

Procedure & Methodology

In exercise of the powers conferred under Rule 126 of the Central Goods & Services Tax Rules, 2017, the National Anti-Profiteering Authority under the Goods & Services Tax hereby notifies the following Methodology and Procedure for determination as to whether the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit has been passed on by the registered person to the recipient by way of commensurate reduction in prices.

(1) (i) This Methodology and Procedure shall be called the National Anti-Profiteering Authority under the Goods & Services Tax (here-in-after referred to as the Authority) Methodology and Procedure, 2018.

(ii) It shall come into force from the date of its notification by the Authority.

(iii) All words and expressions used in this Methodology and Procedure shall have the same meaning which has been respectively assigned to them in the Central Goods & Services Tax Act, 2017, Central Goods & Services Tax Rules, 2017 and the General Clauses Act, 1897.

(2) The Authority shall be known as the “National Anti-Profiteering Authority under the Goods & Services Tax” i.e. “NAA”.

(3) The principal seat of the Authority shall be at New Delhi however, the Authority may hold its sittings at such place or places within the territory of India as it deems fit.

(4) The Authority shall have its own seal which shall contain the words “National Anti-Profiteering Authority under the Goods & Services Tax” with the insignia used by the Central Government.

(5) The Authority shall observe the same office hours and holidays as are observed by the Central Government.

(6) In the discharge of its functions the Authority shall be guided by the principles of natural justice and shall have the power to regulate its own procedure. No order whether interim or final shall be passed by it without affording opportunity of being heard to the concerned interested party.

(7) No act or proceedings of the Authority shall be invalid merely on the ground that there was a vacancy or any defect in the constitution or appointments made in the Authority or there was any irregularity in the procedure followed by the Authority not affecting merits of the case.

(8) The Authority may engage in accordance with the procedure specified such number of experts and professionals of integrity and outstanding ability who have special experience in accounts, business, law or other relevant fields to assist it in carrying out its responsibilities.

(9) The Authority may inquire into any alleged contravention of the provisions of section 171 of the Central Goods & Services Tax Act, 2017 on its own motion or on receipt of information from any interested party as defined in the Rule 137 (c), person, body, association or on a reference having been made to it by the Central Government or the State Government.

(10) As per Rule 134 (1) a minimum of three members of the Authority shall constitute quorum at its meetings.

(11) If the Members of the Authority differ in their opinion on any point, the point shall be decided according to the opinion of the majority of the members present and voting, and in the event of equality of votes, the Chairman shall have the second or casting vote, Rule 134 (2).

(12) On receipt of the information as mentioned in Para 9 above, in case the Authority is of the opinion that there exists a prima facie case it shall direct the Director General of Anti-profiteering to cause an investigation to be made in a fixed time frame and submit report.

(13) The report received from the Director-General of Anti-profiteering under Para 10 supra and rule 129 (6) of the Central Goods & Services Tax Rules, 2017 shall be registered by endorsing on it the date of its receipt and shall also be caused to be entered in a register to be kept by the Secretary of the Authority as defined under Rule 125. The report shall be accompanied with all the record relied upon during the investigation by the Director General of Anti-profiteering. The Director-General shall supply seven copies of the report in addition to the number of copies to be served upon each interested party.

(14) In case the report filed by the Director General of Anti-profiteering recommends that there is no violation of the provisions of section 171 of the above Act, the Authority may send a copy of the report to the complaint interested party and invite objections from it and after hearing the above party

may either close the matter or pass any order it may deem just and proper or under Rule 133 (4) direct the Director General of Anti-profiteering to further investigate the matter as the case may be.

(15) After registration of the report a notice shall be issued to the interested parties or their agents or their counsels intimating the date, time and place fixed for hearing and a copy of the report shall also be supplied to such parties along with the notice.

(16) Notice to the interested parties may be served through e-mail, speed post or courier or through any or all of the above means on the address provided by them to the Director-General of Anti-profiteering and they may appear before the Authority in person or through their agent or counsel. A minimum period of 15 days shall be given to such parties for appearance and filing reply which may be extended on justifiable grounds.

(17) The Authority may also summon any additional record as it deems fit from any person, interested party, authority of the Central or the State Govt.

(18) The Authority may also allow the interested parties to examine the original documents placed on the report.

(19) The Authority may dismiss the proceedings in default or dispose them ex-parte in case the interested parties do not appear on the date fixed for the hearing.

(20) The Authority may re-institute the proceedings dismissed or disposed-off by it ex-parte in case any interested party applies to re-institute them, duly supported by an affidavit mentioning the grounds on which it wants to re-institute the proceedings.

In case the Authority is satisfied that the interested party was prevented by sufficient cause from attending the proceedings it may re-institute the same with or without imposing cost.

(21) Any application for re-institution of proceedings shall be made within a period of 15 days from the date of passing of the order.

Provided that such an application may be entertained and allowed by the Authority after the expiry of 15 days if it is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

(22) On the date fixed for hearing the interested party on whose complaint the proceedings have been initiated shall be heard first after which the opposite interested party/parties shall be heard.

(23) No adjournments shall be ordinarily granted and an adjournment shall be given only on highly compelling grounds and shall also be subject to cost if circumstances so warrant.

(24) The interested parties shall not be allowed to produce additional oral or documentary evidence before the Authority.

(25) The interested parties shall be ordinarily required to file written submissions only; however they can address oral arguments with the permission of the Authority.

(26) The interested party on whose part the proceedings have been initiated shall file or address the arguments first and shall also supply copies of such arguments to the other interested parties who shall be entitled to file their arguments, copies of which shall be supplied to the opposite interested parties, who shall be entitled to rebut the same.

(27) In case any interested party dies during the pendency of the proceedings, any interested party may file an application for impleadment of the legal heirs of such party within a period of 15 days failing which the proceedings shall abate. Any legal representative may file application for his impleadment within a period of 15 days from the date of order of abatement, which shall be entertained and allowed by the Authority in case it is satisfied with the cause shown by such representative in support of his application. However, there shall be no abatement of the proceedings once the interested parties have been heard and the order reserved which shall be passed notwithstanding such death and shall have the same force and effect as if it had been passed before the death took place. Any issue regarding impleadment of the legal heirs may be decided by the Authority in a summary manner.

(28) The Authority may add or delete any interested party depending upon the facts of each case.

(29) The Authority may pass any interim or final order in the proceedings pending before it as is deemed just and proper by it in the facts and circumstances of the case.

(30) The Authority on its own motion or on the application of any interested party may correct any clerical, arithmetical or factual mistake apparent from the record within a period of 3 months from the passing of the order.

(31) Copies of the orders passed by the Authority duly certified and sealed by the Secretary shall be supplied free of cost to all the interested parties including the concerned authorities of the Central and the State Governments.

(32) Any other person may obtain copy of the order passed by the Authority on payment of fee of Rs. 10/- per page or part thereof.

(33) All notices, letters, communications and correspondence in respect of the proceedings pending or disposed of by the Authority shall be made by the Secretary or any other officer duly authorised by him.

(34) All records of the proceedings pending or disposed of by the Authority shall be kept in the custody of the Secretary or any other officer authorised by him.

(35) Any order passed by the Authority shall be published in the law journals, print and electronic media in case such publication is permitted by the Authority.

(36) The Chairman and Technical Members of the Authority shall be deemed to be public servants under section 21 of the Indian Penal Code 1860 (45 of 1860).

(37) No criminal or civil proceedings shall lie against the Chairman or Technical Members of the Authority or any of its officers for any order passed or action taken by them in good faith.

(38) No investigation or prosecution shall be instituted against the Chairman and the Technical Members of the Authority without the approval of the Central Government.

(39) The Authority shall be competent to initiate, recommend and file disciplinary, civil, criminal and contempt proceedings against any person, interested party or authority of the Central or the State Governments before the appropriate Courts of law or administrative authority as it deems fit.

(40) The Authority shall be competent to defend any civil or criminal proceedings launched against it or its Chairman or the Technical Members or

officers or staff at its own expense, while acting in discharge of its/their functions.

(41) No civil court shall have jurisdiction to entertain any suit in respect of the proceedings pending before the Authority.

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