



**PROCEEDINGS OF THE COMMISSIONER OF STATE TAX
STATE GOODS AND SERVICES TAX DEPARTMENT
KERALA, THIRUVANANTHAPURAM
PRESENT: AJIT PATIL I A S**

Sub:- SGST Department- Streamlining the Appellate Functions- Role of Review Cell and Legal Cell -Reg;

Read:- (1) GO(Ms) N0:55/2022 Taxes dated 02/08/2022

1. The annexure to the Government Order referred above elucidates the functions, roles and responsibilities of different verticals and divisions constituted upon the re-organization of the department. In the aforementioned order, the Review cell constituted at the Headquarters is entrusted with the examination of the adjudication orders issued under section 73/74 of the CGST/SGST Act in order to operationalize section 107(2).

2. Review of first adjudicating authority's orders

2.1. The Review function in case of first adjudicating authority's orders is governed by sections 107(2) and 107(3) of the Kerala State GST Act 2017 which are as follows:

2.2. Section 107(2): *The Commissioner may, on his own motion, or upon request from the Commissioner of Central Tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the Central Goods and Services Tax Act 2017 (Central Act 12 of 217) for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.*

2.3. Section 107(3): *Where, in pursuance of an order under sub-section (2), the authorised officer makes an application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application.*

3. Revision of decisions and orders

3.1. The GST Acts also provide an opportunity for the Revision of decisions and orders. The powers of Revision are governed by section 108 of the Kerala State GST Act 2017, as under:

3.2. Section 108(1): *Subject to the provisions of section 121 and any rules made thereunder, the Revisional Authority may, on his own motion, or upon information received by him or on request from the Commissioner of Central Tax, call for and examine the record of any proceedings, and if he considers that any decision or order passed under this Act or under the Central Goods and Services Tax Act 2017(central Act 12 of 217) by any officer subordinate to him is erroneous in so far as it is prejudicial to the interest of revenue and is illegal or improper or has not taken into account certain material facts, whether available at the time of issuance of the said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, stay the operation of such decision or order for such period as he deems fit and after giving the person concerned an opportunity of being heard and after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order.*

3.3. Section 108(6): *For the purposes of this section, the term,—*

(i) *“record” shall include all records relating to any proceedings under this Act available at the time of examination by the Revisional Authority;*

(ii) *“decision” shall include intimation given by any officer lower in rank than the Revisional Authority.*

4. The authority to issue revisional orders under section 108 has already been delegated to the Joint Commissioner in the TPS HQ in the case of

orders/decisions up to the rank of Deputy Commissioner, and to the Additional Commissioner TPS HQ in the case of orders/decisions issued by Joint Commissioners.

5. Review of first appellate authority's orders

5.1. The Review function in case of first appellate authority's orders is governed by sections 112(3) and 112(4) of the Kerala State GST Act 2017, which are as follows:

5.2. Section 112(3): *The Commissioner may, on his own motion, or upon request from the Commissioner of Central Tax, call for and examine the record of any order passed by the Appellate Authority or the Revisional Authority under this Act or the Central Goods and Services Tax Act 2017 (central Act 12 of 2017) 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.*

5.3. 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).*

6. Appeals to Hon'ble High Court and Hon'ble Supreme Court

6.1. Appeals to the Hon'ble High Court and Hon'ble Supreme Court are governed by sections 117 and 118 of the Kerala State GST Act 2017.

Section 117(1): *Any person aggrieved by any order passed by State 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.*

6.2. Section 118 (1): *An appeal shall lie to the Supreme Court—*

(a) from any order passed by the Principal Bench of the Appellate Tribunal; or

(b) from any judgment or order passed by the High Court in an appeal made under section 117 in any case which, on its own motion or on an application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the High Court certifies to be a fit one for appeal to the Supreme Court.

7. Under the above circumstances, in order to operationalize and streamline the above functions provided in the Kerala State GST Act 2017, in the interest of revenue, the following orders are issued in exercise of the powers conferred under section 168 the Kerala State GST Act 2017.

Order No. SGST/783/ 2024/PLC1 dated 08-05-2024

1. The function of **reviewing** the orders issued by the **first adjudicating authority** and the function of reviewing the appellate orders issued by the **first appellate authority** is hereby **entrusted to the Review Cell** constituted in the Headquarters.
2. The **authority** to file appeals as provided under section 107(3) and section 112(3) is hereby authorised to the **Additional Commissioner, TPS HQ**. The ADC TPS HQ shall satisfy himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Authority/Appellate Tribunal as required.
3. In the case of **appellate orders issued by the Additional Commissioner (Appeals)** under section 107, the proposal shall be **prepared by the review cell for the approval of the Commissioner** and the Commissioner may authorise any officer subordinate to him to apply to the Appellate Tribunal.
4. The function of **reviewing** the orders/decisions issued under section 108 is hereby entrusted to the Review Cell constituted in the Headquarters.
5. The authority to file appeal against the **revision orders issued by the Joint Commissioner TPS HQ** under section 108 is hereby authorised to the **Additional Commissioner, TPS HQ**. The ADC TPS HQ shall satisfy himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal.
6. In case of **revision orders issued by the Additional Commissioner TPS HQ** under section 108, the proposal shall be **prepared by the review cell for the approval of the Commissioner and the Commissioner** may authorise any officer subordinate to him to apply to the Appellate Tribunal.

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7. **The Legal Cell** headed by the **Joint Commissioner, Law**, constituted vide above Government Order shall examine the orders issued by the Appellate Tribunal under section 113, and the orders issued by the Hon'ble High Court and the Hon'ble Supreme Court.

8. The proposals to **file an appeal before the Hon'ble High Court and Hon'ble Supreme Court shall be prepared by the Legal Cell** headed by the Joint Commissioner, Law for approval of the Commissioner.

sd/-

AJIT PATIL I A S
COMMISSIONER

To:

All concerned
CA to Commissioner & Spl. Commissioner
Stock file

// Approved For Issue //
[Signature]
Deputy Commissioner