



# Lawgics

By Nidhi, Advocate



Serial No.: 106  
Dt.: 12-06-2023

## Section 101 of CGST Act, 2017



<https://chat.whatsapp.com/Ie4VxuhvToe76Us7e5>

CLICK TO JOIN  
WHATSAPP GROUP

### 101. Orders of appellate authority.

- (1) The Appellate Authority may, after giving the parties to the appeal or reference an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against or referred to.
- (2) The order referred to in sub-section (1) shall be passed within a period of ninety days from the date of filing of the appeal under section 100 or a reference under subsection (5) of section 98.
- (3) Where the members of the Appellate Authority differ on any point or points referred to in appeal or reference, it shall be deemed that no advance ruling can be issued in respect of the question under the appeal or reference.
- (4) A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer, the jurisdictional officer and to the Authority after such pronouncement.

### Rule 107 – Certification of copies of the advance rulings pronounced by the Appellate Authority

A copy of the advance ruling pronounced by the Appellate Authority for Advance Ruling and duly signed by the Members shall be sent to-

- a) the applicant and the appellant;
- b) the concerned officer of central tax and State or Union territory tax;
- c) the jurisdictional officer of central tax and State or Union territory tax; and
- d) the Authority,

in accordance with the provisions of sub-section (4) of section 101 of the Act.

### Our Interpretation

Section 101  
read with  
Rule 107

This section prescribes the procedure to be followed by the appellate authority where an appeal has been preferred against an advance ruling given by the AAR under Section 98(4) or a reference has been made to it by the AAR under Section 98(5).

The appellate authority must afford a reasonable opportunity of being heard to the parties before passing the order in which it may choose to either:

- (a) Confirm the Advance Ruling passed by the AAR; or
- (b) Modify the Advance Ruling appealed against; or

The order should be passed within 90 days from the date of filing appeal or date of reference by the AAR.

If there is a difference of opinion between members of the AAAR on the question covered under the

appeal, then it would be considered that no advance ruling can be issued in respect of that matter on which no consensus was reached by the members.

A copy of the advance ruling pronounced by the Appellate Authority for Advance Ruling and duly signed by the Members shall be sent to-

- a) the applicant and the appellant;
- b) the concerned officer of central tax and State or Union territory tax;
- c) the jurisdictional officer of central tax and State or Union territory tax; and
- d) the Authority,

The CGST Act clearly states that the Advance Ruling shall be binding on the applicant in respect of any matter on which the Advance ruling has been sought and it does **not provide for any appeal against the ruling of Appellate Authority for Advance Rulings**. Thus, no further appeals lie and the ruling shall be binding on the applicant as well as the jurisdictional officer in respect of applicant. However, the writ petition may be filed before Hon'ble High Court or the Supreme Court.

## Section 101A of CGST Act, 2017

### 101A. Constitution of National Appellate Authority for Advance Ruling

This Section has been inserted vide Finance (No. 2) Act, 2019 dt. 01.08.2019. However, **the effective date is yet to be notified**.

The **objective of the formation of National Appellate Authority for Advance Ruling to decide the conflicting Advance Rulings are given by the Appellate Authorities** of two or more States or Union territories or both.

There is need of formation of National Appellate Authority for Advance ruling to settle the conflicting rulings of Appellate Authorities for Advance Ruling between two or more States or Union territories. By formation of National Appellate Authorities at National level, would certainly reduce number of writ petition before the Hon'ble High Courts across the country arising on account of conflicting rulings. The order passed by the National Appellate Authority would have universal applicability across the country in the identical matter and not be confined to the applicant only. This is a welcome step taken by the Government to bring the provision of National Appellate Authority for Advance Ruling but **immediate implementation is more beneficial** for the taxpayers to get relief from the litigation.

## Section 101B of CGST Act, 2017

### 101B. Appeal to National Appellate Authority

This Section has been inserted vide Finance (No. 2) Act, 2019 dt. 01.08.2019. However, **the effective date is yet to be notified**.

## Section 101C of CGST Act, 2017

### 101C. Order of National Appellate Authority

This Section has been inserted vide Finance (No. 2) Act, 2019 dt. 01.08.2019. However, **the effective date is yet to be notified**.