

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 4th June, 2009

G.S.R. 387(E).— In exercise of the powers conferred by clauses (ma) and (me) of sub-section (2) of section 63 read with sub-section (2) of section 53B and sub-section (2) of section 53N, of the Competition Act, 2002 (12 of 2003) the Central Government hereby makes the following rules, namely:-

1. Short title and commencement. – (1) These rules may be called the Competition Appellate Tribunal (Form and fee for filing an appeal and fee for filing compensation applications) Rules, 2009.

(2) They shall come into force on the date of their publication in the Official Gazettee.

2. Definitions. – (1) In these rules, unless the context otherwise requires, -

- (a) 'Act' means the Competition Act, 2002 (12 of 2003);
- (b) 'Appeal' means an appeal preferred under sub-section (1) of section 53B of the Act;
- (c) 'Appellate Tribunal' means the Competition Appellate Tribunal established under sub-section (1) of section 53A of the Act;
- (d) 'Chairperson' means the Chairperson of the Appellate Tribunal appointed under sub-section (1) of section 53D of the Act;
- (e) 'Commission' means the Competition Commission of India established under sub-section (1) of section 7 of the Act;
- (f) 'Form' means the form specified in the Schedule to these Rules;
- (g) 'Member' means the Member of the Competition Appellate Tribunal appointed under sub-section (2) of section 53D;
- (h) 'Party' means a person who prefers an appeal before the Appellate Tribunal and includes respondent;

(i) 'Register' means the Registrar of the Appellate Tribunal and includes an officer of such Appellate Tribunal who is authorized by the Chairperson to function as Registrar.

(j) 'Registry' means the registry of the Appellate Tribunal.

(2) The words and expressions used but not defined in these rules and defined in the Competition Act, 2002 (12 of 2003) shall have the same meaning assigned to them in that Act.

3. Form and verification while filing an appeal. – (1) A memorandum of appeal shall be presented in the Registry or shall be sent by registered post addressed to Registrar of the Appellate Tribunal in the Form appended to these rules.

(2) A memorandum of appeal sent by post shall be deemed to have been presented on the day it was received in the registry.

(3) Every Memorandum of Appeal shall be in five copies and shall be accompanied with the certified copy of the direction or decision or order against which the appeal is filed.

(4) Where a party is represented by an authorized representative, a copy of the authorization to act as the authorized representative and the written consent thereto by such authorized representative, shall be appended to memorandum of the appeal.

(5) Every memorandum of appeal presented to the Appellate Tribunal shall be in English and in case it is on some other Indian language, it shall be accompanied by a copy translated in English and shall be fairly and legibly type written, lithographed or printed in double spacing on one side of standard petition paper with an inner margin of about four centimeters width on top and with a right margin of 2.5 cm, and left margin of 5 cm, duly paginated, indexed and stitched together in paper book form.

(6) Procedure for filing the appeal shall be as decided by the Appellate Tribunal.

4. Fee. – (1) Every memorandum of appeal and compensation application shall be accompanied with a fee provided in sub-rule(2) and such fee may be remitted in the form of demand draft drawn in favour of Pay and Accounts Officer, Ministry of Corporate Affairs, payable at New Delhi.

(2)(i) The amount of fee payable in respect of appeal and compensation application made to the Appellate Tribunal shall be as follows:-

Appeal

	Amount of penalty imposed		Amount of fees payable
1.	Less than twenty thousand rupees	:	Rs.1,000
2.	Twenty thousand or more rupees but less than one lakh	:	Rs.2,500
3.	One lakh or more rupees	:	Rs.2,500 plus Rs.1,000 for every additional one lakh of penalty or fraction thereof, subject to a maximum of Rs.3,00,000.

Compensation application

	Amount of compensation claimed		Amount of fees payable
1.	Less than one lakh rupees	:	Rs.1,000
2.	More than one lakh rupees	:	Rs.1,000 plus Rs.1,000 for every additional one lakh of compensation claimed or fraction thereof, subject to a maximum of Rs.3,00,000.

(ii) Amount of fee payable in respect of any other appeal against a direction or decision or order of the Commission under the Act shall be rupees ten thousand only.

(3) The Tribunal may, to advance the cause of justice and in suitable cases, waive payment of fee or portion thereof, taking into consideration the economic condition or indigent circumstances of the petitioner or appellant or applicant or such other reason, as the case may be, by an order for reasons to be recorded.

(4) The Central Government may review the fee under rule 4 after every two years and the fee may be amended by a notification.

5. Powers to relax. – The Central Government shall have power to relax any provision of these rules with respect to any class or category of cases.

FORM

{ See Rule 3 }

Memorandum of Appeal preferred under sub-section (1) and (2) of section 53B of
the Competition Act, 2002

IN THE COMPETITION APPELLATE TRIBUNAL

AT _____

APPELLATE JURISDICTION

APPEAL NO. _____ OF 200

CAUSE TITLE

Between

A.B.Appellant (s)

And

C.D.Respondent (s)

[including appropriate commission/adjudicating officer]
(with short address)

1. Details of Appeal

[appeal under section of the Competition Act, 2002 against impugned order of the (Competition Commission of India) dated passed under section of the Competition Act, 2002.

2. Date of which the order appealed against is communicated and proof thereof, if any.

3. The address of the appellant for service is as set out hereunder:

- (i) Postal address including PIN code
- (ii) Phone number including mobile number
- (iii) E-mail
- (iv) Fax No.
- (v) Address of authorized representative with Phone No., Fax No., e-mail

4. The address of the respondents for service of all notices in the appeal are as set out hereunder:

- (i) Postal address including PIN code
- (ii) Phone number
- (iii) E-mail
- (iv) Fax Number
- (v) Mobile Number
- (vi) Address of authorized representative with Phone number, Fax number, e-mail and mobile number

5. Jurisdiction of the Appellate Tribunal

The appellant declares that the subject matter of the appeal is within the jurisdiction of this Tribunal.

6. Limitation

The Appellant/s declare that the appeal is within the period specified in sub-section (2) of section 53B of the Act. (Explain how the appeal is within the period prescribed in case the appeal is preferred after the expiry of 60 days from the date of order/direction/decision against which this appeal is preferred). In case the appeal is

barred by limitation, the number of days of delay should be given along with interlocutory application for condonation of delay.

7. Facts of the case

The facts of the case are given below:

(give here a concise statement of facts in a chronological order followed by elaboration of issues including the question of law arising in the appeal. Each paragraph should deal with, as far as possible a separate issue.)

8. Formulate (i) the facts in issue or specify the dispute between the parties and (ii) summarize the questions of law that arise for consideration in the appeal:

- (a) Facts in issue
- (b) Question of law

9. Grounds raised with legal provisions.

10. Matters not previously filed or pending with any other court.

The appellant further declares that the appellant had not previously filed any writ petition or suit regarding the matter in respect of which this appeal is preferred before any court or any other authority nor any such writ petition or suit is pending before any of them.

[In case the appellant previously had filed any such writ petition or suit, the stage at which it is pending and, if decided, the outcome of the same should be specified and a copy of the order should also be annexed].

11. Specify below explaining the grounds for such relief (s) and the legal provisions, if any, relied upon.

12. Details of interim application, if any, preferred along with appeal.

13. Details of appeal/s, if any preferred before this Appellate Tribunal against the same impugned order/direction, by Respondents with numbers, dates... and interim order, if any passed in that appeal (if known).

14. Index

[An index containing the details of the documents in chronological order relied upon is enclosed].

15. Particulars of fee payable and details of bank draft in favour of Pay and Accounts Officer, Ministry of Corporate Affairs, New Delhi.

In respect of the fee for appeal.

Name of the Bank _____ Branch _____ payable at Delhi.
DD No. _____ Date _____.

16. List of enclosures :

- 1.
- 2.
- 3.
- 4.

17. Whether the order appealed as communicated in original is filed? If not, explain the reason for not filing the same.

18. Whether the appellant/s is ready to file written submissions/arguments before the first hearing after serving the copy of the same on Respondents.

19. Whether the copy of memorandum of appeal with all enclosures has been forwarded to all respondents and all interested parties, if so, enclose postal receipt/courier receipt in addition to payment of process fee as prescribed.

20. Any other relevant or material particulars/details which the appellant(s) deems necessary to set out :

21. Relief sought

In view of the facts mentioned in para 7 above, points in dispute and questions of law set out in para 8, the appellant prays for the following relief (s) :

- (a)
- (b)
- (c)

Dated at _____ this _____ day of _____ 200 .

Counsel for Appellant(s)

Appellant (s)

DECLARATION BY APPELLANT

The appellant(s) above named hereby solemnly declare (s) that nothing material has been concealed or suppressed and further declare(s) that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the original(s)/fair reproduction of the originals / true translation thereof.

Verified at _____ on this at _____ day of _____ 200 .

Counsel for Appellant (s)

APPELLANT(S)

Verification

I _____ (Name of the appellant) S/o. W/o. D/o [indicate any one, as the case may be] _____ age _____ working as _____ in the office of _____ resident of _____ do hereby verify that the contents of the paras _____ to _____ are true to my personal

knowledge/derived from official record) and para _____ to _____ are believed to be true on legal advice and that I have not suppressed any material facts.

Date :

Place :

Signature of the appellant or authorized representative

[F.No.1/4/2008-CS]
AVINASH K. SRIVASTAVA, Jt. Secy.