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RULE 27 OF ITAT RULES, 1963- THE UNSUNG SHIELD FOR RESPONDENTS

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Introduction:

When an appeal is filed before the ITAT by the Income Tax Department, the Taxpayer as a Respondent has the right to file a cross-objections against such appeal under sub-section (4) of section 253 of the Income Tax Act, 1961, within 30 days of receipt of notice of such appeal.

However, where such cross-objections have not been filed, the Respondent is not left remediless. Rule 27 of the Income Tax (Appellate Tribunal) Rules, 1963 empowers the Respondent to *“support the order appealed against on any of the grounds decided against him.”*

When Can You Invoke Rule 27?

Favorable outcome on legal ground on jurisdiction, _ adverse findings on merits:

Where CIT(A) has quashed the assessment order for being beyond jurisdiction or having legal infirmities, but sustained the addition on merits, the Taxpayer can avail the recourse available under Rule 27 to support the order of CIT(A) on favorable outcome on legal ground while contesting the additions on merits.

Favorable outcome on merits, adverse legal findings:

Where CIT(A) has allowed full relief on merits, deleting the entire addition, but rejected the legal ground on jurisdiction such as on reopening u/s 147, the Taxpayer may raise such legal ground on jurisdiction before the ITAT under Rule 27

Limitation of rule 27

For seeking more relief than what has been granted by - CIT(A):

In an instance where an addition was partially sustained by CIT(A), eg. addition reduced from 12.5% to 5% of bogus purchase, to challenge the sustained addition of 5%, a cross objection is required to be filed.

For raising a ground of appeal not raised before CIT(A):

A ground of appeal not raised before lower authorities can be raised before ITAT only by way of filing a cross-objection.

Why Rule 27 is Your Strategic Advantage



No Separate Appeal Required

No need to file a separate memorandum—invoke it during the hearing itself.



Can Be Made Orally

Simply raise it verbally at the ITAT hearing. No prescribed format or paperwork needed.



No Prescribed Format

Defend favorable CIT(A) orders on adverse grounds without the burden of cross-objection deadlines.

Key Takeaways

Rule 27 offers taxpayers a strategic advantage in ITAT appeals. Rule 27 offers the Taxpayer the ***ability to defend a favorable order of CIT(A)*** on grounds that were decided against them, without having to file a separate memorandum of cross-objection. It ***simplifies the procedural requirements, avoids the time-bound obligation of filing a cross-objection***, and ensures that legal or jurisdictional issues which have been adversely decided by the CIT(A) are still preserved for adjudication.

In essence, where the intention is solely to support the ultimate relief granted by the CIT(A) on other grounds adjudicated adversely by the CIT(A), Rule 27 presents a strategic and efficient alternative to filing a cross-objection u/s 253(4).

A sound strategy is the foundation of any successful litigation.
For more insights, contact us at:



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