CHAPTER 16

APPEALS, REFERENCES & ADR

The **appeal ladder** — Commissioner (Appeals), Appellate Tribunal, High Court reference, Supreme Court — with **fees, time limits and stay rules** at each step, plus **alternative dispute resolution**, the **algorithmic settlement**, the **case scrutiny committee**, appeal-effect orders and the **burden of proof**. Law: ITO 2001 · tax year 2027.

CHAPTER ROADMAP

1	Forums of appeal	ladder
2	Commissioner (Appeals)	ss.127 – 129
3	Appellate Tribunal	ss.130 – 132
4	High Court · Supreme Court	ss.133 · 133A
5	ADR committee	s.134A
6	Algorithmic settlement	s.134B
7	Appeal effect · burden of proof	ss.124 · 136

FORUMS

Forums: Commissioner (Appeals) → **Appellate Tribunal** → **High Court** (reference on a **question of law**) → **Supreme Court / Federal Constitutional Court** (Article 185) — and **alternative dispute resolution** alongside. A taxpayer may skip the first step and go straight to the Tribunal.

1 APPEAL TO THE COMMISSIONER (APPEALS)

section 127

APPEALABLE ORDERS

Best judgment assessment · **amended** assessment · order making a person **personally liable** for tax he failed to deduct / collect / pay · order treating a person as **representative of a non-resident** · order **refusing to rectify** · order **enhancing assessment or reducing a refund**.

WHO AND CONDITIONS

Any person **other than a state-owned enterprise** (SOEs must go to ADR). No appeal unless the **tax due with the return (s.137(1))** is paid. Option to **surrender** this appeal and go directly to the Tribunal. Faceless processing possible (s.129A).

FEE

Assessment order: **Rs. 5,000** (company) / **Rs. 2,500** (others). Any other order: **Rs. 5,000** (company) / **Rs. 1,000** (others).

TIME

30 days from service of the **demand notice** (assessment / penalty) or from service of **intimation** of the order (other cases). Delay may be **condoned**.

2 HEARING AND DECISION

sections 128 and 129

STAY OF RECOVERY

On undue hardship, after hearing the Commissioner: **30 days**; a further **30 days** only if the appeal is decided within it.

NEW GROUNDS AND EVIDENCE

New **ground** if its omission was not wilful or unreasonable; new **evidence** only if the appellant was prevented by **sufficient cause**.

DECISION

Confirm, modify or annul. No increase in assessment or cut in refund **without a show-cause opportunity**. AOP change may be extended to its members, ignoring the s.122(2) time limit.

TIME

Order within **120 days** of filing, or **60 days more** for recorded reasons; excluded: adjournments at the appellant's request, stay, remand, ADR.

3 APPELLATE TRIBUNAL INLAND REVENUE

sections 130 – 132

CONSTITUTION

Under the **Ministry of Law, Justice and Parliamentary Affairs** (independent of the FBR). Chairperson holds office **3 years**; members retire at **62** (officers: superannuation); removal by the Federal Government. **Qualified:** advocate **15 years**; CA in practice / CA employed by a practising CA **10 years**; CMA **10 years**; IR officer **BS-21+**, or **BS-20 with 3 years**.

APPEAL · s.131

By taxpayer or Commissioner within **30 days** of receipt of the order. Fee **Rs. 20,000** (company) / **Rs. 5,000** (others). Delay condonable. Tax stays payable unless **stayed**: **90 days** after hearing the Commissioner; the stay **ceases if the taxpayer breaks the hearing schedule**, but continues if the Tribunal itself exceeds its time.

DECISION · s.132

Decide within **90 days** of filing (180 days for appeals pending at the 2024 Act); otherwise seek **condonation from the Minister of Law and Justice**, up to **90 days**. **ADR option** explained at the first hearing. **No adjournment** except compelling reasons **plus costs of at least Rs. 50,000**. Affirm, modify, annul or **remand**; final unless referred to the High Court.

4 HIGH COURT AND ABOVE

sections 133 and 133A

REFERENCE · s.133

On a **question of law**, within **60 days** of communication of the Tribunal order. **Record within 15 days**. Fee **Rs. 50,000** (non-Commissioner). The Commissioner needs **written authorisation of the Chief Commissioner**. Heard by a **Special Bench of at least two judges**; decided within **six months**; the Tribunal order stands modified.

TAX AND STAY

Tax stays payable per the Tribunal order, but **no recovery for 30 days** from communication. High Court stay needs a deposit of **at least 30%** of the tax and lapses after **six months** unless the reference is decided.

SUPREME COURT

Final forum (Article 185); no provision needed in the Ordinance. If tax is refundable after the High Court judgment the Commissioner may apply (within 30 days) to **postpone the refund**.

CASE SCRUTINY COMMITTEE · s.133A

The Commissioner can file a reference / appeal only after approval by an **independent committee**: **retired judge (chair)**, **advocate with 15 years**, **FBR officer BS-20+**; a CA may be co-opted **without a vote**. Its recommendation **binds** the Commissioner; the waiting time is **excluded** from limitation (certified by the chairman).

5 ALTERNATIVE DISPUTE RESOLUTION

section 134A

ELIGIBILITY

A dispute in a court or appellate forum where tax is **Rs. 50 million or more** (or refund admissibility), or for waiver of **default surcharge and penalty**, or other relief — **not** where criminal proceedings have started. **SOEs**: **mandatory** and no Rs. 50m threshold.

COMMITTEE

Appointed by the Board within **15 days**: a **retired High Court / Supreme Court judge** as chairperson (from three names proposed by the taxpayer's nominee); an **IR officer BS-21+** (not the jurisdictional Chief Commissioner); and the **taxpayer's nominee** (CA / CMA / advocate with **15 years**, retired BS-21 officer, or a businessman nominated by a chamber) — **not his own auditor or representative**.

PROCESS AND TIME

Applicant gives an **offer and undertaking** to accept the decision and withdraw litigation. Decide **by majority within 90 days**; failing which the committee is **dissolved** and the court decides within **90 days**. A vacancy is filled within **15 days** (+ **60 days** extra). **SOE**: 60 days, reappointed committee 60 days, then dissolved.

EFFECT

Not a precedent. Recovery is **deemed stayed** until decision or dissolution. Binding only if the taxpayer **communicates withdrawal within 60 days**; the Commissioner withdraws within **30 days**. Mistakes rectifiable within **30 days**.

6 ALGORITHMIC SETTLEMENT

section 134B

WHAT

A digital mechanism offering settlement **before an order** under s.121, 122 or 122E, through a **revised return** (s.114(6)). The offer reflects stage, **compliance history** and nature of the discrepancy.

HOW

Within **10 days**: **accept on IRIS**, **deposit** the settlement amount with the revised return, and revise the return.

EFFECT

Issues in an audit-selection notice, s.111 notice, s.177(6) audit report or **s.122(9)** notice **abate**. **Other issues and years stay open**.

7 APPEAL EFFECT AND BURDEN OF PROOF

sections 124 and 136

Decision of the appellate authority	Time for the new assessment order
Direct relief to the taxpayer	**Two months** from the date the order is served on the Commissioner
Assessment wholly or partly set aside	**One year** from the end of the financial year of service (no further appeal / reference)
Any other decision	**Two years** from the end of the financial year of service

APPEAL EFFECT

No order needed where the tax is **confirmed** (recovery proceeds). On a **partial set-aside** an appeal-effect order covers only the confirmed or modified issues. Proceedings resume from the **stage before** the one set aside; earlier notices are not re-issued. Tax is payable **immediately**, not in 30 days.

BURDEN OF PROOF · s.136

On the **taxpayer**, on the **balance of probabilities**: the extent to which an assessment does not correctly reflect his liability, or that another decision is erroneous.

8 EXAM FOCUS · MCQ TRAPS

what examiners test

1 SOEs

Cannot appeal to the CIR(A); **ADR is mandatory**, no Rs. 50m threshold.

2 CIR(A)

30 days; fee 5,000 / 2,500 (assessment) or 5,000 / 1,000 (other); decide in **120 + 60** days.

3 Tribunal

30 days to file; fee **20,000 / 5,000**; decide in **90 days**; stay **90 days**; adjournment costs **Rs. 50,000+**.

4 High Court

60 days; record **15 days**; fee **Rs. 50,000**; six months; stay needs **30% deposit**.

5 Commissioner's reference

Needs the **Chief Commissioner's authorisation** and the **case scrutiny committee's** approval.

6 ADR

Rs. 50m; 15-day appointment; **90 days**; not a precedent; withdrawal within **60 days**.

7 Algorithmic settlement

10 days; abates covered issues only.

8 Burden of proof

On the **taxpayer**, on the balance of probabilities.

CLASSIFY IT · WHICH FORUM?

1	Appeal against a best judgment assessment	CIR(A)
2	Appeal against an order of the CIR(A)	TRIBUNAL
3	Question of law from a Tribunal order	HIGH COURT
4	Appeal by a state-owned enterprise	ADR (MANDATORY)
5	Tax liability of Rs. 60m pending in appeal	ADR ELIGIBLE
6	Appeal against a High Court judgment	SUPREME COURT
7	Taxpayer skips the first appeal	DIRECT TO TRIBUNAL
8	Commissioner wants to file a reference	COMMITTEE + CC

CLASSIFY IT · TIME OR FEE?

1	Appeal to the CIR(A): time	30 DAYS
2	CIR(A) fee: assessment order, company	RS. 5,000
3	CIR(A) fee: other order, non-company	RS. 1,000
4	Tribunal appeal fee: company / others	20,000 / 5,000
5	Tribunal to decide within	90 DAYS
6	High Court reference: time	60 DAYS
7	High Court reference fee	RS. 50,000
8	ADR committee to decide within	90 DAYS

LIMITS TO KNOW

CIR(A)	Tribunal	High Court	ADR	Settlement
30 days · decide 120 + 60	30 days · decide 90	60 days · 6 months	Rs. 50m · 90 days	10 days on IRIS

REVISION MAP

1 · CIR(A)

Appealable orders · not for SOEs · s.137(1) tax paid · 30 days · fees 5,000 / 2,500 / 1,000 · stay 30 + 30 · decision in 120 + 60 days · no increase without show cause

2 · TRIBUNAL

Independent of FBR · members: advocate 15, CA / CMA 10, IR officer BS-21 or BS-20 + 3 · 30 days · fee 20,000 / 5,000 · stay 90 days · decide in 90 days · adjournment costs Rs. 50,000+

CHAPTER 16
APPEALS & ADR

3 · HIGH COURT AND ABOVE

Reference on law: 60 days, record 15 days, fee Rs. 50,000, Special Bench, 6 months · stay 30% deposit · Chief Commissioner authorisation · case scrutiny committee · Supreme Court Art. 185

4 · ADR, SETTLEMENT, EFFECT

ADR: Rs. 50m, SOEs mandatory, 15 / 90 days, not a precedent · algorithmic: 10 days · appeal effect: 2 months / 1 year / 2 years · burden on taxpayer

CIR(A)
First appeal, 30 days.

Tribunal
Final on facts.

High Court
Law only, 60 days.

ADR
Rs. 50m, SOEs mandatory.