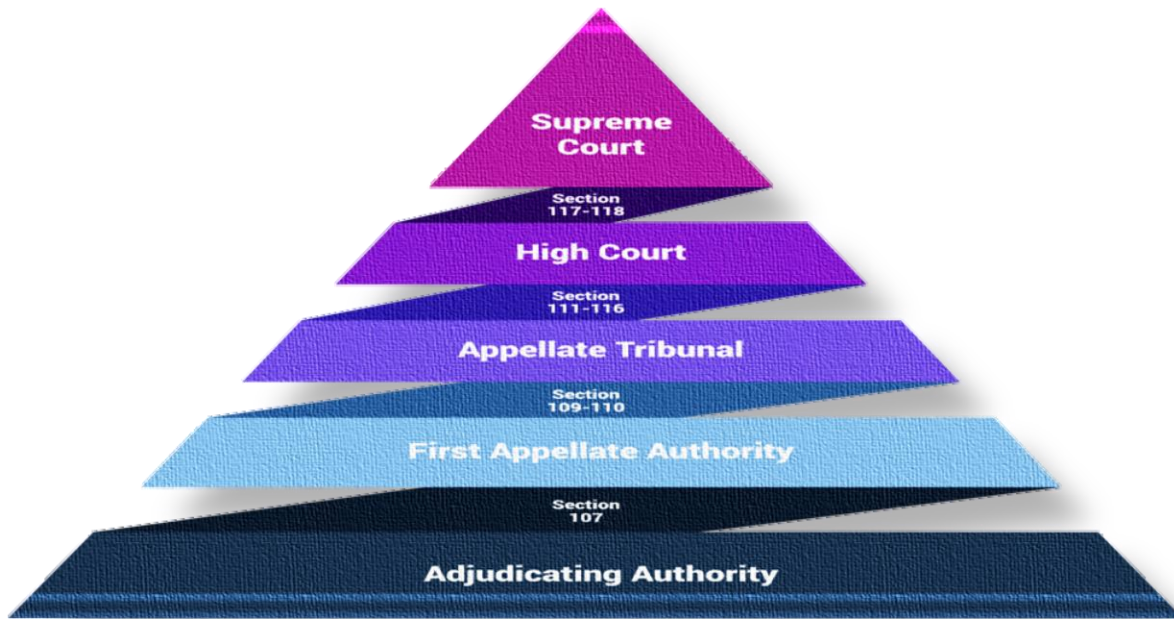


APPEALS & REVISION

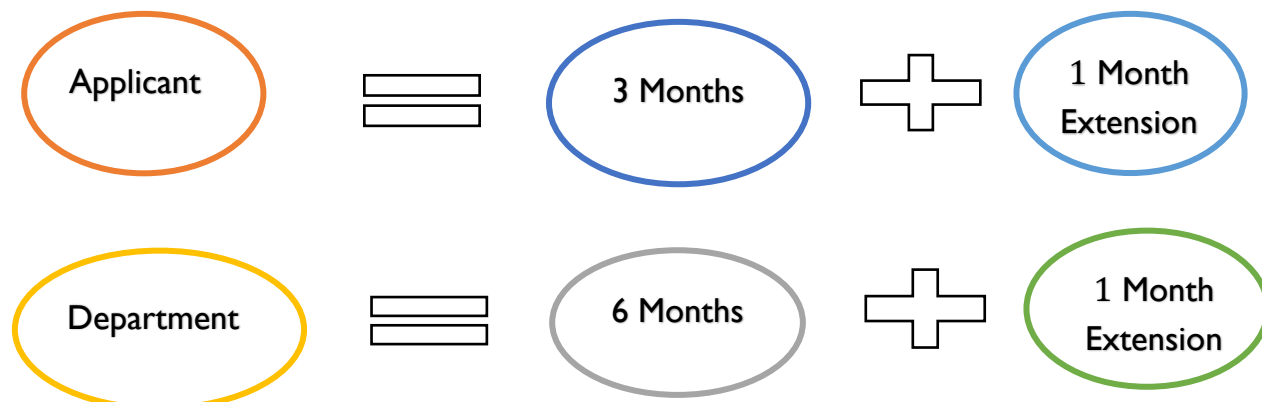


SECTION 107: APPEALS TO APPELLATE AUTHORITY

➤ Orders Appealable to AA

An appeal against any decision / order passed by any adjudicating authority under the CGST Act or SGST Act/UTGST Act lies before the AA

➤ Time Limit for Filing Appeal



**Appeal
Process
followed by
AA**

The AA can make further inquiry and pass its order (i.e., Order - in - Appeal) which may **confirm, modify or annul** the decision/order appealed against.

The law provides an **advisory time limit of 1 year** from date of filing of appeal for the AA to decide the appeal.

Pre-Deposit

No appeal shall be filed before AA, unless the appellant has paid -

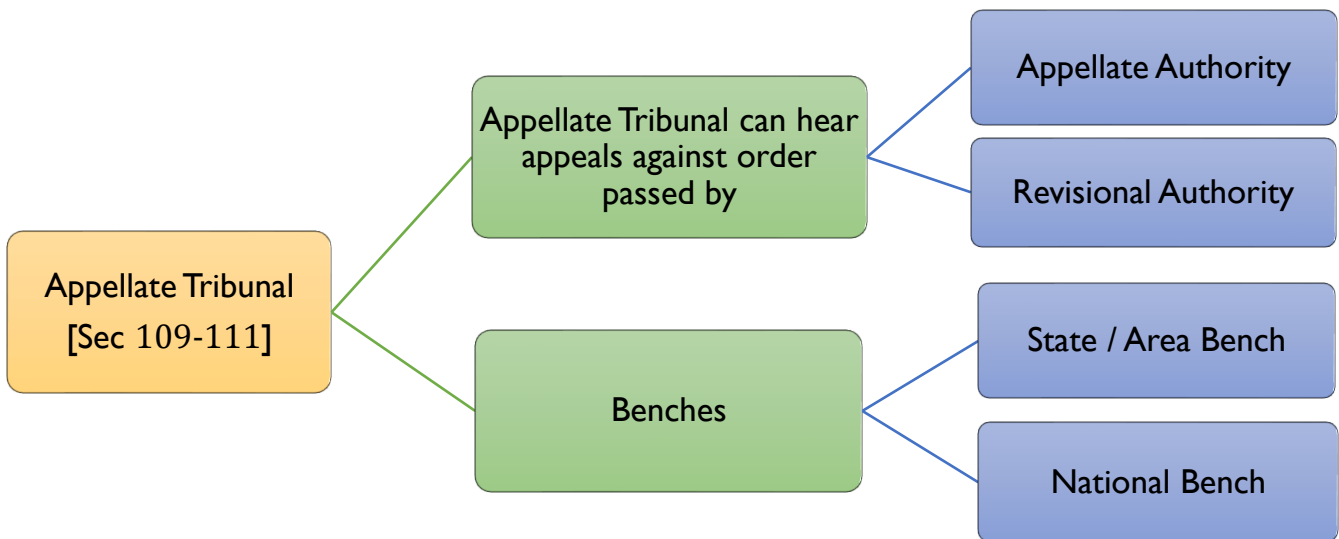
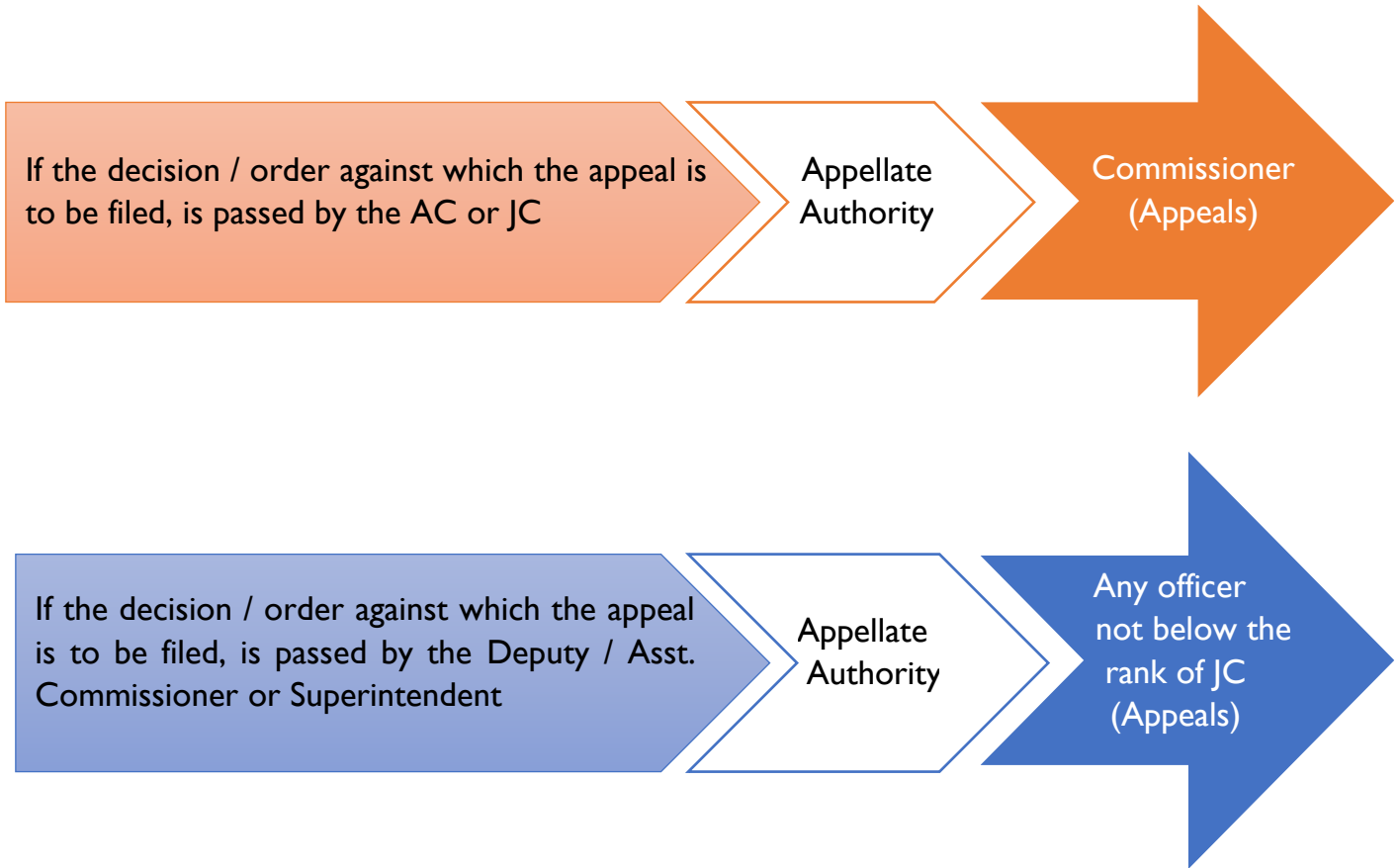
(a) **Full amount** of tax, interest, fine, fee, & penalty arising from the impugned order, as is **admitted by him**; and

(b) **A sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order, subject to a maximum of ₹ 25 Cr [₹ 50 Cr in case of IGST]**

Provided that no appeal shall be filed against an order u/s 129(3), unless a sum equal to 25% of the penalty has been paid by the appellant.

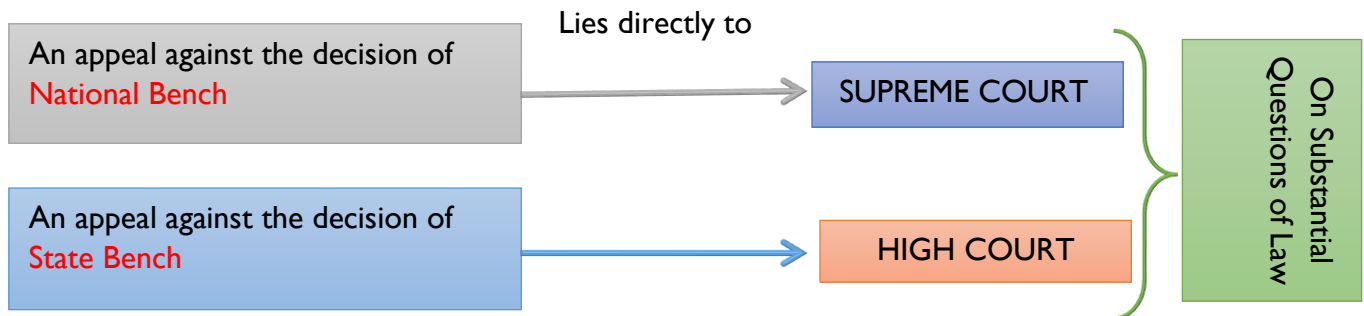
APPOINTMENT OF APPELLATE AUTHORITY

Any person aggrieved by any order / decision passed under GST Law or an officer directed to appeal against any decision / order under the said law may appeal within 3 months (6 months in case of appeal by the department) from the date of communication of said decision / order as follows:



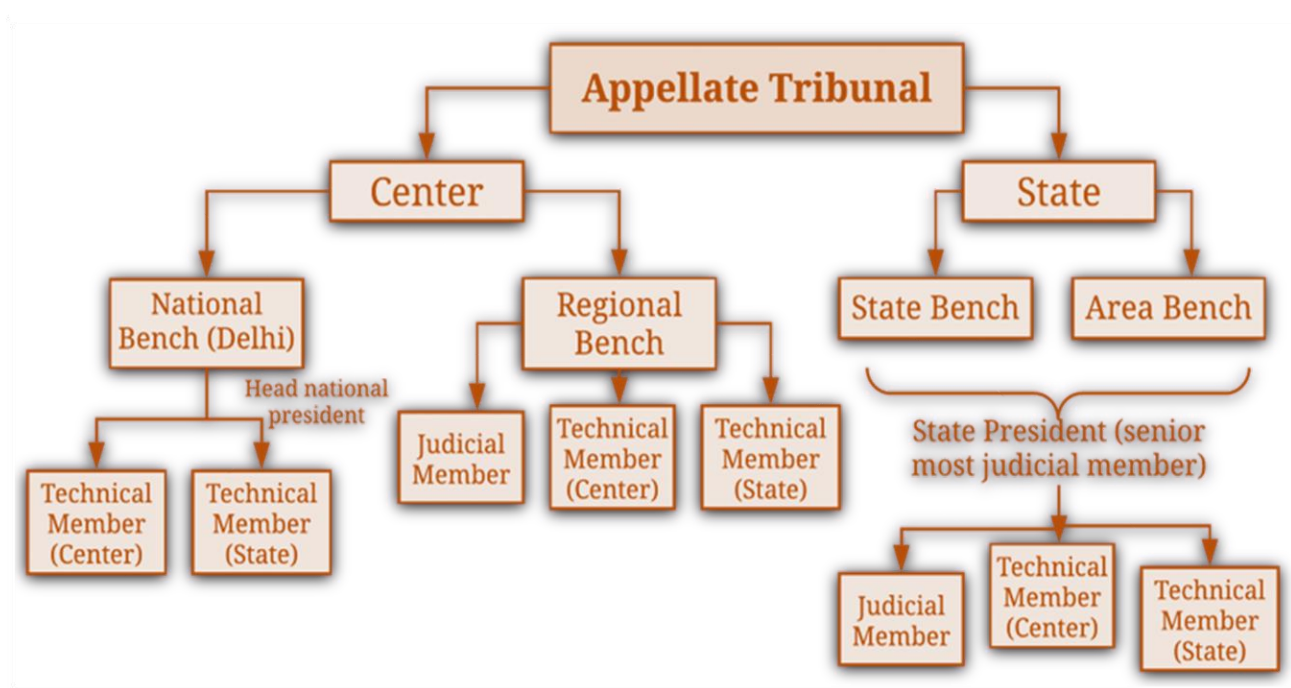
TYPES OF ISSUES IN BOTH THE BENCHES

- ✓ If **Place of supply** is one of the issues in dispute, then the **National Bench** / Regional benches of the tribunal will have jurisdiction to hear the appeal.
- ✓ If the dispute relates to issues **other than the Place of supply**, then the **State / Area benches** will have jurisdiction to hear the appeal.



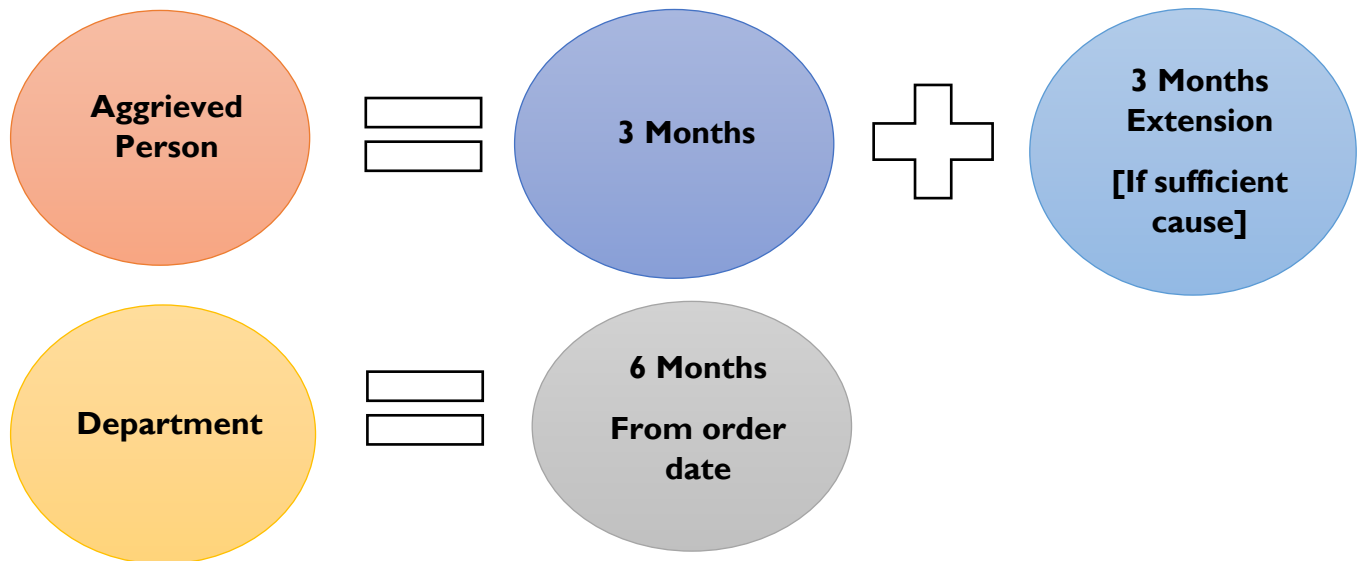
Any appeal where the tax or ITC involved or the difference in tax or ITC involved or the amount of fine, fee or penalty determined in any order appealed against, **does not exceed ₹ 5,00,000** and which does not involve any question of law may, with the approval of the President, **be heard by a bench consisting of a single member.**

COMPOSITION OF APPELLATE TRIBUNAL



APPEAL TO APPELLATE TRIBUNAL [SECTION 112 & 113]

➤ Time Limit for Filing Appeal



➤ Power of Tribunal to refuse to admit an appeal:

The Appellate Tribunal can refuse to admit an appeal if the tax or ITC involved or the difference in tax or ITC involved or the amount of fine, fee or penalty determined by such order does not exceed **₹ 50,000**.

➤ Memorandum of Cross Objections:

It is provided that on receipt of notice that an appeal has been filed (by the appellant), the party **against whom the appeal has been preferred** (i.e., the respondent) may, notwithstanding, that he may not have appealed against such order or any part thereof, file **within 45 days** a memorandum of cross objections (The Tribunal can **condone the delay of upto 45 days** beyond the specified time period of 45 days, if it is satisfied that there was sufficient cause for the delay).

➤ Fees for Filing Appeal:

The fees for filing of appeal or restoration of appeal shall be **₹ 1,000 for every ₹ 1,00,000 of tax** or ITC involved or the difference in tax or ITC involved or the amount of fine, fee or penalty determined in the order appealed against. However, the **fee shall not exceed ₹ 25,000**. There shall be no fee for application made before the Appellate Tribunal for rectification of errors.

Mandatory Pre-Deposit

No appeal shall be filed before Tribunal, unless the appellant has paid -

(a) **Full amount** of tax, interest, fine, fee, & penalty arising from the impugned order, as is **admitted by him**; and

(b) **20%** of the remaining amount of **tax in dispute**, in addition to the amount deposited before the AA, arising from the said order, subject to a **maximum of ₹ 50 Cr [₹ 100 Cr in case of IGST]**, in relation to which appeal has been filed.

➤ **Orders of the Appellate Tribunal:**

The tribunal, after hearing both the sides may pass such orders thereon as it thinks fit, **confirming, modifying or annulling** the decision or order appealed against or **refer the case back to the AA or to the RA**, or to the original Adjudicating Authority.

Time Limit: Law provides **advisory time limit of 1 year** from the date of filing of appeal for the tribunal to decide the appeal.

Rectification: If such error is noticed in the order by its own accord, or is brought to its notice by the commissioner or SGST/UTGST Commissioner or the other party to the appeal within a period of **3 months** from the date of order.

Authority	Pre-Deposit	
	When the tax involved is CGST	When the tax involved is IGST
AA	Admitted CGST Liability in full + 10% of the CGST in dispute, subject to a maximum of ₹ 25 Crores.*	Admitted IGST Liability in full + 10% of the IGST in dispute, subject to a maximum of ₹ 50 Crores.
AT	Admitted CGST Liability in full + 20% of the CGST in dispute, in addition to the amount deposited before AA as pre-deposit, subject to a maximum of ₹ 50 Crores.*	Admitted IGST Liability in full + 20% of the IGST in dispute, in addition to the amount deposited before AA as pre-deposit, subject to a maximum of ₹ 100 Crores.

* Equivalent amount of SGST is also required to be deposited.

PRODUCTION OF ADDITIONAL EVIDENCE BEFORE THE APPELLATE AUTHORITY OR THE APPELLATE TRIBUNAL

Rule 112 of the CGST Rules lays down that the appellant shall not be allowed to produce before the AA or the Tribunal any evidence, whether oral or documentary, 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.

Exceptions: Following are the circumstances where additional evidence before AA or AT could be allowed:



where the adjudicating authority or, as the case may be, the AA has **refused to admit evidence** which ought to have been admitted; or



where the appellant was **prevented** by sufficient cause from producing the evidence which he **was called upon to produce** by the adjudicating authority or, as the case may be, the AA; or



where the appellant was **prevented** by sufficient cause from producing **before the adjudicating authority** or, as the case may be, the AA any evidence which is relevant to any ground of appeal; or



where the adjudicating authority or, as the case may be, the AA has made the **order appealed against without giving sufficient opportunity to the appellant** to produce evidence relevant to any ground of appeal.

No additional evidence shall be admitted unless the AA or the Appellate Tribunal records in writing the reasons for its admission.

SECTION 108: POWERS OF REVISIONAL AUTHORITY

➤ Orders that can be revised by the RA:

- i. The orders passed by its subordinate officers.
- ii. On examination of the case records, if RA is of the view that the decision or order passed under the CGST Act / SGST Act / UTGST Act by any officer subordinate to him
 - Is erroneous, in so far as it is prejudicial to the interest of the revenue and is illegal or improper;
 - Has not taken into account material facts.

➤ **The RA shall not exercise the power of revision if:**

- a) The order sought to be revised has been subject to an appeal before AA or Tribunal or High Court or Supreme Court *; or
- b) The period of 6 months (from the date of communication of order) has not yet expired or more than 3 years have expired after the passing of the decision/order sought to be revised; or
- c) The order has already been taken for revision at an earlier stage; or
- d) The order sought to be revised is itself a revisional order.

➤ **Time limit:**

* The RA may still pass an order on any point which has not been raised and decided in an appeal before AA/Tribunal/High Court/Supreme Court, before the expiry of a period of 1 year from the date of the order in such appeal or before the expiry of a period of 3 years from the date of initial order, whichever is later.

Exclusion in time limit:

The time spent between:

- ✓ The date of the decision of the Appellate Tribunal and the date of the decision of the High Court or
- ✓ The date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period of limitation of 3 years.

SECTION 113(3): RECTIFICATION OF ERRORS

- The tribunal can correct its own order for any apparent mistakes, but it has no power of review.
- The tribunal 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 commissioner or SGST/UTGST Commissioner or the other party to the appeal within a period of 3 months from the date of the order.
- No amendment which has the effect of enhancing an assessment or reducing a refund of ITC or otherwise increasing the liability of the other party, shall be made, unless the party has been given an opportunity of being heard.

SECTION 117: APPEAL TO THE HIGH COURT

- The law provides that **any person** (whether department or other person), aggrieved by any order passed by the State Bench or Area Bench of the Tribunal, may file an appeal to the High Court. The High Court may admit such appeal if it is satisfied that the case involves a **substantial question of law**.
- Appeals to the High Court are to be **filed within 180 days** from the date on which the order appealed against is received by the aggrieved person. However, the High Court has the power to condone the delay on being satisfied of sufficient cause for the same.
- Cases to be heard by **at least 2-member bench** (no concept of single member bench).

SECTION 118: APPEAL TO THE SUPREME COURT

- Any **judgment or order passed by the High Court & the High Court certifies to be a fit one**, for appeal to the Supreme Court.
- **A (direct) appeal** shall also lie to the Supreme Court from any orders passed by the **National/Regional Bench of the Tribunal**.

SECTION 121: NON-APPEALABLE DECISIONS AND ORDERS (IMP)

Section 121 lays down that no appeals whatsoever can be filed against the following orders: -

- An order of the Commissioner or other authority empowered to direct **transfer of proceedings** from one officer to another officer;
- An order pertaining to the **seizure or retention** of books of account, register and other documents; or
- An order sanctioning **prosecution** under the Act; or
- An order passed under section 80 (payment of tax in **instalments**).