

MINISTRY OF FINANCE
International Resource Division
Taxes Appellate Tribunal, Bangladesh.

NOTIFICATION

Dhaka, the 3rd July, 1986

No. T-4/A TB/(Ad)/80. –In exercise of the powers conferred by section 15 of the Income Tax Ordinance, 1984(XXXVI of 1984), the Taxes Appellate Tribunal is pleased to make the following rules:

1. (i) These rules may be called the Taxes Appellate Tribunal(Procedure) Rules, 1985.
(ii) They shall come into force at once.
2. In these rules, unless there anything repugnant in the subject of context,-
 - (a) “authorised representative” means-
 - (i) in relation to an assessee, a person duly authorised by the assessee under section 174 to attend before the Tribunal; and
 - (ii) in relation to a Tax authority who is a party to any proceeding before the Tribunal, a person duly appointed by the 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).
 - (b) “Bench” means a Bench of the Tribunal constituted under sub-section(2) of section 12;
 - (c) “member” means a member of the Tribunal;
 - (d) “Ordinance” means the Income Tax Ordinance, 1984(XXXVI of 1984);
 - (e) “prescribed form” means a form prescribed in the rules made by the National Board of Revenue under section 85;
 - (f) “President” means President of the Tribunal;

A-4

- (g) “Registrar” means the person who is for the time being discharging the function of the Registrar of the Tribunal;
 - (h) “section” means a section of the Ordinance;
 - (i) “Tribunal” means the Taxes Appellate Tribunal constituted by the Government under section 11, and includes, where the context so requires, a bench exercising the power and discharging the functions of the Tribunal.
3. A Bench shall hold its sittings at its headquarters or such other place as the President may consider convenient.
 4. A Bench shall hear and determine such appeals and applications made under the Ordinance as the President may, by general or special order, direct.
 5. The office of the Tribunal shall, subject to any special order of the President, observe the same office hours and holidays as the office of the Supreme Court(High Court Division) at Dhaka.
 6. The Language of the Tribunal shall be English.
 7. (1) A memorandum of appeal to the Tribunal shall be presented by the appellant in person or by a agent to the Registrar at the Headquarters of the Tribunal at Dhaka or to an officer authorised in this behalf by the Registrar at the Headquarters of the Tribunal at Dhaka 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 such officer authorised by the Registrar on the day on which it is received in the office of the Tribunal at Dhaka, or, as the case may be, in the office of such officer.
 8. The Registrar or, as the case may be, the authorised officer shall endorsed on every memorandum of appeal the date on which it is presented, or deemed to have been presented, under rule 7 and shall sign the endorsement.

9. **Every memorandum of appeal shall be written in English, and shall set fourth, concisely and under district heads, the grounds of appeal without any argument or narrative; and such grounds shall be numbered consecutively.**
10. (1) Every memorandum of appeal shall be in quadruplicate and shall be accomplished by four copies(at least one of which shall be a certified copy) of the order appealed against and four copies of the order of the Deputy Commissioner of Taxes.

(2) The Registrar or, on officer authorised by the Registrar in this behalf may accept a memorandum of appeal which is not accompanied by all or any of the documents referred to in sub-rule(1).
11. 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.
12. 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.
13. The Registrar or, as the case may be, the authorised officer may reject a memorandum of appeal, if it is not in the prescribed form or return it for being amended within such time as he may allow; and on its re-submission after such amendment, the memorandum shall be signed and dated by the Registrar, as the case may be, the authorised officer.

A-6

14. In an appeal by an assessee under sub-section (1) of section 158, the Deputy Commissioner of Taxes concerned shall be made respondent to the appeal.
15. In an appeal by an assessee under sub-section (1) of section 158, the assessee appellant shall append to the memorandum of appeal a certificate from the Deputy Commissioner of Taxes concerned or a certificate signed by himself or his authorised representative supported by duly receipted challan that he has paid the tax required under clause (a) of sub-section (2) of the said section. In case no such payment has been made, an explanation shall be appended stating the reason for not paying the said tax.
16. In an appeal under preferred by a Deputy Commissioner of Taxes under sub section (3) of section 158 the appellant before the Appellate Joint Commissioner shall be made a respondent to appeal.
17. In an appeal under sub-section (3) of section 158 the Deputy Commissioner of Taxes shall append to the memorandum of appeal certificate that the appeal has been preferred under the direction of the Commissioner of Taxes.
18. Where a memorandum of appeal is signed by an authorised representative, such representative shall annex to the memorandum of appeal in writing constituting his authority and his acceptance of it. The acceptance shall be signed and dated by the representative and shall state whether he is legal practitioner, an accountant or an income tax practitioner, or is a person who is a relative of, or regularly employed by the, assessee. If the representative is a person regularly employed by the assessee, he shall state the capacity in which he is at the time employed; if he is a relative of the assessee, he shall state his relationship with the assessee; and if he is an income tax practitioner, he shall state his qualifications under clause(f) of sub-section (2) of section 174:

A-7

Provided that in the case of an appeal under sub-section (3) of section 158, the memorandum of appeal not be accompanied by a letter of authority.

19. An authorised representative appearing for an assessee at the hearing of an appeal shall, unless he has already filed his authority and his acceptance of it under rule 18, before the commencement of the hearing file his authority and his acceptance of authority containing the particulars required by rule 18.
20. The Tribunal may, on an application made by an appellant direct the preparation for a paper book at the cost of the appellant. If such direction is given the parties to the appeal shall be required by the Register to state what papers and documents they desire to be included in the paper book. On receipt of the statements of the parties, the Register shall take such action as may be necessary for the preparation of the paper book.
21. The Tribunal shall notify to the parties, 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.
22. 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 against the appeal.
23. In an appeal under sub-section (3) of section 158, in fixing the date for the respondent to appeal and answer to the appeal, a reasonable time shall be allowed for the necessary communication with the commissioner through proper channel and for the issue of instructions to an authorised representative to appear and answer on behalf of the respondent.
24. On the day fixed, or on 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 it does not dismiss the appeal at once, hear the respondent against the appeal and in such case the appellant shall be entitled to reply.

25. Where on the day fixed for hearing or any day to which the hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the tribunal may dismiss the appeal for default, provided that if within 30 days of the service of such order of dismissal the appellant makes an application for the restoration of the appeal on ground that notice of the appeal was not served on him or that the service was not valid in law or that he was prevented by sufficient cause from appearing on the appointed day and the Tribunal is so satisfied, the order of the dismissal for default shall be vacated and the appeal be heard and disposed of on merit.
26. When 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 when the appeal is called on for hearing the Tribunal may hear the appeal *ex parte*.

Explanation. –In rules 25 and 26 “appear” means in person or through an authorised representative.

27. Where an assessee whether he be the appellant or the respondent to an appeal dies or is adjudicated insolvent or is succeeded by another person 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 successor or other legal representative of the assessee or by or against the receiver or liquidator, as the case may be.
28. The respondent, though he may not have appealed, may support the order of the Appellant Joint Commissioner on any of the grounds decided against him.

A-9

29. Where the Tribunal is of opinion that the case should be remanded, it may remand it to the Appellate Joint Commissioner or the Deputy Commissioner of Taxes with such direction as the Tribunal may think fit.
30. 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 decide the case without giving a sufficient opportunity to the assessee to adduce evidence either on points specified by him or not specified by him, the Tribunal 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.
31. Such document may be produced or such witness examined or such evidence adduced either before the Appellate Joint Commissioner or before the Deputy Commissioner of Taxes as the Tribunal may direct.
32. If the document is directed to be produced or witness examined or evidence adduced before the Appellate Joint Commissioner or the Deputy Commissioner of Taxes he shall comply with the direction of the Tribunal and after compliance send the document, the record of deposition of the witness or the record of the evidence adduced to the Tribunal.
33. The Tribunal may, on such terms as it thinks fit, and at any stage, adjourn the hearing of the appeal.
34.
 - (i) The orders of the Bench shall be in writing and shall be signed and dated by the members constituting it or by any of the members;
 - (ii) Where a case is referred under sub-section (2) of section 13, 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;
35. The Tribunal shall, after the order is signed cause it to be communicated to the assessee and to the Commissioner.

A-10

36. When a copy of the judgment of the Supreme Court, High Court Division or Appellate Division is received by the Tribunal under sub-section (2) of section 161 or under sub-section (3) of section 162, as the case may be, it shall be sent to the concerned Bench, for such orders as may be necessary unless the President directs otherwise.
37. (1) The Scales of copying fees, where chargeable, shall be as under: -
- | | | |
|---|-----|------|
| (a) For the first 200 words or less- | | |
| English | Tk. | 1.00 |
| Vernacular | Tk. | 0.50 |
| (b) For every additional 100 words or fraction thereof- | | |
| English | Tk. | 0.50 |
| Vernacular | Tk. | 0.25 |
- A uniform extra fee of Taka 2 shall be charged on an application for urgent copies.
- (2) The Tribunal may supply to both parties free of cost and without application one copy of its order sub-section (4) of section 159.
38. The scales of inspection fee shall be as under: -
- | | |
|--|----------|
| (a) For each hour or part of an hour for ordinary inspection (Court fee stamp) | Tk. 1.00 |
| (b) For each hour or part of an hour for urgent inspection (Court fee stamp) | Tk. 2.00 |
39. The Taxes Appellate Tribunal (Procedure) Rules, 1985, shall apply mutatis mutandis to all appeals to Tribunal made under other Bangladesh Laws.
40. The Income tax Appellate Tribunal Rules, 1948, are hereby repealed.

CHAPTER – III
TAXES APPELLATE TRIBUNAL

11. Establishment of Appellate Tribunal.-

(1) For the purpose of exercising the functions of the Appellate Tribunal under this ordinance, the Government shall establish a Taxes Appellate Tribunal consisting of a President and such other '[judicial and accountant] members as the Government may, from time to time, appoint.

²[(2) A judicial member shall be a person who is or has been a District Judge or who has practiced as an advocate in a court not lower than that of a District and Sessions Judge for a period of not less than ten years.]

³[(3) A person shall not be appointed as a member of the Taxes Appellate Tribunal unless-

⁴[(i) he was or is a member of the Board or holds the current charge of a member of the Board; or]

(ii) he was a Commissioner of Taxes; or

(iii) he is a Commissioner of Taxes; or

(iv) he is a chartered accountant and practiced professionally for a period not less than eight years; or

(v) he is a cost and management accountant and practiced professionally for a period not less than eight years; or

(vi) he is an income tax practitioner within the meaning of section 174(2)(f) and practiced professionally for not less than twenty years; or

¹ Omitted by F.A. 2002.

² Subs. by F.A. 1991 and subsequently omitted by F.A. 2002

³ Subs. Sub-se(3) by F.A 1991, Subs. by F.A. 1996 and again subs. by F.A. 2002

⁴ Subs. by F.A. 2009

- (vii) he is a professional legislative expert having not less than eight years experience in the process of drafting and making financial and tax laws; or
 - (viii) he is an advocate and practiced professionally for not less than ten years in any income tax office ‘[; or
²[(ix) he is, was or has been a District Judge.]
- ³[(4) The Government shall appoint one of the members of the Appellate Tribunal to be the President thereof ⁴[, who is a member of the Board or holds the current charge of a member of the Board.]

Explanation. – For the purpose of this section, period of practice as chartered accountant shall include any period of practice as chartered accountant within the meaning of the Chartered Accountants Ordinance, 1961(X of 1961) ⁵[or Bangladesh Chartered Accountants Order, 1973 (P.O. No. 2 of 1973)] or as registered accountant enrolled on the register of accountants under the Auditor’s Certificate Rules, 1950.]]

12. Exercise of power of the Tribunal by Benches. –

- (1) Unless the president in any particular case or class of cases otherwise directs, the powers and functions of the appellate Tribunal shall be exercised by Benches of the Appellate Tribunal, hereinafter referred to as Bench, to be constituted by the President.
- (2) A Bench shall be so constituted that it has not less than two members. ⁶[and that there is equality in number of judicial members and accountant members:]

1. Subs. “;or” for full-stop and ins. clause(ix) by F.A. 2010
2. Subs. by F.A 2011
3. Subs F.A 1996
4. Ins. by F.A 2010
5. Ins by F.A. 2001
6. Omitted by F.A. 2002

¹*[Provided that in a Bench of which the President himself is a member he shall be deemed to be a judicial member.]*

13. **Decision of Bench.-**

(1) Subject to the provisions of sub-sections (2) and (3), the decision of Bench in any case or on any point shall be given in accordance with the opinion of the majority of its members.

(2) Any point on which the members of a Bench are equally divided shall be stated in writing and shall be referred by the President to one or more other members of the Appellate Tribunal for hearing and the point shall be decided according to the majority of the members of the Appellate Tribunal who have heard it including those who first heard it.

(3) Where there are only two members of the Appellate Tribunal and they differ in any case, the Government may appoint an additional member of the Appellate Tribunal for the purpose of hearing the case; and the decision of the case shall be given in accordance with the opinion of the majority of the members of the Appellate Tribunal as constituted with such additional member.

14. **Exercise of power by one member.-**

Notwithstanding anything contained in section 12, the Government may direct that the powers and functions of the Appellate Tribunal shall be exercised by any one of its members, or by two or more members jointly or severally.

15. **Regulation of Procedure.-**

Subject to the provisions of this Ordinance, the Appellate Tribunal shall regulate its own procedure and the procedure of its Benches in matters arising out of the discharge of its functions including the places at which a Bench shall hold its sittings.