

F.No.370142/8/2018-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(TPL Division)

New Delhi, June 13, 2018

Sub.: Draft notification proposing amendments in rule 47 of the Income- tax Rules, 1962, Form of appeal to the Appellate Tribunal (Form No.36) and Form of memorandum of cross-objections to the Appellate Tribunal (Form No.36A)- reg.

Section 253 of the Income-tax Act, 1961 (the Act) provides for filing of appeals to the Income Tax Appellate Tribunal (the Tribunal) in respect of the orders specified therein. Sub-rule (1) of rule 47 of the Income-tax Rules, 1962 (the Rules) *inter alia* provides that an appeal under sub-section (1) or sub-section (2) of section 253 to the Appellate Tribunal shall be made in Form No. 36. Further, sub-rule (2) of the said rule *inter alia* provides that a memorandum of cross-objections under sub-section (4) of section 253 to the Appellate Tribunal shall be made in Form No.36A.

2. Form No.36 (Form of Appeal to the Appellate Tribunal) was last amended vide IT (Fifteenth Amendment), Rules, 1993. Similarly, since its introduction, no amendment has been carried out in Form No.36A (Form of Memorandum of cross-objections to the Appellate Tribunal). The existing Form No.36 and Form No. 36A do not capture the data regarding amount disputed in pending appeals before ITAT. The information regarding the amount disputed in appeal is vital for designing the policy of the department for litigation management. Therefore, in order to capture the recent developments, it is imperative to rationalise these Forms, so as to make these forms descriptive and informative.

3. It may also be mentioned that sub-rule (1) and sub-rule (2) of rule 47 provide *inter alia* that where the appeal/memorandum of cross objection is made by the assessee, the form of appeal/ cross objection, the grounds of appeal/ cross objection and the form of verification appended thereto shall be signed by the person specified in sub-rule (2) of rule 45. In this regard, it may be mentioned that rule 45 has been substituted by IT (Third Amendment), Rules, 2016, w.e.f 1.3.2016. Therefore, consequential amendment in rule 47 is required to be carried out.

4. *In view of the above, it is proposed that Income-tax Rules, 1962 may be amended to:-*

- (i) *substitute reference of sub-rule (2) of rule 45 by sub-rule (3) of rule 45 in sub-rule (1) and sub-rule (2) of rule 47.*
- (ii) *substitute existing Form No.36 and Form No.36A with the new Forms, so as to capture inter alia details about appellant, respondent, pending appeals, amount disputed in appeal or cross-objections.*

5. The draft proposal is as under:

“1. In the Income-tax Rules, 1962, :-

(i) in rule 47, in sub-rule (1) and sub-rule (2), for the words, brackets and figure “ sub-rule (2)”, the words, brackets and figure “sub-rule (3)” shall be substituted;

(ii) in Appendix II, :-

(a) for Form 36 and notes thereto, following shall be substituted, namely:-

‘Form No. 36

[See rule 47(1)]

Form of appeal to the Appellate Tribunal

In the Income-tax Appellate Tribunal

Appeal No.....of.....

..... Versus

APPELLANT

RESPONDENT

Appellant's Information (see notes below)	First Name	Middle name	Last Name or Name of Entity or Designation (<i>as applicable</i>)	PAN
				TAN(if available)
	Flat/Door/Block No.		Name of Premises/Building/Village	Road/Street/Post Office
	Area/Locality		Town/City/District	State
Respondent's Information (see notes below)	Country	Pin Code	Phone No. with STD code/Mobile No.	Email Address
				Whether notices/communication may be sent on email? Yes/No
	First Name	Middle name	Last Name or Name of Entity or Designation (<i>as applicable</i>)	PAN
				TAN(if available)
	Flat/Door/Block No.		Name of Premises/Building/Village	Road/Street/Post Office

	Area/Locality		Town/City/District	State	
	Country	Pin Code	Phone No. with STD code/Mobile No.	Email Address	
				Whether notices/communication may be sent on email? Yes/No	
Appeal Details	1	Assessment year in connection with which the appeal is preferred			
	2	Total income declared by the assessee for the assessment year referred to in item 1			
	3	Total income as computed by the Assessing Officer for the assessment year referred to in item 1			
	4	Details of the order appealed against			
		a	Section and sub-section under which the order is passed		
		b	Date of Order		
	c	Date of service/communication of Order			
5	Income-tax Authority passing the order appealed against				
6	The State in which the order was made				
7	Section and sub-section under which the appeal is preferred				
Details of addition/disallowance and amount disputed in appeal (<i>see notes below</i>)	8	If appeal relates to any assessment			
	a	Amount of addition/disallowance made in the assessment			
		Amount of addition/disallowance disputed in appeal			
		Amount payable in respect of 8(b)			
	9	If appeal relates to any penalty			
	a	Amount of penalty as per order			
		Amount of penalty disputed in appeal			
Amount payable in respect of 9(b)					

	10	If appeal relates to a matter others than the matters referred to in item 8 and 9	
	a	Amount disputed in appeal	
	b	Amount payable in respect of 10(a)	
	11	Total amount payable in respect of disputed items [8(c)+ 9(c) + 10(b)]	
Pending Appeal	12	Whether an appeal in relation to any other assessment year is pending in the case of the appellant with any bench of the Appellate Tribunal	Yes/No
	13	If reply to 12 is yes, then give following details	
	a	Bench of Appellate Tribunal, with whom the appeal is pending	
	b	Appeal No. and date of filing of appeal	
	c	Assessment Year in connection with which the appeal has been preferred	
	d	Income-tax Authority passing the order appealed against	
	e	Section and sub-section, under which the order appealed against has been passed	
f	Date of such order		
Statement of facts, Grounds of Appeal	14	#Statement of Facts	
		Facts of the case in brief (not exceeding 1000 words)	
		List of documentary evidence relied upon	
	15	## Grounds of Appeal (each ground not exceeding 100 words)	
		1.	
	2.		
	3.		
Appeal filing details and Relief claimed	16	Whether there is delay in filing appeal	Yes/No
	17	###If reply to 16 is Yes, enter the grounds for condonation of delay (not exceeding 500 words)	

	18	Details of Appeal Fees Paid			
		BSR Code	Date of payment	Sl.No.	Amount
	19	*Relief claimed in appeal			

Signed

(Authorised representative, if any)

Name:

Designation:

Signed

(Appellant)

Name:

Designation:

Form of verification

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

Place

Signature

Date

Name:

Designation:

Notes:

1. The memorandum of appeal must be in triplicate and should be accompanied by two 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 appeal before the first appellate authority, two copies of the statement of facts, if any, filed before the said appellate authority, and also-
 - a) in the case of an appeal against an order levying penalty, two copies of the relevant assessment order;
 - b) in the case of an appeal against an order under section 143(3) read with section 144A, two copies of the directions under section 144A;
 - c) 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.
6. In column's seeking Appellant's and Respondent's information fill data as applicable. For instance in case the department is Appellant or Respondent, as the case may be, the designation of the Officer filing the Appeal and details pertaining to his office may be filled, if available.
7. In respect of item no.8, in cases where the addition/disallowance has the effect of reducing the loss declared in the return or converting that loss into income, the amount payable shall mean the amount that would have been payable in respect of amount of addition/disallowance which are disputed in appeal had such addition/disallowance been the total income.'

(b) for Form 36A and notes thereto, following shall be substituted, namely:-

‘Form No. 36A

[See rule 47(2)]

Form of memorandum of cross-objections to the Appellate Tribunal

In the Income-tax Appellate Tribunal

Cross-objection No.....of.....

In Appeal No.....of.....

..... Versus

APPELLANT

RESPONDENT

Appellant's Information (see notes below)	First Name	Middle name	Last Name or Name of Entity or Designation (as applicable)	PAN
				TAN(if available)
	Flat/Door/Block No.		Name of Premises/Building/Village	Road/Street/Post Office
	Area/Locality		Town/City/District	State
Respondent's Information (see notes below)	Country	Pin Code	Phone No. with STD code/Mobile No.	Email Address
				Whether notices/communication may be sent on email? Yes/No
	First Name	Middle name	Last Name or Name of Entity or Designation (as applicable)	PAN
				TAN(if available)
Flat/Door/Block No.		Name of Premises/Building/Village	Road/Street/Post Office	
Area/Locality		Town/City/District	State	
Appeal/Cross-objections Details	1	Assessment year in connection with which the memorandum of cross-objections is preferred		
	2	Section under which the order appealed against was passed		

	3	Income-tax Authority passing the order appealed against		
	4	The State in which the order was made		
	5	Date of receipt of notice of appeal filed by the appellant to the Tribunal		
Details of addition/disallowance and amount disputed in cross-objections	6	If cross-objection relates to any assessment		
		a	Amount of addition/disallowance made in the assessment	
		b	Amount of addition/disallowance disputed in cross-objection	
		c	Amount payable in respect of 6(b)	
	7	If cross-objection relates to any penalty		
		a	Amount of penalty as per order	
		b	Amount of penalty disputed in cross-objection	
		c	Amount payable in respect of 7(b)	
	8	If appeal relates to a matter others than the matters referred to in item 6 and 7		
		a	Amount disputed in cross-objection	
		b	Amount payable in respect of 8(a)	
	9	Total amount payable in respect of disputed items [6(c)+ 7(c) + 8(b)]		
	Statement of facts, Grounds of Appeal and additional evidence	10	#Statement of Facts	
Facts of the case in brief (not exceeding 1000 words)				
List of documentary evidence relied upon				
11		## Grounds of cross-objections (each ground not exceeding 100 words)		
		1.		
		2.		
		3.		

Filing details and Relief claimed	12	Whether there is delay in filing cross-objections	Yes/No
	13	###If reply to 12 is Yes, enter the grounds for condonation of delay (not exceeding 500 words)	
	14	*Relief claimed in the memorandum of cross-objections	

Signed

(Authorised representative, if any with name)

Name:

Designation:

Signed

(Respondent)

Name:

Designation:

Form of verification

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

Place

Date

Notes:

Signature

Name:

Designation:

1. The memorandum of cross-objections must be in triplicate.
2. The memorandum of cross-objections should be written in English or, if the memorandum 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 respondent, in Hindi, and should set forth, concisely and under distinct heads, the cross-objections without any argument or narrative and such objections should be numbered consecutively.
3. The number and year of memorandum of cross-objections will be filled in the office of the Appellate Tribunal.
4. The number and year of appeal as allotted by the office of the Tribunal and appearing in the notice of appeal received by the respondent is to be filled in here by the respondent.
5. *If the space provided is found insufficient, separate enclosures may be used for the purpose.
6. #,##,### if the space provided in found insufficient, separate enclosures may be used for the said purpose.
7. In column seeking Respondents and Appellants information fill data as applicable. For instance in case the department is Appellant or Respondent, as the case may be, the

designation of the Officer filing the cross-objections and details pertaining to his office may be filled, if available.

8. In respect of item no.6, in cases where the addition/disallowance has the effect of reducing the loss declared in the return or converting that loss into income, the amount payable shall mean the amount that would have been payable in respect of amount of addition/disallowance which are disputed in appeal had such addition/disallowance been the total income.’.”

7. The comments and suggestions of stakeholders and general public on the above draft notification are invited. The comments and suggestions may be sent electronically by 2nd July, 2018 at the email address, ts.mapwal@nic.in

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