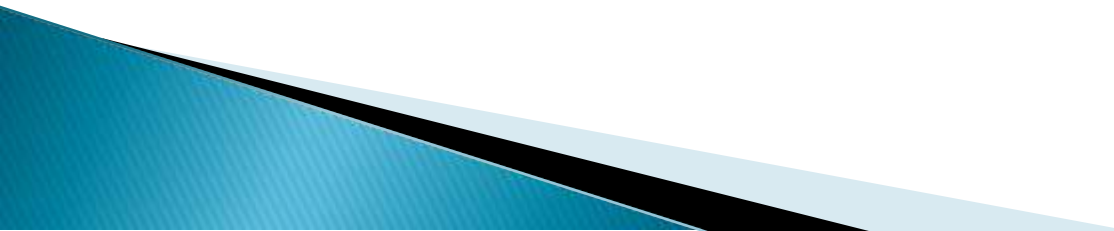
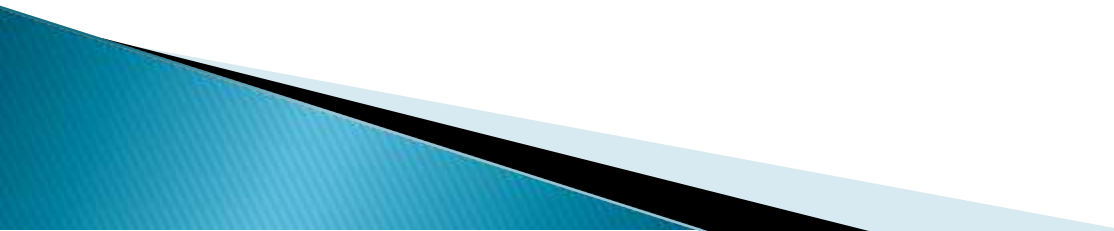


Procedure for filing appeal,  
FORM 35,  
Prefiling analysis,  
Manner of filing, accompanying  
documents, e-filing,  
verification of appeal, EVC, DSC,  
administrative procedure  
under the Income Tax Act, 1961

- ▶ **Terms or Connotations which are frequently used:**
  - ▶ **Appellant**
  - ▶ **Respondent**
  - ▶ **Impugned assessment order/**
  - ▶ **Impugned order**
  - ▶ **Pleadings**
  - ▶ **Unrealistic**
  - ▶ **Unreasonable**
  - ▶ **Unlawful**
  - ▶ **Illogical**
  - ▶ **Without application of mind**
- 

- ▶ SECONDARY PARAMETER AFTER RESPONSE FROM THE ASSESSMENT OR ANY OTHER ORDER ON POST ASSESSMENT EFFECT
  - ▶ MAJOR SOURCE DOCUMENTS: APPEAL AGAINST THE ASSESSMENT, TDS & TCS
  - ▶ SPECIAL SOURCE DOCUMENTS: EFFECT AFTER ASSESSMENT
  - ▶ OUTCOMES: APPEAL THEREOF
- 

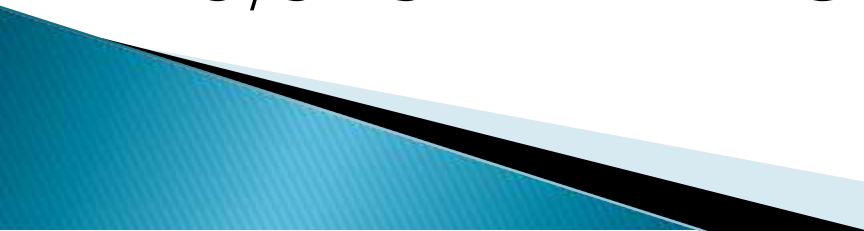
▶ U/S 143(1)/(1B) AN INTIMATION EVEN THE ASSESSEE MADE OBJECTION AGAINST ADJUSTMENTS IN RETURN OF INCOME OR STATEMENT OF TDS OR TCS

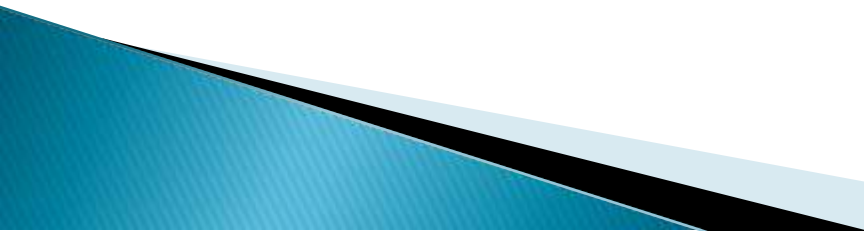
143(3) SCRUTINY ASSESSMENT

144 BEST JUDGMENT ASSESSMENT

147 INCOME ESCAPED ASSESSMENT



- ▶ U/S 153A,153C ASSESSMENT/ REASSESSMENT IN SEARCH CASES ONLY
  - ▶ U/S 92CD(3) ORDER PASSED ON MODIFIED RETURN FILLED IN ACCORDANCE WITH AND LIMITED TO THE ADVANCE PRICING AGREEMENT
  - ▶ U/S 154/155 RECTIFICATION
  - ▶ U/S 237 RELATING TO REFUNDS
- 

- ▶ U/S 270 TO 275 PENALTY ORDER UNDER CHAPTER XXI
  - ▶ U/S 201 ASSESSEE DEEMED TO BE THE ASSESSEE IN DEFAULT FOR FAILURE TO DEDUCT THE TAX ANY PAYMENT THEREOF
  - ▶ U/S 206C(6A) ASSESSEE DEEMED TO BE THE ASSESSEE IN DEFAULT FOR FAILURE TO COLLECT THE TAX ANY PAYMENT THEREOF
  - ▶ U/S 170(2)/(3) RELATING TO THE ASSESSMENT ON SUCCESSOR
- 

# APPEAL IS NOT MAINTAINABLE

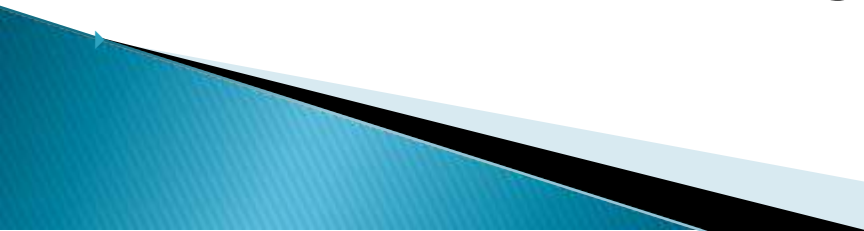
- ▶ ORDER PASSED U/S 197(1) (NO DEDUCTION OF TDS OR AT LOWER RATE)
- ▶ INTEREST CHARGED U/S 220(2)
- ▶ ORDER FOR REFUSAL OF STAY OF DEMAND
- ▶ NO OBJECTION IS MADE BY THE ASSESSEE AGAINST RECTIFICATION
- ▶ RECTIFICATION MADE AGAINST THE ASSESSEE'S CONSENT
- ▶ ASSESSMENT MADE ON AGREED CONSENT

▶ **KEY FEATUERS:**

- ▶ BEING AGGRIEVED AGAINST THE ASSESSMENT ORDER OR ANY ORDER EXCEPT CERTAIN ORDERS

▶ **FIRST APPEAL BEFORE THE CIT(A)**

▶ **TIME LIMIT**

- ▶ 30 DAYS FROM THE DATE OF RECEIPT OF THE ORDER OR DEMAND NOTICE ;
- ▶ 30 DAYS FROM THE DATE OF SERVICE OF THE INTIMATION OR THE ORDER SOUGHT TO BE APPEALED AGAINST PAYMENT OF TAX WHERE APPEAL U/S 248;
- ▶ 30 DAYS FROM THE DATE OF PAYMENT OF TAX WHERE THE APPEAL IS U/S 248
- 

▶ FIRST APPEAL FEES

▶ RS.250 IF ASSESSED INCOME UPTO RS.1 LAC  
OR AGAINST ANY OTHER ORDER EXCEPT  
ASSESSMENT

▶ RS.500 IF ASSESSED INCOME UPTO RS.2 LAC

▶ RS.1,000 IF ASSESSED INCOME IS ABOVE RS.2  
LAC

▶ **Relevant Provisions**

▶ Section 250(5)– Grounds of Appeal

▶ Section 251 – Powers of CIT Appeal


▶ Rules 46A – Additional Evidence which is not produced before the Assessing Authority


## ▶ Statement of Facts

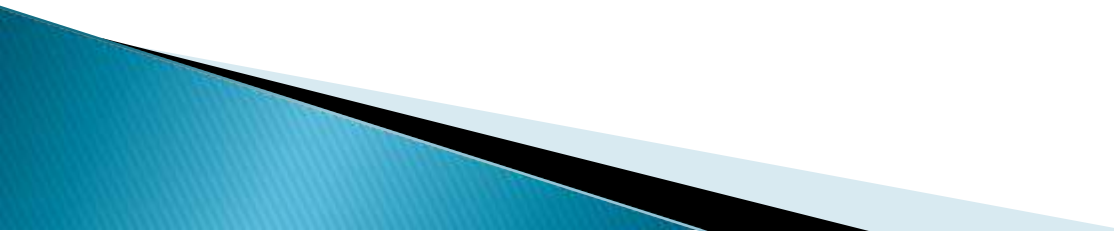
Here the appellant will state the entire fact of the proceedings initiated since filing of the Income Tax Return for the relevant Assessment Year till the disposal of the order or the assessment order along with the effect of the ultimate proceedings inclusive of the true effect of the assessee which is

prejudicial to the interest of the assessee and also prejudicial to the interest of the Revenue.

However it is advisable to state the entire fact of the assessee

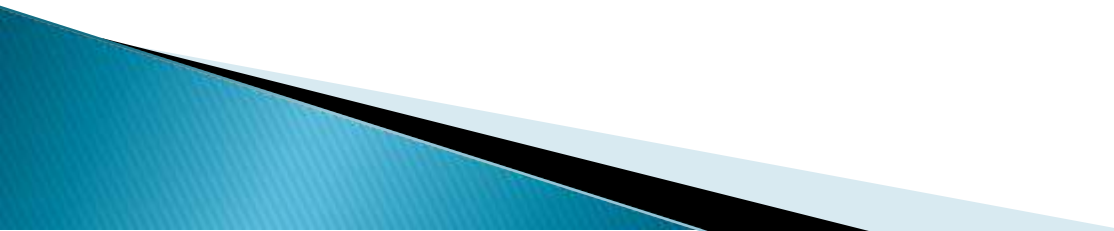
- ▶ Such as
  - ▶ Nature and objects of the assessee
  - ▶ Stressing on the point of the objects which is inevitable or unavoidable in regards to the addition or disallowance as made by the L'd A.O.
  - ▶ The duty of the Assessee or its AR to state the nature, objects and also to point out the link with addition or disallowance in terms of the nature and objects or the operation of the assessee
- 

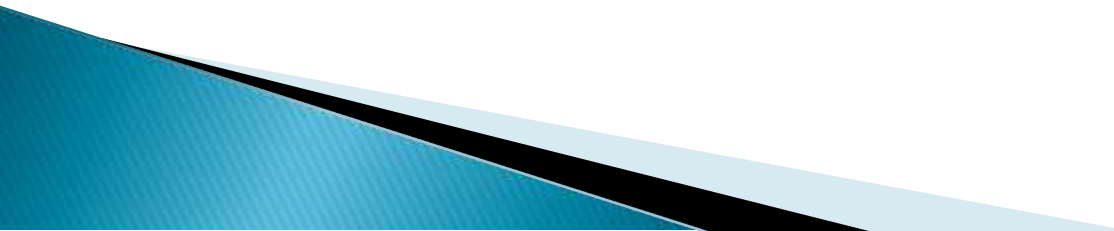
- ▶ State the Point wise additions along with the reason as understood by the assessee irrespective of the fact where the same was added or disallowed as per law or without appreciating the whole fact of the assessee
  - ▶ Here only to mention the reason of additions or disallowances as stated in the impugned assessment order.
  - ▶ Also mention whether the same was logical or realistic or lawful or not
- 

- ▶ And finally mention the quantum of gross addition or disallowances along with the
  - ▶ quantum of tax as assesses
  - ▶ quantum of interest if determined
  - ▶ whether penalty proceeding was initiated or not
  - ▶ And lastly mention the reason for the filing of Appeal petition but the reference of the reasons as already stated but not become in repetitive nature
- 

# Grounds of Appeal

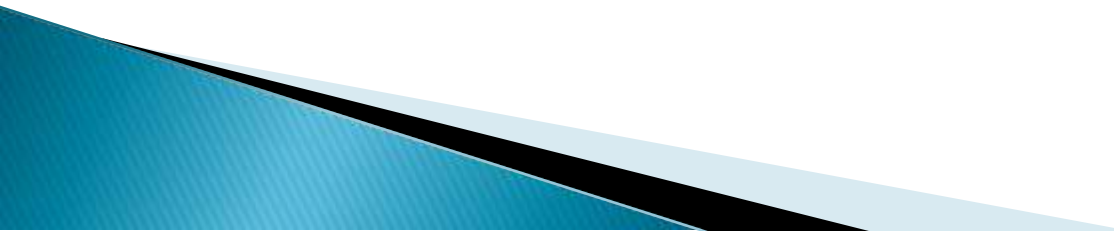
- ▶ Here you mention point wise each and every addition stating the
- ▶ particular issue, Section, description, amount
- ▶ and finally the relevant Ground for filing contesting that particular element in the appeal.
- ▶ Lastly the assessee should reserve the right to add, alter, withdraw, modify, delete and revise any of the ground(s) before or at the time of the hearing of the appeal petition.

- ▶ Revision/Amendment of the grounds
  - ▶ Effect on the subsequent occasion
  
  - ▶ When the new evidence can be considered ?
  - ▶ Error
  - ▶ New points
  - ▶ Summarise, if earlier was detailed and vice versa
  - ▶ New Authoised Representative wants additional grounds
- 

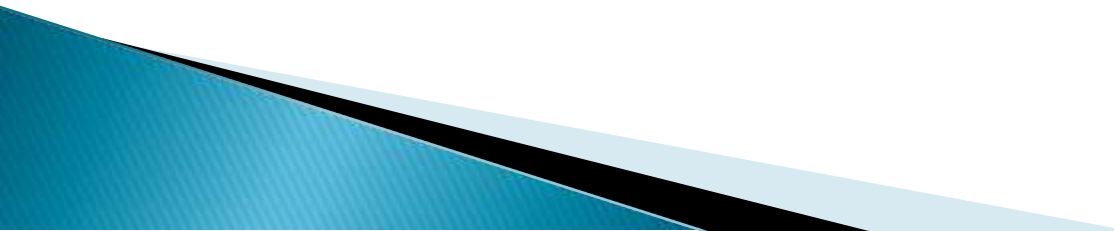
- ▶ **New Evidences or Additional Evidences**
  - ▶ CIT (A) may, at the time of hearing of an
  - ▶ appeal, allow the appellant to go into any
  - ▶ ground of appeal not specified in grounds
  - ▶ of appeal, if he is satisfied that omission of
  - ▶ that ground from Form of appeal was not:
  - ▶ wilful or unreasonable.
- 


- ▶ **Explanation to Section 251** – In disposing of an appeal, the CIT (A) may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, without consideration that such matter was not raised before the CIT (A) by the appellant

Rule 46A – is not an ultra **vires–Smt. Mohinder Kaur Vs. UOI 1976 104 ITR 120(All)**

- ▶ CIT(A) can admit additional evidence or documents only after applying Rule 46A
  - ▶ Additional evidences cannot be accepted without giving a reasonable opportunity to AO to examine and rebut the said evidences
  - ▶ **When the AO objects to admission of additional evidence, then the CIT (A) should give categorical finding in terms of rule 46A for admission thereof Proper reasons must be given for non-acceptance of additional evidence under rule 46A**
- 

- ▶ To render justice, CIT (A) can admit new evidence
- ▶ Additional evidence must be allowed for reasonable cause
- ▶ It is mandatory that AO should receive the
- ▶ additional evidences while disposing off the
- ▶ remand report.

- ▶ The AO may refuse to admit the additional evidences in his remand report
  - ▶ In such cases, the CIT (A) can admit the additional evidences by his own to render the justice.
  - ▶ In case, AO refused or decline, It's the power of the CIT ( A) to receive and consider the same.
- 

- ▶ Elements for the application for additional evidence(s):–
  - ▶ In duplicate
  - ▶ Reasons for filing additional evidence i.e. justification thereof
  - ▶ Prayer for the acceptance mentioning such portion covered under this sub Rule.
  - ▶ CIT (A) shall not take into account any additional evidence unless the AO has been allowed a reasonable opportunity:
- 

- ▶ to examine the evidence or document or
  - ▶ to cross-examine witness produced by
  - ▶ Appellant
- 
- ▶ to produce any evidence or document or any witness in rebuttal of the additional evidence produced by the appellant R. 46A(4) –


Nothing contained in this rule shall affect the power of CIT (A) to direct the production of any document, or examination of any witness, to enable him to dispose of the appeal, or for any other substantial cause including the enhancement of the assessment or penalty whether on his own motion or on the request of the AO u/s 251(1)(a) or the imposition of penalty u/s 271.


▶ Where AO refused to admit the said evidence which ought to have been admitted

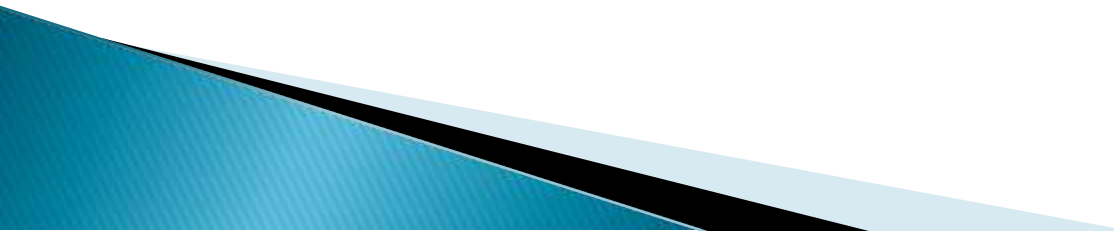
b. Where appellant was prevented by sufficient cause from producing evidence called upon by AO or relevant to any ground in appeal

c. Where appellant was prevented by sufficient cause from producing the AO any evidence which is relevant to any ground of appeal

d. Where AO made the impugned order without giving sufficient opportunity to appellant

- ▶ Summarised:
  - ▶ New Evidence
  - ▶ CIT(A) send for the remand report of the A.O.
  - ▶ Copy of the said Remand report is required to be provided to the Appellant
  - ▶ The appellant will file Rebuttal against such remand report
  - ▶ Thereafter Rejoinder may be submitted by the appellant
  - ▶ Hearing of the appeal petition
  - ▶ Order reserved by the CIT(A)
- 

- ▶ Payment of Admitted tax
  - ▶ Payment of Appeal fees
  
  - ▶ Attachment is compulsorily required
  - ▶ in respect of the statement of each Fact as mentioned and also relied upon which is prejudicial to the interest of the Revenue.
  
  - ▶ All attachments are compulsorily required
  - ▶ in respect of the each Ground as mentioned and also relied upon which is absolutely or partly prejudicial to the interest of the Revenue.
- 

- ▶ **Verification of Appeal:**
  - ▶ DSC: in respect of the Appellant being a company or Firm or other Appellant having covered U/s 44AB.
  - ▶ EVC: in respect of the Appellant being other than a company or Firm or other than such Appellant having covered U/s 44AB.
  - ▶ Summarily the Appellant being Individual or HUF not covered under Section 44AB.
- 

## ▶ **Procedures and Administrations:**



**THANK YOU**

