GST & Indirect Taxes Committee The Institute of Chartered Accountants of India

Introduction to GST Notices & Analysis of common

SCNs demanding GST [SCNs U/s. 73, 74, 76 etc.]



- CA. Shaikh Abdul Samad. A

CHAPTER XV

Sec. 73 to Sec. 84 Read with R. 142 to R. 161

What is Show Cause Notice?

What is Show Cause Notice?

- a notice served on the tax payer
- asking him
- to show cause
- as to Why
- a particular action should not be taken
- by the department.
- [Action Cancellation, Demanding Tax, Denial of Option..etc]



RED FLAGS FOR RECEIVING A SHOW CAUSE NOTICE IN GST

RED FLAGS FOR RECEIVING A SHOW CAUSE NOTICE IN GST



assessments

- Scrutiny of returns U/s. 61 Instruction No. 02/2022-GST
- Assessment of non-filers of returns U/s. 62
- Assessment of unregistered persons U/s. 63
- Summary assessment U/s. 64

registration

audits

- Audit by tax authorities U/s. 65
- Special audit U/s. 66

investigation U/s. 67

RED FLAGS FOR RECEIVING A SHOW CAUSE NOTICE IN GST

SR. NO.	SENARIO	FORM
01	Denial of Option to Pay Tax u/s. 10	GST-CMP-05
02	For Cancellation of Regular Registration	GST-REG-17
03	For Rejection of application for revocation of Cancellation of Registration	GST-REG-23
04	For Cancellation of Provisional Registration	GST-REG-27
05	For Disqualification of GST Practitioner	GST-PCT-03
06	Rejection of Refund Claim	GST-REF-08
07	Assessment under Section 63	GST-ASMT-14

SCN U/s. 73

V/s.

SCN U/s. 74

Section 73 of the CGST Act, 2017 APPLICATION:

Where it appears to the proper officer that -

- any tax has not been paid (or)
- any tax short paid (or)
- Any tax erroneously refunded, (or)
- where input tax credit has been wrongly availed or utilised for any reason,

other than the reason of fraud or any wilfulmisstatement or suppression of facts to evade tax

Section 74 of the CGST Act, 2017 ☐ APPLICATION:

Where it appears to the proper officer that -

- any tax has not been paid (or)
- any tax short paid (or)
- Any tax erroneously refunded (or)
- where input tax credit has been wrongly availed or utilised

by reason of fraud or any wilfulmisstatement or suppression of facts to evade tax

Section 73 of the CGST Act, 2017

☐ TIME LIMIT FOR ORDER:

Within a period of **THREE YEARS** from the due date for furnishing of annual return for the financial year.

☐ TIME LIMIT FOR NOTICE:

.... at least **THREE MONTHS** prior to the time limit specified for issuance of order.

Section 74 of the CGST Act, 2017

☐ TIME LIMIT FOR ORDER:

Within a period of **FIVE YEARS** from the due date for furnishing of annual return for the financial year.

☐ TIME LIMIT FOR NOTICE:

.... at least **SIX MONTHS** prior to the time limit specified for issuance of order.

Section 73 of the CGST Act, 2017

□ PENALTY:

......pays the said tax <u>along</u>
 <u>with</u> interest within <u>THIRTY</u>
 DAYS of DoC of SCN = No
 PENALTY. ** [73 (11)]

OTHER CASES PENALTY is:

- Rs. 10,000.00
- 10% of the Tax demanded in the notice.

Section 74 of the CGST Act, 2017

□ PENALTY:

- before service of notice under sub-section (1) | 15% of the tax demand proposed in the notice.
-pays the said tax <u>along with</u> interest within THIRTY
 DAYS of DoC of SCN | PENALTY = 25% of the tax demand proposed in the notice.
-pays the said tax <u>along with</u> interest within THIRTY
 DAYS of DoC of Order | PENALTY = 50% of the tax demand proposed in the notice.

Statement in Lieu of A Full Fledged SCN

Received Notice for
the Financial Year

Mr. X a Tax Payer

For wrong availment of ineligible Credit.

2017-18

Same Mistake Continues in 2018-19 and 2019-20

What will department do?

It has already issued a SCN for the Fin. Year 2017-18.

Should it again issue a detailed SCN for the subsequent period?

The Answer is NO.

73/74 (3) Authorises an Officer

To issue a "Statement" containing the details of the tax demanded or ITC to be reversed.

"Statement of Demand"

Deems the issuance of Statement as "service of notice" only if grounds relied upon for such tax periods ***[74 (3)] are the same as are mentioned in the earlier notice for the 1st year.

Explanation 1.— For the purposes of section 73 and this section,—

- (i) "all proceedings in respect of the said notice" shall not include proceedings under section 132; (Punishment Imprisonment, fine... etc)
- (ii) If Proceedings initiated on Main person gets concluded, the proceedings against all the persons liable to pay penalty under sections 122 & 125 are deemed to be concluded. [Specific Penalty, General Penalty]

Explanation 2.— For the purposes of this Act, the expression <u>"suppression"</u> shall mean

- A) non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or
- B) failure to furnish any information on being asked for, in writing, by the proper officer

UNDERSTANDING SEC. 76

UNDERSTANDING THE IMPACT OF SEC. 76 OF THE CGST ACT, 2017

SECTION 76

- It safeguards the government's financial interests.
- Section 76 outlines the overriding effect of demand and recovery proceedings.
- It states that any order, direction, or decree issued by an appellate authority, tribunal, or court under the CGST Act or any other law cannot hinder the government's power to recover tax dues.



CHARACTERISTICS OF NOTICE ISSUED IN GST

CHARACTERISTICS OF NOTICE ISSUED IN GST

- Notice should be <u>issued with in the time prescribed</u>.
- The notice should contain details of the <u>alleged</u> discrepancy and proposes the amount payable. The notice will be considered to be Vague if it doesn't specify allegations. CCE V/s. Brindavan Beverages (P) Ltd. 2007 (6) TMI 4 (SC)
- The SCN should reference the specific sections of the GST Act that the taxpayer is alleged to have violated.
 This helps the taxpayer understand the legal basis for the notice.



CHARACTERISTICS OF NOTICE ISSUED IN GST

- Notice should be <u>written in simple and easy-to-understand language</u>, avoiding complex legal jargon.
- The speaking notice should be accompanied with Form GST DRC 01 online. As per amendment to sub-rule (1A) of rule 142 of TNGST Rules, with effect from 15.10.2022, requirement of issue of Form GST DRC-01A is not statutorily imperative but optional. Vishaka Exports V/s. Assistant Commissioner (ST) (FAC) [2023] 147 taxmann.com 579 (Madras)



CHARACTERISTICS OF NOTICE ISSUED IN GST

- Notice to be communicated manually, if the <u>GST Registration has been cancelled</u>. Eastern Machine
 Bricks & Tiles Industries V/s. State of U.P [2024] 158 taxmann.com 384 (Allahabad)
- It provides the taxpayer with an opportunity to explain the reasons for non-compliance in writing within
 30 days of receiving the same.
- Tax demand confirmed without hearing assessed is void Tvl. PL Lawrence Eggs Stores V/s. Assistant
 Commissioner [2024] 161 taxmann.com 371 (Madras)
- A Non-payment of GST cannot instigate an action under section 74. Section 74(1) can be invoked solely when tax non-payment is a result of fraud or willful mis-statement/suppression of facts to evade tax. C.C., C.E. & S.T. Bangalore (Adjudication) Etc. Vs. M/s Northern Operating Systems Pvt. Ltd. –

2022(5) TMI 967

DIFFERENCE IN TURNOVER IN OUTWARD SUPPLY

RATIONAL:

- Different GSTIN of the recipient.
- Reconciliation between the two GSTIN.



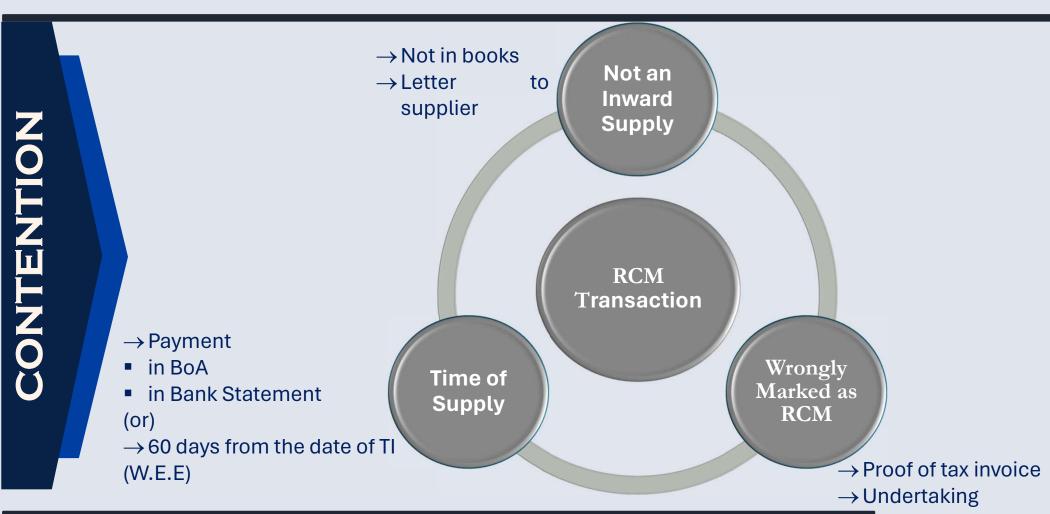
×

GSTR 9 / 1 / 3B

RATIONAL:

- Other Income in the Profit
 & Loss Account not considered.
- Schedule I transactions
- WDV of assets sold.
- No Supply in not considered in the returns.
- Incidental cost added to the transaction value.

RCM LIABILITY GSTR 2A vis-à-vis GSTR 3B

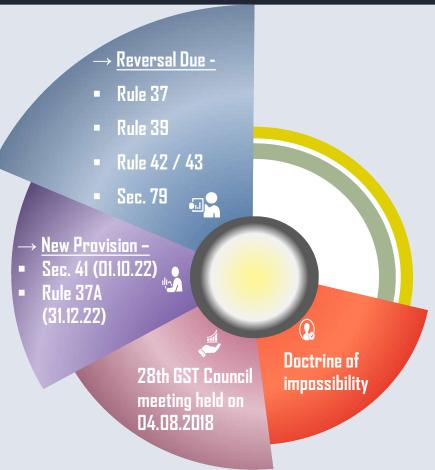


REVERSAL OF ITC GSTR 3B NOT FILED BY SUPPLIER

Sec. 41 (2) - ITC availed in respect of supplies of goods or services or both, if the tax payable whereon has not been paid by the supplier, shall be subject to reversal along with applicable interest, by the said person in such manner as may be prescribed

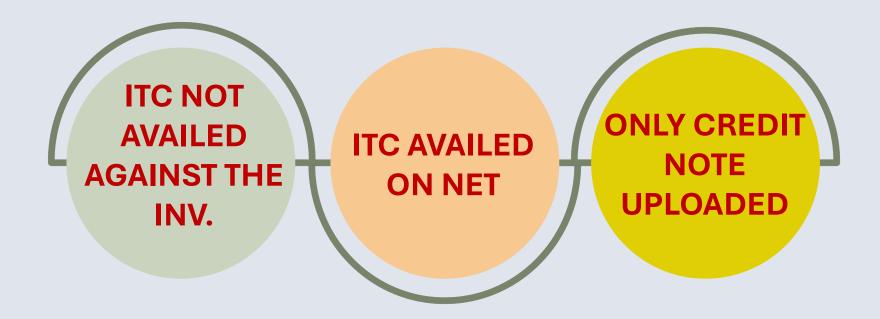
Rule 37A -

- supplier fails to deposit such taxes
- Reverse ITC within 30th of Nov following the end of the FY. (without interest)
- Lapse in reversal will result in interest liability
- Re-credit allowed (if the supplier pays the tax)



recover the tax from the seller and only in some exceptional circumstances

REVERSAL OF ITC CREDIT NOTES AS PER FORM GSTR 2A



REVERSAL OF BLOCKED ITC AS PER FORM GSTR 2A

REVERSAL OF COMMON ITC



Do not pray for an easy life, pray for the strength to endeavor.

- Bruce Lee

Thank You

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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

GST & INDIRECT TAXES COMMITTEE

Two Days Seminar on GST Demands & Appellate Remedies

Topic: Case Studies on SCN

Date: 3rd June, 2024 By CA. P. Aravind Thangam



Stages of Departmental Proceedings under GST

Pre-SCN Proceedings

- a) Scrutiny of Returns
- b) Audit
- c) Inspection
- d) Search
- e) Test Purchase
- f) Inspection during movement
- g) For un-registered persons

Special Proceedings

- a) Assessment of Non-Filers
- b) Summary Assessment



SCN Related Proceedings

Intimation of Liability in DRC 01A u/r. 142(1A) **followed by**

Summary of Show Cause Notice in DRC 01 along with detailed Show Cause Notice



Demand of Tax cum Recovery Notice



Detailed Order (or) Special Order along with

Summary of Order in DRC 07



Quasi Judicial / Judicial Proceedings under GST

Demand of Tax cum Recovery Notice

Detailed Order (or) Special Order +

Summary of Order in DRC 07



1st Appeal – Department (Sec. 107)

Deputy Commissioner (Appeals) or Addnl. Commissioner (Appeals) or Commissioner (Appeals)



High Court / Supreme Court

Question of Law or Violation of Principles of Natural Justice



2nd Appeal – GST Tribunal (Sec.112)

Constitution in advanced stages



Practical Case – 1(a)

Sam & Co. calls up their GST return filing accountant and informs him about a call on 30th May, 2024 from GST Department informing about a Demand of Rs.22.00 Lakhs in GST arising out of Order dated 29th February, 2024. Sam & Co. has not received any notice and therefore the Accountant advises that No Action is required. Is the stand taken by the Accountant correct??



Practical Case – 1(b)

- On receiving the call again on 31st May, 2024 from the Superintendent who has issued the Order, Sam & Co. approaches Ram, a GSTP. Ram checks the GST Portal and notices various unresponded Notices and Demand outstanding in Electronic Liability Register. But since the timeline for Appeal is over, he advises that demand has to be paid. Is the stand of the GSTP correct?
- Sec.107(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.



Practical Case – 1(c)

- Since the demand is huge, Sam & Co. approaches his friend who is an Advocate on 1st June, 2024 who gives him confidence that he will file a case before the District Magistrate and get a stay on the demand. Is the advise of the Advocate correct?
- Sec.162 Bar on jurisdiction of civil courts
- Save as provided in sections 117 (Appeal to High Court) and 118 (Appeal to Supreme Court), no civil court shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under this Act.



Practical Case – 1(d)

- Since Court Cases take a lot of time, Sam & Co. comes to meet the learned professionals at the Two Days Seminar on GST Demands and Appellate Remedies on 3rd June, 2024. What will be the advise of the learned professionals?
- File Appeal with Condonation of Delay??
- Sec.107(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a <u>further period of one month</u>.



Practical Case – 1(e)

- Order is dated 29th February, 2024. But Date of demand created in Electronic Liability Register is 5th March, 2024
- Will condonation of delay petition be required?
- Sec.107(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.

Should Appeal at all be filed?



Practical Case – 1(f)

- The difference is due to GSTR 1 v. GSTR 3B for specific month of January 2018. Tax declared in GSTR 1 is Rs.22.00 Lakhs but paid in GSTR 3B is Zero. Should we proceed with Appeal??
- On verifying GSTR 1 v. GSTR 3B for entire FY 2017-18, the difference in January was due to excess payment made in October 2017 to the same value of Rs.22.00 Lakhs.
- The excess payment in GSTR 3B of October 2017 was on account of GST Payable on Advances received in respect of Goods but Advance was not shown in GSTR 1 of October 2017.

Facta sunt potentiora verbis – "Facts are more powerful than words"

Ex facto jus oritor – "Law arises out of fact"

Every man has a right to his opinion but no man has a right to be wrong in his facts



- Service of Notice / Order can be contested
- Section 169 of the CGST Act provides multi-various options to the proper officer to service notice or order or summon or any other communication on the taxpayer

Mode of service	Central Excise Act	GST Law
Tendering	Giving it directly to the person or his authorised agent	Giving it directly or through a messenger to either one of the following persons — a) Addressee b) Taxable person c) Manager d) Authorized Representative e) Advocate f) Tax practitioner g) Regular employee h) Adult member of family
Registered Post or Speed Post	Allowed	Allowed
Courier	Approved by CBEC	No such condition
E-Mail provided at time of registration or as amended	Not allowed	Allowed
By uploading in online portal	Not allowed	Allowed
Publishing in newspaper	Not allowed	Allowed
Affixing at last known place of business or residence or at notice board of the proper officer	Allowed	Allowed



- Service of Notice Kashi Bartan Bhandar v. State of U.P (Allahabad)
- The notice under the Act is required to be served in accordance with the provisions of Section 169 of the Act which provides that it can be served by giving or tendering it directly or by messenger to the person concerned or to a person regularly employed by him in connection with his business or to an adult member of the family residing with him; or by registered or speed post or courier with acknowledgement due by sending at the last known place of business or residence of the person concerned; or by sending a communication at its email address provided at the time of registration and amended from time to time; or by making it available on the common portal; or by publication in a newspaper circulating in the locality in which the person concerned has last resided or carried business; or if none of the modes aforesaid is practicable, by affixing it at some conspicuous place, of his last known place of business or residence.



- Service of Notice Kashi Bartan Bhandar v. State of U.P (Allahabad)
- It is only if the mode of service as provided in the earlier parts of Section 169 are not practicable that the authorities can resort to service of notice by affixation. In this regard the words "if none of the modes is practicable" are relevant and important. The use of the aforesaid words clearly indicates that it is only after the authorities are satisfied that all earlier methods are not practicable for service of notice that resort can be taken for service of notice by affixation.



- Sec.160(2) of CGST Act Assessment proceedings, etc., not to be invalid on certain grounds
- The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.



Practical Case – 1(g)

- Is the Order of Rs.22.00 Lakhs valid under law?
- Circular No.31/05/2018 dt. 9th February, 2018

Sl. No.	Officer of Central Tax	Monetary limit of the	Monetary limit of the
		amount of CGST	amount of IGST
1.	Superintendent of Central Tax	Not exceeding ₹ 10	Not exceeding ₹ 20
		lakhs	lakhs
2.	Deputy or Assistant Commissioner of	Above ₹ 10 lakhs and	Above ₹ 20 lakhs and
	Central Tax	not exceeding ₹ 1 crore	not exceeding ₹ 2
			crores
3.	Additional or Joint Commissioner of	Above ₹ 1 crore	Above ₹ 2 crores
	Central Tax	without any limit	without any limit



Practical Case – 1(g)

<u>Jurisdiction of Officer to issue notice</u>

- Proper Officer is the person who is empowered to issue Notices
- "proper officer" in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board;
- All taxpayers are bifurcated between the State and the Centre. The bifurcation has been done based on the discussions at the 9th GST Council Meeting held on 16 January, 2017 and 21st GST Council Meeting held on 9 September, 2017.

Search Result based on GSTIN/UIN:

Legal Name of Business	Trade Name	Effective Date of registration 01/07/2017
Constitution of Business	GSTIN / UIN Status	Taxpayer Type 6
Proprietorship	Active	Regular
Administrative Office (JURISDICTION - STATE) State - TamilNadu Division - COIMBATORE Zone - Coimbatore-II Circle - R S PURAM (WEST)	Other Office (JURISDICTION - CENTER) Commissionerate - COIMBATORE Division - COIMBATORE - III Range - COIMBATORE - IIIC	Principal Place of Business
Whether Aadhaar Authenticated?	Whether e-KYC Verified?	
No	No	



Practical Case – 1(g) - Contesting Jurisdiction of Officer

Jurisdiction of Officer to issue notice

• Intelligence based enforcement, both the officers of the centre and the state will have jurisdiction to complete the entire process of investigation, issuance of SCN, adjudication, recovery, filing of appeal etc. arising out of such action [D.O. F. No. CBEC/20/43/01/2017-GST (Pt.) dt. 5th October, 2018 issued by CBEC]



Practical Case – 1(g)

Suppose the Order is passed by AC / DC and it is being noted that Sam & Co. has paid Rs.22.00 Lakhs at the time of filing Annual Return through DRC 03. Should Sam & Co. file Appeal? Is there any other alternative remedy?



Practical Case – 1(g) – Rectification

- Sec.161 Rectification of errors apparent on the face of record
- Without prejudice to the provisions of section 160, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any officer appointed under this Act or an officer appointed under the State Goods and Services Tax Act or an officer appointed under the Union Territory Goods and Services Tax Act or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be:



Practical Case – 1(g)

- 1st Proviso to Sec.161 Rectification of errors apparent on the face of record
- Provided that <u>no such rectification shall be done after a period of six</u> <u>months</u> from the date of issue of such decision or order or notice or certificate or any other document:



Analysing a Departmental Notice / Order

- Jurisdiction of Officer to issue Notice / Order
- Form and the provisions based on which Notice & Order has been issued
- Manner of service of Notice / Order
- Limitation for issue of Notice / Order
- Factual observations in the Notice / Order & their accuracy
- Legal grounds
- Binding nature on the assessee with respect to departmental instructions, circulars, AAR rulings
- Time given for replying to the Notice
- DIN Validity



Form and Manner of issue of Notice / Order

S.No.	Form No.	Form Title
1	GST ADT - 01	Notice for conducting audit
2	GST ASMT – 02	Notice for Seeking Additional Information / Clarification /
		Documents for provisional assessment
3	GST ASMT – 06	Notice for seeking additional information / clarification / documents
		for final assessment
4	GST ASMT – 10	Notice for intimating discrepancies in the return after scrutiny
5	GST ASMT – 14	Show Cause Notice for assessment under section 63
6	GST CMP – 05	Notice for denial of option to pay tax under section 10
7	GST DRC – 01	Summary of Show Cause Notice
8	GST DRC – 10	Notice for Auction of Goods under section 79 (1) (b) of the Act



Form and Manner of issue of Notice / Order

S.No.	Form No.	Form Title
9	GST DRC – 11	Notice to successful bidder
10	GST DRC – 13	Notice to a third person under section 79(1) (c)
11	GST DRC – 16	Notice for attachment and sale of immovable/movable goods/shares
		under section 79
12	GST DRC - 17	Notice for Auction of Immovable/Movable Property under section
		79(1) (d)
12	13 GST MOV – 07	Notice under section 129 (3) of the CGST Act and the
13		SGST/UTGST Act or under section 20 of the IGST Act
14	GST MOV – 10	Notice for confiscation of goods or conveyances and levy of penalty
		under section 130 of the CGST / SGST /UTGST / IGST and
		Compensation Cess Act
14A	GST PCT – 03	Show Cause Notice for disqualification



Form and Manner of issue of Notice / Order

S.No.	Form No.	Form Title
		Notice for Seeking Additional Information / Clarification /
15	GST REG – 03	Documents relating to Application for (Registration/ Amendment/
		Cancellation)
16	GST REG – 17	Show Cause Notice for Cancellation of Registration
17	GST REG – 23	Show Cause Notice for rejection of application for revocation of
		cancellation of registration
18	GST REG – 27	Show Cause Notice for cancellation of provisional registration
19	GST RFD – 03	Deficiency Memo
20	GST RFD – 08	Notice for rejection of application for refund
21	GST RVN – 01	Notice under section 108
22	GSTR 03A	Notice to return defaulter u/s 46 for not filing return



Case Study 2

- Is the authorization for inspection / search valid?
- Cash Seizure valid?
 - Kerala High Court T.H. FAZIL, T.A. HASSAN, NOUFAL HASSAN v. STO, Ernakulam
- Stock Reconciliation Difference
 - Only Physical difference can be accepted Any balancing figure arrived based on previous year ratios is NOT accepatable
- Suppression of sales must be proved. Mere existence of cash does NOT prove supply
- Excess paid tax adjustable with shortfall in tax in subsequent period Circular No. 26/26/2017-GST
- There is no revenue loss Only procedural –Prove other party has not claimed double ITC We should report ITC in GSTR 1



Case Study 2

- ITC ONLY reflected in GSTR 2A But NOT claimed
- Bill of Entry is sufficient Rule 36(4) relates to only receipts from registered person
- Circular No. 193/05/2023-GST



Assessment proceedings, etc., not to be invalid on certain grounds

- Sec.160 of CGST Act
- No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.



Basic aspects in Replying to a Notice

- Explain about your business
- Presentation of Facts
- Legal grounds including questioning constitutional validity of the provision, reliance of judicial pronouncements from erstwhile laws – Central Excise / Service Tax / VAT
- Submit all relied upon documents as an Annexure
- File Condonation of Delay petition with valid substantiating evidences, where applicable



Non-appealable decisions and orders

Sec.121 of CGST Act -

- a) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer; or
- b) an order pertaining to the seizure or retention of books of account, register and other documents; or
- c) an order sanctioning prosecution under this Act; or
- d) an order passed under section 80.



Sums due to be paid notwithstanding appeal, etc.

Sec.119 of CGST Act -

Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, sums due to the Government as a result of an order passed by the Principal Bench of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the State Benches of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the High Court under section 117, as the case may be, shall be payable in accordance with the order so passed.



Appeal to High Court

Sec.117 of CGST Act –

Any person aggrieved by any order passed by the [State Benches] of the Appellate Tribunal may file an appeal to the High Court and the High Court may admit such appeal, if it is satisfied that the case involves a substantial question of law.



Appeal to Supreme Court

Sec.118 of CGST Act -

- (1) An appeal shall lie to the Supreme Court-
- (a) from any order passed by the Principal Bench of the Appellate Tribunal; or
- (b) from any judgment or order passed by the High Court in an appeal made under section 117 in any case which, on its own motion or on an application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the High Court certifies to be a fit one for appeal to the Supreme Court.



Stages of Departmental Proceedings under GST

Pre-SCN Proceedings

- a) Scrutiny of Returns
- b) Audit
- c) Inspection
- d) Search
- e) Test Purchase
- f) Inspection during movement
- g) For un-registered persons

Special Proceedings

- a) Assessment of Non-Filers
- b) Summary Assessment



SCN Related Proceedings

Intimation of Liability in DRC 01A u/r. 142(1A) **followed by**

Summary of Show Cause Notice in DRC 01 along with detailed Show Cause Notice



Demand of Tax cum Recovery Notice



Detailed Order (or) Special Order

along with

Summary of Order in DRC 07



Quasi Judicial / Judicial Proceedings under GST

Demand of Tax cum Recovery Notice

Detailed Order (or) Special Order +

Summary of Order in DRC 07



1st Appeal – Department (Sec. 107)

Deputy Commissioner (Appeals) or Addnl. Commissioner (Appeals) or Commissioner (Appeals)



High Court / Supreme Court

Question of Law or Violation of Principles of Natural Justice



2nd Appeal – GST Tribunal (Sec.112)

Constitution in advanced stages



Happy Drafting of Replies!!!

CA. P. Aravind Thangam

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Date of Birth of GST

12th April, 2017

Signed by President –

Shri. Pranab Mukherjee



கற்றது கை மன் அளவு கல்லாதது உலகளவு



To set the ball rolling..

Meaning of Appeal

Is Right to appeal an inherent/ absolute right?

- Raj Kumar Shivhare V. AD, 2010 (253) ELT 3 (SC)
- Vijay Prakash D Mehta V. CC, 1989 (39) ELT 178 (SC)

When does the right to appeal accrue?

Hoosein Kasam Dada V. State of MP, 1983 (13) ELT 1277 (SC)

Is Appellate Authority an Adjudicating Authority?

Exception S.107(11)

To set the ball rolling..

When not to file appeal?

Mounting interest risk – How to overcome?

Is the remedy expressly provided in law?

What should I do to safeguard? In Refund – Other Payments

Person & Time

Who can file appeal - 'Any person' aggrieved

Appeal can be filed against what - decision or order passed by adjudicating authority

Time limit to file appeal - Three months from date of communication

S.<u>169(3)</u> - Post

What if the post is not received/ OIA not communicated?

Extension of Time

Notification No.53/2023 CT dt.2.11.23

Not filed appeal against Order passed on or before 31.3.23 u/s 73 or 74 of the said Act

And the taxable persons whose appeal against the said order was rejected solely on the grounds that the

said appeal was not filed within the time period specified in section 107

Now to file appeal before 31.1.24

Condition 12.5% of disputed tax with 2.5% cash, No appeal not involving tax

No Rational for cut off date of 31.3.23? Order passed beyond 31.3.23 – 27.4.23 – Nexus Motors Pvt Ltd V. State of Bihar, 2024 TIOL HC PATNA GST

Departmental Appeal

Commissioner – own motion – legality or propriety

By order – direct officer subordinate to file appeal – administrative order, Six months – DOC

What is DOC for department?

Can department contend miscommunication of interdepartment order?

Grapes Digital Pvt Ltd V. PC, 2023 TIOL 1764 HC DEL GST

What other options for the department if the time limit to file appeal lapses?

Condonation of Delay

Condonation – one month – for both

Extension greater than one month?

- Singh Enterprises V. CCE, 2008 (221) ELT 163 (SC)
- MP Steel Corporation V. CCE, 2015 (319) ELT 373 (SC)

S 107 a self contained code? Implied exclusion of Section 5 of Limitation Act?

Can Appeal after prescribed period showing 'sufficient cause'? What is sufficient cause

Yadav Steel V. ADC, 2024 TIOL 349 HC ALL GST, Garg Enterprieses V. UP, 2024 TIOL 145 HC ALL GST

Appeal beyond 120 days - Appellant diagnosed with medical condition – Great Heights Developers V. ADC, 2024 TIOL HC MAD GST, JBR Constructions Pvt ltd V. UOI, 2024 TIOL 46 HC AP GST

Pre Deposit

Admitted Amount, Disputed Amount – 10%, 25% - 129(3) case

Does 10% apply to interest and penalty – Tejas Arecanut Traders V. JCCT, 2024 TIOL 09 HC KAR GST

Does payment of tax under protest/ payment of tax at the time of investigation/ payment of tax pursuant to proceedings before issue of SCN be counted for 10% - Chetan Kumar Jasraj Palgota HUF V. State of Maharashtra, 2023 TIOL 1733 HC MUM GST

Refund Application to be filed for claiming refund of pre-deposit Rule 89(2)

Interest from date of pre-deposit vis-à-vis 60 days from date of RFD 01 S.115 r/w S.56

Recovery proceedings deemed to be stayed vs. S.119,

Whether ITC can be used for Pre Deposit

Whether ITC can be used to pay pre-deposit

Jyoti Construction v. Deputy Commissioner — 2021 (54) G.S.T.L. 279 (Ori.)

Flipkart Internet Pvt Ltd V. State of Bihar, 2023 TIOL 166 SC GST

Oasis Realty V. UOI, 2023 (71) GSTL 158 (Bom)

Circular No.172/04/2022 dt.6.7.22

Amendment to S.41 wef 1.10.22

The credit referred to in sub-section (1) shall be utilised only for payment of self-assessed output tax as per the return referred to in the said sub-section

Remand & SCN by FAA

Can FAA remand the case back

Order reducing refund/ ITC - opportunity to show cause against such order - Part of OIO

Order demanding tax afresh – SP/ NP, ITC, ER

S.107(11) Notice to show cause against proposed order – time limit – S.73/74

Can SCN be issued based on reappreciating facts

Can SCN be issued beyond findings in OIO based on appeal grounds raised by revenue

Can a new case be made out at appellate stage?

Remand & SCN by FAA

No adjournment more than 3 times

Additional grounds at the time of hearing - omission not wilful or unreasonable

Adding GOA V. Additional Evidence – Rule 112

OIA- Points for determination, decision, reason for said decision

Appeal to filed against OIA before whom?

Every order shall be final and binding on parties subject to S.108

Can Revisionary Authority revise the order of FAA? – N.No.5/20 CT

Procedure to file appeal

Appeal to be filed electronically with relevant documents

Appeal to be file manually in case of non availability of decision or order on the portal

Where decision uploaded – final ack in APL 02 issued and date of issue of provisional ack treated as date of filing appeal

Decision not uploaded – self certified copy of OIO within 7 days of filing APL 01 - final ack in APL 02 issued and date of issue of provisional ack treated as date of filing appeal

Self certified copy not submitted within 7 days – date of submission of such copy treated as date of filing

Appeal treated as filed only when final ack issued with appeal number

- Non submission of certified copy, Is certified copy required to be submitted in case of electronic filing Visible Alpha Solutions India Pvt Ltd V. CCGST, 2024 TIOL HC ALL GST

Appeal to be filed before whom & Withdrwawal

Appeal to C(A) where OIO by ADC/ JC

Appeal to officer not below JC(A) where OIO by AC/DC/ Sup

Withdrawal of appeal

- Before issue of SCN u/s 107(11) or
- Before issue of OIA, earlier, file application for w/d in APL O1W

Where APL 02 issued -w/d subject to approval - such application decided within 7 days

Fresh Appeal pursuant to w/d – within time limit u/s 107(1)/(2)

Along with OIA issue summary of order in APL 04

Recovery pursuant to OIA

What to do if appeal filed by taxpayer is dismissed?

Removal of Difficulty Order – Time limit to file appeal before Tribunal -?

Recovery in the interim - Commissioner of State GST, Thiruvananthapuram Circular No. 1/2024, dated 11-1-2024 - Declaration

Reading of Order In Original

Limitation

SCN & OIO, difference with erstwhile law

Findings beyond SCN

Statutory backing S.75(7) of GST Acts, 17

Omission to consider

- Submissions on Facts
- Submissions on Law
- Direction of Superior Authority (Remand)

Appeals - Structure

Statement of Facts

- Chronological description of facts/ activities
- Bringing out facts left by the revenue
- Bringing out provisions of law/ amendments with dates
- Placing reliance on documentary evidences
- No conclusions to be drawn/ inferences to be made

Appeals - Structure

Grounds of Appeal

- Merits
- Limitation
- Interest
- Penalty
- Refund

Prayer

What is the relief sought

Appeals

What should be the purpose of drafting

- Statement of facts
 - Obfuscation of facts by SCN/ OIO
- Grounds of Appeal
 - Mis application of law

Service of Order/ Notice

Methods provided for service u/s 169 alternate or chronological

Change in method as compared to erstwhile laws?

Mere 'sending' by Registered post is sufficient or its requires 'effective service' i.e. 'receipt by intended person'

S.27 of General Clauses Act

What if noticee has changed address

Thank You

Section 169

(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved

Back

Section 119

Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, sums due to the Government as a result of an order passed by the [Principal Bench] of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the [State Benches] of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the High Court under section 117, as the case may be, shall be payable in accordance with the order so passed Back

Appellate Authority acting as Adjudicating Authority

Section 107(11)......

Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed <u>unless</u> the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74.

Is Appellate Authority the proper officer to issue SCN? - Circular 3/3/17

Can Appellate Authority make out a new case while issuing SCN?

Back

THRISSUR BRANCH OF SIRC OF ICAI

Two Day Workshop on GST Demands & Appellate Remedies

Topic: Advance Ruling

&

Practical approach to Client Representation

Date: 4th June 2024 (02:00 PM to 5:00 PM)

By CA. N K Bharath Kumar

Demands & Remedies

- Demands Under GST
 - ► ASMT-10
 - ▶ DRC 01 A
 - ▶ DRC 01
 - ▶ DRC 07
 - ► MOV 09
- Appellate Remedies (after adjudication)
 - First Appellate Authority
 - Second Appellate Authority
 - High Court
 - Supreme Court



How do we file

an Advance Ruling

Should We?

SIGNIFICANCE OF ADVANCE RULING

Helps the applicant in

- planning his activities which are liable for payment of GST, well in advance
- Determining the Classification, HSN/SAC and liability well in advance
- Avoiding long drawn and expensive litigation at a later date
- Certainty and transparency to a taxpayer with respect to an issue which may potentially avoid a dispute with the tax administration
- ▶ There cannot be allegation of suppression
- Safeguard from Penal / Prosecution action

Chapter XVII - Advance Rulings

95	Definitions for the purposes of Chapter XVII	101B*	Appeal to National Appellate Authority
96	Authority for Advance Ruling	101C*	Order of National Appellate Authority
97	Application for Advance Ruling	102	Rectification of Advance Ruling
98	Procedure on Receipt of Application	103	Applicability of Advance Ruling
99	Appellate Authority for Advance Ruling	104	Advance Ruling to be void in certain cases
100	Appeal to Appellate Authority	105	Powers of Authority and Appellate Authority
101	Orders of Appellate Authority	106	Procedure of Authority, Appellate Authority and National Appellate Authority
101A*	Constitution of National Appellate Authority for Advance Ruling		

DEFINITIONS-SECTION 95

- Advance Ruling means a decision provided by the
 - Authority or
 - the Appellate Authority or
 - the National Appellate Authority
 - ▶ to an applicant on matters or on questions specified in
 - sub-section (2) of section 97 or
 - sub-section (1) of section 100 or of 101C,

in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

► Authority - as referred to in Section 96 - not below the rank of Jt. Commissioner, consist of officers of Central Tax and State Tax - located in each state

DEFINITIONS-SECTION 95

► Appellate Authority – as referred to in Section 99 - Chief Commissioner of Central Tax and Commissioner of State Tax

► National Appellate Authority – means National Appellate Authority for Advance Ruling referred to in Section 101A -

▶ Applicant - means any person registered or desirous of obtaining registration under this Act

QUESTIONS ON WHICH ADVANCE RULING CAN BE SOUGHT – SECTION 97(2)

- a) Classification of any goods or services or both;
- b) Applicability of a notification issued under the provisions of this 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 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.

PROCEDURE OF FILING AN ADVANCE RULING IN GST - SECTION 97,98 read with Rule 104,105

- An application in FORM GST ARA -01 to be made on the GST Portal with fees of Rs. 5,000/- CGST and 5,000/- SGST.
- 2. Copy of such application shall be forwarded to the concerned officer and request furnishing of relevant records.
- 3. After examining of the applications and records and personal hearing, either admit or reject the application [Section 98(2)]
 - Application cannot be admitted 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
 - ▶ No rejection without opportunity of being heard and mentioning reason for rejection.
- 4. Copy of every order to be sent to the applicant and the concerned officer

- 5. After providing an opportunity of being heard and examination of further submissions made by the applicant or the concerned officer, the authority shall pronounce its advance ruling on the question specified in the application [Section 98(4)]
- 6. Where the members of the Authority differ on any question on which the advance ruling is sought, the case can be referred to the Appellate Authority for hearing and decision on such question.
- 7. The ruling to be given within 90 days from date of receipt of application.
- 8. Copy of advance ruling duly signed by the members and certified to be sent to the applicant, the concerned officer and the jurisdictional officer after such pronouncement.

APPEAL TO APPELLATE AUTHORITY SECTION 100 read with Rule 106

- Appeal against order pronounced under 98(4) can be filed by
 - Applicant
 - Concerned officer
 - Jurisdictional officer
- Appeal to be filed within 30 days from the date of communication of the order of the Authority. Can be extended by a further period of 30 days if prevented by sufficient cause from presenting the appeal
- Appeal to be filed by applicant in FORM GST ARA -02 accompanied by fees of Rs. 10,000 CGST + Rs. 10,000/- SGST
- Appeal to be filed by officer in FORM GST ARA -03 and no fee payable.

PROCEDURE OF APPEAL TO APPELLATE AUTHORITY – SECTION 101 read with Rule 107

- 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. Order to be passed within 90 days from the date of filing of the appeal or reference made by Authority in case of difference of opinion.
- 3. Where the members of the Appellate Authority differ on any points referred to in appeal or reference, it shall be deemed that no AAR can be given.
- 4. Copy of advance ruling shall be sent to applicant, the concerned officer and the jurisdictional officer and to the Authority

CONSTITUTION OF NATIONAL APPELLATE AUTHORITY FOR ADVANCE RULING – SECTION 101A

President

- Judge of Supreme Court
- Chief Justice of High Court
- Judge of a High Court for a period not less than 5 years
- Shall be appointed by the Government after consultation with the CJI
- Tenure of 3 years or until the age of 70 years whichever is earlier

Technical Member (Central)

- Who is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A, and has completed at least fifteen years of service in Group A;
- appointed by the Government on the recommendations of a Selection Committee
- Tenure of 5 years or until the age of 65 years

Technical Member (State)

- Who is or who has been an officer of the State Government not below the rank of Additional Commissioner of Value Added Tax or the Additional Commissioner of State tax with at least three years of experience in the administration of an existing law or the State Goods and Services Tax Act or in the field of finance and taxation
- appointed by the Government on the recommendations of a Selection Committee
- Tenure of 5 years or until the age of 65 years

APPEAL TO NAAAR – SECTION 101B

- Appeal can be filed against
 - conflicting advance rulings are given by the Appellate Authorities of two or more States or Union territories or both under sub-section (1) or sub-section (3) of section 101 (AAAR orders which confirm, modify the AAR orders or where are orders are not pronounced due to difference of opinion between the AAAR)
- 2. Appeal can be filed by any officer authorised by the Commissioner from the States in which the advance rulings have been given or applicant being distinct person as per Section 25
- Appeal to be filed within
 - 30 days from the date of ruling is communicated For applicant
 - 90 days from the date of ruling is communicated For officer authorised by the Commissioner
 - Additional period of 30 days can be given by the NAAAR in both cases if there is sufficient cause of delay

ORDERS OF NAAAR – SECTION 101C

- 1. The order will be passed after giving an opportunity of being heard to the appellant, the officer authorized by the Commissioner, all Principal Chief Commissioners, Chief Commissioners of Central tax and Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories, either confirming or modifying the ruling appealed against.
- 2. If the members of the National Appellate Authority differ in opinion on any point, it shall be decided according to the opinion of the majority within a period of 90 days.
- 3. The order referred to in sub-section (1) shall be passed as far as possible within a period of ninety days from the date of filing of the appeal under section 101B.

RECTIFICATION OF ADVANCE RULING - SECTION 102

- The Authority or the Appellate Authority or the National Appellate Authority may amend any order passed by it so as to rectify any error apparent on the face of the record
- Error can be brought to the notice by the applicant, concerned officer, jurisdictional officer, the appellant, the AAR or the AAAR
- Error to be rectified within a period of six months from the date of the order
- No rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the applicant or the appellant has been given an opportunity of being heard.

APPLICABILITY OF ADVANCE RULING – SECTION 103

- Advance ruling is binding on the applicant who had sought the advance ruling and the concerned officer or the jurisdictional officer in respect of the applicant.
- Advance ruling pronounced by the NAAR shall be binding on the applicant who had sought the ruling and all registered persons under the same PAN and their respective concerned officers and jurisdictional officers
- Ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.
- Advance Ruling shall be void if the ruling has been obtained by the applicant or the appellant by fraud or suppression of material facts or misrepresentation of facts [Section 104].
- An opportunity of being heard to be given.

POWERS OF AUTHORITY AND APPELLATE AUTHORITY and NAAAR – SECTION 105

Discovery and Inspection

Enforcing the attendance of any person

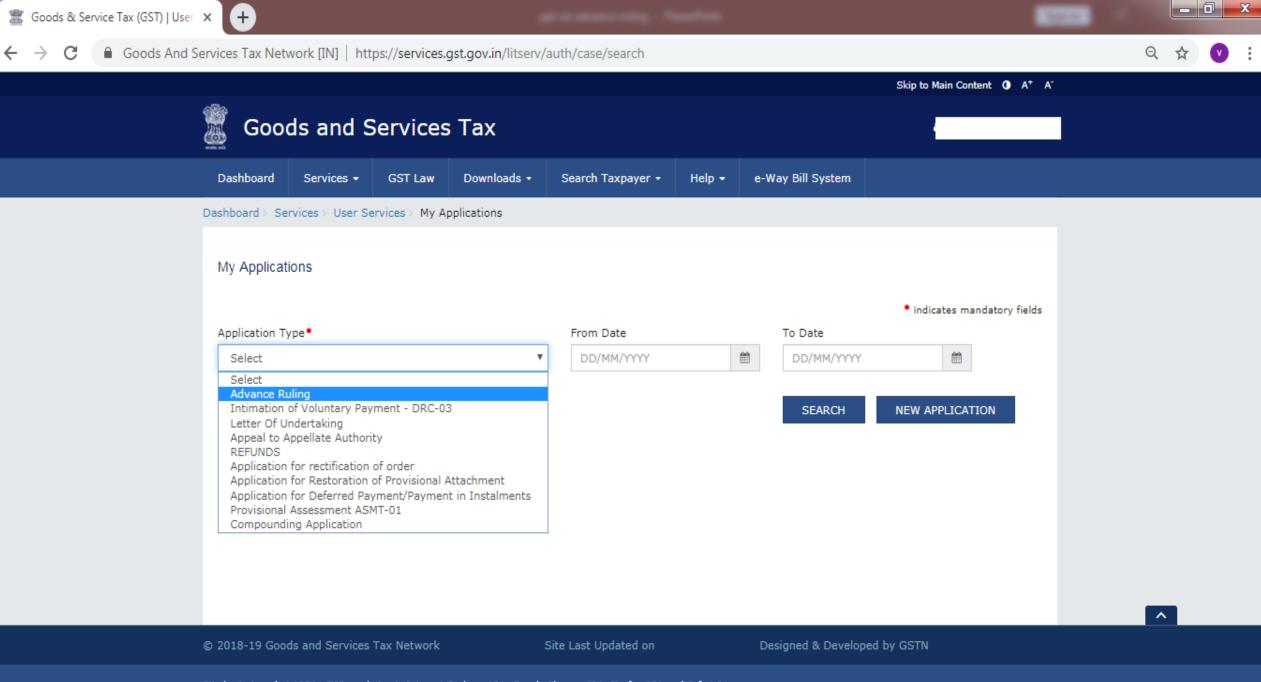
Issuing of summons

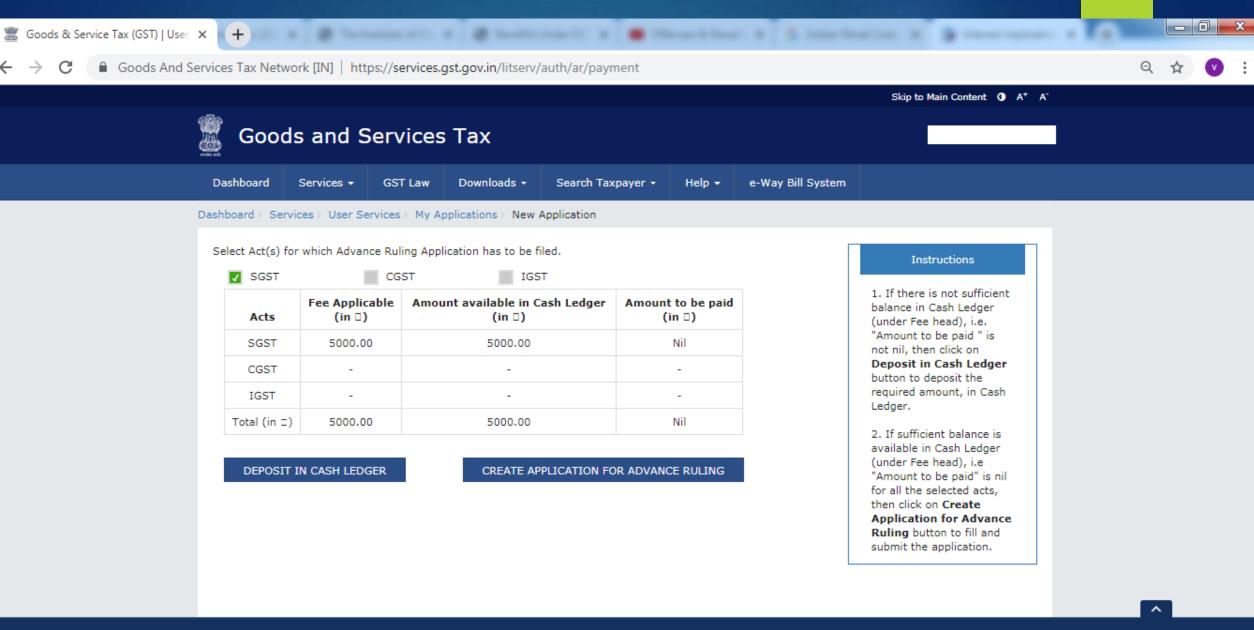
Compelling production of books of accounts and other records

Examining of person on oath

POWERS

FILING OF ADVANCE RULING APPLICATION





Select Act(s) for which Advance Ruling Application has to be filed.

✓ SGST ✓ CGST ☐ IGST

Acts	Fee Applicable (in ₹)	Amount available in Cash Ledger (in ₹)	Amount to be paid (in ₹)
SGST	5000.00	5000.00	Nil
CGST	5000.00	5000.00	Nil
IGST	-	1500.00	-
Total (in ₹)	10000.00	11500.00	Nil

DEPOSIT IN CASH LEDGER

CREATE APPLICATION FOR ADVANCE RULING

Instructions

- 1. If there is not sufficient balance in Cash Ledger (under Fee head), i.e. "Amount to be paid " is not nil, then click on **Deposit in Cash Ledger** button to deposit the required amount, in Cash Ledger.
- 2. If sufficient balance is available in Cash Ledger (under Fee head), i.e "Amount to be paid" is nil for all the selected acts, then click on Create Application for Advance Ruling button to fill and submit the application.
- 3. Presently fees for Advance Ruling Application is ₹5000/- each under CGST & SGST for Normal taxpayer and ₹5000/- for OIDAR taxpayer under IGST. On selection of respective head, fees amount will accordingly get reflected for making payment.

Dashboard > Services > User Services > My Applications > New Application > Advance Ruling Application

Application Type GSTIN/UIN/Temporary ID Legal Name Status of the Applicant
Registered

• indicates mandatory fields

Details of Jurisdictional Officer

Application Filed For •

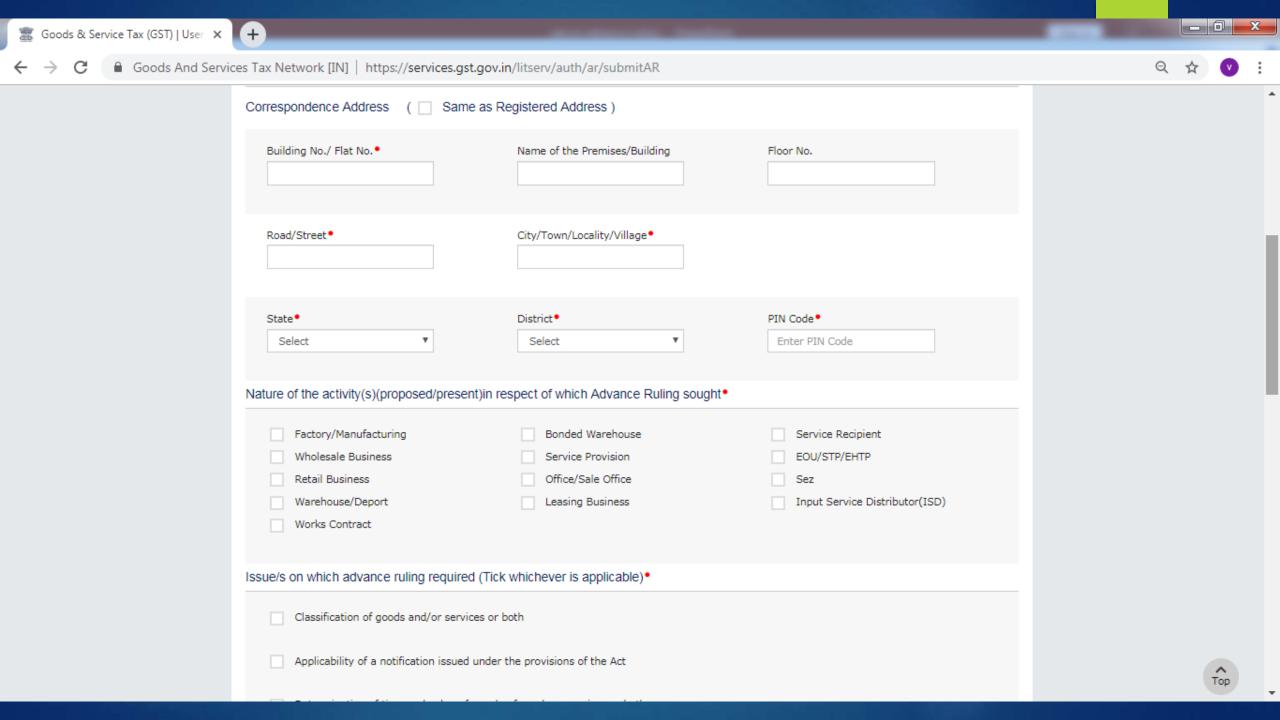
SGST •

Name Designation Email ID

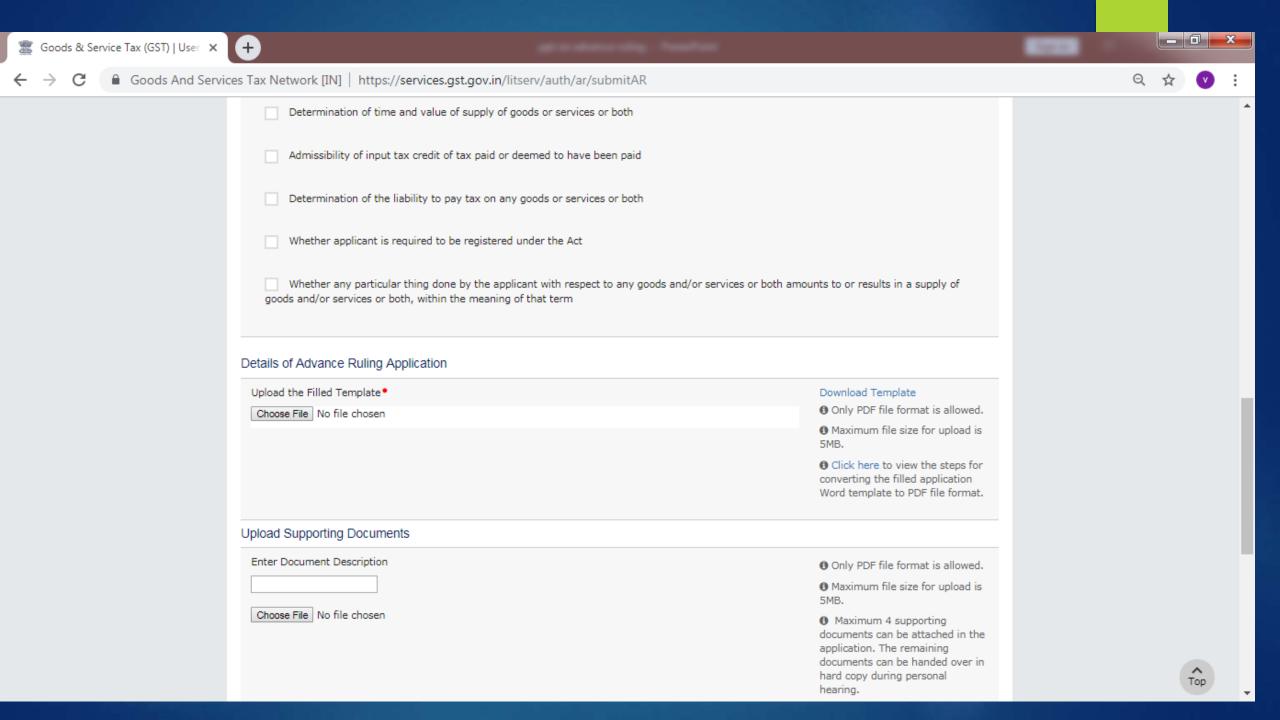
NA NA NA

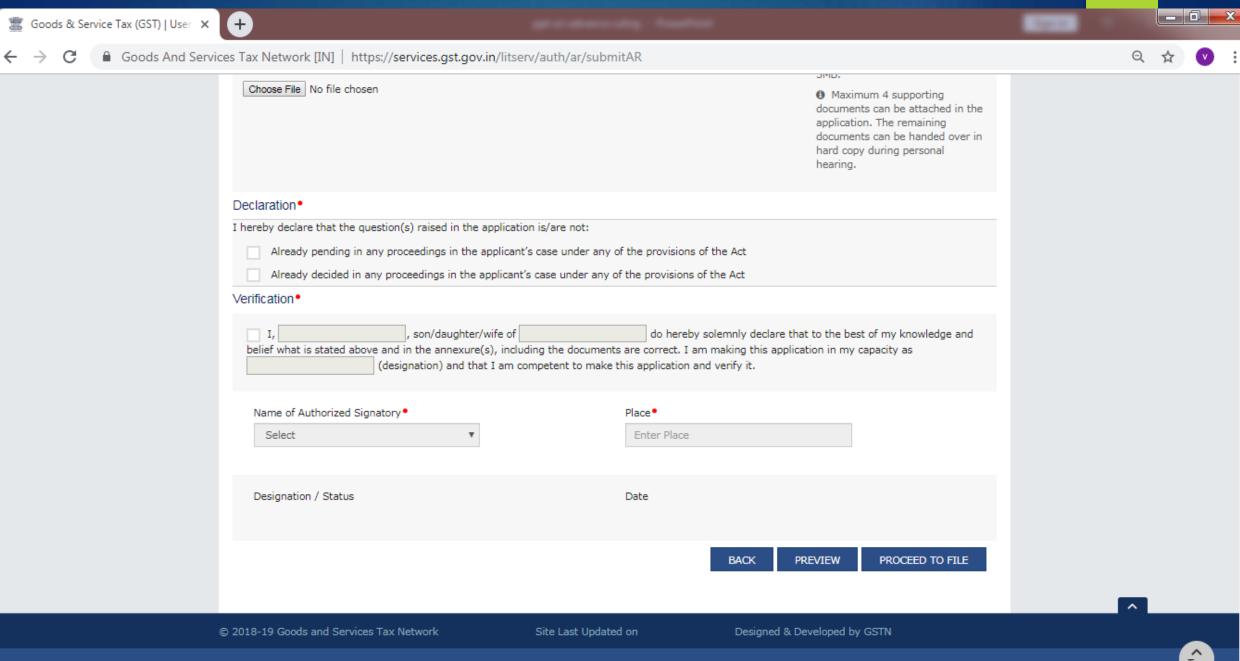
Address Jurisdiction Details

NA NA



Factory/Manufacturing	Bonded Warehouse	Service Recipient
Wholesale Business	Service Provision	EOU/STP/EHTP
Retail Business	Office/Sale Office	Sez
Warehouse/Deport	Leasing Business	Input Service Distributor(ISD)
Works Contract	OIDAR	Others
Classification of goods and/or se	ervices or both	
Applicability of a notification iss	ued under the provisions of the Act	
	ued under the provisions of the Act e of supply of goods or services or both	
Determination of time and value		
Determination of time and value Admissibility of input tax credit	e of supply of goods or services or both	
Determination of time and value Admissibility of input tax credit	e of supply of goods or services or both of tax paid or deemed to have been paid pay tax on any goods or services or both	





Application for Advance Ruling is submitted successfully!

Go To My Applications

Acknowledgement

You have filed the application successfully and the particulars of the application are given as under:

Application Reference No. (ARN)	AD071020000097W
Date of filing	15/10/2020
Time of filing	10:16:45 AM
Goods and Services Tax Identification Number(GSTIN)	07ALYPD6528P2Z6
Legal Name	Gyanendra Prakash Dwivedi
Trade Name(If available)	AutomationsTest
Advance Ruling Authority	Delhi Authority for Advance Ruling
Filed By	Gyanendra Dwivedi
Form No.	GST ARA-01
Form Description	Application for Advance Ruling
Payment Reference Number	IP0710200000028

It is a system generated acknowledgement and does not require any signature.

Advance Ruling – Cons

- Will be Binding on the parties who have sought this
- There is no Appellate Mechanism to appeal against the orders of the AAR
- AAR is called as _
- ► The trend is that the authorities being employees of the system are biased towards system.
- There are only handful of decisions which are well reasoned and following the law.
- People also try to misuse the system
- ▶ It has pervasive impact on the industry / taxpayer of same category.
- There is no end period of binding on the parties. So new name, New applications..etc

Advance Ruling – Cons

People file

- In multiple states and get different rulings...
- advance ruling application to frighten their competitors
- ▶ To get the desired results from the authorities
- ▶ To get a ruling which can help in liquidating the input tax credit.

Way Forward For Advance Ruling

- As professionals, we are capable enough
- Let the client decide the course of action.
- ▶ Let us keep it as last resort
- Applicant can be a New Entity so that binding factor is taken care.
- ▶ Let us put our skills in the preparation of application
- We are strong on facts. Very Important to make the officer understand the business model
- Encourage taking the product live during the hearing.
- Representation should be made in an impressive way.

Time For a Break

Practical approach to Client Representation

Client Handling

- Understanding the Client and his business
- > Approach of Client and Our Response.
 - Forwarding of Letter / Notice
 - Anything and Everything Responsibility
 - Clear cut scope of work with inclusion and exclusions
 - Get the engagement letter signed or emailed.
 - > Fee shall be collected in advance. If possible 100%
- > Let us educate the client to face defeat.

Notice Handling

- Office System Recording of Entry
- > Fix the due date
- Read and understand the notice in full
- > Do not jump to conclusion upon seeing the issue
- Identify the defects in the Notice
- Magnify the mistakes in reply and claim that notice is invalid / wrong to the extent possible.
- Do not forget to take legal ground
- Have discussion with the client about the approach and make him understand about the consequences.
- > Communications shall be documented Inward / Outward
- Follow up Phone Call

Practical Aspects - Facts

- Statement of Facts to contain
 - Who is the taxpayer
 - What is his GST Registration number if registered / Temp No.
 - Under which jurisdiction does the taxpayer fall?
 - When was the audit conducted (if applicable) Time Limit Followed?
 - ▶ Is the notice issued by Proper officer? Whether monetary limits followed?
 - Which sections have been invoked?
 - ▶ When was the SCN Issued? Time Limit?
 - What were the allegations in the SCN? How it can be defended legally?
 - When and what was the response submitted for the SCN (brief)
 - When was the personal hearing called for and when did the appellant / AR Appear
 - When did the order was passed
 - ▶ When the order was received.

Practical Aspects - Grounds

- Grounds of Appeal to contain
 - ▶ The erroneous status of order
 - ▶ How the order has failed to consider the submissions
 - Violation of Principles of Natural Justice
 - Issue wise allegations and their responses
 - ▶ IF reasoned order, then Reasons given by the adjudicating authority for non acceptance of the plea
 - ▶ If Unreasoned order Challenge the same
 - Quote the applicability or provision / circular / notification / GST Council minutes
 - Interpret how the provisions are either applicable / not applicable.
 - Defend all the allegation / reasoning given in the SCN and the order
 - Quote identical judicial pronouncements

Practical Aspects – Physical Submissions

- Where to submit
 - State Department
 - Central Department
 - How many copies
 - What is the documentation
 - What about certified copy of the order
 - Enclosures
 - Annexures
- Obtaining Acknowledgement
 - ► APL-02
 - Delivery Note
 - NO Ack!!!

Final Points

- Let us display our professional competency
- Let the department recognize our knowledge and capability
- Let us accept what can be done by us and what cannot.
- Let us not overburden ourselves.
- Let us be loyal to the Law and our fraternity

If God has created a creature in this world, He has also created means and ways for it to live its life.



Thank You

Thrissur Branch of SIRC of ICAI GST & IDTC Committee

All Participants Entire Technical Team

Please share your views about this session on bharat@ssaca.in / +91 93 62 30 34 06

CA. N K Bharath Kumar