



The Institute of Chartered Accountants of India

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA GST & INDIRECT TAXES COMMITTEE

Webinar on Statutory Provisions, Code of Conduct & Procedures for GST Appellate Tribunal

Date: 17-06-2025

By: Bhavna Maheshwari

Topics Covered

1	Legal Provisions relating to GST Tribunal
2	GST Tribunal Procedures (Rules)
3	CESTAT vs GSTAT
4	Code of Conduct at Tribunal- Practical Experience
5	Q&A

Original Framework of the Constitution

What is Tribunal –

- a quasi-judicial institution
- set up to resolve administrative, tax-related, and other specific legal disputes.

How Tribunal came into Existence -

The original text of the Indian Constitution (1950) did not contain any specific provisions that allowed for or discussed the creation of tribunals.

42nd Constitutional Amendment (1976)

The concept of Tribunals formally entered the constitutional framework with the 42nd Amendment Act, 1976

This amendment introduced Articles 323A and 323B, which authorized the creation of tribunals.

¹[PART XIVA TRIBUNALS

323A. Administrative tribunals.—(1) Parliament may, by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government.

THE CONSTITUTION OF INDIA

(Part XIVA.—Tribunals)

323B. Tribunals for other matters.—(1) The appropriate Legislature may, by law, provide for the adjudication or trial by tribunals of any disputes, complaints, or offences with respect to all or any of the matters specified in clause (2) with respect to which such Legislature has power to make laws.

Decision of Apex Court - L. Chandra Kumar

JUDICIAL REVIEW IS A BASIC FEATURE:

The Court ruled that the power of Judicial Review vested in the High Courts under Article 226 and Article 227, and the Supreme Court under Article 32, is a basic feature of the Constitution that cannot be taken away by any law or amendment.

The Court held that *tribunals may function as specialized bodies, but they cannot replace the High Courts or the Supreme Court in exercising judicial review*. The decisions of tribunals would be subject to scrutiny by the High Courts, and Tribunals could not oust the jurisdiction of constitutional courts.

Tribunals in India

1

Income Tax Appellate Tribunal (ITAT) - Est: 1941, **17 regular benches and 33 Circuit benches**

2

Customs, Excise, and Service Tax Appellate Tribunal (CESTAT) - Est: 1982, **9 regular benches, including principal bench in Delhi**

3

Central Administrative Tribunal (CAT) - Est: 1985, **19 regular benches and 33 circuit benches**

4

Debts Recovery Tribunal (DRT) - Est: 1993, **39 tribunals across India**

5

National Green Tribunal (NGT) - Est: 2010, **5 Benches**

6

National Company Law Tribunal (NCLT) - Est: 2016, **28 benches across major cities**

Tribunals in India

7 State Administrative Tribunals (SATS) - Est: 1985, **addresses service matters of state government employees.**

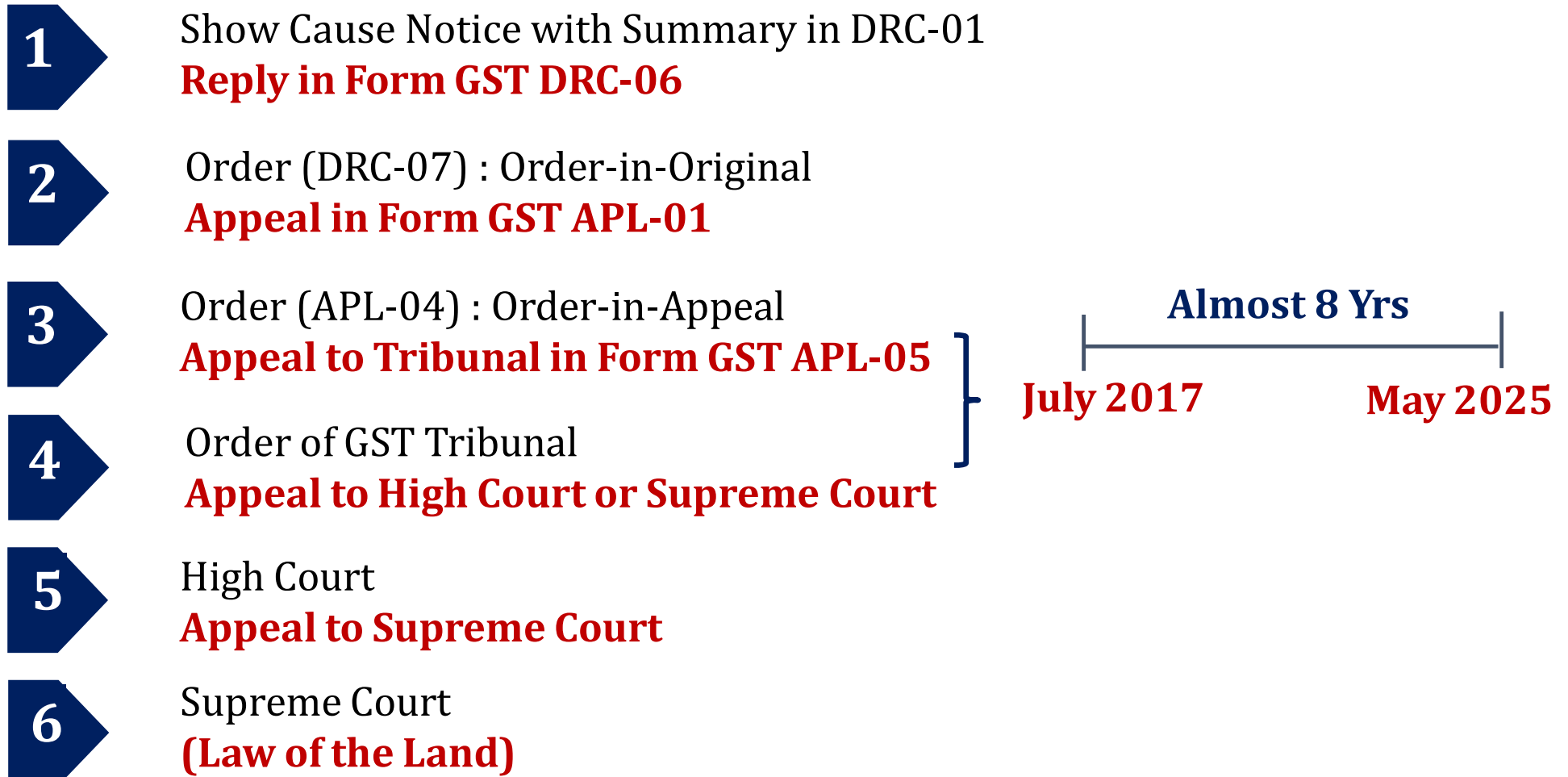
8 National Company Law Appellate Tribunal (NCLAT) – Est: 2013, **addresses appeals against orders of the NCLT, The Insolvency and Bankruptcy Board of India (IBBI) & The Competition Commission of India (CCI).**

9 Securities Appellate Tribunal (SAT) - Est: 1992, **addresses appeals against orders passed by SEBI and other financial authorities.**

10 Intellectual Property Appellate Board (IPAB)- Est: 2003, **addresses appeals related to patents, trademarks, and other intellectual property matters.**

11 National Consumer Disputes Redresses Commission (NCDRC): - Est: 1998, **Handles consumer disputes at the national level & the commission's headquarters are in New Delhi.**

Flow of Litigation Proceedings in GST





Legal Provisions relating to GST Tribunal

Appeals to the Appellate Tribunal

Section 112

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 or the date, as may be notified by the Government, on the recommendations of the Council, for filing appeal before the Appellate Tribunal under this Act, whichever is later.

[Guidelines for recovery of outstanding dues, in cases wherein first appeal has been disposed of, till Appellate Tribunal comes into operation. - Circular No. 224/18/2024 GST 11th July, 2024]

Appeals to the Appellate Tribunal

Section 112

(2) 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.

Appeals to the Appellate Tribunal

Section 112

(3) 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 months from the date on which the said order has been passed or the date, as may be notified by the Government, on the recommendations of the Council, for the purpose of filing application before the Appellate Tribunal under this Act, whichever is later, for determination of such points arising out of the said order as may be specified by the Commissioner in his order.

Appeals to the Appellate Tribunal

Section 112

Filing of Appeal

(5) 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).

Appeals to the Appellate Tribunal

Section 112

Filing Memorandum of Cross Objections:

(6) 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 an application **within three months** after the expiry of the period referred to in sub-section (3), 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.

Appeals to the Appellate Tribunal

Section 112

Payment of Pre-Deposit:

(8) 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 ten 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 subject to a maximum of twenty crore rupees, in relation to which the appeal has been filed.

**Reduction from 20% to 10% and Reduction in maximum amount of pre-deposit from Rs. 50 crore to Rs. 40 crore.*

Appeals to the Appellate Tribunal

Section 112

Pre-Deposit in case of only Penalty:

*Provided that in case of any order demanding penalty without involving demand of any tax, no appeal shall be filed against such order **unless a sum equal to ten per cent. of the said penalty**, in addition to the amount payable under the proviso to sub-section (6) of section 107 has been paid by the appellant.*

Stay of Recovery:

*(9) 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.*

Appeals to the Appellate Tribunal

Rule 110

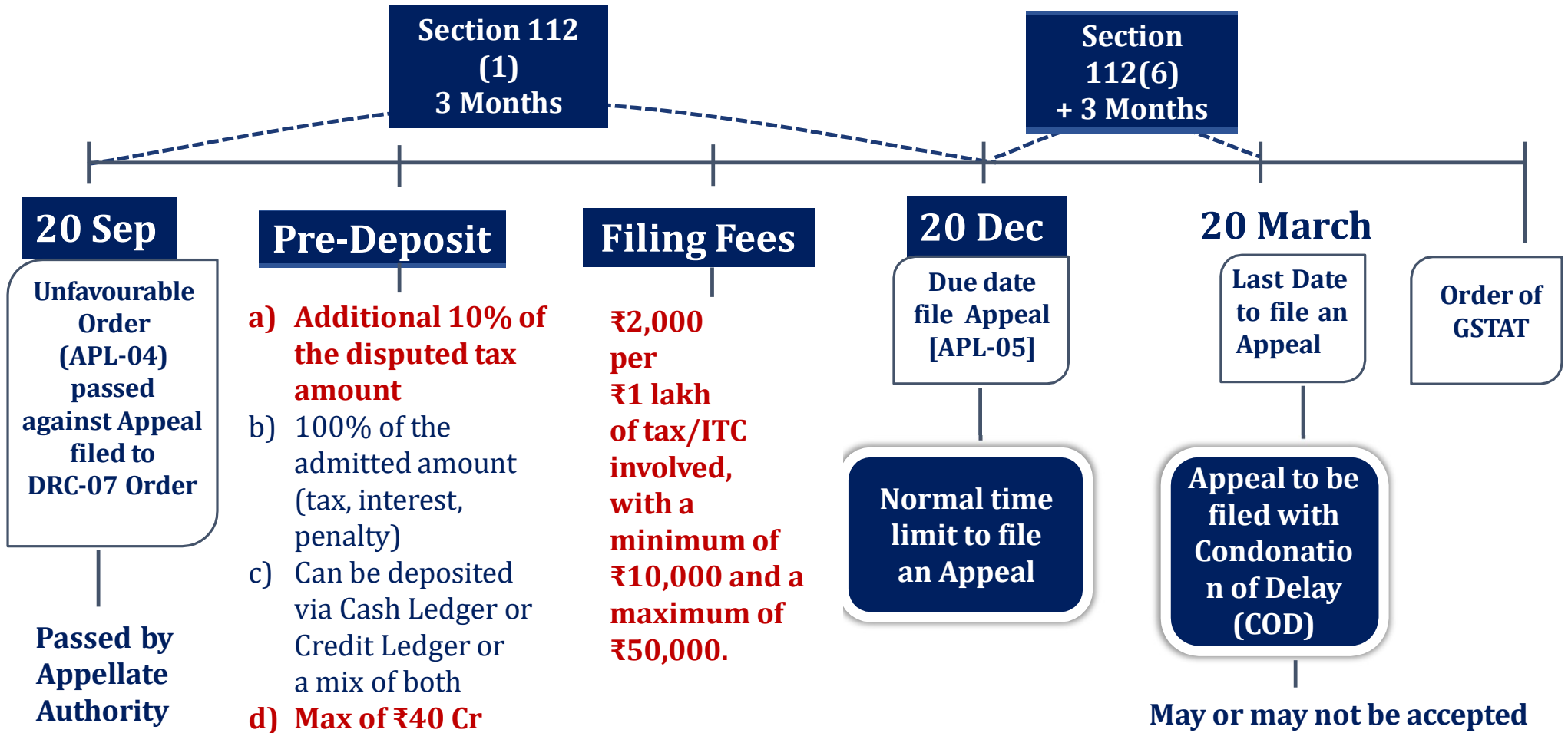
Form and Manner of Appeal

- The Appeal to the Appellate Tribunal under sub-section (1) of Section 112 shall be filed in **Form GST APL-05 electronically**.
- **Manual filing** allowed only on a special or general order to that effect is issued by the Registrar.
- The appeal shall be treated as filed only when the **final acknowledgement indicating the appeal number is issued**.

Filing Fees:

- **Rs. 2,000/- for every Rs. 1,00,000/-** of tax or ITC involved or difference in tax or ITC involved or the amount of fine, fee or penalty, subject to a **max of Rs. 50,000/-** and a **min of Rs. 5,000/-**.
- In case no tax, interest, penalty, fine - **Fee shall be Rs. 5,000/-**.

Appeals to the Appellate Tribunal



Orders of the Appellate Tribunal

Rule 113

Powers of the Tribunal:

The Appellate Tribunal can take any of the following actions after considering an appeal:

- **Confirm:** If the Tribunal finds the order passed by the Appellate Authority to be just and proper, it can confirm the decision.
- **Modify:** The Tribunal may modify the order of the Appellate Authority if it finds that adjustments or corrections are necessary.
- **Annul:** If the Tribunal determines that the order was wrong, it can annul or cancel the order in full.
- **Refer back the case:** In some cases, the Tribunal may decide to refer the case back to the Appellate Authority or the original adjudicating authority ***with such directions as it may think fit***, for a ***fresh adjudication or decision*** after taking additional evidence, if necessary.

Orders of the Appellate Tribunal

Rule 113

Adjournment of Hearings:

- The Appellate Tribunal may, grant time to the parties and adjourn the hearing of the appeals, if sufficient cause is shown.
- No adjournment to be granted more than 3 times to a party during hearing of the appeal.

Rectification of Errors:

- If the Tribunal finds any mistake apparent on the face of the record, it can rectify such errors on its own or upon application by either party within three months from the date of the order.

Timeline for Orders:

- The 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.

Composition of the Tribunal Benches

Position	Number of Members	Judicial Members	Technical Members	
Principal Bench	4	1 Judicial Member + 1 President	1 Technical Member (Centre) + 1 Technical Member (State)	Section 109(3)
State Bench	4	2 Judicial Members	1 Technical Member (Centre) + 1 Technical Member (State)	Section 109(4)



Union Finance Minister Nirmala Sitharaman administers oath of integrity and sincerity to the GST Tribunal President - Justice (Retd) Sanjaya Kumar Mishra.

06 May 2024

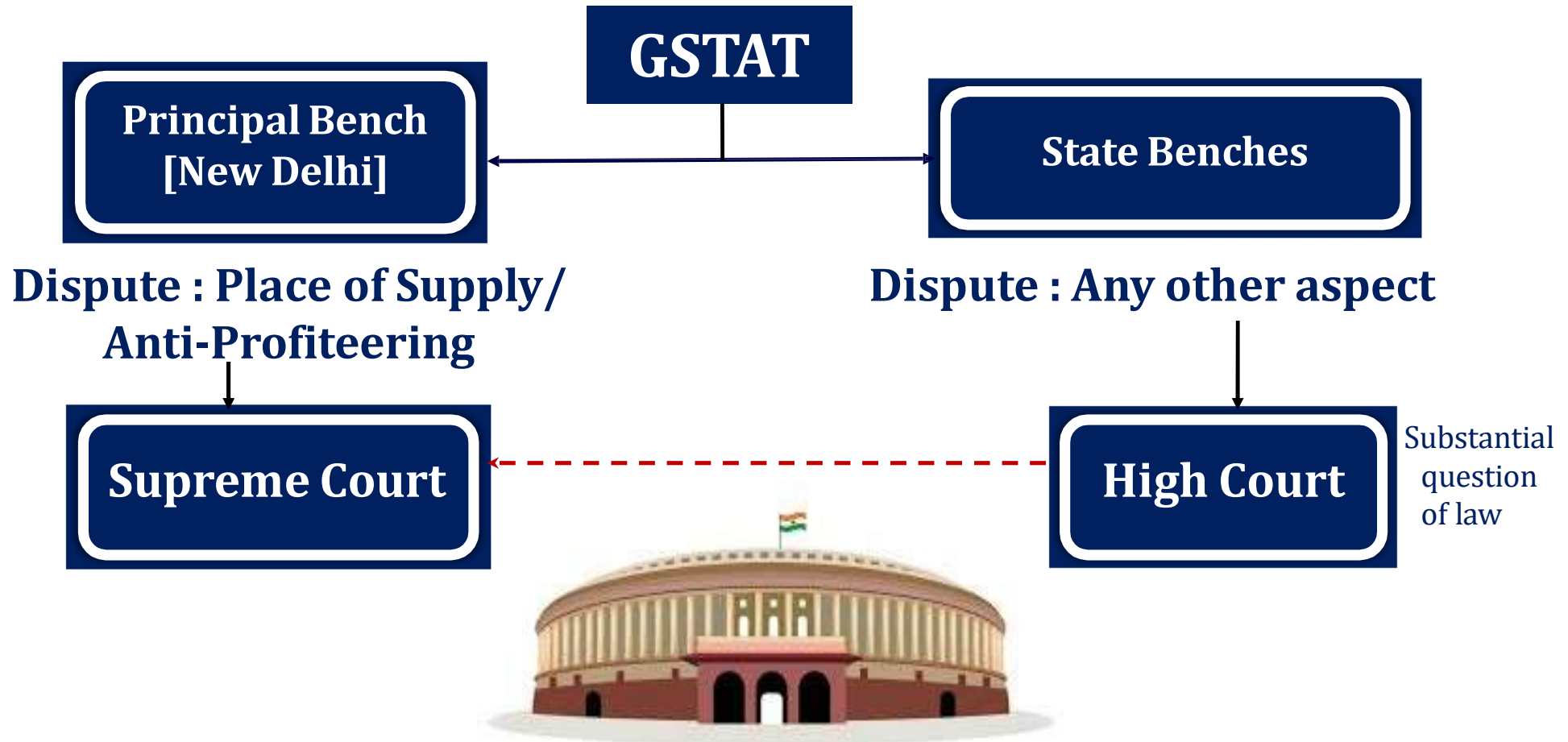
Composition of the Bench - Maharashtra

Sl. No.	State Name	Location	Jurisdiction (Districts)	Sitting / Circuit	Jurisdiction (District)
16 and 17	Maharashtra and Goa	Mumbai	1. Mumbai City and 2. Mumbai Suburban	Panaji (Circuit)	All districts in the State of Goa
		Pune	1. Pune, 2. Kolhapur, 3. Satara, 4. Sangli, 5. Ratnagiri, 6. Sindhudurg, 7. Solapur, and 8. Dharashiv	Thane	1. Thane, 2. Palghar, and 3. Raigad

Composition of the Bench - Maharashtra

		Nagpur	<ol style="list-style-type: none">1. Nagpur,2. Chandrapur,3. Bhandara,4. Gondia,5. Gadchiroli,6. Wardha,7. Amravati,8. Yavatmal,9. Akola,10. Washim, and11. Buldhana	Chhatrapati Sambhajinagar	<ol style="list-style-type: none">1. Chhatrapati Sambhajinagar,2. Beed,3. Jalna,4. Nashik,5. Ahmednagar,6. Nanded,7. Latur,8. Parbhani,9. Hingoli,10. Jalgaon,11. Dhule, and12. Nandurbar
--	--	--------	--	------------------------------	--

Composition of the Bench - Maharashtra



Constitution of the Appellate Tribunal

Rule 109

Distribution of work:

- The President shall distribute the business of the Appellate Tribunal among the Benches and may transfer cases from one Bench to another, by a general or special order.

Vice-President:

- The senior-most Judicial Member within the State Benches, shall act as the Vice-President for State Bench and shall exercise the powers of the President as may be prescribed.

Constitution of the Appellate Tribunal

Rule 109

Decision-making process:

- In case the amount involved does not exceed Rs. 50 lakh, and where no question of law is involved, the appeal may be heard by a Single Member, with the approval of the President.
- In all other cases, the appeals shall be heard together by a Judicial Member and a Technical Member.

Constitution of the Appellate Tribunal

Rule 109

Decision-making process:

- In case there is any **difference of opinion** among the members, the President shall refer the case to-
 - i. **State Bench matter:** Another member of a State Bench, or where no other State Bench is available, to a Member of a State Bench in another State,
 - ii. **Principal Bench matter:** Another member of the Principal Bench, or where no such Member is available, a Member of any State Bench.

Validity of Proceedings notwithstanding defect:

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

Appointment of the Members (Section 110)

President

- Judge of the Supreme Court
- Chief Justice of a High Court.

Term: 4 + 2 Yrs
Age: Min 50 Yrs
Max 70 Yrs

Judicial Member

- Judge of a High Court
- 10 years of combined experience as a District/Additional District Judge
- An Advocate with substantial experience in indirect tax litigation for 10 years.

Term: 4 + 2 Yrs
Age: Min 50 Yrs,
Max 67 Yrs

Technical Member (Central)

- Member of Indian Revenue Service (Customs & Indirect Taxes)
- All India Service, with 25 years of service in Group A, and 3 years of experience in existing law or GST administration.

Term: 4 + 2 Yrs
Age: Max 67 Yrs

Technical Member (State)

- Must be or have been an Officer of State Government or All India Service, with 25 years of service in Group A, and 3 years of experience in existing law or GST administration or finance/taxation in State Department.

Term: 4 + 2 Yrs
Age: Max 67 Yrs



GST Tribunal Procedures (Rules)

Procedure before Appellate Tribunal

Rule 111

Power to regulate procedure:

- The Appellate Tribunal is not bound by the procedure laid down in the Code of Civil Procedures, 1908. It shall be guided by the Principles of Natural Justice.
- The Appellate Tribunal shall have the power to regulate its own procedure, subject to other provisions and rules.

Powers of a Civil Court:

- The Appellate Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters-
 - (a) summoning and enforcing the attendance of any person and examining him on oath;
 - (b) requiring the discovery and production of documents;

Procedure before Appellate Tribunal

Rule 111

(c) receiving evidence on affidavits;

(d) 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.

Procedure before Appellate Tribunal

Rule 111

Enforcement of the Orders:

- The order passed by an Appellate Tribunal may be enforced by it as if it were a decree made by a court in a suit proceeding.
- It shall be lawful for the Appellate Tribunal to send for execution of its orders to the court within the local limits having jurisdiction.
 - ✓ In case of a company – the registered office of the company,
 - ✓ In case of any other person – the place where the person voluntarily resides or carries on business or personally works for gain.

Deemed Judicial Proceedings:

- The proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code.
- The Tribunal shall be deemed to be a Civil Court for the purpose of Section 195 of the Code of Criminal Procedure, 1973.

Procedure before Appellate Tribunal

GST Appellate Tribunal (Procedure) Rules, 2025

Computation of Time Period (Rule 3)	<ul style="list-style-type: none">• The day from which the said period is to be reckoned shall be excluded,• If the last day expires on a day when the office of the Appellate Tribunal is closed, that day and any succeeding day or days on which the Appellate Tribunal remains closed shall also be excluded
Sitting/ Working hours (Rule 8 & 9)	<ul style="list-style-type: none">• Sitting hours: 10.30 a.m. to 01.30 p.m. & 2.30 p.m. to 4.30 p.m.• Working hours: 9.30 am to 6.00 pm
Inherent Powers (Rule 10)	<ul style="list-style-type: none">• Appellate Tribunal has inherent powers to make such orders or give such directions as may be necessary <i>for meeting the ends of justice</i> or <i>to prevent abuse of the process of the Appellate Tribunal.</i>

Procedure before Appellate Tribunal

GST Appellate Tribunal (Procedure) Rules, 2025

Listing of Cases (Rule 12)	<ul style="list-style-type: none">Any urgent matter filed before 12:00 noon shall be listed before the Appellate Tribunal on the following working day.It may be received after 12:00 noon but before 3:00 p.m. for listing on the following day, with the specific permission of the Appellate Tribunal or President.
Power to Exempt (Rule 13)	<ul style="list-style-type: none">Power to exempt parties from compliance with any requirement of these rules and may give such directions in matters of practice and procedure, as it may consider just and expedient to render substantial justice.
Power to extend time (Rule 14)	<ul style="list-style-type: none">Extend the time appointed by these rules or fixed by any order, for doing any act or taking any proceeding, upon such terms, if any, as the justice of the case may require, and any extension may be ordered, although the application for the same is not made until the expiration of the time appointed or allowed.

Procedure before Appellate Tribunal

GST Appellate Tribunal (Procedure) Rules, 2025

Power of Adjournment (Rule 16)	<ul style="list-style-type: none">• All adjournments shall normally be sought before the concerned Bench• In extraordinary circumstances, the Registrar may, if so directed by the Appellate Tribunal in chambers, at any time adjourn any matter.
Filing of Appeals (Rule 18)	<ul style="list-style-type: none">• An appeal to the Appellate Tribunal shall be filed online on GSTAT Portal in Form prescribed under the Rules.• Single Appeal for each OIA even if there were multiple show cause notices, refund claims or demands, letters or declarations etc.• Single Appeal for each OIO, if multiple OIO culminates in a single OIA. – DGGI, EWB, Multiple POB• If multiple OIA issued to multiple persons, each person aggrieved must file separate Appeal.

Procedure before Appellate Tribunal

GST Appellate Tribunal (Procedure) Rules, 2025

Documents along with the Appeal (Rule 21)	<ul style="list-style-type: none">• <i>A certified copy</i> of the order appealed against,• All the relevant documents including relied upon documents
Endorsement and verification (Rule 22)	<ul style="list-style-type: none">• Every appeal or pleadings shall be signed and verified by the <i>party concerned</i>.• At the foot of every appeal or pleading along with all the relevant documents including relied upon documents, there shall appear the name and signature of the <i>authorised representative</i>.
Translation of Documents (Rule 23)	<ul style="list-style-type: none">• A document other than English language intended to be used shall be accompanied by a translated copy in English, which is agreed to by both the parties or <i>certified to be a true translated copy by the authorised representative</i> engaged on behalf of parties in the case.

Procedure before Appellate Tribunal

GST Appellate Tribunal (Procedure) Rules, 2025

Respondent (Rule 33)	<ul style="list-style-type: none">In an appeal or an application filed by a person other than the Commissioner, the Commissioner concerned shall be made the respondent to the appeal or the application, as the case may be
Filing of Rejoinder (Rule 37)	<ul style="list-style-type: none">Where respondent states such additional facts, the Bench may allow the petitioner to file a rejoinder to the reply filed by the respondent.Advance copy to be served upon the respondent within one month or within such time as may be specified or extended by Bench.
Daily Cause List (Rule 38)	<ul style="list-style-type: none">To be published on the notice board and on GSTAT Portal for the next day before the closing of working hours on each working day.

Procedure before Appellate Tribunal

GST Appellate Tribunal (Procedure) Rules, 2025

Service of Notice and Communications (Rule 40)	<ul style="list-style-type: none">Any notice or communication to be issued by the Appellate Tribunal may be served by any of the method specified in section 169 of the Act.For the purpose of this rule, the common Portal referred in the said section shall mean the GSTAT Portal.
Hearing of Appeal (Rule 42)	<ul style="list-style-type: none">If appellant does not appear, the Appellate Tribunal may, in its discretion, <i>either dismiss the appeal for default or hear and decide it on merits.</i><i>Appellate Tribunal may set aside the dismissal order and restore the appeal, if later the appellant appears and satisfies the appellate tribunal with sufficient cause.</i>
Hearing of Appeals Ex-parte (Rule 43)	<ul style="list-style-type: none">On the day fixed for the hearing, the <i>appellant appears and the respondent does not appear, the Appellate Tribunal may hear and decide the appeal ex parte.</i>

Procedure before Appellate Tribunal

GST Appellate Tribunal (Procedure) Rules, 2025

Appeal referred to larger bench (Rule 50)	<ul style="list-style-type: none">In case of different opinion of Members of Bench while hearing an appeal, the appeal shall be referred to larger Bench by the President, as it deems fit, for disposal of the appeal.
Production of Additional Evidence before Tribunal (Rule 45)	<ul style="list-style-type: none">The parties to the appeal shall not be entitled to produce any additional evidence, either oral or documentary, before the Appellate Tribunal.If the Appellate Tribunal is of opinion that any documents shall be produced or any witness shall be examined or any affidavit shall be filed to enable it to pass orders or for any sufficient cause, or if case is decided without giving sufficient opportunity to any party to adduce evidence on the points specified by them or not specified by them, the Appellate Tribunal may, for reasons to be recorded, allow such documents to be produced or witnesses to be examined or affidavits to be filed or such evidence to be adduced.

Procedure before Appellate Tribunal

Rule 112

- No additional evidence can be produced before the GSTAT, which hitherto were not produced in the course of proceedings before the adjudicating authority.
- **Additional evidences are permissible in following cases:**
 - ✓ **Earlier authority refused to admit any evidence,**
 - ✓ **Appellant was prevented by sufficient cause,**
 - ✓ **Order passed without giving sufficient opportunity to adduce evidence relevant to any ground of appeal.**
- Adjudicating authority or any officer shall be allowed to examine or cross-examine any evidence or document or to produce any evidence or a witness to rebuttal the evidence produced.
- GSTAT has powers to direct the production of any evidence to enable it to dispose of the appeal.

Procedure before Appellate Tribunal

GST Appellate Tribunal (Procedure) Rules, 2025

Authorised Representative (Rule 72)	<ul style="list-style-type: none">• Authorised representative shall be entitled to appear only if he files a vakalatnama or Memorandum of Appearance or letter of authorisation• It shall include all the information as specified in GSTAT FORM-04.
Consent for change of Authorised Representative (Rule 73)	<ul style="list-style-type: none">• With the written consent of the legal practitioner or the authorised representative on record or when such consent is refused, with the permission of the Appellate Tribunal.
Operative Portion of the Order (Rule 100)	<ul style="list-style-type: none">• <i>All orders or directions of the Bench shall be stated in clear and precise terms in the last paragraph of the order.</i>

Procedure before Appellate Tribunal

Rule 116

- To appear personally for examination on oath or affirmation,
- Authorized representative shall be a person authorized to appear on his behalf, being:
 - ✓ His relative or regular employee,
 - ✓ An advocate entitled to practice in India in any court,
 - ✓ CA/ CMA/ CS holding a certificate of practice,
 - ✓ Retired officer of Commercial Tax Department,
 - ✓ Authorized GST Tax Practitioner.

Procedure before Appellate Tribunal

GST Appellate Tribunal (Procedure) Rules, 2025

Pronouncement of Order (Rule 103)	<ul style="list-style-type: none">The Appellate Tribunal, shall pronounce an order not later than thirty days from the final hearing excluding vacations or holidays.
Enlargement of Time (Rule 107)	<ul style="list-style-type: none">Where any period is fixed by or under these rules, or granted by Appellate Tribunal for the doing of any act, or filing of any document or representation, the Appellate Tribunal may, in its discretion from time to time in the interest of justice and for reasons to be recorded, enlarge such period, even though the period fixed by or under these rules or granted by the Appellate Tribunal may have expired.

Procedure before Appellate Tribunal

GST Appellate Tribunal (Procedure) Rules, 2025

Electronic filing of Appeals/ Applications (Rule 115)

- Every appeal or application to be filed before the Appellate Tribunal shall be **uploaded electronically on the GSTAT portal**.
- All replies filed and documents shall be **signed, verified and uploaded electronically** on the GSTAT portal.
- **All proceedings** before the Appellate Tribunal shall be **conducted through the GSTAT portal** and all such proceedings shall be recorded on the said portal.
- A summary of the final order passed by the Appellate Tribunal, shall be uploaded.
- **All hearings before the Appellate Tribunal may be conducted, either in the physical mode or upon the permission of the President, in the electronic mode.**

Procedure before Appellate Tribunal

GST Appellate Tribunal (Procedure) Rules, 2025

Award of costs in the proceedings (Rule 120)	<ul style="list-style-type: none">• Whenever the Appellate Tribunal deems fit, it may award cost for meeting the legal expenses of the respondent of defaulting party.• The Appellate Tribunal may in suitable cases direct appellant or respondent to bear the cost of litigation of the other side, and in case of abuse of process of court, impose exemplary costs on defaulting party.
Dress for the parties (Rule 122)	<ul style="list-style-type: none">• Authorised representative shall appear in his professional dress, if any, and, if there is no such dress —• (a) Male: In a close-collared black coat, or in an open-collared black coat, with white shirt and black tie; or• (b) Female: in a black coat over a white sari or any other white dress:• Summer season: From 15th April to 31st August, the authorised representatives may, when appearing before a Bench of the Appellate Tribunal, dispense with the wearing of a black coat.

Withdrawal of Appeal/ Application filed

Rule 113A

Withdrawal of Appeal/ Application filed:

- This Rule deals with the withdrawal of appeal or application filed before the GST Appellate Tribunal.
- The Appellant may withdraw the Appeal or Application, at any time before the issuance of the order by the GST Appellate Tribunal.
- In case where the final acknowledgement has been issued for the appeal, the withdrawal of the Appeal is required to be approved by the GST Appellate Tribunal.

Waiver of Pre-Deposit – Key Decisions

Important Case Laws & Legal Precedents

- Generally, Sections 107(6) and 112(8) of the CGST Act mandate a pre-deposit for filing appeals. Failure to make the applicable pre-deposit typically results in dismissal of the appeal by the Appellate Authority or Tribunal.
- This principle has been upheld in numerous court decisions.
- However, certain exceptions exist, *especially in cases of financial hardship or where procedural justice has been overlooked.*

Cases/Precedents: -

1. Mohammed Akmam Uddin Ahmed & Ors. v. Commissioner Appeals & Ors. 2023 (5) TMI 23
2. Cyquator Media Services P Ltd. v. Union of India 2018 (10) GSTL 297 (All)

Waiver of Pre-Deposit – Key Decisions

Important Case Laws & Legal Precedents

1. Mohammed Akmam Uddin Ahmed & Ors. v. Commissioner Appeals & Ors. 2023 (5) TMI 23

In this case, the constitutional validity of mandatory pre-deposits under Section 129E of the Customs Act was challenged. While the Delhi High Court upheld the constitutionality of this section, it introduced a significant exception. The Court recognized that in *“rare and deserving cases,”* where an appellant faces extreme financial hardship, the requirement for pre-deposit can be waived. The Court has the discretionary power to grant this waiver when a strong justification is demonstrated, such as:

- *Inadequate reasoning for penalties imposed (Narender Yadav case).*
- *Imposing pre-deposit would disable business operations (Shubh Impex case).*
- *Petitioners having very limited means to pay (Manoj Jha case).*

In this case, the petitioners were daily wage earners. The Court acknowledged the hardship and allowed a waiver of the pre-deposit requirement, setting a precedent for future cases involving financial distress.

Waiver of Pre-Deposit – Key Decisions

Important Case Laws & Legal Precedents

2. Cyquator Media Services P Ltd. v. Union of India 2018 (10) GSTL 297 (All)

In this case, under the pre-GST regime, a writ was filed seeking waiver of the mandatory pre-deposit under Section 35F of the Central Excise Act. The Allahabad High Court ruled that the pre-deposit requirement can be waived if the *same issue had already been decided in favor of the appellant in earlier proceedings.*

Here, the Hon'ble CESTAT had previously ruled in the appellant's favor on the same issue, and the Commissioner had dropped the demand for the earlier period without further appeal. Therefore, the court held that requiring a pre-deposit for the subsequent period would be unjust. Accordingly, the court has provided the waiver of pre-deposit.

Waiver of Pre-Deposit – Key Decisions

Important Case Laws & Legal Precedents

3. Government of Andhra Pradesh & Others vs. P. Lakshmi Devi (2008) 4 SCC 720

In this case, the Hon'ble Supreme Court, while upholding the constitutionality of a provision that imposed a mandatory pre-deposit of 50% deficit stamp duty for making a reference to the Collector, has made the following observations-

“28. We may, however, consider a hypothetical case. Supposing the correct value of a property is Rs. 10 lakhs and that is the value stated in the sale deed, but the registering officer erroneously determines it to be, say, Rs. 2 crores. In that case while making a reference to the Collector under Section 47A, the registering officer will demand duty on 50% of Rs. 2 crores i.e. duty on Rs. 1 crore instead of demanding duty on Rs. 10 lakhs. A party may not be able to pay this exorbitant duty demanded under the proviso to Section 47A by the registering officer in such a case. What can be done in this situation?

Waiver of Pre-Deposit – Key Decisions

Important Case Laws & Legal Precedents

3. Government of Andhra Pradesh & Others vs. P. Lakshmi Devi (2008) 4 SCC 720

29. In our opinion in this situation it is always open to a party to file a writ petition challenging the exorbitant demand made by the registering officer under the proviso to Section 47A alleging that the determination made is arbitrary and/or based on extraneous considerations, and in that case it is always open to the High Court, if it is satisfied that the allegation is correct, to set aside such exorbitant demand under the proviso to Section 47A of the Stamp Act by declaring the demand arbitrary. It is well settled that arbitrariness violates Article 14 of the Constitution vide Maneka Gandhi v. Union of India - (1978) 1 SCC 248 = AIR 1978 SC 597. Hence, the party is not remediless in this situation."

Condonation of Delay – Key Decisions

Important Case Laws & Legal Precedents

Condonation of Delay refers to the legal mechanism through which courts or tribunals may permit a taxpayer or department to file an appeal or respond beyond the prescribed time limits under the GST law. The relevant sub-sections (1) and (6) of Section 112 are as follows-

- (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.
- (6) 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.**

Procedure before Appellate Tribunal

Important Case Laws & Legal Precedents

1. S.K. Chakraborty & Sons vs. Union of India & Ors. [TS-663-HC(CAL)-2023-GST]

- In this case, the Calcutta High Court addressed whether the time limit for filing an appeal under Section 107 of the CGST Act, 2017, could be extended. The CGST Act prescribes a 30-day period for appeals, with a discretionary extension of an additional 30 days (totaling 60 days).
- *The Court held that Section 5 of the Limitation Act, 1963, which allows for the extension of deadlines under certain circumstances, applies because it has not been expressly excluded by the CGST Act. Therefore, the appellate authority can extend the time limit for filing an appeal beyond the statutory 60 days if justified by the case's facts and circumstances.*

Condonation of Delay – Key Decisions

Important Case Laws & Legal Precedents

2. M/s. Venkateswara Rao Kesanakurti vs. The State of Andhra & Ors. [TS-549-HCAP-2024-GST]

- In this recent decision, the Hon'ble Andhra Pradesh High Court has examined the applicability of Section 5 of the Limitation Act, 1963 to the provisions of the GST Act, 2017 for condoning the delay beyond the prescribed time limit under Section 107 of the said Act.
- **The Hon'ble Court, after a thorough examination of the various decisions of the Hon'ble Supreme Court, has concluded that the time limit prescribed under Section 107 cannot be extended beyond the period stipulated therein and Section 5 of the Limitation Act would stand excluded.**
- **The Hon'ble Court held that the appellate authority under Section 107 of the APGST Act would not have any power to condone the delay in filing an appeal beyond the period of 30 days set out in Section 107(4) of the GST Act.**

Condonation of Delay – Key Decisions

Important Case Laws & Legal Precedents

3. Collector, Land Acquisition Anantnag and Another vs MST. Katiji and Others [1987 (28) E.L.T. 185 (S.C.)]

- In this case, the Hon'ble Supreme Court has made the following observations with respect to the condonation of delay-
- *“3.The legislature has conferred the power to condone delay by enacting Section 5 of the Indian Limitation Act of 1963 in order to enable the Courts to do substantial justice to parties by disposing of matters on ‘merits’.*
- *The expression “sufficient cause” employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice - that being the life-purpose for the existence of the institution of Courts. It is common knowledge that this Court has been making a justifiable liberal approach in matters instituted in this Court. But the message does not -appear to have percolated down to all the other Courts in the hierarchy.*

Condonation of Delay – Key Decisions

Important Case Laws & Legal Precedents

- *Ordinarily a litigant does not stand to benefit by lodging an appeal late.*
- *Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.*
- *“Every day’s delay must be explained” does not mean that a pedantic approach should be made. Why not every hour’s delay, every second’s delay? The doctrine must be applied in a rational common sense pragmatic manner.*
- *When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.*

Condonation of Delay – Key Decisions

Important Case Laws & Legal Precedents

- *There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.*
- *It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.*



CESTAT vs GSTAT

Comparison between CESTAT & GSTAT

Key procedural difference

Aspect	CESTAT	GSTAT
Legal Framework	Operates under Customs Act, Excise Act and Finance Act (Service Tax)	Constituted under Section 109 of CGST Act, 2017
Filing Method	Mostly physical filling (manual process)	Online filling via designated GSTAT portal (Rule 18)
Bench Structure	Limited direct involvement of state - no federal representation needed and Fewer benches ; litigants often travel long distances	Ensure wider reach across all states and Uts and Reduces travel and litigation costs for taxpayer

Comparison between CESTAT & GSTAT

Key procedural difference

Aspect	CESTAT	GSTAT
Language & Documentation	Less emphasis on uniform formatting or language	Strict guidelines: Typed in double space, A4 size, verified, paginated, and English translations mandated if in vernacular (Rules 20,23)
Authority over Procedure	Practice evolved via past decisions	Explicit codification of Register powers, procedural timelines, and format rules (Chapter II & III)
Hearing Process	Open court, but not digitized	Hybrid-ready structure; video conferencing, chamber hearings, or restricted public access if justified (Rules 46, 48)

Comparison between CESTAT & GSTAT

*Key procedural
difference*

Aspect	CESTAT	GSTAT
Cause list	Weekly	Daily (Cases filed before 12 PM to come up the next day or the succeeding day)
Adjournment	The CESTAT may adjourn on such terms as it thinks fit and at any stage of the proceedings	Request are to be made before the bench . In exceptional cases, the Registrar may adjourn the matter as directed by the GSTAT
Withdrawal of Appeal	Not explicitly provided in the CESTAT Rules but normally cannot be withdrawn once hearings are conducted and orders reserved	Option available to withdraw before issuance of the order

Comparison between CESTAT & GSTAT

*Key procedural
difference*

Aspect	CESTAT	GSTAT
Pre-deposit	7.5% (capped)	10% of disputed tax (heavier compliances burden)
Fees	Filing fee: Maximum Rs.10,000, and Miscellaneous fee Rs.5,00,	Filing fee: Maximum Rs.25,000, Miscellaneous fee Rs.5,000, Not clear whether the fee is combined or separate for IGST, CGST & SGST
Monetary limits for the dept. to file appeal (amount in dispute)	Rs.50 Lakhs	Rs.20 Lakhs



Code of Conduct at Tribunal- Practical Experience

Code of Conduct before the bench

**One Pager
Synopsis followed
with detailed
synopsis**

**Synopsis must be
crisp – Para no.
referencing**

**Case laws –
relevant to the
issue in hand**

**Prepare 5 set of
synopsis and
separate case law
compilation**

**File must be on
the finger tips**

**Proper Page
numbering and
indexing**

**Mark the relevant
portion of the
case law/
agreements**

**Anticipate the
case laws dept
could rely upon
and be prepared
for the same.**

**Always think from
the dept officers
perspective while
preparing for the
case**

**Carry file/ Digital
File - IPAD**

**Should be present
in the tribunal
before the
commencement**

**Carry the cause
list**

**You are an officer
of the court to
assist the court**

**Take your first
best point first –
Structure your
arguments**

**Face value
matters**

**Answer the
Questions
neutrally and to
the point**



Q&A



The Institute of Chartered Accountants of India

66

Thank You

Name: Bhavna Maheshwari

email: ca.bhavna.maheshwari@gmail.com