

Inordinate delay in income tax appeal hearings



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Justice delayed is justice denied – this is a maxim stated by William Gladstone, the former prime minister of the UK in the 19th century, and often repeated by eminent jurists over the years. Unfortunately, income taxpayers in India have become a victim of such denial of justice, due to the inordinate delay in deciding their appeals by the first level appellate authority, the Commissioner of Income Tax (Appeals), or CIT(A).

If an assessment order is passed in your case, and you do not agree with the tax demand raised by the tax officer, you can file an appeal against such order. Such appeal is heard by the CIT(A), who is also an Income Tax Department official. In case the CIT(A) order goes against you, you can appeal to the second level of appellate authority, the Income Tax Appellate Tribunal (ITAT). If the CIT(A) had decided the appeal in your favour, the Income Tax Department can also file an appeal against such order at the ITAT. After the ITAT, higher appeals are made to the high court and ultimately to the Supreme Court.

Till 2020, the first appeals disposal process was that one had to physically appear before the jurisdictional CIT(A) for a hearing, and after hearing your arguments, it would pass the appeal order. This process normally took about two years from the date of filing the appeal till the final order.

In September 2020, the faceless appeal scheme was launched, whereby the entire appeal hearing process was moved online. Before the scheme could settle down, some of its unfair provisions were challenged by taxpayers before the courts, as being against the principles of natural justice. For example, only written submissions were to be provided, with no right of personal hearing which would be by video-conference – and it may or may not be granted depending on the discretion of the CIT(A). The government therefore announced an amended scheme in December 2021, providing the right of online hearing.

If we talk about the experience since the amended scheme was launched, there have been very few appeals disposed of so far, even after written submissions have been made. Probably, less than 5% of the pending appeals have been disposed of over the past eight months. A telling statistic which proves the point – second appeals to the ITAT in Mumbai (where the largest number of appeals are filed) earlier took about 3-4 years for disposal, because of the large number of cases pending before the Tribunal. Today, there is hardly any pendency before the ITAT, and matters come up for hearing within six months of filing the appeal. This is because of the negligible

number of orders passed by the CIT(A) over the past three years, which would normally have been appealed against to the ITAT. A stage has come where there would probably be no pendency at all before the ITAT– this might already be the case in benches of the ITAT in other cities.

Unfortunately, there is a complete silence from the tax authorities on the status of pendency before the CIT(A), as to what has caused the problem (technology or procedure or manpower issues) and what is being done to tackle it. Pendency of appeals for over four years has become quite normal. Taxpayers have no recourse in seeking expeditious disposal, because there is no person whom they can approach asking for an early hearing.

Most of the taxpayers would already have paid 20% of what would generally be a frivolous demand, not in accordance with the law, and have seen their hard-earned money locked up. Unfortunately, a large number of the appeals in the recent years pertain to faulty processing of IT returns by the Centralised Processing Centre, for which rectifications have been refused by that centre.

Faulty implementation of the entire technology process, from processing of tax returns, rectifications and appeals, has caused untold harassment to a large number of taxpayers, with no relief in sight. The worst part is that there has been no communication at all from the tax department as to whether the progress of the process is being monitored or not, whether the increasing pendency before the CIT(A) has been realized by the topmost levels of the department, whether steps are being taken to remove the obstacles and smoothen the process, and by when taxpayers can expect their appeals to be heard.

Ideally, taxpayers should have a time-bound process within which their matters are dealt with. The least they expect is a process, maybe online, where they can check the expected date of hearing and disposal of their appeals or make an application seeking expeditious hearing of their long pending appeals. Is this too much justice to ask for?

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