



# Lawgics

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**Section 107(1), 107(2), 107(3), 107(4) & 107(5) of CGST Act, 2017  
read with Rule 108, 109 & 109A**

## Section 107: Appeals to Appellate Authority

Section 107(1)	Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.
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## Rule 108: Appeal to the Appellate Authority

(1) An appeal to the Appellate Authority under sub-section (1) of section 107 shall be filed in FORM GST APL-01, along with the relevant documents, either electronically or otherwise as may be notified by the Commissioner and a provisional acknowledgement shall be issued to the appellant immediately.

(2) The grounds of appeal and the form of verification as contained in FORM GST APL- 01 shall be signed in the manner specified in rule 26.

(3) Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgment shall be considered as the date of filling of appeal:

Provided that where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of seven days from the date of filling of FORM GST APL-01, and a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf, and the date issue of the provisional acknowledgment shall be considered as the date of filling of appeal:

Provided further that where the said self-certified copy of the decision or order is not submitted within a period of seven days from the date of filling of FORM GST APL-01, the date of submission of such copy shall be considered as the date of filling of appeal.

Explanation. – For the provisions of this rule, the appeal shall be treated as filed only when the final acknowledgement, indicating the appeal number, is issued.

Section 107(1) read with Rule 108 <b>Interpretation</b>	<p><b><u>Appeal to the Appellate Authority filed by the taxpayer</u></b></p> <p>An assessee aggrieved by any decision or order passed by adjudicating authority may prefer an <b>appeal within 3 months</b> from <b>date of communication of decision or order</b> in Form GST APL-01, along with relevant documents either electronically or otherwise as notified by the Commissioner and the <b>provisional acknowledgement</b> will be <b>issued immediately</b>.</p> <p>The <b>grounds of appeal</b> and form of verification must be <b>duly signed</b> through DSC or EVC.</p>
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	<p>In case, the decision or order appealed against is <b>uploaded on the GST portal</b>, a <b>final acknowledgment</b>, indicating appeal number, shall be issued in FORM GST <b>APL-02</b> by the Appellate Authority and the <b>date of issue of the provisional acknowledgment</b> shall be considered as the <b>date of filing of appeal</b>.</p> <p>In case the decision or order appealed against is <b>NOT uploaded on the GST portal</b>, then self-<b>certified copy</b> of the decision or order is to be filed before the Appellate Authority <b>within 7 days</b> of filing the appeal. Thereafter, a <b>final acknowledgment</b> indicating the appeal number shall be issued in Form GST <b>APL-02</b> by the appellate authority and the appeal shall be deemed to be filed on the date of issue of provisional acknowledgement.</p> <p>However, in case <b>self-certified copy is submitted after 7 days</b>, the <b>date of filing of appeal shall be the date of submission of such copy</b>.</p> <p>The appeal shall be considered as filed only when final acknowledgement, indicating appeal number is issued in Form GST <b>APL-02</b> by the appellate authority. Hence, where certified copy is not submitted within 7 days, date of submission of the same shall be the date of filing of appeal.</p>
Section 107(2)	The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, 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 six 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.
Section 107(3)	Where, in pursuance of an order under sub-section (2), the authorised officer makes an application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application.
<b>Rule 109 – Application to the Appellate Authority</b>	
<p>(1) An application to the Appellate Authority under sub-section (2) of section 107 shall be filed in FORM GST APL-03, along with the relevant documents, either electronically or otherwise as may be notified by the Commissioner and a provisional acknowledgment, shall be issued to the appellant immediately.</p> <p>(2) Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal under sub-rule (1):</p> <p>Provided that where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of seven days from the date of filing of FORM GST APL-03 and a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf, and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal:</p> <p>Provided further that where the said self-certified copy of the decision or order is not submitted within a period of seven days from the date of filing of FORM GST APL-03, the date of submission of such copy shall be considered as the date of filing of appeal.</p>	
Section 107(2) & 107(3) read with Rule 109 <b>Interpretation</b>	<p><b><u>Appeal/ Application to the Appellate Authority filed by the department</u></b></p> <p>The Commissioner of Central / State or any Union territory can, with a view to satisfy himself about the legality or propriety of any order or decision, direct a subordinate officer to file an <b>application before the Appellate Authority within 6 months</b> from the date of communication of</p>

	<p>decision or order in <b>Form GST APL-03</b>, along with relevant documents either electronically or otherwise as notified by the Commissioner and the <b>provisional acknowledgement</b> will be <b>issued immediately</b>.</p> <p>The Appellate Authority shall treat the application filed by authorized officer as if such authorized officer is appellant and the provisions relating to appeal will be applicable to such application.</p> <p>In case, the decision or order appealed against is <b>uploaded on the GST portal</b>, a <b>final acknowledgement</b>, indicating appeal number, shall be issued in FORM GST <b>APL-02</b> by the Appellate Authority and the <b>date of issue of the provisional acknowledgement</b> shall be considered as the <b>date of filing of appeal</b>.</p> <p>In case the decision or order appealed against is <b>NOT uploaded on the GST portal</b>, then self-<b>certified copy</b> of the decision or order is to be filed before the Appellate Authority <b>within 7 days</b> of filing the appeal. Thereafter, a <b>final acknowledgement</b> indicating the appeal number shall be issued in Form GST <b>APL-02</b> by the appellate authority and the appeal shall be deemed to be filed on the date of issue of provisional acknowledgement.</p> <p>However, in case <b>self-certified copy is submitted after 7 days</b>, the <b>date of filing of appeal shall be the date of submission of such copy</b>.</p>
Section 107(4)	The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.
Section 107(4) <b>Interpretation</b>	<p><b><u>Extension for filing an appeal</u></b></p> <p>The appellate authority in either of the above cases is empowered to condone the delay up to a period of 1 month.</p>
Section 107(5)	Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.
<b>Rule 109A – Appointment of Appellate Authority</b>	
<p>(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to –</p> <ul style="list-style-type: none"> <li>(a) the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;</li> <li>(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, within three months from the date on which the said decision or order is communicated to such person.</li> </ul> <p>(2) An officer directed under sub-section (2) of section 107 to appeal against any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to –</p> <ul style="list-style-type: none"> <li>(a) the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;</li> <li>(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 the Superintendent, within six months from the date of communication of the said decision or order.</li> </ul>	
Section 107(5) read with Rule 109A <b>Interpretation</b>	<p><b><u>Form and Verification of Appeal</u></b></p> <p>The Appeal has to be filed before the following authorities:</p> <p><b>Commissioner (Appeals)</b>- where such decision or order is passed by the Additional or Joint Commissioner; or</p> <p><b>Joint Commissioner (Appeals)</b>- where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent.</p>