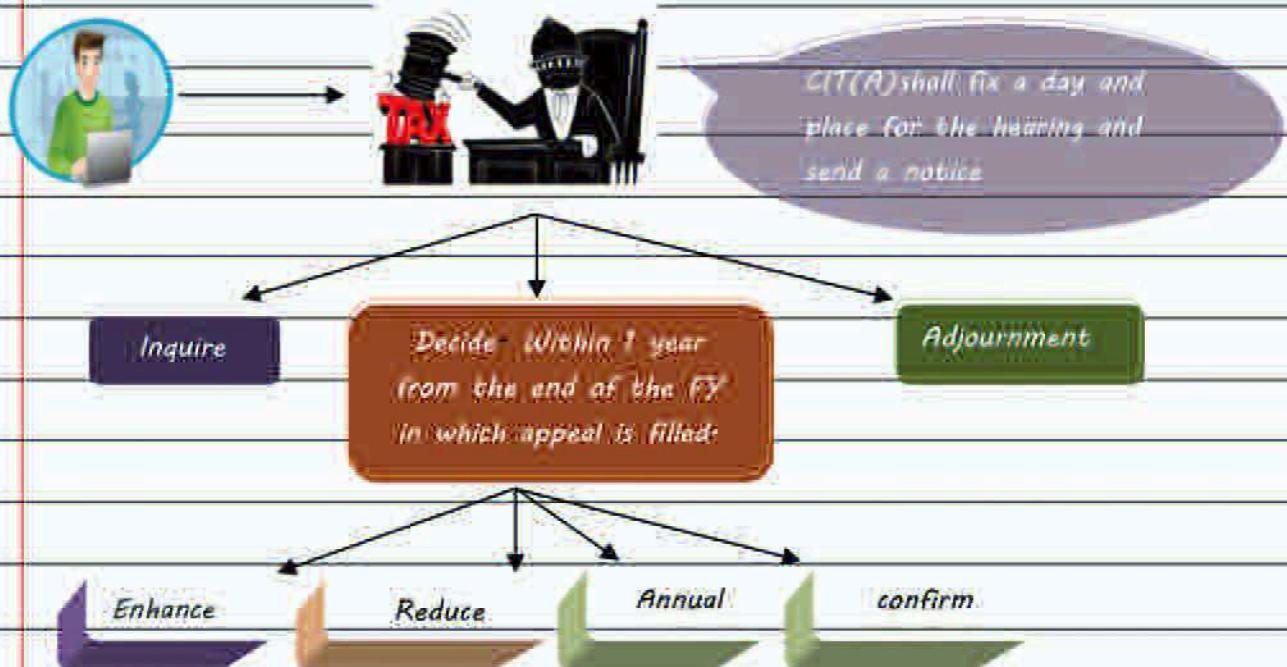


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- The appellant, either in person/by an authorized representative.
- The AO either in person or by a representative.

Adjournment: The CIT (Appeals) shall have power to adjourn the hearing of appeal from time to time.

Inquiry: The CIT (Appeals) may before disposing of any appeal make such further inquiry as he thinks fit or may direct the AO to make further inquiry & report result of the same to the CIT (Appeals).

Other grounds of appeal: The CIT (Appeals) may at the time of hearing of appeal, allow the appellant to go into any ground of appeal not specified in grounds of appeal if he is satisfied that the omission of that ground was not willful/unreasonable.

Order: The order of CIT (Appeals) disposing of the appeal shall be in writing & shall state the points for determination, the decision thereon and the reasons for the decision.

Communication of Order: On disposal of the appeal, the CIT (Appeals) shall communicate the order passed by him to the assessee and to the CIT

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Amendment in FA'20 : The following sub sections have been added -

Sec 250(6B) -

The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of disposal of appeal by CIT (A), so as to impart greater efficiency, transparency and accountability by-

eliminating the interface between the CIT (A) & the appellant in the course of appellate proceedings to the extent technologically feasible;

optimising utilisation of the resources through economies of scale and functional specialisation;

introducing an appellate system with dynamic jurisdiction in which appeal shall be disposed of by one or more CIT (Appeals).

Sec 250(6C) -

The Central Government may, for the purposes of giving effect to the scheme made under sub-section (6B), by notification in the Official Gazette, direct that any of the provisions of this Act relating to jurisdiction and procedure for disposal of appeals by CIT(A) shall not apply or shall apply with such exceptions, modifications & adaptations as may be specified in the notification.

Provided that no direction shall be issued after the 31st day of March, 2022.

Sec 250(6D) -

Every notification issued under sub-section (6B) and sub-section (6C) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

Power of CIT(A) to admit Additional Evidence

According to Rule 46A of the Income Tax Rules, the assessee shall not be entitled to produce before the CIT(Appeals), any additional evidence, whether oral or documentary, other than the evidence produced by him during the

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course of proceedings before AO. However, the said Rule also provides that additional evidence can be produced before the CIT(A) in the following cases:

- a) where AO has refused to admit evidence which ought to have been admitted;
- b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the Assessing Officer; or
- c) where the appellant was prevented by sufficient cause from producing before the AO any evidence which is relevant to any ground of appeal; or
- d) where AO has made the order appealed against without giving sufficient opportunity to appellant to produce evidence relevant to any ground of appeal.

No additional evidence shall be admitted unless the CIT(A) record in writing the reasons for its admission.

The CIT(A) shall not admit any additional evidence produced unless the AO has been given a reasonable opportunity:

- i) to examine evidence/to cross examine the witness produced by appellant, or
- ii) to produce any evidence or any witness in rebuttal of the additional evidence produced by the appellant.

Sec 251 Procedure of CIT(A)

Appeal Against Assessment order [143/144/147]	Appeal Against order imposing penalty	Where SC abates u/s 245HA	Other cases
CIT(A) can 1) Confirm 2) Reduce 3) Enhance 4) Annual Cannot a) Set aside b) Cancel	CIT(A) can 1) Confirm 2) Reduce 3) Enhance 4) cancel Penalty Cannot a) Set aside b) Annual	CIT(A) can 1) Confirm 2) Reduce 3) Enhance 4) Annual	CIT(A) can Pass such order as he may think FIT.
		Conditions: 1) All Information has been produced before SC 2) Result of Inquiry is held by SC 3) Evidence is recorded 4) Other material brought in record.	

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> Power of CIT(A) is co terminus with the power of AO. Therefore, CIT(A) can do what AO can do and what AO has failed to do (causing Inquiry, Examination of records.)

> Before enhancing any assessment or penalty, the CIT (A) has to provide reasonable opportunity to taxpayer to present his case against such enhancement.

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> CIT(A) can cancel the penalty order. However, CIT(A) cannot cancel penalty order and direct the A.O. to levy fresh penalty.

Sec 251(2) - The CIT(A) shall not enhance an assessment or a penalty or reduce the amount of refund unless the appellant has had a reasonable opportunity of showing cause against such enhancement or reduction.

Disposal of Appeal by CIT(A)

Where it is possible, the CIT(A) shall dispose off the appeal within a period of 1 year from the end of the FY in which appeal is filed. The order should be issued within 15 days of last hearing.

Stay of Demand

Filing of Appeal does not prohibit ITA from recovery of demand. They may recover even if appeal is filed. However, Assessee may demand Stay against such demand order to AO or Authority.

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Income Tax Appellate Tribunal (ITAT)



The Income Tax Appellate Tribunal (ITAT) is the second appellate authority. Appeal to the ITAT can be filed by any of the aggrieved party either by the taxpayer or by the Assessing Officer.

Sec 252 Constitution of ITAT

> The ITAT is constituted by the CG & functions under the Ministry of Law.

Presidents: The CG shall appoint

- a) a person who is a sitting or retired Judge of a HC & who has completed not less than 7 years of service or
- b) The Senior VP or one of the VPs of the ITAT.

Vice-Presidents (VP):

- a) The CG may appoint one / more members of ITAT to be Vice-President (s).
- b) They will perform such functions as specified by CG

> For the purpose of discharging its functions, ITAT have all the powers which are vested in the income-tax authorities referred to in sec.131. any proceeding before the ITAT shall be deemed to be a judicial proceeding

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> ITAT consists of two classes of members Judicial & Accountant

Judicial Member	Account member
<p>A Judicial Member shall be a person</p> <ul style="list-style-type: none"> • who has held a judicial service in India for atleast 10 years, or • who has been a member of the Indian Legal Service & has held a Grade II/higher post for atleast 3 yrs or • who has been an Advocate for atleast 10 years? 	<p>An Accountant Member shall be a person -</p> <ul style="list-style-type: none"> • who has been a practicing Chartered Accountant for atleast 10 years, or • who has been a member of the Indian Income-Tax Service, Group A and has held the post of Additional CIT or higher for atleast 3 years.

Type of Benches:

Single member Bench	1 Member
Division bench	2 member
Special Bench	3/5/7/9/11 members

Constitution of Benches (section 255):

Normally	2 members Divisional Bench [1 Judicial & 1 Accountant member]
If Total Income exceed 50L & President authorize	Single member bench

Decision by Benches :

Generally by	Majority
If members are equally divided	President of ITAT shall decide point & then decision is taken by majority

Sec 253 Appeals to the Appellate Tribunal

Order against which an appeal can be filed to ITAT by assessee :

Order by	Section	Particulars
AO	115VZC	AO to exclude tonnage tax co from tonnage tax scheme.
	143(3)/147/144/ 153A/153C	AO
	154	Order of rectification

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Order by	Section	Particulars
CIT(A)	250	Order disposing an appeal
	270A	Order levying penalty for under-reporting & misreporting of income
	271A	Order imposing penalty for failure to keep, maintain or retain books of a/c, docs etc
CIT/ PCIT	12AA/12AB [FA'20]	Order refusing/canceling registration of trust / institution
	80G	Refusal to grant approval to the Institutions or Fund
	263	Revision of erroneous order
	270A/272A	Penalty order passed
	154 10(23)	Amending the order passed u/s 263 refusing approval of a fund/ institution for charitable purposes or trust or institution for public religious purposes or wholly for public religious & charitable purposes

Note: Order u/s 254 is final order & no appeal is possible against it

Sec 253(3) - Every appeal under this sec shall be filed within 60 days of the date on which the order sought to be appealed against is communicated to the assessee or to the PCIT or CIT, as the case may be.

Provided that in respect of any appeal under an order u/s 158BC(c) w.r.t search initiated u/s 132 or books of account, other documents or assets requisitioned u/s 132A, this sub-section shall have effect as if for the words "60 days", the words "30 days" had been substituted.

Sec 253(4) - The AO or the assessee, as the case may be, on receipt of notice that an appeal against the order of the CIT(A), has been preferred by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the CIT (A), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).