APPEALS TO APPELLATE AUTHORITY IN GST.

Section 107 read with Rules 108, 109 & 109A

Appeal by any person aggrieved by any decision or order- Sec 107(1)

- File appeal in FORM GST APL-01with documents and grounds of appeal and a provisional acknowledgement shall be issued.
- **Appeal to – (Rule 109A)**

(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,

- File appeal within 3 months from the date on which the said decision or order is communicated to such person.

Appeal by any person aggrieved by any decision or order- Sec 107(1)

- Submit certified copy of the decision or order appealed against within 7 days of filing the appeal and a final acknowledgement, indicating appeal number shall be issued thereafter in FORM GST APL-02.

- Where the certified copy of the decision or order is **submitted within 7 days** from the date of filing the FORM GST APL-01, the date of filing of the appeal shall be the date of the issue of the provisional acknowledgement and where the said copy is **submitted after 7 days**, the date of filing of the appeal shall be the date of the submission of such copy.

- Appeal shall be treated as filed only when the final acknowledgement, indicating the appeal number, is issued.

Department Appeal- Revision application by Commissioner- Sec 107(2)

- The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of UT tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order, for the purpose of satisfying himself *as to the legality or propriety of the said decision or order* and may, by order, direct any officer subordinate to him ***to apply to the Appellate Authority*** within 6 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.
- Same application will be treated as appeal by authority

Department Appeal- Revision application by Commissioner- Sec 107(2)

- Application in FORM GST APL-03, along with the relevant documents, either electronically or otherwise as may be notified by the Commissioner.
- A certified copy of the decision or order appealed against be submitted within 7 days of the filing the application and an appeal number shall be generated by the Appellate Authority.
- Appeal to –

(a) any officer not below the rank of Joint Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;

(b) the Additional Commissioner (Appeals) where such decision or order is passed by the Deputy or Assistant Commissioner or the Superintendent.

PROCEDURE IN APPEAL

◆ **Condonation of delay**

The Appellate Authority may allow appeal to be presented within a further period of one month. [if appeal not filed in 3 months or 6 months]

◆ **Stay of demand**

(a) On payment of admitted liability in full **<u>and</u>**

(b) Payment of a sum equal to 10% of the remaining amount of tax in dispute arising from the said order subject to a maximum of Rs. 25 crore, in relation to which the appeal has been filed.

On payment, the recovery proceedings for the balance amount shall be deemed to be stayed.

PROCEDURE IN APPEAL

- ◆ Opportunity to the appellant of being heard.
- ◆ No adjournment more than 3 times to a party during hearing of the appeal.
- ◆ AA may allow 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.
- ◆ AA shall, pass such order confirming, modifying or annulling the decision or order appealed against <u>but shall not refer the case back to the adjudicating authority that passed the said decision or order</u>

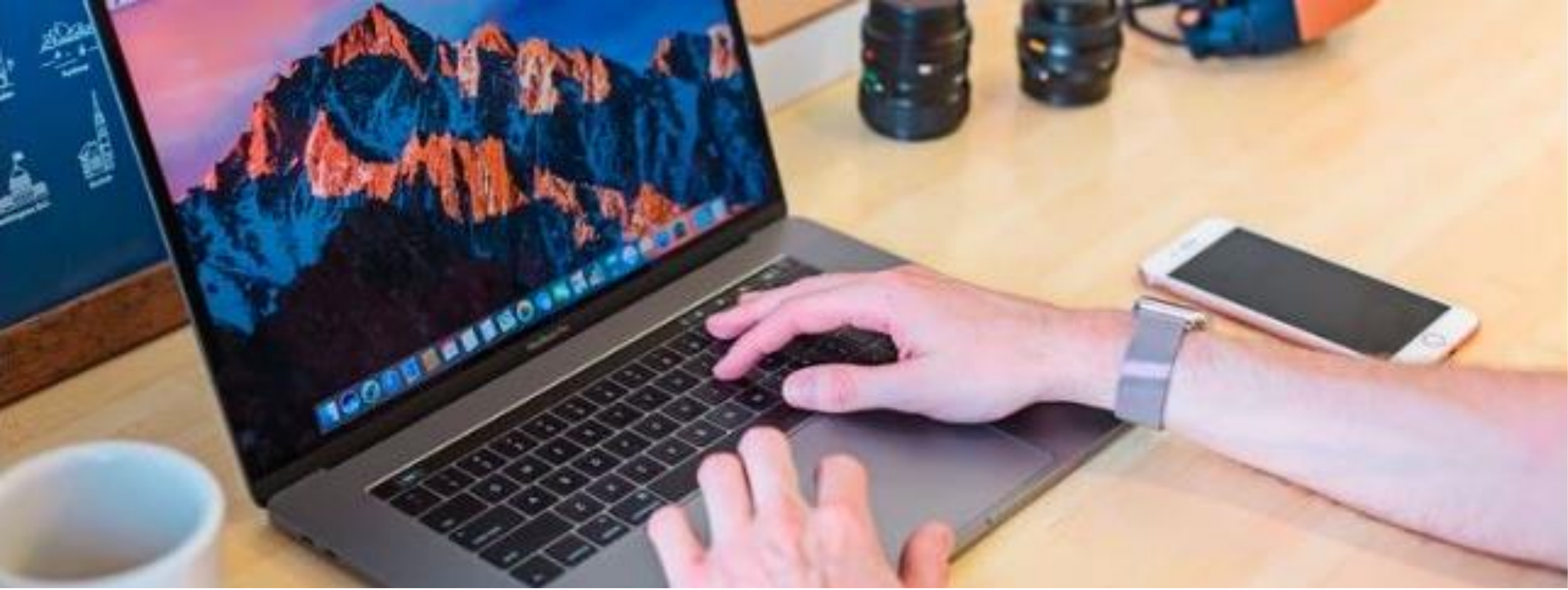
PROCEDURE IN APPEAL

◆ The order of be in writing with points for determination the decision & reasons.

◆ AA shall hear and decide every appeal within a period of one year from the date on which it is filed.

◆ AA to communicate the order to the appellant, respondent and to the adjudicating authority.

◆ Every order shall, subject to the provisions of section 108 (Revision) or section 113 (Order of tribunal) or section 117 (High Court order) or section 118 (Supreme Court order), be final and binding on the parties.



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