

SOP: Appellate Authority For Advance Ruling Under GST

Pursuant to a notification dated 03.09.2019 issued by Govt. of NCT of Delhi wherein the Appellate Authority for Advance Ruling has been constituted for hearing appeals against the advance ruling pronounced by the Delhi Authority for Advance Ruling. It shall consist of the following members:

- a) Chief Commissioner of Central Tax, Delhi Zone.
- b) Commissioner of State Tax

Following provisions are incorporated under the GST Act with respect to the Appellate Authority for Advance Ruling against the ruling pronounced by Delhi Authority for Advance Ruling.

1. Persons who can file appeal to the Appellate Authority for Advance Ruling against the decision made by the Advance Ruling Authority (DAAR)

Under the GST framework, it has been observed that the concerned officer, the jurisdictional officer or an applicant if aggrieved by an advance ruling decision/pronouncement made under sub-section (4) of Section 98 of the CGST Act, may prefer an appeal to the Appellate Authority for Advance Ruling in accordance with Section 100(1) of the CGST Act.

2. Appellate Authority for Advance Ruling (Section 99 of the CGST Act)

As per Section 99 of the CGST Act, it makes it clear that the Appellate Authority for Advance Ruling constituted under the provisions of a SGST or a UTGST shall be deemed to be the Appellate Authority in respect of that State or UT concerned.

3. Time period for filing Appeal and Form in which such appeal shall lie

As per sub-section 2 to Section 100 of the CSGT Act, every appeal 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.

Further, it has also been provided that the Appellate Authority may permit the Appellant to file the appeal for a further period not exceeding thirty days.

The Appeal before the Appellate Authority, Advance Ruling shall lie in a prescribed form i.e. Form GST ARA-02 if filed by the Applicant and Form GST ARA-03 if filed by the concerned officer or jurisdictional officer.

4. **Orders of Appellate Authority (Section 101 of the CGST Act)**

The Appellate Authority may, after giving the parties to the appeal or reference an opportunity of being heard, pass such orders as it thinks fit, confirming or modifying the ruling appealed against or referred to.

The above order shall be passed by the Appellate Authority within the period of 90 days from the date of filing appeal under Section 100 or a reference under sub-section (5) of Section 98 of the CGST Act.

Where the members of the appellate authority differs 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 that question under the appeal or reference.

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

5. **Rectification of Advance Ruling (Section 102 of the CGST Act)**

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 on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer, the applicant or the appellant within a period of six months from the date of the order:

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

6. **Applicability of Advance Ruling(Section 103 of the CGST Act)**

(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;
- (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.

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

7. Advance Ruling to be void in certain circumstances (Section 104 of the CGST Act)

- (1) Where the Authority or the Appellate Authority finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 101 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 the Act or the Rules made there under shall apply to the applicant or the appellant as if such advance ruling had never been made: No time frame has been prescribed in the Act within which the ruling can be declared void ab initio in the above circumstances.

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 office and the jurisdictional officer.

8. Powers of Authority, Appellate Authority and National Appellate Authority (Section 105 of the CGST Act)

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

(a) discovery and inspection;

(b) enforcing the attendance of any person and examining him on oath;

(c) issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908.

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

9. Procedure of Authority, Appellate Authority and National Appellate Authority (Section 106 of the CGST Act)

The Authority or the Appellate Authority or the National Appellate Authority shall subject to the provisions of this chapter, have power to regulate its own procedure.