

CHAPTER IX
PREPARATION OF PAPER-BOOKS
PART I
GENERAL

1. The printing of paper-books shall be in accordance with the following directions:

(a) the paper-books shall be printed in the form known as demy quarto, i.e. 54 cms (or 9 inches) in length and 42 cms (or 7 inches) in width;

(b) the size of the paper used shall be such that the sheet, when folded and trimmed will be 11 inches long and 8½ inches wide;

(c) the type to be used in the text shall be pica types but long primer shall be used in printing accounts, tabular matter and notes;

(d) the number of lines in each page of pica type shall be 47, or thereabouts, and every tenth line will be numbered in the margin i.e. the tenth line will be numbered 10, and the second tenth line 20, and so on.

2. "Editing the paper-book" includes —

(i) collecting and arranging the papers required for inclusion in the paper-book;

(ii) examining and comparing proofs, or when several copies of a typed paper-book are prepared, examining and comparing such copies (other than the first copy) with the originals or authenticated copies of English papers or translations where the rules provide for translations;

(iii) the preparation of title pages and indexes;

(iv) the general supervision necessary to ensure the accuracy of the record and compliance with the provisions of the rules with regard to the preparation of paper-books.

Note — The repetition of unnecessary titles in the document should be avoided and formal portions of documents omitted.

3. Every paper-book shall have attached to it a fly-leaf in the prescribed Form No. P. B. (Civil) [See Appendix I, (*See at page No. 216*)] and giving the particulars required by R. 37.

4. In an appeal from original order which is to be heard under order XLI R. 11, Code of Civil Procedure, no paper-book shall be prepared unless and until an order for the service of notice on the respondent has been made.

5. There shall be inserted at the end of one copy of the paper-book prepared in every case, a statement in Form No. 6 (Civil), Appendix I, (*See at page No. 203*) in which shall be specified each item of the cost incurred in its preparation by the appellant and the respondent, respectively. A copy of the statement shall

be served on the party himself by registered post with acknowledgment due, the cost for the same being included in the estimate and deducted from the initial deposit.

6. In the case of appeals, other than appeals from appellate decrees, any surplus remaining after deducting the costs actually incurred by each party from the amount deposited into the Gauhati Treasury may be refunded upon request to the party by whom the deposit was made, or to the advocate entitled to act for such party.

7. The cost incurred in the preparation of the paper-books shall be costs in the appeal, unless as to the whole or any portion thereof the Court which hears the appeal shall otherwise direct.

8. No order shall be passed exempting any appellant or respondent from the operation of the whole or any part of the rules of this Chapter, or no special order shall be made as to any matter with which these rules are concerned except upon application setting forth sufficient grounds. The Registrar may in his discretion dispense with a written application.

An application for enlargement of time for the doing of any act required to be done under these rules shall ordinarily be made before the expiry of the prescribed time.

9. When these rules direct or allow any act to be done by or any notice to be given to an appellant or respondent, such act may be done by, or such notice given to the advocate.

9A. In all second appeals, all appeals from original orders, all appeals from appellate orders and all appeals from orders of remand under Order XLI, R. 23 of the Code of Civil Procedure, there shall be filed, at the time of filing the appeals, second copies of the memorandum of appeals and of the judgments and orders of lower Courts (in the case of second appeals and appeals from appellate and remand orders, copies of the judgments or orders of both the lower Courts) for the use of the second Judge of the Bench taking such appeals and the same shall be returned to the appellant's advocate after the appeals is heard under Order XLI, R. 11 of the Code of Civil Procedure. These second copies shall be plain uncertified copies.

PART II

APPEALS FROM ORIGINAL DECREES

A-GENERAL

10. On receipt of the record from the lower Court, it shall be the duty of the Registrar to see that the paper-book in an appeal from an original decree for the use of the High Court at its hearing is prepared in accordance with the directions given in the following rules:

Provided that the Court may, for sufficient cause shown, pass any special order regarding the preparation of the paper-book:

Provided further that the Chief Justice may, by a general order, direct that in any or all classes of appeals from original orders and decrees, paper books shall be either typed or cyclostyled and need not be printed and that such order shall take effect from the date of its publication in the official Gazette and shall remain in force till such time as may be directed in the order.¹

11. Part I of the paper-book shall contain the following papers:

- (1) The plaint;
- (2) Written statement of parties interested in the appeal;
- (3) Examination of parties or their agents, etc.;
- (4) Issues framed (if any);
- (5) The judgment and the decree or order from which the appeal is preferred exclusive of schedules and annexures;
- (6) Memorandum of appeal;
- (7) A chronological index;
- (8) In appeals under Section 17 of the Arbitration Act, 1940, the award in accordance with which the decree appealed from was passed.

In this Part shall also be included the following papers when their inclusion is necessary for the purpose of the appeal:

- (a) order-sheet;
- (b) schedules (if any) and annexures;
- (c) report of Commissioners (if any) with maps, depositions etc. annexed
- (d) deposition of witnesses for the plaintiff and defendant;
- (e) any other paper, other than an exhibit, on which the decision of the appeal

Note 1: Rule 10.— The proviso to this rule was inserted vide Correction Slip No. 64, Notification No. HC.XL-41/65-70/3868/RC, dated 22.05.1972, to come into force on the date of its publication in the Assam Gazette.

Order XLI, R. 14 of the Civil Procedure Code as referred to in this rule relates to publication and service of notice of day for hearing appeal and sub-Rr.(3), (4) and (5) being added by the Amendment Act of 1976 with a view to avoiding the delay in the disposal of the appeal.

depends.

Part I shall also contain an index which shall be drawn up in accordance with the provisions of R. 43(ii).

Part II of the paper-book shall consist of exhibits.

Note — (1) No finding or conclusion in the decision appealed from will be permitted to be challenged at the hearing of the appeal unless the material on which such challenge is based is included in the paper book.

(2) Whenever a map prepared by a settlement or survey authority and issued in printed form is necessary for inclusion in a paper-book, such map being an exhibit in the case, it shall not be necessary to reprint and reproduce such map. It will be sufficient if the requisite number of copies of the map are filed by the party concerned, if such copies can be purchased from the Government or other agents selling the same. Such copies when filed shall be taken as forming part of the paper-book. If in any case any lines, symbols or marks have been drawn, inserted or made in the map by any Survey Commissioner appointed by the lower Court, or by any witness or party or by the Court itself. Such lines, symbols or marks being drawn, inserted or made under the authority of the presiding Judge, those lines, symbols or marks shall be reproduced on the copies of the map filed by the party or parties in the appeal.

(3) Complete deposition of all witnesses, shall be included if deposition of any of them is considered necessary for the purpose of the appeal.

12. Upon receipt of the records the Officer-in-charge of the judicial department shall serve a notice on the appellant requiring him to prepare and deliver to such officer a list of all papers (other than those mentioned in the first paragraph of R. 11 above) upon which the decision of the appeal depends and which the appellant desires to be included in Parts I and II of the paper-book at his expense. This list shall be called "The Appellant's List" and shall be divided into two parts. Part I shall contain papers other than exhibits and Part II shall contain the exhibits.

13. Such list shall be in Form No. 7 (Civil), Appendix I, (*See page No. 205*)

Printed copies of the form of this list will be supplied to the parties or the advocates entitled to act for them free of cost, on application to the Forms Assistant.

14. There shall be entered in such list all documents on which the decision of the appeal depends:

Provided that if it is necessary only to print a portion of any particular document for the decision of the appeal the relevant portion shall be specified which may be done by surrounding the portion in pencil:

Provided also that ordinarily a long series of documents, such as accounts,

rent-rolls, etc. shall not be printed in full but the parties, or their legal agents shall agree to short extracts being printed if necessary, in tabular form.

15. In Part-II of this list the exhibits should retain their original numbers with the proper page numbers attached, the documents should be arranged, as far as suitable, in chronological order, mixing plaintiff's and defendant's documents together when necessary, but in all cases documents relating to the same series, or to the same subject (e.g. a series of correspondence, or proceedings in a suit other than the one under appeal) should be kept together. A correct and full description of such documents must be given.

16. The appellant shall within three weeks after service of the notice required by R.12, deliver to the Officer-in-Charge of the judicial department his complete list prepared in connection with the above rules.

17. On receipt of the list of the papers to be included in Part I and II of the paper-book at the expense of the appeal, the Officer-in-Charge of the Judicial Department shall cause to be prepared estimates to the cost of the preparation of Parts I and II of the paper-book.

18. As soon as the list is delivered to the Officer-in-Charge of the judicial department by the appellant, the former shall, if the respondent enters appearance on or before the date mentioned in the notice under Order XLI, R.14, Civil Procedure Code, give notice of such deliver to such respondent. If the respondent fails to enter appearance on, or before the date mentioned in the notice under Order XLI, R.14, and if it shall appear that the said notice has been duly served on such respondent, he shall not without the leave of the Registrar, obtained upon an application (unstamped) filed simultaneously with the vakalatnama explaining the delay in appearing and asking for notice of the appellant's list, be entitled to file a list of papers for insertion the paper-book under R.20:

Provided that such leave shall not be refused if the appellant has not already deposited the full amount required to be deposited under R.22(a) of this Chapter.

19. Every respondent, who has entered appearance, shall be entitled to inspect the appellant's list and, at his own expense, to obtain a copy of the whole or of any portion thereof.

20. Every such respondent that, within three weeks after service upon him of the notice required by R. 18 deliver to the Officer-in-Charge of the judicial department a list in duplicate in Form No. 8(Civil), of Appendix I (*See at page No. 207*) of the papers, other than those inserted in the appellant's list and relevant to the subject matter of the appeal, to which such respondent desires that reference shall be made by the Court at the hearing of the appeal and which shall be inserted in the paper-book at such respondent's expense. Such list shall be termed "The

Respondent's List" and shall be divided into two parts like the appellant's list (R.12).

20A. The advocates for the appellant and the respondent shall, at the time of filing their respective lists, enter in such lists the names and correct addressed (with Post Office) of the parties and in whose behalf the lists are filed by them.

21. The Officer-in-Charge of the judicial department shall within fourteen days after the delivery by the appellant and the respondent of their lists, respectively, make and deliver to the advocate for such appellant and to the advocate for such respondent separate estimates of the cost of preparing their portions of the paper-book in Form Nos. 9(Civil) and 10(Civil), of Appendix I. (See Page Nos. 209, 211) Copies of the estimate along with the intimation of the date of service of the estimate upon the advocate concerned and shall be served on the parties (appellant and respondent) themselves by registered post with acknowledgment due the cost for the same being included in the estimate and deducted from the initial deposit.

Every estimate for the cost of the preparation of the paper-book shall include the cost of transcribing and printing etc. the documents mentioned in the first paragraph of Rs.11 above. No revision of the lists filed by the advocate of either party shall be allowed after the estimates have been prepared and served on the respective advocates, except under the orders of the Registrar to be obtained on an application with notice to the other side. The application for revision shall be a verified one but, if the revision is agreed to by the opposite party such application for revision need not be verified.

22. The appellant and respondent respectively shall deposit into the Gauhati Treasury after having the challan duly passed by the Editor and Accountant, the amount due on the estimates served under R.21 within the periods here specified:

(a) The amount due for estimating, translating and examining translations, after (in the case of the appellant) deducting the amount of the initial deposit made under R. 34(I), Chapter V, within four weeks of the service of the estimates upon the advocate for such appellant and respondent respectively.

(b) The whole of the remainder within four weeks of the deposit of the amount under Cl.(a).

23. If the respondent considers that any paper or portion of a paper which ought to have been inserted in the appellant's list under the provisions of R. 14 has been omitted therefrom in violation of these provisions, he may, at the time of filing the respondent's list as prescribed in R. 20 and after giving notice to the appellant of the intended application, apply to the Registrar for an order that such paper or portion of a paper be inserted in the paper-book of the case at the

cost of the appellant:

Provided that if any such application by a respondent is disallowed by the Registrar, such respondent, shall be at liberty, at that time to pay for the inclusion of the papers mentioned in his application, in his list (that is, the respondent's list) at his own cost.

Provided also that if the respondent has entered appearance out of time he shall not be permitted to pray for the inclusion in, or exclusion from the appellant's list of any papers whatsoever if such application be not made before the actual preparation of the paper-book has commenced.

24. If one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant, and the other party nevertheless insists upon its being included and the Registrar allows the documents to be included, the order book and list shall clearly indicate the fact that, and the party by whom the inclusion of the document was objected to.

25. The Registrar as well as the parties and their legal agents shall endeavour to exclude from the paper-book all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal and generally, to reduce the bulk of the paper-book, as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of heading and other merely formal parts of documents.

Note 1 — Ordinarily a long series of documents, such as accounts, rent-rolls, inventories, etc. should not be printed in full; but the parties or their legal agents should agree to short extracts being printed as specimens.

Note 2 — Documents produced before the Court of first instance, but not admitted in evidence, shall not be included in the paper-book except under the order of the Registrar obtained upon an application (unstamped) with notice to the opposite party. An advocate desiring to refer to any such document at the hearing of the appeal before the High Court shall, at any time before the hearing, serve on the advocate for the opposite party a type-written copy or a type written copy of the translation, as the case may be, of any such document to which he desires that reference should be made, and shall also provide two such type-written copies or type-written copies of the translation for the use of the Court. If he fails to do so he shall not refer to such document at the hearing and no adjournment of the appeal will be granted on this account unless the Court otherwise directs.

26. The appellant's and the respondent's list shall each bear a certificate under the hand of the advocate for such appellant or respondent in the following form:

"1. A.B., advocate for do hereby certify that I have carefully examined this list with reference to the provisions of R. 25, Chapter IX of these rules, and

declare that in my judgment, it is necessary to include in the paper-book of the appeal every document or portion of a document, included in the list in order to arrive at proper decision of the appeal.”

26A. In cases in which any paper or papers which are to be included in the paper-book under R. 11 or R. 5(A) of this Chapter have been omitted from the list, the office shall give notice to the advocate concerned to the effect that unless the list is amended within seven days from the receipt of such notice or an order for the exclusion of such paper or papers is obtained upon an application before the expiry of that period, the paper or papers will be included in the list under the aforesaid rules and the office shall proceed to include them on the expiry of the said period if no action is taken by the advocate.

27. If the respondent does not enter an appearance or does not deliver the list directed by, and within the time prescribed by R. 20, and if no order be made under R. 23 the paper-book shall be prepared in accordance with the appellant's list.

28. When two or more appellants or respondents have the same interest in the appeal, one set of list only shall be required from all such appellants or respondents, appellants or respondents having separate interest shall deliver separate sets of list. In such cases the principle of R. 32 shall apply.

29. If any of the papers, which must be inserted in the appellant's list or in the respondents' list, was previously printed in a former paper book, the fact of its having been so printed must be stated in the list in which such paper is inserted. Such papers shall not be printed unless the Registrar otherwise directs:

Provided that the party who refers to papers in previous paper-book but who has not paid for the preparation of such previous paper-book, shall pay charges fixed for the sale of paper-books from the record department if he requires a copy for his own use, and shall supply a copy at his cost to the other side unless the other side has paid for such previous paper-book in which even the copy supplied to him shall not be charged for. If either party contributed to the cost of the previous paper-book, copies required for use of the Court shall not be charged for, otherwise the party referring to papers in such paper-book shall pay for the copies required for the use of the Court.

30. No paper in the record of the case, which is not inserted in the appellant's or respondents' list or ordered to be included in the paper-book under R. 23 and printed in the paper-book of the case or in a previous paper-book, shall be referred to at the hearing of the appeal without the special leave of the Court. But this rule shall not preclude the Court from referring to any paper to which it considers a reference necessary for the ends of justice.

31. If it subsequently appears that the amount deposited by either party to the appeal is insufficient to defray the cost of preparing his portion of the paper-book, or a supplementary paper-book after remand, the Officer-in-Charge of the judicial department shall estimate the additional amount required and shall give notice thereof to such party. Such additional amount shall be deposited by such party into the Gauhati Treasury after having the challan duly passed by the Editor and the Accountant within two weeks after service upon him of such notice. No work in the matter of the preparation of the paper-book which is likely to cost more than the sum deposited, should ordinarily be undertaken, until such additional deposit has been made, unless the Registrar shall otherwise direct.

32. When separate appeals have been preferred by different persons against the same decree, complete lists of the document which the parties wish to include in the paper-book shall be delivered by the parties to each appeal. Common matter shall appear in one paper-book only, the other paper-books containing reference to the pages of the paper-book in which such common matters appears. In such cases the Officer-in-Charge of the judicial department shall, subject to the order of the Registrar, apportion between the parties concerned the cost of preparation in respect of matter common to all or any of the parties. The estimates for the cost of the preparation of the Parts I and II of the paper-books in such cases shall not be served on the parties until such apportionment has been made. This rule shall also apply when two or more separate appeals are preferred in analogous cases.

Nothing in this rule shall be construed as authorising the printing of exhibits or documents relating to the same series or to the same subject in a manner contrary to the provisions of R. 15 of this Chapter.

33. If the appellant fails to deliver his list of papers in accordance with R. 16, or if the appellant or respondent fails to make the deposit or additional deposit required by Rr. 22 and 31, respectively, the Officer-in-Charge of the judicial department shall lay the matter before the Registrar, who may, in case of default by the appellant, cause the appeal to be set down for hearing; and the Court may, unless satisfied that there was reasonable ground for the default, direct the appeal to be dismissed for want of prosecution or may pass such other order as may seem proper in the circumstances of the case.

34. (a) The translation of vernacular papers is to be done by the courts translators and the examination of translation is to be done by another translator of the Court who has not translated the papers of that particular case.

(b) Paper-books are to be printed in Government Press.

(c) On the paper-books being filed, they shall be taxed and it will be the duty

of the Taxing Officer to see that they have been prepared in accordance with these rules.

(d) When the Taxing Officer is satisfied that the paper-book has been properly prepared, he shall certify accordingly, and upon such certificate being granted but not before the balance of the amount due as per final account on being deposited he shall sent the printed paper-books to the section concerned. The Registrar may, in any proper case, pay the printer's fees to the printer after the receipt of printed paper-books, if certified to have been received in proper order.²

35. It shall be the duty of the Editor to report through the Superintendent, Judicial to the Registrar any case in which the translations have been carelessly, negligently or imperfectly done, and it shall be the duty of the Editor to report to the Registrar any case in which the preparation of any other portion of the paper-book has been carelessly, negligently or imperfectly done.

The Registrar, if he thinks fit, will report any such matter to the Court, who may take necessary action.

Note 2: Rule 34 was substituted vide Correction slip No. 87 dated 25.3.82 and in view of such rule, the provisions made in Rr. 1, 5, 6, 7, 22, 31, 32, 35, 41, 42, 44, 45 and 46 relating to printing and preparation of paper-book automatically stood cancelled. But by Correction Slip No. 88, in partial modification of the Correction Slip No. 87 issued under this Court's notification No.HC-10/79/3406(A)/RC, dated 5th March, 1982 the previous Rr. 5, 6, 7, 22, 31, 32, 34, 35, 41, 42, 45 and 46 contained in Part II of Chapter IX of the Gauhati High Court Rules which were cancelled, are restored in respect of the preparation of paper-books in the first appeals i.e. appeals from original decrees only.

Amendment made to the Rule 34 of Chapter IX by correction slip Nos. 87 and 88 is hereby repealed and Rule as is stood prior to the said amendment is restored with the modification that the costs in increased from Rs. 15/- to Rs. 50/- in so far as the appellant is concerned and from Rs. 10/- to Rs. 40/- in so far as the respondents is concerned vide correction slip No. 98, Notification No. HC.XI-10779/5872/RC dated 25.3.88.

Substitution of correction slip No. 87 read as follows :-

34. (a) It should be the duty of the party concerned to get the deposition or document translated, where necessary. The translation of vernaculars paper should be done by counsel and should bear his certificate about its correctness. In case the opposite party questions the correctness of the translation the deposition or document in question should be translated by the official translator.

(b) The responsibility of preparing paper book should be of the appellants and same must be filed within four months or such further time as may, for sufficient cause, be allowed by the Court.

(c) If the respondent wants to supplement paper book filed by the appellant, the respondent should do so within a period of two months or such further time, as may for sufficient causes, be allowed by the Court.

36. When a case is ready for hearing the Officer-in-Charge of the judicial department shall furnish the advocates engaged on either side with the copies to which they are entitled under R. 44 or R. 48. The issue of the paper-books to the advocates will be notice to them that the case is ready for hearing.

37. The enforcement on every paper-book prepared for the use of the High Court at the hearing of the appeal shall furnish the following information:

- (a) The number of the cause;
- (b) The name of the Judge of the Court below;
- (c) The name of the parties and their advocates;
- (d) The date of institution of the suit;
- (e) The date of the lower Court's judgment;
- (f) The date on which the appeal was filed;
- (g) The date on which the appeal was decided; and
- (h) The date on which the decree was signed.

38. In appeals in which the respondent shall not have appointed an advocate up to the date of the preparation of the paper-book an Appendix containing the deposition of the serving officer and the return and the remarks of the lower Court as to the service shall be added to the paper-book either in transcript or translation, according as they may be in English or in the vernacular.

The Officer-in-Charge of the judicial department shall have an additional estimate prepared and served on the advocate for the appellant. The amount thereof shall be deposited into the Gauhati Treasury within a fortnight of the date of service.

39. The supplementary paper-book after the receipt of finding of a lower Court in a case referred under Order XLI, Rr. 25 and 27, Civil Procedure Code, shall be governed by the rules of this Chapter.

40. Notwithstanding anything contained in these rules, the Registrar may, upon application made to him, direct that, in appeals below Rs. 5,000 in value in which if Parts I and II of the paper-book were printed, the total number of pages contained in the paper-book would be 25 or less, 6 or 12 type-written copies of the paper-book according to necessity, shall be prepared at the cost of the parties. In such cases, the appellant and the respondent, if the latter enters appearance, shall be entitled to have free of charge, as many copies of the paper-book, not exceeding four on either side, as they may have advocates engaged in the appeal. In any case, they shall each be entitled to two copies. Additional copies over and above those which may be supplied to the parties free of charge under this rule

shall be charged for.

B—APPEALS FROM ORIGINAL DECREE VALUED UNDER Rs.20,000

41. Paper-books in all appeals from original decree valued under Rs. 20,000 including translation of vernacular papers and examination of translation will be prepared entirely on Court's office and paper-books of all such appeals will be printed in the Assam Government Press.

42. The estimate for the preparation of the paper-book in such appeals shall state separately the cost of translating, editing, printing etc. at the following rates:

(a) Estimating at 10,000 words per rupee;

(a-1) Estimating charge for maps — $12\frac{1}{2}$ per cent of the cost of tracing the same;

(a-2) Estimating charge for photographs — $12\frac{1}{2}$ per cent of the cost of producing the negative;

(a-3)³ The rate of tracing maps etc. in civil paper-book is increased to Rs. 5 per sheet, keeping in view the rise in cost of materials;

(b) Translating at 150 vernacular words per Rs.1-4-0;

(c) Examining translations at 300 Vernacular words per Rs. 1-4-0, three figures being counted as one word;

(d) Copying at the rates specified on Chapter XIII;

(e) Editing the paper-book at ten annas a page if it is printed, and at five annas a page if it is typed;

(f) Lithographing, 'Photostating'⁴ drawing or tracing maps (where necessary) actual cost Rs.1-4-0.

(g) Printing fee for 19 copies (ordinary matter with marginal notes) — actual costs, not exceeding Rs. 2 per page; tabular matter — actual cost;

(h) Taxing the paper-book costs at one anna per page.

Note 1 — The above rates are liable to alteration.

Note 2 — The charges for editing includes the charge for indexing if the paper-book is printed, and that for stationery if the paper-book is type-written.

Note 3 — If the document to be translated in any language other than the vernacular of Assam, the rates prescribed by R. 6 in Chapter XII will apply.

Note 4. Each item of cost in the preparation of the paper-book at the rates

Note 3: Clause (a-3) has been inserted vide Correction Slip No. 90 vide notification No. HCXI-10/79/9887/RC dated 2.8.1983

Note 4: Vide Correction Slip No. 97 the word 'photostating' was inserted.

specified above should be calculated to the nearest anna (fraction below half an anna being omitted and half an anna or over being reckoned as one anna).

The entire cost estimated as above shall be deposited into the Gauhati Treasury and from such deposit the Court's office will keep the undertaking advocate supplied with funds to carry on the work of the preparation of the paper-book. When the paper-book is finally prepared the cost shall be taxed under the direction of the Registrar.

43. The paper-books for the use of the High Court in such appeals shall be printed and edited in accordance with the following directions:

- (i) The printed paper-books shall consist of two parts in the same volume, where practicable, viz. Part I and Part II. Part I shall contain the record of the proceedings in the lower Court and shall include all the papers mentioned in R. 11. These should be printed strictly in chronological order, that is, in the same order as the Index. Part II shall contain the exhibit and documents relevant to the subject matter of the appeal which should be arranged in the manner prescribed in R. 15, each document to show its exhibit mark and whether it is a plaintiff's or defendant's document (unless this is clear from the exhibit mark). Each part should be pagged at the foot of each page. The heading to each document should consist of the number of exhibit mark and the description of the document in the Index with the date, and the corresponding English date must be given if the document bears any other date.
- (ii) The Index of Part I shall be in chronological order and shall be placed at the beginning of the volume. Part II shall have an Index arranged in order of the exhibit marks. This Index should be placed immediately after the Index to Part I. The documents in Part I should be numbered consecutively, while those in Part II should not be numbered apart from the exhibit mark. The Index should contain a correct and full description of each document and reference to the pages in the printed paper-book. Whenever any document included in Part I or II of the paper-book is dated according to Indian era, the corresponding English date of such document must be entered in the Index.
- (iii) All papers which are not in English shall be translated into that language. Such translation and the original English papers shall be arranged and printed in Parts I and II in the order prescribed by the first sub-clause of this rule.
- (iv) Maps forming part of a paper-book shall be included in the Index but shall not be bound up with the other papers in the paper-book. Such maps

shall be drawn or printed on durable paper and they shall form a separate packet with a separate list.

Translations of vernacular phrases or figures that form part of a map must be submitted on a correct tracing of the map in question.

- (v) Each document shall have a marginal note which is to be repeated on each page over which the document extends, viz.,—
- (a) The short name of the Court shall first appear.
 - (b) The marginal note of the document shall then appear consisting of the number and description of the document in the Indices with the date except in the case of oral evidence.
 - (c) In the case of oral evidence “plaintiff’s evidence” or “defendant’s evidence” shall appear beneath the name of the Court and then the marginal note consisting of the number in the indices and the witness’s name with “examination”, “cross-examination” or “re-examination” as the case may be.

44. Nineteen copies of the printed paper-books shall ordinarily be prepared by the Court’s office, and filed in the office of the Court. On the application of either party, the Registrar may direct a large number to be printed. In any case 5 copies shall be retained for use in the High Court. The service of paper-books on the parties under R. 36 will be regulated as follows:

To the appellants. Three copies or one copy for the use of each advocate who has appeared, whichever is more;

To the respondent. One copy only for the use of the advocate or all the advocates, who has, or have, appeared for each set of respondents;

Subject to a maximum of seven copies; on either side if 19 copies have been printed:

Provided that if on the above basis less than 14 copies have been distributed between both sides, additional copies up to that number may be supplied for use at the hearing on application to the Officer-in-Charge of the judicial department, but the latter should, if possible, retain copies for such of the respondents who may still enter appearance in the appeal.

C—APPEALS FROM ORIGINAL DECREE VALUED AT RS.20,000 OR OVER

45. Paper-books in all appeals valued at Rs.20,000 or over shall be prepared entirely in the Court’s office as laid down in R. 41.

46. The estimate for the preparation of the paper-books in such appeals

shall be prepared in accordance with the particulars in R. 42 above.

47. Paper-books for the use of the High Court in such appeals shall be printed and edited in accordance with the direction in R. 43 above.

48. (a) There shall ordinarily be printed and filed in the Court's office 19 copies of the paper-books:

Provided that the Registrar may, when necessary, direct a larger number of paper-books to be printed.

(b) Of the 19 bound copies, 5 copies shall be retained for the use of the Court and the remaining 14 copies distributed to the appellant and the respondent in the proportion laid down in R. 44.

**D—ANALOGOUS APPEALS FROM ORIGINAL DECREES AND ORDERS,
SOME VALUED UNDER, AND SOME AT OR OVER RS. 20,000**

49. In analogous appeals from original decrees and orders some of which are valued below and some at Rs.20,000 or above, all the appeals should be treated as appeals valued at Rs.20,000 or above, for the purpose of the preparation of the paper-books, unless on a verified petition duly filed, the advocate for any party obtains orders of the Registrar for relaxing the rule in any particular case.

PART III

**RULES FOR THE PREPARATION OF PAPER-BOOKS
IN APPEALS FROM APPELLATE DECREES AND ORDERS**

50.⁵ Paper-books in appeals from appellate decrees and orders shall consist of the following papers:

(1) The plaint.

Note — Lengthy schedules and descriptions of boundaries appended to plaints may ordinarily be omitted.

(2) The written statement.

Note — When there are several sets of defendants in a suit, the written statements of defendants not parties to the second appeals either as appellants or respondents may be omitted.

(3) Any further pleadings by way of reply or otherwise.

(4) The judgment of the Court of first instance.

Note 5: Rule 50 occurring under Part.III of this Chapter for preparation of paper books in appeals from appellate decrees and orders was deleted vide 2nd Amendment Rules, 1994, Notification No. HC.XI-2/94/1178-230/RC dated 18.2.1994.

- (5) The judgment of the lower Appellate Court.
- (6) Any judgment or orders of remand passed in the case either by the lower Appellate Court in appeal or by the High Court in second appeal.
- (7) The memorandum of second appeal, and memorandum of cross-objection, if any.⁶
- (8) A front leaf containing the number of the cause, names of the Judges or the Courts below, names of the parties and of their advocates, date of the judgment of the lower Appellate Court, date on which the second appeal was filed, date of service of notice upon the respondents and the date on which the cause was ready for hearing.

51. No papers shall be referred to at the hearing except with the leave of the Court, unless they have been included in the paper-book under the preceding rule or unless copies thereof, neatly typed on foolscap paper, have been supplied to the opposite party and the Court, to clear days before the date of hearing.

52.(i) The appellant shall within twenty-one days from the date of admission of appeal under Order XLI, R. 11, Civil Procedure Code, deposit the sum of Rs. 50 in full payment of the cost of the preparation of the paper-book.⁷

(ii) Each Respondent or set of respondents shall, at the time of entering appearance deposit the sum of Rs. 40 for a copy of the paper-book.⁷

(iii) In appeals from appellate decrees or orders in which there is an order of remand passed by the lower Court in appeal or by the High Court in second appeal and in which the previous judgments (original and appellate) have to be included in the paper-book, the charge to the appellant will be Rs. 17 instead of Rs. 15 and to the respondent Rs. 12 instead of Rs. 10.

(iv) In the case of batches of analogous appeals of classes mentioned in Rs. 51 the deposit to be made by the appellant shall be Rs. 15 for the first appeal the charge for the analogous appeals being Rs. 2 per appeal, up to four such appeals and Re. 1 for every such appeal in excess of four, the additional charge not exceeding Rs. 15 in each case.

In such cases the respondent on entering appearance shall deposit Rs. 10 for the first appeal, and half the charge prescribed for the appellant in respect of the analogous appeals, the additional charge not exceeding Rs. 10 in each case.

Note 6: Rule 50 — The words, “and memorandum of cross objection, if any”, were inserted in item No. 7, vide Correction Slip No. 52 Notification No. HC/XI-4/65/3178/RC, dated the 29th April, 1971.

Note 7: Rs. 50 and Rs. 40 were substituted vide Correction Slip No. 98.

The principle of this rule will apply to each set of respondent who enter appearance through separate advocates.

(v) Where analogous appeals have been presented in separate batches each batch of such appeals presented by the same appellant, or by the same advocate representing different appellants, shall be considered as a separate batch of analogous appeal and cost of preparation of the paper-book shall be deposited for each batch of such appeals separately calculated according to the provisions of Rs. 52.

(vi) In case of single appeals presented by different advocates, or appellants in person, such cost shall be deposited as provided in this rule for each separate appeal; notwithstanding that such appeals may be analogous to others.

53.(i) No work in the matter of the preparation of the paper-books shall be undertaken, until the deposit required, under the provisions of R. 52 has been made by the appellant, unless the Registrar shall otherwise direct.

(ii) If any case is, on the application of the appellant or respondent, fixed by the Court for hearing before the appeal is placed on the General Warning List, no refund of the deposit mentioned above will be allowed if the work of preparation of the paper-book has commenced, on the ground that paper-books were not ready at the hearing of the appeal.

54.(i) Upon the appellant depositing the cost of the paper-books in accordance with Rs. 52 above six type-written copies of the paper-book shall be prepared in Court's office in accordance with R. 50 above. Two of these six copies will be for the use of the Court, two for the appellant, one for the respondent or set of respondents who first enters appearance and one spare. As other respondents, or set of respondents, enter appearance through advocates and made the prescribed deposit, they will receive a copy of the paper-book.

(ii) The appellant shall supply a copy of the paper-book to the advocate for the Officer of the Court appointed guardian ad litem for a minor respondent out of the two copies supplied to him as aforesaid or by purchasing an additional copy at the rate of Rs.10. He will also supply an additional copy or additional copies to the Court, should the case be heard by a Bench consisting of more than two Judges.

55. In case of the appellant failing to make the necessary deposit under R. 52, the matter shall be laid before the Registrar who may at once cause the appeal to be set down before the Division Bench for orders. If the appellant fails to satisfy the Court as to the delay, the appeal may be dismissed for want of prosecution or the Court may pass such other order as it may deem proper.

56. Additional paper-books over and above those, which may be supplied to the parties under R. 51, shall be charged for at the rate of Rs. 10 per copy.

57. When a case is ready for hearing it shall be included in the General Warning List in Form No. 12 (Civil) Appendix I (*See at page No. 213*), a copy of which list shall be displayed on the notice board of the appeal section concerned, and a copy sent to the Bar Association's Library for information. This shall be considered as sufficient notice to the advocate concerned that the case is ready for hearing.

PART IV

APPEAL FROM ORIGINAL ORDER.

58. The rules for the preparation of paper-books in appeals from original decrees valued under Rs. 20,000 or valued at Rs.20,000 or more, shall apply respectively, to every first appeal from an order of the like value (including an order under Section 47, Civil Procedure Code), passed by a subordinate Court not being an Order under Order XLI, R. 23 of the same Code, with the following modifications:

(A) The Part I of the paper-book shall contain the following papers:

- (a) The relevant portions of the order sheet;
- (b) The application or proceeding on which the order appealed from was passed;
- (c) The petition, if any, filed in answer;
- (d) The order appealed from;
- (e) The memorandum of appeal;
- (f) In cases falling under Cls. (ii), (iii) and (iv) of Section 39(1) of the Arbitration Act, 1940, the award in respect of which the order appealed from was made, in cases falling under Cls. (iv) and (v) *ibid* the arbitration agreement in respect of which the order appealed from was passed.

In this Part shall also be included the following papers when their inclusion is necessary for the purpose of the appeal; provided that the Registrar may, upon application being made to him, direct that any paper or part of a paper shall not be included in this Part:

- (a) The evidence, oral or documentary, which may have been taken or put in with reference to the application or proceeding and which is necessary for the decision of the appeal.
- (b) Any other papers to which reference may be necessary for the decision of the appeal.

(B) That the appellant's list shall be delivered to the Officer-in-Charge of the judicial department within one week after the service of notice of the arrival of the record.

(C) That the respondent's list shall be delivered to the Officer-in-Charge of the judicial department within one week of the service upon him of notice of the filing of the appellant's list.⁸

59. In appeals from remand orders under Order XLI, R. 23, Civil Procedure Code, the paper-book shall be prepared and supplied to the parties in accordance with the rules relating to the preparation of paper-books in appeals from original decrees.

The paper-books of all appeals from the original order valued at less than Rs.20,000/- shall be typed in office and shall not be printed. The parties shall bear their respective costs.

PART V

FULL BENCH REFERENCE

60. No charge shall be levied from the parties for the preparation of paper-books in Full Bench reference cases.

61. In every case six copies⁹ of the referring judgment shall be typed⁹. The additional number of copies, if any, of the paper-book in the appeal which will be required for the hearing of the reference will be determined by the Registrar upon a report from the office as to the number already available.

62. Parties will not be entitled to any free copies of the referring judgment. Copies may, however, be purchased by the parties or their advocates (including copies for the advocates for the Deputy Registrar in the case of minor respondents) at the rate of eight annas per page subjects to a maximum charge of rupees twelve for each case. If additional copies of printed paper-books in the appeal are required by the parties for the Full Bench reference they shall be purchased at the above rate, the maximum of rupees twelve being applicable to each volume of such paper-book.

Note 8: Rule 58 — Order XLI, R. 23, of the Code of Civil Procedure refers to remand of case by the appellate Court.

Note 9: Rule 61 — In this rule the words "12 Copies" and "printed" were substituted, by the words "six copies and "typed" respectively, vide Correction Slip No. 51, Notification No. HC/XI/4/65/70/7520/RC, dated the 18.08.1970

PART VI

**APPEALS UNDER THE WORKMEN'S COMPENSATION ACT (VIII OF 1923) AND
UNDER THE INDIAN SUCCESSION ACT (XXXIX OF 1925)**

63. The preparation of paper-books in appeals under the Workmen's Compensation Act (VIII of 1923) and under the Indian Succession Act (XXXIX of 1925) shall be governed by the following rules:

64. (a) On receipt of the record from the lower Court, the Officer-in-Charge of the judicial department shall serve a notice on the advocate for the appellant informing him of the arrival of the record and calling upon him to prepare and file within seven days of the service of such notice, a list of the papers which he considers to be necessary for the decision of the appeal;

Provided however that the following papers shall be included as the nature of the case requires:

(1) The application for grant of probate or letter of administration or succession certificate or award.

(2) Objection, if any;

(3) Depositions;

(4) Order or award appealed against;

(5) Decree, if any;

(6) Memorandum of appeal in Part I; and

(7) The will and codicil, if any, exhibited, with Sub-Registrar's endorsements thereon if it is registered or medical certificate of injury, if any, in Part II of the paper-book in appeals under the Indian Succession Act (XXXIX of 1925), and Workmen's Compensation Act (VIII of 1923) as the case may be.

(b) If the respondent enters appearance within the time allowed for such appearance, the Officer-in-Charge of the judicial department shall serve a notice calling upon him to inspect the list filed by the appellant and state within seven days of such service whether he wishes any other papers to be included in the paper-book of the case;

Provided that the Registrar may, for good and sufficient reason, extend the time allowed under the foregoing sub-rules by such periods, not exceeding seven days as to him may seem proper.

65. If the respondent considers that any paper or portion of a paper which ought to have been inserted in the appellant's list under the provisions of R. 64(a) has been omitted therefrom, he may, within the period specified in R. 64(b) and after giving notice to the appellant of his intended application, apply to the Registrar

for an order that such paper or portion of a paper be inserted in the paper-book of the case:

Provided that if any such application by a respondent is disallowed by the Registrar, such respondent shall be at liberty at that time to pray for the inclusion of the papers mentioned in his application in a paper-book to be prepared by him at his own cost:

Provided also that if the respondent has entered appearance out of time he shall not be permitted to pray for the inclusion in, or exclusion from, the appellant's list of any papers whatsoever if such application be not made before the actual preparation of the paper-book has commenced.

66. If one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant, and the other party nevertheless insists upon its being included and the Registrar allows the document to be included, the order book and list shall clearly indicate the fact that, and the party by whom, the inclusion of the document was objected to.

67. The Registrar as well as the parties and their legal agents shall endeavour to exclude from the paper-book all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal, and generally, to reduce the bulk of the paper-book, as far as practicable, taking special case to avoid the duplication of documents and the unnecessary repetition of heading and other merely formal parts of documents.

Note 1— Ordinarily a long series of documents, such as accounts rent-rolls, inventories etc. should not be printed in full; but the parties or their legal agents should agree to short extracts being printed as specimens.

Note 2 — Documents produced before the Court of first instance, but not admitted in evidence, shall not be included in the paper-book except under the orders of the Registrar obtained upon an application (unstamped) with notice to the opposite party. An advocate desiring to refer to any such document at the hearing of the appeal before the High Court shall, at any time before the hearing serve on the advocate for the opposite party a type written copy, or a type-written copy of the translation, as the case may be, of any such document to which he desires that reference should be made, and shall also provide two such type written copies or type-written copies of the translation for the use of the Court. If he fails to do so, he shall not refer to such document at the hearing and no adjournment of the appeal will be granted on this account unless the Court otherwise directs.

68. As soon as the list of papers to be included in the paper-book has been

settled in accordance with the foregoing rules, the Officer-in-Charge of the judicial department shall issue a notice on the advocate for the appellant calling upon him to prepare type-written paper-books in accordance with such list, serve a copy thereof on each of the appearing respondents and file two copies for the use of the Court before the expiry of 30 days from the date of such notice, accompanied by a certificate that copies have been served on all the appearing respondents.

69. If the respondent has under the first proviso to Rs. 65 of this Chapter been allowed to prepare a separate paper-book at his own cost, he shall be called upon to serve upon the appellant a copy of such paper-book and to file two copies for the use of the Court within the time allowed to the appellant as aforesaid.

70. Every paper-book, whether prepared by the appellant or the respondent, shall contain at the end of it a cost sheet prepared in accordance with R. 42 of this Chapter, save that no charge shall be made for 'estimating' and 'taxing'.

71. As soon as the requirements of the preceding rules have been complied with and the appeal is otherwise ready for hearing, the Officer-in-Charge of the judicial department shall include the case on the General Warning List in Form No. 12 (Civil), Appendix I (*See at page No. 213*) a copy of which shall be displayed in the manner prescribed in R. 57 of this Chapter. This will be considered sufficient notice to the advocate concerned that the case is ready for hearing. Where, however, any part has not entered appearance through an advocate such notice shall be served upon him by registered post.

PART VII¹⁰

APPEALS UNDER THE HINDU MARRIAGE ACT (XXV OF 1955)

72. Appeals under the Hindu Marriage Act, 1955 will be classified as First Appeals (Divorce or Dissolution of Marriage).

73. The following papers shall be included in Part I of the paper-book:

- (1) Complaint or petition
- (2) Written statement or objection petition, if any.
- (3) Issues framed in the lower Courts.
- (4) The judgment and decree of the lower Court from which the appeal is preferred.
- (5) Memorandum of appeal.

Note 10: Part VII — This Part was inserted vide Correction Slip No. 29, Notification No. HC.XI/5/62/2343/RC, dated 5.5.1964.

In this Part shall also be included the following papers when their inclusion is necessary for the purpose of appeal:

- (a) Order sheet;
- (b) Deposition of witnesses for the plaintiff and defendant; and
- (c) Any other paper, other than an exhibit.

Part II of the paper-book shall consist of exhibits.

74. The provisions of Rr. 65 to 71 of Chapter IX, Part VI, shall apply *mutatis mutandis* for the preparation of paper-books in appeals under the Hindu Marriage Act (XXV of 1955).

PART VIII¹¹

RULES UNDER THE INCOME TAX ACT, 1961

1. Reference to be presented to Registrar — All references under Section 256 of the Income Tax Act, 1961 shall be presented to the Registrar.

2. The statement of the case shall be in the form of numbered paragraphs, setting out all the relevant facts and proceedings in their chronological order, next the contentions of the parties in relation to the question or questions referred, next the findings of fact and law of the Appellate Tribunal thereon, and lastly the question or questions of law arising therefrom and referred. It must not contain any discussion of questions asked to be referred, but not referred.

3. The statement of the case shall be accompanied by, as annexures thereto, copies of all documents necessary to enable the court to decide the question or questions raised and referred thereby.

4. Preparation of paper-book — The paper-book in respect of a reference shall be prepared by the party at whose instance the reference has been made.

5. The Appellate Tribunal, when submitting a statement of case to the Court, shall forthwith give notice thereof to the party at whose instance the reference has been made and direct him to take the necessary steps for the preparation and filling of the paper-book in accordance with the rules of the Court. The Tribunal shall furnish such party with certified copies of the statement of the case and the annexures thereto, as also of the orders of the Income-tax Officers the Appellate Assistant Commissioner and the Tribunal, if the latter or any of them

Note 11: Part VIII — This part was inserted vide Correction Slip No. 84, Notification No. HC.XI-1/65/4570-RC dated 6.9.1965 to come into effect from the date of publication in the Assam Gazette.

be required by him.

6. Unless the Court otherwise directs, there shall be printed fifteen copies of the paper-book. Six copies shall be filed in Court within three months (or such further time as the Registrar may allow) of the receipt of the statement of the case by the court and two of them shall be bound with strong card-board. Alongwith the copies of the paper-book shall be filed six printed copies of the document or documents, if any, not printed and not include in the paper-book under the liberty conferred by R.14 hereinafter following.¹²

7. One of the copies of the paper-book filed in Court, other than the two copies bound with card board, shall contain a certificate signed by the attorney or advocate for the party responsible for the preparation of the paper-book that the copies printed therein are true copies of certified copies furnished to him of the original documents on record.

8. Unless otherwise ordered, the paper-book shall, as regards form, size, typography and arrangement thereof, be prepared and printed in accordance with the directions contained in Cls. (a) to (d) of R. 1 of Chapter IX of the rules of the High Court of Judicature in Assam and Nagaland.

9. The paper-book shall contain an index, placed before any other document, in the following form:

Serial No.	Description of papers	Date of the document	Page of the paper book
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10. It shall not be necessary to have the index settled, but the party, at whose instance the reference has been made, shall within a fortnight of the receipt of the notice of the submission of the case or such further time as the Registrar may allow, prepare the index and serve on the respondent a copy thereof.

11. If any document required to be included in the paper-book be not in the English language only an English translation thereof shall be printed (and included and such translation shall be made by a sworn translator appointed by the Court for the purpose in accordance with the rules of the High Court).

12.(i) The paper-book shall contain copies of the statement of the case and the annexures thereto but the following documents, whether or not they are included

Note 12: Rule 6 - The printing of the copies of the paper book as required under Rule 6 of Part.VIII in Chapter IX of Guwahati High Court Rules need not hence forth be done. The copies may be made by any other device viz. typing, cyclostyling, photocopying, Xeroxing and the same shall be accepted by the office vide Office Order No. 12/1990 dated 18.5.1990.

among the annexures, shall always be printed and included:

- (i) Order of the Appellate Tribunal under Section 254 of the Act;
- (ii) Order or orders of the Appellate Assistant Commissioner under Section 251;
- (iii) Order or orders of the Income-tax Officer;
- (iv) Application for a reference under sub-section (1) of Section 256 of the Act; and
- (v) The respondent's reply thereto.

(2) Where the reference has been made in pursuance of a direction under Section 256(2) of the Act, the order made under section and the judgment delivered, if any, shall also be included.

13. If either of the parties to a reference desires to include, or have included, in the paper-book any document or documents other than those included among the annexures to the statement of the case and those specified under heads (i) to (v) of the preceding sub rule, he shall make an application to the Court in that behalf within one week of the sending of a copy of the index to the respondent or of the receipt thereof by the respondent where he is the applicant, with notice thereof to the other party, and such document or documents shall or shall not be printed according as the Court may direct and where a document is directed to be included on an application by the respondent, the initial cost of such inclusion shall be in the discretion of the Court.

14. If a document or documents required to be included, in the paper-book be such that the same cannot be conveniently included, e.g., the memorandum and the articles of association of a company or a balance-sheet or a profit and loss account, but a sufficient number thereof are available in print, such document or documents need not be printed and included, provided the necessary number can be and are supplied for the use of the Court and also for the use of the Commissioner of Income-tax where he is the respondent and, in such case, a note to the above effect shall be included in the index to the paper-book. Where the reference has been made at the instance of the Commissioner of Income-tax, he will be at liberty to omit such document or documents from the paper-book, if he can supply the necessary number for the use of the Court and he shall not be required to supply copies of any such document or documents to the respondent.

15. The party at whose instance a reference has been made shall, after filing the paper-books and printed copies of the further documents, if any, required to be filed under R. 6 hereof, forthwith give notice thereof to the respondent and shall, along with such notice, serve him with four copies of the paper-book, free

of cost and, where the party responsible for the preparation of the paper-book is the assessee also with four printed copies of the document or documents, if any, not included in the paper-book by virtue of the provisions of R. 14 free of cost if the respondent requires further copies of the paper book, he shall be entitled to have them only on payment of proportionate charges of preparing the paper books and only if further copies are available.

16. The cost of preparation of the paper-books shall be cost in the reference.

17. Appointment of Bench to hear — Upon the paper-books being filed the Registrar shall lay the matter before the Chief Justice who shall appoint a Bench under Section 259 of the said Act to hear the reference and shall fix a day for the hearing.

18. Notice of the day fixed for the hearing shall be given by the Registrar to the Commissioner or to the advocate or attorney acting for him, as the case may be. The Registrar shall cause such notice to be served on all parties to the reference.

19. Every application made under sub-section (2) of Section 256 of the said Act shall be presented to the Registrar, who shall submit the same to the Chief Justice or to the Bench appointed by the general or special order of the Chief Justice for the purpose of fixing a date for hearing. The Registrar shall intimate to the applicant or to the advocate acting for him the date so fixed and the Bench before which the same shall be made.

20. Whenever a rule is issued by the High Court on an application made under sub-section (2) of Section 256 of the Act, the rule together with a copy of the petition or affidavits in respect of such application, shall be served upon the Commissioner or the assessee as the case may be and also upon the Appellate Tribunal. The Commissioner or the Appellate Tribunal shall be at liberty to show cause by means of a letter addressed to the Registrar.

An application under sub-section (2) of Section 256 of the Act filed by an assessee shall be accompanied by a certificate from the Income-tax Appellate Tribunal to the effect that the assessee has not withdrawn his application for reference under Section 256(1) before the said Tribunal.

21. Before filing an application under Section 256(2) a copy thereof should be served on the standing counsel representing the department, if any, or on the assessee. The Court may then on hearing the application either reject the same or require the Appellate Tribunal to state the case and to refer to the court.

22. Costs in all income-tax matters are within the discretion of the Court, and

will be paid by such party or parties as the Court may order. Unless otherwise ordered, they will be taxed according to the scale prescribed by the rules and practice of the Court. Costs incidental to a reference will be taxed in the same manner as of a hearing of an appeal from a decree passed in exercise of its original jurisdiction. If costs are ordered to be paid by the Commissioner to the assessee and a reference made under sub-section (2) of Section 256 of the said Act, the taxing officer shall, in addition to allow the assessee any fees paid by him under the said sub-section (2) on the application for the reference.

The cost of an advocate appearing and acting, or of an advocate both pleading and acting shall ordinarily be taxed according to the rules and practice of the Court. In case where no detailed bill is filed, or in which the taxing officer finds it difficult to apply the scale laid under the rules, he may allow such lump sum in lieu of taxed costs as may appear to him to be fair and reasonable.

An advocate both pleading and acting shall be entitled to fees for appearing as such advocate only and not to any fees that would have been payable to him for acting and instructing another advocate.

23. The rules contained in this Chapter shall, so far as may be and with necessary modifications and adaptations, also apply to proceedings of a similar nature under any other Act including those under —

1. Section 21 of the Excess Profits Tax Act, 1940.
2. Section 19 of the Business Profits Tax Act, 1947.
3. Section 64(1) of the Estate Duty Act, 1953.
4. Section 27 of the Wealth Tax Act of 1957.
5. Section 25 of the Expenditure Tax Act of 1957.
6. Section 26 of the Gift Tax Act of 1958.
7. Section 27 of the Workmen's Compensation Act, 1923.
8. Section 57 or 60 of the Indian Stamp Act, 1899.
9. Section 32 of the Assam Sales Tax Act, 1947.
10. Section 28 of the Assam Agricultural Income Tax Act, 1939:

Provided that where a reference may, under the law, be made by the Court or Authority making the reference without an application by a party, the paper-book shall be prepared under the direction and supervision of the Registrar.

PART VIII-A¹³

**RULES UNDER THE CUSTOMS ACT, 1962 (ACT 52 OF 1962),
THE CENTRAL EXCISES AND SALT ACT, 1944 (ACT I OF 1944) AND
THE GOLD (CONTROL) ACT, 1968 (ACT 44 OF 1968).**

1. The rules under the Income Tax Act, 1961, contained in Part VIII of the Gauhati High Court Rules shall so far as may be and with necessary modifications and adaptation, also apply to the provisions relating to reference to High Courts against the decisions of the Appellate Tribunal under the Customs Act, 1962 (Act 52 of 1962), the Central Excises and Salt Act, 1944 (Act I of 1944) and the Gold (Control) Act, 1968 (Act 44 of 1968):

Provided that where a reference may, under the aforesaid Acts, be made by the Tribunal making the reference without an application by a party, the paper-book shall be prepared under the direction and supervision of the Registrar.

Note : 13 — Part VIII-A under Chapter IX has been inserted by Correction Slip No. 89 dated 4.1.1983, Notification No. HC.IX-10/79/76/RC, dated 4.1.1983.