

Law and Provisions under CGST
Chapter 18 – APPEALS AND REVISION

18.0 APPEALS AND REVISION – The provisions related to APPEALS AND REVISION - Appeals to Appellate Authority, Powers of Revisional Authority, Constitution of Appellate Tribunal and Benches thereof, President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc., Procedure before Appellate Tribunal, Appeals to Appellate Tribunal, Orders of Appellate Tribunal, Financial and administrative powers of President, Interest on refund of amount paid for admission of appeal, Appearance by authorised representative, Appeal to High Court, Appeal to Supreme Court, Sums due to be paid notwithstanding appeal, etc., Appeal not to be filed in certain cases, Non appealable decisions and orders are covered under Chapter XVIII of the CGST Act 2017 from Section 107 to Section 121.

The Central Government has appointed the 1st day of July, 2017, as the date on which the provisions of these sections came in to force vide Notification No. 9/2017- Central Tax dated 28.06.2017.

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FORM GST APL-02	Acknowledgment for submission of appeal
FORM GST APL-03	Application to the Appellate Authority under sub-section (2) of Section 107
FORM GST APL-01/03W	Application for Withdrawal of Appeal Application
FORM GST APL-04	SUMMARY OF THE DEMAND AFTER ISSUE OF ORDER BY THE APPELLATE AUTHORITY, REVISIONAL AUTHORITY, TRIBUNAL OR COURT
FORM GST APL-05	Appeal to the Appellate Tribunal
FORM GST APL-06	Cross-objections before the Appellate Tribunal
FORM GST APL-07	Application to the Appellate Tribunal under sub section (3) of Section 112
FORM GST APL-08	Appeal to the High Court under section 117
FORM GST RVN-01	Notice Under Sec. 108 of CGST Act

18.1 Appeals to Appellate Authority. [Section 107]

<p>Section 107(1)</p>	<p>01.07.2017 to till date</p>	<p>Filing of Appeal by any person aggrieved by any decision or order passed by an adjudicating authority within three months</p> <p>Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.</p>
<p>Section 107(2)</p>	<p>01.07.2017 to till date</p>	<p>The department may apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.</p> <p>The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, 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 within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.</p>
<p>Section 107(3)</p>	<p>01.07.2017 to till date</p>	<p>The application made by the authorised officer to the Appellate Authority, shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority</p> <p>Where, in pursuance of an order under sub-section (2), the authorised officer makes an application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application.</p>
<p>Section 107(4)</p>	<p>01.07.2017 to till date</p>	<p>Extension of time limit for a further period of one month for filing appeal</p> <p>The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.</p>

<p>Section 107(5)</p>	<p>01.07.2017 to till date</p>	<p>Form for filing appeal and manner of verification</p> <p>Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.</p>				
<p>Section 107(6)</p>	<p>01.07.2017 to 31.01.2019</p>	<p>Payment of tax etc. and Pre deposit for filing appeal</p> <p>No appeal shall be filed under sub-section (1), unless the appellant has paid—</p> <table border="1" data-bbox="528 555 1334 763"> <tr> <td data-bbox="528 555 592 658">(a)</td> <td data-bbox="592 555 1334 658">in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and</td> </tr> <tr> <td data-bbox="528 658 592 763">(b)</td> <td data-bbox="592 658 1334 763">a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order in relation to which the appeal has been filed.</td> </tr> </table>	(a)	in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and	(b)	a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order in relation to which the appeal has been filed.
(a)	in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and					
(b)	a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order in relation to which the appeal has been filed.					
	<p>01.02.2019 to till date</p>	<p>Payment of tax etc. and Pre deposit for filing appeal</p> <p>No appeal shall be filed under sub-section (1), unless the appellant has paid—</p> <table border="1" data-bbox="528 931 1334 1173"> <tr> <td data-bbox="528 931 592 1034">(a)</td> <td data-bbox="592 931 1334 1034">in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and</td> </tr> <tr> <td data-bbox="528 1034 592 1173">(b)</td> <td data-bbox="592 1034 1334 1173">a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order ¹[subject to a maximum of twenty-five crore rupees,] in relation to which the appeal has been filed.</td> </tr> </table> <div data-bbox="608 1205 1334 1368" style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>¹ Inserted w.e.f. 01.02.2019 vide Section 25 of the Central Goods and Services Tax (Amendment) Act, 2018 which comes into force vide Notification No. 02/2019 – Central Tax dated 29th January, 2019.</p> </div>	(a)	in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and	(b)	a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order ¹ [subject to a maximum of twenty-five crore rupees,] in relation to which the appeal has been filed.
(a)	in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and					
(b)	a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order ¹ [subject to a maximum of twenty-five crore rupees,] in relation to which the appeal has been filed.					
<p>First Proviso</p>	<p>01.01.2022 to till date</p>	<p>Payment of 25% of penalty for filing appeal against an order under section 129(3)</p> <p>¹[Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of the penalty has been paid by the appellant.]</p> <div data-bbox="608 1615 1334 1794" style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>1. Inserted the provision w.e.f. 1st day of January, 2022 vide Section 116 of the Finance Act, 2021 (NO. 13 OF 2020) which has come into force on 1st January 2022 vide Notification No. 39/2021 – Central Tax dated 21st December, 2021.</p> </div>				
<p>Section 107(7)</p>	<p>01.07.2017 to till date</p>	<p>Deemed stay on the recovery proceedings for the balance amount</p> <p>Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.</p>				

Section 107(8)	01.07.2017 to till date	<p>Opportunity of being heard to the appellant.</p> <p>The Appellate Authority shall give an opportunity to the appellant of being heard.</p>
Section 107(9)	01.07.2017 to till date	<p>Grant of time and adjournment of the hearing of the appeal</p> <p>The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:</p>
First Proviso	01.07.2017 to till date	<p>No adjournment more than three times to a party</p> <p>Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.</p>
Section 107(10)	01.07.2017 to till date	<p>Allowance to add any ground of appeal</p> <p>The Appellate Authority may, at the time of hearing of an appeal, allow an appellant to add any ground of appeal not specified in the grounds of appeal, if it is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.</p>
Section 107(11)	01.07.2017 to till date	<p>The Appellate Authority to pass a just and proper order – confirm or modify or annul the decision or order appealed – Not to refer the case back to the adjudicating authority</p> <p>The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:</p>
First Proviso	01.07.2017 to till date	<p>A reasonable opportunity of showing cause to be given before an order to enhance any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit</p> <p>Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:</p>
Second Proviso	01.07.2017 to till date	<p>A show cause notice to be given where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised - the order to be passed within the time limit specified under section 73 or section 74</p>

		Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74.
Section 107(12)	01.07.2017 to till date	Speaking order to be passed by the Appellate Authority to dispose of the appeal The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision.
Section 107(13)	01.07.2017 to till date	Appeal to be heard and decided within a period of one year The Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:
First Proviso	01.07.2017 to till date	Stay on the issuance of order - period of stay to be excluded in computing the period of one year Provided that 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.
Section 107(14)	01.07.2017 to till date	Communication of order to appellant, respondent and the adjudicating authority On disposal of the appeal, the Appellate Authority shall communicate the order passed by it to the appellant, respondent and to the adjudicating authority.
Section 107(15)	01.07.2017 to till date	Communication of order to the jurisdictional Commissioner and the jurisdictional Commissioner of State tax or Commissioner of Union Territory Tax. A copy of the order passed by the Appellate Authority shall also be sent to the jurisdictional Commissioner or the authority designated by him in this behalf and the jurisdictional Commissioner of State tax or Commissioner of Union Territory Tax or an authority designated by him in this behalf.
Section 107(16)	01.07.2017 to till date	Every order passed to be final and binding on the parties subject to provisions of section 108 or section 113 or section 117 or section 118 Every order passed under this section shall, subject to the provisions of section 108 or section 113 or section 117 or section 118 be final and binding on the parties.

18.1.1.1 Departmental Notification - Special procedure to be followed by the class of persons for filing appeals in certain cases

[Notification No. 53/2023 – Central Tax dated 2nd November, 2023](#) – The Central Government, on the recommendations of the Council, has notified taxable persons who could not file an appeal against the order passed by the proper officer on or before the 31st day of March, 2023 under section 73 or 74 of the said Act (hereinafter referred to as the said order), within the time period specified in sub-section (1) of section 107 read with sub-section (4) of section 107 of the said Act, and the taxable persons whose appeal against the said order was rejected solely on the grounds that the said appeal was not filed within the time period specified in section 107, as the class of persons (hereinafter referred to as the said person) who shall follow the following special procedure for filing appeals in such cases:

2. The said person shall file an appeal against the said order in FORM GST APL-01 in accordance with subsection (1) of Section 107 of the said Act, on or before 31st day of January 2024:

Provided that an appeal against the said order filed in accordance with the provisions of section 107 of the said Act, and pending before the Appellate Authority before the issuance of this notification, shall be deemed to have been filed in accordance with this notification, if it fulfills the condition specified at para 3 below.

3. No appeal shall be filed under this notification, unless the appellant has paid-

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

(b) a sum equal to twelve and a half per cent. of the remaining amount of tax in dispute arising from the said order, subject to a maximum of twenty-five crore rupees, in relation to which the appeal has been filed, out of which at least twenty percent should have been paid by debiting from the Electronic Cash Ledger.

4. No refund shall be granted on account of this notification till the disposal of the appeal, in respect of any amount paid by the appellant, either on their own or on the directions of any authority (or) court, in excess of the amount specified in para 3 of this notification before the issuance of this notification, for filing an appeal under subsection (1) of Section 107 of the said Act.

5. No appeal under this notification shall be admissible in respect of a demand not involving tax.

6. The provisions of Chapter XIII of the Central Goods and Service Tax Rules, 2017 (12 of 2017), shall mutatis mutandis, apply to an appeal filed under this notification.

Further, GSTN has issued an advisory dated 28.11.2023 [for the procedures and provisions related to the amnesty for taxpayers who missed the appeal filing deadline for the orders passed on or before March 31, 2023](#)

Amnesty for Taxpayers: The GST Council, in its 52nd meeting, recommended granting amnesty to taxpayers who could not file an appeal under section 107 of the CGST (Central Goods and Services Tax) Act, 2017, against the demand order under section 73 or 74 of the CGST Act, 2017, passed on or before March 31, 2023, or whose appeal against the said order was rejected due to not being filed within the specified time frame in sub-section (1) of section 107.

In compliance with the above GST Council recommendation, the government has issued Notification No. 53/2023 on November 2, 2023.

Taxpayers can now file an appeal in FORM GST APL-01 on the GST portal on or before January 31, 2024, for the order passed by the proper officer on or before March 31, 2023.

It is further advised that the taxpayers should make payments for entertaining the appeal by the Appellate officer as per the provisions of Notification No. 53/2023. The GST Portal allows taxpayers to choose the mode of payment (electronic Credit/Cash ledger), and it is the responsibility of the taxpayer to select the appropriate ledgers and make the correct payments. Further, the office of the Appellate Authority shall check the correctness of the payment before entertaining the appeal and any appeal filed without proper payment may be dealt with as per the legal provisions.

If a taxpayer has already filed an appeal and wants it to be covered by the benefit of the amnesty scheme would need to make differential payments to comply with Notification No. 53/2023. The payment should be made against the demand order using the "Payment towards demand" facility available on the GST portal. The navigation step for making this payment is provided: Login >> Services >> Ledgers >> Payment towards Demand.

Taxpayers who have previously filed an appeal but it was rejected as time barred in APL-02 by the Appellate authority, then the taxpayer would be able to refile the appeal. However, in case, the taxpayers face any issue while re-filing APL-01, a ticket shall be raised on the Grievance redressal portal: <https://selfservice.gstsystem.in>. The taxpayer shall select the Category "Amnesty Scheme" and the sub-category "*Amnesty scheme- Issue in appeal filing*" while raising a ticket.

Furthermore, if the Appellate authority has issued a rejection order in APL-04 due to the appeal application being time-barred, then the taxpayer has to approach the respective Appellate authority office well in advance to comply with the dates in the said notification. The Appellate authority after checking the eligibility of the taxpayer for the amnesty scheme will forward the case to GSTN through the State Nodal officer.

Also, it is important to note that for the APL 04 issued cases **no direct representations will be entertained by GSTN** or through the Grievance redressal portal. APL 04-issued cases have to be compulsorily forwarded through the State Nodal officer.

Post receiving the case from the State nodal officer, GSTN will enable the taxpayer to file an appeal against the concerned order.

18.1.2.1 Departmental Clarifications - Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal — [Circular No. 132/2/2020 – GST dated 18th March, 2020](#)

Various representations have been received wherein the issue has been decided against the registered person by the adjudicating authority or refund application has been rejected by the appropriate authority and appeal against the said order is pending before the appellate authority. It has been gathered that the appellate process is being kept pending by several appellate authorities on the grounds that the appellate tribunal has been not constituted and that till such time no remedy is available against their Order-in-Appeal, such appeals cannot be disposed. Doubts have been raised across the field formations in respect of the appropriate procedure to be followed in absence of appellate tribunal for appeal to be made under section 112 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”).

2. The matter has been examined in detail. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby issues the following clarifications and guidelines.

3.1 Appeal against an adjudicating authority is to be made as per the provisions of Section 107 of the CGST Act. The sub-section (1) of the section reads as follows: -

“107. (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.”

3.2 Relevant rules have been prescribed for implementation of the above Section. The relevant rule for the same is rule 109A of Central Goods and Services Tax Rules, 2017 which reads as follows:

“109A. Appointment of Appellate Authority.- (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to –

(a) the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;

(b) any officer not below the rank of Joint Commissioner (Appeals) where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent,

within three months from the date on which the said decision or order is communicated to such person.”

3.3 Hence, if the order has been passed by Deputy or Assistant Commissioner or Superintendent, appeal has to be made to the appellate authority appointed who would not be an officer below the rank of Joint Commissioner. Further, if the order has been passed by Additional or Joint Commissioner, appeal has to be made to the Commissioner (Appeal) appointed for the same.

4.1 The appeal against the order passed by appellate authority under Section 107 of the CGST Act lies with appellate tribunal. Relevant provisions for the same is mentioned in the Section 112 of the CGST Act which reads as follows: -

“112 (1) 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 within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.”

4.2 The appellate tribunal has not been constituted in view of the order by Madras High Court in case of Revenue Bar Assn. v. Union of India and therefore the appeal cannot be filed within three months from the date on which the order sought to be appealed against is communicated. In order to remove difficulty arising in giving effect to the above provision of the Act, the Government, on the recommendations of the Council, has issued the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019. It has been provided through the said Order that the appeal to tribunal can be made within three months (six months in case of appeals by the Government) from the date of communication of order or date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, whichever is later.

4.3 Hence, as of now, the prescribed time limit to make application to appellate tribunal will be counted from the date on which President or the State President enters office. The appellate authority while passing order may mention in the preamble that appeal may be made to the appellate tribunal whenever it is constituted within three months from the President or the State President enters office. Accordingly, it is advised that the appellate authorities may dispose all pending appeals expeditiously without waiting for the constitution of the appellate tribunal.

18.1.3.1 Instructions - Procedure relating to sanction, post-audit and review of refund claims - [Instruction No. 03/2022 - GST Policy Wing dated 14th June 2022](#)

Attention is invited to sub-section (2) of section 107 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act") which provides that the Commissioner may review any decision or order, including an order of refund, with respect to its legality or propriety and he may direct any officer subordinate to him to file an appeal against the said decision or order within 6 months of the date of communication of the said decision or order. Reference is further drawn to entry against the subject pre-audit in table under para 3.3 of the Circular 17/17/2017-GST dated 15.11.2017 wherein it has been stated that pre-audit of refund orders is not required to be carried out but the post-audit of the refund orders may, however, continue on the basis of extant guidelines.

2. Subsequently, Board has been receiving reports of different practices being followed by the field formations regarding sanction, review and post-audit of refund claims. In certain Commissionerates, speaking order is being issued in respect of all refund claims, whereas in others, speaking orders are not being issued if the refund is sanctioned in full. Similarly, in case of review and post-audit, different practices are being followed by the field formations.

The matter has been examined with the twin purpose of ensuring uniformity in procedure and enabling effective monitoring of sanction of refund claims in order to safeguard interest of revenue. Accordingly, the Board hereby issues the following instructions/guidelines for sanction, post-audit and review of refunds:

2.1 Sanction of Refund

2.1.1 Detailed guidelines for processing of refund claims in GST have been issued by the Board vide [Circular No. 17/17/2017 -GST dated 15.11.2017](#) (for manual processing of refunds) and [Circular No. 125/44/2019-GST dated 18.11.2019](#) (for electronic filing and online processing of refunds) to ensure uniformity in processing of refund claims. In both of these Circulars, it has been mentioned that the proper officer shall follow the principle of natural justice before taking the final decision with regard to refund claim. Principle of natural justice inter-alia provides that a detailed speaking order needs to be issued providing a basis for sanction/rejection of refund. Therefore, while passing the refund sanction order in FORM GST RFD-06, the proper officer should also upload a detailed speaking order along with refund sanction order in FORM GST RFD-06. In order to ensure uniformity in issuance of such speaking order, it is clarified that such speaking order should inter alia contain the following details:

A. Details for all category of refund claims:

- a) The period for which refund claim has been filed, date of filing & the category in which refund has been claimed.
- b) Whether it has been checked that refund claim for the same period has not been filed in the same category including any claim filed under 'Any Other' Category.
- c) Details of Deficiency Memo, if any, in FORM GST RFD-03 issued in respect of the said refund claim previously.
- d) Whether the refund claim has been filed within limitation of time, as provided under CGST Act and Rules thereof, including in the cases, where Deficiency Memo in FORM GST RFD-03 had been issued previously.
- e) Details of the documents/ statements uploaded along with the refund claim. Whether all the necessary documents have been uploaded with the refund claim in terms of rule 89(2) of the CGST Rules. Details of document furnished by the applicant via e-mail/ in soft copy/ in hard copy, if any, may also be provided.
- f) Whether all the due returns have been filed by the applicant or not, whether any dues are pending recovery from the applicant, and whether refund is required to be withheld/ any amount is required to be deducted as per provisions of section 54(10) of CGST Act on account of non-filing of returns or dues being pending for recovery from the applicant.

- g) Whether any SCN was issued to the applicant. Details of reply of the applicant and PH details.
- h) Discussion and findings in respect of applicant submission. Details of case laws relied upon in deciding the matter, if any.
- i) Whether provisions of unjust enrichment are applicable or not in terms of the provisions of section 54(8) of the CGST Act. If unjust enrichment is applicable in the refund, whether the applicant has furnished due documents/ certificates, in terms of clause (b) of section 54(4) of CGST Act, certifying/ establishing not passing burden of tax, in respect of which refund is being claimed, on any other person.

B. Additional details in case of the refund of accumulated ITC (on account of zero-rated supplies/ inverted rated structure) and refund of IGST paid on account of zero-rated supplies:

- a) Whether the refund amount claimed has been debited from the electronic credit ledger, in terms of sub-rule (3) of rule 89 of CGST Rules.
- b) In case of refund of IGST paid on account of zero-rated supplies, whether the amount of IGST has been paid through GSTR-3B return.
- c) Whether the calculation given by the applicant of export/ zero-rated turnover, adjusted aggregate turnover, turnover of inverted duty supplies, as applicable, is correct as per the relevant provisions.
- d) Whether calculation of Net ITC, where ever applicable, is correct as per the relevant provisions. Also, whether the verification of admissibility of ITC as per the provisions of GST Law has been done or not and the findings thereof
- e) Whether it has been verified that ITC on capital goods has not been included in calculation of Net ITC for refund of ITC in zero rated supplies.
- f) Whether it has been verified that ITC in respect of input services as well as capital goods is not included in calculation of Net ITC in case of inverted tax structure refund.
- g) Whether refund has been restricted to the ITC as per those invoices, details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in FORM GSTR-2A of the applicant in terms of [Circular No. 135/05/2020-GST dated 31.03.2020](#).
- h) Whether the refund is barred under the provisions of 2nd and 3rd proviso to section 54(3) of the CGST Act, 2017.
- i) Details of computation of refund claim amount as per the relevant provisions/prescribed formula in the Act/ Rules and verification whether the refund amount claimed is correct or not.
- j) In case of refund on account of inversion, whether the supply qualifies for refund of unutilised ITC under clause (ii) of 1st proviso to section 54(3) of the CGST Act, 2017.

k) In case of refund on account of export of goods, whether the details of shipping bill/ bill of exports, where ever applicable, have been verified from the ICEGATE portal.

l) In case of refund on account of export of services, whether the claimant has furnished the BRC/FIRC/ other relevant documents evidencing receipt of export remittances in respect of zero-rated services for which refund is being claimed.

m) In case of refund on account of zero-rated supply by DTA to SEZ, whether the said supply is meant for authorized operations on the basis of Letter of Authorisation (LoA). Further, whether the details of supply by the applicant to the SEZ have been cross checked from the SEZ Online portal.

n) Whether the documents pertaining to zero-rated supply to SEZ have been endorsed by the specified/authorized officer of the zone.

o) Whether the DTA supplier has received the payment from the SEZ recipient in case of supply of services to SEZ.

C. Additional details in case of refund of tax paid on supplies regarded as deemed export:

a) Whether necessary procedure was followed while making procurement/supplying of goods regarded as deemed exports.

b) Whether the ITC claimed against the tax paid on such deemed export supplies has been debited from the electronic credit ledger by the recipient for filing application of refund.

c) Whether it has been verified that no ITC has been claimed by the recipient when refund is claimed by supplier.

D. Additional details in case of refund of excess balance in cash ledger:

a) Whether the amount claimed has been debited from the electronic cash ledger.

b) Whether the amount to be refunded has been calculated in accordance with the provisions of section 49(6) of CGST Act.

E. Additional details in case of refund filed under the other categories of refund except those mentioned above:

a) Whether the documents furnished/uploaded along with the refund claim have been verified for their correctness from the source like FORM GSTR-1, FORM GSTR-3B, ICEGATE portal etc., where ever required.

b) Details of the verification conducted and reasoning for grant/ rejection of refund.

c) In case of refund ITC filed under "Any Other" category, whether the amount claimed has been debited from the electronic credit ledger, wherever required.

2.1.2 It is mentioned that ACES-GST portal provides the facility for uploading a document in pdf format along with the FORM GST RFD-06 order. The same may be utilized by proper officer for uploading the speaking order along with refund sanction order in FORM GST RFD-06 so that the same is made available to the refund applicant as well as Post-audit/Reviewing Authority online.

2.2 Post-Audit and Review:

2.2.1 Sub-section (2) of section 107 of the CGST Act provides that the Commissioner may examine any decision or order, including an order of refund, with respect to its legality or propriety and he may direct any officer subordinate to him to file an appeal against the said decision or order **within 6 months** of the date of communication of the said decision or order.

The said sub-section is reproduced below:

*(2) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, 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 **within six months** from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.*

2.2.2 Accordingly, **as per extant practice, all refund orders are required to be reviewed for examination of legality and propriety of the refund order and for taking a view whether an appeal to the appellate authority under provisions of sub-section (2) of section 107 of the CGST Act is required to be filed against the said refund order.**

2.2.3 As already mentioned in [Circular No. 17/17/2017 – GST dated 15th November, 2017](#), refund claims shall not be subjected to pre-audit. However, the post-audit of refund claims may continue. Considering the large number of refund claims filed in GST, it has been decided that **post-audit may henceforth be conducted only for refund claims amounting to Rs. 1 Lakh or more till further instructions.**

2.2.4 The post-audit and review of the refund claims shall be conducted as per the following guidelines:

(a) All the refund orders passed should be immediately transmitted online to the review module after issuance of refund order in FORM GST RFD-06. The review and post-

audit officers shall have access to all documents/ statements on ACES-GST portal pertaining to the said refund claims.

(b) For the purpose of post-audit of refund order, a **Post-Audit Cell** under a Deputy/Assistant Commissioner along with one/ two Superintendents and Inspectors as required, may be created in Commissionerate Headquarters.

(c) The **post-audit should be concluded within 3 months** from the date of issue of FORM GST RFD-06 order. The findings of the post-audit shall be communicated to the review branch within the said time period of 3 months.

(d) The **review of refund order shall be completed at least 30 days before the expiry of the time period allowed for filing appeal** under Section 107(2) of the CGST Act.

2.2.5 Till the time the functionality for conducting post-audit online is developed on ACES-GST portal, post-audit of refund orders may be conducted in offline mode. For the said purpose, the refund orders covered under para **2.2.3** above and the relevant documents may be provided to the post-audit cell by the concerned Division through e-Office **within 7 days** of issuance of refund sanction order in FORM GST RFD-06. The report of the post audit may be furnished by the Post-Audit Cell to the Review Cell through e-Office as per the time-limit specified in para **2.2.4(c)** above.

18.2 Powers of Revisional Authority. [Section 108]

<p>Section 108(1)</p>	<p>01.07.2017 to till date</p>	<p>Revision of order by Revisional Authority</p> <p>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, 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 State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by any officer subordinate 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, 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 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.</p>
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<p>Section 108(2)</p>	<p>01.07.2017 to till date</p>	<p>Cases where revision of order shall not be empowered</p> <p>The Revisional Authority shall not exercise any power under sub-section (1), if—</p> <table border="1" data-bbox="526 380 1332 728"> <tr> <td data-bbox="526 380 590 459">(a)</td> <td data-bbox="590 380 1332 459">the order has been subject to an appeal under section 107 or section 112 or section 117 or section 118; or</td> </tr> <tr> <td data-bbox="526 459 590 593">(b)</td> <td data-bbox="590 459 1332 593">the period specified under sub-section (2) of section 107 has not yet expired or more than three years have expired after the passing of the decision or order sought to be revised; or</td> </tr> <tr> <td data-bbox="526 593 590 660">(c)</td> <td data-bbox="590 593 1332 660">the order has already been taken for revision under this section at an earlier stage; or</td> </tr> <tr> <td data-bbox="526 660 590 728">(d)</td> <td data-bbox="590 660 1332 728">the order has been passed in exercise of the powers under sub-section (1):</td> </tr> </table>	(a)	the order has been subject to an appeal under section 107 or section 112 or section 117 or section 118; or	(b)	the period specified under sub-section (2) of section 107 has not yet expired or more than three years have expired after the passing of the decision or order sought to be revised; or	(c)	the order has already been taken for revision under this section at an earlier stage; or	(d)	the order has been passed in exercise of the powers under sub-section (1):
(a)	the order has been subject to an appeal under section 107 or section 112 or section 117 or section 118; or									
(b)	the period specified under sub-section (2) of section 107 has not yet expired or more than three years have expired after the passing of the decision or order sought to be revised; or									
(c)	the order has already been taken for revision under this section at an earlier stage; or									
(d)	the order has been passed in exercise of the powers under sub-section (1):									
<p>First Proviso</p>	<p>01.07.2017 to till date</p>	<p>Revisional Authority may pass an order on any point which has not been raised and decided in an appeal</p> <p>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 one year from the date of the order in such appeal or before the expiry of a period of three years referred to in clause (b) of that sub-section, whichever is later.</p>								
<p>Section 108(3)</p>	<p>01.07.2017 to till date</p>	<p>Every order passed to be final and binding on the parties subject to provisions of section 113 or section 117 or section 118</p> <p>Every order passed in revision under sub-section (1) shall, subject to the provisions of section 113 or section 117 or section 118, be final and binding on the parties.</p>								
<p>Section 108(4)</p>	<p>01.07.2017 to till date</p>	<p>Exclusions in computing the period of limitation</p> <p>If the said decision or order involves an issue on which the Appellate Tribunal or the High Court has given its decision in some other proceedings and an appeal to the High Court or the Supreme Court against such decision of the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Tribunal and the date of the decision of the High Court or the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period of limitation referred to in clause (b) of sub-section (2) where proceedings for revision have been initiated by way of issue of a notice under this section.</p>								
<p>Section 108(5)</p>	<p>01.07.2017 to till date</p>	<p>Exclusions in computing the period of limitation – Period of stay</p> <p>Where the issuance of an order under sub-section (1) is stayed by the order of a court or Appellate Tribunal, the period of such</p>								

		stay shall be excluded in computing the period of limitation referred to in clause (b) of sub-section (2).				
Section 108(6)	01.07.2017 to till date	<p>“record” and “decision” for the purposes of this section</p> <p>For the purposes of this section, the term,—</p> <table border="1"> <tr> <td>(i)</td> <td>“record” shall include all records relating to any proceedings under this Act available at the time of examination by the Revisional Authority;</td> </tr> <tr> <td>(ii)</td> <td>“decision” shall include intimation given by any officer lower in rank than the Revisional Authority.</td> </tr> </table>	(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.
(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.					

18.2.1.1 appointment of Revisional Authority under CGST Act, 2017

[Notification No. 05/2020 – Central Tax dated 13th January, 2020](#) - The Central Board of Indirect Taxes and Customs hereby authorises –

(a) the Principal Commissioner or Commissioner of Central Tax for decisions or orders passed by the Additional or Joint Commissioner of Central Tax; and

(b) the Additional or Joint Commissioner of Central Tax for decisions or orders passed by the Deputy Commissioner or Assistant Commissioner or Superintendent of Central Tax,

as the Revisional Authority under section 108 of the said Act.

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

Section 109(1)	01.07.2017 to 31.07.2023	The Government shall, on the recommendations of the Council, by notification, constitute with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority.
Section 109(2)	01.07.2017 to 31.07.2023	The powers of the Appellate Tribunal shall be exercisable by the National Bench and Benches thereof (hereinafter in this Chapter referred to as “Regional Benches”), State Bench and Benches thereof (hereafter in this Chapter referred to as “Area Benches”).
Section 109(3)	01.07.2017 to 31.07.2023	The National Bench of the Appellate Tribunal shall be situated at New Delhi which shall be presided over by the President and shall consist of one Technical Member (Centre) and one Technical Member (State).
Section 109(4)	01.07.2017 to 31.07.2023	The Government shall, on the recommendations of the Council, by notification, constitute such number of Regional Benches as may be required and such Regional Benches shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State).

Section 109(5)	01.07.2017 to 31.07.2023	The National Bench or Regional Benches of the Appellate Tribunal shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases where one of the issues involved relates to the place of supply.
Section 109(6)	01.07.2017 to 07.07.2017	The Government shall, by notification, specify for each State or Union territory, a Bench of the Appellate Tribunal (hereafter in this Chapter, referred to as "State Bench") for exercising the powers of the Appellate Tribunal within the concerned State or Union territory :
	08.07.2017 to 29.06.2020	<p>The Government shall, by notification, specify for each State or Union territory ¹[except for the State of Jammu and Kashmir], a Bench of the Appellate Tribunal (hereafter in this Chapter, referred to as "State Bench") for exercising the powers of the Appellate Tribunal within the concerned State or Union territory :</p> <div data-bbox="608 864 1350 981" style="border: 1px solid black; padding: 5px;"> <p>1. Inserted w.e.f. 08.07.2017 vide clause (c) (i) of Section 2 of the Central Goods and Services Tax (Extension to Jammu and Kashmir) Act, 2017.</p> </div>
	30.06.2020 to 31.07.2023	<p>The Government shall, by notification, specify for each State or Union territory ¹[*****], a Bench of the Appellate Tribunal (hereafter in this Chapter, referred to as "State Bench") for exercising the powers of the Appellate Tribunal within the concerned State or Union territory :</p> <div data-bbox="608 1218 1350 1514" style="border: 1px solid black; padding: 5px;"> <p>1. Omitted w.e.f. 30th June 2020 the words "except for the State of Jammu and Kashmir" vide clause (a) of Section 125 of the Finance Act, 2020 NO. 12 of 2020 dated 27th March, 2020 which comes into force vide Notification No. 49/2020 –Central Tax dated 24th June 2020 which were inserted w.e.f. 08.07.2017 vide Section 2 of the Central Goods and Services Tax (Extension to Jammu and Kashmir) Act, 2017.</p> </div>
First Proviso	01.07.2017 to 07.07.2017	Provided that the Government shall, on receipt of a request from any State Government, constitute such number of Area Benches in that State, as may be recommended by the Council:
	08.07.2017 to 29.06.2020	<p>¹{Provided that for the State of Jammu and Kashmir, the State Bench of the Goods and Services Tax Appellate Tribunal constituted under this Act shall be the State Appellate Tribunal constituted under the Jammu and Kashmir Goods and Services Tax Act, 2017:</p> <div data-bbox="608 1890 1350 2007" style="border: 1px solid black; padding: 5px;"> <p>1. Substituted w.e.f. 08.07.2017 for the words "Provided that" vide Section 2 of the Central Goods and Services Tax (Extension to Jammu and Kashmir) Act, 2017, Namely: -</p> </div>

		<p>“Provided that for the State of Jammu and Kashmir, the State Bench of the Goods and Services Tax Appellate Tribunal constituted under this Act shall be the State Appellate Tribunal constituted under the Jammu and Kashmir Goods and Services Tax Act, 2017: Provided further that”;</p>
	30.06.2020 to 31.07.2023	<p>¹[*****]</p> <p>1. Omitted w.e.f. 30th June 2020 the first proviso vide clause (b) of Section 125 of the <u>Finance Act, 2020 NO. 12 of 2020</u> dated 27th March, 2020 which comes into force <u>Notification No. 49/2020 –Central Tax</u> dated 24th June 2020 read as - “Provided that for the State of Jammu and Kashmir, the State Bench of the Goods and Services Tax Appellate Tribunal constituted under this Act shall be the State Appellate Tribunal constituted under the Jammu and Kashmir Goods and Services Tax Act, 2017:”</p>
Second Proviso	08.07.2017 to 31.07.2023	Provided further that} the Government shall, on receipt of a request from any State Government, constitute such number of Area Benches in that State, as may be recommended by the Council:
Third Proviso	01.07.2017 to 07.07.2017	Provided further that the Government may, on receipt of a request from any State, or on its own motion for a Union territory, notify the Appellate Tribunal in a State to act as the Appellate Tribunal for any other State or Union territory, as may be recommended by the Council, subject to such terms and conditions as may be prescribed.
	08.07.2017 to 31.07.2023	<p>¹[Provided also that] the Government may, on receipt of a request from any State, or on its own motion for a Union territory, notify the Appellate Tribunal in a State to act as the Appellate Tribunal for any other State or Union territory, as may be recommended by the Council, subject to such terms and conditions as may be prescribed.</p> <p>1. Substituted the words “Provided further that” w.e.f. 08.07.2017 vide Section 2 of the <u>Central Goods and Services Tax (Extension to Jammu and Kashmir) Act, 2017</u>.</p>
Section 109(7)	01.07.2017 to 31.07.2023	The State Bench or Area Benches shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases involving matters other than those referred to in sub-section (5).
Section 109(8)	01.07.2017 to 31.07.2023	The President and the State President shall, by general or special order, distribute the business or transfer cases among Regional Benches or, as the case may be, Area Benches in a State.

Section 109(9)	01.07.2017 to 31.07.2023	Each State Bench and Area Benches of the Appellate Tribunal shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State) and the State Government may designate the senior most Judicial Member in a State as the State President.
Section 109(10)	01.07.2017 to 31.07.2023	In the absence of a Member in any Bench due to vacancy or otherwise, any appeal may, with the approval of the President or, as the case may be, the State President, be heard by a Bench of two Members:
First Proviso	01.07.2017 to 31.07.2023	Provided that any appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed five lakh rupees and which does not involve any question of law may, with the approval of the President and subject to such conditions as may be prescribed on the recommendations of the Council, be heard by a bench consisting of a single member.
Section 109(11)	01.07.2017 to 31.07.2023	If the Members of the National Bench, Regional Benches, State Bench or Area Benches differ in opinion on any point or points, it shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President or as the case may be, State President for hearing on such point or points to one or more of the other Members of the National Bench, Regional Benches, State Bench or Area Benches and such point or points shall be decided according to the opinion of the majority of Members who have heard the case, including those who first heard it.
Section 109(12)	01.07.2017 to 31.07.2023	The Government, in consultation with the President may, for the administrative convenience, transfer— (a) any Judicial Member or a Member Technical (State) from one Bench to another Bench, whether National or Regional; or (b) any Member Technical (Centre) from one Bench to another Bench, whether National, Regional, State or Area.
Section 109(13)	01.07.2017 to 31.07.2023	The State Government, in consultation with the State President may, for the administrative convenience, transfer a Judicial Member or a Member Technical (State) from one Bench to another Bench within the State.
Section 109(14)	01.07.2017 to 31.07.2023	No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.

18.3 Constitution of Appellate Tribunal and Benches thereof. ¹[Section 109]

1. Substituted for section 109 of the Central Goods and Services Tax Act, vide Section 149 of the Finance Act 2023 and has come into force w.e.f. 01.08.2023 as the Central Government has appointed the 1st day of August, 2023, as the date on which the provisions shall come into force vide [Notification No. 28/2023–Central Tax dated 31.07.2023](#).

Section 109(1)	01.08.2023 to till date	The Government shall, on the recommendations of the Council, by notification, establish with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority.
Section 109(2)	01.08.2023 to till date	The jurisdiction, powers and authority conferred on the Appellate Tribunal shall be exercised by the Principal Bench and the State Benches constituted under sub-section (3) and sub-section (4).
Section 109(3)	01.08.2023 to till date	The Government shall, by notification, constitute a Principal Bench of the Appellate Tribunal at New Delhi which shall consist of the President, a Judicial Member, a Technical Member (Centre) and a Technical Member (State).
Section 109(4)	01.08.2023 to till date	On the request of the State, the Government may, by notification, constitute such number of State Benches at such places and with such jurisdiction as may be recommended by the Council, which shall consist of two Judicial Members, a Technical Member (Centre) and a Technical Member (State).
Section 109(5)	01.08.2023 to till date	The principal Bench and the State Bench shall hear appeals against the order passed by the Appellate Authority or the Revisional Authority: Provided that the cases in which any one of the issues involved relates to the place of supply, shall be heard only by the Principal Bench.
Section 109(6)	01.08.2023 to till date	The President shall, from time to time, by a general or special order, distribute the business of the Appellate Tribunal among the Benches and may transfer cases from one Bench to another.
Section 109(7)	01.08.2023 to till date	The senior-most Judicial Member within the State Benches, as may be notified, shall act as the Vice-President for such State Benches and shall exercise such powers of the President as may be prescribed, but for all other purposes be considered as a Member.
Section 109(8)	01.08.2023 to till date	Appeals, where the tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed fifty lakh rupees and which does not involve any question of law may, with the approval of the President, and subject to such conditions as may be prescribed on the recommendations of the Council, be heard by a single Member, and in all other cases, shall be heard together by one Judicial Member and one Technical Member.
Section 109(9)	01.08.2023 to till date	If, after hearing the case, the members differ in their opinion on any point or points, such Member shall state the point or points on which they differ, and the President shall refer such case for hearing,—

		<p>(a) where the appeal was originally heard by Members of a State Bench, to another Member of a State Bench within the State or, where no such other State Bench is available within the State, to a Member of a State Bench in another State;</p> <p>(b) where the appeal was originally heard by Members of the Principal Bench, to another Member from the Principal Bench or, where no such other Member is available, to a Member of any State Bench. and such point or points shall be decided according to the majority opinion including the opinion of the Members who first heard the case.</p>
Section 109(10)	01.08.2023 to till date	The Government may, in consultation with the President, for the administrative efficiency, transfer Members from one Bench to another Bench: Provided that a Technical Member (State) of a State Bench may be transferred to a State Bench only of the same State in which he was originally appointed, in consultation with the State Government.
Section 109(11)	01.08.2023 to till date	No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.

18.3.1.1 Departmental Notification - creation of the National Bench of the Goods and Services Tax Appellate Tribunal (GSTAT) at New Delhi

[S.O. 1359\(E\) dated 13.03.2019](#) - The Central Government, on the recommendation of the Council, has notified the creation of the National Bench of the Goods and Services Tax Appellate Tribunal (GSTAT) at New Delhi, with effect from the date of publication of this notification in the Gazette of India (Extraordinary).

18.3.1.2 Departmental Notification - creation of the State Benches of the Goods and Services Tax Appellate Tribunal (GSTAT)

[S.O. 3009\(E\) dated 21st August, 2019](#) - The Central Government, on the recommendation of the Goods and Services Tax Council, has notified the creation of the State Benches of the Goods and Services Tax Appellate Tribunal (GSTAT) as per the details contained in the table 1 below and Area Benches as per the details contained in table 2 below, with effect from the date of publication of this notification in the Gazette of India (Extraordinary):—

S. No.	Name of State/Union Territory	Location:
1.	Andhra Pradesh	Vijayawada
2.	Bihar	Patna
3.	Chhattisgarh	Raipur

4.	Delhi	New Delhi
5.	Goa	Panaji
6.	Gujarat	Ahmedabad
7.	Haryana	Hisar
8.	Himachal Pradesh	Shimla
9.	Jharkhand	Ranchi
10.	Karnataka	Bengaluru
11.	Kerala	Thiruvananthapuram
12.	Maharashtra	Mumbai
13.	Odisha	Cuttack
14.	Puducherry	Pondicherry
15.	Punjab	Chandigarh
16.	Tamil Nadu	Chennai
17.	Telangana	Hyderabad
18.	Tripura	Agartala
19.	Uttarakhand	Dehradun
20.	West Bengal	Kolkata
21.	Assam	Common State Bench of GSTAT at Guwahati, Assam
22.	Arunachal Pradesh	
23.	Manipur	
24.	Nagaland	
25.	Sikkim	

UTs (Without Legislature)		
26.	Andaman & Nicobar	State Bench of West Bengal (Kolkata)
27.	Dadra & Nagar Haveli	State Bench of Maharashtra (Mumbai)
28.	Daman & Diu	State Bench of Maharashtra (Mumbai)
29.	Lakshadweep	State Bench of Kerala (Ernakulum)
30.	Chandigarh	State Bench of Punjab (Chandigarh)

Table 2

S. No.	Name of State	Location:
1.	Andhra Pradesh	One Area Bench each at Vishakhapatnam and Tirupati
2.	Gujarat	One Area Bench each at Surat and Rajkot
3.	Maharashtra	One Area Bench each at Pune and Nagpur
4.	West Bengal	Two Area Benches at Kolkata

Further, [S.O. 4332\(E\).dated 29.11.2019](#) —The Central Government, on the recommendation of the Goods and Services Tax Council, has notified the creation of the State Benches of the Goods and Services Tax Appellate Tribunal (GSTAT) as per the details contained in the table 1 below and Area Benches as per the details contained in table 2 below, with effect from the date of publication of this notification in the Gazette of India (Extraordinary).

Table 1

S. No.	Name of State/Union Territory	Location:
1.	Mizoram	Aizawl
2.	Rajasthan	Jaipur

Table 1

S. No.	Name of State	Location:
1.	Karnataka	Two Area Benches at Bengaluru
2.	Rajasthan	One Area Bench at Jodhpur

Recently, [S.O. 4073\(E\) dated 14.09.2023](#) - In supersession of the Ministry of Finance, Department of Revenue's notification number [S.O. 3009\(E\) dated 21st August, 2019](#) and the notification number [S.O. 4332\(E\).dated 29.11.2019](#), the Central Government, on the recommendation of the Goods and Services Tax Council, has constituted the number of State Benches of the Goods and Services Tax Appellate Tribunal as specified in column (3) of the table below, with respect to the State specified in the corresponding entry in column (2) of the said table, at the location specified in corresponding entry in column (4) thereof, with effect from the date of publication of this notification in the Gazette of India (Extraordinary), namely:—

S. No.	State Name	No. of Benches	Location
(1)	(2)	(3)	(4)
1	Andhra Pradesh	1	Vishakhapatnam and Vijayawada
2	Bihar	1	Patna

3	Chhattisgarh	1	Raipur and Bilaspur
4	Delhi	1	Delhi
5	Gujarat	2	Ahmedabad, Surat and Rajkot
6	Dadra and Nagar Haveli and Daman and Diu		
7	Haryana	1	Gurugram and Hissar
8	Himachal Pradesh	1	Shimla
9	Jammu and Kashmir	1	Jammu and Srinagar
10	Ladakh		
11	Jharkhand	1	Ranchi
12	Karnataka	2	Bengaluru
13	Kerala	1	Ernakulum and Trivandrum
14	Lakshadweep		
15	Madhya Pradesh	1	Bhopal
16	Goa	3	Mumbai, Pune, Thane, Nagpur, Aurangabad and Panaji
17	Maharashtra		
18	Odisha	1	Cuttack
19	Punjab	1	Chandigarh and Jalandhar
20	Chandigarh		
21	Rajasthan	2	Jaipur and Jodhpur
22	Tamil Nadu	2	Chennai, Madurai, Coimbatore and
23	Puducherry		Puducherry
24	Telangana	1	Hyderabad
25	Uttar Pradesh	3	Lucknow, Varanasi, Ghaziabad, Agra and
26	Uttarakhand	1	Dehradun
27	Andaman and Nicobar Islands	2	Kolkata
28	Sikkim		
29	West Bengal		
30	Arunachal Pradesh	1	Guwahati
31	Assam		Aizawl(Circuit)
32	Manipur		Agartala(Circuit)
33	Meghalaya		Kohima (Circuit)
34	Mizoram		
35	Nagaland		
36	Tripura		

Explanation - Locations shown as 'Circuit' shall be operational in such manner as the President may order, depending upon the number of appeals filed by suppliers in the respective States.

18.4 President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc. [Section 110]

Section 110(1)	01.07.2017 to 31.07.2023	A person shall not be qualified for appointment as— (a) the President, unless he has been a Judge of the Supreme Court or is or has been the Chief Justice of a High Court, or is or has been a Judge of a High Court for a period not less than five years; (b) a Judicial Member, unless he— (i) has been a Judge of the High Court; or (ii) is or has been a District Judge qualified to be appointed as a Judge of a High Court; or (iii) is or has been a Member of Indian Legal Service and has held a post not less than Additional Secretary for three years; (c) a Technical Member (Centre) unless he is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A, and has completed at least fifteen years of service in Group A; (d) a Technical Member (State) unless he is or has been an officer of the State Government not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank as may be notified by the concerned State Government on the recommendations of the Council with at least three years of experience in the administration of an existing law or the State Goods and Services Tax Act or in the field of finance and taxation.
Section 110(2)	01.07.2017 to 31.07.2023	The President and the Judicial Members of the National Bench and the Regional Benches shall be appointed by the Government after consultation with the Chief Justice of India or his nominee:
First Proviso	01.07.2017 to 31.07.2023	Provided that in the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or otherwise, the senior most Member of the National Bench shall act as the President until the date on which a new President, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office:
Second Proviso	01.07.2017 to 31.07.2023	Provided further that where the President is unable to discharge his functions owing to absence, illness or any other cause, the senior most Member of the National Bench shall discharge the functions of the President until the date on which the President resumes his duties.
Section 110(3)	01.07.2017 to 31.07.2023	The Technical Member (Centre) and Technical Member (State) of the National Bench and Regional Benches shall be appointed by the Government on the recommendations of a Selection Committee consisting of such persons and in such manner as may be prescribed.

Section 110(4)	01.07.2017 to 31.07.2023	The Judicial Member of the State Bench or Area Benches shall be appointed by the State Government after consultation with the Chief Justice of the High Court of the State or his nominee.
Section 110(5)	01.07.2017 to 31.07.2023	The Technical Member (Centre) of the State Bench or Area Benches shall be appointed by the Central Government and Technical Member (State) of the State Bench or Area Benches shall be appointed by the State Government in such manner as may be prescribed.
Section 110(6)	01.07.2017 to 31.07.2023	No appointment of the Members of the Appellate Tribunal shall be invalid merely by the reason of any vacancy or defect in the constitution of the Selection Committee.
Section 110(7)	01.07.2017 to 31.07.2023	Before appointing any person as the President or Members of the Appellate Tribunal, the Central Government or, as the case may be, the State Government, shall satisfy itself that such person does not have any financial or other interests which are likely to prejudicially affect his functions as such President or Member.
Section 110(8)	01.07.2017 to 31.07.2023	The salary, allowances and other terms and conditions of service of the President, State President and the Members of the Appellate Tribunal shall be such as may be prescribed:
First Proviso	01.07.2017 to 31.07.2023	Provided that neither salary and allowances nor other terms and conditions of service of the President, State President or Members of the Appellate Tribunal shall be varied to their disadvantage after their appointment.
Section 110(9)	01.07.2017 to 31.07.2023	The President of the Appellate Tribunal shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier and shall be eligible for reappointment.
Section 110(10)	01.07.2017 to 31.07.2023	The Judicial Member of the Appellate Tribunal and the State President shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.
Section 110(11)	01.07.2017 to 31.07.2023	The Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.
Section 110(12)	01.07.2017 to 31.07.2023	The President, State President or any Member may, by notice in writing under his hand addressed to the Central Government or, as the case may be, the State Government resign from his office:

First Proviso	01.07.2017 to 31.07.2023	Provided that the President, State President or Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Central Government, or, as the case may be, the State Government or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.
Section 110(13)	01.07.2017 to 31.07.2023	The Central Government may, after consultation with the Chief Justice of India, in case of the President, Judicial Members and Technical Members of the National Bench, Regional Benches or Technical Members (Centre) of the State Bench or Area Benches, and the State Government may, after consultation with the Chief Justice of High Court, in case of the State President, Judicial Members, Technical Members (State) of the State Bench or Area Benches, may remove from the office such President or Member, who— (a) has been adjudged an insolvent; or (b) has been convicted of an offence which, in the opinion of such Government involves moral turpitude; or (c) has become physically or mentally incapable of acting as such President, State President or Member; or (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President, State President or Member; or (e) has so abused his position as to render his continuance in office prejudicial to the public interest:
First Proviso	01.07.2017 to 31.07.2023	Provided that the President, State President or the Member shall not be removed on any of the grounds specified in clauses (d) and (e), unless he has been informed of the charges against him and has been given an opportunity of being heard.
Section 110(14)	01.07.2017 to 31.07.2023	Without prejudice to the provisions of sub-section (13),— (a) the President or a Judicial and Technical Member of the National Bench or Regional Benches, Technical Member (Centre) of the State Bench or Area Benches shall not be removed from their office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Central Government and of which the President or the said Member had been given an opportunity of being heard; (b) the Judicial Member or Technical Member (State) of the State Bench or Area Benches shall not be removed from their office except by an order made by the State Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the concerned High Court nominated by the Chief Justice of the concerned High Court on a reference made to him by the State Government and of which the said Member had been given an opportunity of being heard.

Section 110(15)	01.07.2017 to 31.07.2023	The Central Government, with the concurrence of the Chief Justice of India, may suspend from office, the President or a Judicial or Technical Members of the National Bench or the Regional Benches or the Technical Member (Centre) of the State Bench or Area Benches in respect of whom a reference has been made to the Judge of the Supreme Court under sub-section (14).
Section 110(16)	01.07.2017 to 31.07.2023	The State Government, with the concurrence of the Chief Justice of the High Court, may suspend from office, a Judicial Member or Technical Member (State) of the State Bench or Area Benches in respect of whom a reference has been made to the Judge of the High Court under sub-section (14).
Section 110(17)	01.07.2017 to 31.07.2023	Subject to the provisions of article 220 of the Constitution, the President, State President or other Members, on ceasing to hold their office, shall not be eligible to appear, act or plead before the National Bench and the Regional Benches or the State Bench and the Area Benches thereof where he was the President or, as the case may be, a Member.

18.4 President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc. ¹[Section 110]

1. Substituted for Section 110 of the Central Goods and Services Tax Act vide Section 150 of the Finance Act 2023 and has come into force w.e.f. 01.08.2023 as the Central Government has appointed the 1st day of August, 2023, as the date on which the provisions shall come into force vide [Notification No. 28/2023–Central Tax dated 31.07.2023](#).

Section 110(1)	01.08.2023 to 27.12.2023	<p>A person shall not be qualified for appointment as—</p> <p>(a) the President, unless he has been a Judge of the Supreme Court or is or has been the Chief Justice of a High Court;</p> <p>(b) a Judicial Member, unless he—</p> <p>(i) has been a Judge of the High Court; or</p> <p>(ii) has, for a combined period of ten years, been a District Judge or an Additional District Judge;</p> <p>(c) a Technical Member (Centre), unless he is or has been a member of the Indian Revenue (Customs and Indirect Taxes) Service, Group A, or of the All India service with at least three years of experience in the administration of an existing law or goods and services tax in the Central Government, and has completed at least twenty-five years of service in Group A;</p> <p>(d) a Technical Member (State), unless he is or has been an officer of the State Government or an officer of All India Service, not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such</p>
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		<p>rank not lower than that of the First Appellate Authority, as may be notified by the concerned State Government, on the recommendations of the Council and has completed twenty-five years of service in Group A, or equivalent, with at least three years of experience in the administration of an existing law or the goods and services tax or in the field of finance and taxation in the State Government:</p> <p>Provided that the State Government may, on the recommendations of the Council, by notification, relax the recruitment of completion of twenty-five years of service in Group A, or equivalent, in respect of officers of such State where no person has completed twenty-five years of service in Group A, or equivalent, but has completed twenty-five years of service in the Government, subject to such conditions, and till such period, as may be specified in the notification.</p>
	<p>28.12.2023 to till date</p>	<p>A person shall not be qualified for appointment as—</p> <p>(a) the President, unless he has been a Judge of the Supreme Court or is or has been the Chief Justice of a High Court;</p> <p>(b) a Judicial Member, unless he—</p> <p>(i) has been a Judge of the High Court; or</p> <p>(ii) has, for a combined period of ten years, been a District Judge or an Additional District Judge;</p> <p>¹[(iii) has been an advocate for ten years with substantial experience in litigation in matters relating to indirect taxes in the Appellate Tribunal, Customs, Excise and Service Tax Appellate Tribunal, State Value Added Tax Tribunal, by whatever name called, High Court or Supreme Court;]</p> <p>(c) a Technical Member (Centre), unless he is or has been a member of the Indian Revenue (Customs and Indirect Taxes) Service, Group A, or of the All India service with at least three years of experience in the administration of an existing law or goods and services tax in the Central Government, and has completed at least twenty-five years of service in Group A;</p> <p>(d) a Technical Member (State), unless he is or has been an officer of the State Government or an officer of All India Service, not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank not lower than that of the First Appellate Authority, as may be notified by the concerned State Government, on the recommendations of the Council and has completed twenty-five years of service in Group A, or equivalent, with at least three years of experience in the administration of an existing law or the goods and services tax or in the field of finance and taxation in the State Government:</p>

		<p>Provided that the State Government may, on the recommendations of the Council, by notification, relax the recruitment of completion of twenty-five years of service in Group A, or equivalent, in respect of officers of such State where no person has completed twenty-five years of service in Group A, or equivalent, but has completed twenty-five years of service in the Government, subject to such conditions, and till such period, as may be specified in the notification.</p>
		<p style="text-align: center;">Notes</p> <p>1. Inserted w.e.f. 28.12.2023 vide Central Goods and Services Tax (Second Amendment) Act, 2023 dated 28.12.2023.</p>
First Proviso	28.12.2023 to till date	<p>1[Provided that a person who has not completed the age of fifty years shall not be eligible for appointment as the President or Member.]</p>
		<p style="text-align: center;">Notes</p> <p>1. Inserted w.e.f. 28.12.2023 vide Central Goods and Services Tax (Second Amendment) Act, 2023 dated 28.12.2023.</p>
Section 110(2)	01.08.2023 to till date	The President, Judicial Member, Technical Member (Centre) and Technical Member (State) shall be appointed or re-appointed by the Government on the recommendations of a Search-cum-Selection Committee constituted under sub-section (4):
First Proviso	01.08.2023 to till date	Provided that in the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or otherwise, the Judicial Member or, in his absence, the senior-most Technical Member of the Principal Bench shall act as the President until the date on which a new President, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office:
Second Proviso	01.08.2023 to till date	Provided further that where the President is unable to discharge his functions owing to absence, illness or any other cause, the Judicial Member or, in his absence, the senior-most Technical Member of the Principal Bench, shall discharge the functions of the President until the date on which the President resumes his duties.
Section 110(3)	01.08.2023 to till date	While making selection for Technical Member (State) of a State Bench, first preference shall be given to officers who have worked in the State Government of the State to which the jurisdiction of the Bench extends.
Section 110(4)	01.08.2023 to till date	<p>(4) (a) The Search-cum-Selection Committee for Technical Member (State) of a State Bench shall consist of the following members namely:—</p> <p>(i) the Chief Justice of the High Court in whose jurisdiction the State Bench is located, to be the Chairperson of the Committee;</p>

		<p>(ii) the senior-most Judicial Member in the State, and where no Judicial Member is available, a retired Judge of the High Court in whose jurisdiction the State Bench is located, as may be nominated by the Chief Justice of such High Court;</p> <p>(iii) Chief Secretary of the State in which the State Bench is located;</p> <p>(iv) one Additional Chief Secretary or Principal Secretary or Secretary of the State in which the State Bench is located, as may be the nominated by such State Government, not in-charge of the Department responsible for administration of State tax; and</p> <p>(v) Additional Chief Secretary or Principal Secretary or Secretary of the Department responsible for administration of State tax, of the State in which the State Bench is located — Member Secretary; and</p> <p>(b) the Search-cum-Selection Committee for all other cases shall consist of the following members, namely:—</p> <p>(i) the Chief Justice of India or a Judge of Supreme Court nominated by him, to be the Chairperson of the Committee;</p> <p>(ii) Secretary of the Central Government nominated by the Cabinet Secretary — Member;</p> <p>(iii) Chief Secretary of a State to be nominated by the Council — Member;</p> <p>(iv) one Member, who—</p> <p>(A) in case of appointment of a President of a Tribunal, shall be the outgoing President of the Tribunal; or</p> <p>(B) in case of appointment of a Member of a Tribunal, shall be the sitting President of the Tribunal; or</p> <p>(C) in case of the President of the Tribunal seeking re-appointment or where the outgoing President is unavailable or the removal of the President is being considered, shall be a retired Judge of the Supreme Court or a retired Chief Justice of a High Court nominated by the Chief Justice of India; and</p> <p>(v) Secretary of the Department of Revenue in the Ministry of Finance of the Central Government — Member Secretary.</p>
<p>Section 110(5)</p>	<p>01.08.2023 to till date</p>	<p>The Chairperson shall have the casting vote and the Member Secretary shall not have a vote.</p>

Section 110(6)	01.08.2023 to till date	Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, the Committee shall recommend a panel of two names for appointment or re-appointment to the post of the President or a Member, as the case may be.
Section 110(7)	01.08.2023 to till date	No appointment or re-appointment of the Members of the Appellate Tribunal shall be invalid merely by reason of any vacancy or defect in the constitution of the Search-cum-Selection Committee.
Section 110(8)	01.08.2023 to till date	Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, the salary of the President and the Members of the Appellate Tribunal shall be such as may be prescribed and their allowances and other terms and conditions of service shall be the same as applicable to Central Government officers carrying the same pay:
First Proviso	01.08.2023 to till date	Provided that neither the salary and allowances nor other terms and conditions of service of the President of Members of the Appellate Tribunal shall be varied to their disadvantage after their appointment:
Second Proviso	01.08.2023 to till date	Provided further that, if the President or Member takes a house on rent, he may be reimbursed a house rent higher than the house rent allowance as are admissible to a Central Government officer holding the post carrying the same pay, subject to such limitations and conditions as may be prescribed.
Section 110(9)	01.08.2023 to 27.12.2023	Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, the President of the Appellate Tribunal shall hold office for a term of four years from the date on which he enters upon his office, or until he attains the age of sixty-seven years, whichever is earlier and shall be eligible for re-appointment for a period not exceeding two years.
	28.12.2023 to till date	Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, the President of the Appellate Tribunal shall hold office for a term of four years from the date on which he enters upon his office, or until he attains the age of ¹ [seventy years, whichever is earlier and shall be eligible for re-appointment for a period not exceeding two years subject to the age-limit specified above].
Notes		
<p>1. Substituted w.e.f. 28.12.2023 for the words, "sixty-seven years, whichever is earlier and shall be eligible for re-appointment for a period not exceeding two years" vide Central Goods and Services Tax (Second Amendment) Act, 2023 dated 28.12.2023.</p>		

Section 110(10)	01.08.2023 to 27.12.2023	Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, the Judicial Member, Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal shall hold office for a term of four years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for re-appointment for a period not exceeding two years.
	28.12.2023 to till date	Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, the Judicial Member, Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal shall hold office for a term of four years from the date on which he enters upon his office, or until he attains the age of ⁵ [sixty-seven years, whichever is earlier and shall be eligible for re-appointment for a period not exceeding two years subject to the age-limit specified above]
<p>Notes</p> <p>1. Substituted w.e.f. 28.12.2023 for the words, "sixty-five years, whichever is earlier and shall be eligible for re-appointment for a period not exceeding two years" vide Central Goods and Services Tax (Second Amendment) Act, 2023 dated 28.12.2023.</p>		
Section 110(11)	01.08.2023 to 27.12.2023	The President or any Member may, by notice in writing under his hand addressed to the Government, resign from his office: Provided that the President or Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Government or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.
Section 110(12)	01.08.2023 to till date	<p>The Government may, on the recommendations of the Search-cum-Selection Committee, remove from the office President or a Member, who—</p> <p>(a) has been adjudged an insolvent; or</p> <p>(b) has been convicted of an offence which involves moral turpitude; or</p> <p>(c) has become physically or mentally incapable of acting as such President or Member; or</p> <p>(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President or Member; or</p> <p>(e) has so abused his position as to render his continuance in office prejudicial to the public interest;</p>

First Proviso	01.08.2023 to till date	Provided that the President or the Member shall not be removed on any of the grounds specified in clauses (d) and (e) unless he has been informed of the charges against him and has been given an opportunity of being heard.
Section 110(13)	01.08.2023 to till date	The Government, on the recommendations of the Search-cum-Selection Committee, may suspend from office, the President or a Judicial or technical Member in respect of whom proceedings for removal have been initiated under sub-section (12).
Section 110(14)	01.08.2023 to till date	Subject to the provisions of article 220 of the Constitution, the President or other Members, on ceasing to hold their office, shall not be eligible to appear, act or plead before the Principal Bench or the State Bench in which he was the President or, as the case may be, a Member.”

18.4.1.1 Departmental Notification - Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2019.

Notification No. 584 (E) dated 21st August 2019 – n exercise of the powers conferred by section 110 read with section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendation of the Goods and Services Tax Council, hereby makes the following rules, namely:—

Short title, commencement and application

1. (1) These rules may be called the Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2019.
- (2) They shall come into force on the date of their publication in the Official Gazette.
- (3) These rules shall apply to the President of the National Bench, Judicial Member, Technical Member (Centre), Technical Member (State) of the National Bench, Regional Bench, State Bench and Area Bench of the Goods and Services Tax Appellate Tribunal.

Definitions

2. (1) In these rules, unless the context otherwise requires, -

(a)	"Act" means the Central Goods and Services Tax Act, 2017 (12 of 2017).
(b)	"Appellate Tribunal" shall have the meaning assigned to it in clause (9) of section 2 of the Act;
(c)	"Judicial Member" means a Judicial Member of the National Bench, Regional Bench, State Bench or the Area Bench of the Appellate Tribunal;
(d)	"President" means the President of the Appellate Tribunal;
(e)	"Member" means a Judicial Member or a Technical Member of the Appellate Tribunal;
(f)	"Selection Committee" means the Selection Committee referred to in rule 3; and

(g)	"Technical Member" means a Technical Member (Centre) or a Technical Member (State) of the National Bench, Regional Bench, State Bench or the Area Bench of the Appellate Tribunal;
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(2) Words and expressions used herein and not defined but defined in the Act shall have the same meanings as respectively assigned to them in the said Act.

Method of recruitment

3. (1) The Technical Member (Centre) and Technical Member (State) of the National Bench and Regional Benches shall be appointed by the Central Government on the recommendations of a Selection Committee consisting of.-

(i)	Cabinet Secretary to the Government of India – Chairperson, ex-officio;
(ii)	Secretary to the Government of India in the Ministry of Finance (Department of Revenue) – Member, ex-officio;
(iii)	Secretary to the Government of India in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) - Member, ex-officio;
(iv)	Secretary to the Government of India in the Ministry of Law (Department of Legal Affairs) – Member, ex-officio;
(v)	Chairman, Central Board of Indirect Taxes and Customs – Member, ex-officio;
(vi)	Additional Chief Secretary to the State or Union territory Government-in-charge of Finance Department or the Taxation Department of one State Government, as the Central Government may nominate – Member, ex-officio.

(2) The Technical Member (Centre) of the State Bench and Area Benches shall be appointed by the Central Government on the recommendations of a Selection Committee consisting of.-

(i)	Secretary to the Government of India in the Ministry of Finance (Department of Revenue) –Chairperson, ex-officio;
(ii)	Chairman, Central Board of Indirect Taxes and Customs – Member, ex-officio;
(iii)	Additional Secretary to the Government of India in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) - Member, ex-officio;
(iv)	Additional Secretary to the Government of India in the Ministry of Law (Department of Legal Affairs) - Member, ex-officio.

(3) The Technical Member (State) of the State Bench and Area Benches shall be appointed by the respective State Governments on the recommendations of a Selection Committee consisting of.-

(i)	Chief Secretary of the respective State Government- Chairperson, ex-officio;
(ii)	Additional Chief Secretary or Principal Secretary/Secretary to the State/Union territory Government in-charge of Finance Department or the Taxation Department, as the State or Union territory Government may specify - Member, ex-officio;

(iii)	Additional Chief Secretary or Principal Secretary/Secretary (GAD or Personnel) to the State/Union territory Government in-charge of Personnel matters as the State/Union Territory Government may specify- Member
(iv)	Secretary/Principal Secretary (Law) to the State or Union territory Government – Member, ex-officio;

(4) (a) The Secretary to the Government of India in the Department of Revenue, Ministry of Finance shall be the convener of the Selection Committee under sub-rule (1).

(b) Chairman, Central Board of Indirect Taxes and Customs shall be the convener of the Selection Committee under sub-rule (2).

(c) The Additional Chief Secretary or Principal Secretary or Secretary (Finance/Taxation) to the State or Union territory Government shall be the convener of the Selection Committee under sub-rule (3).

(5) The Selection Committee shall determine its own procedure for making its recommendation.

Medical fitness

4. No person shall be appointed as President or Member unless he is declared medically fit by an authority specified by the Central Government in the case of an appointment under sub-rule (1) of rule 3 and by an authority specified by the corresponding State or Union territory Government in this behalf, in the case of an appointment under sub-rules (2) and (3) of rule 3.

Salary and allowances

5. (1) The President shall be paid a monthly salary of Rs. 2,50,000 (fixed) and other allowances and benefits as are admissible to a Central Government officer holding posts carrying the same pay and allowances.

(2) The Member shall be paid a monthly salary of Rs. 2,25,000 (fixed) and shall be entitled to draw allowances as are admissible to a Central Government officer holding Group 'A' post carrying the same pay and allowances.

(3) Where a person appointed as the President or a Member is in receipt of any pension, the pay of such person shall be reduced by the gross amount of pension drawn by him.

Pension, Gratuity and Provident Fund

6. (1) Where a serving Judge of a Supreme Court, High Court, or a serving District Judge or a serving member of the State or Central Government is appointed to the post of President or Member, as the case may be, the service rendered in the Appellate Tribunal shall count for pension to be drawn in accordance with the rules of the service to which he belongs and he shall be governed by the provisions of the relevant Provident Fund Rules or the Contribution Pension System, as the case may be.

(2) Additional pension and gratuity shall not be admissible for service rendered in the Appellate Tribunal.

Leave

7. (1) The President and Members shall be entitled to thirty days of earned leave for every year of service.

(2) Casual leave not exceeding eight days may be granted to the President and Member in a calendar year.

(3) The payment of leave salary during leave shall be governed by rule 40 of the Central Civil Services (Leave) Rules, 1972.

(4) The President and Members shall be entitled to encashment of leave in respect of the earned leave standing to his credit, subject to the condition that maximum leave encashment, including the amount received at the time of retirement from previous service shall not in any case exceed the prescribed limit under the Central Civil Service (Leave) Rules, 1972.

Leave sanctioning authority

8. (1) The leave sanctioning authority for a Member shall be the President, and for the President, it shall be the Central Government.

(2) The Central Government shall be the sanctioning authority for foreign travel of the President and Members.

House rent allowance

9. The President and the Member shall be entitled to house rent allowance at the same rate as are admissible to Group 'A' officer of the Government of India of corresponding status.

Transport allowance

10. The President and the Member shall be entitled to the facility of staff car for journeys for official and private purposes in accordance with the facilities provided to Group 'A' officer of the Government of India of a corresponding status.

Declaration of Financial and other Interests-

11. The President and the Member shall, before entering upon his office, declare his assets and his liabilities and financial and other interests as per Form III annexed to these rules.

President to exercise powers of Head of Department

12. The President shall exercise the powers of Head of the Department for the purpose of-

(a)	Delegation of Financial Power Rules, 1978;
(b)	General Financial Rules, 2005; and
(c)	Fundamental Rules and Supplementary Rules.

Other conditions of service

13. (1) The terms and conditions of service of the President and Member, with respect to which no express provision has been made in these rules, shall be such as are admissible to a Group 'A' Officer of the Government of India of a corresponding status.

(2) The President and a Member shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any person who has been a party to a proceeding before the Appellate Tribunal:

Provided that nothing contained in this section shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central Act, State Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013).

Oaths of office and secrecy

14. Every person appointed to be President and Member shall, before entering upon his office, make and subscribe an oath of office and secrecy in Forms I and II annexed to these rules.

Power to relax

15. Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order and for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

Interpretation

16. If any question arises relating to the interpretation of these rules, the decision of the Central Government thereon shall be final.

Saving

17. Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, Scheduled Tribes, Ex-servicemen and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

Other conditions of service

18. The other conditions of service of the President and a Member, with respect to which no express provision has been made in the rules, shall be such as are admissible to a Group 'A' officer of the Government of India of corresponding status.

FORM I

(See rule 14)

Form of Oath of Office for President/Member of the Appellate Tribunal

I, A. B., having been appointed as President/Member of the Goods and Services Tax Appellate Tribunal do solemnly affirm/do swear in the name of God that I will faithfully and conscientiously discharge my duties as President/Member to the best of my ability, knowledge and judgment, without fear or favour, affection or ill-will.

FORM II

(See rule 14)

Form of Oath of Secrecy for President/Member of the Appellate Tribunal

I, A. B., having been appointed as President/Member of the Goods and Services Tax Appellate Tribunal, do solemnly affirm/do swear in the name of God that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as President/Member of the Appellate Tribunal except as may be required for the due discharge of my duties as the President/Member.

Form III

(See rule 11)

Declaration of Financial and other Interests

I, A. B., having been appointed as President/Member of the Goods and Services Tax Appellate Tribunal, hereby declare that the return enclosed are complete, true and correct to the best of my knowledge and belief.

18.5 President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc. [Section 111]

Section 111(1)	01.07.2017 to till date	The Appellate 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, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and the rules made thereunder, the Appellate Tribunal shall have power to regulate its own procedure.
Section 111(2)	01.07.2017 to till date	The Appellate Tribunal shall, for the purposes of discharging its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:— (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of documents; (c) receiving evidence on affidavits; (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document from any office; (e) issuing commissions for the examination of witnesses or documents; (f) dismissing a representation for default or deciding it ex parte; (g) setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and (h) any other matter which may be prescribed.
Section 111(3)	01.07.2017 to till date	Any order made by the Appellate Tribunal may be enforced by it in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Appellate Tribunal to send for execution of its orders to the court within the local limits of whose jurisdiction,— (a) in the case of an order against a company, the registered office of the company is situated; or (b) in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain.
Section 111(4)	01.07.2017 to till date	All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

18.6 Appeals to Appellate Tribunal. [Section 112]

<p>Section 112(1)</p>	<p>01.07.2017 to till date</p>	<p>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 within three months¹ from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>1. For the purpose of calculating, the three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal in sub-section (1) of section 112, the start of the three months period shall be considered to be the later of the following dates:-</p> <p>(i) date of communication of order; or</p> <p>(ii) the date on which the President or the State President, as the case may be, of the Appellate Tribunal after its constitution under section 109, enters office; vide Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 3rd December 2019.</p> </div>
<p>Section 112(2)</p>	<p>01.07.2017 to till date</p>	<p>The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed fifty thousand rupees.</p>
<p>Section 112(3)</p>	<p>01.07.2017 to till date</p>	<p>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 State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act for the purpose of satisfying himself as to the legality or propriety of the said order and may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal within six months¹ from the date on which the said order has been passed for determination of such points arising out of the said order as may be specified by the Commissioner in his order.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>1. For the purpose of calculating, Six months from the date on which the said order has been passed in sub-section (3) of section 112, the start of the six months period shall be considered to be the later of the following dates:-</p> <p>(i) date of communication of order; or</p> <p>(ii) the date on which the President or the State President, as the case may be, of the Appellate Tribunal after its constitution under section 109, enters office." Vide Central Goods and</p> </div>

			Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 3rd December 2019.
Section 112(4)	01.07.2017 to till date	Where in pursuance of an order under sub-section (3) the authorised officer makes an application to the Appellate Tribunal, such application shall be dealt with by the Appellate Tribunal as if it were an appeal made against the order under sub-section (11) of section 107 or under sub-section (1) of section 108 and the provisions of this Act shall apply to such application, as they apply in relation to appeals filed under sub-section (1).	
Section 112(5)	01.07.2017 to till date	On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal, as if it were an appeal presented within the time specified in sub-section (1).	
Section 112(6)	01.07.2017 to till date	The Appellate Tribunal may admit an appeal within three months after the expiry of the period referred to in sub-section (1), or permit the filing of a memorandum of cross-objections within forty-five days after the expiry of the period referred to in sub-section (5) if it is satisfied that there was sufficient cause for not presenting it within that period.	
Section 112(7)	01.07.2017 to till date	An appeal to the Appellate Tribunal shall be in such form, verified in such manner and shall be accompanied by such fee, as may be prescribed.	
Section 112(8)	01.07.2017 to 31.01.2019	No appeal shall be filed under sub-section (1), unless the appellant has paid— (a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and (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 section 107, arising from the said order in relation to which the appeal has been filed.	
	01.02.2019 To till date	No appeal shall be filed under sub-section (1), unless the appellant has paid— (a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and (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 section 107, arising from the said order ¹ [subject to a maximum of fifty crore rupees,] in relation to which the appeal has been filed.	

		<p>1. Inserted w.e.f. 01.02.2019 vide Section 26 of the Central Goods and Services Tax (Amendment) Act, 2018 which comes into force vide Notification No. 02/2019 – Central Tax dated 29th January, 2019.</p>
Section 112(9)	01.07.2017 to till date	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.
Section 112(10)	01.07.2017 to till date	Every application made before the Appellate Tribunal,— (a) in an appeal for rectification of error or for any other purpose; or (b) for restoration of an appeal or an application, shall be accompanied by such fees as may be prescribed.

18.6.1.1 Departmental Clarifications - Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal — [Circular No. 132/2/2020 – GST dated 18th March, 2020](#)

Various representations have been received wherein the issue has been decided against the registered person by the adjudicating authority or refund application has been rejected by the appropriate authority and appeal against the said order is pending before the appellate authority. It has been gathered that the appellate process is being kept pending by several appellate authorities on the grounds that the appellate tribunal has been not constituted and that till such time no remedy is available against their Order-in-Appeal, such appeals cannot be disposed. Doubts have been raised across the field formations in respect of the appropriate procedure to be followed in absence of appellate tribunal for appeal to be made under section 112 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”).

2. The matter has been examined in detail. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby issues the following clarifications and guidelines.

3.1 Appeal against an adjudicating authority is to be made as per the provisions of Section 107 of the CGST Act. The sub-section (1) of the section reads as follows: -

“107. (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.”

3.2 Relevant rules have been prescribed for implementation of the above Section. The relevant rule for the same is rule 109A of Central Goods and Services Tax Rules, 2017 which reads as follows:

“109A. Appointment of Appellate Authority.- (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to –

(a) the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;

(b) any officer not below the rank of Joint Commissioner (Appeals) where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent,

within three months from the date on which the said decision or order is communicated to such person.”

3.3 Hence, if the order has been passed by Deputy or Assistant Commissioner or Superintendent, appeal has to be made to the appellate authority appointed who would not be an officer below the rank of Joint Commissioner. Further, if the order has been passed by Additional or Joint Commissioner, appeal has to be made to the Commissioner (Appeal) appointed for the same.

4.1 The appeal against the order passed by appellate authority under Section 107 of the CGST Act lies with appellate tribunal. Relevant provisions for the same is mentioned in the Section 112 of the CGST Act which reads as follows: -

“112 (1) 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 within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.”

4.2 The appellate tribunal has not been constituted in view of the order by Madras High Court in case of Revenue Bar Assn. v. Union of India and therefore the appeal cannot be filed within three months from the date on which the order sought to be appealed against is communicated. In order to remove difficulty arising in giving effect to the above provision of the Act, the Government, on the recommendations of the Council, has issued the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019. It has been provided through the said Order that the appeal to tribunal can be made within three months (six months in case of appeals by the Government) from the date of communication of order or date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, whichever is later.

4.3 Hence, as of now, the prescribed time limit to make application to appellate tribunal will be counted from the date on which President or the State President enters office. The appellate authority while passing order may mention in the preamble that appeal may be made to the appellate tribunal whenever it is constituted within three months from the President or the State President enters office. Accordingly, it is advised that the appellate authorities may dispose all pending appeals expeditiously without waiting for the constitution of the appellate tribunal.

18.7 Orders of Appellate Tribunal. [Section 113]

Section 113(1)	01.07.2017 to till date	The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the Appellate Authority, or the Revisional Authority or to the original adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision after taking additional evidence, if necessary.
Section 113(2)	01.07.2017 to till date	The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:
First Proviso	01.07.2017 to till date	Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.
Section 113(3)	01.07.2017 to till date	The Appellate Tribunal may amend any order passed by it under sub-section (1) so as to rectify any error apparent on the face of the record, if such error is noticed by it on its own accord, or is brought to its notice by the Commissioner or the Commissioner of State tax or the Commissioner of the Union territory tax or the other party to the appeal within a period of three months from the date of the order:
First Proviso	01.07.2017 to till date	Provided that no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under this sub-section, unless the party has been given an opportunity of being heard.
Section 113(4)	01.07.2017 to till date	The Appellate Tribunal shall, as far as possible, hear and decide every appeal within a period of one year from the date on which it is filed.
Section 113(5)	01.07.2017 to till date	The Appellate Tribunal shall send a copy of every order passed under this section to the Appellate Authority or the Revisional Authority, or the original adjudicating authority, as the case may be, the appellant and the jurisdictional Commissioner or the Commissioner of State tax or the Union territory tax.
Section 113(6)	01.07.2017 to till date	Save as provided in section 117 or section 118, orders passed by the Appellate Tribunal on an appeal shall be final and binding on the parties.

18.8 Financial and administrative powers of President. [Section 114]

Section 114	01.07.2017 to till date	The President shall exercise such financial and administrative powers over the National Bench and Regional Benches of the Appellate Tribunal as may be prescribed:
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First Proviso	01.07.2017 to till date	Provided that the President shall have the authority to delegate such of his financial and administrative powers as he may think fit to any other Member or any officer of the National Bench and Regional Benches, subject to the condition that such Member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the President.
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18.8 Financial and Administrative powers of President. ¹[Section 114]

Notes	
1.	Substituted for section 114 of the Central Goods and Services Tax Act vide Section 151 of the Finance Act 2023 and has come into force w.e.f. 01.08.2023 as the Central Government has appointed the 1st day of August, 2023, as the date on which the provisions shall come into force vide Notification No. 28/2023-Central Tax dated 31.07.2023 .

Section 114	01.08.2023 to till date	The President shall exercise such financial and administrative powers over the Appellate Tribunal as may be prescribed.
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18.9 Interest on refund of amount paid for admission of appeal. [Section 115]

Section 115	01.07.2017 to till date	Interest on refund of amount paid for admission of appeal. Where an amount paid by the appellant under sub-section (6) of section 107 or sub-section (8) of section 112 is required to be refunded consequent to any order of the Appellate Authority or of the Appellate Tribunal, interest at the rate specified under section 56 shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.
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18.10 Appearance by authorised representative. [Section 116]

Section 116(1)	01.07.2017 to till date	Any person who is entitled or required to appear before an officer appointed under this Act, or the Appellate Authority or the Appellate Tribunal in connection with any proceedings under this Act, may, otherwise than when required under this Act to appear personally for examination on oath or affirmation, subject to the other provisions of this section, appear by an authorised representative.		
Section 116(2)	01.07.2017 to till date	For the purposes of this Act, the expression “authorised representative” shall mean a person authorised by the person referred to in sub-section (1) to appear on his behalf, being— <table border="1" style="width: 100%; margin-top: 5px;"> <tr> <td style="width: 5%; text-align: center;">(a)</td> <td>his relative or regular employee; or</td> </tr> </table>	(a)	his relative or regular employee; or
(a)	his relative or regular employee; or			

		<p>(b) 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</p> <p>(c) 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</p> <p>(d) a retired officer of the Commercial Tax Department of any State Government or Union territory 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: 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</p> <p>(e) any person who has been authorised to act as a goods and services tax practitioner on behalf of the concerned registered person.</p>
Section 116(3)	01.07.2017 to till date	<p>No person,—</p> <p>(a) who has been dismissed or removed from Government service; or</p> <p>(b) who is convicted of an offence connected with any proceedings under this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, or under the existing law or under any of the Acts passed by a State Legislature dealing with the imposition of taxes on sale of goods or supply of goods or services or both; or</p> <p>(c) who is found guilty of misconduct by the prescribed authority;</p> <p>(d) who has been adjudged as an insolvent,</p> <p>shall be qualified to represent any person under sub-section (1)—</p> <p>(i) for all times in case of persons referred to in clauses (a), (b) and (c); and</p> <p>(ii) for the period during which the insolvency continues in the case of a person referred to in clause (d).</p>
Section 116(4)	01.07.2017 to till date	Any person who has been disqualified under the provisions of the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be disqualified under this Act.

18.11 Appeal to High Court. [Section 117]

Section 117(1)	01.07.2017 to 31.07.2023	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 the High Court may admit such appeal, if it is satisfied that the case involves a substantial question of law.
	01.08.2023 to till date	Any person aggrieved by any order passed by the ¹ [State Benches] of the Appellate Tribunal may file an appeal to the High Court and the High Court may admit such appeal, if it is satisfied that the case involves a substantial question of law. <div style="border: 1px solid black; padding: 5px; margin-left: 20px;"> <p>1 Substituted for the words "State Bench or Area Benches", vide Section 152(a) of the Finance Act 2023 and has come into force w.e.f. 01.08.2023 as the Central Government has appointed the 1st day of August, 2023, as the date on which the provisions shall come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.</p> </div>
Section 117(2)	01.07.2017 to till date	An appeal under sub-section (1) shall be filed within a period of one hundred and eighty days from the date on which the order appealed against is received by the aggrieved person and it shall be in such form, verified in such manner as may be prescribed:
Proviso	01.07.2017 to till date	Provided that 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.
Section 117(3)	01.07.2017 to till date	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, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:
Proviso	01.07.2017 to till date	Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.
Section 117(4)	01.07.2017 to till date	The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.
Section 117(5)	01.07.2017 to 31.07.2023	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 sub-section (3).

	01.08.2023 to till date	<p>The High Court may determine any issue which—</p> <p>(a) has not been determined by the ¹[State Benches]; or</p> <p>(b) has been wrongly determined by the ¹[State Benches], by reason of a decision on such question of law as herein referred to in sub-section (3).</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>1. Substituted for the words “State Bench or Area Benches”, vide Section 152(b) of the Finance Act 2023 and has come into force w.e.f. 01.08.2023 as the Central Government has appointed the 1st day of August, 2023, as the date on which the provisions shall come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.</p> </div>
Section 117(6)	01.07.2017 to till date	Where an appeal has been filed before the High Court, it shall be heard by a Bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.
Section 117(7)	01.07.2017 to till date	Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only, by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.
Section 117(8)	01.07.2017 to till date	Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such judgment by either side on the basis of a certified copy of the judgment.
Section 117(9)	01.07.2017 to till date	Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

18.12 Appeal to Supreme Court. [Section 118]

Section 118(1)	01.07.2017 to 31.07.2023	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.

	01.08.2023 to till date	<p>An appeal shall lie to the Supreme Court—</p> <table border="1"> <tr> <td>(a)</td> <td>from any order passed by the ¹[Principal Bench] of the Appellate Tribunal; or</td> </tr> <tr> <td>(b)</td> <td>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.</td> </tr> </table> <table border="1"> <tr> <td>1</td> <td>Substituted for the words “National Bench or Regional Bench”, vide Section 153 of the Finance Act 2023 and has come into force w.e.f. 01.08.2023 as the Central Government has appointed the 1st day of August, 2023, as the date on which the provisions shall come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.</td> </tr> </table>	(a)	from any order passed by the ¹ [Principal Bench] 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.	1	Substituted for the words “National Bench or Regional Bench”, vide Section 153 of the Finance Act 2023 and has come into force w.e.f. 01.08.2023 as the Central Government has appointed the 1st day of August, 2023, as the date on which the provisions shall come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023 .
(a)	from any order passed by the ¹ [Principal Bench] 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.							
1	Substituted for the words “National Bench or Regional Bench”, vide Section 153 of the Finance Act 2023 and has come into force w.e.f. 01.08.2023 as the Central Government has appointed the 1st day of August, 2023, as the date on which the provisions shall come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023 .							
Section 118(2)	01.07.2017 to till date	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.						
Section 118(3)	01.07.2017 to till date	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.						

18.13 Sums due to be paid notwithstanding appeal, etc. [Section 119]

Section 119	01.07.2017 to 31.07.2023	Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, sums due to the Government as a result of an order passed by the National or Regional Benches of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the State Bench or Area Benches of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the High Court under section 117, as the case may be, shall be payable in accordance with the order so passed.
	01.08.2023 to till date	Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, sums due to the Government as a result of an order passed by the ¹ [Principal Bench] of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the ² [State Benches] of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the High Court under section 117, as the case may be, shall be payable in accordance with the order so passed.

Notes		
		<p>1. Substituted for the words “National or Regional Benches”, the words “Principal Bench” shall be substituted vide Section 154(a) of the Finance Act 2023 and has come into force w.e.f. 01.08.2023 as the Central Government has appointed the 1st day of August, 2023, as the date on which the provisions shall come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.</p> <p>2. Substituted for the words “State Bench or Area Branches”, the words “State Benches” shall be substituted vide Section 154(b) of the Finance Act 2023 and has come into force w.e.f. 01.08.2023 as the Central Government has appointed the 1st day of August, 2023, as the date on which the provisions shall come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.</p>

18.14 Appeal not to be filed in certain cases. [Section 120]

Section 120(1)	01.07.2017 to till date	The Board may, on the recommendations of the Council, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal or application by the officer of the central tax under the provisions of this Chapter.
Section 120(2)	01.07.2017 to till date	Where, in pursuance of the orders or instructions or directions issued under sub-section (1), the officer of the central tax has not filed an appeal or application against any decision or order passed under the provisions of this Act, it shall not preclude such officer of the central tax from filing appeal or application in any other case involving the same or similar issues or questions of law.
Section 120(3)	01.07.2017 to till date	Notwithstanding the fact that no appeal or application has been filed by the officer of the central tax pursuant to the orders or instructions or directions issued under sub-section (1), no person, being a party in appeal or application shall contend that the officer of the central tax has acquiesced in the decision on the disputed issue by not filing an appeal or application.
Section 120(4)	01.07.2017 to till date	The Appellate Tribunal or court hearing such appeal or application shall have regard to the circumstances under which appeal or application was not filed by the officer of the central tax in pursuance of the orders or instructions or directions issued under sub-section (1).

18.15 Non appealable decisions and orders. [Section 121]

Section 121	01.07.2017 to till date	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 central tax if such decision taken or order passed relates to any one or more of the following matters, namely:—	
		(a)	an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer; or
		(b)	an order pertaining to the seizure or retention of books of account, register and other documents; or
		(c)	an order sanctioning prosecution under this Act; or
		(d)	an order passed under section 80.