

## JB Nagar CPE Study Circle

# Advance Ruling Provisions and Recent GST Rulings

19 August 2018

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- With Globalization, International Trade is driving modern world
- Increasing awareness about good tax laws and administration are becoming essentials
- Increasing complexity of transactions, taxpayers desires to be sure of tax implications
- Advance Rulings on interpretation of tax laws helps making up mind for entering into transactions or making investments
- Advance ruling has been internationally recognized as

*"A more or less binding statement from the revenue authorities upon the voluntary request of a private person, concerning the treatment and consequences of one or a series of contemplated future actions or transactions"*

- In India, need for Advance Ruling was recognized in 1980's and was first introduced in Income tax in 1990's

# GST Advance Ruling

- A year old GST is still in its nascent stage while trying to overcome teething issues faced in matters of rate of taxes, classification and valuation inter-alia
- To make this seemingly complicated task simple the Government is taking substantial steps by way of issuance of clarificatory circulars and notifications
- However, there is a thin room for grey, in other words, matters requiring further clarification of sorts
- Thus making way for introduction of AAR
- With the primary objective of issuing rulings at an early stage, thus avoid heavy tax implications, tax friendly environment and minimal litigation at hand
- The Legislature of Finance Act, 1993, constituted the AAR in the field of Direct tax as well as Indirect tax.
- The legacy tends to continue in the GST regime as well

# GST Advance Ruling

- Under the GST regime, an applicant can seek Advance Rulings both in case existing as well as proposed transactions, contradictory to the erstwhile indirect tax law, indeed a welcome move by one and all
- The AAR is functional as a state level authority, addressing issues of applicants having transactions in that state
- An applicant is expected to make application to the each respective state AAR on the same issue of taxation
- Thus, inviting trouble in the form of multiple paper work and consumption of time and cost in the form of follow-up etc. due to multiple applications for the same issue
- While making things complicated in case of contradictory rulings passed by different AAR of individual states

# GST Advance Ruling

- A visible solution in this regard could be introduction of a centralized authority closely operating and monitoring the activities of state-wise authorities (which Government is working upon)
- Further unlike a judgment, AAR is binding only on the applicant seeking the ruling, it cannot be applied by others in toto unless the facts are same
- Nonetheless, others gain knowledge from the crux of the ruling and may avert from being a prey to tax authorities
- Thus, the industry / practitioners may opt to make a representation demanding clarification in relation to the issue or perhaps the intent of the government for making ant such provision

# Advantages vs. Disadvantages

## Advantages:

Clarity

Attracting FDI

Reducing Litigation

Transparency

Expeditious

Inexpensive

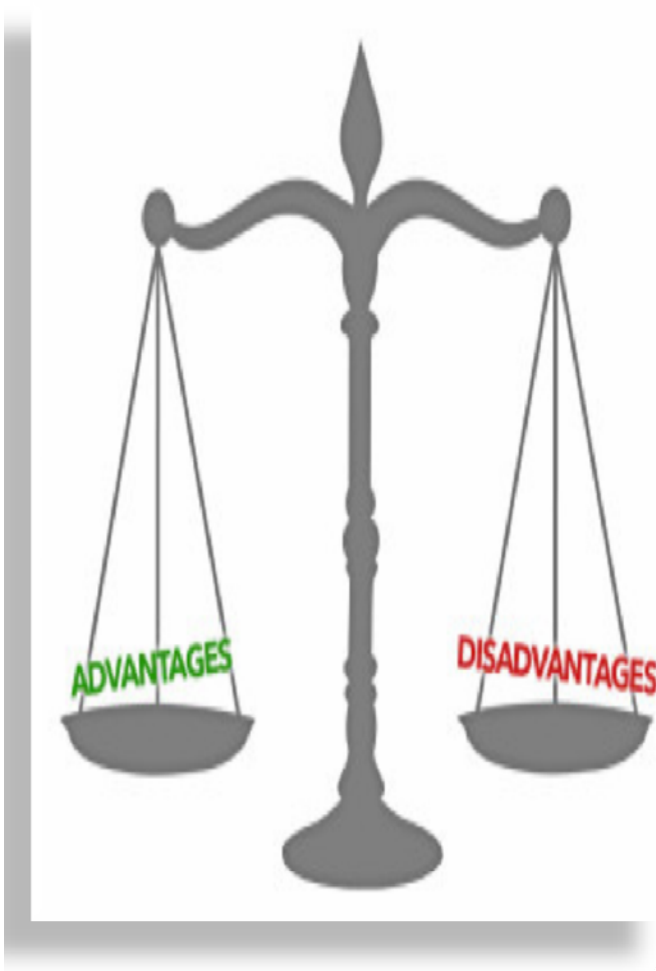
## Disadvantages:

May Not have  
satisfactory  
results

Confusing

Binding Nature

Normal Litigation  
is sometimes  
better



“Advance Ruling” means

A decision

By Authority of Advance Ruling (“AAR”) and  
Appellate Authority for Advance Ruling (“AAAR”)

On matters or on questions

As per Section 97(2) and 100(1) of CGST Act

about supply of goods or services or both

being undertaken or proposed to be undertaken

## Definition

Sections- 95(a) of CGST Act





### Questions

to be asked under  
Advance Ruling

**Matters / Questions on which Advance Ruling is sought is specified in**

**Section 97(2) and Section 100(1) of the CGST Act, 2017**

*Classification*

Applicability of notification

Determination of time and value of supply

Admissibility of Input tax credit

Determination of the liability

Requirement to obtain registration

Supply of goods or services or both



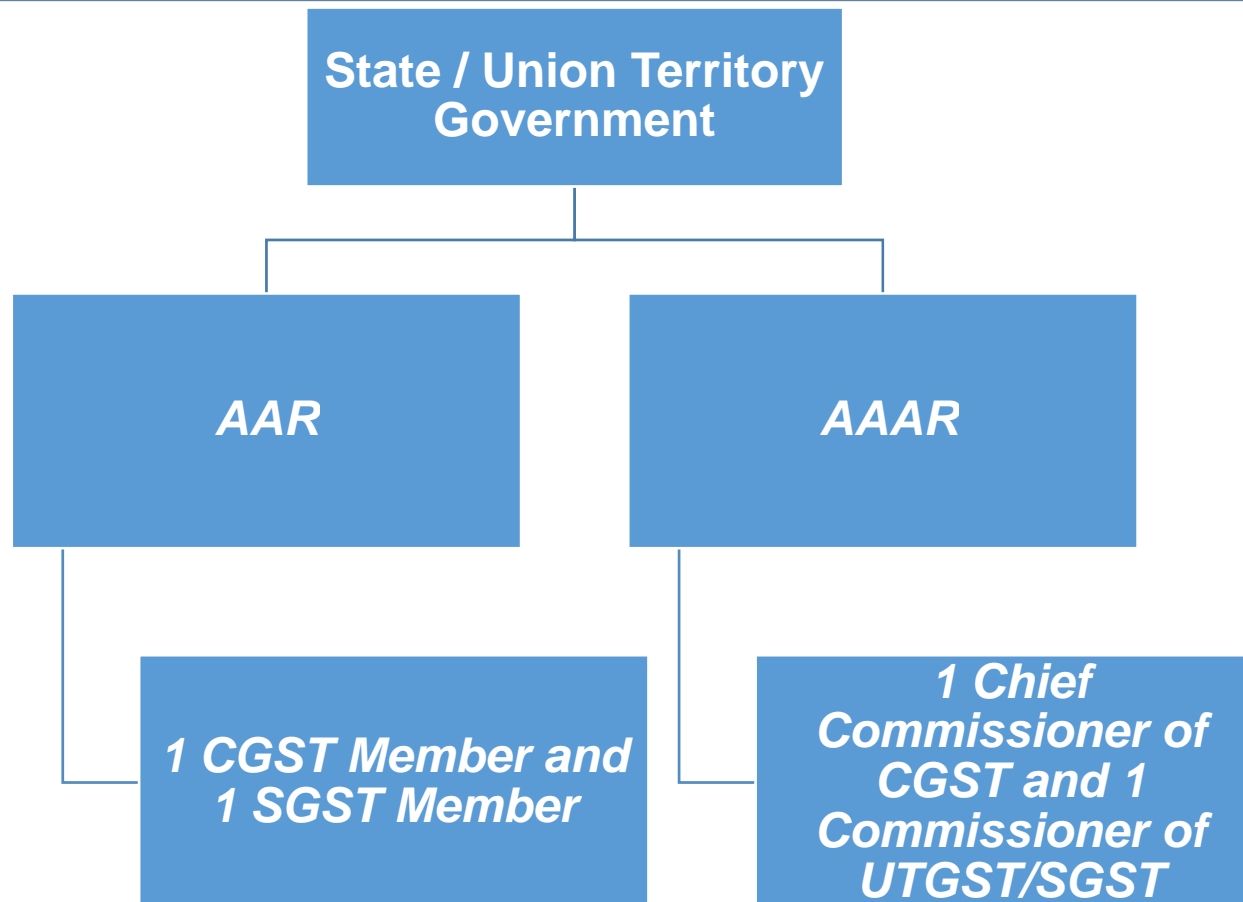
# Law and Procedures

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## Constitution

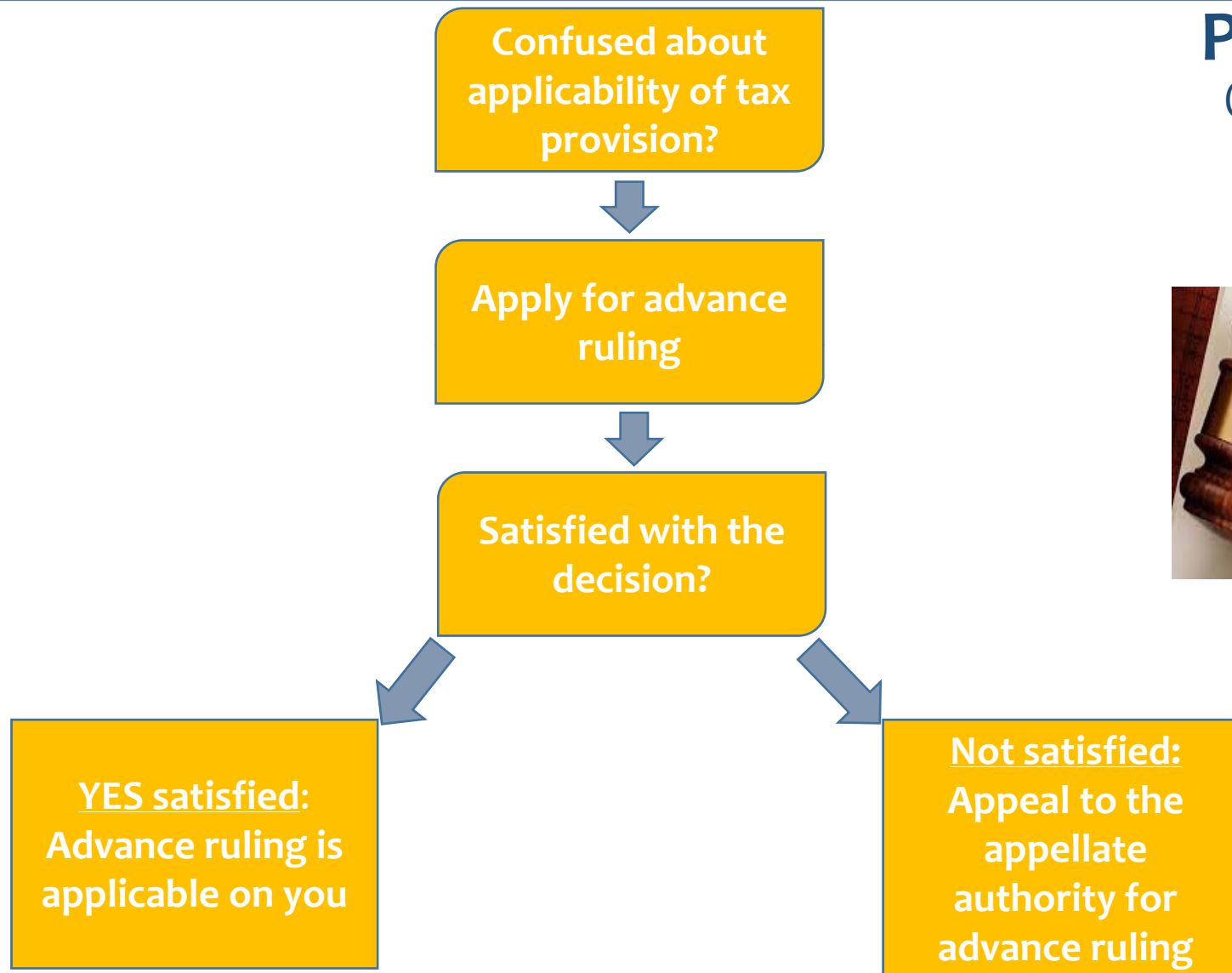
of AR and AAR  
(Section 95 and 96)



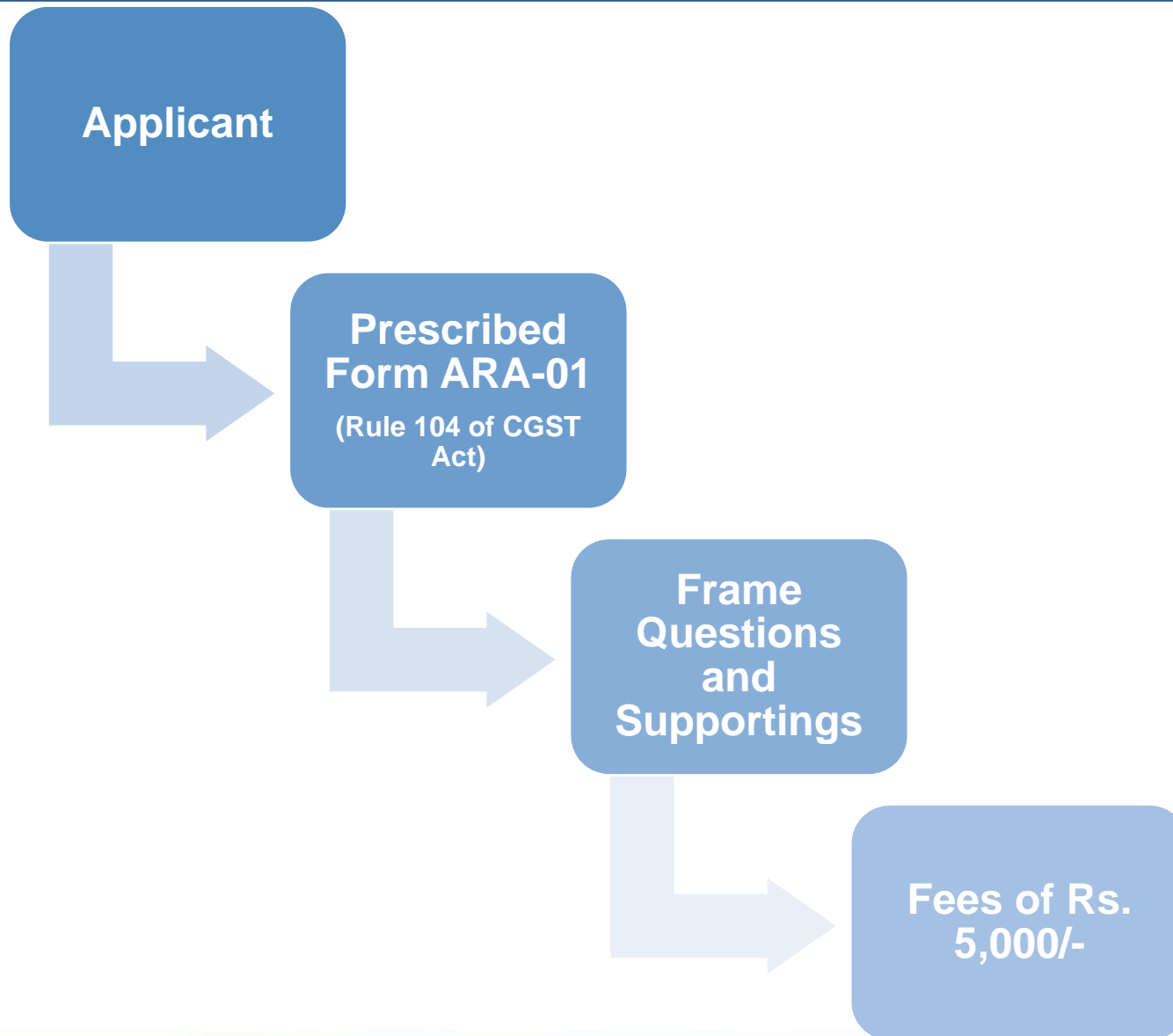
Jurisdiction lies with State / Union Territory only, so place of supply questions can't be asked

### Procedure

(when and whom to apply)



### Application Process



### Stages of Advance Ruling



## Order of Advance Ruling

If Members of AAR differ in opinion



Yes, then AAR will refer the differences to AAAR



No, then AAR will pass the order < 90 days



If AAAR also cant decide, than Advance Ruling cant be issued



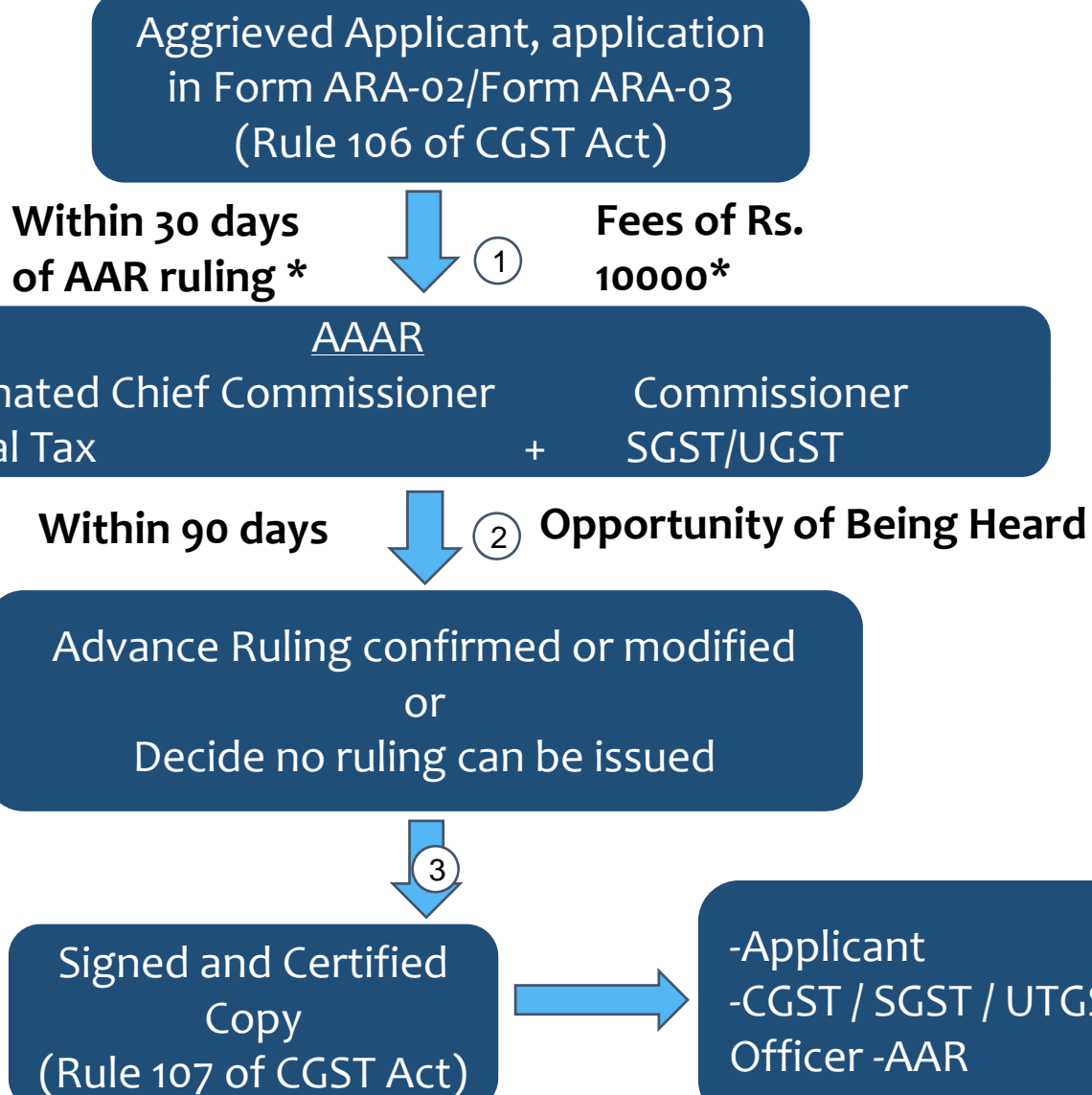
Copy of the Advance Rulings should be signed and certified (Rule 105 of CGST Act)



To Applicant, CGST / SGST / UGST officer & AAR



### Order of Advance Ruling



\* Period may be  
extended by 30  
days.

\*Fees for Form  
ARA-02 by  
applicant, not for  
Form ARA-03 by  
jurisdictional  
officer

## **Binding** nature of Advance Ruling

AAR shall be binding on:

- On the Applicant who had sought it
- On the jurisdictional officer





### Rectification of Advance Ruling

AAR and AAAR may amend any order passed by it under section 98 or 101, so as to rectify any error apparent on the face of the record, if such error is noticed by AAR or AAAR on its own accord or brought to its notice by prescribed officer, the applicant or the appellant.

Within 6 months of ruling

No rectification which has effect of enhancing the tax liability or reducing the amount of admissible ITC, shall be made unless the applicant or the appellant has been opportunity of being heard.

RECTIFICATION  
OF  
MISTAKE

# Law and Procedures

## Advance Ruling to be Void

Advance Ruling Order Obtained by way of



Fraud, Suppression or Misrepresentation of Facts



Declare such ruling VOID AB INITIO



Order subsequent to Opportunity of being heard provided



*Excluding period in between date of ruling and this order*



# Law and Procedures

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## **Power** of AR / AAR Authority

Deemed to be civil court

Power to enforce attendance

Examining on oath

Issuing commission

Compelling production of books / records

Power to regulate its own procedure



### Impact of Advance Ruling



- If rulings is received beyond 90 days than it doesn't really help much.

- The applicant has to pay lawyers fees twice for the entire process

- Sometimes, it doesn't help in planning the transactions in advance.

- It is binding on the applicant and the prescribed officer, which may prove adverse.

- However, it may save interest and penalty, which might be levied in normal litigation.

# Advance Rulings

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# Solar Power - EPC Contract

## Facts:-

- Giriraj Renewable ('The Appellant') was an EPC contractor. Entered into a contract for with contractors who were desired to set-up Solar Power Plants
- The contract was a turnkey contract which included end to end setting up of solar power plant
- Consideration was in the form of a single lumpsum price

## Issues:-

- Identify nature of transaction – Composite / works Contract
- Rate applicable on such EPC – Solar Power Plant

## Appellant's Submission

- Appellant has submitted details for Composite Supply, Mixed supply, Principle Supply and associated it with EPC contract
- Appellant further explained the same with the concept of Bundle Service as provided under Education Guide as per Service Tax
- Additionally, the appellant took relevance of Global Jurisprudence of Composite Supply as provided in countries like Australia, European Union, United Kingdom
- Intention is to provide Solar power plant and not erection, commissioning or fitting out in nature of works contract and hence not an immovable property

## Advance Rulings:-

- Relied on various judgments deciding concept of immovable property i.e. Sirpur Paper Mill, Quality Steel Tubes, Mittal engineering Works, TTG Industries, etc.
- Output of the project i.e. the power would be available to an identifiable segment of consumers hence, output supply would involve an element of permanency for which it would not be possible and prudent to shift base from time to time or locate the Plant elsewhere at frequent intervals
- Frequent dislocation of High ended imported machinery used in EPC would damage the materials would impact its performance
- Permits and documents provided for Commissioning and operation of the Plant defines an element of permanency as such permit and approvals can't be granted so frequent
- Accordingly, the said EPC Solar Plant is an immovable property and same is in the nature of works contract and not composite supply
- Not relevant to discuss transaction as composite supply – No relevance of Principle Supply

# Solar Power - EPC Contract

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## Facts:-

- Giriraj Renewable ('The Applicant') was an EPC contractor. Entered into a contract for with contractors who were desired to set-up Solar Power Plants
- The contract was a turnkey contract which included end to end setting up of solar power plant
- Applicant / Contractor did not import / clear any goods however the title of such goods to be used in EPC work is transferred to owner by way of High Seas Sale

## Issues:-

- Identify nature of transaction – Composite / works Contract
- Rate applicable on such EPC – Solar Power Plant

## Advance Rulings:-

- Since, the major goods which were required under the captioned EPC can be procured by owner itself and the contractor / applicant may carry out the supply and services portion in respect of remaining portion the concept of natural bundling does not apply to the present envisaged supply the envisaged supply does not constitute a composite supply



# KKC – Availability as Credit in GST

## Facts:-

- Kansai Nerolac Paints Limited ('The Appellant') is engaged in business of manufacture of paints and engaged in provision of works contract service
- The works contract services are carried out from the Appellant's Head Office
- The Appellant has a centralized registration for Head Office, factories and depots at its Head Office (HO) in Mumbai and a separate registration as Input Service Distributor (ISD) for its HO to distribute the eligible CENVAT credit
- CENVAT credit also included Krishi Kalyan Cess (KKC) as well but the appellant could not distribute KKC to its factories because KKC credit could be utilized only with KKC liability

## Issues:-

- Accumulated credit by way of KKC as appeared in the Service tax return of ISD on June 30, 2017 which is carried forward in the electronic credit ledger maintained by the company under CGST Act, 2017 will be considered as admissible Input Tax Credit

## Advance Rulings:-

- Act provides clear demarcation of the credit in respect of KKC
- Department relied on petition of Cellular Operators Association of India vs. Union of India 2018
- Swachh Bharat Cess is not integrated in the Cenvat Credit Chain and further considered SBC and KKC of similar nature and denial of credit is right

# Services provided by Corporate Employees to units located in other states

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## Facts:-

- M/s. Columbia Asia Hospitals Pvt Ltd (“Applicant”) is an international health group operating a chain of modern hospital across Asia, engaged in providing health care services.
- It is also engaged in supply of medicines
- It operates Restaurant / Canteen services in its premises used for patients and their attendants
- It is operating across six different states having eleven hospital out of which six units are in Karnataka
- It has Corporate office in Karnataka and some of the activities for all units with respect to accounting, administration and IT maintenance services are carried out by Employees of Karnataka unit
- Certain expenses such as rent, travel expenses and consultancy services and communication expenses etc. incurred towards services used by Karnataka unit are availed by Applicant in the state of Karnataka
- Karnataka Unit is discharging IGST on the expenses proportionately attributable to other units located outside the state of Karnataka treating them as taxable supplies
- With Respect to employee cost, no invoices are raised by Karnataka Unit – treating activities carried out by employees in the course of or in relation to his employment which does not amount to supply of services

## Issues:-

- Activities performed by employees at Karnataka Unit in the course of or in relation to employment for units located in other states as well i.e. distinct persons as per Section 25(4) of the CGST Act, 2017 shall be treated as supply as per Entry 2 of the Schedule I of the CGST Act, 2017

# Services provided by Corporate Employees to units located in other states

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## AAR Ruling:-

- Relied on Entry 2 of the Schedule 1 of CGST Act– Karnataka unit is covered under one registration and the other units are covered under different registrations and the units are controlled by Karnataka unit – both would be treated as related persons
- Relied on Section 7(1), Clause (a) and (c) of the CGST Act - Supply of Services from Karnataka unit to other unit would be considered as taxable supplies, even if made without consideration
- Employees employed in Karnataka Unit providing services to said unit, then Employer-employee relationship would be considered only for the said unit
- Other units being distinct persons, hence employees of Karnataka unit will have no employer-employee relationship with other units
- Activities made between related persons needs to treated as supplies and valuation to include all costs including the employee costs
- Services/goods provided by one distinct entity to other distinct entities, at the time of valuation all cost to be considered which will include employee costs as well

# Supply of non-alcoholic beverages to SEZ units

## Facts:-

- M/s. Coffee Day Global Ltd (“Applicant”) is engaged in supply of non-alcoholic beverage to SEZ units using coffee vending machines
- It installs beverage vending machine inside SEZ premises
  - Prepares beverages using vending machines and its ingredients and supplies to SEZ which are consumed by employees of SEZ. Based on the number of cups of beverages supplied, the unit charges to SEZ unit
  - Supplies beverage ingredients to SEZ units, and bills are raised based on the quantity of ingredients supplied. SEZ units prepare the beverages. No consideration to be paid by SEZ units for usage of vending machine
- Applicant had stated that any supply made to SEZ unit would be treated as zero rated supply irrespective of the fact whether or not they are used for authorized operations
- Applicant contends that they are entitled to make said supplies under bond or letter of undertaking as stated in rule 89 of the CGST Rules, 2017

## Issues:-

- Whether Supply of Non-alcoholic beverages / ingredients to SEZ units using coffee vending machines installed by Applicant is in nature of Zero rated supply as defined under Section 16 of IGST Act 2017

# Supply of non-alcoholic beverages to SEZ units

## AAR Ruling:-

- Relied on Section 16(1) of the IGST Act – Zero rates supplies means any of the following supplies of goods or services or both namely
  - a) Export of Goods or services or both or;
  - b) Supply of Goods or services to SEZ unit
- Word “any” refer either “a” or “b” above. If the word “any” would have been placed at the beginning of the sentence in (b) then the contention of the Applicant would be worth
- Relied on section 4(2) and 15 (9) of the SEZ Act, 2005 - SEZ unit is allowed to carry predefined activities (“authorized operations”) to be eligible to avail benefits. Hence, the activities which needs to be carried out has to be strictly in consonance with the authorized operations, certified by proper officer of SEZ
- Relied on Rule 89 of the CGST Rules, 2017 – The rule related to refund stipulates that the supply in respect of which input tax credit had been paid and refund is sought, shall be necessarily for authorized operations
- Benefit flowing out from SEZ act 2005 accrues to anyone only when it is used for authorized operations
- Applicant was not able to prove that the activity undertaken by them is certified as an authorized operations by the proper officer of SEZ Unit

# Hotel Accommodation/Restaurant services provided to employees of SEZ units

## Facts:-

- Gogte Infrastructure Development Corporation Ltd ('The Applicant') is engaged in hotel business and provides hotel accommodation and restaurant services
- Hotel is situated outside the SEZ zone
- Services are provided to employees/guests of SEZ units in addition to regular customers
- SEZ units contended that services are being supplies/rendered to SEZ units only and hence the same needs to be treated as zero rated supplies as stated in Section 16 of the IGST Act

## Issues:-

- Whether Hotel Accommodation & Restaurant services provided by Hotel to the employees & guest of SEZ unit, be treated as supply of goods & services to SEZ unit or not?

# Hotel Accommodation/Restaurant services provided to employees of SEZ units

## AAR Ruling:-

- Supply of Goods or services or both towards authorized operations only shall be treated as supplies to SEZ unit. (Section 16(1)(b) of the CGST act 2017 read with rule 46 of the CGST Rules)
- Place of supply of services by way of lodging accommodation by a hotel, shall be location at which the immovable property (hotel) is located. (Section 12(3)(b) of the IGST Act, 2017)
- Place of supply of restaurant and catering services shall be location where the services are actually performed. (Section 12(4) of the IGST Act, 2017)
- Applicant located outside SEZ, hence the services rendered by the Applicant are neither the part of authorized operations nor consumed inside SEZ
- Place of provision of services in case of Hotel has been prescribed under the Act and therefore it cannot be said to have been “imported or procured” into SEZ
- The said supply to be treated as intra state supply and are taxable accordingly

# Recovery - Food expenses from employees for canteen services provided by Company

## Facts:-

- Caltech Polymers Pvt Ltd ('The Applicant') is engaged in the manufacture and sale of footwear
- It provides canteen services exclusively for their employees
- Incurring the canteen running services and are recovering the same from its employees without any profit margin
- It further submits that the service provided to employee is not being carried out as a business activity. It is providing the said services in accordance with the provisions of Factories Act, 1948
- The Applicant claims that the said activity does not fall within the scope of supply – as the same is not in the course or furtherance of business
- It is only facilitating the supply of food to the employees which is a statutory requirement
- Applicant referred on Mega exemption Notification No. 25/2012-Service tax dated 20-06-2012 – for exemption given under Service tax laws

## Issues:-

- Whether reimbursement of food expenses from employees for the canteen services provided by company comes under the ambit of supply as taxable under GST Act



# Recovery - Food expenses from employees for canteen services provided by Company

## AAR Ruling:-

- From the plain reading of definition of “business” it can be concluded that the supply of food by Applicant to its employees would definitely get covered. (Section 2(17)(b) of the CGST Act)
- Clause 6 of the Schedule II of the GST Act prescribes certain activities to be treated as supply of goods or supply of services which includes supply of food or any article for human consumption
- Applicant covered under the definition of Supplier as provided in Section 2(105) of the CGST Act
- Since Applicant recovers the cost of food from its employees, there is consideration involved (Section 2(31) of the CGST Act, 2017)
- Recovery of food expenses from employees by the Applicant would come under the definition of “Outward Supply” and therefore taxable as a supply of service. (Section 2(83) of CGST Act 2017)

# Rate Difference

## Facts:-

- Ultratech Cement Limited ('The Applicant') was engaged in Manufacture of Cement at its various manufacturing units located in different States. Besides this there are also other plants located in different States
- The goods manufactured at aforesaid units are supplied by applicant to various Authorized Dealer/Stockists on principal-to-principal basis
- The Authorized Dealer further supply the goods manufactured by the applicant in the regional market to the ultimate consumer or retailers
- As the market for cement is very dynamic and the price keeps on changing on real time basis, it is required to provide compensation in the form of "Rate Difference" as established in Agreement between parties. The amount of discount is not known to applicant at the time of Supply
- Applicant made supply under the cover of Tax Invoice and Charged GST at applicable rate on full value
- Agreement between the parties provides that the Applicant will issue credit note for the amount of compensation provided in the form of Rate Difference and the same will be linked with respective invoices. The Dealer also agrees to reverse the proportionate input tax credit in his books of accounts

## Issues:-

- Issue under Case is that whether deduction in amount by the name of "rate difference" can be considered as discount provided by applicant to Dealers and accordingly GST should be charged on Value as reduced by amount of discount provided as stated in section 15(3) of CGST Act
- Whether Section 34 (1) of CGST Act can be applicable in case of amount paid by way of "Rate Difference"

## AAR Rulings:-

- Agreement between the Parties provides that discount can be any amount at the discretion of applicant
- The clause of discount cannot be left open ended. Agreement must provide for parameters or criteria to comply with requirement of Section 15(3)(b)(i)
- In the absence of pre-established Criteria, there can be any percentage of discount at the discretion of applicant ranging from minimum to even 100%
- Applicant by its Agreement fulfilled other requirements of Section 15(3) i.e. linking to Invoices and reversal of credit by recipient
- The Supplier has to clearly mention the quantum of discount or percentage of discount which is to be worked out on the basis of certain parameters or certain criteria which may be agreed to between the supplier and the recipient and which are predetermined and mentioned in agreement between them
- Thus the amount of Rate Difference cannot be considered for section 15(3) and GST would be levied on entire amount before giving effect of discount
- The question of Credit Note does becomes irrelevant

# Job Work or Supply – Power AAR

## Facts:-

- JSW Energy Limited ('JEL' or 'The Applicant') was engaged in business of generation of power. JSW Steel Limited ('JSL') is engaged in manufacture and Supply of Steel. It require power on continuous and dedicated basis for manufacturing Steel at its Plant
- JEL proposed to enter into Job Work Agreement with JSL. JSL would Supply the inputs 'Coal and other inputs' on job work basis on a free-of- cost basis to convert coal into electrical energy and pay job work charges to JEL
- JSL import coal from supplier located outside India
- JEL would recover charges from JSL in accordance with Joint Venture Agreement
- JSL and JEL are related person on account of direct or indirect control over each other
- JSL should be treated as 'Principal'. On receiving inputs, JEL shall undertake activities in accordance to JW Agreement
- Invoice shall contain detail of input supplied, power supplied, charges for service, applicable taxes, etc,
- The title to coal or any other inputs along with power generated from said inputs will vest with JEL

## Issues:-

- Issue is to determine applicability of GST on –
- Supply of Coal or other input on Job Work basis
- Supply of Power by JEL to JSL
- Job work Charges Payable to JEL by JSL
- Whether the transaction between parties is Job Work or Supply of Goods?

# Job Work or Supply – Power AAR

## Issues:-

- Applicant contention is to consider the transaction as job Work being carried on Input supplied 'Coal' and finished goods being 'Electricity' being supplied back to Principal

## AAR Rulings:-

- The term Job work defined by CGST Act require treatment or process on goods supplied by Principal. 'Process' is narrower term as Compared to 'manufacture'
- Manufacture means emergence of new product from processing of Inputs
- The activity of conversion of coal would lead to emergence of new Commodity 'Electricity'. Thus , activity is not a Job Work
- Treatment or process to the goods would mean some processes on the goods but would definitely not mean a complete transformation of input goods to the new Commodity
- Since JEL and JSW are related parties, supply of Electricity would amount to Supply under GST even if made without consideration
- GST is applicable on supply of power by JEL to JSL
- Since the transaction is considered as Supply rather than Job work the Question of GST on Job Work Charges Payable does not survive

# Job Work or Supply – Power -AAAR

## Contention of Applicant:-

- JSW Energy Limited ('The Applicant' or 'JEL') considered that term Job Work is wide and it does not exclude from its definition any activity that amounts to manufacture
- Job work and Manufacturing is not mutually exclusive
- It is settled position in Law that generation of Electricity is a activity treated as Job Work
- The term process or Treatment is not defined under GST Law and thus it cannot be said that process or Treatment shall exclude Manufacture

## AAAR Rulings:-

- It was contended that coal is not an input for the manufacture of Steel as per Standard Input Output Norms specified as per the Import Policy
- The requirement of Job work requires that inputs processed upon or treated shall be supplied back to Principal. Coal is supplied by Principal that will be processed by Job worker and ultimately electricity is supplied back to principal which is not actually the input treated upon
- The input coal is used in generation of electricity and not in the manufacture of final product by appealant
- Since goods supplied by JSW Steel Limited ('JSL') will be utilized by JEL in manufacture of new commodity i.e. electricity, the process is manufacture and the same is considered as supply of service. (Although Electricity attracts NIL rate of Duty)
- The transaction between parties is a job Work even though it is a manufacturing also but it does not fulfill other requirement of Act and hence it is a supply chargeable to GST

# Branded – Classification of goods

## Facts:-

- Aditya Birla Retail Limited ('The Applicant') is engaged in processing and/or trading of wide range of cereals, pulses and flour classifiable under chapter 10 of First Schedule of Customs Tariff Act 1975
- The applicant is selling Goods under 2Stream-
  - Stream1-The packaging of goods would bear only details of applicant as manufacturer, as mandated under the statutory Provision
  - Stream2-The packaging would bear detail of manufacturer as mandated by Statuary Provision along with declaration-"Marketed By Aditya Birla Retail Limited"
- The applicant intends to make quality indicative declaration on the product package by using common/generic words -Value, Choice and Superior to allow the customer to buy the product as per their Choice, Budget and Preference
- The applicant is selling goods vide supermarket namely "More Store" located in various states

## Issues:-

- The issue is Whether goods containing a declaration mentioning a name and registered address of the applicant as manufacturer(Stream1) is considered as "not bearing a brand name", and be eligible for exemption in terms of Entry No. 65 of Exemption Notification No. 2/2017 dated 28.06.2017.
- Whether the additional declaration "Marketed by Aditya Birla Retail "does not make the product branded and hence eligible for exemption
- Whether declaration made on packets using terms such as "superior", "values" etc. indicating quality of product so as to enable consumers to identify and buy products be construed as "Brand Name"?

# Branded – Classification of goods

## AAR Rulings:-

- Exemption is available if the product is other than served in Unit Container and other than bearing a Brand Name
- The Term Brand Name can be a Trade name or Mark which necessary establishes ‘a connection in the course of Trade between such specified goods and some person using such name or mark with or without indication of the identity of that person
- The fact that declaration of “Marketed by Aditya Birla Group” which is the big name in the world is a benchmark in itself and is associated with a certain Trust and quality. The name ‘Aditya Birla” is more sufficient to establish an identity with goods
- Moreover, the goods are sold only at More Stores, that also distinguish the product from others. The fact that goods are sold from single retail outlet is relevant fact in construing the product to be branded one
- Thus all goods are classifiable as Branded Goods and hence excluded from Exemption Notification



# Liquidated Damages

## Facts:-

- Maharashtra State Power Generation Company Limited ('The Appellant') State Power Utility engaged in generation of power with objective to make Power available to all at affordable rates
- In case of various contracts entered into by the company, there was a clause to deduct Liquidated damages (LD) in case of default by the contractor / vendor to complete the work in time
- LD is for delay in Erection, Testing and Commissioning

## Issues:-

- Applicability of GST on recovery of LD
- Whether question of agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act is applicable to LD

## Advance Rulings:-

- Payment of damages, deducting the liquidated damages or the forfeiture of deposit does not reconstitute the person to whom loss or damage is caused. Liquidated damages are in nature of a measure of damages to which parties agree, rather than a remedy. By charging damages or forfeiture, one party does not accept or permit the deviation of the other party. It is an expression of displeasure. Liquidated damages cannot be said to be the desired income. It is for compensation of loss suffered by recipient
- The Appellant has argued that it has not collected LD for tolerating an Act
- However, as per department the act of delayed supply has happened and the same is being tolerated by an additional levy in the nature of liquidated damages.
- Further, the empowerment to levy liquidated damages is for the reason that there has been a delay and the same would be tolerated, but for a price or damages and accordingly, GST should be levied on the same

# Issues – Open for Discussion:-

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Thank You