

**CHAPTER VII**  
**APPEAL, REVISION AND REVIEW.**

**Appeal against assessment.**

**65.** (1) Any dealer may, in the prescribed manner, appeal to the prescribed authority against any assessment within forty-five days or such further period as may be allowed by the said authority for cause shown to his satisfaction from the receipt of a notice of demand in respect thereof:

Provided that no appeal shall be entertained by the said authority unless he is satisfied that such amount of the tax, penalty or interest, as the case may be, as the appellant may admit to be due from him and such percentage of the disputed tax, as may be prescribed, has been paid.

- (2) Subject to such rules of procedure as may be prescribed, the appellate authority, in disposing of any appeal under sub section (1), may-
- (a) confirm, reduce, enhance or annul the assessment; or
  - (b) when such authority is satisfied, for reasons to be recorded in writing, that it is not practicable or desirable to act in accordance with the provisions of clause (a) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed.
- (3) While acting in accordance with the provisions of clause (b) of sub-section (2), the appellate authority may set aside any part or parts of an assessment and, if he does so, the assessing authority shall make a fresh assessment in respect of such part or parts only, and the remaining part or parts of the previous assessment shall remain unaltered and valid.
- (4) Pending disposal of an appeal referred to in sub-section (2), the appellate authority may, on application, at his discretion and subject to such conditions and restrictions as may be prescribed, stay realization of the amount of tax, penalty or interest in dispute wholly or in part.

Explanation - For the purposes of this section

- (a) "assessment" includes –
- (i) assessment of tax and imposition of penalty under section 45,
  - (ii) assessment of tax under section 46,
  - (iii) determination of interest under section 40.
- (b) "notice of demand" means any notice served in accordance with the provisions of this Act for realization of the tax, penalty or interest referred to in clause (a).

**Suo moto revision and revision by**

**66** (1) Subject to such rules as may be made and for reasons to be recorded in writing, the Commissioner, may on his

**Commissioner  
upon application**

own motion, revise any assessment made or order passed by a person appointed under sub-section (1) of section 25 to assist him.

- (2) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Commissioner may, upon application, revise any order, passed by a person appointed under sub-section (1) of section 25 to assist him.

**Review of order. 67**

Subject to such rules as may be made, any assessment made or order passed under this Act or the rules made there under by any person appointed under sub-section (1) of section 25, may be reviewed by the person passing it, upon application or on his own motion, and, subject to the rules as aforesaid, the Appellate and Revisional Authority may, in the like manner and for reasons to be recorded in writing, review any order passed by it, either on its own motion or upon an application.

**Appeal to the High  
Court 68.**

- (a) Any assessee objecting to an order passed by the Commissioner under section 66 or 67 may appeal to the High Court within sixty days from the date on which the order was communicated to him.
- (b) The High Court may admit an appeal preferred after the period of sixty days aforesaid if it is satisfied that the assessee had sufficient cause for not preferring the appeal within that period.
- (c) The appeal shall be in the prescribed term, shall be verified in the prescribed manner, and shall be accompanied by a fee of five hundred rupees.
- (d) The High Court shall, after giving both the parties to the appeal a reasonable opportunity of being heard, pass such order thereon as it thinks fit.

**Appeal to the  
Appellate  
Tribunal. 69.**

- (1) A person dissatisfied with the decision of the Appellate Authority and Revisional Authority may, within sixty days after being served with notice of the decision-
- (a) file a second appeal before the Appellate Tribunal; and
- (b) serve a copy of the notice of appeal on the Commissioner as well as the authority whose original order is under second appeal before the Appellate Tribunal.
- (2) The Appellate Tribunal may admit an appeal after expiry of sixty days if it is satisfied that the appellant had sufficient reason for not filing the appeal within the time specified in sub-section (1), provided it is within one year.
- (3) In deciding an appeal, the Appellate Tribunal shall make an order after affording an opportunity to the dealer or other person and the Commissioner –
- (a) affirming, reducing, increasing, or varying the assessment or other order under appeal;

- (b) remitting the assessment or other order under appeal for reconsideration by the Appellate Authority concerned with such directions as it may deem fit; and
- (c) a copy of such order shall be served on the Commissioner/prescribed authority.
- (4) The Appellate Tribunal shall serve the appellant with notice, in writing, of the appeal decision setting forth the reasons for decisions:
- Provided that before increasing the tax or other amount the dealer shall be given an opportunity of being heard on the proposal of increasing the liability.
- Revision to High Court.** 70. (1) An assessee who is dissatisfied with the decision of the Appellate Tribunal or Commissioner may, within sixty days after being notified of the decision, file a revision with the High Court; and the assessee so appealing shall serve a copy of the notice of revision on the respondent to the proceeding.
- (2) A revision to the High Court may be made on question of law or an erroneous decision or failure to decide a question of law that will be raised in the revision.
- (3) The Commissioner shall also be made a party to the proceedings before the High Court where appeal is filed by the dealer or other person.
- (4) The High Court may on application either by the petitioner or by the respondent review any order passed by it provided such application is made within one year from the date of receipt of the judgement.
- Hearing of revision and Review by the High Court.** 71. A revision or review application presented before the High Court under section 70 shall be heard by the bench consisting of not less than two judges.
- Burden of proof.** 72. The burden of proving that any turnover of goods is exempt from or that there is no liability or obligation under this Act shall be on the person objecting.
- Persons appointed under section 25 and members of Appellate Tribunal to be public servants.** 73. The Commissioner and all officers appointed under section 25 including the members of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of Indian Penal Code.
- Indemnity of Govt. Servant.** 74. No suit, prosecution or other legal proceedings shall lie against any Government servant for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.