



# Lawgics

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## Section 117 of CGST Act, 2017

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### 117. Appeal to High Court.

(1) Any person aggrieved by any order passed by the State Bench or Area Benches of the Appellate Tribunal may file an appeal to the High Court and the High Court may admit such appeal, if it is satisfied that the case involves a substantial question of law.

(2) An appeal under sub-section (1) shall be filed within a period of one hundred and eighty days from the date on which the order appealed against is received by the aggrieved person and it shall be in such form, verified in such manner as may be prescribed:

Provided that the High Court may entertain an appeal after the expiry of the said period if it is satisfied that there was sufficient cause for not filing it within such period.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question and the appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(4) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(5) The High Court may determine any issue which—

- (a) has not been determined by the State Bench or Area Benches; or
- (b) has been wrongly determined by the State Bench or Area Benches, by reason of a decision on such question of law as herein referred to in sub-section (3).

(6) Where an appeal has been filed before the High Court, it shall be heard by a Bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(7) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only, by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

(8) Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such judgment by either side on the basis of a certified copy of the judgment.

(9) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, (5 of 1908) relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

#### **Rule 114 – Appeal to the High Court**

(1) An appeal to the High Court under sub-section (1) of section 117 shall be filed in FORM GST APL-08.

(2) The grounds of appeal and the form of verification as contained in FORM GST APL-08 shall be signed in the manner specified in rule 26.

#### **Rule 115 – Demand Confirmed by the Court**

The jurisdictional officer shall issue a statement in FORM GST APL-04 clearly indicating the final amount of demand confirmed by the High Court or, as the case may be, the Supreme Court.

### **Our Interpretation**

Section 117  
read with  
Rule 114 &  
Rule 115

This section provides for appeal to High Court by any person aggrieved by an order passed by State Bench or Area Benches of the Appellate Tribunal.

No appeal shall lie before a High Court if such order is passed by National Bench or Regional Benches. The appeal shall be filed before High Court if such order is passed by State bench or Area benches of the Appellate Tribunal.

The High Court may admit an appeal if it is satisfied that the case involves a substantial question of law.

The Appeal has to be filed in the Form GST APL-08, precisely stating the substantial question of law involved, within 180 days from the date on which the order appealed against is received by the aggrieved person. However, the High Court is empowered to condone the delay in filing appeal if it is satisfied that there was sufficient cause for not filing it within such period

The High Court shall formulate the substantial question of law and the appeal shall be heard only on the question so formulated and the respondent shall be allowed to argue that the case does not involve such question. However, the High Court may hear the appeal on any other substantial question of law not formulated by it, for reasons to be recorded, of involvement of such question in the case.

The High Court shall decide the question of law so formulated and deliver the judgment and may award such cost as it deems fit.

The High Court may determine any issue which has not been determined or has been wrongly determined by the State Bench or Area Benches.

The Appeal shall be heard by a Bench of not less than 2 Judges of High Court and shall be decided in accordance with the majority of opinion of such Judges.

In case of difference of opinion on any point and where there is no majority, the case shall be referred to one or more of the other Judges of High Court and such point shall be decided according to the opinion of majority of Judges who have heard the case including those who first heard it.

The effect of judgment of High Court shall be given on the basis of a certified copy of the judgment. The jurisdictional officer shall issue a statement in FORM GST APL-04 clearly indicating the final amount of demand confirmed by the High Court.

The provisions of Code of Civil Procedure, 1908 relating to appeals to High Court shall apply to appeals under this section.

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