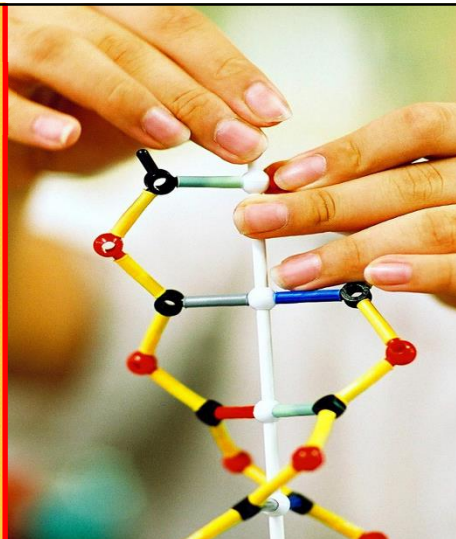


Goods & Service Tax

Chapter XVII-Advance Rulings

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Important Definitions

| Provisions | Customs Act 1962 | Central Excise Act 1944 | CGST Act 2017 |
|--|----------------------|-------------------------|----------------------|
| Definitions | Section 28(E) / (F) | Section 23(A) | Section 95 |
| Vacancies / Authority | Section 28(G) | Section 23(B) | Section 96 |
| Applicability | Section 28(H) | Section 23(C) | Section 97 |
| Procedure on Receipt of Application | Section 28(I) | Section 23(D) | Section 98(I) |

Important Definitions

| Provisions | Customs Act 1962 | Central Excise Act 1944 | CGST Act 2017 |
|---|------------------|-------------------------|------------------------------|
| Procedure on Receipt of Application | Section 28(J) | Section 23(E) | Section 98(2 & 3) |
| Provisions Void under certain circumstances | Section 28(K) | Section 23(F) | Section 103 |
| Powers and Authority | Section 28(L) | Section 23(G) | Section 105 |
| Certain procedures for Advance Ruling Authority | Section 28(M) | Section 23(H) | Section 106 |

Important Definitions

S.95(a)

“Advance ruling” means a decision provided by the Authority / Appellate Authority to an applicant on matters or on questions specified in S.97(2) or S.100(1), in relation to the supply of goods or services or both ***being undertaken or proposed to be undertaken by the applicant;***

S.95(b)

“Appellate Authority” means the Appellate Authority for Advance Ruling referred to in S.99

S.95(c)

“Applicant” means any ***person registered or desirous of obtaining registration*** under this Act

S.95(d)

“Application” means an application made to the Authority under S.97(1);

S.95(e)

“Authority” means the Authority for Advance Ruling referred to in S.96.

Who can submit the application?

Section 97: An applicant desirous of obtaining an advance ruling under this Chapter may make an application

- ❖ The Authority may call for records, and after hearing the applicant and the concerned officer (or their authorised representatives), ***either admit or reject the application:***
 - After examining the application and the records
 - By issuing an order
 - Reason for rejection to be specified in order

5

Who can submit the application?

- ❖ Cannot be admitted where the question raised in the application is ***already pending / decided*** in any proceedings in the case of an applicant
- ❖ **S.103:** The Advance Ruling pronounced by the Authority or the Appellate Authority shall be binding only—
 - On the applicant who had sought it;
 - On the concerned officer or the jurisdictional officer in respect of the applicant.

6



When can an applicant submit the application? [Sec 97(2)]

- ❖ Classification of any goods and/or services;
- ❖ Applicability of a **Notification**;
- ❖ Determination of Time & value of supply;
- ❖ Admissibility of ITC of Tax paid / Deemed Paid;
- ❖ Determination of liability to pay tax on any goods and/or services;
- ❖ Whether applicant is required to be registered;
- ❖ Whether any particular thing done by the applicant with respect to any goods and/or services amounts to / results in a supply of goods and/or services, within the meaning of that term.

7



Planning by filing 'trial' application in another State

- ❖ No provision for withdrawal of application for advance ruling – maybe discretion
- ❖ Where there is a significant probability that the Order may not be passed in favour of the Applicant registered person:
- ❖ Application in respect of such matter in another State through a distinct person (having the same PAN) – to understand the viewpoint of the Authority (in general), where the liability in case of such an unfavourable order would be minimal.

8

PrecedencevalueofrulinginotherState/othercasein sameState

- ❖ Ruling is binding only on the applicant, and on the officer in respect of such applicant
- ❖ Binds only the Applicant being the registered person – and is not binding on distinct persons having same PAN
- ❖ May be used in support of the claim that any thing done by a person was based on reliance placed on an advance ruling (***bonafide intent***)

9

S.101:OrdersoftheAppellateAuthorityforAdvance Ruling

- ❖ The Appellate Authority may:
 - Pass such order as it thinks fit,
 - Confirming or modifying the ruling appealed against or referred to
- ❖ After giving the parties to the appeal or reference an opportunity of being heard

10

Section 102: Rectification of pronouncement / order

The Authority / Appellate Authority may amend any order passed by it so as to rectify an error:

- ❖ Apparent on the face of the record is noticed by it on its own accord, or
- ❖ Brought to its notice within 6 months from the date of the order, by:
 - the concerned officer, or
 - the jurisdictional officer, or
 - the applicant / or
 - the appellant.

**Upon giving the applicant / appellant an opportunity of being heard (in case of enhancement of liability)*

11

Section 104: Advance Ruling to be void *ab initio*

- ❖ Where the Authority / Appellate Authority finds that an advance ruling pronounced by it has been obtained by fraud / suppression of material facts / misrepresentation of facts, it may:
- ❖ By order, declare such ruling to be void *ab-initio* (to be passed upon giving an opportunity of being heard)
- ❖ In such a case, all the provisions applicable to the applicant / appellant as if such advance ruling had never been made.

12

Advance Rulings—Rules

Rule 103: Authority

- ❖ Section 96: The Authority for advance ruling constituted under the provisions of the SGST / UTGST Laws shall be deemed to be the Authority under the CGST law as well.
- ❖ Government shall appoint persons of the rank Joint Commissioner/higher rank, to constitute the office of the Authority for Advance Ruling

13

Advance Rulings—Rules

Rule 104: Form & Manner

- ❖ Application for obtaining an advance in Form GSTAR-01
- ❖ Along with a fee of Rs.5,000
- ❖ The application, documents enclosed & verification contained in the application shall be signed vide DSC / EVC modes

14

Form GST ARA-01...

Form GST ARA -01

[See Rule 104(1)]

Application Form for Advance Ruling

| | | |
|-----|---|--------------------------------|
| 1. | GSTIN Number, if any/ User-id | |
| 2. | Legal Name of Applicant | |
| 3. | Trade Name of Applicant (Optional) | |
| 4. | Status of the Applicant [registered / un-registered] | |
| 5. | Registered Address / Address provided while obtaining user id | |
| 6. | Correspondence address, if different from above | |
| 7. | Mobile No. [with STD/ISD code] | |
| 8. | Telephone No. [with STD/ISD code] | |
| 9. | Email address | |
| 10. | Jurisdictional Authority | <<name, designation, address>> |

15

Form GSTARA-01...

| | | | |
|-----|--|--------------------------------------|---------------------------------|
| 11. | i. Name of authorised representative | Optional | |
| | ii. Mobile No. | iii. Email Address | |
| 12. | Nature of activity(s) (proposed / present) in respect of which advance ruling sought | | |
| | A. Category | | |
| | Factory / Manufacturing | Wholesale Business | Retail Business |
| | Warehouse/Depot | Bonded Warehouse | Service Provision |
| | Office/Sale Office | Leasing Business | Service Recipient |
| | EOU/ STP/ EHTP | SEZ | Input Service Distributor (ISD) |
| | Works Contract | | |
| | B. Description (in brief) | (Provision for file attachment also) | |
| 13. | Issue/s on which advance ruling required (Tick whichever is applicable) :- | | |
| | (i) classification of goods and/or services or both | <input type="checkbox"/> | |
| | (ii) applicability of a notification | <input type="checkbox"/> | |

16

Form GST ARA-01 ...

| | | |
|-----|--|--------------------------|
| | issued under the provisions of the Act | |
| | (iii) determination of time and value of supply of goods or services or both | <input type="checkbox"/> |
| | (iv) admissibility of input tax credit of tax paid or deemed to have been paid | <input type="checkbox"/> |
| | (v) determination of the liability to pay tax on any goods or services or both | <input type="checkbox"/> |
| | (vi) whether applicant is required to be registered under the Act | <input type="checkbox"/> |
| | (vii) whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term | <input type="checkbox"/> |
| 14. | Question(s) on which advance ruling is required | |
| 15. | Statement of relevant facts having a bearing on the question(s) raised. | |

17

Form GST ARA-01

| | | |
|-----|---|---|
| 16. | Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of the aforesaid question(s) (i.e. applicant's view point and submissions on issues on which the advance ruling is sought). | |
| 17. | I hereby declare that the question raised in the application is not (tick) - <input type="checkbox"/> | |
| | a. Already pending in any proceedings in the applicant's case under any of the provisions of the Act b. Already decided in any proceedings in the applicant's case under any of the provisions of the Act | |
| 18. | Payment details | Challan Identification Number (CIN) - Date - |

VERIFICATION

I, _____ (name in full and in block letters), son/daughter/wife of _____ do hereby solemnly declare that to the best of my knowledge and belief what is stated above and in the annexure(s), including the documents is correct. I am making this application in my capacity as _____ (designation) and that I am competent to make this application and verify it.

Signature _____
Place _____ Name of Applicant/Authorised Signatory _____
Date _____ Designation/Status _____

18

Advance Rulings –Rules

Rule 105: Certified True Copy

- ❖ Section 98(6) & (7): The Authority shall pronounce its advance ruling in writing within 90 days of receipt of application. A copy thereof duly signed by the members shall be sent to the applicant, the concerned / jurisdictional officer.
- ❖ Any member of the Authority for Advance Ruling shall certify that a copy of the advance ruling is the true copy of its original.

19

Advance Rulings –Rules

Rule 106: Appeal against an Advance Ruling

- ❖ Section 100: Application to be filed **within 30 days** of service of the communication to all 3 parties
- ❖ Application for appeal against an advance where the applicant is aggrieved by the advance ruling – in Form GSTARA-02
 - ❖ **Along with a fee of Rs. 10,000**
- ❖ Application for appeal against an advance by the concerned / jurisdictional officer aggrieved by the advance ruling – in Form GSTARA-03
 - ❖ **NO FEE PAYABLE**

20

Form GSTARA-02...

Form GST ARA -02
[See Rule 106(1)]
Appeal to the Appellate Authority for Advance Ruling

| Sr. No. | Particulars | Remarks |
|---------|---|------------|
| 1 | Advance Ruling No. | |
| 2 | Date of communication of the advance ruling | DD/MM/YYYY |
| 3 | GSTIN / User id of the appellant | |
| 4 | Legal Name of the appellant. | |
| 5 | Trade Name of the appellant (optional). | |
| 6 | Address of appellant at which notices may be sent | |
| 7 | Email Address of the appellant | |
| 8 | Mobile number of the appellant | |
| 9 | Jurisdictional officer / concerned officer | |
| 10 | Designation of jurisdictional officer / concerned officer | |
| 11 | Email Address of jurisdictional officer / concerned officer | |
| 12 | Mobile number of jurisdictional officer / concerned officer | |
| 13 | Whether the appellant wishes to be heard in person? | Yes/No |

21

Form GSTARA-02...

| | | |
|--|----------------------------------|---|
| 14. | The facts of the case (in brief) | |
| 15. | Ground of Appeal | |
| 16. | Payment details | Challan Identification Number (CIN) – Date - |
| Prayer | | |
| <p>In view of the foregoing, it is respectfully prayed that the Ld. Appellate Authority, <Place> may be pleased to:</p> <ol style="list-style-type: none"> set aside/modify the impugned advance ruling passed by the Authority for Advance Ruling as prayed above; grant a personal hearing; and pass any such further or other order (s) as may be deemed fit and proper in facts and circumstances of the case. <p>And for this act of kindness, the appellant, as is duty bound, shall ever pray.</p> | | |

22

Form GSTARA-02

VERIFICATION

I, _____ (name in full and in block letters), son/daughter/wife of _____ do hereby solemnly declare that to the best of my knowledge and belief what is stated above and in the annexure(s), including the documents is correct. I am making this application in my capacity as _____ (designation) and that I am competent to make this application and verify it.

Place _____

Date _____

Signature

Name of Appellant/Authorised Signatory

Designation/ Status

23

Form GSTARA-03...

Form GST ARA -03

[See Rule 106(2)]

Appeal to the Appellate Authority for Advance Ruling

| Sr. No. | Particulars | Remarks |
|---------|--|------------|
| 1 | Advance Ruling No. | |
| 2 | Date of communication of the advance ruling | DD/MM/YYYY |
| 3 | GSTIN, if any / User id of the person who had sought advance ruling | |
| 4 | Legal Name of the person referred to in serial number 3. | |
| 5 | Name and designation of jurisdictional officer / concerned officer | |
| 6 | Email Address of jurisdictional officer / concerned officer | |
| 7 | Mobile number of jurisdictional officer / concerned officer | |
| 8 | Whether the jurisdictional officer / concerned officer wishes to be heard in person? | Yes/No |
| 9. | Facts of the case (in brief) | |
| 10. | Grounds of Appeal | |

24

Form GSTARA-03

| | | |
|---|-------------------|--|
| 10. | Grounds of Appeal | |
| Prayer | | |
| <p>In view of the foregoing, it is respectfully prayed that the Ld. Appellate Authority, <Place> may be pleased to:</p> <p>a. set aside/modify the impugned advance ruling passed by the Authority for Advance Ruling as prayed above;</p> <p>b. grant a personal hearing; and</p> <p>c. pass any such further or other order (s) as may be deemed fit and proper in facts and circumstances of the case.</p> | | |
| VERIFICATION | | |
| <p>I, _____ (name in full and in block letters), son/daughter/wife of _____ do hereby solemnly declare that to the best of my knowledge and belief what is stated above and in the annexure(s), including the documents are correct. I am making this application in my capacity as _____ (designation) and that I am competent to make this application and verify it.</p> | | |
| <p>Place _____</p> <p>Date _____</p> | | <p>Signature _____</p> <p>Name and designation of the concerned officer / jurisdictional officer _____</p> |


25

Advance Rulings –Rules

R.107: Certification of copies of pronouncement by Appellate Authority

- ❖ Section 98(6) & (7): The Authority shall pronounce its advance ruling in writing within 90 days of receipt of application. A copy thereof duly signed by the members shall be sent to the applicant, the concerned / jurisdictional officer.
- ❖ Any member of the Authority for Advance Rulings shall certify that a copy of the advance ruling is the true copy of its original.

26



AdvanceRulings—Rules

Rule 107A: Manual filing and processing (overriding other provisions of the Chapter)

- ❖ Any reference to electronic filing of an application / intimation / reply/ declaration
- ❖ / statement / electronic issuance of a notice / order / certificate on the GST common portal shall include manual filing of the said documents in such Forms as appended to these rules.

27

ThankYou!!!

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