

Indirect Tax alert
04 November 2023



Notification issued pursuant to 52nd GST Council meeting held on 7 October 2023

- In pursuance of the recommendation of the GST Council in 52nd GST council meeting held on 7 October 2023, the CBIC *vide* Notification No. 52/2023-Central Tax dated 2 November 2023 has notified the following special procedure for filing Appeals:
 1. The taxable person shall file an Appeal against the said order in Form GST APL-01 in accordance with section 107(1) of the CGST Act on or before 31 January 2024. Further, it is provided that where an appeal against the said order has already been filed in accordance with the provisions of section 107 of the said Act and is pending before the Appellate Authority before the issuance of this notification, such appeal shall be deemed to have been filed in accordance with this notification, if it fulfills the other condition specified.
 2. Appeal shall not be filed unless the Appellant has paid
 - Full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
 - Sum equal to 12.5% of the remaining amount of tax in dispute arising from the said order subject to a maximum of 25 crore rupees out of which atleast 20% shall be paid through electronic cash ledger.

3. Refund shall not be granted in respect of any amount paid by the Appellant either *suo-moto* or on the direction of any authority or court, in excess of the amount specified in the notification, before the issuance of the said notification till the disposal of Appeal.
4. Appeal shall not be admissible under this notification in respect of demand not involving tax

Aurtus Comments

These enabling provisions will facilitate large number of taxpayers [who could not file the Appeal within the prescribed time limit] to pursue the appeal remedy. The Government has acknowledged that many taxpayers have been unable to file appeals due to reasons such as technical glitches on GST portal and the extension introduced will help in resolving disputes arising from non-admittance of Appeal by the tax authority on the ground that time limit for filing the Appeal had passed. The provisions are agnostic to the actual reason for delay in filing of the appeal and all taxpayers irrespective of the reason for not complying with the actual time line of 3 months can take benefit of the provisions. The introduction of the provisions can also pose an opportunity for taxpayers to re-evaluate their decisions for not pursuing the appeal route.

Mumbai

Wework, Raheja Platinum,
Sag Baug Road,
Off Andheri- Kurla Road,
Marol, Andheri East
Mumbai – 400059

Delhi NCR - Gurugram

Wework, 5th Floor,
DLF Two Horizon Centre,
DLF Phase 5,
Gurugram,
Haryana – 122002

Ahmedabad

Paragraph - B- 601, Mondeal
Heights,
Near Novotel hotel,
Sarkhej – Gandhinagar Highway
Ahmedabad -380015

connect@aurtusconsulting.com

Singapore

6, Battery Road, #38-04
Singapore-049909

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