PREPARATION OF APPEALS UNDER INCOME TAX ACT, 1961

CA SOMIL AGARWAL

ACA, ACS, ACMA, DISA, LL.M (UK)



Procedure to File Appeal

- Section 246A Any Assessee 'Aggrieved'
- Section 249(1) Prescribed form and manner Form 35 Rule 45
- Prescribed Appeal Fees Only details to be filled

Assessed income	Fee
Less than 1,00,000	250
1,00,000 - 2,00,000	500
More than 2,00,000	1000
Others	250

- Original Demand Notice to be enclosed. Appeal to be filed to CIT(A) mentioned in Demand Notice.
- Statement of Facts
- Grounds of Appeal



- Section 249(2) 30 days from date of service of notice of demand.
- Second Proviso to 249(2)(b) cases where 270AA immunity application rejected exclude period from date of filing application to date on which order rejecting application is served.
- Form of appeal referred to in sub-rule (1), shall be verified by the person who is authorized to verify the return of income under section 140 of the Act, as applicable to the assessee
- Section 249(4) Tax due on returned income to be paid before filing appeal and if not paid, appeal cannot be admitted.



- <u>Statements of Facts</u> brief and basic facts
- Grounds of Appeal
 - Concise and not argumentative
 - Deny liability to be assessed at assessed income
 - Legal/ Jurisdictional grounds
 - Additional grounds 250(5)
 - Specific grounds incriminating material, 143(2), book rejection, etc.
 - Opportunity/ violation of principles of natural justice/ cross examination/ confronting adverse material
 - That in any view and in any case
 - Levy of interest, credit of prepaid taxes, etc
 - Appellant craves leave to add, alter, modify or delete grounds of appeal



- <u>Condonation of Delay</u> Section 249(3) CIT(A) has power to condone delay and admit appeal in case assessee has given sufficient cause to his satisfaction for delay.
 - Separate Application to be made and each day's delay must be explained.
 - The reason for delay must be substantiated with evidences medical records, etc.
 - Affidavit must be filed.

Additional Evidence petition

- Separate Application to be made under rule 46A
- Identify specific clause under of Rule 46A in which the case is pleaded
- File additional evidences separately and/or Identify evidences in petition



Written submissions

- Ground wise and start with telling the issue involved and then give brief facts for each issue.
- Prove the case positively with pleading on facts and law together with reference of evidences and highlight vital points in the evidences while referencing them to substantiate relief claimed in the appeal.
- Every Factual assertion should be corroborated with evidence duly referenced.

 (Pagination of written submission and Compile paperbook for evidences properly bind it punching/ spiral binding).
- Now Case Laws
- Meet adverse observations of assessing officer and differentiate case laws relied by AO.



Section 250 - Procedure in Appeal

- Section 250(4) Further inquiry by CIT(A)
- Section 250(5) Additional ground can be admitted by CIT(A)
- Section 250(6) Speaking order by CIT(A)
- Section 250(6A) 'may' time limit for passing order 1 year from end of financial year in which appeal is filed – recommended limit only.
- Section 250 (6B) (6D) **E- Proceedings introduced by FA 2020**

<u>Section 251 – Powers of CIT(A)</u>

- May confirm, reduce, enhance or annul assessment
- May confirm, cancel, enhance or reduce penalty
- In any other case, orders as he deems fit
- Enhancement after reasonable opportunity of hearing

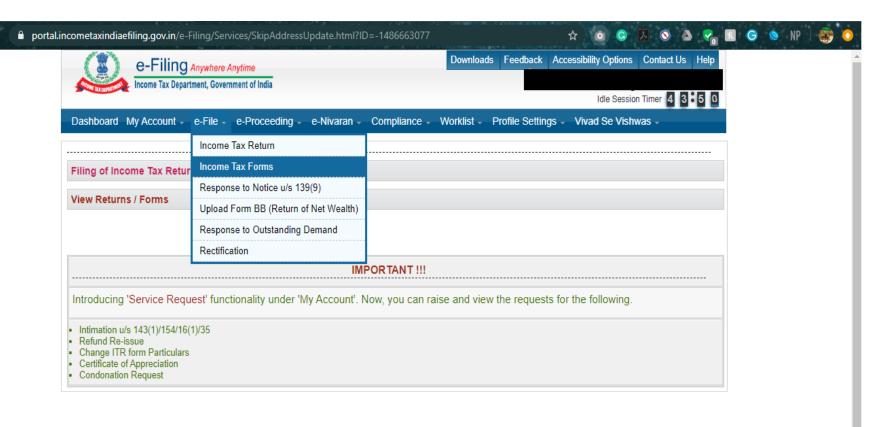


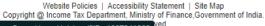
Income Tax Appellate Tribunal – Final Fact-Finding Body

- •Section 253 Appeal before Appellate Tribunal Any Assessee 'Aggrieved'
- •Section 253(1) Prescribed form Form 36
- •Section 253(3) Limitation 60 days from date of service of order.
- •Section 253(4) Cross objection Form 36A no appeal fee
- •Section 253 (6) Prescribed Fee

Assessed income	Fee
Less than 1,00,000	500
1,00,000 - 2,00,000	1500
More than 2,00,000	1% of assessed income subject to maximum of Rs. 10,000
Others	500
Stay of Demand	500









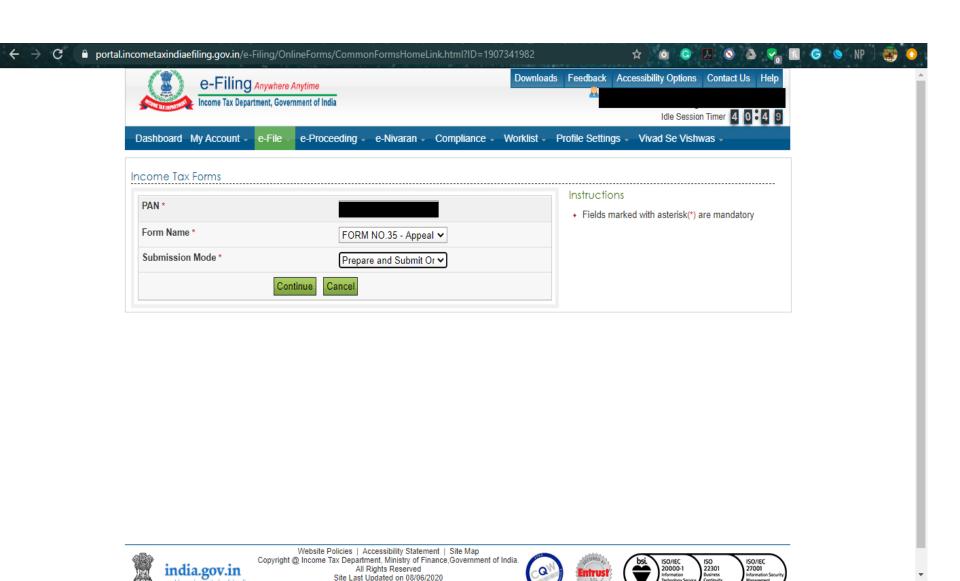




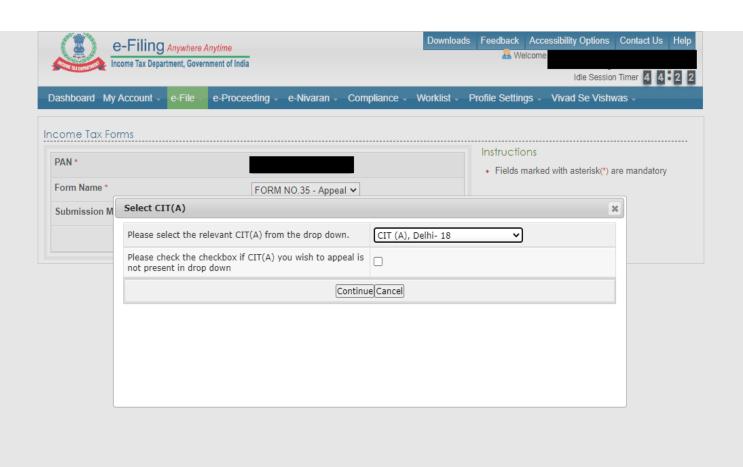




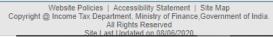
















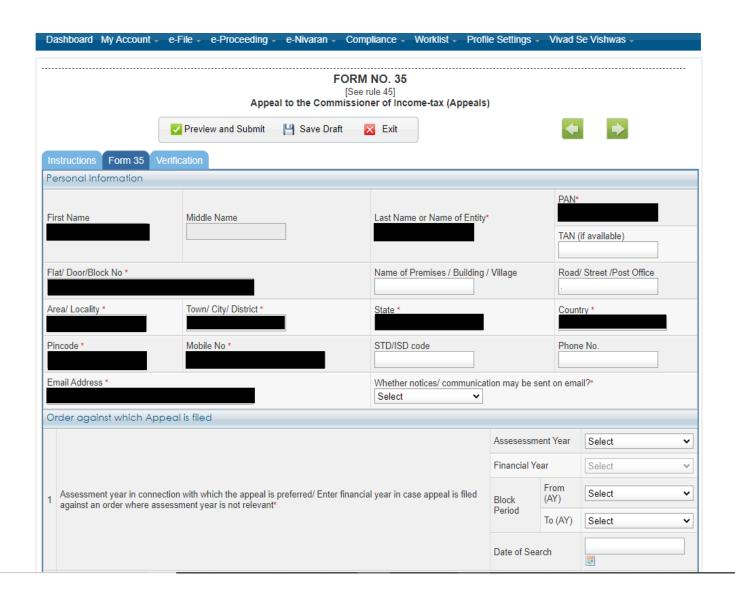












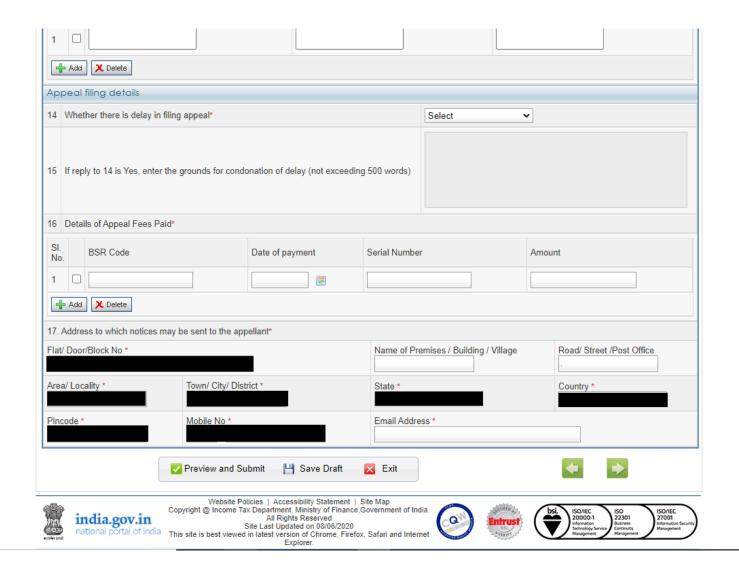


			Date of Sea	arch	W.F.	
	Details of the order appealed against/Appeal u/s 248					
	a Section and sub-section of the Income-tax Act, 1961*:			Select	•	•
	Order Number					
2		Document Identification Number (DIN)				
	b	Date of Order				
	С	Date of service of Order / Notice of Demand / Date of payment of tax in case of Appeal u/s 248				ii.
3	Inco	me-tax Authority passing the order appealed against	WARD 54(1)), DELHI		
Pe	Pending Appeal					
4	Whether an appeal in relation to any other assessment year/ financial year is pending in the case of the appellant with any Commissioner (Appeals) *					
Ap	pe	al Details				
5	Section and sub-section of the Income-tax Act, 1961 under which the appeal is preferred *					
6	Select Select				•	
	а	Amount of Income Assessed (₹)				
	b	Total Addition to Income (₹)				
	С	In case of Loss, total disallowance of Loss in assessment (₹)				
	d	Amount of Addition/ Disallowance of Loss disputed in Appeal (₹)				
	е	Amount of Disputed Demand (₹)- Enter Nil in case of Loss				
7	7 If appeal relates to penalty ?* Select		Select	•	•	
	а	Amount of penalty as per order (₹)				
	b	Amount of penalty disputed in Appeal (₹)				

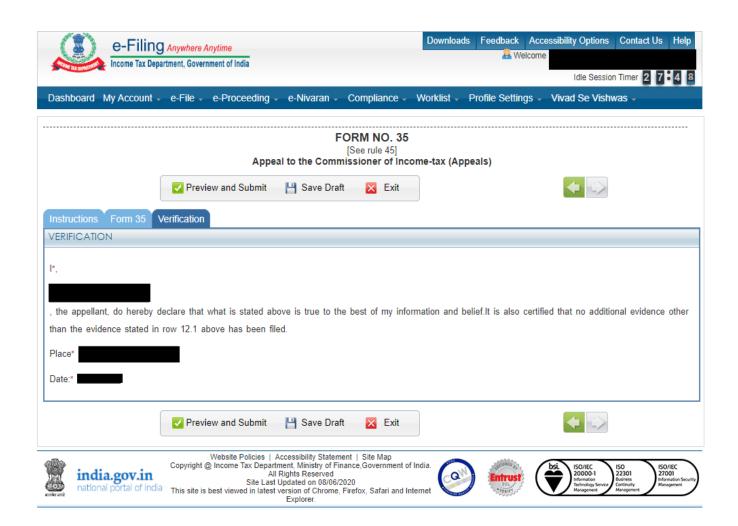


Det	Details of Taxes paid				
	Where a return has been filed by the appellant for the assessment year in connection with which the appeal is filed, whether tax due on income returned has been paid in full *			Select 🕶	
	Where no return has been filed by the appellant for the assessment year, whether an amount equal to the amount of advance tax as per section 249(4)(b) of the Income-tax Act,1961 has been paid*			Select •	
10	If the appeal relates to any tax deductible under section 195 of the Income-tax Act, 1961 and borne by the deductor, details of tax deposited under section 195(1)				
Stat	ement of facts, Grounds of Appeal and addition	nal evidence			
	Statement of Facts				
11	Facts of the case in brief (not exceeding 1000 words) *				
	List of documentary evidence relied upon				
12	Whether any documentary evidence other than the evidence produced during the course of proceedings before the Income-tax Authority has been filed in terms of Rule 46A *				
12.1	.1 If reply to 12 is Yes, furnish the list of such documentary evidence				
13	13 Grounds of Appeal(each ground not exceeding 100 words)*				
SI. No.	Relevant section (s) of IT/Act	Issue	Ground of Appeal		
1					
4					
Appeal filing details					
14	14 Whether there is delay in filing appeal*		Select		





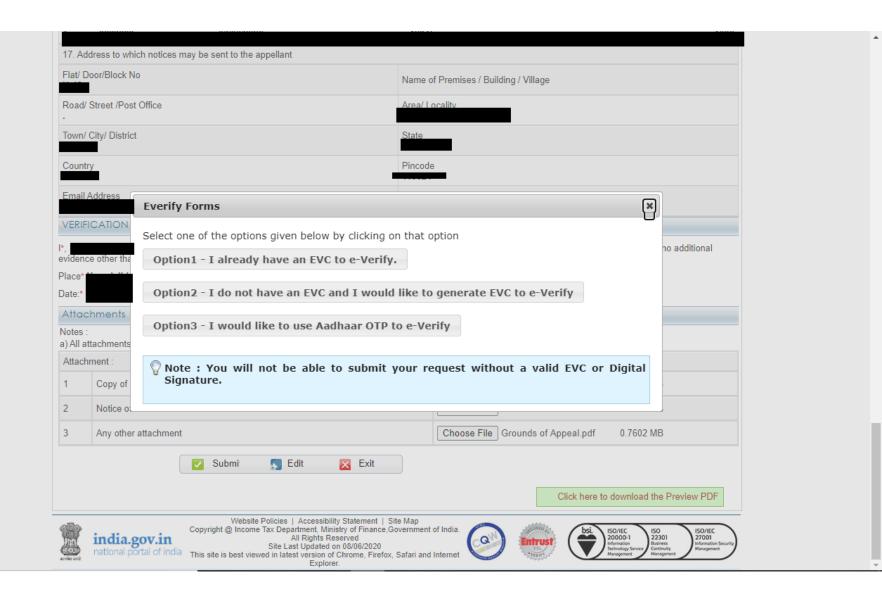






17. Address to which notices may be sent to the appellant				
Flat/	Door/Block No	Name of Premises / Building / Village		
Road	/ Street /Post Office	Area/ Locality		
Town	/ City/ District	State		
Coun	try	Pincode		
Emai	Email Address Mobile No			
VERI	FICATION Edit			
I*, the appellant, do hereby declare that what is stated above is true to the best of my information and belief. It is also certified that no additional evidence other than the evidence stated in row 12.1 above has been filed. Place*				
Date:* Attachments				
Notes :				
a) All attachments should be in Pdf or Zip format only. b) All the attachments together should not exceed 50 Mb.				
Attac	hment:			
1	Copy of order appealed against	Choose File Assessment order.pdf 0.7602 MB		
2	Notice of demand	Choose File Demand notice.PDF 1.1632 MB		
3	Any other attachment	Choose File Grounds of Appeal.pdf 0.7602 MB		
Submi Submi Exit Click here to download the Preview PDF				
	Website Policies Accessibility Statement Si india.gov.in national portal of india Website Policies Accessibility Statement Si All Rights Reserved Site Last Updated on 08/06/2020 This site is best viewed in latest version of Chrome, Firefox, Explorer.	overnment of India. So/IEC ISO/IEC ISO/I		







Note

- Statement of facts should not exceed 1000 words.
- Grounds of appeal be uploaded as attachment and reference as annexure in the space given or may be filled in brief in the space provided (Ground of appeal should not be of more than 100 words per column).
- Power of Attorney of Counsel/ any person authorized to represent. Also, if appeal is signed by any person authorized by assessee, power of attorney of Authorized representative must be enclosed with the appeal.
- Scanned copies of order appealed against. [Attachments should be in pdf / zip format.(it should not exceed 50MB in size)]



Thank You

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