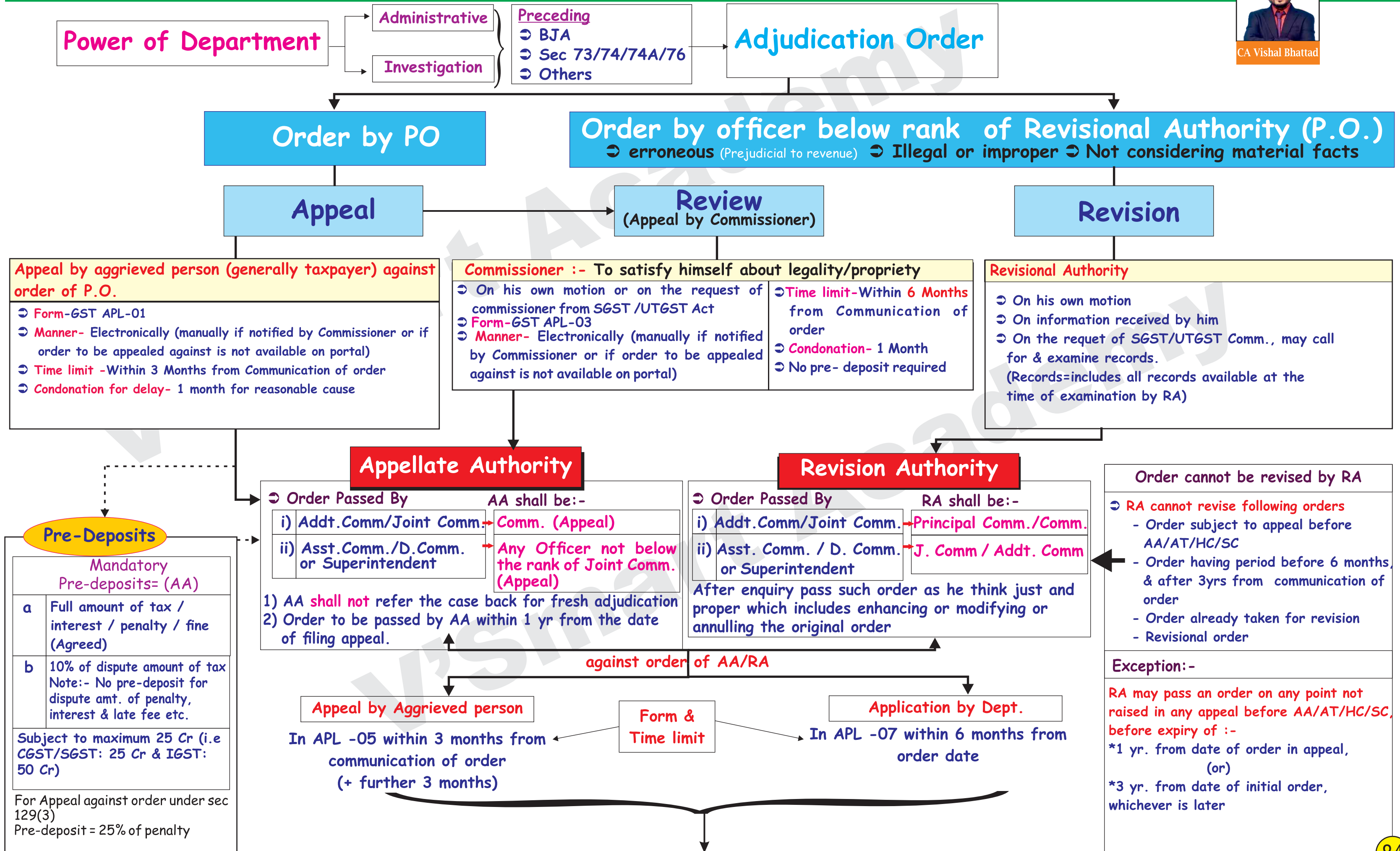


# Chapter 23 - Appeal and Revision



**Pre-Deposits**

**Appellate Tribunal (AT) [GSTAT]**

Mandatory Pre-deposits=(AT)	
a	Full amount of tax / interest / penalty / fine (Agreed) <b>Note: It is addition to Pre-deposit with AA</b>
b	20% of dispute amount of tax
Subject to maximum 50 Cr, IGST = 100 Cr)	

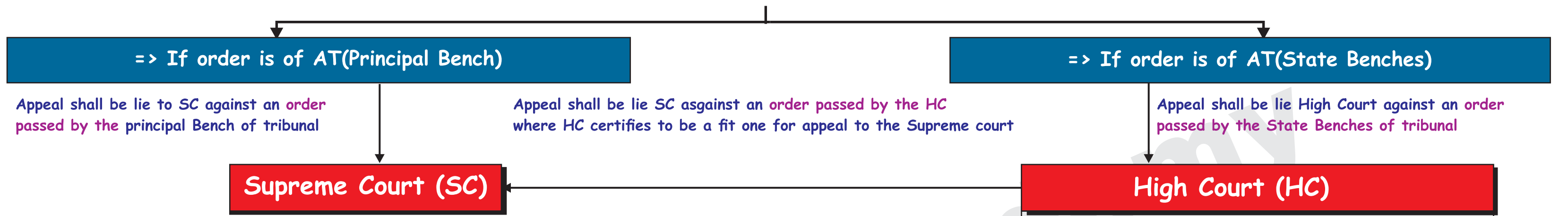
Centre				State		
Principal Bench (at New Delhi)				State benches		
P	JM	TM(C)	TM(S)	2JM	TM(C)	TM(S)
<b>Jurisdiction :-</b> to hear appeals against orders passed by AA/RA ⊕ in the cases where one of the issues involved relates to POS, ⊕ adjudicate matters referred in Sec 171 (2) (i.e Anti-profiteering) & hear cases that may be notified by Govt.				<b>Jurisdiction :-</b> to hear appeals against the orders passed by AA/RA other than those discussed for Principal bench besides.		
<b>P: President, JM: Judicial Member, TM: Technical Member</b>						

**No. of members required to hear appeal:-** If tax/ ITC/ fine/ fee/ penalty in any order appealed against <= ₹50 lakhs & does not involve any question of law, then appeal may be heard by **single Member** with approval of President.  
 In all other cases, it shall be heard **together by 1 JM & 1 TM.**

<b>Manner of filing Appeal, Application &amp; Memorandum</b>	It is filed electronically except where Registrar allows manually by general/special order.
<b>AT can refuse an appeal</b>	Where- Amount of tax/ ITC/ Difference in tax or ITC/ fine/ fees/ penalty determined by such order = upto 50000/-
<b>Memorandum of cross objection</b>	Can be filed (within <b>45days</b> from receipt of notice) in <b>FORM GST APL-06</b> (Condonation= + 45days).
<b>Fees</b>	1,000/- for every ₹1,00,000/-of tax etc., Max. ₹25,000/- & Min. 5,000, fee = ₹5,000 if appeal is for order not having demand of tax, int, fine, fee or penalty.
<b>Distribution/Transfer</b>	Subject to jurisdiction discussed above, <b>President</b> shall distribute business of AT & transfer cases among benches.
<b>Validity of Act</b>	Act or proceedings of AT shall be not be questioned or invalid merely due to vacancy or defect in its constitution.
<b>Date for filing appeal/application</b>	1. If order is uploaded on portal, appeal is filed on date of provisional acknowledgment (ack). 2. If not uploaded, appellant must submit/upload a self-certified copy within 7 days of filing APL-05/07 & date of provisional acknowledgment becomes the filing date. If submitted after 7 days, the filing date is the date of uploading of self-certified copy. 3. Final ack. In APL-02 is issued after defect removal in all above cases. 4. The appeal is treated as filed only when the final ack. is issued.

**Order of AT**

Difference in opinion on any pt. of appeal:- Situations	Order of AT	Rectification Order by AT	Withdrawal of appeal/application
President shall refer case to	pass such orders thereon as it <b>thinks fit, confirming, modifying or annulling</b> the decision or order appealed against or	<b>AT may amend any order</b> passed by it so as to rectify any error apparent on the face of the record if such error is	<b>Apply in APL-05/07W</b> before issue of order by AT
(a) appeal was originally heard by Members of a State Bench, no such other State Bench is available within State	Refer the case back to the AA or to the RA, or to the original adjudicating authority, for a <b>fresh adjudication.</b>  Time Limit of Order: The law provides an advisory time limit of <b>1 year</b> from the date of filing of appeal for the Tribunal to decide the appeal.  Copy of Order: The Tribunal shall send a copy of its order to AA/RA/Original adjudicating authority/ Appellant/ Jurisdictional Commissioner or commissioner of CGST/SGST/UTGST	⊕ noticed in the order by its own accord, or ⊕ is brought to its notice by the > CGST/SGST/UTGST Commissioner or > the other party to the appeal within a period of <b>3 months</b> from the date of the order.	⊕ file it fresh in original time limit- if final ack. in APL-02 is issued ⊕ withdrawal need approval of AT in 15 days of filing application
(b) appeal was originally heard by Members of Principal Bench, where no such other Member is available,	Binding Effect: Every order passed by the AT shall be final and binding on the parties unless the dispute is taken to a higher appellate forum.  Important Note:- 1) Any order made by the Appellate Tribunal may be enforced by it in the same manner as if it were a decree made by a court in a suit pending therein 2) All proceedings before the AT shall be deemed to be judicial proceedings under Indian Penal Code, and the AT shall be deemed to be civil court.	⊕ If amendment has the effect of enhancing an assessment or reducing a refund or ITC or otherwise increasing the liability then party has been given an opportunity of being heard.	
<b>&amp; point(s) shall be decided as per majority including members who first heard it.</b>			



**Sec 119:- Sums due to be paid notwithstanding appeal, etc. :-**  
 Sums due to Govt. on order passed by Principal Bench or State Benches of AT u/s 113(1) or High Court shall be payable, irrespective of fact that appeal is preferred to higher authority.

⌚ **Form- GST APL-08**  
 ⌚ **Time Limit :-** Within 180 days from date of order appealed against is received by aggrieved person.  
 ⌚ **Question of Law :-** The HC may admit such appeal if it is satisfied that the case involves a substantial question of law.

**Rule 112- Production of Additional Evidence before AA/AT**  
 Appellant shall not be allowed to produce before the AA or the AT additional evidence, whether oral or documentary.  
**Exception :- In following cases, production of Additional Evidence shall be allowed:-**

- ⌚ Adjudicating Authority / Appellate Authority refused to admit evidences, which ought to have been admitted,
- ⌚ Appellant was prevented by sufficient cause from producing evidences called by Adjudicating Authority / Appellate Authority
- ⌚ Appellant was prevented by sufficient cause from producing evidences relevant to any ground of appeal to Adjudicating Authority / Appellate Authority
- ⌚ Adjudicating Authority / Appellate Authority has made order appealed against, without giving sufficient opportunity to appellant to produce evidences

**Additional Evidence :-** Means evidence other than the evidence produced by him during the course of the proceedings before the adjudicating authority or, as the case may be, the AA.

**Sec 116- Authorised Representative for AA/AT**

<b>⌚ Authorised Representative-</b> > Relative/regular employee, > Advocate / CA / CMA / CS, > IDT gazetted officer (only after 1 yr from retirement) > GST practitioner	<b>⌚ Disqualification for Authorised Representative-</b> > Person dismissed/ removed from Govt service > Person convicted any offence under law > Person found guilty of misconduct > Person, who is insolvent
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**Note :-** Representative before HC/SC require degree of law

**Sec 121- Orders- against which appeal cant be filed**

**⌚ Orders- against which appeal cant be filed:-**

- > Order of Comm./other - for transfer of proceedings from one officer to another officer
- > Order of seizure / retention of books, docs etc
- > Order sanctioning prosecution
- > Order u/s 80 related to payment of tax/interest etc in installments

**Sec 120 read with Circular no. 207/1/2024: Appeal not to be filed in certain cases:**

⌚ **Monetary Limits:** The Board may set monetary limits for CGST officers when filing appeals or applications based on GST Council recommendations. Accordingly, CBIC fixes following monetary limits:

Appellate Forum	Monetary Limit (₹)
GSTAT	20,00,000
High Court	1,00,00,000
Supreme Court	2,00,00,000

} Restriction application to P.O.

⌚ **Non-Filing Exception:** A CGST officer can still file appeals in other cases involving similar issues, even if they didn't file due to monetary limits.  
 ⌚ **No Acquiescence:** A party in an appeal or application cannot argue that the CGST officer agreed with a decision just because they didn't file an appeal due to these limits.  
 ⌚ **Consideration by Tribunal:** The Appellate Tribunal or Court will consider the reasons for a CGST officer's non-filing of an appeal due to the set monetary limits.  
**Note:** Refer regular notes for detail discussion of Circular no. 207/1/2024.

**Student notes:-**

