh and Union territories of Daman and Diu, and Dadra and Nagar Haveli
3.	Bengaluru	States of Karnataka, Tamil Nadu, Andhra Pradesh, Telangana, Kerala, Goa and Union territories of Puducherry and Lakshadweep]

(Contd. from p. 10.3)

Sl. No.	Name of the Headquarters	Jurisdiction
(1)	(2)	(3)
2.	Mumbai	(1) Mumbai (2) Rest of Maharashtra except Pune (3) Goa, Madhya Pradesh and Chhattisgarh
3.	Ahmedabad	Gujarat, Daman Diu, Dadra Nagar Haveli
4.	Kolkata	(1) West Bengal, North-east States and Andaman and Nicobar (2) Bihar, Orissa and Jharkhand
5.	Chennai	Tamil Nadu and Pondicherry
6.	Hyderabad	Andhra Pradesh
7.	Bangalore	Karnataka, Kerala and Lakshadweep
8.	Pune	Pune

¶(2) The Board shall constitute panels at headquarters referred to in sub-rule (1) and assign three Commissioners of Income-tax to each panel as Members.]

¶(3) The Principal Chief Commissioner of Income-tax (International Taxation) or Chief Commissioner of Income-tax (International Taxation) may, after giving the eligible assessee an opportunity of being heard and after recording the reasons, transfer a case from one panel to another panel under their jurisdiction.

(3A) The Principal Chief Commissioner of Income-tax (International Taxation) may, after giving the eligible assessee an opportunity of being heard and after recording the reasons, transfer a case from the jurisdiction of—

- (a) the Principal Chief Commissioner of Income-tax (International Taxation) to the jurisdiction of any Chief Commissioner of Income-tax (International Taxation); or
- (b) the Chief Commissioner of Income-tax (International Taxation) to the jurisdiction of the other Chief Commissioner of Income-tax (International Taxation) or the Principal Chief Commissioner of Income-tax (International Taxation).]

(4) Each panel shall have a secretariat for receiving objections, correspondence and other documents to be filed by the eligible assessee and shall also be responsible for issuing notices, correspondence and direction if any, on behalf of the panel.

¶(5) The Principal Chief Commissioner of Income-tax (International Taxation) or the Chief Commissioner of Income-tax (International Taxation) of the region where headquarters of the panel is located shall, for the purposes of sub-rule (4), constitute the secretariat for the panel.]

Procedure for filing objections.

4. (1) The objections if any, of the eligible assessee to the draft order may be filed in person or through his agent within the specified period in Form No. 35A.

1. Substituted by the Income-tax (Dispute Resolution Panel) (First Amendment) Rules, 2014, w.e.f. 1-1-2015. Prior to its substitution, sub-rule (2), as amended by the Income-tax (Dispute Resolution Panel) (First Amendment) Rules, 2012, w.e.f. 24-8-2012, read as under :
“(2) The Board shall assign by designation three Commissioners of Income-tax to each panel as Members who, in addition to their regular duties as Commissioners, shall also carry on the functions of the panel.”
2. Substituted, *ibid*. Prior to their substitution, sub-rules (3) and (3A), as amended by the Income-tax (Dispute Resolution Panel) (First Amendment) Rules, 2012, w.e.f. 24-8-2012, read as under :
“(3) The Board shall assign one Commissioner of Income-tax as a Reserve Member to each panel, who, in addition to his regular duties as Commissioner, shall also carry on the functions of the panel, in place of any Member, as and when required by the Director General of Income-tax (International Taxation).
(3A) The Director General of Income-tax (International Taxation) may, after giving the eligible assessee an opportunity of being heard and after recording the reasons, transfer a case from one panel to another panel.”
3. Substituted by the Income-tax (Dispute Resolution Panel) (First Amendment) Rules, 2014, w.e.f. 1-1-2015. Prior to its substitution, sub-rule (5) read as under :
“(5) The Chief Commissioner of Income-tax (CCA) shall, for the purposes of sub-rule (4), constitute the secretariat for the panel.”

(2) The objections referred to in sub-rule (1) shall be in English and presented to the Secretariat of the panel.

(3) The objections shall be filed in paper book form in quadruplicate duly accompanied by—

- (a) four copies of the draft order duly authenticated by the eligible assessee or his authorised representative:

Provided that in the case of draft assessment under sub-section (3) of section 143 read with section 144A, the objections shall also be accompanied by four copies of the directions issued by the Joint Commissioner or Additional Commissioner under section 144A and in the case of draft assessment under sub-section (3) of section 143 read with section 147, the objections shall also be accompanied by four copies of the original assessment order, if any :

Provided further that the panel may, in its discretion, either accept the objections which are not accompanied by all or any of the documents referred to above or reject it.

- (b) the evidence, if any, the eligible assessee intends to rely upon including any document or statement or paper submitted to the Assessing Officer:

Provided that where the eligible assessee intends to rely upon any additional evidence other than those submitted to the Assessing Officer, such additional evidence shall not form part of the paper book but may be filed along with a separate application stating the reasons for filing such additional evidence.

Notice for hearing.

5. The panel shall issue notice to the eligible assessee and the concerned Assessing Officer specifying the date and place of hearing of the objection.

Call for records.

6. The panel shall also call for records relating the draft order and permit the Assessing Officer to file report, if any, to the objections filed by eligible assessee.

Hearing of objections.

7. (1) For the purpose of hearing of objections, the panel may hold its sittings at its headquarters or at such other place or places as it may deem proper.

(2) On the date fixed for hearing, if an authorised representative appears on behalf of eligible assessee, he shall file the authorisation letter before the commencement of the hearing.

(3) The panel may consider the application for filing additional affidavit and may either allow such application or reject it.

(4) The eligible assessee may, with the permission of the panel, urge any additional ground which has not been set forth in the objections.

No abatement of proceedings.

8. After filing objections, if the eligible assessee, being an individual, dies or is adjudicated insolvent, or being a company, is wound up, the proceedings before the panel shall not abate and shall be continued by the executor, administrator or other legal representative of such individual assessee or by the assignee, receiver or liquidator of such assessee being a company, as the case may be.

Power to call for or permit additional evidence.

9. Where the panel deems it necessary, it may call upon or, as the case may be, permit the eligible assessee to produce any document or examine any witness or file any affidavit to enable it to issue proper directions:

Provided that the panel shall, while so permitting the eligible assessee, record its reasons for such permission.

Issue of directions.

10. (1) On the date fixed for hearing or on any other date to which the hearing may be adjourned, if the eligible assessee or his authorized representative do not appear, or when they appear, upon hearing the objections, the panel may, within the specified time, issue such directions as it deems proper.

(2) While hearing the objections, the panel shall not be confined to the grounds set forth in the objections but shall have power to consider any matter or grounds arising out of the proceedings.

(3) On conclusion of hearing, the panel shall issue directions within the specified period.

Directions to be communicated to parties.

11. The panel shall, after the directions are issued, communicate the same to the eligible assessee and to the Assessing Officer.

Passing of Assessment Order.

12. Upon receipt of directions from the panel, the Assessing Officer shall pass the Assessment Order in accordance with the procedure prescribed in sub-section (13) of section 144C.

Rectification of mistake or error.

13. After the issue of directions under rule 10, if any, mistake or error is apparent in such direction, the panel may, *suo motu*, or on an application from the eligible assessee or the Assessing Officer, rectify such mistake or error, and also direct the assessing officer to modify the assessment order accordingly.

Appeal against Assessment Order.

14. Any appeal against the Assessment Order passed in pursuance of the directions of the panel shall be filed before the Appellate Tribunal in '[Form No. 36 as contained in Appendix II to the Income-tax Rules, 1962]'.
(

FORM NO. 35A

[See rule 4(1)]

Objections to the draft order

No. of.....

1. Name and address of the eligible assessee
2. Permanent Account Number
3. Assessment year in connection with which the objection is filed
4. Assessing Officer passing the draft order of assessment

1. Substituted for "Form No. 36B" by the Income-tax (Dispute Resolution Panel) (First Amendment) Rules, 2018, w.e.f. 23-10-2018.

5. Section and sub-section of the Income-tax Act, 1961 under which the Assessing Officer proposing the additions has sent the draft order for which reference is being filed
6. The date of service of the draft order of assessment
7. Section and clause of the Income-tax Act, 1961, under which the reference is made
8. For each objection, the ground and statement of fact as per Annexure is required to be annexed herewith. Whether the same has been complied with

Yes/No

(Annexure)

1. Ground of objection
2. Facts as submitted to Assessing Officer
3. Facts, if any, modified by the Assessing Officer
4. Do you wholly agree with the modifications in the facts by the Assessing Officer. If not, give reasons pointing the specific fact or facts with which you do not agree along with the reasons and documentary evidence, if any
5. Legal arguments submitted to Assessing Officer
6. Case laws relied upon by the assessee
7. Legal argument relied upon by the Assessing Officer
8. Case laws relied upon by the Assessing Officer
9. Any additional new case laws which the assessee may like to rely upon
10. Factual and legal arguments against the addition proposed by the Assessing Officer

VERIFICATION

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

Place : _____

Date : _____

Signature

Status of assessee

FORM NO. 36B

[See rule 14]

Form of appeal to the Appellate Tribunal

In the Income-tax Appellate Tribunal

Appeal No. of

Versus

APPELLANT

RESPONDENT

1. The State in which the assessment was made

2. Section under which the order appealed against was passed
3. Assessment year in connection with which the appeal is preferred
- 3A. Total income declared by the assessee for the assessment year referred to in item 3
- 3B. Total income as computed by the Assessing Officer for the assessment year referred to in item 3
4. The Assessing Officer passing the original order
5. Copy of Order of Dispute Resolution Panel
6. Date of communication of the order appealed against
7. Address to which notices may be sent to the appellant
8. Address to which notices may be sent to the respondent
9. Relief claimed in appeal

GROUNDS OF APPEAL

Signature

(Authorised representative, if any)

Signature

(Appellant)

Verification

I,, the appellant, do hereby declare that what is stated above is true to the best of my information and belief. Verified today the day of

Signature

(Appellant)

Notes :

1. The memorandum of appeal must be in triplicate and should be accompanied by two copies (at least one of which should be a certified copy) of the order appealed against, two copies of the relevant order of the Assessing Officer, two copies of the grounds of objection before the Dispute Resolution Panel, two copies of the statement of facts, if any, filed before the said Dispute Resolution Panel and also
 - (a) the copy of directions of Dispute Resolution Panel.
 - (b) in the case of an appeal against an order under section 143 read with section 147, two copies of the original assessment order, if any.
2. The memorandum of appeal by an assessee under section 253(1) of the Income-tax Act must be accompanied by a fee specified below:—
 - (a) where the total income of the assessee as computed by the Assessing Officer, in the case to which the appeal relates, is one hundred thousand rupees or less, five hundred rupees;
 - (b) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one hundred thousand rupees but not more than two hundred thousand rupees, one thousand five hundred rupees;
 - (c) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two hundred thousand rupees, one per cent of the assessed income, subject to a maximum of ten thousand rupees;

DIVISION 11**AUTHORITY FOR ADVANCE
RULINGS (PROCEDURE)
RULES, 1996*****Arrangement of Rules***

RULE	PAGE
1. Short title and commencement	11.3
2. Definitions	11.3
3. Language of the Authority	11.4
4. Sittings of the Authority	11.4
5. Powers of the Authority	11.4
6. Power to remove difficulty	11.4
7. Powers and functions of the Secretary	11.5
8. Signing of notices, etc.	11.5
9. Mode of service of notices	11.5
10. Procedure for filing applications	11.6
11. Submission of additional facts before the Authority	11.6
12. Questions contained in the application	11.6
13. Date and place of hearing to be notified	11.7
14. Authorisation to be filed	11.7
15. Continuation of proceedings after the death, etc., of the applicant	11.7
16. Hearing of application	11.7
17. Hearing of application <i>ex parte</i>	11.7
18. Modification of the order	11.8
19. Rectification of mistakes	11.8
20. Amendment of the record	11.8
21. Fees for supply of additional certified copies	11.8
22. Inspection of records and fees thereof	11.8
23. Declaration of advance rulings to be void in certain circumstances	11.9
24. Proceedings not open to the public	11.9

RULE	PAGE
25. Publication of orders	11.9
26. Authentication and communication of orders	11.9
27. Proceedings of the Authority	11.9
28. Procedure in case of other application	11.10
29. Dress regulations	11.10

AUTHORITY FOR ADVANCE RULINGS (PROCEDURE) RULES, 1996

[GSR 426(E), DATED 17-9-1996]

In exercise of the powers conferred by section 245V of the Income-tax Act, 1961 (43 of 1961), the Authority for Advance Rulings hereby makes the following rules, namely:—

Short title and commencement.

1. (1) These rules may be called the Authority for Advance Rulings (Procedure) Rules, 1996.
- (2) They shall come into force with immediate effect.

Definitions.

2. In these rules, unless the context otherwise requires,—

- (a) "Act" means the Income-tax Act, 1961 (43 of 1961);
- (b) "Advance Ruling" means an advance ruling as defined in clause (a) of section 245N of the Act;
- (c) "Applicant" means an applicant as defined in clause (b) of section 245N of the Act;
- (d) "Application" means an application under sub-section (1) of section 245Q of the Act but shall include, where the context permits, all applications, petitions and representations of the nature referred to in rule 5;
- (e) "Authorised Representative",—
 - (i) in relation to an applicant shall have the meaning assigned to it in sub-section (2) of section 288 of the Act as if the applicant were an assessee;
 - (ii) in relation to the Commissioner, means a person authorised by the Commissioner in writing to appear, plead and act for the Commissioner in any proceedings before the Authority;
- (f) "Authority" means the Authority for Advance Rulings constituted under section 245-O of the Act;
- (g) "Case" means any proceedings under Chapter XIX-B of the Act in respect of an applicant;
- (h) "Chairman" means the Chairman of the Authority;
- (i) "Commissioner" means,—
 - (1) the Commissioner as defined in clause (16) of section 2 of the Act in respect of an applicant assessed under the Income-tax Act,
 - (2) the Commissioner designated by the Central Board of Direct Taxes in this behalf in respect of an applicant not hitherto assessed,

- (j) "Member" means a member of the Authority and includes the Chairman;
- (k) "Order" includes any order, direction or ruling of the Authority;
- (l) "Rule" means a Rule of the "Authority for Advance Rulings (Procedure) Rules, 1996";
- (m) "Secretary" means a Commissioner of Income-tax designated as the Secretary of the Authority and includes an Additional Commissioner of Income-tax and Deputy Commissioner of Income-tax appointed to assist the Secretary in his functions where the context so requires;
- (n) "Section" means a section of the Act;
- (o) words and expressions used and not defined herein but defined in the Act, shall have the meanings respectively, assigned to them in the Act.

Language of the Authority.

3. (1) The language of the Authority shall ordinarily be English :

Provided that the Authority may, at the request of the parties, permit the use of Hindi in the proceedings before it to the extent it may consider appropriate and practical.

(2) Where any document is in a language other than English or Hindi, an English translation thereof should also be filed along therewith.

(3) The ruling of, and other orders passed by the Authority may, at the discretion of the Authority, be in Hindi or English.

Sittings of the Authority.†

4. The Authority shall hold its sittings at its headquarters at Delhi or at such other place or places as may be authorised by the Chairman and the date and place of hearing shall be notified in such manner as the Chairman may by general or special order direct.

Powers of the Authority.*

5. The Authority shall hear and determine the application made under sub-section (1) of section 245Q of the Act and such other applications, petitions and representations of an interlocutory, incidental or ancillary nature as may be necessary for a complete and effective disposal of the application, as the Chairman may by general or special order direct.

Power to remove difficulty.

6. If any difficulty arises in giving effect to any order of the Authority, the Authority may, on its own motion or on an application made by the applicant

†In exercise of the powers conferred under the Income-tax Act, 1961, the Finance Act, 1992 and the Finance (No. 2) Act, 2014, the Central Government hereby notifies the creation of two additional benches of the Authority for Advance Rulings (Income Tax) including one at National Capital Region (NCR) and one new bench at Mumbai, with effect from the date of publication of this notification in the Gazette of India (Extraordinary) - Notification (No. 1/2015)/SO 812(E) [F. No. Q. 20015/6/2014-SOAdIC (AAR)], dated 20-3-2015.

*Authority does not have power either to admit additional material or to review ruling on basis of additional material; power under rule 5 of Authority for Advance Ruling (Procedure) Rules, 1996 has to be exercised before pronouncement of ruling on application made under section 245Q(1) and power under rule 19 may be exercised after pronouncement of ruling but before it is given effect to by Assessing Officer - *General Electric Pension Trust, In re* [2007] 159 Taxman 213/289 ITR 335 (AAR - New Delhi).

or the Commissioner, remove the difficulty insofar as it is not inconsistent with the provisions of the Act.

Powers and functions of the Secretary.

7. (1) The Secretary shall have the custody of the records of the Authority and shall exercise such other functions as are assigned to him under these rules or by the Chairman by separate order.

(2) The official seal of the Authority shall be kept in custody of the Secretary.

(3) The Secretary shall also have the following powers and duties, namely :—

- (i) to receive all applications filed before the Authority;
- (ii) to scrutinise the applications to find out whether they are in conformity with the Act, the rules and the procedure;
- (iii) to point out defects in such application to the parties and require them to remove the defects by affording them a reasonable opportunity to do so and, where, within the time granted, the defects are not removed, to obtain necessary orders of the Authority;
- (iv) to fix the date of hearing for the applications in consultation with the Chairman and direct the issue of notices therefor;
- (v) to issue the service of notices or other processes and to ensure that the parties are properly served;
- (vi) to requisition records from the custody of any person including a Commissioner or any other Authority;
- (vii) to allow inspection of records of the Authority;
- (viii) to direct any formal amendment of the records of the Authority;
- (ix) to grant certified copies of the orders of the Authority to the parties;
- (x) to grant certified copies of documents filed in the proceedings to the parties in accordance with the rules; and
- (xi) to bring on record legal representatives, in case of death or retirement of any party to the proceedings and to make such appropriate amendments in the cause title as may become necessary in the other situations referred to in rule 15.

Signing of notices, etc.

8. (1) Any requisition, direction, letter, authorisation, or written notice to be issued by the Authority shall be signed by the Secretary or by an officer authorised by him.

(2) Nothing in sub-rule (1) shall apply to any requisition or direction which the Authority may, in the course of the hearing, issue to an applicant or a Commissioner or an authorised representative.

Mode of service of notices.

9. Every notice or other document required to be served on or delivered to any person, may be sent by hand through process server, or by registered post or by FAX to that person or his authorised representative at the address or FAX number furnished by him for service or at the place where the person or his

authorised representative ordinarily resides or carries on business or personally works for gain.

Procedure for filing applications.

10. (1) An application shall be made in Form 34C of the Income-tax Rules, 1962 in quadruplicate and presented by the applicant in person or by an authorised representative to the Secretary or any other officer notified in writing by the Secretary or sent by registered post addressed to the Secretary along with a fee of two thousand five hundred Indian Rupees in the form of a Demand Draft drawn in favour of "Authority for Advance Rulings" payable at New Delhi.

(2) The application, its verification and the annexures, statements and documents accompanying it, shall be signed in the manner set out in sub-rule (2) of rule 44E of the Income-tax Rules, 1962 :

Provided that where a person signing the application and other documents claims to have been duly authorised in that behalf under the rules, the application shall be accompanied by a power of attorney, authorising him to append his signature and an affidavit setting out the unavoidable reason which entitles him to sign it.

(3) An application sent by registered post under sub-rule (1) shall be deemed to have been made on the date on which it is received in the office of the Authority.

(4) If the applicant is not hitherto assessed in India, he shall indicate in Annexure I to the application :

- (a) his head office in any other country,
- (b) the place where his office and residence is located or is likely to be located in India, and
- (c) the name and address of his representative in India, if any, authorised to receive notices and papers and act on his behalf.

(5) The Secretary may send the application back to the applicant if it is defective in any manner for removing the defects within such time as he may allow. Such application shall be deemed to have been made on the date when it is represented after correction.

Submission of additional facts before the Authority.

11. (1) The Authority may at its discretion permit or require the applicant to submit such additional facts as may be necessary to enable it to pronounce its advance ruling.

(2) Where in the course of the proceedings before the Authority, a fact is alleged which cannot be borne out by or is contrary to the record, it shall be stated clearly and concisely and supported by a duly sworn affidavit.

Questions contained in the application.

12. The applicant shall not, except by leave of the Authority, urge or be heard in support of any additional question not set forth in the application, but in deciding the application of the Authority shall at its discretion consider all aspects of the questions set forth as may be necessary to pronounce a ruling on the substance of the questions posed for its consideration.

Date and place of hearing to be notified.

13. (1) Where an application under section 245Q is received from an applicant not hitherto assessed and there is no Commissioner designated in respect thereof under rule 2(i)(2), a copy of the application and enclosures thereto shall be forwarded to the Board calling upon it to specify or designate, within a period of two weeks, the Commissioner for the purposes of the application, failing which the application may be decided without hearing the Commissioner.

(2) On receipt of an application under section 245Q in respect of which there is a Commissioner as defined in rule 2(i)(1) or a Commissioner has been designated by the Board under rule 2(i)(2) or under sub-rule (1) of this rule, the Authority shall notify the applicant and the Commissioner of the date and place of hearing of the application and forward a copy of the application to the Commissioner calling upon him to furnish the relevant records of the case along with his comments, if any, on the contents of the application and nominate his authorised representative if he desires to be heard.

Authorisation to be filed.

14. An authorised representative appearing for the applicant at the hearing shall file, before the commencement of the hearing, a document authorising him to appear for the applicant and if he is a relative of the applicant, the document shall state the nature of his relationship with the applicant, or if he is a person regularly employed by the applicant the capacity in which he is at the time employed.

Continuation of proceedings after the death, etc., of the applicant.

15. Where the applicant dies or is wound up or dissolved or disrupted or amalgamated or succeeded to by any other person or otherwise comes to an end, the application shall not abate and may be permitted by the Authority, where it considers that the circumstances justify it, to be continued by the executor, administrator or other legal representative of the applicant or by the liquidator, receiver or assignee, as the case may be, on an application made in this behalf.

Hearing of application.

16. (1) On the day fixed, or any other day to which the hearing may be adjourned, the Authority shall hear the applicant or his authorised representative in cases where it is proposed to reject the application or the applicant seeks/has sought an opportunity of being heard. The Authority may also hear the Commissioner or his authorised representative as well if it considers it necessary before pronouncing its advance ruling.

(2) In appropriate cases the Authority may call upon any person to supply such material as it may consider necessary to assist the Authority in arriving at a decision.

(3) The Authority may, on such conditions as the circumstances of the case may require, adjourn the hearing of the application.

Hearing of application *ex parte*.

17. Where on the date fixed for hearing or any other day to which the hearing may be adjourned, the applicant or the Commissioner does not appear in person or through an authorised representative when called on for hearing, the Authority may dispose of the application *ex parte* on merits :

Provided that where an application has been disposed of as above and the applicant or the Commissioner, as the case may be, applies within 15 days of receipt of the

order and satisfies the Authority that there was sufficient cause for his non-appearance when the application was called upon for hearing, the Authority may, after allowing the opposite party a reasonable opportunity of being heard, make an order setting aside the *ex parte* order and restore the application for fresh hearing.

Modification of the order.

18. Where the Authority finds *suo motu* or on a representation made to it by the applicant or the Commissioner or otherwise, but before the ruling pronounced by the Authority has been given effect to by the Assessing Officer, that there is a change in law or facts on the basis of which the ruling was pronounced, it may by order modify such ruling in such respects as it considers appropriate, after allowing the applicant and the Commissioner a reasonable opportunity of being heard.

Rectification of mistakes.

19. (1) The Authority may, with a view to rectifying any mistake apparent from the record, amend any order passed by it before the ruling pronounced by the Authority has been given effect to by the Assessing Officer.

(2) Such amendment may be made *suo motu* or when the mistake is brought to its notice by the applicant or the Commissioner, but only after allowing the applicant and the Commissioner reasonable opportunity of being heard.

Amendment of the Record.*

20. If at any stage of the proceedings before the Authority it appears that there is any factual or material error in the records the same shall be amended after hearing the applicant and the Commissioner.

Fees for supply of additional certified copies.

21. (1) The Secretary may order grant of additional certified copies of documents or orders to the applicant or the Commissioner on a written request made by either of them.

(2) Copying fees for supply of additional certified copies to the applicant shall be charged at rupees three per page and such fees shall be paid in advance in cash.

Inspection of records and fees thereof.

22. (1) The applicant or the Commissioner or an authorised representative may be allowed to inspect the records of the case on making an application in writing to the Secretary provided that only those documents shall be allowed to be inspected which have been relied upon in the proceedings before the Authority.

*In *Gameplan Sports (P.) Ltd., In re* [2006] 155 Taxman 323 (AAR-New Delhi) the applicant, an Indian company, is engaged in the business management of sports events. It entered into an agreement with 'T Ltd.', Dubai. It sought advance ruling on taxability of payment to be made to 'T Ltd.', Dubai. During the course of hearing, the applicant filed an application under rule 20 wherein it is stated that registered office of 'T Ltd.' is at Mauritius and it is resident of Mauritius and sought amendment of application filed for seeking advance ruling, by substituting 'T Ltd.', Dubai, with 'T Ltd.' Mauritius. The applicant also contended that 'T Ltd.', Dubai, is only a branch of 'T Ltd.' Mauritius.

It was held that a perusal of rule 20 shows that what is permitted to be amended by way of amendment of records is any factual or material error and such amendment can be made at any stage of proceedings before the Authority. In the instant case since it could not be said, on facts, that Dubai company was only a branch of the Mauritius company, the application filed by the applicant under rule 20 was liable to be dismissed.

(2) The inspection shall be allowed only in the presence of an officer of the Authority and the applicant may be permitted to make notes of inspection but not to take copies of any document.

(3) Fees for inspecting records of the Authority shall be charged from the applicant as follows :

- (a) Rupees one hundred for the first hour or part thereof; and
- (b) Rupees fifty for every additional hour or part thereof.

(4) Fees for inspection shall be paid in advance in cash.

Declaration of advance rulings to be void in certain circumstances.

23. (1) Where a representation is made under section 245T of the Act to the Authority by the Commissioner or otherwise that an advance ruling pronounced by it under sub-section (6) of section 245R has been obtained by the applicant by fraud or misrepresentation of facts, such representation shall be made in quadruplicate and shall be accompanied by a statement of facts incorporating the fraud or misrepresentation as also particulars of the evidence to substantiate the claim of fraud or misrepresentation of facts.

(2) On receipt of such representation a notice shall be issued to the applicant along with a copy of the representation for rebuttal and a reasonable opportunity shall be allowed to the applicant and the Commissioner for being heard before passing an order under section 245T.

Proceedings not open to the public.

24. Proceedings before the Authority shall not be open to the public and no person, other than the applicant, the Commissioner or their authorised representatives shall, without the permission of the Authority, remain present during such proceedings.

Publication of orders.

25. Such of the orders of the Authority, as the Chairman deems fit for publication in any authoritative report or the press, may be released for such publication on such terms and conditions as the Chairman may specify.

Authentication and communication of orders.

26. (1) Every order of the Authority under Chapter XIX-B shall be duly signed by the members and bear the official seal of the Authority.

(2) One certified copy of such order of the Authority shall be communicated to the applicant and the Commissioner under the signature of the Secretary or any other officer of the Authority authorised by him in this behalf and bear the official seal of the Authority.

Proceedings of the Authority.

27. (1) When one or both of the members of the Authority other than the Chairman is unable to discharge his functions owing to absence, illness or any other cause or in the event of occurrence of any vacancy or vacancies in the office of the members and the case cannot be adjourned for any reason, the Chairman alone or the Chairman and the remaining member may function as the Authority.

(2) Subject to the provisions of sub-rule (3), in case there is difference of opinion among the members hearing an application the opinion of the majority of members

shall prevail and orders of the Authority shall be expressed in terms of the views of the majority but any member dissenting from the majority view may record his reasons separately.

(3) Where the Chairman and one other member hear a case under sub-rule (1) and are divided in their opinion, the opinion of the Chairman shall prevail.

Procedure in case of other application.

28. The provisions contained in these rules for the hearing and disposal of application under section 245Q(1) shall apply, *mutatis mutandis*, to the hearing and disposal of all other applications, petitions and representations before the Authority.

Dress regulations.

29. (1) An authorised representative shall appear before the Authority in dress prescribed for the members of his profession by the competent professional body, if any.

(2) All other persons appearing before the Authority shall be properly dressed.

DIVISION 12

REVERSE MORTGAGE SCHEME, 2008

Arrangement of Paragraphs

PARA		PAGE
1.	Short title, commencement and application	12.3
2.	Definitions	12.3
3.	Application and processing for reverse mortgage transaction	12.4
4.	Sanction of reverse mortgage loan	12.4
5.	Disbursement of loan	12.5
6.	Period of reverse mortgage loan	12.5
7.	Repayment of loan	12.5

REVERSE MORTGAGE SCHEME, 2008

NOTIFICATION NO. 93/2008, DATED 30-9-2008

In exercise of the powers conferred by clause (xvi) of section 47 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following scheme, namely:—

Short title, commencement and application.

1. (1) This scheme may be called the Reverse Mortgage Scheme, 2008.
- (2) It shall be deemed to have come into force from the 1st day of April, 2008.
- (3) Save as otherwise provided in the Scheme, it shall be applicable to all eligible persons.

Definitions.

2. In this Scheme, unless the context otherwise requires,—

- (a) "Act" means the Income-tax Act, 1961 (43 of 1961);
- [(ab) "annuity sourcing institution" means Life Insurance Corporation of India or any other insurer registered with the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);]
- (b) "approved lending institution" means—
 - (i) National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987);
 - (ii) a scheduled bank included in the second schedule to the Reserve Bank of India Act, 1934; or
 - (iii) a housing finance company registered with the National Housing Bank;
- (c) "Board" means the Central Board of Direct Taxes constituted under the Central Board of Revenue Act, 1963 (54 of 1963);
- (d) "Capital asset" means a residential house property which is located in India;
- (e) "eligible person" means—
 - (i) any person, being an individual, who is of, or above, the age of sixty years; or

- (ii) any married couple, if either of the husband or wife is of, or above, the age of sixty years;
- (f) "Reverse Mortgage" means mortgage of a capital asset by an eligible person against a loan obtained by him from an approved lending institution;
- (g) "reverse mortgagor" means the eligible person who has mortgaged the capital asset for the purpose of obtaining loan;
- (h) "reverse mortgage transaction" means a transaction in which the loan may be disbursed to the reverse mortgagor but does not include transaction of sale, or disposal, of the property for settlement of the loan;
- (i) All other words and expressions used herein, but not defined and defined in the Act, shall have the meanings respectively assigned to them in the Act.

Application and processing for reverse mortgage transaction.

3. (1) Any eligible person may enter into a reverse mortgage transaction by applying in writing to the approved lending institution, if the capital asset, being mortgaged, is—

(i) owned by him; and

(ii) free from any encumbrances.

(2) The application under '[sub-paragraph (1)] shall be processed by the approved lending institution and for this purpose the institution may charge nominal amount as processing fees.

Sanction of reverse mortgage loan.

4. (1) The approved lending institution, before taking mortgage of capital asset and before disbursing any loan under reverse mortgage, shall—

(a) enter into a loan agreement in writing with the reverse mortgagor; and

(b) obtain and maintain the following particulars from the reverse mortgagor, namely:—

(i) Name and address of the owner of the capital asset;

(ii) Permanent Account Number of the owner of the capital asset;

(iii) Total area, including built up or covered area, of the capital asset;

(iv) Cost of acquisition and the year of acquisition of the capital asset;

(v) Cost of improvement and the year of improvement of the capital asset;

(vi) Name, address and Permanent Account Number of all the legal heirs and estate of the owner of the capital asset;

(vii) A copy of the registered will of the owner of the capital asset including any changes made therein during the currency of the term of the loan.

1. Substituted for "sub-rule (1)" by the Reverse Mortgage (Amendment) Scheme, 2013, w.e.f. 7-10-2013.

¶ Disbursement of loan.

5. The approved lending institution may disburse the loan,—

(a) to the reverse mortgagor by any one or more of the following modes, namely:—

(i) periodic payments to be decided mutually between the approved lending institution and the reverse mortgagor;

(ii) lump sum payment in one or more tranches, to the extent that the aggregate of the amount disbursed as lump sum payments does not exceed fifty per cent of the total loan amount sanctioned; or

(b) in part or in full, to the annuity sourcing institution for the purposes of periodic payments by way of annuity to the reverse mortgagor.]

¶ Period of reverse mortgage loan.

6. The loan under reverse mortgage shall not be granted for a period exceeding,—

(i) twenty years from the date of signing the agreement by the reverse mortgagor and the approved lending institution, where the loan is disbursed in accordance with clause (a) of paragraph 5;

(ii) the residual life time of the borrower, where the loan is disbursed in accordance with clause (b) of paragraph 5.]

Repayment of loan.

7. The reverse mortgagor, or his legal heirs or estate, shall be liable for repayment of the principal amount of loan along with the interest to the approved lending institution at the time of foreclosure of the loan agreement.

1. Substituted by the Reverse Mortgage (Amendment) Scheme, 2013, w.e.f. 7-10-2013. Prior to its substitution, paragraph 5 read as under :

"5. *Disbursement of loan.*—(1) The approved lending institution may disburse the loan to the reverse mortgagor by any one or more of the following modes, namely:—

(i) periodic payments to be decided mutually between the approved lending institution and the reverse mortgagor;

(ii) lump sum payment in one or more tranches, to the extent that the aggregate of the amount disbursed as lump sum payments does not exceed fifty per cent of the total loan amount sanctioned."

2. Substituted, *ibid*. Prior to its substitution, paragraph 6 read as under :

"6. *Period of reverse mortgage loan.*—The loan under reverse mortgage shall not be granted for a period exceeding twenty years from the date of signing the agreement by the reverse mortgagor and the approved lending institution."