

FC 02 / UNIT-2 / MBA SEM III
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APPEALS AND REVISIONS

The constitution of India guarantees the citizens of the country certain fundamental rights. Therefore, under any system of rule of law, the right to appeal for redressal of one's grievance is generally built.

Under the Income Tax Act, 1961 following two alternatives are available to the assessee if he is not satisfied with the order passed by Assessing officer.

1 APPEAL :-

First Appeal against the order of Assessing Officer shall, except in certain cases (Refusing to grant registration u/s 12AA and approval

(S/O 506) Lie with the commissioner
(appeal) U/S 246 A

2. REVISION: Alternatively, if
the appeal is not preferred, or if could
not be filed within the time limit allowed,
the assessee can apply U/S 264 to the
Commissioner of Income tax for revision
of order of the assessing officer (AO).

This is known as revision in favour
of the assessee. The Commissioner of
Income tax can also take up suo moto
the case for revision U/S 264.

In some cases, the Commissioner of Income
tax can also take up the case for
revision U/S 263. This is known as
revision of the order of the assessing
officer which is erroneous and
prejudicial to the interest of revenue.

The assessee is given a right of appeal by the Income Tax Act where he feels aggrieved by the order of the assessing authority. However, the assessee has no inherent right of appeal unless the statute specifically provides that a particular order is appealable. There are four (4) stages of appeal under the Income Tax Act, 1961 as shown hereunder —

Assessment Order

(Passed u/s 143 (3), 144, 153A, 147 etc)

→ First Appeal - Commissioner

(filed u/s 246A electronically in form 35 within 30 days of order passed)

→ Second Appeal - Appellate Tribunal

(filed u/s 253 in form 36 within 60 days of order passed by CIT (appeal))

→ Third Appeal - High Court u/s 260A

→ Final Appeal - Supreme Court u/s 261

REVISIONS (U/S 263 and 264)

Section 263 : The principal Commissioner or Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Assessing officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may after giving an opportunity of being heard pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.

However, Assessee has an option to file an appeal in INCOME TAX APPELLATE TRIBUNAL against the Revisitor's order passed by CIT U/S 263

Section 264 : The principal Commissioner or Commissioner may, either of his own motion or on an application by the assessee for revision, call for the records of any proceeding

under this act in which any such order has been passed and may make such inquiry or cause such inquiry to be made and subject to the provisions of this act, may pass such order thereon, not being an order prejudicial to the assessee as he thinks fit.

However, In this case income act does not provide any remedy for filing appeal to higher income tax authority. But, assessee has an option, he can take the benefit of constitution of India.

"Article 226 provides every citizen of India remedy to file WRT petition in High Court against the order passed by income tax department."

APPEALS.

As already discussed in above mention introduction, the first appeal against the order of AO shall lie to the Commissioner (appeal) and it can only be ~~made to~~ filed by assessee only.

An assessee may deduct in any collector who has been aggrieved by the orders (like order passed u/s 147, 148, 149 etc) passed by the certain IT authorities can file its first appeal to commissioner appeals u/s 246A of the IT Act 1961.

Form of Appeal and limitation

See 249 and Rules 45 & amp 46)

1. Form : An appeal to the commissioner (appeals) shall be made in Form 35
2. Manner of furnishing the appeal
 - (a) By furnishing the form electronically under digital signature, if the return of income is furnished under digital signature.
 - (b) by furnishing the form electronically through electronic verification code in a case not covered under subclause (a)
 - (c) In ~~the~~ case where the assessee has the option to furnish the return of income in paper form, he can exercise both options of filing form in paper form or electronically.

Time limit for filing the form - Sec 249(2)

The appeal should be filed within a period of 30 days of date of service of notice of demand or order passed by the authority. Further commissioner may admit an appeal after the expiration of the prescribed period of 30 days, if he is satisfied that the applicant has sufficient cause for not presenting it within the prescribed period.