

APPELLATE AUTHORITY (PROCEDURE) RULES, 2011

In exercise of the powers conferred by Sub-Section (2) of Section 22D of the Chartered Accountants Act, 1949 [as amended by the Chartered Accountants (Amendment) Act, 2006] read with Section 22A of the Company Secretaries Act, 1980 [as amended by the Company Secretaries (Amendment) Act, 2006] and Section 22A of the Cost and Works Accountants Act, 1959 [as amended by the Cost and Works Accountants (Amendment) Act, 2006], the Appellate Authority hereby makes the following rules, namely -

1. Short title and commencement

- (1). These rules shall be called "Appellant Authority (Procedure) Rules, 2011".
- (2). These Rules shall come into force on 1st June, 2011

2. Definitions.- In these rules, unless the context otherwise requires

- (a) "Act" means the Chartered Accountants Act, 1949/ Company Secretaries Act 1959/ Cost and Work Accountants Act 1980, as the case may be;
- (b) "Adjudicating Authority" means the Disciplinary Committee or the Board of Discipline, as the case may be;
- (c) "Agent" means a person duly authorized by the party to present an appeal/petition or written reply on its behalf, before the Appellate Authority
- (d) "Appellant" means a person filing an appeal before the Appellate Authority under Section 22G of the Act.
- (e) "Appellate Authority" means the Appellate Authority established under Section 22A of the relevant Act.
- (f) "Form" means, a form Specified in Appendix.
- (g) "Legal representative" means a person who in law represents the estate of the deceased:

(h) "Registrar" means in relation to the Appellate Authority the Registrar appointed by the Appellate Authority and includes any officer to whom the powers and functions of registrar may be delegated by the Chairperson of Appellate Authority.

(i) "Registry" means the Registry of the Appellate Authority:

(j) the words and expressions used and not defined in these rules but defined in the Acts shall have the same meanings assigned to them in the respective Acts.

3. Language of the Appellate Authority:- The language of the Appellate Authority shall be English. However, the parties to the proceeding before the Appellate Authority, may file documents drawn up in any other language, if they so desire, provided that an authenticated English translation of the documents shall be filed along with the document.

4. Procedure for filing appeals/ petitions:- (1) An appeal/ petition to the Appellate Authority shall be presented in form III with Index in Form I by the Appellant or by his duly authorized legal practitioner to the Registrar or any other officer authorized in writing by the Registrar to receive the same or be sent by registered post with acknowledgment, duly addressed to the Registrar of the Appellate Authority.

(2) The appeal/ petition under sub-rule (1) shall be presented along with six extra copies in a paper book form along with one unused file size envelope bearing full address of the respondent.

(3) Where the number of respondents is more than one, as many extra copies of the appeal/petition in paper book form, as there are respondents, together with unused file size envelopes bearing the full address of each respondent shall be furnished by the appellant

(4) the appellant may attach to and present with his appeal, a receipt slip in Form-II which shall be signed by the Registrar or the officer receiving the appeal on behalf of the Registrar in acknowledgment of the receipt of the Appeal/ Petition application.

5. Presentation and scrutiny of appeals:- (1) The Registrar, or the officer authorized by him under Rule 4, shall endorse on every appeal/petition the date on which it is presented and shall sign the endorsement.

(2) If, on scrutiny, the appeal/petition is found to be in order, it shall be duly registered and given a serial number.

(3) If the appeal/petition, on scrutiny, is found to be defective and the defect noticed is formal in nature, the registrar may allow the party to rectify the same in his presence, and if the said defect is not formal in nature, the Registrar may allow the appellant such time to rectify the defect as he may deem fit.

(4) If the Appellant fails to rectify the defect within the time allowed under Sub-Rule (3), the Registrar may, by order and for reasons to be recorded in writing, decline to register the appeal and inform the appellant accordingly.

(5) An appeal/petition against the order passed under sub-rule (4) may be preferred by the person aggrieved within fifteen days from the date of such order to the Chairperson of the Appellate Authority, whose decision thereon shall be final.

6. Place of filling appeals/petitions:- The appeal/petition shall be filed by the applicant/appellant with the Registrar of the Authority at Delhi or Noida office of the Appellate Authority or at such address as may be notified by the Registrar of the Authority from time to time.

7. Appeal/petition fee:- Every appeal/petition filed with the Authority shall be accompanied by a fee of Rupees Five Thousand only which is to be remitted in the form of crossed demand draft on any bank in favour of Appellate Authority.

Provided that where the Appellate Authority is satisfied that an appellant/petitioner is unable to pay the prescribed fee on ground of indigence, it may exempt such an appellant/ petitioner from the payment of fee.

8. Contents of appeal/petition:- (1) Every appeal/petition filed shall set forth concisely under distinct heads the grounds for such appeal/petition. Such grounds shall be numbered consecutively. Every appeal including any miscellaneous application accompanying appeal shall be typed in double space on one side of thick paper of good quality. An appeal/petition as far as possible shall be in Form III.

(2) The Appellant/petitioner shall, alongwith appeal/ petition file synopsis of appeal/ petition preferably not exceeding five pages stating the grounds of such appeal/ petition.

(3) An appellant may, subsequent to the filing of an appeal/petition under section 22G of the Act, apply for an interim order or direction.

9. Documents to accompany the petition/appeal (1) Every appeal/petition shall be accompanied by:

(i) An attested true copy of the order against which the appeal is filed by the Appellant/ Petitioner;

(ii) Copy of the pleadings (i.e complaint, written statement and rejoinder) and the documents filed with adjudicating authority;

(iii) Copy of the documents relied upon by the petitioner/appellant and referred to in the petition/appeal;

(iv) an index of the documents..

(2). The documents referred to in sub-rule (i) may be self-attested by the petitioner/appellant or by the legal practitioner and each document shall be marked serially as Annexure A1,A2, A3 and so on.

(3). Where an appeal/petition is filed by an agent, document authorizing him to act as such an agent shall also be appended to the petition/appeal.

Provided that where an appeal is filed by a legal practitioner, it shall be accompanied by a duly executed vakalatnama.

10. Service of notices and processes issued by the Appellate Authority:- (1) any notice or process to be issued by the Appellate Authority may be served by any of the following modes directed by the Appellate Authority:

(i) Service by the party himself;

(ii) By hand delivery (dasti) through a process server;

(iii) By registered post with acknowledgment due; or

(iv) Through e-mail, if e-mail address of party is furnished;

(2) Where notice issued by the Appellate Authority is served by the party himself by öhand deliveryö (dasti), the party shall file with the registry of the Appellate Authority, the acknowledgement, together with an affidavit of service.

(3) Notwithstanding anything contained in sub-rule (1) the Appellate Authority may, taking into account the circumstances, direct that the notice of appeal/petition shall be served upon the respondents in any other manner, including substituted service, as it appears just and convenient to the Appellate Authority.

(4) Every notice issued by the Appellate Authority shall, unless otherwise ordered, be accompanied by a copy of the petition/appeal along with a copy of the paperbook.

(5) (i) Every appellant/petitioner shall pay a fee of Rs.500/- for the service of processes, in respect of appeal/petition.

(ii) Where the service is in such a manner as the Appellate Authority may direct under sub-rule (3) such a sum not exceeding the actual charges incurred in effecting the service, to be paid to the Appellate Authority by the appellant/petitioner

(6) The fee for the service or execution of processes under sub-rule 5(II) shall be remitted to the Appellate Authority by way of a bank draft within one week of the date of the order determining the fee or within such extended time as the Registrar may permit.

11. Filling of reply and other documents by the respondents:- (1) Each respondent intending to contest the appeal/petition may file his response to the appeal/ petition and the documents relied upon, with six copies in the paper book form with the Registry within 30 days of the service of notice of the appeal on him.

(2) The respondent shall also serve a copy of the reply alongwith documents as mentioned in sub-rule (1) on the appellant/petitioner or his legal practitioner/ agent if any, and file proof of such service in the Registry.

(3) The Appellate Authority may allow filling of the reply after expiry of the prescribed period.

12. Calendar of cases:- (1) The Appellate Authority shall draw up a calendar for hearing the appeal and as far as possible decide the case as per its calendar.

(2) Every Appeal shall be heard and decided, as far as possible within six months from the date of its registration.

(3) The Appellate Authority shall have the power to decline an adjournment and also to limit the time for oral arguments.

13. Action on appeal for appellants default:- Where on the date fixed for hearing of the appeal/petition or on any other date to which such hearing stands adjourned, the appellant/petitioner does not appear for hearing, the Appellate Authority may in its discretion decide the appeal/ petition on merit/or dismiss it in default.

14. Ex-parte hearing and disposal of appeals/petitions:- (1) where on the date fixed for hearing the respondent does not appear despite notice, the Appellate Authority may in its discretion adjourn the hearing or hear and decide the appeal ex-parte.

15. Setting aside ex-parte order:- When an appeal has been heard & decided against a party in its absence due to non appearance such a party may apply to the Appellate Authority for setting aside the order within 30days of passing of order and if such party satisfies the Appellate Authority that the notice was not duly served, or that he was prevented by a sufficient cause from appearing when the appeal/petition was called for hearing, the Appellate Authority may set aside the ex-parte order upon such terms as it thinks fit, and shall appoint a day for proceeding with the appeal/petition. Such an application shall be decided only after hearing both the parties.

16. Substitution of legal representatives:- (1) in the case of death of a party during the pendency of the appeal/ petition before the Appellate Authority, the legal representatives of the deceased party may apply within thirty days of the date of such death for being brought on record as necessary parties.

(2) Where no application is received from the legal representative within the period specified in sub-rule (1), the appeal/petition against the deceased party shall abate:

Provided that on good and sufficient reasons the Appellate Authority, on an application, may set aside the order of abatement and substitute the legal representatives.

17. Order to be signed and dated: - (1) Every order of the Appellate Authority shall be in writing and shall be signed by the Members constituting the Appellate Authority that pronounced the order.

(2) The order may be pronounced either at conclusion of hearing or by sending a copy of order by post to the parties.

18. Communication of orders to parties:- (1) Every interim order granting or refusing or modifying interim relief and the final order passed on any appeal/petition shall be communicated to the appellant/petitioner and to the respondent concerned either by hand delivery or by registered post.

(2) If appellant/ petitioner or the respondent to any proceeding requires a copy of any document or proceeding, the same shall be supplied to him on such terms and conditions on payment of such fee as may be fixed by the chairman by general or special order.

19. Inspection of the records:- (1) The parties to a case or their counsels may be allowed to inspect the record of the case on making an application to the registrar/ Deputy Registrar and on payment of inspection fee, as prescribed.

20. Working hours of the Appellate Authority:- Except on Saturdays, Sundays and other public holidays, the office of the Appellate Authority shall, subject to any order made by the Chairman remain open from 10am to 5:30pm.

21. Sittings of Appellate Authority:- The Appellate Authority shall hold its sittings at its headquarters in NCR at A-29 ICAI Bhavan, Sector 62, NOIDA or at such other place or places as may be authorized by the Chairperson.

22. Chairperson of the appellate Authority may, from time to time issue necessary orders for the matters not provided in the rules, for effective & smooth functioning of the Appellate Authority.

**REGISTRAR
APPELLATE AUTHORITY**