



Lawgics

By Nidhi, Advocate



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Section 108 of CGST Act, 2017

108. Powers of revisional authority.

(1) Subject to the provisions of section 121 and any rules made thereunder, the Revisional Authority may, on his own motion, or upon information received by him or on request from the Commissioner of State tax, or the Commissioner of Union territory tax, call for and examine the record of any proceedings, and if he considers that any decision or order passed under this Act or under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by any officer subordinate to him is erroneous in so far as it is prejudicial to the interest of revenue and is illegal or improper or has not taken into account certain material facts, whether available at the time of issuance of the said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, stay the operation of such decision or order for such period as he deems fit and after giving the person concerned an opportunity of being heard and after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order.

(2) The Revisional Authority shall not exercise any power under sub-section (1), if—

- a) the order has been subject to an appeal under section 107 or section 112 or section 117 or section 118; or
- b) the period specified under sub-section (2) of section 107 has not yet expired or more than three years have expired after the passing of the decision or order sought to be revised; or
- c) the order has already been taken for revision under this section at an earlier stage; or
- d) the order has been passed in exercise of the powers under sub-section (1):

Provided that the Revisional Authority may pass an order under sub-section (1) on any point which has not been raised and decided in an appeal referred to in clause (a) of sub-section (2), before the expiry of a period of one year from the date of the order in such appeal or before the expiry of a period of three years referred to in clause (b) of that subsection, whichever is later.

(3) Every order passed in revision under sub-section (1) shall, subject to the provisions of section 113 or section 117 or section 118, be final and binding on the parties.

(4) If the said decision or order involves an issue on which the Appellate Tribunal or the High Court has given its decision in some other proceedings and an appeal to the High Court or the Supreme Court against such decision of the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Tribunal and the date of the decision of the High Court or the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period of limitation referred to in clause (b) of sub-section (2) where proceedings for revision have been initiated by way of issue of a notice under this section.

(5) Where the issuance of an order under sub-section (1) is stayed by the order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of limitation referred to in clause (b) of sub-section (2).

(6) For the purposes of this section, the term,—

- i. “record” shall include all records relating to any proceedings under this Act available at the time of examination by the Revisional Authority;
- ii. “decision” shall include intimation given by any officer lower in rank than the Revisional Authority.

Rule 109B: Notice to person and order of revisional authority in case of revision

(1) Where the Revisional Authority decides to pass an order in revision under section 108 which is likely to affect the person adversely, the Revisional Authority shall serve on him a notice in FORM GST RVN-01 and shall give him a reasonable opportunity of being heard.

(2) The Revisional Authority shall, along with its order under sub-section (1) of section 108, issue a summary of the order in FORM GST APL-04 clearly indicating the final amount of demand confirmed.

Our Interpretation

Section 108
read with
Rule 109B

This section pertains to **revisionary powers of Revisional Authority**. The Revisional Authority means an authority appointed or authorised for revision of decision or orders passed under CGST Act or under SGST/UTGST Act by any officer subordinate to him.

The Revisional Authority is empowered to **examine any proceedings**:

- on his own motion, or
- upon information received by him or
- on request from Commissioner of State tax, or Commissioner of Union territory tax,

if he considers that such decision or **order passed by any officer subordinate** to him is **erroneous** by way of being:

- prejudicial to the interest of the revenue or
- illegal or
- improper or
- has not taken into account certain material facts whether available at the time of issuance of the said order or not.

The Revisional Authority may **stay the operation of any decision or order** for such period as he deems fit and **after giving the concerned person an opportunity of being heard**, the Revisional Authority may pass an order within 3 years of passing of the said order sought to be revised by way of enhancing or modifying or annulling the said decision or order.

The Revisional Authority shall not exercise such revisionary powers if:

- a) appeal is filed against the order to –
 - Appellate Authority U/s.107

- Appellate Tribunal U/s.112
- High Court U/s.117
- Supreme Court U/s.118

- b) period of 6 months as specified in section 107(2) for filing appeal by the Department has not expired
- c) more than 3 years have expired after passing the decision or order which is sought to be revised
- d) the order has already been taken under this section for revision at any earlier stage
- e) revisionary order has already been passed once.

However, the Revisional Authority may pass an order on any point which has not been raised & decided in an appeal either before the Appellate Authority, Appellate Tribunal, High Court or Supreme Court. In this case, the Revisional Authority must pass the order **within 1 year from the date of order passed in such appeal or within 3 years from the date of such passing the decision or order sought to be revised, whichever is later.**

The order passed under this section shall be **final and binding on the parties** subject to provisions of Section 113 (Orders of Appellate Tribunal) or Section 117 (Appeal to High Court) or Section 118(Appeal to Supreme Court).

The Revisional Authority shall serve a notice in FORM GST RVN-01 on the person who is likely to get adversely affected by the revisionary order proposed to be passed and shall give him a reasonable opportunity of being heard. In case, the said decision or order involves an issue on which the **Appellate Tribunal or the High Court has given its decision in some other proceedings and an appeal to the High Court or the Supreme Court** against such decision of the Appellate Tribunal or the High Court is **pending**, the period spent between:

- the date of the decision of the Appellate Tribunal and the date of the decision of the High Court, or
- the date of the decision of the High Court and the date of the decision of the Supreme Court

shall be excluded in computing the period of limitation of 3 years from the date of passing of the decision or order which is sought to be revised.

Where the **issuance of revisionary order is stayed by the order of a court or Appellate Tribunal**, the period of such stay shall be excluded in computing the period of limitation of 3 years from the date of passing of the decision or order which is sought to be revised.

The Revisional Authority shall pass an order & issue a summary of the order in FORM GST APL-04 clearly indicating the final amount of demand confirmed.