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Sec 253(5) - The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

Sec 253(6) - An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, in the case of an appeal made, on or after the 1st day of October, 1998, irrespective of the date of initiation of the assessment proceedings relating thereto, be accompanied by a fee of,—

- a) where the total income of the assessee as computed by the AO, in the case to which the appeal relates, is ₹1,00,000 / less, ₹500,
- b) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than ₹1,00,000 but not more than ₹2,00,000, ₹1500,
- c) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than ₹2,00,000, 1% of the assessed income, subject to a maximum of ₹10,000,
- d) where the subject matter of an appeal relates to any matter, other than those specified in clauses (a), (b) and (c), ₹500.

Sec 253(7) - An application for stay of demand shall be accompanied by a fee of ₹500.

Sec 254 Orders of Appellate Tribunal

Sec 254(1) - Appellate Tribunal may, after giving both the parties to appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

Sec 254(2) - The Appellate Tribunal may, at any time within 6 months from the end of the month in which the order was passed, with a view to

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rectifying any mistake apparent from the record, amend any order passed by it u/s 254(1), and shall make such amendment if the mistake is brought to its notice by the assessee or the Assessing Officer.

Provided that an amendment which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this sub-section unless the Appellate Tribunal has given notice to the assessee of its intention to do so and has allowed the assessee a reasonable opportunity of being heard.

Provided further that any application filed by the assessee in this sub-section / after 1st day of Oct, 1998, shall be accompanied by a fee of ₹50.

Sec 254(2A) - In every appeal, the Appellate Tribunal, where it is possible, may hear and decide such appeal within a period of 4 years from the end of FY in which such appeal is filed u/s 253(1) or 253(2)

Provided that the Appellate Tribunal may, after considering the merits of the application made by the assessee, pass an order of stay in any proceedings relating to an appeal filed u/s 253(1), for a period not exceeding 180 days from the date of such order **subject to the condition that the assessee deposits not less than 25% of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act, or furnishes security of equal amount in respect thereof [FA'20]** and the Appellate Tribunal shall dispose of the appeal within the said period of stay specified in that order.

Provided further that no extension of stay shall be granted by the Appellate Tribunal, where such appeal is not so disposed of within the said period of stay as so specified in the order of stay, unless the assessee makes an application and has complied with the condition referred to in the first proviso and the Appellate Tribunal is satisfied that the delay in disposing of the appeal is not attributable to the assessee, so however, that aggregate of the period of stay originally allowed & the period of stay so extended

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shall not exceed 365 days and the Appellate Tribunal shall dispose of the appeal within the period / periods of stay so extended or allowed [FA'20]

Provided also that if such appeal is not so disposed of within the period allowed under the first proviso or the period or periods extended or allowed under the second proviso, which shall not, in any case, exceed 365 days, the order of stay shall stand vacated after the expiry of such period or periods, even if the delay in disposing of the appeal is not attributable to the assessee.

Sec 254(2B) - The cost of any appeal to the Appellate Tribunal shall be at the discretion of that Tribunal.

Sec 254(3) - The Appellate Tribunal shall send a copy of any orders passed under this section to the assessee & to the PCIT or CIT.

Sec 254(4) - Orders passed by Appellate Tribunal on appeal shall be final.

Sec 255 Procedure of Appellate Tribunal

Sec 255(1) - The powers & functions of the Appellate Tribunal may be exercised & discharged by Benches constituted by the President of the Appellate Tribunal from among the members thereof.

Sec 255(2) - Subject to the provisions contained in sub-sec (3), a Bench shall consist of one judicial member and one accountant member.

Sec 255(3) - The President or any other member of the Appellate Tribunal authorised in this behalf by the Central Government may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member and which pertains to an assessee whose total income as computed by the AO in the case does not exceed ₹50 lakh, & the President may, for

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the disposal of any particular case, constitute a Special Bench consisting of three or more members, one of whom shall necessarily be a judicial member and one an accountant member.

Sec 255(4) - If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Appellate Tribunal for hearing on such point or points by one or more of the other members of the Appellate Tribunal, and such point / points shall be decided according to the opinion of the majority of the members of the Appellate Tribunal who have heard the case, including those who first heard it.

Sec 260A Appeal to High Court

Sec 260A(1) - An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

Sec 260A(2) - The Commissioner or an assessee aggrieved by any order passed by the Appellate Tribunal may file an appeal to High Court & such appeal shall be

- a) filed within 120 days from the date on which the order appealed against is received by the Commissioner or the assessee;
- b) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

Sec 260A(2A) - The High Court may admit an appeal after the expiry of the period of 120 days referred to in clause (a) of sub-sect (2), if it is satisfied that there was sufficient cause for not filing the same within that period.

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Sec 260A(3) - Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

Sec 260A(4) - The appeal shall be heard only on the question so formulated, and the respondents shall at the hearing of the appeal, be allowed to argue that the case does not involve such question.

However, nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

Sec 260A(5) - The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

Sec 260A(6) - The High Court may determine any issue which -

- a) has not been determined by the Appellate Tribunal; or
- b) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section (1).

Sec 260A(7) - SAVE AS OTHERWISE PROVIDED IN THIS ACT, THE PROVISIONS OF THE CODE OF CIVIL PROCEDURE, 1908 RELATING TO APPEALS TO THE HIGH COURT SHALL, AS FAR AS MAY BE, APPLY IN THE CASE OF APPEALS UNDER THIS SECTION.

Sec 260B Case Before High Court to Be Heard by Not Less Than Two Judges

- 1) When an appeal has been filed before the HC u/s 260A, it shall be heard by a bench of not less than 2 Judges of the High Court, and shall be decided in accordance with opinion of such Judges / of majority, if any, of such Judges.

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- 2) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

Sec 260 Effect to Decision of High Court/ Supreme Court

Where the High Court delivers a judgment in an appeal filed before it u/s 260A, effect shall be given by the AO to the order passed on the appeal on the basis of a certified copy of judgment.

Sec 261 Appeal to The Supreme Court

An appeal shall lie to the Supreme Court against any judgement of the High Court delivered u/s 260A in any case which the High Court certifies to be a fit one for appeal to the Supreme Court.

Sec 262 Hearing Before Supreme Court

The Supreme Court shall after hearing the petitioner and the respondent pass an order deciding the question of law. The costs of the appeal shall be at the discretion of the Supreme Court.

The AO will give effect to the order of the Supreme Court on the basis of a certified copy of the judgement.

Sec 268A Filing of Appeal by Income-Tax Authority

Sec 268A(1) - The Board may, from time to time, issue orders, instructions or directions to other income-tax authorities, fixing such monetary limits as it may deem fit, for the purpose of regulating filing of appeal by any income-tax authority under the provisions of this Chapter.

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Sec 268A(2) - Where, in pursuance of the orders, instructions or directions issued under subsection (1), an income-tax authority has not filed any appeal on any issue in the case of an assessee for any AY, it shall not preclude such authority from filing an appeal on the same issue in case of -

- the same assessee for any other assessment year; or
- any other assessee for the same or any other assessment year;

Sec 268A(3) - Notwithstanding that no appeal has been filed by an income-tax authority pursuant to the orders or instructions or directions issued under sub-section (1), it shall not be lawful for an assessee, being a party in any appeal, to contend that the income- tax authority has acquiesced in the decision on the disputed issue by not filing an appeal in any case.

Sec 268A(4) - The Appellate Tribunal or Court, hearing such appeal, shall have regard to the orders, instructions / directions issued under sub-sec(1) and the circumstances under which such appeal was filed or not filed in respect of any case.

Sec 268A(5) - Every order, instruction or direction which has been issued by the Board fixing monetary limits for filing an appeal shall be deemed to have been issued under subsection (1) and the provisions of sub-sec (2), (3) and (4) shall apply accordingly.

Relevant Case Laws

Meghalaya Steels Ltd (2015) (SC)

Does the High Court have an inherent power under the Income-tax Act, 1961 to review an earlier order passed on merits?

In this case, the High Court had considered whether deduction is allowable u/s 80-IB on transport subsidy and interest subsidy and on the central excise duty refund received by assessee. Finally, after stating that two substantial