



INCOME TAX APPELLATE TRIBUNAL BAR ASSOCIATION

C/o. Income Tax Appellate Tribunal
Pratishtha Bhawan, Old C.G.O. Building, Fourth Floor, Room No. 445-448, Maharshi Karve Marg, Mumbai – 400 020.
Tel. : 22036119 / 46033902 • Website : www.itatonline.org • E-mail : itatonline.manager@gmail.com

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6th April, 2026

To,

The Hon'ble Prime Minister of India Shri Narendra Modi.

Re: Suggestion for speedy disposal of appeals before the first Appellate Authority under Income Tax Act 1961 and Income tax Act 2025.

1. About the Association and need for representation

The ITAT Bar Association, Mumbai is an Association has a members Advocates, Chartered Accountants and the Tax Practitioners practising primarily before the Mumbai Bench of the Income Tax Appellate Tribunal (the ITAT). The Association was formed on 18.11.1965 and has actively taken various steps in the past, with a view to *inter alia* protect and preserve the independence of the ITAT and ensure its smooth functioning. Stalwarts like Padma Vibhushan Late Shri N. A. Palkhivala, Dr. Y.P. Trivedi, Shri S. E. Dastur and Shri Arun Sathe, Senior Advocates have served as Presidents of the Bar Association. Their expertise and leadership has been pivotal in shaping the legal landscape, particularly in tax jurisprudence.

2. Section 246A of the Income-tax Act, 1961 (the Act) read with sections 250, 251 provides for appeals from assessments passed/framed by the Assessing Authority, before the Commissioner (Appeals) and Joint Commissioner (Appeals) (hereinafter referred to as 'First Appellate Authority', for brevity).

3. Whereas section 250 (6A) mandates the First Appellate Authority (FAA) to decide & dispose off appeals within a period of one year from the end of the financial year in which such appeal is filed but the said provision is made ineffective by the use of the words "*where it is possible*". To put it simply, the said



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sub-section 250(6A) calls upon the FAA to dispose off appeals within the given time of one year, whenever it is possible to do so. The use of the words “*where it is possible*”, renders the time limit illusory and meaningless since it can very easily be given a go-by. The new section 359 (5) of the new Income tax Act 2025, which is a statutory successor of section 250 (6A) of Income Tax Act, 1961, also has almost identical wordings.

4. The appeals filed before the FAA are preferred by the assesses from assessment orders and very often involve small/individual assesses, unlike in higher forums.
5. The huge & heavy pendency of appeals before the First Appellate Authorities needs no introduction. Further the significance & importance of timely disposal of appeals by such a crucial authority as the First Appellate Authority, cannot be overemphasized. As per the latest figures of the Ministry of Finance, the all-India pendency of appeals before the First Appellate Authority, is over Five (5) Lakhs.
6. The following is the fallout of such huge pendency:
 - a) Issues are remaining undecided, leading to uncertainties.
 - b) Tax demands are raised and enforced by the CPC (by way of adjustment of refunds of the assesses) even where the issues are covered in favour of the assesses.
 - c) There is a growing tendency on part of the assesses to directly move the High Courts in its writ jurisdiction for relief, since no disposal is forthcoming from the First Appellate Authority.
 - d) Since matters can be placed before the Hon’ble Income tax Tribunal only on disposal of appeals by the First Appellate Authority, the Hon’ble Tribunal is deprived of opportunities to interpret crucial provisions of the Act, especially the ones which are amended recently, leading to further lack of certainty.



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7. It is submitted that the right of the assesses to speedy disposal of their cases is seriously hampered { *Abdul Rehman Antulay v. R. S. Nayak*, (1992) 1 SCC 225}. It appears that the Department is of the view that there is no statutory time limit for the First Appellate Authority to dispose of appeals preferred before it. The relevant portion of the applicable section 250 (6A) of the Act reads as follows:

Section 250 (6-A) *In every appeal, the Commissioner (Appeals), where it is possible, may hear and decide such appeal within a period of one year from the end of the financial year in which such appeal is filed before him under sub-section (1) of section 246-A.*

(The wording of the section 359 (5) of the new Income tax Act 2025, is identical to the above.)

8. This provision mandates the First Appellate Authority to decide & dispose off appeals within a period of one year from the end of the financial year in which such appeal is filed but subject to a limitation by the words "where it is possible". The Hon'ble Gujarat High Court in the case of *Siddhi Vinayak Syntex Pvt Ltd vs Union Of India Special Civil Application no. 19437 of 2016* dated 7th March 2017, while interpreting identical words in sec.35A(4A) of the Central Excise Act, observed that the legislature has used the expression "where it is possible to do so", which means that if in the ordinary course it is possible to dispose off the matter(s), it should be so done. The legislature has wisely has specified that "where it is possible to do so", for the reason that the adjudicating authority for several reasons may not be in a position to decide the matter within the specified time frame, namely, a large number of witnesses may have to be examined, the record of the case may be very bulky, huge workload, non-availability of an officer, etc. which are genuine



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reasons for not being able to dispose off within the stipulated time frame. However, that does not mean that the matter can be kept in cold storage for years together and in the ordinary course of things, if it is not on account of it not being possible for the authority to decide the case, matters cannot be kept pending for eternity.

9. The Hon'ble Bombay High Court, on a petition filed by an aggrieved assessee had to intervene where the First Appellate Authority had not disposed off the appeal even after eight (8) long years. The Hon'ble High Court directed the Authority to dispose off the same within three months. {See: City Centre Mall Nasik, [TS-793-HC-2024(Bom)]}. The Hon'ble High Court have held that the words "*where it is possible, may hear and decide such appeal*", would mean that the reason for not disposing off the appeals within one year, could only be the conduct/demeanor of assessee viz. only where the Authority is unable to dispose off due to the any shortcomings/lacunae on part of the assessee like dilatory tactics adopted by the assessee or otherwise but some reason attributable to the assessee.- {See: *Ploy Fill Sacks V/s. UOI [TS-5995-HC-2005 (Guj.)*]; *Commr of Central Excise V/s. Vodafone Essar South Ltd. [TS-6085-HC-2015(All)]*; *Larsen & Toubro Ltd. V/s. UOI [TS-6023-HC-2013(BOM)]* }.

10. It is further to be noted that the appellate proceedings before the First Appellate Authority CANNOT be compared to the proceedings before other Authorities like the Tribunal and the High Courts/Supreme Court since the powers of the First Appellate Authority, unlike the other Forum, are co-terminus with those of the Assessing Officer and the First Appellate Authority can even enhance the assessment. In other words, under the Income tax Act, the whole of the assessment is thrown



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open before the First Appellate Authority. The assessee CANNOT even withdraw an appeal from the First Appellate Authority, once the same is filed. {See: *Rai Bahadur Hardtroy Motilal Chamaria [1967] 66 ITR 443 (SC)*}. In a nutshell, the proceedings before the First Appellate Authority are more comparable to those before the Assessing Authority than those of other appellate authorities.

11. In view of the above, it is urged and prayed that in section 250(6A) of the 1961 Act and section 359 (5) of the new Income tax Act 2025, the words “where it is possible, may” be substituted with the word “shall” and the following proviso may be inserted in the said section.

“Provided that where for reasons attributable to the assessee, the appeal cannot be disposed off within the said period of one year from the end of the financial year in which the appeal is filed, the Commissioner/Jt. Commissioner may, for reasons to be recorded in writing, dispose off the appeal beyond a period of one year from the end of the financial year in which the appeal is filed”.

“Provided further that in no case shall the appeal be disposed off beyond a period of eighteen months from the end of the financial year in which the appeal is filed.”

12. It is pertinent to mention here that a revisionary jurisdiction lies with the administrative commissioner under section 264 of the Income tax Act 1961 {section 378 (7) of the 2025 Act}, wherein a time limit is provided for the authority (the Pr. Commissioner) to dispose off the revision application. The relevant provision stipulates that every application shall be disposed off within a period of one year from the expiry of the financial year in which the application is made. The word used is ‘shall’, making it



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mandatory for the authority to dispose off the application within one year.

It is prayed that a comparable time limit may be introduced for disposal of appeals by the first Appellate Authority viz. the CIT(Appeals) and the Jt. Commissioner (Appeals).

It is prayed that Your Honour's intervention in the above matter would go a long way in reducing the pendency of appeals.

Thanking You,

Yours faithfully,

For Income Tax Appellate Tribunal Bar Association

K. Gopal

President

- CC to: 1. The Hon'ble Finance Minister
2. The Central Board of Direct Taxes