Overview of Appeals and Revision under GST (Goods and Services Tax)

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Let us understand each of the topic in detail:-

1. What is an appeal?

In law, an **appeal is the process in which cases are reviewed,** where parties request a formal change to an official decision. Appeals function both as a process for error correction as well as a process of clarifying and interpreting law.

2. Appeals Level, Time limit and forms applicable for Appeals and Revision under GST:-

Appeal Levels under GST:-

Appeal Level	Order passed by….	Appeal to…	Time Limit for filing Appeal	Form for filing Appeal
I	Adjudicating Authority	Appellate Authority	See below point-(A)	GST APL-01
II	Appellate Authority	Appellate Tribunal	See below point-(B)	GST APL-05
III	Appellate Tribunal	High Court	See below point-(C)	GST APL-08
IV	High Court	Supreme Court	See below point-(D)	-

Time Limit for filling appeal is as described:-

A. Appeal Level-I (Appeal to Appellate Authority)

For Taxpayer: - Within 3 months or extended period of 1 month of passing of decision or order causing grievance.

For Department: - Within 6 months or extended period of 1 month of passing decision or order causing grievance.

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B. Appeal Level-II (Appeal to Appellate Tribunal)

For Taxpayer: - Within 3 months from the date of receipt of the order appealed against is communicated to the person preferring the appeal.

The Tribunal can condone the delay of up to 3 months beyond the specified time period of 3 months, if it is satisfied that there was sufficient cause for delay.

For Department: - Department has to complete review proceedings (Generally from Revisional Authority) and can file appeal within a periods of 6 months from the date of passing the order under revision.

Important Note: - Appellate Tribunals have the **powers to refuse** admission of appeal, **wherein the disputed tax amount or input tax credit or the difference in tax or input tax credit involved or amount of fine, fees or penalty ordered does not exceed Rs.50,000.**

C. Appeal Level-III (Appeal to High Court)

Time limit for filing an appeal before the high court is 180 days from the date of receipt of the order appealed against. However, the High Court has the power to condone further delay on sufficient cause being shown.

Note: - High Court may admit the appeal, if it is satisfied that the case involves a substantial question of law.

D. Appeal Level-IV (Appeal to Supreme Court)

The Law provides for appeals to the Supreme Court from any judgment or order passed by the High Court, in any case which, on its own motion or on an application made by or on behalf of the party aggrieved immediately after passing the judgement or order, **the High Court certifies to be a fit one, for appeal to the Supreme Court.**

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3. Mandatory pre-deposit for filling GST Appeals

Case-1 Pre-deposit in case of Appeal to Appellate Authority

The aggrieved taxpayer who wishes to contend **against the order of Adjudicating Authority** can file an appeal before the first appellate authority, for the appeal to be accepted, he must pay following amount (Under CGST and SGST separately):

⇒ Such part of tax demanded in the order that **he admits being liable for;** and

⇒ **10% of the remaining part of tax demanded in the order** as a pre-deposit amount or **Rs. 25 crores, whichever is less.**

Case-2 Pre-deposit in case of Appeal to Appellate Tribunal

In case the taxpayer is not satisfied with the verdict **passed by the first appellate authority,** he may approach the appellate tribunal, for the appeal to be accepted, he must pay the following amount (Under CGST and SGST separately):

⇒ Such part of tax demanded in the order that he admits being liable for; and

⇒ 20% of the remaining part of tax demanded in the order as a pre-deposit amount or Rs. 50 crores, whichever is less.

Example for finding out pre-deposit:- Mr. A is a dealer engaged in the business of selling computers online. He is served a notice by the Assessing Officer demanding Rs.50 lakhs. Mr. Ram agrees to pay Rs.30 lakhs as the tax amount with interest. However, for the remaining Rs.20 lakhs, **he files an appeal before the appellate authority as prescribed above,** Mr. Ram must deposit Rs 30 lakh in addition to 2 lakhs i.e., 10% of Rs.20 lakhs or Rs.25 crores, whichever is less. Therefore, total pre-deposit will be Rs. 32 Lakhs (Rs. 30 lakh being agreed amount and Rs. 2 Lakhs being lower of 10% of Rs 20 lakhs or Rs.25 crores)

Important Note: - The amount paid to Appellate Tribunal will be in addition to what was deposited before the first appellate authority.

The pre-deposit amount shall be returned in case the aggrieved taxpayer is proven right through the proceedings.

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Likewise, under the IGST Act, for all the inter-state transactions, the maximum limt for the pre-deposit amounts is Rs. 50 crores and Rs. 100 crores before appellate authority and appellate tribunal, respectively.

4. Fees for filing Appeal

Fees for filing appeal to Appellate Tribunal is Rs.10,000 for every Rs. 1,00,000 of tax amount in dispute.

5. Authorized Representative and persons Disqualified to be Authorized Representative

Any person required to appear before a GST Officer/Appellate Authority/Appellate Tribunal can assign an authorized representative to appear on his behalf, unless he is required by the Act to appear personally.

An authorized representative can be-

1. A relative or a regular employee;
2. A lawyer practising in any court in India;
3. Any chartered accountant/cost accountant/company secretary, with a valid certificate of practice;
4. A retired officer of the Tax Department of any State Government or of the Excise Dept. whose rank was minimum Group-B gazetted officer;
5. Any tax return preparer.

Important Note: - Retired officers cannot appear in place of the concerned person within 1 year from the date of their retirement.

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Following are the Persons who is Disqualified to be Authorised Representative under GST:-

1. Person dismissed or removed from government service;
2. Person convicted for an offence under CGST Act, SGST Act or UTGST Act, IGST Act;
3. Person who has been found guilty of misconduct;
4. Insolvent person;
5. Any person disqualified under either of CGST Act, SGST Act or UTGST Act, IGST Act.

Note: - In some cases, after giving opportunity of being heard, Commissioner may disqualify him from appearing as an authorised representative.

6. Appeal cannot be filed in certain cases

Appeals cannot be made for the following decisions taken/passed by a GST officer-

1. An order to transfer the proceedings from one officer to another officer;
2. An order to seize or retain books of account and other documents; or
3. An order sanctioning prosecution under the Act; or
4. An order allowing payment of tax and other amount in instalments.

General Note: - For easy understanding and to avoid any confusion, no section number is quoted and also topic of Revisional Authority is not much more relevant for Taxpayer therefore both the topics are not included in this article.

Conclusion:

I hope this article helps all of those who might have or had any confusion related to the Appeals and Revision under GST. Please feel free to contact if I have made any error or omission or missed any topic in Appeals and Revision under GST.

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