

Handbook on Advance Ruling under GST

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The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi



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Committee/Department : GST & Indirect Taxes Committee

E-mail : gst@icai.in

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Foreword

The introduction of Goods & Service Tax (GST) in India is one of the biggest indirect tax reforms since Independence. The reform that took more than a decade of mutual co-operation, continuous discussion and intense debate between Central and State Governments about implementation methodology, was finally implemented with effect from 1st July 2017, subsuming almost all indirect taxes at the Central and State levels. As the journey of GST Implementation progressed in India, the authorities have been quick to address the various challenges faced by the Industry and public concerns by issuing a series of notifications, clarifications, press releases and FAQs, to resolve a wide range of concerns.

The GST alongwith its challenges has brought in various benefits also like creation of National market by bringing down fiscal barriers amongst the States and has mitigated the cascading effect of taxes by allowing seamless credit of Input Tax across goods & services. The Institute of Chartered Accountants of India (ICAI) through its GST & Indirect Taxes Committee has been playing a vital role in implementation of GST in India by providing suggestions to the Government at each stage of development of GST. Further, the Institute has been playing proactive role and is a catalyst in dissemination of knowledge and awareness through technical publications, newsletters, E-learning and organizing various programmes, Certificate courses, webcasts etc. for all stakeholders.

I am happy to note that the GST & Indirect Taxes Committee of ICAI has now taken an initiative to issue a series of Handbooks covering various procedural aspects of GST and in that series is bringing out **Handbook on Advance Ruling under GST** with an objective to provide a basic understanding of the topic. The handbook explains the concepts / procedures relating to Advance Ruling in an easy to understand lucid language and it aimed at updating the knowledge base of members in a simple and concise manner.

I congratulate CA. Rajendra Kumar P, Chairman, CA. Sushil Kumar Goyal, Vice Chairman and other members of GST & Indirect Taxes Committee for coming out with this Handbook and for taking active steps in providing regular guidance to the members and other stakeholders at large.

I am sure that the members will find this publication very useful in discharging the statutory functions and responsibilities in an efficient and effective manner.

CA. Atul Kumar Gupta
President, ICAI

Date: 05.05.2020

Place: New Delhi

Preface

Goods and Services Tax (GST) was introduced in India from 1st July, 2017. It is one of the major tax reforms since independence in the area of indirect taxation. It was introduced with the objective to mitigate the cascading effect of taxes by allowing seamless credit across goods and services, facilitate free flow of goods and services across India and boosting tax revenue from better compliance and widening the tax base. A remarkable feature of GST implementation is that all the States in India came together with the Centre to form a unique federal body called GST Council, which is entrusted with the objective of recommending policies and procedural matter in the formation and implementation of GST legislation. The spirit of co-operative federalism took deep roots there by ensuring that large federal countries like India implement the GST Law.

In order to facilitate in understanding various compliance under GST, GST & Indirect Taxes Committee of ICAI has taken an initiative to prepare Handbook on procedural aspects like registration, refund, return, Invoice etc. One of the result of such initiative is **Handbook on Advance Ruling under GST**. An attempt has been made to cover all aspects related to Advance Ruling at one place and is intended to give general guidance to all stakeholders and also help them in resolving issue that they may face during the course of their compliance aspect in GST. This Handbook on Advance Ruling under GST is comprehensive containing analysis of the entire provisions under the law including notifications, circulars or orders upto 31st March, 2020 issued by the Government from time to time along with few FAQ's, MCQ's, Flowcharts, Diagrams and Illustrations etc. to make the reading and understanding easier.

We stand by the Government in our role as “Partner in GST Knowledge Dissemination” and have always been supporting Government with our intellectual resources, expertise and efforts to make GST error-free.

We sincerely thank to CA. Atul Kumar Gupta, President and CA. Nihar Niranjana Jambusaria, Vice-President, ICAI for their encouragement to the initiatives of the GST & Indirect Taxes Committee. We express our gratitude for the untiring effort of CA. Navya Malhotra who has authored this handbook and CA. Manish R Gadia, CA. Viral M Khandhar & CA. Shravan B Mali for reviewing the same. We place on record the services and unstinted support provided by the Secretariat of the Committee.

We trust this Handbook will be of practical use to all the members of the Institute and other stakeholders. We also welcome suggestions at gst@icai.in and request to visit our website <http://www.idtc.icai.org> and provide valuable inputs in our journey to make GST truly a good and simple tax.

CA. Rajendra Kumar P

Chairman

GST & Indirect Taxes Committee

CA. Sushil Kumar Goyal

Vice- Chairman

GST & Indirect Taxes Committee

Date: 05.05.2020

Place: New Delhi

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Advance Ruling

1. Introduction

An Advance Ruling helps the applicant in planning his activities, which are liable for payment of GST, well in advance. It also brings certainty in determining the tax liability, as the ruling given by the Authority for Advance Ruling is binding on the applicant as well as Government authorities. Further, it helps in avoiding long drawn and expensive litigation at a later date. Seeking an advance ruling is inexpensive and the procedure is simple and expeditious.

The history of seeking advance rulings dates back to 1993 when Income Tax Act, 1961 was amended and provision to seek advance rulings were incorporated vide sections 245N to 245R. Similar provision of 'advance ruling' was also introduced in the year 1999 for indirect taxes. The provisions were extended to service tax in May, 2003. Advance ruling provisions with respect to indirect taxes are contained in sections 23A to 23H of Central Excise Act, 1944, sections 28E to 28L of Customs Act, 1962 and sections 96A to 96-I of Finance Act, 1994.

2. Role of Advance Ruling

An assessee would seek various aspects of his proposed venture and resulting risks involved. This is to avoid any exposed or unexpected risks which may have serious adverse consequences for his business operations and may even pose a threat to the going concern.

It thus provides certainty and transparency to a taxpayer with respect to an issue which may potentially cause a dispute with the tax administration. A legally constituted body called Authority for Advance Ruling can give a binding ruling to an applicant who is a registered taxable person or desires to be registered.

3. Objectives of Advance Ruling

The broad objectives for setting up a mechanism of seeking Advance Ruling are:

- provide certainty in tax liability in relation to an activity proposed to be undertaken or undertaken by the applicant;
- attract Foreign Direct Investment (FDI) by ensuring certainty in taxation aspects of transactions
- reduce litigation
- pronounce ruling expeditiously in a transparent and inexpensive manner.

Chapter XVII – Advance Ruling [Sections 95 to 106] of the Central Goods and Services Tax Act, 2017 (“the **CGST Act**”) stipulates the provisions relating to advance ruling. State GST laws also prescribe identical provisions in relation to advance ruling.

4. Summary of Sections and Provisions

Sections	Rules
95. Definitions	103. Qualification and appointment of members of the Authority for Advance Ruling
96. Authority for Advance Ruling*	104. Form and manner of application to the Authority for Advance Ruling
97. Application for Advance Ruling	105. Certification of copies of advance rulings pronounced by the Authority
98. Procedure on receipt of application	106. Form and manner of appeal to the Appellate Authority for Advance Ruling
99. Appellate Authority for Advance Ruling	107. Certification of copies of the advance rulings pronounced by the Appellate Authority
100. Appeal to Appellate Authority	107A. Manual filing and processing
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101A. Constitution of National Appellate Authority for Advance Ruling	
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105. Powers of Authority and Appellate Authority	
106. Procedure of Authority and Appellate Authority	

5. Definitions

- **Statutory provisions**

- ❖ **Section 95 of the CGST Act, 2017**

(a) **"advance ruling"** means a decision provided by the Authority or the Appellate Authority ¹²[or the National Appellate Authority] to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100 ²¹[or of section 101C], in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;

¹⁻² Inserted by the Finance (No. 2) Act, 2019, with effect from a date yet to be notified

Comments:

The definition of Advance ruling given under the Act is broad and an improvised version of previous provisions related to advance rulings under Customs and Central Excise Laws.

Under the previous dispensation, advance rulings could be given only for a proposed transaction, whereas under GST, Advance ruling can be obtained for a proposed transaction as well as a transaction already undertaken by the appellant.

The expression 'advance ruling' would mean a ruling pronounced by the Authority for Advance Ruling ("AAR") and the Appellate Authority for Advance Ruling ("AAAR") on the questions raised by the Applicant in respect of matters specified in Section 97(2) or Section 100(1).

Such matters or questions could be in relation to supply of goods and/or supply of services being undertaken or proposed to be undertaken by the applicant. The phrase 'being undertaken' is a present continuous tense which refers to supply which is underway. Thus, a person can apply even in respect of activity he is already doing, though, in fact, that is not the idea of 'Advance Ruling'.

Note: Application should be made by applicant with fees, stating the question on which advance ruling is sought - section 97(1) of CGST Act.

- (b) **"Appellate Authority"** means the Appellate Authority for Advance Ruling referred to in section 99;
- (c) **"applicant"** means any person registered or desirous of obtaining registration under the Act

Comments:

It is not mandatory to have a registration at the time of making an application for advance ruling. However, in case of an unregistered person it is mandatory to quote his PAN unless he is a non-resident. The term 'Person' has been defined in section 2(84) of the Act.

As per Section 2 (84), "person" includes—

- (a) an individual;
- (b) a Hindu Undivided Family;
- (c) a company;
- (d) a firm;
- (e) a Limited Liability Partnership;
- (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;

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- (g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013)²⁴;
- (h) any body corporate incorporated by or under the laws of a country outside India;
- (i) a co-operative society registered under any law relating to co-operative societies;
- (j) a local authority;
- (k) Central Government or a State Government;
- (l) society as defined under the Societies Registration Act, 1860 (21 of 1860);
- (m) trust; and
- (n) every artificial juridical person, not falling within any of the above;

Note:

From the perusal of above provisions, a recipient of service cannot seek Advance Ruling unless it is in relation to availment of input tax credit by such recipient. It has been observed that Advance Ruling Authorities are rejecting applications filled by the registered person as a recipient on questions other than those that are concerned with input tax credit

Ref: AAR, Tamil Nadu vide order dated 29.10.2018, reported as 2018(11) TMI 1350, in case of Naga Ltd.

(d) **“application”** means an application made to the Authority under sub-section (1) of section 97;

Comments:

An applicant can make an application if the following conditions are fulfilled:

- (a) If such applicant is either registered under the GST law or is desirous of obtaining registration, and
- (b) If the matter or question pertains to any issue specified in Section 97(2), and
- (c) Such a transaction is being undertaken or is proposed to be undertaken.

Note: It is important to note that no advance ruling can be sought on transactions already undertaken in the past.

(e) **“Authority”** means the Authority for Advance Ruling, referred to in section 96;

Comments:

- (i) The word “authority” refers to the AAR constituted under section 96 of CGST Act, 2017 in each State or Union territory.

- (ii) The expression “*Appellate Authority*” refers to the Appellate Authority for Advance Ruling constituted under section 99 in each State or Union territory. Therefore, every state/Union Territory will have its own Appellate Authority for Advance Ruling.
- (iii) The expression “*National Appellate Authority*” means the National Appellate Authority for Advance Ruling referred to in section 101A.

6. Scope of Advance Ruling or Questions for which advance ruling can be sought

- **Statutory provisions**
- ❖ **Section 97. Application for advance ruling**

- (1) *An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.*
- (2) *The question on which the advance ruling is sought under this Act shall be in respect of,*
 - (a) *classification of any goods or services or both;*
 - (b) *applicability of a notification issued under provisions of this Act;*
 - (c) *determination of time and value of supply of goods or services or both;*
 - (d) *admissibility of input tax credit of tax paid or deemed to have been paid;*
 - (e) *determination of the liability to pay tax on any goods or services or both;*
 - (f) *whether applicant is required to be registered;*
 - (g) *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.*

Comments:

The question on which the advance ruling is sought shall be in respect of any of following [section 97(2) of CGST Act]:

- (a) classification of any goods or services or both;**

The classification of Goods or Service is the fundamental premise for levying of GST. The other statutory provisions are triggered on the basis of the prime element as goods or service being decided at first place. Further, the correct HSN or SAC needs to be determined.

- (b) applicability of a notification issued under the provisions of CGST Act;**

Notifications cover the taxability, rate of taxes, exemptions or even procedures to be followed in GST. For instance, the refund procedures and eligibilities. The applicant can seek an

advance ruling regarding the applicability of exemption and conditions related to that exemption whether substantial or procedural. and aspects relating to its interpretation.

(c) determination of time and value of supply of goods or services or both;

After deciding the correct nature of supply, the absolute question of valuation and the correct implementation of the valuation rules are of prime importance. The liability to pay tax is further decided by the time of supply provisions. These are of significance, since, the timely deposit of taxes and payments safeguards proper compliance under GST.

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

The proper chain of credits is laid under the Input Tax Credit provisions under GST. The admissibility of ITC can be a game changer for any business.

(e) determination of the liability to pay tax on any goods or services or both;

The ascertainment of liability can be a factor for deciding the working capital of the business. Further, a question regarding the fact that whether liability is in the nature of reverse charge or normal/forward charge can be sought in ruling.

(f) whether applicant is required to be registered;

To avoid any legal consequences in future, or to avoid suo moto registration and assessment of non-registered persons, the applicant may seek ruling to ascertain the registration requirement.

(g) 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.

It is to check the applicability of provisions and whether the activity carried by the applicants tantamount to supply under the meaning of GST Act.

Note: Section 100(1) of the CGST Act, 2017 provides that concerned officer, the jurisdictional officer or an applicant aggrieved by any advance ruling pronounced by the AAR, may appeal to the Appellate Authority. Thus, it can be seen that a decision of the Appellate authority is also treated as an advance ruling.

❖ **Extract of the CGST Rules, 2017**

104. Form and manner of application to the Authority for Advance Ruling.

(1) An application for obtaining an advance ruling under sub-section (1) of section 97 shall be made on the common portal in **FORM GST ARA-01** and shall be accompanied by a **fee of five thousand rupees**, to be deposited in the manner specified in section 49.

(2) The application referred to in sub-rule (1), the verification contained therein and all the relevant documents accompanying such application shall be **signed in the manner specified in rule 26**.

106. Form and manner of appeal to the Appellate Authority for Advance Ruling.

(1) An appeal against the advance ruling issued under sub-section (6) of section 98 shall be made by an applicant on the common portal in **FORM GST ARA-02** and shall be accompanied by a fee of ten thousand rupees to be deposited in the manner specified in section 49.

(2) An appeal against the advance ruling issued under sub-section (6) of section 98 shall be made by the concerned officer or the jurisdictional officer referred to in section 100 on the common portal in **FORM GST ARA-03** and no fee shall be payable by the said officer for filing the appeal.

(3) The appeal referred to in sub-rule (1) or sub-rule (2), the verification contained therein and all the relevant documents accompanying such appeal shall be signed,-

- (a) in the case of the concerned officer or jurisdictional officer, by an officer authorised in writing by such officer; and
- (b) in the case of an applicant, in the manner specified in rule 26.

107A. Manual filing and processing.

Notwithstanding anything contained in this Chapter, in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to these rules.

Ref: Circular No. 25/25/2017-GST dated 21.12.2017 regarding Manual filing of applications for Advance Ruling and appeals before Appellate Authority for Advance Ruling.

Comments:

- (i) An applicant who seeks an advance ruling shall make an application online in the prescribed **FORM GST ARA-01** together with a fee of ₹ 5000/-stating the question on which such a ruling is sought. Similarly, an applicant who seeks to file an appeal before the AAAR shall apply online in **FORM GST ARA-02** together with a fee of ₹ 10000/-.
- (ii) The said fee of ₹ 5000/- or ₹ 10000/-as the case may be, shall be paid by the applicant under the CGST Act and the respective State GST Act utilising the amount in the Electronic Cash Ledger in the manner specified in section 49.
- (iii) The application and all the relevant documents accompanying such application should be digitally signed through Digital Signature Certificate (DSC) or e-signature as specified in Rule 26.

- (iv) It is advised that the questions or issues in respect of which an advance ruling is sought be simple, direct and specific. The facts brought out in the application should be germane and pertinent to the issue at hand. Facts which do not necessarily concern the issue at hand should not require mention in the application as this might attract unnecessary attention to the business carried out by the assessee. Although an AAR cannot extend its scope by ruling on matters or issues not sought, it is still advisable that an applicant exercise restraint and caution while placing facts in the application.
- (v) As regards an appeal against an advance ruling by the AAR filed by the concerned officer or the jurisdictional officer, the application shall be filed online in **Form GST ARA-03** without any payment of fee.
- (vi) It is apparent from this section that the Authority will not admit questions or matters which fall outside the purview of the issues stated.
- (vii) Manual filing of an Application for Advance Ruling: Although Rules 104 and 106 specify filing of an application on the common portal, Rule 107A was introduced to allow manual filing of the same. Accordingly, *Circular No. 25/25/2017-GST dated 21.12.2017* was issued detailing the procedures for manual filing of an application for advance ruling till such time the advance ruling module is made available on the common portal. An application for advance ruling, or appeal thereon to be filed by the applicant, the concerned officer or the jurisdictional officer shall be filed in quadruplicate. It is to be noted that though the application shall be filed manually, the fee is required to be deposited online in terms of section 49 of the CGST Act. The Applicant is required to download and take a print of the challan and file the application duly signed by the authorised person with the AAR. One may refer to the above circular for detailed procedures to be followed for manual filing of an application for advance ruling or an appeal to the AAAR.

Note: The Circular allowing manual filing of applications for advance ruling shall be effective in a State only until such time an online module is made available on the common portal.

7. Questions outside the scope of Advance Rulings

❖ *AAR cannot take issue relating to place of supply?*

It is interesting to observe that matters relating to determination of place of supply are beyond the scope of matters to be decided by the Authority. **This emanates from the fact that the ruling given by the AAR and AAAR will be applicable only within the jurisdiction of the concerned state or union territory and not beyond. Thus, it may be said that AAR may not be able to take matters related to place of supply.**

❖ *AAR cannot determine issue of transitional input tax credit?*

Section 97(1) (d) allows a registered person to seek an advance ruling in relation to

admissibility of input tax credit. Input tax credit as defined under section 2(63) of CGST Act denotes credit of input tax and input tax as defined under section 2(62) of CGST Act denotes CGST, SGST, IGST and UTGST. It does not include credit carried forward as transitional input tax credit. Hence, a question in respect of transitional credit **is beyond jurisdiction of AAR**.

❖ ***No Advance Ruling in case of past transactions-***

Advance Ruling cannot be given in case of past transactions, as advance ruling can be only in relation to the supply of goods or services or both being undertaken or proposed to be undertaken.

❖ ***No advance ruling if matter already pending or decided in any proceedings -***

Application for advance ruling may not be admitted if matter is already pending or decided in any proceedings in the case of applicant - proviso to section 98(2) of CGST

If a writ petition has been filed on the same issue, application for advance ruling may not be admissible.

If issue was pending investigation before department, as an Anti-Evasion investigation was already under way against applicant, application for Advance Ruling by applicant, on the same issue, would not be maintainable as per proviso to section 98(2).

Following matters may require clarity as to admissibility or inadmissibility.

- *Advance ruling if applicant is not supplying the goods or services for which advance ruling is sought?*
- *Advance ruling on documentation for transportation of goods?*
- *Query regarding GSTR-3B or any return under GST?*
- *Advance ruling to determine issue relating to Foreign Trade Policy?*
- *Advance Ruling on liability to deduct TDS?*
- *Advance ruling by Recipient of goods or services?*
- *Advance ruling to decide whether transaction is export?*
- *Others*

Also, no advance ruling can be sought on matters such as those relating to:

- Transitional credits specified in Chapter XX of the CGST Act, 2017
- E-way bill requirements
- Anti-Profiteering issues
- Restraining officers from initiating an action/proceeding under the Act.

8. Authority for Advance Ruling

- **Statutory provisions**

❖ **Section 96: Authority for advance ruling**

Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

❖ **Extract of the CGST Rules, 2017**

103. Qualification and appointment of members of the Authority for Advance Ruling.

The Government shall appoint officers not below the rank of Joint Commissioner as members of the Authority for Advance Ruling. {Substituted w.e.f. 01.07.2017 vide Notf no. 22/2017 – CT dt. 17.08.2017}

- **Comments**

1. The AAR shall be located in each State/Union Territory constituted under the provisions of State Goods and Services Tax Act and Union Territory Goods and Services tax Act. The Government shall appoint officers not below the rank of Joint Commissioner as member of the AAR.
2. As per Section 96 of the State GST Acts, the State Government may, on the recommendation of the Council, notify any AAR located in another State to act as the Authority for Advance Ruling for the State.
3. Further, the AAR shall consist of one member from amongst the officers of Central tax and one member from amongst the officers of State tax, to be appointed by the Central Government and the State Government respectively. The qualifications, method of appointment of the members and the terms and conditions of their services shall lay down in the SGST Rules. It is noteworthy that the Advance ruling Authorities constituted under Income tax act include various members related to the judiciary however, under GST, the Authorities of Advance rulings are the members related to administration department.
4. As the AAR and the Appellate Authority have been instituted under the respective State / Union Territory Act and not the Central Act, the ruling given by the AAR and AAAR will be applicable only within the jurisdiction of the concerned state or union territory. Thus, an advance ruling in case of an applicant in Kerala cannot be made applicable to another division of the same company located in Karnataka. This has the potential to create an absurd scenario where the jurisdictional officer of the division located in Karnataka may choose not to abide by the Advance Ruling issued by the Kerala AAR to another division of the same company in Kerala. Similarly, a situation may also arise wherein the Authority for Advance

Ruling in different States may conclude differently in respect of the same issue. Since the advance ruling is binding on the concerned officer or the jurisdictional officer only in respect of the applicant, the above-mentioned officers may apply the law in a different manner with respect to another registered person under his jurisdiction. As such a centralised appellate authority on national level is proposed to be constructed in order to resolve the conflict, if any, created by State level advance ruling authorities. However, the same is yet to be constructed.

5. Suppose, a company is having multiple registrations across India, it has applied for advance ruling in two different states on the same issue. How will the company account for the issue, if the decisions of the two authorities are contradictory to each other?

6. Thus, it is important for an applicant to weigh his options before seeking an Advance Ruling, however attractive a proposition it may seem to be. Given that Section 103 states that an advance ruling shall have a binding effect on the applicant and the officers in respect of the applicant, the applicant should analyse the impact of an advance ruling not going in his favour.

Note:

- **Address of AAR and AAAR** - Addresses of AAR and AAAR are available on www.gstcouncil.gov.in
- **Orders passed by AAR and AAAR on website** - The orders passed by AAR and AAAR are available on www.gstcouncil.gov.in
- **Difference of opinion among members of AAR** - If there is difference of opinion among members of AAR, they refer the point/s to AAAR for hearing. If there is difference of opinion at that level also, then it shall be deemed that no advance ruling can be given - FAQ on GST Chapter 17 Q No. 19 issued by CBIC on 15-12-2018

9. Procedure for filing to Advance Ruling Authority

- **Statutory Provision**

❖ **Section 98. Procedure on receipt of application**

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

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said concerned officers.

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

Provided that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:

Provided further that no application shall be rejected under this sub-section unless an opportunity of hearing has been given to the applicant:

Provided also that where the application is rejected, the reasons for such rejection shall be specified in the order.

(3) *A copy of every order made under sub-section (2) shall be sent to the applicant and to the concerned officer.*

(4) *Where an application is admitted under sub-section (2), the Authority shall, after examining such further material as may be 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 authorised representative, pronounce its advance ruling on the question specified in the application.*

(5) *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.*

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

(7) *A copy of the advance ruling pronounced by the Authority duly signed by the members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer and the jurisdictional officer after such pronouncement.*

❖ **Extract of the CGST Rules, 2017**

105. Certification of copies of advance rulings pronounced by the Authority.

A copy of the advance ruling shall be certified to be a true copy of its original by any member of the Authority for Advance Ruling.

• **Comments**

❖ **Receipt of Application**

- (i) On receipt of an application in **FORM GST ARA-01**, the AAR shall forward a copy to the concerned officer and, if necessary, direct him to furnish the relevant records.
- (ii) Such records should be returned as soon as possible to the concerned officer. No specific time limit has been set out for submission of the said records to the AAR

The AAR may either accept or reject the application after considering the application, examining the records, hearing the applicant and the concerned officer or their authorised representatives. However, no application shall be rejected without giving the applicant an opportunity of being heard.

- (iii) Any application for advance ruling involving questions already pending or decided in any proceedings in the case of that applicant under any of the provisions of this Act shall not be admitted. Thus, it is important to note that issues pending or decided in a

proceeding in respect of another person will not disentitle the applicant from seeking an advance ruling on the same issue.

- (iv) Where the application is finally rejected, the reasons for such rejection shall be stated in the order.
- (v) A copy of every order admitting or rejecting made shall be sent to the applicant and to the concerned officer.
- (vi) A copy of the advance ruling pronounced by the Authority duly signed by the members and certified, shall be sent to the applicant, the concerned officer and the jurisdictional officer after such pronouncement.

❖ **Pronouncement of advance ruling**

Where the application is admitted, the AAR shall proceed as follows:

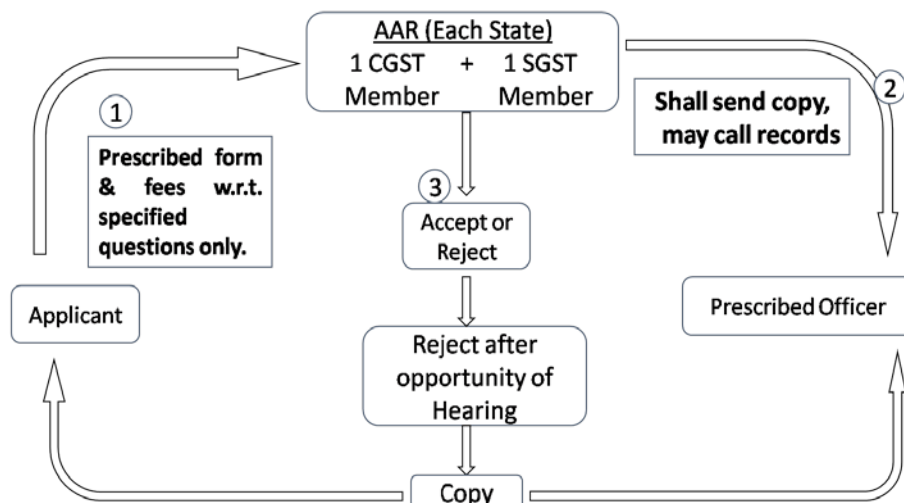
- Examine such further material as may be placed before it by the applicant or obtained by the AAR.
- Provide opportunity of being heard to the applicant or his authorized representatives and concerned officer or the authorized representative.
- Pronounce its advance ruling in writing on the question(s) specified in the application within 90 days from the date of receipt of application.

❖ **Reference to Appellate Authority**

- (i) Where the members of the AAR differ on any question on which the advance ruling is sought, they shall state the point(s) of difference and refer it to the AAAR for final decision. The time period within which a reference can be made to the AAAR is not prescribed in the Act.
- (ii) The Appellate Authority to whom a reference is made is required to pronounce the ruling within ninety days of such reference.

❖ **Submission of advance ruling pronounced.**

A copy of the advance ruling pronounced by the concerned AAR / Appellate Authority, duly signed by the Members and certified, shall be sent to the applicant and to the concerned officer after pronouncement. A copy of the advance ruling shall be certified to be a true copy of its original by any member of the AAR.



* Not to admit if already decided or pending under any provisions of the Act.

❖ **Portal related Operations:**

1. In order to make the payment of fee for filing an application for Advance Ruling on the common portal, the applicant has to fill his details using “Generate User ID for Advance Ruling” under “User Services”. After entering the email ID and mobile number, a One-Time Password (OTP) shall be sent to the email id. Upon submission of OTP, Systems shall generate a temporary ID and send it to the declared email and mobile number of the applicant.
2. On the basis of this ID, the applicant can make the payment of the fee of ₹ 5,000/- each under the CGST and the respective SGST Act. The applicant is then required to download and take a print of the challan and file the application with the AAR.
3. The application, the verification contained therein and all the relevant documents accompanying such application shall be signed-
 - a) in the case of an individual, by the individual himself or where he is absent from India, by some other person duly authorised by him in this behalf, and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;
 - b) in the case of a Hindu Undivided Family, by a Karta and where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family or by the authorised signatory of such Karta;
 - c) in the case of a company, by the Chief Executive Officer or the authorized signatory thereof;
 - d) in the case of a Government or any Governmental agency or local authority, by an officer authorised in this behalf;

- e) in the case of a firm, by any partner thereof, not being a minor or the authorized signatory thereof;
- f) in the case of any other association, by any member of the association or persons or the authorised signatory thereof;
- g) in the case of a trust, by the trustee or any trustee or the authorised signatory thereof; or
- h) in the case of any other person, by some person competent to act on his behalf, or by a person authorised in accordance with the provisions of section 48 of the CGST Act.

Note:

1. If only Rs 5,000 are paid, application for advance ruling has to be rejected - *Kreations Builders and Developers, In re (2019) 72 GST 715 = 103 taxmann.com 367 (AAR-Maharashtra)* [an opportunity, in fact, was given to rectify the defect, but the appellant failed to do so.].
2. **Withdrawal of application for advance ruling** - There is no provision for withdrawal of application submitted for advance ruling, but there is no prohibition either.

10. Appellate Authority for Advance Ruling

- **Statutory provisions**

❖ **Section 99: Appellate Authority for advance ruling**

Subject to the provisions of this Chapter, for the purposes of this Act, the Appellate Authority for Advance Ruling constituted under the provisions of a State Goods and Services Tax Act or a Union Territory Goods and Services Tax Act shall be deemed to be the Appellate Authority in respect of that State or Union territory.

- **Comments**

1. The appellate authority constituted in each State/UT shall be deemed to be the Appellate Authority in respect of that State/UT which will entertain the appeals against any advance ruling that is passed by the AAR of that State/UT. However, similar to Section 96 in respect of AAR, a State Government may, on the recommendations of the Council, notify any Appellate Authority located in another State/UT to act as the Appellate Authority for the State.
2. The AAAR shall consist of members representing the Central GST and the State GST. The Chief Commissioner of central tax as designated by the Board and the Commissioner of State tax shall constitute the AAAR.

3. This is a new provision. In earlier provisions in respect of excise, customs and service tax, there was no provision for appeal.

Note: Appellate authority cannot decide an issue which was not before original authority- Appellate authority cannot decide an issue which was not before original authority of advance ruling - Divisional Forest Officer, In re (2018) 70 GST 395 = 97 taxmann.com 565 (AAAR- Uttarakhand).

11. Procedure for filing Appeal to Appellate Authority

- **Statutory Provision**

❖ **Section 100: Appeal to Appellate Authority**

(1) *The concerned officer, the jurisdictional officer or an applicant aggrieved by any advance ruling pronounced under sub-section (4) of section 98, may appeal to the Appellate Authority.*

(2) *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 or 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.

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

❖ **Extract of the CGST Rules, 2017**

106. Form and manner of appeal to the Appellate Authority for Advance Ruling.

(4) *An appeal against the advance ruling issued under sub-section (6) of section 98 shall be made by an applicant on the common portal in **FORM GST ARA-02** and shall be accompanied by a fee of ten thousand rupees to be deposited in the manner specified in section 49.*

(5) *An appeal against the advance ruling issued under sub-section (6) of section 98 shall be made by the concerned officer or the jurisdictional officer referred to in section 100 on the common portal in **FORM GST ARA-03** and no fee shall be payable by the said officer for filing the appeal.*

(6) *The appeal referred to in sub-rule (1) or sub-rule (2), the verification contained therein and all the relevant documents accompanying such appeal shall be signed, -*

(7) *in the case of the concerned officer or jurisdictional officer, by an officer authorised in writing by such officer; and*

(8) *in the case of an applicant, in the manner specified in rule 26.*

- **Comments**

1. An appeal can be filed by the concerned officer or jurisdictional officer or the applicant, who is aggrieved by the ruling.
2. The appeal should be filed within 30 days from the date of receipt of the ruling. This period can be further extended for another 30 days, if there is sufficient cause for not filing the appeal within the first 30 days.
3. The appeal shall be filed by the aggrieved applicant in **FORM GST ARA-02** along with a fee of ₹ 10,000/- to be paid under the CGST Act and the respective SGST Act. The payment has to be made by debiting the electronic cash ledger only.
4. An appeal preferred by the concerned officer or the Jurisdictional officer shall be filed in the prescribed **FORM GST ARA-03** without any fee and shall be signed by an officer authorized in writing by such officer.
5. The procedure for manual filing has been detailed in Circular No. 25/25/2017-GST dated 21.12.2017. The same has been discussed in Para 97.2
6. This time can be further extended by another 30 days if sufficient cause is shown for not filing the appeal within the first 30 days.

12. Orders of Appellate Authority

- **Statutory Provision**

❖ **Section 101: Orders of Appellate Authority**

- (1) *The Appellate Authority may, after giving the parties to the appeal an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against or referred to.*
- (2) *The order referred to in sub-section (1) shall be passed within a period of ninety days from the date of filing of the appeal under section 100 or a reference under sub- section (5) of section 98.*
- (3) *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.*
- (4) *A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer/the jurisdictional officer and to the Authority after such pronouncement.*

❖ **Extract of the CGST Rules, 2017**

107. Certification of copies of the advance rulings pronounced by the Appellate Authority.

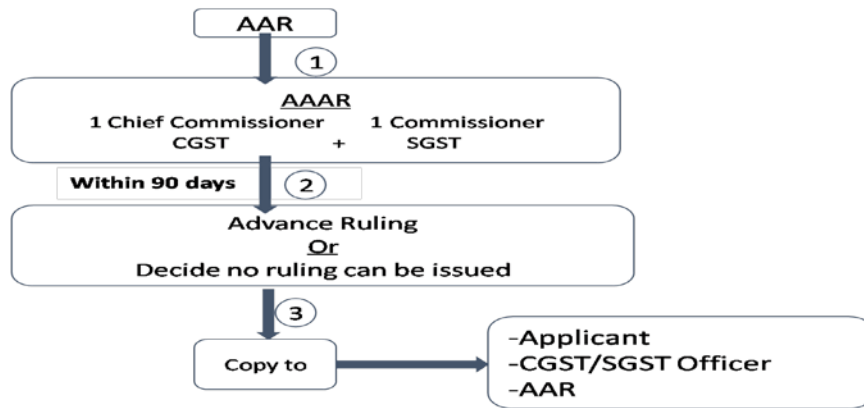
A copy of the advance ruling pronounced by the Appellate Authority for Advance Ruling and duly signed by the Members shall be sent to-

- (a) the applicant and the appellant;*
- (b) the concerned officer of central tax and State or Union territory tax;*
- (c) the jurisdictional officer of central tax and State or Union territory tax; and*
- (d) the Authority,*

in accordance with the provisions of sub-section (4) of section 101 of the Act.

• **Comments**

1. The appellate authority must afford a reasonable opportunity of being heard to the parties before passing the order in which it may choose to either:
 - (a) Confirm the Advance Ruling passed by the AAR;
 - (b) Modify the Advance Ruling appealed against; or
 - (c) Pass such orders as it may deem fit
2. The order should be passed within 90 days from the date of filing appeal or date of reference by the AAR.
3. If there is a difference of opinion between members of the AAAR on the question covered under the appeal, then it would be considered that no advance ruling can be issued in respect of that matter on which no consensus was reached by the members. Thus, all matters or questions for which an advance ruling has been sought will not be deemed to be matters against which no advance ruling can be passed if the Appellate Authority has reached a consensus on other matters or questions raised therein.



4. GST has not provided any mechanism to make any further appeal against the decision of Appellate Authority for advance rulings. The law has to be respected and hence only in case there are grounds for Judicial review, can the High Court intervene.

Ref: Writ Petition No. 5 of 2019, JSW Energy Limited vs. Union of India And Ors., dated 07.06.2019.

- **Pending Concerns**

- Is the AAAR empowered to only decide on such matters contained in the Advance Ruling against which the appellant is aggrieved or can the appellate authority review the entire impugned Advance Ruling against which an appeal has been preferred?
- Where the advance ruling has been issued by the AAR under Section 98(4) of the Act, and the same has been the subject matter of an appeal before the Appellate Authority, what is the status of the original ruling during the interim period until the appeal has reached finality?

Would the appellants and other parties to the advance ruling be obliged to conform to the advance ruling during the interim period?
- Where an advance ruling given by the AAR has been appealed against and in respect of which the members of the Appellate Authority have not been able to reach a conclusion, would such a question or matter still be deemed to be a matter against which no advance ruling can be issued although the AAR had originally decided on the issue?
- Can the ruling by the Appellate Authority be challenged in a higher Court of law?
- Why has no time limit been prescribed for making a reference to the Appellate Authority?

13. Amendment by the Finance (No.2) Act, 2019

- **Statutory Provision**

❖ **Section 101A: Constitution of National Appellate Authority for Advance Ruling**

- **Comments**

Constitution of National Appellate Authority

The National Appellate Authority shall consist of—

- (i) the President, who has been a Judge of the Supreme Court or is or has been the Chief Justice of a High Court, or is or has been a Judge of a High Court for a period of not less than five years;
- (ii) a Technical Member (Centre) who is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A, and has completed at least fifteen years of service in Group A;
- (iii) a Technical Member (State) who is or has been an officer of the State Government not below the rank of Additional Commissioner of Value Added Tax or the Additional Commissioner of State tax with at least three years of experience in the administration of an existing law or the State Goods and Services Tax Act or in the field of finance and taxation.

Section 101B: Appeal to National Appellate Authority

- (1) *Where, in respect of the questions referred to in sub-section (2) of section 97, conflicting advance rulings are given by the Appellate Authorities of two or more States or Union territories or both under sub-section (1) or sub-section (3) of section 101, any officer authorised by the Commissioner or an applicant, being distinct person referred to in section 25 aggrieved by such advance ruling, may prefer an appeal to National Appellate Authority:*

Provided that the officer shall be from the States in which such advance rulings have been given.

- (2) *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 applicants, concerned officers and jurisdictional officers:*

Provided that the officer authorised by the Commissioner may file appeal within a period of ninety days from the date on which the ruling sought to be appealed against is communicated to the concerned officer or the jurisdictional officer:

Provided further that the National 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, or as the case may be, ninety days, allow such appeal to be presented within a further period not exceeding thirty days.

Explanation.— For removal of doubts, it is clarified that the period of thirty days or as the case may be, ninety days shall be counted from the date of communication of the last of the conflicting rulings ought to be appealed against.

- (3) *Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed*

• **Comments**

- (i) Where under sub-section (2) of section 97 conflicting advance ruling are given by the appellate authorities of two or more states or union territories or both under sub section (1) or sub-section (3) of sec 101, any officer authorised by commissioner or applicant being distinct person, may prefer an appeal to National Authority. The officer mentioned above shall be from the respective state in which such advance ruling filed.
- (ii) The appeal shall be filed within 30 days from the date on which ruling sought to be appealed against is communicated to the applicants and concerned officers. The officer authorised by commissioner can file an appeal within a period of 90 days from the date of communication.
- (iii) The above period can be further extended for another 30 days, if there is sufficient cause for not filing the appeal within the first 30/90 days.
- (iv) The appeal above shall be filed in such form, accompanied by such fee and verified in such manner as may be prescribed.

❖ **Section 101C: Order of National Appellate Authority**

- (1) *The National Appellate Authority may, after giving an opportunity of being heard to the applicant, the officer authorised by the Commissioner, all Principal Chief Commissioners, Chief Commissioners of Central tax and Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories, pass such order as it thinks fit, confirming or modifying the rulings appealed against.*
- (2) *If the members of the National Appellate Authority differ in opinion on any point, it shall be decided according to the opinion of the majority.*
- (3) *The order referred to in sub-section (1) shall be passed as far as possible within a period of ninety days from the date of filing of the appeal under section 101B.*
- (4) *A copy of the advance ruling pronounced by the National Appellate Authority shall be duly signed by the Members and certified in such manner as may be prescribed and*

shall be sent to the applicant, the officer authorised by the Commissioner, the Board, the Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories and to the Authority or Appellate Authority, as the case may be, after such pronouncement.

- **Comments**

- (i) The National Appellate Authority (“NAA”) must afford a reasonable opportunity of being heard to the parties before passing the order in which it may choose to either:
 - (a) Confirm the Advance Ruling passed by the NAA;
 - (b) Modify the Advance Ruling appealed against;
 - (c) Pass such orders as it may deem fit
- (ii) If the members of NAA differ in opinion on any point it shall be decided according to the opinion of majority.
- (iii) The order should be passed within 90 days from the date of filing appeal under section 101B.
- (iv) The order should be duly signed by the members of NAA and certified in such manner as may be prescribed.

14. Rectification of advance ruling

- **Statutory Provision**

❖ **Section 102. Rectification of advance ruling**

102. The Authority or the Appellate Authority ³[or the National Appellate Authority] may amend any order passed by it under section 98 or section 101 ⁴[or section 101C, respectively,] 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 ⁵[or the National Appellate Authority] on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer, the applicant ⁶[, appellant, the Authority or the Appellate Authority] 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.

³⁻⁵ Inserted by the Finance (No. 2) Act, 2019, with effect from a date yet to be notified.

⁶ Substituted for "or the appellant" by the Finance (No. 2) Act, 2019, with effect from a date yet to be notified.

- **Comments**

1. The rectification may be made by the AAR or Appellate Authority within six months from the date of the order, and shall not result in a substantial amendment to the order being rectified. It is not clear from the language of section 102, as to whether the error has to be noticed within six months or the amendment has to be made within six months. The rectification shall not arise on account of any interpretational issues or change in views and opinions of the members of the AAR and Appellate Authority.
2. Any rectification resulting in an increase in the tax liability or reduction of admissible input tax credit shall be carried out only after giving the applicant/appellant an opportunity of being heard.
3. In the Proviso to this section, it is mentioned 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.
4. If the appellant is the concerned officer or the jurisdictional officer, then it is sufficient if the notice is issued to the appellant and not to the applicant. As per the above provision, the notice has to be issued either to the applicant or the appellant.
5. The AAR or Appellate authority may amend the order to rectify any mistake apparent from records, if such mistake:
 - (a) Is noticed by it on its own accord, or
 - (b) Is brought to its notice by the concerned or the jurisdictional officer or the applicant/appellant

Note:

Principle of rectification of mistake/ error apparent on the face of record:

1. A decision involving debatable point or where two views exist is not a mistake apparent from records. [Ref: *PAC Systems Pvt. Ltd. Vs. CC*, 1993 (67) ELT 209 (SC)]
2. An error apparent from the face of the record cannot be defined exhaustively and must be left to be determined judicially on the facts of each case. [Ref: *ACIT vs. Saurashtra Kutch Stock Exchange*, Civil Appeal number 1171 of 2204 (SC)]
3. A rectification is possible only when a glaring mistake of fact or law has been made. [Ref: *CIT cs. Hero Cycles*, AIR 1998 SC 155]
4. It should be possible to gather the mistake from the record available, without requiring outside evidence. [Ref: *M.K. Venkatachalam, ITO vs. Bombay Dyeing*, (1958) 34 ITR 143 (SC)]

15. Applicability of advance ruling

- **Statutory Provision**

❖ **Section 103. Applicability of advance ruling**

103. (1) *The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only—*

- (a) *on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;*
- (b) *on the concerned officer or the jurisdictional officer in respect of the applicant.*

¹ [(1A) *The advance ruling pronounced by the National Appellate Authority under this Chapter shall be binding on—*

- (a) *the applicants, being distinct persons, who had sought the ruling under sub-section (1) of section 101B and all registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961 (43 of 1961);*
- (b) *the concerned officers and the jurisdictional officers in respect of the applicants referred to in clause (a) and the registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961 (43 of 1961).]*

(2) *The advance ruling referred to in sub-section (1) ⁷¹[and sub-section (1A)] shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.*

- **Comments**

- (i) The advance ruling pronounced by the Authority under this chapter shall be binding only on the applicant and on the jurisdictional officer in respect of the applicant. It is important to note the advance ruling is GSTIN specific and not PAN based. That is to say, the advance ruling obtained by an applicant would not be applicable to other distinct persons of such applicant. As such, it may be advisable to make the application for advance ruling by a distinct person, other than the distinct person who is desirous of undertaking such activity as the person making the application shall be bound by the advance ruling and not the other distinct person.
- (ii) Therefore, an applicant/appellant has no option but to abide by the advance ruling that he had applied for, except of approaching a higher court through a writ petition.

⁷¹ Inserted by the Finance (No. 2) Act, 2019, with effect from a date yet to be notified.

- (iii) The advance ruling shall be binding on the said person/authority unless there is a change in law or facts or circumstances, on the basis of which the advance ruling has been pronounced. When any change occurs in such laws, facts or circumstances, the advance ruling shall no longer remain binding on such person.
- (iv) Although an advance ruling may not be binding on persons other than the applicant or the appellant, it does throw light on the manner in which the law is being understood and interpreted. Other taxpayers could draw inferences from the advance rulings.
- (v) The above provision which seeks to bind only the applicant to the advance ruling could be misused by which applications for advance rulings are filed through a proxy carrying on business with the same/similar business model or issues.

16. Advance Ruling to be void in certain circumstances

- **Statutory Provision**

❖ **104. Advance Ruling to be void in certain circumstances**

1. Where the Authority or the Appellate Authority ¹[or the National Appellate Authority] finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 101 ⁸[or under section 101C] 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 under this sub-section unless an opportunity of being heard has been given to the applicant or the appellant.

Explanation.— The period beginning with the date of such advance ruling and ending with the date of order under this sub-section shall be excluded while computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74.

2. A copy of the order made under sub-section (1) shall be sent to the applicant, the concerned officer and the jurisdictional officer.

- **Comments**

- (i) Where the Authorities (AAR or Appellate Authority, as the case may be) subsequently discover that an advance ruling has been obtained by the applicant or appellant fraudulently or by way of suppression of material facts or misrepresentation of facts, the Authorities are empowered to declare such a ruling to be void ab initio.

⁸ Inserted by the Finance (No. 2) Act, 2019, with effect from a date yet to be notified

- (ii) The above would result in all the provisions of the Act becoming applicable to the applicant as if such advance ruling had never been made.
- (iii) However, no such order can be passed by the AAR or Appellate Authority without giving the applicant/appellant an opportunity of being heard. A copy of such order, once passed, shall be sent to the applicant appellant, the AAR and the concerned/ jurisdictional officer.
- (iv) The period beginning with the date of advance ruling and ending with the date of order declaring the advance ruling to be void ab initio shall be excluded in computing the period for issuance of Show-cause notice and adjudication order under sub-section(2) and (10) of both Sections 73 and 74.

Sections 73(2) and 73(10) specify the time limit within which a show cause notice and adjudication order respectively, may be issued in a case where the tax is not paid, short paid, erroneously refunded or ITC has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax.

Similarly, Section 74(2) and 74(10) specifies the time limit within which a show cause notice and adjudication order respectively, may be issued in a case where the tax is not paid, short paid, erroneously refunded or ITC has been wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts.

The period of limitation for raising a demand for recovery under Section 73(10) and Section 74(10) has been pegged at 3 years and 5 years respectively from the date of furnishing the annual return for the year in respect of which a demand is being raised or within three years from the date of erroneous refund. The said period of 3 and 5 years shall be extended by the period equivalent to the period beginning with the date of advance ruling and ending with the date of order declaring the advance ruling to be void ab initio, to enable the officer to issue a show cause notice or adjudication order.

What this section seeks to do is to provide the proper officers an additional time period to recover such amount from the applicant/appellant as would have been payable by him had he not sought the advance ruling fraudulently.

17. Powers of Authority and Appellate Authority

❖ Section 105. Powers of Authority and Appellate Authority

• Comments

1. The Authorities have all the powers of a civil court under the Code of Civil Procedure, 1908 for the purpose of discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records.

2. The Authorities are deemed to be a civil court for the purpose of section 195, but not for the purpose of Chapter XXVI of the Code of Criminal Procedure, 1973.
3. Every proceeding before the Authorities shall be deemed to be a judicial proceeding within the meaning of sections 193, 196 and 228 of the Indian Penal Code, 1860.

18. Practical Procedure on Portal for filing Advance Ruling

Filing an application (FORM GST ARA-01) for seeking Advance Ruling by Registered Taxpayers and Tracking or Taking Action in the Subsequent Proceedings:

A taxpayer can file following types of Applications related to Advance Ruling on the GST Portal:

1. **Application for seeking Advance Ruling from Authority for Advance Ruling (AAR)**
2. **Application for Reply to the issued Notice**
3. **Application of Appeal before the Appellate Authority for Advance Ruling (AAAR), with Application for Condonation of Delay in Filing Appeal if applicable**
4. **Application of Rectification before the AAR or AAAR as per the case**

Based on the Applications that are filed, Advance Ruling Proceedings can be of following types:

- **Advance Ruling:** For Processing Application for seeking Advance Ruling from AAR
- **Advance Ruling Appeals:** For Processing Application of Appeal before the AAAR
- **Advance Ruling Reference:** For Processing Applications referred by AAR
- **Rectification Proceedings:** For Processing Applications for Rectifications of Orders issued by AAR or AAAR
- **Void Proceedings:** For Processing Disposed Applications, where it was found that the Applicant has obtained an Advance Ruling by fraud, or suppression of material facts or misrepresentation of facts.

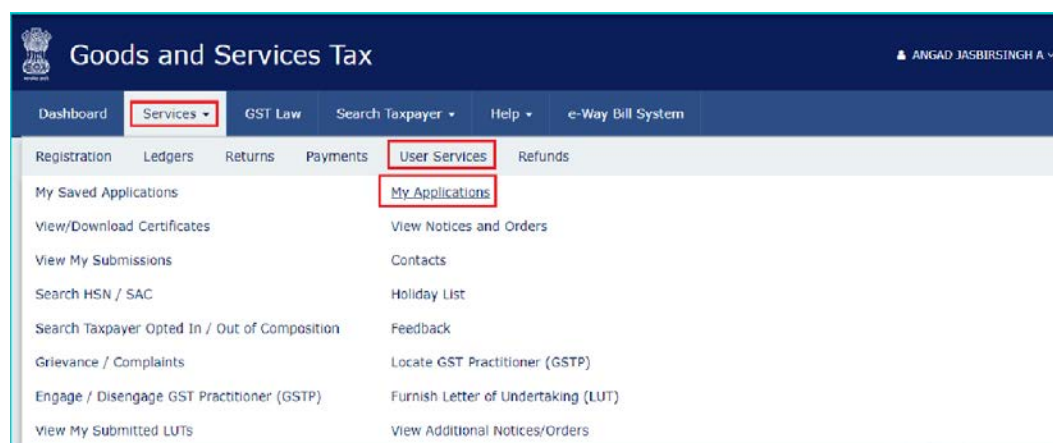
Applicant, after filing an application, needs to participate in the related proceedings and take necessary actions as intimated by AAR or AAAR.

On the GST Portal, for ease of all Applicants, a detail of each Application filed by the taxpayer is organized into the following six tabs in the Case Details Screen: APPLICATIONS, NOTICES, REPLIES, ORDERS, RECTIFICATION and ADDITIONAL DOCUMENT. Applicant can easily access these tabs of an Application to track all proceedings related to that particular application and take necessary actions.

1. **ADVANCE RULING BY REGISTERED TAXPAYERS (FORM GST ARA-01)**

To apply for advance ruling, perform the following steps:

1. Access the www.gst.gov.in URL. The GST Home page is displayed.
2. Login to the GST Portal with valid credentials i.e. your User Id and Password
3. Click the **Services > User Services > My Applications** command.



4. My Applications page is displayed.

A screenshot of the 'My Applications' form. The breadcrumb trail at the top reads 'Dashboard > Services > User Services > My Applications'. The form title is 'My Applications'. Below the title, there is a legend: '• indicates mandatory fields'. The form contains three main input fields: 'Application Type' (a dropdown menu with 'Advance Ruling' selected and highlighted with a red box), 'From Date' (a date field with a calendar icon), and 'To Date' (a date field with a calendar icon). At the bottom right, there are two buttons: 'SEARCH' and 'NEW APPLICATION' (highlighted with a red box).

5. Select the **Application Type** as Advance Ruling from the drop-down list.
6. Click the **NEW APPLICATION** button.
7. Select the Act for which Advance Ruling application has to be filed. On selection of respective head, fees amount will accordingly get reflected for making payment.

Note:

1. If there is not sufficient balance in Electronic Cash Ledger (under Fee head), i.e. "Amount to be paid " is not nil, then click on **DEPOSIT IN CASH LEDGER** button to deposit the required amount, in Cash Ledger
2. If sufficient balance is available in Electronic Cash Ledger (under Fee head), i.e. "Amount to be paid" is nil for all the selected acts, then click on **'CREATE APPLICATION FOR ADVANCE RULING'** button to fill and submit the application. In

case of Normal taxpayer, a fee has to be paid for Advance Ruling Application under CGST & SGST. Note: In case of OIDAR taxpayer, fees have to be paid for Advance Ruling Application under IGST.

Dashboard > Services > User Services > My Applications > New Application

Select Act(s) for which Advance Ruling Application has to be filed.

☒ SGST
☒ CGST
☐ IGST

Acts	Fee Applicable (In ₹)	Amount available in Cash Ledger (In ₹)	Amount to be paid (In ₹)
SGST	5000.00	3500.00	1500.00
CGST	5000.00	3000.00	2000.00
IGST	-	1500.00	-
Total (In ₹)	10000.00	8000.00	3500.00

DEPOSIT IN CASH LEDGER
CREATE APPLICATION FOR ADVANCE RULING

Instructions

1. If there is not sufficient balance in Cash Ledger (under Fee head), i.e. "Amount to be paid" is not nil, then click on **Deposit in Cash Ledger** button to deposit the required amount, in Cash Ledger.
2. If sufficient balance is available in Cash Ledger (under Fee head), i.e. "Amount to be paid" is nil for all the selected acts, then click on **Create Application for Advance Ruling** button to fill and submit the application.
3. Presently fees for Advance Ruling Application is ₹5000/- each under CGST & SGST for Normal taxpayer and ₹5000/- for OIDAR taxpayer under IGST. On selection of respective head, fees amount will accordingly get reflected for making payment.

8. The **Create Challan** page is displayed. In the Tax Liability Details grid, the **Total Challan Amount** field and **Total Challan Amount (In Words)** fields are auto-populated with total amount of payment to be made. You cannot edit the amount.

9. Select the **Payment Modes** as E-Payment/ Over the Counter/ NEFT/RTGS. Click the **GENERATE CHALLAN** button.

Handbook on Advance Ruling under GST

Dashboard > Payment > Create Challan

English

Tax Liability

	Tax (₹)	Interest (₹)	Penalty (₹)	Fees (₹)	Other (₹)	Total (₹)
CGST(0005)				2000		2,000
IGST(0008)				0		0
CESS(0009)						0
Delhi SGST(0006)				1500		1,500
Total Challan Amount:		₹ 3,500 /-				
Total Challan Amount (In Words):		Rupees Three Thousand Five hundred Only				

Payment Modes *

☐ E-Payment

☐ Over The Counter

☒ NEFT/RTGS

GENERATE CHALLAN

10. The Challan is generated.

Dashboard > Payment > Generate Challan English

Challan successfully generated

GST Challan

CPIN 20020700000084	Challan Generation Date 26/02/2020 19:21:37	Challan Expiry Date 12/03/2020
Mode of Payment :-		NEFT/RTGS

Details Of Taxpayer

GSTIN/Other Id 07AEFPA4963B1ZY	Email Address gXXXXXXXX@XXXXXXXX.com	Mobile Number 9XXXXXX0602
Name Ranu Ahuja	Address XXXXXXXXXX Delhi, 110019	

Details of Deposit

	Tax (₹)	Interest (₹)	Penalty (₹)	Fees (₹)	Other (₹)	Total (₹)
CGST(0005)	0	0	0	2,000	0	2,000
IGST(0008)	0	0	0	0	0	0
CESS(0009)	0	0	0	0	0	0
Delhi SGST(0006)	0	0	0	1,500	0	1,500
Total Challan Amount:		₹ 3,500 /-				
Total Challan Amount (In Words):		Rupees Three Thousand Five hundred Only				

NEFT/RTGS

Beneficiary Details

IFSC Code ICIC	Remitting Bank Name ICICI BANK LTD
--------------------------	--

TRANSFER OF FUNDS THROUGH NEFT

Beneficiary Name GST	Beneficiary Account No. 20020700000084
Amount 3,500	Beneficiary IFSC RBIS0GSPMT

* If amount is deducted from bank account and not reflected in electronic cash ledger, you may raise grievance under "Services>Payments>Grievance against payment(GST PMT-07)"
 * Awaiting Bank Confirmation: For e payment mode of payment, if the maker has made a transaction and checker approval is not communicated by bank to GST System.
 * Awaiting Bank Clearance: For OTC mode of payment, if bank has acknowledged the challan but remittance confirmation is not communicated by bank to GST System.

Note:

- **In case of Net Banking:** You will be directed to the Net Banking page of the selected Bank. The payment amount is shown at the Bank's website. If you want to change the amount, abort the transaction and create a **new challan**. In case of successful payment, you will be re-directed to the GST Portal where the transaction status will be displayed.
- **In case of Over the Counter:** Take a print out of the Challan and visit the selected Bank. Pay using Cash/ Cheque/ Demand Draft within the Challan's validity period. Status of the payment will be updated on the GST Portal after confirmation from the Bank.
- **In case of NEFT/ RTGS:** Take a print out of the mandate form and visit the selected Bank. Mandate form will be generated simultaneously with generation of challan. Pay using Cheque through your account with the selected Bank/ Branch. You can also pay

Handbook on Advance Ruling under GST

using the account debit facility. The transaction will be processed by the Bank and RBI shall confirm the same within <2 hours>. Status of the payment will be updated on the GST Portal after confirmation from the RBI i.e. based on CIN received from RBI.

11. After a successful payment, user will be redirected to Advance Ruling Application page. Click **CREATE APPLICATION FOR ADVANCE RULING** to create application for Advance Ruling.

12. Advance ruling Application page opens. Under Correspondence Address section, fill in the details. If correspondence address is same as Registered Address, select the checkbox. Address details will be auto-populated and the fields will be non-editable in this section.

13. Select the applicable checkbox for Nature of the activity(s) (proposed/present) in respect of which Advance Ruling sought.

14. Select the checkbox for Issue/s on which advance ruling required (Tick whichever is applicable).

15. You need to upload details of Advance Ruling Application in the word template provided on the Portal. To download the template for Advance Ruling Application, Click **Download Template**. **AdvanceRulingTemplate.docx** will be downloaded in Downloads folder. Click **Enable Editing**. Update the template with required information.

Goods and Services Tax
Form GST AKA-01
(New Rule 98)
Application Form for Advance Ruling

* indicates mandatory fields

***1. GSTIN Number if any/used** ☐ Click on pop down to enter text

***2. Legal name of applicant** ☐ Click on pop down to enter text

***3. Trade name of applicant** ☐ Click on pop down to enter text

***4. Nature of the applicant's business/occupation** ☐ Click on pop down to enter text

***5. Registered Address**

Building No./Flat No. ☐ Click on pop down to enter text

Name of the Premises/Building ☐ Click on pop down to enter text

House No. ☐ Click on pop down to enter text

Road / Street ☐ Click on pop down to enter text

Locality / Village ☐ Click on pop down to enter text

State ☐ Select a state

City / District ☐ Click on pop down to enter text

Pincode ☐ Click on pop down to enter text

***6. Correspondence Address (☐ Check if same as Registered Address)**

Building No./Flat No. ☐ Click on pop down to enter text

Name of the Premises/Building ☐ Click on pop down to enter text

House No. ☐ Click on pop down to enter text

Road / Street ☐ Click on pop down to enter text

Locality / Village ☐ Click on pop down to enter text

State ☐ Select a state

City / District ☐ Click on pop down to enter text

Pincode ☐ Click on pop down to enter text

***7. Mobile Number (with STD/ISD Code)** ☐ Click on pop down to enter text

***8. Telephone Number (with STD/ISD Code)** ☐ Click on pop down to enter text

***9. Email Address** ☐ Click on pop down to enter text

***10. Jurisdiction Authority** ☐ Select Jurisdiction Authority

***11. Details of Authorized Representative**

First name ☐ Click on pop down to enter text

Last name ☐ Click on pop down to enter text

Full name ☐ Click on pop down to enter text

Designation ☐ Click on pop down to enter text

***12. Nature of activity(s) (proposed/present) in respect of which Advance Ruling sought**

A. Category

<input type="checkbox"/> Factory/Manufacturing	<input type="checkbox"/> Wholesale Business	<input type="checkbox"/> Retail Business
<input type="checkbox"/> Repairs/Service	<input type="checkbox"/> Transport/Logistics	<input type="checkbox"/> Service Provider
<input type="checkbox"/> Office/Sale Office	<input type="checkbox"/> Leasing Business	<input type="checkbox"/> Service Recipient
<input type="checkbox"/> Education	<input type="checkbox"/> MSME	<input type="checkbox"/> Input Service Distributor (ISD)
<input type="checkbox"/> Other		

Under Details of Advance Ruling Application, upload, click the Choose file button. Navigate and select the Filled template. 1. Click Save As and Choose the folder to save the Advance Ruling Template. Select Save As Type to PDF (*.pdf). Click SAVE. Steps to convert Word File to PDF are also at in the Application. You can upload only PDF file with maximum file size for upload of 5 MB.

Details of Advance Ruling Application

Upload the Filled Template *

Choose File No file chosen

Download Template

- Only PDF file format is allowed.
- Maximum file size for upload is 5MB.
- Click here to view the steps for converting the filled application Word template to PDF file format.

Details of Advance Ruling Application

Upload the Filled Template *

Choose File No file chosen

Download Template

- Only PDF file format is allowed.
- Maximum file size for upload is 5MB.
- Click here to view the steps for converting the filled application Word template to PDF file format.

16. Under **Upload Supporting Documents**, Enter Document Description and click the **Choose File** button. Navigate and select the Supporting Documents.

Upload Supporting Documents

Enter Document Description

Choose File No file chosen

- Only PDF file format is allowed.
- Maximum file size for upload is 5MB.
- Maximum 4 supporting documents can be attached in the application. The remaining documents can be handed over in hard copy during personal hearing.

17. After the document is uploaded, Click **ADD DOCUMENT** button. You can upload only PDF file with maximum file size for upload of 5 MB. Maximum 4 supporting documents can be attached in the application. The remaining documents can be handed over in hard copy during personal hearing.

Upload Supporting Documents

Enter Document Description

Supporting Document

ADD DOCUMENT

- Only PDF file format is allowed.
- Maximum file size for upload is 5MB.
- Maximum 4 supporting documents can be attached in the application. The remaining documents can be handed over in hard copy during personal hearing.

18. Under **Declaration**, select both the checkboxes.

19. Under Verification Tab, Enter Name of in box against '**Son/Daughter/Wife of**', Designation.

20. In the **Name of Authorized Signatory** drop-down list, select the name of authorized signatory.

21. In the **Place** field, enter the place where the form is filed.

Handbook on Advance Ruling under GST

22. Once Name of Authorized Signatory and Place are updated, **Designation/Status** and **Date** is auto-populated.

23. To preview the Application before filing, Click **PREVIEW**. The Preview functionality is used to check the values we entered in screen are same as in downloaded PDF file. AdvanceRuling.pdf file will be downloaded. Open the pdf file and check if all the details are correctly updated.

The screenshot displays the 'Declaration' and 'Verification' sections of the Advance Ruling application form. At the top, there is a file upload section with a 'Choose File' button and a message 'No file chosen'. Below this, a supporting document 'Supporting Document.pdf' is listed. A red box highlights the 'Declaration' section, which contains two checked checkboxes: 'Already pending in any proceedings in the applicant's case under any of the provisions of the Act' and 'Already decided in any proceedings in the applicant's case under any of the provisions of the Act'. The 'Verification' section follows, with a red box highlighting the declaration text: 'I [Ranu Ahuja] son/daughter/wife of [Mukesh Ahuja] 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 [Manager] (designation) and that I am competent to make this application and verify it.' Below the declaration, the 'Name of Authorized Signatory' is set to 'NURUL SAIYED' and the 'Place' is 'Delhi'. The 'Designation / Status' is 'CA' and the 'Date' is '26/02/2020'. At the bottom, there are three buttons: 'BACK', 'PREVIEW', and 'PROCEED TO FILE'.


24. Click **PROCEED TO FILE**.

This screenshot is identical to the one above, showing the 'Declaration' and 'Verification' sections of the Advance Ruling application form. It highlights the same fields and buttons, including the 'PROCEED TO FILE' button at the bottom.

25. After filling the application, you need to digitally sign the application using Digital Signature Certificate (DSC)/ E- Signature or EVC. Digitally signing using DSC is mandatory in case of LLP and Companies.



Dashboard > Submit Application English

APPLICATION TYPE	LEGAL NAME	GSTIN/UIN/Temporary ID
Advance Ruling Application	Ranu Ahuja	07AEFPA4963B1ZY




Warning

Digital signatures are governed by the provisions of Information Technology Act, 2000 ("IT Act") and rules made thereunder. It is a mode of authenticating electronic records [Section 2(p) of IT Act]. Affixing digital signature on any document herein is deemed to be equivalent to affixing hand written signature/mark on such information/document (Section 5 of IT Act). Fraudulently/Dishonestly making use of any other person's digital signature is a punishable offence under IT Act (Section 66 C). Before attaching your digital signature certificate, please be certain that you wish to authenticate this electronic record.

 DSC is compulsory for Companies & LLP
 Facing problem using DSC? [Click here for help](#)

SUBMIT WITH DSC
SUBMIT WITH EVC

26. Once the Verification is completed, fee amount will be auto debited from the cash ledger and ARN will be generated and status changed to 'Filed'. You can click the **DOWNLOAD** button to download the acknowledgement.

 Application for Advance Ruling is submitted successfully! Go To My App

Acknowledgement

You have filed the application successfully and the particulars of the application are given as under:

Application Reference No. (ARN)	AD070220000177T
Date of filing	26/02/2020
Time of filing	7:50:14 PM
Goods and Services Tax Identification Number(GSTIN)	07AEFPA4963B1ZY
Legal Name	Ranu Ahuja
Trade Name(If available)	Ranu ahuja
Advance Ruling Authority	Delhi Authority for Advance Ruling
Filed By	NURUL SAIYED
Form No.	GST ARA-01
Form Description	Application for Advance Ruling
Payment Reference Number	IP0702200000098

It is a system generated acknowledgement and does not require any signature.

DOWNLOAD

A. SEARCH FOR APPLICATIONS RELATED TO ADVANCE RULING AND OPEN THE CASE DETAILS SCREEN

To search for Applications related to Advance Ruling and open the Case Details Screen, perform following steps:

1. Access the www.gst.gov.in URL. The GST Home page is displayed.
2. Login to the portal with valid credentials.
3. Dashboard page is displayed. Click **Dashboard > Services > User Services > My Applications**
4. **My Applications** page is displayed. Select "Advance Ruling" in the Application Type, select submission period in the **From Date** field and **To Date** field and click **SEARCH**.
Note: Maximum of 3 months' submission period can be entered at a time and minimum one- day period. Using the submission period, Taxpayer can search maximum of last 7 years' data.
5. Based on your Search criteria, all types of Advance Ruling related Applications are displayed. Click the ARN hyperlink you want to open.

Dashboard > Services > User Services > My Applications

My Applications

Application Type *

From Date

To Date

SEARCH **NEW APPLICATION**

ARN/RFN	Form No.	Form Description	Date of Filing	Status
AD240818000009B	GST ARA-01	ADVANCE RULING	09/08/2018	Pending For Order
AD240818000002P	GST ARA-01	ADVANCE RULING	02/08/2018	Rejected
AD240618000019E	GST ARA-01	ADVANCE RULING	14/06/2018	Rectification Submitted
AD240718000023N	GST ARA-01	ADVANCE RULING	12/07/2018	Rectification Submitted
AD240618000013Q	GST ARA-01	ADVANCE RULING	14/06/2018	Rectification Submitted
AD240718000038C	GST ARA-01	ADVANCE RULING	13/07/2018	Rectification Submitted
AD240718000066D	GST ARA-01	ADVANCE RULING	18/07/2018	Rectification Submitted
AD240718000112O	GST ARA-01	ADVANCE RULING	31/07/2018	Pending For Order
AD240718000110S	GST ARA-01	ADVANCE RULING	31/07/2018	Pending For Order
AD240718000109B	GST ARA-01	ADVANCE RULING	31/07/2018	Pending For Order

« 1 2 3 4 5 6 7 8 »

10 25 50 100

6. **Case Details** page is displayed. On this page, yellow header provides details of this Application. There are six tabs in the left side of the page: APPLICATIONS, NOTICES, REPLIES, ORDERS, RECTIFICATION and ADDITIONAL DOCUMENT. You can click each tab to view Application details related to the tab. APPLICATIONS tab is by default selected. You can click "View" in the Action column and download the details of the filed application.

Dashboard > Services > User Services > My Applications > **Case Details**

ARN AD2407180001120	GSTIN/UTN/Temporary ID 24ABCPM8147P1Z6	Date Of Application/Case Creation 31/07/2018	Status Pending For Order
-------------------------------	--	--	------------------------------------

APPLICATIONS
NOTICES
REPLIES
ORDERS
RECTIFICATION
ADDITIONAL DOCUMENT

PRN: IP2407180000063 **Date Of Debit: 31/07/2018**

Type of Document	Action
Advance Ruling Application	View

B. VIEW ISSUED NOTICES AND FILE REPLY

To view issued Notices and File your Reply, perform following steps:

- On the **Case Details** page of that particular application, select the **NOTICES** tab. This tab displays all the notices (Hearing/Adjournment) issued by AAR or AAAR.

Dashboard > Services > User Services > My Applications > **Case Details**

ARN AD2407180001120	GSTIN/UTN/Temporary ID 24ABCPM8147P1Z6	Date Of Application/Case Creation 31/07/2018	Status Pending For Order
-------------------------------	--	--	------------------------------------

APPLICATIONS
NOTICES
REPLIES
ORDERS
RECTIFICATION
ADDITIONAL DOCUMENT

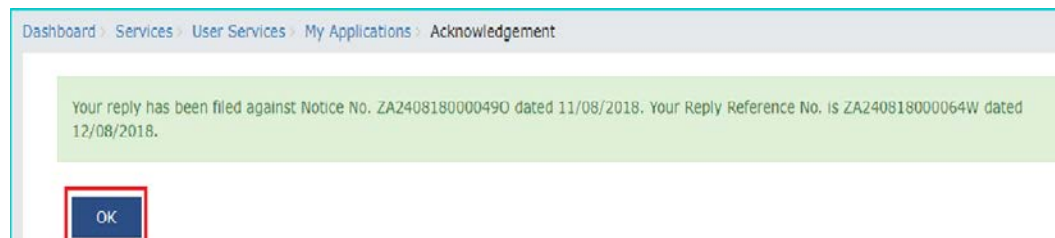
Notice No	Subject	Issued On	Issued By	Action
ZA2408180000490	Advance ruling order	11/08/2018	Gujarat Authority for Advance Ruling	Reply
ZA2408180000505	Advance Ruling Void	14/08/2018	Gujarat Authority for Advance Ruling	Reply

10 25 50 100

Note: Following types of Notices can be issued against the filed Applications related to Advance Ruling:

Notices Issued by AAR	Notices Issued by AAAR
<ul style="list-style-type: none"> Notice of Personal Hearing for Admitting or Rejecting Filed Application seeking Advance Ruling Notice of Adjournment Notice of Personal Hearing in respect of rectification application Notice of Personal Hearing in respect of Suo Moto rectification Notice of Personal Hearing in respect of declaring advance ruling order void 	<ul style="list-style-type: none"> Notice of Personal Hearing for Admitting or Rejecting Appeals Notice of Adjournment Notice of Personal Hearing in respect of in respect of reference application Notice of Personal Hearing in respect of rectification application Notice of Personal Hearing in respect of Suo Moto rectification Notice of Personal Hearing in respect of declaring advance ruling order void

2. Click **Reply** hyperlink in the **Action** column against the Notice for which reply is to be filed.
3. Reply application is displayed. Application Details and your details are auto-populated. The remaining details must be filled manually.
4. Click **Download Template** to download and manually fill details of Reply and then upload the converted PDF using **Choose File** button under **Details of Reply** field.
5. If required, you can also upload supporting documents. This is not a mandatory field. To upload, first fill **Enter Document Description** field and then click **Choose File** to upload them.
6. Enter **Verification** details and click **PREVIEW** to download and review your Reply. Once you are satisfied, click **PROCEED TO FILE**. A Warning message popup is displayed. Click **PROCEED**.
7. Submit Application page is displayed. Click **SUBMIT WITH DSC** or **SUBMIT WITH EVC**.
8. **Acknowledgement** page is displayed. Click **OK**. Note: You will also receive an email acknowledging receipt of this Counter reply, along with generated Reply Reference Number. Once the reply is submitted, the Reply link in the **NOTICES** tab will get disabled. You can submit only one reply per each Notice.



GST System automatically directs you to the **REPLIES** tab where the reply you just filed will be displayed in a table. Also, system generated email is automatically sent to the **JO/CO** intimating them about successful submission of the reply and the generated Reply Reference Number.

C. VIEW REPLIES/COUNTER-REPLIES FILED BY SELF OR CONCERNED OFFICER (CO)/JURISDICTION OFFICER (JO)

To view Replies/Counter-replies Filed by Self or Concerned Officer (CO)/Jurisdiction Officer (JO), perform following steps:

1. On the **Case Details** page of that particular application, select the **REPLIES** tab. This tab displays the replies filed by either you or the counter replies by the **CO** and/or **JO**, against the Notice issued by Authority.

[illegible][illegible]

1. *Journal of the American Medical Association*, 1997; 277: 1001-1005.

- 91 9 11 11

Handbook on Advance Ruling under GST

Dashboard > Services > User Services > My Applications > **Case Details**

ARN	GSTIN/UIN/Temporary ID	Date Of Application/Case Creation	Status
AD2407180001120	24ABCPM8147P1Z6	31/07/2018	Referred by Authority

APPLICATIONS	Order No.	Type of Order	Passed On	Passed By	Action
NOTICES	ZA240818000067Q	Advance ruling order	12/08/2018	Gujarat Authority for Advance Ruling	File Appeal File Rectification
REPLIES					
ORDERS					
RECTIFICATION					
ADDITIONAL DOCUMENT					

10	25	50	100
----	----	----	-----

Here are the types of Orders issued by AAR and AAAR.

Orders Issued by the AAR	Orders Issued by the AAAR
<ul style="list-style-type: none"> Declaring Advance Ruling Void Dropping Void Proceedings Admission of Advance Ruling Application Rejection of Advance Ruling Application Advance Ruling Order Rectification of Order Rejection of Rectification Application 	<ul style="list-style-type: none"> Declaring Advance Ruling Void Dropping Void Proceedings Acceptance of Condonation of Delay Rejection of Condonation of Delay Appeal Order (Confirming Advance Ruling) Appeal Order (Modifying Advance Ruling) Rectification of Order Rejection of Rectification Application

2. **New Application** page is displayed. Act(s) for which Appeal against the Advance Ruling has to be filed is auto- selected. In case, there is no sufficient balance in Cash Ledger, click **DEPOSIT TO CASH LEDGER** button to deposit the required amount of the displayed **Total Fee Applicable** in Cash Ledger. Otherwise, click **CREATE APPLICATION FOR APPEAL**.

Dashboard > Services > User Services > My Applications > **New Application**

Select Act(s) for which Appeal against the Advance Ruling has to be filed

☒ SGST ☐ CGST ☐ IGST Cash Balance as on 12/8/2018

Acts	Fee Applicable (in ₹)	Amount available in Cash Ledger (in ₹)	Amount to be paid (in ₹)
SGST	10,000.00	290000.00	Nil
CGST	-	-	-
IGST	-	-	-
Total (in ₹)	10,000.00	290000.00	Nil

DEPOSIT TO CASH LEDGER **CREATE APPLICATION FOR APPEAL**

Instructions

1. If there is not sufficient balance in Cash Ledger (under Fee head), i.e. "Amount to be paid" is not nil, then click on **Deposit To Cash Ledger** button to deposit the required amount, in Cash Ledger.
2. If sufficient balance is available in Cash Ledger (under Fee head), i.e. "Amount to be paid" is nil for all the selected acts, then click on **Create Application for Appeal**.

3. **Advance Ruling Appeal Application** page is displayed. System auto-calculates the number of days delay in filing appeal from the date when Advance Ruling Order was passed by the AAR. If the **No. of days delay in filing appeal** field is not 0, you must attach the Details of Condonation of Delay (COD) in the **Upload Supporting Documents** field. Also, based on the Act(s) for which Appeal against the Advance Ruling has to be filed, **Details of Jurisdictional Officer** are auto-populated. To go to the previous page, you can click **BACK**. **Note:** Appeal can be filed even after 30 days and up to 60 days (even without COD) or even after 60 days from the date of communication of the order of appeal against. In case of delay, please attach the Application for COD in "Upload Supporting Document" section of the Appeal Application.

Dashboard > Services > User Services > My Applications > New Application > **Advance Ruling Appeal Application**

Application Type	GSTIN/UID/Temporary ID	Legal Name
Appeal to the Appellate Authority for Advance Ruling	24ABCPM8147P1Z6	PRAVINBHAI KALIDAS MISTRY
Trade Name	Status of the Applicant	
SUN LIGHT(Paldi)	Registered	

* Indicates mandatory fields

Order Details

Advance Ruling Order Number	Date of Communication of Order
ZA2408180000216	09/08/2018

Appeal Details

No. of days delay in filing Appeal
0

① No. of days delay in filing Appeal is calculated after expiry of 30 days, from the date of communication of Advance Ruling order.
② In case of delay in filing Appeal, please attach Details for Condonation of Delay (COD) in the supporting document section.

Details of Jurisdictional Officer

Application Filed For *
SGST

Name	Designation	Email ID
MUKESH DHANJIBHAI KARSHALA	Commercial Tax Officer	rohitash_singh@infosys.com
Address	Jurisdiction Details	
NA	Ghatak 1 (Ahmedabad), Range - 1, Division - 1, Gujarat	

Address of Appellant at which notices may be sent ☒ Same as Registered Address)

4. Enter details in the **Address of Appellant at which notices may be sent** field in case the address for communication of Notice is different than the registered address. If the Address is same as registered address, then select the **Same as Registered Address** check-box and the already registered address will get pre-filled.
5. Select the radio buttons **Yes** or **No**, based on your choice of being heard in person or not.
6. Click **Download Template** to download and manually fill details of Appeal and then upload the converted PDF using **Choose File** button under **Details of Appeal for Advance Ruling Application** field.

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7. If required, you can also upload supporting documents. This is not a mandatory field. To upload, first fill **Enter Document Description** field and then click **Choose File** to upload them. Note: You must upload the Details of Condonation of Delay (COD) if No. of days delay in filing appeal field is not 0.
8. Enter **Verification** details and click **PREVIEW** to download and review your Appeal Application. Once you are satisfied, click **PROCEED TO FILE**.
9. In case, **No. of days delay in filing appeal** field is not 0; a Warning message popup is displayed. Click **PROCEED**.
10. **Submit Application** page is displayed. Click **SUBMIT WITH DSC** or **SUBMIT WITH EVC**.

11. **Advance Ruling Acknowledgement** page is displayed. In the top section of this page, success message is displayed in green. New generated ARN and its details are displayed in the **Acknowledgement** section. You can click the **DOWNLOAD** button to download the filed Appeal or you can click **GO To My Applications** hyperlink on the top-right side to open this new ARN.

Note 1:

Following actions take place on the GST Portal after a Taxpayer successfully files an Appeal Application against the Advance Ruling Order passed by AAR:

- ARN gets generated along with Acknowledgement and is communicated to the Appellant through an email and SMS.
- An email is sent to the CO and JO informing them about receipt of application along with ARN and application date.
- The application will land in the AAAR's queue under Application inbox and will be available to all tax officials and Appeal Proceedings will follow.

Note 2:

Following actions take place on the GST Portal after a CO/JO successfully files an Appeal Application against the Advance Ruling Order passed by AAR:

- ARN gets generated along with Acknowledgement and is communicated to the Appellant through an email and SMS.
 - An email is sent to the Taxpayer informing him/her about receipt of application along with ARN and application date. He/she can navigate to **Dashboard > Services > User Services > My Applications** and search for the Application
 - and open the Case Details Screen. Status of the ARN will be "Pending for Order".
 - The application will land in the AAAR's queue under Application inbox and will be available to all tax officials and Appeal Proceedings will follow.
12. On clicking **GO to My Applications** hyperlink, **My Applications** page is displayed. Once you search with today's date, the new ARN will be displayed with Status as "Pending for Order". Click ARN hyperlink.

Dashboard > Services > User Services > My Applications

My Applications

Application Type* * Indicates mandatory fields

From Date To Date

12/08/2018 12/08/2018

SEARCH NEW APPLICATION

ARN/RFN	Form No.	Form Description	Date of Filing	Status
AD2408180000120	GST ARA-01	ADVANCE RULING APPEALS	12/08/2018	Pending for Order

13. **Case Details** page of your Appeal Application is displayed. You will be able to track all proceedings related to this Appeal Application and take necessary actions from this page using the tabs provided on the left.

Dashboard > Services > User Services > My Applications > Case Details

ARN: AD2408180000120 GSTIN/UIN/Temporary ID: 24ABCPM8147P1Z6 Date Of Application/Case Creation: 12/08/2018 Status: Pending for Order

PRN: IP2408180000005 Date Of Debit: 12/08/2018

APPLICATIONS NOTICES REPLIES ORDERS RECTIFICATION ADDITIONAL DOCUMENT

Type of Document	Action
Advance Ruling Appeal Application	View

Note:

Key-steps of the Proceedings related to an Appeal Application are:

If COD is required:

- AAAR reviews the COD Application and issues "Hearing Notice" for Admission/Rejection of Condonation of Delay. Its intimation is sent by a system-generated email to the Appellant and Respondents, with date, place and time of hearing.
- On the date of hearing, parties appear before the authority. AAAR can also issue an Adjournment Notice to the parties with details of new date, new place and new time of hearing.
- After hearing the parties and examining the application and records received during Personal Hearing, if any, AAAR can take following actions:
 - Issue "Acceptance of Condonation of Delay" Order if AAAR is satisfied that the Appellant was prevented by sufficient cause to present the appeal within 30 days from the date of the communication of the order of the AAR. In this case, its intimation is sent by a system-generated email to the Appellant and Respondents and the Status of the ARN is changed from "*Pending For Order*" to "*Admitted*".
 - Issue "Rejection of Condonation of Delay" Order if AAAR is **not** satisfied that the Appellant was prevented by sufficient cause to present the appeal within 30 days from the date of the communication of the order of the AAR. In this case, its intimation is sent by a system-generated email to the Appellant and Respondents and the Status of the ARN is changed from "*Pending For Order*" to "*Rejected*".

If COD is not required or if COD is condoned and Appeal is admitted:

- AAAR reviews the Appeal and issues "Hearing Notice" for Disposal of Advance Ruling Appeal Application. Its intimation is sent by a system-generated email to the Appellant and Respondents, with date, place and time of hearing.
- If required, Respondents can submit their Counter-replies on the GST Portal. System will send an intimation regarding the submission of counter reply by respondent to the appellant through an email.
- On the date of hearing, parties appear before the authority. AAAR can also issue an Adjournment Notice to the parties. Its intimation is sent by a system-generated email to the Appellant and Respondents, with details of new date, new place and new time of hearing.
- After hearing the parties and examining the application and records received during Personal Hearing, if any, AAAR can undertake the following actions:
 - Issue "*Appeal Order (Confirming Advance Ruling)*". Intimation of the Order is sent by a system-generated email to the Appellant, Respondents and AAAR and the

Status of the ARN is changed from "Pending For Order" to "Disposed by Appellate Authority". If there is difference of Opinion among the AAAR Members on any point, AAAR will mention in the order that no advance ruling can be pronounced in respect of such point or points.

- Issue "Appeal Order (Modifying Advance Ruling)". Intimation of the Order is sent by a system-generated email to the Appellant, Respondents and AAAR and the Status of the ARN is changed from "Pending For Order" to "Disposed by Appellate Authority". If there is difference of Opinion among the AAAR Members on any point, AAAR will mention in the order that no advance ruling can be pronounced in respect of such point or points.

E. FILE RECTIFICATION

To file Rectification and view them, perform following steps:

1. On the **Case Details** page of that particular application, select the **ORDERS** tab. This tab displays all the Orders issued by AAR or AAAR against this case. Click **File Rectification** hyperlink to initiate your Rectification Application.

Dashboard > Services > User Services > My Applications > Case Details

ARN	GSTIN/UIN/Temporary ID	Date Of Application/Case Creation	Status
AD2407180001120	24ABCPM6147P1Z6	31/07/2018	Referred by Authority

APPLICATIONS	Order No.	Type of Order	Passed On	Passed By	Action
NOTICES	ZA240818000067Q	Advance ruling order	12/08/2018	Gujarat Authority for Advance Ruling	File Appeal File Rectification
REPLIES					
ORDERS					10 25 50 100
RECTIFICATION					
ADDITIONAL DOCUMENT					

Note: In case the difference between the date of the order and rectification application filed is more than 6 months, the information message will pop up asking for confirmation if you still want to file the Rectification Application as the period exceeds 6 months from the date of the order. In case, you select "YES", System will allow you to proceed with the application. In case, you select "NO", System will bring you back to the earlier screen.

2. **Rectification** application is displayed. Your details, Order Details, Details of JO are auto-populated. The remaining details must be filled manually. To go to the previous page, you can click **BACK**.

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Dashboard
Services
User Services
My Applications
Case Details

ARN
AD2407180001120

GSTIN/UTN/Temporary ID
24ABCPM8147P1Z6

Date Of Application/Case Creation
31/07/2018

Status
Referred by Authority

APPLICATIONS
NOTICES
REPLIES
ORDERS
RECTIFICATION
ADDITIONAL DOCUMENT

Application Type: Rectification of Order

Applicant Details

Legal Name
PRAVINBHAI KALIDAS MISTRY

Status of the Applicant
Registered

Order Details

Order Number
ZA240818000067Q

Date of Communication of Order
12/08/2018

Details of Jurisdictional Officer

Application Filed For *
SGST

Name
MUKESH DHANJIBHAI KARSHALA

Designation
Commercial Tax Officer

Email ID
rohitash_singh@infosys.com

Address
NA

Jurisdiction Details
Ghatak 1 (Ahmedabad), Range - 1, Division - 1, Gujarat

Details for Rectification of Order

Upload the Filled Template *

Choose File
No file chosen

Download Template

Click here to view the steps for converting the filled application Word template to PDF file format.

Only PDF file format is allowed.

Maximum file size for upload is 5MB.

Upload Supporting Documents

Enter Document Description

Choose File
No file chosen

Maximum 4 supporting documents can be attached in the application. The remaining documents can be handed over in hard copy during personal hearing.

Only PDF file format is allowed.

Maximum file size for upload is 5MB.

Verification *

☐ I 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.

Name of Authorized Signatory/ Appellant *

Select

Place *

Enter Place

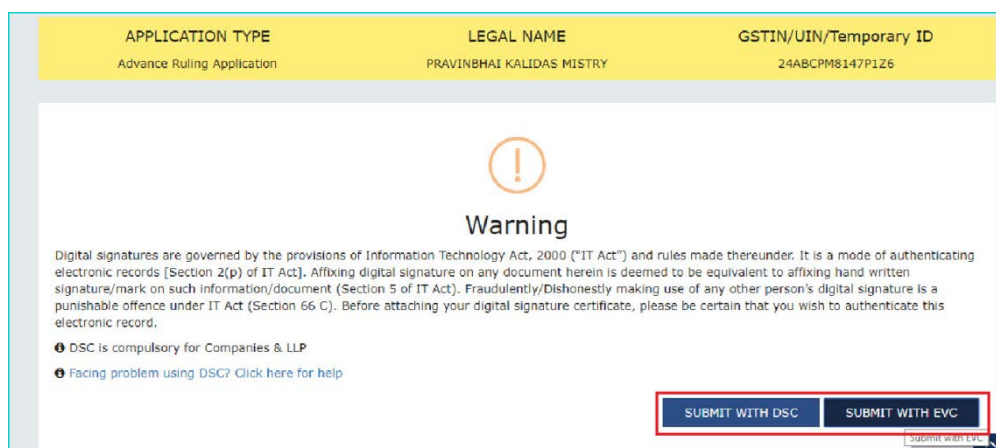
Designation / Status

Date

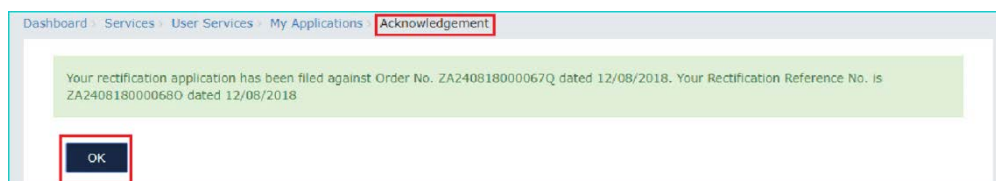
BACK
PREVIEW
PROCEED TO FILE

46

3. Click **Download Template** to download and manually fill details of Rectification and then upload the converted PDF using **Choose File** button under **Details of Rectification of Order** field.
4. If required, you can also upload supporting documents. This is not a mandatory field. To upload, first fill **Enter Document Description** field and then click **Choose File** to upload them.
5. Enter **Verification** details and click **PREVIEW** to download and review your Reply. Once you are satisfied, click PROCEED TO FILE.
6. **Submit Application** page is displayed. Click **SUBMIT WITH DSC** or **SUBMIT WITH EVC**.



7. Acknowledgement page is displayed. Click OK.



Note: You will also receive an email and SMS confirming successful filing of Rectification, along with generated Rectification Reference Number.

8. GST System automatically directs you to the RECTIFICATIONS tab where the Rectification of Order you just filed will be displayed in a table. You can click hyperlinks in the Rectification No. and Order No. to download their related documents. Also, intimation for submission of rectification application is sent to the JO/CO through an email and alert will go to the AAR/AAAR.

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Rectification No.	Order No.	Filed By	Date of Rectification	Supporting Documents
ZA2408180000680	ZA240818000067Q	PRAVINBHAI KALIDAS MISTRY , 24ABCPM8147P1Z6	12/08/2018	NA

Note: Rectification of Order can also be filed by CO/JO or AAR and AAAR.

F. View Rectifications filed for Orders of an ARN

To view Rectifications you have filed, perform following steps:

1. On the **Case Details** page of that particular application, select the **RECTIFICATIONS** tab. This tab displays the Rectifications you or CO or JO or AAR or AAR has filed.
2. Click hyperlinks in the Rectification No. and Order No. to download their related documents.

Rectification No.	Order No.	Filed By	Date of Rectification	Supporting Documents
ZA2408180000026W	ZA24081800000216	MUKESH DHANJIBHAI KARSHALA	09/08/2018	NA
ZA2408180000029Q	ZA24081800000216	Firoz Abdulrazak Bhatkar	09/08/2018	NA

Note: Once the Rectification Application is filed, following steps occur:

If Rectification is filed by a Taxpayer or CO/JO:

AAR/AAAR reviews the Application and can take the following actions:

- (i) **Issue "Rejection of Rectification Application" Order, with reasons for rejection:** If the AAR/AAAR is satisfied that the rectification is not required or the application is time-barred, it will provide an opportunity of being heard and issue "Hearing Notice" for Acceptance/Rejection of Rectification Application to the Applicant and CO and/or JO, with date, place and time of hearing. Based on the hearing, it will pass the Order. Also, Status of the ARN is updated to "Rectification Rejected". The parties (i.e. the applicant and the jurisdictional officer and/or concerned officer) will be informed about such order through email.

(ii) Proceed with Rectification:

- AAR/AAAR issues "Hearing Notice" for Disposal of Rectification Application. Its intimation is sent by a system-generated email to the Applicant and CO/JO, with date, place and time of hearing. AAAR can also issue an Adjournment Notice to the parties. Its intimation is also sent by a system-generated email to the Applicant and CO/JO, with details of new date, new place and new time of hearing.
- On the date of hearing, parties appear before the AAR/AAAR. AAR/AAAR, after giving the persons concerned an opportunity of being heard, can rectify the order. Status of the ARN is updated to "Application Disposed ". The parties (i.e. the applicant and the jurisdictional officer and/or concerned officer) will be informed about such order through email.

If Suo moto Rectification is done by AAR/AAAR:

CASE 1 - In case opportunity of being heard is required because the rectification has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit, following steps take place:

1. AAR/AAAR issues "Hearing Notice" along with the grounds of rectification. Its intimation is sent by a system-generated email to the Applicant and CO/JO, with date, place and time of hearing. AAR/AAAR can also issue an Adjournment Notice to the parties. Its intimation is also sent by a system-generated email to the Applicant and CO/JO, with details of new date, new place and new time of hearing.
2. On the date of hearing, parties appear before the AAR/AAAR. AAR/AAAR, after giving the persons concerned an opportunity of being heard, can rectify the order. Status of the ARN is updated to "Application Disposed". The parties (i.e. the applicant and the jurisdictional officer and/or concerned officer) will be informed about such order through email.

CASE 2 - In case, opportunity of being heard is **not** required, AR/AAAR will rectify the order. Status of the ARN is updated to "Application Disposed". The parties (i.e. the applicant and the jurisdictional officer and/or concerned officer or AAR, if Order is rectified by AAAR) will be informed about such order through email.

H. View Additional Documents

To view Additional Documents related to a case uploaded by AAR/AAAR, perform following steps:

1. On the **Case Details** page of that particular application, select the **ADDITIONAL DOCUMENT** tab. This tab displays the additional documents submitted physically by any party (i.e. Applicant or Jurisdictional Officer or Concerned Officer) during the hearing.

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APPLICATIONS	NOTICES	REPLIES	ORDERS	RECTIFICATION	ADDITIONAL DOCUMENT
Case Details					
ARN AD2408180000098		GSTIN/UIN/Temporary ID 24ABCPM8147P1Z6		Date Of Application/Case Creation 09/08/2018	
Status Referred by Authority					
Date of Hearing	Document Description	Document Submitted By	Download Document		
09/08/2018	doc1	docA	01test (3).pdf		
09/08/2018	doc1	jim	01test (1).pdf		
10/08/2018	doc2	jim	01test (1).pdf		

- Click hyperlinks in the **Download Document** Column to download and view.

Advance Ruling for Unregistered Dealers (FORM GST ARA-01)

How can I generate a Temporary User ID for the advance ruling, make payment and submit the FORM GST ARA-01?

To generate a Temporary User ID for the advance ruling, make payment and submit the FORM GST ARA-01, perform the following steps:

- Create a Temporary User ID on GST Portal. Click here to know more about how to create a Temporary ID.
- Login to the GST Portal using the Temporary User ID. Click here to know more about how to login to the GST Portal for the first time.
- Create Challan after logging to the GST Portal as per prescribed fee. Click here to know more about how to create Challan.
- After a payment is made, click the **Downloads > Offline Tools > GST ARA 01 – Application for Advance Ruling** command.

Goods and Services Tax

Home Services GST Law Downloads Search Taxpayer Help


Offline Tools

Returns Offline Tool	Tran-1 S(b) CSV template
GSTR3B Offline Utility	ITC04 Offline Tool
GST ARA 01 - Application for Advance Ruling	

- The zip file with the pdf copy of the **Form GST ARA -01, Advance Ruling** Application will be downloaded. Check the Downloads folder of your computer and print the form.
- Fill all the details in the Form **GST ARA -01, Advance Ruling Application**.

Note: In the **GSTIN Number**, if any/ User-id field, enter the temporary ID that you created. In the last field, **Payment details** field, enter the CIN number of the Challan.

7. After filling the form, submit the form at the State Authority for Advance Ruling Office. The Authority for Advance Ruling will inform about the further process.

Form GST ARA -01 <i>[See Rule 98]</i> 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>>	
11.	i. Name of authorized 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 issued under the provisions of the Act	<input type="checkbox"/>	

19. FAQs

1. What is the meaning of Advance Ruling?

Ans. As per section 95 of CGST/SGST Law and section 12 of UTGST law, 'advance ruling' means a decision provided by the authority or the Appellate Authority to an applicant on matters or on questions specified in section 97(2) or 100(1) of CGST/SGST Act as the case may be, in relation to the supply of goods and/or services proposed to be undertaken or being undertaken by the applicant.

2. Which are the questions for which advance ruling can be sought?

Ans. Advance Ruling can be sought for the following questions:

- a) classification of any goods or services or both;
- b) applicability of a notification issued under provisions of the GST Act(s);
- c) determination of time and value of supply of goods or services or both;
- d) admissibility of input tax credit of tax paid or deemed to have been paid;
- e) determination of the liability to pay tax on any goods or services under the Act;
- f) whether applicant is required to be registered under the Act;
- g) whether any particular thing done by the applicant with respect to any goods or services amounts to or results in a supply of goods or services, within the meaning of that term.

3. What is the objective of having a mechanism of Advance Ruling?

Ans. The broad objective for setting up such an authority is to:

- i. provide certainty in tax liability in advance in relation to an activity proposed to be undertaken by the applicant;
- ii. attract Foreign Direct Investment (FDI);
- iii. reduce litigation;
- iv. pronounce ruling expeditiously in transparent and inexpensive manner.

4. What will be the composition of AAR under GST?

Ans. AAR shall comprise one member from CGST and one member from SGST/ UTGST. They will be appointed by the Central and State governments respectively.

5. Is it necessary for a person seeking advance ruling to be registered?

Ans. No, any person registered under the GST Act(s) or desirous of obtaining registration can be an applicant. [Section 95(b)].

6. At what time can an application for advance ruling be made?

Ans. An applicant can apply for advance ruling even before taking up a transaction (proposed supply of goods or services) or in respect of a supply which is being undertaken. The only restriction is that the question being raised is already not pending or decided in any proceedings in the case of applicant.

7. In how much time will the Authority for Advance Rulings have to pronounce its ruling?

Ans. As per Section 98(6) of CGST/SGST Act, the Authority shall pronounce its ruling in writing within ninety days from the date of receipt of application.

8. What is the Appellate Authority for Advance Ruling (AAAR)?

Ans. AAAR shall be constituted under the SGST Act or UTGST Act and such AAAR shall be deemed to be the Appellate Authority under the CGST Act in respect of the respective state or Union Territory. An applicant, or the jurisdictional officer, if aggrieved by any advance ruling, may appeal to the Appellate Authority.

9. How many AAR and AAAR will be constituted under GST?

Ans. There will be one AAR and AAAR for each State.

10. To whom will the Advance Ruling be applicable?

Ans. Section 103 provides that an advance ruling pronounced by AAR or AAAR shall be binding only on the applicant who sought it in respect of any matter referred to in 97 (2) and on the jurisdictional tax authority of the applicant. This clearly means that an advance ruling is not applicable to similarly placed taxable persons in the State. It is only limited to the person who has applied for an advance ruling.

11. Does the advance ruling have precedent value of a judgment of the High Court or the Supreme Court?

Ans. No, the advance ruling is binding only in respect of the matter referred. It has no precedent value. However, even for persons other than applicant, it does have persuasive value.

12. What is the time period for applicability of Advance Ruling?

Ans. The law does not provide for a fixed time period for which the ruling shall apply. Instead, in section 103(2), it is provided that advance ruling shall be binding till the period when the law, facts or circumstances supporting the original advance ruling have changed. Thus, a ruling shall continue to be in force so long as the transaction continues and so long as there is no change in law, facts or circumstances.

13. Can an advance ruling given be nullified?

Ans. Section 104(1) provides that an advance ruling shall be held to be ab initio void if the AAR or AAAR finds that the advance ruling was obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts. In such a situation, all the provisions of the GST Act(s) shall apply to the applicant as if such advance ruling had never been made (but excluding the period when advance ruling was given and up to the period when the order declaring it to be void is issued). An order declaring advance ruling to be void can be passed only after hearing the applicant.

14. What is the procedure for obtaining Advance Ruling?

Ans. Section 97 and 98 deal with procedure for obtaining advance ruling. Section 97 provides that the applicant desirous of obtaining advance ruling should make application to AAR in a prescribed form and manner. The format of the form and the detailed procedure for making application will be prescribed in the Rules.

Section 98 provides the procedure for dealing with the application for advance ruling. The AAR shall send a copy of application to the officer in whose jurisdiction the applicant falls and call for all relevant records. The AAR may then examine the application along with the records and may also hear the applicant. Thereafter AAR will pass an order either admitting or rejecting the application.

15. Under what circumstances will the application for Advance Ruling be compulsorily rejected?

Ans. Application has to be rejected if the question raised in the application is already pending or decided in any proceedings in the case of applicant under any of the provisions of GST Act(s). If the application is rejected, it should be by way of a speaking order giving the reasons for rejection.

16. What is the procedure to be followed by AAR once the application is admitted?

Ans. If the application is admitted, the AAR shall pronounce its ruling within ninety days of receipt of application. Before giving its ruling, it shall examine the application and any further material furnished by the applicant or by the concerned departmental officer.

Before giving the ruling, AAR must hear the applicant or his authorized representative as well as the jurisdictional officers of CGST/SGST/UTGST

17. What happens if there is a difference of opinion amongst members of AAR?

Ans. If there is difference of opinion between the two members of AAR, they shall refer the point or points on which they differ to the AAAR for hearing the issue. If the members of AAAR are also unable to come to a common conclusion in regard to the point(s) referred to them by AAR, then it shall be deemed that no advance ruling can be given in respect of the question on which difference persists at the level of AAAR.

18. What are the provisions for appeals against order of AAR?

Ans. The provisions of appeal before AAAR are dealt in section 100 and 101 of CGST/SGST Act or section 14 of the UTGST Act. If the applicant is aggrieved with the finding of the AAR, he can file an appeal with AAAR. Similarly, if the concerned or jurisdictional officer of CGST/SGST/UTGST does not agree with the finding of AAR, he can also file an appeal with AAAR. The word concerned officer of CGST/SGST means an officer who has been designated by the CGST/SGST administration in regard to an application for advance ruling. In normal circumstances, the concerned officer will be the officer in whose jurisdiction the applicant is located. In such cases the concerned officer will be the jurisdictional CGST/SGST officer. Any appeal must be filed within thirty days from the receipt of the advance ruling. The appeal has to be in prescribed form and has to be verified in prescribed manner. This will be prescribed in the Model GST Rules. The Appellate Authority must pass an order after hearing the parties to the appeal within a period of ninety days of the filing of an appeal. If members of AAAR differ on any point referred to in appeal, it shall be deemed that no advance ruling is issued in respect of the question under appeal.

19. Can an Appeal be filed before High Court or Supreme Court against the ruling of Appellate Authority for Advance Rulings?

Ans. The CGST /SGST Act do not provide for any appeal against the ruling of Appellate Authority for Advance Rulings. Thus, no further appeals lie and the ruling shall be binding on the applicant as well as the jurisdictional officer in respect of applicant. However, Writ Jurisdiction may lie with the Hon'ble High Court or the Hon'ble Supreme Court.

Ref: Writ Petition No. 5 of 2019, JSW Energy Limited vs. Union of India And Ors., dated 07.06.2019.

20. Can the AAR & AAAR order for rectification of mistakes in the ruling?

Ans. Yes, AAR and AAAR have power to amend their order to rectify any mistake apparent from the record within a period of six months from the date of the order. Such mistake may be noticed by the authority on its own accord or may be brought to its notice by the applicant or the concerned or the jurisdictional CGST/SGST officer. If a rectification has the effect of enhancing the tax liability or reducing the quantum of input tax credit, the applicant or the appellant must be heard before the order is passed. (Section 102)

21. Can advance ruling be given orally?

Ans. No. Advance ruling cannot be given orally in view of section 98(6) and 98(7)

22. Can Advance Ruling be applied for after supply of goods and/or services?

Ans. No, as per section 95(a) of the Act, application can be made for Advance Ruling in

relation to the supply of goods and/ or services being undertaken by the applicant but not for a supply which has already been effected.

23. Can the application made to the authority be withdrawn at any time?

Ans. It appears that there is no such provision under the present GST law. However in the case of M/s. Compass Group (India) Support Services Private Limited at the Karnataka AAR, the application was allowed to be withdrawn.

24. Should the applicant submit individual applications for advance ruling on various issues?

Ans. No. The applicant can choose to consolidate all the issues in one application for advance ruling.

25. Should the applicant make an application for advance Ruling under the CGST Act, SGST Act and IGST Act separately?

Ans. No. The applicant can file one consolidated application seeking an advance ruling on all matters irrespective of the GST legislation to which the issue pertains.

26. Can an application be rejected without providing the applicant an opportunity of being heard?

Ans. No. Before rejecting the application, the AAR is bound to provide the applicant with an opportunity to be heard.

27. Is it necessary to specify reasons for rejecting an application in the order of the AAR?

Ans. Yes. Where the application is rejected, reasons for such rejection shall be given in the order.

28. When should a reference be made to the appellate authority?

Ans. A reference shall be made to the Appellate Authority stating the point of differences, when the members of the authority differ on any question on which advance ruling is sought.

It is suggested that both the AAR and the AAAR should consist of three members (one of whom should be from the judiciary) so that a situation shall never arise when a reference is to be made to the AAAR.

29. Who shall appoint the President and the members of the National Appellate Authority?

Ans. The President of the National Appellate Authority shall be appointed by the Government after consultation with the Chief Justice of India or his nominee

The Technical Member (Centre) and Technical Member (State) of the National Appellate Authority shall be appointed by the Government on the recommendations of a

Selection Committee consisting of such persons and in such manner as may be prescribed.

30. What is the tenure of holding office by the President and the members of the National Appellate Authority?

Ans. The President of the National Appellate Authority shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier and shall also be eligible for reappointment.

The Technical Member (Centre) or Technical Member (State) of the National Appellate Authority shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall also be eligible for reappointment.

31. When can the President and the Members of the National Appellate Authority be removed from holding office?

Ans. The Government may, after consultation with the Chief Justice of India, remove from office the President or a Member, who—

- (a) has been adjudged to be insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Government involves moral turpitude; or
- (c) has become physically or mentally incapable of acting as such President or Member; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such as President or Member; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest:

However, the President or the Member shall not be removed on any of the grounds specified in clauses (d) and (e), unless he has been informed of the charges against him and has been given an opportunity of being heard.

32. When can an appeal be preferred to National Appellate Authority?

Ans. In case, conflicting rulings are given by the Appellate Authorities of two or more states or UT or both under Section 101(1) or (3), any office authorised by the Commissioner or an applicant, being distinct persons aggrieved by such advance rulings, may prefer an appeal to National Appellate Authority.

33. What is the time period for filing appeal?

Ans. An Appeal shall be filed within 30 days from the date on which the ruling sought to be appealed against is communicated to the applicant or officers.

34. Under what circumstances is a notice required to be issued to the applicant or appellant, as the case may be, before rectification of an advance ruling order?

Ans. Before rectification of an advance ruling order, a notice is required to be issued to the applicant or appellant, as the case may be, to provide him a reasonable opportunity of being heard, if such rectification has the effect of:

- (i) enhancing the tax liability or
- (ii) reducing the amount of admissible input tax credit.

35. Is the advance ruling binding on other assesseees?

Ans. No. Advance ruling is binding only on that applicant who has sought an advance ruling in respect of the question raised in the application.

36. Are the tax authorities bound by the advance ruling?

Ans. Only the jurisdictional officer/concerned officer, in respect of applicant who has sought advance ruling, are bound by the advance ruling.

37. Can the advance ruling be declared to be void without hearing?

Ans. No. An advance ruling cannot be declared to be void unless the opportunity of being heard has been given.

38. Under what circumstances can advance ruling be declared as void?

Ans. The authority or the appellate authority may declare an advance ruling to be void *ab initio* if it the applicant or the appellant, as the case may be, has obtained it by fraud, suppression of material facts or misrepresentation of facts.

39. I am a Non-Resident; Can I apply for the Advance Ruling?

Ans. Yes, in case a non-resident wants to file Advance Ruling application, then he/she can login into the portal by creating temporary user ID or with the GST Portal credentials, if already registered as a Non- Resident Taxpayer (NRTP). However, all the communications in the form of email shall be sent on the email id of the authorized signatory, whose details were provided at the time of generation of User Id.

40. How can an unregistered person intimate about the payment made?

Ans. An unregistered person creates a challan and after making payment, needs to take the printout of that challan (along with other documents) to State Advance Ruling Authority Office. The login facility is not provided to Unregistered Taxpayer. However unregistered person can register on GST Portal.

41. How many types of Applications related to Advance Ruling can I file on the GST Portal?

Ans. A taxpayer can file following types of Applications related to Advance Ruling on the GST Portal:

- Application for seeking Advance Ruling from AAR.
- Application for Reply to the issued Notice
- Application of Appeal before the AAAR, with an application for condonation of delay in filing appeal, if applicable
- Application of Rectification before the AAR or AAAR as per the case

42. How many types of Advance Ruling Proceedings are conducted by Tax Officials?

Ans. Based on the Applications that are filed, Advance Ruling Proceedings can be of the following types:

- **Advance Ruling:** For Processing Application for seeking Advance Ruling from AAR
- **Advance Ruling Appeals:** For Processing Application of Appeal before the AAAR
- **Advance Ruling Reference:** For Processing Applications referred by AAR
- **Rectification Proceedings:** For Processing Applications for Rectifications of Orders issued by AAR or AAAR
- **Void Proceedings:** For Processing Disposed Applications, where it was found that the Applicant has obtained an Advance Ruling by fraud, or suppression of material facts or misrepresentation of facts.

43. What do I need to do after filing an Advance Ruling Application on the GST Portal?

Ans. Applicants, after filing an application, need to participate in the related proceedings and take necessary actions as intimated by AAR or AAAR.

On the GST Portal, for ease of all Applicants, details of each Application filed by the taxpayer are organized into the following six tabs in the Case Details Screen: APPLICATIONS, NOTICES, REPLIES, ORDERS, RECTIFICATION and ADDITIONAL DOCUMENT. Applicant can easily access these tabs of an Application to track all proceedings related to that particular application and take necessary actions.

44. What happens after the successful filing of an Application for seeking Advance Ruling?

Ans. Following actions take place on the GST Portal after successful filing of an Application for seeking Advance Ruling:

1. ARN gets generated along with Acknowledgement and is communicated to the Applicant through an email and SMS.
2. An email is sent to the Tax Officials—Concerned Officer (CO) and Jurisdictional Officer (JO)—informing them about receipt of application along with ARN and application date.
3. Applicant can navigate to **Dashboard > Services > User Services > My Applications** and search for the Application and open the Case Details Screen. Status of the ARN will be "Pending for Order"
4. The Application will land in the queue of AAR under Application Inbox and the following Advance Ruling Proceedings will take place.
5. AAR examines the relevant records and information obtained from the CO and/or JO and hears the applicant/the authorized representative of the applicant as well as the CO/JO or his/her authorized representative.
6. AAR reviews the Application and issues "Hearing Notice" for Admission/Rejection of Advance Ruling Application to the Applicant and CO and/or JO, with date, place and time of hearing.
7. Applicant and CO and/or JO can also submit their Replies, if required, on the GST Portal and appear on the date of Hearing.
8. On the date of hearing, parties appear before the AAR. AAR can also issue an Adjournment Notice to the parties with details of new date, new place and new time of hearing.
9. After hearing the parties and examining the application and records received during Personal Hearing, if any, AAR shall issue an order either admitting or rejecting the application.

45. What actions take place on the GST Portal if AAR rejects a Submitted Application for seeking Advance Ruling?

Ans. If AAR rejects a submitted Application for seeking Advance Ruling, following actions take place on the GST Portal:

- Status of the ARN is changed from "Submitted" to "Rejected"
- Email and SMS is sent to the Applicant, CO and JO intimating them of application rejection

46. What actions can I take if AAR rejects my Application for seeking Advance Ruling?

Ans. Once AAR rejects an Application for seeking Advance Ruling, the Applicant can file an application for Rectification using "*File Rectification*" link on the ORDERS tab.

47. Can I file an Appeal on the GST Portal if AAR rejects my Application for seeking Advance Ruling?

Ans. No, you cannot file an appeal on the GST Portal if AAR rejects your Application for seeking Advance Ruling.

48. What are the steps involved in Processing of an Admitted Application for seeking Advance Ruling?

Ans. Once the AAR issues an order admitting the Application for seeking Advance Ruling, following steps take place:

1. AAR issues "Hearing Notice" for Disposal of Advance Ruling Application to the Applicant and CO and/or JO, with details of date, place and time of hearing. Status of the ARN is changed from "*Admitted*" to "*Pending For Order*".
2. Applicant and CO and/or JO can also submit their Replies/Counter-replies, if required, on the GST Portal and appear on the date of Hearing.
3. On the date of hearing, parties appear before the authority. AAR can also issue an Adjournment Notice to the parties with details of new date, new place and new time of hearing.
4. After hearing the parties and examining the application and records received during Personal Hearing, if any, AAR can take following actions
 - a. In case of concurrence, AAR shall issue order disposing the Advance Ruling Application. Status of the ARN is changed from "*Pending For Order*" to "*Disposed by Authority*".
 - b. In case of difference of Opinion among the AAR Members, AAR shall refer the case to AAAR. AAR can make partial reference or complete reference. Partial reference is made if there is partial difference of opinion among the AAR Members. In this case, both Order and Reference is made. Order is passed in relation to concurrent points and Reference is made to AAAR on non-concurrent points. In both the cases, Status of the ARN is changed from "*Disposed by Authority*" to "*Referred by Authority*".
5. AAAR reviews the Reference made and issues "Hearing Notice" for Disposal of Advance Ruling Application to the Applicant and CO and/or JO, with date, place and time of hearing.

6. Applicant and CO and/or JO can also submit their Replies/Counter-replies, if required, on the GST Portal and appear on the date of Hearing.
7. On the date of hearing, parties appear before the authority. AAAR can also issue an Adjournment Notice to the parties with details of new date, new place and new time of hearing.
8. After hearing the parties and examining the application and records received during Personal Hearing, if any, AAAR can take the following actions:
 - (i) **Issue "Appeal Order (Confirming Advance Ruling)":** Intimation of the Order is sent by a system-generated email to the Appellant and Respondents and the Status of the ARN is changed from "Pending For Order" to "Disposed by Appellate Authority". If there is difference of Opinion among the AAAR Members on any point, AAAR will mention in the order that no advance ruling can be pronounced in respect of such point or points.
 - (ii) **Issue "Appeal Order (Modifying Advance Ruling)":** Intimation of the Order is sent by a system-generated email to the Appellant and Respondents and the Status of the ARN is changed from "Pending For Order" to "Disposed by Appellate Authority". If there is difference of opinion among the AAAR Members on any point, AAAR will mention in the order that no advance ruling can be pronounced in respect of such point or points.

49. Will the system allow me to file Rectification even after 6 months of the issue of that Order?

Ans. In case the difference between the date of the order and rectification application filed is more than 6 months, the information message will pop up asking for confirmation if you still want to file the Rectification Application as the period exceeds 6 months from the date of the order. In case, you select "YES", System will allow you to proceed with the application. In case, you select "NO", System will bring you back to the earlier screen.

50. What are the steps involved in Processing of an Application for Rectification of Advance Ruling?

Ans. Following steps are involved in Processing of an Application for Rectification of Advance Ruling:

If Rectification is filed by a Taxpayer or CO/JO:

AAR / AAAR review the Application and can take the following actions:

- i. **Issue "Rejection of Rectification Application" Order, with reasons for rejection:** If the AAR/AAAR is satisfied that the rectification is not required or the

application is time barred, it will provide an opportunity of being heard and issue "Hearing Notice" for Acceptance/Rejection of Rectification Application to the Applicant and CO and/or JO, with date, place and time of hearing. Based on the hearing, it will pass the Order. Also, Status of the ARN is updated to "Rectification Rejected". The parties (i.e. the applicant and the jurisdictional officer and/or concerned officer) will be informed about such order through email.

ii. **Proceed with Rectification:**

- AAR/AAAR issues "Hearing Notice" for Disposal of Rectification Application. Its intimation is sent by a system-generated email to the Applicant and CO/JO, with date, place and time of hearing. AAAR can also issue an Adjournment Notice to the parties. Its intimation is also sent by a system-generated email to the Applicant and CO/JO, with details of new date, new place and new time of hearing.
- On the date of hearing, parties appear before the AAR/AAAR. AAR/AAAR after giving the persons concerned an opportunity of being heard can rectify the order. Status of the ARN is updated to "Application Disposed". The parties (i.e. the applicant and the jurisdictional officer and/or concerned officer) will be informed about such order through email.

If Suo moto Rectification is done by AAR/AAAR:

CASE 1 - In case, opportunity of being heard is required because the rectification has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit, following steps take place:

1. AAR/AAAR issues "Hearing Notice" along with the grounds of rectification. Its intimation is sent by a system-generated email to the Applicant and CO/JO, with date, place and time of hearing. AAR/AAAR can also issue an Adjournment Notice to the parties. Its intimation is also sent by a system-generated email to the Applicant and CO/JO, with details of new date, new place and new time of hearing.
2. On the date of hearing, parties appear before the AAR/AAAR. AAR/AAAR after giving the persons concerned an opportunity of being heard can rectify the order. Status of the ARN is updated to "Application Disposed". The parties (i.e. the applicant and the jurisdictional officer and/or concerned officer) will be informed about such order through email.

CASE 2 - In case opportunity of being heard is **not** required, AR/AAAR will rectify the order. Status of the ARN is updated to "Application Disposed". The parties (i.e. the applicant and the jurisdictional officer and/or concerned officer or AAR, if Order is rectified by AAAR) will be informed about such order through email.

51. Once AAR/AAAR initiates Rectification proceedings or CO/JO files Application for Rectification of Order, will I receive its auto-intimation?

Ans. Yes, once AAR/AAAR initiates Rectification proceedings or CO/JO files Application for Rectification of Order, GST portal will automatically send you an email informing about receipt of the application of Rectification of Order or Suo moto initiation of Rectification along with Rectification Reference Number and application date.

52. How many Applications of Rectifications of Order can I file?

Ans. Application for rectification of the order can be filed multiple times.

53. Can I submit more than one Reply to a Notice?

Ans. No, you cannot submit more than one Reply to a Notice. Once the reply is submitted, the Reply link in the NOTICES tab will get disabled. In case you want to modify your reply or submit any additional documents, you can do so during Personal Hearing and submit the hardcopy of the documents. These additional documents will be uploaded by the tax official on the GST Portal.

54. I am filing an Appeal on 01/04/2018 against the Advance Ruling Order passed by AAR on 01/03/2018. Do I need to attach the Details of Condonation of Delay (COD) along with the Appeal Application?

Ans. Yes, you need to attach the Details of Condonation of Delay (COD) along with the Appeal Application. This is because the number of days delay in filing Appeal is calculated after expiry of 30 days and in your case the number of days delay in filing Appeal is '1'. This will be displayed in **No. of days delay in filing appeal** field of the **Advance Ruling Appeal Application** screen when you initiate filing of appeal.

55. What are the types of Orders that can be issued against the filed Applications related to Advance Ruling?

Ans. Following are the types of Orders that can be issued against the filed Applications related to Advance Ruling:

Orders issued by AAR:

- Declaring Advance Ruling Void
- Dropping Void Proceedings
- Admission of Advance Ruling Application
- Rejection of Advance Ruling Application
- Advance Ruling Order
- Rectification of Order
- Rejection of Rectification Application

Orders issued by AAAR:

- Declaring Advance Ruling Void
- Dropping Void Proceedings
- Acceptance of Condonation of Delay
- Rejection of Condonation of Delay
- Appeal Order (Confirming Advance Ruling)
- Appeal Order (Modifying Advance Ruling)
- Rectification of Order
- Rejection of Rectification Application

56. Against which of the Orders issued by AAR can I file an Appeal?

Ans. You can file an Appeal against the Advance Ruling Order and Rectification Order (in case the Advance Ruling Order is rectified) issued by AAR.

57. What are the types of Notices that can be issued against the filed Applications related to Advance Ruling?

Ans. Following types of Notices can be issued against the filed Applications related to Advance Ruling:

Notices issued by AAR:

- Notice of Personal Hearing for Admitting or Rejecting Filed Application seeking Advance Ruling
- Notice of Personal Hearing in respect of rectification application
- Notice of Personal Hearing in respect of Suo Moto rectification
- Notice of Personal Hearing in respect of declaring advance ruling order void
- Notice of Adjournment

Notices issued by AAAR:

- Notice of Personal Hearing for Admitting or Rejecting Appeals
- Notice of Personal Hearing in respect of in respect of reference application
- Notice of Personal Hearing in respect of rectification application
- Notice of Personal Hearing in respect of Suo Moto rectification
- Notice of Personal Hearing in respect of declaring advance ruling order void
- Notice of Adjournment



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