

Preparatory for filing appeal before GSTAT - – Key Aspect & Procedures



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DRAFTING

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Statement of
Facts

- Actual Position

Finding/Dept.
Case

- Basis on which demand is confirmed

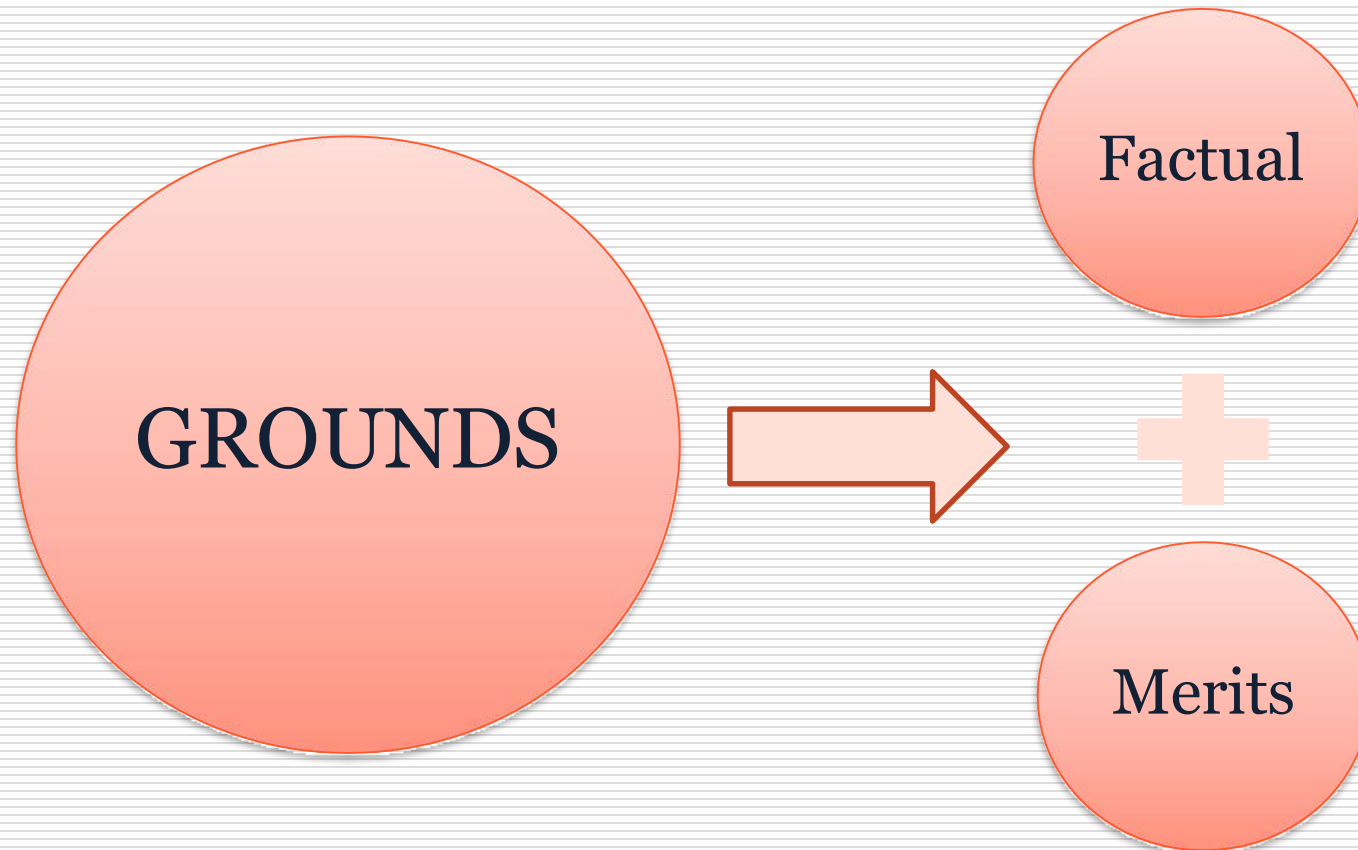
Grounds of
Appeal

- Contentions of Appellant
-

Grounds of Appeal

- ❖ Widest possible grounds should be taken in Appeal.
 - ❖ Grounds of appeal should be simple, clear, precise, concise and without any ambiguity.
 - ❖ In case of more than one issue involved in Appeal, draft separate ground for separate issue.
 - ❖ In case of more than one ground involved in Appeal, preference of grounds should be decided.
 - ❖ Avoid using long sentences.
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GROUNDS



Jurisdiction

DIN

Mode of
service

Limitation
Period

Pre-SCN
consultation

Order
traversing
beyond
SCN

LEGAL - ASPECT

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Non-Speaking

Interpretations

Procedural Lapse

Relevant Provisions

Computation Aspects

COMMON GROUNDS

❖ **PENALTY**

- ✓ *No Mens rea*
 - ✓ *No malafide intention to evade payment of tax*
 - ✓ *No suppression of facts in case of information available in public domain*
 - ✓ *Transaction recorded in books*
 - ✓ *Interpretation issue*
 - ✓ *Contradictory decisions of courts or other appellate authorities.*
 - ✓ *Revenue neutrality*
 - ✓ *Assessee is a Government Organisation*
-

Miscellaneous

- ❖ File condonation of delay in case appeal is not filed on time.
- ❖ Pay proper fee to be paid when appeal is filed to Tribunal
- ❖ Whether tax which is self – assessed or which has been collected from the recipient has been deposited.
- ❖ If required, deposit under protest.
- ❖ Mention page no each page including the annexures attached.
- ❖ Proviso to Section 116 inserted but yet to be notified. Appeal against seizure of goods and vehicle 25% of penalty to be paid
- ❖ Reference from the favourable circulars issued by the department.
- ❖ Request for additional grounds
- ❖ Opportunity of being heard is a matter of right but to be specified [Section 75 (4)]
- ❖ Only 3 adjournments can be sought on the basis of sufficient cause [Section 75 (5)].
- ❖ Ensure that all enclosures are legible.

Miscellaneous

- ❖ Make an Index clearly showing all the documents attached.
 - ❖ Whether amount deposited by the assessee has been appropriated.
 - ❖ External evidences are more reliable than internal.
 - ❖ To be drafted on exhaustive basis and all grounds should be taken 'without prejudice to each other'.
- ❖ Time limits are required to be strictly followed:
 - Appellate Authorities: Within 3 months (+ 1 month)
 - Appellate Tribunals: Within 3 months (+ 3 months COD)
 - Maximum 3 adjournments can b sought from Appellate Authority.
 - ❖ Commissioner Appeal Order passed by Addl. Commissioner / Joint Commissioner
 - ❖ Joint Commissioner Appeal – Order passed by AC/DC/Suptd.

Miscellaneous

❖ To be Filed in prescribed formats:

- ✓ Appellate Authority: GST APL – 01
- ✓ Appellate Tribunal: GST APL – 05

❖ Pre-deposit required for filing of appeals:

- ✓ Appellate Authority: 10% of Tax in dispute (Max Rs 50 Cr)
- ✓ Appellate Tribunal: 20% of Tax in dispute (Max Rs 100 Cr)
- ✓ Admitted liability to be deposited in full

❖ All the grounds taken in SCN should be taken in Appeal as well.

❖ Additional Grounds on the basis of discussion and findings.

❖ Address all the findings recorded by the authority.

❖ Try to provide evidences in respect of all your submissions.

❖ Remember to rebut all the case laws relied upon by the authority.

❖ Ensure politeness but firmness in all communications with tax authorities.

ADDITIONAL GROUNDS

- ❖ **Additional Legal Ground can be added at the discretion of Appellate Authority [Sec. 107(10)]**
- ❖ **Additional evidence before Appellate Tribunal [Rule 112]:**
 - ✓ *Adjudicating/Appellate Authority refused to admit*
 - ✓ *Applicant was prevented by the sufficient cause*
 - ✓ *Order passed without giving opportunity of being heard*
 - ✓ *Reasons to be recorded in writing*
 - ✓ *Can suo moto call for any evidence*
- ❖ **The Appellate Authority can accept the additional grounds which are not included in the Grounds of Appeal at the time of hearing.**
- ❖ **However, such addition shall be allowed to make only if the Appellate Authority is satisfied that omission of that ground was not willful.**

Representation before the Authorities

- ❖ Prepare short notes that would help you while appearing before the adjudicating authority/ appellate authority.
- ❖ Explain the entire case to the Authority and your submissions in respect of the same.
- ❖ Do not rush to the conclusion.
- ❖ Prepare a synopsis of your appeal which should be crisp and short. These synopses are particularly more helpful during e-appeal.
- ❖ Speak slowly and softly but firmly.
- ❖ Should be very careful in voice modulations.
- ❖ Stress more on the points that are directly in your favour.
- ❖ A compilation of statutory provisions, circulars and case laws which you wish to rely upon with proper indexation should be handed over.

Memorandum of cross objection (MOCO)

□ **Party against whom an appeal is filed may file MOCO u/s 112(5) of CGST Act.**

❖ In *State of Tamil Nadu vs. TVL Jevan Lal Ltd.* reported as 1997(91) E.L.T. 268(S.C.)-Hon'ble Supreme Court has, inter alia, held that if one party files appeal against part of the order which is against him, other party can file cross objections in respect of part of order which is against him, as the entire order comes within the purview of Appellate Authority.

❖ In *CCE vs. Godrej & Boyce Mfg. Co. Ltd.* reported as (2009) 233 E.L.T. 446 (Bom. HC DB), it was inter alia held that even if appeal was not filed, cross objection can be filed. Cross objection is treatable as appeal against that part of order only against which no appeal has been preferred.

Memorandum of cross objection (MOCO)

- ❖ MOCO should be filed within 45 days of receiving the notice that appeal has been filed.
- ❖ GSTAT can condone the delay for a maximum period up to 45 days on the sufficient cause.

- ❖ In *CCE vs. Godrej & Boyce Mfg. Co. Ltd.* reported as (2009) 233 E.L.T. 446 (Bom. HC DB), it was inter alia held that even if appeal was not filed, cross objection can be filed. Cross objection is treatable as appeal against that part of order only against which no appeal has been preferred.

Department Appeal / Writ Jurisdiction

- ❖ Department can also file an appeal against an order.
- ❖ Department can file an appeal to the Appellate Authority within 6 + 1 months from the date of communication.
- ❖ Department can also file an appeal to GSTAT within 6+ 3 months from date of communication.
- ❖ Writs can be filed to High Court as per Article 226 of the Constitution of India.
- ❖ A writ can be filed:
 - When the vires of the act is required to be challenged.
 - When there is a violation of principle of natural justice.
 - Where the alternative remedy is onerous or burdensome or inadequate
 - The order or proceedings are wholly without jurisdiction;
 - A writ petition cannot be filed in case where alternatively suitable equally efficacious remedy is available to the party.

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❖ *Oryx Fisheries Pvt. Ltd. v. Union of India — 2011 (266) E.L.T. 422 (S.C.)* If on a reasonable reading of a show-cause notice a person of ordinary prudence gets the feeling that his reply to the show cause notice will be an empty ceremony and he will merely knock his head against the impenetrable wall of prejudged opinion, such a show cause notice does not commence a fair procedure especially when it is issued in a quasi-judicial proceeding under a statutory regulation which promises to give the person proceeded against a reasonable opportunity of defense.

❖ The latest judgment of the Hon'ble Supreme Court in the case of *M/s Radha Krishan Industries 2021 (4) TMI 837 - SUPREME COURT* can also be referred in this regard.

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Major Documents in Filing First Appeal

Facts of the Case

Grounds of Appeal

Relied upon Documents

GST APL – 01

Annexure to APL-01

Major Considerations in Drafting the ‘Facts of the Case’

About the Supplier & Business Profile

Chronology of events happened

Clean Facts and No Mixing of Grounds with Facts

Reference to ASMT-10, SCN etc.

Reference to Submissions and Personal Hearing

Reference to finding by Adjudicating Officer &

Order

12/22/2025

Major ‘Technical/Legal’ Grounds in Filing Appeal

Jurisdiction

Limitation Period

Opportunity of Being Heard

Speaking Order

Consideration of all Reply/Documents Submitted

Challenge of ‘Vires’ – Act, Rule, Notification

Few practical aspects while drafting the Appeal before First Appellate Authority

- **Following steps would be of use while drafting the appeal:**
- ❖ Discussion with the client on the nature of business, collection of documents like returns, supporting documents like invoices, challans, on which reliance is placed.
- ❖ Discussion with client on strong and weak areas in the order and intimating the client the chances of success in each of these areas and the exposure involved.
- ❖ Comparison of tax demanded, tax as per returns and tax as per books. Remittance of 10% of the disputed tax.
- ❖ Remittance of undisputed tax.
- ❖ Drafting should be in a chronological order which would facilitate easy comprehension by the Appellate Authority.
- ❖ Preparation of Form APL-01 with disputed amounts with break-up of individual issues.

Few practical aspects while drafting the Appeal before First Appellate Authority

❑ **Facts of the case should contain brief details of**

- ❖ 1. Dealer (hereinafter referred to as Appellant).
- ❖ 2. Dealer's nature of business.
- ❖ 3. Details of inspection, statements given, notice served, reply to notice, points dropped by authority after considering the reply, taxes paid at the stage of reply to notice and finally the points raised in the order.
- ❖ 4. The detailed facts of the case including the facts not brought out at the stage of replying to the notice.
- ❖ 5. The statement of facts should not be argumentative and should be supported by documentary evidence.
- ❖ The facts should only narrate the sequence of events and circumstances leading to the appeal.
- ❖ The documents annexed to the appeal should support the facts narrated by the appellant.
- ❖ 6. The issues and demands raised should match the break-up of disputed amounts mentioned in the Form of Appeal.

Few practical aspects while drafting the Appeal before First Appellate Authority

- ❑ **The Grounds of Appeal should bring out the following:**
- ❖ 1. Capitalise on errors contained in the order like failure of Assessing Authority to enter findings though tax has been demanded.
- ❖ 2. The grounds should support the facts narrated. There should be simplicity of language, clarity of expression, short sentences, brevity and concise form of pleadings.
- ❖ 3. Case laws should be cited wherever required.
- ❖ Only relevant case laws should be given along with gist of the relevant paragraphs in the case law. Thorough research should be made to find the relevance to the current case. In case there are many supporting case law, the same can be listed under a separate annexure.
- ❖ 4.

Jindal Pipes Ltd. v. State of U.P.

[2020] 114 taxmann.com 467/78 GST 248/ 34 GSTL 48 (All.)

- Learned counsel for the petitioner has submitted that in the counter affidavit in paragraph 5, it had been admitted that order for depositing ₹ 2,79,397.48 was served upon the driver of the vehicle, Sri Narendra Kumar who was a driver of the transport agency and, therefore, the order was neither served on the consignee nor on the consignor. Learned counsel relied upon a judgment of this Court reported in S/S. Patel Hardware v. Commissioner of State GST [2021] 127 taxmann.com 284/[2019] 21 GSTL 145 (All.) wherein it has been specifically held that the order by which tax was levied and the penalty was imposed had to be served upon a person who was likely to be aggrieved by the order. It specifically holds that the driver was not a “person aggrieved” to whom the order ought to have been communicated and, therefore, the order definitely was not served upon a person who was likely to be aggrieved and, therefore, learned counsel for the petitioner submits that the appeal which was filed on 6.3.2019 was well within the limitation provided by section 107 of the Act.
- Having heard the learned counsel for the petitioner and the learned Standing Counsel, I am of the view that the order was served on the driver and, therefore, was definitely not served on a person who would have been aggrieved by the order and, therefore, the service on the driver was no service at all.

Meritas Hotels (P.) Ltd. v. State of Maharashtra , 2021] 133 taxmann.com 222/[2022] 89 GST 453
(Bom.)

18. In the light of the above discussion, we are of the considered opinion that it was incumbent upon the petitioner to file the appeal within the statutory period of limitation prescribed by subsection (1) and sub-section (4) of Section 107 of the said Act, to be reckoned taking into consideration the date of communication of impugned assessment order as April 20, 2019, which the petitioner failed to do. Consequently, we find n merit in the writ petition .The writ petitio is dismissed with no order as to costs.

Modern Steel v. Addl. Commissioner

Citation: [2023] 156 taxmann.com 452 (All.)

- **Held: 12.** Now coming to the second issue as to the period of extension of limitation for filing the appeal, this Court finds that no plausible ground has been taken in the appeal filed by the assessee for condoning the delay except that the earlier counsel, to whom papers were handed over, did not file the appeal and by mistake the delay had occurred. Moreover, Section 107(4) of the Act provides that the Appellate Authority may, if satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three or six months, as the case may be, allow it to be presented within further period of one month. Once it is found that limitation period having been prescribed in the statute had expired, the Appellate Authority rightly proceeded to dismiss the appeal.

Penuel Nexus (P.) Ltd. v. Addl. Commissioner
[2023] 152 taxmann.com 208/98 GST 957/75 GSTL 582 (Ker.)
Date of Order: 13-06-2023

- Held: 10. The Central Goods and Services Tax Act is a special statute and a self-contained code by itself. Section 107 has an inbuilt mechanism and has impliedly excluded the application of the Limitation Act. It is trite, that the Limitation Act will apply only if it is extended to the special statute. It is also rudimentary that the provisions of a fiscal statute have to be strictly construed and interpreted.
- 11. On an appreciation of the language of Section 107(4) and the above analysed factual and legal background, this Court is of the view that there is no illegality in the action of the 1st respondent in rejecting the appeal as time-barred.

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Appeal to Appellate Authority of Advance Ruling

GSTAT Procedures – Power and Function

❑ Rule 10. Inherent Powers: GSTAT

- ❖ retains inherent powers to pass orders or directions as may be necessary to secure the ends of justice or prevent abuse of its process. These powers ensure flexibility and fairness in the Tribunal's proceedings.

- ❑ Rule 12: Listing of Cases: Urgent matter to be filed before 12 noon shall be listed in the next day. After 12 noon to 3 Pm will be listed with permission of GSTAT or President

❑ Rule13. Power to Exempt:

- ❖ has the power to relax or waive certain procedural rules if a party provides a valid reason. It can also issue necessary directions related to the procedure or practice to ensure fair and just outcomes.

Rule 14. Power to Extend Time:

- ❖ may, at its discretion, extend any time limit prescribed by rules or set by its own orders. This extension can be granted even after the expiry of the original period, provided it serves the interest of justice and is deemed reasonable by the Tribunal.

GSTAT Procedures – Power and Function

❑ Rule 16. Power of Adjournment: GATAT

- ❖ Requests to postpone a hearing should usually be made before the concerned Bench. However, in exceptional situations, the Registrar may adjourn a matter—if directed by the Tribunal—and present it to the Tribunal in chambers.

❑ Rule 17. Delegation powers of the president:

- ❖ (1) The President of the Tribunal can delegate certain responsibilities to the Vice-President of a State Bench as needed under the rules.
- ❖ (2) The President may also assign some or all duties of the Registrar to other officers such as a Joint Registrar, Deputy Registrar, Assistant Registrar, or any other suitable official.

Institution of appeals - Procedure.
As per the Rule 18 of GSTAT Procedure Rules, 2025

◆	Mode of Filing: Appeal to the Appellate Tribunal must be filed online on the GSTAT Portal in the prescribed Form under the Rules [GST APL-05].
◆	Contents of the Appeal:
(a)	Cause title must state: "In the Goods and Services Tax Appellate Tribunal" and mention the order/proceeding challenged.
(b)	The appeal must be in numbered paragraphs, each covering a separate fact, point, or allegation.
(c)	Include full name, parentage, GSTIN, party description, and address at the beginning.
(d)	Parties must be listed with consecutive numbers; if a party dies during proceedings, legal heirs are shown using sub-numbers.

Institution of appeals - Procedure.

As per the Rule 18 of GSTAT Procedure Rules, 2025

Filing Matrix Based on SCNs, OIOs & OIAs - Rule 18 of GSTAT Procedure Rules, 2025

SCNs	OIO	OIA	Appeal before GSTAT
Single SCN	Single OIO	Single OIA	Single Appeal
Multiple SCNs	Multiple OIOs	Single OIA	Multiple - Separate appeal against each OIO (Irrespective of number of OIA)
Multiple SCNs	Single OIO	Single OIA	Single Appeal
Single SCNs (covering multiple parties)	Single OIO (covering multiple parties)	Separate OIA for each party	Separate appeal to be filed by respective person covered in the proceeding
Single SCNs (covering multiple parties)	Multiple OIOs (separate party wise)	Separate OIA for each party	Separate appeal to be filed by respective person covered in the proceeding

Institution of appeals - Procedure.

- **Date of Filing (Rule 19 of GSTAT Rules)**
- ❖ When an appeal is filed manually, the Registrar (or an authorized officer) the officer shall endorse on every Form of appeal the date on which it is presented or deemed to have been presented and shall sign the endorsement.
- **Contents of an appeal Form (Rule 20 of GSTAT Rules):** Every form of appeal shall contain:
 - ❖ **Grounds of Appeal [GA] specified concisely and under distinct heads.**
 - ❖ GA and such grounds shall be numbered consecutively and shall be typed in double space of the paper.
 - ❖ **Format:** Use A4-size paper, double-spaced, neatly typed, and properly paged, indexed, and tagged in a folder.
 - ❖ This applies to **appeals, cross-objections, stay applications, or other miscellaneous applications.**
 - ❖ **Verification:**
 - ❖ The appellant, applicant, respondent, or their authorized representative must sign and verify the form of Appeal.
 - ❖ Any documents submitted must be certified as true copies by the person signing the form.
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Institution of appeals - Procedure.

Rule 21-Documents to Accompany Form of Appeal:

- ❖ **Certified Copy of the Order:** Where copy of the order appealed against, where the original order is passed by the adjudicating authority;
- ❖ **Where the order is passed in appeal or revision:**
 - ❖ certified copy of the order passed in appeal or revision; Order of the original authority;
 - ❖ All the relevant documents including relied upon documents;
 - ❖ Where an Appeal is filed by the department, an Attested copy of the original order shall be furnished instead of a certified copy
- ❖ **Payment of fee** [Rule 110(5) of CGST/SGST/ UTGST Rules, 2017] online and a final acknowledgment shall be issued by the GSTAT Portal
- ❑ **If the Appeal Form is not accompanied** by the specified documents then the Registrar or any other authorised officer shall have the power to return the document and receive the same back only when then the defect is rectified;
- ❖ **GSTAT may ask** the appellant or respondent to provide extra copies of documents at their own cost.
- ❖ **Attestation:** Documents can be attested by a gazetted officer or another person authorized by the President of the GSTAT to ensure their authenticity.

Rule -22: Endorsement and verification

- ❖ Every appeal and its supporting documents must include the **name and signature of the authorized representative (if applicable)**.
- ❖ Every appeal or pleadings shall be signed and verified by the concerned party.

Rule -23: Translated Documents

- ❖ A document other than English language shall be accompanied by a translated copy in English.
- ❖ Such translated copy shall be agreed by both the parties or certified to be a true translated copy by the authorised representative.
- ❖ The Proceedings shall not be initiated unless all documents are translate into English.

❑ **Rule -24: Endorsement and scrutiny of the petition or appeal or document**

- ❖ **Scrutiny Process:** documents found defective shall be returned for compliance-7 days and for non-compliance within specified time, such documents shall be placed before the Registrar for appropriate orders.
- ❖ additional time up to 30 days for corrections on reasonable ground;
- ❖ Failure to remove the defect within specified time then for reasons to be recorded in writing, decline to register the appeal or pleading or document.

- ❖ **Listing of defect:** non removal of defects shall be listed with defects for hearing before the appropriate bench of the Tribunal and the Bench may, **after hearing the party, accept to register** the appeal or may reject the same.

- ❖ **Rule – 25: Registration of admitted appeals**

- ❖ Once the appeal is complete and accepted, the assigned with a unique number and recorded in the Tribunal's register.

Rule-26: Ex-parte amendments

- ❖ Any arithmetical, grammatical, clerical or similar error may be rectified on the orders of the Registrar without notice to Parties.
- ❖ However, no amendments shall be allowed ex-parte after the appearance of the respondents.
- ☐ **Rule -27: Calling for records**
- ❖ On admission of appeal, the Registrar may, if directed by the Tribunal, call the records relating to the proceedings from the respective Bench of Appellate Tribunal or adjudicating authority.
- ❖ The records shall be returned after the appeal is concluded.

☐ **Rule-28: Production of authorization for and on behalf of an applicant or respondent or party**

- ❖ Where an appeal is filed on behalf of an applicant or respondent or party, the person who signs or verifies such documents shall also present a true copy of authorization letter empowering such person to do so.

☐ **Rule -29: Filing Interlocutory Applications**

- ❖ Every interlocutory application for stay, direction, rectification, condonation, early hearing, exemption from production of copy of order or extension of time prayed for in pending matters shall include all the information as per the prescribed GSTAT FORM-01 and the requirements prescribed in that behalf shall be complied with by the applicant, besides filing an affidavit supporting the application

❖ **Rule -30: Procedure on production of defaced, torn or damaged documents.**

❖ document is torn, defaced, or damaged, the party submitting it must **note its condition in the appeal's index and receiving officer** shall verify and put initials on such document.

❖ **Rule-31: Grounds for the Appeal (Rule 31)**

❖ **appellant shall not heard on any ground not set forth in the Form of appeal;**

❖ **the Appellate Tribunal shall not be confined to the grounds set forth in the Form of appeal;**

❖ **Tribunal shall not rest its decision on any other grounds unless the party who may be affected thereby has had a sufficient opportunity of being heard on that ground.**

❖ **Rule-32: Rejection or amendment of Form of appeal: The Registrar**

❖ **may accept form of appeal with incomplete documents and may require the appellant to file remaining documents within 30 days;**

❖ **may reject the Form of Appeal, if the documents are not furnished within specified time;**

❖ **The President or any other authorised person may allow the documents to be refiled after removal of the defects in the specified**

❑ **Rule -33: Who may be joined as respondents**

❖ **Taxpayer's Appeal:** the concerned Commissioner is named as the respondent.

❑ **Department appeals:** other party involved is named as the respondent.

❖ **Rule-34:Endorsing copies to the party**

❖ Copy of appeal and other relevant documents shall be sent to the respondent and the concerned Commissioner to ensure transparency.

❑ **Rule-35: Filing of reply and other documents by the respondents**

❖ Respondent may furnish reply to the petition or the application within 1 month of the receipt thereof.

❖ Copy of such reply and the copies of other documents shall be forthwith served on the applicant by the respondent.

❖ **The appellant shall admit, deny, or rebut the facts** stated by the respondent in his submission and state such additional facts as may be found necessary.

❖ **Rule-36:Filing a Rejoinder (Rule 37)**

❖ **Petitioner to file a rejoinder to the reply** filed by the respondent on the GSTAT portal, **with an advance copy to be served upon the respondent within one month or within such time as may be specified or extended by the Bench.**

GSTAT - Hearing and Proceedings

- **Rule -38: Preparation and display of cause list:**
- Preparation of next day's cause list with full details and displays it on the Tribunal notice board and GSTAT portal.
- the list follows a prioritised order (e.g., pronouncements, clarifications, admissions) and includes case titles, party names, and representatives.
- **Rule -12: Listing of cases:** Any urgent matter filed before 12:00 noon shall be listed on the next working day, provided it is complete in all respects as per these rules.
- In exceptional cases, filings made between 12:00 noon and 3:00 p.m. may also be listed on the following day, subject to specific permission from the Tribunal or the President.
- **Hybrid model for hearings:** Hearings may be conducted in physical mode, or in electronic mode with the prior approval of the President.

GSTAT - Hearing and Proceedings

Order of hearing:

- ❖ On the scheduled day, the appellant is heard first, followed by the respondent, if found necessary by the Tribunal.
- ❖ The appellant shall be entitled to reply to the respondent's arguments.

Grant adjournments:

- ❖ Adjournments should generally be requested before the concerned bench.
- ❖ However, in exceptional cases, the Registrar may adjourn a matter if directed by the Appellate Tribunal (in chambers) and place it before the Tribunal accordingly.

Default by appellant:

- ❖ If the appellant does not appear, the Tribunal may dismiss the appeal or decide on merits.
- ❖ If later justified, the dismissal may be set aside and the appeal restored.

- Ex Parte hearings:** If the respondent fails to appear, the Tribunal may proceed ex parte and decide the appeal based on available submissions.

GSTAT - Hearing and Proceedings

- ❑ **Admission of further evidence:**
 - ❖ Parties cannot introduce new evidence unless the Tribunal, for reasons to be recorded, finds it essential or if prior authorities did not allow sufficient opportunity to present evidence.
 - ❖ The Tribunal may direct that such evidence be produced before it or another authority.
- ❑ **Evidence by affidavit:**
 - ❖ may accept affidavits as evidence and permit cross-examination, including via video conferencing, if necessary for fair adjudication.
- ❑ **Confidential witness examination (In-camera proceedings):** The Tribunal has discretion to examine witnesses privately (in camera), if deemed necessary.
- ❑ **Form of oath:** Witnesses are administered an oath or affirmation to speak the truth in a prescribed format invoking truthfulness.
- ❑ **Suo Motu summoning (Tribunal's power to summon documents):**
 - ❖ Tribunal may on its own issue summons for production of public or official documents in custody of public officers.

GSTA- Orders and Pronouncements

- ❑ **Power to extend time:**
 - ❖ has the authority to extend the time prescribed by the rules or fixed by an order, for performing any act or proceeding.
 - ❖ can be done even if the request for extension is made after the expiration of the initially allowed time, provided the justice of the case warrants it.
- ❑ **Disposal of cases:** Upon receiving appeals or petitions, the Tribunal will hear the parties and decide appropriately. It may summarily dismiss an appeal if it is of the opinion that no sufficient grounds exist, with reasons recorded.
- ❑ **After hearing the matter, the Tribunal can:**
 - ❖ •Agree with the earlier decision,
 - ❖ •Make changes to it,
 - ❖ •Cancel it completely, or
 - ❖ •Send the case back to the previous authority (like the officer who gave the decision or the appellate/revisional authority) with instructions on what to do next.

GSTA- Orders and Pronouncements

□ Pronouncement of order:

- ❖ Orders to be pronounced within thirty days (30) of the final hearing (excluding holidays).
- ❖ order must be signed, dated, and a certified copy provided to the parties.
- ❖ Orders can be transmitted to courts for enforcement and must bear the Tribunal's seal.
- ❖ If the order is reserved, the date of final order will be the date on which the order is pronounced.
- ❖ If the order is dictated, the date of dictation will be the date of the final order.

- In cases where gist of the decision is pronounced without the detailed order, last paragraph of the detailed order shall specify the date on which gist of the decision was pronounced and in such cases **date of the final order shall be the date on which the order was signed.**

□ Power to impose costs: The Tribunal

- ❖ may impose costs on a defaulting party at its discretion.
- ❖ may order one party to pay the legal expenses of the other, especially in cases of misconduct or abuse of the court process.

GSTA- Other Miscellaneous provisions

Attestation of affidavits:

- ❖ Affidavits must be sworn before an advocate or notary who affixes their official seal.

Verifying identity of deponent:

- ❖ If unknown to the attester, the deponent's identity must be certified by someone who knows them, with a signature added for authentication.

Annexures to affidavit:

- ❖ Documents attached to affidavits must be marked as annexures by the attester with proper endorsement and signature.

Empanelled experts (Panel of special representatives):

- ❖ Tribunal can empanel experts or representatives for assistance during proceedings.
- ❖ Their remuneration will be determined in consultation with the Tribunal.

GSTAT- Rule 38 – Daily Cause List

- ❑ **Cause List:** The Registrar shall prepare the cause list for the next working day in accordance with GSTAT CDR-01 and ensure its publication on the notice board of the Appellate Tribunal and the GSTAT Portal before the close of working hours each day.
- ❑ **Powers and Function**
 - ❖ When a case is taken to the GST Appellate Tribunal, it listens to both sides – the taxpayer and the department – before making a decision.
- ❑ **After hearing the matter, the Tribunal can:**
 - ❖ ●Agree with the earlier decision,
 - ❖ ●Make changes to it,
 - ❖ ●Cancel it completely, or
 - ❖ ●Send the case back to the previous authority (like the officer who gave the decision or the appellate/revisional authority) with instructions on what to do next.

Key Legal Conflicts Between GSTAT Rules and the CGST Act

Issue	What the CGST Act Says	What the GSTAT Rules Says	Conflict /Problems
<u>Scope of Appeal (Section 112 vs Rule 21(1))</u>	Only Appellate (u/s 107) or Revisional Orders (u/s 108) can be appealed before GSTAT.	Rule 21(1) asks for a copy of the original order, adjudication implying direct appeals from OIOs.	Misleading drafting — could cause defective filings, registry confusion, and litigation.
<u>Differing Bench Opinions (Section 109(9) vs Rule 50)</u>	If Members differ, matter must go to a third Member for majority decision.	Rule 50 gives President power to refer to a Larger Bench — not allowed by the Act.	Rule overrides the statute, creating jurisdictional issues and violating legislative intent.
<u>Drafting Flaw in GSTAT Rule 40(2)</u>	Rule 40(2) of the GSTAT Rules delivers a drafting disaster — a clause that override itself while being written: "Notwithstanding anything contained in sub-rule (1) and sub-rule(2)"	Rule 40(2) of the GSTAT Rules delivers a drafting disaster — a clause that override itself while being written: "Notwithstanding anything contained in sub-rule (1) and sub-rule(2)"	A non-obstante clause is meant to override other provisions, not the clause it's part of.

Dress Code of AR before GSTAT

For Male Advocates:

- ❖ **White shirt with a stiff or soft collar**
- ❖ **White bands (neckband)**
- ❖ **Black trousers**
- ❖ **Black coat or blazer**
- ❖ **Black formal shoes.**

Female Advocates:

- ❖ **White saree or white trousers/skirt with white blouse or shirt**
- ❖ **White neckband**
- ❖ **Black coat or blazer**

Male Authorised Representative:

- ❖ **Close-collared black coat, or**
- ❖ **Open-collared black coat, with White shirt and black tie**

Female Authorised Representative:

- ❖ **Black coat over a white sari, or**
- ❖ **Black coat over any other white dress**

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Q&A

