



Brief Bullet Points related to Appeal and Higher judicial authorities

Description

Brief One Page Bullet Points related to Appeal and Higher judicial

Section 107 – Appeal to Appellate Authority

- 107(1) In case of appeal by Assessee then **3-month** time allowed (from date of order communicated)
- 107(2) In case of Appeal by Commissioner then **6-month** time (from date of order communicated)
- 107(4) **1-month** more extension can be given by Appellate Authority if satisfied for sufficient cause
- 107(5) & Rule 108,109
 - FORM **GST APL-01** for appeal by assessee and FORM **GST APL-02** for final acknowledgment
 - [FORM GST APL-03](#) for appeal by department and [FORM GST APL-02](#) for final acknowledgment
- 107(6) **10% of disputed tax** to be deposited (Max. 25 cr) and full tax, interest, fee on point which is in dispute
- 107(7) Where appellant paid above tax then **stay on recovery proceedings** for the balance
- 107(8)(9) Opportunity of being heard to be given to appellant and Adjournment is allowed for max three days
- 107(10) Rule 112 Appellate Authority can allow additional ground of appeal during hearing if he satisfied
- 107(11) Order to be passed along with FORM APL-04 and cannot refer the case back to adjudicating authority
- Rule 113 **order is increasing the tax liability or reducing ITC then first show cause notice)**
- 107(12)(13) Order in writing and stating points for determination and if possible, decided appeal within one month
- 107(14) Order passed to be communicated to the appellant, respondent and to the adjudicating authority
- 107(16) Order passed under this section then it is final and binding on the parties (subject to revision by Appellate Tribunal, High Court, Supreme Court)
- Rule 109C Withdrawal of Appeal can be made before issue of show cause notice or order, subject to approval of Appellate Authority

Section 108 – Revisional Authority

- 108(1) The Revisional Authority may, on his own motion or on request from the commissioner can record of any proceeding & if he consider that any decision or order passed is erroneous, illegal or based on certain material facts then he may stay and revise that order
- 108(2) Revisional Authority shall not exercise power if such order is under appeal to Appellate Authority, High Court, Supreme Court and cannot be made after 3 years of passing such order.
- 108(3) Order passed under this section then it is final and binding on the parties (subject to Appeal to High Court, Supreme Court)
- 108(4) (5) The time period of 3 years excludes the time if any due to stay on revision authority order or if the appeal is pending on similar point at High court or supreme court till date of decision
- Rule 109B A reasonable opportunity of being heard shall be given to affected & serve notice in FORM F

Section 112. Appeals to Appellate Tribunal

- 112(1) Appeal against the order u/sec 107 or 108 to be **within 3 month** (from date of order communicated)
- 112(2) The tribunal may, in its discretion, may refuse to be admit the appeal If amount is less the 50 cr
- 112(3) In case of Appeal by Commissioner then **6-month** time (from date of order communicated)
- 112(5) Time limit for filling cross objection is 45 days from receipt of notice by party against whom the order is preferred
- 112(6) **3-month or 45 days** extension for appeal or cross objection if satisfied for sufficient cause or reasons
- 112(7) FORM **GST APL-05** for appeal by assessee, FORM **GST APL-06** for cross objection, [FORM GST APL-07](#) for appeal by department and [FORM GST APL-02](#) for final acknowledgment
- Rule 110,111 Fees for appeal is Rs. 1,000/- for every 1,00,000/- rupees of disputed tax or ITC (Max 25,000/-)
- 112(8) **20% more of disputed tax** to be deposit (Max. 50 cr) and full tax, interest on point which is in dispute
- 112(9) Where appellant paid above tax then **stay on recovery proceedings** for the balance

Section 113. Orders of Appellate Tribunal

- 113(1) (2) Appellate Tribunal shall pass order after giving Opportunity of being heard and may refer back to the authority which passed the order
- (3) Adjournment is allowed for max three times and can also amend the order within 3 month
- 113(4) The appeal may be decided within period of 1 year if possible (from date of filling appeal)
- 113(6) Order passed u/sec is final & binding on the parties (subject to Appeal to High Court, Supreme Court)
- Rule 112,113 Same as rule for Appeal to Appellate Authority

Section 117. Appeal to High Court

- 117 (1) Aggrieved by order passed by tribunal appeal can be file if involves substantial question of law
- 113(2) Rule 114 Appeal can be filed **within 180 days** (from date of order communicated) in FORM APL-08.

Section 118. Appeal to Supreme Court

- 118 (1) Appeal can be filed against the order passed by National Bench or Regional Bench of Tribunal or High Court passed by high court if the High Court certifies to be a fit one for appeal to the Supreme Court

Category

1. GST

Date Created

05/02/2024

Author

cahiren