

(Statutory body under an Act of Parliament)

Tax Research Department

#### **Practical Approach:**

#### Filing an Appeal against Demand Order

- Pre-conditions to file an appeal: Order must be passed by the adjudicating authority for a taxpayer to file an appeal to the Appellate Authority.
- ❖ Any taxpayer whether <u>registered or not</u> can file an <u>appeal</u> if he/she is unhappy with the decision of the adjudicating authority.
- ❖ The appeal must be filed within 3 months from the date on which such order was communicated to the taxpayer.

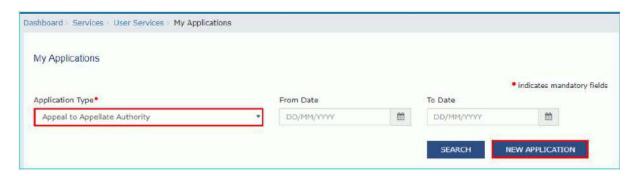
# Steps to file the First Appeal against Demand Order:

**Step 1:** Log in to the GST portal.

Step 2: Go to Services>User Services>My applications



**Step-3:** On the 'My Applications' page, select application type as 'Appeal to Appellate Authority' and then click on 'New Application'.



The 'GST APL-01-Appeal to Appellate Authority' page will be displayed.

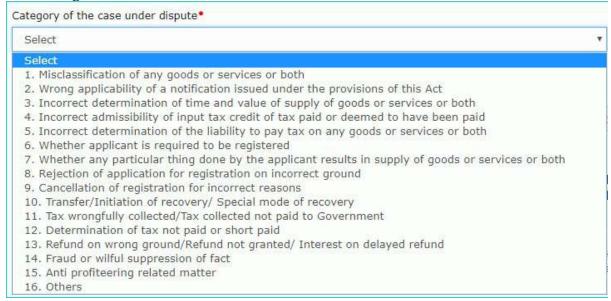
**Step 4:** Select the order type as 'Demand Order' and enter the order number. Click on search.

| Dashboard   Services   User Services   My Ap | plications New Application           | Q                            | <b>English</b> |  |  |  |  |  |  |  |  |  |
|--|--------------------------------------|------------------------------|----------------|--|--|--|--|--|--|--|--|--|
| GST APL-01:Appeal to Appellate Authority     |                                      |                              |                |  |  |  |  |  |  |  |  |  |
| GSTIN/Temporary ID/UIN -<br>07AJIPA1572E01X  | Legal Name - ANGAD JASBIRSINGH ARORA | Trade Name - AutomationsTest |                |  |  |  |  |  |  |  |  |  |
| Address - 1, MG, ECITY, Central Delhi, Delhi | , 110019                             |                              |                |  |  |  |  |  |  |  |  |  |
| Order Type*                                  | Order No*                            |                              |                |  |  |  |  |  |  |  |  |  |
| Select                                       | •                                    | SEARCH                       |                |  |  |  |  |  |  |  |  |  |

**Step 5:** Select the one or more categories of the case under dispute from the drop-down list and click on add.



#### Following is the list of cases:



**Step 6:** Upload annexure to GST APL-01- Click on the 'click here' link on the order page.



The GST APL-01 template will be downloaded. Click on the 'Enable Editing' button and update the details in the annexure.

# Annexure to FORM GST APL-01

#### Appeal to Appellate Authority

- 9. Details of the case under dispute -
- (i) Brief issue of the case under dispute -
- (ii) Description and classification of goods/ services in dispute-
- (v) Market value of seized goods -
- 10. Whether the appellant wishes to be heard in person Yes / No
- 11. Statement of facts-
- 12. Grounds of appeal -
- 13. Prayer -
- 16. Whether appeal is being filed after the prescribed period Yes / No
- 17. If 'Yes' in item 16-
  - (a) Period of delay -
  - (b) Reasons for delay -

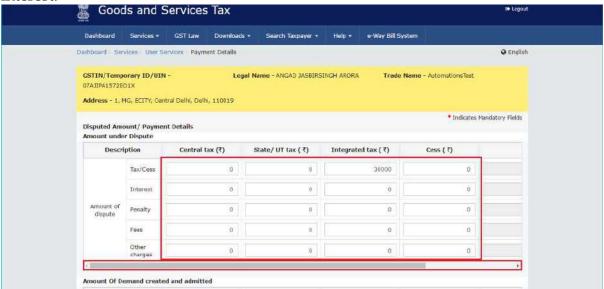
Note: Please convert the word file into PDF and upload while filing appeal online

Save the updated file as 'AplAnnexureTemplate.pdf' and upload the same.

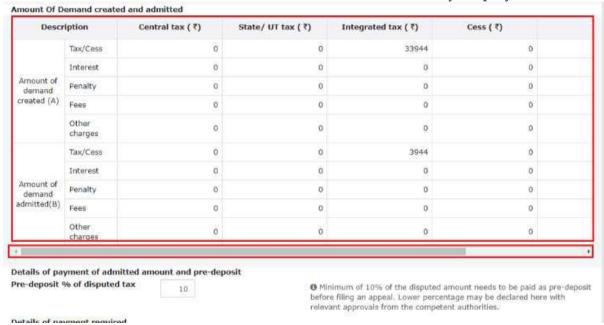
**Step 7:** Update the disputed amount/payment details by clicking on the 'Disputed amount/Payment details' button on the order page.



1. Enter the amount under dispute by classifying it as per the tax head, late fee or interest.

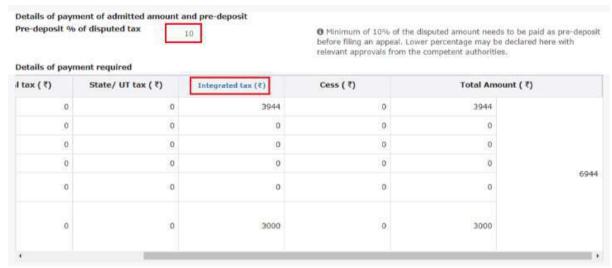


2. The amount of demand created and admitted is automatically displayed.



Note: Demand admitted = Demand created - Amount disputed. Hence, the amount of dispute cannot be more than the demand created.

3. Enter the percentage value of the pre-deposit going to be paid, which is by default a minimum of 10% of the amount disputed.



A lower percentage needs approval from the authority. Accordingly, the 'Details of Payment required' table is auto-filled.

4. Enter the place of supply details for the amount of demand admitted. For this, click on hyperlink 'Integrated Tax' as follows:



5. Pay using the <u>cash or ITC</u> lying in the electronic ledger: The taxpayer can make the payment by either utilising the cash or the balance of ITC available for utilisation in the ledger.

**Step 8:** Add supporting documents if needed. Enter the document description and then choose the file for upload. Follow the criteria given in the below image:

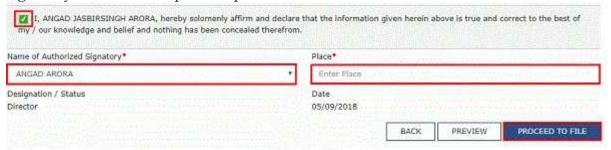


**Step 9:** An applicant can preview the application filed by clicking on the 'Preview' button.



The PDF file will be downloaded. The applicant views whether the details are correctly updated and then proceed to file.

**Step 10:** Proceed to file – Select the declaration checkbox. Then select the authorised signatory and enter the place to proceed to file.



Click submit and proceed to file with DSC or EVC. On successful submission, a confirmation message will be displayed.

Step 11: Provisional Acknowledgement will display

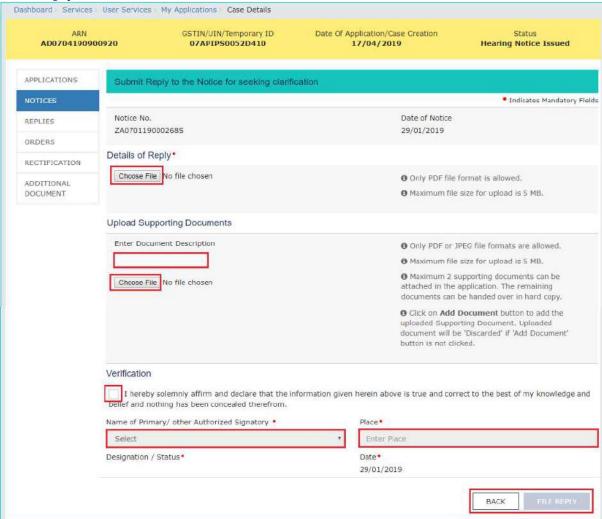


# Steps to file Reply during an Appeal Proceeding

The Appellate Authority may begin proceedings and hearing for the disposition of the appeal or may summon the appellant during the review of the tax department's application for an appeal. A taxpayer needs to follow the below steps to reply during an appeal proceeding: **Step 1:** Log in to the <u>GST portal</u> and navigate to Services>User Services>View Additional Notices/Orders. **Step 2:** On the case details page of the particular Case ID, select the notice tab and then click on reply.



A 'Submit a reply to the notice' page will open. **Step 3:** Upload the reply file, upload the supporting documents, check the verification checkbox and then click on the 'File Reply' button.



A warning message will pop-up. Click proceed and then submit with DSC or EVC.

An acknowledgement will pop-up on successful upload of reply.



# Steps to file a Rectification Request of an Appeal

**Step 1:** Login to the <u>GST portal</u>. **Step 2:** Navigate to Services>User Services>View Additional Notices/Orders



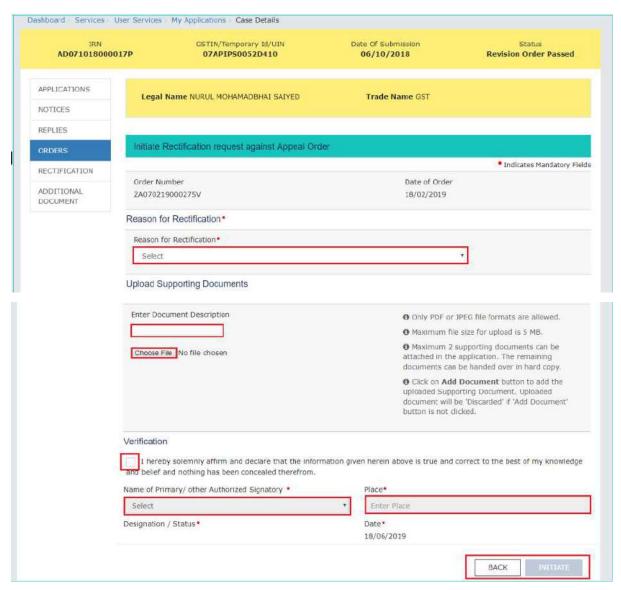
Click on view on the 'Additional Notices/orders' page. Case Details page displayed.



**Step 3:** Click on the 'Orders' tab and select 'Initiate rectification'.



**Step 4:** The initiate rectification page will be displayed. Choose the relevant rectification reason and upload the supporting documents if required. Then click on 'Initiate' and submit with either DSC or EVC.



On successful submission, a message will pop up stating the rectification

#### request Number.





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Tax Research Department

#### **Practical Approach:**

#### Filing an Appeal against Registration Order:

#### **Facts of the Case:**

#### Part-I: Cancellation of GST Registration

Centre Jurisdiction State Jurisdiction Date of Registration

Commisionerate - State - Telangana, Division - 26/02/2019

GSTIN / UIN Status

Cancelled suo-moto

MEDCHAL, Division - Hyderabad Rural, Circle - KUKATPALLY, Range - HYDER NAGAR -II
KUKATPALLY (Jurisdictional Office)

Constitution of Business Taxpayer Type
Proprietorship Regular

Compliance Rating Field Visit Conducted?

NA No

Name of the Proprietor / Director(s) / Partner(s) / Promoter(s)

Nature of Business Activities

Nature Of Core Business Activity

Part-II: Revocation of Registration shall be made within 90 Days of Cancellation of order



#### Part-III: Revocation order rejected by the Department:

| ashboard  | Services ▼          | GST Law      | Seal     | ch Taxpayer • Help and Taxpayer Facilities         | e-Invoice           |             |                        |          |
|-----------|---------------------|--------------|----------|--|---------------------|-------------|------------------------|----------|
| Dashboard | Services Us         | er Services  | View Not | ices and Orders                                    |                     |             |                        |          |
| View N    | Notices and O       | rders        |          |  |                     |             |                        |          |
| 700 10    | Vii. 1              |              | 1000     |  |                     |             | 194 0 0                | S        |
|           | e/Demand<br>rder Id | Issued<br>By | Туре ‡   | Notice / Order Description                         | Date of<br>Issuance | Due<br>Date | Amount<br>of<br>Demand | Download |
| ZA360     | 0321109910Z         | Telangana    | Order    | Revocation Rejection order                         | 12/03/2021          | NA          | NA                     | <u>±</u> |
| ZA360     | )2211149211         | Telangana    | Notice   | Revocation SCN                                     | 08/02/2021          | 16/02/2021  | NA                     | £        |
| ZA361     | 1120019386W         | Telangana    | Order    | Order for Cancellation of Registration             | 12/11/2020          | NA          | NA                     | <u>*</u> |
| ZA361     | 1120001112P         | Telangana    | Notice   | Show Cause Notice for Cancellation of Registration | 02/11/2020          | 10/11/2020  | NA                     | *        |
| ZA360     | 02190213255         | Telangana    | Notice   | Registration SCN                                   | 18/02/2019          | 26/02/2019  | NA                     | *        |

#### Part-IV: Revocation of Registration filing again:



#### Part-V: Appeal to the Appellate Authority

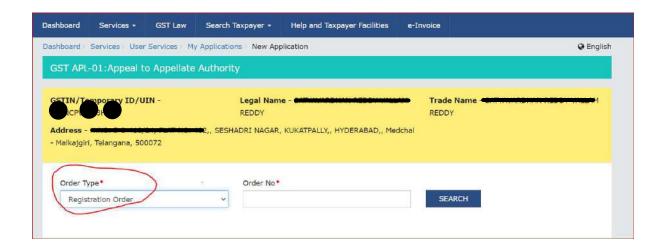
Step-1: Go to the My Application"

Step-2: Select Application Type as Appeal to the Appellate Authority

#### **Step-3: Click on New Application**



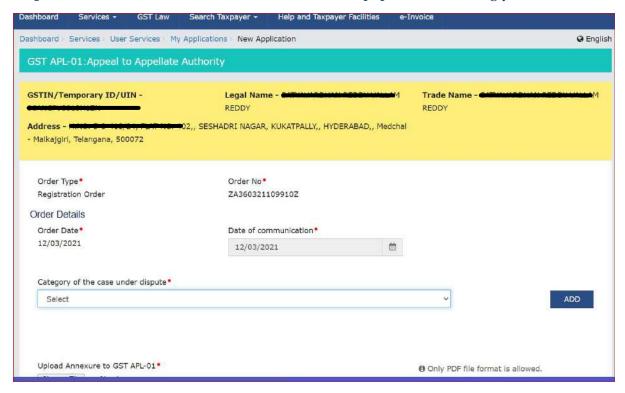
#### Step-4: Select Order Type - Registration Order



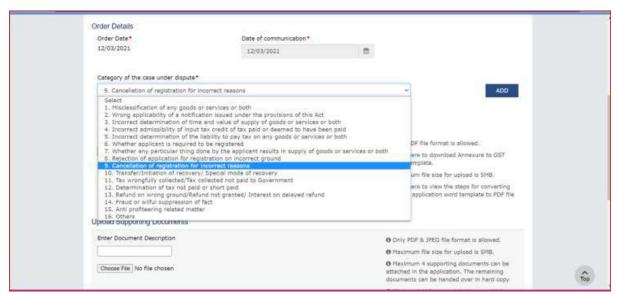
#### **Step-5: Enter the Oder No.**



#### Step-6: Click on Search: All other details will auto be populated accordingly



#### Step-7: Select Category of the case under category



#### Step-8: Select Category of the case under category

- ✓ Cancellation of registration for incorrect reasons
- ✓ Rejection of application for registration on incorrect ground

#### Step-9: Click "Click here" to download the Annexure to GST APL-01

Upload Annexure to GST APL-01

Choose File No file chosen

Only PDF file format is allowed.

Click here to download Annexure to GST APL-01 template.

Maximum file size for upload is SMB.

Click here to view the steps for converting the filled application word template to PDF file format.

#### **Step-10:** Fill the data and convert to PDF format

Upload Annexure to GST APL-01

Choose File No file chosen

- Only PDF file format is allowed.
- Oclick here to download Annexure to GST APL-01 template.
- $\ensuremath{\boldsymbol{\Theta}}$  Maximum file size for upload is 5MB.
- O Click here to view the steps for converting the filled application word template to PDF file format.

#### Annexure to FORM GST APL-01 Appeal to Appellate Authority

- 9. Details of the case under dispute -
- (i) Brief issue of the case under dispute -
- (ii) Description and classification of goods/ services in dispute-(v) Market value of seized goods - Not Applicable
- 10. Whether the appellant wishes to be heard in person Yes / No
- 11. Statement of facts-
- 12. Grounds of appeal -
- 13. Prayer -
- 16. Whether appeal is being filed after the prescribed period Yes / No
- 17. If 'Yes' in item 16-
  - (a) Period of delay -
  - (b) Reasons for delay -

Note: Please convert the word file into PDF and upload while filing appeal online

Step-11: Upload the Annexure to FORM GST APL-01



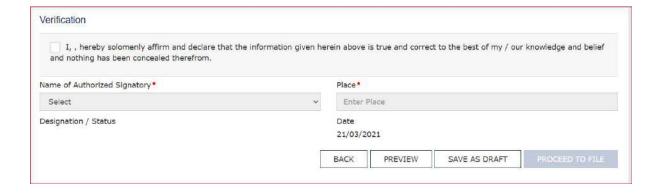
#### Step-12: Upload the supporting documents



**Step-13:** Save as Draft

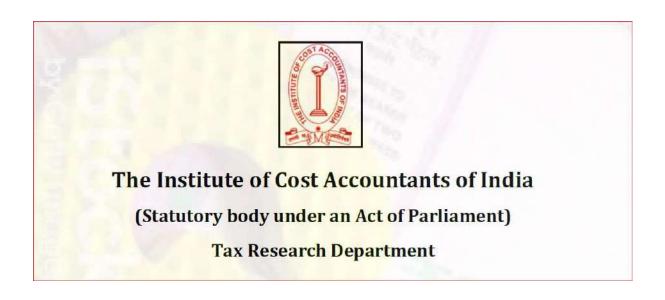
Step-14: Preview

**Step-15:** Proceed to file the application



#### Step-16: Save the Acknowledgement Copy

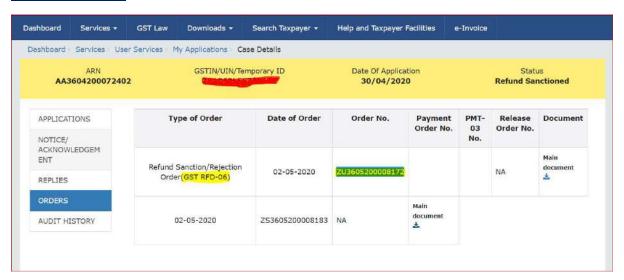




#### **Practical Approach:**

#### Filing an Appeal against Refund Order:

#### **Facts of Case:**



#### Steps for Filing an Appeal against Refund Order:

Step-1: Go to the My Application"

Step-2: Select Application Type as Appeal to the Appellate Authority

#### **Step-3: Click on New Application**



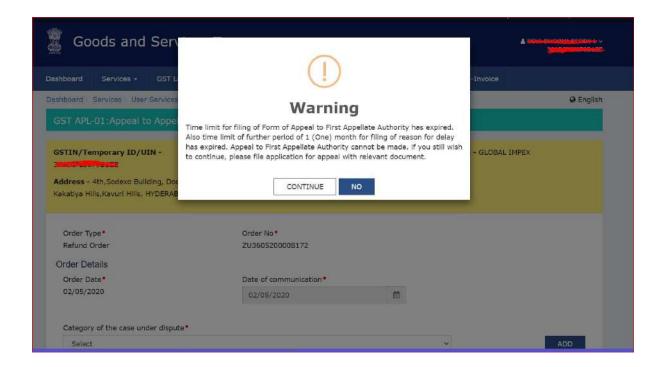
#### Step-4: Select Order Type - Refund Order



#### Step-5: Enter the Oder No. & Search



#### Step-6: See the warning message as displayed





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#### S.112 Appeals to Appellate Tribunal

#### **Appeal by Tax Payer:**

- ♣ Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act
- May appeal to the Appellate Tribunal against such order
- ♣ Time Limit: within 3 months from the date on which the order is communicated
- Form: GST APL 05
- ♣ Application rejected: If Tax or ITC or difference amount does not exceed Rs 50,000
- ♣ Pre-deposit: 20% of Disputed amount, subject to a Maximum amount of Rs 50 Cr each in CGST & SGST or 100 Cr in IGST Act (in addition to the first appeal)
- ♣ Mode: Electronically

Note:

Every appellant must pay -

✓ The full amount from the original order that he <u>agrees</u> to (including tax,

interest, fine, fee and penalty) and

✓ 20% of the amount of tax in dispute (At the 53rd GST Council meeting, it was

recommended to reduce the pre-deposit value for appeal before the GST

Appellate Tribunal from the present 20% with a maximum amount of Rs.50

crores each under CGST and SGST to 10% with a maximum of Rs.20 crores each

under CGST and SGST)

**Department Appeal to GSTAT:** 

4 The Commissioner may, on his own motion, or upon request from the

Commissioner of State tax or Commissioner of Union territory tax, call for and

examine the record of any order passed by the Appellate Authority or the

Revisional Authority under this Act or the SGST/UTGST Act, where the orders

passed by his sub-ordinates

☐ Time Limit for Dept. 6 Months from the date on which the said order has been

passed

♣ Form: GST APL-07

Mode: Electronically

♣ GST APL-06: Cross-objections before the Appellate Tribunal filed by the

other party

Thanking you,

**CMA Kedarnath** 

9985162155



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Tax Research Department

# S.117 Appeals to High Court

- → Any person aggrieved by any order passed by the **State Bench** or **Area Benches** of the Appellate Tribunal may file an appeal to the High Court and
- High Court may admit such appeal, if it is satisfied that the case involves a substantial question of law.
- **■** Time Limit: 180 Days
- ♣ The High Court may determine any issue which -
  - (a) has not been determined by the State Bench or Area Benches; or
  - (b) has been wrongly determined by the State Bench or Area Benches, by reason of a decision on such question of law as herein referred to in subsection (3).
- **埧 Judgement:** Based on Majority of Judges
- ♣ The provisions of the Code of Civil Procedure, 1908 relating to appeals to the High Court shall applicable



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Tax Research Department

### S.118 Appeals to Supreme Court

- An appeal shall lie to the Supreme Court -
  - (a) from any order passed by the **National Bench** or **Regional Benches** of the Appellate Tribunal; or
  - (*b*) from any **judgment or order passed by the High Court** in an appeal made under section 117 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.
- ♣ Supreme Court may admit such appeal, if it is satisfied that the case involves a <u>substantial question of law</u>.
- **Judgement:** Based on Majority of Judges
- ♣ All other provisions of Section 117 would applicable
- ♣ The provisions of the Code of Civil Procedure, 1908 relating to appeals to the High Court shall applicable.



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Tax Research Department

Filing Reply and Rectification Request during Revision order proceedings

#### **S108 - Powers of Revisional Authority**

**Sub-section (1):** 

- Subject to the provisions of section 121 and any rules made thereunder, the Revisional Authority may,
  - ✓ on his own motion,

(or)

- ✓ upon information received by him or **on request from** the **Commissioner of State tax**, or the Commissioner of Union territory tax,
- - √ any decision

(<u>or</u>)

✓ order passed

under this Act or under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act

- By any officer <u>subordinate</u> to him is
  - **\* erroneous** in so far
  - **❖** as it is **prejudicial**
  - \* to the interest of 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, <u>stay the operation</u> of such <u>decision</u> or <u>order</u> for such period as he deems fit and
- ♣ After giving the person concerned an opportunity of being heard and
- 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.

#### Sub-section (2):

The Revisional Authority **shall not exercise** any power under sub-section (1), if —

- (a) the order has been <u>subject to an appeal</u> under section 107 or section 112 or section 117 or section 118; or
- (b) the period specified under sub-section (2) of section 107 <u>has not yet expired</u> (i.e., <u>3</u> <u>Months</u>) or

more than <u>3 years</u> have expired after the passing of the decision or order sought to be revised; or

(c) the order has <u>already been taken for revision</u> under this section at an earlier stage; or

- (d) the order has been passed in exercise of the powers under sub-section (1)
- ➤ Provided that the Revisional Authority **may pass an order** under sub-section (1) on any point which has not been raised and decided in an appeal referred to in clause (a) of sub-section (2),
- before the expiry of a period of <u>one year</u> from the date of the order in such appeal or
- before the expiry of a period of <u>three years</u> referred to in clause (b) of that subsection, whichever is later.

#### Sub-section (3):

Every order passed in revision under sub-section (1) shall, <u>subject to the provisions</u> of section 113 or section 117 or section 118, be final and binding on the parties.

#### **Sub-section (6):**

For the purposes of this section, the term,

- (*i*) "record" shall include all records relating to any proceedings under this Act available at the time of examination by the Revisional Authority;
- (*ii*) "**decision**" shall include intimation given by any officer lower in rank than the Revisional Authority.



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Tax Research Department

# Filing Reply and Rectification request during proceedings and order of First Appeal

- ♣ Application for appeal has to be submitted by the Taxpayer or any other person, if aggrieved with the order/ decision of the adjudicating authority passed under the provisions of the Act.
- ♣ The proper officer (as authorized by the Commissioner) of the tax department can also file appeal.
- ▲ All the Appeals submitted by the Appellant's (Taxpayer/ Tax Official) will land on the First Appellate Authority's Dashboard.
- ♣ The First Appellate Authority after verifying the form of Appeal will issue a date of hearing for the Appeal.
- ♣ The First Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant adjournment to the parties and adjourn the hearing of the appeal after recording reasons in writing.
- ♣ The First Appellate Authority after making such inquiry as may be necessary, pass such an <u>order</u>, <u>confirming</u>, <u>modifying</u> or <u>annulling</u> the decision or order appealed against.

#### Various Status of the application for Proceedings & Order of First Appeal:

- **1. Appeal admitted**: Appeal application Form is successfully admitted by First Appellate Authority
- **2. Hearing notice issued**: When notice for hearing is issued by First Appellate Authority
- 3. Counter reply received: When Counter Reply is received against notice
- **4. Show cause notice issued**: When Show cause notice is issued to taxpayer or concerned person
- **5. Appeal order passed**: Appeal is confirmed/modified/rejected by First Appellate Authority
- **6. Adjournment granted**: When hearing is adjourned and next date of hearing is fixed by First Appellate Authority
- **7. Rectification request received**: When application is submitted by taxpayer for Rectification of order
- **8. Rectification request rejected**: When application for Rectification is rejected by First Appellate Authority
- **9. Rectification order passed**: When application for Rectification is passed by First Appellate Authority

#### **Taxpayers can view the notice issued to them as follows:**

After logging in to the GST portal, the taxpayers can navigate to Services > User Services > Additional Notices & Order option.

- Taxpayer will get intimation of all notices and orders issued to them through SMS and e-mail.
- Maximum Adjournment can be granted **3 times** to <u>each party</u> (appellant /respondent). However, Adjournment on account of administrative grounds cannot be counted.

#### **♣** How to file a Reply or a Counter-reply?

One can file Reply to the Notice issued by the Appellate Authority from the "NOTICES" tab.

To file a counter-reply against the reply filed by the Tax Officials, navigate to the "REPLIES" tab.

- **♣** The below actions take place on the GST Portal once a Reply or a Counter-Reply is Filed
- ✓ **Acknowledgement** message is displayed, with the generated Reply Reference Number and other Reply details.
- ✓ Dashboard of the Taxpayer and the Tax Officials gets updated with the record of the filed Reply and the Status gets changed to "Reply Submitted"
- ✓ Taxpayer can view it from the following navigation: Services > User Services > View Additional Notices/Orders.
- ✓ Intimation of the Filed Reply is sent to the taxpayer on his/her registered email ID and mobile.

#### **♣** Submission of request for rectification of an Appeal Order?

Both Tax Officials and Taxpayers can submit request for rectification of an Appeal Order.

#### When to submit request for rectification of an Appeal Order?

Rectification of an Appeal Order can be passed, if <u>there is a mistake which is apparent</u> <u>on the records</u>. Rectification Request can be submitted <u>within 6 months</u> <u>from the date</u> <u>of order</u>, sought to be rectified.

# **♣** What actions take place on the GST Portal once a Rectification Request is submitted

- ✓ Acknowledgement message is displayed, with the generated Rectification Reference Number and other details.
- ✓ Dashboard of the Taxpayer and the Tax Officials gets updated with the record of the submitted Rectification Request and the Status gets changed to "Rectification Request Submitted"
- ✓ Taxpayer can view it from the following navigation: Services > User Services
   > View Additional Notices/Orders.
- ✓ **Intimation** of the submitted Rectification is sent to the taxpayer on his/her registered email ID and mobile.

#### ♣ How to know that the Tax Officials have taken action on my Rectification Request?

Once you submit the Rectification Request, Appellate Authority will examine and take one of the following actions:

- Accept Rectification Request: In this case you can view the acceptance in the "RECTIFICATION" tab.
- However, the Rectification Order passed against your request will be available in the "ORDERS" tab.
- **Reject Rectification Request:** In this case you can view the rejection details in the "RECTIFICATION" tab.