

GSTAT - ITS PRESENT POSITION ON GROUND

GHAZIABAD BAR ASSOCIATION
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INTRODUCTION - GSTAT

- It has been 8 Years of the implementation of GST Law but still there is no GST Appellate Tribunal.
- The GSTAT will be the Highest Court in the country on matters of fact in any litigation on GST.
- GSTAT is a national Tribunal, having Principal Bench at New Delhi and 36 other State / UT Benches located in the Major Cities of India.
- GSTAT will be having maximum number of Benches in any of the States of India in Uttar Pradesh at 5 places – [Ghaziabad](#), Lucknow, Prayagraj, Varanasi & Agra.
- As per Notification No. [S.O. 3048 \(E\) as amended by Not. S.O. 5063 \(E\) dated 26/11/2024 \[F. No. A-50050/150/2008-CESTAT-DOR\]](#) the GSTAT Ghaziabad Bench will be having Jurisdiction over the Districts of Western Uttar Pradesh namely 1.[Ghaziabad](#), 2.Gautam Buddha Nagar, 3.Hapur, 4.Meerut, 5.Bulandshahar, 6.Baghpat, 7.Saharanpur, 8.Shamli, 9.Muzaffarnagar, 10.Moradabad, 11.Amroha, 12.Sambhal, 13.Rampur and 14.Bijnor.
- GSTAT will be headed by the President who is a Retired Judge of the Supreme Court or a past/present Chief Justice of a High Court. Besides the President, the Principal Bench has three Members - one Judicial Member and two Technical Members, one from the Centre and another from the States.

INTRODUCTION - GSTAT

- **All appeals before the GSTAT** are to be filed **only in electronic form** and manner, with facility for document upload. Appeals/applications, once filed on the e-filing portal of the GSTAT, are processed through the help of the **Case Information System** and **Document Management System** and **all orders are also passed and uploaded on the website of the GSTAT**, which is also the first Tribunal in the Country to go digital from its very inception.
- All concerned stakeholders in a **GST litigation** will be to a **get a live update of developments in their cases**. The hearings in the GSTAT are in **hybrid mode**, affording the facility to **opt for a physical hearing to attend it electronically from any remote location**.
- The **appointment** of Justice (Retd.) Sanjaya Kumar Mishra as the President of the GST Appellate Tribunal (GSTAT) was made **way back on 6th May 2024** but still there is **uncertainty on the actual functioning** of GSTAT Benches.
- The **delay in functioning** of GST Appellate Tribunals is **creating lot of hue & cry** among the taxpayers as there are **lot of genuine cases with intricate legal issues which have not been adjudicated**. This will certainly make a **big burden on the GSTAT in the initial period** of working.
- This **delay in functioning** of GSTAT Benches is creating **un-reasonable burden on High Courts** and on Trade.

GSTAT - Who can Appeal and Time Limit for Appeal

- **Any person aggrieved by a decision or order passed against them by the First Appellate Authority or the Revisional Authority can file appeal before the GST Appellate Tribunal.**

This includes:

Taxpayers: Businesses and individuals registered under the GST Act.

Unregistered persons: Individuals or entities who are not registered under GST but are affected by a GST-related decision.

- **An appeal before the GST Appellate Tribunal (GSTAT) must be filed within three (3) months from the date the 1st Appeal / Revisional Authority order is communicated.**
- When the normal time limit is **expired**, the GSTAT is **further empowered to condone** the delay to **maximum period of *three (3) months***, if GSTAT Member is **satisfied** that the appellant was prevented by “**sufficient cause**” from presenting the appeal within the aforesaid period of three months under section **112(6) of GST Act, 2017**.

Current Position - Action to be taken by Taxpayers who wish to file Appeal before GSTAT against order of 1st Appellate Authority / Revisional Authority

- **Undertaking / Declaration under Section 112(8) of the CGST Act, 2017 read with Circular No. 224/18/2024-GST dated 11th July, 2024 issued by CBIC.**
- **Taxpayer who want to file Appeal before GSTAT against the order passed by the First Appellate Authority/ Revisional Authority are required to file undertaking within 3 months from the date of communication of 1st Appellate / Revisional Authority Order, before the Proper Officer communicating their intent of filing an appeal before the GST Appellate Tribunal (GSTAT).**
- **The undertaking must be filed alongwith proof of deposit of balance 10% in order to get stay of recovery of demand as per Sec 112(9) to meet the condition of 20% pre-deposit out of the total disputed tax amount.**
- **Procedure to file undertaking & deposit balance 10% for Appeal before GSTAT has been prescribed under Circular No. [224/18/2024-GST](#).**

PRESENT POSITION OF GSTAT – RECENT JUDGEMENT

Pranaya Kishore Harichandan v Union of India, W.P.(C) No.15220 of 2025

- The Hon'ble Orissa High Court recently pronounced judgement on 26/06/2025 and held that a reconstituted Search and Selection Committee is well within its rights to restart the selection process *de novo*, especially when a Member - Chairman of the original committee demits office before the process concludes.
- The Honorable Orissa High Court had considered confidential reports received by the Selection Committee which they found relevant and thus approved the consideration made by the Committee.
- The reconstituted Search and Selection Committee can now again scrutinize the applications for selecting the persons for personal interaction on the basis of the inputs received from the Intelligence Beure (IB). After this Judgement, the hurdle has been removed for the reconstituted Selection Committee to recommend the names of the short-listed candidates by 30th June 2025 as one of the members is again going to retire on this day.

THANK YOU

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