



Lawgics

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Section 98 of CGST Act, 2017



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98. Procedure on receipt of application.

(1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the concerned officer and, if necessary, call upon him to furnish the relevant records:

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said concerned officer.

(2) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application:

Provided that the Authority shall not admit the application 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:

Provided further that no application shall be rejected under this sub-section unless an opportunity of hearing has been given to the applicant:

Provided also that where the application is rejected, the reasons for such rejection shall be specified in the order.

(3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the concerned officer.

(4) Where an application is admitted under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority and after providing an opportunity of being heard to the applicant or his authorised representative as well as to the concerned officer or his authorised representative, pronounce its advance ruling on the question specified in the application.

(5) Where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.

(6) The Authority shall pronounce its advance ruling in writing within ninety days from the date of receipt of application.

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

Rule 105 – Certification of copies of advance rulings pronounced by the Authority

A copy of the advance ruling shall be certified to be a true copy of its original by any member of the Authority for Advance Ruling.

Our Interpretation

Section 98
read with
Rule 105

This section entails the procedure to be followed by the Authority for Advance Ruling (AAR) on receipt of an application for advance ruling by an applicant.

1. Receipt of Application

On receipt of an application in ARA-01, the AAR shall forward a copy to the concerned officer and, if necessary, direct him to furnish the relevant records.

Such records should be returned as soon as possible to the concerned officer.

The AAR may either accept or reject the application after considering the application, examining the records, hearing the applicant and the concerned officer or their authorised representatives. However, **no application shall be rejected without giving the applicant an opportunity of being heard.**

Any application for advance ruling involving questions already pending or decided in any proceedings in the case of that applicant under any of the provisions of this Act shall not be admitted. Thus, issues pending or decided in a proceeding in respect of another person will not disentitle the applicant from seeking an advance ruling on the same issue.

Where the application is finally rejected, the reasons for such rejection shall be stated in the order.

A copy of every order admitting or rejecting made shall be sent to the applicant and to the concerned officer.

2. Pronouncement of advance ruling

Where the application is admitted, the AAR shall proceed as follows:

Examine such further material as may be placed before it by the applicant or obtained by the AAR.

Provide opportunity of being heard to the applicant or his authorized representatives and concerned officer or this authorized representative.

Pronounce its advance ruling in writing on the question specified in the application within 90 days from the date of receipt of application.

3. Reference to Appellate Authority

Where the members of the AAR differ on any question on which the advance ruling is sought, they shall state the points of difference and refer it to the Appellate Authority for advance ruling for final decision. In this case, the Appellate Authority shall take up issue for hearing and give final decision on such question. The time period within which a reference can be made to the AAAR is not prescribed in the Act.

4. Submission of advance ruling pronounced

A copy of the advance ruling pronounced by the concerned AAR, duly signed by the Members and certified, shall be sent to the applicant and to the concerned officer after pronouncement. A copy of the advance ruling shall be certified to be a true copy of its original by any member of the Authority for Advance Ruling (AAR) as per Rule 105 of CGST Act, 2017.