



Date: 19.06.2023

Competition Commission of India (Methodology and Procedure), 2023
(Under Rule 126 of the Central Goods and Services Tax Rules, 2017)

Whereas the Government of India, Ministry of Finance, Department of Revenue vide its Office Order No. 343/2017 dated 28th November, 2017 issued vide F. No. 18/1/2017. Ad. 1 had constituted the National Anti-profiteering Authority under Section 171 of the Central Goods & Services Tax Act, 2017 read with Rule 124(1) of the Central Goods & Services Tax Rules, 2017.

AND

Whereas the National Anti-profiteering Authority under the power conferred on it vide Rule 126 of the Central Goods & Services Tax Rules, 2017 had determined the Methodology and Procedure and notified it on its website on 28.03.2018.

AND

Whereas the Government of India, Ministry of Finance, Department of Revenue vide its Notification No. 23/2022-Central Tax dated 23.11.2022 has empowered the Competition Commission of India (here-in-after referred to as the Commission) to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him, as per the provisions of Section 171 of the Central Goods & Services Tax Act, 2017 in place of the National Anti-profiteering Authority.

Now, therefore, in supersession of “National Antiprofitteering Authority Under the Goods & Services Tax Methodology and Procedure, 2018”, the Commission in exercise of the powers conferred under Rule 126 of the Central Goods & Services Tax Rules, 2017 hereby determines 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 “Competition Commission of India (Methodology and Procedure), 2023 under Rule 126 of the Central Goods and Services Tax Rules, 2017”.

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

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

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

(4) In the discharge of its functions the Commission 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.

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

(6) The Commission 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.

(7) The Commission 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 Explanation below Rule 137 (c), person, body, association or on a reference having been made to it by the Central Government or the State Government.

(8) If the Members of the Commission 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.

(9) On receipt of the information as mentioned in Para 7 above, in case the Commission 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.

(10) The report received from the Director General of Anti-profiteering under Para 9 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 Commission. The report shall be accompanied with all the record relied upon during the investigation by the Director General of Anti-profiteering. The Director General of Anti-profiteering shall supply five copies of the report with electronic version of the same, in addition to the number of copies to be served upon each interested party

(11) 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 Act, the Commission may send a copy of the report to the complainant 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.

(12) 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.

(13) 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 Commission 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.

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

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

(16) The Commission 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.

(17) The Commission may re-institute the proceedings dismissed or disposed of 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 the proceedings to be re-instituted. In case the Commission 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.

(18) 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 Commission after the expiry of 15 days if it is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

(19) 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.

(20) 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.

(21) (i) The interested parties shall not be entitled to produce before the Commission additional evidence, either oral or documentary, which was in the possession or knowledge but was not produced before the Director General of Anti-profiteering during investigation but if the Commission requires any document to be produced or any witness to be examined or any affidavit to be filed to enable it to pass orders or for any other substantial cause, or if the Director General of Anti-profiteering has not given sufficient opportunity to the interested party/parties to adduce evidence, the Commission, for reasons to be recorded, may allow such document to be produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced.

(ii) Such document may be produced or such witness examined or such evidence adduced either before the Commission or before such authority as the Commission may direct.

(iii) If the document is directed to be produced or witness examined or evidence adduced before any authority, he or she shall comply with the direction of the Commission and after compliance send the document, the record of the deposition of the witness or the record of the evidence adduced, to the Commission.

(iv) Additional evidence/document shall be made available by the Commission to the interested parties other than the party adducing the evidence and they may be afforded an opportunity to rebut the contents of the said additional evidence.

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

(23) 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.

(24) 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 also 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 Commission 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 Commission in a summary manner.

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

(26) The Commission 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.

(27) The Commission 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.

(28) Copies of the orders passed by the Commission 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.

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

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

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

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

(33) The Chairperson, Members and Officers of the Commission shall be deemed to be public servants under Section 21 of the Indian Penal Code 1860 (45 of 1860).

(34) No criminal or civil proceedings shall lie against the Chairperson or Members of the Commission or any of its officers for any order passed or action taken by them in good faith.

(35) No investigation or prosecution shall be instituted against the Chairperson and the Members of the Commission without the approval of the Central Government.

(36) The Commission 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.

(37) The Commission shall be competent to defend any civil or criminal proceedings launched against it or its Chairperson or the Members or officers or staff at its own expense, while acting in discharge of its/their functions.

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