

GST First Appeal

Navigating GST Appeals: Key Insights and Best Practices

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Key Topics



Time Limits & Writ Petitions



First Appeal Process & Procedures



Powers & Jurisdiction



Best Practices & Checklist

Time Limits for Passing Orders



Orders under these sections expired up to December 31, 2025 need careful attention.

- Pay Tax
- Challenge in Writ
- Rectification
- Appeal

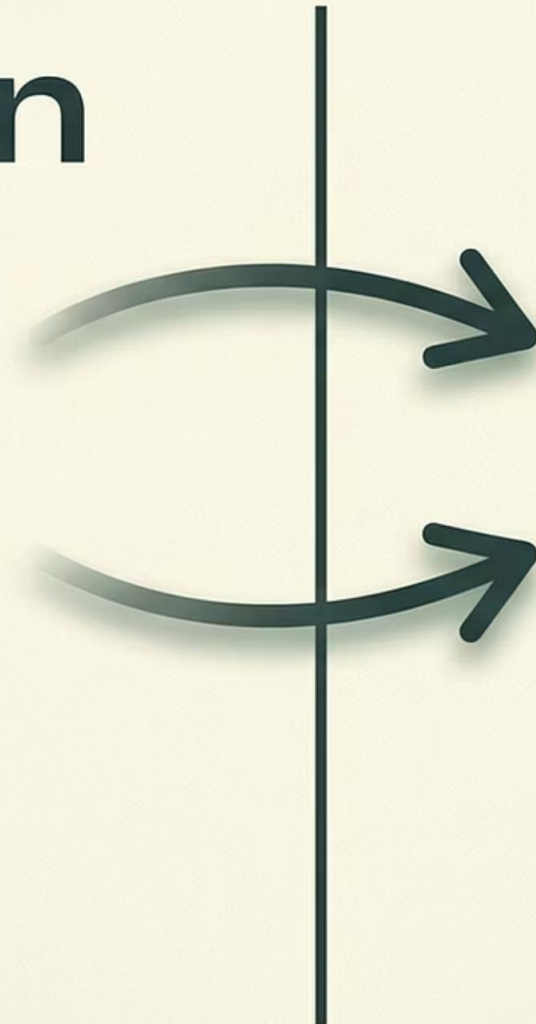
Rectification vs Appeal

Rectification

- When can be filed
- Appropriate timing

Appeal

- When is appropriate
- Against original or rectified order



Power of Review and Time Limits



Even if adjudication order favors the assessee, understanding power of review, associated risks, and time limits is critical.

Time Limits: SCNs and Orders (Part 1)

Financial Year	Sec73 SCN	Sec73 Order	Sec74 SCN	Sec74 Order
FY 2017-18	30-Sep-2023	31-Dec-2023	05-Aug-2024	05-Feb-2025
FY 2018-19	31-Jan-2024	30-Apr-2024	05-Aug-2024	05-Feb-2025
FY 2019-20	31-Jan-2024	31-Aug-2024	05-Aug-2024	05-Feb-2025
FY 2019-20	31-May-2024	31-Aug-2024	05-Feb-2026	31-Mar-2026

Time Limits: SCNs and Orders (Part 2)

Financial Year	Sec73 SCN	Sec73 Order	Sec74 SCN	Sec74 Order
FY 2020-21	30-Nov-2024	31-Mar-2025	30-May-2026	31-Aug-2026
FY 2021-22	28-Feb-2025	30-Jun-2025	30-Sep-2026	31-Dec-2026
FY 2022-23	31-May-2025	30-Sep-2025	31-Jan-2027	30-Apr-2027
FY 2023-24	31-Aug-2025	31-Dec-2025	31-May-2027	31-Dec-2029

Writ Option: Constitutional Remedies

Article 32 - Supreme Court

Violation of natural justice in judicial, quasi-judicial or administrative actions can be challenged.



Article 226 - High Courts







Core Rules of Natural Justice

Audi Alteram Partem - Right to Fair Hearing (Section 75(4))

- Proper Notice: Clear, adequate notice provided
- Sufficient Time: Reasonable time to prepare defence
- Opportunity to be Heard: Fair chance to present case
- Right to Cross-Examine: Question witnesses
- Access to Evidence: Relevant documents available
- Legal Representation: Right to counsel

CORE RULES OF NATURAL JUSTICE

NEMO JUDEX IN CAUSA SUA - RULE AGAINST BIAS

-  **No Personal Interest:** No stake in outcome
-  **No Financial Interest:** No pecuniary bias
-  **No Previous Involvement:** Not involved before
-  **Impartial Authority:** Neutral body
-  **No Pre-conceived Notions:** Based on evidence only
-  **Recusal When Required:** Step aside if bias exists



Core Rules of Natural Justice

Reasoned Decision - Speaking Orders

Written Decision: Order provided in writing

Clear Reasoning: Logical basis explained

Facts Considered: Evidence relied upon stated

Legal Basis: Applicable law cited

Transparent Process: Decision-making clearly articulated

Compliance: No opportunity violation of Section 75(4)



Khokan Motors Works Pvt. Ltd. vs Senior Joint Commissioner

High Court of Calcutta - 03 September 2025 - 1783 of 2025

- Show cause notices did not disclose materials or factual basis
- Petitioner denied meaningful opportunity to defend
- Defect at SCN stage cannot be cured at appellate stage

Matter remanded for fresh adjudication

Krishi Rakchha Sewa Kendra vs Union of India

Findings

Allahabad High Court - 07 November 2025 - 5747 of 2025

- Proceedings conducted with wrong GSTINs not belonging to petitioners
- Adjudication order created demand exceeding show cause notice - impermissible
- Foundational defects rendered proceedings unsustainable

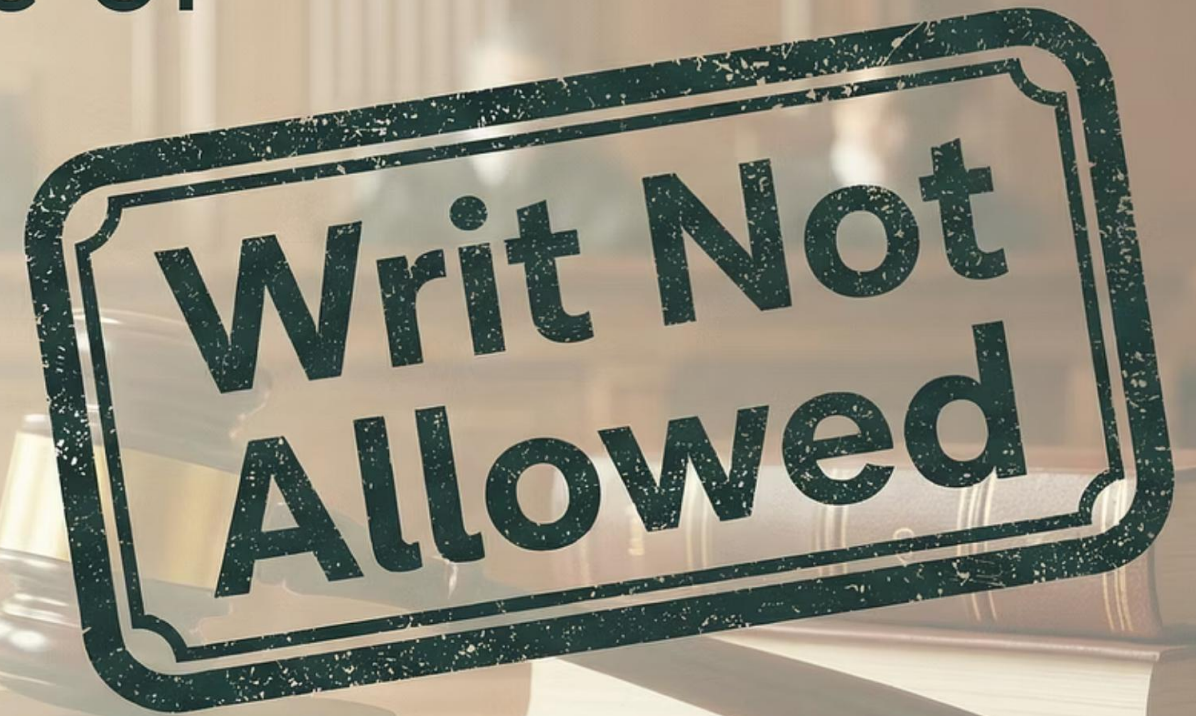
Writ Allowed

Punit Kumar Choubey vs Joint Commissioner

Patna High Court - 10 August 2023 - 9975 of 2023

Assessment order could not be termed illegal or violative of natural justice

Adequate notices and opportunities of hearing were provided to the petitioner



Checklist While Handling GST SCN / Orders

- ✓ Verify GSTIN on SCN and order
- ✓ Compare SCN demand vs adjudicated demand
- ✓ Check mode and proof of service
- ✓ Examine jurisdiction of officer
- ✓ Assess limitation independently



When to File Writ Instead of Appeal

**Wrong
GSTIN / PAN**

**Demand
beyond SCN**

**Non-service
of SCN**

**Breach of
natural justice**

**Patently illegal
proceedings**

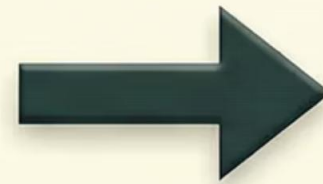
First Appeal: Section 107

Appeals to Appellate Authority

Any person aggrieved by a decision or order passed by an adjudicating authority may file an appeal before the Appellate Authority.

Rule 109A - Appointment of Appellate Authority

Orders by
Additional/Joint
Commissioner



Appealable to
Commissioner
(Appeals)

Orders by Deputy/Assistant
Commissioner or
Superintendent



Appealable to Joint
Commissioner (Appeals)

Appeal Filing Basics

3 Months

from date order communicated

+

1 Additional Month

condonable with sufficient cause



Condonation of Delay

3 months + 1 month

Additional month beyond statutory period if sufficient cause shown

Counted from date of communication

Section 169 - mode and deemed service

Laxmi Motors v. State of Madhya Pradesh

Madhya Pradesh High Court - 15 October 2025 - W.P. 35184 of 2025

Key Issue:

Whether three months means 120 days or calendar months?

**Exclude the date of order - use calendar months
not fixed days**

Calculation example:

From 27 July 2024 expires 27 October 2024

Outcome:

Appeal filed 25 November 2024 was within limitation

Cost imposed: Rs 25,000 on State

Service of Notice - Section 169

1. **(a) Hand delivery or messenger/courier:** Direct to addressee or authorized person.
2. **(b) Registered post/speed post:** With acknowledgement due.
3. **(c) Email:** To registered email address.
4. **(d) GST Portal upload:** With electronic signature.
5. **(e) Newspaper publication:** In locality where person resides.
6. **(f) Affixation:** At conspicuous place if others not practicable.

Deemed Service Rules

Section 169(2): Deemed served on date tendered, published, or affixed

Section 169(3): For post (registered/speed post), deemed received at expiry of normal transit period unless contrary proved

Sharp Tanks and Structural Pvt. Ltd. vs Deputy Commissioner

Madras High Court Madurai Bench - 17 September 2025 - 24684 & 24685 of 2025

Facts

- Form GST DRC-07 dated 28.02.2024 only uploaded on GST portal.
- No email, speed post or physical mode.
- Assessee unaware until after appeal period elapsed

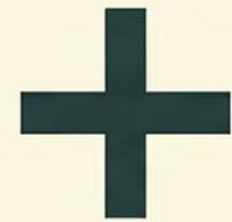
Limitation does not commence merely from portal upload. Orders must be effectively communicated

Decision

Department directed to communicate orders afresh. Assessee granted liberty to file appeals thereafter

Pre-deposit Requirement

(a) Full amount
admitted as due



(b) 10% of remaining
disputed tax
(maximum Rs 20 crore)

For penalty-only orders:
10% of penalty



**Total Pre-deposit
Required**

! Important mandatory requirement

Pre-deposit Cannot be Waived

Impressive Data Services Pvt. Ltd. v. Commissioner of Central Tax (GST)
Delhi High Court - 15 April 2025 - 4662 of 2025

Section 107(6) is
mandatory in nature

No discretion to
waive pre-deposit

Financial hardship not
valid ground to bypass



Article 226 cannot defeat legislative intent

Barjinder Singh Kohli v. Assistant Commissioner

Calcutta High Court - 3 November 2025 - 19676 of 2025

Key Facts

- Adjudication order 7 January 2025 - interest and penalty only, no tax.
- Appeal filed 26 April 2025



Dismissal Grounds

- ⌚ Delay in filing
- ❗ Failure to comply with pre-deposit

Court Clarification

Finance Act 2025 amendment requiring 10% pre-deposit for penalty cases is prospective from 1 October 2025

Important Note:

Not applicable to appeal filed 26 April 2025

Liberty Granted

File condonation application

Stay of Demand

Upon making mandatory pre-deposit, recovery proceedings for remaining disputed demand are deemed to be stayed automatically

No separate stay application required



Adjournment Power

Appellate Authority may grant adjournments if sufficient cause is shown, recording reasons in writing

Maximum of 3 adjournments per party during hearing



Powers of Commissioner (Appeals)

The Commissioner (Appeals) as First Appellate Authority under section 107(11) CGST Act has wide powers

Decide issues other than those raised in appeal

Authority to review the entire matter, not limited to the grounds of appeal, to ensure justice.

Enhance the demand

Power to increase the tax liability or reduce the refund amount, subject to issuing a show cause notice.

Confirm, modify or annul original order

Discretion to uphold, change, or cancel the decision of the lower authority based on facts and law.

✈ Cannot remand case back to adjudicating authority

Power to Decide Issues Beyond Appeal

Commissioner (Appeals) can examine any other issue arising from the impugned order, even if not specifically raised in memorandum of appeal (APL-01), and decide it as part of the appeal order



**SCOPE
INDICATOR**

BROAD JURISDICTION

Power to Enhance Demand

Commissioner (Appeals) can **enhance** the **tax, interest** or **penalty**, or decide wrong availment of ITC even beyond the SCN



BUT not without issuing **fresh SCN** to the assessee



Order Writing and Timelines

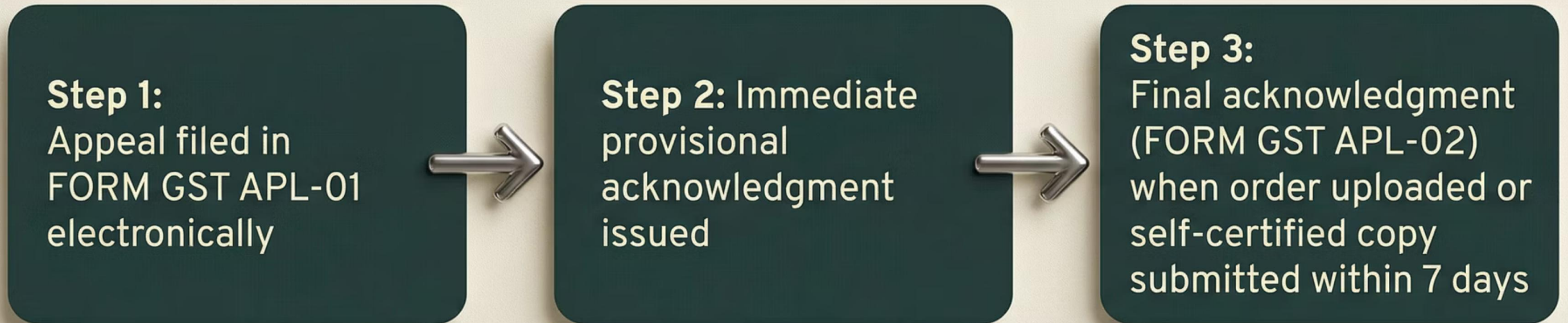
Be in writing

State points for
determination,
decision, and
reasons

To extent possible,
disposed within
one year of
filing



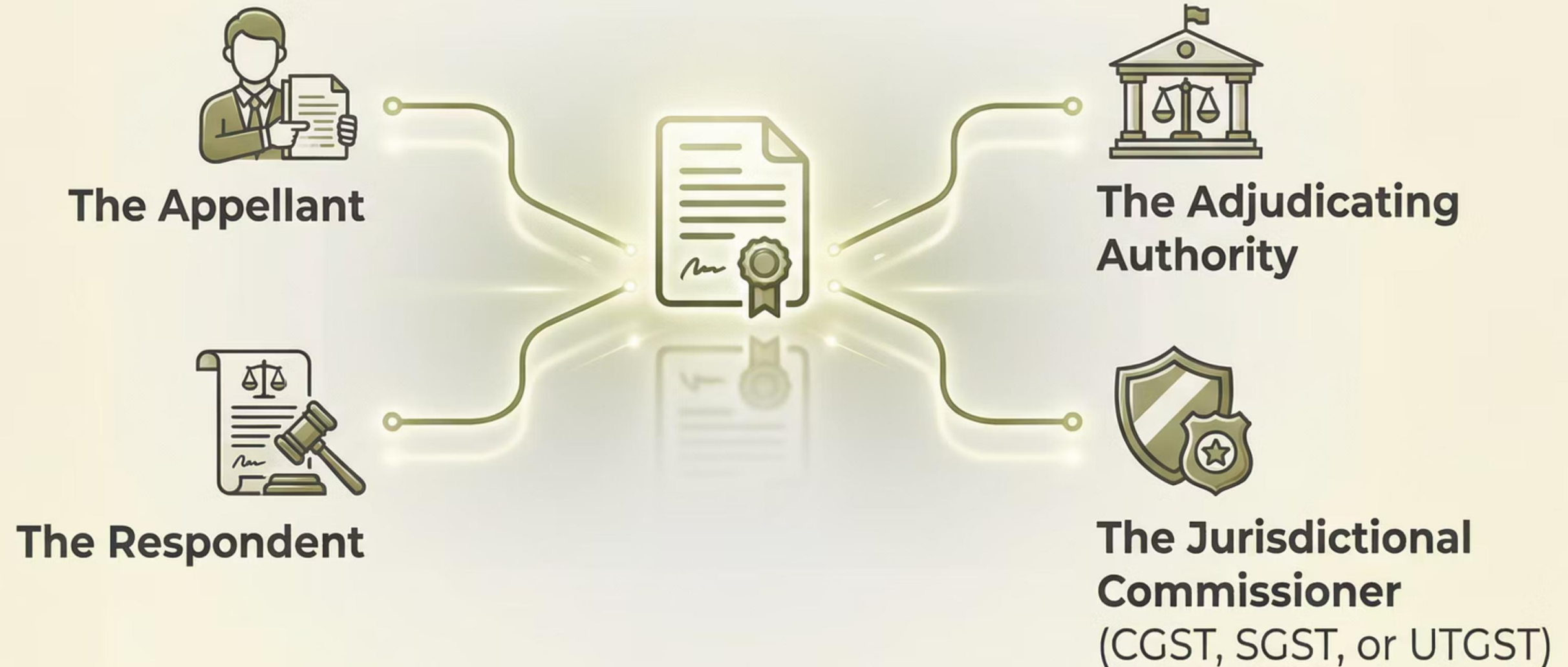
Form and Process



If delayed beyond 7 days, date of submission becomes **filing date.**

Appeal deemed filed only when final acknowledgment issued

Communication of Orders



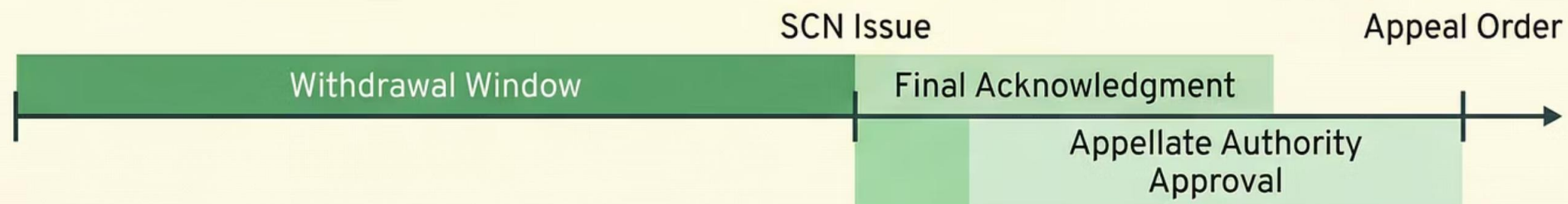
Withdrawal of Appeal

Rule 109C allows withdrawal

Timing: Any time before issue of SCN under section 107(11)
OR before appeal order, whichever is earlier

Process note: Once final acknowledgment issued, withdrawal requires approval by Appellate Authority

Decision timeframe: Must be decided within 7 days



Monetary Limits for Filing Appeal

Circular No. 207/1/2024-GST Dated 26th June 2024

GSTAT	Rs 20,00,000 (Rs 20 Lakhs)
High Court	Rs 1,00,00,000 (Rs 1 Crore)
Supreme Court	Rs 2,00,00,000 (Rs 2 Crores)

Principles for Applying Monetary Limits in GSTAT Appeals

Tax Demand (with/without penalty & interest): Aggregate disputed tax

Interest Only: Disputed interest

Penalty Only: Disputed penalty

Late Fee Only: Disputed late fee

Interest + Penalty + Late Fee (no tax): Aggregate amount

Erroneous Refund: Disputed refund amount

Case-Specific: Specific disputed amount

Composite Orders: Total disputed amount across all appeals

Exclusions to GSTAT Monetary Limits

Constitutional Validity: Provision held ultra vires to Constitution

Ultra Vires Rules: Rules held ultra vires parent Act

Ultra Vires Orders: Orders held ultra vires GST Acts

Recurring Issues: Valuation, classification, refunds, place of supply

Adverse Comments: Strictures or costs imposed against Government

Other Cases: Cases Board considers necessary in interest of justice or revenue

Additional Evidence - Rule 112

Conditions for Admission (First Appeal & Tribunal)

Circumstances for Admission

1. • Evidence refused by authority which should have been admitted
2. • Appellant prevented by sufficient cause from producing evidence called upon
3. • Appellant prevented by sufficient cause from producing relevant evidence
4. • Authority made order without giving sufficient opportunity

Important Requirements

- Reasons must be recorded in writing
- Authority allowed opportunity to examine evidence or cross-examine witnesses

Are CBIC Circulars Binding on First Appellate Authority?

YES - CBIC Circulars and instructions under section 168 are binding on First Appellate Authority

Reasoning: The Appellate Authority is a departmental officer subordinate to the Board

Case reference: Commissioner of C. Ex., Bolpur v. Ratan Melting & Wire Industries, 2008 (231) E.L.T.22 (S.C.)

Principle highlighted: Circulars issued are binding on the Revenue

Key Considerations for Filing Appeal

Limitation and Maintainability

- ✔ Note exact date of communication of DRC-07/demand order
- ✔ Compute 3 months plus 1 month condonable for section 107
- ✔ Clearly mention appeal is within time or show cause for delay

If delay exists, add specific Ground on condonation and separate Application for condonation with reasons (portal glitches, illness, rectification proceedings)

Key Considerations for Filing Appeal

Statement of Facts - Neutral, Complete

- Keep statement strictly factual, in chronological order: registration, proceedings, notices, replies, hearings, what order holds
- Avoid arguments, adjectives, and case law in facts section

Important reminder: Ensure all material facts supporting limitation, absence of suppression, payment made, and records produced are clearly on record

Key Considerations for Filing Appeal

Grounds of Appeal - Wide, Precise

- Draft separate, numbered grounds, each attacking a distinct error (jurisdiction, natural justice, classification, valuation, limitation, penalty, computation)
- Avoid clubbing multiple issues into one paragraph

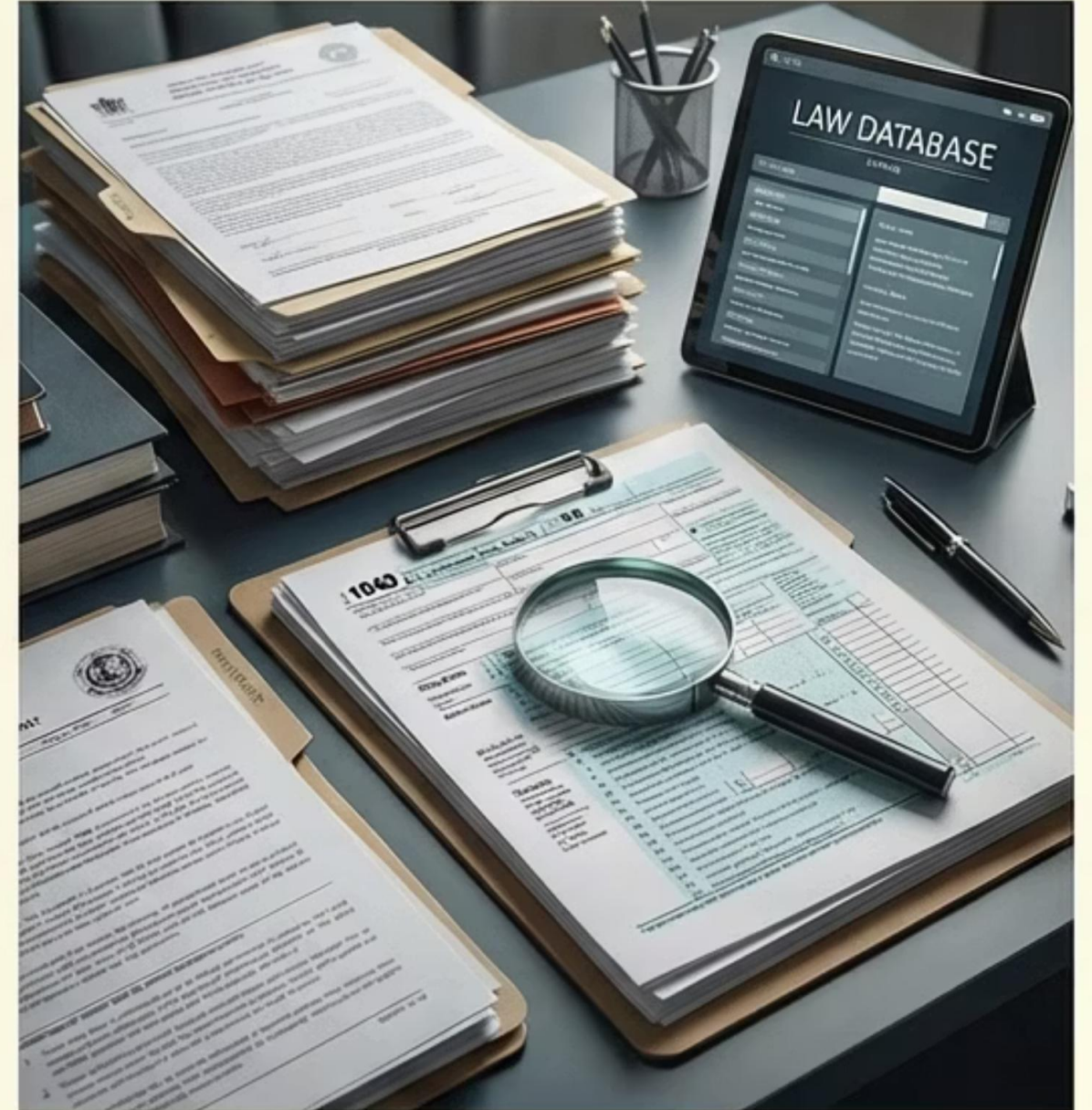
Take grounds in widest terms including general grounds (violation of natural justice, leave to add/alter grounds) because new issues generally cannot be raised later if not in memorandum

Strategic guidance emphasized.

Key Considerations for Filing Appeal

Prayer Clause

- Prayer should be clear and self-speaking
- Relief sought should be clear and unambiguous



Rectification of Errors – Section 161

Any authority that issued an order, notice, or document may rectify errors apparent on record

- Suo motu
- 📋 Upon being pointed out by officer or affected person

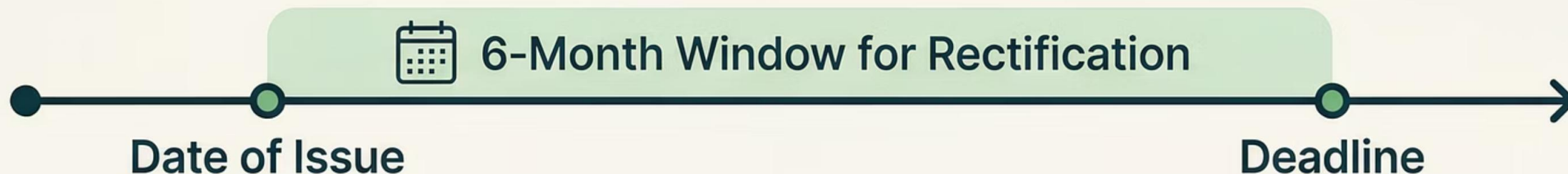
Time Limits for Rectification

Rectification must be done within 6 months from date of issue of order/notice/document



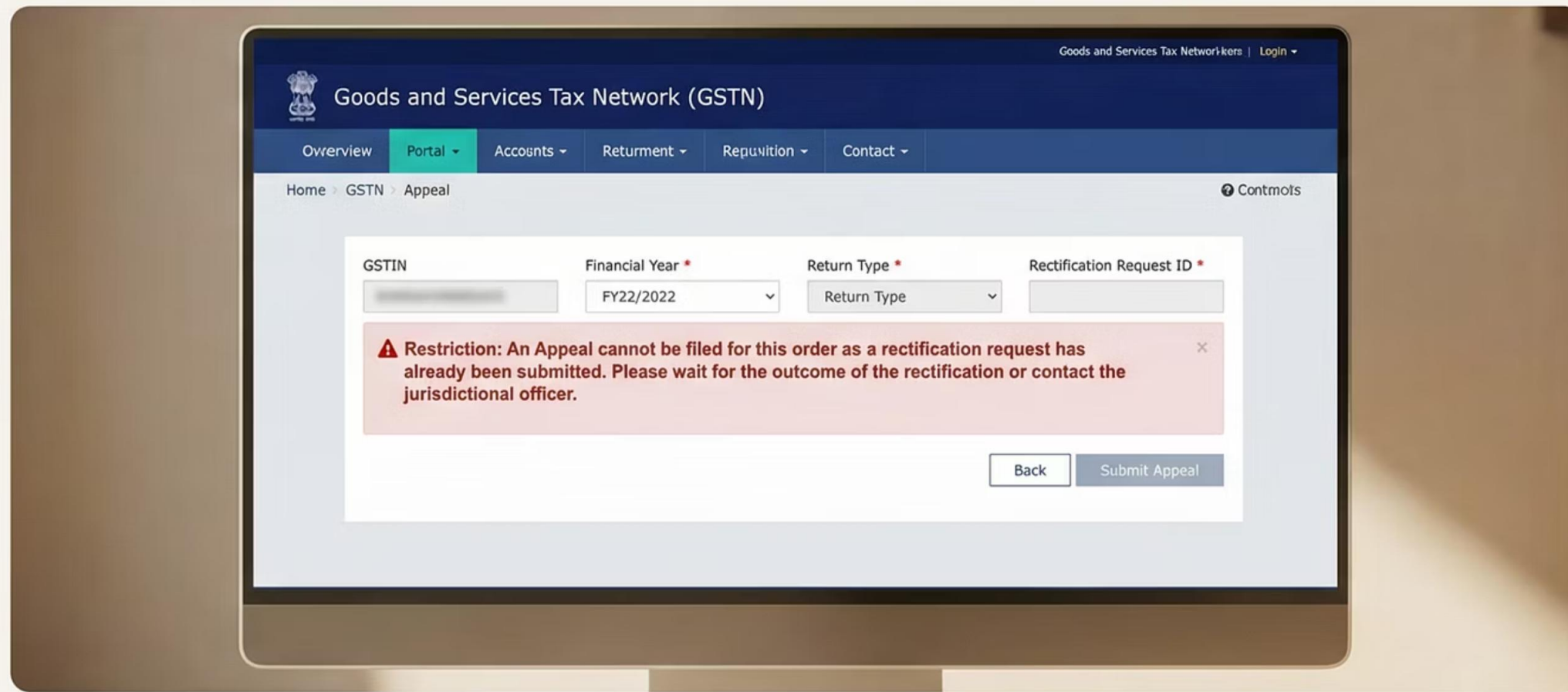
Clerical or arithmetical mistakes from accidental slips can be corrected anytime

If rectification adversely affects any person, opportunity of being heard must be given



Appeal After Rectification?

Restriction by GSTN Not by Law



Note: The restriction shown above is a system limitation implemented on the GSTN portal and does not represent a legal bar against filing an appeal after a rectification request is pending or decided under the GST Law.

Review Power – Section 108

Key provision: Revisional Authority can review decisions or orders passed by subordinate officers that are erroneous and prejudicial to the interest of revenue.

Professional layout explaining review jurisdiction:

- Applies to specified subordinate officers.
- Focus on legal and factual errors.
- Must directly harm revenue interests.
- Subject to time limitations.



Revisional Authority

Circular 250 - June 2025

Principal Commissioner or Commissioner of Central Tax

For orders by Additional or Joint Commissioner

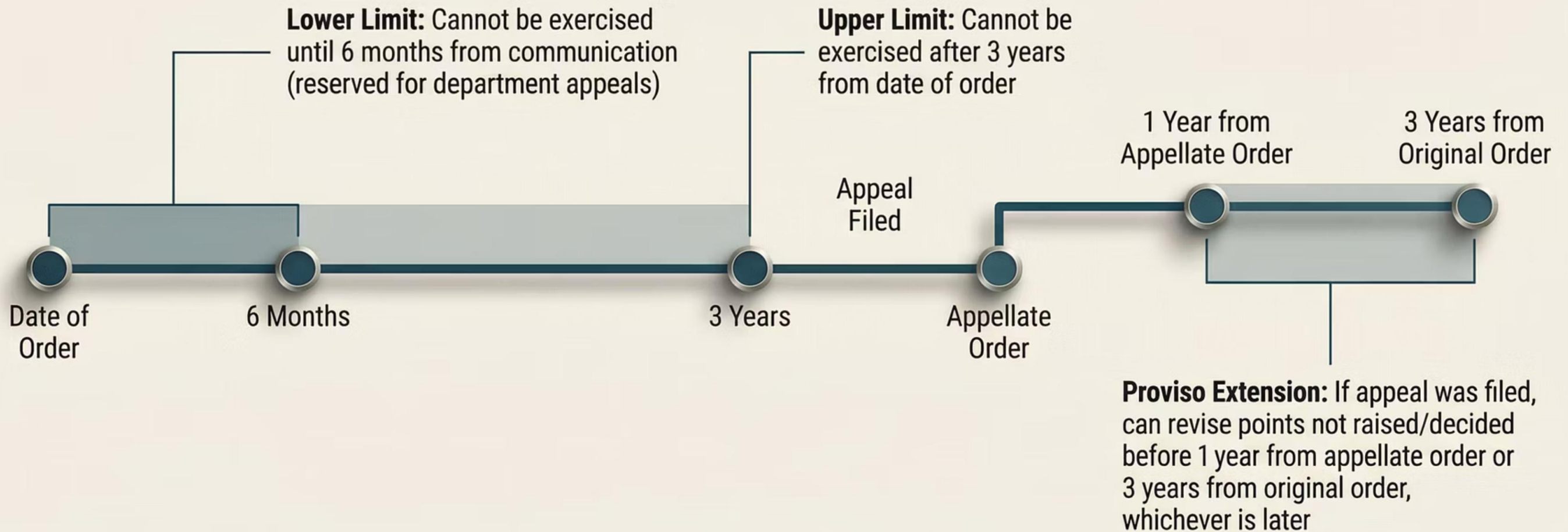


Additional or Joint Commissioner of Central Tax

For orders by Deputy Commissioner, Assistant Commissioner, or Superintendent



Time Limits for Review Power



Exceptions - Orders That Cannot Be Reviewed

1. Under Appeal:
Order subject to appeal before any forum

2. Premature/Late:
6-month wait not expired or more than 3 years passed

3. Already Revised:
Order taken for revision at earlier stage

4. Revisional Order:
Order itself is a revisional order under Section 108(1)

5. Non-Appealable Decisions:
Orders under Section 121 (transfer, seizure, prosecution sanction)

Departmental (Revenue) Appeal

Commissioner may on his own or on request from State/UT Commissioner call for and examine records of proceedings decided by adjudicating authority.

- If found improper, illegal, or prejudicial to revenue, may direct subordinate officer to file appeal.
- Within 6 months of communication of order.
- FORM GST APL-03, electronically.
- Same acknowledgment mechanism as Rule 108.



Thank You



Questions & Discussion