



CA Karan Sheth
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CA FINAL IDT

Nov'24

Questions & Answer

ADVANCE RULING



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Question and Answer

Question 1.

Can Mr. Venkat obtain advance ruling for the issue related to place of supply? Also list all issues for which advance ruling can be sought. Or

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

Or Discuss briefly provisions of CGST Act, 2017 regarding questions for which advance ruling can be sought.

(CA Final May 18, Nov 22), (CS Prof June 19),
(ICAI Study Material), (CA Final MTP May 21)

Answer:

No, Venkat cannot obtain advance ruling for issue related to place of supply

Advance ruling can be sought for the following questions: -

- (a) classification of any goods or services or both
- (b) applicability of a notification issued under the CGST 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 activity with respect to any goods and/or services, amounts to/ results in a supply of goods and/or services, within the meaning of that term.

Question 2.

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 MAY 18) & (ICAI study material-amended)

Answer:

- (i) Advance ruling under GST can be sought by a registered person or a person desirous of obtaining registration under GST law [Section 95(c) of the CGST Act, 2017]. Therefore, it is not mandatory for a person seeking advance ruling to be registered.
- (ii) Section 97(2) of the CGST Act, 2017 stipulates the questions/matters on which advance ruling can be sought. It provides that 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 under section 97(2). Further, section 96 of the CGST Act, 2017 provides that 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.
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) Section 103(2) of the CGST Act, 2017 stipulates that the 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.
- (iv) No, the tax advisor's view is not correct. As per section 100 of the CGST Act, 2017, 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) Section 103 of the CGST Act provides that 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.

Question 3.

Chandra is engaged in supplying certain goods in the State of Punjab from his factory located in Jalandhar, Punjab. He is not yet registered under GST. As his turnover is moving towards the applicable threshold limit for registration under GST, he approaches his tax advisor to ascertain the applicability of GST on the supply made by him. His tax advisor is unable to determine whether supply of goods by Chandra amounts to supply of goods under GST law and also, the classification of said goods. He advises Chandra to apply for the advance ruling in respect of said issues. He told Chandra that the advance ruling would bring him certainty and transparency in respect of the said issues and would avoid litigation later. Chandra agrees with his view, but has some apprehensions. In view of the information given above, you are required to advise Chandra with respect to following:

- (i) Can Chandra seek advance ruling to determine whether supply of goods by Chandra amounts to supply of goods under GST law and if yes, to determine the classification of said goods?
- (ii) Chandra is doubtful whether he can seek advance ruling in relation to an activity/transaction already being undertaken. Whether Chandra's doubt is correct?
- (iii) Chandra is apprehensive that Authority for Advance Ruling may take years to pronounce its ruling. Whether his apprehension is correct?

(CA Final RTP may 22)

Answer:

- (i) **Section 97(2) of the CGST Act, 2017** stipulates the questions/matters on which advance ruling can be sought. It provides that advance ruling can be sought for, inter alia, determining 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 as well as the classification of any goods or services or both. Therefore, Chandra can seek the advance ruling for determining whether supply of goods by him amounts to supply of goods under GST law as well as for determining the classification of said goods.
- (ii) **As per the definition of advance ruling under section 95(a) of the CGST Act, 2017**, advance ruling decision can be provided by the Authority to an applicant on matters/questions specified in section 97(2) of the said Act, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. Thus, advance ruling can be sought not only for activities/transactions proposed to be undertaken but also for activities/transactions already undertaken by the applicant. Hence, in the given case, Chandra can seek the advance ruling in relation to the supply of goods being already undertaken by him.
- (iii) **No, Chandra's view is not correct.** As per section 98(6) of CGST Act, 2017, the Authority for Advance Ruling shall pronounce its ruling in writing within 90 days from the date of receipt of application.

Question 4.

Briefly explain the procedure to be followed by the Authority for Advance Ruling on receipt of the application for Advance Ruling under section 98 of CGST Act, 2017.

(CA Final Nov 18) & (ICAI study material)

Answer:

The procedure to be followed by the Authority for Advance Ruling (AAR) on receipt of the application for advance ruling under section 98 of the CGST Act, 2017 is as under: -

1. Upon receipt of an application, the AAR shall send a copy of application to the officer in whose jurisdiction the applicant falls and call for all relevant records.
2. The AAR may then examine the application along with the records and may also hear the applicant. Thereafter he will pass an order either admitting or rejecting the application.
3. Application for advance ruling will not be admitted in cases 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.
4. If the application is rejected, it should be by way of a speaking order giving the reasons for rejection and only after giving an opportunity of being heard to the applicant.
5. If the application is admitted, the AAR shall pronounce its ruling on the question specified in the application. Before giving its ruling, it shall examine the application and any further material furnished by the applicant or by the concerned departmental officer.
6. Before giving the ruling, AAR must hear the applicant or his authorized representative as well as the jurisdictional officers of CGST/SGST.
7. If there is a difference of opinion between the two members of AAR, they shall refer the point or points on which they differ to the Appellate Authority for hearing the issue
8. The Authority shall pronounce its advance ruling in writing within 90 days from the date of receipt of application.
9. A copy of the advance ruling duly signed by members and certified in prescribed manner shall be sent to the applicant, the concerned officer and the jurisdictional officer.

Question 5.

Briefly explain whether an appeal could be filed before the Appellate Authority against order of Authority for Advance Ruling (AAR), with reference to sections 100 & 101 of the CGST Act.

(CA final May 19 - Old) & (ICAI study material)

Answer:

Yes, the concerned officer, jurisdictional officer or applicant aggrieved by any advance ruling may appeal to the Appellate Authority for Advance Ruling within 30 days [extendible by another 30 days] from the date on which such ruling is communicated to him in the prescribed form and manner.

The AAAR must pass an order confirming or modifying the ruling appealed against within a period of 90 days of the filing of an appeal, after hearing the parties to the appeal.

If members of AAAR differ on any point referred to in appeal, it shall be deemed that no advance ruling can be issued in respect of the question under appeal. A copy of the advance ruling pronounced by the AAAR is sent to applicant, concerned officer, jurisdictional officer and to the Authority.

Multiple Choice Question

1. An advance ruling pronounced by AAR (Authority for Advance Rulings) or AAAR (Appellate Authority for Advance Rulings) is binding on which of the following?
 - a) All taxable persons in the State
 - b) Only the applicant and the concerned or jurisdictional officer in respect of the applicant
 - c) Only the concerned or jurisdictional officer of the applicant
 - d) All officers of the GST department

2. Mr. Rahul, a registered taxpayer, who had applied for advance rulings received an order from the Authority for Advance Rulings (AAR) on 15th January 2024. On 1st April 2024, Mr. Rahul noticed an apparent mistake in the order and brought it to the attention of the AAR. The AAR acknowledged the mistake and decided to rectify it.

Question

Based on the case study above, by which date must the AAR rectify the mistake to comply with the law?

- a) 15th July 2024
 - b) 15th June 2024
 - c) 1st October 2024
 - d) 1st September 2024
3. Mr. Ajay, a taxpayer, received an advance ruling order from the AAR on 1st March 2024. He is dissatisfied with the ruling and wishes to file an appeal with the AAAR.

Question

Based on the case study above, by which date must Mr. Ajay or the jurisdictional officer file an appeal with the AAAR to be within the standard time limit without any extension?

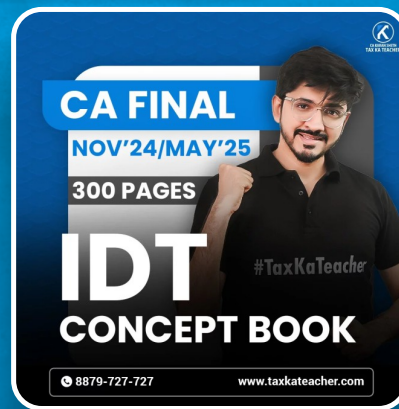
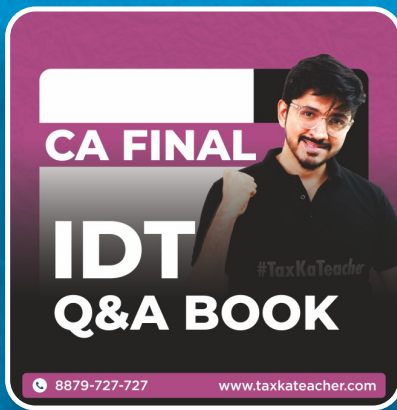
- a) 1st April 2024
 - b) 31st March 2024
 - c) 30th March 2024
 - d) 15th April 2024
4. Shreejesh, a taxpayer, filed an appeal with the Authority for Advance Rulings (AAR) . During the hearing, the members of the AAR had difference of opinions on a critical point raised in Mr. Shreejesh appeal.
what is the outcome when the members of the AAR differ on any point referred to in the appeal?
 - a) The appeal is automatically approved in favor of the applicant.
 - b) The appeal is automatically rejected.
 - c) It is deemed that no advance ruling can be issued in respect of the question under appeal.
 - d) Refer the point of difference to AAAR

5. Rajesh, a taxpayer, filed an appeal with the Appellate Authority for Advance Rulings (AAAR) after being dissatisfied with the ruling given by the AAR. During the hearing, the members of the AAAR had difference of opinions on a critical point raised in Mr. Rajesh's appeal.
What is the outcome when the members of the AAAR differ on any point referred to in the appeal?
 - a) The appeal is automatically approved in favor of the applicant.
 - b) Refer such points to High court

- c) It is deemed that no advance ruling can be issued in respect of the question under appeal.
- d) The case is referred back to the AAR for reconsideration.
6. Ms. Priya, a taxpayer, obtained an advance ruling from the AAR on 10th February 2024, which stated that the goods supplied by her were exempt from GST. Later, the authorities discovered that the ruling was obtained through misrepresentation of facts by Ms. Priya. After a thorough investigation and hearing Ms. Priya, the AAR issued an order on 20th June 2024 declaring the advance ruling to be void ab-initio. Consequently, the goods supplied by Ms. Priya are now taxable at 18%
What are the consequences of the AAR's order declaring the advance ruling to be void ab-initio?
- a) The goods supplied by Ms. Priya remain exempt from GST.
- b) The goods supplied by Ms. Priya are taxable at 18%, and the applicant is subject to the provisions of the CGST Act as if the advance ruling had never been made.
- c) The advance ruling is partially valid until a new ruling is obtained, and the goods remain exempt.
- d) The applicant is exempt from all provisions of the CGST Act, and the goods remain exempt.
7. Which case can matter be escalated to AAAR from AAR?
- a) when the applicant or jurisdiction officer is not satisfied with decision of AAR you can appeal it to AAAR
- b) when there is difference of opinion in members of AAR you can refer it to AAAR
- c) a&b
- d) none of the above
8. The Government has decided to establish an Authority for Advance Ruling (AAR). As part of this initiative, the Government appointed various officials to serve on the AAR. Among them, Mr. Kumar was appointed as a member of the Authority.
What is the minimum rank of officers that the Government is required to appoint as members of the Authority for Advance Ruling (AAR) under the CGST Act?
- a) Officers not below the rank of Assistant Commissioner
- b) Officers not below the rank of Deputy Commissioner
- c) Officers not below the rank of Joint Commissioner
- d) Officers not below the rank of Additional Commissioner
9. A business entity, XYZ Pvt. Ltd., filed an application for an Advance Ruling regarding the applicability of GST on a new service they planned to offer
What is the procedure that the Authority for Advance Ruling (AAR) follows upon receiving an application for an Advance Ruling?
- a) The AAR decides on the ruling without involving any external officers.
- b) The AAR sends a copy of the application to the concerned officer and may call for relevant records from them, which are returned after the review.
- c) The AAR ignores the application if it deems it unnecessary.
- d) The AAR immediately issues a ruling without any further investigation or consultation.

Answer:

Q.	Ans	Reason
1.	b	-
2.	a	The law gives the AAR and AAAR the 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. Since the order was given on 15th January 2024, the last date for rectification would be 15th July 2024.
3.	a	Any appeal must be filed within 30 days from the receipt of the order of the Advance Ruling Authority. Since the order was received on 1st March 2024, the last date to file an appeal within the standard time limit would be 31st march 24
4.	d	-
5.	c	-
6.	b	According to Section 104, if the authorities find that the advance ruling was obtained by fraud, suppression of material facts, or misrepresentation of facts, they may declare such ruling void ab-initio. Consequently, all the provisions of the CGST Act shall apply to the applicant as if the advance ruling had never been made. In this case, the goods supplied by Ms. Priya, which were initially ruled as exempt, will now be taxable at 18%.
7.	c	-
8.	c	
9.	b	



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