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SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

New Delhi, the 04th January, 2021

NOTIFICATION
No. 01/2021 – Customs (N.T.)

G.S.R.____ (E). - In exercise of the powers conferred by section 157 read with sub-section (1) of section 28H, sub-section (1) of section 28KA and sub-section (1) of section 28M of the Customs Act, 1962 (52 of 1962) and in supersession of the Authority for Advance Rulings (Customs, Central Excise and Service Tax) Procedure Regulations, 2005, in so far as they relate to the matters pertaining to the Customs Act, 1962 (52 of 1962), except as respects things done or omitted to be done before such supersession, the Board hereby makes the following regulations, namely :-

1. Short title and commencement. - (1) These regulations may be called the Customs Authority for Advance Rulings Regulations, 2021.

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

2. Definitions. - In these regulations, unless the context otherwise requires, -

(a) “Act” means the Customs Act, 1962 (52 of 1962);

(b) “authorised representative”, -

(i) in relation to an applicant means an authorised representative as defined in sub-section (2) of section 146A of the Act;

(ii) in relation to a Principal Commissioner or Commissioner, means a person -

(A) authorised in writing by the Principal Commissioner or Commissioner to act as an authorised representative; or

(B) appointed by the Central Government as authorised representative or authorised by the Central Board of Indirect Taxes and Customs to appear, plead and act for the Principal Commissioner or Commissioner in any proceeding before the Authority;

(c) “petition” means any petition of interlocutory, incidental or ancillary nature or representation filed in a pending or disposed of application;

(d) “Principal Commissioner or Commissioner”, in respect of an application, means-

(i) the Principal Commissioner or Commissioner of Customs, specified in the application; or

(ii) the Principal Commissioner or Commissioner of Customs designated by the Board in respect of the application;

(e) “Secretary” means an officer, not below the rank of Assistant Commissioner of Customs or Assistant Commissioner of Central Tax designated as Secretary by the Board;

(f) “section” means section of the Act;

(g) words and expressions used in these regulations and not defined but defined in the Act shall have same meanings respectively assigned to them in the Act.

3. Language of Authority. - (1) The language of the Authority shall be Hindi or English.

(2) Where any document is in a language other than Hindi or English, a Hindi or English translation thereof duly attested shall be filed along with the original document.

4. Powers of Authority. - (1) The Authority shall have the power to hear and determine all applications and petitions.

(2) The Authority may, if any difficulty arises in giving effect to its order or advance ruling, either *suo motu* or on a petition made by the applicant or the Principal Commissioner or Commissioner, within a period of one month of noticing the difficulty, by appropriate order remove such difficulty, and pass such other order as it considers just and necessary in the circumstances of the case.

(3) The Authority may reopen the hearing of any case, before pronouncement of its order or advance ruling, for sufficient cause.

(4) The Authority may, in an appropriate case, direct -

(i) examination of any records and submission of report;

(ii) conduct of any technical, scientific or market enquiry of any goods or services and submission of report and may also call for reports from experts and order such further investigation as may be necessary for effectual disposal of the application.

(5) The Authority shall have all the powers of a civil court in regard to the following matters, namely :-

(i) discovery and inspection;

(ii) enforcing the attendance of any person and examining him on oath;

(iii) issuing commissions; and

(iv) compelling production of books of account and other records.

5. Powers and functions of Secretary. - (1) The Secretary shall be in overall charge of the office of the Authority and shall function under direct supervision of the Authority.

(2) The Secretary shall -

(a) have custody of the records and the official seal of the Authority;

(b) receive all applications and petitions filed before the Authority;

(c) scrutinise applications and petitions and point out omissions and defects in the application or petition and require the applicant or petitioner to make good the omissions or remove the defects within the time granted by the Secretary and in case of non-compliance, place such application or petition before the Authority for appropriate orders;

(d) forward a copy of the application along with its enclosures to the Principal Commissioner or Commissioner of Customs to transmit records of the case, if any, and to offer his comments on the application;

(e) place all the applications before the Authority for appropriate orders under sub-section (2) of section 28-I;

(f) issue notices or other processes, as may be ordered by the Authority;

(g) verify service of notices or other processes on the parties to the application or petition and obtain necessary orders of the Authority in case of defective service;

(h) requisition records from the custody of any person, on the orders of the Authority;

(i) return original records to the person from whose custody they were requisitioned;

(j) allow inspection of the records of the Authority;

(k) carry out any amendment of the records of the Authority to conform to its directions;

(l) grant to the parties to the application or petition certified copies of the orders or advance rulings and documents filed in the proceedings before the Authority;

(m) preserve records of every application or petition and other materials for a period of five years from the date of disposal of the application and weed out or destroy the same thereafter unless otherwise directed by the Authority; and

(n) discharge any other function as may be assigned by the Authority by special or general order.

6. Form and manner of application before Authority for Advance Ruling. - (1) An application for obtaining an advance ruling shall be made in Form CAAR-1 before the

jurisdictional Authority as per the jurisdiction specified in column (3) of the Table below:-

S. No.	Customs Authority for Advance Rulings.	Jurisdiction to hear applications for Advance Rulings (State-wise and Union territory-wise).
(1)	(2)	(3)
1.	Customs Authority for Advance Rulings, Delhi.	Jammu & Kashmir, Himachal Pradesh, Punjab, Chandigarh, Uttar Pradesh, Delhi, Haryana, Uttarakhand, Bihar, Jharkhand, West Bengal, Andaman and Nicobar Islands, Sikkim, Odisha, Rajasthan, Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Tripura and Ladakh.
2.	Customs Authority for Advance Rulings, Mumbai.	Andhra Pradesh, Telangana, Karnataka, Kerala, Lakshadweep, Puducherry, Tamil Nadu, Gujarat, Dadra and Nagar Haveli and Daman and Diu, Maharashtra, Goa, Madhya Pradesh and Chhattisgarh.

(2) The jurisdiction shall be determined in terms of the address provided by the applicant while making the application, and the Authority for an applicant providing an address other than that of within the territory of India, shall be the Authority situated at Delhi.

(3) The Board shall pass an order specifying therein the address, phone number and other details related to the concerned Authority.

(4) The application shall be deemed to have been submitted to the concerned Authority on the date on which it is received in the office of the said Authority.

(5) 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 authorised 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 authorised 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.

(6) Every application shall be filed in quadruplicate and shall be accompanied by a fee of ten thousand rupees in the form of demand draft drawn in favour of “Customs Authority for Advance Rulings, Delhi” or “Customs Authority for Advance Rulings, Mumbai”, as the case may be.

7. Procedure for filing applications. - (1) Applications shall be received between 10:00 a.m. and 1:00 p.m. and between 2:00 p.m. and 5:00 p.m. on any working day at the respective office of the Authority.

(2) Every application, its verification, annexures, statements and supporting documents shall be signed in the manner set out in these regulations.

(3) The application shall be accompanied by evidence that the person who has signed the application, verification and other documents is authorised or competent to sign under these regulations.

(4) Every application, its verification, annexures, statements and supporting documents shall be on A-4 size paper and should be neatly and legibly written, typed or printed leaving a left margin of five centimeters and only on one side of a page in double-line spacing.

(5) If the applicant is not based in India, he shall, *inter alia*, indicate in a separate annexure to the application -

(a) his postal and e-mail address abroad;

(b) the name and address including e-mail address of his representative in India, if any, authorised to act on his behalf and to receive notices or other documents sent by the Authority.

8. Procedure on receipt of application. - (1) The officer receiving the application shall put his initials and the stamp of the Authority thereon together with the date and time of receipt thereof and shall also acknowledge its receipt and he shall also enter the particulars of the application in the register of daily filing, maintained for that purpose.

(2) The application shall be scrutinised by the officer authorised by the Secretary for that purpose for any deficiency or defect and any deficiency or defect noticed in the application or annexures thereof shall be communicated to the applicant at the earliest.

(3) The applicant shall be required to rectify the deficiency or defect within the time granted by the Secretary and such application shall be deemed to have been received on the date when it is re-submitted after removal of such deficiency or defect, for the purposes of sub-section (6) of section 28-I.

- (4) Date of receipt of an application free from any defect or deficiency in the secretariat of the Authority shall be deemed to be the date of the application for the purposes of sub-section (4) of section 28H.
- (5) When an application is free from any defect or deficiency, an endorsement “examined and registered” shall be made thereon and a serial number allotted thereto.
- (6) In case the defect or deficiency is not removed or made good within the time granted under sub-rule (3), the application shall be placed before the Authority for appropriate orders.
- (7) On allotment of serial number to an application under sub-rule (5), a copy of the application shall be forwarded to the concerned Principal Commissioner or Commissioner of Customs for furnishing relevant records with comments, if any.
- (8) On receipt of the relevant records or comments from the Principal Commissioner or Commissioner concerned under sub-rule (7) or after expiry of two weeks or such further period as may be allowed by the Authority, the application shall be placed before the Authority for passing orders in terms of sub-section (2) of section 28-I.
- (9) In a case where the Authority considers that *prima facie* the application is liable for rejection, a notice shall be issued to the applicant indicating the reasons therefor together with the comments, if any, of the Principal Commissioner or Commissioner concerned, giving an opportunity to the applicant of being heard in person or through an authorised representative and a copy of the notice shall be endorsed to the Principal Commissioner or Commissioner concerned.
- (10) On the date fixed for hearing or such other date to which the case is adjourned, the Authority may pass an order either allowing or rejecting the application under sub-section (2) of section 28-I and a copy of the order passed by the Authority shall be sent to the applicant and the Principal Commissioner or Commissioner concerned.
- (11) Where an application is allowed, the comments of the Principal Commissioner or Commissioner concerned and further material, if any, shall accompany a copy of the order sent to the applicant drawing his attention to the statutory provisions that he has a right to be heard, if he so desires, before pronouncement of advance ruling and the response of the applicant should reach the Authority within two weeks of receipt of the copy of the order.
- (12) Hearing of the application shall normally be held between 11:00 a.m. and 5:00 p.m. on a working day in the office of the Authority or an alternative place fixed by the Authority.
- (13) In the absence of the request for personal hearing from the applicant, advance ruling shall be pronounced after hearing the Principal Commissioner or Commissioner concerned or his authorised representative, if present, on the date of hearing and on the basis of records available with the Authority.
- (14) Where the Authority reserves an application for consideration, the advance ruling or such other order as the Authority may deem fit shall be pronounced in the

open court under intimation to the applicant and the Principal Commissioner or Commissioner concerned and a copy of the advance ruling or order shall be served upon the parties to the application.

9. Appeal against advance ruling. – The Principal Commissioner or Commissioner shall be authorised to file appeal against the advance ruling in terms of sub-section (1) of section 28KA.

10. Form and manner of appeal to Appellate Authority. –

(1) An appeal against the advance ruling issued under sub-section (6) of section 28-I shall be made by the applicant in Form CAAR-2 and shall be accompanied by a fee of fifteen thousand rupees.

(2) An appeal against the advance ruling issued under sub-section (6) of section 28-I shall be made by the Principal Commissioner or Commissioner in Form CAAR-3 and no fee shall be payable by the said officer for filing the appeal.

(3) An appeal shall be deemed to have been submitted to the Appellate Authority on the date on which it is received in the office of the Appellate Authority.

11. Signing of notices, etc. - (1) Every requisition, direction, letter, authorisation, or notice to be issued on behalf of the Authority, shall be signed by the Secretary or by any other officer authorised by him.

(2) Nothing contained in sub rule (1) shall apply to any direction which the Authority may issue to an applicant or a Principal Commissioner or Commissioner or an authorised representative present during the course of the hearing.

12. Mode of service of notices, etc. - (1) The service of every notice or other document required to be served on or delivered to, any person in compliance with the orders of the Authority shall be in the manner specified in these regulations.

(2) The service of notice or document shall be made by hand delivery or by registered post with acknowledgement due or by speed post or by courier service or by any other means of transmission of documents including e-mail or fax.

(3) Notices or documents required to be served on the parties to the application or petition shall be deemed to have been served, if delivered at the address indicated in the application or petition and in the case of a Principal Commissioner or Commissioner, at the office of the Principal Commissioner or Commissioner concerned.

13. Commissioner to be designated by Board. - Where in an application there is no Principal Commissioner or Commissioner specified by the applicant, a copy of the application and enclosures thereto shall be forwarded by the Authority to the Board calling upon them to designate, within two weeks of receipt of such copy, a Principal Commissioner or Commissioner for the purposes of the said application, failing which the application shall be proceeded with in the absence of a Principal Commissioner or Commissioner.

14. Additional facts by way of petition. - (1) The Authority may, at its discretion, either *suo motu* or on a petition made to this effect by a party to the application, permit or require the applicant or the Principal Commissioner or Commissioner to submit such additional facts as may be necessary to enable it to pronounce its advance ruling.

(2) The additional facts sought to be brought on record, by the petitioner shall be supported by necessary documents, if any, duly verified.

15. Questions not specified in application. - (1) The applicant shall not, except with the leave of the Authority, urge or be heard in respect of any question other than the question specified in the application, but in pronouncing an advance ruling on the question set forth in the application, the Authority may at its discretion consider such other aspects as may be necessary to pronounce the advance ruling on the question specified in the application.

(2) On a petition made by an applicant, the Authority may permit amendment of a question, in appropriate cases.

16. Authorisation to be filed. - (1) An authorised representative appearing for the applicant or the Principal Commissioner or Commissioner, as the case may be, shall, before the commencement of the hearing, file before the Secretary, a document authorising him to appear for the said applicant or the Principal Commissioner or Commissioner.

(2) Every such authorised representative appearing shall notify to the Secretary the address of his office, before the commencement of the hearing.

(3) Any change of an authorised representative shall be intimated by the concerned party to the Secretary as well as to the other party to the application.

(4) No person other than an applicant or the concerned Principal Commissioner or Commissioner or their authorised representative, shall be heard in person save by special leave of the Authority.

17. Continuation of proceedings after death, etc., of applicant. - Where the applicant, being an individual, dies, or being a company or association of persons, whether incorporated or not, is wound up or dissolved or disrupted or amalgamated or succeeded to by any other person or otherwise comes to an end, the application shall not abate and the proceedings in the application may be continued by the executor, administrator, liquidator, receiver or assignee or other legal representative of the applicant, as the case may be, on a petition made in this behalf, if the Authority considers that the circumstances so justify.

18. Hearing of application. - (1) On the day fixed for hearing or any other day to which the case is adjourned, the Authority shall hear the applicant or his authorised representative in cases where it is proposed to reject the application or where the applicant seeks an opportunity of being heard; the Authority may also hear the Principal Commissioner or Commissioner or his authorised representative, if it considers it necessary, before pronouncing its advance ruling.

(2) In an appropriate case, the Authority may call upon any person to depose or to supply such material or document, as it may consider necessary to arrive at a decision.

(3) The Authority may, in an appropriate case where an important question of law arises, make a reference to a law officer of the Central Government including the Attorney-General and Solicitor General to furnish his opinion to the Authority in the matter, as per the extant procedure in this regard.

(4) The Authority may, on such conditions as the circumstances of the case require, adjourn the hearing of the application.

19. Hearing of application *ex parte*. - Where on the day fixed for hearing or any other day to which the case is adjourned, the applicant or the Principal Commissioner or Commissioner does not appear in person or through an authorised representative when the application is called for hearing, the Authority may dispose of the application *ex parte* on merits :

Provided that where an application has been disposed of under this rule and the applicant or the Principal Commissioner or Commissioner, as the case may be, applies within seven days of receipt of a copy of the order or advance ruling and the Authority is satisfied that there was sufficient cause for his non-appearance when the application was called for hearing, the Authority may, after allowing the opposite party a reasonable opportunity of being heard, make an order setting aside the *ex parte* order or advance ruling and restore the application for fresh hearing.

20. Withdrawal of application. - The applicant may withdraw his application within two weeks from the date of the application and thereafter only with the leave of the Authority.

21. Modification of order or advance ruling. - The Authority may *suo motu* or on a petition by the applicant or the Principal Commissioner or Commissioner, but before pronouncement of an advance ruling or before an advance ruling pronounced has been given effect to, on being satisfied that an order or advance ruling was pronounced under mistake of law or fact, modify such order or advance ruling in such respects as it considers appropriate, after allowing the applicant and Principal Commissioner or Commissioner concerned a reasonable opportunity of being heard.

22. Rectification of mistakes. - (1) The Authority may, with a view to rectifying any mistake apparent from the record, amend any advance ruling pronounced by it before such ruling has been given effect to.

(2) Such amendment may be made *suo motu* or when the mistake is brought to the notice of the Authority by the applicant or the Principal Commissioner or Commissioner, but only after allowing the applicant and the Principal Commissioner or Commissioner a reasonable opportunity of being heard.

23. Amendment of records. - If at any stage of the proceedings it is brought to the notice of the Authority that there is any factual or material error in the records, the

Authority may permit amendment of the records after hearing the applicant and the Principal Commissioner or Commissioner or their authorised representative.

24. Supply of certified copies. - The Secretary may grant certified copies of documents, orders or advance rulings to the applicant or the Principal Commissioner or Commissioner on a written request.

25. Inspection of records. - (1) The applicant or the Principal Commissioner or Commissioner or his authorised representative may be allowed to inspect the records of an application or petition on making a written request to the Secretary subject to the condition that only those documents shall be made available for inspection that are relied upon in the proceedings before the Authority.

(2) Inspection shall be allowed only in the presence of an officer of the Authority and taking of notes and not copies of the documents shall be permitted.

26. Declaration of advance ruling to be void in certain circumstances. - (1) Where it is brought to the notice of the Authority on a representation made by the Principal Commissioner or Commissioner concerned or otherwise that an advance ruling pronounced by it has been obtained by the applicant by fraud or misrepresentation of facts, the matter shall be examined by the Authority and any such representation shall be supported by an affidavit duly attested and accompanied with attested copies of documents relied upon.

(2) If the Authority after examining the representation is *prima facie* of the view that the advance ruling appears to have been obtained by the applicant by fraud or misrepresentation of facts, the applicant shall be given a notice to explain as to why the ruling should not be declared void *ab initio* under sub-section (1) of section 28K.

(3) The notice referred to in sub-regulation (2) to the applicant shall be in writing -

(a) informing him of the grounds on which it is proposed to declare the advance ruling as void *ab initio*;

(b) enclosing copies of the documents, if any, sought to be relied upon;

(c) giving an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds for declaring the advance ruling void *ab initio*; and

(d) giving a reasonable opportunity of being heard in person or through an authorised representative in the matter.

(4) A copy of the notice with enclosures shall also be forwarded to the Principal Commissioner or Commissioner for comments, if any, and a reasonable opportunity shall also be given to the Principal Commissioner or Commissioner or his authorised representative of being heard before passing any order.

(5) Where the Authority finds that the advance ruling was obtained by the applicant by fraud or misrepresentation of facts, the same shall be declared void *ab initio*.

27. Publication of orders or advance rulings. - Such of the orders or advance rulings of the Authority, as the Authority deems fit for publication in any authoritative report or the press, may be released for such publication on such terms and conditions as the Authority may specify.

28. Authentication and communication of orders or advance rulings. - (1) Every order or advance ruling of the Authority shall be duly signed by the Authority pronouncing the order or advance ruling and bear the official seal of the Authority.

(2) A certified copy of order or advance ruling of the Authority shall be communicated to the applicant and the Principal Commissioner or Commissioner under the signature of the Secretary or an officer of the Authority authorised by the Secretary in this behalf and bear the official seal of the Authority.

29. Proceedings of Authority. - When the Authority is unable to discharge his functions owing to absence, illness or any other cause or in the event of occurrence of any vacancy, the Board, may specify any other Authority situated elsewhere to act as the said Authority.

30. Procedure in case of petition. - The provisions contained in these regulations for hearing and disposal of an application shall apply, *mutatis mutandis*, to the hearing and disposal of all petitions before the Authority.

31. Procedure in case of transferred application and proceeding. - The provisions contained in these regulations for hearing and disposal of an application shall apply, *mutatis mutandis*, to the hearing and disposal of all transferred application and proceeding, referred to in sub-section 3 of section 28F.

32. Dress regulation. - (1) An authorised representative shall appear before the Authority in dress specified for the members of his profession by the competent professional body, if any.

(2) All other persons appearing before the Authority shall be properly dressed.

33. Prohibition of arms, mobile phones, etc. - No person shall be allowed to bring mobile phones, sticks, arms or other weapons in the room where the Authority conducts the proceedings.