

130. **Appointment of the Appellate Tribunal.**—² [(1) There shall be established an Appellate Tribunal to be called the Appellate Tribunal 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 manner as the Prime Minister may prescribe by the rules.]

(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; ³[or]
- (b) is or has been an advocate of a High Court and is qualified to be a Judge of the High Court ⁴[.]

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¹ Sub-sections (5), (6) & (7) omitted by the Finance Act, 2012.

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

³ Word "or" inserted by Finance Act, 2017. Earlier the word "or" omitted by the Finance Act, 2013.

⁴ Word etc. "; or" omitted by Finance Act, 2017. Earlier word etc. "; or" substituted for full-stop by the Finance Act, 2013

⁵ Clause (c) omitted by Finance Act, 2017. Earlier it was inserted by the Finance Act, 2013.

¹[(4) A person may be appointed as an accountant member of an appellate tribunal if,-]

- (a) he is an officer of Inland Revenue ²[Service] equivalent to the rank of Regional Commissioner; ³[]
- (b) a Commissioner Inland Revenue or Commissioner Inland Revenue (Appeals) having at least ⁴[three] years experience as Commissioner Collector ⁵[; ⁶[]]
- ⁷[(c) a person who has, for a period of not less than ten years, practised professionally as a chartered accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961) ⁸[; or/]
- ⁹[(d) a person who has, for a period of not less than ten years, practised professionally as a cost and management accountant within the meaning of Cost and Management Accountants Act, 1966 (XIV of 1966).]

(5) The Federal Government shall appoint a member of the Appellate Tribunal as Chairperson of the Tribunal ¹⁰[and, except in special circumstances, the person appointed should be a judicial member].

(6) The powers and functions of the Appellate Tribunal shall be exercised and discharged by Benches constituted from members of the Tribunal by the Chairperson of the Tribunal.

(7) Subject to sub-section (8), a Bench shall consist of not less than two members of the Appellate Tribunal and shall be constituted so as to contain an equal number of judicial and accountant members, or so that the number of members of one class does not 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 Appellate Tribunal shall be exercised by –

¹ Sub-section (4) substituted by the Finance Act, 2010 and shall have deemed to have taken effect from the 5th June 2010. Earlier it was substituted by the Finance Act, 2007.

² The word inserted by the Finance Act, 2012.

³ Word "or" omitted by the Finance Act, 2013.

⁴ Substituted for "five" by the Finance Act, 2012.

⁵ Substituted for the full-stop by the Finance Act, 2013.

⁶ Word "or" omitted by the Finance Act, 2014.

⁷ Clause (c) inserted by the Finance Act, 2013.

⁸ Substituted for the full-stop by the Finance Act, 2014.

⁹ Clause (d) inserted by the Finance Act, 2014.

¹⁰ Words and commas inserted by the Finance Act, 2013. Earlier the same words and commas were omitted by the Finance Act, 2012.

¹[(d) preferred to the Appellate Tribunal within sixty days of the date of service of order of the Commissioner (Appeals) on the taxpayer or Commissioner, as the case may be.]

²[(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 the person appealing was prevented by sufficient cause from filing the appeal within that period.

³[(5) Notwithstanding that an appeal has been filed under this section, tax shall be payable unless recovery thereof has been stayed by the Appellate Tribunal, be payable in accordance with the assessment made in the case:

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

⁶[Provided further that where recovery of tax has been stayed under this section, such stay order shall cease to have effect on expiration of the said period of one hundred and eighty days following the date on which the stay order was made and the Commissioner 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 while 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 (Appeals) on the appellant or Commissioner, as the case may be."

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 hundred rupees 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."

(6) Where the appeal relates to a decision other than in respect of an assessment, the Appellate Tribunal may make an order to affirm, vary or annul the decision, and give such consequential directions as the case may require.

¹[(7) The Appellate Tribunal shall communicate its order to the taxpayer and the Commissioner.]

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(10) Save as provided in section 133, the decision of the Appellate Tribunal on appeal shall be final.

⁴[133. Reference to High Court.- (1) Within ninety days of the communication of the order of the Appellate Tribunal under sub-section (7) of section 132, the aggrieved person or the Commissioner may prefer an application, in the prescribed form along with a statement of the case, to the High Court, stating any question of law arising out of such order.]

¹ Sub-section (7) substituted by the Finance Ordinance, 2002.

² Sub-section (8) omitted by Finance Ordinance, 2002.

³ Sub-section (9) omitted by Finance Ordinance, 2002.

⁴ Section 133 substituted by the Finance Act, 2005.

