

(ii) in the case of any other concern, if such person is entitled, or such person and one or more of the other related persons are entitled in the aggregate at any time during the tax year, to not less than 20% of the profits of such concern; and

(o) “value” means the value of any benefit or facility granted or provided free of cost or at concessional rate to any related person. 5

## CHAPTER XVIII

### APPEALS, REVISIONS AND ALTERNATE DISPUTE RESOLUTIONS

#### A.—Appeals

#### I.—Appeals to Joint Commissioner (Appeals) and Commissioner (Appeals) 10

Appealable  
orders before  
Joint  
Commissioner  
(Appeals).

**356.** (1) Any assessee, aggrieved by any of the following orders of an Assessing Officer (below the rank of Joint Commissioner) may appeal to the Joint Commissioner (Appeals) against—

(a) an order being an intimation under section 270(1) or 399(1), where the assessee objects to the making of adjustments; or 15

(b) an order under section 270(10) or 271, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed; or

(c) an order of assessment, reassessment or recomputation under section 279; or 20

(d) an order under section 398; or

(e) an order imposing penalty under Chapter XXI; or

(f) an order under section 287 or 288 amending any of the orders or intimations in clauses (a) to (e).

(2) No appeal shall be filed before the Joint Commissioner (Appeals) if an order referred to in sub-section (1) is passed by or with the prior approval of, an income-tax authority above the rank of Deputy Commissioner. 25

(3) The Board or an income-tax authority so authorised by the Board in this regard, may transfer—

(a) any appeal filed against an order referred to in sub-section (1) and any matter arising out of or connected with such appeal, which is pending before the Commissioner (Appeals), to the Joint Commissioner (Appeals); or 30

(b) any appeal which is pending before a Joint Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals), regardless of anything contained in sub-sections (1) and (3)(a), 35

who may proceed with such appeal or matter, from the stage at which it was before it was so transferred.

(4) Where an appeal is transferred under sub-section (3), the appellant shall be given an opportunity of being reheard. 40

(5) For the disposal of appeal under this section, the Central Government may notify a scheme, so as to dispose of appeals in an expedient manner with transparency and accountability, by eliminating the interface between the Joint Commissioner (Appeals) and the appellant, to the extent technologically feasible and direct that any of the provisions of this Act relating to jurisdiction and procedure for disposal of such appeals, shall not apply or shall apply with exceptions, modifications and adaptations. 45

(6) The Board may specify that any provisions of this section shall not apply to any case or class of cases.

(7) In this section, “status” means the category of person as defined in section 2(77) under which the assessee is assessed. 50

**357.** Any assessee or any deductor or any collector, aggrieved by any of the following orders, may appeal to the Commissioner (Appeals) against—

Appealable  
orders before  
Commissioner  
(Appeals).

- (a) an order passed by a Joint Commissioner under section 231(4)(b);
- 5 (b) an order against the assessee where the assessee denies his liability to be assessed under this Act; or
- (c) an order being an intimation under section 270(1) or 399(1), where the assessee or the deductor or the collector objects to the making of adjustments; or
- 10 (d) any order of assessment under section 270(10), except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in section 274(12) or 271, where the assessee objects to the income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed; or
- 15 (e) an order of assessment, reassessment or recomputation under section 279 [except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in section 274(12)] or 283; or
- (f) an order made under section 169(3)(a); or
- (g) an order made under section 287 or 288 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections except an order referred to in section 274(12); or
- 20 (h) an order made under section 306 treating the assessee as the agent of a non-resident; or
- (i) an order made under section 313(2) or (4); or
- 25 (j) an order made under section 315; or
- (k) an order made under section 398; or
- (l) an order made under section 431; or
- (m) an order made under section 434; or
- (n) an order imposing or enhancing a penalty under Chapter XXI; or
- 30 (o) an order imposing a penalty under section 412; or
- (p) an order passed under section 294(1)(c); or
- (q) an order imposing a penalty under section 298(2); or
- 35 (r) an order made by an Assessing Officer under the provisions of this Act in the case of such person or class of persons, as the Board may, having regard to the nature of the cases, the complexities involved and other relevant considerations, direct.

**358.** (1) Every appeal under this Chapter shall be in such form and verified in such manner, as prescribed.

Form of appeal  
and limitation.

- 40 (2) An appeal, referred in sub-section (1), made to the Commissioner (Appeals) or to the Joint Commissioner (Appeals), shall be accompanied by a fee of—

(a) two hundred and fifty rupees, where the total income of the assessee as computed by the Assessing Officer in the case to which the appeal relates is one lakh rupees or less;

(b) five hundred, where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one lakh rupees but not more than two lakh rupees; 5

(c) one thousand rupees, where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two lakh rupees;

(d) two hundred and fifty rupees, where the subject matter of an appeal is not covered under clauses (a), (b) and (c). 10

(3) The appeal shall be presented within thirty days,—

(a) from the date of service of the notice of demand where the appeal relates to any assessment or penalty; or

(b) in any other case, from the date on which intimation of the order sought to be appealed against is served. 15

(4) For the purposes of sub-section (3)(a), where an application has been made under section 440(I), the period beginning from the date on which the application is made, to the date on which the order rejecting the application is served on the assessee, shall be excluded. 20

(5) The Joint Commissioner (Appeals) or the Commissioner (Appeals) may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(6) No appeal under this Chapter shall be admitted unless at the time of filing of the appeal,— 25

(a) where a return has been filed by the assessee, the assessee has paid the tax due on the income returned by him; or

(b) where no return has been filed by the assessee, the assessee has paid an amount equal to the amount of advance tax which was payable by him.

(7) The Joint Commissioner (Appeals) or the Commissioner (Appeals) may, for the purposes of sub-section (6)(b) and on an application made by the appellant in this behalf, for reasons to be recorded in writing, exempt him from the operation of the provisions of that sub-section. 30

Procedure in  
appeal.

**359.** (1) The Joint Commissioner (Appeals) or the Commissioner (Appeals) shall fix a day and place for the hearing of the appeal, and shall give notice of the same to the appellant and to the Assessing Officer against whose order the appeal is preferred. 35

(2) The following shall have the right to be heard at the hearing of the appeal:—

(a) the appellant, either in person or by an authorised representative;

(b) the Assessing Officer, either in person or by a representative.

(3) The Joint Commissioner (Appeals) or the Commissioner (Appeals) may— 40

(a) adjourn the hearing of the appeal; or

(b) make such further inquiry as he thinks fit, before disposing of any appeal, or may direct the Assessing Officer to make further inquiry and report the result of the same; or

(c) allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if he is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable. 45

(4) The order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

5 (5) The Joint Commissioner (Appeals) or the Commissioner (Appeals), where it is possible, may hear and decide such appeal within one year from the end of the financial year in which such appeal is filed or transferred to him under section 356.

10 (6) On the disposal of the appeal, the Joint Commissioner (Appeals) or the Commissioner (Appeals) shall communicate the order passed by him to the assessee and to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

**360.** (1) In disposing of an appeal, the Commissioner (Appeals) or the Joint Commissioner (Appeals), shall have the following powers:—

Powers of Joint Commissioner (Appeals) or Commissioner (Appeals).

15 (a) in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment;

(b) where such appeal is against an order of assessment made under section 271, the Commissioner (Appeals) may set aside the assessment and refer the case back to the Assessing Officer for making a fresh assessment;

43 of 1961.

20 (c) in an appeal against the order of assessment for which the proceeding before the Settlement Commission abates under section 245HA of the Income-tax Act 1961, the Commissioner (Appeals) may, after taking into consideration all the material and other information produced by the assessee before, or the results of the inquiry held or evidence recorded by, the Settlement Commission, in the course of the proceeding before it and such  
25 other material as may be brought on his record, confirm, reduce, enhance or annul the assessment;

(d) in an appeal against an order imposing a penalty, he may confirm or cancel such order or vary it so as either to enhance or to reduce the penalty;

30 (e) in any other case, he may pass such orders in the appeal as he thinks fit.

(2) The Joint Commissioner (Appeals) or the Commissioner (Appeals), 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.

35 (3) The Joint Commissioner (Appeals) or the Commissioner (Appeals), may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, irrespective of the fact that such matter was not raised before him by the appellant.

## *2.—Appeals to Appellate Tribunal.*

40 **361.** (1) The Central Government shall constitute an Appellate Tribunal consisting of as many Judicial and Accountant Members as it thinks fit, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.

Appellate Tribunal.

45 (2) Irrespective of anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President, Vice-President and other Members of the Appellate Tribunal appointed,—

33 of 2021.

(a) after the commencement of the Tribunals Reforms Act, 2021, shall be governed by the provisions of Chapter II of the said Act;

(b) before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of the Income-tax Act, 1961 and the rules made thereunder, as if the provisions of section 184 of the Finance Act, 2017 had not come into force. 43 of 1961.  
7 of 2017.

(3) The Central Government shall appoint— 5

(a) a person who is a sitting or retired Judge of a High Court and who has completed not less than seven years of service as a Judge in a High Court; or

(b) one of the Vice-Presidents of the Appellate Tribunal,  
to be the President thereof. 10

(4) The Central Government may appoint one or more members of the Appellate Tribunal to be the Vice-President or, Vice-Presidents thereof.

(5) The Vice-President shall exercise such of the powers and perform such of the functions of the President as may be delegated to him by the President by a general or special order in writing. 15

Appeals to  
Appellate  
Tribunal.

**362.** (1) Any assessee, aggrieved by any of the following orders, may appeal to the Appellate Tribunal against such order—

(a) an order passed under this Act, by a Commissioner (Appeals) or a Joint Commissioner (Appeals);

(b) an order passed by a Principal Commissioner or Commissioner under— 20

(i) section 332(7) or (8) or (9), 351(2)(ii) or 354(3); or

(ii) section 377 or 439 or 465; or

(iii) section 287;

(c) an order passed by a Principal Chief Commissioner or Chief Commissioner or a Principal Director General or Director General or a Principal Director or Director under section 377 or 465 or an order passed under section 287 amending any such order; 25

(d) an order passed by an Assessing Officer under section 270(10) or 279, in pursuance of the directions of the Dispute Resolution Panel or an order passed under section 287 in respect of such order; 30

(e) an order passed by an Assessing Officer under section 270(10) or 279, with the approval of the Principal Commissioner or Commissioner as referred to in section 274(12) or an order passed under section 287 or 288 in respect of such order; or 35

(f) an order passed by an Assessing Officer under section 234(4).

(2) The Principal Commissioner or Commissioner may, if he objects to any order passed by the Joint Commissioner (Appeals) or the Commissioner (Appeals) under this Act, direct the Assessing Officer to appeal to the Appellate Tribunal against the order. 40

(3) Every appeal under sub-section (1) or (2) shall be filed within two months from the end of the month in which the order sought to be appealed against is communicated to the assessee or to the Principal Commissioner or Commissioner.

(4) The Assessing Officer or the assessee, on receipt of notice that an appeal against an order, has been preferred under sub-section (1) or (2) by the other party, may, irrespective of 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 manner, as prescribed, against any part of such order, 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).

(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 (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in such form and verified in such manner, as prescribed and shall, be accompanied by a fee of—

(a) five hundred rupees, where the total income of the assessee as computed by the Assessing Officer, in the case to which the appeal relates, is one lakh rupees or less;

(b) one thousand five hundred rupees, where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one lakh rupees but not more than two lakh rupees;

(c) 1% of the assessed income, subject to a maximum of ten thousand rupees, where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two lakh rupees;

(d) five hundred rupees, where the subject matter of an appeal relates to any matter, other than those specified in clauses (a), (b) and (c).

(7) No fee shall be payable for an appeal referred to in sub-section (2), or a memorandum of cross objections referred to in sub-section (4).

(8) An application for stay of demand shall be accompanied by a fee of five hundred rupees.

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

Orders of  
Appellate  
Tribunal.

(2) The Appellate Tribunal may amend any order passed by it under sub-section (1) for the rectification of any mistake apparent from record, within six months from the end of the month in which the order was passed, if the mistake is brought to its notice by the assessee or the Assessing Officer.

(3) An amendment, as referred to in sub-section (2), which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made, unless the assessee has been allowed a reasonable opportunity of being heard.

(4) Any application filed by the assessee under sub-section (2) shall be accompanied by a fee of fifty rupees.

(5) In every appeal, the Appellate Tribunal, where it is possible, may hear and decide such appeal within four years from the end of the financial year in which such appeal is filed under section 362(1) or (2).

(6) 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 under section 362(1), for a period not exceeding one hundred and eighty days from the date of such order, subject to the condition that the assessee—

(a) deposits not less than 20% of the amount of tax, interest, fee, penalty or any other sum payable under this Act; or

(b) furnishes security of equal amount as referred to in clause (a),

and the Appellate Tribunal shall dispose of the appeal within the said period of stay specified in that order. 5

(7) No extension of stay, as referred to in sub-section (6), shall be granted by the Appellate Tribunal, where such appeal is not so disposed of within the said period of stay as specified in the order of stay passed under the said sub-section, unless—

(a) the assessee makes an application and has complied with the condition referred to in sub-section (6); and 10

(b) the Appellate Tribunal is satisfied that the delay in disposing of the appeal is not attributable to the assessee,

so, however, that the aggregate of the period of stay originally allowed and the period of stay so extended shall not exceed three hundred and sixty-five days and the Appellate Tribunal shall dispose of the appeal within the period or periods of stay so extended or allowed. 15

(8) The order of stay shall stand vacated if the appeal is not disposed of within the period allowed under sub-section (6) or (7), even if the delay in disposing of the appeal is not attributable to the assessee. 20

(9) The cost of any appeal to the Appellate Tribunal shall be at the discretion of that Tribunal.

(10) The Appellate Tribunal shall send a copy of any orders passed under this section to the assessee and to the Principal Commissioner or Commissioner.

(11) Save as provided in section 365, orders passed by the Appellate Tribunal on appeal shall be final. 25

Procedure of  
Appellate  
Tribunal.

**364.** (1) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the President of the Appellate Tribunal from among the members thereof.

(2) Subject to the provisions contained in sub-section (3), a Bench shall consist of one Judicial Member and one accountant member. 30

(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 allotted to the Bench, pertaining to an assessee whose total income as computed by the Assessing Officer in the case does not exceed fifty lakh rupees. 35

(4) The President of the Appellate Tribunal may, for 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.

(5) 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 or 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. 45

(6) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

5 (7) The Appellate Tribunal, for the purposes of discharging its functions,—

(a) shall have all the powers which are vested in the income-tax authorities referred to in section 246;

45 of 2023.

10 (b) any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 229 and 267 and for the purposes of section 233 of the Bharatiya Nyaya Sanhita, 2023; and

46 of 2023.

(c) the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section 215 and Chapter XXXVIII of the Bharatiya Nagarik Suraksha Sanhita, 2023.

### 3.—*Appeals to High Court*

15 **365.** (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.

Appeal to High Court.

(2) The Principal Chief Commissioner or Chief Commissioner or the Principal Commissioner or Commissioner or an assessee aggrieved by any order passed by  
20 the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be—

(a) filed within one hundred twenty days from the date on which the order appealed against is received by the assessee or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or  
25 Commissioner;

(b) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(3) Where the High Court is satisfied that there was sufficient cause for not filing the appeal within one hundred twenty days, it may admit an appeal after the  
30 said period.

(4) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(5) 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  
35 not involve such question.

(6) The provisions of sub-section (5) shall not 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.

40 (7) 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.

(8) The High Court may determine any issue which the Appellate Tribunal,—

(a) has not determined; or

45 (b) has wrongly determined, by reason of a decision on such question of law as is referred to in sub-section (1).



(9) 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. 5 of 1908.

(10) Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such order by the Assessing Officer, on the basis of a certified copy of the judgment. 5

Case before  
High Court to be  
heard by not less  
than two Judges.

**366.** (1) When an appeal has been filed before the High Court under section 365, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided as per the opinion of such Judges or of the majority, if any, of such Judges. 10

(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. 15

#### *4.—Appeals to Supreme Court*

Appeal to  
Supreme Court.

**367.** An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on an appeal made to High Court in respect of an order passed under section 363 in any case which the High Court certifies to be fit for appeal to the Supreme Court. 20

Hearing before  
Supreme Court.

**368.** (1) The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 367 as they apply in the case of appeals from decrees of a High Court.

(2) The costs of the appeal shall be in the discretion of the Supreme Court.

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 365(10) in the case of a judgment of the High Court. 25

#### *5.—General*

Tax to be paid  
irrespective of  
appeal, etc.

**369.** Irrespective of the fact that an appeal has been preferred to the High Court or the Supreme Court, tax shall be payable as per the assessment made in the case. 30

Execution for  
costs awarded by  
Supreme Court.

**370.** The High Court may, on petition made for the execution of the order of the Supreme Court in respect of any costs awarded thereby, transmit the order for execution to any court subordinate to the High Court.

Amendment of  
assessment on  
appeal.

**371.** If as a result of an appeal under section 356 or 357 or 362, any change is made in the assessment of a body of individuals or an association of persons, or a new assessment is directed in such cases, the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal, shall pass an order authorising the Assessing Officer to either amend the assessment of any member of the body or association or make a fresh assessment on such member. 35

Exclusion of  
time taken for  
copy.

**372.** In computing the period of limitation prescribed for an appeal or an application under this Act, the day on which the order complained of was served and, if the assessee was not provided with a copy of the order when the notice of the order was served, the time required to obtain a copy of such order, shall be excluded. 40

Filing of appeal  
or by income-tax  
authority.

**373.** (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. 45

(2) Where, in pursuance of the orders, instructions or directions issued under sub-section (1), an income-tax authority has not filed any appeal on any issue in the case of an assessee for any tax year, it shall not preclude such authority from filing an appeal on the same issue in the case of— 50

(a) the same assessee for any other tax year; or

(b) any other assessee for the same or any other tax year.

(3) Where even when 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.

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

**374.** In this Chapter, “High Court” means,—

(i) for any State, the High Court for that State;

(ii) for the Union territory of Jammu and Kashmir, the High Court of Jammu and Kashmir and Ladakh;

(iii) for the Union territory of Ladakh, the High Court of Jammu and Kashmir and Ladakh;

(iv) for the Union territory of the Andaman and Nicobar Islands, the High Court at Calcutta;

(v) for the Union territory of Lakshadweep, the High Court of Kerala;

(vi) for the Union territory of Chandigarh, the High Court of Punjab and Haryana;

(vii) for the Union territories of Dadra and Nagar Haveli and Daman and Diu, the High Court at Bombay; and

(viii) for the Union territory of Puducherry, the High Court at Madras; and

(ix) for the National Capital Territory of Delhi, the High Court of Delhi.

*B.—Special provisions for avoiding repetitive appeals*

**375.** (1) Irrespective of anything contained in this Act, where an assessee claims that—

(a) any question of law arising in his case for a tax year pending before the Assessing Officer or any appellate authority (such case being hereafter in this section referred to as the relevant case) is identical with a question of law arising in his case for another tax year;

(b) such question of law is pending before—

(i) the High Court on a reference under section 256 or on an appeal under section 260A of the Income-tax Act, 1961; or

(ii) the Supreme Court on a reference under section 257 or on an appeal under section 261 of the Income-tax Act, 1961; or

(iii) the High Court on an appeal made under section 365; or

(iv) the Supreme Court on appeal made under section 367; or

(v) in a Special Leave Petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court,

Interpretation  
of “High  
Court”.

Procedure  
when assessee  
claims  
identical  
question of law  
is pending  
before High  
Court or  
Supreme  
Court.

such case being hereafter in this section referred to as the other case, he may furnish a declaration to the Assessing Officer or the appellate authority, in such form and manner, as prescribed, that if the Assessing Officer or the appellate authority, agrees to apply in the relevant case, the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case before any appellate authority or in a subsequent appeal before a higher forum. 5

(2) Where a declaration under sub-section (1) is furnished to any appellate authority, the appellate authority shall—

(a) call for a report from the Assessing Officer on the correctness of the claim made by the assessee; and 10

(b) allow the Assessing Officer an opportunity of being heard in the matter, if such request is made by him.

(3) The Assessing Officer or the appellate authority, may, by an order in writing,—

(a) admit the claim of the assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case; or 15

(b) reject the claim if not so satisfied.

(4) An order under sub-section (3) shall be final and shall not be called in question in any proceeding by way of appeal or revision under this Act. 20

(5) Where a claim is admitted under sub-section (3),—

(a) the Assessing Officer or the appellate authority, may make an order disposing of the relevant case without awaiting the final decision on the question of law in the other case; and

(b) the assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal before any appellate authority or in any subsequent appeal before a higher forum. 25

(6) When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the Assessing Officer or the appellate authority, shall, if necessary, amend the order referred to in sub-section 5(a) in conformity with such decision. 30

(7) In this section,—

(a) “appellate authority” means the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal;

(b) “case”, in relation to an assessee, means any proceeding under this Act for the assessment of the total income of the assessee or for the imposition of any penalty or fine on him; and 35

(c) “subsequent appeal before a higher forum” means the appeal before the High Court under section 365 or appeal before the Supreme Court under section 367 or in a Special Leave Petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court. 40

**376.** (1) Irrespective of anything contained in this Act, where the collegium is of the opinion that—

(a) any question of law arising in the case of an assessee for any tax year (such case being herein referred to as the relevant case) is identical with a question of law arising,— 45

(i) in his case for any other tax year; or

(ii) in the case of any other assessee for any tax year; and

(b) such question of law is pending before the jurisdictional High Court under section 365 or the Supreme Court in an appeal under section 367 or in a Special Leave Petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court, which is in favour of such assessee (such case being herein referred to as the other case),

the collegium may, decide and inform the Principal Commissioner or Commissioner not to file any appeal, at this stage, to the Appellate Tribunal under section 362(2) or to the jurisdictional High Court under section 365(2) in the relevant case against the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal.

(2) Irrespective of anything contained in section 362(3) or section 365(2)(a), the Principal Commissioner or the Commissioner shall, on receipt of a communication from the collegium under sub-section (1), direct the Assessing Officer to make an application to the Appellate Tribunal or the jurisdictional High Court, in such form as prescribed, stating that an appeal on the question of law arising in the relevant case may be filed when the decision on such question of law becomes final in the other case.

(3) The application referred to in sub-section (2) shall be filed within one hundred and twenty days from the date of receipt of the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) or of the Appellate Tribunal.

(4) The Principal Commissioner or Commissioner shall direct the Assessing Officer—

(a) to make an application under sub-section (2), if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case; and

(b) to proceed as per section 362(2) or section 365(2)(b), if no such acceptance is received irrespective of anything in section 362(3) or section 365(2)(a).

(5) If the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the order of the Appellate Tribunal referred to in sub-section (1), is not in conformity with the final decision on the question of law in the other case, as and when such order is received, the Principal Commissioner or Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal or the jurisdictional High Court, against such order, and save as otherwise provided in this section, all other provisions of Parts A.2 and A.3 of this Chapter shall apply accordingly.

(6) Every appeal under sub-section (5) shall be filed within sixty days to the Appellate Tribunal or one hundred and twenty days to the High Court, from the date on which the order of the jurisdictional High Court or the Supreme Court in the other case, is communicated to the Principal Commissioner or the Commissioner (having jurisdiction over the relevant case), as per the procedure specified by the Board.

(7) In this section, “collegium” means a collegium comprising two or more Chief Commissioners or Principal Commissioners or Commissioners, as specified by the Board.

*C.—Revision by the Principal Commissioner or Commissioner*

**377.** (1) The Competent Authority may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Assessing Officer or the Transfer Pricing Officer, as the case may be, is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including—

Revision of orders prejudicial to revenue.

(a) an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment; or

(b) an order modifying the order under section 166; or

(c) an order cancelling the order under section 166 and directing a fresh order under the said section. 5

(2) For the purpose of sub-section (1),—

(a) an order passed by the Assessing Officer or the Transfer Pricing Officer, shall include—

(i) an order of assessment made on the basis of the directions issued by the Joint Commissioner under section 272; 10

(ii) an order made by the Joint Commissioner in exercise of the powers or in the performance of the functions of an Assessing Officer or the Transfer Pricing Officer, conferred on, or assigned to, him by the Board or by the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General or Principal Commissioner or Commissioner authorised by the Board under section 241; and 15

(iii) an order under section 166;

(b) “record” shall include all records relating to any proceeding under this Act available at the time of examination by the Competent Authority; 20

(c) where any order referred to in this section and passed by the Assessing Officer or the Transfer Pricing Officer, had been the subject matter of any appeal filed, the powers of the Competent Authority, shall extend to such matters as had not been decided in such appeal.

(3) An order passed by the Assessing Officer or the Transfer Pricing Officer, shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Competent Authority, the order— 25

(a) is passed without making inquiries or verification which should have been made;

(b) is passed allowing any relief without inquiring into the claim; 30

(c) has not been made in accordance with any order, direction or instruction issued by the Board under section 239; or

(d) has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person. 35

(4) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed.

(5) Irrespective of anything contained in sub-section (4), an order in revision under this section may be passed at any time to give effect to a finding or direction contained in the order of the Appellate Tribunal, the High Court, or the Supreme Court. 40

(6) In computing the period of limitation under sub-section (4), the following period shall be excluded,—

(a) the time taken in giving an opportunity to the assessee to be reheard under section 244(2); and 45

(b) the period commencing on the date on which stay on any proceeding under this section has been granted by an order or injunction of any court and ending on the date on which certified copy of the order or injunction vacating the stay is received by the jurisdictional Principal Commissioner or Commissioner.

(7) If after the exclusion of the period provided in sub-section (6), the time limit for completion, in that sub-section is less than sixty days, such remaining period shall be extended to sixty days and such period of limitation shall be deemed to have been extended accordingly.

(8) In this section,—

(a) “Competent Authority” means the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner; and

(b) “Transfer Pricing Officer” shall have the same meaning as in section 166(18).

**378.** (1) For any order, other than an order to which section 377 applies, passed by an authority subordinate to him, the Competent Authority may, either of his own motion or on an application by the assessee for revision,—

Revision of other orders.

(a) call for the record of any proceeding under this Act in which any such order has been passed;

(b) make such inquiry or cause such inquiry to be made; and

(c) subject to the provisions of this Act, pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

(2) The Competent Authority shall not of his own motion revise any order under this section if the order has been made more than one year previously.

(3) In the case of an application for revision under this section by the assessee, the application shall be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier.

(4) The Competent Authority may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within the period as provided in sub-section (3), admit an application made after the expiry of the period specified in that sub-section.

(5) The Competent Authority shall not revise any order under this section in the following cases—

(a) where an appeal against the order lies to the Joint Commissioner (Appeals) or the Commissioner (Appeals) or to the Appellate Tribunal, but has not been made and the time within which such appeal may be made has not expired; or

(b) where the appeal lies to the Joint Commissioner (Appeals) or the Commissioner (Appeals) or to the Appellate Tribunal, the assessee has not waived his right of appeal; or

(c) where the order has been made the subject of an appeal to the Joint Commissioner (Appeals) or the Commissioner (Appeals) or to the Appellate Tribunal.

(6) Every application by an assessee for revision under this section shall be accompanied by a fee of five hundred rupees.

(7) On every application by an assessee for revision under this section, an order shall be passed within one year from the end of the financial year in which such application is made.

(8) In computing the period of limitation under sub-section (7), the following period shall be excluded:—

(a) the time taken in giving an opportunity to the assessee to be reheard under section 244(2); and

(b) the period commencing on the date on which stay on any proceeding under this section has been granted by an order or injunction of any court and ending on the date on which certified copy of the order or injunction vacating the stay is received by the jurisdictional Principal Commissioner or Commissioner.

(9) If after the exclusion of the period provided in sub-section (8), the time limit for completion as provided in sub-section (6) is less than sixty days, such remaining period shall be extended to sixty days and such period of limitation shall be deemed to have been extended accordingly.

(10) Irrespective of anything contained in sub-section (7), an order in revision under that sub-section may be passed at any time in consequence of or to give effect to any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.

(11) For the purposes of this section,—

(a) “Competent Authority” means the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner;

(b) an order by the Competent Authority declining to interfere shall, not be deemed to be an order prejudicial to the assessee.

#### *D.—Alternate Dispute Resolutions*

##### *1.—Dispute Resolution Committee in certain cases*

Dispute  
Resolution  
Committee.

**379.** (1) The Central Government shall constitute, one or more Dispute Resolution Committees, as per the rules made under this Act, for dispute resolution in the case of such persons or class of persons, as specified by the Board, who opt for dispute resolution under this Chapter in respect of dispute arising from any variation in the specified order in his case and who fulfils the specified conditions, as prescribed.

(2) The Dispute Resolution Committee, subject to the conditions as prescribed, may make modifications to the variations in specified order or reduce or waive any penalty imposable under this Act, or grant immunity from prosecution for any offence punishable under this Act, in case of a person whose dispute is resolved under this Chapter.

(3) Irrespective of anything contained in section 275, upon receipt of the order of the Dispute Resolution Committee under this section, the Assessing Officer shall,—

(a) in a case where the specified order is a draft of the proposed order of assessment under section 275(1), pass an order of assessment, reassessment or recomputation; or

(b) in any other case, modify the order of assessment, reassessment or recomputation,

in conformity with the directions contained in the order of the Dispute Resolution Committee within one month from the end of the month in which such order is received.

(4) “specified order” means such order, including draft order, as specified by the Board, and—

(i) the aggregate sum of variations proposed or made in such order does not exceed ten lakh rupees;

(ii) such order is not based on search initiated under section 247 or requisition under section 248 in the case of assessee or any other person or survey under section 253 or information received under an agreement referred to in section 159(I) or (2); and

(iii) where the assessee has filed a return for the tax year relevant to such order, total income as per such return does not exceed fifty lakh rupees.

## 2.—Advance rulings

**380.** In this Chapter,—

Interpretation.

(a) “advance ruling” means—

(i) a determination by the Board for Advance Rulings in relation to the tax liability arising out of a transaction which has been undertaken or is proposed to be undertaken by a non-resident applicant; or

(ii) a determination by the Board for Advance Rulings in relation to the tax liability of a non-resident arising out of a transaction which has been undertaken or is proposed to be undertaken by a resident applicant with such non-resident; or

(iii) a determination by the Board for Advance Rulings in relation to the tax liability of a resident applicant, arising out of a transaction which has been undertaken or is proposed to be undertaken by such applicant; and such determination shall include the determination of any question of law or of fact specified in the application;

(iv) a determination or decision by the Board for Advance Rulings in respect of an issue relating to computation of total income which is pending before any income-tax authority or the Appellate Tribunal and such determination or decision shall include the determination or decision of any question of law or of fact relating to such computation of total income specified in the application;

(v) a determination or decision by the Board for Advance Rulings whether an arrangement, which is proposed to be undertaken by any person being a resident or a non-resident, is an impermissible avoidance arrangement as referred to in Chapter XI or not;

(b) “applicant” means any person who—

(i) is a non-resident referred to in clause (a)(i); or

(ii) is a resident referred to in clause (a)(ii); or

(iii) is a resident referred to in clause (a)(iii) falling within any such class or category of persons as the Central Government may, by notification, specify; or

(iv) is a resident falling within any such class or category of persons as the Central Government may, by notification, specify in this behalf; or

(v) is referred to in clause (a)(v),

and makes an application under section 383(I);

(c) “application” means an application made to the Board for Advance Rulings under section 383(I);

(d) “Board for Advance Rulings” means the Board for Advance Rulings constituted by the Central Government under section 381;

(e) “Member” means a Member of the Board for Advance Rulings.



Board for  
Advance  
Rulings.

**381.** (1) The Central Government shall constitute one or more Boards for Advance Rulings, as may be necessary, for giving advance rulings under this Chapter on or after such date as the Central Government may, by notification, appoint.

(2) The Board for Advance Rulings shall consist of two members, each being an officer not below the rank of Chief Commissioner, as may be nominated by the Board. 5

Vacancies, etc.,  
not to invalidate  
proceedings.

**382.** No proceeding before, or pronouncement of advance ruling by, the Board for Advance Rulings, shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Board for Advance Rulings.

Application for  
advance ruling.

**383.** (1) An applicant desirous of obtaining an advance ruling under this Chapter, may make an application in such form and manner, as prescribed, stating the question on which the advance ruling is sought. 10

(2) The application shall be made in quadruplicate and be accompanied by a fee of ten thousand rupees or such fee, as prescribed.

(3) An applicant may withdraw an application within thirty days from the date of the application. 15

Procedure on  
receipt of  
application.

**384.** (1) On receipt of an application, the Board for Advance Rulings shall forward a copy thereof to the Principal Commissioner or Commissioner and, call upon him to furnish the relevant records, which shall be returned at the earliest opportunity. 20

(2) The Board for Advance Rulings may, after examining the application and the records called for either allow or reject the application by an order.

(3) For the purposes of sub-section (2), an application shall be rejected if the question raised therein—

(a) is already pending before any income-tax authority or Appellate Tribunal except in the case of a resident applicant falling in section 380(b)(iv) or any court; 25

(b) involves determination of fair market value of any property;

(c) relates to a transaction or issue which is designed *prima facie* for the avoidance of income-tax except in the case of a resident applicant falling in section 380(b)(iv) or in the case of an applicant falling in section 380(b)(v). 30

(4) The application shall not be rejected under sub-section (2), unless an opportunity has been given to the applicant of being heard and the reasons for such rejection are given in the order.

(5) A copy of every order made under sub-section (2) shall be sent to the applicant and to the Principal Commissioner or Commissioner. 35

(6) Where an application is allowed under sub-section (2), the Board for Advance Rulings shall, after examining such further material as may be placed before it by the applicant or obtained by the Board for Advance Rulings, pronounce its advance ruling in writing, on the question specified in the application within six months of the receipt of application. 40

(7) On a request from the applicant, the Board for Advance Rulings shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorised representative.

(8) A copy of the advance ruling pronounced by the Board for Advance Rulings, duly signed by the Members and certified in the manner, as prescribed shall be sent to the applicant and to the Principal Commissioner or Commissioner, as soon as may be, after such pronouncement. 45

(9) In this section, “authorised representative” shall have the meaning assigned to it in section 515(3)(a), as if the applicant were an assessee.

**385.** No income-tax authority or the Appellate Tribunal shall proceed to decide any issue for which an application has been made by an applicant, being a resident, under section 383(I).

Appellate authority not to proceed in certain cases.

**386.** (I) Where on a representation made by the Principal Commissioner or Commissioner or otherwise, the Board for Advance Rulings finds, that an advance ruling pronounced under section 384(6) has been obtained by the applicant by fraud or misrepresentation, then it may by order, declare such ruling to be *void ab initio* and thereupon, all the provisions of this Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

Advance ruling to be void in certain circumstances.

(2) A copy of the order made under sub-section (I) shall be sent to the applicant and the Principal Commissioner or Commissioner.

**387.** (I) The Board for Advance Rulings shall, for the purpose of exercising its powers, have all the powers of a civil court under the Code of Civil Procedure, 1908 as are referred to in section 246 of this Act.

Powers of the Board for Advance Rulings.

(2) The Board for Advance Rulings shall be considered to be a civil court for the purposes of section 215 but not for the purposes of Chapter XXVIII of the Bharatiya Nagarik Suraksha Sanhita, 2023 and every proceeding before the Board for Advance Rulings shall be considered to be a judicial proceeding under sections 229 and 267 and for the purposes of section 233 of the Bharatiya Nyaya Sanhita, 2023.

**388.** The Board for Advance Rulings shall, subject to this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act.

Procedure of Board for Advance Rulings.  
Appeal.

**389.** (I) The applicant, if aggrieved by any ruling pronounced or order passed by the Board for Advance Rulings or the Assessing Officer, on the directions of the Principal Commissioner or Commissioner, may appeal to the High Court against such ruling or order of the Board for Advance Rulings within sixty days from the date of the communication of that ruling or order, in such form and manner, as prescribed.

(2) Where the High Court is satisfied, on an application made by the appellant in this behalf, that the appellant was prevented by sufficient cause from presenting the appeal within the period specified in sub-section (I), it may grant further period of thirty days for filing such appeal.

## CHAPTER XIX

### COLLECTION AND RECOVERY OF TAX

#### A.—General

**390.** (I) The tax on income shall be payable as per this Chapter by way of—

- (a) deduction or collection at source; or
- (b) advance payment; or
- (c) payment under section 392(2)(a).

Deduction or collection at source and advance payment.

(2) The tax referred to in sub-section (I) shall be payable as per the provisions of this Chapter, irrespective of the assessment to be made later than the relevant tax year.

(3) Nothing contained in this section, shall affect the charge of tax on such income under section 4(I).

(4) The payment of tax referred to in sub-section (I) shall be in addition to any other mode of tax collection to discharge the liability in respect of income assessed for a tax year.