

Board for Advance Rulings (BAR)

March 10, 2021

In news : In order to enhance the effectiveness of advance rulings, the Finance Bill, 2021 has proposed to replace the Authority for Advance Rulings (AAR) by one or more Board for Advance Rulings (BAR) for giving advance rulings under the Act.

About Board for Advance Rulings (BAR)

Following are the proposals made under the Finance Bill, 2021

Composition of the Board: As per the proposed bill, every such Board shall consist of two members, each being an officer not below the rank of Chief Commissioner.

The Finance Bill, 2021 proposes to empower the Central Government to make a scheme by notification in the Official Gazette for the purpose of giving advance ruling by BAR to impart greater efficiency, transparency and accountability by eliminating interface between the Bar and the applicants to the extent technologically feasible, by optimising utilisation of resources and introducing dynamic jurisdiction.

What is Advance Ruling(AR)?

In India, Advance Ruling is a written interpretation of tax laws. It is issued by tax authorities to corporations and individuals who request for clarification of certain tax matters.

In other words, it is written opinion or authoritative decision by an Authority empowered to render it with regard to the tax consequences of a transaction or proposed transaction or an assessment in regard thereto

An advance ruling is often requested when the taxpayer is confused and uncertain about certain provisions

About Authority for Advance Rulings (AAR)

- With a view to avoiding dispute in respect of assessment of tax liability and to provide tax certainty, the AAR was constituted vide the Finance Act, 1993 by inserting a new Chapter XIX-B in the Act.
- To facilitate foreign investment into the country a number of steps have been taken by the Government of India in the past. Setting up an Authority for Advance Rulings (Central Excise, Customs & Service Tax) to give binding rulings, in advance, on Central Excise, Customs and Service Tax matters pertaining to an investment venture in India is one such measure.
- The legal provisions of Advance Rulings were introduced through the Finance Acts of 1998, 1999 and 2003.
- The scheme of Advance Rulings has assumed special significance in the context of greater emphasis on FDI.
- Advance Rulings afford far greater certainty to foreign investors in respect of their prospective indirect tax liabilities.

The scheme of Advance Rulings allows the following categories of applicants to seek an advance ruling :

- holding a valid Importer-exporter Code Number granted under section 7 of the Foreign Trade (Development and Regulation) Act, 1992; or
- exporting any goods to India; or
- with a justifiable cause to the satisfaction of the Authority, .

Key changes with respect to AAR

Vide Finance Act, 2017, with a view to promote ease of doing

business, the Government of India has merged the Authority for Advance Rulings (Central Excise, Customs & Service Tax) with Authority for Advance Rulings (Income Tax).

In finance Act, 2018 it is proposed to constitute Customs Authority for Advance rulings under Section 28 EA of the Customs Act, 1962 and the existing Authority for Advance Rulings (Constituted under Section 245-0 of the Income tax Act, 1961) shall cease to Act as an Authority for Advance Rulings , and shall Act as an Appellate Authority for the purpose of Chapter V of the Custom Act, 1962 from the date of appointment of Customs Authority for Advance Rulings under Section 28EA of the Customs Act, 1962.

Current status

Presently the Authority for Advance Rulings is dealing with Customs related applications and pending cases of Central Excise & Service tax