



ANTI PROFITEERING MECHANISM UNDER GST

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The GST law contains a unique provision on anti profiteering measure to curb the practice of enjoying unjust enrichment in terms of profit arising out of implementation of GST in India. The Government wants that GST should not lead to general inflation, as feared by the common man and for this it was necessary to set up a mechanism to ensure that benefits arising out of GST implementation are passed on to the customer.

Section 171 of the Central Goods and Services Tax Act, 2017 provides for Anti Profiteering measure. As per Sub Section 1 of Sec 171 of CGST ACT, 2017, ***“Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.”***

Thus it makes mandatory for every taxpayer to pass on the benefits arising out of following to the recipient of the goods or services or goods and services.

- Reduction of rate of tax on any supply of goods or services.
- Benefit of input tax credit.

The increase or decrease in cost on account of other than tax rate and input tax credit is not to be considered for the purpose of anti profiteering.

The Government has approved constitution of a National Anti Profiteering Authority (NAA) under GST to ensure that the benefits of the reduction in GST Rates and the various benefits arising out of GST implementation are passed on to the ultimate consumers by way of reduction in prices.

The Union Cabinet chaired by Hon. Prime Minister has given approval for the appointment of a Chairman and Technical Members of National Anti Profiteering Authority (NAA) under GST. The NAA will be headed by a senior officer of the level of Secretary to Government of India with four Technical Members from the Centre and / or States. The institutional

frameworks for anti profiteering measures comprises of the National Anti Profiteering Authority, a Standing Committee, Screening Committees in every state and Directorate General of Safeguards in the Central Board of Excise and Customs.

An person (consumer) who feel that the benefit of reduction in prices on account of GST is not being passed on to him when he purchases any goods or services may apply for relief to Screening Committees in the particular state. In case the incident of profiteering relates to an item of mass impact all over India, the application may be directly made to the Standing Committee. After forming a prima facie view that there is an element of profiteering, the standing committee shall refer the matter for detailed investigation to Director General of Safeguards, CBEC, which shall report its findings to NAA.

Anti Profiteering Application Form (APAF-1), to be filed before Standing Committee / State level Screening Committee in terms of Rule 128 of CGST Rules 2017 has been issued. The application can be made by recipient of the goods or services, Commissioner of GST or any other person.

The application form is divided into four parts.

1. In part A of the application, the applicant has to provide general information about the applicant such as name of the applicant, address, GST registration number, proof of identity, contact details etc.
2. In part B, the general information about the supplier who has not passed on the benefit is to be provided. This includes name of the supplier, category i.e manufacturer, service provider, trader or other, Address of the supplier, GST Registration number, Contact details etc.

3. Part C is about the details of goods and services. Description of the goods or services, HSN or SAC, Actual Price / value charged per unit – pre GST and Post GST. In case goods are covered under MRP, then pre GST and post GST MRP and comparative price / value pre GST and post GST after considering any discount / rebate given by other supplier. It is pertinent to note that this comparison is to be given by the applicant only.

4. Part D consists of the details of reduction in Tax rate / benefit of input tax credit. The applicant has to provide details of pre GST tax structure, post GST tax structure, Pre GST total tax per unit and post unit. Post GST tax reduction in amount of tax per unit, benefit of input tax credit i.e details of input tax credit which was not available pre GST and available now, transitional credit and post GST per unit value to be reduced.

The instructions for filling Anti profiteering application form are also annexed to the form. It is specified that following information is to be provided by the applicant

- Rate of Pre-GST Indirect Taxes (Such as Excise Duty, Value Added Tax, Central Sales Tax, Luxury Tax, Service Tax etc.) or earlier Goods & Service Tax (Including compensation cess) applicable on the goods/ services and the assessable/ taxable/ base amount per unit to the extent possible on which such rate of Indirect Taxes were applied in arriving at effective Pre-GST amount of Tax per unit or earlier GST (Including compensation cess) amount of Tax per unit.
- GST Rates viz. CGST, SGST/UTGST, IGST, Compensation Cess and other indirect taxes effective after change in Rates, if any by Central Government on recommendation of Goods & Services Tax Council after GST implementation applicable on the goods/services and the assessable /taxable/base amount per unit on which such rate of Indirect Taxes are applied in arriving effective Post-GST/later GST amount of Tax per unit.
- Post GST reduction in Tax per unit by deducting Post-GST tax amount per unit from Pre-GST tax amount per unit as calculated above.
- Attach working sheets for computation of the Input Taxes/Duties Pre-GST per unit, credit of which was not available to the supplier before implementation of GST (out of the Taxes/Duties subsumed in GST, Illustrative list is given below):
 - a. Central Excise duty
 - b. Duties of Excise (Medicinal and Toilet Preparations)
 - c. Additional Duties of Excise (Goods of Special Importance)
 - d. Additional Duties of Excise (Textiles and Textile Products)
 - e. Additional Duties of Customs (commonly known as CVD)
 - f. Special Additional Duty of Customs (SAD)
 - g. Service Tax
 - h. Central Surcharges and Cesses so far as they relate to supply of goods and services
 - h. State VAT
 - i. Central Sales Tax
 - j. Luxury Tax

- k. Entry Tax (all forms)
- l. Entertainment and Amusement Tax (except when levied by the local bodies)
- m. Taxes on advertisements
- n. Purchase Tax
- o. Taxes on lotteries, betting and gambling
- p. State Surcharges and Cesses so far as they relate to supply of goods and services.

- It has been specified not to include details of Taxes/Duties, credit of which was available prior to GST and provide information only in respect of Input Taxes/Duties, credit of which was not available to the supplier before implementation of GST.
- Transitional Input Tax Credit availed in terms of Section 140(3) of CGST Act, 2017 read with Rule 117 of CGST Rules, 2017 which is not passed on to the recipient.
- The change in actual price/value charged per unit by deducting Actual price/value charged per unit Pre-GST from Actual price/value charged per unit Post-GST.
- The total amount of benefit not passed on by adding Post-GST reduction in amount of Tax per unit + Post-GST benefit of Input Tax Credit per unit on inputs + Difference (+/-) between Post-GST and Pre-GST actual price/value charged per unit.
- The GST on amount of benefit not passed on by multiplying amount of benefit not passed on as calculated in and total GST rate (in percentage) calculated in.
- The Post-GST per unit price/value to be reduced from actual price/value charged per unit Post-GST.

(On perusal of the application and the instructions, it can be seen that for any applicant, it will be impossible to collect and specify the information sought in part D of the application form. The said information is neither available in invoice nor in the published annual accounts. The taxes and their quantum will vary state-wise, plant-wise. In most of the cases the benefits cannot be worked out product-wise as it is common for the entire organization. Even the Commissioner also will not be in a position to compile and specify the information sought in the application form.)

After detailed scrutiny of the application, in the event the NAA finds that there is a necessity to apply anti profiteering measures, it has the authority to order the following

- Order the supplier to reduce the prices or return the undue benefit availed by the supplier, with interest to the recipient of the goods or services.
- If the benefit cannot be passed on to the recipient, it can be ordered to be deposited in the Consumer Welfare Fund.

Impose a penalty on the defaulting business entity or even order the cancellation of its registration under GST.

Anti-Profitteering Application Form (APAF - 1)

[To be filed before Standing Committee/State level Screening Committee in terms of Rule 128 of CGST Rules, 2017]

Please follow the accompanying instructions for filling up the form. Fields marked with asterisk (*) are mandatory.

| | | | |
|--|--|------------------------|--|
| A. General information about the Applicant | | | |
| A.1* | Name | | |
| A.2* | Category (Provide code) | | |
| A.3 | GST Registration No. (GSTIN) | | |
| A.4* | Address | | |
| A.5* | Contact Number | | |
| A.6 | E-mail ID | | |
| A.7* | Proof of identity (Provide code) | | |
| B. General information about the Supplier who has not passed on the benefit | | | |
| B.1* | Name | | |
| B.2* | Category (Provide code) | | |
| B.3* | Address | | |
| B.4* | GST Registration No. (GSTIN) | | |
| B.5 | Contact Number | | |
| B.6 | Email ID | | |
| B.7 | Website address | | |
| C. Particulars of Goods/Services | | | |
| C.1* | Description | | |
| C.2 | HSN/SAC | | |
| C.3* | Actual Price/Value charged per unit Pre-GST | ₹ | |
| C.4* | Actual Price/Value charged per unit Post-GST | ₹ | |
| C.5 | If Goods are covered under MRP Provisions | | |
| C.5a | MRP Pre-GST | ₹ | |
| C.5b | MRP Post-GST | ₹ | |
| C.6 | Comparative per unit actual Price/Value of like Goods/Services charged by other supplier | Name GSTIN | |
| C.6a | Pre-GST | ₹ | |
| C.6b | Post-GST | ₹ | |
| D. Details of reduction in Tax rate/ benefit of Input Tax Credit | | | |
| D.1 | Particulars of Taxes on output Goods/ Services | Rate of Tax (%) [1] | Per Unit value for Tax (in ₹) [2] |
| D.2* | Taxes - Pre GST/Earlier Rate | | Per unit amount of Tax (in ₹) [3 = (1*2)] |
| D.2a | Excise Duty | | |
| D.2b | Value Added Tax (VAT)/Central Sales Tax (CST) | | |
| D.2c | Service Tax | | |
| D.2d | Luxury Tax | | |
| D.2e | Others including Cesses (Specify) | | |
| D.2f | Earlier GST Rate (Including compensation cess) | | |
| D.3* | Total Tax per unit [Total of D.2a to D.2e] or [D.2f] | | ₹ |
| D.4* | Taxes - Post GST/Later Rate | | |
| D.4a | CGST | | |
| D.4b | SGST/UTGST | | |
| D.4c | IGST | | |
| D.4d | Compensation Cess | | |
| D.4e | Others including Cesses (Specify) | | |
| D.5* | Total Tax per unit [Total of D.4a to D.4e] | | ₹ |
| D.6* | Post-GST reduction in amount of Tax per unit (D.3 - D.5) | | ₹ |
| D.7 | Benefit of Input Tax Credit Input Taxes/Duties Pre-GST per unit, credit of which was not available (out of the Taxes/Duties subsumed in GST) and Transitional Input Tax Credit, if any. Attach working sheets. | | |
| D.8 | Difference (+/-) between Post-GST and Pre-GST actual price/value charged per unit [C.4 - C.3] | | ₹ |
| D.9 | Amount of benefit not passed on after adjusting difference between Post-GST and Pre-GST actual price/value [D.6 + D.7 + D.8] | | ₹ |
| D.10 | GST on amount of benefit not passed on [D.9 x Rate of GST (including compensation cess, if any)] | | ₹ |
| D.11 | Post-GST per unit price/value to be reduced by [D.9+D.10] | | ₹ |
| D.12 | Additional information, if any | | |

Note-1: Self-attested copies of all documentary evidences like proof of identity, invoice, Price List, detailed working sheet etc. are to be attached.

Note-2: Pre-GST includes earlier GST Rates and Post-GST includes later GST Rates after implementation of Goods & Services Tax.

Declaration:

I hereby declare that the information furnished above is true to the best of my knowledge and that I have exercised due diligence in submitting such information. I understand that providing incomplete or incorrect information in this application form will make the application invalid.

Date:

Place:

Signature of the Applicant

Instruction for filling Anti-Profitteering application form

The table below provides row-wise detailed instruction for filling up the application form. The fields marked with asterisk (*) are mandatory.

| S. No. of Form | Field name | Instruction |
|---|--|--|
| General Instruction | | |
| 1 | Fill up the application form legibly in BLOCK LETTERS only. | |
| 2 | Terms used in application form: | |
| | GSTIN | Goods and Services Tax Identification Number |
| | CGST | Central Goods and Services Tax |
| | SGST | State Goods and Services Tax |
| | UTGST | Union Territory Goods and Services Tax |
| | IGST | Integrated Goods and Services Tax |
| | HSN | Harmonized System Nomenclature |
| | SAC | Services Accounting Code |
| 3 | This application form is with reference to a single Good/Service. In case of application for multiple Goods/Services, please make separate application for each Good/Service. | |
| 4 | After admitting the application, applicant may be asked to furnish any additional details as deemed necessary. | |
| 5 | Application filled without attaching required documents/working sheets will not be treated as a valid application. | |
| 6 | Filled application form must be send to State level Screening Committee (in case issues is of local nature) or to Standing Committee. | |
| 7 | Contact details of Central Standing Committee on Anti-profitteering: 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110 001. Tel No.: 011-23741537 Fax. No.: 23741542, E-mail: anti-profitteering@gov.in | |
| | Contact details of State Screening Committee on Anti-profitteering: Contact details of State Screening Committee on Anti-profitteering are available at URL: goo.gl/eYJXnK | |
| | | |
| | | |
| A | General information about the Applicant | |
| A.1* | Name | Enter name as recorded on proof of identity submitted with this application form. |
| A.2* | Code of Applicant | 01 Interested party* |
| | | 02 Commissioner |
| | | 03 Any other person |
| *Interested Party includes suppliers or recipients of goods or services under this application. | | |
| A.3 | GST Registration No. | Enter the 15 digit alphanumeric GSTIN of the applicant. Eg. 07ABCPM1234R1ZF. |
| A.7* | Proof of identity | Attach a copy of any one proof of identity listed below: |
| | | Code Proof of Identity |
| | | 01 Aadhaar Card issued by the Unique Identification Authority of India |
| | | 02 Voter ID |
| | | 03 Permanent Account Number (PAN) card |
| | | 04 Driving Licence |
| | | 05 Passport |
| | | 06 Ration card having photograph of the applicant |
| | | 07 Any other proof of Identity (Specify) |
| B | General information about the Supplier who has not passed on the benefit | |
| B.1* | Name | Enter name of supplier as mentioned on the supporting documents like Invoice etc. |
| B.2* | Code of Supplier | 01 Manufacturer |
| | | 02 Service Provider |
| | | 03 Trader |
| | | 04 Others (Specify) |
| C | Particulars of Goods/Services | |
| C.1* | Description | Specify the nature of goods/services as mentioned in invoice/price list etc. |
| C.2 | HSN/SAC | Specify HSN/SAC of goods/services as mentioned in invoice/price list/GST rate list etc. |
| C.3* | Actual Price/Value charged per unit Pre-GST | Provide Pre-GST actual price/value and Post-GST (current) actual price/value charged per unit of the goods/service (of the same quantity) after considering any discount/rebate given by the supplier. |
| C.4* | Actual Price/Value charged per unit Post-GST | |
| C.5 | If Goods are covered under MRP Provisions | Provide Pre-GST MRP and Post-GST (current) MRP of the goods printed on the pack of the goods of the same quantity. |
| C.5a | MRP Pre-GST | |
| C.5b | MRP Post-GST | |
| C.6 | Comparative per unit actual Price/Value of like Goods/Services charged by other supplier | Mention name and GSTIN of other supplier. |
| C.6a | Pre-GST | Provide Pre-GST and Post-GST (current) actual price/value charged per unit of the like goods/service after considering any discount/rebate given by other supplier. |
| C.6b | Post-GST | |

| D | Details of reduction in Tax rate/ benefit of Input Tax Credit | |
|------|--|--|
| D.2* | Taxes - Pre GST/Earlier GST Rate | Specify the Rate of Pre-GST Indirect Taxes (Such as Excise Duty, Value Added Tax, Central Sales Tax, Luxury Tax, Service Tax etc.) or earlier Goods & Service Tax (Including compensation cess) applicable on the goods/services and the assessable/taxable/base amount per unit to the extent possible on which such rate of Indirect Taxes were applied in arriving at effective Pre-GST amount of Tax per unit or earlier GST (Including compensation cess) amount of Tax per unit. |
| D.4* | Taxes - Post GST/Later GST Rate | Specify the GST Rates viz. CGST, SGST/UTGST, IGST, Compensation Cess and other indirect taxes effective after change in Rates, if any by Central Government on recommendation of Goods & Services Tax Council after GST implementation applicable on the goods/services and the assessable/taxable/base amount per unit on which such rate of Indirect Taxes are applied in arriving effective Post-GST/later GST amount of Tax per unit. |
| D.6* | Post-GST reduction in amount of Tax per unit. | Specify the Post GST reduction in Tax per unit by deducting Post-GST tax amount per unit from Pre-GST tax amount per unit as calculated above. |
| D.7 | Input Taxes/Duties Pre-GST per unit, credit of which was not available (out of the Taxes/Duties subsumed in GST). Attach working sheets. | <p>Specify and attach working sheets for computation of the Input Taxes/Duties Pre-GST per unit, credit of which was not available to the supplier before implementation of GST (out of the Taxes/Duties subsumed in GST, Illustrative list is given below):</p> <ol style="list-style-type: none"> Central Excise duty Duties of Excise (Medicinal and Toilet Preparations) Additional Duties of Excise (Goods of Special Importance) Additional Duties of Excise (Textiles and Textile Products) Additional Duties of Customs (commonly known as CVD) Special Additional Duty of Customs (SAD) Service Tax Central Surcharges and Cesses so far as they relate to supply of goods and services State VAT Central Sales Tax Luxury Tax Entry Tax (all forms) Entertainment and Amusement Tax (except when levied by the local bodies) Taxes on advertisements Purchase Tax Taxes on lotteries, betting and gambling State Surcharges and Cesses so far as they relate to supply of goods and services. <p>Do not include details of Taxes/Duties, credit of which was available prior to GST and provide information only in respect of Input Taxes/Duties, credit of which was not available to the supplier before implementation of GST.</p> <p>Also specify Transitional Input Tax Credit availed in terms of Section 140(3) of CGST Act, 2017 read with Rule 117 of CGST Rules, 2017 which is not passed on to the recipient.</p> |
| D.8 | Difference (+/-) between Post-GST and Pre-GST actual price/value charged per unit | Specify the change in actual price/value charged per unit by deducting Actual price/value charged per unit Pre-GST (C.3) from Actual price/value charged per unit Post-GST (C.4). |
| D.9 | Amount of benefit not passed on after adjusting difference between Post-GST and Pre-GST actual price/value | Specify the total amount of benefit not passed on by adding Post-GST reduction in amount of Tax per unit (D.6) + Post-GST benefit of Input Tax Credit per unit on inputs (D.7) + Difference (+/-) between Post-GST and Pre-GST actual price/value charged per unit (D.8). |
| D.10 | GST on amount of benefit not passed on | Specify the 'GST on amount of benefit not passed on' by multiplying amount of benefit not passed on as calculated in D.9 and total GST rate (in percentage) calculated in D.5. |
| D.11 | Post-GST per unit price/value to be reduced by | Specify the Post-GST per unit price/value to be reduced from actual price/value charged per unit Post-GST by adding D.9 & D.10 as calculated above. |