



**The Chamber of Tax Consultants**

**APPEAL, WRITS & REFERENCER TO**

**REPRESENTATION AND CHECK LIST**

January 18, 2020, Saturday

At

Terrace Hall, Hotel West End, New Marine Line, Mumbai - 400 020

- Introduction
- Appeal and Reference – Difference
  - Legislative intent as per the notes on clause (1998) 231 ITR 175 (St)
  - Finance Bill (No. 2), 1998 (1998) 231 ITR 228 (St)(246)
  - *CIT v. Wandoor Jupiter Chits (P) Ltd.* (1995) 213 ITR 73 (Ker)(HC)
  - *Practice Note No. 7 dt. 30th September, 1998*, (1999) 236 ITR 249 (St)
- Appeal against order under S. 254(1) of the Act
  - *Jagdish Chand & Sons v. ITAT* (2004) 266 ITR (All.)(HC)
  - *CIT v. U. S. Srivastava Memorial Educational Society* (2018) 405 ITR 546 (All.)(HC)
  - *Rajesh Agarwal HUF v. CIT* (2015) 228 Taxman 143 (Mag.)(All.)(HC)
  - *Zenith Ltd. v. Dy. CIT* (2004) 271 ITR 135 (Bom.)(HC)

- **Rectification of Mistake order u/s 254(2) of the Act**

- *Chem Amit v. ACIT (2005) 272 ITR 397 (Bom.)(HC) & Safari Mercantile Pvt. Ltd. v. ITAT (2016) 386 ITR 4 (Bom.) (HC)*
- *L. Shobanraj v Dy.CIT ( 2003) 260 ITR 155 (Karn) (HC) & DCIT v. H.V. Shantharam (2003) 260 ITR 156 (Karn)(HC).*
- *Shirpur Gold Refiner Ltd. v. ITAT (2017) 291 CTR 112 (Bom.)(HC)*

- **Substantial question of law.**

- *M. Janardhana Rao v. Jt. CIT(2005) 273 ITR 50 (SC)*
- *Santakumari v. Lakshmi Amma Janakamma AIR 2000 SC3009*
- *V. C. Nannapaneni v. CIT (2018) 407 ITR (T&AP)(HC)*

- **Substantial question of law (continued)**

- *Cellular Operators Associations of India v. UOI (2003) 3 SCC 186, 207 and CIT v. Micro Land Ltd., (2012) 347 ITR 613 (Karn) (HC)*
- *CIT v. Smt. Lata Shantilal Shah (2010) 323 ITR 297 (Bom.)(HC).*
- *CIT v. Jayshree Gems & Jewellery (2014) 362 ITR 272 (Delhi)(HC)*
- *PCIT v. Vikas Gutgutia (2017) 396 ITR 691 (Delhi) (HC)*
- *CIT v. Kanga & Co. (2016) 133 DTR 257 (Bom.)(HC)*
- *ADIT v. E - Funds IT Solution Inc (2017) 399 ITR 34 (SC)*

- **Limitation and jurisdiction**

- *Skyline Builders.v . CIT (2019) 412 ITR 182 (Mag) (Ker)(HC)*
- *K. V. Abdul Azeez v. CIT (2018) 404 ITR 288 (Ker.)(HC)*

- **Limitation and jurisdiction (continued)**

- *CIT v. Jhabua Power Ltd. (2013) 93 DTR 469/ 217 Taxman 399/ 262 CTR 277 (SC)*
- *Tek Ram (Dead) Through LRs v. CIT (2013) 262 CTR 118 / 93 DTR 350 (SC)*
- *CIT v. Grasim Industries Ltd. (2009) 319 ITR 154 (Bom.)(HC)*
- *Senior Bhosale Estate (HUF) v. ACIT ( 2019) 311 CTR 754 (SC)*
- *Anil Kumar Nehru v. ACIT (2019) 306 CTR 113 / 173 DTR 33 / 260 Taxman 372 (SC)*
- *DIT (IT) v. Hyundai Heavy Industries Co. Ltd (2018) 407 ITR 129*
- *CIT v. Odeon Builders P.Ltd. (2017) 393 ITR 27/150 DTR 1/294 CTR 30/247 Taxman 184 (FB) (Delhi) (HC)*

- **Fees payable on filing an appeal u/s. 260A of the Act**
  - *DIT (IT) v. Transocean Offshore International Ventures Ltd. and others (2011) 336 ITR 637 (Uttarakhand)(HC)*
- **Cross objection**
  - *Palasseri Velayudhan v. Palasseri Gthaji AIR 1994 Ker 267*
  - *Cipla Ltd. v. ACIT (2016) 387 ITR 52 (Bom)(HC)*
  - *Santosh Devi (Smt) v. Hari Singh AIR 2018 HP 170*
  - *Jyoti Kumari (Smt.) v. Asst. CIT (2012) 344 ITR 60 (Karn.)(HC)*
  - *CIT v. Glass Equipment (India) Ltd. (2014)366 ITR 59 (Cal)(HC)*

- **Hearing of appeal at the time of admission**

- *CIT v. Kuwer Fibers (P.) Ltd. (2003) 264 ITR 499 (Delhi) (HC)*
- *Arun Kumar T. Makwana v. ITO (2006) 286 ITR 502 (Guj.)(HC)*
- *Ajay Surendra Patel v. Dy.CIT (2019) 265 Taxman 86 (SC)*
- *VIP Industries Ltd. v. CCE (2003) 5 SCC 507*
- *Kanoria Industries Ltd. v. UOI (2017) 249 Taxman 267 (Delhi) (HC)*
- *CIT v. Automobile Corporation of Goa Ltd. (2012) 206 Taxman 640 (Bom)(HC)*
- *Prayag Tendu Leaves Processing Co. v. CIT (2018) 400 ITR 120 (Jharkhand) (HC)*
- *Mathur Marketing Pvt. Ltd. v. CIT (2017) 251 Taxman 3 (SC)*
- *Daimler India Commercial Vehicles P. Ltd. v. DCIT (2019) 416 ITR 343 (Mad) (HC)*

- **Jurisdiction for filing appeals**
  - *PCIT .v. Sungard Solutions (I) (P) Ltd (2019) 415 ITR 294 (Bom)(HC)*
- **Stay of recovery**
  - *Shivaji Ramchandra Pawar (HUF) v. JCIT (2018) 163 DTR 308 (Bom.)(HC)*
- **Caveat**
  - *Order XIA, section 148A of the CPC, 1908*
- **Senior Citizen**
  - *Bombay High Court Circular No. Rule/P -1615 /91 dated 03-08-2009*
- **Drafting the petition**



- **Writ petitions**

- *Sanctus Drugs v. UOI (1997) 225 ITR 252 (MP) (HC)*

- **Mandamus**

- *KMA International Ltd v CBDT (1992) 194 ITR 332 (Bom) (HC)*
- *Beni Ram Mool Chand v TRO (1991) 187 ITR 601 (All )(HC)*
- *Beni Ram Mool Chand v TRO (1990) 183 ITR 652 (All) (HC)*
- *M. C. Mehta v UOI AIR 1999 SC 2583*

- **Prohibition**

- *Fenner India Ltd v DCIT. (2000) 241 ITR 672 (Mad) (HC)*

- **Certiorari**

- *JCIT v ITAT. (2002) 258 ITR 291 (Delhi) (HC)*
- *Gujarat Gas Co Ltd v. JCIT (2000) 245 ITR 84 (Guj) (HC)*
- *Rev. Father Prior v ITO AIR 1956 30 ITR 451 (Travancore-Cochin) (HC)&  
Anglo India Jute Mills Co Ltd v S.K Dutt AIR 1956 Cal 450.*

- **Writ petitions (continued)**

- **Quo Warranto**

- **Habeas Corpus.**

- *Devinder Singh Gill v. DCIT (2018) 170 DTR 314*

- **Supervisory Jurisdiction**

- *All India Federation of Tax Practitioners v. UOI (1998) 231 ITR 24 (SC)*

- *R.K. Garg v. UOI (1982) 133 ITR 239 (SC)*

- *Shenoy v C.T.O ( 1985) 155 ITR 178 (SC)*

- **Binding Nature of the decisions of a High Court**

- *Krishna Murthy v CIT. (1995) 152 ITR 163. (AP) (HC)*

- *East India Commercial Co Ltd v Collector of Customs AIR 1962 SC 1893*

- *Baradakanta Mishra v Bhimsen Dixit AIR 1972 SC 2466*

- *Larsen & Toubro Limited v. UOI (Bom.)(HC) WP No 878 of 2013 dated February 1, 2013*

- *CIT v. Reliance Infrastructure Ltd. (Bom.) (HC) ITA 803 of 2012 dated September 12, 2014*

- *HDFC Bank Ltd. v. DCIT (2016) 383 ITR 529 (Bom.)(HC).*

- **Writ petitions (continued)**
  - **Period of Limitation**
  - **Alternative remedy**
    - *Smt. Kuntesh Gupta v. Management of Hindu Kanya Mahavidyalaya Sitapur AIR 1987 SC 2186*
    - *HDFC Bank Ltd. v. DCIT (2016) 383 ITR 529 (Bom) (HC)*
  - **Jurisdiction**
    - *CIT v. Motorola India Ltd. (2010) 326 ITR 156 (P&H)(HC).*
  - **Writ and appeal on same issue**
    - *Tek Ram vs CIT 357 ITR 133(SC)*
  - **Writ of Dadra & Nagar Haveli at Silvassa, Daman and Diu**
  - *Neeraj Mandoli v. ACIT (2017) 399 ITR (MP) (HC)*
  - *CIT v. Chhabil Dass Agarwal (2103) 357 ITR 357 (SC)*

- **Writ petitions (continued)**

- Illustrations

- *Navodaya Education Trust. v. UOI (2019) 417 ITR 157 (Karn) (HC)*
    - *Times Global Broadcasting Company Ltd. v. UOI (2019) 176 DTR 321*
    - *Anjalika Kriplani v. CBDT (2017) 248 Taxman 149 (Delhi) (HC)*
    - *Ajanatha Induatries v CBDT (1976) 102 ITR 281 (SC)*
    - *Laljibhai Kanjibhai Mandalia v. PDIT(I) (2019) 416 ITR 365(Guj)(HC)*
    - *Deepak Dhanaraj. v. ITO (2019) 265 Taxman 19 (Ker)(HC)(Mag)*
    - *Dhananjay Kumar Singh v. ACIT (2018) 402 ITR 91 (Patna)(HC)*

- **Writ petitions (Reassessment)**

- **Filing of Return**

- *Tiwari Kanyhaiya Lal v. CIT (1985) 154 ITR 109 (Raj.)(HC) (115) & ITO v. R.K.Gupta (2008) 115 ITD 384 (Delhi)(Trib)*

- **Copy of recorded reasons**

- **Certified copy of order sheet and inspection of records**
  - *Shankarlal Khaitan v ACIT (2017) 393 ITR 484 (Orissa) (HC)*
- **Objections to recorded reasons**
- **On receipt of order disposing the objections**
  - *Cenveo Publisher services India Ltd. v. UOI (Bom)(HC)*
  - *Asian Paints Ltd. v. Dy.CIT (2008) 296 ITR 90 (Bom.)(HC)*
  - *Hanon Automotive Systems India Pvt. Ltd. v. DCIT (2019) 413 ITR 431 (Mad) (HC)*
  - *Kamala Ojha (Smt.) v. ITO (2017) 397 ITR 197 (Chhatisgarh) (HC)*
  - *Holdings Plc. v. DCIT (2019) 417 ITR 74 (Bom)(HC)*
  - *Komalkant Faikirchand Sharma. v. DCIT (2019) 417 ITR 11 (Guj)(HC)*
  - *Harjeet Surajprakash Girotra v. UOI (2019) 180 DTR 257 (Bom)(HC)*
  - *Bansilal B. Raisonni & Sons v. ACIT (2019) 306 CTR 166 (Bom)(HC)*
  - *Piramal Investment Opportinities Fund v ACIT (2019) 267 Taxman 297 ( Bom) (HC)*

- Writ petitions (continued)
  - On receipt of order disposing the objections (continued)
    - *Vanraj V. Shah. v. DCIT (2019) 266 Taxman 137/181 DTR 5 (Bom) (HC)*
    - *Ramprakash Biswanath Shroff v. CIT (TDS) (2018) 259 Taxman 385 (Bom.)(HC)*
    - *Genearl Insurance Corporation of India v .ACIT ( 2019) 311 CTR 851 ( Bom) (HC)*
    - *Grasim Industries Ltd v Dy.CIT ( 2019) 267 Taxman 524 ( Bom) (HC)*
    - *Vijay Singh kadam v. CCIT (2016) 384 ITR 69 (Delhi)(HC)*
    - *Unitech Wireless (Tamil Nadu) (P.) Ltd. v. PCIT (2017) 250 Taxman 265 (Del) (HC)*
    - *M3M India Holding Pvt. Ltd. v. ITSC ( 2019) 419 CTR 1 (P &H) (HC)*
    - *PCIT v. ITSC (2017) 292 CTR 363 (Bom) (HC)*
    - *Columbia Sportswear Co v DIT (2012) 346 ITR 161 (SC)*

- Writ petitions (continued)
  - Objections to recorded reasons (continued)
    - *Rakesh P Sheth. v. ITC (2019) 265 Taxman 200 (Mad) (HC)*
    - *Yoginder Kumar Sud v. President, ITAT (2013) 33 taxmann.com.193 (P&H)(HC)*
    - *Muninaga Reddy. v. ACIT (2019) 417 ITR 699 (Karn) (HC)*
    - *Indira Industries v. PCIT (2018) 169 DTR 171 / 305 CTR 314 (Mad.)(HC)*
    - *Dwaka Nath v ITO (1965) 57 ITR 349 (SC)*
    - *Ramupillai Kuppuraj. v. ITO (2019) 418 ITR 458/ 311 CTR 873 (Mad) (HC)*
    - *B.R Sound -N.Music v .O.P Bharadwaj (1998) 173 ITR 433 (Bom) (HC) (438)*
    - *Kalanithi Maran v. UOI (2018) 405 ITR 356 (Mad.)(HC)*

- Writ petitions (continued)
  - Objections to recorded reasons (continued)
    - *Ramchandran Ananthan Pothi v. UOI WP No 761 of 2018 dated 4-9-2018 (Bom.)(HC)*
    - *Sajid Salimbhai Saiyed. v. UOI (2019) 265 Taxman 191 (Guj) (HC)*
- Bombay High Court (original side) Rules 1980
  - Why two judges in Bombay High Court
- Bombay High Court (Appellate side) Rules
  - Whether separate Rule in the tax appeals under the original side or appellate Side
- Miscellaneous
- Supreme Court



A Tribute to the Stalwarts of the Tax Bar i.e. Late Shri R.J. Kolah, late Shri N.A Palkhivala and late Shri S.P Mehta - AIFTPJ August 2003.

check list – practical guide for filing an appeal and Representation- Income tax Appellate Tribunal – A Fine Balance Appellate Tribunal – P 246

- Principles of Good Representation in Taxation matters before Appellate Tribunal – Dr. K Shivaram, Sr. Advocate in '*A Fine Balance -Appellate Tribunal* at page 279
- Appellate Tribunal -Conventions and other useful information for representatives Income tax Appellate Tribunal – A Fine Balance Appellate Tribunal P 255
- See 'How To Be A Good Advocate & Fulfill Expectations Of Courts & Clients: Tax Judge Justice Akil Kureshi Explains:' [http://itatonline.org/articles\\_new/how-to-be-a-good-advocate-fulfill-expectations-of-courts-clients-tax-judge-justice-akil-kureshi-explains/](http://itatonline.org/articles_new/how-to-be-a-good-advocate-fulfill-expectations-of-courts-clients-tax-judge-justice-akil-kureshi-explains/)
- “Nani Palkhivala: The Courtroom Genius” by Soli J. Sorabjee (Author), Arvind P. Datar (Author)
- Income -tax Appellate Tribunal – A fine Balance, law practice, procedure and conventions – Frequently asked question – Dedicated to Padmavibhusan Late Dr. N.A.Palkhivala ( 2017) AIFTP and ITAT Bar Association publication
- Interpretation of taxing statutes - Frequently asked questions -Dedicated to Honourable Justice Mr. S.H. Kapadia (2016) AIFTP and ITAT Bar Association publication



**Thank You**

**I wish all the participants Happy New Year**

**Research Team**

**KSA Legal Chambers**

**Mr. Rahul Hakani, Ms. Neelam Jadhav**

**& Mr. Shashi Bekal, Advocates**

**[ksalegal@gmail.com](mailto:ksalegal@gmail.com)**