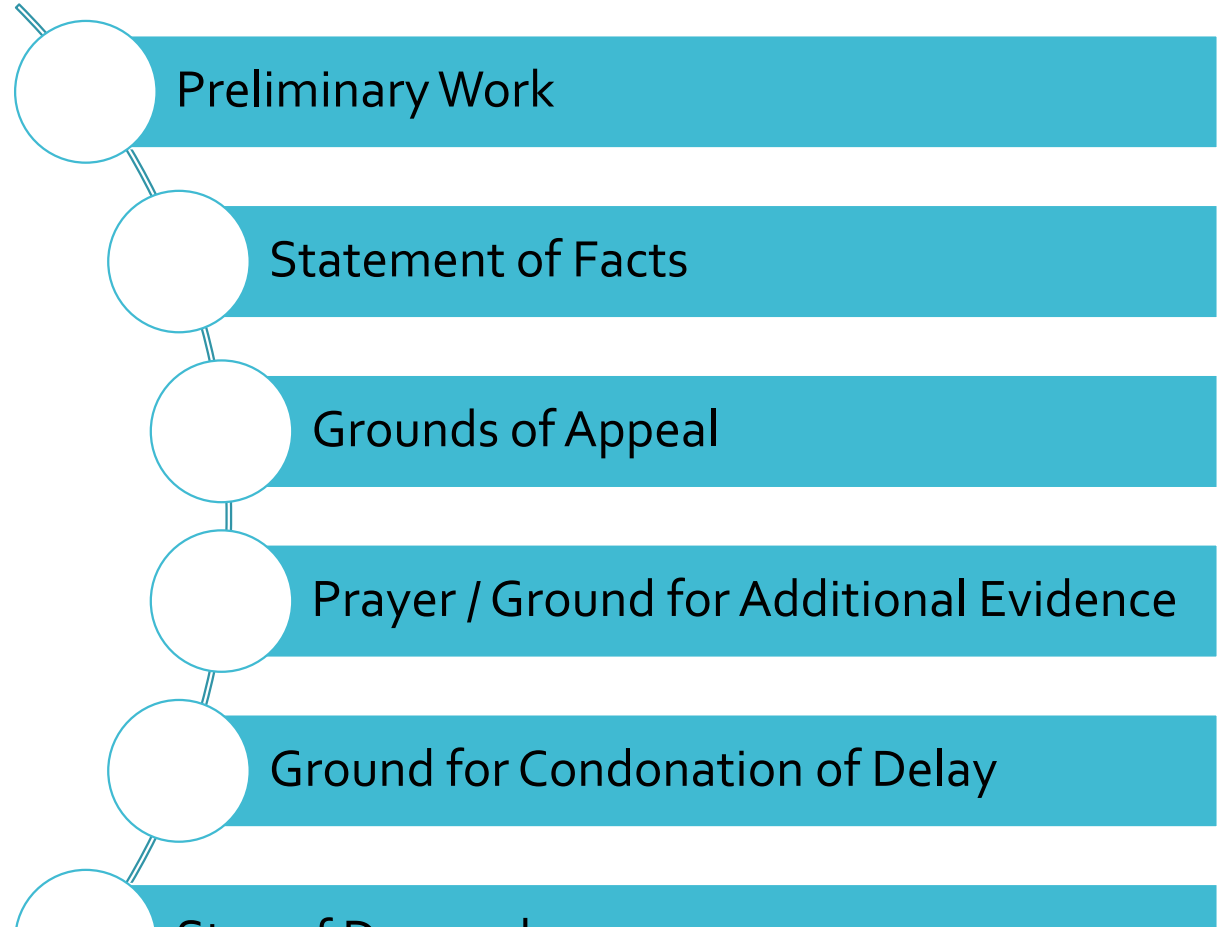


CIT (Appeal)

With CA Rohit Kapoor

COVERAGE



Preliminary Work

- Is Order Appealable u/s. 246A
- Date on which Order is Received, because as per section 249(2), appeal before CIT(A) within 30 Days from the date of Service of Notice
- Compile Chronological Event Chart, starting from issuance of notice u/s. 143(2)/147/148/153A till framing of Assessment/Re-Assessment Order Including Notice of Demand U/s. 156
- Go Through the Assessment Order against which appeal is proposed

Preliminary Work

- Calculate the Tax, Surcharge, Interest etc., after considering AO's Order. In case of any discrepancy found then Rectification U/s. 154 can be initiated and same can be considered in Grounds of Appeal and Stay of Demand.
- List out the Documents and Explanations not Provided to AO, during the course of Assessment Proceedings. (This List of Documents, with proper narration and duly indexation, to be filed in Duplicate before CIT(A) in the Form of Additional Evidence along with Prayer u/r 46A.

Preliminary Work

Payment or Stay of Demand

- Payment or Stay against Notice of Demand
 - Time Limit for Payment is Stated in Notice
 - Generally it is 30 Days from Date of Service of Notice u/s. 156
 - Within such time limit;
 - Either Demand is to be Paid; or
 - petition is to be filed before AO u/s. 220(6)

Preliminary Work

Documents Requirement

- Documents Should be Kept in Handy
 - E-filing Login Credentials
 - Copy of Assessment Order
 - Copy of Notice of Demand
 - Any other documents, (Appellant wish to relied upon)
 - Appeal Fee Challan
 - Digital Signature Certificate (DSC) or the Electronic Verification Code (EVC). For EVC check the Mobile Number Registered under e-filing portal and have an access of same.

Note:- As per Section 140, Appeal is to be Signed by Person who is required to sign ITR.

Preliminary
Work

Appeal Fees
Challan

Challan
No

- ITNS 280

Major
Head

- 020 or 021, as per Case may be.

Minor
Head

- Self Assessment Tax (300)

Type of
Payment

- Others

Appeal
Fees

- As per Section 249(1)

Preliminary Work

Appeal Fees Amount

S.No.	Total Income Determined by the Assessing Officer	Appeal Fee
1	Less than Rs. 1,00,000/-	Rs 250/-
2	More than Rs.1,00,000/- but less than Rs.2,00,000/-	Rs 500/-
3	More than Rs. 2,00,000/-	Rs 1000/-

Note:- Where the Appeal is not in relation to Assessed Total Income or Total Income is Negative, Minimum Fees of Rs. 250/- is to be Paid.

Statement of Facts Before CIT(A)

Important Points to be Kept in Mind

Statement of Facts

No
Specified

Format

Guidelines

Only Facts
Relevant
Comprehensive
Complete

Law Points
Argumentative

Statement of Facts

- It is last Window to produce Statement of Facts. Therefore, if you want to produce additional facts viz. not produced before AO, then please produce here.
- Highlight all the Mistakes/Errors/Observations/Adverse Inference of AO alongwith the correct position.
- Specifically and Separately highlight the, “Violation of Principle of Natural Justice” , for bringing out the base of admissibility for additional evidence , if any u/r 46A
 - No Opportunity of Being Heard
 - Lack of Proper Opportunity of Being Heard
 - Denial of Opportunity of Cross Examination
 - Relying on the Material behind Appellant Back without providing opportunity to rebut

Grounds of Appeal Before CIT(A)

Important Points to be Kept in Mind

Ground of Appeals

No Specified Format or Guidelines

It Should be in 2 Parts, Grounds on Law and Grounds on Merit

Should be Precise, Comprehensive, Clear and Consecutively Numbered

Should highlight main controversy in issue

Should be in the Order of Addition made by AO

Ground of Appeals

Reference of SC/HC Judgements must be Stated

Ground i.r.t. Violation of Principle of Natural Justice must be Taken

Don't Mix Statement of Facts with Grounds of Appeal

Error in the Computation of AO, must be specifically and Separately taken


Separate ground on penalty initiation, not require, as it is pre-mature in nature (It is my View)

Additional Evidence


Important Points to be Kept in Mind

Additional Evidence (Rule 46A)


where the Assessing Officer has refused to admit evidence, which ought to have been admitted



where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to be produced by the Assessing Officer



where the appellant was prevented by sufficient cause from producing before the Assessing Officer any evidence which is relevant to any ground of appeal



where the Assessing Officer has made the order appealed

Condonation of Delay

Important Points to be Kept in Mind

Condonation of Delay

Section 249(3)

No Specified Format or Guidelines

CIT(A) may Admit an Appeal after the Limitation Period

Justify the period of Delay (From date of expiry to filing)

Justification Should be Specific (Not General or Vague),
with Documentary Evidence

Cause Should be Reasonable and Sufficient

e-filing Procedure and Practical Aspect

Important Points to be Kept in Mind

Login in your e-filing account using User credentials

The screenshot displays the e-filing portal interface. At the top, there is a header with the e-Filing logo and the text 'Anywhere Anytime' and 'Income Tax Department, Government of India'. Navigation links include 'हिन्दी', 'About Us', 'Feedback', 'Accessibility Options', 'Contact Us', 'e-Nivaran', and 'Help'. A search bar is located on the right. Below the header, a yellow banner reads 'e-Verify your Return using Aadhaar OTP, Net Banking, Pre-Validated Bank Account and Pre-Validated Dem'. The main content area is divided into three sections: 'Quick Links' on the left, 'News & Updates' in the center, and 'Download' on the right. The 'Quick Links' section includes 'List of Income Tax Return and Forms available for e-Filing', 'Tax Information and Services', and 'e-Filing Brochures'. The 'News & Updates' section features a blue banner for 'Forgot your e-filing Password? Not to Worry!' with a list of three simple ways to reset the password: 'Using Aadhaar OTP', 'e-Filing Login through Net Banking', and 'Upload Digital Signature Certificate'. A 'Reset Password' button is visible at the bottom of the banner. The 'Download' section includes links for 'New To e-Filing? Register Yourself', 'Registered User? Login Here', and 'Forgot Password? Reset'.

Quick Links

- List of Income Tax Return and Forms available for e-Filing
- Tax Information and Services
- e-Filing Brochures

News & Updates

Forgot your e-filing Password? Not to Worry!

Now, There are 3 Simple Ways to Reset Your Password:

1. Using Aadhaar OTP
2. e-Filing Login through Net Banking
3. Upload Digital Signature Certificate

Reset Password

Download

- New To e-Filing? **Register Yourself**
- Registered User? **Login Here**
- Forgot Password? **Reset**

Go to E-File Link and Choose Income Tax Forms



Choose Form No- 35 –Appeal to Commissioner Appeals

Income Tax Forms

PAN *

Form Name * FORM NO.35 - Appeal ▼

Submission Mode * Prepare and Submit Or ▼

Instructions
+ Fields marked with asterisk(*) are mandatory

Start Filing Form No 35 Online

You will get some details Pre-filled and fill remaining editable details properly.

FORM NO. 35
[See rule 45]
Appeal to the Commissioner of Income-tax (Appeals)

Preview and Submit
 Save Draft
 Exit

Instructions Form 35 Verification			
Personal Information			
First Name <input type="text"/>	Middle Name <input type="text"/>	Last Name or Name of Entity* <input type="text"/>	PAN* <input type="text"/>
Flat/ Door/Block No * <input type="text"/>			TAN (if available) <input type="text"/>
Name of Premises / Building / Village <input type="text"/>		Road/ Street /Post Office <input type="text"/>	
Area/ Locality * <input type="text"/>	Town/ City/ District * <input type="text"/>	State * <input type="text"/>	Country * INDIA ▾
Pincode * <input type="text"/>	Mobile No * <input type="text"/>	STD code <input type="text"/>	Phone No. <input type="text"/>


Now provide details of the order against which Appeal is Filed

Order against which Appeal is filed			
1	Assessment Year	2016-17	
	Financial Year	Select	
	Block Period	From (AY)	Select
		To (AY)	Select
Date of Search		<input type="text"/>	
Assessment year in connection with which the appeal is preferred/ Enter financial year in case appeal is filed against an order where assessment year is not relevant*			
Details of Order appealed against/Application u/s 245			
2	a	Section and sub-section of the Income-tax Act, 1961*	143(3)
		Order Number	<input type="text"/>
	b	Date of Order/Date of Tax Payment in case of Application u/s 245	15/12/2018
	c	Date of service of Order / Notice of Demand	15/12/2018
3	Income-tax Authority passing the order appealed against *	<input type="text"/>	

Now provide details of the order against which Appeal is Filed


Pending Appeal		
4	Whether an appeal in relation to any other assessment year/ financial year is pending in the case of the appellant with any Commissioner (Appeals) *	No
Appeal Details		
5	Section and sub-section of the Income-tax Act, 1961 under which the appeal is preferred *	245A
6	If appeal relates to any assessment ?*	Yes
a	Amount of Income Assessed (₹)	1494720
b	Total Addition to Income (₹)	1021622
c	In case of Loss, total disallowance of Loss in assessment (₹)	0
d	Amount of Addition/ Disallowance of Loss disputed in Appeal (₹)	1021622
e	Amount of Disputed Demand (₹)- Enter Nil in case of Loss	1021622
7	If appeal relates to penalty ?*	Not Applicable
a	Amount of penalty as per order (₹)	
b	Amount of penalty disputed in Appeal (₹)	

Details related to ITR Filing etc

Details of Taxes paid				
8	Where a return has been filed by the appellant for the assessment year in connection with which the appeal is filed, whether tax due on income returned has been paid in full *			Yes ▼
8.1	If reply to 8 is Yes, then enter details of return and taxes paid			
	a	Acknowledgement number	<input type="text"/>	
	b	Date of filing	11/08/2016 	
	c	Total tax paid	<input type="text" value="21670"/>	
9	Where no return has been filed by the appellant for the assessment year, whether an amount equal to the amount of advance tax as per section 249(4)(b) of the Income-tax Act, 1961 has been paid*			Not Applicable ▼
10	If the appeal relates to any tax deductible under section 195 of the Income-tax Act, 1961 and borne by the deductor, details of tax deposited under section 195(1)			

Enter Facts, Grounds of Appeal and Additional Evidence

Statement of facts, Grounds of Appeal and additional evidence

Statement of Facts			
11	Facts of the case in brief (not exceeding 1000 words) *		
	List of documentary evidence relied upon		<input type="text" value="Books of account and other documents produced or to be produced"/>
12	Whether any documentary evidence other than the evidence produced during the course of proceedings before the Income-tax Authority has been filed in terms of Rule 46A *		<input type="text" value="Yes"/>
12.1	If reply to 12 is Yes, furnish the list of such documentary evidence		<input type="text" value="Books of account and other documents produced or to be produced"/>
13	Grounds of Appeal(each ground not exceeding 100 words)*		
Sl. No.	Relevant section (s) of IT/Act	Issue	Ground of Appeal
1	<input type="checkbox"/> <input type="text"/>	<input type="text" value="disallowance of Commission"/>	<input type="text" value="That on the facts and circumstances"/>

e-filing (Appeal) Step- IV (e)

Particulars related to Condonation of Delay and Appeal Fee Challan

Appeal filing details

14 Whether there is delay in filing appeal* Yes ▾

15 If reply to 14 is Yes, enter the grounds for condonation of delay (not exceeding 500 words)

for a delay in filing appeal...

due to...



...

16 Details of Appeal Fees Paid*

Sl. No.	BSR Code	Date of payment	Serial Number	Amount
1	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Update Address on which further communication can be done and save the appeal.

17. Address to which notices may be sent to the appellant:*			
Flat/ Door/Block No *	Name of Premises / Building / Village		Road/ Street /Post Office
-			
Area/ Locality *	Town/ City/ District *	State *	Country *
-	-	DELHI	INDIA
Pincode *	Mobile No *	Email Address *	
0			

Preview and Submit Save Draft Exit  

After above process, submit the Form 35 and you will get the Acknowledgement of Submission save it along with copy of Form 35.

DISCLAIMER

This Webinar is Organized only for Knowledge Purpose and content of the Session is compiled on the basis of the Experience of the Speaker gained during Appeal Proceedings and adequate attention has been given to avoid any clerical/arithmetical error, however; if it still persist kindly intimate us to avoid such error for the benefits of others readers.

Before filing appeal application, professional's advice is strictly advisable, so as to draw documents i.r.t. appeal in the most suitable manner.



Thank
You

For Queries, Contact or Write Us
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CA Rohit Kapoor

CONNECT WITH US



/rohitkapoorca



/in/carohitkapoor



/rohitkapoor_rk



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