

Definitions

95^[1] Definitions.

In this Chapter, unless the context otherwise requires,—

- a. “advance ruling” means a decision provided by the Authority or the Appellate Authority [or the National Appellate Authority]^[2] to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100 [or of section 101C,]^[3] in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;
- 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 this Act;
- d. “application” means an application made to the Authority under sub-section (1) of section 97;
- e. “Authority” means the Authority for Advance Ruling referred to in section 96 ;
- f. [“National Appellate Authority” means the National Appellate Authority for Advance Ruling referred to in section 101A.”]^[4]

^[1] Enforced with effect from 1.7.2017.

^[2] Inserted vide The Finance (No.2) Bill, 2019

^[3] Inserted vide The Finance (No.2) Bill, 2019

^[4] Inserted vide The Finance (No.2) Bill, 2019, with effect from a date yet to be notified.

Authority for advance ruling

96^[1] 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.

^[1] Enforced with effect from 1.7.2017.

Application for advance ruling.

97^[1] Application for advance ruling

(1) ^[2] An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form ^[3] and manner and accompanied by such fee as may be prescribed ^[4], 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 the 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.

^[1] Enforced with effect from 1.7.2017.

^[2] Refer Cir. No. 25/2017, dt. 21.12.2017.

^[3] Refer Form GST-ARA-01 of the CGST Rules, 2017.

^[4] Refer rule 104 of the CGST Rules, 2017.

Procedure on receipt of application

98[1]**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 officer.

(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 authorised 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^[2] shall be sent to the applicant, the concerned officer and the jurisdictional officer after such pronouncement.

[1] Enforced with effect from 1.7.2017.

[2] Refer rule 105 of the CGST Rules, 2017.

Appellate Authority for Advance Ruling

99[1]**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.

[1]
___ Enforced with effect from 1.7.2017.

Appeal to Appellate Authority

100[1]
Appeal to Appellate Authority.

[2]
(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 and the applicant:

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

[3]
(3) Every appeal under this section shall be in such form___, accompanied by such fee and verified in such manner as may be prescribed___.
[4]

[1]
___ Enforced with effect from 1.7.2017.

[2]
___ Refer Cir. No. 25/2017, dt. 21.12.2017.

[3]
___ Refer Form GST ARA-02 & Form GST ARA-03 of the CGST Rules, 2017.

[4]
___ Refer rule 106 of the CGST Rules, 2017.

Orders of Appellate Authority

101^[1]**Orders of Appellate Authority.**

- (1) The Appellate Authority may, after giving the parties to the appeal or reference an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against or referred to.
- (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^[2] shall be sent to the applicant, the concerned officer, the jurisdictional officer and to the Authority after such pronouncement.

^[3]“101A. Constitution of National Appellate Authority for Advance Ruling.

- (1) The Government shall, on the recommendations of the Council, by notification, constitute, with effect from such date as may be specified therein, an Authority known as the National Appellate Authority for Advance Ruling for hearing appeals made under section 101B.
- (2) 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 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.
- (3) The President of the National Appellate Authority shall be appointed by the Government after consultation with the Chief Justice of India or his nominee:

Provided that in the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or otherwise, the senior most Member of the National Appellate Authority shall act as the President until the date on which a new President, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office:

Provided further that where the President is unable to discharge his functions owing to absence, illness or any other cause, the senior most Member of the National Appellate Authority shall discharge the functions of the President until the date on which the President resumes his duties.

- (4) 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.

(5) No appointment of the Members of the National Appellate Authority shall be invalid merely by the reason of any vacancy or defect in the constitution of the Selection Committee.

(6) Before appointing any person as the President or Members of the National Appellate Authority, the Government shall satisfy itself that such person does not have any financial or other interests which are likely to prejudicially affect his functions as such President or Member.

(7) The salary, allowances and other terms and conditions of service of the President and the Members of the National Appellate Authority shall be such as may be prescribed:

Provided that neither salary and allowances nor other terms and conditions of service of the President or Members of the National Appellate Authority shall be varied to their disadvantage after their appointment.

(8) 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.

(9) 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.

(10) The President or any Member may, by notice in writing under his hand addressed to the Government, resign from his office:

Provided that the President or Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Government, or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(11) The Government may, after consultation with the Chief Justice of India, remove from the office such President or Member, who—

- a. has been adjudged an insolvent; or
- b. has been convicted of an offence which, in the opinion of such 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 President or Member; or
- e. has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that 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.

(12) Without prejudice to the provisions of sub-section (11), the President and Technical Members of the National Appellate Authority shall not be removed from their office except by an order made by the Government on the ground of proven misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Government and such President or Member had been given an opportunity of being heard.

(13) The Government, with the concurrence of the Chief Justice of India, may suspend from office, the President or Technical Members of the National Appellate Authority in respect of whom a reference has been made to the Judge of

the Supreme Court under sub-section (12).

(14) Subject to the provisions of article 220 of the Constitution, the President or Members of the National Appellate Authority, on ceasing to hold their office, shall not be eligible to appear, act or plead before the National Appellate Authority where he was the President or, as the case may be, a Member.

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 sought 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.

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.”^[4]

^[1] Enforced with effect from 1.7.2017.

^[2] Refer rule 107 of the CGST Rules, 2017.

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

^[4] Inserted vide The Finance (No.2) Bill, 2019, with effect from a date yet to be notified.

Rectification of advance ruling

102^[1] Rectification of advance ruling.

The Authority or the Appellate Authority [or the National Appellate Authority] may amend any order passed by it under section 98 or section 101 [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 [or the National Appellate Authority] on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer, the applicant [Appellant, the Authority or the Appellant Authority]^[2] within a period of six months from the date of the order:

Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the applicant or the appellant has been given an opportunity of being heard.

^[1] Enforced with effect from 1.7.2017.

^[2] Substituted for “or the appellant”, *ibid*.

Applicability of advance ruling

103^[1] Applicability of advance ruling.

(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.

[(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]

(2) The advance ruling referred to in sub-section (1) [and sub-section (1A)]^[3] shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

^[1] Refer Not. No. 39/2019-CT, dt. 31.8.2019.

^[2] Inserted vide The Finance (No.2) Bill, 2019

^[3] Inserted vide The Finance (No.2) Bill, 2019

Advance ruling to be void in certain circumstances

104^[1] **Advance ruling to be void in certain circumstances.**

(1) Where the Authority or the Appellate Authority [or the National Appellate Authority]^[2] finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 101 [or under section 101C]^[3] 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.

[1] Enforced with effect from 1-7-2017.

[2] Inserted vide The Finance (No.2) Bill, 2019

[3] Inserted vide The Finance (No.2) Bill, 2019

Powers of Authority and Appellate Authority

105[1] **Powers of Authority, Appellate Authority and National Appellate Authority**[2]

(1) The Authority or the Appellate Authority [or the National Appellate Authority][3] shall, for the purpose of exercising its powers regarding—

- a. discovery and inspection;
- b. enforcing the attendance of any person and examining him on oath;
- c. issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908(5 of 1908).

(2) The Authority or the Appellate Authority [or the National Appellate Authority][4] shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973(2 of 1974), and every proceeding before the Authority or the Appellate Authority [or the National Appellate Authority][5] shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code(45 of 1860)[6].

[1] Enforced with effect from 1.7.2017.

[2] Substituted vide The Finance (No.2) Bill, 2019, prior substitution the wording was as under; “Powers of Authority and Appellate Authority”

[3] Inserted vide The Finance (No.2) Bill, 2019

[4] Inserted vide The Finance (No.2) Bill, 2019

[5] Inserted vide The Finance (No.2) Bill, 2019

[6] For text of section 193, 196 and 228 of the Indian Penal code, see Appendix.

Procedure of Authority and Appellate Authority

106^[1] **Procedure of Authority, Appellate Authority and National Appellate Authority**^[2]__.

The Authority or the Appellate Authority [or the National Appellate Authority]^[3]__ shall, subject to the provisions of this Chapter, have power to regulate its own procedure.

^[1]__ Enforced with effect from 1.7.2017.

^[2]__ Substituted vide The Finance (No.2) Bill, 2019, prior substitution the wording was as under; "Powers of Authority and Appellate Authority"

^[3]__ Inserted vide The Finance (No.2) Bill, 2019