Appointment of the Appellate Tribunal.— <sup>2</sup>[(1) There shall be established an Appointment (1) There shall be established an Appellate Tribunal Inland Revenue to exercise the Appellate Information the functions conferred on the Appellate Inland Revenue to exercise the powers and perform the functions conferred on the Appellate Inland Revenue tribunal by this Ordinance,

- (2) The Inland Revenue Appellate Tribunal shall consist of a chairman and such other judicial and accountant members as are appointed in such numbers and in the
- (3) A person may be appointed as a judicial member of the Appellate Tribunal if the person -
  - (a) has exercised the powers of a District Judge and is qualified to be a Judge of a High Court; <sup>3</sup>[or]
  - (b) is or has been an advocate of a High Court and is qualified to be a Judge of the High Court <sup>4</sup>[.]

Sammunications Ltd. and 3 others [2017 PT CASE I AW OFF A TO

Sub-sections (5), (6) & (7) omitted by the Finance Act, 2012.

Sub-sections (1) & (2) substituted by the Finance Act, 2019.

Word "or" inserted by Finance Act, 2017. Earlier the word "or" omitted by the Finance Act, 2013.

Word etc. "; or" omitted by Finance Act, 2017. Earlier word etc. "; or" substituted for full-stop by the Finance Act, 2013

Clause (c) omitted by Finance Act, 2017. Earlier it was inserted by the Finance Act, 2013.

- <sup>1</sup>[(4) A person may be appointed as an accountant member of an appellate his if,-]
  - (a) he is an officer of Inland Revenue <sup>2</sup>[Service] equivalent to the tage Regional Commissioner; <sup>3</sup>[ ]
  - (b) a Commissioner Inland Revenue or Commissioner Inland Revenue (Appeals) having at least <sup>4</sup>[three] years experience as Commissions Collector <sup>5</sup>[; <sup>6</sup>/ /]]
  - <sup>7</sup>[(c) a person who has, for a period of not less than ten years, practice professionally as a chartered accountant within the meaning of Chartered Accountants Ordinance, 1961 (X of 1961) 8/; or/]
  - <sup>9</sup>[(d) a person who has, for a period of not less than ten years, practice professionally as a cost and management accountant within the mean of Cost and Management Accountants Act, 1966 (XIV of 1966).]
- (5) The Federal Government shall appoint a member of the Appellate Tribunal Chairperson of the Tribunal 10 [and, except in special circumstances, the person appoint should be a judicial member].
- (6) The powers and functions of the Appellate Tribunal shall be exercised as discharged by Benches constituted from members of the Tribunal by the Chairperson the Tribunal.
- (7) Subject to sub-section (8), a Bench shall consist of not less than two members the Appellate Tribunal and shall be constituted so as to contain an equal number judicial and accountant members, or so that the number of members of one class does in exceed the number of members of the other class by more than one.
- (8) The Federal Government may direct that all or any of the powers of the Appellar Tribunal shall be exercised by -

Sub-section (4) substituted by the Finance Act, 2010 and shall have deemed to have taken effect from the 5th July 2010. Earlier it was substituted by the Finance Act, 2007.

The word inserted by the Finance Act, 2012.

Word "or" omitted by the Finance Act, 2013.

Substituted for "five" by the Finance Act, 2012.

Substituted for the full-stop by the Finance Act, 2013.

Word "or" omitted by the Finance Act, 2014.

Clause (c) inserted by the Finance Act, 2013.

Substituted for the full-stop by the Finance Act, 2014.

Words and commas inserted by the Finance Act, 2013. Earlier the same words and commas were omitted by

X - Procedure

(a) any one member; or

10

(b) more members than one, jointly or severally.

(b) filed (b) filed (b) filed (c) fi Notwinstance in sub-sections (7) and (8), the [(8A) may constitute as many benches consisting of a single member as he may constitute as many benches consisting of a single member as he may Chairperson | may to hear such cases or class of cases as the Federal Government may by der in writing specify.

Section 131(2)(c)

The 2[Chairperson] or other member of the Appellate Tribunal authorized, in (SAA) the by the 2[Chairperson] may, sitting singly, dispose of any case of any case. (SAA) The [Chairperson] may, sitting singly, dispose of any case where the behalt by the healt penalty involved does not exceed [one] million rupees.]

(9) Subject to sub-section (10), if the members of a Bench differ in opinion on any (9) Subject shall be decided according to the opinion of the majority.

(10) If the members of a <sup>4</sup>[Bench] are equally divided on a point, they shall state the which they differ and the case shall be referred by the Chairperson for hearing point on which are on more other members of the Appellate Tribunal, and the point shall according to the opinion of the majority of the members. the case including those who first heard it have heard the case including those who first heard it.

(11) If there are an equal number of members of the Appellate Tribunal, the Federal Government may appoint an additional member for the purpose of deciding the case on which there is a difference of opinion.

(12) Subject to this Ordinance, the Appellate Tribunal shall have the power to regulate its own procedure, and the procedure of Benches of the Tribunal in all matters arising out of the discharge of its functions including the places at which the Benches shall hold their sittings.

131. Appeal to the Appellate Tribunal.- (1) Where the <sup>5</sup>[taxpayer] or Commissioner objects to an order passed by the Commissioner (Appeals), the 5[taxpayer] or Commissioner may appeal to the Appellate Tribunal against such order.

- An appeal under sub-section (1) shall be-
  - (a) in the prescribed form;
  - (b) verified in the prescribed manner;
  - (c) accompanied <sup>6</sup>[, except in case of an appeal preferred by the Commissioner,] by the prescribed fee specified in sub-section (3); and

Sub-sections (8A) & (8AA) inserted by the Finance Act, 2009.

Substituted for the word "chairman" by the Finance Act, 2011.

Substituted for the word "five" by the Finance Act, 2011.

Substituted for the word "majority" by the Finance Ordinance, 2002.

Substituted for the word "majority" by the Finance Ordinance, 2002.

Words in a substituted for the word "appellant" by the Finance Ordinance, 2002.

CASE LAW CITATION u/s 131: Commissioner Inland Revenue Zone-V v. Ws T.N.W. Engineering Works [2019 PTD 46 = (2019)) 119 TAX 59 CONTROL OF Chairman and 2 other control of the control of t

- <sup>1</sup>[(d) preferred to the Appellate Tribunal within sixty days of the service of order of the Commissioner (Appeals) on the taxpayer (Commissioner, as the case may be.]
- <sup>2</sup>[(3) The prescribed fee shall be 'two' thousand rupees.]
- (4) The Appellate Tribunal may, upon application in writing, admit an appeal after expiration of the period specified in clause (d) of sub-section (2) if it is satisfied that person appealing was prevented by sufficient cause from filing the appeal within that period
- <sup>3</sup>[(5) Notwithstanding that an appeal has been filed under this section, tax should unless recovery thereof has been stayed by the Appellate Tribunal, be payable accordance with the assessment made in the case:

<sup>4</sup>[Provided that if on filing of application in a particular case, the Appellate Tribus is of the opinion that the recovery of tax levied under this Ordinance and upheld by Commissioner (Appeals), shall cause undue hardship to the taxpayer, the Tribunal, a affording opportunity of being heard to the Commissioner, may stay the recovery of tax for a period not exceeding one hundred and eighty days in aggregate <sup>5</sup>[:]

<sup>6</sup>[Provided further that where recovery of tax has been stayed under this section, su stay order shall cease to have effect on expiration of the said period of one hundred a eighty days following the date on which the stay order was made and the Commission shall proceed to recover the said tax:]

- 1 Clause (d) substituted by the Finance Ordinance, 2002.
- 2 Sub-section (3) substituted by the Finance Act, 2009.
- 3 Sub-section (5) inserted by the Finance Act, 2003.
- 4 First, second and third Provisos substituted by the Finance Act, 2012 while Third proviso seems to be omitted it amending as per the Finance Act, 2012 which was inserted by the Finance Act, 2009.
- 5 Substituted for the ":-" by the Finance Act, 2018.
- 6 Proviso inserted by the Finance Act, 2018.

## Section 131(2)(d)-Substitution.-The substituted clause (d) read as under:

"(d) filed with the Appellate Tribunal within sixty days of the date of service of notice of the Commissioner (Appellate Tribunal within sixty days of the date of service of notice of the Commissioner (Appellate Tribunal within sixty days of the date of service of notice of the Commissioner (Appellate Tribunal within sixty days of the date of service of notice of the Commissioner (Appellate Tribunal within sixty days of the date of service of notice of the Commissioner (Appellate Tribunal within sixty days of the date of service of notice of the Commissioner (Appellate Tribunal within sixty days of the date of service of notice of the Commissioner (Appellate Tribunal within sixty days).

## Section 131(3)-Substitution.-The substituted sub-section (3) read as under:

- "(3) The prescribed fee shall be-
  - (a) in the case of an appeal in relation to an assessment order, the lesser of two thousand five hundless or ten percent of the tax assessed; or
  - (b) in any other case -
    - (i) where the appellant is a company, two thousand rupees; or
    - (ii) where the appellant is not a company, five hundred rupees."

a x - procedure provided further that in computing the aforesaid period of one hundred and eighty provided full pr

Disposal of appeals by the Appellate Tribunal.-(1) The Appellate Tribunal may.

Aisposing of an appeal, call for such particulars as it may may Rexcluded.] Disposar of an appeal, call for such particulars as it may require in respect of the arising on the appeal or cause further enquiry to be made by before disposing on the appeal or cause further enquiry to be made by the Commissioner

The Appellate Tribunal shall afford an opportunity of being heard to the parties to the appeal and, in case of default by any of the party on the date of hearing, the Tribunal [ ] the appear and parte to decide the appeal on the basis of the available record.]

The Appellate Tribunal shall decide the appeal within six months of its filing.

(3) Where the appeal relates to an assessment order, the Appellate Tribunal may without prejudice to the powers specified in sub-section (2),] make an order to -

(a) affirm, modify or annul the assessment order; or

5[ ]

<sup>6</sup>[(c) remand the case to the Commissioner or the Commissioner (Appeals) making such enquiry or taking such action as the Tribunal may direct.

(4) The Appellate Tribunal shall not increase the amount of any assessment [or pena or decrease the amount of any refund unless the taxpayer has been given a reason opportunity of showing cause against such increase or decrease, as the case may be.

(5) Where, as the result of an appeal, any change is made in the assessment of association of persons or a new assessment of an association of persons is ordered made, the Appellate Tribunal may authorise the Commissioner to amend accordingly assessment order made on a member of the association and the time limit in sub-se (2) of section 122 shall not apply to the making of such amended assessment.

Sub-section (2) substituted by the Finance Ordinance, 2002. Words 'may, if it deems fit, dismiss the appeal in default, or omitted by the Finance Act, 2011.

Sub-section (2A) inserted by the Finance Act, 2005.

Comma and words inserted by the Finance Ordinance, 2002.

Clause (b) omitted by the Finance Act, 2007.

Clause (c) inserted by the Finance Ordinance, 2002.

Words inserted by the Finance Act, 2003.

CASE LAW CITATION u/s 132: Commissioner Inland Revenue Zone-V v. M/s T.N.W. Engineering Works [2019] [2019] 119 TAY 50 AND TAY 50 AND TOTAL COMMISSIONER INLANDING TRACING (2019)119 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue Zone-V v. Mvs 1.N.W. Englers v. Digicom Trading and Another (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner Inland Revenue (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner (2017 2000) 48 TAX 58 = 2019 PTCL 330]; Commissioner (20 another [2017 PTD 1042 (H.C.Kar.)]; Ghee Corporation of Pakistan (Pvt.) Ltd. v. Commissioner Inland Revenue (2017 PTD 1042 (H.C.Kar.)); Ghee Corporation of Pakistan (Pvt.) Ltd. v. Commissioner Inland Revenue [2017 PTD 1042 (H.C.Kar.)]; Ghee Corporation of Pakistan (Pvt.) Ltd. v. Commission of Pokistan (Pvt.) Ltd. v. Commission of Pvt. v. Commission o Unit- Zone-I and 5 others (2017 pttp. 972 (H.C. left): Commissioner Inland Revenue, Multan v. Bank Al-Habit Ltd.

- (6) Where the appeal relates to a decision other than in respect of an assessment Appellate Tribunal may make an order to affirm, vary or annul the decision, and such consequential directions as the case may require.
- <sup>1</sup>[(7) The Appellate Tribunal shall communicate its order to the taxpayer and Commissioner.]

- (10) Save as provided in section 133, the decision of the Appellate Tribunal appeal shall be final.
- <sup>4</sup>[133. Reference to High Court.- (1) Within ninety days of the communication of order of the Appellate Tribunal under sub-section (7) of section 132, the aggrieved pa or the Commissioner may prefer an application, in the prescribed form along with a state of the case, to the High Court, stating any question of law arising out of such order.

Sub-section (7) substituted by the Finance Ordinance, 2002.

Sub-section (8) omitted by Finance Ordinance, 2002.

Sub-section (9) omitted by Finance Ordinance, 2002.

Section 133 substituted by the Finance Act, 2005.

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where we are application made under sub-section (1), the High Court is satisfied to a sub-section (1), it may proceed Appellate Tribunal and the question of law which arises The manners to the High Court referred to in sub-section (1), shall set out the SANCE OF SANCE

The Court shall send a copy of the judgment under the seal of the Court to the reference and pass judgment thereon specifying the grounds and the Tribunal's order shall stand modified The High Court upon hearing a reference under this section shall decide the Civic of Civil Procedure, 1908 (Act V of 1908), shall apply, so far as The Court and, in respect of the neard by a Bench of not spect of the reference, the provisions of the High Court under this section shall be heard by a Bench of not anything contained in any other law for the time being in force. Live are Inbunal MAN X

standing that a reference has been made to the High Court, the tax shall \* remains accordance with the order of the Appellate Tribunal:

and the receipt of the Commissioner within thirty days of the receipt of the wants to prefer petition for leave to appeal to the specie Court, make an order authorizing the Commissioner to postpone the refund until Example to the High Court and the amount of tax found refundable, the High Court the indimental if the amount of tax is reduced as a result of the judgment in the to disposal of the appeal by the Supreme Court.

The state recovery of tax has been stayed by the High Court by an order, such order was made unless the appeal is decided or such order is withdrawn by the High

(2) because 5 of the Limitation Act, 1908 (IX of 1908), shall apply to an application (3) An application under sub-section (1) by a person other than the Commission \*\*\* " " \* High Court under sub-section (1).

was the accordanced by a fee of one hundred rupees. Trees 184 to severituation. The critical section 133 read as under

The processor is stage. Court, (1) Where the Appellate Tribunal has made an order on an appeal up to the first of the firs

The Appendix of the year of the Appendix of the Calendary of the Calendary of the satisfied that a question of the arises of the Calendary and the Calendary of The control of the control of the application, draw up a statement of the control of the control