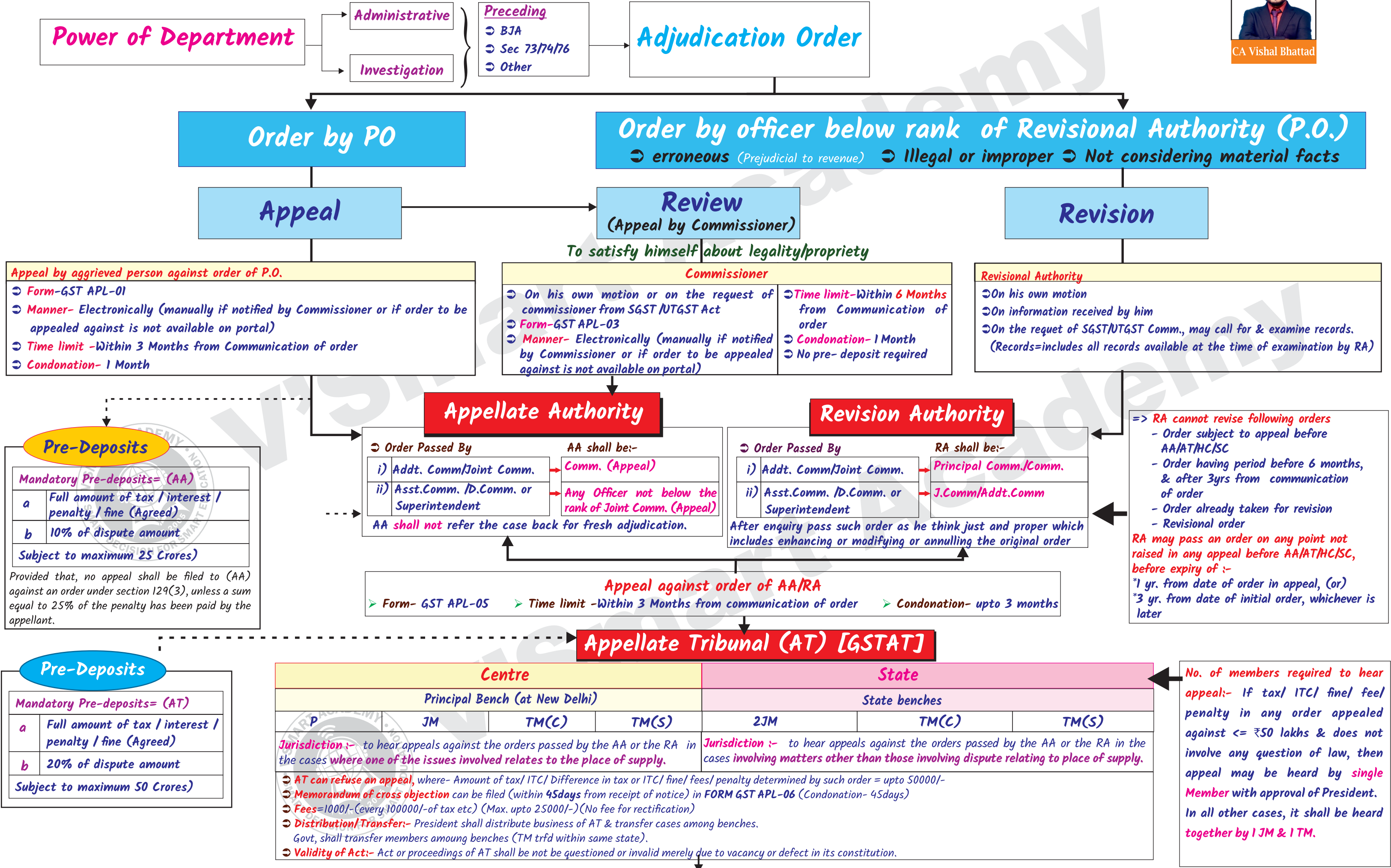


# Appeal and Revision



# Order of AT

**Difference in opinion on any pt. of appeal:-**

Situations	President shall refer case to
(a) appeal was originally heard by Members of a State Bench,	to another Member of a State Bench within State or,
no such other State Bench is available within State	to a Member of a State Bench in another State
(b) appeal was originally heard by Members of Principal Bench,	to another Member from Principal Bench or,
where no such other Member is available,	to a Member of any State Bench & point(s) shall be decided as per majority including members who first heard it.

- (i) **Order of AT:-** pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or
- (ii) **Refer the case back** to the AA or to the RA, or to the original adjudicating authority, for a **fresh adjudication**.
- (iii) **Time Limit of Order :-** The law provides an advisory time limit of **1 year** from the date of filing of appeal for the Tribunal to decide the appeal.
- (iv) **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
- (v) **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.

**Rectification Order by AT**

AT may amend any order passed by it so as to rectify any error apparent on the face of the record if such error is

- ⇒ 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 3 months from the date of the order.

⇒ 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.

=> If order is of AT (Principal Bench), where disputed point is POS

Appeal shall lie to SC against an order passed by the Principal Bench of tribunal.

Supreme Court (SC)

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.

Appeal shall lie to SC against an order passed by the HC where HC certifies to be a fit one for appeal to the Supreme Court.

=> If order is of AT (State Benches), where disputed point is other than POS

Appeal shall lie to High Court against an order passed by the State Benches of Tribunal.

High Court (HC)

- ⇒ 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 / AA refused to admit evidences, ought to have been admitted,
- Appellant was prevented by sufficient cause from producing evidences called by Adjudicating Authority / AA
- Appellant was prevented by sufficient cause from producing evidences relevant to any ground of appeal to Adjudicating Authority / AA
- Adjudicating Authority / AA 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**

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|--|---|
| <p>⇒ <b>Authorised Representative-</b></p> <ul style="list-style-type: none"> <li>➢ Relative/regular employee,</li> <li>➢ Advocate / CA / CMA / CS,</li> <li>➢ IDT gazetted officer (only after 1 yr from retirement)</li> <li>➢ GST practitioner</li> </ul> | <p>⇒ <b>Disqualification for Authorised Representative-</b></p> <ul style="list-style-type: none"> <li>➢ Person dismissed/removed from Govt service</li> <li>➢ Person convicted any offence under law</li> <li>➢ Person found guilty of misconduct</li> <li>➢ Person, who is insolvent</li> </ul> |
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**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