



# Lawgics

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## Section 112 of CGST Act, 2017 read with Rule 110 & 111

### Section 112: Appeals to Appellate Tribunal

Section 112(1)	Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.
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### Rule 110: Appeal to the Appellate Tribunal

Rule 110(1)	An appeal to the Appellate Tribunal under sub-section (1) of section 112 shall be filed along with the relevant documents either electronically or otherwise as may be notified by the Registrar, in FORM GST APL-05, on the common portal and a provisional acknowledgement shall be issued to the appellant immediately.
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Section 112(1) read with Rule 110(1) <b>Interpretation</b>	<b>Appeal to the Appellate Tribunal by Assessee</b>  This sub-section pertains to appeals to Appellate Tribunal by any person who is aggrieved against decision or order passed by Appellate Authority or Revisional Authority.  An assessee, aggrieved by any decision or order may prefer an appeal within 3 months from the date of communication of decision or order in Form GST APL-05, along with relevant documents against which a provisional acknowledgement will be issued immediately.
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Section 112(2)	The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed fifty thousand rupees.
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Section 112(2) <b>Interpretation</b>	<b>Refusal to admit an appeal</b>  The Appellate Tribunal has discretion to refuse to admit the appeal in case the tax amount or input tax credit (ITC) involved or the difference in tax or input tax credit (ITC) involved or amount of fine, fees or penalty determined by the order does not exceed Rs. 50,000/-.
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Section 112(3)	The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or Commissioner of Union territory tax, call for and examine the record of any order passed by the Appellate Authority or the Revisional Authority under this Act or
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	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 order and may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal within six months from the date on which the said order has been passed for determination of such points arising out of the said order as may be specified by the Commissioner in his order.
Section 112(4)	Where in pursuance of an order under sub-section (3) the authorised officer makes an application to the Appellate Tribunal, such application shall be dealt with by the Appellate Tribunal as if it were an appeal made against the order under sub-section (11) of section 107 or under sub-section (1) of section 108 and the provisions of this Act shall apply to such application, as they apply in relation to appeals filed under sub-section (1).
<b><u>Rule 111: Application to the Appellate Tribunal</u></b>	
Rule 111(1)	An application to the Appellate Tribunal under sub-section (3) of section 112 shall be made electronically or otherwise, in FORM GST APL-07, along with the relevant documents on the common portal.
Rule 111(2)	A certified copy of the decision or order appealed against shall be submitted within seven days of filing the application under sub-rule (1) and an appeal number shall be generated by the Registrar.
Section 112(3) & Section 112(4) read with Rule 111(1) & Rule 111(2) <b>Interpretation</b>	<p><b>Appeal to the Appellate Tribunal by the Department</b></p> <p>There exists the provision to file appeal/application by the tax authorities against a decision or order passed by Appellate Authority or Revisional Authority.</p> <p>The Commissioner of CGST or SGST/UTGST, with a view to satisfy himself about the legality or propriety of any order or decision passed by the Appellate Authority or Revisional Authority, direct a subordinate officer to file an application before the Appellate Tribunal within 6 months from the date of communication of decision or order in Form GST APL-07, along with relevant documents and an acknowledgement shall be issued immediately.</p> <p>A certified copy of the decision or order appealed against, along with the prescribed fees is to be filed before the Registrar within 7 days of filing the application and an appeal number shall be generated by the Registrar.</p>
Section 112(5)	On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal, as if it were an appeal presented within the time specified in sub-section (1).
Rule 110(2)	A memorandum of cross-objections to the Appellate Tribunal under sub-section (5) of section 112 shall be filed either electronically or otherwise as may be notified by the Registrar, in FORM GST APL-06.
Rule 110(3)	The appeal and the memorandum of cross objections shall be signed in the manner specified in rule 26.

Section 112(5) read with Rule 110(2) & Rule 110(3) <b>Interpretation</b>	<p><b>Cross Objection during proceeding</b></p> <p>Memorandum of Cross objection shall be filed in FORM GST APL-06 within 45 days from the receipt of notice of filing of such appeal.</p> <p>The appeal and the memorandum of cross objections shall be signed through digital signature certificate (DSC) or e-signature (EVC).</p>
Section 112(6)	The Appellate Tribunal may admit an appeal within three months after the expiry of the period referred to in sub-section (1), or permit the filing of a memorandum of cross-objections within forty-five days after the expiry of the period referred to in sub-section (5) if it is satisfied that there was sufficient cause for not presenting it within that period.
Section 112(6) <b>Interpretation</b>	<p><b>Condonation of delay</b></p> <p>Appellate Tribunal is empowered to condone the delay in filing appeal by assessee for a further period of 3 months or filing memorandum of cross objection for a further period of 45 days, if there was sufficient cause for not presenting within specified period.</p> <p>No powers have been granted to the Appellate Tribunal to condone the delay in filing appeal/application by the tax authorities.</p>
Section 112(7)	An appeal to the Appellate Tribunal shall be in such form, verified in such manner and shall be accompanied by such fee, as may be prescribed.
Rule 110(4)	<p>A certified copy of the decision or order appealed against along with fees as specified in sub-rule (5) shall be submitted to the Registrar within seven days of the filing of the appeal under sub-rule (1) and a final acknowledgement, indicating the appeal number shall be issued thereafter in FORM GST APL-02 by the Registrar:</p> <p>Provided that where the certified copy of the decision or order is submitted within seven days from the date of filing the FORM GST APL-05, 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 seven days, the date of filing of the appeal shall be the date of the submission of such copy.</p> <p>Explanation.— For the purposes of this rule, the appeal shall be treated as filed only when the final acknowledgement indicating the appeal number is issued.</p>
Rule 110(5)	The fees for filing of appeal or restoration of appeal shall be one thousand rupees for every one lakh rupees of tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in the order appealed against, subject to a maximum of twenty-five thousand rupees.
Section 112(7) read with Rule 110(4) & Rule 110(5) <b>Interpretation</b>	<p><b>Prescribed Form &amp; Fees for filing appeal to Appellate Tribunal by assessee</b></p> <p>The grounds of appeal and form of verification must be duly signed and a certified copy of the decision or order, along with the prescribed fees is to be filed before the Registrar within 7 days of filing the appeal. Thereafter, a final acknowledgement indicating the appeal number shall be issued in Form GST APL-02 by the said authority. In this case, the appeal shall be deemed to be filed on the date on which the provisional acknowledgement stands issued.</p> <p>In case the said certified copy is submitted after 7 days, the date of filing of appeal</p>

	<p>shall be the date of submission of such copy.</p> <p>The appeal shall be considered as filed only when the final acknowledgement, indicating the appeal number is issued.</p> <p>Every miscellaneous application shall be filed along with prescribed fees.</p> <p>The fees for filing appeal or restoration of appeal shall be Rs.1,000/- for every Rs. 1,00,000/- of tax or input tax credit (ITC) involved or the difference in tax or input tax credit (ITC) involved or the amount of fine, fee or penalty determined in the order appealed against. However, the maximum fees has been capped at Rs.25,000/-.</p>
Section 112(8)	<p>No appeal shall be filed under sub-section (1), unless the appellant has paid—</p> <p>(i) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and</p> <p>(ii) a sum equal to twenty per cent. of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of section 107, arising from the said order subject to a maximum of fifty crore rupees in relation to which the appeal has been filed.</p>
Section 112(8) <b>Interpretation</b>	<p><b>Mandatory pre-deposit</b></p> <p>Appeal has to be filed in prescribed form and manner along with payment of:</p> <ul style="list-style-type: none"> <li>— Amount of tax, interest, fine, fee &amp; penalty, as is admitted, in full; and</li> <li>— pre-deposit of sum equal to 20% of remaining amount of <b>TAX in dispute</b> subject to maximum of Rs. 50 crores. This pre-deposit shall be in addition to amount deposited during filling appeal before Appellate Authority.</li> </ul> <p>No pre-deposit shall be payable in case of appeal filed by the tax authorities.</p>
Section 112(9)	<p>Where the appellant has paid the amount as per sub-section (8), the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.</p>
Section 112(9) <b>Interpretation</b>	<p><b>Stay of recovery proceeding</b></p> <p>On payment of above amount, the recovery proceedings for balance amount shall be stayed till the disposal of the appeal.</p>
Section 112(10)	<p>Every application made before the Appellate Tribunal,—</p> <p>(i) in an appeal for rectification of error or for any other purpose; or</p> <p>(ii) for restoration of an appeal or an application,</p> <p>shall be accompanied by such fees as may be prescribed.</p>
Rule 110(6)	<p>There shall be no fee for application made before the Appellate Tribunal for rectification of errors referred to in sub-section (10) of section 112.</p>
Section 112(10) read with Rule 110(6) <b>Interpretation</b>	<p><b>Rectification of Errors and restoration of Appeal and fees thereof</b></p> <p>There shall be no fee for application made before the Appellate Tribunal for rectification of errors or for restoration of an appeal or an application.</p>