

Advance Ruling Under GST



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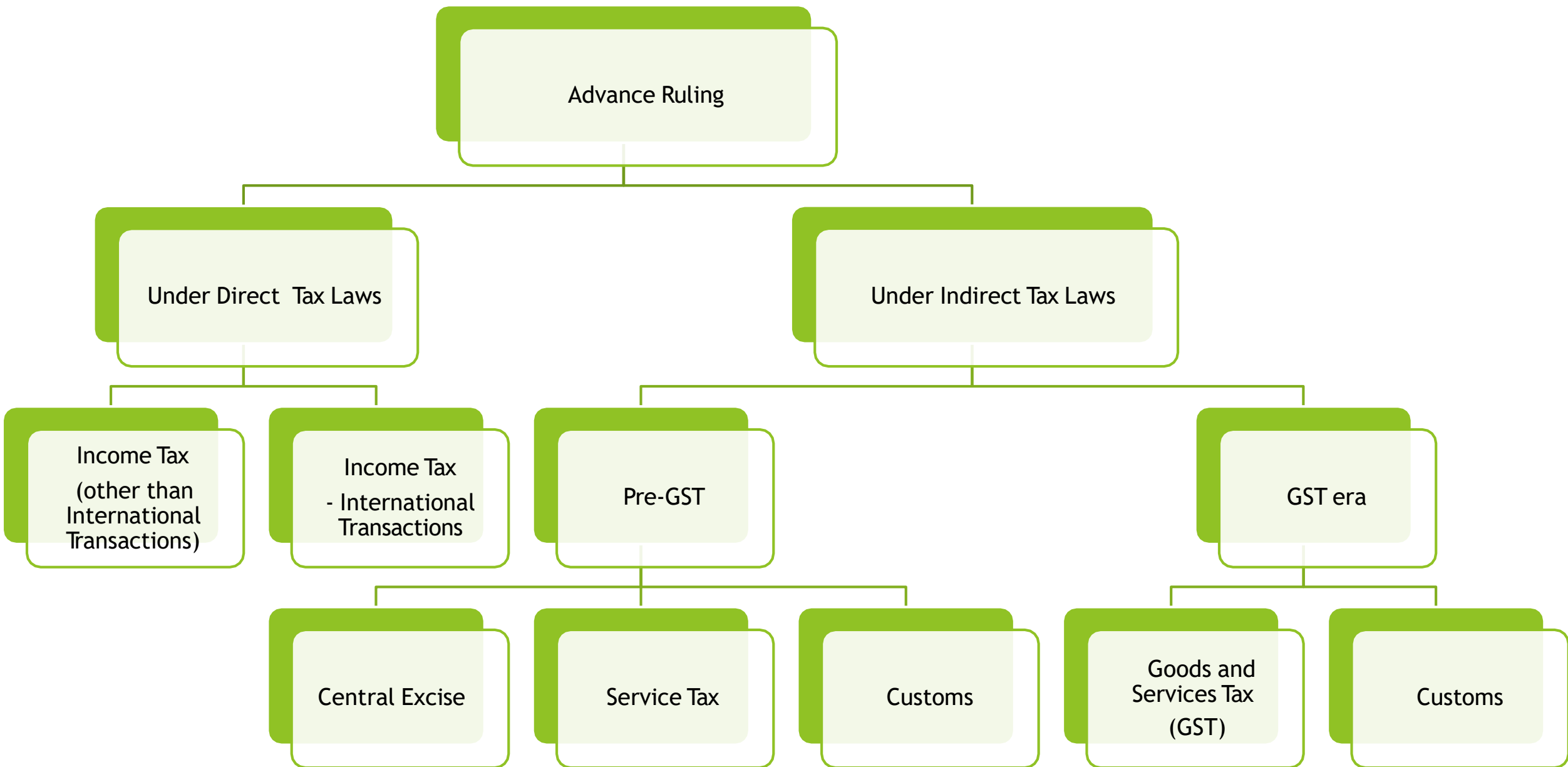
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Advance Ruling

- as per OECD Report (2004)

‘ any advice, information or undertaking provided by a tax authority to a specific tax payer or a group of tax payers concerning their tax situation and on which they are entitled to rely’



Advance Ruling - classification

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graph TD; A[Advance Ruling - classification] --> B[Public Rulings]; A --> C[Private Rulings]; B --> D["- On general or specific tax issues<br>- May be applied without making any application for ruling"]; C --> E["- Statement issued upon request of a (potential) tax payer indicating the tax administration's view of the tax treatment of a particular set of facts and circumstances contemplated, in the process of completion, or completed and not yet assessed"]
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Public Rulings

- On general or specific tax issues
- May be applied without making any application for ruling

Private Rulings

- Statement issued upon request of a (potential) tax payer indicating the tax administration's view of the tax treatment of a particular set of facts and circumstances contemplated, in the process of completion, or completed and not yet assessed

Advance Ruling under GST

Chapter XVII of the CGST / SGST Act, 2017
[Sec. 95 to 106]

read with the Chapter XII [Rules 103 to 107A]
Of the CGST Rules, 2017

Sec 95 - Definitions

- (a) 'advance ruling' means a decision provided by the Authority or the Appellate Authority to an applicant on matter or on questions specified in sub-section (2) of Section 97 or sub-section (1) of section 100, *in relation to the supply of goods or services or both* being undertaken or proposed to be undertaken by the applicant.
- (b) 'Appellate Authority' - Appellate Authority for Advance Ruling u/s 99
- (c) 'applicant' means any person registered or desirous of obtaining registration under this Act;
- (d) 'application' means an application made to the Authority under sub-section (1) of Section 97;
- (e) 'Authority' means the Authority for Advance Ruling referred to in Section 96

Application for Advance ruling - Sec 97

u/s 97(2) Advance Ruling can be sought for the following questions:

- ▶ Classification of goods or services or both;
- ▶ Applicability of a Notification;
- ▶ 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 tax liability to pay tax on any goods or services or both ;
- ▶ Clarification on registration requirements of the applicant ;
- ▶ 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.

Issues related to -Application for Advance ruling - Sec 97

u/s 97(2) Advance Ruling can be sought for the following questions:

- ▶ Classification of goods or services or both :
 - ❖ impact of wrong classification
 - ❖ Pre-GST classification & Post-GST Classification issues
 - ❖ Comparative Analysis

- ▶ Applicability of a Notification :
 - ❖ Impact of each Notification
 - ❖ granting exemption from registration
 - ❖ waiver of taxes beyond a prescribed rate
 - ❖ date of applicability of each notification & its effect on compliance - both under GST & Statutory Compliance (Income Tax, Statutory Audits & Financial Statements)

Issues related to Application for Advance ruling - Sec 97.. Cont.

u/s 97(2) Advance Ruling can be sought for the following questions:

- ▶ Determination of time and value of supply of goods or services or both :
- ❖ Identifying the time of supply - inherent conflicts in recording of transactions in the books of accounts
- ❖ Identifying the supplies on which tax liability arises under reverse charge u/s 9(3) & 9(4)
- ❖ Determining the nature & contents of supply - 'goods' / services/ composite supply/ mixed supply/ works contract ?
- ❖ Determining the proper classification
- ❖ Evaluating the parties involved - related or unrelated
- ❖ Determining whether price would be the sole consideration for supply
- ❖ Ascertaining its value as per Sec.15

Issues related to Application for Advance ruling - Sec 97..cont.

u/s 97(2) Advance Ruling can be sought for the following questions:

- ❖ Admissibility of Input Tax Credit of tax paid or deemed to have been paid
- ❖ Identifying eligibility of ITC based on Registration
- ❖ Identifying eligibility of ITC based on Supply
- ❖ Blocked Credit / Proportionate Credit
- ❖ Impact of Notification on ITC eligibility (say, if outward supplies, which were taxable, is notified to be nil/ exempted, what would be the impact)
- ❖ Correlation with pricing & Anti-Profiteering Issue

- ▶ Determination of tax liability to pay tax on any goods or services or both
- ❖ Ascertaining Tax Liability based on Registration,
- ❖ Time of Supply,
- ❖ Consider the eligibility of ITC to be adjusted against tax liability

Issues related to Application for Advance ruling - Sec 97..cont.

u/s 97(2) Advance Ruling can be sought for the following questions:

- ▶ Clarification on registration requirements of the applicant
- ❖ Registration requirement Sec.22/23/24/25
- ❖ Exemptions from taking registration, which were subsequently notified
- ❖ Issues related to Time period calculation for both Casual Taxable Person / Non-Resident Taxable Person
- ❖ Eligibility of ITC based on Registration
- ❖ Compliance factors based on Registration

Procedure on Receipt of Application- Sec 98

Appellate Authority for Advance ruling - Sec 99

Appeal to Appellate Authority - Sec 100

Orders of Appellate Authority - Sec 100

Rectification of Advance ruling - Sec 102

Applicability of Advance ruling - Sec 103

Ruling void *ab initio* - Sec 104

Power / Procedure of AAR/ AAAR- Sec 105 and 106

- ▶ Deemed to be civil court;
- ▶ Proceedings treated as judicial proceedings;
- ▶ Power to enforce attendance, examining on oath, issuing commission, compelling production of books / records;
- ▶ Power to regulate its own procedure.



CA Rohit Kumar Singh – TaxMarvel Consulting

Professional Qualifications:

Rohit is a **Chartered Accountant (CA)**, **Company Secretary (CS)**, **Cost Accountant (CMA)** and **Gold Medallist Law (LLB) Graduate**. He has also passed **Diploma in Information Systems Audit** (ICAI) and **Associate of Insurance Institute of India** (AIII)

CA Rohit Kumar Singh is founder of **TaxMarvel Consulting Services LLP**, a niche consulting firm which provides GST, Corporate Laws, Income Tax and outsourcing services to Corporates and MSME.

He was head of **GST Business (GST Suvidha Provider) of Karvy Data Management Services Limited (KDMSL)**. KDMSL was ranked as one of the Top 5 GSPs in India. He was credited to have set up the GST Compliance and advisory services for several niche Corporates and Public Sector Undertakings (PSU's).

Earlier, Rohit was Manager at **PriceWaterHouse Coopers Private Limited (PwC)**, Hyderabad, and has headed Commercial Functions (Indirect Taxes, Insurance and Internal Audit) function of Transmission and Distribution Division of **Gammon India Limited**.

Rohit is regular presenter and speaker at various national seminars for GST/Indirect Taxes. He is an empanelled **faculty for GST at ICAI and ICMAI**. He has taken more than 75 national seminars on GST and regularly conducts online GST Sessions for professionals and Senior Management. He represents clients for Advance Rulings and Departmental appeals.

He is a regular blogger and contributes to articles on GST and Indirect taxes in various online forums such as caclubindia.com, taxguru and other online platforms.

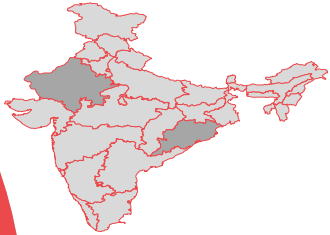
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About us

Who we are, what we do and contact us!



Our Presence



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- ❖ Our Mission is to make available GST solution with utmost care and client satisfaction
- ❖ We adopt client first approach

❖ TaxMarvel is a Consulting firm focussed on providing GST services to small and medium enterprises. We make GST easy for businesses by bringing in technology and subject matter expertise.

❖ TaxMarvel is founded by Chartered Accountants, Company Secretaries and Management Graduates who have extensive industry expertise.

❖ The founders have experience in Big4 consulting firm at a managerial level and has also headed a leading GST Suvidha Provider (GSP).

Thank you

Thanks for your Patience and Time

