



The Institute of Cost Accountants of India

(Statutory body under an Act of Parliament)

Tax Research Department

ADVANCED CERTIFICATE COURSE ON GST

Anti-Profiteering under GST

S.171 of CGST Act, 2017 deals with Anti-Profiteering measure

Meaning:

- ✚ Any reduction in rate of tax on any supply of goods or services
(or)
- ✚ The benefit of input tax credit (ITC)
- ✚ Shall be passed on to the recipient
- ✚ By way of commensurate reduction in prices.

The crux of the anti-profiteering rules is-

- ✓ If there is reduction in rate of tax on the supply of goods or services or
- ✓ Benefit of input tax credit under GST,
- ✓ then a registered person must pass on the benefit by reduction in prices

Scenario No. I: When tax rate is reduced:

Example: w.e.f 01.10.2019 Restaurant services rate reduced from 18% to 5%

Scenario No. II: When supplies are inclusive of taxes:

In case where contract of supplies is inclusive of taxes, this provision will cast responsibility on the supplier to reduce the price due to reduction in rate of taxes.

Example:

- ✓ FMCG items are normally sold on MRP basis or some other fixed prices by retailers.
- ✓ If there is any reduction in rate of tax it has to be passed on to the ultimate recipient.
- ✓ Accordingly, there will be a **need to revise MRP** or other prices fixed for such supplies.

Procedure of Anti-Profiteering lay down in CGST Rules 122 to 137

The Authority:

The Authority shall consist of-

(a) Chairman:

- ✓ who holds or has held a post equivalent in rank to a Secretary to the Government of India

(b) 4 Technical Members:





- ✓ Commissioners of State/Central tax for at least one year

The Authority will determine the method and procedure for determining whether the reduction in rate or the benefit of input tax credit has been passed on by the seller to the buyer by reducing the prices.

Duties of the Authority:

- I. Determine whether the reduction in tax rate or the benefit of input tax credit has been passed on by the seller to the buyer by **reducing the prices**.
- II. Identify the taxpayer who has not passed on the benefit
- III. The Authority will exist for 2 years from the date on which the Chairman enters upon his office unless the Council recommends otherwise.

Orders Passed by the Authority:

-  Reduction in prices
 -  Return to the buyer, the benefit amount not passed on along with 18% interest
 -  Payment of penalty and
 -  Cancellation of registration
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- The Authority will pass an order within 3 months from the date of the receipt of the report from the Director-General of Safeguards.
 - An opportunity of being heard will be given if the interested parties request for it in writing.
 - Period of interest will be calculated from the date of collection of higher amounts till the date of return of such amount.
 - If the eligible person (i.e., the buyer) does not claim the return or the person is unidentifiable then the amount must be deposited to the Fund.

- Interest will be calculated from the date collection of higher amounts till the date it is deposited in the Fund.

Constitution of the Standing Committee and Screening Committees:

- I. The Council will constitute a
 - ✓ Standing Committee (and)
 - ✓ a state-level Screening Committee on Anti-profiteering,
- II. Standing Committee will comprise of officers of the State and Central Government as nominated by it.
- III. The State level Screening Committee will be established in each State. It will consist of-
 - ✓ 1 officer of the State Government, nominated by the Commissioner and
 - ✓ 1 officer of the Central Government nominated by the Chief Commissioner.

Appointment, salary, allowances:

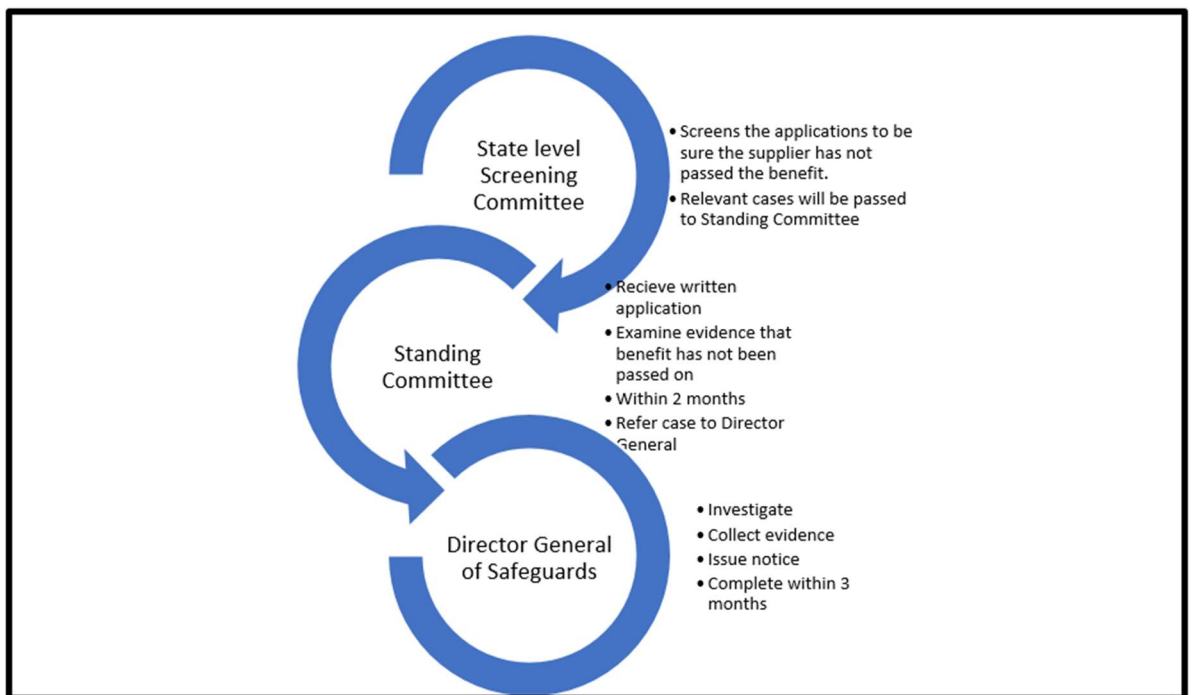
- I. The Chairman and Members of the Authority will be appointed by the Central Government on the recommendations of a selection committee (constituted by the Council)
- II. The Chairman shall be paid a monthly salary of **Rs. 2,25,000** (fixed) and other allowances and benefits.
- III. If a retired officer is selected as a chairman, he will receive a monthly salary of Rs. 2,25,000 minus amount of pension.
- IV. The Technical Member shall be paid a monthly salary of Rs. 2,05,400 (fixed) and along with allowances of a group 'A' officer.

- V. A retired person will have his salary reduced by the pension amount.
- VI. The Chairman and technical members will hold office for two years from the date on which he enters upon his office, or until he becomes 65 years old.
- VII. He will be eligible for reappointment.
- VIII. A person cannot be a chairman if he is 62 years or above.

Secretary to the Authority:

The Additional Director General of Safeguards under the Board shall be the Secretary to the Authority.

Process adopted at Anti-Profiteering:



Confidentiality of information:

- ✓ The parties will provide information on a confidential basis.
- ✓ They may be required to furnish non-confidential summary thereof.
- ✓ If in the opinion of the party providing such information, the information cannot be summarized, then such party will submit to the Director-General of Safeguards a statement of reasons why summarization is not possible.

Cooperation with other agencies or statutory authorities

- ✓ The Director-General of Safeguards may seek the opinion of any other agency or statutory authorities if required.

Power to summon persons to give evidence and produce documents

- ✓ The Director-General of Safeguards or an officer authorised by him will have the power to summon any person necessary either to give evidence or to produce a document or any other thing.
- ✓ He will also have same powers as that of a civil court and every such inquiry will be deemed to be a judicial proceeding.

By

CMA CA Kedarnath

Kedarnath.potnuru@gmail.com

Hyderabad.