

## Images of the Revenue Appellate Tribunal's journey for three years

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I had written up an article titled "About the Revenue Appellate Tribunal that taxpayers should know" in Myanma Alinn Daily dated 24-12-2022. In hailing two years anniversary of the Revenue Appellate Tribunal, which falls on 29 October 2023, I would like to write about the Revenue Appellate Tribunal Law and Rules, performances made by the Revenue Appellate Tribunal and its activities, and filing of cases to the Revenue Appellate Tribunal in this article.

It is found that the State Administration Council enacted Union Taxation Law 2023, by State Administration Council Law No. 18/2023. Similarly, in previous years, Union Taxation Laws had been promulgated respectively on a yearly basis and activities had been undertaken to raise government revenues that are payable under law. To hear and adjudicate revenue cases filed by citizens and taxpayers who are aggrieved by any order of tax collection passed by any respective government department, the Revenue Appellate Tribunal has been formed as an independent organization since 22 June 2020 and it has been for over three years.

Prior to the formation of the Revenue Appellate Tribunal in accordance with the law, revenue appeals, revisions, review and reference filing against decisions passed by the Internal Revenue Department and Customs Department were adjudicated by the Revenue Appellate Tribunal which were formed by notifications. Subsequently, it was discussed at the National Conventional Assembly which was convened on May 18 2004 that there should be a Revenue Appellate Tribunal for hearing appeals if there are complaints against the collection of revenues mentioned in the Pyidaungsu Legislative List, and it should be stated in the Pyidaungsu Legislative List to promulgate law if it is necessary to legislate revenue appeal. Then, it is found that "tax appeal" is mentioned in clause (m) of Paragraph 3 of Schedule One of the Union Legislative List pursuant to Article 96 of the Constitution (2008).

The government's expenditure mainly depends on revenues from taxes for the development of socio-economic life of the people. Thus, it is necessary for taxpayers to

have equal rights and rights of justice in the collection of taxes payable under law as an attempt is being made to increase revenue by the State. The Revenue Appellate Tribunal plays a crucial role in ensuring that transparency, rights of defense and appeal which are primary rights of citizens and taxpayers are fully granted in accordance with law. The Revenue Appellate Tribunal has been making efforts to fulfill such requirements in accordance with the Revenue Appellate Tribunal Law and Rules and existing laws.

Thus, despite of its small organizational structure, the Revenue Appellate Tribunal has been performing its major tasks as an independent body in an equitable and fair manner to ensure an effective and efficient revenue management system for the State's tax collection system and to be fully aware of such revenue management system by every citizen and taxpayer.

Types of case that can be filed to the Tribunal under the Revenue Appellate Tribunal Law are appeal, revision, review and reference. Among these cases, appeal, revision and review may be heard and adjudicated by the Tribunal in accordance with law.

When filing appeal, revision, review and reference, the applicant may apply to the Registrar of the Office of the Revenue Appellate Tribunal in person or through his authorized representative or legal practitioner. Applications shall bear court-fees stamp upon it in line with the provisions of the Court-Fees Act. The prescribed Form-1 for filing an appeal, the prescribed Form-2 for filing review and revision, and the prescribed Form-3 for filing a reference are included in appendices to the Revenue Appellate Tribunal Rules.

It should be aware of the fact that cases are required to be filed within the specified limitation period. The applications filed after the limitation period will be accepted by the relevant tribunal only if it satisfies that there are sufficient grounds.

It is noteworthy that the Tribunal may extend up to the period of no more than 120 days for filing an appeal exceeding limitation period according to rule 62 of the Revenue Appellate Tribunal Rules. It means that the relevant tribunal is not allowed to extend the limitation period of more than 120 days no matter how sufficient causes are submitted for exceeding the limitation period under this rule and it has been promulgated by directive No.1/2023 dated 26-9-2023 of the Revenue Appellate Tribunal.

The applicant and respondent shall file any relevant documentary evidence along with their applications and written statements (plea).

In filing cases to the Tribunal, there was misinterpretation of acting as an authorized representative and legal representative on behalf of any party pertaining to a case. Authorized representative means a person, who is given civil power of attorney, authorized to act on applicant's behalf in relation to a case. Legal representative means a person who is entitled to act or succession with respect to a business or properties left by a person when an applicant or a respondent passes away in relation to revenue case. Authorized representative is a person who is entitled to act on behalf of a party who is still alive, and legal representative is a person who is entitled to act or succession to a deceased party's business or properties. Legal representative is interpreted in sub-rule (h) of rule 2 of the Revenue Appellate Tribunal Rules as well as authorized representative in sub-rule (i) of rule 2 of the Revenue Appellate Tribunal Rules respectively.

Provided that an applicant or respondent who files cases to the Revenue Appellate Tribunal wishes to revise his or her application and written statement on his or her own volition, revisions shall be underlined in red colour in the relevant paragraphs of the revised application and written statement to easily see which facts are revised or which facts are not. However, it is not allowed for making revisions to the facts of the primary case to be a fresh suit. If any fact is required to be added after

submission of the application, it shall be submitted to the Revenue Appellate Tribunal before the announcement of the cause list for hearing. The Revenue Appellate Tribunal has issued Notification No. 1/2022 dated 17-3-2022.

Some applicants made false assumptions about four types of case which can be submitted to the Revenue Appellate Tribunal that a revision may be filed against the appeal decision passed by the Tribunal, a review may be filed against the decision on revision made by the Tribunal, as well as a reference. It can be found that filing of application against any decision passed by the Tribunal as a privilege is not allowed and provided in the Revenue Appellate Tribunal Law and Rules.

Although cases may be related each other, stipulations for each type of case are different. Types of case are separately defined as "appeal" in sub-section (k) of Section 2 of the Revenue Appellate Tribunal Law, "revision" in sub-section (l) of Section 2 of the Revenue Appellate Tribunal Law, "review" in sub-section (m) of Section 2 of the Revenue Appellate Tribunal Law, and "reference" in sub-section (n) of Section 2 of the Revenue Appellate Tribunal Law. Hence, applicants are required to meet the relevant stipulations upon cases they feel aggrieved.

Appeal means a case filed to the Tribunal against an assessment order passed by any government department or organization responsible for collecting revenue whereas review means a case re-filed to the Tribunal against the decision of the Tribunal to review the decision.

Revision means a case re-filed to the Tribunal against the decision of the Tribunal with respect to issues of fact, and reference means a case referred to the Supreme Court of the Union because of issues of law.

It is stipulated in rule 30 of the Revenue Appellate Tribunal Rules that "where only applicant appears and respondent does not appear on the date fixed for hearing, the Tribunal may proceed with hearing ex-parte if it is apparent that summon has been duly served." It is stipulated in rule 32 of the Revenue Appellate Tribunal Rules that

"where the applicant is absent to appear before the Tribunal on the date fixed for hearing, the Tribunal makes an order that the suit is dismissed." Thus, the applicant and respondent are required to appear before the court on the date fixed for hearing by the Tribunal personally or through a representative or legal practitioner.

As quasi-judicial power and discretionary power are conferred upon the Tribunal in hearing cases, it can be aware of the fact that any decision may not be passed by the Tribunal beyond a special stipulation of the phrase "in accordance with law" provided in Section 11 of the Revenue Appellate Tribunal Law.

Where the Tribunal hears and adjudicates appeal, revision, review and reference, the Code of Civil Procedure and other existing laws, rules, orders, and directives may be referred in accordance with the provisions of sub-section (e) of Section 22 of the Revenue Appellate Tribunal Law.

When filing review against the order passed by the Tribunal in the appeal, it is found that some applicants re-file the same grounds of appeal, defend themselves against the decision of appeal passed by the Tribunal, submit new facts that were not presented in the appeal, and grounds that were omitted with intent instead of submitting in the appeal, file a review in any other way by making slightly changes in the grounds of appeal. Despite the Tribunal's eagerness to accept all cases filed, it needs to pay attention to giving justice to both applicants and respondents and passing fair and just decision. Accordingly, notification no.(2/2023) dated 26-9-2023 of the Revenue Appellate Tribunal has been promulgated to ensure that filing reviews are in accordance with Order 47 of the Code of Civil Procedure.

The reason why such directives are issued in a transparent manner is to ensure applicants and taxpayers do not bear costs and spend much time unnecessarily on the applications which shall not be accepted by the Tribunal under the provisions of the law.

With respect to filing of a reference to the Tribunal to be referred to the Supreme Court of the Union because of issue of law, it is necessary to be issue of law arising

from the case. Such reference is to be filed completely in the prescribed Form-3 along with the grounds for issue of law. Then, the full bench comprising the Chairperson and all members shall hear the reference and proceed with it in accordance with Section 12 and 13 of the Revenue Appellate Tribunal Law. In receiving the decision of the Supreme Court of the Union on the reference, the Tribunal shall proceed with its decision and conclude it.

The Tribunal acts with integrity, with no corruption in hearing and adjudicating cases filed under the provisions of the law, if it is found that decisions passed by any government department or organization responsible for collecting revenues are in conformity with law, order and directives, keeping every applicant citizen and taxpayer informed about it to be lawful revenue management. After hearing of cases by the Tribunal, if it is found any loss to citizens and taxpayers, the Tribunal has been adjudicating revenue cases in accordance with law to ensure justice and equal rights for every citizen and taxpayer, and to ensure government departments with an effective and efficient revenue management system.

Regarding taxes, fees, license fees, permit fees and fines collected by the Union Government for the Union according to the Union Taxation Law and all taxes and custom duties in Schedule (1) of the Union Taxation Law, it is found that the Tribunal heard and adjudicated appeals on income tax, commercial tax and specific goods tax filing against the decisions passed by the Internal Revenue Department and appeals on customs duties filing against the decisions passed by the Customs Department during the last three years though any person who is dissatisfied with a revenue order passed by any relevant department may file an appeal to the Tribunal.

Therefore, there are a total of 115 appeals, 1 revision, 43 reviews and 13 references that were heard and decided by the Revenue Appellate Tribunal over the last three years. There are 7 customs appeals, 3 customs reviews, a total of 10 cases in FY 2019-2020 (from 22-6-2020 to 30-9-2020), 34 customs appeals, 1 customs revision, 4 customs reviews, a total of 39 cases in FY 2020-2021, 3 cases of income tax appeals and 1 commercial tax appeal in the same financial year, 14 customs appeals, 19 customs reviews, 2 customs references, a total of 35 cases and 1 income tax appeal and 1 specific good tax appeal in FY 2021-2022, 33 customs appeals, 17 customs reviews, 6

customs references, a total of 56 cases and 15 income tax appeals, 5 income tax references, a total of 20 cases and 6 commercial tax appeals in FY 2022–2023 respectively.

The Tribunal submitted a report concerning hearings of revenue appeals during FY 2019–2020, FY 2020–2021, FY 2021–2022 (from October 2021 to March 2022) and FY 2022–2023 at the end of each tax year within 90 days and publicized such hearings.

The Revenue Appellate Tribunal has developed its Strategic Action Area, Strategic Objectives and Strategic Initiatives(2023) to ensure effective implementation in accordance with its Motto “Reliable, Fair and Impartial: Revenue Appellate Tribunal” in fulfilling the taxpayers’ desire for the rights of justice, defense and appeal.

The vision of Strategic Action Area, Strategic Objectives and Strategic Initiatives (2023) is to promote the trust of every citizen and taxpayer through a transparent and reliable tax appeal system.

During the Tribunal’s two-year term from Financial Year 2020–2021 to Financial Year 2021–2022, its first Strategic Action Plan was developed. As there are previous action lines that have been achieved completely, and that are in hand and still remain to be implemented, the second Strategic Action Plan (2023) has been developed and is being implemented.

To achieve its vision, mission and values, the Revenue Appellate Tribunal has specified the four Strategic Action Areas that the first is to ensure promoting the trust of taxpayers in the revenue management system; the second is to ensure fairness and impartiality when hearing and adjudicating cases filed to the Revenue Appellate Tribunal; the third is to ensure enhancement of performance efficiency of the Revenue Appellate Tribunal and staff of the Office; the last is to ensure the Revenue Appellate Tribunal to be modernized in accordance with the international standards in cooperation with existing international and regional Revenue Appellate Tribunals; and has been implementing those strategic action areas. A strategic action line is included in the Strategic Plan (2023) with a view to aiding the State’s tax reform processes based on knowledge gained by studying international and regional tax appeal processes.

The Standard Operating Procedure has been writing to ensure systematic and smooth operations from the time of receiving applications for appeal, revision, review and reference which are filed with the Revenue Appellate Tribunal until cases are maintained in the record room after passing judgment.

I believed that understanding this Standard Operating Procedure (SOP) will be advantageous to the younger generations of staff who will work for the Revenue Appellate Tribunal Office in performing the Office's tasks in an effective and efficient manner, which will lead to making clear of the staff's skill sets for each and every performance, protecting the State and taxpayers' own interests, and promoting the trust of every citizen and taxpayer.

In hailing the third anniversary of the Revenue Appellate Tribunal, which falls on 29 October 2023, activities made by the Tribunal over three years and activities that will be performed in coming years have been included in this article to make the public aware of them. Wishing the Revenue Appellate Tribunal Office makes every endeavor for the interests of the State and its citizens until it has been for hundreds of years.

#### **References**

- The Revenue Appellate Tribunal Law and Rules
- Directives issued by the Revenue Appellate Tribunal
- U Mya, the Code of Civil Procedure
- National Assembly Meeting expressed in Mirror Newspaper dated 19 May, 2004
- Reports concerning hearings of revenue appeals made by the Revenue Appellate Tribunal in each financial year
- The Strategic Action Areas, Strategic Objectives and Strategic Initiatives (2023)