

ONE PAGE

on
Advance Ruling

1. What is Advance Ruling?

Advance ruling a mechanism prescribed under a taxing statute to seek clarity on applicability of respective tax. Such rulings or decisions are obtained in advance prior to undertaking a transaction by making suitable applications before the prescribed authorities. Under GST, advance ruling can be sought on any of the following matters;

- a) Classification of goods or services or both
- b) Applicability of a notification issued under the provisions of GST Law
- 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 liability to pay tax on any goods or services or both
- f) Whether registration is required
- g) Whether anything done with respect to goods or services or both amounts to or results in supply of goods or services or both.

2. Who can apply for advance ruling?

Any person registered under GST Law or desirous of obtaining registration can apply for advance ruling

3. How can we apply for Advance Ruling?

The application for advance ruling shall be made in GST Common Portal in Form GST ARA-01 along with all the relevant documents, which shall also be accompanied by a fee of Rs. 5000/-. As the portal is not fully ready, applications can also be submitted manually before the Authority for Advance Ruling.

4. Whether Authority for Advance Ruling('AAR') is entitled to reject any Application filed? If so on what grounds?

The AAR has the right to ask for any other information as may be required by him from the applicant. After verifying the relevant application and the information asked for, the AAR can admit or reject the application. Application can be rejected on the grounds like question raised in the application is already pending or decided in any proceedings of an applicant. No application shall be rejected without giving an opportunity of being heard to the applicant and passing an order specifying the reasons for rejection.

5. What is the procedure for obtaining the advance ruling if the application has been admitted?

The AAR shall give an opportunity of being heard to the applicant or his authorised representative and the concerned officer of the Department. After considering the relevant material on record, the AAR shall pronounce its ruling within ninety days from the date of receipt of application. A copy of the advance ruling duly signed by members of AAR shall be sent to applicant and to the concerned officer.

In case of any difference of opinion on any question between members of AAR, then the application shall be referred to Appellate Authority for Advance Ruling for hearing and decision on such question.



6. Whether ruling obtained on a legal matter by an applicant is also applicable to all other tax payers?

The advance ruling obtained is applicable only to the applicant who has sought it and such ruling is binding on the Concerned Jurisdictional Officer only in respect of matters relating to applicant. The legal clarifications provided in advance rulings cannot be applied to or relied upon by other tax payers. In case of applicant, the advance ruling is applicable until the law, facts or circumstances supporting the ruling have changed.

7. Whether any appeal lies on advance ruling?

If the advance ruling is not in favour of applicant, then the applicant can file an appeal against advance ruling before Appellate Authority for Advance Ruling. Similarly, if any advance ruling is in favour of applicant and against the Revenue, then the concerned officer can file an appeal against the advance ruling before Appellate Authority.

8. What is the procedure involved in filing an appeal before Appellate Authority?

Such appeal shall be filed within a period of 30 days from the date of communication of order by AAR. Upon showing the sufficient reasons, the time limit can be extended by a further period of 30 days. The Appeal by applicant shall be filed in Form GST ARA-02 while that of concerned officer shall be filed in Form GST ARA-03. The Appellate Authority after giving the parties an opportunity of being heard, shall within a period of 90 days from the date of filing appeal, shall pass such order as they deem fit. A copy of the advance ruling duly signed by members of Appellate Authority shall be sent to applicant and to the concerned officer.

9. Is there any mechanism to rectify any error apparent on the advance rulings?

The advance ruling passed by the AAR, or the orders passed by Appellate Authority pursuant to appeals filed against advance rulings can be rectified by AAR or Appellate Authority for any errors apparent on the face of record. Such rectification can be made by AAR or Appellate Authority as the case may be on suo moto basis or brought to their notice by the Concerned Officer or Applicant or the Appellant within a period of six months from the date of the order. Any rectification which has the effect of increasing the tax liability or reducing the input tax credit shall not be made unless the Appellant or Applicant has been given an opportunity of being heard.

10. What are the circumstances in which an advance ruling can be treated as void?

Advance Ruling obtained shall be treated as void by AAR or Appellate Authority by passing an Order in this regard if the same was obtained by fraud or suppression of facts or misrepresentation of facts. Such order shall be passed only after giving an opportunity of being heard to Applicant or the Appellant as the case may be. Upon such order being passed, then all the provisions of GST law shall apply to the applicant as if the advance ruling has never been made.