

## Tax Appeal Related Law and Ordinance

### Income Tax Ordinance 1984

#### **Appeal to appellate income tax authority**

[153. (1) Any person aggrieved by order of an income tax authority regarding the following matters may appeal to the respective appellate income-tax authority-

- (i) assessment of income;
- (ii) computation of tax liability or refund;
- (iii) set off or carry forward of loss;
- (iv) imposition of any penalty or interest;
- (v) charge and computation of surcharge or any other sum;
- (vi) credit of tax; and
- (vii) payment of a refund.

(2) Subject to sub-section (3), an appeal in the following cases shall be made only to the Commissioner of Taxes (Appeals)-

- (i) appeal by a company;
- (ii) appeal against an order under section 120;
- (iii) appeal against an order of adjustment or penalty involving international transactions as defined in 107A;
- (iv) appeal against an order, in matters mentioned in sub-section (1), made by an income tax authority in the rank of a Joint Commissioner of Taxes or above.

(3) The Board may-

- (i) assign any appeal to any appellate income-tax authority;
- (ii) transfer an appeal from one appellate income-tax authority to another appellate income-tax authority.

(4) No appeal shall lie in respect of an income which is computed as a share of the taxed income.

(5) No appeal shall lie against any order of assessment in the following cases-

(i) Where the return of income was filed	if tax under section 74 has not been paid
(ii) Where no return of income was filed	if at least ten per cent of the tax as determined by the Deputy Commissioner of Taxes has not been paid:

Provided that where the tax on the basis of return has been paid by the appellant before filing the appeal and the appellate income-tax authority is convinced that the appellant was barred by sufficient reason from paying the tax before filing the return, it may allow the appeal for hearing.

Explanation.- In this section, appellate income-tax authority means the Commissioner of Taxes (Appeals) or the Appellate Joint Commissioner of Taxes, as the case may be.]

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• 1

Section 153 was substituted by section 35 of [অর্থ আইন, ২০১৮](#) (২০১৮ সনের ২২ নং আইন) (With effect from 1st July 2018).

### **Form of appeal and limitation**

154. (1) Every appeal under section 153 shall be drawn up in such form and verified in such manner as may be prescribed and shall be accompanied by a fee of <sup>৳</sup>[two hundred taka].

<sup>৳</sup>[(1A) The Board may, by notification in the official Gazette,-

(a) specify <sup>3</sup>[the cases in which the appeal] shall be filed electronically or in any other machine readable or computer readable media;

(b) specify the form and manner in which such appeal shall be filed.]

(2) Subject to sub-section (3), an appeal shall be presented within <sup>4</sup>[forty five days],-

(a) if it relates to any assessment or penalty, from the date of service of the notice of demand relating to the assessment or penalty, as the case may be; and

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

(3) The Appellate Joint Commissioner <sup>5</sup>[or the Commissioner (Appeals), as the case may be,] may admit an appeal after the expiration of the period of limitation specified in sub-section (2) if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within that period.

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- <sup>1</sup>  
The words “two hundred taka” were substituted for the words “one hundred taka” by section 7 of অর্থ আইন, ১৯৯৩ (১৯৯৩ সনের ১৮ নং আইন)
  - <sup>2</sup>  
Sub-section (1A) was inserted by section 58 of অর্থ আইন, ২০১৬ (২০১৬ সনের ২৮ নং আইন).
  - <sup>3</sup>  
The words “the cases in which the appeal” were substituted for the words “that any appeal of any assessee or any class of assessee” by section 41 of [অর্থ আইন, ২০১৭](#) (২০১৭ সনের ১৪ নং আইন) (With effect from 1st July 2017).
  - <sup>4</sup>  
The words “forty five days” were substituted for the words “sixty days” by section 25 of অর্থ আইন, ২০০৬ (২০০৬ সনের ২২ নং আইন)
  - <sup>5</sup>  
The words commas and brackets “or the Commission (Appeals), as the case may be,” were inserted by section 8 of অর্থ আইন, ১৯৯০ (১৯৯০ সনের ৪৫ নং আইন)

### **Procedure in appeal before the Appellate Joint Commissioner <sup>1</sup>[or the Commissioner (Appeals)]**

155. (1) The Appellate Joint Commissioner <sup>2</sup>[or the Commissioner (Appeals)] shall fix a day and place for the hearing of the appeal and give notice thereof to the appellant and the Deputy Commissioner of Taxes against whose order the appeal has been preferred.

(2) The appellant and the Deputy Commissioner of Taxes shall have the right to be heard at the hearing of the appeal either in person or by a representative.

(3) The Appellate Joint Commissioner <sup>3</sup>[or the Commissioner (Appeals)] may, if he considers it necessary to do so, adjourn the hearing of the appeal from time to time.

(4) The Appellate Joint Commissioner <sup>4</sup>[or the Commissioner (Appeals)] may, before or at the hearing of an appeal, allow the appellant to go into any ground of appeal not earlier specified in the grounds of appeal already filed if he is satisfied that the commission of that ground from the form of appeal was not wilful or unreasonable.

(5) The Appellate Joint Commissioner <sup>5</sup>[or the Commissioner (Appeals)] may, before or at the hearing of an appeal, make such enquiry as he thinks fit or call for such particulars as he may require respecting the matters arising in appeals or cause further enquiry to be made by the Deputy Commissioner of Taxes.

(6) While hearing an appeal the Appellate Joint Commissioner <sup>6</sup>[or the Commissioner (Appeals)] shall not admit any documentary material or evidence which was not produced before the Deputy Commissioner of Taxes unless he is satisfied that the appellant was prevented by sufficient cause from producing such material or evidence before the Deputy Commissioner of Taxes.

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• <sup>1</sup>  
The words and brackets “or the Commissioner (Appeals)” were inserted by section 8 of অর্থ আইন, ১৯৯০ (১৯৯০ সনের ৪৫ নং আইন)

• <sup>2</sup>

The words and brackets “or the Commissioner (Appeals)” were inserted by section 8 of অর্থ আইন, ১৯৯০ (১৯৯০ সনের ৪৫ নং আইন)

• 3

The words and brackets “or the Commissioner (Appeals)” were inserted by section 8 of অর্থ আইন, ১৯৯০ (১৯৯০ সনের ৪৫ নং আইন)

• 4

The words and brackets “or the Commissioner (Appeals)” were inserted by section 8 of অর্থ আইন, ১৯৯০ (১৯৯০ সনের ৪৫ নং আইন)

• 5

The words and brackets “or the Commissioner (Appeals)” were inserted by section 8 of অর্থ আইন, ১৯৯০ (১৯৯০ সনের ৪৫ নং আইন)

• 6

The words and brackets “or the Commissioner (Appeals)” were inserted by section 8 of অর্থ আইন, ১৯৯০ (১৯৯০ সনের ৪৫ নং আইন)

### **Decision in appeal by the Appellate Joint Commissioner 3[or the Commission (Appeals)]**

156. (1) In disposing of an appeal, the Appellate Joint Commissioner 4[or the Commissioner (Appeals)] may-

(a) in the case of an order of assessment, confirm, reduce, enhance, set aside or annual the assessment;

(b) in the case of an order imposing a penalty, confirm, set aside or cancel such order or vary it so as either to enhance or to reduce the penalty; and

(c) in any other case, pass such order as he thinks fit 3[

Provided that an order of assessment or penalty shall not be set aside except in a case where the Appellate Joint Commissioner or the Commissioner (Appeals) is satisfied that a notice on the assessee has not been served in accordance with the provisions of section 178.]

(2) The Appellate Joint Commissioner 4[or the Commissioner (Appeals)] shall not enhance as assessment or a penalty or reduce the amount of refund unless the appellant has been given a reasonable opportunity of showing cause against such enhancement or reduction.

(3) The order of the Appellate Joint Commissioner <sup>5</sup>[or the Commissioner (Appeals)] disposing of an appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(4) Where, as a result of an appeal, any charge is made in the assessment of a firm or an association of persons, the Appellate Joint Commissioner <sup>6</sup>[or the Commissioner (Appeals)] may direct the Deputy Commissioner of Taxes to amend accordingly any assessment made on any partner of the firm or any member of the association.

(5) On the disposal of an appeal, the Appellate Joint Commissioner <sup>7</sup>[or the Commissioner (Appeals)] shall communicate the order passed by him to the appellant, the Deputy Commissioner of Taxes and the Commissioner <sup>8</sup>[within <sup>9</sup>[thirty days] of the passing of such order].

(6) Notwithstanding anything contained in this Ordinance, an appeal to the Appellate Joint Commissioner [or the Commissioner (Appeals)] shall be deemed to have been allowed if the Appellate Joint Commissioner <sup>10</sup>[or the Commissioner (Appeals)] fails to make an order thereon within <sup>11</sup>[one hundred and fifty days from the end of the month] on which the appeal was filed.

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- <sup>1</sup>  
The words and brackets “or the Commission (Appeals)” were inserted by section of অর্থ আইন, ১৯৯০ (১৯৯০ সনের ৪৫ নং আইন)
  - <sup>2</sup>  
The words and brackets “or the Commissioner (Appeals)” were inserted by section 8 of অর্থ আইন, ১৯৯০ (১৯৯০ সনের ৪৫ নং আইন)
  - <sup>3</sup>  
The proviso was added by section 6 of the Finance Act, 1994 (Act No. XI of 1994)
  - <sup>4</sup>  
The words and brackets “or the Commissioner (Appeals)” were inserted by section 8 of অর্থ আইন, ১৯৯০ (১৯৯০ সনের ৪৫ নং আইন)
  - <sup>5</sup>  
The words and brackets “or the Commissioner (Appeals)” were inserted by section 8 of অর্থ আইন, ১৯৯০ (১৯৯০ সনের ৪৫ নং আইন)
  - <sup>6</sup>  
The words and brackets “or the Commissioner (Appeals)” were inserted by section 8 of অর্থ আইন, ১৯৯০ (১৯৯০ সনের ৪৫ নং আইন)
  - <sup>7</sup>

The words and brackets “or the Commissioner (Appeals)” were inserted by section 8 of অর্থ আইন, ১৯৯০ (১৯৯০ সনের ৪৫ নং আইন)

• 8

The words “within thirty days of the passing of such order” were inserted by section 6 of অর্থ আইন, ১৯৯৪ (১৯৯৪ সনের ১১ নং আইন)

• 9

The words “thirty days” were substituted for the words “fifteen days” by section 49 of the Finance Act,2009(Act No.IX of 2009)(with effect from 1st July 2007).

• 10

The words and brackets “or the Commissioner (Appeals)” were inserted by section 8 of অর্থ আইন, ১৯৯০ (১৯৯০ সনের ৪৫ নং আইন)

• 11

The words “one hundred and fifty days from the end of the month” were substituted for the words “ninety days from the end of the month” by section 35 of the Finance Act,2009(Act No.XXXVI of 2009)(with effect from 1st July 2009).

**FORM OF APPEAL TO THE APPELLATE JOINT COMMISSIONER OF  
TAXES IN THE OFFICE OF THE APPELLATE JOINT  
COMMISSIONER OF TAXES,**

..... RANGE ..... ZONE .....

Circle of Assessment
Name of the Appellant and, in the case of a firm, also the names of its partners.
Income year
Assessment year
Deputy Commissioner of Taxes passing the order.
Section under which the Deputy Commissioner of Taxes passed the order.
Income tax demanded
Date of service of the order appealed against or of the Notice of Demand.
Address to which the notices may be sent to the appellant.
Relief claimed in appeal.
Grounds of Appeal-
1.
2.
3.
4.

Signature  
(Appellant)

Name in block letters.....

Address.....

**Verification**

I,....., the appellant, do hereby  
declare that what is stated above is true to the best of my information and belief.

Signature.....

Name in block letters.....

Address.....

- Notes.—**
- (1) The appeal petition shall be filed in duplicate.
  - (2) The appeal petition shall be accompanied by the Notice of Demand or the copy of the order appealed against.
  - (3) The form of appeal and verification thereof shall be signed-
    - (a) in the case of an individual, by the individual himself;
    - (b) in the case of a company or local authority, by the principal officer;
    - (c) in the case of a firm, by a partner.
  - <sup>1</sup>[(4) A copy of the appeal petition is to be submitted to the concerned Deputy Commissioner of Taxes.]



<sup>1</sup>[27A. Form of appeal to the Commissioner (Appeals).—Form for drawing up of appeal and verification thereof under section 154(1) shall be as follows:

**FORM OF APPEAL TO THE COMMISSIONER OF TAXES (APPEALS)  
IN THE OFFICE OF THE COMMISSIONER OF TAXES (APPEALS)**

.....ZONE.....

Circle of Assessment.

Name of the appellant and, in the case of a firm, also the names of its partners.

Income year

Assessment year

Deputy Commissioner of Taxes/Inspecting Joint Commissioner passing the order.

Section under which the Deputy Commissioner of Taxes the Inspecting Joint Commissioner passed the order.

Income tax demanded

Date of service of the order appealed against or of the Notice of Demand.

Address to which the notices may be sent to the appellant.

Relief claimed in appeal.

Grounds of Appeal-

- 1.
- 2.
- 3.
- 4.

Signature (Appellant)  
 Name in block letters.....  
 Address.....