

CBDT proposed to seek more info while filing appeal before ITAT

If a taxpayer is aggrieved by the specified order of the Assessing Officer (AO) then he can approach the first appellate authority {CIT (appeals)}. The Income-tax Appellate Tribunal (ITAT) is the second appellate authority under the Income-tax Act, 1961 for resolving disputes between taxpayer and tax department. An appeal against the order of Commissioner (Appeals) can be filed with the ITAT by either of the aggrieved party, i.e., Assessee or the Revenue.

Rule 47 of the Income-tax Rules, 1962 prescribes Form No. 36 for filing of an appeal and Form No. 36A for filing of memorandum of cross-objections before the ITAT. These existing Forms require limited information from the appellant and have not been revised since last couple of decades. Form No.36 was last amended *vide* Income-tax (Fifteenth Amendment) Rules, 1993. In Form No. 36A no amendment has been carried out since its introduction.

The Central Board of Direct Taxes (CBDT) has issued draft notification proposing amendment to Rule 47 so as to modify the existing Form no. 36 and Form no. 36A. Changes proposed in these Forms are in line with the changes done in the Form no. 35, a form to file an appeal before CIT(A), two years back (with effect from March 1, 2016 *vide* Income-tax (Third Amendment) Rules, 2016).

Just like Form No. 35, the Form No. 36 requires details of amount disputed in pending appeals before ITAT. These additional inputs are proposed to be sought in the appeal forms with an objective that could help the Dept. to design the policy for litigation management. The proposed Form No. 36 requires additional info about the disputed amount in new Form 36 which is similar to amended Form no. 35.

The existing Forms Nos.36 and 36A do not capture various informations like amount disputed in pending appeals before ITAT, delay in filing of appeal, etc. These informations are vital for both for the department and the Appellate Authorities. Thus, CBDT has proposed to amend Form no. 36/36A seeking more information from the appellant. Changes have been proposed so as to make these forms more descriptive and informative. The following are the key changes proposed in new Forms:

- 1. Respondent information:** The existing Form no. 36/36A seeks only address of the respondent which is used to send notices. The revised Forms require additional details like PAN, TAN, email ID, phone number of the respondent and the appellant.
- 2. Details of pending appeals:** In case an appeal in relation to any other assessment year is pending with any bench of the ITAT, then the appellant is required to provide details of the Bench of ITAT with which the appeal is pending along with the Appeal Number and date of filing of appeal in Form no. 36. This information is proposed to be sought on line of revised Form No. 35.
- 3. Details of addition and disallowance:** Amount of additions and disallowances made in the assessment order and the amount disputed in appeal is required to be mentioned by appellant. In case appeal relates to any penalty order, the amount of penalty disputed in appeal has to be mentioned in the Form. The existing form does not seek such information.
- 4. Details of fees paid:** The Appellant is required to pay a statutory fees for filing of an appeal before the ITAT. The minimum fees is Rs. 500 and it can go up to maximum of 1% of assessed income if assessed income is more than Rs. 2 lakhs during the previous year. In the

revised Form no. 36, appellant would be required to furnish details of fees paid such as BSR code, date of payment and amount.

5. **Reasons for condonation of delay:** In case there is delay in filing of appeal then grounds for condonation of delay not exceeding 500 words are to be enclosed by appellant.

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