

Advance Ruling under GST

Advance Ruling

'Advance ruling' means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant

Areas on which advance ruling can be sought

1. Classification of any goods or services or both
2. Applicability of a notification issued under the provisions of this Act
3. Determination of time and value of supply of goods or services or both
4. Admissibility of input tax credit of tax paid or deemed to have been paid
5. Determination of the liability to pay tax on any goods or services or both
6. Whether applicant is required to be registered
7. 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.

Procedure of filing

An applicant desirous of obtaining an advance ruling may make an application which shall be accompanied by such fee, stating the question on which the advance ruling is sought.

On receipt of an application, the Authority shall cause a copy to be forwarded to the concerned officer and, if necessary, call upon him to furnish the relevant records

If such records are called for by the Authority, such records shall be returned to the concerned officer

The Authority may, after examining the application and the records called for and after hearing the applicant or his authorized representative and the concerned officer or his authorized representative, by order, either admit or reject the application

Application will be rejected if it 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 being heard is provided to the applicant. If an application is rejected, the reasons for such rejection shall be specified in the order

A copy of every order made shall be sent to the applicant and to the concerned officer.

Where an application is admitted the Authority shall, after examining such further material as placed before it by the applicant or obtained by the Authority and after providing an opportunity of being heard to the applicant or his authorized representative as well as to the concerned officer or his authorized representative, pronounce its advance ruling on the question specified in the application.

Where the members of the Authority differ on any question on which the advance ruling is sought, 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

Time limit for pronouncing Advance ruling

The Authority shall pronounce its advance ruling in writing within ninety days from the date of receipt of application.

A copy of the advance ruling pronounced by the Authority duly signed by the members and certified as prescribed shall be sent to the applicant, the concerned officer and the jurisdictional officer after such pronouncement

Procedure of appeal

The concerned officer, the jurisdictional officer or an applicant aggrieved by any advance ruling pronounced may appeal to the Appellate Authority

Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the concerned officer, the jurisdictional officer and the applicant

Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, allow it to be presented within a further period not exceeding thirty days.

Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed.

Order of Appellate Authority

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 referred shall be passed within a period of ninety days from the date of filing of the appeal or a reference

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.

A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in such manner shall be sent to the applicant, the concerned officer, the jurisdictional officer and to the Authority after such pronouncement.

Rectification of advance ruling

The Authority or the Appellate Authority may amend any order passed by it 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 six months from the date of the order

Provided that 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

1. The advance ruling pronounced by the Authority or the Appellate Authority shall be binding only-

- (a) On the applicant who had sought it in respect of any matter referred
- (b) On the concerned officer or the jurisdictional officer in respect of the applicant.

2. The advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

Where the Authority or the Appellate Authority finds that advance ruling pronounced by it 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 and thereupon all the provisions of this Act or the rules made thereunder shall apply to the applicant or the appellant as if such advance ruling had never been made

Provided that no order shall be passed unless an opportunity of being heard has been given to the applicant or the appellant.

Power of Appellate authority

The Authority or the Appellate Authority shall, for the purpose of exercising its powers regarding-

- (a) Discovery and inspection
- (b) Enforcing the attendance of any person and examining him on oath
- (c) Issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908.

The Authority or the Appellate Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding before the Authority or the Appellate Authority shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code.

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