

**PROCEDURE FOR FILING APPEALS, CURING DEFECTIVE APPEALS
AND EFFECTIVE REPRESENTATION
IN THE DELHI HIGH COURT**

**for Income Tax Department under the Jurisdiction of
Principal Chief Commissioner of Income Tax, Delhi Region**

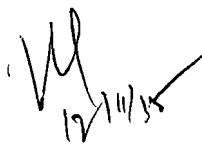
For Actions to be taken by	- 1. All Pr. CsIT/ CsIT
	- 2. All Standing Counsels
	- 3. Judicial Wing

In the case of National Petroleum Construction Company Vs. DIT in ITA Nos. 143, 144, 533/2013 and 795/2014, Hon'ble Delhi High Court in its order dt. 13.08.2015, dt. 20.08.2015 and 28.09.2015 has directed the Income Tax Department to formulate and implement a standard operating procedure on the following three issues:

(i) **Issue No.1 :-** A mechanism should be put in place for immediate and seamless transfer of cases from one standing counsel to another so that unnecessary adjournments are not sought by the counsels on the ground of lack of formal order of allocation, want of instructions or papers. The ITD to ensure that in none of the matters there is a situation where (a) there is no one appearing for the ITD (b) even if they are, they have neither instructions nor papers. It will be responsibility of the ITD to ensure that the standing counsel who have been assigned the cases have the complete records. It should not be an excuse for Standing Counsel of the ITD to take adjournment on the ground that they have no instructions or that they do not have the case papers.

(ii) **Issue No.2 :-** There should be a definite time limits within which the appeals will be filed and re-filed by the Panel Counsel after curing the defects and bringing them up for hearing before the court. There should be a system devised by the ITD to monitor on a constant basis the adherence to time lines in various matters entrusted to standing counsel. If there is delay beyond acceptable limit, the case to be assigned to another counsel to complete the further steps within the stipulated time frame. Specific time lines be set for Standing Counsel to complete the steps and consequence of the counsel failing to adhere to those time limits must be clearly spelt out.

Email IDs and mobile numbers of the CIT, ACIT and DCIT concerned be provided to the registry so that list of defects thereafter pointed out by the Registry to the Revenues appeals will be communicated to the said officials by email and SMS simultaneously with such intimation being sent to counsel. Responsibility should be fixed on the concerned officer of the department when defects are not cured and re-filed within the time limit prescribed by the Rules of the High court.





(iii) **Issue No.3** :- Issues that may be pending before other High Courts or the Supreme Courts which have attained finality one way or the other, i.e. either in favour of the revenue or the Assessee, there should be a regular channel of communication of such information to the standing counsel. ITD should digitise all its records and engage teams of persons with requisite knowledge who can assist in collating information of specific areas from the digitised data.

The first issue involves the following two aspects viz. (a) procedures for immediate and seamless **ALLOCATION AND TRANSFER OF CASES AND RECORDS** from one standing counsel to another, (b) procedures for issue of **INSTRUCTIONS TO STANDING COUNSELS**. The second issue is related **CURING OF DEFECTIVE APPEALS** filed by the Department. The third issue is related to need for regular channel of communication of information to the standing counsels on different issues.

As regards the third issue, the Department has launched a project called NJRS (National Judicial Reference System). NJRS is digitising all the Judicial records filed in all the ITATs, High Courts and Supreme Court. The project is likely to be fully functional at an early date. When completed, the project will have repository of all cases/appeals of the department and will provide a latest position of decisions of judiciary on a particular issue. The proposal to allow the Standing Counsels of the department to have access to NJRS Project is under consideration. On its full implementation, the NJRS will provide regular channel of communication to the Standing Counsels. The NJRS will have facility for availability of settled position of the Department on a particular issue and the standing counsel will ensure that the same is brought to notice of the Hon'ble Court when available on regular basis.

Therefore, to address the first two issues the following procedures are laid down by the Income Tax Department under the jurisdiction of Principal Chief Commissioner of Income Tax, Delhi Region:

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CHAPTER 1

PROCEDURES FOR IMMEDIATE AND SEAMLESS ALLOCATION AND TRANSFER OF CASES AND RECORDS FROM ONE STANDING COUNSEL TO ANOTHER

Appeals are filed by the Pr. Commissioners/ Commissioners of Income Tax directly through the Standing Counsels. The Judicial Wing [Office of the CIT, Judicial, Delhi including the DCIT, High Court Cell] does not receive any information of the appeals filed. Because of this lack of data about the cases being handled by any counsel, when a counsel leaves the department, the Judicial Wing has to depend on the outgoing counsel on the details of the cases being handled by him/her. This data provided by the outgoing counsels alongwith the case records, is seldom complete. As such allocation of the cases and distribution of case records to the new counsels by the Judicial Wing on the basis of data provided by the outgoing counsel is seldom complete.

During the conduct of the proceedings the Hon'ble Delhi High Court takes up the cases of "Advance Cause List" first. Thereafter, if time remains "Regular Cause List" cases are taken up for hearing by the High Court during the day. Soft copies of such case records of the advance matters are available in the High Court Registry. However as informed by the High Court Registry, the soft copies of entire regular matters are not available and the process of scanning such matters is continuing in the High Court Registry.

Procedures to be followed by Judicial Wing

1. "Advance Cause List" of the Delhi High Court gives the cases which are fixed for hearing on any date, which is **posted on the website of the Delhi High Court about two days in advance**. Therefore to ensure that none of the cases in advance cause list goes unattended, the **DCIT, High Court Cell shall check the Advance Cause List regularly to verify, if any case is unallocated or not allocated to the present counsels** and if so, allocate the same on the basis of the roster of counsels placed in the High Court Cell so that a situation where there is no counsel appearing for the ITD, does not arise.
2. "Regular cause list" cases for the coming week is **posted on the website of the Delhi High Court every Saturday in advance**. These Regular cases are old cases which normally were handled by counsels who may not be on the present panel of the Department. Therefore, to ensure that none of the cases in Regular cause list goes unattended, the **DCIT, High Court Cell shall**
 - (i) **check the Regular cause list on the morning of next working day** to confirm if any case is unallocated or not allocated to the present counsels

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- (ii) also obtain from the Court Masters of the court well in advance of the likely dates of hearing of the cases to confirm if any case is unallocated or not allocated to the present counsels

and allocate the unallocated cases in advance on the basis of the roster of counsels placed in the High Court Cell so that a situation where there is no counsel appearing for the ITD, does not arise.

3. The DCIT, High Court Cell shall

- (i) mail the allocation order of regular and advance matters to the counsel along with the soft copy of case records with instruction to attend the court proceedings on the schedule date.
- (ii) also obtain the soft copy of the records from the High Court Registry on priority basis and mail/provide the same to the Counsel forthwith in case the soft copy is not available in the High court Cell.

4. Further, the Judicial Wing [Office of the CIT, Judicial, Delhi including the DCIT, High Court Cell] will review the Advance and Regular matters periodically at the end of each month to check whether any such matter remains un-allocated to the present counsels. If so, the same will be duly allocated immediately as per the roster.

5. DCIT, High Court cell shall

- (i) depute suitable officials posted in the H.C. Cell to assist the High Court registry to scan the case records of pending regular matters from the High Court record room and also obtain the copies for the Department.
- (ii) continue to obtain soft data of Regular and Advance matters till all the data of Regular and Advance matters have been obtained from the High Court Registry and made available the same to the Counsels.
- (iii) continue to obtain soft data of all Regular and Advance matters filed upto the date of implementation of the New Procedure as soft data of new appeals filed henceforth will be provided to High Court cell by the counsels and the assessee.

IN THE CASE OF NEW APPEALS FILED:

6. While filing every new appeal the Standing Counsel shall send the softcopy of the case records along with diary no. to DCIT, High Court Cell by e-mail (e-mail ID Delhi.Dcit.judicial.HC@incometax.gov.in) or by CD/ pen drive containing the data in soft copy, which shall be duly acknowledged by the DCIT, High Court Cell.

7. In the case of appeals filed by the assessee, while receiving the hardcopy of case records, the DCIT, High Court Cell shall also obtain the softcopy of the appeal in CD/ pen drive before allocating such appeals to the standing counsels as per roster.

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8. In case of cross appeals for the same year, if two counsels are engaged - one by the concerned CIT charge (for Revenue's Appeal) and the other by the High Court Cell (on assessee's appeal), the DCIT, HC cell shall consolidate the appeals by allocating the appeal to the Counsel engaged by the concerned CIT on Revenue's appeal by passing an allocation order to that effect.

9. The DCIT, HC Cell shall ascertain the Standing Counsel engaged by the concerned CIT on Revenue's appeal on the basis of intimation by the Counsel filing the said Appeal while forwarding the soft copy of the appeal filed.

10. In the case of appeals filed by the assessee, the DCIT, High Court Cell shall obtain four copies of the appeal set in hard copy out of which two sets will be forwarded to the concerned Sr. Standing Counsel and the Jr. Standing Counsel and the other two sets shall be sent to jurisdictional Commissioner and AO to whom the appeal pertains.

11. DCIT High Court Cell shall check the High Court website every week to update its record with the diary no. and ITA no. provided by the High Court Registry in such appeals filed by the assessee.

12. The DCIT, High Court Cell shall maintain softcopy of records received from the Standing Counsels as well as from the assessee (on assessee's appeal) systematically counsel-wise complete with Diary no. and ITA no. provided by the High Court. This procedure will help in allocation of cases and records to the new counsels in case of change in the panel of counsel in future.

13. The DCIT, High Court Cell shall ensure that softcopy of such records are handed over to the new counsels as per allocation in case of change in the panel of counsels.

Procedures to be followed by Standing Counsels of the Department

As per Annexure-I Para 7 of Instruction No. 3/2012 of CBDT on expiry of the term or termination or resignation, the Standing Counsel shall immediately handover the briefs and other related papers to the CIT concerned or the other Standing Counsels nominated by the CCIT for the purpose.

14. It is the responsibility of the counsels to appear in the cases which have been allocated to them. They shall ensure that no case remains un-attended and no case is dismissed because of non-prosecution.

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15. While every effort has been made to allocate the cases coming up for hearing, if by mistake, there is any case either in advance list or in regular list or in supplementary list or any fresh matter which is not shown as marked to any counsel or which does not show the names of any of the present counsels, the same shall be represented by any Sr. Standing counsel present in the court at that time.

- (i) The Counsel shall take a passover to find out the allocation, if any, made by the Department and if no allocation is there, the same shall be represented by him.
- (ii) The Sr. Standing counsel shall intimate by e-mail the office of the CIT, Judicial and DCIT, High court cell about the representation and he will be entitled for fee for representation on that day as if the case had been allocated to him, so that no inconvenience is caused to the court on account of non representation by any counsel on behalf of the department.

16. Standing Counsels shall intimate the DCIT High Court Cell about the cases allocated to them where the records are not available with them so that soft copies can be made available to the counsels by the DCIT High Court Cell well in time. The counsels are requested to collect soft copy from the High Court Cell by furnishing the hard drive provided to them by the DCIT High Court Cell.

17. Standing Counsels shall intimate the DCIT High Court Cell atleast 5 (five) days in advance about the non-availability of any case record, which is coming up before the High Court for hearing, so that soft copies can be made available to them by the DCIT High Court Cell in time.

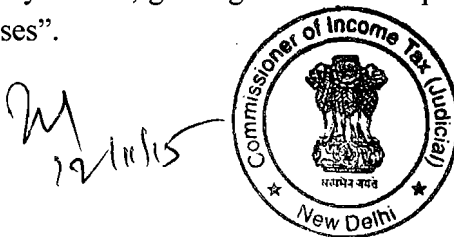
18. For taking a printout of any case records Standing Counsels may also use the heavy duty printer placed in the office of the DCIT-High Court Cell, kept specially for this purpose, if desired.

19. In case the soft copy of any record is not available in the High Court Cell in any particular case which is coming up for hearing within a short period of time, the counsels are requested to take a soft copy from the High Court Registry and also the subsequent print out of such soft copy, if needed and claim the expenses incurred as "out of pocket expenses".

20. In the monthly bills for appearance, the counsels can claim the actual expenses of procuring such records from the High Court Registry.

21. The actual expenses incurred i.e. the cost of reconstructing the file by way of procuring the soft copy and printing will be paid to the counsels as "out of pocket expenses" as such expenses are not covered in the Appearance Fee and corresponding clerkage expenses @ 10% in the Instruction No.3/2012 dated 11.04.2012 of CBDT.

22. The above arrangement is in consonance with point No.6 (page 14) of the Instruction No.3/2012 dated 11.04.2012 issued by CBDT, guiding the fee to be paid to the Counsels of the Department as "out of pocket expenses".



23. Fresh matters filed by the assesseees are received in the office of DCIT-HC Cell. In case the counsels get the records collected from the office of DCIT High Court Cell, they will be paid Rs 400/- for the collection of records on a particular day. The bill towards this expenditure is to be submitted along with the one mentioned in above para.

24. The proposals above entail actual expense from the pocket of Senior Standing Counsels. A permanent advance of lumpsum amount of Rs.20,000/- for expense incurred under the head "out of pocket expenses" can be claimed by each Senior Standing Counsel for meeting the above expenses which will be adjusted against the final bill of the counsel on completion of his tenure or on his relinquishment. The counsels will submit monthly bill for the above "out of pocket expenses" incurred and they will be replenished the amount of the bill submitted after being duly passed by the ZAO.

IN THE CASE OF NEW APPEALS FILED BY THE DEPARTMENT:

25. While the soft copies obtained from High Court are related to appeals already filed, however to deal with future appeals, in order to ensure that allocation of cases and distribution of record do not pose a problem, **IN THE CASE OF NEW APPEALS FILED BY THE DEPARTMENT**, while filing every appeal the Standing Counsel shall send the softcopy of the case records along with diary no. to DCIT, High Court Cell by e-mail (e-mail ID Delhi.Dcit.judicial.HC@incometax.gov.in) or by CD/ pen drive containing the data in soft copy.

26. Bills for drafting in respect of **new appeals filed after implementation of new procedure** henceforth, shall be accompanied by corresponding evidence of submitting soft copy of the appeals to the DCIT, HC Cell. The fee bills for drafting will be passed on basis of proof of providing soft copy to the High Court Cell in the form of e-mail to the DCIT, HC Cell, if the soft copy is sent by mail or receipt from the High Court Cell, if the soft copy is given in the form of CD/ pen drive.

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CHAPTER 2

PROCEDURES FOR ISSUE OF INSTRUCTIONS TO STANDING COUNSELS

As per Annexure-I Para 9 of Instruction No. 3/2012 of CBDT, the jurisdictional CsIT shall provide all assistance to the Standing counsels such as providing briefs, assessment records, etc. in preparation of a case.

Procedures to be followed by the Pr. Commissioners/ Commissioners of Income Tax :

27. **Communication with the standing counsels should be through emails and other electronic forms** of communication and movement of hardcopies of files and papers should be avoided unless absolutely essential.
28. The briefing in the cases wherever required by the Counsels shall be provided by the officers of the rank of Assessing Officers and above invariably and definitely not below.
29. In case a file is required by the High Court for verification of issues, an officer not below the rank of the Assessing Officer will brief the Senior Standing Counsel on the matter.
30. The production of records relating to assessment are the responsibility of AO and, hence, the briefing to the counsels also has to be done by AO or his higher officer and none else.
31. For issues like handing over records and taking it back from the Senior Standing Counsel, the staff of the assessing officer shall coordinate with the staff in the office of the concerned Senior Standing Counsel.

Procedures to be followed by Judicial Wing:

32. The DCIT High Court Cell shall provide the Court Masters of the Court the list of the names of the Senior Standing Counsel and Junior Standing Counsels who will be appearing in the appeals in the final hearing list and about the change in counsels of the department as and when it happens.
33. Any communication from the Judicial wing pertaining to cases, which is sent to the Sr. Standing Counsel, should invariably be marked to the Jr. Standing Counsel also.

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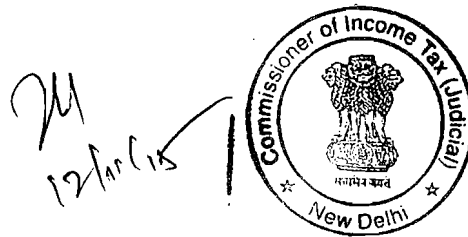


34. The DCIT, High Court Cell shall ensure that at least one Inspector is present in each Court room at the time of hearing, for taking down instructions of the court and to note the presence of the counsels in the court in the cases allocated.

Procedures to be followed by Standing Counsels of the Department:

All the Junior and Senior standing counsels have been provided a **Directory of Officers under the Principal Chief Commissioner of Income Tax, Delhi region** complete with jurisdiction of all the Principal Commissioners of Income Tax, the address of all the officers under them, their contact numbers, email IDs etc.

35. Wherever required the counsels shall communicate with the concerned Pr. CIT/CIT or the AO before the hearing date **well in advance**, and take necessary briefings, instructions and papers. It should not be an excuse for Standing Counsel to take adjournment on the ground that they have no instructions or that they do not have the case papers.



CHAPTER 3

PROCEDURES FOR FILING APPEALS AND CURING DEFECTIVE APPEALS

In the Delhi High Court after the introduction of e-filing system in September - 2013, once the appeal is filed by the Standing Counsel, if any defect is noticed by the High Court registry e-mail and SMS alert is sent to the Standing Counsel by the Registry within 24 hrs pointing out the nature of defect. The defects pointed out by the registry are accessible on the net. After the removal of defects by the counsel, similar SMS and e-mail alert is sent by the High Court Registry to the counsel. Further on listing of the matter after clearance by the High Court Registry, similar SMS and e-mail alert is sent to the counsel informing the date of listing for hearing.

As per High Court procedure, defects pointed out by the Registry at the time of filing of appeal is required to be removed and appeal is required to be re-filed by the counsel within a time not exceeding 7 days at a time and 30 days in the aggregate. If the defect is not cured within the specified period, the appeal has to be re-filed by removing the defect with an application for condonation of delay in filing of appeal.

As per Annexure-I Para 8.2 of Instruction No. 3/2012 of CBDT, New Delhi it is one of the duties of the Standing Counsel to file the appeals/other petitions/applications as required, within limitation and communicate the particulars (Diary number, ITA number etc.) to the CIT concerned. Further as per Annexure-I Para 8.3 of the above Instruction No. 3/2012 of CBDT it is one of the duties of the Standing Counsel to communicate defects/office objections, if any, in the appeals etc. and take prompt steps to rectify the same with the assistance of the CIT. Further as per Para 8.11 of the said instruction it is a specific duty of Jr Standing counsel to render meaningful assistance to Sr. Standing Counsel in Removal of defects / office objections in the cases filed by the department.

Procedures to be followed by Standing Counsels of the Department:

36. While filing every fresh appeals, henceforth the Standing Counsels shall mention official e-mail IDs and mobile nos. of the concerned Pr. CIT/CIT and the AO in the appeal filed along with the e-mail IDs and mobile nos. of the Jr. Standing Counsels and his own registered e-mail ID and mobile number, so that the diary nos., defects if any and listing of appeals are communicated by the High Court Registry simultaneously to the Counsels, Pr. CsIT/CsIT and the AO by e-mail and SMS alert.

This will enable the Jr. Standing Counsel to render meaningful assistance to Sr. Standing Counsel in removal of defects/office objections.

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37. It shall be mandatory on the part of the Senior Standing Counsel to include the name of the Junior Standing Counsel while filing appeals or while appearing before the court as a appellant/respondent. This shall ensure that Junior Standing Counsels are also aware of the details of appeals and petitions, and can assist the ITD in the event the concerned Senior Standing Counsel is no longer on the panel.

38. The counsels shall also inform the concerned Pr. CsIT/CsIT immediately if the appeal filed by the counsel is defective.

39. To ensure that the defects are removed within the period specified as per High Court Procedure, **the counsels shall take prompt step to remove/cure the defects and re-file the appeal within a time not exceeding 4 days at a time and 20 days in the aggregate** and ensure that the case is listed and ITA No. is given.

40. If the defect is curable without the assistance of the concerned CIT charge, the counsels shall be responsible to remove the defects and re-file the appeal **within a time not exceeding 4 days at a time and 20 days in the aggregate** and have the case listed and obtain the ITA No.

41. If the defects pointed out is not curable by the counsel without the assistance of the concerned CIT charge, the counsel shall communicate the same to the CIT concerned immediately.

42. After the appeal is filed by the counsel, ITA No. of the case provided by the High Court Registry shall be mailed by the counsel along with copy of the appeal memo without fail to the Pr. CIT/CIT and the DCIT High Court Cell simultaneously.

43. Bills for drafting of appeals shall be submitted by the counsels only after appeal is re-filed after removal of defects, if any and ITA No. given is intimated to Pr. CIT/CIT and DCIT, High Court Cell as **per Annexure-I Para 8.2 and 8.3 of Instruction No. 3/2012 of CBDT, New Delhi**. The fee bills of the counsels for drafting of appeal will be passed on the basis of copy of intimation sent to Pr. CIT/CIT and DCIT, High Court Cell on the ITA no. provided by the High Court Registry.

Procedures to be followed by Pr. Commissioners/ Commissioners of Income Tax.

44. As per Section 260A of the Income-tax Act, 1961, the appeal shall be filed by the concerned commissioner within one hundred and twenty days from the date on which the order of ITAT appealed against is received by the said commissioner. One of the main reason of defective appeal is that appeal being filed hurriedly just on the eve of the period of limitation expiring. To avoid the above situation and to ensure that defects do not occur, the following time line is prescribed so that **appeal is filed within 90 days instead of 120 days**. This should be strictly adhered to:

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Time Line for filling of appeals in the High Court

S. No.	Stages	No. of Days	Total Time
1	Receipt of Appeal order in the office of PCIT/CIT	0 Day	0 Day
2	Entry in relevant register & linking with old appeal folder of the case from where appeal to ITAT was authorized	1 Day	1 Day
3	Sending the order to AO for necessary action with copy to Range Head	2 Days	3 Days
4	Submission of CSR in the prescribed proforma by AO to Range Head after giving appeal effect	25 Days	28 Days
5	Submission of CSR by Range Head to PCIT/CIT	7 Days	35 Days
6	Decision making by the PCIT/CIT including consultation with the Sr. Standing counsel, if required and submission to CIT (J) (if corporate assessee)	10 Days	45 Days
7	Processing in the O/o CIT (J) (if corporate assessee)	5 Days	50 Days
8	Approval by CCIT/ where panel of CCIT-Jurisdictional CCIT (3 days)/ Other CCIT (2days)	5 Days	55 Days
9	In case of disagreement, file to be put up to Pr. CCIT. Decision of PCCIT	3 Days	58 Days
10	Sending file to CIT (J) who will in turn send it to the PCIT/CIT after retaining a dummy folder of the original appeal folder (if corporate assessee)	2 Days	60 Days
11	Sending appeal folder to the Standing Counsel by PCIT/CIT for drafting appeal memo	2 Days	62 Days
12	Drafting of Appeal memorandum by the Counsel and return to PCIT/CIT	15 Days	77 Days
13	Vetting/ preparation of sets with annexure in the o/o Pr.CIT and sending it back to the Standing Counsel for filing	10 Days	87 Days
14	Actual filing in the HC registry	3 Days	90 Days
15	Intimation of Diary/Lodging No. to the O/o CIT/ CIT(J) /HC cell along with copy of the appeal memo	2 Days	92 Days

45. The expenditure, if any, likely to be incurred by the Standing Counsels for filing of appeals such as photocopy and scanning, court fee for e-filing, typing of illegible matter and other misc. allied expenses etc. shall be paid by the concerned Pr. CsIT/CsIT to the Counsels in advance within a day of completion of formalities for appeal. Such expenditure shall not be





claimed by the Counsels as “out of pocket expenses” at the time of filing of their fee bills, as they have been paid in advance by the concerned Pr.CsIT/CsIT.

46. While filing every appeal the official e-mail IDs and mobile nos. of the Pr. CIT/CIT and the AO shall be provided to the standing Counsel for uploading the same in the High Court Registry so that the diary nos., defect if any and listing of appeals etc. are communicated by the Registry simultaneously to the Counsels, the Pr. CsIT/CsIT and the AO by e-mail and SMS alert. The Central Scrutiny Report (CSR) must mention the details such as name, email id and mobile numbers of Pr. CsIT/CsIT and AO of the case.

47. Further, if any defect arises and the defects can be removed by the counsel without the assistance of the concerned CIT, and the counsel fails

(i) to remove the defects within the above **time not exceeding 4 days at a time and 20 days in the aggregate**, the Pr. CIT/CIT shall consider re-assigning the case to another counsel for removal of defect within the period specified by the Rules of the High Court **[within a time not exceeding 7 days at a time and 30 days in the aggregate]**.

(ii) Adverse view will be taken in such a case if the counsel fails to cure the defects and re-file the appeal within the specified period.

(iii) The performance of the counsel shall also be reviewed by the CsIT concerned on the basis of timely removal of defects by the concerned counsel and shall be reported to the office of the CIT (Judicial) and CCIT-2, Delhi.

48. If the defects pointed out is not curable by the counsel without the assistance of the concerned CIT charge which includes necessary expenditures to be incurred for curing the defects, the counsel shall communicate the same to the concerned CIT, who will provide necessary assistance including the expenses to the counsel immediately so that the defect is removed and appeal is re-filed within the specified period. Such expenditure for refilling of appeals shall be paid by the concerned CIT to the counsel in advance within two working days of completion of formalities.

49. **The defects pointed out by the registry are accessible on the net** and the Pr. CIT/CIT concerned through their ITO(Judicial) shall develop an internal mechanism to closely monitor the filing of the appeals by the Standing Counsel on a regular basis to ensure that the defects, if any, are removed/cured and appeal is re-filed by the counsel within the specified period, the case is listed and ITA No. is given.

50. The Pr. CIT/CIT concerned shall engage an Inspector dedicated solely for the purpose of monitoring the status of appeal filed from the stage of Diary no. to the stage of listing for hearing and ITA no. provided by the High Court Registry.

51. The concerned Pr. CsIT/CsIT shall be responsible for monitoring the entire defect removal process.

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52. Further if the defects are not removed/cured and refilled within the specified period prescribed by the Rules of the High Court, the Pr. CIT/CIT shall fix responsibility on the concerned erring person including the standing counsel and the concerned officer/official for his failure.

53. The officials concerned of Pr. CsIT/CsIT charge can coordinate with DCIT High Court Cell for clarification on any issue concerning (regular and electronic) filing and re-filing of appeals/applications etc. and the time periods (limitation) within which steps have to be taken.

54. Register of appeals :-

- (i) It is generally observed that present appeal register maintained by the department do not provide sufficient information and clarity on status of appeals pending in High Court. This may be a reason why status of appeals lying in defect for several years were not known to the department.
- (ii) Most of the registers are defective and do not provide all the relevant information for handling of litigation in the High Court. It has columns only up to Diary no. provided while filing the appeal, whereas appeals are listed only after ITA no. is provided by the High Court.
- (iii) It is only after removal of defect the diary no. provided while filing the appeal is converted to ITA no.
- (iv) As SMS and e-mail alert will be sent by the High Court Registry informing the date listed for hearing after removal of defect, therefore, the Pr. CIT/CIT can monitor the listing of the matter after clearance by the High Court Registry.
- (v) The Pr. CIT/CIT concerned shall maintain the appeal register by adding further columns for appeals filed in High Court so as to contain information on (a) date of filing of appeal, (b) name of the standing counsel, (c) diary No., (d) date of defect pointed out as per e-mail/SMS alert, (e) date of removal of defect by the standing counsel, (f) ITA No. provided by the High Court Registry, (g) result of appeal, (h) date of receipt of order in the office of CIT, (i) date of limitation for filing SLP and similar other relevant information.
- (vi) Similar information should also be maintained for appeals in Supreme Court.

Procedures to be followed by Judicial Wing:

55. The DCIT High Court Cell shall

(i) acquaint himself of the Rules, practice, directions and procedures of the Court concerning (regular and electronic) filing and re-filing of appeals/applications etc. and the time periods (limitation) within which steps have to be taken.

(ii) provide necessary clarification on the above issues to the field formations whenever sought.

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CHAPTER 4

PROCEDURES FOR MISCELLANEOUS MATTERS RELATING TO CLEARING OF BILLS AND OTHER ISSUES

Procedures to be followed by Judicial Wing:

56. A dedicated, an ITO alongwith an Inspector will handle the bills of the counsels exclusively in the office of the CIT, Judicial. The officer concerned shall process the professional bills of the counsels expeditiously so that there is no unnecessary delay.

57. In case batch matters of same assessee are allocated to more than one counsel, all the counsels to whom the batch matters have been allocated will be paid the money for hearing as all the counsels have to prepare the case and have to be ready with the case and also support the arguing counsel.

58. In case the name of a counsel appeared by mistake in the order of the Court and the name of actual arguing counsel does not appear then the counsel who had actually argued the case can claim the fees on the basis of NOC issued by the other counsel.

59. The claim of fees for drafting by the counsels in respect of **new appeals filed after implementation of new procedure** henceforth, shall be accompanied by corresponding evidence of submitting soft copy of the appeals to the DCIT, HC Cell. The fee bills will be passed on basis of proof of providing soft copy to the High Court Cell in the form of e-mail to the DCIT, HC Cell, if the soft copy is sent by mail or receipt from the High Court Cell, if the soft copy is given in the form of CD/pen drive.


60. Bills for drafting of appeals shall be submitted by the counsels only after appeal is re-filed after removal of defects, if any and ITA No. given is intimated to Pr. CIT/CIT and DCIT, High Court Cell as per **Annexure-I Para 8.2 and 8.3 of Instruction No. 3/2012 of CBDT, New Delhi**. The fee bills of the counsels for drafting of appeal will be passed on the basis of copy of intimation sent to Pr. CIT/CIT and DCIT, High Court Cell on the ITA no. provided by the High Court Registry.

**THE ABOVE PROCEDURES ARE LAID DOWN WITH IMMEDIATE EFFECT WITH
THE APPROVAL OF PRINCIPAL CHIEF COMMISSIONER OF INCOME TAX,
DELHI.**

Place: Delhi

Date: 12.11.2015




(Niranjana Kouli)
Commissioner of Income Tax (Judicial)
New Delhi