# Electronic Filing of Appeal before CIT (Appeals)

**Introduction:** The CBDT has vide press release dated 30.12.2015 made announcement regarding electronic filing of appeal before the Commissioner of Income Tax (CIT (A)). Thereafter, vide notification no. 11/2016 dated 01/03/2016 (http://taxguru.in/incometax/

cbdtnotifiesform35efilingappealcit. html), the concerned rule (i.e., new rule 45 substituted

for old rule 45) has been notified.

**Object Behind Introducing Electronic Filing :**

The e filing of appeal has been introduced with the aim of reducing paper work, reducing burden of compliances on tax payers, reducing transaction cost to the tax payers, increasing digitization of Departmental functions, removing human interface, providing efficient and error free services to the tax payers etc. and also to facilitate fixation of hearing of appeal electronically.

Electronic Filing Is Applicable To Whom : Electronic filing of appeal is mandatory for the persons who are required to file the return of income electronically. The other persons have an option to voluntarily file the appeal electronically or in the paper form.

**Liability For Electronic Filing Of Return Is To Be Seen For Which Year :**

It has not been specifically mentioned in the rules that the mandatory requirement for electronic filing of return is to be seen for the assessment year for which the appeal is to be filed or for the assessment year in which the appeal is being filed. However, from the language of the concerned new rules, it can be logically inferred that the requirement for electronic filing of return for the year for which the appeal is being filed is to be seen. For example, if an appeal for the assessment year 201213

is to be filed in the assessment year 2016-17 then the liability for electronic filing of return is to be seen for the assessment year 2012-13.

**From Where Electronic Filing Is To Be Made :** The appeal can be electronically filed through the website : www. Incometaxindiaefiling.gov.in.

**Form In Which Appeal Is To Be Filed :** It is to be filed in Form no. 35. The old form (which was also numbered as Form No. 35) has been substituted by new Form No. 35. It is said in the CBDT Press Release that the new form is more structured, objective, systematic and aligned with the current provisions of the Income Tax Act. There are inbuilt validations which will reduce deficiencies in filing of the appeal. But at present, the old form no. 35 is available on www.incometaxindiaefiling.gov.in for e filing.

**What is New In New Form No. 35 :**

(a) The column for filing name and address of appellant have been made more structured.

(b) Now e mail address is also to be given

(c) Now option has been give to select that whether notices / communication may be send to the appellant on e mail.

(d) Now TAN No. is to be given (if available).

(e) Now financial year is to be mentioned where assessment year is not relevant.

(f) In case appeal for any other assessment year / financial year is pending with the CIT(A), now appeal no. and date of filing of that appeal is also to be mentioned.

(g) Where the appeal relates to any assessment, now the specific details of assessed income, addition made to income, disallowance of losses, amount of addition / disallowance of losses disputed and disputed demand amount etc. are to be mentioned.

(h) Where appeal relates to any penalty, now the amount of penalty levied and penalty disputed is to be mentioned.

(i) In cases where return has been filed, now the details of date of filing of return and acknowledgement no. are also to be given.

(j) Where no return has been filed, now the details of BSR Code and Sr. No. are to be given additionally in respect of tax paid equivalent to advance tax amount.

(k) Where appeal relates to tax deductible U/s. 195 borne by deductor, now the BSR Code, Amount, Sr. No. etc. are to be additionally given in respect of tax deposited U/s. 195(1).

(l) Now the list of documentary evidences relied upon is to be given.

(m) Now the list of additional documentary evidences as per Rule 46A, if any, is to be given.

(n) Now the delay in filing of appeal, if any, is to be specifically mentioned.

(o) In case of delay, now the grounds for condonation of delay are to be mentioned.

(p) now the BSR Code, Date of Payment, Sr. No. and amount are to be given in respect of appeal fees paid.

**Requisities For Filing Of Appeal (New Format):** Whenever new form no. 35 will be hosted on website

(a) Duly filled in new Form No. 35.

The grounds of appeal and statement of facts are to be filled in relevant columns in form no. 35 itself. The statement of facts should not exceed 1000 words. Each ground of appeal should not be of more than 100 words. (b) Scanned copies of order appealed against, Notice of demand and challan for appeal fees are to be attached. These attachments should be in pdf / zip format. All the attachments in total should not exceed 50mb in size.

**Requirement Of Digital Signatures** : (a) If the return form has been furnished electronically under the Digital Signatures, then form no. 35 will

also have to be filed electronically under Digital Signatures. (b) If the return has been furnished electronically without Digital Signatures, then

form no. 35 will have to filed electronically through the electronic verification code. (c) Where the e filing of form no. 35 is not mandatory, but is

being e filed optionally, then it can be filed either under Digital Signatures or through Electronic Verification Code (as per convenience).

Alternatively it can be filled fully / partly and the draft appeal can be saved for later filing after completion, checking, editing etc.

Procedure For E Filing : The procedure for e filing in old form no. 35 as available on e filing portal is (Most probably substantially same

procedure with some modifications will be there when new form no. 35 will be displayed for e filing) :

(i) first login to user account on the website : incometaxindiaefiling.gov.in.

(ii) secondly, go to menu eFile

→ Prepare and Submit Online Form (Other Than ITR)

(iii) Then in the window that appears, the PAN will be prefilled. Then under the “Form Name” select “35”, then under the “Assessment Year”,

select the assessment year for which the appeal is to be filed.

(iv) Then instructions, Form No. 35, Verification and attachment menu will be displayed. Then one can further proceed for e filing as per the self explanatory procedure.

Some Aspects Regarding Filing Of Appeal In Presently Available Format i.e., Old Form No. 35 : (a) In the instructions mentioned for e filing in old form no. 35 presently hosted on website, several impracticable / irrelevant requirements (applicable for paper form) have been mentioned e.g., notice of demand is to be attached in original, memorandum of appeal and grounds of appeal and statements of facts are to be attached in duplicate etc. (b) Details of pending appeals for other assessment years are to be given. They may be for more than one assessment year but in the available space details of only one assessment year can be given. (c) No requirement for electronic verification code or Digital Signature requirement is appearing before submission of form. Presently, one can submit the form directly.

**Conclusion :** The e filing of appeals before the CIT(A) is a good step towards digitization, removal of human interface and related problems. It will also surely save time and resources of the tax payers. On success, the same should be further extended.

Source courtesy:taxguru.in