

The Government of the Republic of the Union of Myanmar  
The Revenue Appellate Tribunal



Report on Hearings of the Tax Appeals for the 2020–2021 Fiscal Year

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The Government of the Republic of the Union of Myanmar  
The Revenue Appellate Tribunal



Report on hearing tax appeals  
For the fiscal year 2020–2021 ending in 30–9–2021  
From 1–10–2020 to 30–9–2021

### Introduction

1. “Tax Appeal” was introduced since 1954 and the Income Tax Tribunal was formed under subsection (a) of Section 5 of Burma Income Tax Act and only income tax appeals were adjudicated. In 1972, the Revenue Appellate Tribunal was formed by Notification No. (120) dated 23–10–1972 of Ministry of Planning and Finance with four members including the Chairperson to hear and adjudicate not only income tax appeal cases but also appeals, revisions, reviews and references related to customs duties, excise duties and stamp duties. Subsequently, the Income Tax Tribunal was changed into Revenue Appellate Tribunal.
2. Later, the Revenue Appellate Tribunal were formed by Notification No. (12) dated 11–12–1976 of Cabinet in 1976, Notification No.(6/89) dated 28–7–1989 of Government of the Union of Myanmar in 1989, Notification No.(54/2017) dated 31–5–2017 of Government of Republic of the Union of Myanmar in 2017 respectively and cases were heard.
3. As the Tribunal were formed by Notifications of the Cabinet without legislation and cases were heard for a long time. The Revenue Appellate Tribunal bill was submitted and the Law was enacted by Law No.(23) of Pyidaungsu Hluttaw on 1–8–2018.
4. The Revenue Appellate Tribunal has quasi-judicial power, it is constituted with experts and experienced persons in the fields of law, taxation, accounting and auditing in accordance with international standards to adjudicate cases filing to the Tribunal

regarding revenues collected by the Union Government and such cases are being heard independently and adjudicated impartially.

#### Purpose

5. This report is submitted under the provision of Section 30 of the Revenue Appellate Tribunal Law that “the Chairperson shall submit the cases heard by the Tribunal to the Government at the end of each tax year within 90 days and publicize such cases.” The report is submitted pursuant to Section 30 of the Revenue Appellate Tribunal Law and for the implementation and reforms of the Revenue Appellate Tribunal under the guidance of the State Administration Council.

#### Formation of the Tribunal

6. In exercise of the power conferred by sub-section (a) of Section 4 of the Revenue Appellate Tribunal Law, the Tribunal mentioned below comprising seven members including the Chairperson, which was formed and assigned by the Government, reported and undertook the functions in line with the provisions of the Revenue Appellate Tribunal Law and Rules during 2020–2021 fiscal year–

(i)	U Myint Oo	Chairperson
(ii)	U Kyaw Kyaw	Member
(iii)	U Zeya Kyi Nyunt	Member
(iv)	Daw Yi Yi Myint	Member
(v)	U Win Naing	Member
(vi)	U Win Tin	Member
(vii)	U Kyi	Member

#### Implementation of cases

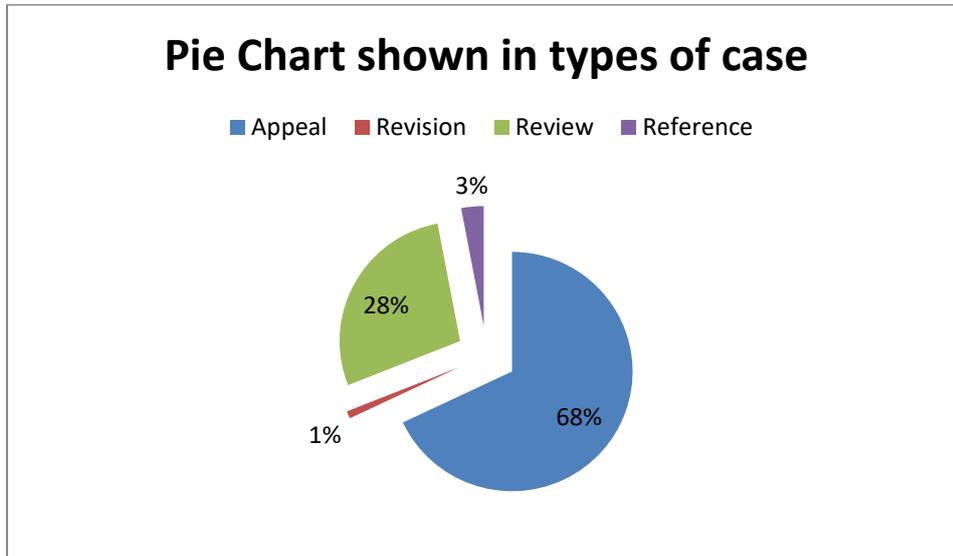
7. As there are 45 remaining cases in 2019–2020 fiscal year and 48 receiving cases during the period 2020–2021, cases to be heard are a total of 93. As there are 43 cases of making judgment during the fiscal year 2020–2021, the implementation rate is 46.7 percentage. There are 50 remaining cases to be heard.

## Implementation of cases for the Fiscal Year of 2020–2021 (30–9–2021)

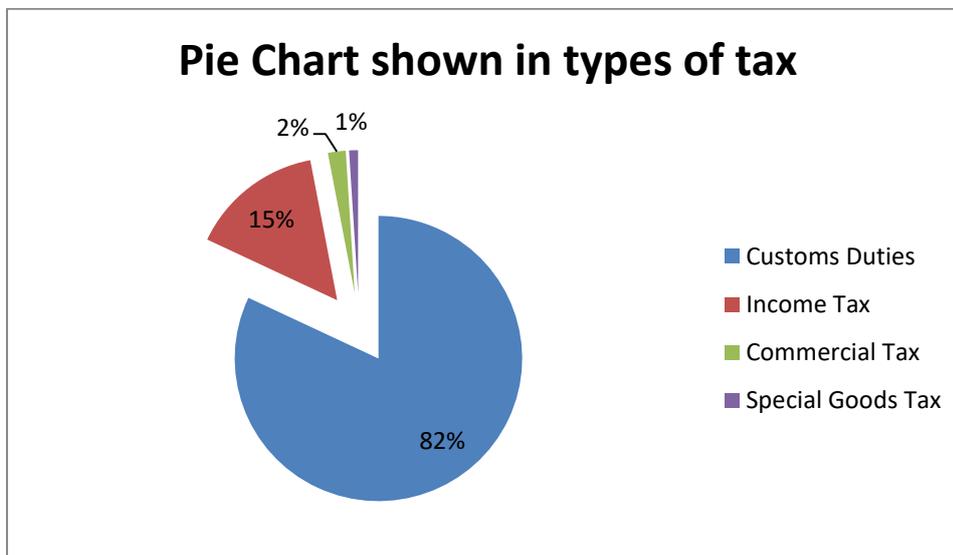
Serial No.	Types of Case	Remaining cases (Previous FY)	Receiving cases (Current FY)	Total	Cases Decided	Under Processing				
						Remaining cases to be made judgment	Case of still hearing	Remaining case to be heard	Total	
1	Customs Duties	Appeal	30	17	47	34	4	–	9	13
		Revision	1	–	1	1	–	–	–	–
		Review	4	22	26	4	–	1	21	22
		Reference	–	2	2	–	–	–	2	2
		Total	35	41	76	39	4	1	32	37
2	Income Tax	Appeal	6	7	13	3	1	2	7	10
		Revision	–	–	–	–	–	–	–	–
		Review	–	–	–	–	–	–	–	–
		Reference	1	–	1	–	–	–	1	1
		Total	7	7	14	3	1	2	8	11
3	Commercial Tax	Appeal	2	–	2	1	–	–	1	1
		Revision	–	–	–	–	–	–	–	–
		Review	–	–	–	–	–	–	–	–
		Reference	–	–	–	–	–	–	–	–
		Total	2	–	2	1	–	–	1	1
4	Special Goods Tax	Appeal	1	–	1	–	–	–	1	1
		Revision	–	–	–	–	–	–	–	–
		Review	–	–	–	–	–	–	–	–
		Reference	–	–	–	–	–	–	–	–
		Total	1	–	1	–	–	–	1	1
		<b>45</b>	<b>48</b>	<b>93</b>	<b>43</b>	<b>5</b>	<b>3</b>	<b>42</b>	<b>50</b>	

Types of Case	Remaining Cases (Previous FY)	Receiving Cases (Current FY)	Total	Implementation Rate		Remaining Cases to be heard
				Case	Percentage	
Appeal	39	24	63	38	61.3%	25
Revision	4	22	26	4	15.4%	22
Review	1	–	1	1	100%	–
Reference	1	2	3			3
Total	45	48	93	43	46.7%	50

8. Types of case to be heard during 2020–2021 fiscal year are shown as follows:



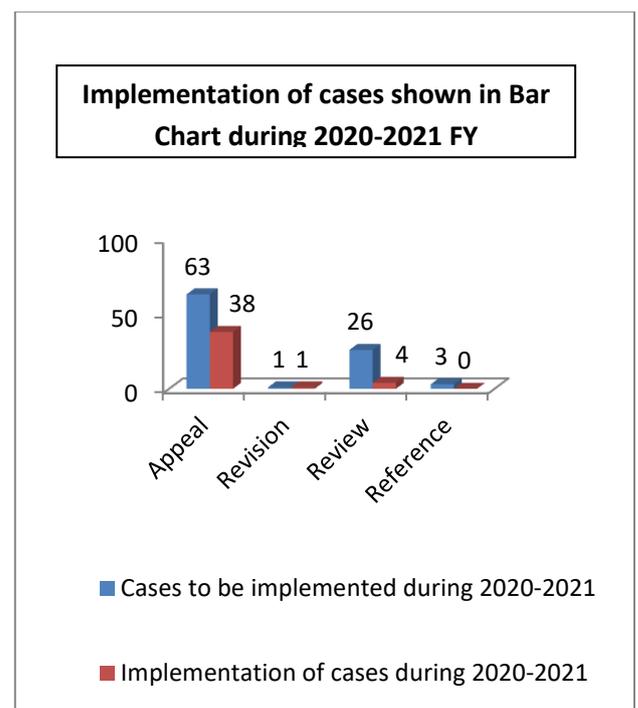
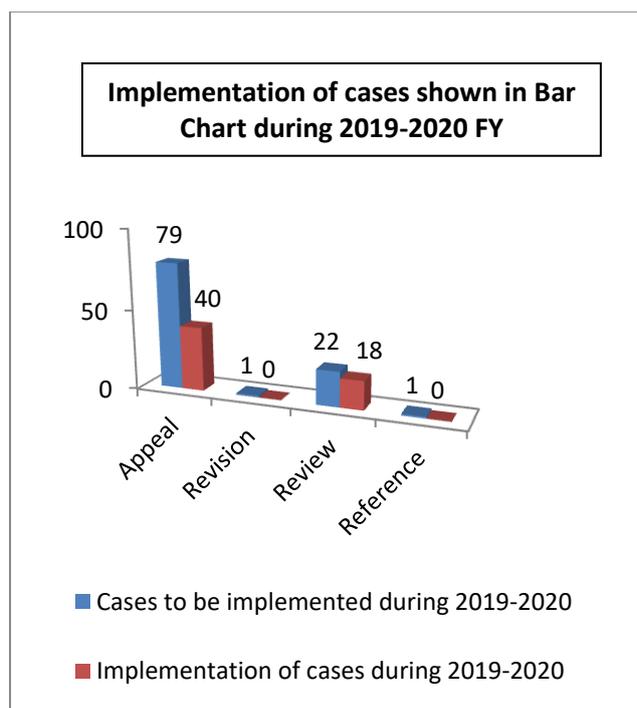
9. Types of tax to be heard during 2020–2021 fiscal year are shown as follows:

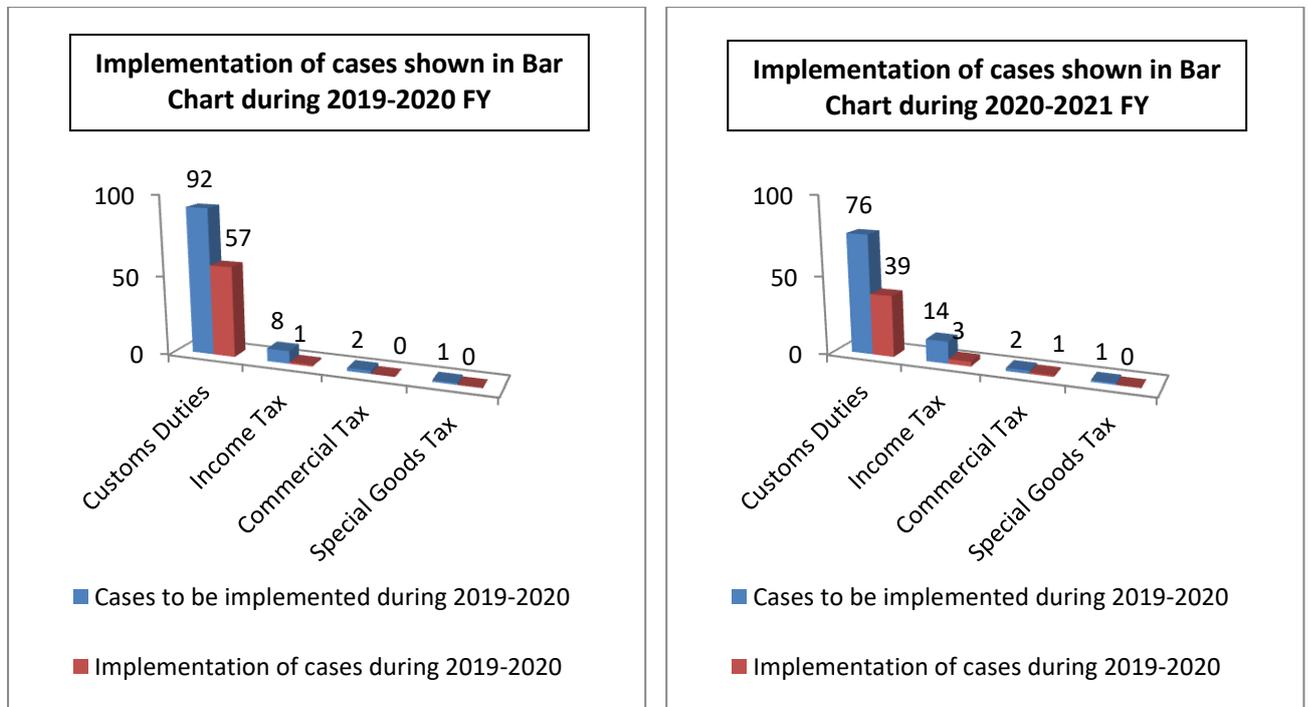


10. The implementation of cases during the reporting 2020–2021 FY (Current year) is compared with the 2019–2020 FY (Previous Year) as follows:

Types of Tax	Types of Case	To be implemented		Implemented		Percentage of Implementation	
		2019–2020	2020–2021	2019–2020	2020–2021	2019–2020	2020–2021
Customs Duties	Appeal	69	47	39	34	56%	74%
	Revision	22	26	18	4	82%	15%
	Review	1	1	-	1		100%
	Reference		2				
Income Tax	Appeal	7	13	1	3	14%	23%
	Reference	1	1	-			
Commercial Tax	Appeal	2	2	-	1		50%
Special Goods Tax	Appeal	1	1	-			
	Total	103	93	58	43	56%	47%

11. The implementation during the reporting 2020–2021 FY (Current year) is compared with the 2019–2020 FY (Previous Year) in terms of types of case and types of tax and shown in bar chart below.





### Reporting on the implementation of cases

12. Regarding the appeals during 2020–2021 fiscal year, the following are presented–
- a. When appeals are analyzed according to the types of tax–
    - (1) Concerning customs cases, 82 percent of the remaining cases are customs appeals, reviews and revisions filing against the confiscation goods for the importation or exportation of prohibited goods, or restricted or controlled goods, or any goods on which customs duties have not been paid and confiscation of vehicles carrying such illegal goods.
    - (2) The remaining cases include 15 percent of income tax appeal, 2 percent of commercial tax appeal and 1 percent of specific goods tax appeal respectively, 18 percent in total. Such appeals are ones filed by the domestic and international companies that are liable to pay tax under Self-Assessment System at the Large Taxpayer Office.
  - b. The remaining cases during the previous fiscal year 2019–2020 and the receiving cases during the reporting 2020–2021 fiscal year, constitute 68 percentage of appeals, 28 percentage of review against the Tribunal’s judgment, 1 percentage of revision and 3 percentage of reference based on types of case.

- c. During 2019–2020 fiscal year, 58 cases were heard out of 103 cases, reaching at 56 percent of cases. In 2020–2021 fiscal year, out of 92 cases, only 43 cases were heard that represent 47 percent of implementation of cases and the reasons why the implementation of cases fell are as follows:
- (1) Fixing the technical requirements for using Zoom Meeting due to the limitation of internet access
  - (2) Strengthening human resources capacity building, being unable to make hearings and the postponement of the hearings by the Revenue Appellate Tribunal because of the restrictions for entering Nay Pyi Taw due to the third wave of Covid-19 pandemic.
  - (3) Receiving no written statements (pleas) from the respective departments for some appeals filed during 2020–2021 fiscal year

13. The judgments made in types of appeal during 2020–2021 fiscal year are as follows:

Serial No.	Types of case	Case No.	Applicant Name	Date of making judgment	Judgment
1	Customs Appeal	15/2020	U Thant Zin	10-12-2020	Dismissal
2	Customs Appeal	20/2020	Daw Nan Sine Sein	11-12-2020	Withdraw
3	Customs Appeal	21/2020	U Thet Oo Lwin	14-1-2021	Dismissal
4	Customs Appeal	22/2020	U Thet Oo Lwin	14-1-2021	Dismissal
5	Customs Appeal	23/2020	U Thet Oo Lwin	14-1-2021	Dismissal
6	Customs Appeal	24/2020	U Phyto Wai Kyaw	14-1-2021	Dismissal
7	Customs Appeal	25/2020	U Phyto Wai Kyaw	14-1-2021	Dismissal
8	Customs Appeal	26/2020	U Phyto Wai Kyaw	14-1-2021	Dismissal

Serial No.	Types of case	Case No.	Applicant Name	Date of making judgment	Judgment
9	Customs Appeal	27/2020	U Phyo Wai Kyaw	14-1-2021	Dismissal
10	Customs Appeal	28/2020	U Phyo Wai Kyaw	14-1-2021	Dismissal
11	Customs Appeal	29/2020	U Phyo Wai Kyaw	14-1-2021	Dismissal
12	Customs Appeal	30/2020	U Phyo Wai Kyaw	14-1-2021	Dismissal
13	Customs Appeal	31/2020	U Phyo Wai Kyaw	14-1-2021	Dismissal
14	Customs Appeal	32/2020	U Phyo Wai Kyaw	14-1-2021	Dismissal
15	Customs Appeal	33/2020	U Phyo Wai Kyaw	14-1-2021	Dismissal
16	Customs Appeal	37/2020	U Swe Tun	14-1-2021	Dismissal
17	Customs Appeal	38/2020	U Swe Tun	14-1-2021	Dismissal
18	Customs Review	11/2020	Daw Dwe Bu	15-1-2021	Dismissal
19	Customs Review	12/2020	U Nyi Nyi Naing	15-1-2021	Dismissal
20	Income Tax Second Appeal	9/2020	Jardine Engineering Ltd.	27-1-2021	Withdrawal
21	Income Tax Second Appeal	10/2020	Jardine Engineering Ltd.	27-1-2021	Withdrawal
22	Customs Appeal	6/2020	Daw Su Mon Kyaw	5-5-2021	Dismissal
23	Customs Appeal	14/2020	U Soe Thant Zin	5-5-2021	Dismissal

Serial No.	Types of case	Case No.	Applicant Name	Date of making judgment	Judgment
24	Customs Appeal	16/2020	U Khin Maung Latt	5-5-2021	Dismissal
25	Customs Appeal	34/2020	U Thein Zaw	5-5-2021	Dismissal
26	Customs Appeal	35/2020	U Maung Lwin	5-5-2021	Dismissal
27	Customs Appeal	36/2020	U Soe Paing	5-5-2021	Dismissal
28	Customs Appeal	39/2020	Daw Nann Aung Kham	5-5-2021	Dismissal
29	Customs Appeal	40/2020	Daw Sann Sint Sint Tun	5-5-2021	Dismissal
30	Customs Appeal	41/2020	U Tun Tun Oo	5-5-2021	Dismissal
31	Customs Appeal	42/2020	U Hla Tun Sein	5-5-2021	Dismissal
32	Customs Appeal	43/2020	U Sein Win	5-5-2021	Dismissal
33	Customs Appeal	44/2020	U Tin Tun Aung	5-5-2021	Dismissal
34	Customs Appeal	45/2020	Daw Khaing Khaing Zan	5-5-2021	Dismissal
35	Customs Review	10/2020	U Zaw Moe Lwin	5-5-2021	Dismissal
36	Customs Revision	1/2020	Daw Khin Thidar Oo	7-6-2021	Closed
37	Customs Appeal	13/2020	U Wai Yan Soe	30-6-2021	Dismissal
38	Customs Appeal	17/2020	Daw Win Win New	30-6-2021	Dismissal
39	Customs Appeal	46/2020	Kyal Sin Wine Manufacturing Co., Ltd.	30-6-2021	Dismissal

Serial No.	Types of case	Case No.	Applicant Name	Date of making judgment	Judgment
40	Customs Appeal	47/2020	Kyal Sin Wine Manufacturing Co., Ltd.	30-6-2021	Dismissal
41	Customs Review	9/2020	U Sai Zaw Moe	23-9-2021	Dismissal
42	Income Tax Appeal	2/2019	Capital Consumer Ltd.	23-9-2021	Dismissal
43	Commercial Tax Appeal	1/2019	Capital Consumer Ltd.	23-9-2021	Dismissal

14. As it is impossible to hear cases filing to the Tribunal in the physical mode during the outbreak of COVID – 19 pandemic, the Tribunal attempted to make reforms to physical hearings in the new normal in the digital age.

15. As the Revenue Appellate Tribunal inquired Union Attorney General Office on 10 September 2020 whether hearing of cases via video conferencing is in conformity with existing Laws and cases can be heard in such manner, Union Attorney General Office replied on 2 October 2020 that cases can be adjudicated in accordance with the provisions of the Revenue Appellate Tribunal Law and sub-section (1) of section 60 A of Evidence Act.

16. The requirements and procedures for making technological updates were stipulated by Directive No.4/2020 dated 4-10-2020 and Directive No.1/2021 dated 13-5-2021 to hear cases via video conferencing.

17. After fulfilling the requirements for hearing of cases via video conferencing, the Customs Duties Appeal No. 15/2020 was adjudicated on 12 November, 2020. In 4 times of Physical Hearings before the Tribunal, 15 cases were heard and 36 cases were heard in 7 times of hearing via video conferencing during 2020–2021 fiscal year.

18. U Zeya Kyi Nyunt, a member of the Revenue Appellate Tribunal, made a lecture on the topic of “Reliable, Fair and Impartial: Revenue Appellate Tribunal via CPD Online Webinar conducted by Myanmar Institute of Certified Public Accountants, a partnership organization of the Tribunal on 13 September 2020. The discussion focused on the background history, the Revenue Appellate Tribunal Law and Rules, formation of the Tribunal and the provisions of the Revenue Appellate Tribunal Law.

19. The Chairperson of the Revenue Appellate Tribunal shared the knowledge about the topic of “Oil and Gas Production Sharing Contract” in the morning of 14 October 2020 and U Win Tin, a member of the Revenue Appellate Tribunal, also discussed about “Knowledge about the Legal Affairs” in the evening of 2020, October 14.

20. Knowledge Sharing Program such as discussion on the matters related to the process of Oil and Gas Production made by the Director General and the officials of the Myanmar Oil and Gas Enterprise and Oil and Gas Planning Department of Ministry of Electricity and Energy on 24 December 2020, a presentation on the process of Self-Assessment System(SAS) made by the responsible officers of the Internal Revenue Department of Ministry of Planning and Finance on 7 January 2021, and an exchange of views on the Export and Import Law and related policies made by the Trade Department of Ministry of Commerce on 7 July 2021 were conducted in cooperation with the relevant ministries.

21. Aiming for the promoting the performance efficiency of the staff, U Win Tin and U Kyaw Kyaw, members of the Revenue Appellate Tribunal, gave lectures at the Internal On Job Training No. 1/2021 conducted for one week from 17-5-2021 and U Kyi, member of the Revenue Appellate Tribunal, also delivered lectures at the Internal On Job Training No.2/2021 conducted from 6-7-2021 to 15-7-2021.

## Conclusion

22. The Revenue Appellate Tribunal is making continuous learning to broaden the knowledge, making the attend to the trainings of law, taxation and auditing and enriching the knowledge enough to have deeply understanding on the complexity of the cases, get good habits as negotiation, and make fair and correct decisions in accordance with laws while analyzing the causes of the cases in details with the rational wisdom. As the tax culture is developing to meet the international standard, the Revenue Appellate Tribunal and the staff of the Tribunal are making efforts in unity to make the judgment without corruption to achieve the trust of the taxpayers including domestic and international investors.