

Technical Guide
on
Virtual ITAT Proceedings



Direct Taxes Committee
The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi

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Committee/Department : Direct Taxes Committee

Email : dtc@icai.in

Website : www.icai.org

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Foreword to the First Edition

Globally, regulatory and economic environment is changing very fast impacting all businesses and professions alike. With these rapid changes; it is imperative for all professionals to keep updating their knowledge and skills to remain relevant with the changing times. This is necessary for increased efficiency, performance and deliverance of professional services to stakeholders in most optimum manner.

Taxation is very dynamic subject and continuous amendments are witnessed in taxation laws. Coupled with this, there is adoption of technology for execution of various procedures under the taxation laws like furnishing of returns, assessment and appellate hearings. This has rendered it necessary for members to update themselves with the legislative changes and at the same time to embrace relevant technological changes.

A recent technological change implemented is in the form of faceless Income-tax Appellate Tribunal (ITAT). The Government is constantly moving towards a faceless regime in Income-tax front and this is another concrete action in this regard. Faceless regime is the new buzzword in the Direct Taxation area nowadays.

The Institute of Chartered Accountants of India (ICAI) has always been proactive in disseminating the knowledge and honing the skills of its members. I am really happy to note that the Direct Taxes Committee of ICAI has come out with this publication namely ***“Technical Guide on Virtual ITAT Proceedings”*** so as to assist the members in meeting their professional commitments in more effective manner.

I appreciate the efforts of CA. Chandrashekhar V. Chitale, Chairman, Direct Taxes Committee and CA. Satish K. Gupta, Vice-Chairman, Direct Taxes Committee who have worked selflessly for bringing out this publication in a timely manner.

I am sure that this publication will help the members in discharging their professional commitments in a better manner.

Date: August 31, 2021
Place: New Delhi

CA. Nihar N Jambusaria
President, ICAI

Preface to the First Edition

Direct Taxation is one of the pre-dominant areas for the Chartered Accountants although the profession has been diversifying in new and non-conventional area. This is witnessed in practice as well as in industry, as tax is all pervasive and any small omission leads to big unpleasant consequence.

In the arena of Direct Taxation, Chartered Accountants have adorned commanding heights and are rendering invaluable services to the stakeholders. The profession has been looking after interests of tax payers and the government. In the dynamic and most litigative field of taxation, keeping abreast with ever changing circumstances is the key for survival and success.

Direct tax practice provides ample scope for analysis, interpretation, and research on each aspect of provisions. Before appellate authorities' effective representation calls for all these qualities. The practice of presentation of case before authorities and tax authorities has undergone a sea change with advent of faceless proceedings and virtual hearings.

Faceless regime is the future on taxation front. After faceless assessment, appeals and penalty, now provisions for faceless ITAT has also been enacted vide the Union Budget 2021-22. Implementation of Faceless ITAT would have its own challenges considering litigation and arguments would be completely different in a faceless manner. As a suitable alternative to faceless ITAT, virtual proceedings before ITAT are in vogue especially since the advent of Covid pandemic.

These technological developments have their own pros and cons. They need to be understood thoroughly well by all the stakeholders involved in the process.

Direct Taxes Committee of the ICAI has come up with guidance to the members to understand and enhance skill-sets for this new normal.

To elaborate the nitty-gritties of virtual proceedings before ITAT, and to provide guidance to the members, this publication shall prove very useful. This publication covers the law and procedures relating to ITAT proceedings, art of representation, technical requirements etc. keeping virtual proceedings in mind, thereby enabling the members to better understand the new provisions.

Under the aforesaid circumstances, we at the Direct Taxes Committee thought

it fit to bring out this publication namely “**Technical Guide on Virtual ITAT Proceedings**” as a handy tool to assist the fraternity to make proper compliance of the new provisions and procedures in more objective manner and with consciousness towards related documentations. Of course, readers are expected to update themselves continuously.

We are sincerely thankful to CA. Nihar Niranjan Jambusaria, President, ICAI and CA. (Dr.) Debashis Mitra, Vice-President, ICAI for being guiding force behind all initiatives being taken by the Committee.

We are pleased to place on record my sincere gratitude for the involvements and contributions by all the Committee members and our dear Council Colleagues of ICAI. We are sure that this effort of DTC of ICAI would go a long way in assisting our members in making utmost compliance of the new provisions.

We are extremely thankful to our Members of the Study Group formed under the convenorship of Chairman, DTC, who worked selflessly and dedicatedly to prepare the draft of this publication after taking all inputs from the said group members formed in this regard. We especially appreciate the efforts of our following study group members who provided valuable inputs for this publication; CA. Pramod Shingte, CA. Deepa Khare, CA. C. Nanivadekar, CA. Rajendra Agiwal, CA S. N. Puranik, CA. Kishor Phadke and CA. Pradeep Kapasi.

Last but not the least, I appreciate the dedicated efforts of the CA. Shrutika Oberoi, Secretary; CA. Ravi Gupta, Executive Officer and CA. Ajay Yadav, Project Associate of Direct Taxes Committee for their technical and administrative assistance in bringing out this first edition of the said publication in limited time.

CA. Satish K. Gupta
Vice-Chairman,
Direct Tax Committee, ICAI

CA. Chandrashekhar V. Chitale
Chairman,
Direct Tax Committee, ICAI

Date: 31.08.2021

Place: New Delhi

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- **CA. Chandrashekhar V. Chitale, CCM – Convenor**
- **CA. Pramod Shingte**
- **CA. S N Puranik**
- **CA. Deepa Khare**
- **CA. C. Nanivadekar**
- **CA. Rajendra Agiwal**
- **CA. Kishor Phadke.**
- **CA. Pradeep Kapasi**

Contents

Foreword to the First Edition	iii
Preface to the First Edition.....	v
Acknowledgement.....	vii
Chapter 1 : Introduction	1
Chapter 2 : Understanding of ITAT Rules in Virtual proceedings	4
Chapter 3 : Standard Operating Procedures (SOP).....	11
Chapter 4 : Art of Representation and Techniques	21
Chapter 5 : Technical Requirements.....	23
Chapter 6 : Generally used meeting tools by different Benches of Tribunals.....	28
Chapter 7 : Income Tax Appellate Tribunal website	35
Chapter 8 : E-filing of ITAT Appeal	36
Chapter 9 : Faceless Proceedings before ITAT	40
Annexure 1 : Contact Details of the Benches of ITAT	41

Chapter 1

Introduction

1.1 Digital Revolution in India

India has been at the forefront of the Fourth Industrial Revolution -a digitally driven one with speed and scale. It is a watershed moment for India, that has the potential to generate the nationwide growth and development and an opportunity to narrow the gap between wealthy and poor by promoting the standard of living of a large part of the population. Building a comprehensive digital economies needs the combined action of governments, industry, financiers, and civil society and moving swiftly towards the digitalization of the legal proceedings is one such step towards consolidating the initial advantage.

1.2 E-Judiciary

Right to a speedy trial is enshrined and guaranteed under Article 21 of the Constitution of India. It mandates a speedier and timely disposal of a list. India has been facing a mammoth backlog of cases a part of which is being reduced by use of technologies and its advanced use offers an opportunity for bringing the pendency of cases to an acceptable level. With the objective of grabbing the opportunity, the e-Court project has been brought into action in 2005. The e-Courts Integrated Mission mode project is a Pan India e-governance project being implemented in High Courts and district/subordinate Courts of the country. The project has been conceptualized on the basis of a National policy and Action plan for use and implementation of the Information and Communication Technology in the judicial proceedings and is recommended and pursued by the e-Committee of the Supreme Court. The project is monitored and funded by the Department of Justice and implemented by National Informatics Centre (NIC).

The Phase – I of the project was implemented during 2007-2015 and Phase-II (2014-2019) of the E-Court project provides for use of the video conferencing facility in the proceedings of the courts. The Project, an ambitious one, presently leaves a lot to be desired requiring the concerted efforts for its speedy implementation and progress.

1.3 Pandemic; a blessing in disguise

The current Pandemic (Covid-19) forced the suspension of all the hearings

Technical Guide on Virtual ITAT Proceedings

and court proceedings in the early 2020 leading to a belated realization that functioning of the Courts and Tribunals is part of the essentials services of the society that cannot be quarantined. This pandemic has taken the Indian Judiciary to take the use of the technology, in the legal proceedings, to the next level by limiting the physical Court hearings for “urgent-only” cases and adopting the “online-only” hearings for all other cases through video conferencing. It has also accepted the electronic filing of cases, appeals and petitions. The Supreme Court on 23rd March 2020 began video conference hearings for the cases; a commendable step taken by Indian Judiciary in times crisis, proving once again that a hardship at times could be a blessing in disguise.

1.4 Virtual Courts and India

Legal sanctity was given to videoconferencing by the Supreme Court by an overarching order invoking Article 142 of the Constitution of India passed on 6th April 2020 which inter alia covered all the High Courts of the country. Consistent with the peculiarities of the judicial system in every state and in view of the dynamic health situation, the High Courts were left with the discretion of adopting technology after customization to suit their purpose. Model rules on Video Conferencing have been circulated and the High Courts are in the process of adopting them. The District Courts are also advised to adopt the video conferencing prescribed by the concerned High Court.

By an Order dt 16th April 2020, the President of the Income Tax Appellate Tribunal (ITAT) has resumed the functioning of the ITAT within the given guidelines of the Ministry of Home Affairs with a view to arrest the paralyzing impact of the pandemic from 20th April 2020. The judicial function involving the hearing of the appeals however was limited to the urgent matters only. With the passage of time, the Virtual hearings at the ITAT has evolved and is extended to regular appeals, too and seems to have found favor’s with the taxpayers and their representatives including that of the Government of India. Different Benches have issued SOPs for conducting the hearings before them.

1.5 103rd Report of Parliamentary Standing Committee

Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, presented the One Hundred and Third Report on the Subject ‘Functioning of the Virtual Courts/ Courts Proceedings through Video Conferencing’ as an Interim Report.

The Committee has addressed the subject of 'Functioning of the Virtual Courts/ Court Proceedings through Video Conferencing' to address the impact of the pandemic. The Committee had a detailed discussion on the subject with all probable stakeholders. After discussion, it has presented an Interim Report on the subject dt 8th September, 2020 .

The Report revolves around Virtual Court and deals with-

- Open Court principle v. Dispensation of justice in time.
- Designing and development of E Court Project for India.
- Prevailing International Scenario.
- Need for adoption of e-proceedings in Indian Context.
- Challenges in terms of Digital illiteracy, lack of Infrastructure, Safety and Security deficiency and absence of suitable Regulations.
- Advantages/benefits of moving towards e-proceedings.

The Report has recommended for enabling the smooth institution and functioning of Virtual Courts and indicates that the virtual Court may be a perpetual feature of the Legal Eco System.

1.6 Legislation/Procedure/Rules for virtual Proceedings

The desired legislation, procedures, rules and practical guides for the use of technologies are to be formulated and implemented and would call for the amendments in the Information Technology Act, the relevant statutes including the direct and indirect laws, civil procedure code, Indian Evidence Act and the Court Rules and the issue of the required detailed notifications, protocols, practice notes, etc.

1.7 Need for a publication

In this background where the Virtual Courts are likely to be a regular feature, a time has come for one and all to equip and adapt to such proceedings. In absence of the developed guidelines, placed in public domain, a need is felt for a preliminary guide for professionals that would help in understanding the procedure and practice before the virtual courts, especially for the ITAT proceedings.

Chapter 2

Understanding of ITAT Rules in Virtual proceedings

2.1 Statutorily, ITAT vide Section 255 of the Income tax Act is empowered to set its own procedure. The knowledge of the procedures before ITAT, is desirable for the one desirous of representing before the ITAT, a final fact-finding authority. If one loses the appeal before the CIT(A), there is a chance to take it to the ITAT, but if the second appeal is lost at the ITAT, then the further option to file an appeal to the High Court and thereafter to the Supreme Court is available only in cases involving the substantial question of law and inter alia attracts the heavy legal costs and long time. In this sense of the matter, representation before ITAT is very crucial from tax payer's point of view.

2.2 The idea of the virtual court rooms and e-proceedings with the time passing by is gradually becoming the way of life. "Faceless", "E- Courts", "Virtual" are the buzzwords today. It appears that these modes of conducting the hearings and dispensing justice in this manner is here to stay.

2.3 The different benches of the ITAT have rolled out its Standard Operating Procedures (SOP) for their functioning . By and large the SOPs of these benches have some common features with variations considering the location of the ITAT benches, say Mumbai or Delhi and the number of benches at each location. Respective benches' SOPs can be accessed from public domain, a list whereof is placed in chapter 3 of this publication. A virtual hearing is a court hearing conducted electronically by use of audio – visual means, where cases are progressed without the participants physically attending the Courts in person.

2.4 It is considered appropriate glance through some of the relevant rules forming part of the ITAT Rules, 1963 for the better understanding of the virtual hearings, process and procedure, in as much as these hearings also are required to be conducted as per the ITAT Rules .

2.5 Relevant Rules

2.5.1 Rule no - 2 (ii) (a) - Definition - Authorised Representative

He is the person who is authorised by the assessee to appear before the ITAT (refer section 288 of ITA). A Power of attorney, authorising a person to appeal and represent his case is essential as representation by such a person is binding on the assessee. The POA for physical as well as for virtual hearing is required to be filed before commencement of hearing. It is generally observed that all the papers relevant to argue the matter are usually filed and the POA which is very essential to bring on record is remained to be filed. The POA needs to be filed in original or if the bench grants leave then certified true copy can be filed. In virtual proceedings and in pandemic, experience is that digitally signed POA is being accepted as most of litigants' and professionals are working from home. Though nothing in this regard is clearly mentioned. SOPs of respective benches need to be seen. SOPs may have made it clear whether POA filed through email would suffice. If not, physical original copy can be dropped in card box or to see whether similar kind of arrangement is implemented by the respective bench.

2.5.2 Rule - 17A Dress Regulations - Dress Regulations

It is of utmost importance to adhere to dress regulations. In virtual proceedings, same mandate is applicable as in physical hearing to wear professional attire. The attire is prescribed in ITAT Rules for male and female. Some professional bodies like ICAI have prescribed professional attire for its members. These need to be adhered. SOP's have clearly brought this aspect to the attention to maintain the decorum, dignity and majesty of the courts.

There are cases reported in media in pandemic period reporting that where the professionals have departed from following this rule and then courts have taken appropriate action against such professionals by warning such individual who has ruptured the dignity of the court, by-passing the appropriate order in the matter to restrain the professionals from breaching this rule.

2.5.3 Rule 18 - Paper books - Preparation of paper book

The parties to the appeal before the ITAT, where seeking to rely on refer to the evidences and papers filed before the lower authorities, are advised to compile these papers, number them, initial them and file them in a paper book format with index and declaration to the effect that such papers were filed before the lower authorities and do not include any evidences not filed before

Technical Guide on Virtual ITAT Proceedings

them. This paper book is required to be filed, at least a week before the date of the hearing, in duplicate with a copy the Departmental Representative or the assessee, as the case may be. There are no specific instructions issued for filing the paper book in a digital format where the hearing is to be held virtually. However, the benches at some locations accept the digital filing in the pandemic. One is advised to make proper inquiry and refer to the SOPs to avoid any discomfort on this count, It is preferred to continue with the practice of filing the paper book in the physical format. At many a locations, the assessee is advised to leave the paper book in the Drop Box kept outside the tribunal office premise, as the access is denied to the general public. A receipt is delivered at the address of the assessee after some days. Where the assessee desires to file the paper book digitally, only, it is appropriate to seek permission from the bench to do so

In the entire appellate proceedings, preparation of paper book is a crucial task for conduct of the orderly proceedings. Paper book comprises of submission /evidences submitted before the lower authorities which are re-examined by the ITAT being final fact-finding authority. Sometimes fresh evidence or say additional evidence are required to be brought on record which go to the root of the matter. As noted, for virtual hearing, no separate procedure is prescribed for filing the paper book. Extra care needs to be taken while filing the paper book to ensure that the same is available for the reference at the time of the virtual hearing. As per the SOPs of some of the benches' small compilations/ charts/ synopsis /written submissions/rejoinders can be filed through emails well in advance.

Following points are required to be noted:

- If there are multiple benches say "A", "B" "C" "Single Member Bench (SMC)" "Division Bench (DB)" and so on, forwarding letter for filing paper book be addressed to the correct bench where case is fixed.
- ITA no. and date of hearing in subject line of the e-mail must clearly be mentioned.
- Separate paper books may be filed, one for the case papers and the other for the case laws, full copies, relied upon. .
- All pages in the paper book must be legible, numbered and initialed.
- Indexing is must.

Understanding of ITAT Rules in Virtual proceedings

- If paper book is voluminous it can be divided in parts so that it is easy for members to handle it.
- Page numbers should be in continuation e.g. if paper book no 1 is of 100 pages, then paper book no 2 should start from page 101 and so on.
- If there is any document in vernacular language, then it needs to be translated in English from official translator and copy shall be attached with the certificate.
- If the case is before the Division bench then paper book in triplicate is required – one copy for the Department Representative (DR) and two copies for members
- If the matter is before SMC then in duplicate, one for DR and one for the member on the bench.
- Additional evidences are required to be filed separately with the prayer for admission, as per Rule 29.
- Affidavits are required to be filed as per Rule 10.
- In Transfer pricing cases, full copies of Annual Reports of comparable cases, shall be attached.
- Rule 18 provides that paper book should be filed a week before. If one considers week from functioning point of view it means seven working days would be better.
- Paper book should be properly tagged or should be in spiral binding form.
- Any additional paper and supplementary paper book can be filed only with the leave of the bench.

In virtual mode there is no major change in above procedures however, some benches of the tribunal and Departmental Representatives do not object to the where paper book is digital or scanned copy filed through email, though specific instructions common for functioning of all the benches is not available till date.

2.5.4 Rule 27 - Cross Appeals/ Cross objections/ Application

When the revenue and the assessee both are in appeal which is arising from the same CIT(A)/DRP order, it is desirable to club both the cross appeals. An application for the clubbing of such appeals is advised to be made to the ITAT

Technical Guide on Virtual ITAT Proceedings

preferably physically and also digitally by e-mail Quantum and penalty appeals may be clubbed if the penalty is levied for the issues in quantum appeal. Where multiple assessment years are involved and issues are interlinked then it is convenient to club all appeals for the sake of convenience and easy disposal may be year wise or proceeding wise or assessee wise/group wise (for ex. search cases).

2.5.5 Rule 19 and 20 – Date, place of hearing

A notice of hearing the appeal is issued by the Registrar through e-mail, where available, and such a notice may be followed with the physical copy giving the details of the date and place of the hearing and the bench before which the hearing will take place. Appeal fixed for hearing on any appointed day shall be taken up for virtual hearing. Constitution of the bench and the list of the cases fixed for hearing is put up on the website- www.itat.nic.in. Assesseees are advised to keep a tab on the mail box so as to ensure the timely receipt of the information of the hearing. When matter is listed for the first time the notice is sent on the address for communication on form no 36/36A. When the matter gets adjourned no fresh notice is generally issued, except in the circumstances when the matter is blocked for long time or say sine- die adjournment (with no appointed date for resumption) is given. On the appointed day prescribed WEB-PLATFORM is to be accessed as specified in the notice where the virtual hearing of the appeal would be conducted.

Non -Attendance and Adjournment

If adjournment is to be sought, an application be filed well in advance physically and digitally and where not possible to file physical application, the filing of the digital application should at least be ensured. Intimation of adjournment to the other side is essential to save his time. Even though adjournment application is filed, nobody can presume that adjournment is granted. Ultimately bench is to decide about adjournment. AR/DR who is seeking adjournment is advised to remain present personally or through proxy in the virtual court room. Adjournment applications on email are accepted in virtual mode. Each bench has issued common email id's for such communication, the detailed contact list is added in the publication.

2.5.6 Rule 24 and 25 - Recalling of ex-parte orders

For non-attendance of the appellant/respondent there is a possibility that ITAT may dispose appeal as ex-parte in absence of communication. It is noticed that in pandemic being unprecedented, SOPs are containing liberal instruction

Understanding of ITAT Rules in Virtual proceedings

that in this lockdown kind of situation ITAT may not pass adverse orders unless opportunity is given. Ex-parte order can be recalled on filing Miscellaneous application (**MA**) physically and /or digitally if ITAT is satisfied that there was sufficient cause to recall the matter and on recall the appeal will be heard a fresh(**RM**).

2.5.7 Rule 26 - Continuation of proceedings after death or insolvency of a party to the appeal or winding up

In case of the death of the assessee or its succession, it is essential to bring on record the Legal Heir or successor or the executor or the administrator by making an application, physically and/or digitally, along with the revised Form 36/36A. Legal Heir may be executor, liquidator, assignee, receiver, legal heir, depend how the predecessor ceased to exist. No proceedings can be continued if the person is non est. This applies to both natural and juridical person.

2.5.8 Rule 30 - Award of cost

The ITAT may at its discretion can award cost if circumstances warrant. It will depend on facts and incidence calling for such an action. To award the cost is uncommon. When inconvenience is caused for some flimsy reasons the ITAT may award the cost. Magnitude of cost whether is it Rs 10 or Rs 100 or Rs 1,00,000 is not important. Incident of awarding cost is damaging. At least professionals should take care to avoid invocation of this rule. In virtual mode, where the majesty of the court is disturbed for undesired actions of the assessee or his representative or where instructions as per SOPs are not followed and grave mistakes are made knowingly, invocation of this rule is possible even in the virtual environment. Readers may recollect the news published in the newspaper of the recent incident before DELHI HIGH COURT in the case of actress JUHI CHAWALA where her fans have accessed the link and caused disturbance, the court has slapped penalty.

2.5.9 Rule 34 A - Miscellaneous Application (MA)

If there is mistake apparent from record in the ITAT order, MA can be filed within **6 months from the end of the month in which order was passed** to recall the order so as to enable the ITAT to correct error. The application may be made physically and/or digitally in the manner discussed herein before, on the lines of filing an appeal . No specific guidelines are issued for the digital filing of the MA. The hearing of the MA, where filed, is presently conducted in the virtual court room. Following are situations calling for filing MA:

Technical Guide on Virtual ITAT Proceedings

- Ground argued but no decision in the order
- Material brought on record is not considered
- Ambiguity in the decision.
- For any typo error

It is be noted that here that there is difference in error calling for rectification and asking to review the decision. MA cannot be filed for asking a review of the decision even if the decision is incorrect.

2.5.10 Rule 35A- Stay Petition

An application for the stay of the proceedings for recovery of tax, before the ITAT, can be filed only when the appeal is pending before the ITAT for disposal. The application may be made physically and/or digitally in the manner discussed herein before, on the lines of filing an appeal. No specific guidelines are issued for the digital filing of the MA. Though one can directly file for the stay before the ITAT when the matter is pending, it is advisable to first approach the lower authorities, i.e. AO, Addl. CIT/ Pr. CIT and obtain an order from them for rejecting the request for the stay. When all other remedies get exhausted then the jurisdiction of the ITAT can be invoked though there are certain exceptions to this as held by some of the courts. If there is an urgency like bank accounts are getting attached, then without going through this ladder, one can directly approach the ITAT but the condition of pendency of appeal before ITAT has to be met. All particulars of demand i.e. tax, penalty, interest is to be properly disclosed in application. Result of the proceedings of stay before lower authorities are required to be brought on record. Stay application should be precisely drafted. Merits of the case with financial difficulty may justify staying of the proceedings for recovery by the ITAT. The ITAT may ask for security to be given if stay is granted.

Generally, the ITAT grants EARLY HEARING (EH) in stay granted matters on out of turn basis with stipulated conditions like no adjournments are to be sought, etc. If stipulated conditions in the stay order are violated, the stay is liable to be vacated. Then the matter may be listed in regular course.

2.6 The above rules are brought to the attention of the readers to highlight the ITAT procedure with practical inputs/suggestions.

Chapter 3

Standard Operating Procedures (SOP)

The President of ITAT has issued an 'Office Order' dated 16/04/2020, directing the Vice Presidents of various Zones to issue SOPs (Standard Operating Procedures) for virtual hearing of ITAT. The zonal Vice Presidents have issued such SOPs from time to time for conduct of the virtual hearings in their respective zones. By and large these SOPs issued are similar. One such SOPs issued by the Vice President, Delhi Zone on 27/04/2020 is reproduced followed by some analysis hereafter for the better understanding of the rules and procedure to be followed in the virtual court rooms.

1. "Having considered the various platforms available in the light of the experience of other Institutions and the Instructions issued by the Ministry of Home Affairs, Government of India, for the purposes of conducting virtual court hearing through the mode of Video Conferencing, the Vidyo Video Conference platform is found preferable because of the security features, including the end-to-end encryption, ease of use and the operating environment of the ITAT. However, Cisco Webex is also under consideration as an alternative or stop-gap arrangement on account of any disruption in the use of Vidyo Video Conferencing facility due to technical difficulties, etc.

For a seamless conduct of the Virtual Court Proceedings, the following Instructions / Standard Operating Procedures (SOPs) are being issued for hearing of matters through Video Conferencing".

Notes:

- 1.1 *The person desirous of participating in the virtual hearing is advised to download the applicable software used by the respective bench of the ITAT. At present most of the Benches of the ITAT are using CISCO WEBEX software for virtual hearing of cases.*
- 1.2 *Some of the Benches of thee ITAT are using GOOGLE MEET.*
- 1.3 *The CISCO WEBEX software can be downloaded from <https://www.webex.com/downloads.html>*

Technical Guide on Virtual ITAT Proceedings

- 1.4 *GOOGLE MEET is available by default, provided, one has a "gmail" account. If not, one has to download the same from <https://apps.google.com/meet/>.*
- 1.5 *Above virtual meeting software are free for invitees i.e. all Authorised Representatives (AR), Departmental Representatives (DR) and assessee. For host, such software are either freely available, or available with nominal charges.*
2. "Upon direction, the Registry shall process and list the matter for hearing before the designated Bench. An Invitation Link and Meeting ID for appearance and viewing, as the case may be, will be sent by the Registry to the given mobile number(s) by SMS at least one hour before the scheduled hearing. Please note that each of the links so sent to any device is required to be unique and therefore, AR / DR / Assessee-in-person may not share or forward such link(s) to any other device nor shall they enable others to join the hearing through Video Conference."

Notes:

- 2.1 *Intimation by text messages and sharing of the link is not substitute for the notice of hearing. Various Benches of the ITAT, publish cause list for the next week / weeks on the earlier Thursday / Friday, and same is uploaded on ITAT website i.e. <https://www.itat.gov.in/page/content/Notice-Board>.*
- 2.2 *Presently, 'meeting id' and 'password' for each respective hearing is also published along with cause list (and not sent to AR / DR / assessee separately).*
- 2.3 *One should regularly visit the ITAT website for any changes in cause list, timing of hearing, meeting id, password, Suo moto adjournments etc.*
3. "Only the AR / DR / Assessee-in-person are permitted to participate in the Virtual Court Proceedings through Video Conference."

Notes:

- 3.1 *When AR / DR / assessee is login in virtual platform, utmost care should be taken that that the court proceedings are not disturbed.*
- 3.2 *AR / DR should participate in the hearing only if they are Authorized to do so and that too, after ensuring protocol.*

Standard Operating Procedures (SOP)

- 3.3 *Other persons at present at the virtual hearing ought not to participate in the hearing and permit smooth functioning and decorum of the ITAT.*
4. “For the efficient and smooth functioning of the Virtual Court Proceeding, AR/DR/Assessee-in-person are advised to secure, well-in-advance, a desktop or laptop with uninterrupted power supply, video camera, microphones and speakers and display unit, or a mobile device, like a mobile phone or tablet with the required battery backup; Compatible sitting arrangements ensuring privacy, availability of adequate lighting and insulations/proper acoustics as far as possible. In case of use of mobile phones, utmost care must be taken to ensure that there is no interruption of the Virtual Court Proceedings due to incoming calls.”

Notes:

- 4.1 *AR / DR / assessee should ensure that CISCO software is supported by the desktop / laptop.*
- 4.2 *Following facilities are recommended:*
- *Desktop, Laptop, mobile devices with internet connectivity.*
 - *Device ensuring uninterrupted power supply.*
 - *Camera, microphone and speakers.*
 - *Adequate seating arrangements that ensues privacy.*
 - *Adequate lighting.*
 - *Availability of a quiet and secure space.*
 - *Blocking the incoming calls on mobile phone.*
- 4.3 *AR / DR / assessee shall ensure that their devices are free from malware.*
- 4.4 *Before joining the virtual hearing, one can test check his audio-video results to avoid glitches*
5. “The seamless conduct of the Virtual Court Proceedings is obviously dependent upon and subject to the connectivity [signal-strength/bandwidth] available at the end of the remote user(s), the AR/DR/Assessee-in-person joining a video-conference hearing shall ensure that robust connectivity and bandwidth are available at their end; In this regard, Advocates/Parties-in-person are advised to use broadband connection of minimum 2

Technical Guide on Virtual ITAT Proceedings

mbps/dedicated 4G data connection. Further, AR/DR/Assessee-in-person may also ensure that no other device or application is connected to using the bandwidth when the hearing by Video Conferencing is in progress on their computer (preferable), mobile or any other device.”

Notes:

- 5.1 *It is observed, at times, that during the hearing, connectivity of AR / DR / assessee is lost, which in turn causes inconvenience to the Bench and precious time of the ITAT is lost.*
- 5.2 *One should have back-up internet connection, so in case, one of the connections fails, other connection can be used, without causing interruption in the proceedings.*
- 5.3 *If AR / DR / assessee are facing connectivity issue, the same needs to be communicated to the Bench of the ITAT before the start of hearing of a case and should seek for an adjournment, so as to avoid interruption in the proceedings.*
- 5.4 *In case any difficulty arises on this count during the ITAT hearing, and (say), connectivity is lost at the time of hearing, the said fact should be brought to the notice of the ITAT by a separate email or any suitable medium immediately after such an incidence.*
- 5.5 *If connection is not available or connection gets lost, one can join from some other communication device (say Mobile) and continue the hearing, or, at least request for adjournment.*
6. “Care must be taken to see that there is no interruption to the proceedings due to the background noise from any source.”

Notes

- 6.1 *It is observed that during the hearing, there is disturbance due to background noise, due to which, arguments of parties can't reach the Bench of the ITAT, and to the other party, which in turn causes interruption to the proceedings. Hence, such background noises ought to be avoided.*
7. “AR/DR/Assessees-in-person are required to enter appearance in the dress / attire prescribed for or befitting the dignity and majesty of the judicial proceedings, and as far as possible, the Dress Regulations prescribed in Rule 17A of the Appellate Tribunal Rules, 1963 be adhered to.”

Standard Operating Procedures (SOP)

Notes:

- 7.1 *All the AR / DR / assessee should follow the dress code prescribed i.e a coat over pants with a tie or buttoned-up coat for male and coat over white or any other sober coloured saree / dress. This dress code shall be applicable to all persons appearing before the ITAT for virtual hearings, as well.*
- 7.2 *Honourable Rajasthan High Court in the case of Lalaram S/O Shyojiram Vs. State Of Rajasthan - S.B. Criminal Miscellaneous Bail Application No. 758/2020 have categorically observed as follows:*
- "This court has already observed that during this pandemic where court functioning is being done through video conferencing, lawyers must appear in proper uniform. Even through video conferencing a dacoram of the court is required to be maintained."*
- 7.3 *Even if adjournment is to be sought for by AR / DR / assessee proper dress code should be adhered.*
8. "Tribunal reserves the right to regulate the entry of the AR/DR/Assessee-in-person into the Virtual Conference Room and, in principle, it is decided to allow the entry of the AR/DR/Assessee-in-person of two cases immediately following the case-in-progress. As and when the matters in the cause list move forward, the AR/DR/Assessee-in-person of the subsequent cases will be allowed to join."

Points

- 8.1 *At present this practice has been discontinued by the ITAT and all the AR / DR / assessee can login at the same time.*
- 8.2 *On the contrary, it is being experienced that, all the AR / DR /assessee log-in at the stipulated time (typically 10.30 AM) and wait for their turn, and rightly so (physical court proceedings are being followed for the virtual court proceedings, as well permitting all the persons present in the court room to witness the proceedings).*
9. For detailed joining instructions, please refer to Annexure-2 of the Circular.

Notes:

- 9.1 *Irrelevant since VIDYO is not used anymore.*

Technical Guide on Virtual ITAT Proceedings

10. “They shall ensure that the Microphone (mic) is in mute mode till such time as required to make submission(s); thus, when one party is making submissions, it is imperative that all other participants shall keep their respective mic muted, failing which the possibility of mic catching audio feed from the speakers and creating ‘echo/noise disturbance’ would become very high and may disturb the Virtual Court Proceedings. It is strongly advised that ARs/Parties-in-person should join the Virtual Court Proceedings from a single device as joining the Virtual Court Room from two or more devices from one location will cause echo and create disturbance in the Virtual Court Proceeding.”

Notes:

- 10.1 *AR / DR / assessee should take care that the MIC is kept on MUTE mode all the time and it should be UNMUTED only at the time of making argument. At the cost of repetition, it is submitted, this protocol ought to be observed in all cases. As a rule, every attendee should be on MUTE mode.*
 - 10.2 *AR / DR / assessee should ensure that MIC and video-camera ought not to be too near to one's face or too far from one's face.*
 - 10.3 *AR / DR / assessee should endeavour to look into the camera, remain attentive and not engage in any other activity during the course of the proceedings.*
 - 10.4 *In case two or more people are required to be login for a same case, AR / DR / assessee should take care that such other person is joining from different location / room. If both the devices are logged in from a single / nearby room, it will lead to echo and will cause disturbance in proceedings.*
 - 10.5 *At times, attending counsels forget to keep their MIC on MUTE mode. As a result, disturbance is caused. Such event ought to be avoided.*
 - 10.6 *At times, it is observed that, the AR / DR / assessee starts making submissions, without ensuring that the MIC is on UNMUTE mode. The mic should be unmuted while making the submissions on the case. .*
11. “It may be ensured that the mobile phones are either switched off or kept on vibrate or silent mode, and TV sets, radio etc, are switched off, lest they may cause disturbance. Further, individual greetings (one-to-one) and cross-talk between the AR / DR / Assessee-in-person at the commencement

Standard Operating Procedures (SOP)

or during the proceedings are to be strictly avoided. During the Court Proceedings, the participants are expected to cooperate with the officials by complying with the suggestions extended from time to time to meet any particular exigency.”

Notes:

11.1 *AR / DR / assessee shall ensure that cell phones remain switched off or on “silent” mode or in “Airplane” mode during the proceedings.*

11.2 *AR / DR / assessee shall avoid greetings and cross-talks between themselves.*

12. “When the case is called, arguing counsel shall introduce himself/herself to the Bench and thereafter, with the permission of the Bench, make submissions. On completion of the submissions and/or when the Bench requires or when a query is put to the arguing counsel, he shall at once ‘mute’ the mic of the respective device. Only with the permission of the Senior Member of the Bench, the AR/DR/Assessee-in-person may ‘unmute’ the mic of the device to resume his submissions. Otherwise, the mic must be kept on ‘mute’ mode only.”

Notes:

12.1 *When the case is called for hearing AR / DR should first intimate that the case is represented by him / her. Thereafter, when the Bench permits him to begin his submissions , one should proceed to submit the arguments.*

12.2 *Care should be taken that the MIC is mute all the time and it should be un-muted only at the time of making the arguments.*

12.3 *It will be an apt protocol to have emailed the Power of Attorney / Letter of Authority before start of the Bench so that it is known to the Bench who is representing the case.*

12.4 *If only one case of a counsel is listed for hearing it will be a good practice to enter the name of counsel followed with Sr. No. and name of the case i.e. CA XYZ - Sr. No. 1 - ABC Pvt. Ltd., while login.*

12.5 *Proper name of the attending person ought to be stated before joining. There are occasions, where, (say) Mr. A joins virtual hearing by using Mr. B's computer (and appears without changing name), so that, name*

Technical Guide on Virtual ITAT Proceedings

of Mr. B pops up on the virtual platform when Mr. A speaks, leading to confusion. Such errors should be avoided.

12.6 *The mic should be immediately muted, on a query by the member, during the time when submissions are in progress and should be unmuted once a permission to resume the submissions have been given by the senior member of the bench.*

13. “Simultaneous making of arguments by both parties should be strictly avoided at any time. Either party may indicate a requirement to speak / submit by asking for permission from the Bench, by raising a hand. Once permitted by the Senior Member of the Bench, the party may ‘unmute’ the mic and thereafter make submissions.”

Notes:

13.1 *When one of the party is arguing, the other party should keep himself on mute mode and avoid speaking over the other person.*

13.2 *The other persons should keep his mic muted during the time the first person is arguing his case.*

13.3 *Arguments should be made by AR / DR / assessee only after the permission of the Bench.*

14. “AR / DR / Assessee-in-person shall remember that since they are participating in COURT PROCEEDINGS, it is expected that they would not resort to any indecorous conduct or comment.”

Notes:

14.1 *All the courtesies and protocols applicable to a hearing in a Physical Court shall apply to Virtual Proceedings also and should be observed.*

14.2 *Members shall be addressed as "Madam / Sir" or "Your Honour".*

15. “Further, since the recording/copying/storing and/or broadcasting, by any means, of the hearings and proceedings before the Tribunal is not permissible, all the stakeholders shall ensure that the proceedings by Video Conference are neither recorded/stored nor broadcast, in any manner whatsoever.”

Standard Operating Procedures (SOP)

Notes:

- 15.1 *Considering specific SOP, the parties should refrain from recording/copying/storing and/or broadcasting the proceedings in any manner on any device. .*
- 15.2 *However, the Gujarat High Court is working on LIVE-STREAMING basis. Some other examples exist too (refer Para-2.35 of Parliamentary Committee Report on Functioning of Virtual Court).*
- 15.3 *Till further clarifications on the point, one will have to follow the above condition.*
16. “AR / DR / Assessee-in-person are required to stay online till the hearing in their matter is announced to be concluded by the Senior Member of the Bench, and thereafter the AR / DR / Assessee-in-person may disconnect from Video Conference, or the Registry Official / Host will disconnect them.”

Notes:

- 16.1 *When the Bench of the ITAT arrives on the virtual court platform, all AR / DR / Assessee ought to rise and greet each other with folded hands. Similarly, while bench concludes hearings and is about to leave the dias. At times, this protocol is not being observed due to confusion, etc. PLEASE SHIFT TO NO.14.*
- AR / DR / Assessee-in-person joining the bench should not leave the court room and stay online till the hearing in his case is announced to be concluded by the Senior Member of the Bench.
- 16.2 *Where an AR/DR/Assessee’s matter gets concluded, it may be courteous for him to not to exit the virtual court room till the bench is concluded by the members by rising to exit in cases where no other matter is likely to be heard following the case of the AR/DR /Assessee and no other person is present in the virtual court room.. Protocol generally followed in physical court room may be followed in a virtual room as well. Change of platform ought not to change the decorum.*
17. “Upon publication of the cause-list, the Registry may call any party and require to test the device or its connectivity, and every such party is required to cooperate with such staff/official and abide by the instructions given, so that the hearing by Video Conference may be smoothly conducted.”

Technical Guide on Virtual ITAT Proceedings

Notes:

17.1 *Request, if any, of the officials of the ITAT to the AR / DR / assessee for testing the functioning of the mic and the video i should be responded by assisting them to satisfy their concerns about the audibility and the visibility.*

18. “For any related queries, the parties may contact Helpline Telephone Number 011-24658238 of Shri Atul Chaudhary, Nodal Officer in the office of Delhi Benches, ITAT, New Delhi or at his email atul.2986@gmail.com or mobile No. 9999203561 or write to delhi.zone@itat.nic.in.”

Notes:

18.1 *The person designated by the bench for maning the helpline should be contacted for the resolution of the querries by e-mail and/or telephone address/number provided in the SOP.*

18.2 *Phone numbers and email-ids of officials at various benches of the ITAT are given separately in this booklet.*

Chapter 4

Art of Representation and Techniques

Each of us have different and unique ways of representing the cases, before the judges, at the hearing of the cases and our approach over the years has found acceptance by the judges and all of us have largely been able to deliver the work assigned to us in a satisfactory manner; a fact which proves that there could be different, disparate, unusual, separate and at times contrasting styles and any attempt to uniformize the styles should be avoided or even discouraged. There are no straight jacket descriptions for an idealist representation; is to have your own approach based on the instant circumstances you are in as long as the approach adopted is backed by ground work, knowledge, understanding of facts and law and is topped by the confidence, education, style and appearance that suits the environment.

This position and understanding is no different in the matters of virtual hearing and that too before the ITAT. Ingredients required for a good physical representation are surely the ones that would press in service even for a virtual hearing. Having noted this, it may be a good idea to list a few ingredients that would enhance the quality of the representation in a virtual atmosphere hither to unknown and unpracticed by most of us. In doing so care has been taken to not to substitute the qualities and ingredients otherwise required for any good representation; the idea is to supplement the desired qualities with a few elementary suggestions that are limited to virtual hearings alone. Please –

1. Check the constitution of benches and the Board regularly to ensure that you are present on the day and date of hearing, with or without the notice. In Covid -19 times it's not unusual to not to receive notice in time.
2. Keep a list of email addresses of the Registrar, DRs, members and of the web portals to enable the smooth and efficient communication. Most of or perhaps all of the communication would be through electronic media.
3. Develop adequate comfort and convenience and confidence to operate in an electronic environment by learning the skills for technological efficiency. This will enhance your quality of representation considerably.

Technical Guide on Virtual ITAT Proceedings

Understanding the surroundings, ecosystem and environment have always played an important role in good representations. In short be at home with technology.

4. Prepare and file in advance, with a copy to DR, a synopsis or factsheet containing the brief facts by referring to the relevant pages of the paper book and summary of ground wise submissions in very brief with supporting case laws giving citations. This will avoid the proverbial miss between the cup and the lips.
5. Where possible keep an alternative connection, preferably cellphone or computer with dongle, ready to meet the disconnection issue.
6. Wear an attire and dress that is prescribed by Rule 17A of the ITAT Rules, 1963 and that maintains the decorum of the court.
7. Join the court room a little ahead of time
8. Ensure with the members and DR that they have copies of all documents and papers filed by you at the outset, when your case is announced for hearing.
9. Seek permission, where required, of the members for presence of juniors, assessee, witness, expert, and for sharing screen with them.
10. Once in hearing, present your case as you are always doing, with a clear diction and audible sound without being verbose. Adopt a KISS approach. Keep it Short Silly or Simple.
11. Use extensively the facility of screen sharing for highlighting the important papers and the paragraphs of documents and decisions relied upon.
12. Reserve your right of rejoinder and use it effectively to address the misunderstanding, if any.
13. Summarize the submissions. It's important to eliminate the doubts that may have cropped up by non-communication or misunderstanding.
14. In case of doubt, request for declaring the matter as Part heard or seek a chamber hearing or an adjournment.
15. Request for permission to file the missed documents or summary of proceedings in reasonable time.
16. Thank the court for hearing the case.

Chapter 5

Technical Requirements

SOPs issued by the benches located at the different places suggest that the persons participating in the virtual court room proceedings shall be equipped with the prescribed hardware and software with the minimum capacities that would facilitate the smooth and easy participation in the court proceedings. Please see the SOP No. – of the chapter for reference.

5.1 Hardware requirements

Computer or Laptop . Please write a paragraph and provide the desired configurations.

5.1.1 Camera/webcam

Most laptops and desktops now come with built-in cameras. If your computer doesn't have this, you will have to purchase a standalone webcam or camera and connect that with the computer device. Most of the newer computers are equipped with an in-built camera.



Use of the external camera device supported by appropriate conference room setup enhanced quality of visual effect.



Technical Guide on Virtual ITAT Proceedings

5.1.2 Microphone

Microphone is required to make sure that everyone in the Virtual proceedings can hear you. While laptops and mobile devices usually come equipped with built-in microphones, you may have to invest in one if you have an older desktop.

Verity of personal headsets (and even ordinary headphones that have a 3.5 mm adaptor) are available with an external microphone built into them.



A touchscreen conference phone with a built-in microphone is used to navigate directory, control camera pan/tilt/zoom options and bring essential audio-conferencing functions to user's fingertips. Conference phones, purpose-built for video, provide echo cancellation, automatic gain control and automatic noise reduction to give meeting room participants a crystal-clear audio.

5.1.3 Adequate lighting and noiseless surroundings

Please ensure that there is adequate lighting to have a brightness in the room also check that you are not seating between the light and camera this will darken your face as visible on the other side . Also ensure that background should be properly covered, If light is inadequate then one can use tabletop LED lights to have better image on screen. Also ensure noiseless surroundings because court is expected to hear your voice very clearly. If there are disturbing noises around you then court may not be able to comprehend the deliberations made by you. It is advised that an independent cabin is used for the hearing with all the equipment's available therein.



5.1.3 Internet connection

To make sure hearing runs smoothly, It is necessary to have a quality internet connection that can with stand all of the data that'll be used during the hearing. This goes for everyone joining the hearing: if someone has a weak connection, it'll result in audio and visual lags that can impact the quality of the hearing. Keeping one or two standby connections is advisable.

The effect of a slow network on hearing is counterproductive connection dynamically adjusts to give the best possible quality with the available network. The network bandwidth required will depend on the resolution and frame rate you desire: 1 Mbps is sufficient for 15 fps at 720p resolution, while 30 fps at 4K will require closer to 4 Mbps. A properly designed Wi-Fi network will enable wireless connection from anywhere around the building.



5.1.4 Fast computer processing

Modern video conferencing, computer should have a minimum 2 GB of RAM and a quad-core processor. Sufficiently fast processor, enhances audio and video quality to make the best possible hearing within system.

Technical Guide on Virtual ITAT Proceedings

5.1.5 Scanner

Scanner may be useful for a Virtual hearing. However considering the concept of submitting the various documents like paper book, e filing of appeal and to adhere with Faceless procedures, it is recommended that one should have a High resolution scanner in the form of ADF (Automatic Documents Feeder), wherein it is possible to create paper books with say 100/ 200 pages in 5 to 6 mb space, by adjusting resolution to 200 dpi, and by adjusting the grey scale.



5.2. Software requirements for video conferencing

Legible, visible, and audible video call is a combination of capable equipment, a robust network, reliable media transport with TCP and UDP, and the software used to tie it all together. Video conferencing software becomes the portal for seeing colleagues, partners and customers face to face, It also handles the heavy encoding and decoding required for securely encrypting calls and ensuring audio and video are delivered in real-time. For delivering the most out of the system, then you'll need software that is intuitive and easy to use.

5.3 Video conferencing software

Browser-based apps and desktop apps can make use of embedded cameras and microphones or connect to more robust peripherals through USB or Bluetooth connectivity and need the added levels of reliability and security for critical meetings.

5.4 Web based tools that can be used for compilation of documents

It is advisable to submit most of the documents in PDF (Portable Document Format) as possibility of alteration is avoided; There are a number of website of which enable various functions such as merging, splitting, page numbering, compressing etc. under one web page, which enables to make a compact paper book.

Chapter 6

Generally used meeting tools by different Benches of Tribunals

As of now most of the tribunals are using CISCO WEBEX meeting tool for conducting the virtual hearings, some of the tribunals are using GOOGLE MEET, both these tools are easy to operate, it can be operated easily via Browser-based apps or desktop apps and are also accessible through mobile based apps.

Following step by step presentation shall help the smooth conduct of the hearings.

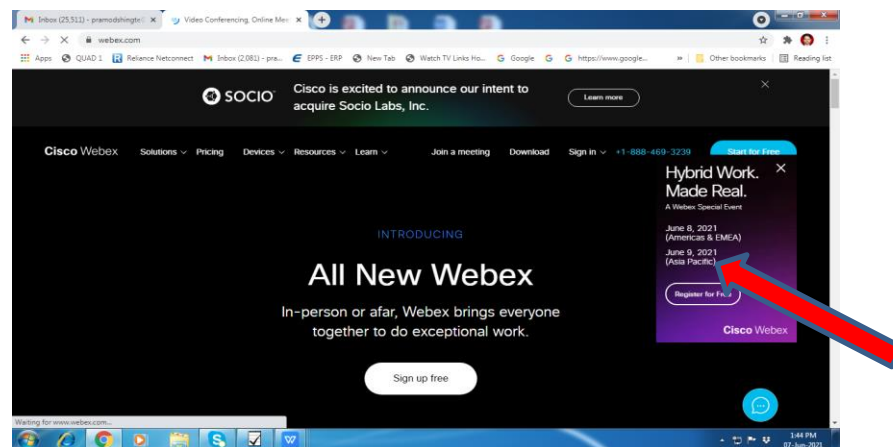
6.1 Login ID's and Passwords or Meeting links:

All the benches of the tribunal generally share the meeting links or Login id's and password in the weekly cause list. Some benches of the tribunal prefer to send the links for hearing of the case on email to the id's of the Authorised Representatives (ARs, in such case it is expected by the registry that once AR knows that his case is scheduled he shall intimate the registry of his email id.

6.2 Procedure for joining with different tools:

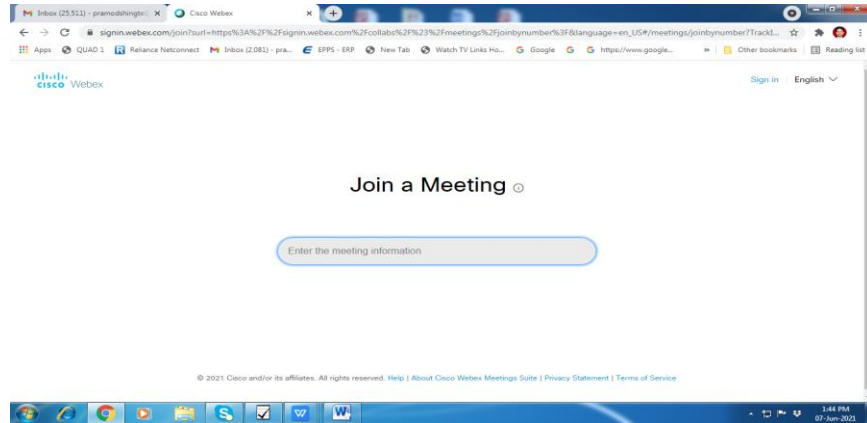
6.2.1 WebEx Browser based app:

On Login to webex.com, following screen will appear, then click on 'Join the Meeting' tab;

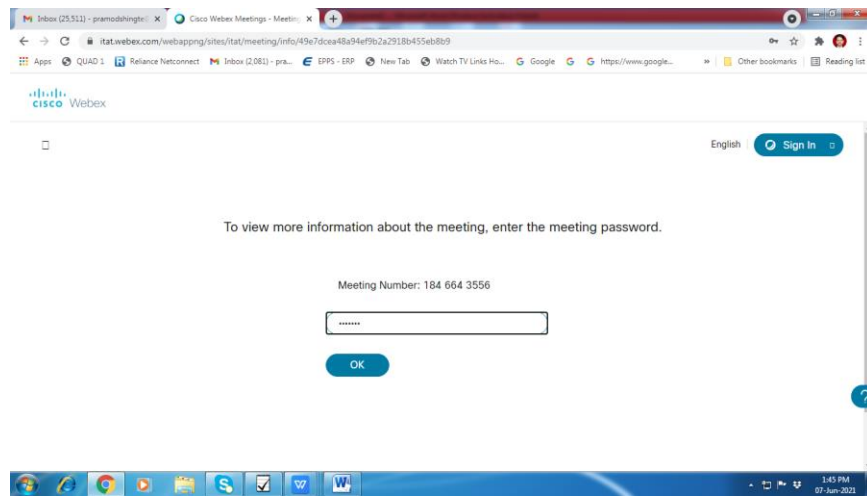


Generally used meeting tools by different Benches of Tribunals

After clicking the said tab, the following screen will appear. Put the 'meeting id' of the respective bench as provided in the cause list or intimated via email:

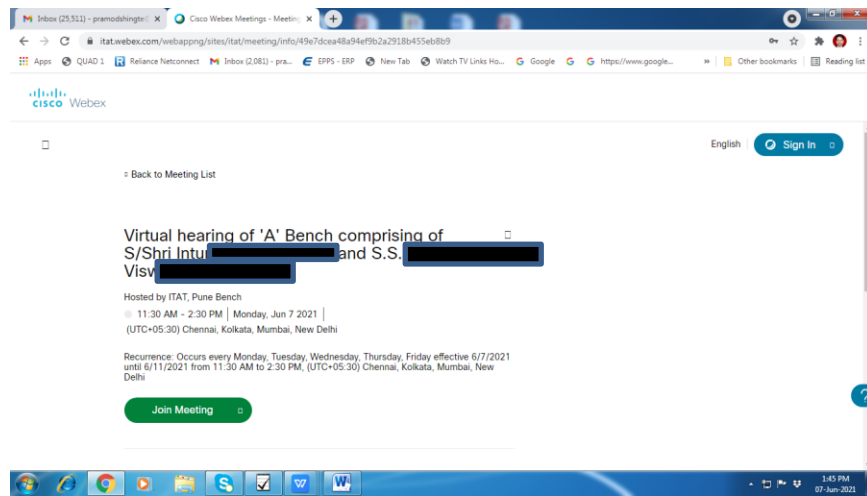


After entering the meeting id, click on 'enter', it will prompt you to enter the meeting password:

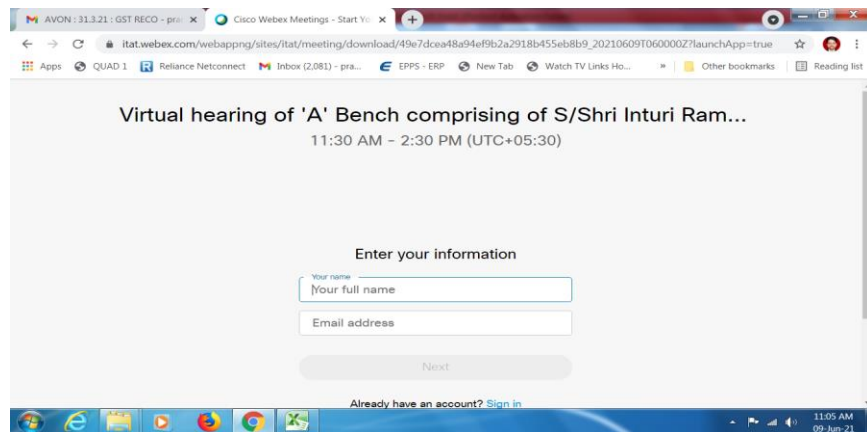


Following screen shall appear:

Technical Guide on Virtual ITAT Proceedings

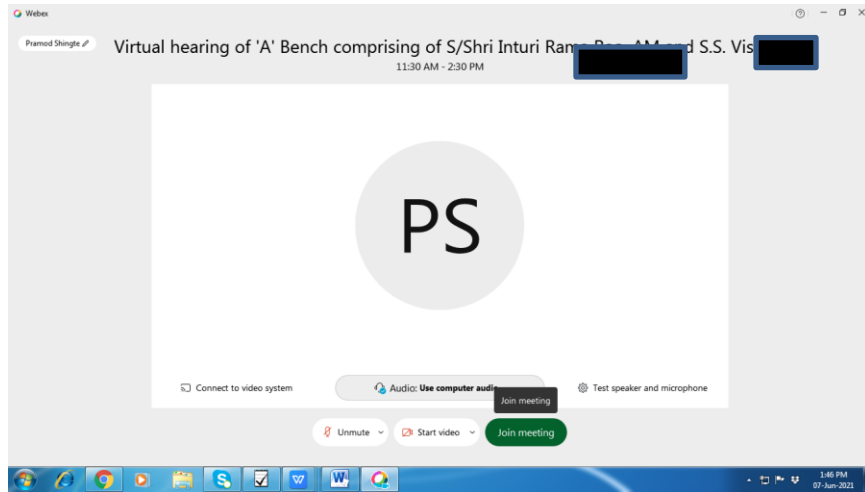


After this, a screen browser will prompt you to enter your name and email id, it is expected that the person actually attending the proceedings shall mention his name, and if anyone who is attending as proxy for AR, then after his name he can add in bracket AR's name, so bench will know who is representing the case.



Once you enter these details, the following screen will prompt you to join the meeting and once clicked on the 'join' button you will join the Virtual court room.

Generally used meeting tools by different Benches of Tribunals

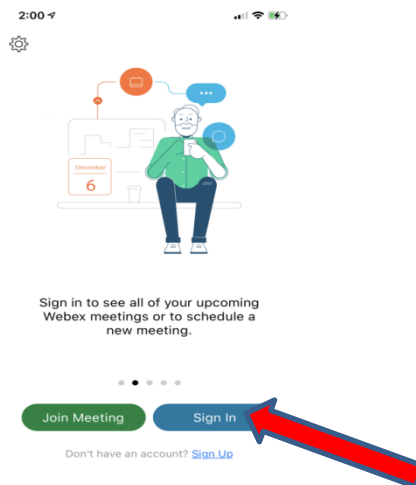


6.2.2 Webex Mobile based app:

Install the Webex meet app on your mobile set through the App store or Play store :

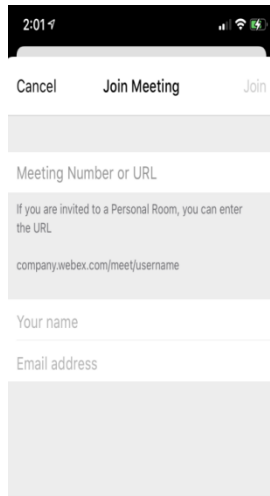


After installing, click on the app and it will prompt you to the following window:



Next window will ask you the meeting number and your name and email id:

Technical Guide on Virtual ITAT Proceedings



2:01

Cancel Join Meeting Join

Meeting Number or URL

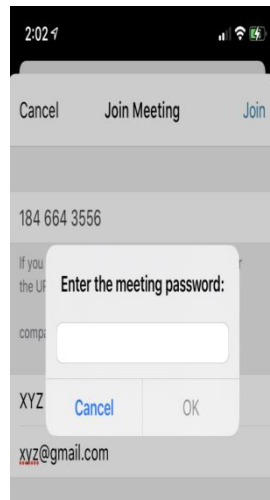
If you are invited to a Personal Room, you can enter the URL

company.webex.com/meet/username

Your name

Email address

After putting the requisite details, it will ask for the meeting password:



2:02

Cancel Join Meeting Join

184 664 3556

If you
the URL

compr

XYZ

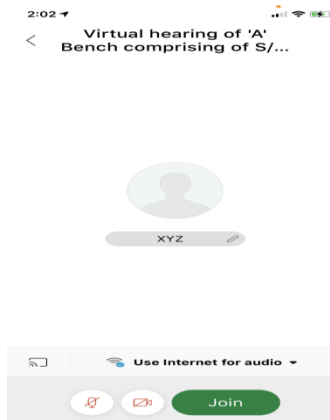
xyz@gmail.com

Enter the meeting password:

Cancel OK

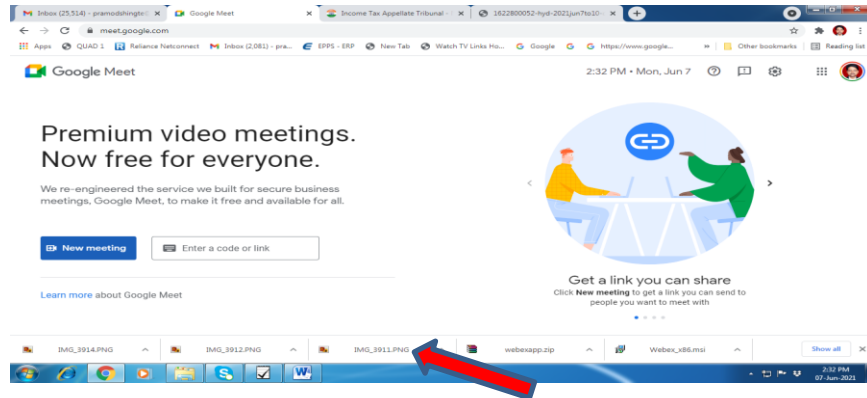
Once password is entered, it will prompt you to join the meeting:

Generally used meeting tools by different Benches of Tribunals



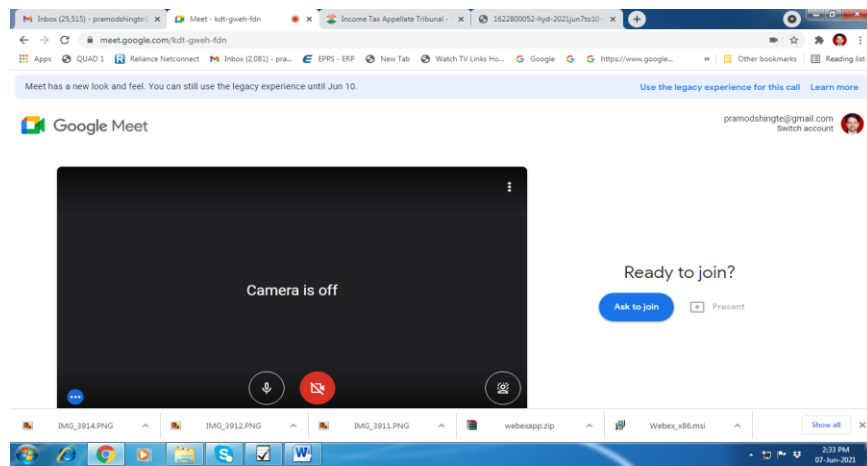
6.2.3 Google Meet Apps:

Certain Meet App provide with the direct meeting link .If you are using Google Chrome, Such apps can directly take to the Virtual court, or if joining is through a browser then following window will prompt brings the meeting code or link:



Once meeting code or link is entered, it will take computer to the following screen for joining the virtual court room.

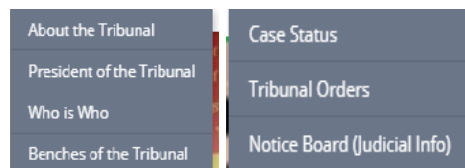
Technical Guide on Virtual ITAT Proceedings



Chapter 7

Income Tax Appellate Tribunal website

ITAT official website www.itat@gov.in is very effective for knowing the various details regarding the information displayed from time to time.



The website gives various useful information like,

- Case Status with reference to different benches

CASE STATUS					
Bench *	Appeal Type *	Number	Year	Date of Filing	Assessee Name
Select	Select	Number	Select		Name
					<input type="button" value="Search"/>

- Tribunal Orders of different benches

TRIBUNAL ORDERS			
Bench *	Appeal Type	Date of Hearing	Date of Pronouncement
Select	Select		
Date of Order	Author of Order	Assessee Name	
	Select		
		<input type="button" value="Search"/>	<input type="button" value="Reset"/>

- Weekly Cause List of different benches under the head Notice Board (Judicial information)

Chapter 8

E-filing of ITAT Appeal

Income Tax Appellate Tribunal has launched an e-filing of appeal facility from 25th July, 2021.

Key points

1. The Appeals, Memorandum of Cross Objections, Stay Applications and Miscellaneous Applications, all of which, presently, in terms of the Income Tax (Appellate Tribunal) Rules, 1963, are being filed/presented with the ITAT in physical mode (Paper form) only. Such appeals, etc., henceforth may also be presented in electronic format using the newly developed e-Filing Portal of the ITAT (<https://itat.gov.in/efiling/register>).
2. The facility of e-Filing is not mandatory but optional and will not substitute the existing practice of presenting Appeals, Cross Objections, Stay Applications and Miscellaneous Applications in the paper form.
3. Permanent Account Number (or TAN as the case may be) of the Assessee, Mobile Number and Email ID are the key identifiers required for the e-Filing Portal. Therefore, having PAN/TAN, valid Mobile Number and Email IDs are pre-requisites for using the said E-Filing Portal. It may be ensured by all the users that the mobile number and e-mail address provided are valid and in active use.
4. Any person who is entitled to file an appeal before the Income Tax Appellate Tribunal under section 253 of Income Tax Act, 1961 or any other enactment, may file the same electronically through the said e-Filing Portal.
5. It is clarified that till it is notified otherwise by the President, ITAT, the filing/presentation of Appeals, Cross Objections, Stay Applications and Miscellaneous Applications in physical / paper form in terms of Income Tax (Appellate Tribunal) Rules, 1963 and other respective enactments in the paper form shall continue to remain mandatory even after e-Filing. Therefore, the date of presentation of Appeals, etc., physically in terms of Rule 6 & 7 of the Income Tax (Appellate Tribunal) Rules, 1963 or the respective enactments shall continue to be reckoned as the date of presentation for all intents and purposes. After e-Filing of an Appeal,

E-filing of ITAT Appeal

Cross Objection, Stay Application or Miscellaneous Application, the acknowledgement of e-Filing and Memorandum of Appeal or Memorandum of Cross Objection or Stay Application or Miscellaneous Application, as the case may be, along with all the prescribed enclosures shall be presented before the Tribunal in the manner and time prescribed in the said rules or other enactments, as the case may be.

6. All the documents which require the signature of the parties shall be physically signed before scanning and uploading in the e-Filing Portal. All prayers, petitions, Grounds, affidavits, etc. which are to be filed electronically shall be typed in Arial font, font size 12 on one side of A4 size paper with double spacing, justified horizontally.
7. Standard Operating Procedures and FAQs will be issued separately and the same can be accessed in the e-Filing Portal 'Guidelines and FAQs' Page (<https://itat.gov.in/page/content/efiling-guidelines>).

Important Checklists for e-Filing

Particulars		Yes/ No/ NA
1	Mandatory Enclosures	
	A Appeals	
	1 Memorandum of Appeal	
	2 Certified copy of the order appealed against (CIT / CIT(A) / AO)	
	3 Form 35, Grounds of Appeal & Statement of facts filed before the CIT(A)	
	4 Relevant order(s) of Assessing Officer/Directions of DRP	
	5 Penalty order	
	6 Draft assessment order (wherever required)	
	7 Order of Transfer Pricing Officer	
	8 Tribunal Fee Challan (in case of an appeal by assessee)	

Technical Guide on Virtual ITAT Proceedings

	9	Authorisation of the CIT to file the appeal (in case of appeal by Revenue)	
	B	Cross Objections	
	1	Memorandum of Cross Objection	
	2	Authorisation of the CIT to file the CO (in case of a C.O. by Revenue)	
	C	Stay Applications	
	1	Stay Application in prescribed format (Annexure - X)	
	2	Sworn affidavit in support of Stay Application	
	3	Demand Notice and relevant orders of lower authorities	
	4	Tribunal Fee Challan (Rs. 500/-)	
	D	Miscellaneous Applications	
	1	Miscellaneous Application	
	2	Relevant Tribunal Order appealed against which the M.A. is preferred	
	3	Tribunal Fee Challan (in case of an Miscellaneous Application by assessee)	
	4	Authorisation of the CIT to file the MA (in case of a Miscellaneous Application by Revenue)	
2		Optional Enclosures	
	1	Covering Letter	
	2	Vakalatnama / Power of Attorney (in case of an appeal by assessee)	
	3	Application for condonation of delay, wherever required.	
	4	Affidavit in support of application for condonation of delay	

E-filing of ITAT Appeal

3	All the documents which require the signature of the parties are physically signed, scanned and filed / uploaded.	
4	All prayers, petitions, Grounds, affidavits, etc. are typewritten on one side of A4 size paper with double spacing, justified horizontal alignment in Arial font and of size 12.	
5	All documents / enclosures are fully and properly scanned in A4 size Black & White 150 – 200 DPI resolution; and no pages are missing.	
6	Paper Books, if any, are properly paginated and indexed.	
7	Tribunal Fee is paid under '300-Regular Assessment' – 'Others Category'.	
8	Legal Representative of the assessee is brought on record, wherever applicable.	
9	All the affidavits are properly attested and identified.	
10	Vakalatnama / Power of Attorney is properly executed by the party and accepted by the counsel.	
11	Details of identical matters in the case of the assessee disposed off by/or pending before the Tribunal, if any.	
12	Postal address with PIN code, mobile number and e-mail address are mentioned correctly. Mobile number and e-mail address are valid and in active use.	
13	Grounds raised in the appeal, but not raised before the CIT(A), if any. Also furnish an application justifying admission of such Ground(s) by ITAT.	

Chapter 9

Faceless Proceedings before ITAT

The Finance Act 2021 has inserted Sub- Section (7) to Section 255, for providing for the the faceless proceedings before the IAAT which is reproduced:

SECTION 255:

“(7) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of disposal of appeals by the Appellate Tribunal so as to impart greater efficiency, transparency and accountability by—

- (a) eliminating the interface between the Appellate Tribunal and parties to the appeal in the course of appellate proceedings to the extent technologically feasible;
- (b) optimizing utilisation of the resources through economies of scale and functional specialisation;
- (c) introducing an appellate system with dynamic jurisdiction.

(8) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (7), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply to such scheme or shall apply with such exceptions, modifications and adaptations as may be specified in the said notification:

Provided that no such direction shall be issued after the 31st day of March, 2023. (9) Every notification issued under sub-section (7) and sub-section (8) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.”.

So after conducting the hearing on Virtual mode next development is already into offing and necessary rules regarding Faceless ITAT proceedings are awaited.

Annexure 1

Contact Details of the Benches of ITAT

Sr No	Bench	Phone no	Fax No.	Bench e-Mail
1	Mumbai	022-22033848	022-22014369	mumbai.bench@itat.nic.in
2	Delhi	011-24641558	011-24641558	delhi.bench@itat.nic.in
3	Agra	0562-2523166	0562-2522145	agra.bench@itat.nic.in
4	Ahmedabad	079-26581546	079-26581546	ahmedabad.bench@itat.nic.in
5	Allahabad	0532-2407772	0532-2400671	allahabad.bench@itat.nic.in
6	Amritsar	0183-2506429	0183-2506370	amritsar.bench@itat.nic.in
7	Bangalore	080-22047444	080-22047444	bangalore.bench@itat.nic.in
8	Chandigarh	0172-2741987	0172-2741987	chandi.bench@itat.nic.in
9	Chennai	044-24469661	044-24462653	chennai.bench@itat.nic.in
10	Cochin	0484-2424897	0484-2424896	cochin.bench@itat.nic.in
11	Cuttack	0671-2964117	0671-2964117	cuttack.bench@itat.nic.in
12	Guwahati	0361-2544637	0361-2514405	guwahati.bench@itat.nic.in
13	Hyderabad	040-27536887	040-27536891	hyderabad.bench@itat.nic.in

Technical Guide on Virtual ITAT Proceedings

14	Indore	0731-2493839	0731-2499025	indore.bench@itat.nic.in
15	Jabalpur	0761-2450543	0761-2450751	jabalpur.bench@itat.nic.in
16	Jaipur	0141-2983056	0141-2229929	jaipur.bench@itat.nic.in
17	Jodhpur	0291-2544591	0291-2544617	jodhpur.bench@itat.nic.in
18	Kolkata	033-22901222	033-22901228	kolkata.bench@itat.nic.in
19	Lucknow	0522-2720864	0522-2720864	lucknow.bench@itat.nic.in
20	Nagpur	0712-2512593	0712-2510931	nagpur.bench@itat.nic.in
21	Panaji	0832-2426226	0832-2426238	panaji.bench@itat.nic.in
22	Patna	0612-2504997	0612-2504085	patna.bench@itat.nic.in
23	Pune	020-29701933	020-29701448	pune.bench@itat.nic.in
24	Raipur	07712-223110	07712-223110	raipur.bench@itat.nic.in
25	Rajkot	0281-2970721	0281-2970723	rajkot.bench@itat.nic.in
26	Ranchi	0651-2332445	0651-2332445	ranchi.bench@itat.nic.in
27	Visakhapatnam	0891-2795058	0891-2795058	vizag.bench@itat.nic.in
28	Surat	0261-2878102	0261-2878102	surat.bench@itat.nic.in
29	Varanasi	0-	0-0	varanasi.bench@itat.nic.in
30	Dehradun	0	0	dehradun.bench@itat.nic.in