

## ADVANCE RULING

<b>Relevant Legal Provisions</b>				
	<b>Section</b>		<b>Rules</b>	
	Section	Subject Matter	Rule	Subject Matter
<b>CGST</b>	Sec. 95	Definitions		
	Sec. 96	Authority for advance ruling (Multiple AAR (state wise) - No Central AAR)		
	Sec. 97	Application for advance ruling		
	Sec. 98	Procedure on receipt of application		
	Sec. 99	Appellate Authority for Advance Ruling		
	Sec. 100	Appeal to Appellate Authority		
	Sec. 101	Orders of Appellate Authority		
	Sec. 102	Rectification of advance ruling		
	Sec. 103	Applicability of advance ruling		
	Sec. 104	Advance ruling to be void in certain circumstances		
	Sec. 105	Powers of Authority and Appellate Authority		
	Sec. 106	Procedure of Authority and Appellate Authority		
<b>IGST</b>	Sec 20	Application of provisions of CGST Act, 2017		
		- All related sections has been made applicable		

<b>Relevant Definitions</b>				
<b>CGST</b>	95(a)	Advance Ruling	95(d)	Application
	95(b)	Appellate Authority	95(e)	Authority
	95(c)	Applicant		



**Prof. DIPPAK**  
IDT Best Paper Award Winner



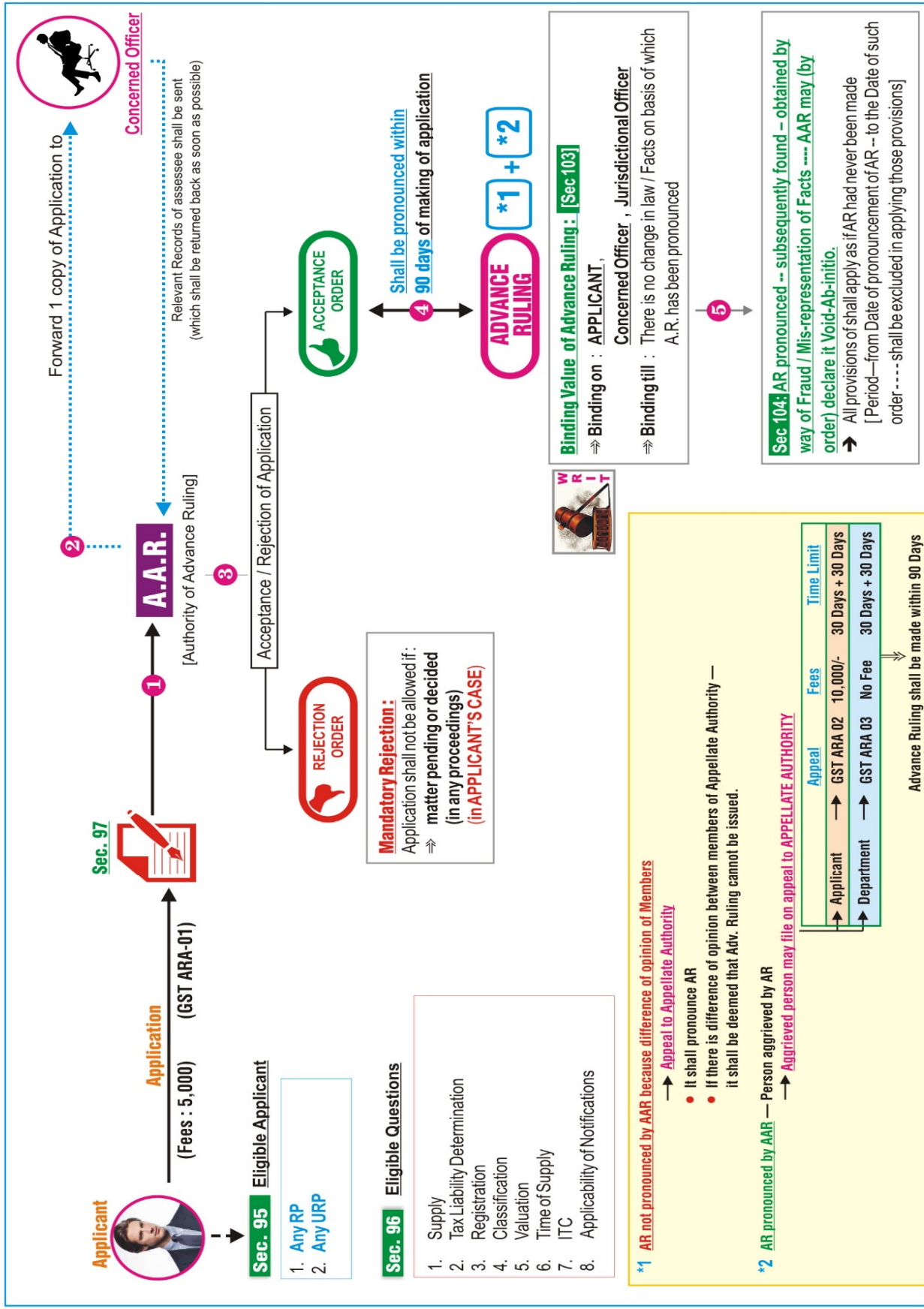
**CA SUNETA**



**SUMMARY**

**Sec. 95**

**ADVANCE RULING:** It means decision to applicant in relation to supply undertaken or proposed to be undertaken by applicant



## PART A : SUMMARY OF RELVANT PROVISIONS



### Basics of Advance Ruling

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

(Study Material)

**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.

### Advance Ruling, Applicant, Application



#### 2. What is the meaning of Advance Ruling?

(CBEC FAQ)

**Ans.** As per section 95 of CGST Act, '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 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.**

**Note:**

1. **AR = Decision by AAR (Authority of Advance Ruling)** on specified questions relating to supply of goods/ services (such supply may be already undertaken or may be one which is proposed to be undertaken)
  - Sometimes, members of AAR may differ in their opinion – then matter is referred to AAAR (Appellate Authority for Advance Ruling) – Decision of AAAR is also considered as 'advance ruling'
  - Sometimes, AAR delivered advance ruling from which either applicant/ department feels aggrieved – in such case, aggrieved person may file appeal to AAAR (Appellate Authority for Advance Ruling) – Decision of AAAR is also considered as 'advance ruling'
2. Advance ruling has binding value so far as applicant and concerned jurisdictional officer is concerned. Decision of AAR and AAAR both have binding value as both the decision are considered as "advance ruling"

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

(CBEC FAQ)

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

**Note:**

1. Facility of obtaining advance ruling is available to both – registered person as well as unregistered person.

#### 4. At what time an application for advance ruling be made?

(CBEC FAQ)

**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\*.**

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

(CBEC FAQ)

**Ans.** The Authority shall pronounce its ruling in writing within 90 days from the date of receipt of application.

**Note:** AR is a speedy remedy.

**Composition of AAR & Appellate Authority for Advance Ruling****6. What will be the composition of Authority for advance rulings (AAR) under GST?****(CBEC FAQ)**

**Ans.** 'Authority for advance ruling' (AAR) shall comprise one member CGST and one member SGST/UTGST. They will be appointed by the Central and State government respectively.

**Note:**

1. AAR is **constituted at under SGST Act or UTGST Act** (and not under CGST Act).
2. Applicant seeking advance ruling shall approach jurisdiction AAR of his state/UT.

**7. What is the Appellate authority for advance ruling (AAAR)?****(CBEC FAQ)**

**Ans.** Appellate authority for advance ruling (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.

**Note:**

1. Matter reached to AAAR in following 2 situations:
  - **Situation-1: AR is not pronounced by AAR due to difference of opinion in members of AAR:** Sometimes, members of AAR may differ in their opinion – then matter is referred to AAAR (Appellate Authority for Advance Ruling) – Decision of AAAR is also considered as 'advance ruling'
  - **Situation-2: AR is pronounced by AAR but aggrieved wants to challenge this AR:** Sometimes, AAR delivered advance ruling from which either applicant/ department feels aggrieved – in such case, aggrieved person may file appeal to AAAR (Appellate Authority for Advance Ruling) – Decision of AAAR is also considered as 'advance ruling'

**8. How many AAR and AAAR will be constituted under GST?****(CBEC FAQ)**

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

**Note:**

1. **Applicant seeking advance ruling in relation to an inter-state supply:** -- **there is no Central AAR**– He shall seek AR from AAR of his jurisdictional State / UT
2. **In case, he wishes to appeal against AR delivered by AAR:** - **there is no Central AAAR**– He shall appeal to AAAR of his jurisdictional State / UT

**Binding Value of Advance Ruling (& its comparison with Judgment of Court)****9. To whom will the Advance Ruling be applicable?****(Study Material)**

**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.

**Note:**

**Illustration:** P intends to manufacture and supply certain goods, but has entertained some doubts regarding their classification. P's friend has obtained an "Advance Ruling" under CGST Act from the Authority for Advance Rulings on an identical point. P proposes to adopt the same ruling in his cases. P has sought your advice whether he could adopt the said ruling in the case of P's friend?



P can't adopt the advance ruling obtained by his friend [as advance ruling shall be binding only upon the applicant who had sought and obtained it – Sec 23-E of CEA]

**10. Whether the advance ruling have precedent value of a judgment of the High Court or the Supreme Court?**

(CBEC FAQ)

**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.

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

(CBEC FAQ)

**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.

**Eligible questions/ issues for obtaining Advance Ruling**



**12. Which are the matters enumerated in Section 97 for which advance ruling can be sought?**

(Study Material) (CA Final, May 2018- 4 marks)

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

- classification of any goods or services or both;
- applicability of a notification issued under provisions of the GST Act \*;
- determination of time and value of supply of goods or services or both;
- admissibility of input tax credit of tax paid or deemed to have been paid;
- determination of the liability to pay tax on any goods or services under the Act;
- whether applicant is required to be registered under the Act;
- 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.

**Note:**

<i>Eligible Issues - examples</i>	<ul style="list-style-type: none"> <li>• Whether 'Scrips issued under Foreign Trade Policy' shall be treated as 'goods' to attract levy of GST on sale of such scrip?</li> <li>• Whether a particular transaction will qualify as 'supply' and thus, attract levy of GST?</li> <li>• Whether labour-cum-material contract for maintenance of railway track shall be treated as contract for supply of goods or supply of services?</li> <li>• Whether 'free of cost material provided by recipient for use in making supply by supplier to him' shall also be included in value of supply?</li> <li>• Whether ITC is admissible of 'dumpers and tippers' used by Builder for use at construction site?</li> <li>• Whether a supplier making supply which are subject to RCM is liable to take registration?</li> </ul>
Ineligible Issues - example	<p><b><u>CBEC Flyer</u></b></p> <ul style="list-style-type: none"> <li>• Issue as to determination of 'place of supply' of a supply transaction. (<u>logic</u>: there is no authority at Central level. AAR is at State level)</li> </ul> <p><b><u>Kani Products (P) Ltd. - 2018 – AAR (Uttarakhand)</u></b></p> <ul style="list-style-type: none"> <li>• Applicability of notifications issued by Ministry of Commerce relating to central excise (<u>logic</u>: Notifications issued under GST Act only – AR admissible)</li> </ul>

**Procedure for obtaining Advance Ruling****13. What is the procedure for obtaining Advance Ruling?**

(CBEC FAQ)

- Ans.** Section 97 and 98 deals with procedure for obtaining advance ruling. Section 97 provides that the applicant desirous of obtaining advance ruling should make application to AAR in the prescribed form. **The fees for obtaining AR from AAR is Rs 5,000/-**
- Section 98 provides the procedure for dealing with the application for advance ruling.
- o The AAR shall send a copy of application to the officer in whose jurisdiction the applicant falls and call for all relevant records.
  - o The AAR may then examine the application along with the records and may also hear the applicant.
  - o Thereafter AAR will pass an order either admitting or rejecting the application.
  - o If application is admitted, then AR shall be pronounced within 90 days.

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

(CBEC FAQ)

- 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.

**Crux Bio Tech India (P) Ltd. – 2018- AAR (Andhra Pradesh)**

**Facts:** Assessee preferred writ petition before HC on some issue. In respect of same issue, it submitted an application for obtaining advance ruling.

**Held:** Application cannot be entertained.

**Note:**

**Whether AAR can reject application if similar question is pending in case of person other than applicant?**

**YES –**

- Sec 98 (2) clearly provides that AAR may, after examining the application and records called for, by order, either accept or reject the application. **Thus, it does not follow that the application is bound to be admitted** and heard on merits once the factors set out in the proviso do not come in the way of admission.
- AAR, has a discretion either to admit or allow the application for rendering an advance ruling, apart from the bar created by the proviso to the relevant section of the Act.

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

(CBEC FAQ)

- Ans.** If the application is admitted, the AAR shall pronounce its ruling within 90 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 officer.

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

(CBEC FAQ)

- 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.***

## Appeal against Advance Ruling pronounced by AAR



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

(CBEC FAQ)

**Ans.** The provisions of appeal before AAAR are dealt in section 100 and 101 of CGST 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.

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 manner as prescribed in the CGST Rules, 2017

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.

#### Note:

1. **Concerned Officer:** 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.
- However, if separate officer is appointed as concerned officer, then concerned officer and jurisdictional officer will be different.

### 18. Whether Appeal can be filed before High Court or Supreme Court against the ruling of Appellate Authority for Advance Rulings?

(CBEC FAQ)

**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.**

#### Note:

1. **Writ Petition:** Writ Petition (constitutional right of any person) may be filed before Hon'ble HC.

## Rectification of mistakes apparent from record – within 6 months



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

(CBEC FAQ)

**Ans.** Yes, AAR and AAAR have power to **amend their order to rectify any mistake apparent from the record within a period of 6 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 appellants must be heard before the order is passed.

(Section 102)

#### Note:

1. **Rectification of mistakes apparent from record (ROM)**

- AAR may rectify within 6 months of its order.
- Also, AAAR may rectify within 6 months of its order.

**Nullification of AR at any time- if it was obtained by fraud/ suppression of facts****20. Can an advance ruling given be nullified?****(Study Material)**

**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.

**Comprehensive Example****21. Ranjan intends to start selling certain goods in Delhi. However, he is not able to determine**

- (i) the classification of the goods proposed to be supplied by him [as the classification of said goods has been contentious] and
- (ii) the place of supply if he supplies said goods from Delhi to buyers in U.S.  
Ranjan's tax advisor has advised him to apply for the advance ruling in respect of these issues. He told Ranjan that the advance ruling would bring him certainty and transparency in respect of the said issues and would avoid litigation later. Ranjan agreed with his view, but has some apprehensions.

In view of the information given above, you are required to advise Ranjan with respect to following:

- (i) The tax advisor asks Ranjan to get registered under GST law before applying for the advance ruling as only a registered person can apply for the same. Whether Ranjan needs to get registered?
- (ii) Can Ranjan seek advance ruling to determine (a) the classification of the goods proposed to be supplied by him and (b) the place of supply, if he supplies said goods from Delhi to buyers in U.S.?
- (iii) Ranjan is apprehensive that if at all advance ruling is permitted to be sought, he has to seek it every year. Whether Ranjan's apprehension is correct?
- (iv) The tax advisor is of the view that the order of Authority for Advance Ruling (AAR) is final and is not appealable. Whether the tax advisor's view is correct?
- (v) Sambhav - Ranjan's friend - is a supplier registered in Delhi. He is engaged in supply of the goods, which Ranjan proposes to supply at the same commercial level that Ranjan proposes to adopt.

He intends to apply the classification of the goods as decided in the advance ruling order to be obtained by Ranjan, to the goods supplied by him in Delhi. Whether Sambhav can do so?

**(RTP for May 2018- CA Final)**

- Ans.**
- (i) Advance ruling under GST can be sought by a registered person or a person desirous of obtaining registration under GST law. Therefore, it is **not mandatory for a person seeking advance ruling to be registered.**
  - (ii) Advance ruling can be sought for, inter alia, determining the classification of any goods or services or both. Therefore, Ranjan can seek the advance ruling for determining the classification of the goods proposed to be supplied by him. Determination of place of supply is not one of the specified questions/matters on which advance ruling can be sought. AAR constituted under the provisions of an SGST Act/UTGST Act shall be deemed to be the AAR in respect of that State/Union territory under CGST Act also.  
Thus, AAR is constituted under the respective State/Union Territory Act and not the central Act. This implies that ruling given by AAR will be applicable only within the jurisdiction of the concerned State/Union territory<sup>1</sup>.  
It is also for this reason that the questions on determination of place of supply cannot be raised with the AAR. Hence, Ranjan cannot seek the advance ruling for determining the place of supply of the goods proposed to be supplied by him.
  - (iii) Advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed. Therefore, once Ranjan has sought the advance ruling with respect to an eligible matter/question, it will be binding **till the time the law, facts and circumstances supporting the original advance ruling remain same.**

<sup>1</sup> **ICAI Remarks:** The above answer is based on the view taken by the CBEC in its e-flier (advertisement brochure) issued on the subject of advance ruling. However, it can be also be argued that the question relating to determination of the liability to pay tax on goods and/or services as provided under section 96(2)(e) of the CGST Act, 2017 encompasses within its ambit the question relating to place of supply. This is so because place of supply is one of the factor to determine as to whether the supply is leviable to CGST & SGST or IGST.



- (iv) No, the tax advisor's view is not correct. If the applicant is aggrieved with the finding of the AAR, he can file an appeal with Appellate Authority for Advance Ruling (AAAR). Similarly, if the concerned / jurisdictional officer of CGST/SGST does not agree with the findings of AAR, he can also file an appeal with AAAR.

Such appeal must be filed within 30 days from the receipt of the advance ruling. The Appellate Authority may allow additional 30 days for filing the appeal, if it is satisfied that there was a sufficient cause for delay in presenting the appeal.

- (v) An advance ruling pronounced by AAR is **binding only on the applicant who had sought** it and on the concerned officer or the jurisdictional officer in respect of the applicant. This implies that an advance ruling is not applicable to similarly placed other taxable persons in the State. It is only limited to the person who has applied for an advance ruling. Thus, Sambhav will not be able to apply the classification of the goods that will be decided in the advance ruling order to be obtained by Ranjan, to the goods supplied by him in Delhi.

### Glimpse of Advance Rulings recently pronounced under GST



#### Just for Reading

Latest recent rulings	
Applicant and concerned matter	Transaction
<b>Transaction = of goods or services or not - (Determination of liability to pay GST)</b>	
Mr S = Engaged in purchase, cutting and removal of trees from the plantations of certain PSUs owned by Government of Kerala ■ As per contract, he shall cut and remove the trees from the estate  <b>Matter:</b> <i>Whether where under contract of supply, growing crops, i.e., rubber trees, are agreed to be severed before supply, they come under definition of 'goods'?</i>	<b>N.C. Varghese - 2018- (AAR- Kerala)</b> ■ As per the definition of goods in section 2(52) of CGST Act, 2017, "goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply, In this case, under the contract of supply, growing crops - i.e., rubber trees are agreed to be severed before supply and hence, comes under the definition of 'goods'.
<b>Transaction = within scope of supply or not - (whether resulting into supply or not)</b>	
Mr C = He is into the business of cash management network involving transportation of cash He uses cash carrying van into his business Now, he is disposing these cash carrying van as these have become scrap  <b>Matter:</b> <i>Whether sale of motor vehicles as scrap after its usage is an activity of 'supply' in course or furtherance of business and such transaction would attract GST?</i>	<b>CMS Info Systems Ltd - 2018- (AAR- Maharashtra)</b> ■ Disposal of scrap vehicles for consideration is a sale and section 7 explaining the expression 'supply' covers supply of such as sale or disposal made for a consideration. ■ Section 7, further, says that the supply has to be in the course or furtherance of business. With regard to this, it is seen that the applicant is in the business of having a cash management network involving transportation of cash. The disposal of the cash carrying vans is a transaction in connection with or incidental or ancillary to the business of having a cash management network. As and when the vehicles become scrap, they have to be disposed of and the proceeds therefrom to be identified as income for the business which is reflected in the profit and loss account of the business. Buying new assets and discarding the old and unusable assets is an activity in the course of carrying on the business. ■ Hence, supply of motor vehicles as scrap after its usage is an activity of 'supply' in course or furtherance of business and such transaction would attract GST.
Mr C = Running factory with more than 250 employees – thus, registered under Factories Act, 1948 and bound to run canteen for its employees ■ they are providing canteen services exclusively for their employees. They are incurring the canteen running expenses and are recovering the same from its employees without any profit margin  <b>Matter:</b> <i>"Whether reimbursement of food expenses from employees for the canteen provided by company comes under the definition of outward supplies as taxable under GST Act."</i>	<b>Caltech Polymers (P.) Ltd.– 2018- (AAR- Kerala)</b> ■ Provisioning of food to employee is also treated as part and parcel of business (incidental or ancillary activity)- Business as defined in Sec 2(17)(b) ■ It will be treated as business even if no profit is claimed by the applicant ■ Since the applicant recovers the cost of food from its employees, there is consideration as defined in section 2(31) of the GST Act, 2017. ■ Thus, recovery of food expenses from the employees for the canteen services provided by company be taxable as a supply of service under GST.

<b>Transaction = whether supply of service or supply of material (supply of goods or service)</b>	
<p>Mr S = Contractor - enlisted with railway</p> <p><b>Matter:</b> Classification and rate of GST when maintenance of railway track is done in following 2 situations:</p> <ol style="list-style-type: none"> <li>1) It provides only labour – material is provided by railway;</li> <li>2) It provides both labour and material</li> </ol>	<p><b>Sreepati Ranjan Gope &amp; Sons – 2018- (AAR- West Bengal)</b></p> <ul style="list-style-type: none"> <li>■ Maintenance of railway track = maintenance of immovable property</li> <li>■ Labour cum material contract = = Works Contract Service as defined in Sec 2(119) of CGST Act = To be treated as Supply of Service – Sec 7(1)(d) read with Sch II (Para 6(a))</li> </ul>
<b>Value of goods/ services supplied</b>	
<p>Builder undertaking construction and selling flats under-construction.</p> <p><b>Matter:</b> <i>Whether GST shall be applicable? The value of supply shall be 2/3<sup>rd</sup> of the total amount charged for the supply?</i></p>	<p><b>Sanjeev Sharma - 2018- (AAR- New Delhi)</b></p> <ul style="list-style-type: none"> <li>■ GST applicable on sale of under-construction flat.</li> <li>■ N/N 11/2017 -CT has specified the value in such case. Value shall be (Total Amount charged / <u>ess</u> value of land / undivided share in land), where value of land/ undivided share in land is to be taken as 1/3<sup>rd</sup> of total amount charged.</li> <li>■ N/N 11/2017-CT has been issued u/Sec 15(5) of CGST Act (which empowers CG to notify special value for certain class of goods or services).</li> </ul>
<b>Classification of goods/ services supplied</b>	
<p>Mr A = Manufacturer of Skin care preparations</p> <p><b>Matter:</b> Classification of its product</p> <ol style="list-style-type: none"> <li>1) Rupam (Pimple Pack)</li> <li>2) Pailab (Anti-Crack Cream)</li> </ol>	<p><b>Akansha Hair &amp; Skin Care Herbal Unit (P.) Ltd. – 2018- (AAR- West Bengal)</b></p> <ul style="list-style-type: none"> <li>■ Where preparations Rupam (Pimple Pack) and Pailab (Anti-Crack Cream) were offered for treatment or prevention of specific skin disorders, they would be classifiable as Medicament under heading 3004</li> </ul>
<b>Applicability of notifications issued under GST Act – exemption notification or any other notification</b>	
<p>Applicant is Forest Officer (Forest Division, Dehradun). It collected 'Marg Sudharan Shulk' from the non-government, private and commercial vehicles engaged in mining work in lieu of use of forest road.</p> <p><b>Matter:</b> Under GST, "the services by way of access to a road or a bridge on payment of toll charges" are included in the list of exempted services.  Whether such charges can be treated as 'toll charges' and thus, covered by exemption given to toll charges?</p>	<p><b>Division Forest Officer - 2018- (AAR- Uttarakhand)</b></p> <ul style="list-style-type: none"> <li>■ A <b>toll</b> road, also known as tollway, is a public or private road for which a fee (or <b>toll</b>) is Assessed for passage. It is a form of road pricing typically implemented to help recoup the cost of road construction and maintenance.</li> <li>■ Marg Sudharan Shulk charged and collected by applicant Forest Division from non-government, private and commercial vehicles engaged in mining work in lieu of use of forest road is nothing but toll charges collected by applicant from users for using forest road and said toll charges are being used for maintenance of forest road and therefore no GST is leviable as on date on said "Marg Sudharan Shulk" charged and collected by applicant</li> </ul>
<b>Determination of liability to pay GST</b>	
<p>Applicant is importer who has imported goods from USA. He cleared goods from Customs paying IGST on value determined as per Sec 3(8) of CTA, 1975 [Value as per Sec 14 of Customs Act (CIF Value) + BCD].</p> <p><b>Matter:</b> Whether such importer is still liable to pay IGST on sea/ocean transportation service availed by him for bringing goods from USA to Indian Port?</p>	<p><b>Bahl Paper Mills Ltd. - 2018- (AAR- Uttarakhand)</b></p> <ul style="list-style-type: none"> <li>■ an importer is required to pay IGST on ocean freight. Therefore as on date, even if importer has already paid IGST on CIF value imported goods, he is still required to pay IGST on ocean freight. Credit of IGST paid can be taken on basis of invoice/challan issued</li> </ul>

STUDY MATERIAL PROVIDED WITH PD

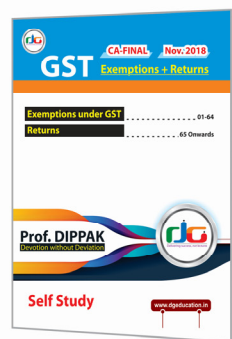


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