









GST – First Appeal

**Navigating GST Appeals: Key
Insights and Best Practices**

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Agenda – Topics Covered

-  1. Time Limits for SCNs and Orders
-  2. Filing Appeals – Timeline & Computation
-  3. Rectification vs. Appeal
-  4. Power of Review
-  5. Writ Option & Natural Justice
-  6. Filing the Appeal – Forms & Process
-  7. Drafting Precautions
-  8. Section 160 – Technical Challenges

Time Limits for SCNs & Orders

**Section 73 & Section 74 –
Financial Year-wise Deadlines**

Time Limits: Section 73 & 74 – SCNs and Orders

Financial Year	Sec 73 SCN	Sec 73 Order	Sec 74 SCN	Sec 74 Order
FY 2017-18	30-Sep-2023	31-Dec-2023	05-Aug-2024	05-Feb-2025
FY 2018-19	31-Jan-2024	30-Apr-2024	30-Jun-2025	31-Dec-2025
FY 2019-20	31-May-2024	31-Aug-2024	30-Sep-2025	31-Mar-2026
FY 2020-21	30-Nov-2024	28-Feb-2025	31-Aug-2026	28-Feb-2027

Time Limits: Section 73 & 74 – Continued

FY Period	Sec73 SCN	Sec73 Order	Sec74 SCN	Sec74 Order
FY 2021-22	30-Sep-2025	31-Dec-2025	30-Jun-2027	31-Dec-2027
FY 2022-23	30-Sep-2026	31-Dec-2026	30-Jun-2028	31-Dec-2028
FY 2023-24	30-Sep-2027	31-Dec-2027	30-Jun-2029	31-Dec-2029



Key Recent & Upcoming Dates

**Last Order – Sec 73, FY
2021-22: 31st Dec 2025**

**Last Order – Sec 74, FY
2019-20: 31st March 2026**

**Next SCN – Sec 73, FY
2022-23: 30th Sept 2026**

**Next SCN – Sec 74, FY
2020-21: 31st Aug 2026**

Time Limits: Section 74A – FY 2024-25

Financial Year: 2024-25

Due Date of GSTR-9: 31-12-2025

Due Date of SCN (42 Months from due date of GSTR-9): 30-06-2029

Due Date of Order (12 months from SCN, extendable by 6 months): 30-06-2030

Orders Expiring by 31st Dec 2025 – What to Do?



Pay Tax



Challenge in Writ



File Rectification



File First Appeal

Orders under these sections expiring up to December 31, 2025 need careful attention.

Writ Option

Articles 32 & 226 – Constitutional Remedies

Constitutional Remedies – Articles 32 & 226

Article 32

Violation of natural justice can be challenged directly before the Supreme Court.

Article 226

Violation of natural justice in judicial, quasi-judicial or administrative actions can be challenged before High Courts.

When to File Writ Instead of Appeal

- Wrong GSTIN / PAN | Demand beyond SCN | Non-service of SCN | Breach of natural justice | Patently illegal proceedings

Core Rules of Natural Justice

Audi Alteram Partem – Right to Fair Hearing (Section 75(4))

- Proper notice | Sufficient time (3-month gap) | Opportunity to be heard | Right to cross-examine | Access to evidence
- Legal representation

Nemo Judex in Causa Sua – Rule Against Bias

- No personal interest | No financial interest | No previous involvement (CBIC Circular)
- Impartial authority | No pre-conceived notions | Recusal when required

Reasoned Decision - Speaking Orders (Section 75(6))

- **Written decision |**
- **Clear reasoning |**
- **Facts considered |**
- **Legal basis cited |**
- **Transparent process**

No opportunity for personal hearing violates principles of natural justice and Section 75(4) of the CGST Act.



Case Law: Khokan Motors Works Pvt. Ltd. vs Senior Joint Commissioner of State Tax & Others

High Court of Calcutta | 03 September 2025 | Case No. 1783 of 2025

- 1. Show cause notices did not disclose materials or factual basis for allegations of tax evasion.
- 2. Petitioner was denied meaningful opportunity to defend itself.
- 3. Defect at SCN stage cannot be cured at appellate stage even if hearing granted later.

Matter remanded for fresh adjudication.

Case Law: Krishi Rakchha Sewa Kendra & Another vs Union of India & Others

Allahabad High Court | 07 November 2025 | Case No. 5747 of 2025

1. Proceedings conducted entirely with reference to wrong GSTINs, not belonging to petitioners.
2. Adjudication order created demand far exceeding the amount proposed in the SCN – impermissible in law.
3. Such foundational defects rendered entire proceedings unsustainable.

Writ was ALLOWED.



Case Law: Punit Kumar Choubey vs Joint Commissioner of State Tax, Bhabhua

Patna High Court | 10 August 2023 | Case No. 9975 of 2023

The assessment order could not be termed illegal or violative of natural justice, as adequate notices and opportunities of hearing were provided to the petitioner.

Writ NOT Allowed.

Contrast with Khokan Motors – adequate notice = writ fails

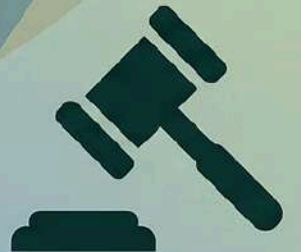


Case Law: A.M. Marketplaces Pvt. Ltd. vs Union of India & Ors.

Bombay High Court, Nagpur Bench | January 2026

Minimum three-month gap between issuance of SCN under Section 73 and passing of final order is MANDATORY.

- Gap is necessary to give taxpayer opportunity to respond, pay tax, and avail personal hearing.
- Department passed order within about two months.
- Notice and order held unsustainable and QUASHED.



Checklist While Handling GST SCN / Orders

- ✓ Verify GSTIN on SCN and order
- ✓ Examine jurisdiction of officer
- ✓ Compare SCN demand vs adjudicated demand
- ✓ Assess limitation independently
- ✓ Check mode and proof of service

When to File Writ Instead of Appeal:

- Wrong GSTIN/PAN
- Demand beyond SCN
- Non-service of SCN
- Breach of natural justice
- Patently illegal proceedings

First Appeal – Section 107

Appeals to Appellate Authority

Rule 109A – Appointment of Appellate Authority

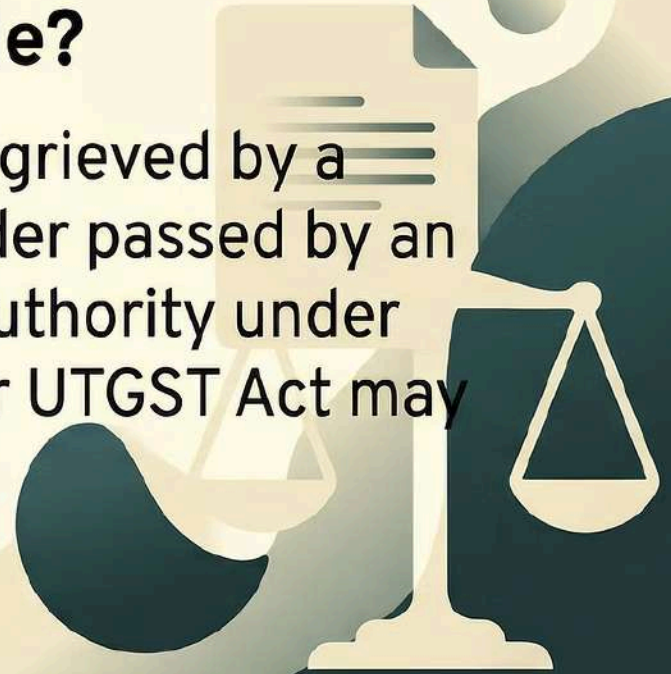
Section 107 – Who Can Appeal & Before Whom?

Appellate Forum (Rule 109A)

- Orders by Additional/Joint Commissioner → Appealable to Commissioner (Appeals). |
- Orders by Deputy/Assistant Commissioner or Superintendent → Appealable to Joint Commissioner (Appeals).

Who Can File?

Any person aggrieved by a decision or order passed by an adjudicating authority under CGST, SGST, or UTGST Act may file an appeal.





Filing Timeline & Condonation of Delay

Step 1 – “Date of Communication of Order”

Step 2 – “3 Months: Statutory Period to File Appeal”

Step 3 – “1 Additional Month: Condonable Period (Sufficient Cause Required)”

“Three plus one month counted from date of communication. Section 169 deals with mode and when service is deemed to be done.”

Case Law: Laxmi Motors vs State of Madhya Pradesh & Ors.

Madhya Pradesh High Court | 15 October 2025 | W.P. No. 35184 of 2025

Order passed 26 July 2024.
Appeal filed 25 November 2024.
Appellate Authority treated 3 months as 120 days and rejected appeal as two days late.

Costs

Costs of Rs. 25,000 imposed on State, recoverable from erring officer, **NOT** from public exchequer.

Key Holding

Section 9 of General Clauses Act – the word **FROM** means the date of order is **EXCLUDED**. Three months is calendar months, not 90 days. Three months from 27 July 2024 = 27 October 2024. Condonable period ends 26 November 2024. Appeal on 25 November 2024 = **WITHIN TIME**.

Computation of 3-Month Period – Key Principles

1

The word **FROM** in Section 107(1) means the date of order/communication is **EXCLUDED** from limitation count.

2

Three months = **Calendar** months as per General Clauses Act, **NOT** fixed 90 days.

3

Same principle reiterated in GSTAT Rules for filing appeal in Appellate Tribunal.



Erring Appellate Authorities may face cost imposition from courts.



Service of Notice – Section 169: Modes



(a) Hand delivery / messenger / courier – directly to addressee, manager, authorised representative, adult family member.



(b) Registered post / speed post / courier with acknowledgement due.



(c) Email – to e-mail address provided at registration.



(d) GST Portal upload – visible electronic signature.



(e) Newspaper publication in locality.



(f) Affixation – at last known place of business or on notice board of officer.

Section 169 – Deemed Service Rules

Section 169(2): Deemed served on the date tendered, published, or affixed under sub-section (1).

Section 169(3): For post (registered/speed post), deemed received at expiry of normal transit period **UNLESS** contrary is proved.

Why This Matters

- Limitation period for filing appeal starts only from effective service – not merely from uploading on portal.

Case Law: Bambino Agro Industries Ltd. vs State of Uttar Pradesh

Allahabad High Court | December 2025

More than 2,300 similar cases disposed of by setting aex parte adjudication orders subject to deposit of ~10% of disputed tax and remanding matters.

Citizens cannot be deprived of right to be heard or statutory right of appeal due to ineffective electronic communication. Unless executive reconsiders its rigid stand of exclusive electronic service, such litigation will continue unabated.



“Exclusive electronic service = minimum justice mode only.”

Case Law: Sharp Tanks and Structural (P.) Ltd. vs Deputy Commissioner (GST) (Appeals), Tirunelveli

Madras High Court, Madurai Bench | September 2025

Limitation under Section 107 does NOT commence merely from the date of uploading the order on the GST portal. Since impugned orders were not communicated through any effective mode, limitation had not started running.

Department directed to communicate orders afresh. Assessee granted liberty to file statutory appeals thereafter.



Case Law: Agrawal Enterprises vs State of Gujarat

Gujarat High Court | January 2026

Section 107(4) grants discretion to Appellate Authority to allow **additional 1 month** for sufficient cause. Once the additional 30 days is exhausted, **Court CANNOT exercise Article 226** powers to further **codelay**. The statute provides a fixed window – diluting it would defeat the intention of the legislature.

High Court CANNOT condone delay beyond 3+1 months under Art. . 226.




**Writ petition
DISMISSED.**

Pre-Deposit Requirement – Section 107(6)



Condition (a): Full amount admitted as due must be paid.



Condition (b): 10% of remaining disputed tax amount (Maximum: Rs. 20 Crore).



For appeals against penalty-only orders: **10% of penalty.**



Upon making mandatory pre-deposit → Recovery proceedings for remaining demand are **AUTOMATICALLY STAYED**. No separate stay application required.



Case Law: Impressive Data Services Pvt. Ltd. Ltd. vs Commissioner of Central Tax (GST)

Delhi High Court | 15 April 2025 | Case No. 4662 of 2025

1. Section 107(6) of CGST Act is **MANDATORY** in nature.

2. No discretion conferred on appellate authority or High Court to waive pre-deposit.

3. Financial hardship is **NOT** a valid ground to bypass the statutory pre-condition.

Article 226 cannot be used to defeat legislative intent where Parliament has consciously imposed conditions on the right of appeal.

Case Law: Barjinder Singh Kohli vs The Assistant Commissioner of Revenue & Ors.

Calcutta High Court | 3 November 2025 | Case No. 19676 of 2025

Facts

Adjudication order 7 Jan 2025 under Sec 74 – interest and penalty only, no tax demand. Appeal filed 26 April 2025 – within condonable period. Appeal dismissed on two grounds: (1) delay, (2) no pre-deposit.

Key Clarifications

Finance Act 2025 amendment – 10% pre-deposit even for penalty-only cases effective 1 October 2025. Amendment is PROSPECTIVE and did NOT apply to appeal filed 26 April 2025.

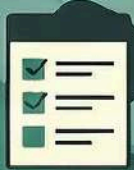
Court granted liberty to file condonation application. Separate condonation application is a MUST.



Filing the Appeal – Forms & Process



Step 1: File appeal in FORM GST APL-01, electronically.



Step 2: Immediate provisional acknowledgment issued.



Step 3: Final acknowledgment (FORM GST APL-02) generated when order is uploaded OR self-certified copy submitted within 7 days.

If delayed **beyond 7 days** – date of submission becomes the filing date.
Appeal deemed filed **ONLY** when final acknowledgment is issued.

Adjournment Power & Order Writing Timelines

Adjournment Power

- Appellate Authority may grant adjournments if sufficient cause is shown, recording reasons in writing.
- **RESTRICTION** (Maximum 3 adjournments per party during hearing.)



Order Writing Requirements

- Order must be in writing.
- Must state points for determination, decision, and reasons.
- To the extent **possible**, appeals must be disposed of within **ONE YEAR** of filing.

Communication of Orders & Withdrawal of Appeal

Copies of final order to be communicated to:



The appellant | The respondent |
The adjudicating authority |
The jurisdictional
Commissioner
(CGST, SGST, or UTGST).

Appellant may apply for withdrawal of APL-01 or APL-03 any time before SCN under Section 107(11) or before appeal order, whichever is earlier.



Once final acknowledgment issued, withdrawal requires approval by Appellate Authority, decided within 7 days.

Powers of the Appellate Authority – Section 107(11)



1. Wide powers to decide issues other than those raised in appeal.



2. Can examine any other issue arising from impugned order, even if not in APL-01.



3. Can enhance tax, interest, or penalty beyond the SCN, but **ONLY** after issuing fresh SCN and giving opportunity to be heard.



4. Can confirm, modify, or annul the original order.



5. Can conduct further inquiry if necessary.




6. **CANNOT** remand the case back to the adjudicating authority.

Power to enhance exists – take precaution while filing appeal.

Additional Evidence – Rule 112: Conditions for Admission

Appellant generally cannot produce new evidence before Appellate Authority or Tribunal EXCEPT in these four circumstances:

1. Adjudicating authority refused to admit evidence which ought to have been admitted.
 2. Appellant was prevented by sufficient cause from producing evidence when called upon.
 3. Appellant was prevented by sufficient cause from producing evidence relevant to any ground of appeal.
 4. Adjudicating authority passed order without giving sufficient opportunity to adduce evidence.
-  No evidence admitted unless Appellate Authority records reasons in writing.

Rule 112 – Additional Evidence: Procedural Safeguards

No evidence admitted under Rule 112(1) unless Appellate Authority or Tribunal RECORDS IN WRITING the reasons for its admission.

Appellate Authority shall NOT take such evidence unless adjudicating authority has been allowed reasonable opportunity:

- (a) To examine the evidence / cross-examine witnesses, OR
- (b) To produce rebuttal evidence or witnesses.

Rule 112 does NOT affect power of Appellate Authority or Tribunal to direct production of any document or examination of any witness.

Are CBIC Circulars Binding on First Appellate Authority?

YES – CBIC Circulars and instructions issued under Section 168 of the CGST Act are **BINDING** on the First Appellate Authority (Section 107), as the Appellate Authority is a departmental officer subordinate to the Board.



Hon'ble Supreme Court in Commissioner of C. Ex., Bolpur vs Ratan Melting & Wire Industries, 2008 (231) ELT 22 (SC): Circulars issued under Section 37B of the Central Excise Act are binding on Revenue. Officers implementing the Act shall follow the circulars.

Rectification vs. Appeal

Section 161 – Rectification of Errors
Apparent on Record

Section 161 – Rectification of Errors

Who can initiate?



Any authority that issued an order, notice, or document may rectify errors apparent on record – suo motu OR upon being pointed out by an officer under CGST/SGST/UTGST Acts or the affected person.

Time Limit

Rectification must be done within 6 months from the date of issue, except clerical or arithmetical mistakes arising from accidental slips, which can be corrected ANYTIME.

Natural Justice

If rectification adversely affects any person, an opportunity of being heard must be given.

Rectification vs. Appeal – Key Questions

When can rectification be filed?

**What is the time period for appeal in case of rectification?
– Recent judicial developments.**

When is an appeal appropriate?

Does appeal lie against original order or rectified order?

Key Note: Restriction by GSTN portal is NOT a restriction in law.



Case Law: SPK and Co. vs State Tax Officer

Madras High Court (Madurai Bench) | November 2024

Once an application for rectification under Section 161 of the CGST Act is filed and decided, the issue of limitation cannot be detached from that rectification process. Even if the rectification application is **REJECTED**, the period of limitation to challenge the original assessment order starts from the **DATE OF THE RECTIFICATION ORDER** – NOT from the date of the original assessment.

Rectification rejection =
Fresh start for limitation.



Case Law: New Kailash Suppliers vs State of Gujarat & Ors.

Gujarat High Court | January 2026

Where a rectification application under Section 161 of the GST Act is rejected, the limitation period for filing an appeal under Section 107 against the original assessment order would start from the **DATE OF REJECTION OF THE RECTIFICATION APPLICATION – NOT from the date of the original assessment order.**

Consistent with Madras HC view in SPK and Co.



Single SCN – Multiple Financial Years

Challenge on Technical Grounds – Judicial Stand of Various High Courts

Case Law: Ambika Traders, 2025 – Delhi HC

Issuance of a consolidated show cause notice covering multiple financial years under Section 74 of the CGST Act is **LEGALLY PERMISSIBLE**.

Delhi HC – Permissible View.

Case Law: Marfani Steel Impex, 2026 – Bombay HC

Clubbing different years into one notice can mix distinct limitation periods and tax liabilities and may prejudice taxpayer's year-wise defence. Such composite notices **QUASHED** with liberty to issue fresh year-wise notices.

Bombay HC – Not Permissible.

Case Law: R A And Co vs The Additional Commissioner of Central – Madras HC, 2025

A composite or bunched show cause notice covering multiple financial years under Sections 73/74 CGST Act is **IMPERMISSIBLE**. Each financial year is a separate tax period with independent limitation and liability. Statute requires notice to be issued tax-period wise (monthly or yearly). Clubbing prejudices taxpayer's year-specific defence and defeats the limitation scheme. Such consolidated notices/orders are **LIABLE TO BE QUASHED**.



Madras HC – Not Permissible.

Case Law: Veremax Technologie Services vs The Assistant Commissioner of Central – Karnataka HC, 2024

Under Section 73 of the CGST Act, limitation and determination of tax operate **SEPARATELY** for each financial year. A single consolidated show cause notice covering multiple assessment years is **CONTRARY** to the statutory scheme. Each assessment year is a distinct unit requiring separate notice and adjudication. Clubbing different years in notice is impermissible in law.

Consolidated show cause notice held **INVALID** and **QUASHED** with liberty to issue fresh notices year-wise.



Single SCN for Multiple Years – HC Positions at a Glance

High Court	Case	Stand
Delhi HC	Ambika Traders 2025	PERMISSIBLE
Bombay HC	Marfani Steel Impex 2026	NOT PERMISSIBLE – QUASHED
Madras HC	R A And Co 2025	NOT PERMISSIBLE – QUASHED
Karnataka HC	Veremax Technologie Services 2024	NOT PERMISSIBLE – QUASHED



Conflicting positions – taxpayer must assess jurisdiction-wise strategy.

SECTION 160 – SHIELD AGAINST TECHNICAL CHALLENGES

**ASSESSMENT PROCEEDINGS SOMETIMES CHALLENGED
ON TECHNICAL GROUNDS – UNDERSTANDING THE
NUANCES OF SECTION 160**

Section 160 – Protection from Technical Challenges



Assessment proceedings are sometimes challenged on technical grounds. Section 160 provides a shield from such challenges. It is essential to understand the nuances of Section 160 to correctly advise on whether a technical challenge will succeed or fail in court.



Key question: Does the alleged defect go to the root of the matter or is it merely a technical irregularity protected by Section 160?



Power of Review – Section 108

**Revisional Authority: Risks, Time
Limits and Key Exceptions**

Section 108 – Power of Review (Revisional Authority)

Revisional Authority can review decisions or orders passed by subordinate officers that are **ERRONEOUS** and **PREJUDICIAL** to the interest of revenue.

Who is the Revisional Authority? (Circular 250, June 2025)

Principal Commissioner or Commissioner of Central Tax → Reviews orders of Additional/Joint Commissioner.

Additional or Joint Commissioner of Central Tax → Reviews orders of Deputy Commissioner, Assistant Commissioner, or Superintendent.

Departmental Appeal

Commissioner may, on his own or on request from State/UT Commissioner, call for records.

If found improper/illegal/prejudicial to revenue, may direct subordinate to file appeal within 6 months of communication of order.

Filed in FORM GST APL-03.

Section 108 – Time Limits for Review



Lower Limit

Power CANNOT be exercised until 6 months have passed from date of communication of order (reserved for department appeals).

Upper Limit

Power CANNOT be exercised after 3 years from the date of the decision or order sought to be revised.

Proviso Extension

If appeal was filed, authority can revise points NOT raised/decided in appeal before 1 year from appellate order date or 3 years from original order date, whichever is LATER.

Even if order favours assessee – review risk exists within time limits.

Section 108 – Orders That CANNOT be Reviewed

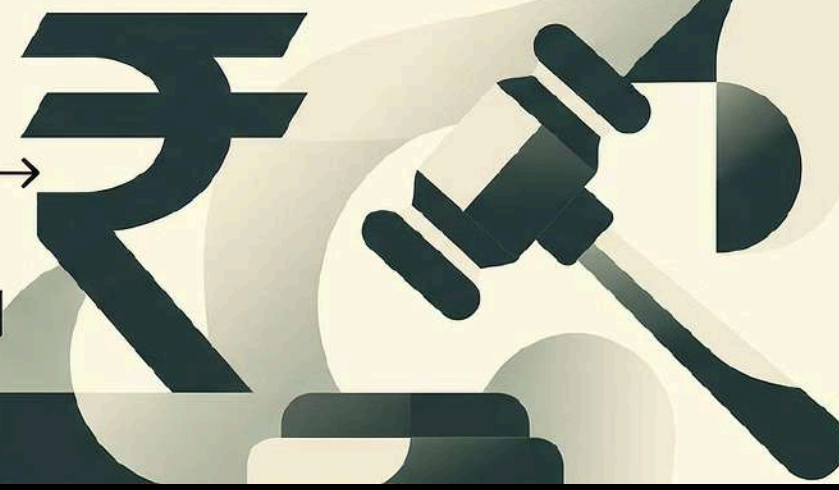
1. ✘ **Under Appeal:** Order has been subject to appeal before Appellate Authority, Tribunal, High Court, or Supreme Court.
2. ✘ **Premature/Late:** 6-month wait period has not expired or more than 3 years have passed.
3. ✘ **Already Revised:** Order has already been taken for revision at an earlier stage.
4. ✘ **Revisional Order:** Order being considered is itself a revisional order under Section 108(1).
5. ✘ **Non-Appealable Decisions:** Orders specified under Section 121 (transfer of proceedings, seizure of books, sanctioning prosecution).

Monetary Limits for Filing Departmental Appeal – Circular No. 207/1/2024-GST, 26th June 2024

Appellate Forum	Monetary Limit
GSTAT	₹ 20,00,000 (Rs. 20 Lakhs)
High Court	₹ 1,00,00,000 (Rs. 1 Crore)
Supreme Court	₹ 2,00,00,000 (Rs. 2 Crores)

Amount Considered for Monetary Limit

Tax demand → aggregate disputed tax; Interest only → disputed interest; Penalty only → disputed penalty; Composite orders → total disputed amount across all appeals.



Monetary Limits – Principles & Exclusions for GSTAT Appeals

Exclusions to GSTAT Monetary Limits

Constitutional validity of GST provisions

Ultra vires Rules or regulations

Ultra vires orders/notifications/circulars

Recurring issues: valuation, classification, refunds, place of supply

Adverse comments / strictures / costs against Government

Any other case considered necessary by the Board

These matters must be contested regardless of monetary limit.

Drafting Precautions for First Appeal

A Well-Drafted Appeal Can
Make All the Difference

Key Considerations for Drafting the Appeal – Part 1

1. Limitation & Maintainability

Note exact date of communication of DRC-07/demand order. Compute 3 months plus 1 month condonable for Section 107. If **delay** exists, add specific **Ground** on Condonation and separate **Application** for Condonation of Delay with reasons.

2. Statement of Facts – Neutral, Complete

Strictly factual, chronological order: registration, proceedings, notices, hearings, order holds. Avoid arguments, adjectives, and law in this section.

3. Legal Grounds and Statutory Arguments

Construct **robust** legal arguments referencing relevant sections of the Act and precedents. Elaborate on points of law.

4. Verification and Compiling of Evidence

Verify the complete Appeal in specified format. Organise and attach all required documentary evidence.

Key Considerations for Drafting the Appeal – Part 2

Grounds of Appeal – Wide, Precise

Draft separate, numbered grounds each attacking a distinct error (jurisdiction, natural justice, classification, valuation, penalty, computation).

Take grounds in widest terms
general grounds – new issues generally cannot be raised later if not in memorandum.

Law, Evidence and Documents

Every factual assertion must be supported by documents uploaded/enclosed.

Cite correct sections, rules, notifications, and circulars.

Relief and Prayer Clause

- setting aside or modifying impugned order |
- deletion/reduction of tax, interest and penalty |
- stay of recovery |
- consequential relief including refund.

Key Takeaways

- 1** Track SCN and order deadlines carefully – know your options: pay, writ, rectification, or appeal.
- 2** Limitation runs from effective communication, not mere portal upload.
- 3** Three months = calendar months, date of order excluded.
- 4** Pre-deposit under Section 107(6) is mandatory and cannot be waived.
- 5** Writ lies where GSTIN is wrong, demand exceeds SCN, or natural justice is violated.
- 6** Rectification rejection restarts limitation for filing appeal.
- 7** CBIC Circulars are binding on First Appellate Authority.
- 8** Draft appeal with wide grounds, complete facts, and specific relief prayer.

A well-prepared appeal is half the battle won.

Thank You

For queries and assistance on GST Appeals:

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GST – First Appeal