



Lawgics

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Section 100 of CGST Act, 2017



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100. Appeal to appellate authority.

(1) The concerned officer, the jurisdictional officer or an applicant aggrieved by any advance ruling pronounced under sub-section (4) of section 98, may appeal to the Appellate Authority.

(2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the concerned officer, the jurisdictional officer and the applicant:

Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, allow it to be presented within a further period not exceeding thirty days.

(3) Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed.

Rule 106 – Form and manner of appeal to the Appellate Authority for Advance Ruling

(1) An appeal against the advance ruling issued under sub-section (6) of section 98 shall be made by an applicant on the common portal in FORM GST ARA-02 and shall be accompanied by a fee of ten thousand rupees to be deposited in the manner specified in section 49.

(2) An appeal against the advance ruling issued under sub-section (6) of section 98 shall be made by the concerned officer or the jurisdictional officer referred to in section 100 on the common portal in FORM GST ARA-03 and no fee shall be payable by the said officer for filing the appeal.

(3) The appeal referred to in sub-rule (1) or sub-rule (2), the verification contained therein and all the relevant documents accompanying such appeal shall be signed,-

(a) in case of concerned officer or jurisdictional officer, by an officer authorised in writing by such officer; and

(b) in the case of an applicant, in the manner specified in rule 26.

Our Interpretation

Section 100 read with Rule 106

Section 100(1) provides that concerned officer, the jurisdictional officer or an applicant aggrieved by any advance ruling pronounced by the Authority for Advance Ruling, may appeal to the Appellate Authority. This section deals with the procedure to be followed for filing of an appeal before the appellate authority (AAAR) against the ruling of the authority (AAR).

An appeal can be filed by the concerned officer/jurisdictional officer or the applicant, who is aggrieved by the ruling.

Reference application may also be filed by AAR (when members of AAR have different viewpoints and are not in agreement on the issue in hand) to seek resolution by AAAR.

Section 100(2) states that the appeal should be filed within 30 days from the date of receipt of the ruling. This period can be further extended for another 30 days, if the appellate authority is satisfied that there is sufficient cause for not filing the appeal within the first 30 days.

Section 100(3) read with Rule 106, states that the appeal shall be filed by the aggrieved applicant in ARA-02 along with a fee of Rs.10,000/- to be paid under the CGST Act and the respective SGST Act. The payment has to be made by debiting the electronic cash ledger only and the appeal shall be signed through DSC or EVC. An appeal may be filed by the concerned officer or the Jurisdictional officer in FORM GST ARA-03 without any fees and has to be signed by the officer authorized in writing by such officer.

The procedure for manual filing has been detailed in Circular No. 25/25/2017-GST dated 21.12.2017. According to the Circular, an appeal can be filed by the concerned officer or jurisdictional officer or the applicant, who is aggrieved by the ruling. The appeal should be filed within 30 days from the date of receipt of the ruling. The appeal shall be filed by the aggrieved applicant in ARA-02 along with a fee of Rs. 10,000/- to be paid under the CGST Act and the respective SGST Act. An appeal preferred by the concerned officer or the Jurisdictional officer shall be in FORM GST ARA-03 without any fees and has to be signed by an officer authorized in writing by such officer.

To conclude: The Authority for Advance Ruling (AAR) and the Appellate Authority for Advance Ruling (AAAR) constituted under Advance Ruling Mechanism in the provisions of a SGST/UTGST Act shall be deemed to be the Authority for advance ruling (AAR) and Appellate Authority for Advance Ruling (AAAR) in respect of that State or Union territory under the CGST Act, 2017 also. Thus, both, the Authority for Advance Ruling (AAR) & the Appellate Authority for Advance Ruling (AAAR) is constituted under the respective State / Union Territory Act and not the Central Act. Therefore, the ruling given by the AAR & AAAR will be applicable only within the jurisdiction of the concerned state or union territory. It is also for this reason that questions on determination of place of supply cannot be raised with the AAR or AAAR.

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