

[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (ii) OF THE
GAZETTE OF INDIA, EXTRAORDINARY]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 20th November, 2009

NOTIFICATION
[INCOME-TAX]

S.O. 2958(E).- In exercise of the powers conferred by sub-section (14) of section 144C of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes makes the following rules to regulate the procedure of the Dispute Resolution Panel, namely:-

1. Short title and commencement. - (1) These rules may be called the Income-tax (Dispute Resolution Panel) Rules, 2009.

(2) They shall come into force on the date of their publication in the Official Gazette.

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

- (i) “Act” means the Income-tax Act, 1961 (43 of 1961);
- (ii) “panel” means the Dispute Resolution Panel;
- (iii) “Form” means a form appended to these rules;
- (iv) “Secretariat”, in relation to panel, means the designated office for filing of objections by the eligible assessee under section 144C;
- (v) “section” means a section of the Act.
- (vi) words and expressions used herein but not defined and defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Constitution of the Panel. – (1) The Board may, on the basis of workload and for efficient functioning, constitute panel in the places specified in column (2) on the Table below, having jurisdiction over the areas specified in column (3) thereof.

Table

Sl. No.	Name of the Headquarters	Jurisdiction
(1)	(2)	(3)
1	Delhi	(1) NCT of Delhi (2) Punjab, Haryana and Chandigarh, J&K (3) Uttar Pradesh, Uttaranchal, Rajasthan and Himachal Pradesh
2	Mumbai	(1) Mumbai (2) Rest of Maharashtra except Pune (3) Goa, Madhya Pradesh and Chattisgarh
3	Ahmedabad	Gujarat, Daman Diu, Dadra Nagar Haveli
4	Kolkata	(1) West Bengal, North-east States and Andaman and Nicobar (2) Bihar, Orissa and Jharkhand
5	Chennai	Tamil Nadu and Pondicherry
6	Hyderabad	Andhra Pradesh
7	Bangalore	Karnataka, Kerala and Lakshadweep
8	Pune	Pune

(2) The Board shall assign by name three Commissioners of Income-tax to each panel as Members who by name, in addition to their regular duties as Commissioners, shall also carry on the functions of the panel.

(3) Where any Member of the panel is transferred, the Board shall assign, by name, another Commissioner of Income-tax in the place of the outgoing Member of the panel to carry out the functions of the panel.

(4) Each panel shall have a secretariat for receiving objections, correspondence and other documents to be filed by the eligible assessee and shall also be responsible for issuing notices, correspondence and direction if any, on behalf of the panel.

(5) The Chief Commissioner of Income-tax (CCA) shall, for the purposes of sub-rule (4), constitute the secretariat for the panel.

4. Procedure for filing objections. – (1) The objections if any, of the eligible assessee to the draft order may be filed in person or through his agent within the specified period in Form No. 35A.

(2) The objections referred to in sub-rule (1) shall be in English and presented to the Secretariat of the panel.

(3) The objections shall be filed in paper book form in quadruplicate duly accompanied by –

- (a) four copies of the draft order duly authenticated by the eligible assessee or his authorised representative:

Provided that in the case of draft assessment under sub- section (3) of section 143 read with section 144A, the objections shall also be accompanied by four copies of the directions issued by the Joint Commissioner or Additional Commissioner under section 144A and in the case of draft assessment under sub-section (3) of section 143 read with section 147, the objections shall also be accompanied by four copies of the original assessment order, if any:

Provided further that the Panel may, in its discretion, either accept the objections which are not accompanied by all or any of the documents referred to above or reject it.

- (b) the evidence, if any, the eligible assessee intends to rely upon including any document or statement or paper submitted to the assessing officer:

Provided that where the eligible assessee intends to rely upon any additional evidence other than those submitted to the assessing officer, such additional evidence shall not form part of the paper book but may be filed along with a separate application stating the reasons for filing such additional evidence.

5. Notice for hearing. - The panel shall issue notice to the eligible assessee and the concerned assessing officer specifying the date and place of hearing of the objection.

6. Call for records. - The panel shall also call for records relating the draft order and permit the assessing officer to file report, if any, to the objections filed by eligible assessee.

7. Hearing of objections. – (1) For the purpose of hearing of objections, the panel may hold its sittings at its headquarters or at such other place or places as it may deem proper.

(2) On the date fixed for hearing, if an authorised representative appears on behalf of eligible assessee, he shall file the authorisation letter before the commencement of the hearing.

(3) The panel may consider the application for filing additional affidavit and may either allow such application or reject it.

(4) The eligible assessee may, with the permission of the panel, urge any additional ground which has not been set forth in the objections.

8. No abatement of proceedings. – After filing objections, if the eligible assessee, being an individual, dies or is adjudicated insolvent, or being a company, is wound up, the proceedings before the panel shall not abate and shall be continued by the executor, administrator or other legal representative of such individual assessee or by the assignee, receiver or liquidator of such assessee being a company, as the case may be.

9. Power to call for or permit additional evidence. - Where the panel deems it necessary, it may call upon or, as the case may be, permit the eligible assessee to produce any document or examine any witness or file any affidavit to enable it to issue proper directions:

Provided that the panel shall, while so permitting the eligible assessee record its reasons for such permission.

10. Issue of directions. – (1) On the date fixed for hearing or on any other date to which the hearing may be adjourned, if the eligible assessee or his authorised representative do not appear, or when they appear, upon hearing the objections, the panel may, within the specified time, issue such directions as it deems proper.

(2) While hearing the objections, the panel shall not be confined to the grounds set forth in the objections but shall have power to consider any matter or grounds arising out of the proceedings.

(3) On conclusion of hearing, the panel shall issue directions within the specified period.

11. Directions to be communicated to parties. - The panel shall, after the directions are issued, communicate the same to the eligible assessee and to the assessing officer.

12. Passing of Assessment Order. - Upon receipt of directions from the panel, the Assessing Officer shall pass the Assessment Order in accordance with the procedure prescribed in sub-section (13) of section 144C.

13. Rectification of mistake or error.- After the issue of directions under rule 10, if any mistake or error is apparent in such direction, the panel may, suo motu, or on an application from the eligible assessee or the assessing officer, rectify such mistake or error, and also direct the assessing officer to modify the assessment order accordingly.

14. Appeal against Assessment Order. - Any appeal against the Assessment Order passed in pursuance of the directions of the panel shall be filed before the Appellate Tribunal in Form No. 36B.

[Notification SO.No.2958(E)/2009/ F.No.142/22/2009-TPL]

Pawan K. Kumar
Director (TPL-IV)

FORM NO. 35A

[See rule 4(1)]

Objections to the draft order

No. _____ of _____

1. Name and address of the eligible assessee

2. Permanent Account Number

3. Assessment year in connection with which
the objection is filed

4. Assessing Officer passing the draft order of
assessment.

5. Section and sub-section of the Income-tax
Act, 1961 under which the Assessing Officer
proposing the additions has sent the draft
order for which reference is being filed

6. The date of service of the draft order of
assessment

7. Section and clause of the Income-tax Act,
1961, under which the reference is made

8. For each objection, the ground and
statement of fact as per Annexure is required
to be annexed herewith. Whether the same
has been complied with

Yes / No

1. Ground of objection
2. Facts as submitted to Assessing Officer
3. Facts, if any, modified by the Assessing Officer
4. Do you **wholly** agree with the modifications in the facts by the Assessing Officer. If not, give reasons pointing the specific fact or facts with which you do not agree along with the reasons and documentary evidence, if any.
5. Legal arguments submitted to Assessing Officer
6. Case laws relied upon by the assessee
7. Legal argument relied upon by the Assessing Officer
8. Case laws relied upon by Assessing Officer
9. Any additional new case laws which the assessee may like to rely upon.
10. Factual and legal arguments against the addition proposed by the Assessing Officer

VERIFICATION

I, _____ the assessee, do hereby declare that what is stated above is true to the best of my information and belief.

Place: _____

Date: _____

Signature
Status of assessee

FORM NO. 36B

[See rule 14]

Form of appeal to the Appellate Tribunal

In the Income-tax Appellate Tribunal_____

Appeal No._____of_____

Versus

APPELLANT

RESPONDENT

1. The State in which the assessment was made

2. Section under which the order appealed against was passed

3. Assessment year in connection with which the appeal is preferred

3A. Total income declared by the assessee for the assessment year referred to in item 3

3B. Total income as computed by the Assessing Officer for the assessment year referred to in item 3.

4. The Assessing Officer passing the original order

5. Copy of Order of Dispute Resolution Panel

6. Date of communication of the order appealed against

7. Address to which notices may be sent to the appellant

8. Address to which notices may be sent to the respondent

9. Relief claimed in appeal

GROUND OF APPEAL

Signature
(Authorised representative, if any)

Signature
(Appellant)

Verification

I, _____, the appellant, do hereby declare that what is stated above is true to the best of my information and belief. Verified today the _____ day of _____.

Signature
(Appellant)

Notes :

1. The memorandum of appeal must be in triplicate and should be accompanied by tow copies (at least one of which should be a certified copy) of the order appealed against, two copies of the relevant order of the Assessing Officer, two copies of the grounds of objection before the Dispute Resolution Panel, two copies of the statement of facts, if any, filed before the said Dispute Resolution Panel and also

- (a) the copy of directions of Dispute Resolution Panel.
- (b) in the case of an appeal against an order under section 143 read with section 147, two copies of the original assessment order, if any.

2. The memorandum of appeal by an assessee under section 253(1) of the Income-tax Act must be accompanied by a fee specified below:-

- (a) where the total income of the assessee as computed by the Assessing Officer, in the case to which the appeal relates, is one hundred thousand rupees or less, five hundred rupees;
- (b) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one hundred thousand rupees but not more than two hundred thousand rupees, one thousand five hundred rupees;
- (c) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two hundred thousand rupees, one per cent of the assessed income, subject to a maximum of ten thousand rupees;
- (d) no fee shall be payable in the case of a memorandum of cross-objections;

- (e) an application for stay of demand shall be accompanied by a fee of five hundred rupees.

It is suggested that the fee should be credited in a branch of the authorised bank or a branch of the State Bank of India or a branch of the Reserve Bank of India after obtaining a challan and the triplicate challan sent to the Appellate Tribunal with a memorandum of appeal. The Appellate Tribunal will not accept cheques, drafts, hundies or other negotiable instruments.

3. The memorandum of appeal should be written in English or, if the appeal is filed in a Bench located in any such State as is for the time being notified by the President of the Appellate Tribunal for the purposes of rule 5A of the Income-tax (Appellate Tribunal) Rules, 1963, then, at the option of the appellant, in Hindi, and should set forth, concisely and under distinct heads, the grounds of appeal without any argument or narrative and such grounds should be numbered consecutively.

4. The number and year of appeal will be filled in in the office of the Appellate Tribunal.

5. If the space provided is found insufficient, separate enclosures may be used for the purpose.