

I/239727/2024



Office of the Commissioner of the State Goods and Services Tax
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File No. SGST/6681/2023-PLC11

date : 11-01-2024

Circular No. 01/2024

Sub:Clarification in respect of filing of appeal before the
Appellate Tribunal -reg.

Ref:Kerala State Goods and Services Tax (Eleventh Removal
of Difficulties) Order, 2019

1. Sub-section (1) of Section 112 of CGST/SGST Act provides that any person aggrieved by an order passed against him under section 107 or 108 of the Act may file an 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 him. As the constitution of the said GST Appellate Tribunals is not finalized yet, the appeal or application cannot be filed within the time limit specified in the said Section. In order to remove difficulties in filing the appeal under the said section, the Government, vide Notification S.R.O. No. 1024/2019 dated 31.12.2019 [Kerala State Goods and Services Tax (Eleventh Removal of Difficulties) Order 2019] clarified that for the purpose of calculating the “three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal” in sub-section (1) of section 112, the start of the three months period shall be considered to be the later of the following dates:-

- (i) date of communication of order; or
- (ii) the date on which the President of the Appellate Tribunal after its constitution under section 109, enters office;

Thus, as of now, the time limit specified to make application to the appellate tribunal is counted from the date on which the President or the State President enters office.

I/239727/2024

2. In the meantime, various complaints have been received from taxpayers that in cases where the decision in the appeal filed before the first appellate authority is against the taxpayers, the Department has initiated the recovery process, even though the taxpayer intends to file an appeal against the order of the first appellate authority before the Appellate Tribunal. It has also come to the notice of the undersigned that the appellate process is being kept pending by several Appellate Authorities as the Appellate Tribunal has not been constituted as if no remedy is available against their Appellate Orders.

3. This matter has been examined in detail. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, in exercise of the powers conferred u/s 168 of the KSGST Act, the following clarifications and guidelines are issued;

4. The appeal against the order passed by the first Appellate Authority under Section 107 of the Kerala SGST Act lies with the Appellate Tribunal. Relevant provisions for the same are mentioned in Section 112 (1) of the Kerala SGST Act which reads as follows:-

"Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the Central 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."

5. As mentioned in para 1 above, in the circumstances wherein the Appellate Tribunal has not been made functional, in order to remove difficulty arising in giving effect to the above provision of the Act, it has been clarified that the appeal to Appellate Tribunal can be made within three months (six months in case of appeals by the Government) from the date of communication of order or date on which the President of the Appellate Tribunal after its constitution under section 109, enters office, whichever is later.

6. Hence, as of now, the time limit specified to make an application to the Appellate Tribunal will be counted from the date on which the President of

1/239727/2024

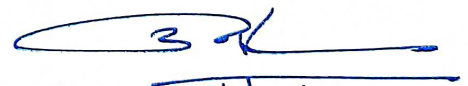
the Appellate Tribunal enters office. The Appellate Authority while passing an order may mention in the preamble that appeal may be made to the Appellate Tribunal within three months from the President of the Appellate Tribunal entering office. Accordingly, it is advised that the Appellate Authorities may dispose of all pending appeals expeditiously without waiting for the constitution and functioning of the Appellate Tribunal.

7. Regarding the recovery of arrears, after the disposal of appeal u/s 107, if any demand exists as a result of the Appellate Authority's order, then in such cases taxpayer shall submit a declaration in **Annexure-I** before the DC/AC/STO of the arrear recovery wing of the district stating that he is proposing to file an appeal u/s 112(1) of the Kerala SGST Act against the order of Appellate Authority.

8. The Joint Commissioners of Taxpayer Services vertical are instructed to take necessary steps to inform the above guidelines to taxpayers under the respective districts at the earliest.

9. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the office of the Commissioner of State Tax, Kerala.

10. This circular shall cease to have effect on the date when the President of the Appellate Tribunal enters office.


11/01/24
COMMISSIONER

To
All Concerned

39727/2024

Annexure-I

(Declaration regarding the proposal of appeal before the Appellate Tribunal)

To,

I/We, the undersigned, hereby declare that I /we, am/are proposing to file an appeal u/s 112(1) of the Kerala SGST Act, 2017, against the Order passed u/s 107 of the Kerala SGST Act, 2017. The details are as follows-

- (1) Name of the taxpayer-
- (2) GSTIN-
- (3) Address of the place of Business-
- (4) Period of Appeal order-
- (5) Date of Appeal order-
- (6) Date of service of Appeal order

I/We, the undersigned, hereby also declare that I /we, will file the appeal before tribunal u/s 112(1) of the Kerala SGST Act, 2017 within three months from the date on which the President of the Appellate Tribunal enters office.

Yours faithfully,

Date-

Signature

Place-

Name of the applicant-

Status- .