


Handling Litigation Before GSTAT

CA Sanjay A Chhabria

CA Siddharth Shah

Supported by CA Omkar Dambe

nexdigm.com



*Transcend tax
obstacles smoothly*

Think Next

5+ YEARS

ITR WORLD TAX

RANKED

2026

ITR WORLD TAX

RECOMMENDED FIRM

TOPICS FOR DISCUSSION

GST Litigation Lifecycle

GSTAT – Legal / Practical Issues

Practical Tips in Handling Litigation

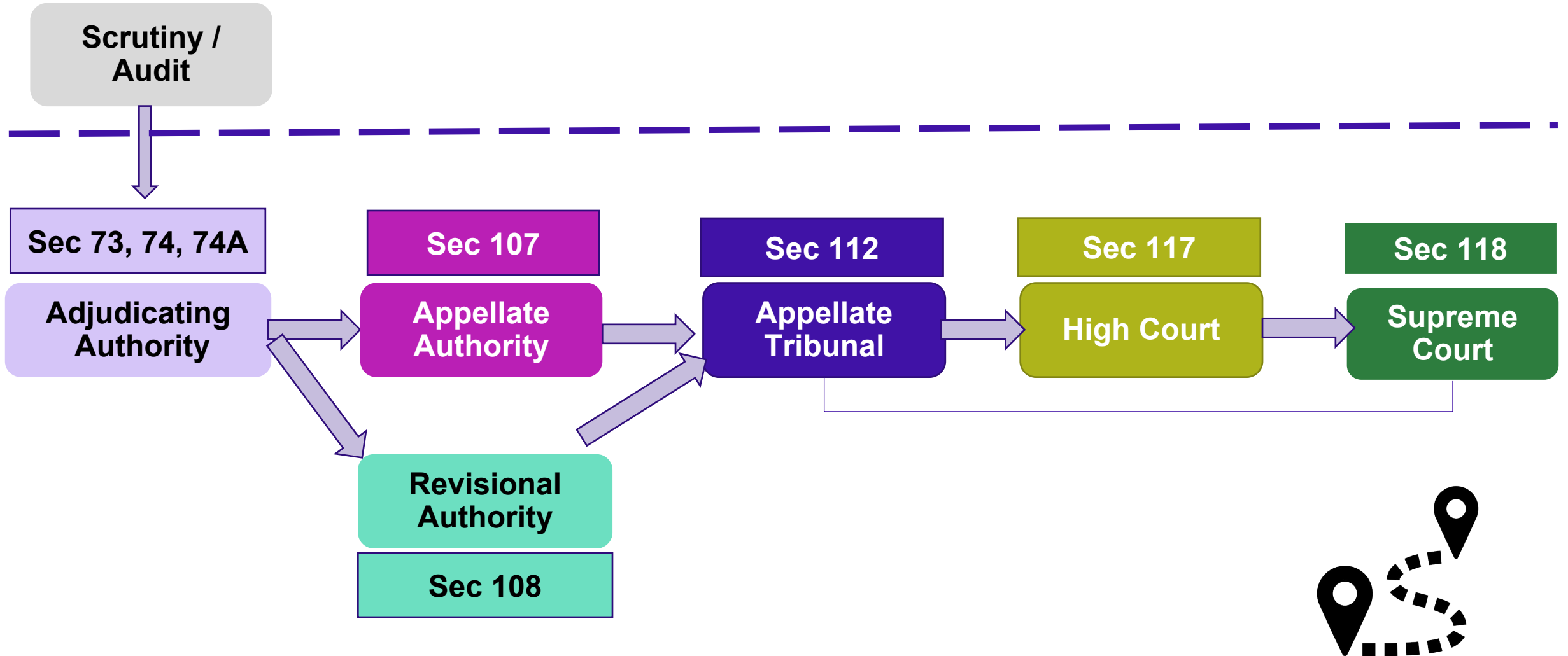
GSTAT – Important Provisions

Comparison - GSTAT Vs CESTAT

Opportunities for CAs

GST LITIGATION LIFECYCLE

GST LITIGATION LIFECYCLE (1/2)



GST LITIGATION LIFECYCLE (2/2)

Scrutiny / Audit
(Section 61 / 65, Rule 99)

Notice and Reply
(Section 73 / 74 / 74A, Rule 142)

Order
(Chapter – XVIII and XIII)

Appeal
(Chapter – XVIII and XIII)

01

Notice vide Form ASMT-10
Audit Notice (ADT-01)

03

Intimation vide Form DRC-01A
Audit Report (ADT-02)

05

Notice vide Form DRC-01
(Section 73/74/74A)

07

Order vide Form DRC-07

09

Order in Appeal vide Form APL-04

02

Reply vide Form ASMT-11
Audit proceedings

04

Reply vide Part B of Form DRC-01A
Reply to Audit Report (ADT-02)

06

Reply vide Form DRC-06

08

Appeal at AA vide Form APL-01

10

Appeal at Tribunal vide Form APL-05

GSTAT – LEGAL / PRACTICAL ISSUES

GSTAT – LEGAL / PRACTICAL ISSUES : PRE-DEPOSIT

Requirement of Pre-Deposit (Section 112)

Demand Order
10% of the remaining disputed tax liability – i.e., amount in addition to any amount already paid as pre-deposit with Appellate Authority

If the entire tax demand has already been paid at the AA stage, is an additional pre-deposit still required at the AT stage?

Enforcement Order
10% of the penalty in addition to any amount already paid as pre-deposit with Appellate Authority

How to pay Pre-deposit ?

Payment of pre-deposit : Electronic Liability Register – Part II (**Services >> Ledgers>> Payment towards demand**) - Circular No. 224/18/2024 - GST dated 11 July 2024

Mode of Payment of Pre-deposit (Cash / Credit)

Pre-deposit can be paid through **Electronic Credit Ledger** as affirmed by the Hon'ble Gujrat High Court in case of **Yasho Industries Ltd. V/s Union of India** [(2024) 24 Centax 338 (Guj.)], relying upon Circular No. 172/04/2022-GST dated 6 July 2022 which got later also affirmed by Hon'ble Supreme Court.

GSTAT – LEGAL / PRACTICAL ISSUES : PRE-DEPOSIT

Ruling of Jharkhand HC in case of M/s Ashirwad Food Industries

{(2026) 39 Centax 317 (Jhar.) [09-02-2026]}

- It has held that if the cumulative pre-deposit applicable for filing appeal with Appellate Tribunal has already been paid by the appellant at the stage of Appellate Authority, then the **appellant is not required to pay additional pre-deposit** for filing appeal with Appellate Tribunal. [For e.g. pre-deposit paid at first appeal stage Rs 20 lakhs (10% of Rs 2 Cr), Cumulative pre-deposit Rs 8 lakhs (20% of Rs 40 lakhs)]
- Further, the Court observed that in cases where the online system does not permit filing of the appeal without payment of additional pre-deposit, the appellant should be allowed to file the appeal in physical form, and the same should be accepted by the Tribunal without insisting on any fresh pre-deposit.

Provisions related to Maximum amount of Pre-deposit for disputed demand

Particulars	Appellate Authority	Appellate Tribunal
Governing Provision	Sect 107(6)(b) CGST Act and fifth proviso to Sec 20 of IGST Act	Sect 112(8)(b) CGST Act and fifth proviso to Sec 20 of IGST Act
Max Pre-deposit	CGST - 20 CR SGST - 20 CR IGST - 40 CR	CGST - 20 CR SGST - 20 CR IGST - 40 CR

GSTAT – LEGAL / PRACTICAL ISSUES : LIMITATION PERIOD FOR FILING APPEAL

Determination of Date of Filing an Appeal [Rule 110(4) of CGST Rules]

- The permissible time limit for filing appeal with Appellate Tribunal is **3 months** from the date of communication of the order or the notified date (i.e., 30 June 2026), whichever is later.

Scenario	Date of filing an appeal
Order appealed against is uploaded on the common portal	Date of issue of the provisional acknowledgement
Order appealed against is not uploaded on the common portal and the appellant submits/uploads a self-certified copy of the order within 7 days from the date of filing Form GST APL-05	Date of issue of the provisional acknowledgement
Order appealed against is not uploaded on the common portal and the appellant submits/uploads a self-certified copy of the order after 7 days from the date of filing Form GST APL-05.	Date of submission or uploading of the self-certified copy of the order

- An appeal shall be treated as filed only when the **final acknowledgement** in Part B of Form GST APL-02A, indicating the appeal number, is issued.

GSTAT – LEGAL / PRACTICAL ISSUES : EFFECTIVE COMMUNICATION OF NOTICE / ORDER

Whether uploading of show cause notices or adjudication orders on GST portal by itself amounts to effective 'communication' to trigger limitation?

Bambino Agro Industries Ltd. and Others vs. State of Uttar Pradesh and Another [TS-1033-HC(ALL)-2025-GST]

Analysis of Sec 169

- HC acknowledged that service of notice and orders via electronic means is permissible and valid. No priority exists among the five service methods outlined in Section 169(1), viz. direct tendering, service by registered post/speed post with acknowledgement due, email, publication in newspaper, etc

System Limitation

- HC held that to the extent there is no system-generated acknowledgement or confirmation that the addressee has retrieved or downloaded the notice / order dispatched through electronic mode, no inference may be drawn as to the actual date and time of such service for the purposes of limitation.

Effective Communication

- Effective 'communication' of the show cause notices and adjudication orders may be governed by actual or constructive 'communication' to the Assessee – of the contents of such notices and orders, strictly in terms of Section 169 specifically for the purpose of filing appeal or raising other challenge to an adjudication order, etc.

Burden of proof

- Wherever an Assessee files an appeal declaring that it is within time from the date of actual communication, a presumption may arise in their favor, and the burden to prove otherwise would lie on the Revenue.

GSTAT – LEGAL / PRACTICAL ISSUES : ADMISSIBILITY OF ADDITIONAL EVIDENCE

Scenarios where additional evidence is allowed (Rule 112)

Evidence was **refused for admission** by the adjudicating or appellate authority

Appellant was **prevented by sufficient cause** from producing evidence as called upon by the authority

Appellant was **prevented by sufficient cause** from producing evidence relevant to any ground of appeal

Insufficient opportunity was given to the appellant to present evidence relevant to any ground of appeal

The original adjudicating authority or an authorized officer must be given a **reasonable chance** to:

1. Examine the new evidence or cross-examine witnesses.
2. Produce any evidence or any witness in rebuttal of the evidence produced by the appellant.

Appellate Tribunal must record **reasons in writing** for admitting new evidence.

QUESTIONS

01

Can I change AR in an ongoing case ?

Yes, but, the new AR **must obtain consent / NOC** from the existing AR (Rule 73 of GSTAT Rules)

02

What if existing AR did not give consent ?

In that case, the appellant may seek Tribunal permission for change (Rule 73 of GSTAT Rules)

03

If there are multiple AR present during hearing, then who will represent ?

No specific provision in GSTAT rules, depends upon members of bench

04

What happens if an Appellant misses hearing ?

The Tribunal may, in its **discretion**, either **dismiss the appeal for default** or **hear and decide it on merits**. (Rule 42 of GSTAT Rules)

05

What happens if a Respondent misses hearing ?

The Tribunal may hear and decide the appeal **ex-parte**. (Rule 43 of GSTAT Rules)

PRACTICAL TIPS IN HANDLING LITIGATION

PRACTICAL TIPS IN HANDLING LITIGATION (1/2)

Approach / Process for Managing Litigation

01

Receipt of Order in Appeal

Manner of Service of Order – Determination of Due Date

02

Tracking of events

Each event is crucial including its timeline. Hence, maintain the list of events.

03

Know the facts of your case

An in-depth knowledge of the facts of the case, would help in collating the required data / information that would win the case

04

Know your due dates

Once the order is received, identify the due date and prepare a plan for its submission. Condonation – 1m (AA) / 3m (GSTAT)

05

Research and Analysis

"By failing to prepare, you are preparing to fail." - Benjamin Franklin
"The more you sweat in peace, the less you bleed in war." - Norman Schwarzkopf Jr.

06

Drafting of Appeal

- An appeal memo should contain a reply to each contention
- Case laws to justify the submission should be mentioned

PRACTICAL TIPS IN HANDLING LITIGATION (2/2)

07

Payment of Pre-deposit

Applicable pre-deposit should be paid to keep stay on recovery

08

Legal Advice

Before the filing of the appeal, legal advice should be sought in case of any complexity.

09

Attending Personal Hearing

Once appeal is filed, authorized representative should prepare himself before attending the personal hearing.

10

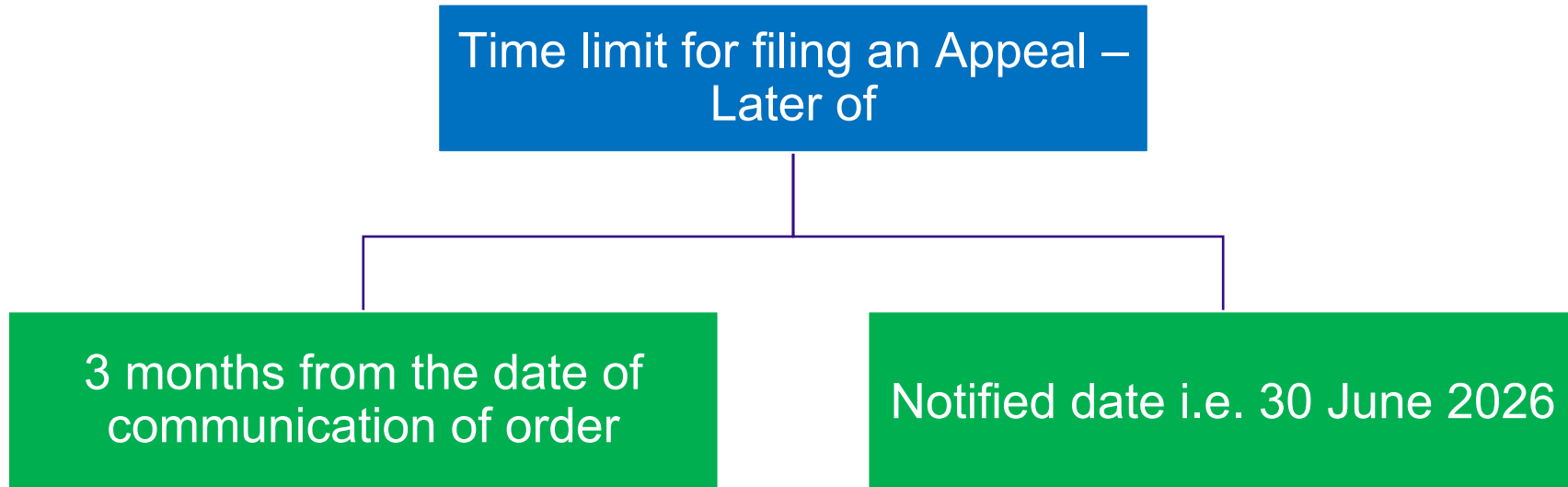
Additional Submission

Any additional fact finding post filing of appeal should be submitted

GSTAT – IMPORTANT PROVISIONS

GSTAT – IMPORTANT PROVISIONS (1/11)

- Appeal Time Frame (Section 112)



Particulars	Taxpayer	Department	Cross-Objection
Time Frame	3 months	6 months	45 Days
Condonation of Delay	3 months		45 Days

GSTAT – IMPORTANT PROVISIONS (2/11)

• Refusal of Appeal filed by taxpayer

- The Tribunal has the discretion to decline appeals if the tax or penalties involved **do not exceed ₹50,000**

• Monetary Limit for Departmental Appeals

Appellate Forum	Monetary Limit (amount involved in Rs.)
GSTAT	20,00,000/-
High Court	1,00,00,000/-
Supreme Court	2,00,00,000/-

(Circular no. 207/01/2024 dated 02.06.2024)

GSTAT – IMPORTANT PROVISIONS (3/11)

- Number of Appeals filing matrix under GSTAT – Rule 18(3)

SCN (Show Cause Notice)	OIO (Order in Original) (DRC-07)	OIA (Order in Appeal) (APL-04)	Appeal before GSTAT
Single SCN	Single OIO	Single OIA	Single Appeal
Multiple SCNs	Multiple OIOs	Single OIA	Multiple Appeals – one for each OIO
Multiple SCNs	Single OIO	Single OIA	Single Appeal
Single SCN (Covering Multiple parties)	Single OIO (Covering Multiple parties)	Separate OIA for each Party	Separate Appeals to be filed by each respective person covered in the proceeding

*OIO – Order issued by Adjudicating Authority

*OIA – Order issued by First Appellate Authority

GSTAT – IMPORTANT PROVISIONS (4/11)

• Appeal Forms

Form	Purpose
FORM GST APL 05*	Appeal to the Appellate Tribunal
FORM GST APL 06*	Cross-objection before the Appellate Tribunal
FORM GST APL 07*	Application to the Appellate Tribunal u/s 112(3) – Appeal by the department
FORM GST APL 05W / 07W	Application for Withdrawal of Appeal / Application filed before the Appellate Tribunal
FORM GST APL 02A*	Part A : Provisional Acknowledgment for submission of Appeal/Application Part B : Final Acknowledgement communicating registration/rejection of Appeal/Application
FORM GST APL 04A*	Summary of the Order of the Appellate Tribunal
FORM GST APL 04	Detailed Order of the Appellate Tribunal

**(Notified through Notification No.13/2025-Central Tax dated 17 September 2025)*

GSTAT – IMPORTANT PROVISIONS (5/11)

Drafting the Appeal Form

Cause Title

- State: 'In the Goods and Services Tax Appellate Tribunal'
- Mention the details of order/proceedings appealed against

Numbering, Paragraphs and Translation

- Divide appeal into consecutively numbered paragraphs
- Each paragraph = one separate fact/allegation / point
- For any document that is not in English, a certified true translated copy shall be submitted along with such document

Party Details

- Full name, GSTIN and address at beginning
- Number the parties consecutively and do NOT change numbers later
- Legal heirs on death: show with sub-numbers
- In case of assessee, respondent shall be concerned [Commissioner]

Grounds of Appeal

- Set out concisely under distinct numbered heads
- Type in double space on A-4 size paper
- Duly paged, indexed and tagged in a separate folder

Memorandum of Appearance

- For authorized representative, prepare Vakalatnama / Letter of Authorization
- Along with LOA, Memorandum of Appearance (GSTAT FORM-04) is also required

GSTAT – IMPORTANT PROVISIONS (6/11)

• Court Fees structure for appeal filing [Rule 110(5) of CGST Rules]

1. Based on total amount of tax, fine, fees or penalties as per Demand order / Enforcement Order (Penalty u/s 129):

Fees - ₹1,000 per ₹1 lakh (Similar fees for SGST)
Minimum Fee: ₹5,000 (Similar fees for SGST)
Maximum fee: ₹25,000 (Similar fees for SGST)

2. No tax or penalty demand (Refund Order, Registration Order):
Fixed fee: ₹5,000 (Similar fees for SGST)

SCHEDULE OF FEES			
S.No.	Relevant Section/Rules	Nature of application / petition	Fees
1.	Rule 67 of GSTAT Procedural Rules 2025	Application for Inspection of Records	Rs.5000
2.	Rule 118(2) of GSTAT procedural Rules 2025	Interlocutory Applications	Rs.5000
3.	Rule 110(5) of CGST/SGST/UTGST Rules 2017	Appeals to GSTAT	As per rule
4.	Application under any other provisions specifically not mentioned herein above		Rs.5000
5.	Fee for obtaining certified true copy of final order passed to parties other than the concerned parties under Rule		Rs.5 per page

GSTAT – IMPORTANT PROVISIONS (7/11)

• Mandatory Documents to Submit with an Appeal Form

- Every appeal must include a **certified copy** of the order appealed against. [**Rule 2(f) read with Rule 21(1)**] (As per the **presidential order** dated 20 January 2026, the documents generated digitally through GSTN system are **not required to be certified** and scanned copies of the physical documents attached with the appeal shall be signed.)
- Further, it is also given in the order that the Registry of each bench shall keep a **lenient view** during scrutiny of the appeal documents and raise **defect of substance only** for an **initial period of 6 months from 20 January**.

• Scrutiny of petition or appeal or document by the Officers

- If any defects are present in submitted appeal, it will be returned with a notice to fix it within **seven days**.
- If not corrected, the Registrar may give up to **30 more days**. If it is not resolved, the Registrar can refuse to register it and record the reasons.
- If, after a **hearing with the Registrar**, the corrections are still unsatisfactory, the case will go before the Bench, which will decide whether to accept or reject the appeal.

(Rule 24 of GSTAT Rules)

GSTAT – IMPORTANT PROVISIONS (8/11)

- Definition – Interlocutory Application [*Rule 2(j)*]

“Interlocutory application” means an application to the Appellate Tribunal in any appeal or proceeding already instituted in such Appellate Tribunal, other than a proceeding for execution of an order

- Examples of Interlocutory Application:

1. Rectification in order
2. Extension of time prayed for submission of documents
3. Condonation of delay
4. Early hearing application

- This application is to be made in **GSTAT FORM-01**.
 - An **affidavit** justifying the application shall be submitted along with the application.
- (Rule 29 of GSTAT Rules)**

GSTAT – IMPORTANT PROVISIONS (9/11)

• GSTAT Rules – Details about the Cause List

What is a Cause List?

A Cause List is an official schedule issued by a court or tribunal, listing the matters—such as appeals, petitions, or applications—fixed for hearing or adjudication on a specific date.

Types of Cause Lists:

1. Daily
2. Weekly
3. Supplementary Cause List (For urgent or additional matters)

• Key Components of the Cause List [*Rule 38 – Form GSTAT CDR-01*]

1. Description of Bench & Timing
2. Name of Bench Members
3. Appeal / Application Number
4. Names of Parties
5. Names of Authorized Representative (if appointed)

GSTAT – IMPORTANT PROVISIONS (10/11)

Authorized Representative



Appears on behalf of:

Department

OR

Taxpayer

Includes:

1. Relatives, regular employees, or practicing advocates, CA, CMA, or CS.
2. Retired Tax Department officer who served at least two years as a Group-B Gazetted officer, not within one year of retirement.
3. Authorized GST practitioners. (GSTP)

Excludes:

1. Persons who are dismissed or removed from government service.
2. Convicted of related offences.
3. Found guilty of misconduct.
4. Insolvent or disqualified under GST laws.

GSTAT – IMPORTANT PROVISIONS (11/11)

Some operational state benches

Name of Bench	Jurisdiction
New Delhi	Delhi
Chennai	Tamil Nadu and Puducherry
Vijayawada	Andhra Pradesh
Hyderabad	Telangana
Rajkot	Gujrat
Cuttack	Odisha
Kolkata	West Bengal and Sikkim

Questions

Whether the taxpayer should await the operationalization of the respective State Bench in order to file the appeal within that jurisdiction ?

If an appeal is filed in respect of a GSTIN registered in a particular State, whether the matter will be heard by the corresponding State Bench, any other State Bench, or the Principal Bench ?

Can taxpayer request for transfer of proceedings from one bench to another ?

Whether judgement of a particular state bench is binding on other state benches?

COMPARISON - GSTAT Vs CESTAT

COMPARISON - GSTAT Vs CESTAT (1/2)

Basis	GSTAT	CESTAT
Mode of filing of Appeal	<ul style="list-style-type: none"> To be filed electronically. Currently, filing is online on GSTAT portal only. 	<ul style="list-style-type: none"> From 15 Nov 2025: mandatory online filing. Physical filing discontinued from 31 Dec 2025.
Mode of hearing	<ul style="list-style-type: none"> Physical hearing Online hearing if permitted by president 	<ul style="list-style-type: none"> Physical hearing Online hearing available on prior request
Pre-deposit	10% of remaining disputed tax in addition to pre-deposit already paid at appellate authority stage	10% of duty, inclusive of pre-deposit paid at commissioner (appeals)
Fees	<ul style="list-style-type: none"> Filing fee: Min ₹5,000 - Max ₹25,000 (₹1000 per ₹ 1 Lakh) Fees for Interlocutory Application: ₹5,000 	<ul style="list-style-type: none"> Filing fee: <ul style="list-style-type: none"> ₹ 1,000/- (If amount up to ₹ 5 lakhs) ₹ 5,000/- (If amount is ₹ 5 lakhs - ₹ 50 lakhs) ₹ 10,000/- (If amount exceeds ₹ 50 lakhs) Fees for Miscellaneous Application: ₹500

COMPARISON - GSTAT Vs CESTAT (2/2)

Basis	GSTAT	CESTAT
Adjournment of hearing	<ul style="list-style-type: none">• Sufficient cause is to be shown• Tribunal may grant adjournment for max 3 times	<ul style="list-style-type: none">• Sufficient cause is to be shown• Tribunal may grant adjournment for max 3 times
Power to condone delay	<ul style="list-style-type: none">• Condonation of delay is of 3 months for appeal and 45 days for cross-objection• Sufficient cause is required	<ul style="list-style-type: none">• No specific time limit is provided• Sufficient cause is required
Refusal of Appeal	<ul style="list-style-type: none">• If amount of tax or penalties in appeal do not exceed Rs 50,000/-	<ul style="list-style-type: none">• If amount of tax or penalties in appeal do not exceed Rs 2,00,000/-

OPPORTUNITIES FOR CAs

OPPORTUNITIES FOR CAs

• Authorized Representation

- As per Section 116, CAs with a valid Certificate of Practice (CoP) are legally recognized to appear as "authorized representatives" before the GSTAT.
- This puts CAs on a level playing field with advocates, allowing them to represent clients in hearings, argue cases, and manage the entire litigation lifecycle.

• Drafting and filing of Appeal

- The transition to GSTAT requires specialized skills in drafting comprehensive grounds of appeal along with corroborative evidence.
- CAs can leverage their deep understanding of financial records to challenge complex tax demands or technical interpretations.

• Advisory

- Before filing the appeal, CAs could be consulted for their legal opinion.

BEFORE WE GO !!

**CA Sanjay A Chhabria -
sanjay.chhabria@nexdigm.com
CA Siddharth Shah - 9822548802**

USA • Canada • Poland • UAE • India • Japan

ThinkNext@nexdigm.com

www.nexdigm.com

Disclaimer

The contents of this presentation are intended for general marketing and informative purposes only and should not be construed to be complete. This presentation may contain information other than our services and credentials. Such information should neither be considered as an opinion or advice nor be relied upon as being comprehensive and accurate. We accept no liability or responsibility to any person for any loss or damage incurred by relying on such information. This presentation may contain proprietary, confidential or legally privileged information and any unauthorised reproduction, misuse or disclosure of its contents is strictly prohibited and will be unlawful.

© 2026 Nexdigm. All rights reserved.

Connect with us

