

**RJA**

**Rajput Jain & Associates**  
Chartered Accountants

## **GST Advance Ruling**



# About Us

- Rajput Jain & Associates is a Chartered Accountants firm, with its headquarter situated at New Delhi (the capital of India). The firm has been set up by a group of young, enthusiastic, highly skilled and motivated professionals who have taken experience from top consulting firms and are extensively experienced in their chosen fields has providing a wide array of Accounting, Auditing, Taxation, Assurance and Business advisory services to various clients and their stakeholders. focus at providing tailor made solutions to challenging problems of our clients, and perform with high quality and timely service.
- Rajput Jain & Associates, a professional firm, offers its clients a full range of services, To serve better and to bring bucket of services under one roof, the firm has merged with its various Chartered Accountancy firms pioneer in diversified fields
- Our main office is located at Delhi. Incidentally, Delhi is the Capital of India. Our other offices are in Mankapur & Moradabad (U.P.). We have associates all over India in big cities. All our offices are well equipped with latest technological support with updated reference materials. We have a large team of professionals other than our Core Team members to meet the requirements of our prospective clients including the existing ones. However, considering our commitment towards high quality services to our clients, our team keeps on growing with more and more associates having strong professional background with good exposure in the related areas of responsibility. Further to meet the growing demands of the fiercely competitive market we are constantly looking forward for team of associates comprising of highly skilled professionals to cater the needs ever increasing clientele.



# Summary of Sections and Provisions

<b>SECTIONS OF THE CGST ACT, 2017 (Chapter XVII)</b>	<b>RULES OF THE CGST RULES, 2017</b>
95. Definitions	103. Qualification and appointment of members of the Authority for Advance Ruling
96. Authority for Advance Ruling	
97. Application for Advance Ruling	104. Form and manner of application to the Authority for Advance Ruling
98. Procedure on receipt of application	
99. Appellate Authority for Advance Ruling	105. Certification of copies of advance rulings pronounced by the Authority
100. Appeal to Appellate Authority	
101. Orders of Appellate Authority	106. Form and manner of appeal to the Appellate Authority for Advance Ruling
101A. Constitution of National Appellate Authority for Advance Ruling	
101B. Appeal to National Appellate Authority	107. Certification of copies of the advance rulings pronounced by the Appellate Authority
101C. Order of National Appellate Authority	
102. Rectification of advance ruling	107A. Manual filing and processing
103. Applicability of advance ruling	
104. Advance ruling to be void in certain circumstances	
105. Powers of Authority and Appellate Authority	
106. Procedure of Authority and Appellate Authority	

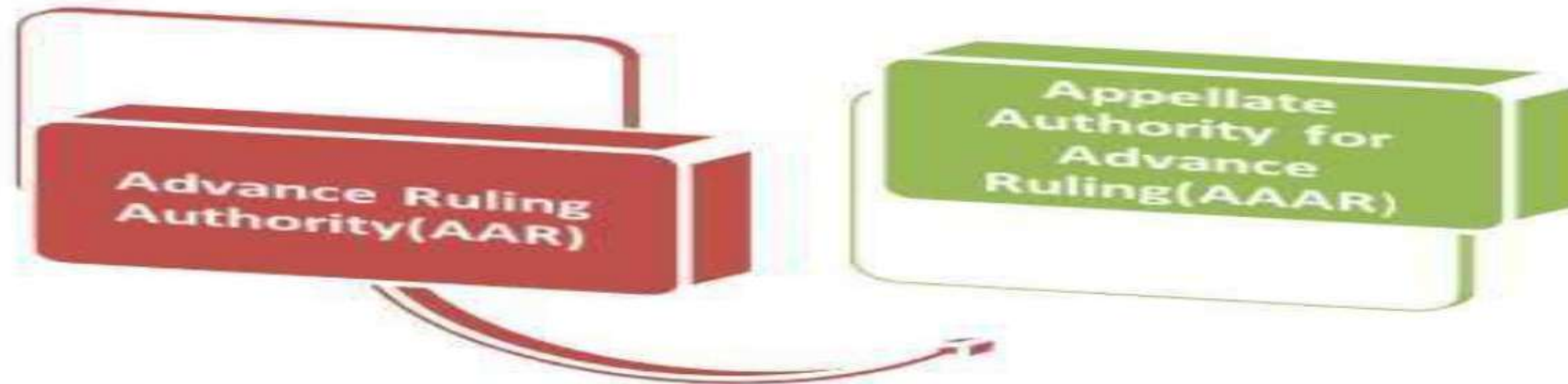


# ADVANCE RULING

## What is Advance Ruling?



**Section 95(a):** “**Advance ruling**” means a decision provided by the Authority or the Appellate Authority [or the National Appellate Authority] to an applicant on matters or on questions specified in sub-section (2) of section 97 or subsection (1) of section 100[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.



Under the previous dispensation, advance rulings can 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



# IS IT USEFUL

- ✓ To ensure that disputes are minimal.
- ✓ Timelines are also given within which the ruling is to be given by the concerned authority.
- ✓ To provide certainty to the taxpayer with respect to his obligations under the GST Act
- ✓ To avoid unnecessary litigation.
- ✓ Attract Foreign Direct Investment (FDI) by ensuring certainty in taxation aspects of transactions





# ADVANCE RULING

Section 95(c): “*applicant*” means any person registered or desirous of obtaining registration under the Act

**Applicant can be:**

- 1) A registered person**
- 2) An unregistered person having PAN (Except in case of Non resident)**

Definition of person is given u/s 2(84) of CGST Act, 2017. Recipient is not included in definition of person and cannot seek ruling (except in case of Input Tax Credit)



**Application Rejected due to being recipient:**

- 1. AAR of Maharashtra vide order dated 15.01.2020 in the case of Anju Kushal Jain**
- 2. AAR of Maharashtra vide order dated 03.12.2019 in the case of Municipal Corporation Greater**

Mumbai



# CONDITIONS FOR MAKING APPLICATION

Section 95(d) : “application” means an application made to the Authority under sub-section (1) of section 97

- 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.

Act.

2. The Applicant is registered under the Goods and Services Act, 2017 as works contractor and wholesale supplier in Jaipur, Rajasthan, having GSTIN

T & D Electricals

Page 1 of 7

## T & D Electricals – AAR Karnataka

08AADFT8381Q1Z9. They have been awarded a contract by M/s Shree Cement Limited, Rajasthan for electrical, instrumentation and IT jobs (works contract) at township, Karnataka Cement Project (a unit of Shree Cement Ltd.,). The applicant had sought advance ruling, on the same questions & same issues that have been raised in the instant application, before the Authority for Advance Ruling, Rajasthan, Jaipur, who have not passed any ruling on the grounds that the questions pertain to GST registration in Karnataka which are beyond the purview of the said authority. In view of this, the applicant filed the instant application, as an unregistered person, seeking advance ruling in respect of the following questions:

1. Whether separate registration is required in Karnataka state ? If yes, whether agreement would suffice as address proof since nothing else is with the assessee and service recipient will not provide any other proof?

**\*No advance ruling can be sought on transactions already undertaken in the past.**



# CONDITIONS FOR MAKING APPLICATION

(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.

5.2.3 We find that the first query raised by the applicant is technical/procedural in nature and is not covered under categories of (a) to (g) of the Section 97(2) and therefore this Authority cannot pass a ruling in respect of the said query.

5.3 We now take up their second question for discussion which is, in the case of Drop-Shipment sales, where the delivery of merchandise is from a manufacturer or original supplier directly to a buyer, without passing through applicant's office or warehouse, whether such supply will be considered as export sale under GST ACT and subject to IGST?

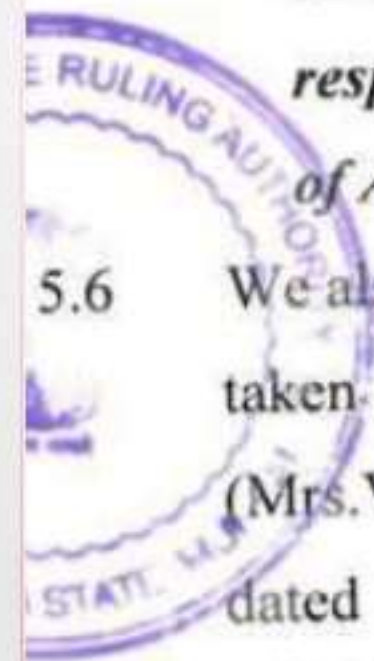
5.3.1 We find from the applicant's submission that in the case of drop shipment transaction, the applicant, after receiving the order for a particular product/products on their website from the buyer along with online payment, contacts the supplier and furnishes details of the buyer to them. The desired product/goods is shipped directly from the supplier to the buyer. Hence, it is clear that the applicant is not directly supplying goods to the buyers. From the submissions made on this issue it is seen that the applicant neither owns the said goods nor delivers the same to their customers. Applicant only facilitates the transaction



AAR of Maharashtra vide order dated 2.01.2020 in the case of wise design communications private limited.

“16: On perusal of the provision of section 97(2), we find that the question on the determination of place of supply has not been covered in the above set of questions, on which advance ruling can be given. Therefore, we do not have jurisdiction to pass any ruling on such questions which involve the determination of the place of supply of goods or services or both.

19: Thus, in view of the provision under section 2(6) of IGST ACT laid down in respect of export of services and above discussed provision laid down in section 97(2) of the CGST Act, 2017 encompassing the specific questions, which are sought under advance ruling, it can decisively be inferred that the questions raised by the respondent before Advance Ruling Authority were beyond the scope and jurisdiction of Advance Ruling, and hence do not warrant any ruling thereon”.



5.6 We also find that Appellate Authority of Advance Ruling, Maharashtra State (AAAR) has taken the same views on the similar matters before them namely, M/s Micro Instrument (Mrs. Vishakha Prashant Bhawe), vide appeal order no. MAH/AAAR/SS-RJ/26/2018-19 dated 22.03.2019, M/s Sabre Travel Network India Pvt. Ltd., vide appeal Order No. MAH/AAAR/SS-RJ/30/2018-19 dated 10.04.2019, M/s Asahi Kasei Pvt. Ltd., vide appeal Order No. MAH/AAAR/SS-RJ/01/2019-20 dated 19.06.2019, and in the case of M/s Segoma Imaging Technologies India Pvt Ltd, vide appeal order no. MAH/AAAR/SS-RJ/28/2018-19 dated 03.04.2019.

5.7 Relying on the abovementioned decisions of the Appellate Authority for Advance Ruling (AAAR) and in view of the provisions of Section 97 of the CGST Act, 2017, we find that this authority is not allowed to answer the subject question.

AAR of Maharashtra vide order dated 25.02.2020 in the case of PANBASE resources private limited. Place of supply is outside the scope of 97(2)



# What are the matters/questions specified in Section 97(2) & Section 100(1) of the CGST Act, 2017

**a.**

classification of any goods or services or both

**AAR Goa-29.06.2020-Springfiels (India) Distilleries-HSN Code of Hand Sanitizer**

**b.**

applicability of a notification issued under the provisions of CGST Act

**AAR AP-05.05.2020-Lakshmi Tulasi Quality Fuels-Exemption N/No/9/2017 as residential dwelling**

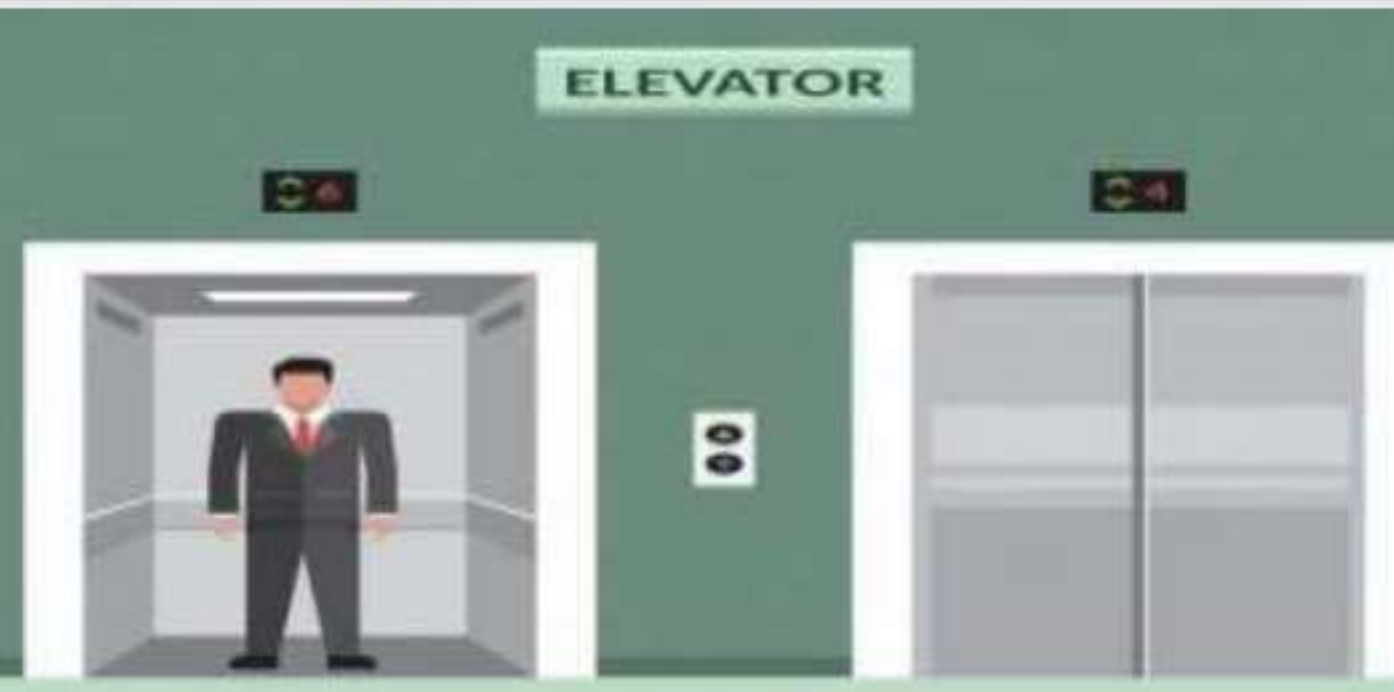
**c.**

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

**NO ITC ON THE REPLACEMENT  
OF  
EXISTING ELEVATOR**



**LAS Palmas Co-operative Housing  
Society Limited-AAR Maharashtra-  
22.01.2020**

**e.**

determination of the liability to pay tax on any goods or services or both



# What are the matters/questions specified in Section 97(2) & Section 100(1) of the CGST Act, 2017

**f.**

whether applicant is required to be registered

**AAR Karnataka-29.06.2020-T&D Electricals-Registration for works contract in different state**

**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.

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



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).



# Questions outside the scope of Advance Rulings

## Past Transactions

- advance ruling can be only in relation to the supply of goods or services or both being undertaken or proposed to be undertaken

## Transitional ITC

- 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.

## Place of Supply

**PANBASE Resources Pvt. Ltd.-AAR Maharashtra-25.02.2020**

- 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.

## E-Way Bill



However, Kerala High Court in case of Sutherland Mortgage Inc. held that the provision under clause (e) is in wide terms and the Parliament has clearly mandated that the latter issue of determination of liability to pay tax on any goods or services or both, should also be matters on which the applicant concerned could seek an advance ruling.



# 'Authority for advance ruling' (AAR) and 'Appellate authority for advance ruling' (AAAR)

**Authority for advance ruling**

**Section 96**

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

and  
appointment  
of members  
of the  
Authority for  
Advance

**Rule 103**

**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 Notification no. 22/2017 – CT dt. 17.08.2017}

**Appellate Authority for advance ruling**

**Section 99**

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

- Addresses of AAR and AAAR are available on [www.gstcouncil.gov.in](http://www.gstcouncil.gov.in)
- The orders passed by AAR and AAAR are available on [www.gstcouncil.gov.in](http://www.gstcouncil.gov.in)





# for advance ruling' (AAAR)



- ❖ The Authority for Advance Ruling (AAR) and the Appellate Authority for Advance Ruling (AAAR) 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 (AAR) and Appellate Authority for Advance Ruling (AAAR) in respect of that State or Union territory under the CGST Act, 2017 also.
- ❖ Thus it can be seen that both the Authority for Advance Ruling (AAR) & the Appellate Authority for Advance Ruling (AAAR) is constituted under the respective State / Union Territory Act and not the Central Act. This would mean that the ruling given by the AAR & AAAR will be applicable only within the jurisdiction of the concerned state or union territory. It is also for this reason that questions on determination of place of supply cannot be raised with the AAR or AAAR.





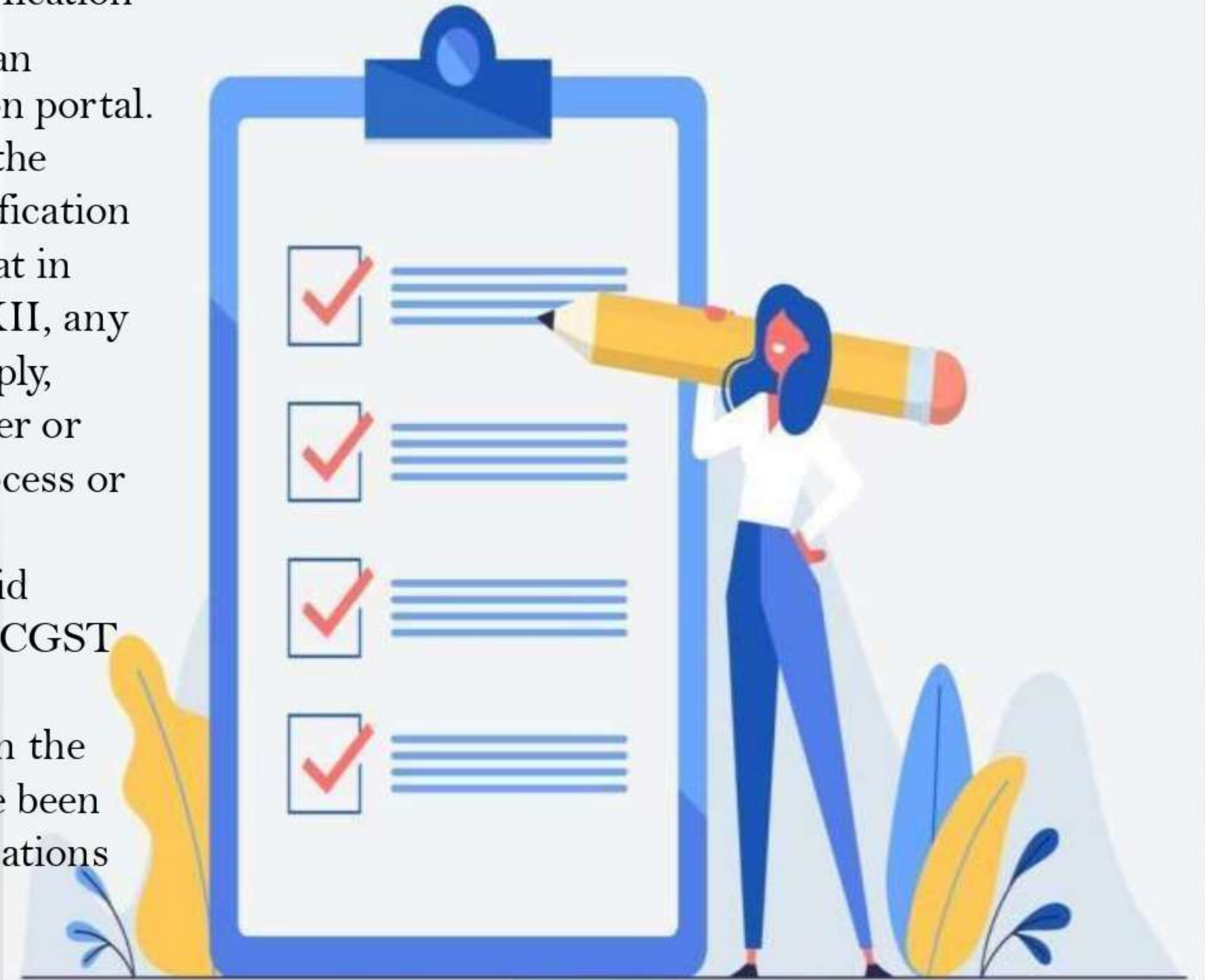
# FORM AND MANNER OF APPLICATION


To the Authority for Advance Ruling	To the Appellate Authority for Advance Ruling
Rule 104 of CGST Rules	Rule 106 of CGST Rules
Application under Section 97(1) of the Act	Application under Section 100(1) of the Act
Form ARA-01	Form ARA-02
Fees-INR 5,000/-	Fees-INR 10,000/-
N.A.	Form ARA-03 by concerned officer; no fees
Amount to be deposited in manner specified u/s 49	Amount to be deposited in manner specified u/s 49
All documents to be verified as per Rule 26	All documents to be verified as per Rule 26
No such time limit	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 time period.



# AAAR (Rule 107A)

- ❑ As per rules 104 and 106 of the CGST Rules, 2017 the application for obtaining an advance ruling and filing an appeal against an advance ruling shall be made by the applicant on the common portal.
- ❑ However, due to the unavailability of the requisite forms on the common portal, a new rule 107A has been inserted vide notification No. 55/2017-Central Tax, dated 15.11.2017, which states that in respect of any process or procedure prescribed in Chapter XII, 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 the 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 the CGST Rules.
- ❑ Therefore, till the advance ruling module is made available on the common portal, the following conditions and procedure have been prescribed for the manual filing and processing of the applications



- 
- ❑ Circular no. 25/25/2017-GST dated 21.12.2017 prescribing the detailed procedure for manual filing of applications for Advance Ruling and appeals before Appellate Authority for Advance Ruling has been issued.



# Practical Procedure on Portal for filing Advance Ruling

## STEPS TO FILE ADVANCE RULING BY REGISTERED TAXPAYERS (FORM GST ARA-01)

Access the [www.gst.gov.in](http://www.gst.gov.in) URL. The GST Home page is displayed

Login to the GST Portal with valid credentials i.e. your User Id and Password

Click the Services > User Services > My Applications command



My Applications page is displayed

Select the Application Type as Advance Ruling from the drop-down list.

Click the NEW APPLICATION button

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

The screenshot shows the 'My Applications' page. It features a form with the following fields: 'Application Type' (a dropdown menu with 'Advance Ruling' selected), 'From Date' (a date picker with 'DD/MM/YYYY' format), and 'To Date' (a date picker with 'DD/MM/YYYY' format). There are 'SEARCH' and 'NEW APPLICATION' buttons at the bottom right. A legend indicates that a red asterisk (\*) denotes mandatory fields.



# Practical Procedure on Portal for filing Advance Ruling (contd.)



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.

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	0.00	5000.00
CGST	5000.00	0.00	5000.00
IGST	-	0.00	-
Total (in ₹)	10000.00	0.00	10000.00

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,



# Practical Procedure on Portal for filing Advance Ruling (contd.)

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.

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

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

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

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.

**Form GST ARA -01**  
[See Rule 98]  
**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/Deport	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"/>



# Ruling (contd.)

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.

Under Upload Supporting Documents,

Enter Document Description and click the Choose File button. Navigate and select the

Supporting Document. After the document is uploaded, Click ADD

DOCUMENT.

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

- ✓ In the Name of Authorized Signatory drop-down list, select the name of authorized signatory.
- ✓ In the Place field, enter the place where the form is filed.
- ✓ Once Name of Authorized Signatory and Place are updated,

Designation/Status and Date is auto-

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.

Upload Supporting Documents:

Enter Document Description

Supporting Document

ADD DOCUMENT

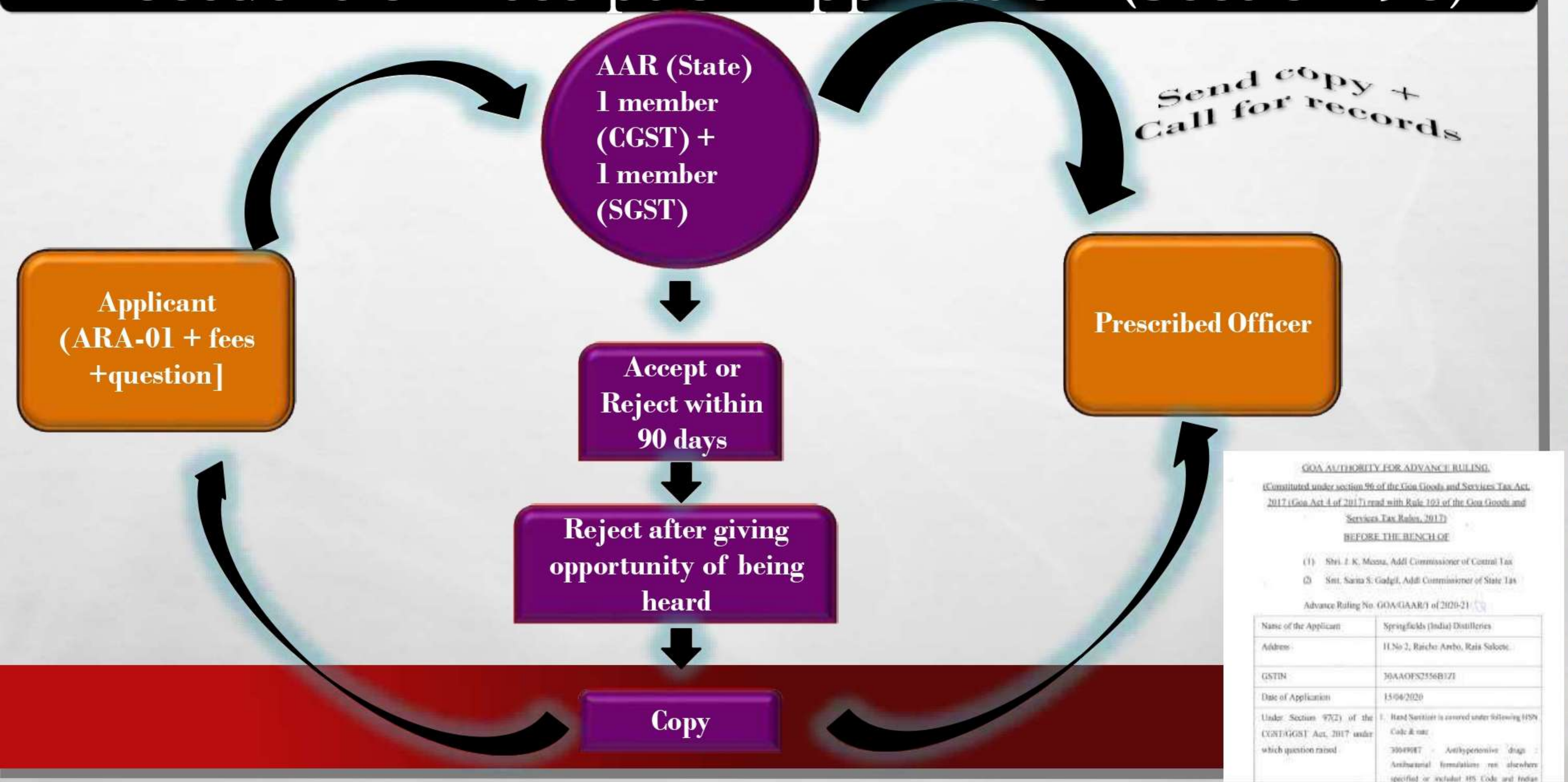
- Only PDF file format is allowed.
- Maximum file size for upload is 5MB.
- Maximum 4 supporting documents can be attached in the application. The remaining documents can be handed over in hard copy during personal hearing.

✓ Click PROCEED TO FILE.

- ✓ 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.
- ✓ 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.



# Procedure on receipt of Application (Section 98)





# contd.

## Receipt of application (ARA-01)

AAR shall forward a copy to the concerned officer and, if necessary, direct him to furnish the relevant records.

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.

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. (AAR-West Bengal Dated 29.06.2020 - M/s Mansi Grains and Oils Pvt. Ltd.)

1.2 The questions are admissible under section 97(2) (f)&(g) of the GST Act. The applicant states that the questions raised in the application have neither been decided nor are pending before any authority under any provision of the GST Act. The application is, therefore, admitted.

1.3 The applicant submits that its business has been closed for ten years. It had been registered under the West Bengal Value Added Tax Act, 2003 and provided provisional registration under the GST Act for migration. It did not file REG-26 and thus did not migrate to the GST Act. The applicant being unregistered, neither the central nor the state administration has ascertained administrative jurisdiction on the applicant. Requirement under section 98(1) of the GST Act is, therefore, dispensed with.

### 2. Submissions of the Applicant

2.1 The applicant submits that NCLT has appointed Smt. Rachna Jhunjunwala as liquidator, having IP Registration No IBBI/IPA-001/IP-P00389/2017-18/10707. After

The request of the applicant to withdraw the application voluntarily and unconditionally is hereby allowed, without going into the merits or detailed facts of the case.

### ORDER

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 49/2019-20 /B-

10

Mumbai, dt.

17/01/2020

The Application in GST ARA Form No. 01 of M/s DTL Ancillaries Ltd., vide reference no. ARA No. 49 dated 04.10.2019 is disposed of, as being withdrawn voluntarily and unconditionally.

There is no provision for withdrawal of application submitted for advance ruling, but there is no prohibition either. AAR of Maharashtra vide order dated 17.01.2020 in the case of DTL Ancillaries Limited



# contd.

## Receipt of application (ARA-01)

90 days

Where the application is finally rejected, the reasons for such rejection shall be stated in the order.

copy of every order admitting or rejecting made shall be sent to the applicant and to the concerned

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. (Goa AAR dated 29.06.2020-M/s Springfields (India) Distilleries

Place: - Panaji - Goa

To,

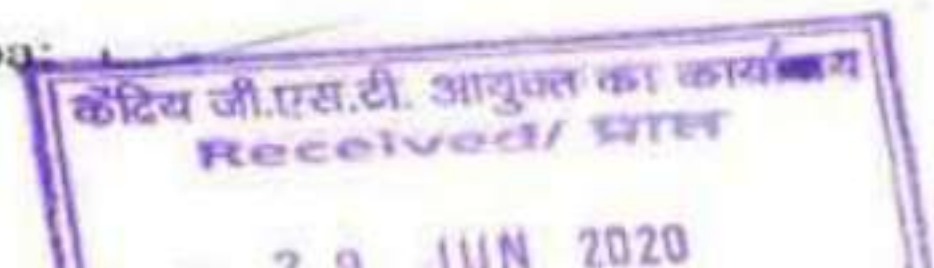
Springfields (India) Distilleries

H.No 2, Raicho Ambo, Raia Salcete,  
Margao Goa, 403601.

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### Copy to

1. The State Tax Officer, Margao Ward, Margao - Goa;
2. The Dy. Commissioner of State Tax, Margao Ward, Margao
3. The Commissioner of State GST, Panaji - Goa;
4. The Commissioner of Central GST, Panaji - Goa;
- ✓ 5. Office file;
6. Guard file.



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 but AAAR is required to pronounce within 90 days of such reference.



# Appeal to Appellate Authority (Section 100)

GOODS AND SERVICES TAX  
14 Beliaghata Road, Kolkata – 700015  
(Constituted under section 96 of the West Bengal Goods and Services Act, 2017)

## BENCH

Ms Susmita Bhattacharya, Joint Commissioner, CGST & CX  
Mr Parthasarathi Dey, Additional Commissioner, SGST

## Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Act, 2017 or West Bengal Goods and Services Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.  
Every such Appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed thereunder, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	M/s Mansi Oils and Grains Pvt Ltd
Address	304, Block H, Vikram Vihar, 493/B/18 G T Road, Shibpur, Howrah - 711102
GSTIN	Unregistered
Case Number	02 of 2020
ARN	Not Applicable
Date of application	11/02/2020
Order number and date	02/WBAAR/2020-21 dated 29/06/2020
Applicant's representative heard	Rachna Jhunjhunwala, NCLT appointed Liquidator

This order is passed in terms of Notification No. 35/2020 – Central Tax dated 03/04/2020, extending up to 30/06/2020 the time limit for completion or compliance of any action by any authority or by any person under the GST Act where the due date for such completion or compliance otherwise falls during the period from 20/03/2020 to 29/06/2020.

## 1. Admissibility of the 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 Referred by Authority
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APPLICATIONS	Order No.	Type of Order	Passed On	Passed By	Action
NOTICES	ZA240818000067Q	Advance ruling order	12/08/2018	Gujarat Authority for Advance Ruling	<a href="#">File Appeal</a> <a href="#">File Rectification</a>

REPLIES

ORDERS

RECTIFICATION

ADDITIONAL  
DOCUMENT

10 25 50 100

## Section 100 and Rule 106

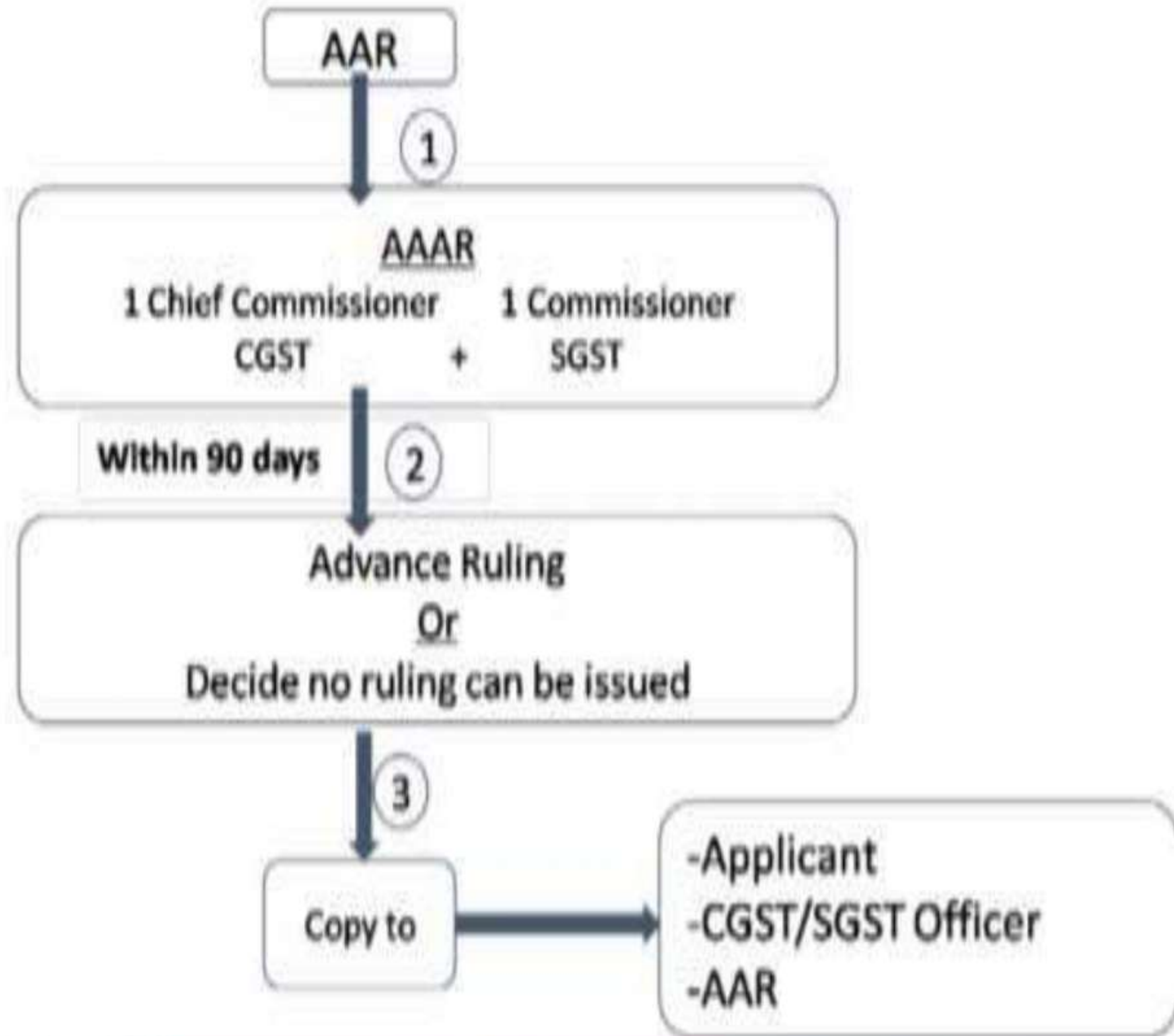
ARA-02 by  
registered  
person; fees  
INR 10,000/-

ARA-03 by  
officer, no fees

Appeal within  
30days



# Orders of Appellate Authority (Section 101)



AAAR must provide a reasonable opportunity to appellant before either:



- ☐ Confirm the Advance Ruling
- ☐ Modify the advance ruling
- ☐ Pass such orders as it may deem fit

Order should be passed within 90 days from the date of filing of appeal or reference by the AAR



- ☐ Pending concerns:
  - ☐ Appellants and other parties to the advance ruling stand during the interim period
  - ☐ No time limit for making reference to AAAR

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.

GST has not provided any mechanism to make any further appeal against the decision of Appellate Authority for advance rulings.



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

### SECTION 101A: CONSTITUTION OF NATIONAL APPELLATE AUTHORITY FOR ADVANCE RULING

Consists of 3 Persons:

1. The President
2. Technical Member (Centre)
3. Technical Member (State)

### SECTION 101B: APPEAL TO NATIONAL APPELLATE AUTHORITY

- Advance ruling 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 authorized by commissioner or applicant being distinct person, may prefer an appeal to National Authority.
  - Appeal file within 30 days
- 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. NAA must afford reasonable opportunity of being heard to parties before either:
  - Confirm the order;
  - Modify the order;
  - Pass such order as it may deem fit
2. If NAA differ in opinion, them majority opinion is final
3. Order should pass within 90 days



# Rectification of Mistakes (Section 102)

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

Any rectification resulting in an increase in the tax liability or reduction of admissible input tax credit after opportunity of being heard

Rectify  
**mistake**

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

The AAR or Appellate authority may amend the order to rectify any mistake apparent from records, if such mistake:

- Is noticed by it on its own accord, or
- Is brought to its notice by the concerned or the jurisdictional officer or the applicant/appellant

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

ARN AD180818000062C	GSTIN/UIN/Temporary ID 18AJIPA1572EABZ	Date Of Application/Case Creation 17/08/2018	Status Pending for action by tax officer
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APPLICATIONS	Type of Documents	View Documents
NOTICES	Application for Rectification of order	View
REPLIES		
ORDERS		

BACK



An advance ruling pronounced by AAR or AAAR shall be binding only on the applicant who has sought the advance ruling and on the concerned officer or the jurisdictional officer in respect of the applicant.

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.

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.



**Advance ruling is GSTIN specific and not PAN based**



# Advance Ruling to be void in certain circumstances (Section 104)



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.

OPPORTUNITY OF  
BEING HEARD

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.





# (Section 105)



- ❖ Powers and procedure of AAR and AAAR Both the AAR and AAAR are vested with the powers of a civil court under Code of Civil Procedure, 1908, for discovery and inspection, enforcing the attendance of a person and examining him on oath, and compelling production of books of account and other records.
- ❖ Both the authorities are deemed to be a civil court for the purposes of section 195 of the Code of Criminal Procedure, 1973.
- ❖ Any proceeding before the authority shall be deemed to be judicial proceeding under section 193 and 228 and for the purpose of section 196, of the Indian Penal Code, 1860.
- ❖ The AAR and AAAR also have the power to regulate their own procedure.



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