

Finance (No. 2) Act, 1998

Section 58 - Insertion of New Sub-heading and Sections in Chapter Xx

In Chapter XX of the Income-tax Act, after the sub-heading 'C', the following sub-heading and sections shall be inserted with effect from the 1st day of October, 1998, namely:--

"CC. Appeals to High Court

260A. Appeal to High Court.--(1) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

(2) An appeal under this section shall be--

(a) filed within one hundred and twenty days from the date on which the order appealed against is communicated to the appellant;

(b) accompanied by a fee of ten thousand rupees where such appeal is filed by an assessee;

(c) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal shall be heard only on the question so formulated, and the respondents, shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(6) The High Court may determine any issue which--

(a) has not been determined by the Appellate Tribunal; or

(b) has been wrongly determined by the appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section (1).

260B. Case before High Court to be heard by not less than two Judges.--(1) when an appeal has been filed before the High Court under Section 260A, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(2) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it".