UNIVERSITY OF DELHI

BUSINESS TAX PROCEDURES AND MANAGEMENT

DSE 5.8 | DSE 5.7

B.Com (Hons.) | B.Com (Prog.) — Third Year, Semester V

UNIT 3 · PART B

APPEALS AND REVISIONS, AND THE FILING OF APPEALS

Four Tiers, Two Revisions and One Committee

Appealable Orders • Form • Fee • Limitation • Powers • Tribunal • High Court • Revision

Sections 356 to 380

read with Rules 167, 193 to 198 and Forms No. 99, 115, 116, 117 and 119

Governed by the INCOME-TAX ACT, 2025

(Act No. 30 of 2025, as amended by the Finance Act, 2026)

read with the INCOME-TAX RULES, 2026

TAX YEAR 2026-27

1 April 2026 to 31 March 2027

Academic Year 2026-27

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The Prescribed Syllabus for this Part

UNIT 3: ASSESSMENT AND APPEALS (9 HOURS)

“Assessment, re-assessment and rectification of mistakes; **Appeals and revisions; Preparation and filing of appeals with appellate authorities.”**

The Exercises prescribed with the syllabus require the learner to “**Illustrate the filing of appeals with appellate authorities**”. Chapter 11 of this booklet is written for that exercise.

THE AUTHORITY FOR THIS SYLLABUS

Resolution No. 4-1-15 — “Resolved that the Amendment to Income tax related papers for B.Com (H), B.Com (Prog), and B.A. (Commerce) papers (In the light of the Income Tax Act 2025 duly approved by the Govt of India) be accepted.” — **Appendix-103**

Placed before the **Executive Council of the University of Delhi, EC (1282) dated 29.04.2026**. The amended syllabus takes effect from the **Academic Year 2026-27**.

The amendment is what makes this paper a paper on the **Income-tax Act, 2025**. Every section reference in this material is in the numbering of the new Act. The corresponding provisions of the Income-tax Act, 1961 have no application to Tax Year 2026-27.

This booklet completes Unit 3. Part A took the assessment; this Part takes what the assessee may do about it.

THE REMEDIES AGAINST AN ORDER, AT A GLANCE

Remedy	Section	When it is the right one
Rectification	287	A **mistake apparent from the record** — no fee, no limitation of thirty days, and the same authority corrects it. *Part A, Chapter 9*
First appeal	356 / 357	The assessee is **aggrieved** and the order is in the list of appealable orders
Second appeal	362	Either side is aggrieved by the first appellate order — to the **Appellate Tribunal**
Third appeal	365	The case involves a **substantial question of law** — to the **High Court**
Fourth appeal	367	The High Court **certifies** the case fit — to the **Supreme Court**
Revision by the department	377	The order is **erroneous and prejudicial to the interests of the revenue** — the Commissioner acts against the assessee
Revision in the assessee's favour	378	The assessee has **no appeal**, or has waived it — the Commissioner may pass an order **not prejudicial** to him
Dispute Resolution Committee	379	A **small case** — variations up to ₹10 lakh and returned income up to ₹50 lakh — resolved without appeal

A Word on the Numbering

THE NUMBER THAT HAS CHANGED ITS MEANING

Under the Income-tax Act, 1961, **section 263** was the Commissioner's power of revision prejudicial to the revenue and **section 264** was revision in favour of the assessee. Under the Act of 2025 those powers are **sections 377 and 378, and the number 263 has been given to the return of income.**

“Revision under section 263” now reads as “return of income under section 263”. Similarly, the first appeal was section 246A and the appellate procedure section 250; they are now **sections 356, 357 and 359**. The appeal to the Tribunal was section 253; it is now **section 362**.

How to Use this Booklet

Chapters 1 to 5 take the first appeal — who may appeal, against what, in what form, within what time, and what the first appellate authority may do. Chapters 6 to 8 take the three higher tiers. Chapter 9 takes the two revisions and

The sources from which this material has been written

Source	What it settles in this Part
Income-tax Act, 2025 (Act No. 30 of 2025) — assent 21 August 2025, in force 1 April 2026	Sections **356 to 380** — the four appellate tiers, the two revisions and the Dispute Resolution Committee
Finance Act, 2026 — assent 30 March 2026 (Finance Bill No. 3 of 2026, introduced 1 February 2026)	The amendments to the appeal fees and to the powers of the appellate authorities
Income-tax Rules, 2026 — G.S.R. 198(E) dated 20 March 2026, in force 1 April 2026	**Rules 167 and 193 to 198**, and **Forms No. 99, 115, 116, 117 and 119**

ABOUT THIS BOOKLET

This booklet has been prepared by **Artificial Intelligence — Claude Opus 5.0 (Anthropic)** — under the guidance and supervision of **Advocate Dr. S. B. Rathore** from the bare text of the **Income-tax Act, 2025** and the **Income-tax Rules, 2026** as downloaded from **incometaxindia.gov.in**.

Date: **11-08-26** (Original)   Updated on:

CONTENTS

Page numbers refer to this booklet. Chapter headings are shown in bold.

Chapter 10 the Dispute Resolution Committee. Chapter 11 is a step-by-step walkthrough of preparing and filing

an appeal, written for the prescribed exercise. Chapter 12 contains practical problems and Chapter 13 the reckoner and the question bank.

CONTENTS

Page numbers refer to this booklet. Chapter headings are shown in bold.

The Appeal Ladder — an Overview

Sections 356 to 368 Four tiers, of which the first two decide facts and the last two decide law.

1.1 The four tiers

Tier	Authority	Section	Time to appeal	What it decides
First	**Joint Commissioner (Appeals)** or **Commissioner (Appeals)**	356 / 357	**30 days** from service of the notice of demand, or of the order	**Fact and law.** A full re-hearing; new grounds may be admitted; the assessment may be confirmed, reduced, enhanced or annulled
Second	**Appellate Tribunal**	362	**Two months** from the end of the month of communication	**Fact and law**, but on the record. The **final fact-finding authority**; its orders are final save for a further appeal on law [section 363(11)]
Third	**High Court**	365	**120 days** from receipt of the Tribunal's order	**Law only**, and only a **substantial question of law**, which the Court must formulate
Fourth	**Supreme Court**	367	As under the Code of Civil Procedure, 1908	**Law only**, and only where the High Court **certifies the case fit** for appeal

Note where the fact-finding stops. The Tribunal is the last authority that may go into the evidence. A High Court will not reappreciate evidence unless the finding is perverse, and it decides only the question it has formulated.

1.2 Two appellate authorities at the first tier

WHICH OF THE TWO?

The Act of 2025 keeps the two first appellate authorities of the repealed Act. The dividing line is the **rank of the officer who passed the order.**

- **Joint Commissioner (Appeals) — section 356.** Appeals against orders of an Assessing Officer **below the rank of Joint Commissioner**. But **no** appeal lies to him where the order was passed by, or with the prior approval of, an authority above the rank of Deputy Commissioner [section 356(2)].
- **Commissioner (Appeals) — section 357.** The general first appellate authority, with a much longer list of appealable orders, including orders of higher authorities and several orders that are outside section 356 altogether.

The Board, or an authority it authorises, may **transfer** a pending appeal either way, and the appellant must then be given an opportunity of being reheard [section 356(3) and (4)].

CHAPTER TWO

Appealable Orders — Sections 356 and 357

Sections 356 and 357

There is no general right of appeal. An order is appealable only if it is in the list.

2.1 Appeals to the Joint Commissioner (Appeals) [section 356]

Any **assessee, deductor or collector** aggrieved by any of the following orders of an **Assessing Officer below the rank of Joint Commissioner** may appeal to the Joint Commissioner (Appeals) —

Clause	Order
(a)	An **intimation under section 270(1) or 399(1)**, where he objects to the **adjustments** made in it
(b)	An order under **section 270(10) or 271**, where the assessee objects to the **income assessed**, the **tax determined**, the **loss computed**, or the **status** under which he is assessed
(c)	An order of **assessment, reassessment or recomputation under section 279**
(d)	An order under **section 398** — the deductor or collector treated as an assessee in default
(e)	An order **imposing a penalty under Chapter XXI**
(f)	An order under **section 287 or 288** amending any of the above

"**Status**" means the category of person under section 2(77) under which the assessee is assessed [section 356(7)] — so an individual assessed as an association of persons, or a firm assessed as an association, may appeal on that ground alone.

2.2 The bar in section 356(2), and transfer of appeals

- **356(2) — no appeal shall be filed before the Joint Commissioner (Appeals)** if the order was passed **by, or with the prior approval of, an income-tax authority above the rank of Deputy Commissioner**.
- **356(3)** — the Board or an authorised authority may **transfer** a pending appeal from the Commissioner (Appeals) to the Joint Commissioner (Appeals), or from the Joint Commissioner (Appeals) to the Commissioner

(Appeals); the transferee proceeds from the stage at which it was transferred.

- **356(4)** — on such a transfer the appellant **shall be given an opportunity of being reheard**.
- **356(5)** — the Central Government may notify a **faceless scheme** for the disposal of these appeals, eliminating the interface between the Joint Commissioner (Appeals) and the appellant to the extent technologically feasible.

2.3 Appeals to the Commissioner (Appeals) [section 357]

Any assessee, deductor or collector aggrieved by any of the following orders may appeal to the Commissioner (Appeals). The list is long, and the marks lie in knowing that it is a **list** and not a general right.

Clause	Order
(a)	An order of a **Joint Commissioner under section 231(4)(b)**
(b)	An order against the assessee **where he denies his liability to be assessed under this Act** — the widest clause in the section
(c)	An **intimation under section 270(1) or 399(1)**, objecting to the adjustments
(d)	An order of **assessment under section 270(10) or 271** — **except** an order in pursuance of the directions of the **Dispute Resolution Panel** or an order under section 274(12)

Clause	Order
(e)	An order of assessment, reassessment or recomputation under **section 279 or 283**, with the same two exceptions
(f)	An order under **section 169(3)(a)**
(g)	An order under **section 287 or 288** having the effect of **enhancing the assessment or reducing a refund**, or **refusing to allow the claim** made by the assessee
(h)	An order under **section 306** treating the assessee as the **agent of a non-resident**

Clause

Order

(i) and (j)	Orders under **section 313(2) or (4)** and **section 315**
(k)	An order under **section 398** — deductor or collector in default
(l) and (m)	Orders under **section 431** (refunds) and **section 434** (refund for denying liability to deduct)
(n)	An order **imposing or enhancing a penalty under Chapter XXI**
(o)	An order **imposing a penalty under section 412** — penalty when tax is in default
(p)	An order under **section 294(1)(c)** — a **block assessment** in a search case
(q)	An order imposing a penalty under **section 298(2)** — the block-assessment penalty
(r)	Any other order of an Assessing Officer **in the case of such person or class of persons as the Board may direct**, having regard to the nature of the cases and the complexities involved

2.4 Orders that are not appealable to the first appellate authority

WHERE THE FIRST APPEAL IS BARRED, AND WHAT THE REMEDY IS INSTEAD

Order	Remedy
An assessment passed **in pursuance of the directions of the Dispute Resolution Panel**	**Direct appeal to the Appellate Tribunal** — section 362(1)(d). The assessee has already been heard by a collegium of three Commissioners
An assessment passed with the approval of the Principal Commissioner under **section 274(12)** — the general anti-avoidance rule	**Direct appeal to the Appellate Tribunal** — section 362(1)(e)
An order of **revision under section 377**, or a penalty under section 439 or 465 passed by a Commissioner	**Direct appeal to the Appellate Tribunal** — section 362(1)(b)
An order under section 287 or 288 which **does not** enhance the assessment, reduce a refund or refuse a claim	**No appeal.** The assessee is not aggrieved
An order of **revision under section 378**, which by definition is not prejudicial to the assessee	**No appeal**; and the Commissioner's refusal to revise is not itself appealable

CHAPTER THREE

Form, Fee and Limitation — Section 358

Section 358 · Rule 167 · Form No. 99 Four fees, thirty days, and one pre-condition that defeats more appeals than any point of law.

3.1 The form [section 358(1), Rule 167, Form No. 99]

Every appeal to the Joint Commissioner (Appeals) or the Commissioner (Appeals) is made in **Form No. 99** [Rule 167(1)] — the successor to Form 35 of the repealed Rules.

Requirement	Rule
Manner of furnishing	Where the assessee must furnish his return electronically under Rule 164 or 180 — **(i)** electronically **under digital signature** if the return is so furnished; **(ii)** otherwise electronically **through electronic verification code**. Where he has the option to file the return on paper, the form is **still furnished electronically** in the same manner [Rule 167(2)]
Verification	By the person **authorised to verify the return under section 265** — the same table as in Unit 2, Chapter 9 [Rule 167(3)]
Documents	Any document accompanying Form No. 99 is furnished **in the same manner** as the form [Rule 167(4)]

3.2 The fee [section 358(2)]

Clause	Where the total income as computed by the Assessing Officer is	Fee
358(2)(a)	**₹1,00,000 or less**	**₹250**
358(2)(b)	More than ₹1,00,000 but not more than **₹2,00,000**	**₹500**
358(2)(c)	More than **₹2,00,000**	**₹1,000**
358(2)(d)	Where the subject matter is **not covered** by clauses (a), (b) and (c) — for example an appeal by a deductor under section 398, or against a penalty where no income is computed	**₹250**

The fee is measured by the **total income computed by the Assessing Officer**, not by the returned income and not by the amount in dispute. The maximum first-appeal fee is therefore ₹1,000, however large the demand.

3.3 The thirty days [section 358(3) and (4)]

The appeal shall be presented **within thirty days** —

- **(a)** where the appeal relates to **any assessment or penalty** — from the **date of service of the notice of demand**; or
- **(b)** in any other case — from the **date on which intimation of the order** appealed against is served.

358(4) — for clause (a), where an application under **section 440(1)** for waiver of penalty and immunity is **rejected**, the period from the date of the application to the date of service of the order of rejection is **excluded**. Section 372 adds a second exclusion of general application: in computing the period of limitation for any appeal under the

Chapter, the day on which the order was served and the time taken in obtaining a copy of the order are excluded.

Chapter, the day on which the order was served and the time taken in obtaining a copy of the order are excluded.

3.4 Condonation of delay [section 358(5)]

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

There is **no outer limit** on the delay that may be condoned — the only test is sufficient cause. But the cause must be shown for the **whole** of the delay, and an application for condonation, supported by an affidavit, should accompany the appeal.

3.5 The pre-condition of payment of tax [section 358(6) and (7)]

> **THE PROVISION THAT DEFEATS THE MOST APPEALS**
>
> **No appeal shall be admitted unless, at the time of filing —**
>
> - **(a)** where a **return has been filed** — the assessee **has paid the tax due on the income returned by him**; or
> - **(b)** where **no return has been filed** — the assessee has paid **an amount equal to the advance tax which**
>
> **was payable by him.**
>
> **358(7)** — in a case falling under clause (b) only, the appellate authority may, **on an application and for reasons**
>
> **to be recorded in writing, exempt him from that requirement. There is no such exemption for clause (a): the**
>
> tax on the returned income must be paid, and no discretion exists to waive it.

CHAPTER FOUR

Procedure in Appeal — Section 359

Section 359

A hearing at which both sides appear, and an order that must state the points and the reasons.

4.1 Hearing and the right to be heard [section 359(1) and (2)]

The appellate authority shall fix a day and place for the hearing and give notice to the appellant and to the **Assessing Officer** against whose order the appeal is preferred. The following have the **right to be heard** —

- **(a)** the **appellant**, either in person or by an **authorised representative**; and
- **(b)** the **Assessing Officer**, either in person or by a representative.

Note that the Assessing Officer is a **party** to the first appeal with a right of audience. The first appeal is not an administrative review; it is an adversarial proceeding.

4.2 Additional grounds and further inquiry [section 359(3)]

Clause	Power
(a)	**Adjourn** the hearing
(b)	Make such **further inquiry** as he thinks fit before disposing of the appeal, **or direct the Assessing Officer to make further inquiry and report** the result
(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 was not wilful or unreasonable**

Clause (c) is the source of the **additional ground**. It is a discretion, and it must be asked for — a ground not raised and not admitted cannot be argued. The corresponding power to admit **additional evidence** is regulated by the Rules and is exercised sparingly, chiefly where the Assessing Officer refused to admit the evidence or gave no adequate opportunity to produce it.

4.3 The order [section 359(4) to (7)]

- The order shall be **in writing** and shall state the **points for determination, the decision on them, and the reasons for the decision**.
- The appellate authority may, **where it is possible**, hear and decide the appeal **within one year from the end of the financial year in which the appeal is filed**. The provision is directory, not mandatory — a delay does not invalidate the order.
- On the disposal of the appeal, the order is **communicated to the assessee and to the Principal Commissioner or Commissioner**.

CHAPTER FIVE

Powers of the First Appellate Authority — Section 360

Section 360 The widest appellate powers in the Act — and one of them works against the appellant.

5.1 The five powers [section 360(1)]

Clause	In an appeal against	The authority may
(a)	An **order of assessment**	**Confirm, reduce, enhance or annul** the assessment
(b)	An assessment made under **section 271** — best judgment	**Set aside the assessment and refer the case back** to the Assessing Officer for a **fresh assessment**. Note that this power of remand belongs to the **Commissioner (Appeals)** and, on the language of the clause, only in a section 271 case
(c)	An assessment where the Settlement Commission proceeding **abated** under section 245HA of the 1961 Act	Confirm, reduce, enhance or annul, after considering the material produced before, and the inquiry held by, the Settlement Commission
(d)	An order **imposing a penalty**	**Confirm or cancel** the order, or **vary** it so as either to **enhance or to reduce** the penalty
(e)	**Any other case**	Pass **such orders in the appeal as he thinks fit**

5.2 The power of enhancement [section 360(2)]

> **THE APPEAL THAT MAKES THE ASSESSEE WORSE OFF**
>
> **The first appellate authority may enhance an assessment or a penalty, or reduce the amount of refund. It is a**
>
> real power and it is exercised. The only safeguard is procedural — he **shall not do so unless the appellant has**
>
> **had a reasonable opportunity of showing cause against such enhancement or reduction.**
>
> The practical lesson is that a first appeal is not risk-free. An assessee who appeals against an addition of ₹2,00,000 may find the authority enhancing it to ₹5,00,000. The Appellate Tribunal has **no** such power of enhancement, and that is one reason why a poorly-founded first appeal is worse than none.

5.3 Matters not raised by the appellant [section 360(3)]

The appellate authority may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, irrespective of the fact that the matter was not raised before him by the appellant.

The words are “**arising out of the proceedings**”, and they define the outer boundary. The authority may take up an issue that was before the Assessing Officer and was not decided, or was decided and not appealed. He may not take up a source of income which was never the subject of the assessment proceedings at all.

5.4 Illustrations

ILLUSTRATION 5.1 — THE APPEAL THAT MUST NOT BE ADMITTED

Shri Anil returned a total income of ₹9,00,000 on which the tax was ₹52,000, of which he paid only ₹20,000. The Assessing Officer assessed him at ₹16,00,000 and raised a demand of ₹3,10,000. Shri Anil filed an appeal in Form No. 99 within thirty days, paying the fee of ₹1,000 but nothing more. *Will the appeal be admitted?*

No. Section 358(6)(a) provides that where a return has been filed, no appeal shall be admitted unless the assessee **has paid the tax due on the income returned by him** — here ₹52,000. He has paid ₹20,000. Until he

pays the balance of ₹32,000, the appeal is not maintainable, and there is **no power to exempt him**: section 358(7) applies only to clause (b), the no-return case.

The fee of ₹1,000 is correct — the total income computed by the Assessing Officer, ₹16,00,000, exceeds ₹2,00,000, so clause (c) of section 358(2) applies.

ILLUSTRATION 5.2 — ENHANCEMENT IN THE FIRST APPEAL

Smt. Bela appealed against an addition of ₹4,00,000 on account of unexplained cash credits. At the hearing the Commissioner (Appeals) formed the view that a further ₹6,00,000 of credits, examined by the Assessing Officer and accepted by him, was equally unexplained, and enhanced the assessment accordingly without further notice. *Is the enhancement valid?*

The power exists but the procedure was bad. Section 360(1)(a) permits enhancement, and section 360(3) permits the authority to take up a matter **arising out of the proceedings** even though the appellant did not raise it — the ₹6,00,000 was examined in the assessment proceedings, so it arises out of them. But section 360(2)

forbids enhancement unless the appellant has had a reasonable opportunity of showing cause. No such

opportunity was given, and the enhancement is liable to be set aside on that ground alone.

CHAPTER SIX

The Appellate Tribunal — Sections 361 to 364

Sections 361 to 364 · Rule 193 · Forms No. 115 and 116

The last authority that may find facts, and the only one that may stay a demand.

6.1 Constitution [section 361]

- The Central Government shall constitute an **Appellate Tribunal** consisting of as many **Judicial and Accountant Members** as it thinks fit.
- The **President** shall be a person who is a **sitting or retired Judge of a High Court with not less than seven years' service as a Judge**, or one of the **Vice-Presidents** of the Tribunal [section 361(3)].
- The Central Government may appoint one or more **Vice-Presidents**, who exercise such powers as the President delegates [section 361(4) and (5)].
- The terms and conditions of service are governed by **Chapter II of the Tribunals Reforms Act, 2021** for members appointed after its commencement [section 361(2)(a)].

The Tribunal is **not** an income-tax authority under section 236. It is an independent quasi-judicial body under the Ministry of Law, and that independence is the reason its findings of fact are final.

6.2 Appealable orders, and who may appeal [section 362(1) and (2)]

Clause	Order appealable to the Tribunal
(a)	An order of a **Commissioner (Appeals) or Joint Commissioner (Appeals)** — the ordinary second appeal
(b)	An order of a **Principal Commissioner or Commissioner** under section 332(7), (8) or (9), 351(2)(ii) or 354(3); under **section 377** (revision), **439** (penalty for under-reporting) or **465**; or an order under section 287 amending any of them
(c)	An order of a **Principal Chief Commissioner, Chief Commissioner, Principal Director General, Director General, Principal Director or Director** under section 377 or 465, or under section 287 amending such an order
(d)	An order of an Assessing Officer under section 270(10) or 279 **in pursuance of the directions of the Dispute Resolution Panel**, or an order under section 287 in respect of it — **a direct appeal, the first appeal being barred**
(e)	An order of an Assessing Officer under section 270(10) or 279 **with the approval of the Principal Commissioner under section 274(12)** — the general anti-avoidance rule — or an order under section 287 or 288 in respect of it
(f)	An order of an Assessing Officer under **section 234(4)**

362(2) — the **Principal Commissioner or Commissioner**, if he objects to an order of the Joint Commissioner (Appeals) or Commissioner (Appeals), may **direct the Assessing Officer to appeal** to the Tribunal. This is the departmental appeal, and it is the reason the second tier is available to both sides.

6.3 Time, cross-objections and fee [section 362(3) to (8)]

Provision	What it lays down
362(3)	Every appeal shall be filed **within two months from the end of the month in which the order is communicated** to the assessee or to the Principal Commissioner or Commissioner
362(4)	On receiving notice that the other side has appealed, a party may — **even though he has not himself appealed** — file a **memorandum of cross-objections within thirty days** of receipt of the notice, in **Form No. 116**. It is disposed of **as if it were an appeal** filed in time

Provision	What it lays down
362(5)	The Tribunal may **admit an appeal or a memorandum of cross-objections after the period**, if satisfied that there was **sufficient cause**
362(6)	The appeal is in **Form No. 115** [Rule 193(1)], with a fee of — **₹500** where the total income computed is ₹1,00,000 or less; **₹1,500** where it is above ₹1,00,000 but not above ₹2,00,000; **1% of the assessed income subject to a maximum of ₹10,000** where it exceeds ₹2,00,000; and **₹500** for any other subject matter

Provision

What it lays down

362(7)	**No fee is payable** for a **departmental appeal** under sub-section (2) or for a **memorandum of cross-objections**
362(8)	An **application for stay of demand** shall be accompanied by a fee of **₹500**

6.4 Orders of the Tribunal [section 363(1) to (5)]

- **363(1)** — the Tribunal may, **after giving both parties an opportunity of being heard**, pass such orders as it thinks fit. It has no power of enhancement corresponding to section 360(2); it cannot make the appellant worse off than he was before the appellate order under challenge.
- **363(2)** — it may **amend any order to rectify a mistake apparent from the 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.
- **363(3)** — an amendment **enhancing an assessment, reducing a refund or increasing the liability** shall not be made **without a reasonable opportunity of being heard**.
- **363(4)** — an application by the assessee under sub-section (2) carries a fee of **₹50**.
- **363(5)** — the Tribunal **may, where it is possible, hear and decide the appeal within four years** from the end of the financial year in which it is filed.
- **363(9) to (11)** — costs are at the Tribunal's discretion; a copy of every order goes to the assessee and to the

Principal Commissioner or Commissioner; and, save for an appeal to the High Court under section 365, orders of the Tribunal are final.

6.5 The power of stay [section 363(6) to (8)]

TWENTY PER CENT, ONE HUNDRED AND EIGHTY DAYS, THREE HUNDRED AND SIXTY-FIVE DAYS

- **363(6)** — the Tribunal may pass an order of **stay for a period not exceeding one hundred and eighty days**, subject to the assessee **(a) depositing not less than 20%** of the tax, interest, fee, penalty or other sum

payable, or (b) furnishing security of an equal amount; and the Tribunal shall dispose of the appeal within that period.

- **363(7)** — no **extension** shall be granted unless the assessee applies, has complied with the 20% condition,

and the Tribunal is satisfied that the delay is not attributable to him; and the aggregate of the original and extended stay shall not exceed three hundred and sixty-five days.

- **363(8)** — the stay **stands vacated** if the appeal is not disposed of within the period allowed, **even if the**

delay is not attributable to the assessee.

6.6 Procedure of the Tribunal [section 364]

The Tribunal has power to **regulate its own procedure** and the procedure of its Benches. A Bench ordinarily consists of **one Judicial Member and one Accountant Member**; the **President or an authorised member sitting singly** may dispose of a case where the **total income as computed by the Assessing Officer does not exceed ₹50,00,000** [section 364(3)]; and the President may constitute a **Special Bench of three or more members**, of whom one must be a Judicial Member and one an Accountant Member [section 364(4)]. Where the members of a Bench **differ**, the point is decided by the majority; and where they are **equally divided**, the point is referred by the President to **one or more other members**, and decided by the **majority of all the members who have heard the case, including those who first heard it** [section 364(5)].

Section 364(6) gives the Tribunal power to **regulate its own procedure**, including the places at which its Benches sit. Section

364(7) gives it all the powers vested in the income-tax authorities under section 246, and makes every proceeding before it a

judicial proceeding.

CHAPTER SEVEN

The High Court and the Supreme Court — Sections 365 to 370

Sections 365 to 370

Two tiers that decide only law — and one section which says that the tax must be paid meanwhile.

7.1 The substantial question of law [section 365(1) to (6)]

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.

Provision	What it lays down
365(2)(a)	The appeal — by the **Principal Chief Commissioner, Chief Commissioner, Principal Commissioner, Commissioner or the assessee** — shall be filed **within one hundred and twenty days** from the date on which the order is **received**
365(2)(b)	It shall be in the form of a **memorandum of appeal precisely stating the substantial question of law** involved
365(3)	The High Court **may admit an appeal after the 120 days** if satisfied that there was **sufficient cause**
365(4) and (5)	Where satisfied that a substantial question of law is involved, the Court **shall formulate that question**, and the appeal is **heard only on the question so formulated** — the respondent being free to argue that no such question arises
365(6)	The Court may nevertheless, **for reasons to be recorded**, hear the appeal on **any other substantial question of law not formulated by it**, if satisfied that the case involves it

A "substantial question of law" is one that is **debatable, not previously settled**, and which **materially affects the rights of the parties**. A finding of fact by the Tribunal is not a question of law — unless it is perverse, or based on no evidence, or arrived at by ignoring relevant material or considering irrelevant material, in which case a question of law does arise.

7.2 The judgment and its effect [section 365(7) to (10)]

- The High Court **shall decide the question so formulated and deliver a judgment stating the grounds** on which the decision is founded, and **may award such cost as it deems fit** [section 365(7)].
- It may **determine any issue** which the Tribunal has not determined, or has wrongly determined by reason of a decision on the question of law [section 365(8)].
- The appeal is **heard by a Bench of not less than two Judges**, and decided by the **majority**; where the Judges are equally divided, the point is referred to one or more other Judges, and decided by the majority of all who have heard it, including those who first heard it [section 366].
- A copy of the judgment is sent to the Tribunal, which **passes such orders as are necessary to dispose of the case conformably to the judgment** [section 365(10)].

7.3 Hearing by two Judges [section 366]

Section 366 states the rule shortly: a case before the High Court under this Chapter **shall be heard by a Bench of not less than two Judges**, and shall be decided in accordance with the opinion of the majority.

7.4 Appeal to the Supreme Court [sections 367 and 368]

An appeal lies to the Supreme Court from any judgment of the High Court delivered on an appeal against an order under section 363, in any case which the High Court certifies to be a fit case for appeal to the Supreme

Court.

- The provisions of the **Code of Civil Procedure, 1908** relating to appeals to the Supreme Court apply so far as may be [section 368(1)].
- The **costs** are at the discretion of the Supreme Court [section 368(2)].
- Where the High Court's judgment is **varied or reversed**, effect is given to the Supreme Court's order in the manner provided in section 365(10) [section 368(3)].
- The High Court may, on a petition for execution of an order of the Supreme Court as to **costs**, transmit the order for execution to any subordinate court [section 370].

Section 367 is not the only route to the Supreme Court. Independently of the Act, a **special leave petition** lies under **Article 136 of the Constitution** against any order of the High Court or the Tribunal, and in practice most appeals reach the Supreme Court that way rather than by certificate.

7.5 Tax payable irrespective of appeal [section 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."

The section states the general principle that an appeal is not a stay. At the first two tiers a stay may be obtained — from the Assessing Officer under section 411(12), or from the Tribunal under section 363(6). At the third and fourth tiers section 369 is categorical: the tax is payable.

CHAPTER EIGHT

Other Appeal Provisions — Sections 371 to 376

Sections 371 to 376 · Rules 194 and 195 · Forms No. 117 and 118 Four short sections that dispose of four recurring practical problems.

8.1 Amendment of assessment on appeal [section 371]

If, as a result of an appeal under section 356, 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 ordered, the Assessing Officer **shall amend the assessment of the members accordingly**. The provision is the appellate counterpart of section 288.

8.2 Exclusion of time taken for a copy [section 372]

In computing the period of limitation for an appeal under this Chapter, **the day on which the order complained of was served, and — if the appellant was not furnished with a copy of the order when the notice of the order was served on him — the time requisite for obtaining a copy of the order, shall be excluded**.

The exclusion is automatic and does not need to be applied for; but the appellant must be able to show the dates on which the copy was applied for and received.

8.3 Filing of appeal by an income-tax authority [section 373]

The Board may issue orders, instructions or directions fixing monetary limits for the purpose of regulating the filing of appeals by income-tax authorities [section 373(1)]. Where, in pursuance of such an instruction, no appeal has been filed on an issue in the case of an assessee for a tax year, that **does not preclude** the authority from filing an appeal on the **same issue** in the case of the **same assessee for another tax year**, or of **any other assessee** [section 373(2)]. The section is the statutory basis of the familiar departmental circulars prescribing tax-effect thresholds below which the Department will not appeal. Sub-section (2) makes clear that not appealing in one year is **not acquiescence** in the point.

8.4 Repetitive appeals [sections 375 and 376, Forms No. 117 and 118]

WHERE THE SAME QUESTION OF LAW IS ALREADY PENDING

- **Section 375** — where an assessee claims that a **question of law arising in his case for a year is identical** with one already pending before the High Court or the Supreme Court in his own case for another year, he may furnish a declaration in Form No. 117 [Rule 194] — in duplicate to the first appellate authority, or in **triplicate** to the Tribunal. If the authority is satisfied, and with the agreement of the Principal Commissioner or Commissioner, it may **defer the appeal on that question** until the higher court decides it, and then dispose of it conformably. The period of **not more than sixty days** from the receipt of the declaration to the order is excluded from the assessment limitation [section 286(3)(f)].
- **Section 376** — the mirror provision for the **department**. Where an identical question of law is already pending before a High Court or the Supreme Court, the Assessing Officer may apply in **Form No. 118** [Rule 195] to defer the filing of an appeal before the Tribunal or the High Court until the question is decided.

Both sections exist to prevent the same point being litigated twice over at the same time, at the cost of both sides.

CHAPTER NINE

Revision by the Competent Authority — Sections 377 and 378

Sections 377 and 378

Two powers with the same name and opposite purposes. One is used against the assessee; the other only for him.

9.1 Revision prejudicial to the revenue [section 377]

The Competent Authority may call for and examine the record of any proceeding under the Act, and if he considers that any order passed by the Assessing Officer or the Transfer Pricing Officer 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 such inquiry as he deems necessary — pass such order as the circumstances justify,
including —

- **(a)** an order **enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment**;
- **(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 it.

> **THE TWIN TEST — AND IT IS CONJUNCTIVE**
>
> **The order must be erroneous and prejudicial to the interests of the revenue. An order which is erroneous but**
> causes no loss to the revenue cannot be revised; nor can an order which causes loss but is not erroneous. Where the Assessing Officer has taken **one of two possible views** after enquiry, the order is not erroneous merely because the Commissioner would have taken the other.

Provision	What it clarifies
377(2)(a)	"An order passed by the Assessing Officer" **includes** — an assessment on the directions of a Joint Commissioner under **section 272**; an order made by a Joint Commissioner exercising the powers of an Assessing Officer; and an order under **section 166**
377(2)(b)	"**Record**" includes **all records relating to any proceeding available at the time of examination** — not merely the record as it stood when the order was passed
377(2)(c)	Where the order **has been the subject matter of an appeal**, the Competent Authority's powers extend **only to matters not considered and decided in that appeal** — the doctrine of partial merger, as in section 287(2)

9.2 Revision of other orders [section 378]

The Competent Authority may, in respect of any order other than one to which section 377 applies, passed by an authority subordinate to him, either of his own motion or on an application by the assessee —

- **(a)** call for the record of the proceeding; **(b)** make or cause to be made such inquiry; and **(c)** pass such order as he thinks fit, **not being an order prejudicial to the assessee**.

Provision	Limit
378(2)	He shall **not of his own motion** revise an order **made more than one year previously**
378(3)	An application by the assessee shall be made **within one year** from the date on which the order was **communicated to him, or the date on which he otherwise came to know of it, whichever is earlier**
378(4)	The Competent Authority may **admit a late application** if satisfied that the assessee was prevented by **sufficient cause**

Provision	Limit
378(5)	**No revision** where — **(a)** an appeal lies to the first appellate authority or the Tribunal, has **not been made**, and the time to appeal **has not expired**; **(b)** an appeal lies and the assessee **has not waived his right of appeal**; or **(c)** the order **has been made the subject of an appeal**

Sub-section (5) is the reason section 378 is a residual remedy. So long as an appeal is available and unexhausted, the assessee must appeal. Section 378 comes into its own where the time to appeal has expired, or where the order is one against which no appeal lies.

9.3 The two revisions compared

Point	Section 377	Section 378
In whose favour	**The revenue**	**The assessee**
Who may set it in motion	The Competent Authority **only**, of his own motion	The Competent Authority of his own motion, **or the assessee by application**
Condition	The order is **erroneous and prejudicial to the interests of the revenue**	Any other order of a subordinate authority
What may be ordered	Enhancement, modification, or **cancellation with a direction to make a fresh assessment**	Any order **not prejudicial to the assessee**
Hearing	**Compulsory** — the assessee must be heard	Not expressly required, the order not being prejudicial
Time limit	None stated in the section	**One year** — from the order, for suo motu revision; from communication, for an application
Where an appeal is available	Powers extend only to matters **not considered and decided** in appeal	**Barred altogether** until the right of appeal is exhausted or waived
Appeal against the revisional order	**Yes** — to the Appellate Tribunal under section 362(1)(b)	**No**

9.4 Illustrations

ILLUSTRATION 9.1 — ERRONEOUS, OR MERELY DIFFERENT?

The Assessing Officer, after calling for details and examining the replies, allowed a claim for repairs of ₹28,00,000 as revenue expenditure. The Principal Commissioner, on examining the record, considers that a part of it was capital in nature, and proposes to revise the order under section 377. *Advise.*

Section 377 requires the order to be **erroneous** as well as prejudicial to the revenue. Where the Assessing Officer made an **enquiry**, considered the replies, and took **one of two possible views**, the order is not erroneous merely because the Commissioner prefers the other view. Revision on that footing would be a substitution of opinion, not a correction of error.

*Change one fact — had the Assessing Officer allowed the claim **without any enquiry at all**, the position would be different. An order passed without the enquiry which the circumstances called for is erroneous, and if it is also prejudicial to the revenue, section 377 is attracted.*

ILLUSTRATION 9.2 — APPEAL OR REVISION?

Advise on the correct remedy in each case.

1. An assessment order was served on 3 March 2029; the assessee did nothing, and it is now 20 September 2029. — The thirty days have long expired. He may still apply for **condonation of delay** under section 358(5) if he has sufficient cause; failing that, his remedy is an application for **revision under section 378**, which he may make within **one year** of communication, that is by 2 March 2030 — but only if he has **waived his right of appeal** or the time to appeal has expired [section 378(5)(a) and (b)].

2. The Commissioner has passed an order under section 377 cancelling the assessment. — A direct appeal to the Appellate Tribunal under section 362(1)(b)(ii), within two months from the end of the month of communication.

3. The Commissioner has refused an application under section 378. — No appeal lies. An order under section 378 is not in the list in section 362, and by definition it is not prejudicial. The remedy, if any, is a writ petition.

4. The assessee wishes to challenge an order which has already been decided against him in appeal by the Commissioner (Appeals). — Appeal to the Tribunal under section 362(1)(a). Revision is barred by section 378(5)(c), and section 377 is available only to the Commissioner and only for matters not decided in the appeal.

CHAPTER TEN

The Dispute Resolution Committee — Section 379

Section 379 · Rules 196 to 198 · Form No. 119

A small-case settlement forum: three members, ₹1,000 to apply, and immunity from penalty and prosecution at the end of it.

10.1 Constitution and composition [section 379(1), Rule 196]

The Central Government shall constitute one or more Dispute Resolution Committees for dispute resolution in the

case of such persons or classes of persons as the Board specifies, who **opt** for it in respect of a dispute arising from any variation in a **specified order** and who fulfil the prescribed conditions.

Rule 196	What it provides
196(1)	A Committee is constituted **for every region of a Principal Chief Commissioner of Income-tax**
196(2)	Each Committee consists of **three members** — **two retired officers** of the Indian Revenue Service (Income-tax) who have held the post of Commissioner or an equivalent or higher post **for five years or more**, and **one ex-officio member** not below the rank of Principal Commissioner or Commissioner
196(3)	Members are appointed for **three years**
196(5)	The **decision is by majority**
196(6)	A member may be removed **for reasons recorded in writing and after a reasonable opportunity of being heard**

10.2 What a "specified order" is [section 379(4)]

THE THREE CONDITIONS — ALL MUST BE SATISFIED

- **(i)** the **aggregate sum of variations** proposed or made in the order **does not exceed ₹10,00,000**;
- **(ii)** the order is **not based on** a **search** under section 247, a **requisition** under section 248 (in the case of the

assessee or any other person), a survey under section 253, or information received under a tax treaty

under section 159(1) or (2); and

- **(iii)** where the assessee has filed a return for the tax year, the **total income as per that return does not**

exceed ₹50,00,000.

The expression includes a **draft order** under section 275(1), so an eligible assessee may take a small transfer pricing variation to the Committee instead of to the Dispute Resolution Panel.

10.3 The powers of the Committee [section 379(2) and (3), Rule 198]

- **379(2)** — the Committee may, subject to the prescribed conditions, **make modifications to the variations** in the specified order, **reduce or waive any penalty** imposable, or **grant immunity from prosecution** for any

offence under the Act.

- **Rule 198(1)** — the reduction, waiver or immunity is granted **for reasons recorded in writing**, subject to such conditions as the Committee thinks fit, if it is satisfied that the person has **(i) paid the tax due on the returned income in full**, and **(ii) co-operated** with the Committee.
- **Rule 198(2)** — **no immunity** where prosecution proceedings were **initiated before** the date of receipt of the application.
- **Rule 198(3)** — the immunity or waiver **stands withdrawn** if the person fails to comply with any condition subject to which it was granted.

- **379(3)** — irrespective of section 275, on receipt of the Committee's order the Assessing Officer shall — where the specified order was a **draft order**, pass the assessment order; and in any other case, **modify** the order — in conformity with the Committee's directions, **within one month from the end of the month in which the order is received**.

10.4 The application [Rule 197, Form No. 119]

The application is made in **Form No. 119** by the person who opts for dispute resolution and fulfils the specified conditions, and it is **accompanied by a fee of ₹1,000** [Rule 197]. The proceedings are conducted under the **e-**

Dispute Resolution Scheme, 2022, to which Rule 198 refers.

CHAPTER ELEVEN

Preparing and Filing an Appeal — a Walkthrough

Sections 357 to 360 · Rule 167 · Form No. 99

Written for the prescribed exercise — "Illustrate the filing of appeals with appellate authorities". Six steps, in the order in which they are actually done.

11.1 Before you begin — the six documents

ASSEMBLE THESE BEFORE OPENING THE PORTAL

1. The **order appealed against**, with the date of service noted on it. 2. The **notice of demand under section 289** (Form No. 103), with its date of service — limitation runs from this date in an assessment or penalty appeal. 3. The **return of income** for the year, and the **computation** filed with it.

4. Proof of payment of the tax due on the returned income — the challan. Without this the appeal cannot be admitted [section 358(6)(a)].

5. The **appeal fee challan** — ₹250, ₹500 or ₹1,000 according to section 358(2).

6. The documentary evidence relied on, and any application for condonation of delay with an affidavit, if the appeal is late.

11.2 Step 1 — check that the order is appealable and identify the authority

- Find the order in the list in **section 356 or 357**. If it is not there, there is **no appeal** — consider rectification under section 287 or revision under section 378 instead.
- Ask who passed it. If it was passed by an Assessing Officer **below the rank of Joint Commissioner**, and **not** by or with the approval of an authority **above the rank of Deputy Commissioner**, the appeal lies to the **Joint Commissioner (Appeals)**. Otherwise it lies to the **Commissioner (Appeals)**.
- Check the two exclusions. If the order was passed **in pursuance of the directions of the Dispute Resolution Panel**, or with the approval of the Principal Commissioner under **section 274(12)**, the first appeal is barred and the appeal lies **direct to the Appellate Tribunal** [section 362(1)(d) and (e)].

11.3 Step 2 — compute the limitation

Step	Authority
Start from the **date of service of the notice of demand** (assessment or penalty), or of the **intimation of the order** (any other case)	358(3)
Exclude the day of service, and the time taken in obtaining a copy of the order if none was furnished	372
Exclude the period during which an application under section 440(1) was pending, if it was rejected	358(4)
Count **thirty days**	358(3)
If late, prepare an **application for condonation** showing sufficient cause **for the whole period** of delay	358(5)

11.4 Step 3 — pay the admitted tax and the appeal fee

Pay, **before filing — (a)** the **tax due on the returned income**, in full, if a return was filed; or, if none was filed, **an amount equal to the advance tax payable**, unless exemption is sought under section 358(7); and **(b)** the **appeal fee**. Keep both challans; their particulars are entered in Form No. 99.

11.5 Step 4 — draft the statement of facts and the grounds of appeal

TWO DOCUMENTS, TWO DIFFERENT JOBS

- The **Statement of Facts** narrates **what happened** — the return, the notice, what was produced, what the Assessing Officer held and why. It is chronological, factual and neutral in tone. It argues nothing.
- The **Grounds of Appeal** state **what is wrong with the order**. Each ground is a separate numbered sentence, each attacks **one** finding, and each says **why** it is bad — in law, on the facts, or for want of natural justice. Do not argue the ground; that is done at the hearing.

Add a final ground reserving liberty to **add to, alter or amend** the grounds, and — if an additional ground may be needed later — remember section 359(3)(c), under which the authority may allow a ground not specified if

the omission was not wilful or unreasonable.

11.6 Step 5 — file Form No. 99 on the portal

1. Log in to the e-filing portal with the assessee's own credentials.

2. Navigate to e-File → Income Tax Forms → File Income Tax Forms and select Form No. 99.

3. Select the **tax year** and the **order** appealed against; the portal picks up the order details from the assessment records. 4. Enter the **date of service** of the notice of demand and, where the appeal is late, the **reasons for delay**.

5. Upload the Statement of Facts, the Grounds of Appeal, a copy of the order appealed against and the notice of demand.

6. Enter the **appeal fee challan** particulars — BSR code, date of deposit and challan serial number. 7. **Verify** the form — by **digital signature** if the return is furnished under digital signature, otherwise by **electronic verification code** [Rule 167(2)]. The verifier must be the person authorised under **section 265** [Rule 167(3)]. 8. Submit, and preserve the **acknowledgement**.

Note that the form is filed electronically even by an assessee who is entitled to file his return on paper — Rule 167(2)(b)

leaves no option.

11.7 Step 6 — after filing

- Apply to the Assessing Officer under **section 411(12)** to be treated as **not in default** in respect of the disputed demand while the appeal is pending. Filing the appeal is **not** itself a stay.
- Watch for the **notice of hearing** under section 359(1), which fixes the day and place.
- Attend in person or by an **authorised representative**; the Assessing Officer has an equal right of audience [section 359(2)].
- Be ready for an **enhancement notice** under section 360(2). If one issues, the reply must be on the merits of the proposed enhancement.
- On receipt of the order, note the date of communication — the appeal to the Tribunal must be filed within **two months from the end of that month** [section 362(3)].

11.8 A specimen set of grounds of appeal

SPECIMEN — GROUNDS OF APPEAL IN FORM NO. 99

In the matter of an appeal under section 357 of the Income-tax Act, 2025 — Shri X, PAN ABCDE1234F, Tax Year 2026-27 — against the order of assessment under section 270(10) dated 12 January 2029.

1. That on the facts and in the circumstances of the case and in law, the learned Assessing Officer erred in assessing the total income at ₹42,60,000 as against the returned income of ₹18,40,000.

2. That the learned Assessing Officer erred in making an addition of ₹15,00,000 under section 102 as unexplained cash credit, having failed to appreciate that the identity, creditworthiness and genuineness of the creditors had been established by the confirmations, bank statements and income-tax particulars placed on record.

3. That the learned Assessing Officer erred in disallowing ₹6,20,000 of travelling and conveyance expenditure on an ad hoc basis, without pointing to any specific item as not having been incurred wholly and exclusively for the purposes of the business.

4. That the learned Assessing Officer erred in relying, for the addition in ground 2, upon a statement recorded from a third party which was never confronted to the appellant, in breach of section 268(12) and of the principles of natural justice.

5. That the learned Assessing Officer erred in charging interest under sections 423 and 424, the levy being consequential and disputed to the extent of the additions challenged above.

6. That the appellant craves leave to add to, alter, amend or withdraw any of the foregoing grounds of appeal on or before the hearing.

Observe the pattern of each ground — "erred in [doing what], having failed to appreciate that [why]". Each ground is self-

contained, identifies the amount, and states the reason. Interest is challenged as **consequential**, because an assessee cannot appeal against a levy of interest as such but may challenge it to the extent it flows from an addition under challenge.

CHAPTER TWELVE

Practical Problems with Solutions

Eight problems in the form in which the University of Delhi has set them.

PROBLEM 1 — WHICH AUTHORITY, AND IS THERE AN APPEAL AT ALL?

Sl.	Order	Answer
(a)	An assessment under section 270(10) by an Income-tax Officer	**Joint Commissioner (Appeals)** — section 356(1)(b)
(b)	The same assessment, passed with the prior approval of a Joint Commissioner	**Commissioner (Appeals)** — section 356(2) bars the Joint Commissioner (Appeals), the approving authority being above the rank of Deputy Commissioner
(c)	An assessment passed in pursuance of directions of the Dispute Resolution Panel	**Appellate Tribunal, directly** — section 362(1)(d); the first appeal is excluded by section 357(d)
(d)	An order of revision under section 377 by a Principal Commissioner	**Appellate Tribunal, directly** — section 362(1)(b)(ii)
(e)	An order under section 398 treating a deductor as an assessee in default	**Joint Commissioner (Appeals)** [section 356(1)(d)] or **Commissioner (Appeals)** [section 357(k)], according to the rank of the officer
(f)	An order refusing to rectify under section 287	**Commissioner (Appeals)** — section 357(g) covers an order **refusing to allow the claim** made under section 287
(g)	An order under section 378 declining to revise in the assessee's favour	**No appeal.** It is not in the list in section 357 or 362
(h)	A block assessment order under section 294(1)(c)	**Commissioner (Appeals)** — section 357(p)

PROBLEM 2 — THE FEE, COMPUTED

Compute the appeal fee in each case.

Case	First appeal	Tribunal
Total income computed by the Assessing Officer ₹85,000	**₹250** [358(2)(a)]	**₹500** [362(6)(a)]
Total income computed ₹1,80,000	**₹500** [358(2)(b)]	**₹1,500** [362(6)(b)]
Total income computed ₹6,50,000	**₹1,000** [358(2)(c)]	**₹6,500** — 1% of assessed income [362(6)(c)]
Total income computed ₹40,00,000	**₹1,000**	**₹10,000** — 1% would be ₹40,000, capped at ₹10,000
Appeal by a deductor against an order under section 398, no total income computed	**₹250** [358(2)(d)]	**₹500** [362(6)(d)]
Departmental appeal directed by the Commissioner under section 362(2)	—	**Nil** [362(7)]
Memorandum of cross-objections by the assessee	—	**Nil** [362(7)]
Application for stay of demand before the Tribunal	—	**₹500** [362(8)]

PROBLEM 3 — LIMITATION AT EVERY TIER

An assessment order for Tax Year 2026-27 was passed on 8 January 2029 and the notice of demand was **served on 15 January 2029**. State the last date at each stage, assuming each order is communicated on the date shown.

Stage	Date of service or communication	Last date to appeal
Appeal to the Commissioner (Appeals)	15 January 2029	**14 February 2029** — thirty days, excluding the day of service [sections 358(3)(a) and 372]
Appeal to the Appellate Tribunal	20 August 2030	**31 October 2030** — two months from the end of the month of communication [section 362(3)]
Memorandum of cross-objections by the Department, notice of the assessee's appeal received 12 November 2030	12 November 2030	**12 December 2030** — thirty days [section 362(4)]
Appeal to the High Court, the Tribunal's order received 4 April 2032	4 April 2032	**2 August 2032** — one hundred and twenty days [section 365(2)(a)]

Delay may be condoned at each stage on sufficient cause — section 358(5) at the first tier, section 362(5) at the Tribunal, and section 365(3) at the High Court.

PROBLEM 4 — THE STAY BEFORE THE TRIBUNAL

A demand of ₹80,00,000 is outstanding against Neelkanth Ltd., whose appeal is pending before the Appellate Tribunal. It applies for a stay on 10 May 2030. *Advise on the conditions and the duration.*

- The company must **deposit not less than 20%** of ₹80,00,000 — that is **₹16,00,000** — or furnish **security of an equal amount** [section 363(6)].
- The application must carry a fee of **₹500** [section 363(8)].
- The stay may be granted for **not more than one hundred and eighty days**, and the Tribunal **shall dispose of the appeal within that period**.
- An **extension** may be granted only if the company applies, has complied with the 20% condition, and the

Tribunal is satisfied that the delay is not attributable to it; and the aggregate stay cannot exceed 365

days [section 363(7)].

- If the appeal is not disposed of within the period allowed, the **stay stands vacated — even if the delay is not the company's fault** [section 363(8)].

PROBLEM 5 — ENHANCEMENT, AND THE ASSESSEE'S RISK

Shri Om appealed against an addition of ₹3,00,000. At the hearing the Commissioner (Appeals) issued a notice proposing to enhance the assessment by a further ₹9,00,000 in respect of a matter examined by the Assessing Officer but not added by him. Shri Om wishes to withdraw the appeal. *Advise.*

The power to enhance is conferred by **section 360(1)(a)**, and section 360(3) permits the authority to take up a matter arising out of the proceedings **even though the appellant did not raise it**. The notice is therefore

competent, and section 360(2) has been complied with by giving him an opportunity of showing cause.

Withdrawal is **not a matter of right**. Once the appellate authority is seised of the appeal, and particularly once it has issued an enhancement notice, it may decline permission to withdraw and proceed to dispose of the appeal on the merits. Shri Om's practical course is to **reply to the enhancement notice on the merits**, and if the enhancement is made, to appeal to the Tribunal — which has **no power of enhancement**.

PROBLEM 6 — APPEAL OR DISPUTE RESOLUTION COMMITTEE?

A draft order proposes variations aggregating ₹8,50,000 in the case of Smt. Priya, whose returned income for the year is ₹44,00,000. The order is not based on any search, requisition, survey or treaty information. *What are her options?*

All three conditions of a **"specified order"** in section 379(4) are satisfied — the variations of ₹8,50,000 do not exceed ₹10,00,000; the order is not based on a search, requisition, survey or treaty information; and her returned income of ₹44,00,000 does not exceed ₹50,00,000. She may therefore **opt for the Dispute Resolution**

Committee, applying in **Form No. 119** with a fee of **₹1,000**.

The advantage is that the Committee may not merely **modify the variations** but also **reduce or waive the penalty** and **grant immunity from prosecution**, if she has paid the tax on her returned income in full and co-operates [Rule 198(1)]. An ordinary appeal offers no immunity. The Assessing Officer must then pass or modify the order within **one month from the end of the month** in which the Committee's order is received [section 379(3)].

Change one fact — had the variations been ₹12,00,000, or her returned income ₹62,00,000, or the order founded on a survey, the Committee would not have been available and her only course would have been the ordinary appeal.

PROBLEM 7 — THE APPEAL THAT COULD NOT BE ADMITTED

Sagar Traders furnished no return for Tax Year 2026-27. The Assessing Officer completed a best judgment assessment under section 271 raising a demand of ₹6,40,000. The advance tax payable by the firm for the year was ₹1,90,000, none of which was paid. The firm now wishes to appeal. *Advise.*

Section 358(6)(b) applies — no return having been filed, the appeal cannot be admitted unless the firm has paid **an amount equal to the advance tax which was payable**, that is **₹1,90,000**.

But this is the one case in which relief is available. Under **section 358(7)** the appellate authority may, **on an application by the appellant and for reasons to be recorded in writing, exempt him** from that requirement.

The firm should file the appeal together with such an application, setting out its financial position. Note that **no such exemption exists under clause (a)** — an assessee who has filed a return must pay the tax on the returned income, without exception.

PROBLEM 8 — REMEDIES COMPARED ON ONE SET OF FACTS

An assessment order dated 6 March 2029 contains (i) an arithmetical error of ₹40,000 in the computation; (ii) a disallowance of ₹5,00,000 which the assessee says is wrong on the merits; and (iii) an addition of ₹9,00,000 made without confronting the assessee with the material relied on. The notice of demand was served on 12 March 2029. *Advise on the remedies for each.*

Item	Remedy
(i) The arithmetical error	**Rectification under section 287** — a mistake apparent from the record. No fee, and available for **four years** from the end of the financial year 2028-29, that is to **31 March 2033**. It may be pursued *alongside* the appeal, the matter not being one considered and decided in appeal
(ii) The disallowance on the merits	**Appeal** under section 357(d), by **11 April 2029** — thirty days from 12 March 2029, excluding the day of service
(iii) The addition made without confrontation	**Appeal**, on the ground of breach of **section 268(12)** and of natural justice. The appellate authority may annul or set aside the addition; in a section 271 case the Commissioner (Appeals) may also **set aside and remand** under section 360(1)(b)

*Before filing, the assessee must pay **the tax on his returned income** in full [section 358(6)(a)] and the appeal fee under section 358(2), and should apply to the Assessing Officer under **section 411(12)** to be treated as not in default for the disputed demand.*

Revision, Ready Reckoner and Question Bank

Everything in this Part reduced to tables that can be revised in an hour, followed by the questions the topic attracts.

13.1 Old section to new section

Subject	Income-tax Act, 1961	Income-tax Act, 2025
Appealable orders — Joint Commissioner (Appeals)	246	356
Appealable orders — Commissioner (Appeals)	**246A**	**357**
Form of appeal and limitation	249	358
Procedure in appeal	**250**	**359**
Powers of the Commissioner (Appeals)	**251**	**360**
Appellate Tribunal — constitution	252	361
Appeals to the Appellate Tribunal	**253**	**362**
Orders of the Appellate Tribunal	254	363
Procedure of the Appellate Tribunal	255	364
Appeal to the High Court	**260A**	**365**
Case before the High Court to be heard by two Judges	260B	366
Appeal to the Supreme Court	261	367
Hearing before the Supreme Court	262	368
Tax to be paid irrespective of appeal	265	369
Execution for costs awarded by the Supreme Court	266	370
Amendment of assessment on appeal	267	371
Exclusion of time taken for a copy	268	372
Filing of appeal by an income-tax authority — monetary limits	268A	373
Definition of “High Court”	269	374
Repetitive appeals — assessee's declaration	158A	375
Repetitive appeals — departmental application	158AB	376
Revision of orders prejudicial to revenue	**263**	**377**
Revision of other orders	**264**	**378**
Dispute Resolution Committee	245MA	379
Board for Advance Rulings	245-O	381 *(beyond this Unit)*
Form of appeal to the first appellate authority	Form 35	**Form No. 99**
Form of appeal to the Appellate Tribunal	Form 36	**Form No. 115**
Memorandum of cross-objections	Form 36A	**Form No. 116**

13.2 Every form and every fee

Form	What it is	Fee	Provision
99	Appeal to the **Joint Commissioner (Appeals) or Commissioner (Appeals)**	₹250 / ₹500 / ₹1,000 / ₹250	Section 358(2); Rule 167
115	Appeal to the **Appellate Tribunal**	₹500 / ₹1,500 / 1% of assessed income up to a maximum of ₹10,000 / ₹500	Section 362(6); Rule 193(1)
116	**Memorandum of cross-objections** to the Appellate Tribunal	**Nil**	Sections 362(4) and (7); Rule 193(2)
117	Declaration by the assessee that an **identical question of law is pending** — in duplicate to the first appellate authority, in triplicate to the Tribunal	—	Section 375; Rule 194
118	Application by the **Assessing Officer** to defer filing an appeal where an identical question is pending	—	Section 376; Rule 195
119	Application to the **Dispute Resolution Committee**	**₹1,000**	Section 379; Rule 197
—	Application to the Tribunal to **rectify a mistake** in its order	**₹50**	Section 363(4)
—	Application to the Tribunal for **stay of demand**	**₹500**	Section 363(8)

13.3 Objective questions

A. State whether True or False, with reasons

1. Every order of an Assessing Officer is appealable.

False. There is no general right of appeal; the order must fall within the list in section 356 or 357.

2. An appeal lies to the Joint Commissioner (Appeals) against an order approved by a Joint Commissioner.

False. Section 356(2) bars it where the order is passed by or with the approval of an authority above the rank of Deputy Commissioner.

3. An appeal may be admitted even though the tax on the returned income is unpaid.

False. Section 358(6)(a) is a condition of admission, and section 358(7) gives no power to exempt in that case.

4. A delay in filing the first appeal cannot be condoned beyond a year.

False. Section 358(5) prescribes no outer limit; the only test is **sufficient cause**.

5. The Commissioner (Appeals) may set aside an assessment and remand it in every case.

False. The power of remand in section 360(1)(b) is confined to an assessment made under **section 271**.

6. The Appellate Tribunal may enhance an assessment.

False. No such power is given by section 363. Enhancement belongs to the first appellate authority alone.

7. A memorandum of cross-objections requires a fee.

False. Section 362(7) exempts both a departmental appeal and a memorandum of cross-objections from any fee.

8. A stay granted by the Tribunal continues until the appeal is decided.

False. It stands vacated if the appeal is not disposed of within the period allowed, **even if the delay is not the assessee's fault** [section 363(8)].

9. An appeal to the High Court lies on a question of fact.

False. Section 365(1) requires a **substantial question of law**, which the Court must formulate.

10. The Commissioner may revise an order under section 377 without hearing the assessee.

False. Section 377(1) requires an opportunity of being heard and such inquiry as he deems necessary.

11. An order under section 378 may be prejudicial to the assessee.

False. Section 378(1)(c) forbids it — the order must not be prejudicial to the assessee.

12. An application to the Dispute Resolution Committee may be made whatever the amount involved.

False. Section 379(4) confines it to variations not exceeding ₹10,00,000 and a returned income not exceeding ₹50,00,000, and excludes search, requisition, survey and treaty-information cases.

B. Multiple choice

1. A first appeal must be filed within —

(a) 15 days (b) **30 days** (c) 60 days (d) 120 days *Answer: (b), section 358(3)*

2. The maximum fee for a first appeal is —

(a) ₹250 (b) ₹500 (c) **₹1,000** (d) ₹10,000 *Answer: (c), section 358(2)(c)*

3. An appeal to the Appellate Tribunal must be filed within —

(a) 30 days (b) 60 days (c) **two months from the end of the month of communication** (d) 120 days *Answer: (c), section 362(3)*

4. The maximum fee for an appeal to the Tribunal is —

(a) ₹1,000 (b) ₹1,500 (c) ₹5,000 (d) **₹10,000** *Answer: (d), section 362(6)(c)*

5. The Tribunal may grant a stay on a deposit of not less than —

(a) 10% (b) **20%** (c) 25% (d) 50% *Answer: (b), section 363(6)*

6. The aggregate period of stay before the Tribunal cannot exceed —

(a) 180 days (b) 270 days (c) **365 days** (d) two years *Answer: (c), section 363(7)*

7. An appeal to the High Court must be filed within —

(a) 60 days (b) 90 days (c) **120 days** (d) 180 days *Answer: (c), section 365(2)(a)*

8. Revision prejudicial to the interests of the revenue is under —

(a) section 263 (b) section 264 (c) **section 377** (d) section 378 *Answer: (c)*

9. An application for revision by the assessee must be made within —

(a) 30 days (b) six months (c) **one year** (d) four years *Answer: (c), section 378(3)*

10. The Dispute Resolution Committee consists of —

(a) one member (b) two members (c) **three members** (d) five members *Answer: (c), Rule 196(2)*

11. The appeal to the first appellate authority is in —

(a) Form 35 (b) **Form No. 99** (c) Form No. 115 (d) Form No. 119 *Answer: (b), Rule 167*

12. A Single Member Bench of the Tribunal may dispose of a case where the total income computed does not exceed —

(a) ₹10 lakh (b) ₹25 lakh (c) **₹50 lakh** (d) ₹1 crore *Answer: (c), section 364(3)*

13.4 Fill in the blanks

1. An appeal to the Commissioner (Appeals) is made in Form No. _. — 99 [Rule 167] 2. The first appeal must be presented within _ days of service of the notice of demand. — *thirty* [section 358(3)] 3. No appeal shall be

admitted unless the assessee has paid the tax due on the income __ by him. — *returned* [section 358(6)(a)] 4. The first appellate authority may confirm, reduce, __ or __ the assessment. — *enhance; annul* [section 360(1)(a)] 5. An enhancement may not be made unless the appellant has had a reasonable opportunity of __. — *showing cause* [section 360(2)] 6. An appeal to the Appellate Tribunal is filed within __ months from the end of the month of communication. — *two* [section 362(3)] 7. A memorandum of cross-objections is filed in Form No. __ within __ days. — *116; thirty* [section 362(4); Rule 193(2)] 8. The Tribunal may grant a stay for a period not exceeding __ days on a deposit of not less than __% of the amount payable. — *180; 20* [section 363(6)] 9. An appeal lies to the High Court only if the case involves a __ question of law. — *substantial* [section 365(1)] 10. Revision prejudicial to the revenue requires the order to be __ and prejudicial to the interests of the revenue. — *erroneous* [section 377(1)] 11. An order under section 378 shall not be __ to the assessee. — *prejudicial* [section 378(1)(c)] 12. An application to the Dispute Resolution Committee is made in Form No. __ with a fee of ₹__. — *119; 1,000* [Rule 197]

13.5 Short answer questions

1. State the orders against which an appeal lies to the Joint Commissioner (Appeals). 2. When does an appeal lie directly to the Appellate Tribunal, without a first appeal? 3. State the fees payable on a first appeal and on an appeal to the Appellate Tribunal. 4. Explain the pre-conditions for the admission of an appeal under section 358(6) and (7). 5. What are the powers of the Joint Commissioner (Appeals) or Commissioner (Appeals) in disposing of an appeal? 6. Explain the power of enhancement and the safeguard attached to it.

7. What is a memorandum of cross-objections, and by when must it be filed? 8. Explain the conditions on which the Appellate Tribunal may grant and extend a stay of demand. 9. What is a "substantial question of law", and how does the High Court deal with it? 10. Distinguish between revision under section 377 and revision under section 378. 11. State the conditions which make an order a "specified order" for the Dispute Resolution Committee. 12. Write short notes on — (a) repetitive appeals; (b) exclusion of time taken for a copy; (c) tax payable irrespective of appeal.

13.6 Long answer questions

1. Describe the appellate hierarchy under the Income-tax Act, 2025, stating at each tier the authority, the orders appealable, the time limit and the fee. 2. Explain the provisions relating to the form, fee and limitation of a first appeal, and the conditions for its admission. 3. Explain the procedure in appeal under section 359 and the powers of the first appellate authority under section 360. 4. Discuss the constitution, jurisdiction and powers of the Appellate Tribunal under sections 361 to 364. 5. Explain the provisions relating to an appeal to the High Court and to the Supreme Court, and state what a substantial question of law means. 6. Compare and contrast revision under section 377 with revision under section 378. 7. "An appeal is not a stay." Examine this statement with reference to sections 369, 411(12) and 363(6). 8. Explain the constitution, jurisdiction and powers of the Dispute Resolution Committee under section 379 read with Rules 196 to 198. 9. Set out, step by step, the procedure for preparing and filing an appeal before the Commissioner (Appeals), including the documents required and the contents of the grounds of appeal. 10. An assessment order contains an arithmetical error, a disallowance disputed on the merits, and an addition made without confronting the assessee. Advise the assessee on the remedies available, with the section, the authority and the time limit in each case.

End of Unit 3. Parts A and B together cover assessment, re-assessment and rectification of mistakes; appeals and revisions; and the preparation and filing of appeals with the appellate authorities.