

<sup>1</sup>[Section 109 : Constitution of Appellate Tribunal and Benches thereof

- 1 Section 109 substituted by The Finance Act, 2023, dt. 31-03-2023 w.e.f. 01-08-2023.  
Earlier to substitution it read as under:

**"Section 109 : Constitution of Appellate Tribunal and Benches thereof**

- (1) The Government shall, on the recommendations of the Council, by notification, constitute with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority.
- (2) The powers of the Appellate Tribunal shall be exercisable by the National Bench and Benches thereof (hereinafter in this Chapter referred to as "Regional Benches"), State Bench and Benches thereof (hereafter in this Chapter referred to as "Area Benches").
- (3) The National Bench of the Appellate Tribunal shall be situated at New Delhi which shall be presided over by the President and shall consist of one Technical Member (Centre) and one Technical Member (State).
- (4) The Government shall, on the recommendations of the Council, by notification, constitute such number of Regional Benches as may be required and such Regional Benches shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State).
- (5) The National Bench or Regional Benches of the Appellate Tribunal shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases where one of the issues involved relates to the place of supply.
- (6) The Government shall, by notification, specify for each State or Union territory<sup>A[\*\*\*]</sup>, a Bench of the Appellate Tribunal (hereafter in this Chapter, referred to as "State Bench") for exercising the powers of the Appellate Tribunal within the concerned State or Union territory:

<sup>B[\*\*\*]</sup>

<sup>C</sup>[**Provided further** that] the Government shall, on receipt of a request from any State Government, constitute such number of Area Benches in that State, as may be recommended by the Council:

<sup>P</sup>[**Provided also** that] the Government may, on receipt of a request from any State, or on its own motion for a Union territory, notify the Appellate Tribunal in a State to act as the Appellate Tribunal for any other State or Union territory, as may be recommended by the Council, subject to such terms and conditions as may be prescribed.

- (7) The State Bench or Area Benches shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases involving matters other than those referred to in sub-section (5).
- (8) The President and the State President shall, by general or special order, distribute the business or transfer cases among Regional Benches or, as the case may be, Area Benches in a State.
- (9) Each State Bench and Area Benches of the Appellate Tribunal shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State) and the State Government may designate the senior most Judicial Member in a State as the State President.

**Central Goods & Services Tax Act, 2017**

- (1) The Government shall, on the recommendations of the Council, by notification, establish with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against the orders passed by the
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- (10) In the absence of a Member in any Bench due to vacancy or otherwise, any appeal may, with the approval of the President or, as the case may be, the State President, be heard by a Bench of two Members:
- Provided** that any appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed five lakh rupees and which does not involve any question of law may, with the approval of the President and subject to such conditions as may be prescribed on the recommendations of the Council, be heard by a bench consisting of a single member.
- (11) If the Members of the National Bench, Regional Benches, State Bench or Area Benches differ in opinion on any point or points, it shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President or as the case may be, State President for hearing on such point or points to one or more of the other Members of the National Bench, Regional Benches, State Bench or Area Benches and such point or points shall be decided according to the opinion of the majority of Members who have heard the case, including those who first heard it.
- (12) The Government, in consultation with the President may, for the administrative convenience, transfer—
- (a) any Judicial Member or a Member Technical (State) from one Bench to another Bench, whether National or Regional; or
- (b) any Member Technical (Centre) from one Bench to another Bench, whether National, Regional, State or Area.
- (13) The State Government, in consultation with the State President may, for the administrative convenience, transfer a Judicial Member or a Member Technical (State) from one Bench to another Bench within the State.
- (14) No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal."
- A** Earlier the words "except for the State of Jammu and Kashmir" omitted by Finance Act, 2020 (No. 12 of 2020). It is made effective from 30-06-2020 by Noti. No. 49/2020–Central Tax, dt. 24-06-2020. Earlier it was inserted by The CGST (Extension To Jammu And Kashmir) Act, 2017 No. 26 of 2017 w.e.f. 08-07-2017.
- B** Earlier proviso omitted by Finance Act, 2020 (No. 12 of 2020). It is made effective from 30-06-2020 by Noti. No. 49/2020–Central Tax, dt. 24-06-2020. Earlier it was inserted by The CGST (Extension to Jammu And Kashmir) Act, 2017 (No. 26 of 2017) w.e.f. 08-07-2017. Earlier to omission it read as under:
- "Provided** that for the State of Jammu and Kashmir, the State Bench of the Goods and Services Tax Appellate Tribunal constituted under this Act shall be the State Appellate Tribunal constituted under the Jammu and Kashmir Goods and Services Tax Act, 2017:"
- C** Earlier substituted for "Provided that" by The CGST (Extension to Jammu And Kashmir) Act, 2017 (No. 26 of 2017) w.e.f. 08-07-2017.
- D** Earlier substituted for "Provided further that" by The CGST (Extension to Jammu And Kashmir) Act, 2017 (No. 26 of 2017) w.e.f. 08-07-2017.

**Central Goods & Services Tax Act, 2017**

Appellate Authority or the Revisional Authority <sup>2</sup>[, or for conducting an examination or adjudicating the cases referred to in sub-section (2) of section 171, if so notified under the said section].

- (2) The jurisdiction, powers and authority conferred on the Appellate Tribunal shall be exercised by the Principal Bench and the State Benches constituted under sub-section (3) and sub-section (4).
- (3) The Government shall, by notification, constitute a Principal Bench of the Appellate Tribunal at New Delhi which shall consist of the President, a Judicial Member, a Technical Member (Centre) and a Technical Member (State).
- (4) On the request of the State, the Government may, by notification, constitute such number of State Benches at such places and with such jurisdiction as may be recommended by the Council, which shall consist of two Judicial Members, a Technical Member (Centre) and a Technical Member (State).
- (5) The Principal Bench and the State Bench shall hear appeals against the orders passed by the Appellate Authority or the Revisional Authority;  
**Provided** that the cases in which any one of the issues involved relates to the place of supply, shall be heard only by the Principal Bench.  
<sup>3</sup>**Provided further** that the matters referred to in sub-section (2) of section 171 shall be examined or adjudicated only by the Principal Bench:  
**Provided also** that the Government may, on the recommendations of the Council, notify other cases or class of cases which shall be heard only by the Principal Bench.]
- (6) <sup>4</sup>[Subject to the provisions of sub-section (5), the President] shall, from time to time, by a general or special order, distribute the business of the Appellate Tribunal among the Benches and may transfer cases from one Bench to another.
- (7) The senior-most Judicial Member within the State Benches, as may be notified, shall act as the Vice-President for such State Benches and shall exercise such powers of the President as may be prescribed, but for all other purposes be considered as a Member.
- (8) Appeals, where the tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed fifty lakh rupees and which does not involve any question of law may, with the approval of the President, and subject to such conditions as may be prescribed on the recommendations of the Council, be heard by a single

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2 Inserted by The Finance (No. 2) Act, 2024 (No. 15 of 2024). It is made effective from 27-09-2024 by Noti. No. 17/2024-Central Tax, dt. 27-09-2024.

3 Inserted by The Finance (No. 2) Act, 2024 (No. 15 of 2024). It is made effective from 27-09-2024 by Noti. No. 17/2024-Central Tax, dt. 27-09-2024.

4 Substituted for "The President" by The Finance (No. 2) Act, 2024 (No. 15 of 2024). It is made effective from 27-09-2024 by Noti. No. 17/2024-Central Tax, dt. 27-09-2024.

**Central Goods & Services Tax Act, 2017**

Member, and in all other cases, shall be heard together by one Judicial Member and one Technical Member.

- (9) If, after hearing the case, the Members differ in their opinion on any point or points, such Member shall state the point or points on which they differ, and the President shall refer such case for hearing,-
- (a) where the appeal was originally heard by Members of a State Bench, to another Member of a State Bench within the State or, where no such other State Bench is available within the State, to a Member of a State Bench in another State;
  - (b) where the appeal was originally heard by Members of the Principal Bench, to another Member from the Principal Bench or, where no such other Member is available, to a Member of any State Bench,

and such point or points shall be decided according to the majority opinion including the opinion of the Members who first heard the case.

- (10) The Government may, in consultation with the President, for the administrative efficiency, transfer Members from one Bench to another Bench:

**Provided** that a Technical Member (State) of a State Bench may be transferred to a State Bench only of the same State in which he was originally appointed, in consultation with the State Government.

- (11) No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.]

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