GSTZONE

Appeals & Advance Rulings

Fighting an order, or avoiding one in advance

The complete guide, plus all 49 sections and rules

Text sourced from the Central Board of Indirect Taxes and Customs

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A Khemchandani Finance initiative

Start here

An appeal against an adjudication order goes to the Appellate Authority in Form APL-01, within three months of the order being communicated. A further month can be condoned for good reason - and not a day beyond that, which courts have confirmed repeatedly.

The pre-deposit is 10% of the disputed tax, capped at ₹20 crore, and it is calculated on tax alone - not interest, not penalty. Paying it stays recovery of the balance while the appeal runs. A second appeal to the Tribunal needs a further 10%.

If you would rather not find out the hard way, an advance ruling lets you ask the question before you act. It binds you and the department for your own transaction - useful precisely where classification or valuation is genuinely uncertain.

A worked example

Working out what an appeal actually costs to start

Demand raised	**Tax ₹20,00,000 + interest ₹7,00,000 + penalty ₹2,00,000**	Total ₹29,00,000
Pre-deposit is 10% of tax only	**₹2,00,000**	Not 10% of ₹29,00,000
Recovery of the balance	**Stayed while the appeal is pending**	₹27,00,000 not payable now

> **The point:** ₹2 lakh, not ₹2.9 lakh - and it can be paid from the credit ledger. Businesses routinely overestimate this and abandon appeals they would have won.

The mistakes that cost people money

- Calculating the pre-deposit on the whole demand. It is 10% of the disputed tax component only.
- Filing a rectification request and assuming it pauses the appeal clock. It does not - file the appeal in time as well.
- Skipping an advance ruling on a genuinely novel structure, then discovering the department's view three years and one audit later.

What this guide covers

Rule 109C	Withdrawal of Appeal
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Every provision, explained

SECTION 95 · CGST ACT, 2017

Definitions of Advance Ruling

Section 95 defines the terms for advance rulings - an 'advance ruling' is a written decision by the Authority on specified questions about a supply the applicant is undertaking or proposes to undertake.

SECTION 96 · CGST ACT, 2017

Authority for advance ruling

Section 96 provides that the Authority for Advance Ruling (AAR) constituted under a State/UT GST Act is the AAR for CGST too.

SECTION 97 · CGST ACT, 2017

Application for advance ruling

Section 97 lets a person apply (in FORM GST ARA-01, with fee) for an advance ruling on defined questions - classification, applicability of a notification, time/value of supply, admissibility of ITC, liability to register, whether an activity is a supply, etc.

- The seven permitted questions are exhaustive: classification, applicability of a notification, time and value of supply, admissibility of input tax credit, determination of liability to pay tax, liability to register, and whether a particular thing amounts to a supply. Place of supply is NOT among them - the standing reason applications on export and intermediary issues are rejected.
- The ruling can be sought only for a supply being undertaken or PROPOSED to be undertaken - not to settle a past dispute.
- Fee is Rs 5,000 under each Act, in FORM ARA-01.

SECTION 98 · CGST ACT, 2017

Procedure on receipt of application

Section 98 sets the AAR procedure: examine the application, hear the applicant and officer, and pronounce a ruling within 90 days; an application is rejected if the question is already pending or decided in the applicant's case.

- An application is rejected where the same question is already pending or decided in the applicant's own case in any proceeding - so file before a notice arrives, not after.
- Ninety days from receipt of the application; if the two members differ, the matter goes to the Appellate Authority.
- The jurisdictional officer is heard, so expect the department's position on record.

SECTION 99 · CGST ACT, 2017

Appellate Authority for Advance Ruling

Section 99 provides that the Appellate Authority for Advance Ruling (AAAR) constituted under a State/UT GST Act is the AAAR for CGST too.

SECTION 100 · CGST ACT, 2017

Appeal to Appellate Authority

Section 100 allows the applicant or the department, if aggrieved by an AAR ruling, to appeal to the AAAR within 30 days (extendable by 30).

- Thirty days to appeal, extendable by thirty on sufficient cause; the department may also appeal.
- Appeal is in ARA-02 with a fee of Rs 10,000 under each Act; the department appeals in ARA-03 without fee.

SECTION 101 · CGST ACT, 2017

Orders of Appellate Authority

Section 101 empowers the AAAR to confirm or modify the ruling appealed against, within 90 days; if members differ, no ruling is issued (deemed no ruling).

- Where the two members of the Appellate Authority differ, NO ruling is issued - the applicant is left where he started, which is a real risk of the route.

SECTION 101A · CGST ACT, 2017

Constitution of National Appellate Authority for Advance Ruling

Constitutes the National Appellate Authority for Advance Ruling, to resolve conflicting rulings given by State Appellate Authorities on the same question. It has been enacted but not yet made functional, so conflicting State rulings still stand unresolved in practice.

- Enacted in 2019 to resolve conflicting State appellate rulings, but the National Appellate Authority has not been constituted - so conflicting rulings between States remain unresolved, and that is the practical answer to a client who points to a contrary ruling elsewhere.

SECTION 101B · CGST ACT, 2017

Appeal to National Appellate Authority

Lets an officer or an applicant, faced with conflicting advance rulings of two or more State Appellate Authorities on the same question, appeal to the National Appellate Authority within thirty days (ninety days for an officer), extendable by thirty days.

- An appeal lies only where two or more State Appellate Authorities have given CONFLICTING rulings on the same question - not from a single unfavourable ruling. Thirty days for an applicant, ninety for an officer.

SECTION 101C · CGST ACT, 2017

Order of National Appellate Authority

The National Appellate Authority must pass its order within ninety days of the appeal, after hearing both sides; where its members differ, no ruling is issued. Its ruling binds the applicants and their jurisdictional officers.

- Ninety days to decide; where the members differ, no ruling is issued.

SECTION 102 · CGST ACT, 2017

Rectification of advance ruling

Section 102 lets the AAR or AAAR rectify an error apparent on the face of the record within six months, after a hearing if it enhances liability.

- Rectification only for an error apparent on the face of the record, within six months of the order; a hearing is required before any rectification that enhances liability or reduces credit.

SECTION 103 · CGST ACT, 2017

Applicability of advance ruling

Section 103 makes an advance ruling BINDING only on the applicant who sought it and on the jurisdictional officer for that applicant - it is not a general precedent.

- Binding only on the applicant and his jurisdictional officer, and only while the law and facts stand. A ruling in someone else's case has persuasive value at best - and rulings of different State Authorities routinely conflict.
- It binds the applicant too: an unfavourable ruling cannot simply be ignored, which is why the decision to apply needs care.

RULE 103 · CGST RULES, 2017

Qualification and appointment of members of the Authority for Advance Ruling

Members of the Authority for Advance Ruling are officers not below the rank of Joint Commissioner, one from the central tax side and one from the State side.

SECTION 104 · CGST ACT, 2017

Advance ruling to be void in certain circumstances

Section 104 makes a ruling VOID from the start if it was obtained by fraud, suppression or misrepresentation of facts.

- A ruling obtained by fraud, suppression or misrepresentation is void ab initio, and the period between the ruling and the voiding order is excluded from limitation for a demand - so the department loses nothing by the delay.

RULE 104 · CGST RULES, 2017

Form and manner of application to the Authority for Advance Ruling

An advance-ruling application is made in ARA-01 on the portal with a fee of five thousand rupees under each Act; it must be signed by the person authorised under Rule 26.

SECTION 105 · CGST ACT, 2017

Powers of Authority and Appellate Authority

Section 105 gives the AAR/AAAR the powers of a civil court (for discovery, evidence, etc.), and their proceedings are judicial proceedings.

RULE 105 · CGST RULES, 2017

Certification of copies of advance rulings pronounced by the Authority

A copy of an advance ruling is certified as a true copy by any member of the Authority.

SECTION 106 · CGST ACT, 2017

Procedure of Authority and Appellate Authority

Section 106 lets the AAR and AAAR regulate their own procedure.

RULE 106 · CGST RULES, 2017

Form and manner of appeal to the Appellate Authority for Advance Ruling

An appeal against an advance ruling is filed in ARA-02 within thirty days with a fee of ten thousand rupees under each Act; the department appeals in ARA-03 with no fee.

SECTION 107 · CGST ACT, 2017

Appeals to Appellate Authority

Section 107 lets any person aggrieved by an adjudication order appeal to the Appellate Authority within 3 months (extendable by 1 month). You must pre-deposit the admitted dues in full plus 10% of the disputed tax (capped at Rs 20 crore); this stays recovery of the balance. The Appellate Authority must give a hearing, cannot send the case back, and decides within about a year.

- Pre-deposit is ten per cent of the disputed TAX, capped at Rs 20 crore under each Act (reduced from twenty per cent and Rs 25 crore by the Finance (No.2) Act 2024). Interest, penalty and fee are not counted for the ten per cent, but the admitted liability must be paid in full.
- For a section 129(3) detention order the pre-deposit is twenty-five per cent of the PENALTY - a different rule that catches people out.
- Three months from communication, extendable by one month on sufficient cause. Beyond four months the Appellate Authority has no power to condone - the remedy then is a writ, and only on limited grounds.
- The Appellate Authority cannot remand: it must decide the appeal itself, confirming, modifying or annulling the order.
- Pre-deposit may be paid from the electronic CREDIT ledger for tax (Circular 172/04/2022-GST), but penalty must come from cash.

RULE 107 · CGST RULES, 2017

Certification of copies of the advance rulings pronounced by the Appellate Authority

The Appellate Authority's ruling, signed by its members, is sent to the applicant, the concerned officer, the jurisdictional officer and the Authority.

RULE 107A · CGST RULES, 2017

Manual filing and processing

Anything in the advance-ruling chapter that must be filed electronically may be done manually where the Commissioner allows it.

SECTION 108 · CGST ACT, 2017

Powers of Revisional Authority

Section 108 empowers the Revisional Authority to revise, on its own motion, an order passed by a subordinate officer that is erroneous and prejudicial to the interest of revenue, within three years - but not where the order has already been appealed. A hearing is required.

- Revision is available only where the order is both erroneous AND prejudicial to the interest of revenue, and not where the matter is already under appeal.
- The Revisional Authority must issue RVN-01 and hear the person before passing an order that affects him adversely (Rule 109B).
- Three years from the date of the order, with a six-month cooling period before it can be exercised.

RULE 108 · CGST RULES, 2017

Appeal to the Appellate Authority

A first appeal is filed in APL-01 within three months of communication of the order (condonable by one month), electronically, with a certified copy of the decision within seven days where it was not issued on the portal; the appeal number is issued in APL-02 and the pre-deposit is ten per cent of the disputed tax, capped at twenty crore rupees.

SECTION 109 · CGST ACT, 2017

Constitution of Appellate Tribunal and Benches thereof

Section 109 constitutes the Goods and Services Tax Appellate Tribunal (GSTAT) - a Principal Bench at New Delhi and State Benches - to hear appeals against Appellate/Revisional Authority orders.

- The Principal Bench at New Delhi hears any appeal where PLACE OF SUPPLY is one of the issues; everything else goes to the State Bench - which is why a place-of-supply plea changes the forum.
- Section 109 was recast by the Finance Act 2023 and the Tribunal was operationalised thereafter; appeals against older appellate orders remain within time because limitation under section 112 runs from the notified date.

RULE 109 · CGST RULES, 2017

Application to the Appellate Authority

A departmental application to the Appellate Authority under section 107(2) is filed in APL-03 within six months, after the Commissioner has examined the record and directed the officer to apply.

RULE 109A · CGST RULES, 2017

Appointment of Appellate Authority

Who hears the first appeal: an order passed by an Additional or Joint Commissioner is appealed to the Commissioner (Appeals), and one passed by a Deputy or Assistant Commissioner or Superintendent to the Additional or Joint Commissioner (Appeals).

RULE 109B · CGST RULES, 2017

Notice to person and order of revisional authority in case of revision

Before the Revisional Authority passes an order under section 108 that would affect a person adversely, it must issue a notice in RVN-01, give a hearing, and pass a speaking order.

RULE 109C · CGST RULES, 2017

Withdrawal of Appeal

An appeal filed in APL-01 or APL-03 may be withdrawn in APL-01W or APL-03W before the show cause notice or the order under section 107(11) is issued; if the appeal was already final-acknowledged, withdrawal needs the Appellate Authority's approval, and a fresh appeal is possible within the original limitation.

SECTION 110 · CGST ACT, 2017

President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc

Section 110 sets the qualifications, appointment, tenure and conditions of service of the President and Members (Judicial and Technical) of the Tribunal.

RULE 110 · CGST RULES, 2017

Appeal to the Appellate Tribunal

An appeal to the Appellate Tribunal is filed in APL-05 electronically within three months of the order, with the pre-deposit of ten per cent of the remaining disputed tax capped at twenty crore rupees; the acknowledgement is issued in APL-02 and a certified copy filed where required.

SECTION 111 · CGST ACT, 2017

Procedure before Appellate Tribunal

Section 111 gives the Tribunal power to regulate its own procedure, with the powers of a civil court; its orders are enforceable as decrees and proceedings are judicial.

- The Tribunal follows natural justice rather than the Code of Civil Procedure, but has a civil court's powers for summoning, discovery and evidence; its order is enforceable as a decree.
- Additional evidence before the Tribunal is governed by Rule 112 - four limited situations only.

RULE 111 · CGST RULES, 2017

Application to the Appellate Tribunal

A departmental application to the Tribunal under section 112(3) is filed in APL-07 within six months of the order sought to be corrected.

SECTION 112 · CGST ACT, 2017

Appeals to Appellate Tribunal

Section 112 provides an appeal to the GST Appellate Tribunal within three months (or the date notified after the Tribunal is constituted, whichever is later). It needs a further pre-deposit of 10% of the disputed tax (max Rs 20 crore) over the first-appeal amount. The Tribunal may decline small cases up to Rs 50,000; cross-objections can be filed within 45 days.

- The pre-deposit is a further ten per cent of the disputed tax, capped at Rs 20 crore (reduced from twenty per cent and Rs 50 crore by the Finance (No.2) Act 2024).
- The three-month clock runs from the date the President or the State President enters office, as notified - so appeals against older orders were kept alive until the Tribunal became functional.
- The Tribunal may refuse to entertain an appeal where the amount involved does not exceed Rs 50,000.
- Cross-objections may be filed within forty-five days of receiving notice of the appeal, even by a party who did not appeal.

RULE 112 · CGST RULES, 2017

Production of additional evidence before the Appellate Authority or the Appellate Tribunal

Additional evidence may be produced before the Appellate Authority or Tribunal only in the four situations listed - the adjudicating authority refused it, the appellant was prevented by sufficient cause, it was not within his knowledge, or he had no opportunity - and only after the other side has been heard on it.

SECTION 113 · CGST ACT, 2017

Orders of Appellate Tribunal

Section 113 empowers the Tribunal to confirm, modify or annul the order appealed, or remand it, after a hearing, and to rectify apparent errors within three months; it must decide, where possible, within one year.

- Unlike the first Appellate Authority, the Tribunal CAN remand a matter for fresh adjudication.
- Rectification of an apparent error within three months, and a hearing is required if the rectification would enhance liability or reduce a refund.

RULE 113 · CGST RULES, 2017

Order of Appellate Authority or Appellate Tribunal

The Appellate Authority or Tribunal issues a summary of its order in APL-04, stating the final amount of demand confirmed, which is what the jurisdictional officer acts on.

RULE 113A · CGST RULES, 2017

Withdrawal of Appeal or Application filed before the Appellate Tribunal

An appeal or application filed before the Tribunal in APL-05 or APL-07 may be withdrawn in APL-05W or APL-07W before the order under section 113(1) is issued, with the Tribunal's approval where it has already been acknowledged.

SECTION 114 · CGST ACT, 2017

Financial and administrative powers of President

Section 114 gives the President financial and administrative powers over the Tribunal.

RULE 114 · CGST RULES, 2017

Appeal to the High Court

An appeal to the High Court under section 117 is filed in APL-08, signed by the person authorised under Rule 26.

SECTION 115 · CGST ACT, 2017

Interest on refund of amount paid for admission of appeal

Section 115 entitles a person to interest on refund of the pre-deposit amount if the appeal succeeds and the pre-deposit becomes refundable.

- Interest on refund of the pre-deposit runs at the notified rate from the date the amount was paid, once the appeal succeeds - claim it; it is not paid automatically.

RULE 115 · CGST RULES, 2017

Demand confirmed by the Court

Once the High Court or the Supreme Court confirms a demand, the jurisdictional officer issues the statement in APL-04 showing the final amount.

SECTION 116 · CGST ACT, 2017

Appearance by authorised representative

Section 116 lets a party appear through an authorised representative (relative, employee, advocate, chartered/cost accountant, company secretary, or a registered GST practitioner) before any GST authority or the Tribunal.

- An authorised representative may be a relative or employee, an advocate, a chartered accountant, cost accountant or company secretary, a retired officer of the tax department not below Group B rank (barred for one year after retirement), or a GST practitioner.
- A person convicted of an offence under the Act, or found guilty of misconduct under Rule 116, is disqualified.

RULE 116 · CGST RULES, 2017

Disqualification for misconduct of an authorised representative

An authorised representative found guilty of misconduct after an enquiry may be disqualified by the Commissioner from appearing, after being given a hearing; the order is appealable.

SECTION 117 · CGST ACT, 2017

Appeal to High Court

Section 117 allows an appeal to the High Court from a State Bench of the GST Appellate Tribunal, but only where the case involves a substantial question of law, filed within 180 days. It is heard by a bench of at least two judges.

- Only a substantial question of law reaches the High Court, and only from a State Bench - an order of the Principal Bench goes straight to the Supreme Court under section 118.
- 180 days from receipt of the order, and the High Court may condone delay on sufficient cause - a wider power than the Appellate Authority has.
- The appeal is heard by a bench of not less than two judges and decided by majority.

SECTION 118 · CGST ACT, 2017

Appeal to Supreme Court

Section 118 allows an appeal to the Supreme Court from an order of the Principal Bench of the GST Appellate Tribunal, or from a High Court judgment that the High Court certifies as a fit case for appeal.

- Direct appeal to the Supreme Court lies from an order of the PRINCIPAL Bench of the Tribunal, and from a High Court judgment certified as a fit case.
- Where the appeal is against a Principal Bench order, no High Court stage exists - going to the High Court first will cost time.

SECTION 119 · CGST ACT, 2017

Sums due to be paid notwithstanding appeal, etc

Section 119 requires sums due under an order of the Appellate/Revisional Authority or Tribunal to be paid notwithstanding a further appeal, unless recovery is stayed.

- Amounts due under an appellate order must be paid even if a further appeal is filed, unless recovery is stayed - filing the next appeal with its pre-deposit is what secures the stay.

SECTION 120 · CGST ACT, 2017

Appeal not to be filed in certain cases

Section 120 lets the Board fix monetary limits below which the department shall not file appeals, to reduce litigation; not filing in one case is not a precedent.

- Departmental appeals below the monetary limits fixed by the Board (currently Rs 20 lakh for the Tribunal, Rs 1 crore for the High Court and Rs 2 crore for the Supreme Court under Circular 207/1/2024-GST) are not to be filed - and not filing in one case does not stop the department in another.

SECTION 121 · CGST ACT, 2017

Non-appealable decisions and orders

Section 121 lists decisions/orders that are NON-APPEALABLE - e.g. orders to transfer proceedings, to seize/retain books, sanctioning prosecution, or allowing instalments under s.80.

- Non-appealable orders include transfer of proceedings, seizure or retention of books, sanction for prosecution, and an order allowing payment in instalments under section 80 - the remedy against those is a writ, not an appeal.