

## APPELLATE TRIBUNAL INLAND REVENUE

MR. ZAFAR ASLAM KHAN, PESHAWAR

VERSUS

COMMISSIONER INLAND REVENUE, ZONE-SOUTH,  
RTO, ISLAMABAD

### HEAD NOTE

ITA No.1989/IB/2024 MA(Cond.) No.328/IB/2024 MA(Stay) No.1469/IB/2024 (Tax Year, 2018

**Present:** Mr. M. M. Akram Judicial Member and Mr. Imran Latif Minhas Accountant Member.

**Appellant by:** Mr. Zain ul Hassan, ACA.

**Respondents by:** None.

**Decided on:** 17<sup>th</sup> December, 2024

**Citation:** PTCL 2025 CL. 156; 2025 132 TAX 13; 2026 PTD 150;

**INCOME TAX ORDINANCE, 2001 (XLIX OF 2001)**

**Sections 131 & 223**

**Appeals before the Appellate Tribunal must be physically filed using the prescribed Form. No mechanism for electronic filing is currently provided under the Ordinance or the associated rules. Consequently, the use of scanned signature raises questions of compliance, hence appeal is dismissed.**--The appeal, along with the miscellaneous applications, had been filed using an electronically scanned signature of the appellant, which is not permissible under the law. According to the prescribed procedure, the appeal must be filed by the appellant personally, bearing their handwritten signature and verification; otherwise, it cannot be considered properly filed by the aggrieved person. In response, the learned AR explained that the appellant is a non-resident, currently residing abroad and rendering services outside Pakistan for several years. The appellant had authorized the AR to file the appeal on their behalf.

The maintainability of the appeal under the provisions of Section 131 of the Income Tax Ordinance, 2001, read with Rule 77 of the Income Tax Rules, 2002, hinges on compliance with procedural requirements, including the proper signing of the appeal documents. In accordance with Section 131 of the Ordinance, an aggrieved person may file an appeal against an order in the manner prescribed under Rule 77 of the Income Tax Rules, 2002. As per the relevant legal provisions, appeals before the Appellate Tribunal Inland Revenue (**ATIR**) must be physically filed using the prescribed form. No mechanism for electronic filing is currently provided under the Ordinance or the associated rules. Consequently, the use of scanned signatures raises questions of compliance for the following reasons:

1. *Legal Requirements for Filing Appeals.*
  - o Rule 77 of the Income Tax Rules, 2002, specifies the form and procedure for filing an appeal.
  - o This rule requires the appeal to be signed and verified by the appellant or an authorized representative, emphasizing physical filing, as no electronic filing mechanism exists.
2. *Scanned Signatures vs. Physical Signatures.*
  - o Scanned signatures are merely reproductions of original signatures and do not equate to physical, manual signatures.
  - o The requirement for personal signing by the appellant or authorized representative calls into question the authenticity and validity of appeals submitted with scanned signatures.
3. *Authentication and Verification.*

- o Scanned signatures lack the level of authenticity associated with handwritten signatures, which raises further concerns about compliance.

**The Power of Attorney annexed with the appeal, which is also signed using a scanned signature, does not explicitly authorize (the consultant) to file the appeal on behalf of the appellant. Filing an appeal is a distinct legal act and must be explicitly authorize in the power of attorney.**--It is noted that the appeal was not filed within the prescribed time. The appellant submitted an application for condonation of delay along with an affidavit. However, both the application and the affidavit bear scanned signatures of the appellant. Additionally, the Power of Attorney (POA) annexed with the appeal, which is also signed using a scanned signature, does not explicitly authorize (the consultant) to file the appeal on behalf of the appellant.

While the POA authorizes (the consultant) to represent the appellant, engage in proceedings, present arguments, and collect the appellate order, it does not expressly empower them to file an appeal. Filing an appeal is a distinct legal act and must be explicitly authorized in the POA.

Additionally, it is noted that the appellant, being a non-resident, is currently out of the country. Despite this, the POA is signed by two witnesses and attested/authenticated by Mr. Tariq Iqbal Maher, Notary Public, Islamabad. This raises concerns regarding procedural propriety and adherence to legal standards. While courts generally consider the Doctrine of Substantial Compliance in procedural matters, the observations, in this case, leave no alternative but to dismiss the appeal on the grounds that it was not filed by the appellant or an authorized representative.

## **INCOME TAX RULES, 2002**

### **Rule 77**

See Sections 131 & 223 of the Income Tax Ordinance, 2001.

### **RESULT:**

Appeal dismissed.

## **ORDER**

**MR. M. M. AKRAM JUDICIAL MEMBER.**--(1). The titled appeal, along with miscellaneous applications for condonation of delay in filing the appeal and a stay, has been filed by the appellant taxpayer on December 13, 2024, as a first appeal under Section 131 of the Income Tax Ordinance, 2001 ("**the Ordinance**"). This appeal challenges the Impugned Order dated May 20, 2024, issued by the Office of Inland Revenue, Unit-I, Zone South, RTO Islamabad, for the tax year 2018, based on the grounds outlined in the memo of appeal.

2. The relevant facts indicate that the taxpayer, an individual, filed an electronic return of income for the tax year under consideration, declaring an income of Rs. 9,285,590. This return was deemed an original assessment under Section 120(1) of the Ordinance. However, the Federal Board of Revenue, exercising its powers under Section 214C of the Ordinance, selected the taxpayer's case for audit, with intimation provided via the IRIS system. A notice under Section 177(1) was issued on October 15, 2020, requiring compliance by October 27, 2020. On the due date, neither did the taxpayer appear nor was any application for adjournment submitted. Subsequently, a notice under Section 122(9) was issued on November 10, 2020, with compliance required by November 21, 2020. Again, no response was received on the specified date. A further notice under Section 111(1) was issued on September 12, 2023, requiring compliance by September 18, 2023, followed by several reminders issued on different dates. In response, the taxpayer submitted an online reply on March 15, 2024, along with supporting documents, which were found unsatisfactory. Consequently, an order under Section 122(1) of the Ordinance was passed on May 20, 2024. Feeling aggrieved by this order, the appellant has now approached this Tribunal, challenging the impugned order on multiple grounds.

3. The case was taken up for hearing on December 17, 2024. At the very outset, the learned Authorized Representative (AR) for the appellant was confronted with the issue that the appeal, along with the miscellaneous applications, had been filed using an electronically scanned signature of the

appellant, which is not permissible under the law. According to the prescribed procedure, the appeal must be filed by the appellant personally, bearing their handwritten signature and verification; otherwise, it cannot be considered properly filed by the aggrieved person. In response, the learned AR explained that the appellant is a non-resident, currently residing abroad and rendering services outside Pakistan for several years. The appellant had authorized the AR to file the appeal on their behalf.

4. We have carefully considered the arguments advanced by the learned Authorized Representative (AR) for the appellant and reviewed the available record. The maintainability of the appeal under the provisions of Section 131 of the Income Tax Ordinance, 2001, read with Rule 77 of the Income Tax Rules, 2002, hinges on compliance with procedural requirements, including the proper signing of the appeal documents. In accordance with Section 131 of the Ordinance, an aggrieved person may file an appeal against an order in the manner prescribed under Rule 77 of the Income Tax Rules, 2002. As per the relevant legal provisions, appeals before the Appellate Tribunal Inland Revenue (ATIR) must be physically filed using the prescribed form. No mechanism for electronic filing is currently provided under the Ordinance or the associated rules. Consequently, the use of scanned signatures raises questions of compliance for the following reasons:

**1. Legal Requirements for Filing Appeals.**

- o Rule 77 of the Income Tax Rules, 2002, specifies the form and procedure for filing an appeal.
- o This rule requires the appeal to be signed and verified by the appellant or an authorized representative, emphasizing physical filing, as no electronic filing mechanism exists.

**2. Scanned Signatures vs. Physical Signatures.**

- o Scanned signatures are merely reproductions of original signatures and do not equate to physical, manual signatures.
- o The requirement for personal signing by the appellant or authorized representative calls into question the authenticity and validity of appeals submitted with scanned signatures.

**3. Authentication and Verification.**

- o Scanned signatures lack the level of authenticity associated with handwritten signatures, which raises further concerns about compliance.

5. Moreover, it is noted that the appeal was not filed within the prescribed time. The appellant submitted an application for condonation of delay along with an affidavit. However, both the application and the affidavit bear scanned signatures of the appellant. Additionally, the Power of Attorney (POA) annexed with the appeal, which is also signed using a scanned signature, does not explicitly authorize M/s. EY Ford Rhodes to file the appeal on behalf of the appellant. The contents of the POA are reproduced as follows:

**"POWER OF ATTORNEY**

I, Zafar Aslam Khan, holder of CNIC No. 61101-7921075-1, do hereby authorize M/s EY Ford Rodes, Chartered Accountants to represent me before the Honorable Appellate Tribunal Inland Revenue (ATIR), Islamabad in respect of the stay and appeal proceedings for the tax year 2018, present written and verbal arguments, and collect the appellate order on our behalf.

Date: Nil

Witnesses:

Signature

Scanned signature

1. Handwritten signature

Name:

Zafar Aslam Khan

2. Handwritten signature"

While the POA authorizes M/s EY Ford Rhodes to represent the appellant, engage in proceedings, present arguments, and collect the appellate order, it does not expressly empower them to file an appeal. Filing an appeal is a distinct legal act and must be explicitly authorized in the POA.

6. Additionally, it is noted that the appellant, being a non-resident, is currently out of the country. Despite this, the POA is signed by two witnesses and attested/authenticated by Mr. Tariq Iqbal Maher, Notary Public, Islamabad. This raises concerns regarding procedural propriety and adherence to legal standards. While courts generally consider the Doctrine of Substantial Compliance in procedural matters, the observations, in this case, leave no alternative but to dismiss the appeal on the grounds that it was not filed by the appellant or an authorized representative. Order accordingly.

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