

If ITAT Bench cannot deliver judgment in 90 days, Bench should release matter: Adv. K. Ravi

Nov 06, 2023



Leading tax counsel **Adv. K. Ravi** (who has argued many tax cases in his 4 decades professional career before Madras HC & ITAT), speaks to Taxsutra in the context of a [ITAT Special Bench not passing an order](#) for 12 months after having reserved the same; In exclusive comments to Taxsutra, Adv. Ravi says it is imperative that [Rule 34\(5\)](#) of ITAT Rules (requiring ITAT Bench to pass an order within 3 months) is followed in letter and spirit; Further alluding to Hon'ble Supreme Court many a times having expressed it is essential that the judgments are delivered on time, Adv. Ravi opines that in general *"Keeping all this in view, it would be appropriate, if the Judgment cannot be delivered within 90 days from the conclusion of the matter, in accordance with rule 34(5) of the Income Tax Appellate Tribunal Rules 1963, the bench should release the matter to be placed before another bench."*

The case before ITAT Special Bench involving [Cyprus tax treaty](#), is now in the headlines. After having reserved/kept the case for orders in November, 2022, the Bench has now fixed a 'clarificatory' hearing on Nov. 10, 2023 as per the Case status. As per legal experts this is quite 'unprecedented' and potentially a violation of Supreme Court judgment in Anil Rai.

In this regard, Taxsutra spoke to Adv. K. Ravi who gave his nuanced view on the matter. He said *"One of the Pillars of democracy is the Judiciary. Therefore, the common man looks to the judiciary for redressal of his grievances in a timely manner. When this is not done, the faith in the judiciary will start eroding. It is imperative that rule 34(5) of the Income Tax Appellate Tribunal Rules, 1963 be followed in letter and spirit."*

Mr. Ravi then alluded to a Bombay HC judgment on this issue. He added *"Though in a different context, the Hon'ble Bombay High Court in Prabhatai v. Chimote and Sons (2016) SCC Online Bom 5947 in paragraph 70 said that mere unexplained delay in delivering judgement is not fatal, yet they said the guidelines given by the Hon'ble Supreme Court in the case of Anil Rai v. State of Bihar (2001) 7 SCC 318 needs to be strictly followed which is adverted to below. Where the judgment is not delivered from two months of conclusion of the hearings, the Chief Justice is expected to remind the judges of the necessity to deliver the judgments. Where the judgements are not delivered within 6 months from the conclusion of arguments, it is open to parties to move an application to withdraw the case from the concerned judges and hand it over to another bench. The Hon'ble Supreme Court has time and again expressed the view that it is essential that the judgments are delivered on time. Keeping all this in view, it would be appropriate, if the Judgment cannot be delivered within 90 days from the conclusion of the matter, in accordance with rule 34(5) of the Income Tax Appellate Tribunal Rules 1963, the bench should release the matter to be placed before another bench."*