

PROCEDURE TO BE FOLLOWED FOR APPEALS BY THE APPELLATE AUTHORITY, 2013¹

In exercise of the powers conferred by Sub-Section (2) of Section 22D of the Chartered Accountants Act, 1949[as amended by the Chartered Accountants (Amendment) Act, 2006] read with Section 22A of the Company Secretaries Act, 1980 [as amended by the Company Secretaries (Amendment) Act, 2006] and Section 22A of the Cost and Works Accountants Act, 1959 [as amended by the Cost and Works Accountants (Amendment) Act, 2006] and in supersession of Appellate Authority (Procedure) Rules 2011, the Appellate Authority hereby makes the following procedure to be followed for appeals by the Appellate Authority, namely–

1. Short title and commencement

1. These rules shall be called the Procedure to be followed for Appeals by the Appellate Authority, 2013.
2. It shall come into force on the day of its approval by the Appellate Authority and shall repeal The Appellate Authority (Procedure) Rules, 2011.

2. Definitions

In these rules, unless the context otherwise requires –

- a. **“Act”** means The Chartered Accountants Act, 1949 (38 of 1949) or The Company Secretaries Act or The Cost and Works Accountants Act, as the case may be.
- b. **“Agent”** means a person duly authorized by a party to present an application, written reply, rejoinder or any other document on its behalf before the Authority.
- c. **“Appellant”** means person making an appeal to the Authority under the provisions of the relevant Act.
- d. **“Form”** means a form specified in Appendix A.
- e. **“Legal practitioner”** shall have the same meaning as is assigned to it in the Advocates Act, 1961 (25 of 1961).
- f. **“Legal representative”** means a person who in law represents the estate of the deceased person.
- g. **“Registrar”** in relation to the Authority, means the Registrar of the Appellate Authority or a person on whom the powers and functions of the Registrar may be delegated under Rule 24 and 25.
- h. **“Registry”** means the Registry of the Authority.
- i. **“Section”** means a section of the relevant Act.
- j. **“Authority”** means the Appellate Authority established by the Central government under the provisions of the relevant Act.

¹ As amended by the Appellate Authority in its meeting held on 6th August, 2022.

k. "Institute" means The Institute of Chartered Accountants of India or The Institute of Company Secretaries of India or The Institute of Cost Accountants of India, as the case may be.

l. The words and expression used and not defined in these rules, but defined in the Act shall have the same meanings respectively assigned to them in the Act.

3. Language of the Authority

The official language of the Authority shall be English. However, the authority may permit the parties to address arguments in a language other than English.

4. Procedure for filing appeal

1. An appeal to the Authority shall be presented in Form 'I' by the appellant in person or by an agent or by a duly authorized legal practitioner to the Registrar or any other officer authorized in writing by the Registrar to receive the same or be sent by Registered Post with Acknowledgement duly addressed to the Registrar of the Authority.

2. The appeal under sub-rule (1) shall be presented in 6 sets in the following two compilations-

i. **Compilation No. 1** – Appeal along with the impugned order, if any, duly supported by an affidavit sworn by the appellant;

ii. **Compilation No. 2** – All other documents and annexure(s) referred to in the appeal in a paper book form self-attested by the appellant.

3. Where the number of respondents is more than one, as many extra copies of the appeal in paper book form as there are respondents together with unused file size envelope bearing the full address of each respondent shall be furnished by the appellant at time of filing of appeal.

4. The appellant may attach to and present with his appeal a receipt slip in Form 'B' which shall be signed by the Registrar or the officer receiving the application on behalf of the Registrar in acknowledgement of the receipt of the application.

5. Presentation and scrutiny of Appeal

1. The Registrar, or the officer authorized by him under rule 4, shall endorse on every appeal the date on which it is presented or deemed to have been presented under that rule and shall sign the endorsement.

2. If, on scrutiny, the appeal is found to be in order, it shall be registered and given a serial number.

3. If the appeal on scrutiny is found to be defective and the defect noticed is formal in nature, the Registrar may allow the party to rectify the defect in his presence, and if the said defect is not formal in nature, the Registrar shall allow the appellant such time to rectify the defect as he may deem fit. Where an appeal is received by registered post, the appellant shall be informed of the defects, if any, and he shall be

required to rectify the same within such time as may be stipulated by the Registrar.

4. If the appellant fails to rectify the defect within the time allowed under sub- rule (3), the Registrar may, by order and for reasons to be recorded in writing, decline to register the appeal and place the matter before the Bench for appropriate orders.

6. Place of filing appeal

An appeal shall ordinarily be filed with the Registrar or the officer authorized in this behalf of the Authority personally or by post at Office of the Authority.

7. Fee

Every appeal filed with the Registrar shall be accompanied by a fee of rupees five thousand five hundred only to be remitted in the form of crossed demand draft in favour of the "Appellate Authority" and payable at New Delhi:

Provided further that where the Authority on an application made is satisfied that an appellant is unable to pay the prescribed fee on ground of indigence, it may exempt such an appellant from the payment of fee.

8. Contents of appeal

1. Every appeal filed under rule 4 shall set forth concisely, under distinct heads, the grounds for such appeal. The ground shall be numbered consecutively. Every appeal including a miscellaneous application shall be typed in double space on legal size paper of good quality on one side.
2. It shall not be necessary to present a separate application to seek an interim order or direction if in the appeal a prayer is made for interim relief.
3. An appellant may, subsequent to the filing of an appeal, file an application for an interim order or direction.
4. Where the appellant seeks condonation of delay, he shall file a separate application for the same giving grounds for condonation of delay.
5. In case any of the party post final disposal of an appeal moves an application either for seeking extension of time for completing the directions of the Authority or otherwise, a fee of rupees two thousand shall be accompanied therewith and the same shall be payable in the form of Demand Draft in favour of Appellate Authority².

9. Service of notice and processes issued by the Authority

1. Notices to be issued by the Authority may be served by any of the following modes:
 - i. Service by the party itself.
 - ii. By registered post / speed post 'with acknowledgement due.
 - iii. Through authorized courier service along with proof of delivery.

² As decided in the meeting of the Appellate Authority held on 31st May, 2019. This rule is effective from 6th June, 2019.

- iv. Through email sent from official email domain of the Authority wherever email address of the appellant and respondent (s) is available.

Provided that if the Authority does not specify authorized courier service, notice may be sent by any courier service with acknowledgement due.

2. Where notice issued by the Authority is served by the party himself by hand delivery' (Dasti, he shall file with the Registry of the Authority, the acknowledgement together with an affidavit of service).
3. Notwithstanding anything contained in sub-rule (1) the Authority may, taking into account the number of respondents and their places of residence or work and other circumstances, direct the notice of the application to be served upon the respondents in any other manner, including manner of substituted service, as it appears to the Authority just and convenient.
4. Every notice issued by the Authority shall unless otherwise ordered, be accompanied by a copy, or soft copy in portable document format if served via email, of the appeal.

Provided that no appeal shall be heard unless:

- i. Notice of the appeal has been served on the Institute and the complainant/informant if any, or
- ii. The Authority is satisfied that the interests of the respondents on whom notice of the appeal has not been served are adequately and sufficiently represented by the respondents on whom notice of the appeal has been served, or
- iii. The Authority is satisfied that a party has avoided service.

10. Filing of reply and other documents by the respondents

1. Each respondent intending to contest the appeal shall file with the Authority 5 sets of reply to the appeal typed in double space on a legal size paper. The reply and the Annexures mentioned in the same shall be consecutively numbered. The reply shall be concise and to the point. In case reliance is placed on any judgment or on provisions of any Act, a complete copy of the same shall be attached separately in a separate compilation.
2. Reply in the manner aforesaid, shall be filed with the Registry within one month of the service of notice of the appeal on him.
3. The respondent, before filing reply with the registry, shall serve upon a copy of the reply along with documents as mentioned in sub-rule(1) on the appellant or his authorized agent or to his legal practitioner, if any, and file a proof of such service in the Registry.

11. Date and place of hearing to be notified

The Authority shall notify to the parties the date, time and place of hearing of the appeal, as the Chairperson may by general or special by order direct, at least one week prior to the date of final hearing. However, where interim relief /modification of interim relief is sought for by the parties, the notice of hearing may be shorter than a week.

12. Calendar of cases

1. The authority shall draw up a calendar for the hearing of appeals and, as far as possible, hear and decide the appeals according to the calendar.
2. The Authority shall have the power to decline an adjournment and also to limit the time for oral arguments.

13. Quorum of the Authority

The Quorum of the Appellate Authority for hearing the appeals shall consists of the Chairperson and at least two members of the Authority.

Provided that the members appointed u/s 22 (1) (b) of the Chartered Accountants Act, 1949, Section 22A (b) of the Company Secretaries Act, 1980 and Section 22A (b) of the Cost and Works Accountants Act, 1959 shall be competent to hear the appeals and the applications only pertaining to their respective Institutes.

14. Action on appeal for appellant's default

1. Where on the date fixed for hearing of the appeal or on any other date to which such hearing may be adjourned the appellant does not appear when the appeal is called for hearing, the Authority may in its discretion; either dismisses the appeal for default or hears the parties present and decides it on merits.
2. Where an appeal has been heard ex-parte against a respondent or respondents such respondent or respondents may apply within 30 days from the date of the order of his being proceeded ex-parte to the Authority for the order to be set aside, if such respondent or respondents satisfy the Authority that the notice was not duly served, or that he or they were prevented by a sufficient cause from appearing when the appeal was called for hearing, the Authority may make an order setting aside the ex-parte order as against him or them upon such terms as it thinks fit, and shall appoint a day for proceeding with the application.

15. Adjournment of hearing

1. Any request for adjournment by the parties shall be made so as to reach the Authority at least 7 days prior to the date of hearing fixed, by way of proper application mentioning the reasons therein and duly supported by affidavit and documents, if any.
2. The said application for adjournment shall be placed before the Chairperson for consideration who may make such order as he thinks fit in this regard.

16. Order to be signed and dated

Every order of the Authority shall be signed by the Member or Members constituting the Bench, which pronounced the order.

17. Publication of orders

The Authority shall put all its decisions on its website for general information.

18. Communication of order to parties

1. Every interim order, granting or refusing or modifying interim relief and final order shall be communicated to the appellant and to the respondents/ authorized representative, either by hand delivery or by registered post or courier or by electronic mail in pdf format on the mail id informed by the parties, free of costs.
2. If the appellant or the respondent to any proceeding requires a copy of any document or proceeding the same shall be supplied to him on such terms and conditions and on payment of such fees as may be fixed by the Chairperson by general or special order.
3. Subject to such terms and conditions as may be prescribed by the Chairperson by a general or special order, a person who is not a party to the proceeding, may obtain a certified copy of any judgment / order of the Authority from the Registrar of the Authority.

19. Inspection of the records

The parties to any case or their counsel or their authorized representative may be allowed to inspect the record of the case on making an application in writing to the Registrar along with a fee of Rs. 500/- by way of Postal Order or Demand Draft in the name of the Appellate Authority, on any working day in the pending appeals. However, in case of the appeals already decided by the Authority or fixed for hearing on the date of application, the records shall be made available to parties for inspection only after one day of making such request.

20. Order and directions in certain cases

The Authority may make such orders or give such directions as it may deem fit to give effect to its order or to prevent abuse of its process or to secure the ends of justice.

21. Working hours of the Authority

Except on Saturdays, Sundays and other public holidays, the office of the Authority shall, subject to any order made by the Chairperson remain open from 10:30 a.m. to 5:00 p.m.

22. Sitting hours of the Authority

The time, date and place of the sittings of the Authority shall be as decided by the Chairperson from time to time. The sittings may take place even on Saturdays, Sundays and/ or Holidays as per convenience of the members.

23. Powers and functions of the Chairperson

The Chairperson shall have the powers to issue any order/ direction in relation of day-to-day functioning of the Authority.

24. Powers and functions of the Registrar

1. The Registrar shall have the custody of the records of the Authority and shall exercise such powers and perform such other functions as are assigned to him under these rules or by the Chairperson by separate order.

2. The Registrar may, with the approval of the Chairperson delegate to the Deputy Registrar/ Assistant Registrar any function of power required by these rules to be performed or exercised by the Registrar.
3. In the absence of the Registrar, the Deputy Registrar or any other officer to whom the powers and functions of the Registrar are delegated by the Chairperson, as the case may be, may exercise the powers and functions of the Registrar.
4. The official seal shall be kept in the custody of the Registrar.
5. Subject to any general or special direction by the Chairperson the seal of the Authority shall not be affixed to any order, summons or other processes save under the authority in writing of the Registrar or the Deputy Registrar.
6. The seal of the Authority shall not be affixed to any certified copy issued by the Authority save under the authority in writing of the Registrar or the Deputy Registrar.

25. Additional powers and duties of Registrar

In addition to the powers conferred, elsewhere in these rules, the Registrar shall have the following powers and duties subject to any general or special order of the Chairperson namely:-

- i. To receive all appeals and other documents.
- ii. To decide all questions arising out of the scrutiny of the appeal before they are registered.
- iii. To require any appeal presented to the Authority to be amended in accordance with the Act and the Rules.
- iv. Subject to the direction of the Authority to fix the date of first hearing of the appeal or other proceedings or issue notices thereof.
- v. To direct any formal amendments of records.
- vi. To order grant of copies of documents to parties to the proceedings.
- vii. To grant leave to inspect the records of the Authority.
- viii. To dispose of all matters relating to the service of notices or other processes, and to place the matter before the Bench for appropriate orders after the expiry of the aforesaid period.
- ix. To requisition records from the custody of any court, Institute or other authority.
- x. To receive and dispose of applications by parties for return of documents.

26. Seal and emblem

The official seal and emblem of the Authority shall be such as may be decided by the Authority.
