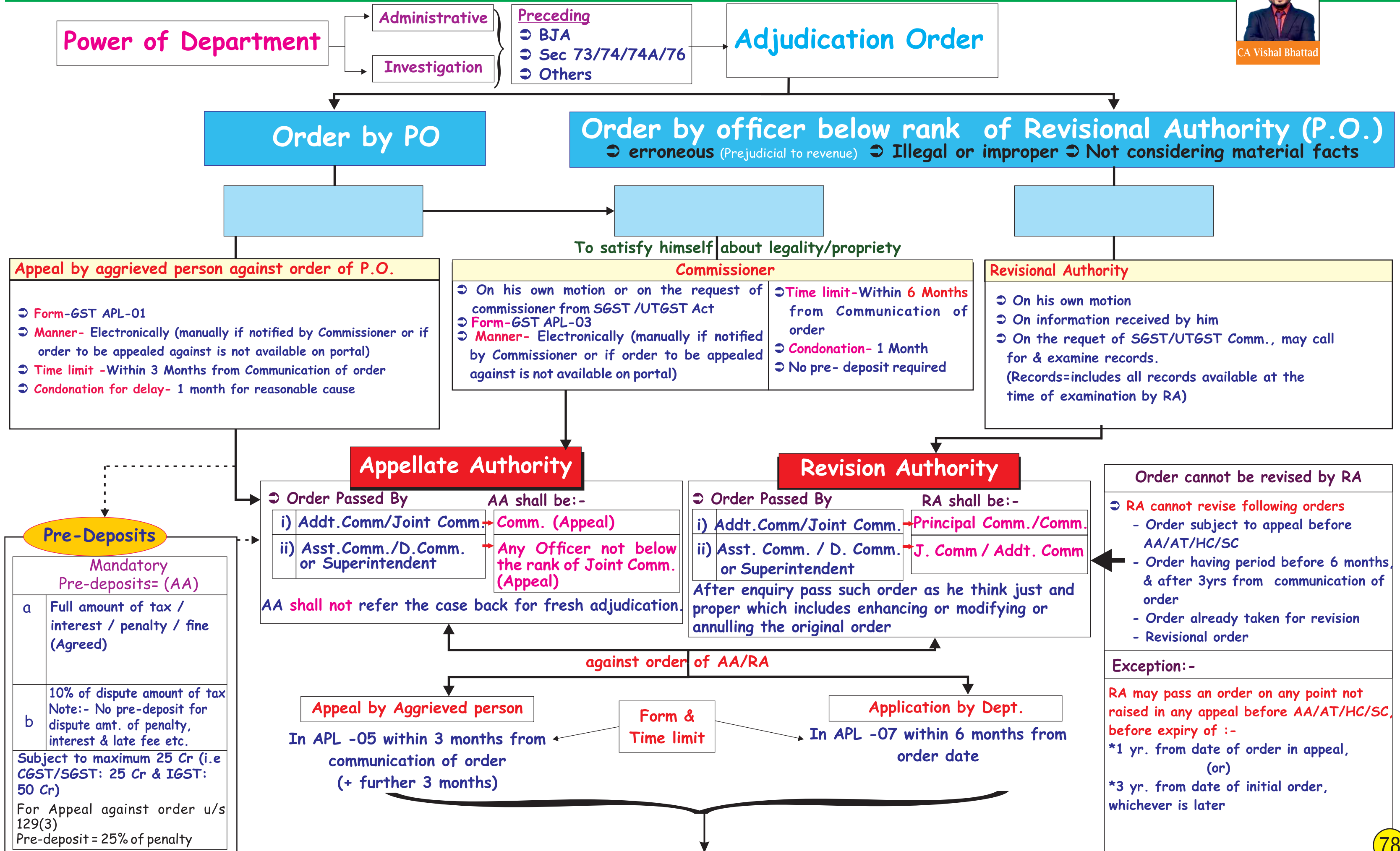


Chapter 23 - Appeal and Revision



Appellate Tribunal (AT) [GSTAT]

Pre-Deposits

Mandatory Pre-deposits=(AT)

a	Full amount of tax / interest / penalty / fine (Agreed) Note: It is addition to Pre-deposit with AA
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)
Jurisdiction :- 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) & hear cases that may be notified by Govt.				Jurisdiction :- to hear appeals against the orders passed by AA/RA other than those discussed for Principal bench besides.		

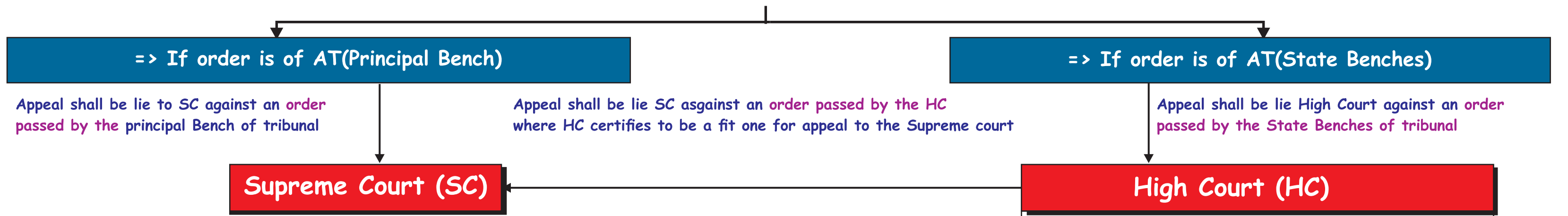
No. of members required to hear appeal:- If tax/ ITC/ fine/ fee/ penalty in any order appealed against <= ₹50 lakhs & does not involve any question of law, then appeal may be heard by **single Member** with approval of President. In all other cases, it shall be heard **together by 1 JM & 1 TM.**

↳ **Manner of filing Appeal, Application & Memorandum:-** It is filed electronically except where Registrar allows manually by general/special order.
 ↳ **AT can refuse an appeal**, where- Amount of tax/ ITC/ Difference in tax or ITC/ fine/ fees/ penalty determined by such order = upto 50000/-
 ↳ **Memorandum of cross objection** can be filed (within 45days from receipt of notice) in **FORM GST APL-06** (Condonation= + 45days).

- ↳ **Fees=** 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.
- ↳ **Distribution/ Transfer:-** Subject to jurisdiction discussed above, President shall distribute business of AT & transfer cases among benches.
- ↳ **Validity of Act:-** Act or proceedings of AT shall be not be questioned or invalid merely due to vacancy or defect in its constitution.
- ↳ **Date for filing appeal/application:-**
 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	President shall refer case to	Order of AT	Rectification Order by AT	Withdrawal of appeal/application
(a)	appeal was originally heard by Members of a State Bench,	to another Member of a State Bench within State or,	Refer the case back	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.	↳ Apply in APL-05/07W before issue of order by AT ↳ 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
	no such other State Bench is available within State	to a Member of a State Bench in another State	Time Limit of Order		
(b)	appeal was originally heard by Members of Principal Bench,	to another Member from Principal Bench or,	Copy of Order		
	where no such other Member is available,	to a Member of any State Bench	Binding Effect		
& point(s) shall be decided as per majority including members who first heard it.			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.		



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

- ⇒ **Authorised Representative-**
 - Relative/regular employee,
 - Advocate / CA / CMA / CS,
 - IDT gazetted officer (only after 1 yr from retirement)
 - GST practitioner
- ⇒ **Disqualification for Authorised Representative-**
 - Person dismissed/ removed from Govt service
 - Person convicted any offence under law
 - Person found guilty of misconduct
 - Person, who is insolvent

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:
- | Appeallate Forum | Monetary Limit (₹) |
|------------------|--------------------|
| GSTAT | 20,00,000 |
| High Court | 1,00,00,000 |
| Supreme Court | 2,00,00,000 |
- ⇒ **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.