

Sr. No.	Particulars	Page No.
	Introduction.	3
1.	Expectations from the Bar – Role of the Bar.	4
1.1	Standards-of-Professional-Conduct-and-Etiquette.	4
1.2	Representation- Few suggestions.	4
1.2.1	Observe the Court proceedings.	4
1.2.2	Check list for good representation.	4
1.2.3	What does a judge expect from Junior Advocates or Authorised representatives?	5
1.2.4	How to address the Honourable Members of the ITAT.	5
1.2.5	Adjournment.	5
1.3	Culture of chamber practice is diminishing – A Great loss to the development of the Bar.	5
2.	Expectations from Hon’ble Members of the ITAT.	6
2.1	Code of ethics and conventions, adopted by the Honourable Members of the ITAT.	6
2.2	A predetermined mind while deciding the matter.	6
2.3	Case laws that can be useful for the consideration of the newly appointed members while deciding matters.	7
2.3.1	Judgement referred in the order without giving an opportunity of hearing.	7
2.3.2	General Observations.	8
2.3.3	The Tribunal should decide on the merits.	8
2.3.4	The order passed without proper examination.	8
2.3.5	Reasoned Speaking Order.	8
2.3.6	Failure to deal with the Judgment cited by the Counsel.	10
2.3.7	Case laws relied on in the order which were neither cited by the assessee's Representative nor the Departmental Representative.	11
2.3.8	Relying on factual aspects, which were not put up before the assessee.	11
2.3.9	Prior role of tax administrator and a fair hearing.	11
2.3.10	Chamber research, post-conclusion of hearing.	11
2.3.11	Adjournments.	12

2.3.12	An Ideal Tribunal Member.	12
2.3.13	Amicus Curiae (Friend of the Court)	13
3.	Expectations from the Central Board of Direct Taxes (CBDT).	13
3.1	Acceptance of orders of High Courts.	13
3.2	Yearly publication of a list of cases pending before various High Courts and the Apex Court.	13
3.3	Mechanism to discuss and take action on suggestions made by the Apex Court, High Courts and other Judicial authorities.	14
3.4	Instructions and Statements.	14
4.	Expectations from the Ministry of law and justice.	14
4.1	Elevation of members to the High Court – Institutionalisation of the process of elevation of Members to the High Court.	14
4.2	Website of the ITAT. www.itat.gov.in	15
4.3	Allocation of sufficient Budget for the Infrastructure.	15
5.	Expectation from the Ministry of Finance.	15
5.1	Tenure of appointment of the Honourable Members of the ITAT.	15
5.2	Widening the scope of appeal before the ITAT, proposed Income Tax Bill, 2025	15
6.	Expectations from the judiciary.	16
6.1	Tax Benches in the High Court.	16
6.2	Institutional process of elevation of Members of the ITAT to High Courts.	16
7.	Legislature (Ministry of Finance and Ministry of Law and Justice)	16
7.1	Research committee of the Legislature, Bench, Bar and CBDT for better administration of justice from the Income Tax Appellate Tribunal.	16

Income-tax Appellate Tribunal - Expectations from the Bar, Bench, Central Board of Direct Taxes, Ministry of Law and Justice, Ministry of Finance, higher judiciary and Legislature.

Introduction.

Every year, the annual conference of the Members of the Income Tax Appellate Tribunal (ITAT) is held to retrospect and to better equip the honourable Members on the administration of justice. One of the subjects of discussion in all the conferences is **“Expectations from the Bar and Bench to the stakeholders”**. As a responsible Bar, it is also desirable to discuss the expectations from the Central Board of Direct Taxes, the Ministry of Law and Justice, the Higher Judiciary and the Legislature. We thought to pen down a few of the thoughts for consideration.

The role of the Bar in the administration of justice is no less than that of the Bench: a good Bar makes for a good Bench. It is a partnership between equals. The Bar and the Bench are like two sides of a coin. Both should have mutual respect and confidence in each other, and only then can they play a proactive role to retain its distinctive quality of the Income Tax Appellate Tribunal (ITAT), as one of the finest institutions of our country and a model for other institutions to follow. For a litigation lawyer or a Chartered Accountant, each matter is an examination and a learning process. While arguing a matter before a Court or Tribunal, the counsel must be prepared to respond effectively to questions posed by the Bench. **Though**, Artificial Intelligence and modern technology serve as valuable tools for case preparation and research; the efficacy of oral arguments ultimately hinges on the knowledge, experience, and presence of mind of the arguing counsel; hence the AI cannot replace the role of arguing counsel.

1. Expectations from the Bar – Role of the Bar.

1.1. Standards-of-Professional-Conduct-and-Etiquette.

The ITAT Bar Association Mumbai has a great legacy, which has been inherited by the legends of the Tax Professionals who have never compromised on the value and ethics of the profession. The ITAT Bar Association Mumbai, ITAT Bar Association, Ahmedabad, and the All India Federation of Tax Practitioners have incorporated a code of ethics into their respective constitutions for all their members. The Standards of Professional Conduct and Etiquette (Code of Ethics) [click here to download Code of Ethics](#)

At present, there are more than 15 ITAT Bar Associations across the country, and their members are representing before the ITAT. We appeal that all Income Tax Bar Associations representing before the ITAT across the country can consider adopting the code of ethics adopted by the ITAT Bar Association, Mumbai which will guide the young professionals to follow the Standards of Professional Conduct and Etiquette, which are practiced and followed by the many senior members of the Tax Bar across the country.

1.2. Representation- Few suggestions.

1.2.1. Observe the Court proceedings.

It is observed that many young professionals are appearing before the ITAT, which is a welcome move. The Income Tax Appellate Tribunal is a final fact-finding authority. It is to be noted that 80% of matters which are argued before the ITAT are on facts and only 20% on law. If a case is decided against the assessee, obtaining a reversal from the High Court can take a minimum of two decades. This underscores the significant responsibility on representatives to be thoroughly prepared on facts, law, and to present the case effectively before the ITAT. It is therefore desirable that professionals who are appearing before the ITAT for the first time should observe the proceedings by attending court proceedings in advance, to familiarise themselves with the process and standards of advocacy expected.

1.2.2. Checklist for good representation.

It is desired that while making representation before the Hon'ble ITAT, it would be advisable to follow the checklist, [practical guide for filing an appeal and Representation to appear before the ITAT](#), so that the precious time of the court is not wasted. (Published in Publication of AIFTP -A fine balance, law practice, procedure and conventions – 2017 Edition, P. 246). This

will also aid young lawyers to become successful in their careers and practice before various courts.

The Principles of Good Representation in taxation matters before Appellate Tribunal (2017) ‘Income Tax Appellate Tribunal – A Fine Balance, Law, Practice, Procedure and Conventions’ (at page No. 279), dedicated to Padma Vibhushan Late Dr. N. A. Palkhivala, Senior Advocate, can be used as a guideline.

1.2.3. What does a judge expect from Junior Advocates or Authorised representatives?

Former Honourable Chief Justice of the Rajasthan High Court, Honourable Justice Shri Akil Khureshi, in his lecture on the subject of “What does a judge expect from Junior Advocates”, in which honourable Judge has offered several valuable insights, which are equally applicable to making representation before the Appellate Tribunal. It is desired that the young professionals listen to the video of the Honourable Justice Shri Akil Khureshi.

1.2.4. How to address the Honourable Members of the ITAT.

It has been observed that while addressing the Honourable Members, the Authorised representatives use the word “**Lordship**”. The Tribunal is not the constitutional court; hence, it is desirable to address the Honourable Members as “**Your Honour**” or “**Sir**”.

1.2.5. Adjournments.

It has been observed that on several occasions, the Representatives send their staff or article clerks to seek adjournments. Section 288 of the Income-tax Act, 1961, clearly prescribes who is authorised to appear before the authorities. Seeking an adjournment constitutes an appearance before the Appellate Tribunal ; therefore, only duly authorised persons should represent parties in such matters. With most Benches now offering the facility of virtual appearance, it is imperative to uphold the dignity and honour of the institution, so that the Representatives strictly adhere to the legal requirements prescribed under the Act.

1.3. Culture of chamber practice is diminishing – A Great loss to the development of the Bar.

While addressing the legal fraternity on the [Tax Bar Welcomes Appointment of ‘Mumbai Judge’ As Chief Justice of India](#) former Chief Justice of India Hon’ble Mr. Justice Sharad A. Bobde, then as judge of the Hon’ble Supreme Court, stated that the Chamber culture in the Hon’ble High Courts and the Hon’ble Supreme Courts is diminishing. While working in

Chambers, the advocates could learn how to mention cases before the bench, defend the independence of the judiciary and all the essential skills of the profession. He appealed to the practising advocates to train juniors and help them learn the nuances of law. As the Culture of the Chamber is diminishing, it may be desirable for Respective Bar Associations to hold work workshop every year in association with the Income Tax Appellate in different Zones so that young professionals can get guidance from senior members of the Tax Bar.

2. Expectations from Hon'ble Members of the ITAT.

2.1. Code of ethics and conventions, adopted by the Honourable Members of the ITAT.

It is noteworthy that the ITAT is the only institution where the Hon'ble Members, though governed by the Service Rules, have adopted the [Code of Ethics](#) adopted by the Hon'ble Judges of the Hon'ble Supreme Court and High Courts. The code of ethics and conventions is also published in the Income Tax Appellate Tribunal (2017). A Fine Balance, Law Practice Procedure and Conventions, dedicated to Padma Vibhushan Late Dr. N.A. Palkhivala. ITAT also published the conventions to be followed by the Hon'ble Members in the Bench and also off the Bench. (at Page Nos. 258 & 267)

2.2. A predetermined mind while deciding the matter.

The Tax Bar and the assessee hold high expectations from the ITAT. Members of the Tribunal may have to consider that in adjudicating appeals, they are not merely resolving the factual or legal issues but are also determining the fortunes of the assessee. Tribunal members bear a heightened responsibility towards the taxpayers of the country and are entrusted with upholding the honour and dignity that this esteemed institution has built over its 84 years of existence. Moreover, the Judges/Members are remembered by the quality of the judgments delivered by them. Even while elevation to the High Court, the collegium also considers the quality of the orders passed by the Judicial Members.

Shri. R. J. Kolah Advocate was arguing before Supreme Court Bench headed by Hon'ble Mr. Justice J. C. Shah then Chief Justice of India, It was the departmental appeal and after hearing the other side Hon'ble Chief Justice Mr. J. C. Shah told Mr. Kolah ***“Mr. Kolah, we have read the judgment and Mr. Desai has also read the judgment. There is no need for you to read it again”***. To this, Mr. Kolah replied ***“My Lords, your Lordships have read the judgment in your way and my learned friend has read it in the way it suits him. Your lordships will now read***

the judgment with me in my way” and the Hon’ble Judges allowed him to continue and consequently decided the issue in the favour of the assessee. (Source: 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.)

On one occasion, my senior, Mr. V. H. Patil Advocate, was presenting arguments before the Hon’ble Bombay High Court in a matter concerning the taxation of partnership. At the outset, Hon’ble Justice Mr. S. K. Desai remarked that tax counsel often believe they know everything, but this is an issue about partnership law, and, having read the Tribunal's order, he believed there was no case. Mr. V. H. Patil respectfully requested the Hon’ble Judge to permit him to read the relevant provisions of the Partnership Act before forming a final opinion. Upon the conclusion of Mr. Patil’s arguments, Justice S. K. Desai acknowledged, “**Mr. Patil, you are right, I am wrong,**” and offered an apology for his earlier remarks. The matter was ultimately decided in favour of the assessee.

In another instance, when one of our Bar Members was arguing a miscellaneous petition before the ITAT, the judicial member asked the counsel to file an affidavit. Shri S. P. Mehta Advocate was present in the Court and addressed the Bench, stating that when a counsel makes a statement in the open court, it has to be believed, and that they will not file the Affidavit of the counsel. Ultimately, the matter was heard without the affidavit of the counsel.

2.3. Case laws that can be useful for the consideration of the newly appointed members while deciding matters.

2.3.1. Judgement referred in the order without giving an opportunity of hearing.

Lakhmi Mewal Das v. ITO (1972) 84 ITR 649 (Cal) (HC) (659): K.L Roy J. 6-3-1970: After delivering my judgment, Dr. Pal requested an opportunity to address a specific point regarding the Supreme Court decision in **ITO v. Bachu Lal Kapoor, (1966) 60 ITR 74 (SC)**, which had been cited in my judgment but not discussed during arguments. Dr. Pal correctly pointed out that the facts of that case differed from the present matter, as the Supreme Court dealt with notice under section 34 of the 1922 Act within four years and did not consider section 147(a) of the current Act, which is relevant here. I concurred with Dr. Pal’s submission.

2.3.2. General Observations.

PCIT v. M. J. Export Pvt. Ltd. (ITA NO. 809 of 2017 dt. 27-8-2019) (Bom)(HC): The Tribunal should specifically cite and reference relevant decisions in its orders, rather than making general observations about the existence of "contrary decisions".

2.3.3. The Tribunal should decide on the merits.

Ritha Sabapathy (Smt) v. Dy. CIT (2019) 416 ITR 191/ 263 Taxman 84(Mad) (HC): The Court held that the Tribunal could have decided the appeal on merits even in the assessee's absence, and directed that the judgment be sent to the President of the Tribunal and the Law Secretary for circulation among all Tribunal Members. (Referred to Balaji Steel Re. Rolling Mills v. CCE&C (2014) 29GSTR 502 (SC) , CIT v. S. Chenniappa Mudaliar (1969) 74 ITR 41 (SC)

2.3.4. The order passed without proper examination.

Shirpur Gold Refinery Ltd v. Dy. CIT (2019) 262 Taxman 390 (Bom) (HC): The CIT(A) allowed the claim of expenditure and depreciation after verification of merits. On writ, the Court held that the Tribunal erred in law by reversing the said conclusion without proper examination.

Co-Operative Centrale Reiffeisen-Boereleenbank B. A. v. Dy. CIT (2019) 411 ITR 699 (Bom.)(HC): The Court held that the Tribunal failed in its duty by not summoning all records and not reaching a clear conclusion on whether the First Appellate Authority or the Assessing Officer was correct.

Cheryl J. Patel v. ACIT (ITA 424 & 643 of 2016 dt 26 -11 -2018) (Bom) (HC): The Appellate Tribunal should give an independent reason showing consideration of the submissions made on behalf of the assessee.

2.3.5. Reasoned Speaking Order.

Kranti Associates Pvt Ltd v. Masood Ahamed Khan & Ors. (2010) 9 SCC 496 (Para 51): Order passed by a quasi-Judicial authority or even an administrative authority, affecting the rights of parties, must be a speaking order supported with reasons. The honourable Supreme Court summarised that in India, and all jurisdictions committed to the rule of law, it is essential for judicial, quasi-judicial, and administrative authorities to record clear, cogent reasons for

their decisions, especially when such decisions affect parties adversely. This practice upholds fairness, transparency, and accountability, restrains arbitrary power, reassures litigants that relevant factors have been objectively considered, facilitates judicial review, and is integral to the development of legal precedent. The requirement to provide reasoned decisions is now recognised as a fundamental aspect of justice and due process, and is even considered a component of human rights.

JCIT v. Sheli Leasing and Industries Ltd (2010) 324 ITR 170(SC) (172) 191 Taxman 165 (SC) has formulated the guidelines to be followed by the Courts while writing the orders and judgments. The Honourable Court observed that these guidelines are only illustrative, not exhaustive and can further be elaborated, looking to the needs and requirements of a given case:

- (a) *It should always be kept in mind that nothing should be written in the judgment/order, which may not be germane to the facts of the case. It should have a correlation with the applicable law and facts. The ratio decidendi should be clearly spelt out from the judgment/order.*
- (b) *After preparing the draft, it is necessary to go through the same to find out if anything essential to be mentioned has escaped discussion.*
- (c) *The ultimate finished judgment/order should have sustained chronology, regard being had to the concept that it has readable, continued interest and one does not feel like parting or leaving it in the midway. To elaborate, it should have flow and perfect sequence of events, which would continue to generate interest in the reader.*
- (d) *Appropriate care should be taken not to load it with all legal knowledge on the subject as citation of too many judgments creates more confusion rather than clarity. The foremost requirement is that leading judgments should be mentioned and the evolution that has taken place ever since the same were pronounced and thereafter, latest judgment in which all previous judgments have been considered should be mentioned. While writing judgment, psychology of the reader has also to be borne in mind, for the perception on that score is imperative.*
- (e) *Language should not be rhetoric and should not reflect a contrived effort on the part of the author.*

- (f) *After arguments are concluded, an endeavour should be made to pronounce the judgment at the earliest and in any case not beyond a period of three months. Keeping it pending for long time sends a wrong signal to the litigants and the society.*
- (g) *It should be avoided to give instances, which are likely to cause public agitation or to a particular society. Nothing should be reflected in the same which may hurt the feelings or emotions of any individual or society.*

It is also worth acknowledging the [Letter dated 11-12-2007 by the then President of the ITAT on how to pass the orders](http://www.itatonline.org).www.itatonline.org.

CIT v. Tara Ripu Dhamanpal Trust (2018) 409 ITR 102 (P&H) (HC): Reasoned speaking order, which is the mandate as laid down by the Supreme Court in *Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan* (2010) 9 SCC 496 and *Canara Bank v. V. K. Awasthy* (2005) SC 2090

DSP Investment Pvt Ltd v. Add. CIT (ITA No 2342 of 2013 dt 8-03 2016)(Bom) (HC): The Tribunal's reference to a judgment without addressing or dealing with its contents constitutes a non-speaking order and a violation of the principles of natural justice; accordingly, the order was set aside.

2.3.6. Failure to deal with the Judgment cited by the Counsel.

Reliance Infrastructure Ltd v. Dy. CIT(2016) 76 taxmann.com 238 (Bom) (HC): Failing to address a judgment cited in favour of the assessee constitutes a breach of natural justice, rendering the Tribunal's order suspect and leading to its being set aside.

Dattani and Co v. ITO(2014) 41 taxmann.com 360 (Guj) (HC): Decision relied not considered; order of the Tribunal is remanded.

Shivsagar Veg Restaurant v. ACIT (2009) 317 ITR 433 (Bom) (HC): An order issued by the Tribunal over four months after the hearing, without providing reasons or addressing the assessee's arguments and cited case law, reflects non-application of mind and thus is liable to be quashed.

2.3.7. Case laws relied on in the order which were neither cited by the assessee's Representative nor the Departmental Representative.

Bhavya Construction Co. v. ACIT (ITA 1009 of 2017 dated January 30, 2020) (Bom) (HC): The Tribunal relied on case laws not cited by either party and failed to address the case law cited by the assessee's representative. As a result, the matter was remanded to the Tribunal for a fresh order.

Naresh K. Pahuj v. ITAT (2009) 224 CTR 284 (Bom)(HC): While passing the order, the Tribunal relied on the judgment of the Supreme Court, without giving an opportunity to the assessee. On writ High Court set aside the order of the Tribunal.

Canara Bank v. V.K. Awasthy (2005) 6 SCC 321: A Tribunal must be impartial, free from personal interest in the matter, and must provide every party with a full and fair opportunity to be heard.

2.3.8. Relying on factual aspects, which were not put up before the assessee.

Jain Trading Co v. UOI (2006) 282 ITR 640 (Bom)(HC): The Tribunal relied on certain factual aspects which were not put before the assessee during the hearing. The High Court set aside the order of the Tribunal.

2.3.9. Prior role of tax administrator and a fair hearing.

When presiding over the Bench, an Hon'ble Member must set aside any prior role as a tax administrator and adjudicate cases strictly in accordance with the law, upholding the mandate of Article 265 of the Constitution of India, which provides that **"No tax shall be levied or collected except by authority of law."**

2.3.10. Chamber research, post-conclusion of hearing.

Natural justice demands that if any case law is noticed by the Honourable Members while passing the order, the same may be brought to the notice of the parties before signing the order, and an opportunity of hearing may be granted. In **Board of High School v. Kum. Chitra AIR 1970 SC 1039**, the court observed that the rules of natural justice cannot be dispensed with on the ground that notice of hearing will serve no useful purpose. The order passed based on chamber research after post conclusion of the hearing is not desirable.

2.3.11. Adjournments.

No doubt most of the Benches are very liberal while granting the adjournments. Former President of the ITAT Honourable Shri T.V. Rajagopala Rao was very liberal while granting the adjournments. In one of the meetings, I asked him, Sir, I am yet to see your honour refusing any adjournment. He replied, there could be two reasons for asking the adjournments: (1) There may be a genuine difficulty, I must give him an adjournment; (2) Another reason could be that the assessee or counsel may not have confidence in me. If they don't have confidence in me, why should I listen? I have so many matters to hear, on this count also, they deserve an adjournment. This was the judicious approach of the then President of the ITAT, Honourable Shri T.V. Rajagopala Rao, while administering justice. Therefore, it is desired that, when an adjournment application is made, at least three adjournments may be granted liberally, considering the provisions of the Code of Civil Procedure, 1908, Order XVII Rule 1. There is complete transparency in the functioning of the ITAT Benches, as the reasons for granting the adjournments are also published on the website of the ITAT, itat.gov.in

2.3.12. An Ideal Tribunal Member.

It is desired that all new members who are appointed must read the article written by [Mr S. E. Dastur, Sr. Advocate, "My Ideal Tribunal Member"](#) (A reflection by S. E. Dastur). It was published in the year 2001 (P. No 162) on the occasion of 60 years of celebration. (75th Year Souvenir, P. 216) and the following suggestions may be considered to be an ideal Tribunal Member.

- On Bench, the Hon'ble Member should be courteous and fair irrespective of whether the appearance is by a Senior or Junior.
- On the Bench, if the Hon'ble Member has any doubts that arise, try to get clarification from the representatives at the time of the hearing.
- On the Bench, Hon'ble Member should not try to convince the representatives that he is wrong.
- The Hon'ble Member should first try to understand the facts.
- The Hon'ble Member should give an opportunity to the counsel to develop the arguments first on the principle and thereafter on the case laws.
- Decisions should not be influenced by media coverage or newspaper reports.
- While dictating the order, if the Hon'ble Member comes across a judgment, whether favourable or adverse, that is relevant to the case, the Member should provide an opportunity for the concerned parties to address or respond to such judgment.

- The order should contain arguments of both sides and reasons for rejecting or accepting the submission .
- The decision-making process must be transparent.
- While granting adjournments, a liberal approach may be adopted for the first three requests. However, strictness should be exercised for subsequent adjournments.

2.3.13. Amicus Curiae (Friend of the Court)

When a matter before the Tribunal involves an important issue affecting a large number of assessees, and the assessee is either unrepresented or does not receive adequate assistance, it may be appropriate for the Bench to request members of the Bar to assist as *amicus curiae*. This practice is commonly followed by the High Courts and the Supreme Court. Once a judgment is delivered on such an issue, it is binding on all Benches of the Tribunal unless and until it is reversed by a higher forum.

3. Expectations from the Central Board of Direct Taxes (CBDT).

3.1. Acceptance of orders of High Courts.

Earlier, whenever the Department would accept a decision of a particular High Court on the interpretation of law, the Central Board of Direct Taxes used to issue a circular stating that the interpretation had been accepted. This practice seems to have been discontinued now. If this process is adopted and instructions /circulars are published, the litigation will be reduced considerably. The Hon'ble Bombay High Court in **CIT v. TCL Ltd. (2016) 241 Taxman 138 (Bom.)(HC)** has passed a detailed order asking the Chief Commissioner of Income tax to host details of the matters admitted before the Bombay High Court, matters accepted by the Revenue, etc., online. Though the assurance was given by filing an affidavit, however, no action seems to have been taken by the tax administrative authorities in this regard.

3.2. Yearly publication of a list of cases pending before various High Courts and the Apex Court.

In taxation matters, the department is a party either as petitioner or respondent. In each state, one of the officers of the department may be deputed to prepare the list of cases filed before the Hon'ble High Court on questions of law/sections involved and questions admitted or rejected. This can be published on a yearly basis on the website of the CBDT and can be updated on a day-to-day basis. This will help the taxpayers, tax administration and as well as the judiciary. The highest pendency of appeals, numbering approximately 10,000, is in

Mumbai, while the combined pendency before other High Courts may not exceed 20,000 matters. Similar systems and processes may be implemented for writ petitions and matters pending before the Supreme Court. This will help to reduce the pendency of cases before the High Courts and the Apex Court.

3.3. Mechanism to discuss and take action on suggestions made by the Apex Court, High Courts and other Judicial authorities.

It has been observed that various High Courts make several recommendations to the CBDT to look into certain matters and take appropriate measures. However, it appears, there is no mechanism to find out whether the issue is actually brought to the notice of the Ministry concerned and what action has been taken. It is therefore advisable that such recommendations be published on the Ministry's website and made available in the public domain. After considering the various suggestions, appropriate action can then be taken. It is, therefore, incumbent upon the Bar to ensure proper implementation of such orders, either by making appropriate representations or by utilising the Right to Information Act.

3.4. Instructions and Statements.

All Instructions may be made available to the public. As soon as the statement of an assessee is taken in the course of a search and survey, a copy thereof may be made available to the deponent. In search cases, the appraisal report may also be made available to the assesses. This will bring more transparency and also accountability.

4. Expectations from the Ministry of law and justice.

4.1. Elevation of members to the High Court – Institutionalisation of the process of elevation of Members to the High Court.

Income Tax Appellate Tribunal was set up on 25 January 1941, and it was the first experiment in Tribunalization in the history of India. It is considered to be a very successful experiment in Tribunalization and is often cited to justify more steps in this direction. However, to date, very few Members of the ITAT have been elevated to the High Courts. The deserving Members of the ITAT, due to their specialised knowledge and experience in 'taxation' and 'commercial transactions', would be able to understand and decide the issues involving both subjects in a better manner. The speed of disposal would also increase. This will also attract young, bright lawyers to join the Income Tax Tribunal. Further, not only should Members be elevated to the

High Court, but the process itself should be institutionalised to ensure a more systematic and transparent mechanism for such elevations.

4.2. Website of the ITAT. www.itat.gov.in

The website of the ITAT must be user-friendly. It can have information about the pendency of special Bench cases, questions involved, and the pendency of third-member cases, questions involved. Pendency of appeals and disposal of appeals every month. Checklist for the taxpayers for filing an appeal. Frequently asked questions on ITAT for facilitating the taxpayers, guidelines for online hearing, specimen grounds and many more. There could be one designated Nodal Officer who can answer the difficulties faced by the taxpayer while filing an appeal, non-receipt of the order, etc. This will bring more transparency and better administration of justice by the ITAT.

4.3. Allocation of sufficient Budget for the Infrastructure.

There has to be sufficient budget for the Infrastructure and upgrade of the technology. In the premises of the ITAT Mumbai, the members' library has not been functional for more than two years. One of the reasons could be lack of funds. It is desired that sufficient funds may be allocated for the better infrastructure, upgrade, and modernisation of the technology.

5. Expectation from the Ministry of Finance.

5.1. Tenure of appointment of the Honourable Members of the ITAT.

The Tax Bar Associations across the country have strongly opposed the appointment of Hon'ble Members of the ITAT on a tenure basis for four years. The function of the ITAT cannot be compared with other Tribunals. Therefore, it is desirable that the Government should reconsider the appointment of the Hon'ble Members on a tenure basis. [The ITAT Bar Association Mumbai has sent a detailed representation to the Hon'ble Finance Minister and also the Hon'ble Law Minister.](#)

5.2. Widening the scope of appeal before the ITAT, proposed Income Tax Bill, 2025

The ITAT Bar Association Mumbai and the All India Federation of Tax Practitioners have made detailed representations for widening the scope of appeal to the ITAT. There are a number of orders passed by the Commissioners of Income Tax against which no appeal is provided. The only remedy available to the assessee is to file a writ petition before the High Court. E.G., orders under section 264, 273A, waiver of interest charged under section 234A, 234B and

234C, orders under section 179, denial of condonation of applications in delay in filing various forms, etc. If an amendment is made in the Income Tax Bill, 2025, this would save substantial time for the court, and the taxpayers would get speedy justice from the Tribunal.

[Income-Tax Bill, 2025-Suggestions for the consideration of the Hon'ble Chairman and Members of the committee. – itatonline.org](#)

6. Expectations from the judiciary.

6.1. Tax Benches in the High Court.

The pendency before the ITAT stands at only 42,000 appeals, the matters being heard within three months of filing. However, in several High Courts, due to a shortage of judges, tax matters are not heard within a reasonable timeframe. For instance, in cities like Mumbai, admission of appeals can take over four years, and if admitted, the final hearing may be delayed by an additional twenty years.

6.2. Institutional process of elevation of Members of the ITAT to High Courts.

There is no institutional process of elevation of Members of the ITAT to the High Courts. When a practising lawyer is appointed as a member, they are posted in the different Zones. The Collegium of the respective High Courts may not be aware of any eligible candidates from the ITAT for the elevation. A process may be developed wherein the Collegium of the Respective High Courts may be given intimation of the eligible deserving candidates, considering their integrity and knowledge on the subject. As the President of the ITAT, being a Retired Judge of the High Court, having vast experience, the Collegium may get the names from the Honourable President of the ITAT for consideration. This will help the institution as well as the Judiciary.

7. Legislature (Ministry of Finance and Ministry of Law and Justice)

7.1. Research committee of the Legislature, Bench, Bar and CBDT for better administration of justice from the Income Tax Appellate Tribunal.

Research is a continuous process, and advancements in artificial intelligence and technology have the potential to significantly enhance the speed, quality, and integrity of the justice delivery system. The manner in which the ITAT adopts and integrates technology should be evaluated on an ongoing basis. During the annual conferences of Members, the committee may present research-based papers for discussion. Following deliberations, the resulting suggestions can be forwarded to the Government for consideration. Adopting this process is likely to improve the justice delivery system, ultimately benefiting the taxpayers of our country.

Readers may send their objective suggestions to itatonline.manager@gmail.com or aiftpho@gmail.com so that the ITAT Bar Association's Co-ordination committee can take up the suggestions with the respective forums.