

# CHAPTER- VII

## Appeal

### <sup>172</sup>[55. Form of Appeal. -

Any person aggrieved by an order passed by the Approval Committee under Section 15 or against cancellation of Letter of Approval under section 16, may prefer an appeal to the Board in Form J.]

### 56. Time within which appeal is to be preferred. -

<sup>173</sup>(1) An appeal shall be preferred by the aggrieved person within a period of thirty days from the date of receipt of the order of the Approval Committee under rule 18;]

- (2) When the appeal is preferred after the expiry of the period of thirty days specified in sub- rule (1), it shall be accompanied by an application supported by an affidavit setting forth the facts on which the appellant relies to satisfy the Board that he has sufficient cause for not preferring the appeal within the said period of thirty days:

Provided that if the Board is satisfied that the appellant had sufficient cause for not preferring the appeal within the aforesaid period, it may for reasons to be recorded in writing, admit the appeal after the expiry of the aforesaid period but before the expiry of forty-five days from the date of communication to him of the order of the Approval Committee.

### 57. Payment of fees. -

- (1) Every appeal shall be accompanied by a fee of rupees two thousand and five hundred;
- (2) The amount of fees shall be deposited by way of a Demand Draft, drawn in favour of Pay and Accounts Officer, Department of Commerce, New Delhi.

<sup>172</sup> Substituted vide notification no. G.S.R.72(E).- dated 3-2-2009

<sup>173</sup> Substituted vide notification no. G.S.R.72(E).- dated 3-2-2009



**58. Contents of appeal. -**

Every appeal filed under rule 55 shall be written in English or Hindi and shall set forth concisely under distinct heads the grounds of appeal and such grounds shall be numbered consecutively.

**59. What to accompany form. -**

Every appeal shall be filed in the Form J in duplicate and shall be accompanied by two copies (at least one of which shall be certified copy) of the order of the Approval Committee appealed against and other documents to support the grounds of objection mentioned in the appeal:

**Explanation:-** For the purpose of this rule “certified copy” includes the copy which was originally supplied to the appellant as well as a photostat copy thereof duly authenticated by the appellant or his authorised representative as a true copy.

**60. Filing of affidavits. -**

Where a fact which cannot be borne out by, or is contrary to, the record is alleged, it shall be stated clearly and concisely and supported by a duly sworn affidavit.

**61. Rights of Appellant to appear before the Board. -**

Every appellant may appear before the Board in person or authorize one or more chartered accountants or company secretaries or cost accounts or legal practitioners or any of his or its officers to present his or its case before the Board.

**Explanation:** for the purpose of this rule, -

- (a) “chartered accountant” means a chartered accountant as defined in clause
- (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (c) “cost accountant” means a cost accountant as defined in clause (b) of subsection (1) of section 2 of the Cost and Works Accountants Act, 1959 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;



(d) “legal practitioner” means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

**62. Authorisation to be filed. -**

An authorised representative appearing for the appellant at the hearing of an appeal shall file an authorization from the appellant to the Board before the commencement of the hearing.

**63. Procedure for filing appeal. -**

- (1) An appeal shall be preferred by the appellant or his authorised representative and be sent to the Board of Approval (Deputy Secretary, Ministry of Commerce and Industry, Department of Commerce, Udyog Bhavan, New Delhi - 110011);
- (2) An appeal sent by post under sub-rule (1) shall be deemed to have been preferred to the Board on the day on which it is received in the office of the Member Secretary to the Board at Delhi.

**64. Furnishing of information and documents. -**

- (1) The Board may, before considering the appeal, require the appellant or the Approval Committee or both to furnish such further information and documents, as it considers necessary.
- (2) Parties concerned shall furnish such information and documents within thirty days of such order.

**65. Date and place of hearing of appeal to be communicated. -**

The Board shall communicate, before considering the appeal, to the appellant the date and place of the hearing of the appeal.

**66. Hearing of appeal. -**

- (1) On the day fixed or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Board shall, then, if necessary, hear the Approval Committee or its authorized representative against the appeal and in such case the appellant shall be entitled to reply.
- (2) In case the appellant does not appear in person or through an authorized representative when the appeal is called for hearing, the Board may dispose of the appeal on merits:

Provided that where an appeal has been disposed of as provided above and the appellant appears afterwards and satisfies the Board that there was sufficient cause for his non-appearance, when the appeal was called for hearing, the Board shall make an order setting aside the ex parte order and restore the appeal.



**67. Orders by the Board. -**

The Board shall, -

- (a) after considering the appeal preferred to it under rule 55;
- (b) after considering further documentary evidence referred to in rule 64, and
- (c) after giving hearing under rule 66; pass such orders or give such directions as may be necessary or expedient to give effect to, or in relation to, its orders.

**68. Order to be signed and dated. -**

The Order of the Board shall be in writing and shall be signed and dated.

**69. Order to be communicated to the party. -**

The Board shall, after the order is signed, cause it to be communicated to the appellant and to the Approval Committee.

