



CERTIFICATE COURSE ON INCOME TAX APPEALS & ASSESSMENTS

Today's Content – Statement of Written arguments and how to prepare it and response to notice us 250

Introduction

A civil case essentially is all about claim of some legal right by one party and the denial of it by the other party, resulting in a judgement by a dispassionate judge functioning as an arbiter or umpire.

In a criminal case, the prosecution charges the accused guilty of some criminal offence punishable under the penal law and the accused defends the charges, ending up in a judgement of either conviction or acquittal.

A **Statement of Written Arguments** under the Income Tax Act is a formal submission made by an assessee or their authorized representative during an income tax assessment, appeal, or litigation process. It presents legal and factual arguments supporting the assessee's case.

When is a Statement of Written Arguments Required?

A written statement is generally submitted in the following cases:

- **During Assessment Proceedings** (before the Assessing Officer under Section 143(3))
- **In response to Show Cause Notices** issued under various sections (e.g., Section 147 for reassessment, Section 271 for penalties)
- **Before the Commissioner of Income Tax (Appeals) [CIT(A)]** under Section 246A
- **Before the Income Tax Appellate Tribunal (ITAT)** in appeal proceedings
- **Before the High Court or Supreme Court** in tax-related litigations

Notices Issued under Section 250 of the Income-tax Act, 1961 – Detailed Study

Section 250 of the Income-tax Act, 1961 lays down the **procedure to be followed by the Commissioner of Income-tax (Appeals)** while disposing of appeals filed by an assessee or by the Assessing Officer. The issuance of notice under this section is not a mere formality but a **statutory obligation**, intended to ensure adherence to the **principles of natural justice**, particularly the rule of *audi alteram partem*, i.e., no person should be condemned unheard.

Statutory Basis and Purpose of Notice under Section 250

Section 250(1) expressly mandates that the Commissioner (Appeals) shall fix a day and place for the hearing of the appeal and shall give notice of the same to both the appellant and the Assessing Officer. The fundamental purpose of issuing notice under this provision is to **inform the parties of the appellate proceedings**, provide them an opportunity to present their case, and enable the appellate authority to pass a **reasoned and speaking order** after due consideration of the submissions made.

The notice under section 250 thus serves as the **starting point of appellate hearing**, and without proper service of such notice, the validity of the appellate proceedings themselves may be called into question.

Authority Competent to Issue Notice under Section 250

The notice under section 250 is issued by the **Commissioner of Income-tax (Appeals)** or, in the faceless appeal regime, by the **National Faceless Appeal Centre (NFAC)** acting on behalf of the appellate authority. Since the Commissioner (Appeals) is a quasi-judicial authority, any notice issued by him must reflect application of mind and compliance with statutory requirements.

Persons to Whom Notice under Section 250 Must Be Issued

A notice under section 250 must be issued to **both parties to the appeal**, namely:

1. The **appellant**, who may be the assessee or the Assessing Officer, and
2. The **Assessing Officer**, whose order is under appeal.

Issuance of notice only to the assessee and not to the Assessing Officer would amount to **procedural impropriety**, as the Assessing Officer has a statutory right to be heard in appellate proceedings.

First Hearing Notice under Section 250

The first and most common notice issued under section 250 is the **initial hearing notice**, which is issued after the appeal is admitted. This notice informs the appellant that the appeal has been taken up for hearing and specifies the **date, time, and mode of hearing**, whether physical, video conferencing, or electronic submission in faceless proceedings.

This notice often directs the appellant to file written submissions, documentary evidence, and a paper book in support of the grounds of appeal. The first hearing notice is crucial because it activates the assessee's responsibility to **prosecute the appeal diligently**. Even if detailed grounds of appeal have already been filed, the assessee is expected to respond to this notice and place substantive submissions on record.

Subsequent or Adjourned Hearing Notices

Where the appeal is not disposed of on the first date of hearing, or where the matter is adjourned at the request of either party, the Commissioner (Appeals) may issue **subsequent hearing notices**. These notices communicate the next date of hearing and may carry remarks such as "final opportunity" or "last hearing".

Such language is intended to caution the appellant that repeated non-compliance may result in **ex-parte disposal of the appeal**. However, even in such cases, the appellate authority is required to consider the material already on record and cannot dismiss the appeal summarily without application of mind.

Issue-Specific Notice under Section 250

In certain cases, the Commissioner (Appeals) may issue a **specific or limited notice** seeking clarification on a particular issue arising from the grounds of appeal. This may include calling for an explanation on a specific disallowance, factual inconsistency, or legal contention raised by the appellant.

The purpose of such notice is to narrow down the controversy and enable focused adjudication. The appellant, while responding to an issue-specific notice, should restrict the reply to the issue raised and avoid reopening matters not called for, as unnecessary elaboration may dilute the effectiveness of the submission.

Notice for Filing Written Submissions

Though not expressly mentioned in the statute, it is common practice for notices under section 250 to include a direction to file **written submissions**. Written submissions play a vital role in appellate proceedings, as oral arguments are generally not recorded verbatim. The Commissioner (Appeals) relies heavily on written submissions while drafting the appellate order.

Failure to file written submissions despite such notice may weaken the assessee's case, even if oral arguments are advanced during the hearing.

Notice Relating to Additional Evidence (Rule 46A Context)

Where the assessee seeks to produce additional evidence before the Commissioner (Appeals), the appellate authority may issue a notice calling upon the assessee to explain the reasons for not producing such evidence before the Assessing Officer. This is done to ensure compliance with **Rule 46A of the Income-tax Rules, 1962**.

Such notice safeguards the interests of the Revenue and ensures that additional evidence is admitted only after satisfying the statutory conditions and after giving the Assessing Officer an opportunity to respond.

Enhancement Notice under Section 250 read with Section 251

One of the most critical notices in appellate proceedings is the **notice of enhancement**. Although the power of enhancement flows from section 251, the opportunity of hearing is rooted in section 250. Before enhancing an assessment, the Commissioner (Appeals) must issue a **specific show cause notice** clearly setting out the proposed enhancement and the basis thereof.

Enhancement without issuing such notice constitutes a **gross violation of natural justice** and renders the appellate order invalid. The assessee must be given a reasonable opportunity to rebut the proposed enhancement, both on facts and in law.

Show Cause Notice for Ex-Parte Disposal

In cases of repeated non-appearance or non-compliance, the Commissioner (Appeals) may issue a show cause notice indicating that the appeal may be disposed of **ex-parte** if there is no response. The objective of this notice is not punitive but procedural, providing one last opportunity to the appellant to participate in the proceedings.

Even where an appeal is decided ex-parte, the order must still be a **reasoned order**, dealing with the grounds of appeal on merits.

Mode of Service of Notice under Section 250

Notices under section 250 may be served electronically through the income-tax portal, through the faceless appeal system, or by physical means in earlier regimes. The validity of appellate proceedings depends upon **proper service of notice**, and the burden lies on the department to demonstrate that reasonable opportunity was provided.

Consequences of Non-Compliance with Notice under Section 250

Failure by the assessee to respond to notices under section 250 may result in ex-parte disposal of the appeal and adverse findings. Conversely, failure by the appellate authority to issue proper notice, or failure to consider submissions filed in response to such notice, can render the appellate order **unsustainable in law**.

Notices issued under section 250 are the **procedural backbone of appellate proceedings** under the Income-tax Act. They ensure fairness, transparency, and legality in the adjudication process. For an assessee, timely and appropriate response to such notices is essential for effective representation. For the appellate authority, strict compliance with notice requirements is indispensable to uphold the validity of the appellate order.

Replying to Notices Issued under Section 250 of the Income-tax Act, 1961

Replying to notices issued under section 250 of the Income-tax Act, 1961 is a **critical procedural responsibility of the appellant** during appellate proceedings before the Commissioner of Income-tax (Appeals). A reply to such notices is not merely a formality but a substantive step that determines how effectively the appellant's case is placed on record. Since appellate proceedings are primarily decided on the basis of written material, the quality, timeliness, and completeness of replies to notices under section 250 often play a decisive role in the outcome of the appeal.

Importance of Replying to Notices under Section 250

Every notice issued under section 250 represents an opportunity granted by law to the appellant to be heard. Failure to respond to such notices may lead to adverse consequences, including **ex-parte disposal of the appeal**, adverse inference, or loss of opportunity to place relevant facts and legal arguments on record. Courts have consistently emphasized that while the appellate authority must provide an opportunity of hearing, it is equally the duty of the appellant to **avail such opportunity diligently**.

A proper reply ensures that the appellate authority is fully informed of the appellant's position and is able to adjudicate the matter fairly and judiciously.

General Principles Governing Replies to Section 250 Notices

Replies to notices under section 250 must be drafted with a **professional, respectful, and precise tone**. The language should be non-emotional and fact-centric, avoiding any allegations against the Assessing Officer or the appellate authority. Each reply should clearly identify the notice being responded to by mentioning the **appeal number, assessment year, date of notice, and authority issuing the notice**.

Timeliness is of paramount importance. Even where the appellant is unable to make a detailed submission within the stipulated time, a short reply seeking adjournment with valid reasons is preferable to silence, as it demonstrates bona fide participation in appellate proceedings.

Reply to First Hearing Notice under Section 250

The reply to the first hearing notice sets the tone for the entire appellate proceeding. In response to such notice, the appellant should confirm appearance on the scheduled date and

inform the Commissioner (Appeals) whether written submissions are being filed along with the reply or will be filed separately.

At this stage, it is advisable to either submit or commit to submitting a **Statement of Written Arguments**, along with a properly indexed paper book containing relevant documents. The reply should briefly state that the appellant relies on the grounds of appeal already filed and will elaborate the same through written submissions and oral arguments during the hearing.

Reply to Subsequent or Adjournment Notices

Replies to adjournment or subsequent hearing notices must acknowledge the earlier proceedings and indicate readiness to proceed with the appeal. Where an adjournment is sought, the reply should clearly mention the reason, such as non-availability of counsel, requirement of additional time to compile documents, or pendency of remand report.

It is important to avoid routine or repetitive adjournment requests. Each request must be supported by a reasonable cause, as repeated adjournments may weaken the appellant's credibility and invite adverse remarks or ex-parte disposal.

Reply to Issue-Specific Notices

Issue-specific notices require **focused and confined replies**. The appellant should address only the issue raised in the notice and avoid digressing into other grounds of appeal. The reply should restate the relevant facts, explain the appellant's position, and support the submission with legal provisions or judicial principles wherever necessary.

Precision is critical in such replies, as they are often relied upon directly by the Commissioner (Appeals) while framing the appellate order on that specific issue.

Reply to Notice Calling for Written Submissions

Where the notice under section 250 specifically directs the appellant to file written submissions, the reply should be accompanied by a comprehensive **Statement of Written Arguments**. The reply should clearly state that written submissions are being filed in compliance with the notice and request that the same be taken on record.

It is advisable to refer to the page numbers of the enclosed paper book and to confirm that copies have been furnished or uploaded as required under the applicable procedure.

Reply in Cases Involving Additional Evidence

When a notice is issued in relation to additional evidence, the reply must strictly comply with **Rule 46A of the Income-tax Rules, 1962**. The appellant should clearly explain the circumstances under which the evidence could not be produced before the Assessing Officer and demonstrate that the case falls within one or more of the conditions prescribed under Rule 46A.

The reply should also request the Commissioner (Appeals) to admit the additional evidence in the interest of justice and fairness, while acknowledging that the Assessing Officer may be given an opportunity to examine or rebut such evidence.

Reply to Enhancement Notice

Replies to enhancement notices require **utmost care and detailed reasoning**, as the consequences may be adverse and substantial. The reply should address each proposed enhancement separately, dealing with both factual and legal aspects.

The appellant should examine whether the proposed enhancement falls within the jurisdiction of the Commissioner (Appeals) and whether it relates to the subject matter of the appeal. Any legal infirmity, such as enhancement beyond the scope of assessment or introduction of a new source of income, should be clearly pointed out in a respectful manner.

Reply to Show Cause Notice for Ex-Parte Disposal

A show cause notice indicating possible ex-parte disposal must be responded to immediately. The reply should explain the reasons for earlier non-compliance and express the appellant's willingness to participate in the proceedings.

Even a brief reply seeking a final opportunity of hearing can prevent ex-parte disposal and preserve the appellant's right to be heard.

Mode and Manner of Filing Replies

Replies to notices under section 250 should be filed in the **prescribed mode**, whether electronically through the income-tax portal or in physical form, as applicable. Proof of filing and acknowledgment should always be preserved for record and future reference.

The reply should be concise but complete, ensuring that all relevant facts and arguments are placed on record in an organized manner.

Consequences of Improper or No Reply

Failure to reply, delayed replies without reasonable cause, or casual and incomplete replies may result in ex-parte orders, adverse findings, or rejection of submissions. On the other hand, a well-drafted reply enhances the appellant's credibility and assists the appellate authority in delivering a fair and reasoned decision.

Replying to notices under section 250 is an integral part of appellate advocacy. Each reply should be viewed as an opportunity to clarify facts, correct errors, and reinforce legal arguments. Effective replies, combined with structured written submissions, ensure that the appellant's case is fully and fairly considered by the Commissioner (Appeals).

How to Prepare Reply to Notices Issued under Section 250 of the Income-tax Act, 1961

Preparing a reply to notices issued under section 250 of the Income-tax Act, 1961 requires a **systematic, strategic, and disciplined approach**. Unlike assessment proceedings, appellate proceedings are largely driven by written records. Therefore, every reply filed in response to a notice under section 250 becomes a permanent part of the appellate file and directly influences the reasoning adopted by the Commissioner of Income-tax (Appeals).

Step 1: Carefully Read and Classify the Notice

The first and most crucial step in preparing a reply is to **carefully read the notice in its entirety**. The assessee must identify:

- The **type of notice** (first hearing, issue-specific, enhancement, adjournment, or show cause)
- The **purpose** for which it has been issued
- The **action expected** from the appellant (appearance, filing of submissions, explanation, or documents)
- The **time limit** and mode of compliance

Misreading the nature of the notice often leads to inappropriate or incomplete replies, which may prejudice the appeal.

Step 2: Review the Appeal Records and Assessment Order

Before drafting the reply, the appellant should revisit:

- Grounds of appeal filed in Form 35
- Assessment order and reasons for additions
- Earlier submissions, if any
- Documents already placed on record

This step ensures that the reply is **consistent with the grounds of appeal** and does not introduce contradictory statements or new claims without justification.

Step 3: Decide the Scope of the Reply

Once the nature of the notice is understood, the appellant must decide the **scope of the reply**. For example:

- A first hearing notice requires a procedural response along with filing of written submissions.
- An issue-specific notice requires a limited and focused reply.
- An enhancement notice requires a detailed and defensive reply.

Over-expanding the scope of the reply may dilute its effectiveness, while an under-developed reply may leave issues unanswered.

Step 4: Structure the Reply Properly

A well-prepared reply to a notice under section 250 should follow a **logical and uniform structure**, which enhances clarity and professionalism.

The reply should ordinarily contain:

- Heading mentioning the authority, appeal number, and assessment year
- Reference to the notice (date and reference number)
- Brief introductory paragraph acknowledging the notice
- Substantive reply in paragraphs
- Closing prayer

A structured reply assists the Commissioner (Appeals) in understanding the appellant's position without ambiguity.

Step 5: Maintain Professional and Judicial Tone

The language of the reply must be **respectful, factual, and objective**. Even where the appellant disagrees with the findings of the Assessing Officer, the disagreement should be expressed in terms of **legal infirmity or factual error**, rather than allegations or emotional language.

Appellate authorities are quasi-judicial bodies, and replies drafted in a calm and reasoned tone are more persuasive and credible.

Step 6: Prepare Substantive Content Based on Type of Notice

The content of the reply must be aligned with the type of notice received:

- In reply to a **first hearing notice**, the appellant should confirm appearance and indicate filing of written submissions.
- In reply to an **issue-specific notice**, the appellant should confine submissions strictly to the issue raised.
- In reply to an **enhancement notice**, each proposed enhancement must be answered separately with legal and factual support.
- In reply to a **show cause notice for ex-parte disposal**, the appellant should explain the reasons for earlier non-compliance and seek an opportunity of hearing.

Tailoring the reply to the notice is essential for effective representation.

Step 7: Support Submissions with Documents and References

Where the reply refers to documents, evidence, or case laws, proper references should be provided. Documents should be indexed, paginated, and, where applicable, placed in a paper book. Case law references should be relevant and cited for their legal ratio rather than for volume.

This practice enhances the credibility and usability of the reply.

Step 8: Decide Whether Adjournment is Required

If sufficient time is not available to prepare a detailed reply, it is better to **seek an adjournment** with valid reasons rather than file a hurried or incomplete reply. The adjournment request should be reasonable, justified, and preferably accompanied by partial compliance where possible.

Step 9: File the Reply in the Prescribed Mode

Replies must be filed through the **prescribed channel**, whether electronically through the income-tax portal or physically, as applicable. The appellant should ensure:

- Proper uploading or submission
- Retention of acknowledgment or proof of filing
- Compliance within the stipulated timeline

Procedural lapses at this stage can undermine otherwise strong submissions.

Step 10: Preserve Record and Prepare for Hearing

After filing the reply, the appellant should retain copies of:

- The notice
- The reply filed
- Supporting documents

These records are essential for future hearings, rectification proceedings, or further appeals before higher authorities.

Conclusion

Preparing a reply to notices under section 250 is not a mechanical task but a **strategic exercise in appellate advocacy**. Each reply should aim to clarify issues, reinforce grounds of appeal, and assist the Commissioner (Appeals) in arriving at a just and reasoned decision. A disciplined approach to drafting replies significantly improves the prospects of success in appellate proceedings

Importance of Covering Case Laws, CBDT Rules, Circulars and Notifications in Replies to Notices under Section 250

While replying to notices issued under section 250 of the Income-tax Act, the appellant is not merely placing facts on record but is assisting the Commissioner of Income-tax (Appeals) in **judicial adjudication**. Since the appellate authority functions as a quasi-judicial body, replies that are supported by **binding legal authorities**, such as judicial precedents and statutory instructions issued by the Central Board of Direct Taxes, carry significantly greater persuasive and legal value than replies based solely on factual assertions.

Role of Case Laws in Appellate Replies

Case laws represent the **judicial interpretation of statutory provisions** and act as precedents guiding lower authorities. When an appellant relies on relevant case laws while replying to a notice under section 250, it demonstrates that the issue under consideration is not res integra and has already been settled or interpreted by judicial forums.

In appellate proceedings, especially before the Commissioner (Appeals), reliance on case laws helps in:

- Demonstrating errors in the Assessing Officer's reasoning,
- Establishing consistency with settled judicial principles, and
- Preventing arbitrary or subjective interpretation of law.

A reply supported by appropriate judicial precedents transforms the submission from a mere explanation into a **legally reasoned argument**.

Hierarchy and Binding Nature of Case Laws

Not all case laws carry the same weight. While preparing replies to notices under section 250, it is important to prioritize case laws based on their **binding force**. Decisions of the jurisdictional High Court and the Supreme Court are binding on the appellate authority, whereas decisions of other High Courts or Tribunals have persuasive value.

Mentioning binding precedents in replies places a **legal obligation** on the Commissioner (Appeals) to either follow the precedent or provide reasons for distinguishing it. This significantly strengthens the appellant's position and reduces the scope for arbitrary conclusions.

Importance of Explaining the Ratio Decidendi

Merely citing case names is insufficient. The appellant must briefly explain the **ratio decidendi**, i.e., the legal principle laid down in the decision, and demonstrate its applicability to the facts of the case. This helps the appellate authority immediately appreciate the relevance of the precedent without having to independently analyse the entire judgment.

Concise explanation of the ratio also prevents the common criticism that the assessee has indulged in “case-law dumping”.

Role of CBDT Circulars, Instructions, and Notifications

CBDT circulars, instructions, and notifications constitute an important source of tax law interpretation, as they reflect the **administrative understanding of statutory provisions**. These instruments are issued under the authority of the Act and are binding on income-tax authorities, including the Assessing Officer and the Commissioner (Appeals).

When an appellant relies on a beneficial CBDT circular or instruction while replying to a notice under section 250, it reinforces the argument that even the tax administration itself recognizes a particular interpretation of law.

Binding Nature of CBDT Circulars on Tax Authorities

It is a settled legal principle that CBDT circulars which are beneficial to the assessee are **binding on the department**, even if they go beyond or relax the strict interpretation of the statute. Therefore, citing such circulars in replies to appellate notices creates a strong procedural and legal obligation on the appellate authority to follow them.

Ignoring binding CBDT instructions while deciding an appeal may render the appellate order vulnerable to challenge on the ground of non-application of mind.

Importance of Rules and Notifications

Rules and notifications issued under the Income-tax Act form part of **subordinate legislation**. They often clarify procedural requirements, conditions, thresholds, or compliance mechanisms. Replies to notices under section 250 that refer to relevant rules and notifications help in:

- Establishing statutory compliance,
- Clarifying procedural eligibility, and

- Countering technical objections raised by the Assessing Officer.

In appellate proceedings, where procedural lapses are often cited as grounds for additions or disallowances, reference to applicable rules and notifications becomes particularly important.

Enhancing Credibility and Professionalism of the Reply

A reply supported by case laws, CBDT circulars, and statutory rules reflects **professional diligence and legal preparedness**. It signals to the appellate authority that the appellant's case is grounded in law rather than mere assertion. Such replies are more likely to be taken seriously and considered carefully while framing the appellate order.

From a practical perspective, well-researched replies reduce the risk of adverse remarks and increase the chances of a reasoned and favourable decision.

Strategic Use in Different Types of Notices

The importance of legal authorities becomes even more pronounced in replies to:

- **Issue-specific notices**, where a settled legal position can conclusively resolve the issue;
- **Enhancement notices**, where jurisdictional limits and judicial safeguards must be highlighted; and
- **Rule 46A related notices**, where judicial interpretation of procedural fairness plays a crucial role.

Thus, legal backing is not optional but essential in such replies.

Caution Against Excessive or Irrelevant Citations

While covering case laws and CBDT instruments is important, excessive or irrelevant citations should be avoided. The focus should always be on **quality, relevance, and applicability**, rather than quantity. Overloading replies with unrelated decisions may dilute the core argument and reduce clarity.

Conclusion

Covering relevant case laws, CBDT rules, circulars, and notifications in replies to notices under section 250 elevates the reply from a factual explanation to a **legally sustainable submission**. Such replies assist the Commissioner (Appeals) in judicial decision-making, protect the appellant's rights, and significantly enhance the strength and credibility of the appellate record. In appellate advocacy, legal support is not an embellishment—it is a necessity.

Sample Format of a Written Argument Statement

Statement of Written Arguments

Before the Income Tax Officer / CIT(A) / ITAT / High Court

In the matter of: Assessment under Section 143(3) / Appeal under Section 246A

Assessee: XYZ Pvt. Ltd.

PAN: XXXXXXXXX

Assessment Year: 2023-24

Case Number: ITA/2023/XXXX

Respected Sir/Madam,

1. Introduction & Background

The present submission is being made in response to the assessment order passed under Section 143(3) for AY 2023-24, wherein the learned Assessing Officer (AO) has made an addition of ₹50,00,000 on account of alleged unexplained cash credits under Section 68 of the Income Tax Act.

2. Factual & Legal Arguments

- The addition made by the AO is **incorrect** as all receipts are properly accounted for and backed by documentary evidence.
- Section 68 requires the assessee to prove the **identity, creditworthiness, and genuineness** of transactions, which has been duly complied with.

3. Supporting Documents & Judicial Precedents

- Bank Statements, Ledger Copies, and Confirmation Letters of Depositors are enclosed.
- Reliance is placed on the Supreme Court judgment in **CIT v. Lovely Exports Pvt. Ltd. [2008] 216 CTR 195 (SC)**, where it was held that if the identity of the shareholder is established, no addition under Section 68 can be made.

4. Relief Sought

In light of the above, it is respectfully submitted that the addition of ₹50,00,000 be **deleted** and relief be granted.

Prayer:

It is humbly prayed that the impugned addition be set aside, and justice be rendered in favor of the assessee.

Date: _____

Place: _____

(Signature)

For _____ XYZ Pvt. _____ Ltd.
(Authorized Representative)

5. Tips for Effective Written Arguments

- ✓ **Be Clear & Concise** – Avoid unnecessary legal jargon
- ✓ **Use Bullet Points** – Makes it easier to read
- ✓ **Support with Case Laws** – Strengthens your argument
- ✓ **Attach Relevant Documents** – To substantiate claims
- ✓ **Stay Professional & Respectful** – Address the authority properly

Discussion on any questions

