

THE ONE GST PORTAL

GSTINATION

SIMPLIFYING GST FOR THE NATION

Advance Ruling

CHAPTER XVII OF THE CGST ACT

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DEFINITIONS SPECIFIC FOR THE CHAPTER – SECTION 95

- “**Advance ruling**” means a decision provided by the Authority/ Appellate Authority to an applicant on matters or on questions specified in Sec 97(2) or Sec 100(1), in relation to the supply of goods/ services/ both being undertaken or proposed to be undertaken by the applicant;
- “**Appellate Authority**” means the Appellate Authority for Advance Ruling referred to in section 99;
- “**Applicant**” means any person registered or desirous of obtaining registration under this Act;
- “**Application**” means an application made to the Authority under sub-section (1) of section 97;
- “**Authority**” means the Authority for Advance Ruling referred to in section 96.

AUTHORITY FOR STATE/ UT – SECTION 96

- Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a SGST Act/ UTGST Act shall be deemed to be the Authority for advance ruling in respect of that State/ UT.

Application for Advance Ruling – Section 97

- An applicant who wants to obtain an advance ruling may make an application in FORM GST ARA-01 and shall be accompanied by a fee of Rs. 5000, to be deposited as per Sec 49, stating the question on which the advance ruling is sought.
- The question on which the advance ruling is sought can be in respect of –
 - a) classification of any goods/ services/ both;
 - b) applicability of a notification issued;
 - c) determination of time and value of supply;
 - d) admissibility of input tax credit of tax paid or deemed to have been paid;
 - e) determination of the liability to pay tax;
 - f) whether applicant is required to be registered;
 - g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.



PROCEDURE UPON APPLICATION – SECTION 98

1. On receipt of an application, the Authority shall **forward** a copy to the concerned officer and, if necessary, call upon him to furnish the relevant records. (Where any records have been called for, they shall be returned as soon as possible)
2. The Authority shall **examine** the application and the records called for, and after hearing the applicant (or his authorised representative) and the concerned officer (or his authorised representative), may either admit or reject the application by **order**. A copy of every order shall be sent to the applicant and to the concerned officer.
 - No application shall be rejected without giving an opportunity of hearing to the applicant. Where the application is rejected, the reasons for such rejection shall be specified in the order
 - Authority shall **not admit** the application if, the question raised in the application is already pending/ decided in any proceedings of any applicant.
3. Where an application is admitted, the Authority shall –
 - Examine such further material as may be placed before it by the applicant or obtained by the Authority and
 - Provide an opportunity of being heard to the applicant (or his authorised representative) and to the concerned officer (or his authorised representative)
4. A copy of the advance ruling pronounced by the Authority (duly signed by the members and certified to be a true copy of its original by any member) shall be sent to -
 - i. the applicant;
 - ii. the concerned officer of CGST/ SGST/ UTGST;
 - iii. the jurisdictional officer of CGST/ SGST/ UTGST; and
5. Where members differ on any question, they shall state the point/ points on which they differ and make reference to the Appellate Authority for hearing and deciding on such question(s).

And after that, may pronounce its advance ruling on the question specified in the application. Ruling must be pronounced within 90 days from the date of receipt of application.

APPELLATE AUTHORITY and Appeals to them – Sec 99 & 100

1. The **Appellate Authority** for Advance Ruling constituted under SGST/ UTGST Act shall be **deemed** to be the Appellate Authority in respect of that State or UT. (for this act also)
2. The aggrieved applicant (concerned officer, the jurisdictional officer or an applicant), may **appeal** to the Appellate Authority in **FORM GST ARA-02** and shall be accompanied by a fee of Rs. 10,000, to be deposited as per Sec 49. The aggrieved concerned officer or the jurisdictional officer may also file an appeal in **FORM GST ARA-03** and no fee shall be payable.
3. Appeal shall be filed within 30 days from the date on which the ruling is communicated. (Appellate Authority may allow a further period not exceeding 30 days, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within time)
4. The appeal, the verification contained therein and all the relevant documents accompanying such appeal shall be **signed** -
 - In the case of concerned officer/ jurisdictional officer, by an officer authorised in writing by such officer; and
 - In the case of applicant, in the manner specified in rule 26 (DSC, OTP, EVC etc).

ORDERS OF THE APPELLATE AUTHORITY – SECTION 101

1. The Appellate Authority shall give the parties to the appeal or reference, an **opportunity of being heard**, and then pass such **order** as it thinks fit, confirming or modifying the ruling appealed against or referred to. The order shall be passed within 90 days from the date of filing of the appeal/ date of reference.
2. Where the members of the Appellate Authority differ on any point or points referred to in appeal or reference, it shall be deemed that **no advance ruling can be issued** in respect of the question under the appeal or reference.
3. A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified to be a true copy of its original by any member, shall be sent to -
 - i. the applicant and the appellant;
 - ii. the concerned officer of CGST/ SGST/ UTGST;
 - iii. the jurisdictional officer of CGST/ SGST/ UTGST; and
 - iv. the Authority of advance ruling.

SOME POINTS ON THE ADVANCE RULING

RECTIFICATION – SECTION 102

- The Authority/ Appellate Authority 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 by the Authority/ Appellate Authority on its own, or is brought to its notice by the concerned officer/ the jurisdictional officer/ the applicant/ the appellant within 6 months from the date of the order.
- If rectification has the effect of enhancing the tax liability or reducing the amount of admissible ITC, then the applicant/ the appellant must be given an opportunity of being heard

APPLICABILITY – SECTION 103

- The advance ruling pronounced by the Authority/ Appellate Authority shall be binding only -
 - On the applicant who had sought it;
 - On the concerned officer/ the jurisdictional officer in respect of the applicant.
- The advance ruling shall be binding and continue to have effect, unless the law/ facts/ circumstances supporting the original advance ruling have changed.

VOID – SECTION 104

- Where the Authority/ Appellate Authority finds that advance ruling pronounced by it, has been obtained by the applicant/ appellant by fraud/ suppression of material facts/ misrepresentation of facts, it may declare by order, such ruling to be **void ab-initio**, and all the provisions of this Act and rules shall apply as if such advance ruling had never been made. Opportunity of being heard shall be granted. A copy of the order shall be sent to the applicant, concerned officer and jurisdictional officer.
- The period from the date of such advance ruling till the date of order declaring it void ab-initio, shall be excluded while computing the time limits for notice (3/ 6 months) and order (3/ 5 years) under sections 73 and 74.

POWERS OF AUTHORITIES – SECTION 105

- The Authority or the Appellate Authority shall, for the purpose of exercising its **powers** regarding -
 - a) **Discovery and inspection;**
 - b) **Enforcing the attendance** of any person and examining him on oath;
 - c) Issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908.
- The Authority or the Appellate Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding before the Authority or the Appellate Authority shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code.

MISCELLANEOUS POINTS

Section 106 - The Authority or the Appellate Authority shall have power to regulate its own procedure. (Subject to Act)

Rule 103 - Qualification and appointment of members of the Authority for Advance Ruling

- The Government shall appoint officers not below rank of Joint Commissioner as member of the Authority for Advance Ruling.

Rule 107A - Manual filing and processing

- In respect of any process or procedure prescribed herein, any reference to electronic filing shall include manual filing.

End of Presentation!

What we learned -

- Definitions Specific for the Chapter – Section 95
- Authority for State/ UT – Section 96
- Application for Advance Ruling and Procedure – Section 97 and 98
 - Application
 - Procedure
- Appellate Authority
 - Authority and Appeals to them - Sections 99 and 100
 - Orders – Section 101
- Points on the Advance Ruling
 - Rectification – Section 102
 - Applicability – Section 103
 - Void – Section 104
- Powers of Authorities – Section 105
- Miscellaneous Points

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