

## **Goods and Service Tax: Appeals and Revision** (Saturday, 06 February, 2021)

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# The presentation covers:

Sec	Description
Chapter XVIII: Appeals and Revision under CGST Act, 2017	
107	Appeals to Appellate Authority
108	Powers of Revisional Authority
109	Constitution of Appellate Tribunal
110	President and members of Appellate Tribunal, their appointment, conditions of service etc

# The presentation covers:

Rule Ref	Description
111	Procedure before Appellate Tribunal
112	Appeals to Appellate Tribunal
113	Orders of Appellate Tribunal
114	Financial and Administrative powers of President
115	Interest on refund of amount paid for admission of appeal

# The presentation covers:

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Rule Ref	Description
116	Appearance by authorised representative
117	Appeal to High Court
118	Appeal to Supreme Court
119	Sum due to be paid notwithstanding appeal etc.
120	Appeal not to be filed in certain cases
121	Non Appealable decisions and orders

# The presentation covers:

Rules	Description
Chapter XIII: Appeals and Revision under Rules	
108	Appeals to the Appellate Authority
109	Application to Appellate Authority
109A	Appointment of Appellate Authority
109B	Notice to person and order of Revisional authority in case of revision
110	Appeal to Appellate Tribunal

## The presentation covers:

Rules	Description
111	Application to the Appellate Tribunal
112	Production additional evidence before Appellate Authority
113	Order of the Appellate Authority or Appellate Tribunal
114	Appeal to the High Court

# The presentation covers:

Rules	Description
Chapter XIII: Appeals and Revision under Rules	
115	Demand Confirmed by the Court
116	Disqualification for misconduct of a authorised representative

# Important steps under GST

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1. Self Assessment (Entire GST laws)
2. Returns (Chap IX Secs 37 to 48)
3. **Assessment** (Chap XII Secs 59 to 64)
4. (Adjudication of) **Demand and Recovery** (Chap XV, Secs 73 to 84)
5. Appeals and Revision. (Chap XVIII Sec 107 to 121).



# Appellate Authority under CGST Act, 2017

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1. The CGST Act, 2017 does not define the word appeal, but it has various provisions in the Act and Rules relating to appeals.
2. It however defines other words such as Appellate Authority Sec 2(8), Appellate Tribunal 2(9) etc.

# Introduction to Appeals

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1. **Appeal.** a request to a higher authority or **court** determine and correct the mistakes made by lower **court** or tribunal.
2. The higher **court** may affirm, vary or reverse the original decision.

# Introduction to Appeals

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1. Tax GST laws impose a number of tax related and procedure related obligations.
2. The taxpayer's compliance with these obligations is verified by the tax officer (by various instruments such as scrutiny, audit, anti-evasion, Demand and Recovery, etc.),

# Introduction to Appeals

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3. As a result of this, sometimes there are situations of actual or perceived non-compliance.
4. If the difference in views between the tax officials and tax payer persists, it results into a dispute, which is then required to be resolved

## Assessment under GST

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5. At times, the taxpayer or the Department may not agree with the “adjudication order” passed by the tax officer.
6. Therefore the statute provides further channels of appeal, to both sides.

# Hierarchy of Appeals and Revision

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## Appeals and Revision

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graph TD; A[Appeals and Revision] --> B[S 107: Appeals to Appellate Authority]; A --> C[Sec 108: Revisional Authority]; B --> D[ ]; C --> E[ ]
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S 107: Appeals to  
Appellate Authority

Sec 108:  
Revisional Authority



# Hierarchy of Appeals and Revision

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2. Sec 109 to 114 Appellate Tribunal

3. Orders passed by  
Regional/ National  
Tribunal

4. Sec 117: High  
Court

5. Sec 118: Supreme Court

## Important Definitions

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**Adjudicating authority:** means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the CBIC, the R.A, the AAR, the App Authority for Advance Ruling, and the Appellate Tribunal [Section 2(4)].



## Sec 2(4) Adjudicating Authority under GST

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Adjudicating authority means **any authority, appointed or authorized to pass any order or decision** under this Act, but does not include:

1. The CBIC (Sec 3 of Central Boards of Rev. Act, 1963)
2. The Revisional Authority Sec 2(99) read Sec 108
3. the Authority for Advance Ruling (Sec 96)
4. The App. Authority for Advance Ruling (Sec 99)
5. The Appellate Authority (Sec
6. The Appellate Tribunal and
7. The Authority referred to in section 171(2).

# **Delegation of powers for issue of SCN**

## **(Circular No.31/05/2018–GST 09 Feb 2018)**

<b>Sr No.</b>	<b>Designation</b>	<b>Limit of tax not paid , short paid etc under CGST</b>	<b>Limit of tax not paid , short paid etc under IGST</b>
1.	Superintendent of Central Tax	Not exceeding Rs. 10.00 lakh.	Not exceeding Rs. 20.00 lakh
2.	Dy or Asstt Commissioner of Central Tax	Above Rs.10.00 lakh, but not exceeding Rs.1crore	Above Rs. 20.00 lakh, but not exceeding Rs.2 crore
3.	Addl/Joint Commissioner of Central Tax.	Above Rs. 1 crore without any upper limit	Above Rs.2crore without any upper limit

## Important Definitions

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**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)].

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# **Sec 107: Appeal to Appellate Authority**

# Sec 107: Appeal to Appellate Authority

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Appeals by

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graph TD; A[Appeals by] --> B[S 107 (1): Any person aggrieved by the order of Adjudicating Authority]; A --> C[Sec 107 (2) Department]; B --> D[↓]; C --> E[↓];
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S 107 (1): Any person aggrieved by the order of Adjudicating Authority

Sec 107 (2)  
Department



## Sec 2(4) Adjudicating Authority under GST

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Adjudicating authority means **any authority, appointed or authorized to pass any order** or decision under this Act, but does not include:

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2. The Revisional Authority Sec 2(99) read Sec 108
3. the Authority for Advance Ruling (Sec 96)
4. The App. Authority for Advance Ruling (Sec 99)
5. The Appellate Authority (Sec 107 of CGST Act)
6. The Appellate Tribunal (Sec 109, 109A) and
7. The Authority referred to in section 171(2) i.e. Anti-profiteering authority.

# **Delegation of powers for issue of SCN**

## **(Circular No.31/05/2018–GST 09 Feb 2018)**

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# **Designated Adjudicating Authorities**

# Delegation of powers for issue of SCN

## (Circular No.31/05/2018–GST 09 Feb 2018)

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2.	Dy or Asstt Commissioner of Central Tax	Above Rs. 10.00lakh, but not exceeding Rs.1crore	Above Rs. 20.00 lakh, but not exceeding Rs.2crore
3.	Addl/Joint Commissioner of Central Tax	Above Rs. 1crore without any upper limit	Above Rs.2crore without any upper limit



## Sec 107: Appeal to Appellate Authority

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1. Any person aggrieved by any decision or order passed under this Act or the SGST/UTGST Tax by an adjudicating authority may appeal to such appellate authority as may be prescribed.

## Sec 107(2): Appeal by the Department

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The Commissioner may, on his own motion, or upon request from the Commissioner of State/UT call for and examine the record of any proceeding in **which an adjudicating authority has passed any decision** or order

for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any Officer subordinate to him to apply to the Appellate Authority.

# Who is Designated Appellate Authorities?

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The Appeal has to be filed before the following authorities:

1. Commissioner (Appeals) where such decision or order is passed by the Addl or Jt Commissioner; and
2. The Addl Commissioner (Appeals), where such decision or order is passed by the Dy or Asstt Commissioner or Superintendent

# Procedure for filing of appeal before the Appellate Authorities?

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1. As on the present date, the appeal is filed online through GST Portal after login into dealer account.
2. Login into your GST Account:
  - < Select Services from Dashboard
  - < User Services < My Application
  - < Application Type
  - < Appeal to Appellate Authority>

## Time limit for filing of Appeal by any aggrieved person

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1. Any appellant within a period of **three** months from the date of communication of decision or order in form Form GST APL-01
2. The Department may file the appeal within a period of six months in Form GST APL 03.

# **The power of the Appellate Authority to condone delay in filing of appeal**

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The appellate authority in either of the above cases is empowered to **condone the delay up to a period of one month.**

# Procedure for filing of Appeal

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1. To be filed in **Form GST APL-01**, along with relevant documents either electronically or otherwise as notified
2. The grounds of appeal and form of verification must be duly signed by authorized official.
3. The certified copy of the decision or order is to be filed before the AA within 7 days of filing the appeal.

## Date of filing of Appeal

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1. In this case, the appeal shall be deemed to be filed on the date of issue of provisional acknowledgement.
2. If the certified copy is submitted after 7 days, the date of filing of appeal shall be the date of submission of such copy.



## Issue of Final Acknowledgement

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Thereafter a final acknowledgement to be issued on behalf of the AA in Form GST APL-02.

# Procedure for filing of Appeal

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1. To be filed in **Form GST APL-01**, along with relevant documents either electronically or otherwise as notified
2. The grounds of appeal and form of verification must be duly signed by authorized official
3. The certified copy of the decision or order is to be filed before the AA within **7 days of filing the appeal.**

# Deposit of tax and stay of demand

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1. Appeal has to be along with payment of:
  - i. Amount of tax, interest, fine, fee & penalty, as is admitted, in full; and
  - ii. Pre-deposit of sum equal to 10% of remaining amount of tax in dispute (subject to a maximum of twenty- five crore rupees each for CGST, SGST and Cess (effective from 01.02.2019)).

# Stay of demand for the remaining amount

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On payment of above amount, the recovery proceedings for balance amount are deemed to be stayed.

# Functions of the Appellate Authority

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1. The AA shall give an opportunity to the appellant of being heard.
2. Maximum 3 adjournments shall be granted to a party on showing reasonable cause, to be recorded in writing.
3. AA may allow any additional grounds not specified in the grounds of appeal on being satisfied that the omission was not willful or unreasonable.

# Functions of the Appellate Authority

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1. AA has to pass the order confirming, modifying or annulling the decision or order appealed against, **but shall not remand the case back** to the adjudicating authority.
2. This **power of remand** was a major reason of dispute in the erstwhile regime but now the same is settled.

# Enhancing of Demand

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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.

# Functions of the Appellate Authority

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**Enhancing of demand:** Opportunity of being heard to be granted in case of order for enhancing fees or penalty or fine in lieu of confiscation of goods or reducing amount of refund/input tax credit after issuing show cause notice and

The order is passed within the time limit prescribed under Sec 73 or 74.



## Appellate Authority's power to issue SCN

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The appellate authority has power to issue show cause notice, in case it is of the opinion that any tax has not been paid or short paid or erroneously refunded or input tax credit is wrongly availed or utilized.

## Time Limit for issue of order by the Appellate Authority

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1. AA has to hear and decide the appeal, **wherever possible, within a period of one year** from the date of filing.
2. Where the issuance of order is stayed by an order of a court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

# Communication of order by the Appellate Authority

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1. AA to communicate the copy of order to the appellant, the respondent, the adjudicating authority, Jurisdictional Commissioner of CGST, SGST and UTGST or an authority designated in their behalf.

## Finality of the order by the Appellate Authority

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The order passed under this section shall be **final and binding** on the parties subject to provisions of section 108 (Powers of Revisional Authority) or Section 113 (Orders of Appellate Tribunal) or Section 117 (Appeal to High Court).

## **Final Demand with the order by the Appellate Authority**

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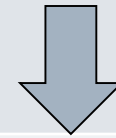
The AA shall, along with its order under sub-section Section 107 (11), issue a summary of the order in FORM GST APL-04, clearly indicating the final amount of demand confirmed.

Jurisdictional officer shall issue a statement in Form APL-04 clearly indicating the final amount of demand confirmed by the AA.

# To recapitulate: Appeal to Appellate Authority

The Commissioner may direct any Officer subordinate to him to apply to the AA to determine specified points relating to legality and propriety of an order of any adjudicating authority passed under the GST laws in form GST APL-03

Any person aggrieved by any decision/order passed by an adjudicating authority passed under the GST laws in GST APL 01



Pre-deposit of tax, interest, fine, fee, and penalty arising from the impugned order, as admitted by the appellant along with 10% of the “tax in dispute”

# To recapitulate: Appeal to Appellate Authority

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**Time Limit:** Within 3 months from the date of communication of the said decision/ order to the appellant.

The Department can file the appeal within six months of the receipt of the adjudication order.

**Condonation of Delay:** of 1 month can be condoned by the AA

**Opportunity of being heard:** The AA will give the appellant a chance to be heard.

# To recapitulate: Appeal to Appellate Authority

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**Permission to add ground to appeal:** The AA may allow the appellant during the hearing to add any ground of appeal not specified in the grounds of appeal

**Grant of adjournment:** AA can grant up to 3 adjournments.

**Powers of Appellate Authority:** The AA may confirm, modify, annul the decision or order appealed against after making further inquiry, as necessary.



# Revisional Authority

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**Revisional Authority:** means an authority appointed or authorised for revision of decision or orders as referred to in section 108 [Section 2(99)].

# Sec 108: Power of The Revisional Authority to revise

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## 1. The RA may:

- i. On his own motion, or
- ii. Upon information received by him or
- iii. On request from the commissioner of State tax or
- iv. Commissioner of UT tax,

call for and examine the record of any proceedings and if he considers that any decision or order passed under this Act or under the SGST/UTGST by **any officer subordinate to him** is:

## Sec 108: Causes for Revision by The Revisional Authority

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1. The order passed is erroneous in so far as it is prejudicial to the interest of revenue and
2. is illegal or improper or
3. has not taken into account certain material facts, whether available at the time of issuance of said order or not or
4. in consequence of an observation by the CAG,

## **Sec 109B: RVN Authority's sample SCN in Form GST RVN-01**

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1. Whereas it has come to the notice of the undersigned that decision/order passed under this/State/UT GST/IGST Act by the designated officer\_\_\_\_\_ 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 fact.
2. Therefore I intend to pass an order of revision under Sec 108 on ground specified in the document attached herewith.

## Sec 109B: RVN Authority's SCN in Form GST RVN-01

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3. You are hereby directed to furnish a reply to this notice **within seven working days** from the date of service of this notice or
4. You are hereby directed to appear before the undersigned on \_\_\_\_\_ DD/MM/YYYY.
5. If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing, the case will be decided *ex-parte* on the basis of available records and on merits.

## Sec 108: Powers of The Revisional Authority

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The RA may, if necessary:

1. Stay the operation of such decision or order for such period as he deems fit and after giving the person concerned an opportunity of being heard and
2. 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.**

## **Sec 108 (2):The Revisional Authority order not to be passed in certain cases:**

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The RA not to exercise any power, if. -

1. The order has been subject to an appeal
2. The period of limitation for appeal Section 107 (2) has not yet expired or
3. More than three years have expired after the passing of the decision or order sought to be revised; or
4. The order has already been taken for revision under this section at any earlier stage.

## **Sec 108 (2):The Revisional Authority order not to be passed in certain cases:**

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5. Every order passed shall, subject to the provisions of sections 113 (appeal to A. Tribunal) or section 117 (appeal to H.C) or section 118 (appeal to S.C.), be final and binding on the parties.



## **Sec 108 (2):The Revisional Authority order not to be passed in certain cases:**

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1. If the said decision or order involves an issue on which the App Tribunal or the H.C. has given its decision in some other proceedings and

2. an appeal to the H.C. or the S.C. against such decision of the App Tribunal or the H.C. is pending,

the period spent between the date of the decision of the App Tribunal and the date of the decision of the HC or the date of

## **Sec 108 (2):The Revisional Authority order not to be passed in certain cases:**

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3. the date of decision of the HC and the date of the decision of the SC shall be excluded in computing the period of limitation.

## Sec 109: Constitution of the Appellate Tribunal

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1. Based on the recommendation of the Council and by Notification, the C. G. shall constitute GST App Tribunal (GSTAT) for hearing appeals against the orders passed by the App Authority or RVN Authority.
2. The powers of the App Tribunal shall be exercisable by the
  - i. National Bench or Regional Benches.
  - ii. State Bench and Area Benches.

# National Bench and Regional Bench of the Appellate Tribunal

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1. The **National Bench** shall be situated at New Delhi which shall be presided over by the President, one Technical Member (Centre) and one Technical Member (State).
2. The **Regional Benches** shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State).

# Jurisdiction of the National Appellate Tribunal

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The National Bench or Regional Benches shall hear the appeals **only where one of the issues involved relates to the place of supply.**

# Jurisdiction of the State Bench & Area Benches of App Tribunal

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1. The State Bench or Area Benches shall hear the appeals involving matters **other than matters covering place of supply**.
2. The President of National Bench and the State President shall by general or special order distribute the business or transfer cases among Regional Benches or Area Benches in a State.

# Constitution of the State Bench and Area Benches of the App. Tribunal

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1. The State Bench and Area Branches of the App Tribunal shall consist of a judicial member, one technical member (Centre) and one technical member (state) and
2. The state government may designate the senior most judicial member in a state as the State president.

# **Vacancy in the office of National/Regional Benches or State Benches**

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**In the absence of a member of any bench due to vacancy or otherwise,**

any appeal with the approval of President or State President be heard by a bench of two members.



## **Jurisdiction of the single member of the Bench(es)**

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Any matter (other than matter involving question of law),  
involving tax, input tax credit, fine, fee or penalty determined in any order appealed against, not exceeding Rs 5 Lakhs  
may be heard by single member bench.

# Constitution of State Benches

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In August 2019 the CG has constituted 34 State Benches.

## **Sec 110: Qualification and appointment of President members of APP Tribunal.**

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1. This section deals with appointment of the President / Members of the App Tribunal, their qualifications, methodology of appointment, service conditions etc.
2. In Revenue Bar Association's case before Madras HC, the composition of GSTAT was challenged, but not allowed.
3. The Government has yet to constitute GSTAT.

## Sec 111: Procedure before the APP Tribunal.

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1. The App Tribunal shall not, while disposing of any proceedings before it or an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908.
2. GSTAT shall follow the principles of natural justice and be subject to the other provisions of this Act and the rules.
3. The GSTAT shall have power to regulate its own procedure.

## Sec 111: Powers of the GSTAT

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1. Summoning and enforcing the attendance of any person and examining him on oath
2. Requiring the discovery and production of documents
3. Receiving evidence on affidavits
4. Requisitioning any public record or document or a copy of such record or document from any office

## Sec 111: Powers of the APP Tribunal.

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5. Issuing commissions for the examination of witnesses or documents
6. Dismissing a representation for default or deciding it *ex parte*
7. Any other matter which may be prescribed.

## Sec 111: Enforcement of the Orders of the APP Tribunal.

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Any order made by the App Tribunal may be enforced by it in the same manner **as if it were a decree made by a court**, and it shall be **lawful for the App Tribunal** to send for execution of its orders to the court within the local limits of whose jurisdiction:-

## **Sec 111: Jurisdiction of the APP Tribunal.**

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- (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.



## **Sec 111: Proceedings before the APP Tribunal.**

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1. All proceedings before the App 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 IPC, and
2. The App Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

## Sec 111: Procedure before the APP Tribunal.

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1. An application to the App Tribunal under sub-section (3) of section 112 shall be made electronically or otherwise, in **FORM GST APL-07**, along with the relevant documents on the common portal.
2. **Time limit for filing of appeal before GSTAT:** Within **three months** (Commissioner **within six months**) from the date of the receipt of order appealed against.

# Procedure before the APP Tribunal

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3. A certified copy of the decision or order appealed against **shall be submitted within seven days of filing** the application and an appeal number shall be generated by the Registrar.
4. **Power to refuse appeal:** GSTAT, at its discretion, may refuse to entertain an appeal involving tax, interest, or penalty not exceeding Rs. 50,000.

## Sec 112: Payment before filing of appeal before GSTAT

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No appeal shall be filed unless appellant paid:-

- (a) in full, the part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, **as is admitted by him (Tax payer)**, and
- (b) a sum equal to **twenty per cent** of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of the section 107, arising from the said order [**subject to a maximum of fifty crore rupees**], in relation to which the appeal has been filed.

## Sec 112 (9): Stay of Recovery Proceedings

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Where the appellant has paid the amount as per sub-section (8), the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.

## **Sec 116 (2): Who can appear before App Tribunal?**

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For the purposes of this section, the expression “authorised representative” shall mean a person authorised by the person referred to in sub-section (1) to appear on his behalf, being —

(a) his relative or regular employee; or

## Explanation to Sec 15(4) Who is relative?

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For the purposes of this Act, a persons shall be deemed to be “related persons” if—

1. such persons are officers or directors of one another's businesses;
2. such persons are legally recognised partners in business;
3. such persons are employer and employee;

## Explanation to Sec 15(4) Who is relative?

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4. any person directly or indirectly owns, controls or holds **twenty-five per cent or more** of the outstanding voting stock or shares of both of them;
5. One of them directly or indirectly controls the other;
6. Both of them are directly or indirectly controlled by a third person;



## Explanation to Sec 15(4) Who is relative?

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- 7. together they directly or indirectly control a third person; or
  - 8. they are members of the same family;
- (b) the term “person” also includes legal persons;
- (c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other,
- shall be deemed to be related.

## Sec 116 (2): Who can appear before App Tribunal?

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2. an advocate who is entitled to practice in any court in India, and who has not been debarred from practicing before any court in India; or

## Sec 116 (2): Who can appear before App Tribunal?

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3. Any chartered accountant, a cost accountant or a company secretary, who holds a certificate of practice and who has not been debarred from practice; or
4. A retired officer of the Commercial Tax Department of any State Government or UT or of the Board, who, during his service under the Government, **had worked in a post not below the rank than that of a Group-B gazetted officer for a period of not less than two years:**

## Sec 116 (3): Disqualifications for appearing before App Tribunal?

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4. **Cooling period:** Provided that such officer shall not be entitled to appear before any proceedings under this Act for a **period of one year from the date of his retirement or resignation; or**
5. Any person who has been authorized to act as a **GST Practitioner** on behalf of the concerned registered person.

## **Sec 116 (2): Who cannot appear before App Tribunal?**

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- (a)** who has been dismissed or removed from government service; or
- (b)** who is convicted of an offence connected with any proceeding under this Act, the SGST Act, the IGST Act or the UT GST Act or under the erstwhile law
- (c)** who is found guilty of misconduct by the prescribed authority
- (d)** Who has been adjudged insolvent

## Sec 117: Appeal to High Court

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1. Any person aggrieved by any order passed by the State Bench or Area Benches of the AppTribunal may file an appeal to the High Court.
2. The High Court may admit such appeal if it is satisfied that the case involves a **substantial question of law.**

## Sec 117: Time for filing Appeal to High Court

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An appeal under sub-section (1) shall be filed **within one hundred and eighty days** from the date of receipt of order appealed against by the aggrieved person.

## Sec 117: Appeal to High Court

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4. The appeal shall be in such form verified in such manner as may be prescribed
5. **Condonation:** The High Court may entertain an appeal **after the expiry of the said period** if it is satisfied that there was sufficient cause for not filing it within such period.



## Sec 117: Appeal to High Court

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6. Where the High Court is satisfied that a **substantial question of law is involved** in any case, it shall formulate that question and the appeal **shall be heard only on the question so formulated.**
7. The respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question.

## Sec 117: Appeal to Supreme Court

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An appeal shall lie to the Supreme Court –

- (a) from any order passed by the National Bench or the Regional Benches of the Appellate Tribunal; or
- (b) from any judgment or order passed by High Court in an appeal made under section 117, in any case which, on its own motion or on an oral 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.

## **Sec 117: Provision of CCP applicable for Appeal to Supreme Court**

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The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall,

so far as may be,

apply in the case of appeals under this section as they apply in the case of appeals from decrees of a High Court.

## Sec 117: Appeal to Supreme Court

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3. Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 117 in the case of a judgment of the High Court.

## **Sec 121: Non-appealable orders**

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Notwithstanding anything to the contrary in any provisions of this Act,  
no appeal shall lie against any decision taken or order passed by an officer of the central tax, if such decision taken or order passed relates to any one or more of the following matters namely: -

## Sec 121: Non-appealable orders

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1. An order of the Commr or other authority empowered to direct transfer of proceeding from one officer to another officer; or
2. An order pertaining to the seizure or retention of books of account, register and other documents; or
3. An order sanctioning prosecution under this Act; or
4. An order passed under section 80 (Payment of tax in instalments).

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Thank you very much.

Have a nice evening!

R.K. Khurana

Advocate