



Appeal & Revision

With CA Rohit Kapoor



Appellate Hierarchy



Appellate Hierarchy

- Commissioner of Income Tax Appeal
- Income Tax Appellate Tribunal
- High Court
- Supreme Court

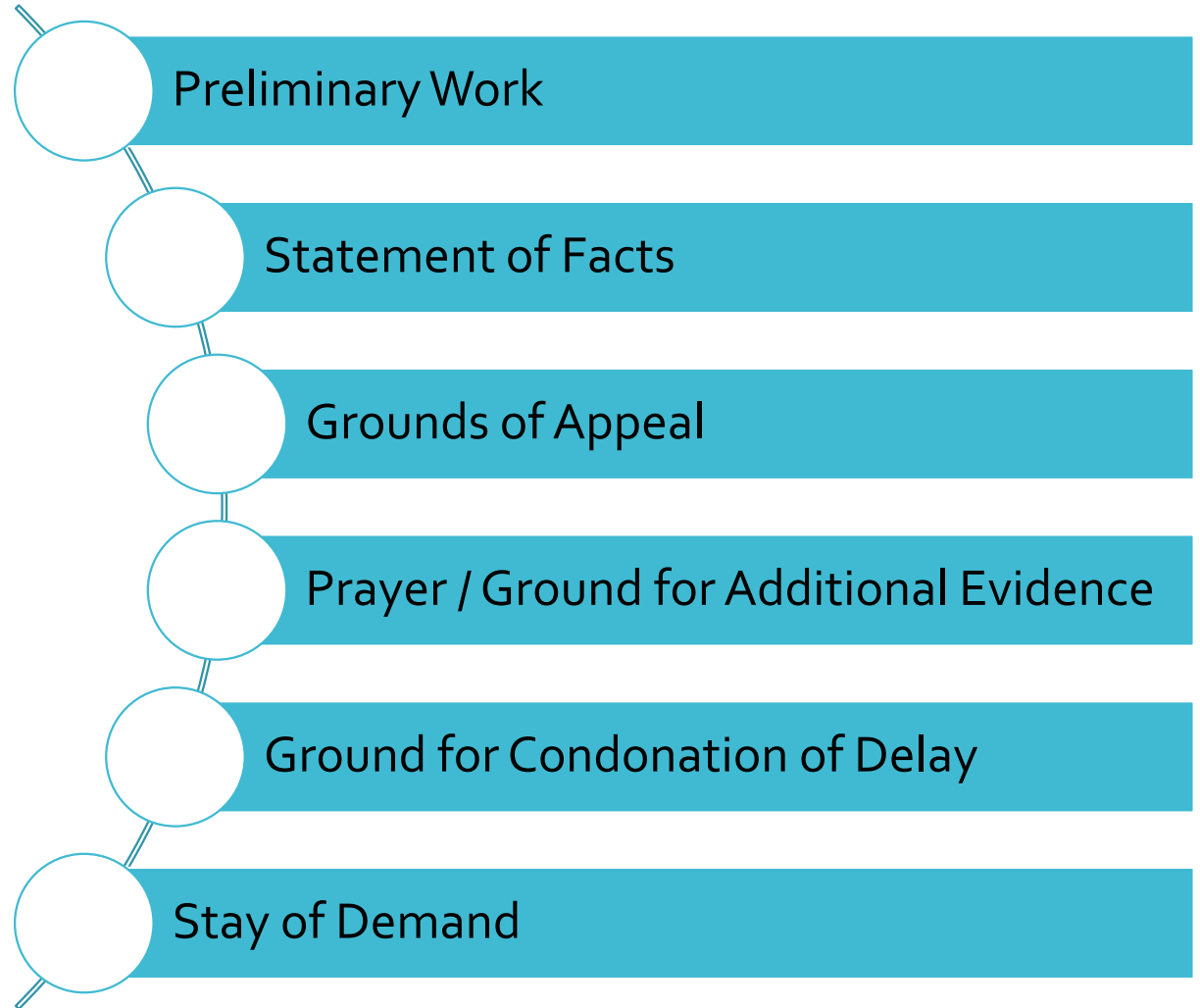


Appeal Procedure

For CIT(A)



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	<ul style="list-style-type: none">• ITNS 280
Major Head	<ul style="list-style-type: none">• 020 or 021, as per Case may be.
Minor Head	<ul style="list-style-type: none">• Self Assessment Tax (300)
Type of Payment	<ul style="list-style-type: none">• Others
Appeal Fees Amount	<ul style="list-style-type: none">• 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
- Separate Ground for each Addition



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)
- A Prayer to ADD, AMEND, ALTER or WITHDRAW any ground must be made in the end



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 against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal

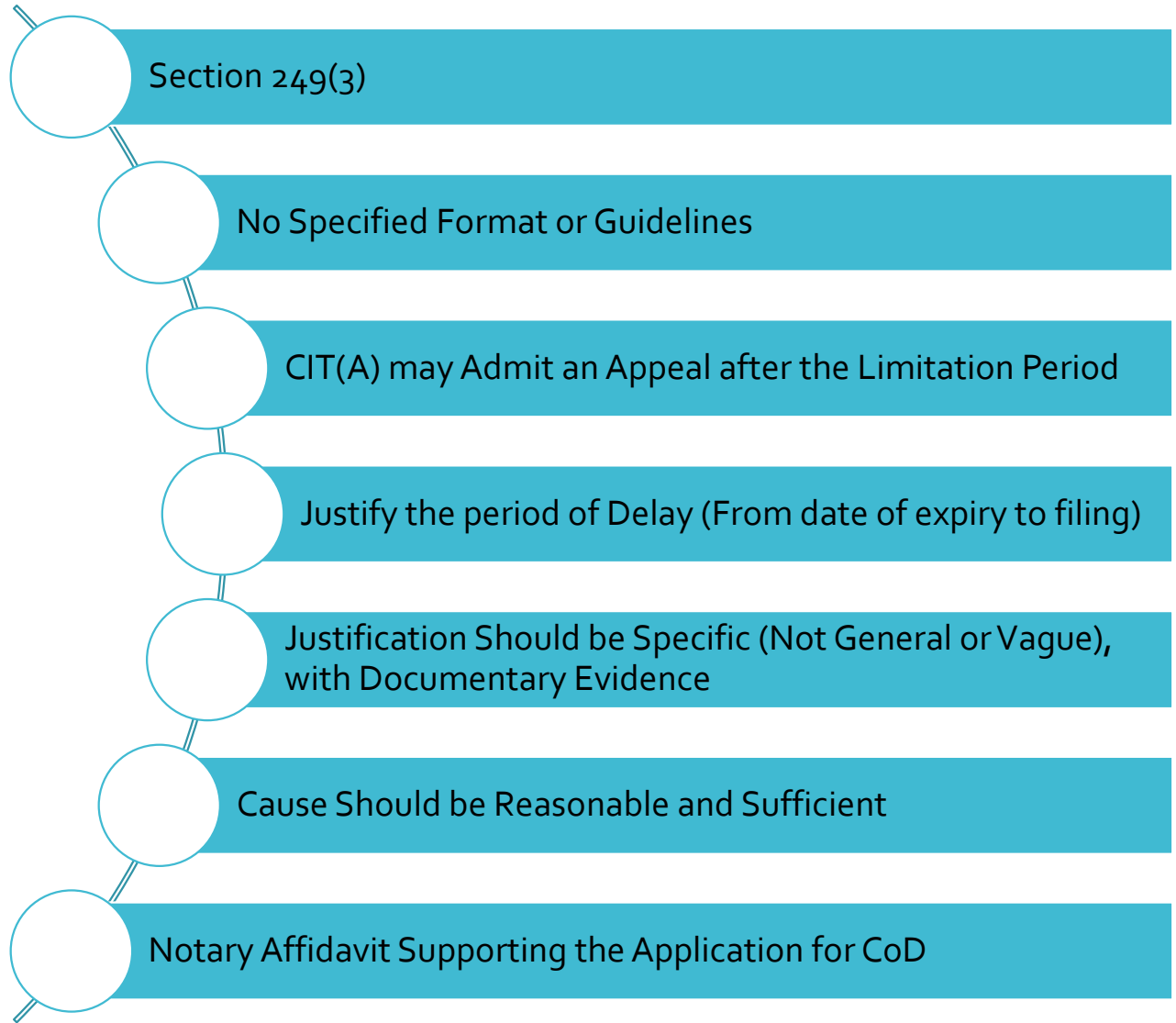


Condonation of Delay

Important Points to be Kept in Mind



Condonation of Delay



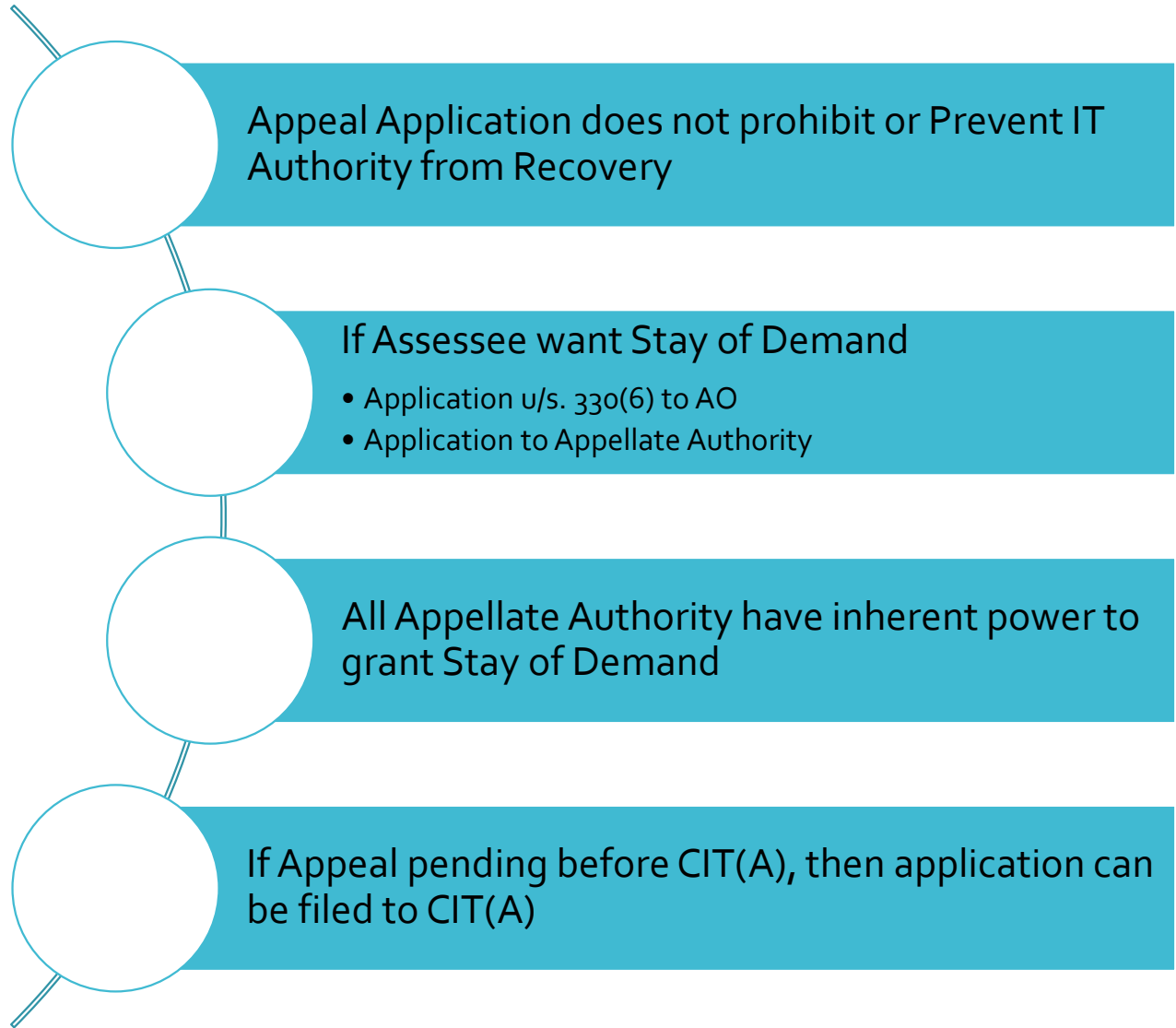


Stay of Demand

Important Points to be Kept in Mind



Stay of Demand





e-filing Procedure and Practical Aspect

Important Points to be Kept in Mind



e-filing (Appeal)

Step-1

Login in your e-filing account using User credentials

The screenshot shows the e-filing website interface. At the top, there is a header with the e-filing logo and the text "e-Filing Anywhere Anytime" and "Income Tax Department, Government of India". To the right of the header, there are navigation links: "हिन्दी", "About Us", "Feedback", "Accessibility Options", "Contact Us", "e-Nivaran", and "Help". Below the header, there is a search bar. A yellow banner below the search bar 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 columns: "Quick Links", "News & Updates", and "Download". The "Quick Links" column contains "List of Income Tax Return and Forms available for e-Filing", "Tax Information and Services", and "e-Filing Brochures". The "News & Updates" column features a blue banner for "Forgot your e-filing Password? Not to Worry!" with a list of three simple ways to reset the password: "1. Using Aadhaar OTP", "2. e-Filing Login through Net Banking", and "3. Upload Digital Signature Certificate". A "Reset Password" button is visible at the bottom of the banner. The "Download" column contains "New To e-Filing? Register Yourself", "Registered User? Login Here", and "Forgot Password? Reset".



Go to E-File Link and Choose Income Tax Forms

Dashboard My Account - e-File - e-Proceeding - e-Nivaran - Compliance - Worklist - Profile Settings -

Filing of Income Tax Return

View Returns / 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"/>
Area/ Locality * <input type="text"/>		Name of Premises / Building / Village <input type="text"/>	Road/ Street /Post Office <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"/>



e-filing (Appeal)

Step- IV (b)

Now provide details of the order against which Appeal is Filed

Order against which Appeal is filed	
1	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*
	Assessment Year: 2016-17
	Financial Year: Select
	Block Period
	From (AY): Select To (AY): Select
Date of Search	
Details of Order appealed against/Application u/s 248	
2	a Section and sub-section of the Income-tax Act,1961*
	143(3)
	Order Number
	b Date of Order/Date of Tax Payment in case of Application u/s 248
15/12/2018	
c Date of service of Order / Notice of Demand	
15/12/2018	
3	Income-tax Authority passing the order appealed against *



e-filing (Appeal)

Step- IV (b)

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) * <input type="text" value="No"/>
Appeal Details	
5	Section and sub-section of the Income-tax Act, 1961 under which the appeal is preferred * <input type="text" value="245A"/>
6	If appeal relates to any assessment ?* <input type="text" value="Yes"/>
a	Amount of Income Assessed (₹) <input type="text" value="1494720"/>
b	Total Addition to Income (₹) <input type="text" value="1021822"/>
c	In case of Loss, total disallowance of Loss in assessment (₹) <input type="text" value="0"/>
d	Amount of Addition/ Disallowance of Loss disputed in Appeal (₹) <input type="text" value="1021822"/>
e	Amount of Disputed Demand (₹)- Enter Nil in case of Loss <input type="text" value="1021822"/>
7	If appeal relates to penalty ?* <input type="text" value="Not Applicable"/>
a	Amount of penalty as per order (₹) <input type="text"/>
b	Amount of penalty disputed in Appeal (₹) <input type="text"/>



e-filing (Appeal)

Step- IV (c)

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 *

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	<input type="text" value="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*

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)



e-filing (Appeal)

Step- IV (d)

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		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 *		Yes
12.1	If reply to 12 is Yes, furnish the list of such documentary evidence		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"/>	disallowance of Commission	That on the facts and circumstances



Particulars related to Condonation of Delay and Appeal Fee Challan

Appeal filing details

14 Whether there is delay in filing appeal*

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

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"/>





e-filing (Appeal)

Step- IV (f)

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
<input type="text"/>		<input type="text"/>	<input type="text"/>
Area/ Locality *	Town/ City/District *	State *	Country *
<input type="text"/>	<input type="text"/>	DELHI	INDIA
Pincode *	Mobile No *	Email Address *	
<input type="text"/>	<input type="text"/>	<input type="text"/>	

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.



Appeal Procedure

For ITAT



Appeal to ITAT

- Appeal can be Filed within 60 Days
- Appeal Forms is Form No 36
- Memo" shall be filed in Triplicate
- Judgement within 4 Years from end of Year in which appeal is filed.



Appeal Procedure

For High Court



Appeal to High Court

- Appeal can be Filed within 120 Days
- Appeal can be filed if there is Question of Law
- Appeal Forms, Fees & Procedure governed by Code of Civil Procedure, 1908
- HC has power to review its own order.



Appeal Procedure

For Supreme Court



Appeal to Supreme Court

- Appeal can be Filed within 90 Days
- Appeal can be filed against order of HC
- Appeal Forms, Fees & Procedure governed by Code of Civil Procedure, 1908
- SC has power to review its own order.



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
carohit.rkc@gmail.com
+91-9910765030

CA Rohit Kapoor

CONNECT WITH US

 /rohitkapoorca

 /in/carohitkapoor

  /rohitkapoor_rk  RAK Foundation India