

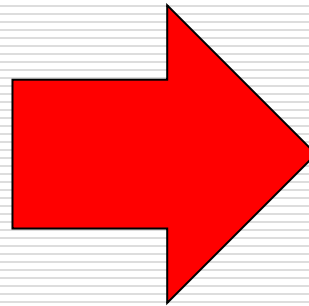
Appeal Proceedings and How to draft Written Arguments – Faceless Appeal



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What is Assessment

- Assessment as it is understood is a process of determination of any liability under the provision of the tax laws (sec 2(8) of the Act).
- The term “assessment” is used in the Income tax Act at different places with different connotations -



- Kailash Nath Bhargava v CIT 46 ITR 928, 945 (Pat)
- Keshardeo Shrinivas Morarka v CIT 48 ITR 404, 416 (Bom)-
- It is used as meaning sometimes “the computation of income”.
- Sometimes “the whole procedure laid down in the Act for imposing liability upon the taxpayer”

Proceedings under section 250 of IT Act 1961

- ❑ **Section 250 Notice:** JCIT / CIT (A) can decide on a date and place for the hearing of the appeal. In this regard, he/she has to issue a legal notice to the appellant and the IT Officer against whose order the appeal has been filed.
- ❖ With the advent of faceless appeals, the principles u/s 250 are now digitally applied.
- ❖ CBDT's initiative of **e-Proceedings ensures** that notices, submissions, and orders are managed via an electronic platform, reducing physical interface and enhancing transparency.
- ❑ **Section 250 (1) - Right to Be Heard**
- ❖ The Commissioner will schedule a day and fix a venue to hear the appeal and notify the appellant and Assessing Officer against whom the appeal was favoured.
- ❑ **Section 250 (2) - Representation Rights**
- ❖ The following will have the right to speak during the hearing of appeal -
 - Appellant - either in-person or AR.
 - AO - either in-person or AR
- ❑ **Section 250 (3)- Push the hearing date**
- ❖ JCIT / CIT (A) has the power to adjourn any hearing of appeal at certain intervals.
- ❑ **Section 250 (4)- Further inquiry**
- ❖ JCIT / CIT (A), before dismissing an appeal, may find a proper reason to make further inquiries himself or direct an Assessing Officer to inquire and present the result before the Commissioner

Proceedings under section 250 of IT Act 1961

☐ Section 250 (5)- Admission of Additional Evidence

- ❖ Commissioner (Appeals), during appeal proceedings, permits the appellant to introduce new grounds for appeal not initially included, provided that the Commissioner deems this inclusion to be both unintentional and reasonable.

☐ Section 250 (6) - Disposal of Appeal

- ❖ In the event of an appeal being dismissed, the Commissioner (Appeals) must provide a written decision. This decision should comprehensively outline the reasons for dismissal, underlying rationale, and conclusion reached.

☐ Section 250 (6A) - 1 year time limit

- ☐ It emphasises that the Commissioner (Appeals), whenever feasible, should strive to hear and make determinations on appeals within a year following the closure of the financial year in which the appeal was lodged under sub-section (1) of Sec. 246A.

- ☐ Section 250 (6B) - Scheme published in the Official Gazette to streamline the appeal process.

Proceedings under section 250 of IT Act 1961

❑ This scheme seeks to achieve greater efficiency, clarity, and accountability by:

- ❖ Reducing direct interactions between Commissioner and appellant to a technologically feasible minimum.
- ❖ Optimising resource utilisation through economies of scale and specialisation.
- ❖ Introducing an appellate system with shared jurisdiction, where one or more Commissioners may jointly dismiss an appeal.

❑ Section 250 (6C) - Jurisdiction and the dismissal process of appeals by the Commissioner are applicable or not. Such notifications may include deviations, modifications, or adaptations as needed.

❑ Section 250 (6D)

- ❖ All notifications issued under subsections 6(B) and 6(C) must be promptly presented before both Houses of Parliament after they are published.

❑ Section 250 (7) - Order of the appeal

- ❖ If an appeal is dismissed, the Commissioner (Appeals) is responsible for communicating the issued order to both appellant and Principal Chief Commissioner, Principal Commissioner, or Commissioner Chief Commissioner.

Important Features of Faceless Appeal Scheme

- ❑ 1. Faceless Appeals Scheme will cover all the pending appeals with the except appeals in relation to serious fraud, major tax evasion, and matters pertaining to searches, international tax, the Black Money Act and other sensitive issues.
- ❑ 2. The objective of faceless assessment is to completely eliminate physical contact between the taxpayer and the taxman to make tax administration objective, transparent and corruption-free.
- ❑ 3. The system will work under the National Faceless Appeals Centre (NFAC) headquartered in Delhi and various Faceless Appeal units.
- ❑ 4. The “Faceless Appeal Scheme, 2021” is notified vide Notification No.139/2021 dated: 28/12/2021.
- ❑ 5. The National Faceless Appeal Centre shall assign the appeal for disposal to a commissioner (Appeals) of a specific appeal unit through an automated allocation system;
- ❑ 6. All communication between the Commissioner (Appeals) and the appellant or any other person or the Assessing Officer with respect to the information or documents or evidence or any other details, as may be necessary under this Scheme shall be through the National Faceless Appeal Centre

E Appeal Proceedings – Drafting of Grounds of Appeal:

- ☐ A. Appeal should be filed within a period of 30 days of the service / uploading of the Assessment order along with notice of demand.
- ☐ B. The grounds should be concise without any argumentative or narrative.
- ☐ C. The grounds should highlight the main controversy in issue.
- ☐ D. The grounds should not be vague, general or too lengthy.
- ☐ E. Specific ground to be taken for each and every issue involved.
- ☐ F. Legal grounds relating to limitation, natural justice, jurisdictional issues etc should be raised and not left out
- ☐ G. Language should not be very harsh.
- ☐ H. Statement of Facts should be filed before the CIT (A) wherein facts can be narrated elaborately and factual errors in assessment order can be corrected at first available opportunity.

E Appeal Proceedings – Drafting of Grounds of Appeal:

- ❑ I. Draft elaborate statement of facts covering all issues and wherever possible, along with details filed before AO and the legal contentions.
- ❑ If certain factual errors are there in the asst order the same must be raised in the grounds of appeal and statement of facts. The detailed statement of facts can be uploaded as an attachment.
- ❑ Filing of detailed statement of facts, along with supporting case laws will help the Assessee, especially when appeals are disposed of by the first appellate authority ex-parte.
- ❑ J. If there are clerical error or arithmetical error same should be explained and highlighted clearly in grounds and statement of facts. It is advisable to file separate rectification application for such mistake which are apparent on record.

Stay application

- Application for Stay Can be filed with CIT or before CIT (A) if AO rejects stay application.
- As per the decision of Hon'ble Supreme Court in the case of ITO v. MK Mohammad Kunhi (1969) 71 ITR 815 (SC) and number of other judgements of the High Courts, CIT(A) is empowered to stay the demand during the pendency of appeal before him
- A. Merit in the Case (If Facts of the Case are squarely covered in some other case)
- B. Hardship that will cause to the Assessee is the Demand is recovered from him.
- C. Financial Position of assessee.
- Following Judicial Decisions may be relied upon for stay of demand :
 - ❖ A. Hon'ble Madras High Court in the case of Mrs. Kannammal v. ITO, W.P. No. 3849 of 2019, judgement dated 13.02.2019
 - ❖ B. Maheshwari Agro Industries v. Union of India (2012) 346 ITR 375 (Raj)
 - ❖ C. KEC International Limited v. BR. Balakrishnan & Ors. (2001) 251 ITR 158 (Bom)
 - ❖ D. N. Rajan Nair v. ITO (1987) 165 ITR 650 (Ker)

Drafting of Condonation of Delay in Filing Appeal

- Hon'ble Calcutta High Court in **Charki Mica Mining Co. Ltd. vs. CIT (1978) 111 ITR 193** has held that the limitation period commences from the date of receipt of notice of demand by the Assessee and not from the date of receipt of Assessment order.
- The expression '**sufficient cause**' must receive a liberal construction so as to advance substantial justice and generally delays in preferring the appeals are required to be condoned in interest of justice.
- b. The primary function of any quasi-judicial body is furtherance of administration of substantial justice.
- c. Pragmatic justice-oriented approach is required and not the technical detection of explanation of every day's delay.
- d. Length of delay is immaterial.
- e. A litigation does not stand to benefit by resorting to delay, therefore a justice-oriented approach is required by courts..
- f. Since explanation of assessee did not smack mala fide or was not put forth as a dilatory strategy, delay in filing appeal was to be condoned.

Drafting of Condonation of Delay in Filing Appeal

- g. In every case of delay there can be same lapses on the part of the litigant concerned, but that alone is not enough to shut the door against him.
- h. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated.
- i. In matters of condonation of delay a highly pedantic approach should be eschewed and a justice-oriented approach should be adopted and a party should not be made to suffer on account of technicalities made to suffer on account of technicalities
- In **Collector of Land Acquisition v. Mrs. Katiji & Others 167 ITR 471 (SC)** the Hon'ble Supreme Court has held that the Courts should have pragmatic & liberal approach in admitting the appeal beyond the period of limitation.

Condonation – Reasons

Following reasons may be stated for condonation

- ▶ Lack of Proper knowledge
- ▶ Serious illness of the assessee or family member
- ▶ Absence of due guidance by the consultant
- ▶ Facts surfacing at a latter date
- ▶ Reconciliation of various accounting items later on
- ▶ Computer getting infected - repaired later on Reasons to avoid
- ▶ Through oversight, etc
- ▶ Wrong advice by AR

E-filing of appeal



Procedure for e-filing of Form 35

- ☐ Login to user account in Income Tax E-filing Website
- ☐ Go to menu e-File Income Tax Form
- ☐ Select Form 35 and select submission mode as Prepare and submit online
- ☐ Select the National Faceless appellant authority from drop down box.
- ☐ Fill up the details in Form 35 and Verification part thereof.
- ☐ The following documents shall be required while filing form -35
 - ❖ Order against which appeal is being filed
 - ❖ Notice of Demand
 - ❖ In case of appeal against penalty, penalty order and assessment order
 - ❖ Others - SOF, GOA, Appeal Fees challan and other documents
- ☐ Attachment must not exceed 50mb in size and must be in pdf/zip format.
- ☐ Appeal should be verified through DSC or EVC as the case may be, of the person who is authorized to verify the return u/s 140 of the Act.

Drafting of Grounds of Appeal

- ❑ No format has been prescribed for drafting grounds of appeal
- ❑ It should be precise, comprehensive, clear and constructively numbered.
- ❑ Should not be argumentative or narrative
- ❑ It should be based on law point as well as merit point.
- ❑ It should be in order of addition made in assessment order
- ❑ Separate ground for each addition must be taken
- ❑ Statement of facts should not be mixed with Grounds of appeal
- ❑ Must mention the Appellant craves leave to add/ alter/ amend/ withdraw any or all grounds of appeal before or at the time appeal proceedings
- ❑ Levy of interest, if any, should be taken as ground of appeal

Drafting of Statement of Facts

- ☐ No format/order has been prescribe for drafting statement of facts
- ☐ It should have facts only and not the law points.
- ☐ Facts should contain only those facts which are relevant and directly or indirectly connected with the additions made in the assessment order
- ☐ Facts should be clear and should not be in argumentative form
- ☐ Story of the case is to be mentioned here
- ☐ Facts should also cover those facts which are not considered by AO.
- ☐ It should be comprehensive and complete.
- ☐ Legal Decisions in support - whether to be mentioned ??? - Yes / No

Form 35 to file before CIT(A) [Rule 45]

- ☐ An appeal to CIT(A) shall be made in Form No.35. and should be filed electronically
- ☐ Check all pre-filled details like - PAN, name, address, Phone no., email address etc
- ☐ Select assessment year
- ☐ Insert details of the order appeal against - section, sub-section under which the order passed, DIN, Date of order and Service of order.
- ☐ Details of an appeal in relation to any other assessment year is pending in the case of the appellant with any CIT(A).
- ☐ If appeal relates to any assessment, provide details of appeal : amount of income assessed, total addition or disallowance, amount of addition or disallowance, disputed demand etc.

Form 35 to file before CIT(A) [Rule 45]

- ☐ An appeal relates to penalty, provide detail of penalty order
- ☐ If return has been filed, provide detail of taxes paid
- ☐ If assessee paid taxes under the influence of sec 249(4), provide details of tax payment-BSR code, serial no. etc.
- ☐ Statement of facts in brief – must not exceed 1000 words
- ☐ Grounds of appeal – each ground must not exceed 100 words
- ☐ If there is delay in filing an appeal, enter grounds for condonation- must not exceed 500 words
- ☐ Detail of challan or appeal fees paid u/s 249(1) of the act
- ☐ Form 35 does not accept special character e.g. # & % “” ‘ ‘ * = + [] \ {} ! etc.

Form 35 – [Rule 45]

- ☐ An appeal relates to penalty, provide detail of penalty order If return has been filed, provide detail of taxes paid
- ☐ If assessee paid taxes under the influence of sec 249(4), provide details of tax payment- BSR code, serial no. etc.
- ☐ Statement of facts in brief – must not exceed 1000 words Grounds of appeal – each ground must not exceed 100 words
- ☐ condonation- must not exceed 500 words
- ☐ Detail of challan or appeal fees paid u/s 249(1) of the act
- ☐ Form 35 does not accept special character e.g. # & % “ ” ‘ ’ * = + [] \ { } ! etc.

FORM 35
[See rule 45]
Appeal to the Commissioner of Income-tax (Appeals)
Designation of the Commissioner of Income-tax (Appeals) – 32, Mumbai

Name and address of the Appellant	
Mobile No. and Email ID	
Whether notices/ communication may be sent on email?	
Permanent Account Number	
Tax Account Number (If available)	
Assessment year in connection with which the appeal is preferred	
Assessing officer / Valuation officer passing the order appealed against	
Section and sub-section of the Income-Tax Act, 1961, under which the Assessing officer / Valuation officer passed the order appealed against and the date of such order	
Order Number of Assessment Order	
Where the appeal relates to any assessment or penalty, the date of service of the relevant notice of demand	
In any other case, the date of service of the intimation of the order appealed Against	
Section and clause of the Income-tax Act 1961, under which the appeal is preferred.	
Amount of Income Assessed	
Total Addition to Income	
In case of Loss, total disallowance of Loss in assessment (in Rs.)	
Amount of Addition/ Disallowance of Loss disputed in Appeal (in Rs.)	
Amount of Disputed Demand (in Rs.)-Enter Nil in case of Loss	
If appeal relates to penalty ?	
Amount of penalty as per order (in Rs.)	
Amount of penalty disputed in Appeal (in Rs.)	
Where a return has been filed by the appellant for the assessment year in connection with which	

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the appeal is preferred, whether tax due on the returned income has been paid in full (If the answer is in the affirmative, give details of payment and amount paid) Also provide acknowledgement number and date of filing.	
Where the appeal relates to any tax deducted under section 195(1), the date of payment of the tax	
Where no return has been filed by the appellant for the assessment year, whether an amount equal to the amount of advance tax as per section 249(4)(b) of the Income-tax Act, 1961 has been paid (If the answer is in the affirmative, give details of payment and amount paid)	
Facts of the case in brief	
List of documentary evidence relied upon	
Whether any documentary evidence other than the evidence produced during the course of proceedings before the Income-tax Authority has been filed in terms of Rule 46A	
If reply to above is Yes, furnish the list of such documentary evidence	
Grounds of Appeal	
Whether there is delay in filing appeal ?	
If reply to above is Yes, enter the grounds for condonation of Delay	
Details of Appeal Fees Paid (BSR Code, Date of Payment, Serial Number, Amount)	
Where an appeal in relation to any other assessment year is pending in the case of the appellant with any Commissioner (Appeals), give details as to the : (a) Commissioner (Appeals), with whom appeal is pending; (b) Appeal Number; (c) Date of Appeal; (d) assessment year in connection with which the appeal has been preferred; (e) Assessing Officer passing the order appealed against.	

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(f) section and sub-section of the Act under which the Assessing Officer passed the order appealed against and the date of such order	
Address to which notices may be sent to the appellant	

Signed
(Appellant)

STATEMENT OF FACTS ANNEXURE 1
 GROUNDS OF APPEAL ANNEXURE 2

Signed
(Appellant)

Form of Verification

I, _____ in capacity as secretary of _____, the appellant, do hereby declare that what is stated above is true to the best of my knowledge and belief.

Signed
(Appellant)

Mumbai:

Status of appellant – Partner

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 45(2).
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 the office of the Deputy Commissioner (Appeals) / Commissioner (Appeals).
5. Not to be filled in if the appeal relates to tax deducted under section 195(1).
6. If the space provided herein is insufficient, separate enclosures must be used for the purpose.
7. If appeals are pending in relation to more than one assessment year, separate particulars in respect of each assessment year may be given.

Appeal to the Joint Commissioner (Appeals) or the Commissioner (Appeals) [Form No. 35]

Appeal to the Joint Commissioner (Appeals) or the Commissioner of Income-tax (Appeals). This form is in compliance with rule 45

Provide details for each section

Basic information	Completed	Modify if required	>
Order against which Appeal is filed	Completed	Modify if required	>
Pending Appeal	Completed	Modify if required	>
Appeal Details	Completed	Modify if required	>
Details of Taxes Paid	Completed	Modify if required	>
Statement of facts, Grounds of Appeal and additional evidence	Completed	Modify if required	>
Appeal filing details	Completed	Modify if required	>
Attachments	Completed	Modify if required	>
Form of Verification	Completed	Modify if required	>

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Procedure in hearing appeal [Section 250]

Submission along with Paper book is submitted before CIT(A)

The CIT(A) shall fix a day and place for the hearing of the appeal, and shall give notice of the same to the appellant and to the Assessing Officer (AO) against whose order the appeal is preferred.

The appellant or its authorised representative and the AO or its representative shall have the right to be heard at the hearing of the appeal.

The CIT(A) shall have the power to adjourn the hearing of the appeal from time to time.

CIT(A) may, before disposing of any appeal, make such further inquiry as he thinks fit, or may direct the AO to make further inquiry and report the result of the same

Procedure in hearing appeal



The CIT(A) may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the CIT(A) is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable



The order of the CIT(A) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.



In every appeal, the CIT(A), where it is possible, may hear and decide such appeal within a period of one year from the end of the financial year in which such appeal is filed before him u/s 246A(1)



Order should be passed within 15 days of the final hearing [CBDT Instruction No. 279 dated 19.06.2015



On disposal of the appeal, the CIT(A) shall communicate the order passed by him to the assessee and to the Pr.CCIT or CCIT or Pr.CIT or CIT.

PAPER BOOK

S1. No.	Particulars	Page No.
1	BRIEF SUBMISSION	1 - 18
2	Reasons recorded by the Assessing officer before issuing notice u/s.148	19 - 24
3	Copy of original order dated 12.03.2015 passed u/s.143(3) of the Act.	25 - 27
4	Copy of reply against notice dated 30.10.2014	28 - 30
5	Loan given confirmation by M/s. X.... Pvt. Ltd.	31 - 32
6	Loan receiving confirmations by M/s. X.... Pvt. Ltd.	33 - 36
7	Bank statement of assessee, reflect entries to receive loan from M/s. X Pvt. Ltd.	37 - 39
9	Balance sheets and P&L account of assessee for the relevant assessment year	46 - 71

Certificate

Certified that all the documents in the above paper book were before the Assessing Officer during the assessment proceedings.

Hearing - Appeals

❑ The following points should be noted:

- ❖ a. the facts of the case should be clearly explained
- ❖ b. Sequence of events transpired during assessment proceeding should be explained alongwith show cause notice issued and reply /documents filed
- ❖ c. Various contention of assessee should be brought out clearly in submission.
- ❖ d. Legal arguments or interpretation of any provision of law all should come in proper sequence.

- ❖ e. Decisions if any relied upon should be referred.
- ❖ e-1.Also, if any decision is relied upon by AO in the assessment order, assessee should distinguish the same or there has to be an explanation why same is not applicable to facts of the case.
- ❖ f. The submission should highlight the main controversy in the matter and relief prayed for.
- ❖ g. The submission should not be vague, repetition of facts or arguments should be avoided.

Hearing - Appeals

□ The following points should be noted:

- ❖ h. Specific submission to be taken for each and every issue involved.
- ❖ Proper figures involved in dispute should be available in the submission and reference to documents where ever required should be made.
- ❖ i. Legal grounds relating to limitation, natural justice, jurisdictional issues etc should be raised at the beginning of the submission
- ❖ j. Language should not be very harsh. Use of simple English would be preferably
- ❖ k. The Appeal Unit has power to make such further inquiry as he thinks fit or may direct the A.O. to make further inquiry and report to him. Assessee is entitled to reply to the remand report.
- ❖ Reply should be in form of rejoinder; each paragraph of remand report should be replied.

Procedure for submission of Written Statement

- ❑ **Filing of written submission and paper book at time of hearing is mandatory as no oral arguments across the table .**
- ❑ **In the e- appeal proceeding it is necessary that your paper book index should clearly demonstrate nature of documents enclosed.**
- ❑ **Documents should be in proper sequence and should be properly numbered.**
- ❑ **CIT(A) has to pass a speaking order dealing with each ground of appeals.**
- ❑ **CIT(A) should pass the order on merits even heard ex parte / or assessee did not appear.**
- ❑ **Appellate authority will have to consider the written statement and cannot ignore to consider the same.**
- ❑ **Written submission should be drafted in such a manner that the facts and issue involved should be clearly brought out in the submission.**
- ❑ **Reference to documents and the relevant pages should be mentioned at relevant place.**
- ❑ **Grievance of the assessee should be clearly explained.**
- ❑ **The relief the assessee is seeking should be very specifically brought out in the submission.**
- ❑ **If there are various grounds submission for each ground should be separately drafted with proper paragraph numbers.**
- ❑ **The submission should not be confusing or vague.**

Drafting Written Statement

The following points should be noted:

- ☐ a. the facts of the case should be clearly explained
- ☐ b. Sequence of events transpired during assessment proceeding should be explained along with show cause notice issued and reply /documents filed
- ☐ c. Various contention of assessee should be brought out clearly in submission.
- ☐ d. Legal arguments or interpretation of any provision of law all should come in proper sequence.
- ☐ e. Lastly the decisions if any relied upon should be referred.
- ☐ f. Also, if any decision is relied upon by AO in the assessment order, assessee should distinguish the same or there has to be an explanation why same is not applicable to facts of the case.
- ☐ g. The submission should highlight the main controversy in the matter and relief prayed for.
- ☐ h. The submission should not be vague, repetition of facts or arguments should be avoided.

Written Statement -Use of Judicial Decisions

- ❑ Judicial decisions to be based on facts of the case.
- ❑ On legal issue, prepare analysis of facts of the case and facts in judicial decision and draw parallel.
- ❑ While citing decisions, use relevant ratio and decision by quoting it.
- ❑ In order of preference- SC, Jurisdictional HC, other HC, special bench, same ITAT and other ITAT.
- ❑ If direct decision of Jurisdictional ITAT is available, it should be relied upon for quick relief.
- ❑ Irrelevant decision should not be given.
- ❑ On technical issues, direct judicial decision should be relied first, whereas on factual issues, judicial decisions should come in the end.

Drafting Written Statement

The following points should be noted:

- ☐ h. Specific submission to be taken for each and every issue involved.
- ☐ H.1. Proper figures involved in dispute should be available in the submission and reference to documents where ever required should made.
- ☐ i. Legal grounds relating to limitation, natural justice, jurisdictional issues etc should be raised at the beginning of the submission
- ☐ j. Language should not be very harsh. Use of simple English would be preferably
- ☐ k. The Appeal Unit has power to make such further inquiry as he thinks fit or may direct the A.O. to make further inquiry and report to him.
- ☐ Assessee is entitled to reply to the remand report.
- ☐ Reply should be in form of rejoinder; each paragraph of remand report should be replied.

Binding Effect of Judgments on CIT(A)

- ❑ All the judgements pronounced by the hon'ble Supreme Court are binding on all courts in India.
- ❑ All the judgements pronounced by jurisdictional High Court and ITAT are binding on the CIT(A).
- ❑ Where there are conflicting decisions of courts of co-ordinate jurisdiction (the same rank), the later decision is to be preferred if reached after full consideration of the earlier decisions.
- ❑ When there are judgements on the assessee for previous years and the facts are the same, then they are binding on the CIT(A) for the subsequent assessment years.
- ❑ The Precedent ceases to have a binding force in the following situation:
 - ❖ If it is overruled or reversed by a higher court
 - ❖ When it is affirmed or reversed on a different ground
 - ❖ When it is non-speaking judgement.

Filing of additional evidence before CIT(A) [Rule 46A]

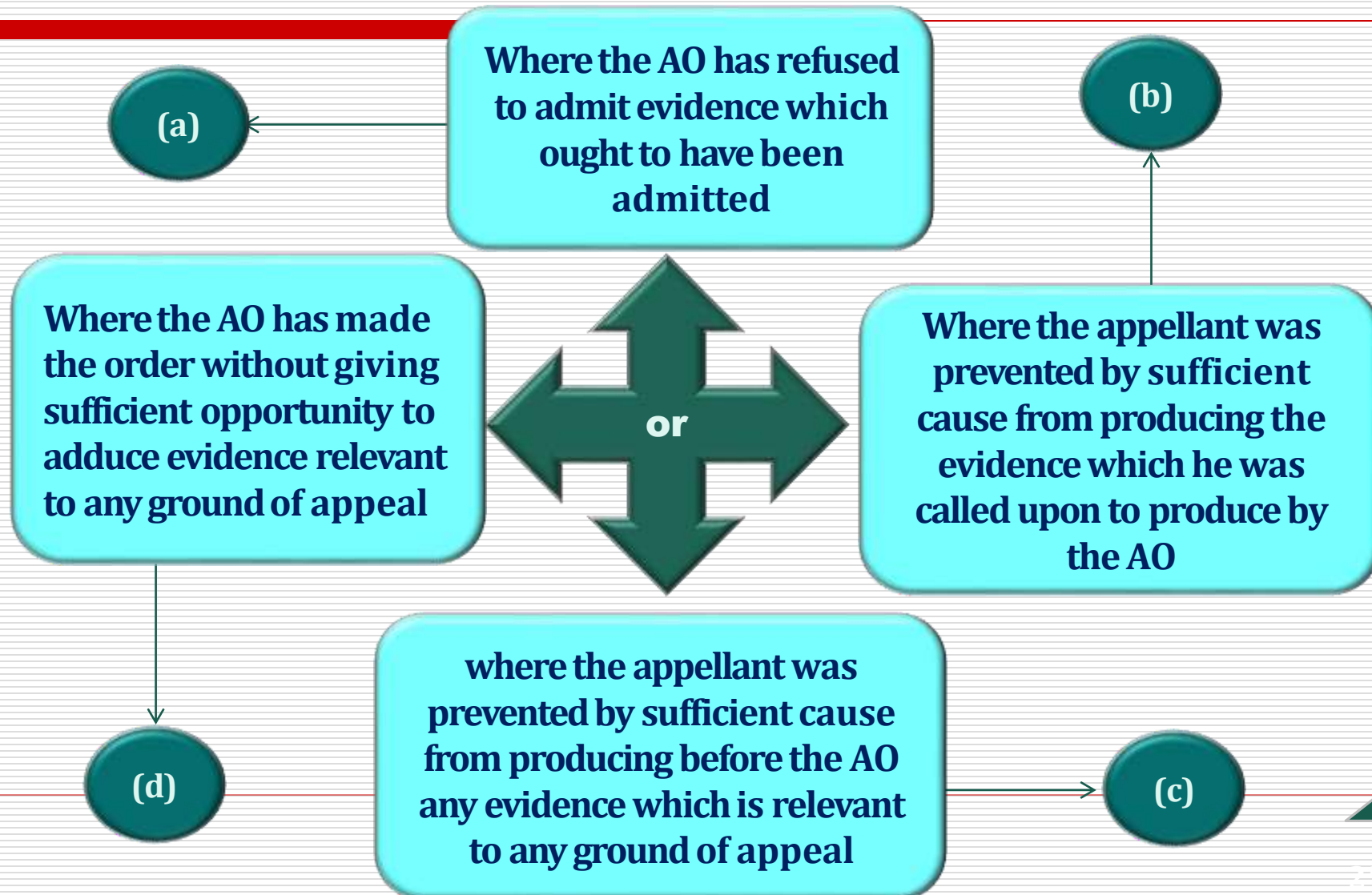
Additional evidence can be produced at the first appellate stage.

There is no prescribed format for additional evidence under rule 46A

Additional evidence can be filed when conditions stipulate in the Rule 46A are satisfied and a finding is recorded.



Circumstances under which additional evidences can be filed [Rule 46A]



Application for admission of Additional Evidence under Rule 46A

FACTS OF THE CASE

1.....

2.....

Most respectfully it is submitted that:-

Specimen – Additional evidence

1. It is requested to accord kind permission for production of additional evidences as the assessee was not provided proper opportunity of being heard. Besides the evidences go to the very root of the matter and have a direct and substantial bearing in determining the correct income and tax liability of the assessee for the year under consideration.
2. Kind permission may kindly be accorded to adduce additional evidences which are compiled in the paper book Vol.II.
3. Since the Assessee was prevented by sufficient cause from production of above evidences before the Ld. A.O.
4. It has been held in number of cases including in KESHAW MILLS CO. LTD. V CIT (1965) 56 ITR 365 and now recognized as RULE 46A that the appellant authority has a right to admit additional evidence in the interest of justice.
5. Similarly Hon'ble Jurisdictional Delhi High Court in CIT vs Hewlett Packard India (P.) Ltd. has upheld the decision of ITAT observing that CIT-APPEALS ought to have taken additional evidence on record.[2008] 173 TAXMAN 162 DELHI
6. It may kindly be appreciated that the assessee has filed all necessary details before the Ld. A.O. and whatever supporting documents could not be filed were only because of the reasons explained above.
7. The enclosed paper books are in duplicate with a request to kindly allow an opportunity to the ld .A.O. to rebut the same in terms of RULE 46 A(3).

Your good self is further requested to kindly record reasons in terms of RULE 46 A(2).

Filing of Additional Grounds before CIT(A)

- ❑ Section 250(5) of the Act says that the CIT(A) may, at the hearing of an appeal, allow the appellant to go into **any ground of appeal not specified** in the grounds of appeal, **if the CIT(A) is satisfied** that the omission of that ground from the form of appeal was not wilful or unreasonable.
- ❑ In the case of **Jute Corpn. of India Ltd. vs. CIT [1991] 187 ITR 688**, the **Hon'ble Supreme Court** held that the Act does not contain any express provision debarring an assessee from raising an additional ground in appeal and there is no provision in the Act placing restriction on the power of the appellate authority in entertaining an additional ground in appeal.
- ❑ The Hon'ble Supreme Court in **Express Hotel Pvt. Ltd. v State of Gujarat (1989) 178 ITR 151** has held that the absence of the appeal provision doesn't make the provision per se unreasonable.
- ❑ There is no specific format for drafting the same.

Hon'ble CIT (A)

Date.....

Sir,

Sub: Prayer for admission of additional grounds.

The assessee begs to move the following grounds as additional grounds:-

1. That having regard to the facts and circumstances of the case, the impugned penalty order passed u/s 271(1)(c) is void-ab-initio and bad in law as Ld. AO did not clarify in the notice issued under section 271(1)(c) dated 5.12.2016 whether assessee has concealed the particular of the income or furnished inaccurate particulars of such income.

The above said grounds are purely legal grounds and do not require any fresh investigation of facts and therefore these may kindly be admitted in view of the judgment of Hon'ble Supreme Court in the case of National Thermal Power Corporation Ltd. 229 ITR 383.

We shall be obliged.

Thanking you,

■

Notice under Section 250



Faceless Appeal Scheme 2021

E-Proceedings - https://www.youtube.com/watch?v=jyOZpBT_Bc0

https://www.youtube.com/watch?v=jyOZpBT_Bc0&t=3s

How to file Appeal under Income Tax Act, 1961 (Form 35)

[https://www.google.com/search?q=How+to+file+Appeal+under+Income+Tax+Act%2C+1961+\(Form+35\)&oq=How+to+file+Appeal+under+Income+Tax+Act%2C+1961+\(Form+35\)&gs_lcrp=EgZjaHJvbWUyBggAEEUYOTIKCAEQABiABBiiBDIKCAIQABiABBiiBDIKCAMQABiABBiiBDIKCAQQABiABBiiBDIHCAUQABjvBdIBCTMzMzdqMGoxNagCCLACAfEFb2CCpuXQIfA&sourceid=chrome&ie=UTF-8#fpstate=ive&vld=cid:09fc0f6d,vid:a-hi7LW1ITk,st:0](https://www.google.com/search?q=How+to+file+Appeal+under+Income+Tax+Act%2C+1961+(Form+35)&oq=How+to+file+Appeal+under+Income+Tax+Act%2C+1961+(Form+35)&gs_lcrp=EgZjaHJvbWUyBggAEEUYOTIKCAEQABiABBiiBDIKCAIQABiABBiiBDIKCAMQABiABBiiBDIKCAQQABiABBiiBDIHCAUQABjvBdIBCTMzMzdqMGoxNagCCLACAfEFb2CCpuXQIfA&sourceid=chrome&ie=UTF-8#fpstate=ive&vld=cid:09fc0f6d,vid:a-hi7LW1ITk,st:0)

How to appoint Authorised Representative

<https://www.youtube-nocookie.com/embed/ER-Ppu3SGoo?hl=en#7>

Communication from Income tax department

The screenshot shows the Income Tax e-Filing portal interface. At the top, there is a header with the e-Filing logo and navigation links. The main navigation bar includes 'Dashboard', 'e-File', 'Authorised Partners', 'Services', 'Pending Actions', 'Grievances', and 'Help'. The 'e-File' tab is selected. Below the navigation bar, the breadcrumb trail shows 'Dashboard > Pending Actions > e-Proceedings'. The 'e-Proceeding' section has a sub-header 'View e-Proceeding related to:' with two buttons: 'Self' (selected) and 'Of Other PAN/TAN'. Below this, there are two tabs: 'For your Action (2)' and 'For your Information (2)'. The 'For your Information (2)' tab is active, showing a list of proceedings. The first entry is 'First Appeal Proceedings' for Assessment Year 2013-14. The details include PAN, Name of Assessee, and Financial Year 2012-13. A yellow box highlights the 'View Notices (9)' button. There is also a '+ Add / View Authorised Representative' button.

- ▶ After filing Form 35 electronically user can see appeal related information under “e-proceeding” tab on income tax portal.
- ▶ In our eg assessee has file an appeal for AY 2013-14. To view appeal related notices user need to click “View Notice” tab.

Communication from Income tax department

Notice/ Communication Reference ID : 100053527475			
Notice u/s	ITBA/NFAC/S/62/2022-23/1046645248(1)	Description : [ITBA]Enablement of Communication Window	View Response
	Document reference ID	Issued On : 01-Nov-2022	Notice/Letter pdf
			Seek/View Adjournment

- Once you click on “View notice” tab user will see that the income tax department will first issue notice relating to “[ITBA] Enablement of communication window”. Such notice say that the appeal window for such user has been open by the income tax department.

Communication from Income tax department

Notice/ Communication Reference ID : 100055733117			
250 Notice u/s	ITBA/NFAC/F/APL_1/2022-23/1048353122(1) Document reference ID	Description : [ITBA]Hearing Notice u/s 250of Income Tax Act 1961. Issued On : 30-Dec-2022 Response Due Date : 16-Jan-2023	View Response Notice/Letter pdf Seek/View Adjournment

- ▶ After notice of Enablement of communication window received from the department user will receive “Hearing Notice u/s 250 of the act”. To view/download such notice user need to click on “Notice/ Letter” tab.
- ▶ Once hearing notice received user need to submit his/her reply by clicking on “Submit” tab and once user submit his reply same can be seen by clicking on “View Response” tab.
- ▶ If user want an adjournment of his hearing same can be done by clicking on “Seek/View Adjournment” tab.

View Response to Notice ID 100055733117

Proceeding Name
First Appeal Proceedings

PAN
[REDACTED] B

Assessee Name
[REDACTED] A

Financial Year
2012-13

Assessment Year
2013-14

Document reference ID
ITBA/NFAC/F/APL_1/2022-
23/1048353122(1)

Notice Section
250

Served on
-

Description
[ITBA]Hearing Notice u/s 250of
Income Tax Act 1961.

Responses

+ Add New Response

Response/Remarks	Response Submitted On	Response Type	Response Filed By
Dear Sir Please see attached point wise submission and index of paper book with relevant documents. We also seek opportunity for personal hearing through video conferencing pursuant to Rule 12(2) of National Faceless Appeal Scheme 2021	16-Jan-2023	Full	Self

Attachments

MKT AY 13-14 Paperbook Part VII [REDACTED].pdf (4 MB)	[REDACTED] Book Part VIII [REDACTED].pdf (4 MB)
MKT AY 13-14 Paperbook Part I [REDACTED].pdf (30 KB)	Index_of_Paper_Book 16 Jan 2023 Index_of_Paper_Book 16 Jan 2023.pdf (59 KB)
MKT AY 13-14 Paperbook Part II [REDACTED].pdf (3 MB)	MKT AY 13-14 Paperbook Part II MKT AY 13-14 Paperbook Part II.pdf (3 MB)
MKT AY 13-14 Paperbook Part III [REDACTED].pdf (3 MB)	MKT AY 13-14 Paperbook Part IV MKT AY 13-14 Paperbook Part IV.pdf (3 MB)
MKT AY 13-14 Paperbook Part V.pdf (4 MB)	[REDACTED] Part VI MKT AY 13-14 Paperbook Part VI.pdf (3 MB)

Download Acknowledgement

- Once user click on view response tab user will see the above screen from where user can download acknowledgment of his reply by clicking on "Acknowledgment" tab

8/20/2025

Communication from Income Tax Department

Select by Notice ID 🔍

Notice/ Communication Reference ID : 100057077198

VC_APL Notice u/s	ITBA/NFAC/F/VC_APL/2022-23/1049275270(1) Document reference ID	Description : [ITBA]VC NOTICE Issued On : 31-Jan-2023 Response Due Date : 15-Feb-2023	<div>View Response</div> <div>Notice/Letter pdf</div> <div>Seek/View Adjournment</div> <div>Seek Video Conferencing</div>
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- ▶ After submitting reply of hearing notice user will receive the notice of “Video conference” (VC) from income tax department.
- ▶ User need to give his reply by clicking on “Seek Video Conferencing” tab.
- ▶ Once user click on seek video conference tab link will be provided by the income tax department on the registered e mail id of the user to attend the hearing through VC.

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AI – Taxation System

AI – Specific to Tax

- AI is the use or deployment intelligent machines or computer programs that have some attributable of human intelligence including language processing, image recognition, problem solving and learning from data
- It address transparency and address tax fraud.
- Human like intelligence in machine
- Core abilities, learning, reasoning, problem solving language inbuilt in machines / AI
- Human being has little time and too many data [Millions of filing unstructured documents, manual audit, vs .
- AI for fraud detection
- AI study behavior of the tax payers

AI Information driven tool for CBDT

☐ Project Insight

- ❖ Linked all authorities [MOU signed between CBDT & CBIC)
- ❖ Processing data in real time basis
- ❖ Financial transaction are tracked
- ❖ Reminder and Emails from department
- ❖ Processing of returns
- ❖ Detection of fraud
- ❖ Refund faster
- ❖ E- grievance monitoring

☐ Application of AI by the Tax Payer / Practitioners

- ❖ Governance – Automation in Tax Compliances
- ❖ Accuracy – Faster processing / responding without manual intervention
- ❖ Efficiency

AI for Pattern Detection and Risk-Based Assessments

- ❑ AI tools are being deployed to compare an individual's current and past ITRs.
 - ❑ The system looks for significant variations in income declared, deductions claimed, and sources of income.
 - ❑ If any abnormal patterns or discrepancies are detected, the case may be flagged for further scrutiny.
 - ❑ This data-driven approach allows the tax authorities to carry out risk-based assessments, making the process more efficient and transparent. It also minimises human bias, ensuring a more consistent approach to identifying potential tax evasion.
- ❖ **Faceless, Automated, and More Accurate Tax Scrutiny** - AI plays a key role in:
 - ❖ Selecting cases for assessment,
 - ❖ Analysing taxpayer behaviour over time,
 - ❖ Enhancing the fairness and accuracy of the process.
 - ❖ AI's analytical power, marks a substantial shift towards a more equitable and efficient tax environment.

AI for Pattern Detection and Risk-Based Assessments

- ❑ Digital Expansion: Social Media and Virtual Spaces Under Watch
- ❑ Section 247 of Income Tax Bill 2025: expand the department's digital reach. If tax evasion is suspected through online means, authorities may:
 - ❖ Access emails, cloud storage, and digital wallets,
 - ❖ Scrutinise social media activity,
 - ❖ Review interactions on online trading or investment platforms.

The law also introduces the concept of “virtual digital space”, broadening the scope of permissible investigation.

Caution : The Key to Staying Compliant

- ❑ Taxpayers are expected to:
 - ❖ Maintain accurate and transparent financial records,
 - ❖ Be mindful of their digital footprint,
 - ❖ Avoid discrepancies in declared income and actual expenses.
- ❑ The tax ecosystem is now being described as predictive, preventive, and precision-based, meaning AI can anticipate, prevent, and pinpoint anomalies more effectively than ever before.

Application of AI in Legislation

❑ Application of AI

- ❖ Summerisation of Tax law sections
- ❖ Conducting legal research
- ❖ Summarsing case laws
- ❖ Drafting response to Tax Notices
- ❖ OCR capabilities to convert data into table

❑ When AI went Wrong?

- ❖ AI here to Stay
- ❖ Tech + Law = Efficiency
- ❖ We need AI literacy
- ❖ Reliance automation with ethics
- ❖ Together we shape a future where invocation drive tax justice

The Best AI does not Replace Humans – It Empowers them to Achieve More

Q&A

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