CHAPTER 22

APPEALS AND REVISION



For the sake of brevity, the terms 'Appellate Authority', 'Revisional Authority', 'input tax credit' have been referred to as 'AA', 'RA' and 'ITC' respectively in this Chapter. The section numbers referred to in the Chapter pertain to CGST Act, unless otherwise specified. Examples/Illustrations/Questions and Answers, as the case may be, given in the Chapter are based on the position of GST law existing as on 30.04.2026.

LEARNING OUTCOMES

After studying this Chapter, you will be able to –

- identify the various kinds of appellate forums available under the CGST Act and their hierarchy
- understand various aspects relating to filing of an appeal before the Appellate Authority by the taxpayer as well as by the Department and the provisions relating to revision of orders by the Revisional Authority
- appreciate and understand the provisions relating to constitution and structure of Appellate Tribunal as also the various aspects relating to filing of an appeal before it by the taxpayer as well as by the Department
- understand and comprehend the concept of mandatory pre-deposit for filing appeals
- understand various aspects relating to filing of an appeal before the High Court and the Supreme Court
- apply the above and other provisions relating to appeals and revision in problem solving

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1. INTRODUCTION



Tax laws impose various obligations on taxpayers. Such obligations are broadly of two kinds: levy-related (e.g. scope of levy, taxable value, tax rate etc.) and procedure-related (e.g., obtaining registration, filing of returns, manner of depositing tax etc.). The taxpayer's compliance with these obligations is verified by tax authorities (by exercising various powers such as undertaking scrutiny, audit, anti-evasion proceedings, etc.). As a result of which, sometimes there are situations of actual or perceived non-compliances. If the difference in the views persists, it results into a dispute, which is then required to be resolved.

Under tax laws, on any given set of facts and legal provisions there can be different opinions or viewpoints. Hence, it is likely that the taxpayer may not agree with the "adjudication order" passed by a tax authority. It is equally possible that the Tax Department may itself not agree with the adjudication order. It is for this reason that the tax statutes provide for an appellate mechanism to both the sides. In legal parlance, **appeal** is a timely resort for reconsideration by a higher authority, where aggrieved party request a formal change to an existing decision wholly or partially as the case may be.

Since the right to appeal is a statutory right (i.e. a right conferred by the statute), the statute also places fetters on the exercise of this right. The time limits prescribed by the statute for filing of appeals, the requirement of making pre-deposit of a certain sum before the appeal can be heard by the competent authority are the examples of such fetters on the statutory right.

India has adopted a dual GST, i.e. GST is levied by both Centre and State Governments concurrently on a transaction. Does this mean that if a taxpayer is aggrieved by any proceedings, he will have to approach both the authorities separately for exercising his right of appeal? The answer is 'no'.

GST law makes provisions for cross empowerment between CGST and SGST/UTGST officers to ensure that a proper officer under the CGST Act is also treated as the proper officer under the SGST/UTGST Act and *vice versa*. Thus, a proper officer can issue orders with respect to both, the CGST as well as the SGST/UTGST laws. GST

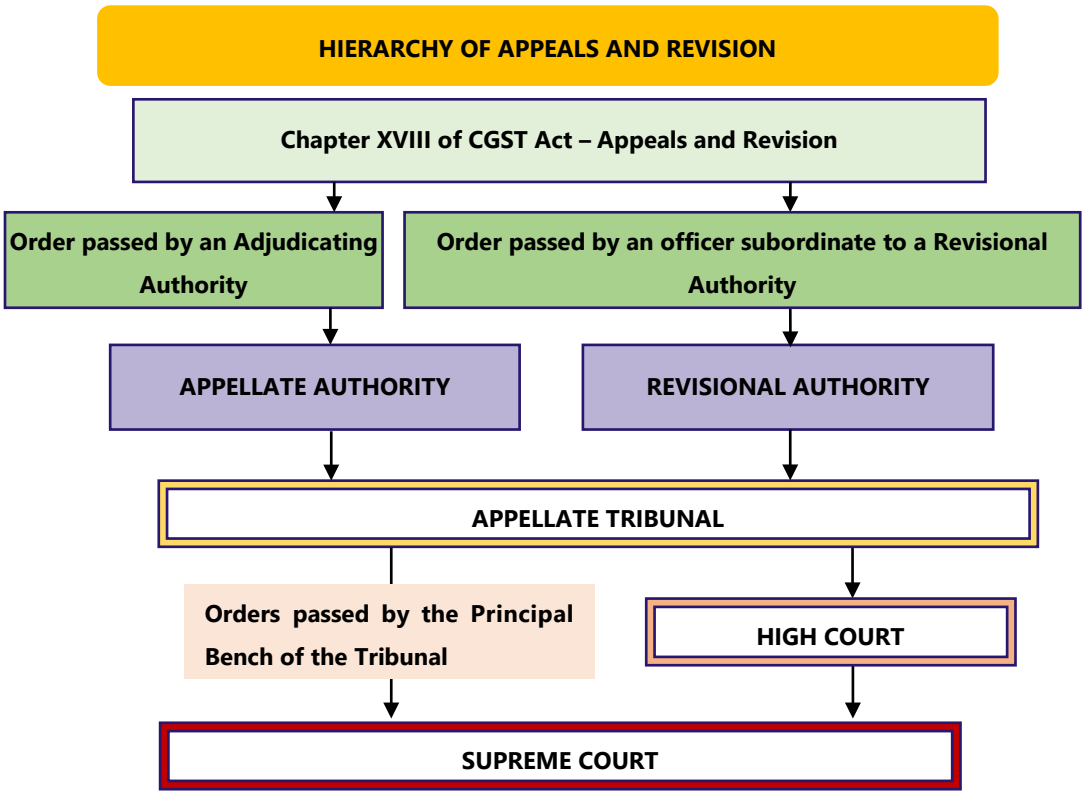
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law also provides that where a proper officer under one Act (say CGST) has passed an order, any appeal/review/ revision/rectification against the said order will lie only with the proper officers of that Act (CGST Act). Accordingly, if any order is passed by the proper officer under, say Haryana SGST Act, any appeal/review/revision/rectification against the said order will lie only with the proper officer under the Haryana SGST Act.

Chapter XVIII [Sections 107 to 121] of the CGST Act supplemented with Chapter XIII [Rules 108 to 116] of the CGST Rules prescribe the provisions relating to appeals and revision. State GST laws also prescribe identical provisions.

Provisions of appeals and revision under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

A brief overview of the provisions covered under the aforesaid sections 107 to 121, are outlined in this chapter.



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2. RELEVANT DEFINITIONS

- **Adjudicating authority** means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Central Board of Indirect Taxes and Customs, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority, the Appellate Tribunal and the Authority referred to in sub-section (2) of section 171 [Section 2(4)].
- **Appellate Authority** means an authority appointed or authorised to hear appeals as referred to in section 107 [Section 2(8)].
- **Appellate Tribunal** means the Goods and Services Tax Appellate Tribunal constituted under section 109 [Section 2(9)].
- **Authorised representative** means the representative as referred to in section 116 [Section 2(15)].
- **Board** means the Central Board of Indirect Taxes and Customs constituted under the Central Boards of Revenue Act, 1963 [Section 2(16)].
- **Commissioner** means the Commissioner of central tax and includes the Principal Commissioner of central tax appointed under section 3 and the Commissioner of integrated tax appointed under the Integrated Goods and Services Tax Act [Section 2(24)].
- **Revisional Authority** means an authority appointed or authorised for revision of decision or orders as referred to in section 108 [Section 2(99)].

3. APPEALS TO APPELLATE AUTHORITY [SECTION 107]

A. Appeal to Appellate Authority (AA) by aggrieved person (taxpayer)

(i) Orders appealable to AA

An appeal against any decision/order passed by any adjudicating authority under the CGST Act or SGST Act/UTGST Act lies before the AA.

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It is important to note that it is only the aggrieved person who can file the appeal. Also, the appeal must be against a decision or order passed under the Act.

(ii) Time limit for filing appeal

A person aggrieved by any decision/order of an adjudicating authority can file an appeal to the AA within 3 months from the date of communication of such decision/order.



(1) The adjudicating authority issued the adjudication order on 23rd September and the same is communicated to the taxpayer on 28th September. The relevant date for computing the period of 3 months (for filing the appeal to AA) is 28th September (date of communication of order) and not 23rd September.

The AA can condone the delay in filing of appeal by 1 month if it is satisfied that there was sufficient cause for such delay [Section 107(4)].

(iii) Form for appeal to AA by the aggrieved person (taxpayer) and date of filing appeal

An appeal is to be filed by aggrieved person to the Appellate Authority in Form GST APL-01 along with the relevant documents electronically. A provisional acknowledgement is issued to the appellant immediately.

However, an appeal to the Appellate Authority may be filed manually in Form GST APL-01, along with the relevant documents, only if-

(i) the Commissioner has so notified, or

(ii) the same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the Common portal,

and in such case, a provisional acknowledgement shall be issued to the appellant immediately. Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued by the Appellate Authority or an officer authorised by him in this behalf in Form GST APL-02. The date of issue

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of the provisional acknowledgment shall be considered as the date of filing of appeal.

However, where the decision/order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of 7 days from the date of filing of Form GST APL-01. The final acknowledgment, indicating appeal number, shall be issued by the Appellate Authority or an officer authorised by him in this behalf in Form GST APL-02. The date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal.

Further, where the said self-certified copy of the decision/order is not submitted within a period of 7 days from the date of filing of Form GST APL-01, the date of submission of such copy shall be considered as the date of filing of appeal. The appeal shall be treated as filed only when the final acknowledgement is issued.



(2) The appeal is filed and provisional acknowledgement issued on 10th September. The taxpayer submits the certified copy of the order sought to be appealed against on 15th September (within 7 days as decision/order appealed against is not uploaded on the common portal). The date of filing appeal is 10th September.

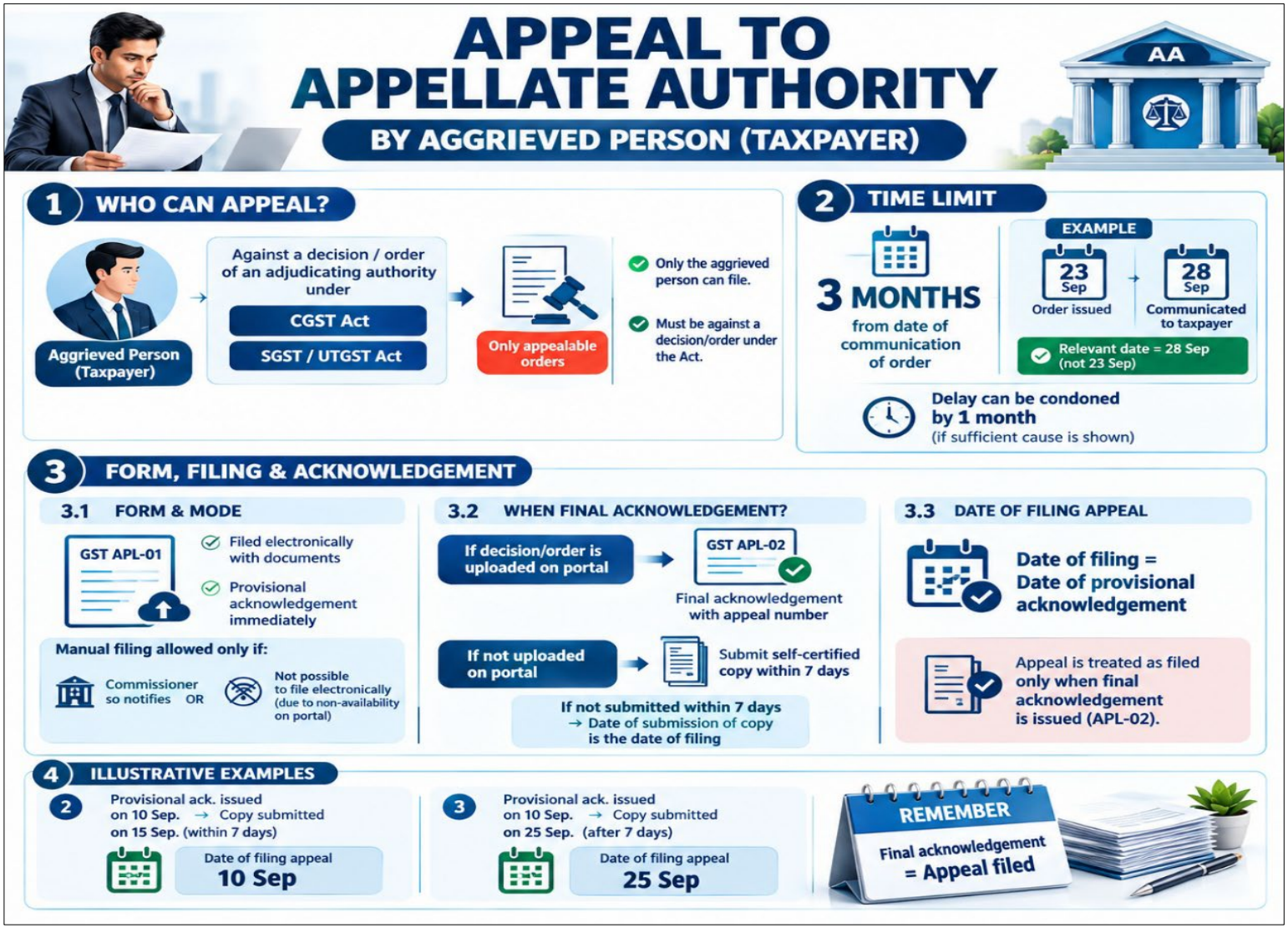


(3) The appeal is filed and provisional acknowledgement issued on 10th September. The taxpayer submits the certified copy of the order sought to be appealed against on 25th September (after seven days) as decision/order appealed against is not uploaded on the common portal. The date of filing appeal is 25th September.

(iv) Mandatory pre-deposit for filing appeal

No appeal can be filed before the AA unless a specified amount of pre-deposit is made by the appellant. *The concept of pre-deposit is discussed separately under Heading No. 7.*

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B. Application before the AA by the Department



At times, the Department itself may not agree with the decision or order passed by the adjudicating authority. Section 107(2) provides that in such cases, the Department can also file an application (as if it were an appeal made against the decision or order of the adjudicating authority) before the AA.

(i) Orders against which the application can be filed before the AA

The Commissioner may, on his own motion, or upon request from the SGST/UTGST Commissioner, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision/order under the CGST Act or SGST Act/UTGST Act to satisfy himself about the legality or propriety of such decision/order [Section 107(2)].

(ii) Time limit for filing the application

The Commissioner may, by order, direct any officer subordinate to him to apply to the AA within 6 months from the date of communication of the decision/order for the determination of such points arising out of the said decision/order as may be specified by him in his order.

The AA can condone the delay in filing of appeal by 1 month if it is satisfied that there was sufficient cause for such delay.



(4) The adjudicating authority passed the order on 23rd January (communicated same day to the Commissioner). The Commissioner directs his subordinate officer to file a review application with the AA till 23rd July (within 6 months from the date of communication of order). However, the application could be filed only on 3rd August. The AA can condone the delay in filing of appeal upto 23rd August (up to 1 month) if it is satisfied that there was sufficient cause for such delay.

(iii) Form for application

An application to the AA shall be filed in Form GST APL-03, along with the relevant documents, electronically and a provisional acknowledgment shall be issued to the appellant immediately.

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However, an appeal to the Appellate Authority may be filed manually in FORM GST APL-03, along with the relevant documents, only if-

(i) the Commissioner has so notified, or

(ii) the same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the Common portal,

and in such case, a provisional acknowledgement shall be issued to the appellant immediately.

Where the decision/order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued by the Appellate Authority or an officer authorised by him in this behalf in Form GST APL-02. The date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal.

However, where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of 7 days from the date of filing of Form GST APL-03.

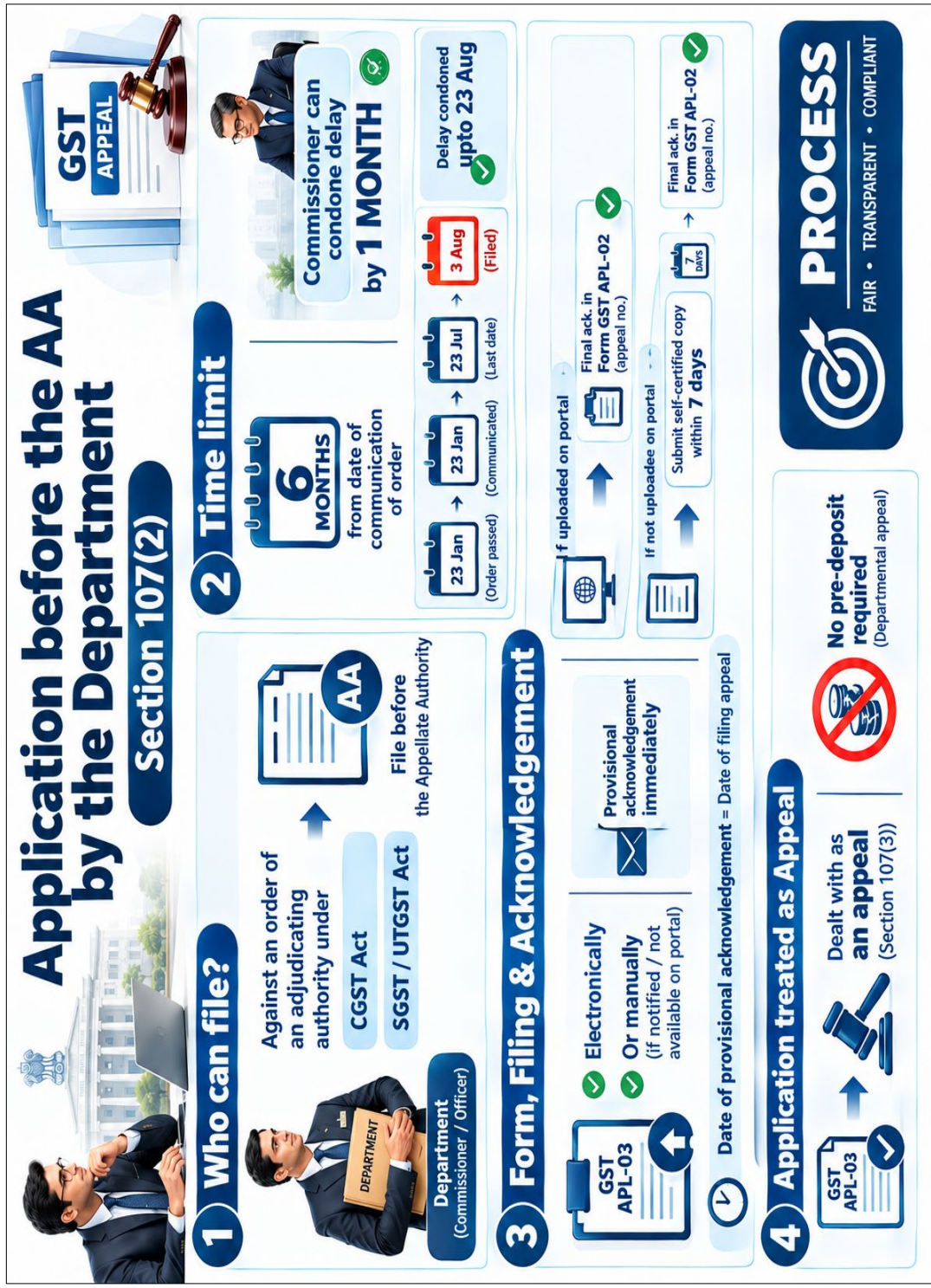
The final acknowledgment, indicating appeal number, shall be issued by the Appellate Authority or an officer authorised by him in this behalf in Form GST APL-02. The date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal.

Further, where the said self-certified copy of the decision or order is not submitted within a period of 7 days from the date of filing of Form GST APL-03, the date of submission of such copy shall be considered as the date of filing of appeal.

(iv) Application to be treated as appeal

Such application shall be dealt with by the AA as if it were an appeal made against the decision/order of the adjudicating authority [Section 107(3)]. There is no requirement of making a pre-deposit in the case of departmental appeal.

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C. Appeal process followed by AA

(i) Duties of the AA

The AA has to follow the principles of natural justice – such as hearing the appellant, allowing reasonable adjournments (not more than 3), permitting additional grounds of appeal (if the omission of that ground from the grounds of appeal was not wilful and is found reasonable), etc.

(ii) Orders of the AA

- The AA can make further inquiry and pass its order (i.e. Order-in-Appeal) which may **confirm, modify or annul** the decision/order appealed against. However, the AA shall not refer the case back to the adjudicating authority that passed the said decision/order.
- The AA can also increase the "rigour" of the order appealed against by enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or ITC, but this can only be done after the AA has given to the appellant a reasonable opportunity of showing cause against the proposed order.
- If the AA is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where ITC has been wrongly availed or utilized, no order requiring the appellant to pay such tax or ITC shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 (upto FY 2023-2024) or section 74 (upto FY 2023-2024) or section 74A.



- The appellant may, at any time before issuance of said show cause notice or before issuance of the order (i.e. Order-in-Appeal), whichever is earlier, in respect of any appeal filed in Form GST APL-01 or Form GST APL-03, file an application for withdrawal of the said appeal by filing an application in Form APL-01/03W.

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- However, where the final acknowledgment has been issued in Form GST APL-02, the withdrawal of the said appeal would be subject to the approval of the AA and such application for withdrawal of the appeal shall be decided by the AA within 7 days of filing of such application.
- Further, any fresh appeal filed by the appellant pursuant to such withdrawal shall be filed within the time limit specified in (A) and (B) points above, as the case may be.
- The Order-in-appeal shall be a **"speaking order"** i.e., it shall state the points for determination, the decision thereon and the reasons for the decision.
- The law provides an advisory time limit of 1 year from date of filing of appeal for the AA to decide the appeal. The period of stay ordered by any Court or Tribunal shall be excluded in computing the period of 1 year.



(5) The adjudicating authority passed the order on 23rd January 2025 and it was communicated to the taxpayer on the same day. The taxpayer filed the appeal against the order with the AA on 16th February 2025. The AA should decide the appeal by 16th February 2026 where it is possible to do so.



(6) The adjudicating authority passed the order on 23rd January 2025 and it was communicated to the taxpayer on the same day. The taxpayer filed the appeal against the order with the AA on 16th February 2025. The appeal proceedings before the AA are stayed by an order of a Court for the period between 1st May 2025 and 30th June 2025. The period of 61 days during which the stay was in operation will be excluded for computing the period of 1 year within which the AA should decide the appeal. Thus, the AA, as per the advisory time limit prescribed, can pass the order by 18th April 2026.

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- On disposal of the appeal, the AA shall communicate the order passed by it to the appellant, respondent and to the adjudicating authority.
- A copy of the order passed by the AA shall also be sent to the jurisdictional Commissioner or the authority designated by him in this behalf and the jurisdictional SGST/UTGST Commissioner or an authority designated by him in this behalf.
- Every order passed by the AA shall be final and binding on the parties unless the dispute is taken to a higher appellate forum.

D. Appointment of Appellate Authority

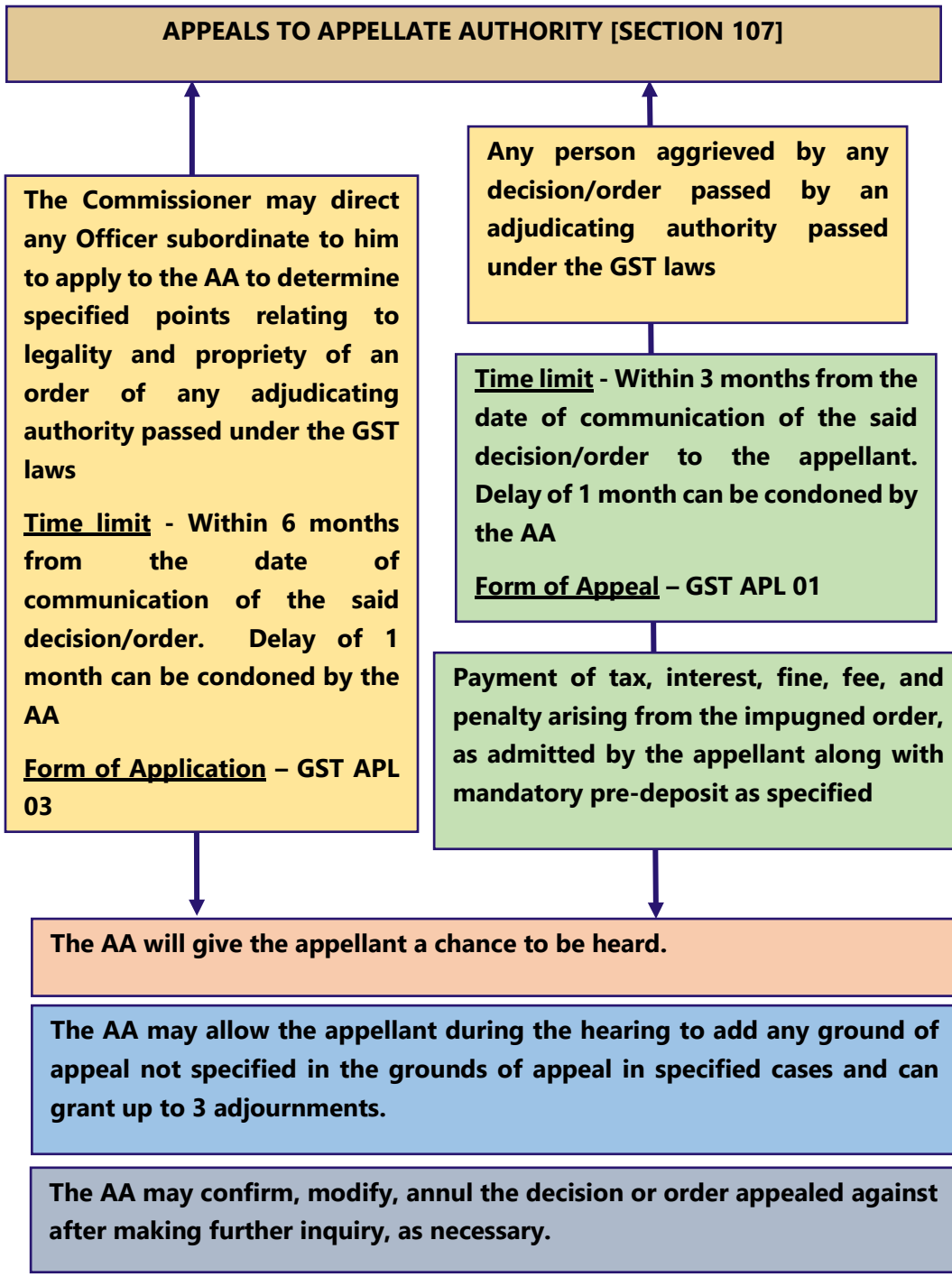
Any person aggrieved by any decision/order passed under GST law or an officer directed to appeal against any decision/order passed under said law, may appeal within 3 months (6 months in case of appeal by the Department) from the date of communication of said decision/order as follows:

If the decision/order against which the appeal is to be filed, is passed by the Additional or Joint Commissioner	**Appellate Authority**	**Commissioner (Appeals)**
If the decision/order against which the appeal is to be filed, is passed by the Deputy or Assistant Commissioner or Superintendent	**Appellate Authority**	**Any officer not below the rank of Joint Commissioner (Appeals)**

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A summary of the provisions of section 107 is given below.

Summary of the provisions of Section 107



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4. POWERS OF REVISIONAL AUTHORITY [SECTION 108]

A. Orders which can be revised

(i) The GST laws also provide a mechanism of revision by the Revisional Authority (RA) of the orders passed by its subordinate officers.

(ii) The RA may, on his own motion, or upon information received by him or on request from the SGST/ UTGST Commissioner, call for and examine the record of any proceedings. Here, 'record' includes all records relating to any proceedings under the CGST Act available at the time of examination by the RA.

(iii) On examination of the case records, if RA is of the view that the decision or order passed under the CGST Act/ SGST Act/ UTGST Act by any officer subordinate to him

- is erroneous, in so far as it is prejudicial to the interest of the revenue and is illegal or improper;
- has not taken into account material facts, whether available at the time of issuance of the said order or not;
- in consequence of an observation by the Comptroller and Auditor General of India

he may, if necessary, stay the operation of such decision or order for such period as he deems fit.

(iv) Thereafter, the RA after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order. Here, 'decision' includes intimation given by any officer lower in rank than the RA.

Along with the order, the RA shall also issue a summary of the order clearly indicating the final amount of demand confirmed.

(v) If the RA decides to pass an order which is likely to affect the person adversely, he shall serve a notice on such person and give him a reasonable opportunity of being heard.

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(vi) Every revision order shall, subject to further appeal to the Tribunal, High Court or Supreme Court, be final and binding on the parties.

B. Fetters to the powers of revision

The power of revision is subject to the condition that non-appealable orders and decisions under section 121 cannot be revised *[Section 121 which provides for such orders/decisions is discussed under Heading 15 of this Chapter]*.

The RA shall not exercise the power of revision if:

(a) the order sought to be revised has been subject to an appeal before AA or Tribunal or High Court or Supreme Court*****; or

(b) the period of 6 months (from the date of communication of order) has not yet expired or more than 3 years have expired after the passing of the decision/order sought to be revised; or

(c) the order has already been taken for revision at an earlier stage; or

(d) the order sought to be revised is itself a revisional order.

*****The RA may still pass an order on any point which has not been raised and decided in an appeal before AA/Tribunal/High Court/Supreme Court, before the expiry of a period of 1 year from the date of the order in such appeal or before the expiry of a period of 3 years from the date of initial order, whichever is later.



(7) A taxpayer is served with an adjudication order on 25th May 2025. The RA can revise the order during the period between 26th November 2025 (after expiry of 6 months) and 25th May 2028.



(8) ABC Pvt. Ltd. manufactures product 'P' and 'Q'. The company avails benefit of exemption notification in respect of product 'P' and pays tax on product 'Q' @ 12%. Show cause notice was issued to the company alleging that product 'P' was not eligible for exemption and product 'Q' was liable to tax @ 18%. The adjudicating authority concluded that the rate of tax in respect of product 'Q' was correct but the exemption on product 'P' was being availed wrongly. Consequently, an order confirming demand of ₹ 10 lakh was passed by the adjudicating authority on 15th January 2025.

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The company filed an appeal against the order before the AA on 16th February 2025. The AA passed the order in favour of the company in respect of product 'P' on 31st October 2025.

The RA can pass the revised order in respect of tax rate on product 'Q' before 31st October 2026 (1 year from the date of order passed by the AA) or 15th January 2028 (3 years from the date of adjudication order), whichever is later. Thus, the RA can pass the revised order by 15th January 2028.

C. Period to be excluded in computing limitation period of 3 years

(i) If the decision/order sought to be revised involves an issue on which the Appellate Tribunal or the High Court has given its decision **in some other proceedings** and an appeal to the High Court or the Supreme Court against such decision of the Appellate Tribunal or the High Court is pending, the period spent between:

- the date of the decision of the Appellate Tribunal and the date of the decision of the High Court or
- the date of the decision of the High Court and the date of the decision of the Supreme Court

shall be excluded in computing the period of limitation of 3 years where proceedings for revision have been initiated by way of issue of a notice under section 108 [Section 108(4)].

(ii) When the issuance of a revision order is stayed by the order of a Court or Tribunal, the period of such stay shall be excluded in computing the period of limitation of 3 years [Section 108(5)].



(9) The adjudicating authority passed the order on 23rd January 2026 and it was communicated to the taxpayer on the same day. The RA calls for the records of the proceedings on 1st August 2026 (after expiry of 6 months) and started examining the same. The revision order to be passed by the RA is stayed by an order of the High Court for the period between 1st September 2026 and 31st October 2026. The period of 61 days during which the stay was in operation will be excluded for computing the period of 3 years within which the RA should pass the revision order. Thus, the RA can pass the order by 25th March 2029.

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✪ ***The provisions related to revision empower the superior authorities to revise the orders or decisions passed by their sub-ordinate officers which are found to be improper.***

✪ ***Since AA also has the power to annual, enhance etc. (as discussed in Heading 3), in order to avoid any duplication of proceedings, an order which is subject to appeal cannot be revised. However, the revisional order can be passed on the points that are not raised or decided in an appeal. Accordingly, the law provides for extension of the time limit for revising the orders that are subject matter of an appeal. Extension to the prescribed limitation also applies where the revision proceedings are stayed.***

✪ ***Revision proceedings can only be taken once with respect to an order and a revision order cannot be revised.***

D. Officers authorized as Revisional Authority

The CBIC has authorized the following officers as Revisional Authority:

For decisions/orders passed by the Additional/Joint Commissioner	**Revisional Authority**	Principal Commissioner/ Commissioner
For decisions/orders passed by the Deputy Commissioner /Assistant Commissioner/ Superintendent	**Revisional Authority**	Additional/Joint Commissioner

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5. APPELLATE TRIBUNAL UNDER GST LAWS [SECTIONS 109-111]

The Tribunal is the second level of appeal, where appeals can be filed against the orders-in-appeal passed by the AA or order in revision passed by RA, by any person aggrieved by such an Order-in-Appeal/ Order-in-Revision.

A. Constitution of Appellate Tribunal and Benches thereof [Section 109]

Constitution

The Government shall, on the recommendations of the Council, by notification, establish with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority or for conducting an examination or adjudicating the cases referred to in section 171(2), if so notified under the said section.

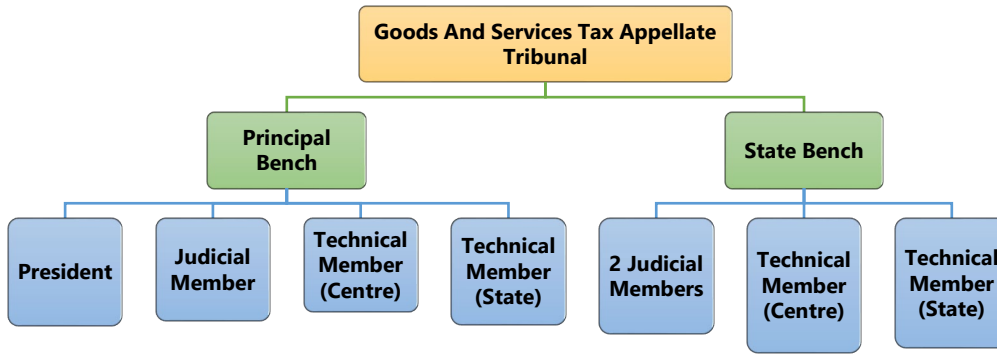
It is important to note that GSTAT was launched on 24th September 2025 and was made operational. A Principal Bench (New Delhi) and 31 State Benches across the country are now constituted and functioning, hearing appeals under section 112.

- The jurisdiction, powers and authority conferred on the Appellate Tribunal shall be exercised by the Principal Bench and the State Benches.
- The Government shall, by notification, constitute a Principal Bench of the Appellate Tribunal at New Delhi which shall consist of the President, a Judicial Member, a Technical Member (Centre) and a Technical Member (State).
- On the request of the State, the Government may, by notification, constitute such number of State Benches at such places and with such jurisdiction as may be recommended by the Council, which shall consist

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of two Judicial Members, a Technical Member (Centre) and a Technical Member (State).

A diagrammatic representation of the composition of the Appellate Tribunal is shown below.



Jurisdiction [Section 109(5)]:

- The Principal Bench and the State Bench shall hear appeals against the orders passed by the Appellate Authority or the Revisional Authority.
- However, the cases in which any one of the issues involved relates to the place of supply, shall be heard only by the Principal Bench.
- Further, matters referred to in section 171(2) shall be examined or adjudicated only by the Principal Bench:
- Government may, on the recommendations of the Council, notify other cases or class of cases which shall be heard only by the Principal Bench.

Transfer of cases

Subject to above jurisdiction given in section 109(5), the President shall, from time to time, by a general or special order, distribute the business of the Appellate Tribunal among the Benches and may transfer cases from one Bench to another.

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Vice president for State Benches

The senior-most Judicial Member within the State Benches, as may be notified, shall act as the Vice-President for such State Benches and shall exercise such powers of the President as may be prescribed, but for all other purposes be considered as a Member.

Single member bench:

Appeals, where the tax or ITC involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed ₹ 50,00,000 and which does not involve any question of law may, with the approval of the President, and subject to prescribed conditions on the recommendations of the Council, be heard by a single Member, and in all other cases, shall be heard together by one Judicial Member and one Technical Member.

Accordingly, the cases can be heard by a bench consisting of a single member, if following conditions are fulfilled:

- Amount of tax or ITC involved or the amount of fine, fee or penalty determined does not exceed ₹ 50,00,000
- Matter does not involve any question of law
- Prior approval of the President has been obtained
- Any other prescribed conditions.

For the purpose of reckoning the amount of ₹ 50,00,000, the cumulative tax or input tax credit involved, or the amount of fine, fee or penalty, shall be determined with reference to all issues and all tax periods covered in the order appealed against.

Majority rule in case of difference of opinion

If, after hearing the case, the Members differ in their opinion on any point or points, such Member shall state the point or points on which they differ, and the President shall refer such case for hearing,—

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- **where the appeal was originally heard by Members of a State Bench**, to another Member of a State Bench within the State or, where no such other State Bench is available within the State, to a Member of a State Bench in another State;
- **where the appeal was originally heard by Members of the Principal Bench,** to another Member from the Principal Bench or, where no such other Member is available, to a Member of any State Bench,

and such point or points shall be decided according to the majority opinion including the opinion of the Members who first heard the case.

Transfer of members for administration efficiency

- The Government may, in consultation with the President, for the administrative efficiency, transfer Members from one Bench to another Bench:
- However, a Technical Member (State) of a State Bench may be transferred to a State Bench only of the same State in which he was originally appointed, in consultation with the State Government.

Defect in constitution not to render proceedings invalid

No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.

The President and members of Appellate Tribunal their qualification, appointment, conditions of service, etc. shall be in the manner prescribed under section 110 of the CGST Act.

B. Procedure before Appellate Tribunal [Section 111]

(i) The Appellate Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908. However, it shall be guided by the principles of natural justice and shall have power to regulate its own procedure.

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(ii) The Appellate Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) dismissing a representation for default or deciding it *ex parte*;

(g) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*; and

(h) any other matter which may be prescribed.

(iii) Order of the Appellate Tribunal may be enforced in the same manner as if it were a decree made by a court in a suit pending therein. The Appellate Tribunal can send for execution of its orders to the court within the local limits of whose jurisdiction,—

(a) in the case of an order against a company, the registered office of the company is situated; or

(b) in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain.

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(iv) All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code. The Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

The Indian Penal Code (IPC) has been replaced with the Bharatiya Nyaya Sanhita, the Code of Criminal Procedure with Nagarik Suraksha Sanhita and the Indian Evidence Act has been replaced with the Bharatiya Sakshya Adhiniyam from 1st July 2024, however the corresponding changes is yet to be made in the GST Law.

6. APPEAL TO APPELLATE TRIBUNAL [SECTIONS 112 & 113]

A. Appeal by the aggrieved person (taxpayer)

(i) Orders appealable to Appellate Tribunal

Any person aggrieved by an order passed against him by an AA or RA under CGST Act/SGST Act/ UTGST Act may appeal to the Appellate Tribunal.

(ii) Time limit for filing appeal

The appeal can be filed before the Appellate Tribunal

(a) within 3 months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal or

(2) the date, as may be notified by the Government, on the recommendations of the Council, for filing appeal before the Appellate Tribunal under this Act**,

whichever is later.

*****It is important to note that Notification No. S.O. 4220(E) dated 17.09.2025 has notified the date up to which an appeal may be filed before the Tribunal as under:***

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Category	*Date of communication of order sought to be appealed against*	*Time limit for filing appeal before the Appellate Tribunal*
Backlog orders	*Order communicated before 1st April, 2026*	*Appeal may be filed up to 30th June, 2026*[1]
Regular/ prospective orders	*Order communicated on or after 1st April, 2026*	*Appeal must be filed within 3 months from the date the order is communicated to the person preferring the appeal*

The Tribunal can condone the delay of up to 3 months beyond the specified time period of 3 months if it is satisfied that there was sufficient cause for the delay.

(iii) Form for filing appeal

An appeal to the Appellate Tribunal shall be filed in Form GST APL-05, along with the relevant documents, electronically and provisional acknowledgement in Part A of Form GST APL-02A shall be issued to the appellant immediately shall be issued to the appellant immediately.

(iv) Power of Tribunal to refuse to admit an appeal

The Appellate Tribunal can refuse to admit an appeal if

- the tax or ITC involved or
- the difference in tax or ITC involved or
- the amount of fine, fee or penalty determined by such order

does not exceed ₹ 50,000.

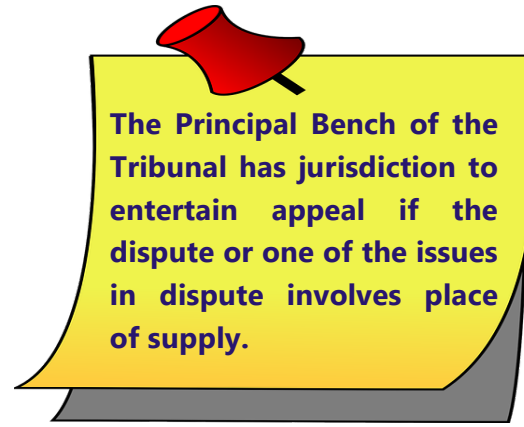
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[1] *The last date for filing under section 112 is extended to 31st July 2026.*

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(v) Memorandum of cross objections

The law also provides for filing of cross-objections by the respondent against such part of the order against which the respondent may initially not have chosen to file an appeal.



It is provided that on receipt of notice that an appeal has been filed (by the appellant), the party against whom the appeal has been preferred (i.e. the respondent) may, notwithstanding, that he may not have appealed against such order or any part thereof, file within 45 days a memorandum of cross-objections against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified for filing the initial appeal.

The Tribunal can condone the delay of up to 45 days beyond the specified time period of 45 days, if it is satisfied that there was sufficient cause for the delay.

(vi) Fees for filing appeal

The fees for filing of appeal or restoration of appeal shall be ₹ 1,000 for every ₹ 1,00,000 of tax or ITC involved or the difference in tax or ITC involved or the amount of fine, fee or penalty determined in the order appealed against. However, the fee shall not exceed ₹ 25,000 and a minimum of ₹ 5,000.

Fees for filing of an appeal in respect of an order not involving any demand of tax, interest, fine, fee or penalty shall be ₹ 5,000.

There shall be no fee for application made before the Appellate Tribunal for rectification of errors.

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(vii) Mandatory pre-deposit for filing appeal

No appeal can be filed before the Appellate Tribunal unless a specified amount of pre-deposit is made by the appellant. *The concept of pre-deposit is discussed separately under Heading No. 7.*

B. Departmental appeal

(i) The Commissioner may, on his own motion, or upon request from the SGST/UTGST Commissioner, examine the record of any order passed by the AA or RA under the CGST Act/SGST Act/ UTGST Act for the purpose of satisfying himself as to the legality or propriety of such order.

(ii) The Commissioner may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal within 6 months from the date on which the said order has been passed or the date, as may be notified by the Government, on the recommendations of the Council, for the purpose of filing application before the Appellate Tribunal under this Act, whichever is later, for determination of such points arising out of the said order as may be specified him.

The Tribunal can permit the filing of an application within three months after the expiry of the specified time period of 6 months, if it is satisfied that there was sufficient cause for the delay.

(iii) An application to the Appellate Tribunal shall be filed in Form GST APL-07, along with the relevant documents, electronically and a provisional acknowledgement in Part A of FORM GST APL-02A shall be issued to the appellant immediately.

(iv) Such application shall be dealt with by the Appellate Tribunal as if it were an appeal made against the order of the AA or RA.

(v) There is no requirement of making a pre-deposit in the case of departmental appeal.

Common provisions in case of appeal by the aggrieved person (taxpayer) and Departmental appeal

(I) Memorandum of cross objections

A memorandum of cross-objections to the Appellate Tribunal, if any, shall be filed electronically in FORM GST APL-06.

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(II) Date of filing appeal

(i) Where the order appealed against is uploaded on the common portal

a final acknowledgement, indicating appeal number, shall be issued ***in Part B of FORM GST APL-02A*** on removal of defects, if any, and the date of issue of the provisional acknowledgement shall be considered as the date of filing of appeal.

(ii) If the order appealed against is not uploaded on the common portal

the appellant shall submit/ upload a self-certified copy of the said order within a period of 7 days from the date of filing of FORM GST APL-05/ FORM GST APL-07 and a final acknowledgement, indicating appeal number, shall be issued ***in Part B of FORM GST APL-02A*** on removal of defects, if any, and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal.

(iii) Where the said self-certified copy of the order is submitted/uploaded after a period of 7 days from the date of filing of FORM GST APL-05/ FORM GST APL-07

a final acknowledgement, indicating appeal number, shall be issued in ***Part B of FORM GST APL-02A*** on removal of defects, if any, and the date of submission/uploading of such self-certified (for tax payer)/***self-attested copy (for Departmental appeal)*** shall be considered as the date of filing of appeal.



The appeal shall be treated as filed only when the final acknowledgement, indicating the appeal number, is issued.

The appeal and the memorandum of cross objections shall be signed in the prescribed manner.

'Registrar' shall mean a Registrar appointed by the Government for this purpose, and shall include Joint Registrar, Deputy Registrar and Assistant Registrar.

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C. Orders of the Appellate Tribunal [Section 113]

(i) The Tribunal, after hearing both sides may

- ❑ pass such orders thereon as it thinks fit, **confirming, modifying or annulling** the decision or order appealed against or
- ❑ refer the case back to the AA or to the RA, or to the original adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision after taking additional evidence, if necessary.

(ii) Tribunal may, if sufficient cause is shown, grant up to 3 adjournments to hearing of appeal to either side for reason to be recorded in writing.

(iii) The law provides an advisory time limit of 1 year from the date of filing of appeal for the Tribunal to decide the appeal.

(iv) The Tribunal shall send a copy of its order to

- AA/RA/Original adjudicating authority
- Appellant
- Jurisdictional Commissioner or the SGST/UTGST Commissioner

(v) Every order passed by the Tribunal shall be final and binding on the parties unless the dispute is taken to a higher appellate forum.

(vi) ***The Tribunal shall, along with its order, issue, or cause to be issued, a summary of the order in prescribed form clearly indicating the final amount of demand confirmed by it.***

Rectification of errors [Section 113(3)]

- ❑ The Tribunal can correct its own order for any apparent mistakes, but it has no power of review.
- ❑ The Tribunal may amend any order passed by it so as to rectify any error apparent on the face of the record if such error is noticed in the order by its own accord, or is brought to its notice by the Commissioner or SGST/UTGST Commissioner or the other party to the appeal within a period of 3 months from the date of the order.

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- No amendment which has the effect of enhancing an assessment or reducing a refund or ITC or otherwise increasing the liability of the other party, shall be made, unless the party has been given an opportunity of being heard.

D. Withdrawal of appeal or application filled before the Appellate Tribunal [Rule 113A]

The appellant may, at any time before the issuance of the order, in respect of any appeal filed in FORM GST APL-05 or any application filed in FORM GST APL-07, file an application for withdrawal of the said appeal/application, by filing an application in Form GST APL-05/07W.

Where the final acknowledgment in GST APL-02 has been issued, the withdrawal of the said appeal/application, would be subject to the approval of the Appellate Tribunal within 15 days of filing of such application.

Any fresh appeal/application, as the case may be, filed by the appellant pursuant to such withdrawal shall be filed within the time limit specified in A or B above.

7. MANDATORY PRE-DEPOSIT

The right to appeal is a statutory right which operates within the limitation placed on it by the law. One such limitation that is generally applied basis this principle in tax statutes is that an appellant must first deposit the adjudged dues before his appeal can be heard.

However, an appellant may succeed in his appeal, and hence it would (in retrospect) be unfair to saddle him with this financial burden. To balance these factors, tax laws generally mandate "pre-deposits" so as to discourage frivolous appeals and also safeguard the interest of revenue.

Section 107(6) provides that no appeal shall be filed before the AA, unless the appellant has paid—

(a) **full amount of** tax, interest, fine, fee and penalty arising from the impugned order, as is **admitted** by him; **and**

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(b) a sum equal to 10% of the remaining amount of **tax in dispute** arising from the impugned order in relation to which the appeal has been filed, subject to a maximum of ₹ 20 crore (₹ 40 crore in case of IGST*).

***** *As per section 20 of the IGST Act.*

However, in case of any order demanding penalty without involving demand of any tax, no appeal shall be filed against such order unless a sum equal to 10% of the said penalty has been paid by the appellant.

The payment of pre-deposit ensures deemed stay on the recovery proceedings for the balance amount of demand in dispute.



(10) ABC Pvt. Ltd. received a show cause notice demanding IGST of ₹ 600 crore, penalty of ₹ 100 crore and interest of ₹ 10 crore. The adjudicating authority passed the order confirming the entire demand. While ABC Pvt. Ltd. admits the tax liability, penalty and interest of ₹ 50 crore, ₹ 10 crore and ₹ 1 crore respectively, it wishes to file an appeal to litigate the balance demand amount. The amount of pre-deposit to be made by ABC Pvt. Ltd. for filing the appeal to the AA is computed as under-

(i) Full amount of tax, interest and penalty as admitted by the company, i.e. ₹ 61 crore

(ii) 10% of the tax in dispute, i.e. ₹ 55 crore (10% of ₹ 550 crore) subject to a maximum of ₹ 40 crore.

Therefore, total pre-deposit to be made by the company is ₹ 61 crore (total liability admitted by the company) plus ₹ 40 crore, i.e. ₹ 101 crore. Till the time of final disposal of appeal, there shall be no recovery of demand in dispute from Appellant.

Section 112(8) lays down that no appeal can be filed before the Tribunal, unless the appellant deposits

(a) **full amount of** tax, interest, fine, fee and penalty arising from the impugned order, as is **admitted** by him, **and**

(b) 10% of the remaining amount **of tax in dispute**, in addition to the amount deposited before the AA, arising from the said order, subject to a maximum of ₹ 20 crore (₹ 40 crore* in case of IGST), in relation to which appeal has been filed.

***** *As per section 20 of the IGST Act*

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However, in case of any order demanding penalty without involving demand of any tax, no appeal shall be filed against such order unless a sum equal to 10% of the said penalty, in addition to the amount payable under the proviso to section 107(6) has been paid by the appellant.

Where the appellant has made the pre-deposit, the recovery proceedings for the balance amount of demand in dispute shall be deemed to be stayed till the disposal of the appeal.

Authority	Pre-deposit	
	When the tax involved is CGST	**When the tax involved is IGST**
AA	Admitted CGST liability in full + 10% of the CGST in dispute, subject to a maximum of **20 crore rupees***	Admitted IGST liability in full + 10% of the IGST in dispute, subject to a maximum of **40 crore rupees**
Appellate Tribunal	Admitted CGST liability in full + 10% of the CGST in dispute, in addition to the amount deposited before AA as pre-deposit, subject to a maximum of **20 crore rupees***	Admitted IGST liability in full + 10% of the IGST in dispute, in addition to the amount deposited before AA as pre-deposit, subject to a maximum of **40 crore rupees**

*****_Equivalent amount of SGST/UTGST is also required to be deposited. Therefore, whether the appeal involves CGST+SGST/UTGST or IGST, in both the cases, the aggregate amount of tax to be deposited or maximum amount (excluding the admitted liability) is the same. For example, for the appeal before AA involving intra-state supplies, the maximum amount of pre-deposit (excluding the admitted liability) would be ₹ 20 crore for CGST + ₹ 20 crore for SGST/UTGST (i.e. total ₹ 40 crore); whereas for the appeal involving inter-State supplies it would be ₹ 40 crore for IGST._



(11) ABC Pvt. Ltd. received an adjudication order demanding CGST and SGST of ₹ 200 crore each. ABC Pvt. Ltd. filed an appeal to AA contesting the entire demand. The amount of pre-deposit made by the company for filing the appeal to the AA is ₹ 20 crore [10% of ₹ 200 crore (tax in dispute)]. Equivalent amount has been paid for SGST too. Thus, a total of ₹ 40 crore has been

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paid by the company as pre-deposit for filing the appeal to the AA. The AA heard the appeal and decided in favour of the department confirming the entire demand. The company filed an appeal to the Appellate Tribunal. The amount of pre-deposit made by the company for filing the appeal before the Tribunal is ₹ 20 crore [10% of ₹ 200 crore (tax in dispute)]. Equivalent amount has been paid for SGST too. Thus, a total of ₹ 40 crore (CGST plus SGST) has been paid by the company as pre-deposit for filing the appeal to the Appellate Tribunal.



(12) ABC Pvt. Ltd. wishes to file an appeal with the Appellate Tribunal against an order of the AA demanding IGST of ₹ 1,200 crore. The company admits the liability of ₹ 100 crore but wishes to litigate the balance demand amount and thus, files an appeal with the Appellate Tribunal. The amount of pre-deposit to be made by ABC Pvt. Ltd. for filing the appeal to the Appellate Tribunal is computed as under-

(i) Full amount of tax, interest and penalty as admitted by the company, i.e. ₹ 100 crore

(ii) 10% of the tax in dispute, i.e. ₹ 110 crore (10% of ₹ 1,100 crore) subject to a maximum of ₹ 40 crore

Therefore, total pre-deposit to be made by the company before filing an appeal in the Appellate Tribunal is ₹ 100 crore (total liability admitted by the company) plus ₹ 40 crore, i.e. ₹ 140 crore.

Interest on refund of pre-deposit [Section 115]

If the pre-deposit made by the appellant before the AA or the Tribunal is required to be refunded consequent to any order of the AA or of the Tribunal, as the case may be, interest as provided under section 56 shall be payable from the date of payment of the amount (and not from the date of the order of the AA or of the Tribunal) till the date of refund of such amount.

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8. PRODUCTION OF ADDITIONAL EVIDENCE BEFORE THE APPELLATE AUTHORITY OR THE APPELLATE TRIBUNAL

(i) Rule 112 of the CGST Rules lays down that the appellant shall not be allowed to produce before the AA or the Tribunal any evidence, whether oral or documentary, other than the evidence produced by him during the course of the proceedings before the adjudicating authority or, as the case may be, the AA.

(ii) Exceptions

However, the rule provides the following exceptional circumstances where the production of additional evidence before the AA or the Tribunal could be allowed:

(a) where the adjudicating authority or, as the case may be, the AA has refused to admit evidence which ought to have been admitted; or

(b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the adjudicating authority or, as the case may be, the AA; or

(c) where the appellant was prevented by sufficient cause from producing before the adjudicating authority or, as the case may be, the AA any evidence which is relevant to any ground of appeal; or

(d) where the adjudicating authority or, as the case may be, the AA has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.

(iii) No additional evidence shall be admitted unless the AA or the Appellate Tribunal records in writing the reasons for its admission.

(iv) The AA or the Appellate Tribunal shall not take any additional evidence unless the adjudicating authority or an officer authorised in this behalf by the said authority has been allowed a reasonable opportunity -

(a) to examine the evidence or document or to cross-examine any witness produced by the appellant; or

(b) to produce any evidence or any witness in rebuttal of the additional evidence produced by the appellant.

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(v) The provisions of this rule shall not affect the power of the AA or the Appellate Tribunal to direct the production of any document, or the examination of any witness, to enable it to dispose of the appeal.

9. APPEARANCE BY AUTHORISED REPRESENTATIVE [SECTION 116]

Any person who is entitled or required to appear before a GST Officer or the AA or the Tribunal, in connection with any proceedings under the CGST Act, may appear through authorised representative (except when he is required under the Act to appear personally for examination on oath or affirmation)

(i) Who can be authorized representative?

Broadly an authorised representative can be a relative, a regular employee, an advocate, a chartered accountant, a cost accountant, a company secretary, or a GST Practitioner. It is also provided that specified indirect tax gazetted officers having served for atleast 2 years, can appear as authorised representative after one year from the date of their retirement/resignation.

(ii) Disqualifications for authorized representative

The GST law also provides some disqualifications for an authorised representative. Section 116(3) lays down that no person,—



(a) who has been dismissed or removed from Government service; or

(b) who is convicted of an offence connected with any proceedings under the CGST Act/ SGST Act/ UTGST Act/IGST Act or under the earlier law or under any of the Acts passed by a State Legislature dealing with the imposition of taxes on sale of goods or supply of goods and/or services; or

(c) who is found guilty of misconduct by the prescribed authority;

(d) who has been adjudged as an insolvent,

shall be qualified to represent any person—

(i) for all times in case of persons referred to in clauses (a), (b) and (c); and

(ii) for the period during which the insolvency continues in the case of a person referred to in clause (d).

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(iii) Any person who has been disqualified under the provisions of the SGST Act/ UTGST Act shall be deemed to be disqualified under the CGST Act also.

10. FINANCIAL AND ADMINISTRATIVE POWERS OF PRESIDENT [SECTION 114]

The president shall exercise the prescribed financial and administrative powers over the appellate tribunal.

11. APPEAL TO THE HIGH COURT [SECTION 117]

(i) Appealable orders

The law provides that any person (whether department or other person), aggrieved by any order passed by the State Benches of the Tribunal, may file an appeal to the High Court.



The High Court may admit such appeal if it is satisfied that the case involves a **substantial question of law.**

✪ ***Substantial question generally mean question that must be answered by applying relevant legal principles to interpret the law. This is distinct from a question of fact that must be answered by evaluating the relevant facts or evidences as well as inferences arising from those facts.***

✪ ***Unlike answer to question of facts which are dependent on particular circumstances or factual situations, answers to questions of law being based on legal principles, can be applied to many situations.***

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Recently, the Supreme Court, in the matter of *Nazir Mohamed v. J. Kamala And Ors. on 27 August, 2020* pronounced that to be "substantial", a question of law must be debatable, not previously settled by the law of the land or any binding precedent, and must have a material bearing on the decision of the case and/or the rights of the parties before it, if answered either way.



For instance, the question as regards applicability of an exemption notification to a taxpayer due to two possible interpretations of the notification could be a question of law. Conversely, determination of the quantum of the exemption available to a taxpayer could be a question of fact.

(ii) Time limit for filing appeal

Appeals to the High Court are to be filed within 180 days from the date on which the order appealed against is received by the aggrieved person. However, the High Court has the power to condone the delay on being satisfied of sufficient cause for the same.

(iii) Form of appeal

The appeal shall be filed in form GST APL 08.

(iv) Decision of the High Court

On being satisfied that a substantial question of law is involved, the High Court shall formulate that question, and the appeal shall be heard only on the question so formulated. However, the High Court has the power to hear the appeal on any other substantial question of law, if it is satisfied that the case involves such question.

The High Court shall decide the questions of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit. The High Court may determine any issue which has not been determined by the Tribunal (State Benches) or has been wrongly determined by the State Benches, by reason of a decision on such question of law.

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The Code of Civil Procedure relating to appeals to High Court shall apply to the appeals before the High Court under this section. The appeal shall be heard by a bench of not less than two judges, and the points on which they differ, if any, shall, then, be heard, upon that point only by one or more judges of the High Court. The final judgment on the point shall be decided by majority of all Judges who heard the case, including those first heard it.

Deposit of all tax dues is required to be made; otherwise the inherent powers of the High Court have to be invoked for obtaining a stay pending disposal of the appeal.

12. APPEAL TO THE SUPREME COURT [SECTION 118]

The law provides for appeals to the Supreme Court from **any judgment or order passed by the High Court**, in any case which, on its own motion or on an application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, **the High Court certifies to be a fit one**, for appeal to the Supreme Court.

A (direct) appeal shall also lie to the Supreme Court from any orders passed by the **Principal Bench of the Tribunal.**

The provision of the Code of Civil Procedure relating to appeals to the Supreme Court shall apply to appeals before the Supreme Court under this section.

The Supreme Court can vary, confirm or reverse the judgement of the High Court or the Tribunal as the case may be and may award costs. It can also remand the matter for fresh consideration.

13. SUMS DUE TO BE PAID NOTWITHSTANDING APPEAL ETC. [SECTION 119]

Sums due to the Government as a result of an order passed by the Principal Bench/State Benches of the Appellate Tribunal or the High Court, notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, shall be payable in accordance with the order so passed.

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14. APPEAL NOT TO BE FILED IN CERTAIN CASES [SECTION 120]

In tax disputes, the tax department is always an opposite party. From a practical standpoint, many appeals at the tribunal, High Court, Supreme Court levels are instituted by the tax department.

This section contains provisions that aim at limiting the filing of appeals by the CGST officers in non-complex matters or the matters involving small tax amount. While providing for non-filing of appeal by the CGST officers in certain cases, this section also provides that such steps should not stop the tax department to file appeal in other similar cases.

(i) The Board may, on the recommendations of the GST Council, issue orders or instructions or directions fixing monetary limits for regulating filing of appeal or application by the CGST officer.

(ii) Non-filing of appeal/application by a CGST officer on account of such monetary limits fixed by the Board shall not preclude such officer from filing appeal or application in any other case involving the same or similar issues or questions of law.

(iii) No person, who is a party in application or appeal can contend that the CGST Officer has acquiesced in the decision on the disputed issue by not filing an appeal or application (on account of monetary limits).

(iv) The Appellate Tribunal or Court hearing such appeal or application shall have regard to circumstances for non-filing of appeal or application by the CGST officer on account of monetary limits fixed by the Board.

Clarification regarding monetary limits for filing appeals or applications or Special Leave Petition by the Department before GSTAT, High Courts and Supreme Court[2]

Following monetary limits have been fixed for filing appeals/ applications/ Special Leave Petition by the Department before GSTAT, High Courts and Supreme Court subject to specified exclusions:-

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[2] *Circular No. 207/1/2024 GST dated 26.06. 2024.*

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Appellate Forum	Monetary Limit (amount involved in ₹)
GSTAT	20 Lakh
High Court	1 Crore
Supreme Court	2 Crore

Amount to be considered for applying the monetary limit for filing appeal has been explained in the below table in relation to the category of disputes:-–

S. No.	Dispute pertains to demand of	Amount to be considered for applying the monetary limit for filing appeal
1.	Tax (with or without penalty and/or interest) only	Aggregate of the amount of tax in dispute (including CGST, SGST/ UTGST, IGST and Compensation Cess)
2.	Interest only	Amount of interest
3.	penalty only	Amount of penalty
4.	late fee only	Amount of late fee
5.	Interest, penalty and/or late fee (without involving any disputed tax amount)	Aggregate of amount of interest, penalty and late fee
6.	Erroneous refund	Amount of refund in dispute (including CGST, SGST/UTGST, IGST and Compensation Cess)

Monetary limit shall be applied on the disputed amount of tax/interest/penalty/late fee, as the case may be, in respect of which appeal or application is contemplated to be filed in a case

In a composite order which disposes more than one appeal/demand notice, the monetary limits shall be applicable on the total amount of tax/interest/penalty/late fee, as the case may be, and not on the amount involved in individual appeal or demand notice.

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Exclusions - Monetary limits specified above shall not be applicable in the following circumstances where the decision to file appeal shall be taken on merits irrespective of the said monetary limits:

i. Where any provision of GST law has been held to be ultra vires to the Constitution of India; or

ii. Where any rules/regulations made under GST law have been held to be ultra vires the parent Act; or

iii. Where any order, notification, instruction, or circular issued by the Government or the Board has been held to be ultra vires of the GST law or the Rules made there under; or

iv. Where the matter is related to -

   a. Valuation of goods/services; or

   b. Classification of goods/services; or

   c. Refunds; or

   d. Place of Supply; or

   e. Any other issue, which is recurring in nature and/or involves interpretation of the provisions of the Act /the Rules/ notification/ circular/order/instruction etc.; or

v. Where strictures/adverse comments have been passed and/or cost has been imposed against the Government/Department or their officers; or

vi. Any other case or class of cases, where it is necessary to contest in the interest of justice or revenue.

Non-filing of appeal based on the above monetary limits, shall not preclude the tax officer from filing appeal or application in any other case involving the same/similar issues in which the tax in dispute exceeds the monetary limit or case involving the questions of law.

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15. NON APPEALABLE DECISIONS AND ORDERS [SECTION 121]

Section 121 lays down that no appeals whatsoever can be filed against the following orders:-

(a) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer;

(b) an order pertaining to the seizure or retention of books of account, register and other documents; or

(c) an order sanctioning prosecution under the Act; or

(d) an order passed under section 80 (payment of tax in instalments).

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TEST YOUR KNOWLEDGE

1. *Does CGST law provide for any appeal to a person aggrieved by any order or decision passed against him by an adjudicating authority under the CGST Act? Explain the related provisions under the CGST Act.*

2. *Describe the provisions relating to Departmental appeal to Appellate Authority under section 107.*

3. *With reference to sections 107(6) and 112(8), specify the amount of mandatory pre-deposit which should be made along with every appeal made before the Appellate Authority and the Appellate Tribunal. Does making the pre-deposit have any impact on recovery proceedings?*

4. *With reference to section 108, elaborate whether a CGST/SGST authority can revise an order passed by his subordinates.*

5. *The Appellate Tribunal has the discretion to refuse to admit any appeal. Examine the correctness of the above statement.*

6. *In an order dated 20th August issued to GH (P) Ltd., the Joint Commissioner of CGST has confirmed IGST demand of ₹ 280 crore. The company is disputing the entire demand of IGST and wants to know the amount of pre-deposit it has to make under the IGST Act for filing an appeal before the Appellate Authority against the order of the Joint Commissioner.*

   Assuming that the Appellate Authority also confirms the order of the Joint Commissioner and the company wants to file an appeal before the Appellate Tribunal against the order of the Appellate Authority, determine the amount of pre-deposit to be made by the company for filing the said appeal.

7. *With reference to the provisions of section 121, specify the orders against which no appeals can be filed.*

8. *Mr. A had filed an appeal before the Appellate Tribunal against an order of the Appellate Authority where the issue involved relates to place of supply. The order of Appellate Tribunal is also in favour of the Department. Mr. A now wants to file an appeal against the decision of the Appellate Tribunal as he feels the stand taken by him is correct.*

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You are required to advise him suitably with regard to filing of an appeal before the appellate forum higher than the Appellate Tribunal.

9. *With reference to the provisions of section 120, list the cases in which appeal is not to be filed and also specify other relevant provisions in this respect.*



ANSWERS

1. Yes, any person aggrieved by any order or decision passed by an adjudicating authority under the CGST Act has the right to appeal to the Appellate Authority under section 107. The appeal should be filed within 3 months from the date of communication of such order or decision. However, the Appellate Authority has the power to condone the delay of up to 1 month in filing the appeal if there is sufficient cause for the delay. The appeal can be filed only when the admitted liability and 10% of the disputed tax amount, subject to a maximum of ₹ 20 crore. (₹ 40 crore in case of IGST) is paid as pre-deposit by the appellant.

However, no appeal shall be filed before (AA) against an order under section 129(3), unless a sum equal to 25% of the penalty has been paid by the appellant.

Further, no appeal can be filed against the following orders in terms of section 121:-

(a) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer;

(b) an order pertaining to the seizure or retention of books of account, register and other documents; or

(c) an order sanctioning prosecution under the Act; or

(d) an order passed under section 80 (payment of tax in installments).

2. Section 107(2) provides that Department can file a "review application/ appeal" with the Appellate Authority.

The Commissioner may, on his own motion, or upon request from the SGST/UTGST Commissioner, examine the record of any proceedings in which an adjudicating authority has passed any decision/order to satisfy himself as

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to the legality or propriety of the said decision /order. The Commissioner may, by order, direct any officer subordinate to him to apply to the Appellate Authority within 6 months from the date of communication of the said decision/order for the determination of such points arising out of the said decision/order as may be specified him.

The AA can condone the delay in filing of appeal by 1 month if it is satisfied that there was sufficient cause for such delay [Section 107(4)].

Such application shall be dealt with by the AA as if it were an appeal made against the decision/order of the adjudicating authority [Section 107(3)]. There is no requirement of making a pre-deposit in case of departmental appeal.

3. Section 107(6) provides that no appeal shall be filed before the Appellate Authority, unless the appellant has paid—

(a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(b) a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order, subject to a maximum of ₹ 20 crore. (₹ 40 crore in case of IGST)

However, no appeal shall be filed before (AA) against an order under section 129(3), unless a sum equal to 25% of the penalty has been paid by the appellant.

Section 112(8) lays down that no appeal can be filed before the Appellate Tribunal, unless the appellant deposits

(a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(b) 10% of the remaining amount of tax in dispute, in addition to the amount deposited before the AA, arising from the said order, subject to a maximum of ₹ 20 crore (₹ 40 crore in case of IGST), in relation to which appeal has been filed.

The above limits are applicable for the pre-deposits to be made under the CGST Act. Equal amount of pre-deposit is payable under the respective SGST Act as well.

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Where the appellant has made the pre-deposit, the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.

4. Section 2(99) defines "Revisional Authority" as an authority appointed or authorised under the CGST Act for revision of decision or orders referred to in section 108.

Section 108 of the Act authorizes such "revisional authority" to call for and examine any order passed by his subordinates and in case he considers the order of the lower authority to be erroneous in so far as it is prejudicial to revenue and is illegal or improper or has not taken into account certain material facts, whether available at the time of issuance of the said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, can revise the order after giving opportunity of being heard to the person concerned. The "revisional authority" can also stay the operation of any order passed by his subordinates pending such revision.

The "revisional authority" shall not revise any order if-

(a) the order has been subject to an appeal under section 107 or under section 112 or under section 117 or under section 118; or

(b) the period specified under section 107(2) has not yet expired or more than 3 years have expired after the passing of the decision or order sought to be revised.

(c) the order has already been taken up for revision under this section at any earlier stage.

(d) the order is a revisional order

5. The statement is incorrect.

Though the Appellate Tribunal does have the power to refuse to admit an appeal, it has the discretion of refusing the admission of an appeal in the following specific cases where –

- the tax or input tax credit involved or
- the difference in tax or the difference in input tax credit involved or
- the amount of fine, fees or penalty determined by such order,

does not exceed ₹ 50,000.

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6. Section 107(6) read with section 20 of the IGST Act provides that no appeal shall be filed with the Appellate Authority unless the applicant has paid in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him and a sum equal to 10% of the remaining amount of tax in dispute arising from the said order subject to a maximum of ₹ 40 crore. Thus, the amount of pre-deposit for filing an appeal with Appellate Authority cannot exceed ₹ 40 crore (for tax in dispute) where IGST demand is involved.

In the given case, the amount of pre-deposit for filing an appeal with the Appellate Authority against the order of Joint Commissioner, where entire amount of tax is in dispute, is:

(i) ₹ 28 crore [10% of the amount of tax in dispute, viz. ₹ 280 crore]

or

(ii) ₹ 40 crore,

whichever is less.

= ₹ 28 crore.

Further, section 112(8) provides that no appeal shall be filed with the Appellate Tribunal unless the applicant has paid in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him and a sum equal to 10% of the remaining amount of tax in dispute, in addition to the amount paid as pre-deposit while filing appeal to the Appellate Authority, arising from the said order subject to a maximum of ₹ 40 crores.

Thus, in the given case, the amount of pre-deposit for filing an appeal with the Appellate Tribunal against the order of the Appellate Authority, where entire amount of tax is in dispute, is:

(i) ₹ 28 crores [10% of the amount of tax in dispute, viz. 280 crores]

or

(ii) ₹ 40 crores,

whichever is less.

= ₹ 28 crores.

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7. As per section 121, no appeal shall lie against any decision taken or order passed by a CGST officer if such decision taken or order passed relates to any one or more of the following matters, namely:—

(a) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer; or

(b) an order pertaining to the seizure or retention of books of account, register and other documents; or

(c) an order sanctioning prosecution under the CGST Act; or

(d) an order passed under section 80 (payment of tax in instalments).

8. As per section 117(1), an appeal against orders passed by the State Benches of the Tribunal would lie to the High Court if the High Court is satisfied that such an appeal involves a substantial question of law.

However, appeal against orders passed by the Principal Bench of the Tribunal would lie to the Supreme Court and not High Court. As per section 109(5) of the Act, only the Principal Bench of the Tribunal can decide appeals where one of the issues involved relates to the place of supply.

Since the issue involved in Mr. A's case relates to place of supply, the appeal in his case would have been decided by the Principal Bench of the Tribunal. Thus, Mr. A will have to file an appeal with the Supreme Court and not with the High Court.

9. (1) The Board may, on the recommendations of the GST Council, issue orders or instructions or directions fixing monetary limits for regulating filing of appeal or application by the CGST officer.

(2) Non-filing of appeal/application by a CGST officer on account of such monetary limits fixed by the Board shall not preclude such officer from filing appeal or application in any other case involving the same or similar issues or questions of law.

(3) No person, who is a party in application or appeal can contend that the CGST Officer has acquiesced in the decision on the disputed issue by not filing an appeal or application (on account of monetary limits).

(4) The Appellate Tribunal or Court hearing such appeal or application shall have regard to circumstances for non-filing of appeal or application by the CGST officer on account of monetary limits fixed by the Board.

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