



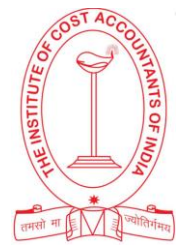
Advance Ruling



Advance Ruling

What is Advance Ruling ??

Advance Ruling is a process of determining the liability of taxation on a transaction proposed to be undertaken and the ruling given is binding on the applicant as well as on the officer who has passed the ruling. Obtaining the Advance Ruling helps the applicant to plan his business as well as foresee his tax liability there by removing the uncertainty of the liability along with penalty and interest in the future.



Advance Ruling



Advance Ruling is adopted in India based on the Revised Kyoto Convention in 1999



All the members of the World Trade Organization to have a mechanism on Advance Ruling as per the provisions of Article 3 of the Agreement on the Trade Facilitation



Advance Ruling is implemented from the year 1999 in Customs Act 1962 and Central Excise Act 1944 through the Finance Act 1999 and in the Service Tax vide the Finance Act 2003



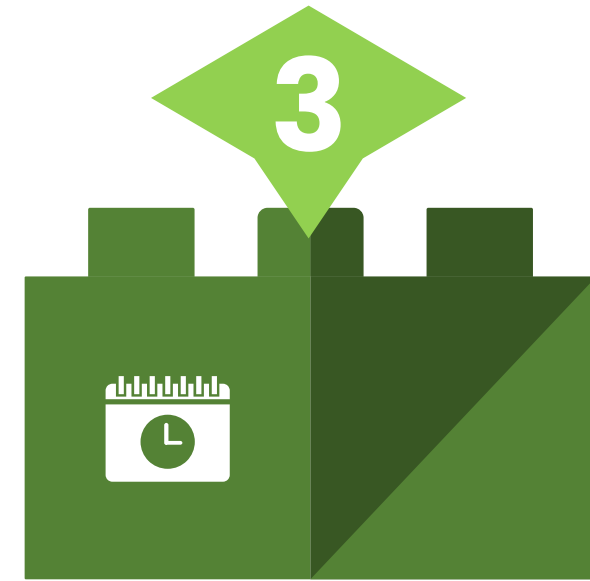
Advance Ruling



**Authority for Advance Ruling
Section 96 to 98**

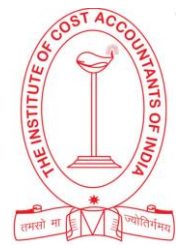


**Appellate Authority for Advance Ruling
Section 99 to 101**



**National Appellate Authority for
Advance Ruling
Section 101A to 101 C**

Other Provisions – Section 102 to 106



Advance Ruling

Objective of Advance Ruling

To reduce litigation



To provide certainty on the tax obligations of the taxpayers on the transactions he is proposing to undertake in GST.

To provide resolution in a swift and economical manner



To provide the process in transparent and time bound manner





Advance Ruling

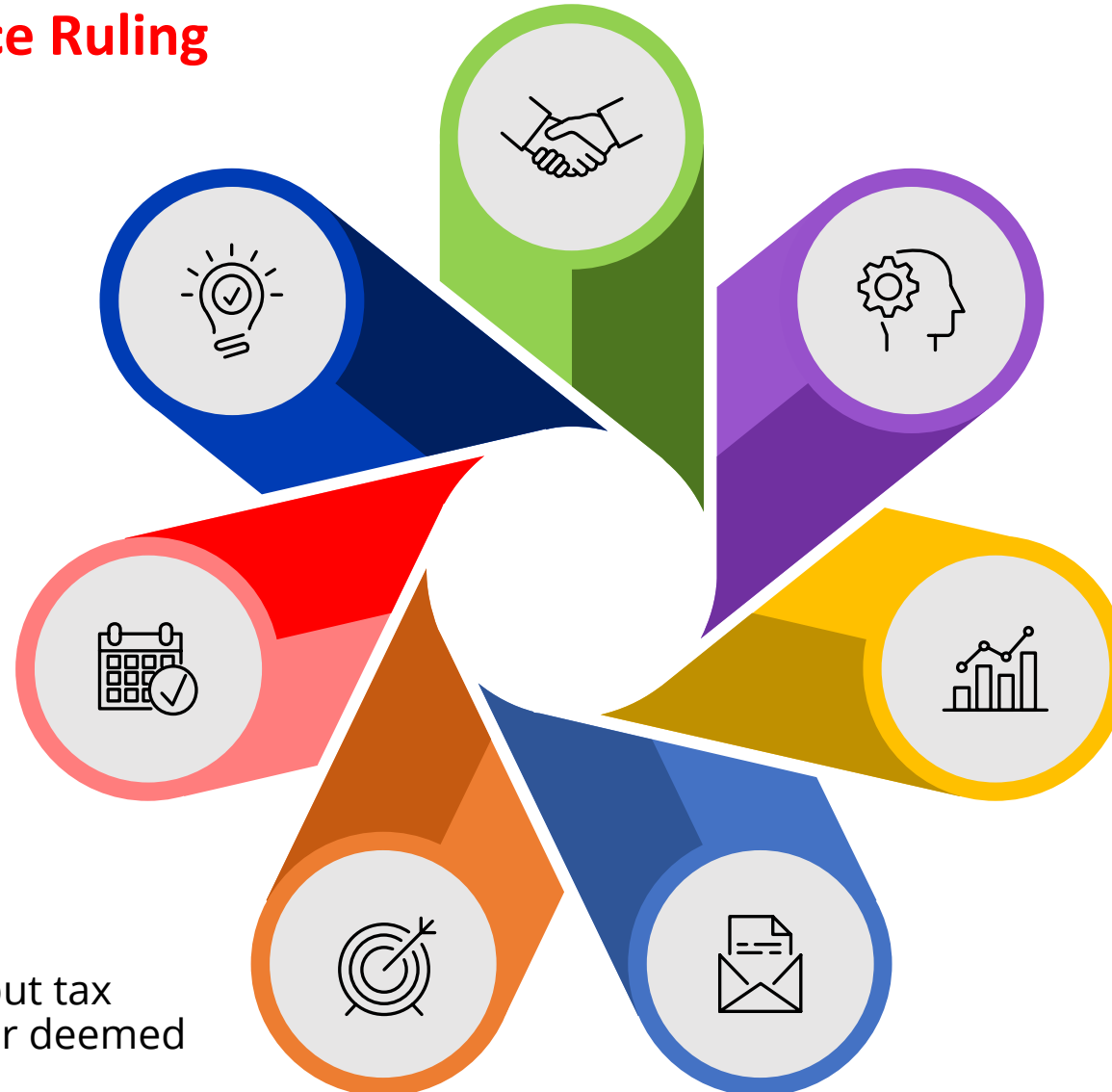
Question Raised Advance Ruling

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;

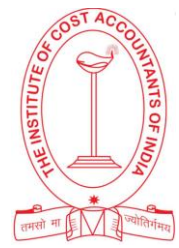
admissibility of input tax credit of tax paid or deemed to have been paid;



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



Advance Ruling

Question Cannot be Raised in Advance Ruling



Place of supply



Related to another jurisdiction



Question raised by the application is pending

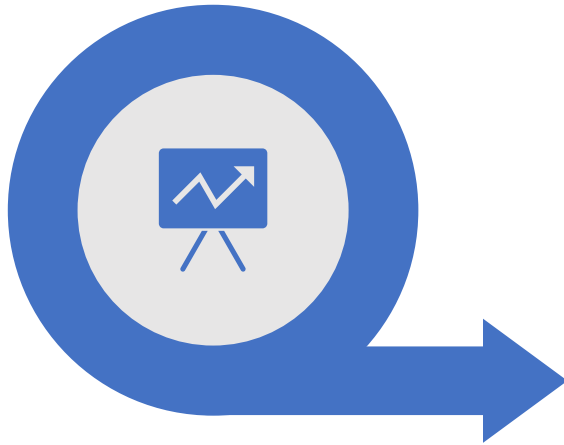


Any proceedings are pending against the applicant for the same matter

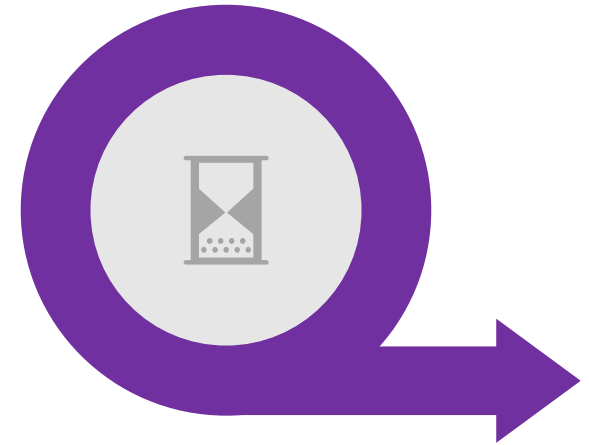


Advance Ruling

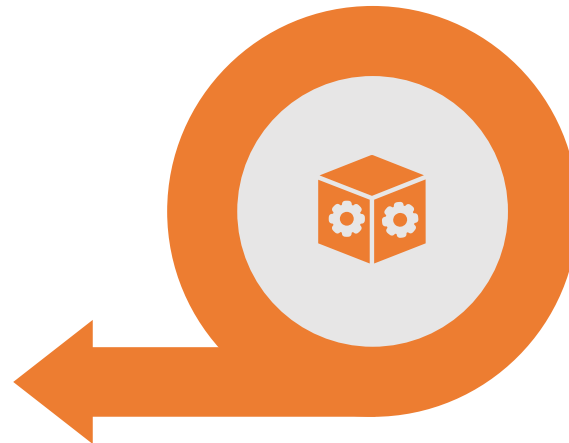
Authorities Advance Ruling



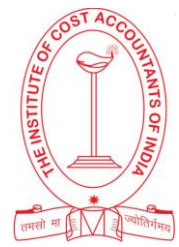
Authority for Advance Ruling



Appellate Authority for Advance Ruling



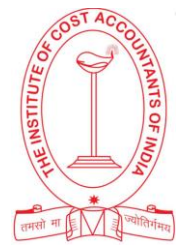
National Appellate Authority for Advance Ruling



Advance Ruling

Who can file Advance Ruling ?





Advance Ruling

Filing Process



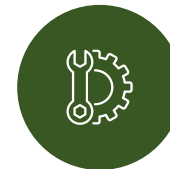
Form GST ARA –01



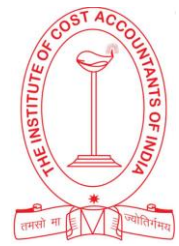
Form GST ARA –02



Rs 5,000 for each tax



Rs 10,000 per each tax



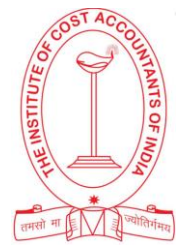
Advance Ruling

Composition of Advance Ruling Bench

Officer not below the rank of the Joint Commissioner will be nominated by the Commissioner of Commercial Taxes for SGST and another member will be nominated from the CGST.

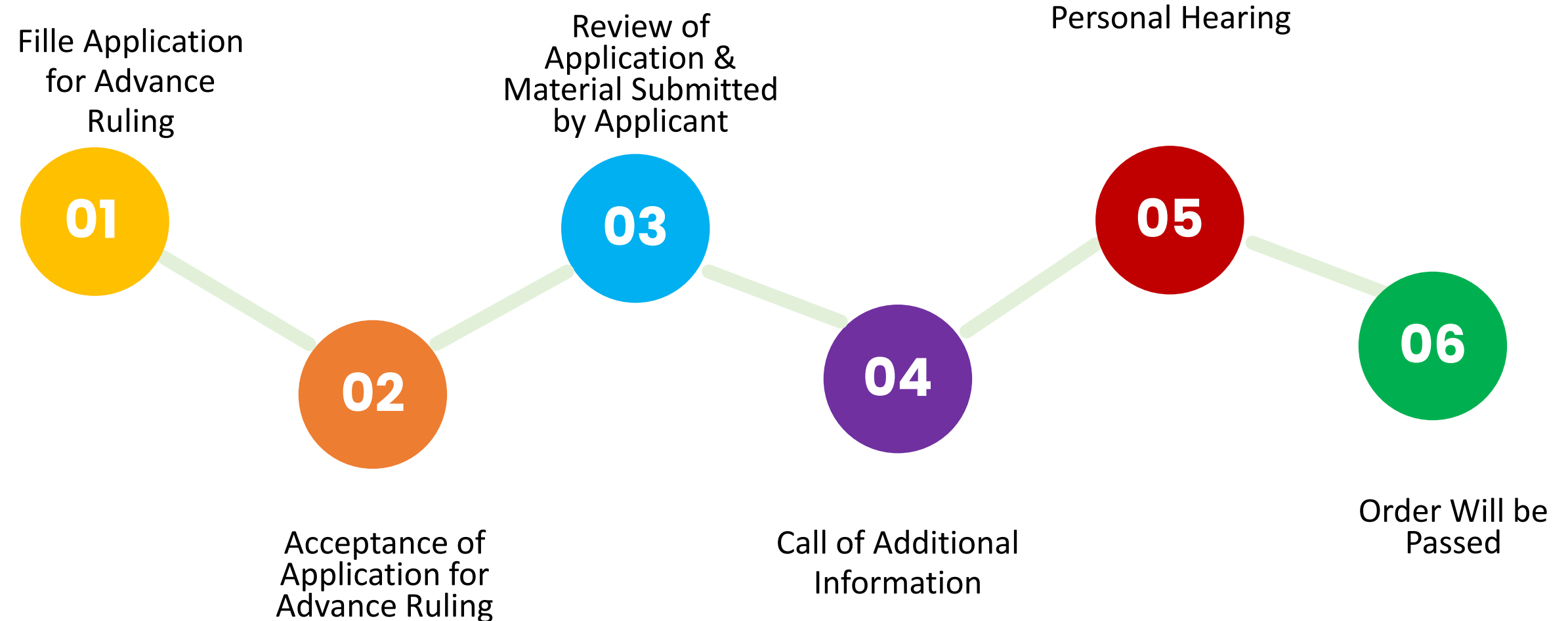
Composition of Appellate Advance Ruling Bench

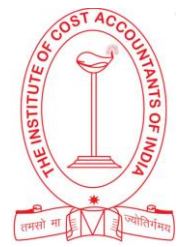
The Chief Commissioner of Central Tax as designated by the Board & The Commissioner of State Tax



Advance Ruling

Process for Advance Ruling

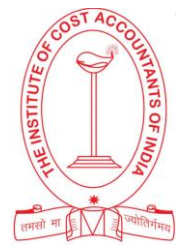




Advance Ruling

Binding of the Ruling





Advance Ruling

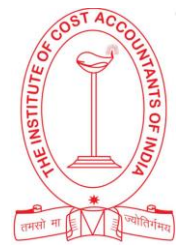
Binding of the Ruling

Time period

- ✓ Advance Ruling is to be pronounced within 90 days from the receipt of the Application for the Advance Ruling.

Delivery of the Advance Ruling -

- ✓ Copy of the advance ruling will be sent to the following parties
 - Applicant
 - Concerned Officer
 - Jurisdictional Officer



Advance Ruling

Appeal Mechanism

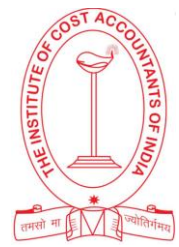
- ✓ If the applicant is not satisfied with the ruling, can appeal to the Appellate Authority for Advance Ruling
- ✓ If there is any difference of opinion between the officers
- ✓ If the ruling is not passed within 90 days from the date of filing of application.



Advance Ruling

Time limit for disposal of AARR

- ✓ As per the provision of Section 101, Sub-section 2, the order shall be passed by the AARR within ninety days from the date of filing of the application by the applicant.
- ✓ The AARR after giving proper time for the concerned parties will either pass the order or amend the order or modify the previously passed ruling by the AAR.
- ✓ In case if there is no agreement on any of the questions raised by the applicant in his appeal between the officials, it is deemed that no advance ruling can be issued with respect to the question raised.

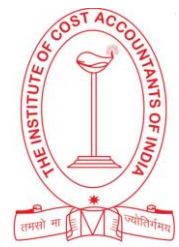


Advance Ruling

Amendment /Rectification of Advance Ruling

Any ruling passed under the provisions of section 101, can be rectified within a period of six months from the date it is passed based on the provisions of section 102 of the CGST Act 2017. The rectification of the order can be done

- ✓ By the Appellate Authority for Advance Ruling
- ✓ By any officer of the department
- ✓ By the applicant

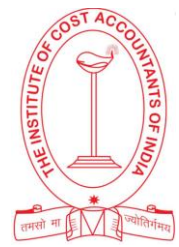


Advance Ruling

Applicability of the Order passed by the AARR

As per the provisions of Section 103 of the CGST Act, the order passed by the AARR will be applicable only in the following conditions

- ✓ To the applicant who has appealed
- ✓ In the state where the order is passed
- ✓ Till the time there is a change in the act or any other related provisions under this act
- ✓ Till the change of the circumstances under which the appeal is filed



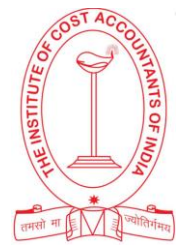
Advance Ruling

Order passed by the AARR will be void in the following cases

As per the provisions of Section 104 of the CGST Act, the order passed will be void where the applicant has obtained it in the following manner

- ✓ By submission of wrong information
- ✓ Suppression of facts
- ✓ Misrepresentation of facts

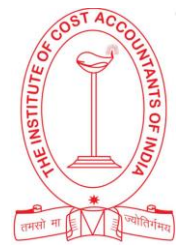
Then it is deemed that the applicant has no filed any application for AARR or AAR and the provisions of the act will be applicable from the date of filing of the appeal to the date it is withdrawn. Before passing the order, an opportunity will be provided to the applicant to prove himself



Advance Ruling

Procedure to be followed by AARR

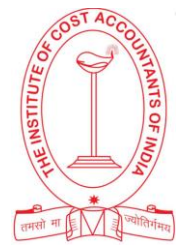
As per the provisions of Section 106 of the CGST Act 2017, the AARR can setup their own procedures for regulation.



Advance Ruling

National Appellate Authority for Advance Ruling

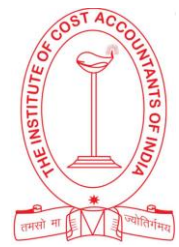
- National Appellate Authority constituted
- It will have 3 members
 - President – Judiciary
 - Technical Member – Central
 - Technical Member – State



Advance Ruling

National Appellate Authority for Advance Ruling

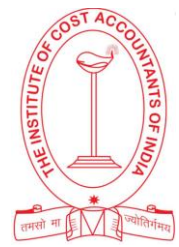
- The senior most member of the NAAAR will become the President in event of death or resignation or for any other reason till the new President is appointed as per the provisions of the Act.
- The President or the Technical Members salary, allowances and other conditions of service will be notified by the Government.
- The President or the Technical Members may resign by addressing to the Government and they shall serve a notice period of three months or till the time a new President or Technical Member is appointed, whichever is earlier.
- The President or the Technical Members may not be removed from office except by an order of the Government or on the grounds of proven misbehaviour or incapacity, after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India. The Government may suspend the President or the Technical Members after the inquiry and in consultation of the Chief Justice of India.
- As per the provisions of the Article 220 of the Constitution of India, the President of the Technical Members after completing their tenure or submission of resignation before the completion of tenure cannot plead before the NAAAR and not eligible to appear before NAAAR.



Advance Ruling

Appeal to National Appellate Authority for Advance Ruling

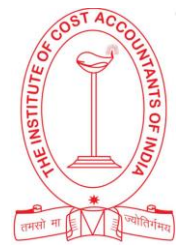
Sr. No	Description	Applicant	Department Officer
1	Who can file the appeal?	Applicant who have filed for a clarification as per provisions of Section 97(2) of CGST Act	Officer of the state who got a conflicting order for the same clarification raised by the applicant
2	In how many days the appeal can filed?	30 days from the date of ruling	30 days from the date of ruling If the officer is authorised by the Commissioner, then the time limit is 90 days.
3	Is there any extension of time limit for filing of appeal?	Yes, 30 days extension can be provided if there is sufficient cause.	Yes, 90 days extension can be provided if there is sufficient cause.
4	From what date is the due date computed?	The latter date of the conflicting order is issued.	The latter date of the conflicting order is issued.



Advance Ruling

Process for Issue of Order

- In case of difference of opinion between the members, then majority of the members view will be considered
- The order has to be passed by NAAAR as far as possible in 90 days
- The order passed by NAAAR will be signed by all the members
- A copy of the order is passed a copy of the order is sent to the following persons
 - Applicant
 - Officer authorized by the Commissioner
 - Chief Commissioner and Commissioner of State Tax
 - Chief Commissioner and Commissioner of Union Territory
 - Appellate Authority or Authority as required



Advance Ruling

Rectification & Applicability of Orders Passed by NAAAR

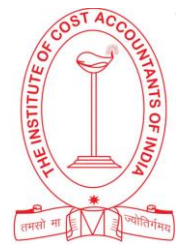
If an order passed by the NAAAR has any error apparent on the face of the record and is noticed by them or by the applicant can be rectified within a period of six months from the date of passing the order.

Applicability of the orders passed by National Appellate Authority for Advance Ruling

The order passed by the National Appellate Authority for Advance Ruling will be binding on the following

- Applicant, who has filed the applicant i.e. the PAN holder
- On the jurisdictional officer

The order passed shall be binding on both the parties unless there is change in the law or facts and circumstances supporting the order have changed.



Advance Ruling

Rectification of Orders Passed by National Appellate Authority for Advance Ruling

- ❑ Orders Passed by National Appellate Authority for Advance Ruling void in certain cases
The orders passed by National Appellate Authority for Advance Ruling will be void and Ab initio if it is found that the applicant or the appellant has obtained the order by misrepresentation of facts, fraud or suppression of facts.
Before making the order void, an opportunity will be proved to the applicant or the appellant.
- ❑ Powers of the National Appellate Authority for Advance Ruling
The powers of the National Appellate Authority for Advance Ruling will be same as the Appellate Authority for Advance Ruling or Authority for Advance Ruling. NAAAR will have the powers of a civil court under the Code of Civil Procedure, 1908.



Anti Profiteering



Anti Profiteering

- Is it a new provision for us?
- The West Bengal Anti-profiteering Act, 1958
 - Any dealer who makes profiteering by way of selling the notified goods at a higher price can be punished with rigorous imprisonment up to two years or fine or both.
 - There is also a provision in this act which prosecutes the buyers also.



Anti Profiteering

Major benefit of GST

- Seamless input tax credit across the supply chain cycle
- All taxes are eligible to for availing input tax credit
- Inter utilization is available at a very broad level
- No reversal of input tax in case of interstate transfers or sale of goods



Anti Profiteering

Necessity for Anti-profiteering

- Price reductions was not seen during the roll out of VAT
- Internationally also similar experience



Anti Profiteering

Anti-profiteering Models



- Competition and Consumer Act 2010



Anti Profiteering

Anti-profiteering Models

➤ Australian Model

- Transparency
- Price escalation is factored in upto 10%
- Dural MRP Pricing – Pre GST and Post GST & display
- Survey of product pricing carried out at regular intervals

➤ Malaysian Model

- Profit percentage was expected to be declared prior to rollout of GST



Anti Profiteering

Anti-profiteering

Sec 171. (1) 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.

(2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

(3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.

Anti-profiteering



Manufacturer to Retailer			Retailer to End Consumer		
Particulars	Pre GST	Post GST	Particulars	Pre GST	Post GST
Raw Materials	10,000.00	10,000.00	Cost before taxes	12,150.00	12,000.00
Tax - Central Tax @ 12.5%	1,250.00		Tax - Central Excise @ 12.5%	1,518.75	
Tax - Value Added Tax @ 14.5%	1,631.25		Tax - Value Added Tax @ 14.5%	1,981.97	
Tax - CGST @ 9%		900.00	Tax - CGST @ 9%		1,080.00
Tax - SGST @ 9%		900.00	Tax - SGST @ 9%		1,080.00
Cost of pruchases	12,881.25	11,800.00	Total cost with taxes	15,650.72	14,160.00
Value Addition	1,000.00	1,000.00	Value Addition	1,000.00	1,000.00
Tax - Service Tax @ 15%	150.00		Tax - Service Tax @ 15%	150.00	
Tax - CGST @ 18%		90.00	Tax - CGST @ 18%		90.00
Tax - SGST @ 18%		90.00	Tax - SGST @ 18%		90.00
Total Cost	14,031.25	12,980.00	Total Cost	16,800.72	15,340.00
Profit	1,000.00	1,000.00	Profit	1,000.00	1,000.00
Selling price before taxes	15,031.25	13,980.00	Selling Price before Taxes	17,800.72	16,340.00
Less : Input tax Credit			Less : Input tax credit		
Tax - Central Tax @ 12.5%	1,250.00		Tax - Central Tax @ 12.5%		
Tax - Value Added Tax @ 14.5%	1,631.25		Tax - Value Added Tax @ 14.5%	1,981.97	
Tax - CGST @ 9%		900.00	Tax - CGST @ 9%		1,080.00
Tax - SGST @ 9%		900.00	Tax - SGST @ 9%		1,080.00
Tax - CGST @ 9% - Value Addition		90.00	Tax - CGST @ 9% - Value Addition		90.00
Tax - SGST @ 9% - Value Addition		90.00	Tax - SGST @ 9% - Value Addition		90.00
Total Input Tax Credit	2,881.25	1,980.00	Total Input Tax Credit	1,981.97	2,340.00
Selling price before taxes	12,150.00	12,000.00	Selling Price	15,818.75	14,000.00
Tax - Central Tax @ 12.5%	1,518.75		Tax - Central Tax @ 12.5%		
Tax - Value Added Tax @ 14.5%	1,981.97		Tax - Value Added Tax @ 14.5%	2,293.72	
Tax - CGST @ 9%		1,080.00	Tax - CGST @ 9%		1,260.00
Tax - SGST @ 9%		1,080.00	Tax - SGST @ 9%		1,260.00
Total Sales price with taxes	15,650.72	14,160.00	Final Price paid by consumer	18,112.47	16,520.00



Anti Profiteering

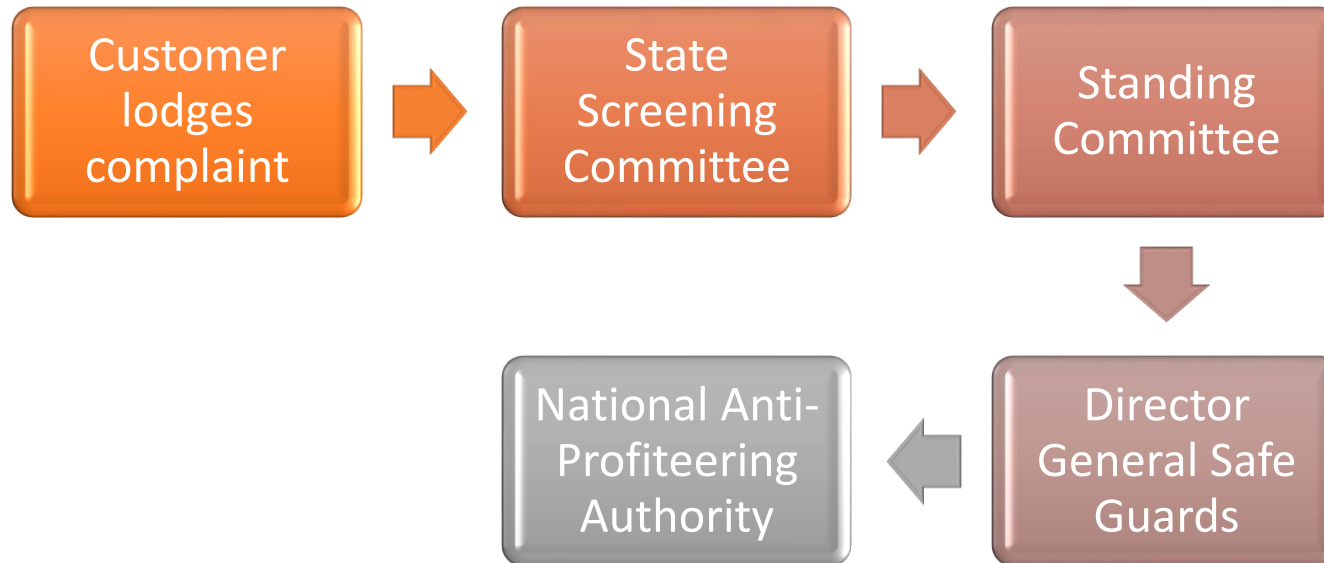
Anti-profiteering : Rules

- Rule 122 to Rule 137
- Commissioners have been notified
- National Anti-profiteering Authority is established



Anti Profiteering

Anti-profiteering : Complaint Process





Anti Profiteering

Anti-profiteering

Screening Committee

- State level
- One officer for the state and another officer for the center is deputed
- Written complaint received has to be verified and cleared within 2 months from the date of receipt of complaint

Standing Committee

- Written complaint received has to be verified and cleared within 2 months from the date of receipt of complaint.
- Forward the same to Director General of Safeguards for investigation



Anti Profiteering

Anti-profiteering

Director General of Safeguards

- Investigate the case referred to it and complete the same within 3 months from receipt of complaint from the standing committee.
- Can be extended by another 3 months
- During the process of investigations it will request information from both the parties and give opportunity to hear the same from them
- If required collect information from third parties also.



Anti Profiteering

Anti-profiteering

Powers of National Anti-profiteering Authority

- Recommend for reduction of the prices
- Ask the registered taxpayer to return the excess amount charged with 18% interest
- Can impose penalty
- Can also cancel the registration of the taxpayer.
- If not feasible to pass on, it can recommend the amount to be transferred to the Consumer Welfare Fund



Anti Profiteering

Anti-profiteering : Documents Required

