



ADVANCE RULING

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A. Background:

The Provision of Advance Rulings were made in 1993 in Income Tax Act vide Section 245N to 245R. An Advance Ruling is a written interpretation of tax laws. It is issued by Authority for Advance Ruling to corporations and individuals who request for clarification of certain tax matters. An advance ruling is often requested when the taxpayer does not have clarity about certain provisions. Advance tax ruling is applied for, before starting the proposed activity.

Under GST, the advance ruling is a written decision given by the Authority for Advance Ruling to an applicant on questions relating to the supply of goods/services etc.

An Applicant would like to be clear in his mind about various aspects of his venture and risks involved before he starts a new business. He would like to get clear verdict about his doubts in respect of taxation matters, before he decides to venture in the new or existing business. Otherwise, he may be exposed to certain unexpected risks which may have adverse consequences on his business.

The Advance Ruling is binding on the Applicant and Department.

B. What is "Advance Ruling":

- "Advance Ruling" defined under Section 95 (a) of CGST Act, 2017 as follows
"Advance Ruling" means a written decision provided by the Authority or, as the case may be, the Appellate Authority to an applicant on matters or on questions specified in Sub-Section (2) of Section 97 or Sub-Section (1) of Section 100, as the case may be, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.
- Application for advance ruling can be made in respect of supply 'being under taken'. Thus, a person can apply even in respect of activity he is already doing.
- Application should be made by applicant with fees, stating the question on which advance ruling is sought.

C. Advantages of Advance Ruling under GST:

- The major advantages of advance ruling are as follows:
 - ❖ Provide clarity in tax liability and classification of goods or service in advance in relation to an activity proposed to be undertaken by the applicant;

- ❖ Reduce litigation at the early stage of ambiguity;
- ❖ Initial disposal of application with solution for the applicant;
- ❖ Opportunity of personal hearing can be granted to applicant;
- ❖ Pronounce ruling expeditiously in a transparent and reasonable manner;
- ❖ Seeking advance ruling does not include much cost.

D. Matter or Question for which Advance Ruling can be sought:

- As per Section 97 (2) of the Goods and Service Tax Act, 2017 Advance Ruling can be sought on following questions:
 - ✓ Classification of any goods or services or both;
 - ✓ Applicability of a notification issued under the provisions of this Act;
 - ✓ Determination of time and value of supply of goods or services or both;
 - ✓ Admissibility of input tax credit of tax paid or deemed to have been paid;
 - ✓ Determination of the liability to pay tax on any goods or services or both;
 - ✓ Whether applicant is required to be registered;
 - ✓ 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.
- The concerned officer, the jurisdictional officer or an applicant aggrieved by any advance ruling pronounced under Section 98 (4) of CGST Act, 2017 may appeal to the Appellate Authority under Section 100 (1) of the CGST Act, 2017.

E. Authority for Advance Ruling:

- Section 96 of CGST Act, 2017 define The Authority for Advance Ruling as follows:
"The Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory."
- Authority for advance ruling will be constituted in each State/Union Territory. The Government shall appoint officers, as members of the Authority for Advance Ruling, not below the rank of the Joint Commissioner as per Rule 103 of CGST Rules, 2017.

- Procedure specified in Section 98 of CGST Act, 2017 to be followed by Authority for Advance Ruling.

F. Procedure for filing Application for Advance Ruling:

- An Application for obtaining an advance ruling under Section 97 (1) of CGST Act shall be made on the common portal in Form GST ARA-01 and shall be accompanied by a fee of Rs. 10,000 /- i.e. Rs. 5,000 /- under CGST Act and Rs. 5,000 /- under SGST Act.
- Online Deposit of Fees on Common Portal.
- The application for advance ruling, the verification contained therein and all relevant documents accompanying such application shall be signed.
 - Individual: individual himself or by some other person duly authorised by him
 - HUF: a Karta or by any adult member of HUF or by the authorised signatory;
 - Company: the Chief Executive Officer or the authorised signatory;
 - Government or Gov. agency or local authority: an officer authorised;
 - Firm: any partner, not being a minor or the authorised signatory;
 - Any Other Association: any member of the association or the authorised signatory;
 - Trust: any trustee or the authorised signatory thereof;
 - Any other person: some person competent to act on his behalf.
- After submission of an application in form GST ARA-01, the authority may, after examining the application and records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application under Sec. 98 (2) of CGST Act.

- A copy of order made under Sec. 98 (2), for admit or reject of application, shall be sent to the applicant and the concerned officer.

(a) Where an application is admitted:

- the authority shall pronounce its advance ruling on the question specified in the application.
- the Authority shall pronounce its advance ruling in writing within 90 days from the date of receipt of application

(b) Where an application is not admitted:

- The Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act
- No application shall be rejected unless an opportunity of hearing has been given to the applicant
- Where the application is rejected, the reasons for such rejection shall be specified in the order.

- Where the members of the Authority differ on any question. They shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.

G. Procedure for payment of fees

- In order to make the payment of fee for filing an application for Advance Ruling on the common portal, the applicant has to fill his details using “Generate User ID for Advance Ruling” under “User Services”.
- After entering the email id and mobile number, a One Time Password (OTP) shall be sent to the email id.
- Upon submission of OTP, Systems shall generate a temporary ID and send it to the declared email and mobile number of the applicant.
- The applicant can make the payment of the fee of Rs. 5,000/- each i.e. CGST Act and SGST Act respectively on the basis of this ID.
- The applicant is then required to download Form GST ARA-01 and file the application with the Authority for Advance Ruling.

H. Appeal to Appellate Authority:

- The Appellate Authority for Advance Ruling constituted under the provisions of SGST or UGST shall be deemed to be the Appellate Authority in respect of that State or Union territory as per Section 99 of CGST Act, 2017.
- As per Section 101 of CGST Act, 2017, the concerned officer, the jurisdictional officer or an applicant aggrieved by any advance ruling pronounced under sub-section (4) of section 98, may appeal to the Appellate Authority.



- Every appeal shall be filed within a period of 30 days from the date on which the ruling sought to be appealed against is communicated.
- The appellate authority may allow further period not exceeding 30 days if sufficient cause shown.
- An Appeal shall be made as follows:
 - In Form GST ARA- 02 by an Applicant along with fees of Rs. 10,000/-.
 - In Form GST ARA- 03 by the concerned officer or the jurisdictional officer without any fees.
- The Appellate Authority may, after giving the parties to the appeal or reference an opportunity of being heard,

pass such order as it thinks fit, confirming or modifying the ruling appealed against or referred to.

- The order shall be passed within a period of 90 days from the date of filing of the appeal.
- 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.
- As per Section 101 (4) of CGST Act read with and Rule 107 of CGST Rules, 2017, A copy of the advance ruling pronounced by the Appellate Authority for Advance Ruling and duly signed by the Members shall be sent to -
 - i. the applicant and the appellant;
 - ii. the concerned officer of central tax and State or Union territory tax;
 - iii. the jurisdictional officer of central tax and State or Union territory tax; and
 - iv. the Authority

I. Rectification of Advance Ruling:

- The Authority or the Appellate Authority may amend any order passed by it under section 98 or section 101, so as to rectify any error apparent on the face of the record. If such error is noticed by the Authority or the Appellate Authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer, the applicant or the appellant within a period of 6 months from the date of the order.
- No rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the applicant or the appellant has been given an opportunity of being heard.

J. Applicability of Advance Ruling:

- The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only -
 - (a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;
 - (b) on the concerned officer or the jurisdictional officer in respect of the applicant.
- The advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

K. Advance Ruling to be Void:

- Where the Authority or the Appellate Authority finds that advance ruling pronounced has been obtained by the applicant or the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio
- Thereupon all the provisions of CGST Act or the rules made thereunder shall apply to the applicant or the appellant as if such advance ruling had never been made
- No order shall be passed unless an opportunity of being heard has been given to the applicant or the appellant.

- A copy of the order made shall be sent to the applicant, the concerned officer and the jurisdictional officer.

L. Power of Authority and Appellate Authority:

- The Authority or the Appellate Authority shall, for the purpose of exercising its powers regarding—
 - inspection;
 - enforcing the attendance of any person and examining him on oath;
 - issuing commissions and compelling production of books of account and other records, and
 - have all the powers of a civil court under the Code of Civil Procedure, 1908.
- The Authority shall be deemed to be civil court for the purpose of Section 195 of the Indian Penal Code.
- Every proceeding before the Authority or the Appellate Authority shall be deemed to be judicial proceedings within the meaning of Sec. 193 i. e. punishment for false evidence and Sec. 228 i. e. Intentional insult or interruption to public servant sitting in judicial proceeding, of the Indian Penal Code.
- The Authority or the Appellate Authority shall, subject to the provisions of Advance Ruling, have power to regulate its own procedures.

M. Manual Filing and Process:

- All provisions as applicable to electronic filing will apply mutatis mutandis to manual filing also.
- Procedure for manual filing has been prescribed in CBE&C Circular No. 25/25/2017- GST dtd. 21.12.2017.
 - Application shall be made in Quadruplicate in Form GST ARA-01.
 - Clearly State the question on which the advance ruling is sought.
 - The application shall be accompanied by a fee of Rs. 5,000/- each tax. (Fee is required to be deposited online).
 - The application, the verification contained therein and all the relevant documents accompanying shall be signed by authorized signatory.
- Form and Manner of Appeal to the Appellate Authority by Applicant.
 - Application shall be made in Quadruplicate in Form GST ARA-02.
 - The application shall be accompanied by a fees of Rs. 10,000/-. (Fee is required to be deposited online).
 - The application, the verification contained therein and all the relevant documents accompanying shall be signed by authorized signatory.
- Form and Manner of Appeal to the Appellate Authority by concerned officer or jurisdictional officer.
 - Application shall be made in Quadruplicate in Form GST ARA-03.
 - No fee shall be payable by the said office for filing the appeal.
 - Application shall be signed by an concerned officer or jurisdictional officer or by an officer authorised in writing by such officer.