Value Added Tax Act, 2003

Section 63 - Appeal to the Appellate Tribunal

---

(1) Any officer empowered by the Government in this behalf or any other person objecting to an order passed by the appellate authority under Section 62 may appeal to the Appellate Tribunal within a period of sixty days from the date on which the order was communicated to him.

(2) The Appellate Tribunal may admit an appeal preferred after the period of sixty days referred to in sub-section (1), but within a further period of one hundred and eighty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within that period.

(3) The officer authorized under sub-section (1) or the person against whom an appeal has been preferred, as the case may be, on receipt of notice that an appeal against the order of the appellate authority has been preferred under sub-section (1) by the other party, may, notwithstanding that he has not appealed against such order or any part thereof, file, at any time before the appeal is finally heard, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the appellate authority, and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (1).

(4) The appeal, or the memorandum of cross-objections, shall be in the prescribed form, shall be verified in the prescribed manner, and, in the case of an appeal preferred by any person other than an officer empowered by the Government under sub-section (1) shall be accompanied by a fee equal to two percent of the amount of assessment objected to, provided that the sum payable in no case be less than two hundred rupees or more than one thousand rupees.

(5) (a) The Appellate Tribunal shall, after giving both parties to the appeal a reasonable opportunity of being heard, pass such orders thereon as it thinks fit.

(b) If the appeal involves a question of law on which the Appellate Tribunal has previously given its decision in another appeal and either a revision petition in the High Court against such decision or an appeal in the Supreme Court against the order of the High Court thereon is pending, the Appellate Tribunal may defer the hearing of the appeal before it till such revision petition in the High Court or the appeal in the Supreme Court is disposed of.

(c) If as a result of the appeal any change becomes necessary in the assessment, which is the subject matter of the appeal, the Appellate Tribunal may authorize the prescribed authority to amend the assessment, and the prescribed authority shall amend the assessment accordingly and thereupon, any amount over paid by the dealer shall be refunded to him without interest, or any additional amount of tax due from him shall be collected in accordance with the provisions of the Act, as the case may be.

(6) (a) Notwithstanding that an appeal has been preferred under sub-section (1), tax shall be paid in accordance with the assessment made in the case.

(b) The Appellate Tribunal may, except in case of an appeal against an order passed by the appellate authority under Section 62, in its discretion, give such directions as it thinks fit, in regard to the payment of tax, if the appellant furnishes sufficient security to its satisfaction in such form and manner as may be prescribed.

(7) (a) The Appellate Tribunal may, in case of appeal against an order passed by the appellate authority under Section 62, , in its discretion, stay payment of one half of tax or any other amount disputed, if the appellant makes payment of the other half of the amount disputed.

(b) The Appellate Tribunal shall dispose of such appeal falling under clause (a) within a period of one hundred eighty days from the date of the order staying proceedings of recovery of one half of tax or other amount disputed and, if such appeal is not so disposed of within the period specified, the order of stay shall stand vacated after the said period.

(8) (a) The Appellate Tribunal may, on the application either of the appellant or of the respondent, review any order passed by it under sub-section (5) on the basis of facts which were not before it when it passed the order.

(b) No such application under clause (a) shall be preferred more than once in respect of the same order.

(c) The application for review shall be preferred in the prescribed manner within six months from the date on which the order to which the application relates was communicated to the applicant; and where the application is preferred by any person other than an officer empowered by the State Government under sub-section (1), it shall be accompanied by a fee equal to that which has been paid in respect of the appeal.

(d) If the application for review is preferred within ninety days from the date on which the order to which the application relates is communicated to the applicant, the application shall be accompanied by half the fee which had been paid in respect of the appeal.

(9) (a) With a view to rectifying any mistake apparent from the record, the appellate Tribunal may, at any time, within five years from the date of any order passed by it under sub-section (5) or sub-section (8), amend such order.

(b) No order under this sub-section shall be made without giving both parties affected by the order a reasonable opportunity of being heard.

(10) Except as provided in the rules, the Appellate Tribunal shall not have powers to award costs to either of the parties to the appeal or review.

(11) Every order passed by the Appellate Tribunal under sub-section (5) or (8) or (9) shall be communicated to the appellant, the respondent, the appellate authority on whose order the appeal was preferred and the Commissioner.

(12) Every order passed by the Appellate Tribunal under sub-section (5) shall, subject to the provisions of sub-section (8), sub-section (9) and Section 65, be final and every order passed by it under sub-section (8) shall, subject to the provisions of sub-section (9) and Section 65, be final.