

THE CENTRAL EXCISE (ADVANCE RULINGS) RULES, 2002

[M.F. & C.A. (D.R.) Notification No. 28/2002-C.E. (N.T.), dated 28.08.2002
as amended by Notification No. 16/2007-C.E. (N.T.), dated 06.03.2007]

Rule 1. Short Title, extent and commencement.- (1) These rules may be called the Central Excise (Advance Rulings) Amendment Rules, 2002.

(2) They extend to the whole of India.

(3) They shall come into force on the date of their publication in the Official Gazette.

Rule 2. Definitions. – In these rules, unless the context otherwise requires,-

- a) “Act” means the Central Excise Act, 1944 (1 of 1944);
- b) “Authority” means the Authority for Advance Rulings (Central Excise, Customs and Service Tax) constituted under section 28F of the Customs Act, 1962 (52 of 1962).
- c) “Form- Application for Advance Ruling (Central Excise)” means the form annexed to these rules.
- d) Words and expressions used and not defined herein but defined in the Act, shall have the meaning respectively, assigned to them, in the Act.

Rule 3. Form and manner of application. –

(1) An application for obtaining an advance ruling under sub-section (1) of section 23C of the Act shall be made in Form - Application for Advance Ruling (Central Excise).

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

- a) in the case of an individual, by the individual himself, or where the individual is absent from India, by the individual concerned or by some person duly authorized by him in this behalf, and where the individual is a minor or is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;
- b) in the case of a Hindu undivided family, by the Karta of that family and, where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of that family;
- c) in the case of a company or local authority, by the principal officer thereof authorized by the company or the local authority, as the case may be, for such purpose;
- d) in the case of a firm, by any partner thereof, not being a minor;
- e) in the case of an association, by any member of the association or the principal officer thereof; and
- f) in the case of any other person, by that person or some person competent to act on his behalf.

(3) Every application shall be filed in quadruplicate and shall be accompanied by a fee of two thousand five hundred rupees.

Rule 4. Certification of copies of the advance rulings pronounced by the Authority. - A copy of the advance ruling pronounced by the Authority for Advance Rulings and duly signed by the Members to be sent to each of the applicant and to the Commissioner of Central Excise, under sub-section (7) of section 23D of the Act, shall be certified to be true copy of its original by the Commissioner, Authority for Advance Rulings, or any other officer duly authorized by the Commissioner, Authority for Advance Rulings, as the case may be.

[Application for Advance Ruling (Central Excise)]
(See rule 3 of the Central Excise (Advance Rulings) Rules, 2002)

BEFORE THE AUTHORITY FOR ADVANCE RULINGS
(Central Excise, Customs and Service Tax, New Delhi)

(Form of application for seeking Advance Ruling under section 23C of the Central Excise Act, 1944)

Application No.....of.....

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| 1. | Details of Applicant | | |
| | (i) Full name | : | |
| | (ii) Complete address | : | |
| | (iii) Telephone number(with STD/ISD code) | : | |
| | (iv) Fax number (with STD/ISD code) | : | |
| | (v) E-mail address | : | |
| | (vi) Postal address (to be provided if different from (ii) above) | : | |
| 2. | Status of the Applicant (Tick whichever is applicable) | | |
| | (i) a non-resident setting up a joint venture in India in collaboration with,- (a) a non-resident; or (b) with a resident; | : | |
| | (ii) a resident setting up a joint venture in India in collaboration with a non-resident; | : | |
| | (iii) a wholly owned subsidiary Indian company, of which the holding company is a foreign company; | : | |
| | (iv) a joint venture in India; | : | |
| | (v) a resident falling within any such class or category of persons, as the Central Government may, by notification in the Official Gazette, specify in this behalf(mention notification number). | : | |
| 3. | Basis for claim as a proposed joint venture [ref. 2(i) & (ii) above] (furnish copy of following). | | |
| | (a) Memorandum of Understanding; or | : | |
| | (b) Letter of Intent; or | : | |

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| | (c) Articles of Association etc.; or | : | |
| | (d) Any other document. | : | |
| 4. | Details of proposed joint venture | | |
| | (i) Full name | : | |
| | (ii) Complete address | : | |
| | (iii) Telephone number(with STD/ISD code) | : | |
| | (iv) Fax number (with STD/ISD code) | : | |
| | (v) E-mail address | : | |
| | (vi) Postal address(to be filled if different from (ii) above) | : | |
| 5. | Details of resident/non-resident party other than the applicant forming the Joint Venture | | |
| | (i) Full name | : | |
| | (ii) Complete address | : | |
| | (iii) Telephone number(with STD/ISD code) | : | |
| | (iv) Fax number (with STD/ISD code) | : | |
| | (v) E-mail address | : | |
| | (vi) Postal address(to be filled if different from (ii) above) | : | |
| 6. | In case of a wholly owned Indian Subsidiary Company furnish the following details:- | | |
| A. | (i) Name of Foreign holding company | : | |
| | (ii) Complete address | : | |
| | (iii) Telephone number(with STD/ISD code) | : | |
| | (iv) Fax number (with STD/ISD code) | : | |
| | (v) E-mail address | : | |
| | (vi) Postal address (to be provided if different from (ii) above) | : | |
| B. | Percentage of Foreign holding in the Indian Subsidiary Company. | : | |
| 7. | In case of a joint venture [ref. 2(iv) above] | | |
| | (i) The persons forming the joint venture/ constitution of joint venture. | : | |
| | (ii) Status of constituent persons, i.e. resident/non-resident. | : | |
| | (iii) Existing activities if any. | : | |
| 8. | Nature of activity proposed to be undertaken. | : | |

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| 9. | Present status of activity. | : | |
| 10. | Registration number of the applicant as mentioned at serial number 1 under rule 9 of the Central Excise Rules, 2002 (if any). | : | |
| 11. | Permanent Account Number (Income Tax) of the applicant (if any). | : | |
| 12. | Question of Law or fact on which Advance Ruling required (Tick whichever is applicable and provide details against ticked item):- | | |
| | (i) classification of goods under the Central Excise Tariff Act, 1985(5 of 1986); | : | |
| | (ii) applicability of a notification issued under sub-section (1) of section 5A of the Central Excise Act,1944, having a bearing on the rate of duty; | : | |
| | (iii) the principles to be adopted for the purposes of determination of value of the goods under the provisions of this Act; | : | |
| | (iv) notifications issued, in respect of duties of excise under the Central Excise Act,1944, the Central Excise Tariff Act, 1985 and any duty chargeable under any other law for the time being in force in the same manner as duty of excise leviable under this Act; | : | |
| | (v) admissibility of credit of excise duty paid or deemed to have been paid on the goods in or in relation to the manufacture of the excisable goods (CENVAT); | | |
| | (vi) determination of liability to pay duties of excise under this Act. | | |
| 13. | Statement of relevant facts having a bearing on the question(s) raised. | : | |
| 14. | Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of the aforesaid question(s) (i.e. applicant's view point and submissions on issues on which the advance ruling is sought). | : | |
| 15. | Whether the question(s) raised is pending in the applicant's case before any officer of Central Excise, Appellate Tribunal or any Court of Law? If so, provide details. | : | |

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| 16. | Whether a similar matter as raised in the question(s) by the applicant has already been decided by the Appellate Tribunal or any Court? | : | |
| 17. | Concerned Commissioner(s) of Central Excise having jurisdiction in respect of the question referred at serial number 12. | : | |
| 18. | List of documents/statement attached, (attach the list on a separate sheet, if necessary. | : | |
| 19. | Particulars of account payee demand draft enclosed with the application | : | |

(Applicant's signature)

VERIFICATION

I, _____ (name in full and in block letters), son/daughter/wife of _____ do hereby solemnly declare that to the best of my knowledge and belief what is stated above and in the annexure(s), including the documents are correct. I am making this application in my capacity as _____ (designation) and that I am competent to make this application and verify it.

2. I also declare that the question (s) on which the advance ruling is sought is/are not pending in my case before any Central Excise Authority, Appellate Tribunal or any Court.

3. Verified this.....day.....of.....200at

(Applicant's signature)

ANNEXURE I

Statement of the relevant facts having a bearing on the question(s) on which the advance ruling is required

Place

Date

(Applicant's signature)

ANNEXURE II

Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of the questions(s) on which advance ruling is required

Place
Date

(Applicant's signature)

Notes:

1. The application must be filled in English or Hindi, in quadruplicate.
2. The application must be accompanied by an account payee demand draft of Indian Rupees two thousand five hundred drawn in favour of Authority for Advance Rulings(Central Excise, Customs & Service Tax), payable at New Delhi. Particulars of the draft should be entered in the column pertaining to item number 19.
3. The number and year of receipt of the application will be filled in by the office of the Authority for Advance Rulings.
4. If the space provided for answering any item in the application is found insufficient, separate sheets may be used for this purpose. Each sheet must be signed at the bottom by the applicant.
5. In reply to item number 2 the applicant must state its status i.e. whether an individual, Hindu undivided family firm, company, firm association of persons, wholly owned subsidiary, Joint Venture or any other person.
6. For item number 5, the reply must be given in the context of the provisions regarding 'residence' in India, 'non resident', 'Indian Company', and 'Foreign Company' as per the Income Tax Act, 1961(43 of 1961).
7. In reply to item number 9, the applicant must state the present status of the business activity in respect of which advance ruling has been sought i.e. the stage to which it has progressed.
8. Regarding item number 12, the question(s) should be based on the activity proposed to be under taken; hypothetical questions will not be entertained.
9. In respect of item number 13, the applicant must state in detail the relevant facts and also disclose the nature of proposed activity and the likely date and purpose of the proposed activity(s). Relevant facts reflected in document submitted along with the application must be included in the statement of facts and not merely incorporated by reference.
10. For item number 14, the applicant must clearly state his interpretation of law or facts in respect of the question(s) on which the advance ruling is being sought.
11. The application, the verification appended thereto, the Annexures to the application and the statements and documents accompanying the Annexures 1 and 2 must be signed on each page by the applicant."