

**KARNATAKA APPELLATE AUTHORITY FOR ADVANCE RULING
6TH FLOOR, VANIJYA THERIGE KARYALAYA, KALIDASA ROAD,
GANDHINAGAR, BANGALORE – 560009**

**(Constituted under section 99 of the Karnataka Goods and Services Tax Act, 2017 vide
Government of Karnataka Order No FD 47 CSL 2017, Bangalore, Dated:25-04-2018)**

BEFORE THE BENCH OF

SMT. RANJANA JHA, MEMBER

SMT. SHIKHA C, MEMBER

ORDER NO.KAR/AAAR/05/2022

DATE: 25-08-2022

Sl. No	Name and address of the appellant	Sri. Sairam Gopalkrishna Bhat, No 401, Dwarkemayee Building, 16 th Cross, Jnanabharathi 2 nd Block, Nagadevanahalli, Bengaluru 560056
1	GSTIN or User ID	29AFZPB2086B1ZB
2	Advance Ruling Order against which appeal is filed	KAR/ADRG/03/2022 Dated: 21 st January 2022
3	Date of filing appeal	26-05-2022
4	Represented by	Shri. Rohit R Kamath, Advocate & Authorised representative
5	Jurisdictional Authority- Centre	The Principal Commissioner of Central Tax, Bangalore West Commissionerate.
6	Jurisdictional Authority- State	LGSTO 061, Bengaluru
7	Whether payment of fees for filing appeal is discharged. If yes, the amount and challan details	Yes. Rs 20,000 /- (CGST & SGST) paid vide Challan CIN HDFC22052900281751 dated 23-05-2022.

PROCEEDINGS

(Under Section 101 of the CGST Act, 2017 and the KGST Act, 2017)

1. At the outset we would like to make it clear that the provisions of CGST, Act 2017 and SGST, Act 2017 are in *pari materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is



particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

2. The present appeal has been filed under section 100 of the Central Goods and Service Tax Act 2017 and Karnataka Goods and Service Tax Act 2017 (herein after referred to as CGST Act, 2017 and SGST Act, 2017) by Sri. Sairam Gopalkrishna Bhat, No 401, Dwarkemayee Building, 16th Cross, Jnanabharathi 2nd Block, Nagadevanahalli, Bengaluru 560056 (herein after referred to as Appellant) against the Advance Ruling order No. KAR ADRG 03/2022 dated 21st January 2022.

Brief Facts of the case:

3. The Appellant is a Professor of Law at the National Law School of India University (NLSIU), Bangalore and engages in classroom teaching and training for students, the payments for which are made by the Government. The Appellant is also engaged in providing training on Law and Legal Awareness to Government Departments, Ministry and Public sector organisations, either on personal invitation or based on projects and other assignments allotted to Centre on Environmental Law, Education, Research and Advocacy (CEERA), NLSIU. The Appellant is also engaged by organizations to impart training to their employees/students through lectures on the subtleties of law in a recreational manner.

4. The Appellant took a GST registration in 2019-20 with GSTIN 20AFZPB2086B1ZB, since the revenue from training had exceeded Rs 20 lakhs and he has paid GST on the remittances received. The Appellant later cancelled the GST registration w.e.f 26-09-2019. In order to seek clarification as to whether the services rendered by him amounts to a taxable supply in case he crosses Rs 20 lakhs in the future, the Appellant approached the Authority for Advance Ruling (AAR) seeking a ruling on the following questions:

a. *“Whether the income earned from conducting Guest Lectures, amounts to or results in a taxable supply of service?”*

b. *Whether the income earned from Research and Training Projects funded by Ministries of Government of India and State Government of Karnataka, amounts to results in a taxable supply of service to be taxed at Nil rate under Heading 9992?*

c. *Whether the income earned from Research and Training Projects funded by Ministries of Government of India and State Government of Karnataka,*



amounts to or results in a taxable supply to be taxed at IGST 18% under Heading 9983?"

5. The AAR vide its order KAR ADRG No 03/2022 dated 21st January 2022 gave the following ruling in respect of the above questions:

a. The income earned from conducting Guest Lectures, amounts to taxable supply of services as per Entry No (ii) of 21 of Notification No 11/2017 Central Tax (Rate) dated 28-06-2017.

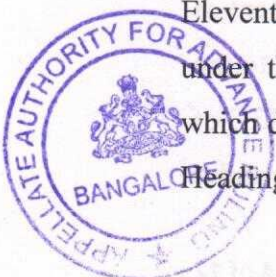
b. In the absence of the details of the recipient of service, the service in question merits classification under SAC 9983 and attracts GST at the rate of 18%.

c. In the absence of the details of the recipient of service, the service in question merits classification under SAC 9983 and attracts GST at the rate of 18%.

6. Aggrieved by the ruling given by the AAR, the Appellant has filed this appeal on the following grounds.

6.1. The Appellant submitted that being a Professor of Law at NLSIU, the rule on privity of contract is not lost as the Appellant is the employee of the institution; that the engaging of lectures or other technical services, are in connection with his employment at the said institution and as such require to be read into Entry 72 of Heading 9992 of Notification No 12/2017 dated 28-06-2017; that the training and education provided by the Appellant is on Law, Legal awareness and the like and it relates to arts and culture and is engaged for recreational purposes by the institutions, organizations and other entities; that the training is aimed towards breaking the monotony of their regular work, by engaging a guest faculty who is able to convey the subtleties of the law to the recipients who attend the same for recreational purposes, thereby breaking the ice for the recipients which further allows the recipients to carry out their regular work diligently.

6.2. The Appellant submitted that the service performed falls under the entry 18 of the Eleventh Schedule to the Constitution of India and as such all technical training as provided under the grants received from the Government of India, be treated as technical training which does not amount to a taxable supply of service and attracts Nil rate as per Sl.No 72 of Heading 9992 of Notf 12/2017 dated 28-06-2017; that the grants from such Projects and



Agreements executed by NLSIU are carried out by the Appellant in his capacity as Professor of Law at NLSIU, which is an activity covered under Schedule III of the CGST Act, 2017 amounting to services by an employee in the course of or in relation to his employment.

6.3. The Appellant also filed an application for condonation of delay of 65 days due to unavoidable personal reasons; that the impugned order was received on 19-02-2022 but the Appellant was unable to file the appeal within time; that in view of the Supreme Court's direction in Re: Cognizance for extension of limitation vide order dated January 10, 2022 wherein the Supreme Court has granted a limitation of 90 days from 28-02-2022 to file the appeal, the appeal filed by them on 26th May 2022 is within this extended period of limitation. In view of the above the Appellant prayed to quash the ruling pronounced by the AAR and pass orders as deemed fit.

PERSONAL HEARING

7. The appellant was granted a virtual hearing on 19th July 2022. The hearing was conducted on the Webex platform following the guidelines issued by the CBIC vide Instruction F.No 390/Misc/3/2019-JC dated 21st August 2020. The Appellant was represented by Shri. Rohit R Kamath, Advocate and authorised representative.

7.1. The Advocate explained the facts of the case and the circumstances leading to the present appeal. It was submitted that the Appellant is a Professor of Law at the National Law School of India University (NLSIU) and undertakes three different types of activities, viz. (i) professor of law at NLSIU, (ii) providing professional lectures on law and legal awareness as a guest lecturer to Govt Departments, PSUs based on projects and assignments allotted to NLSIU, and (iii) giving training programs on law and legal awareness to private institutions and organizations.

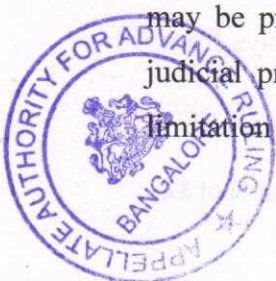
7.2. He submitted that the remuneration received by the Appellant for the services rendered to NLSIU in the capacity of an employee professor, is not chargeable to GST by virtue of the entry No 1 to Schedule III of the CGST Act, 2017 i.e services rendered by an employee to an employer. As regards the 2nd activity, i.e guest lectures provided by the Appellant to Govt Departments and PSUs which is in connection with his employment at NLSIU, he submitted that the said services are in the nature of pure services rendered to the Government in connection with an activity entrusted to Panchayat in terms of Article 243G of the Constitution; that the trainings provided to Government Departments are covered under



Entry Sl.No 17 (Technical training and vocational education) and Sl.No 18 (Adult and non-formal education) of the Eleventh Schedule of the Constitution and hence the said services are exempted from GST by virtue of Sl.No 3 of Notf No 12/2017 CT (Rate). As regards the 3rd activity undertaken by the Appellant, i.e providing training programs to private institutions and organizations on law and legal awareness, he submitted that the same is also exempted by virtue of Entry Sl.No 80 of Notf No 12/2017 Central Tax (Rate). He submitted that the exemption contained at Sl.No 80 of the Notf No 12/2017 Central Tax (Rate) is for services by way of training or coaching in recreational activities relating to arts and culture; that the Appellant provides the training to organizations who engage his services to provide recreation to their employees and to break the monotony of their regular work. He submitted that the definition of arts and culture as given in the dictionaries covers all aspects of social behavior and norms found in human societies; that an awareness on law and legal aspects is linked to social behavior and hence gets covered under training in arts and culture. He also submitted that the training given by the Appellant to private organizations and institutions is for the recreation of the employees of the organization since it helps to break the monotony of their daily work and makes them happier. In this connection, he relied on the feedback given by the Direct Tax Regional Training Institute that the officers would have been happier if the training session was for two days instead of the one day session.

7.3. In view of the above, he submitted that the Appellant is not liable to pay GST on any type of activity performed by him and the ruling given by the AAR that the income earned from guest lectures under the 2nd and 3rd category of activities is taxable under GST is incorrect and liable to be set aside. On a specific question posed by the Bench as to who are the recipients of service when it comes to the 2nd and 3rd kinds of training activities provided by the Appellant, he submitted that in the 2nd category of training, the recipients were Government departments and organizations while in the 3rd category of trainings, the recipients were private institutions and organizations.

7.4. The Advocate also requested for condonation of delay in filing the appeal before the Authority. He submitted that in view of the Supreme Court's order dated 10th January 2022 in the Suo Motu Writ Petition (C) No 3/2020, the Apex Court had allowed that the time period between 15-03-2020 and 28-02-2022 shall stand excluded for the purposes of limitation as may be prescribed under any general and special laws in respect of all judicial or quasi-judicial proceedings; that the Apex Court's directions in Para 5(III) giving all persons a limitation period of 90 days from 1-3-2022 is applicable to them and they have claimed the



benefit under the said direction to file the appeal before the Authority. On being asked by the Bench to comment on the applicability of the directions at Para 5(IV) of the order dated 10th Jan 2022, he submitted that the direction under Para 5(III) alone was applicable to them and not Para 5(IV). He submitted that in view of the relaxation in limitation given by the Supreme Court, the appeal filed by them on 26th May 2022 is within the limitation period of 90 days from 1-3-2022 and hence the appeal is to be admitted.

7.5. In view of the above submissions, he prayed that the order of the AAR dated 21-01-2022 may be set aside and the Authority may pass an order in favour of the Appellant.

DISCUSSIONS AND FINDINGS

8. We have gone through the entire case records and considered the submissions made by the Appellant in their grounds of appeal, as well as the submissions made at the time of personal hearing. The issue under appeal is whether the income earned by the Appellant from training and lectures given on Law and Legal awareness is taxable under GST. Before getting into a discussion on this issue, let us first address the issue of delay in filing the instant appeal. The appeal has been filed after a delay of 65 days (from 21-03-2022 to 26-05-2022) without taking into account condonation by AAAR. The Appellant has sought for condonation of delay by relying on the Supreme Court's order dated 10th January 2022 in Re: Cognizance for extension of limitation. We will first examine whether the delay merits condonation in terms of the CGST Act, 2017 as well as taking note of the Supreme Court's directions on limitation as contained in its order dated 10th January 2022.

9. In terms of Section 100 (2) of the CGST Act, an appeal to this Authority should be filed within 30 days from the date of communication of the advance ruling order that is sought to be challenged. However, in terms of the proviso to Section 100(2) of the said Act, the Appellate Authority is empowered to allow the appeal to be presented within a further period not exceeding 30 days if it is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the initial period of 30 days. In the Form ARA-02, the appellant has stated that the date of communication of the impugned advance ruling order was 19-02-2022. Accordingly, the time limit of 30 days for filing the appeal in this case, as per Section 100(2) of the CGST Act, will be 21-03-2022. Clearly the appeal, which has been filed on 26-05-2022, has not been filed within the prescribed time period of thirty days from the date of communication of the order.



10. The Appellant has sought to overcome the hurdle of delay in filing the appeal by claiming the benefit of the Supreme Court's *Suo Motu Cognizance* for Extension of Limitation in its final order dated 10-01-2022 in *Suo Motu Writ (Civil) No 3/2020* whereby the Apex Court directed that the period between 15-03-2020 to 28-02-2022 is to be excluded for the purposes of limitation. The relevant portion of the Supreme Court order dated 10-01-2022 is reproduced hereunder:

5. *Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A No 21 of 2022 with the following directions:*

- I. *The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.*
- II. *Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.*
- III. *In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, the longer period shall apply.*
- IV. *It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Section 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.*

The Appellant particularly claims the benefit of the directions in Para 5(III) above and has contended that they have a limitation period of 90 days from 01-03-2022 to file the appeal; that the appeal filed by them on 26-05-2022 is well within the extended period of limitation granted by the Supreme Court in its order dated 10-01-2022.

11. We have perused the Supreme Court order dated 10-01-2022 in *Suo Motu WP (Civil) 3/2020*. In order to understand the impact of this order 10-01-2022, let us go back in time to know what prompted the Supreme Court to take *Suo Motu cognizance* for extension of time limitation. Due to the onset of COVID-19 pandemic, the Supreme Court took *suo motu cognizance* of the challenge faced by the litigants in filing



petitions/applications/suits/appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central and/or State). Accordingly, on 23rd March, 2020, the Hon'ble Supreme Court invoked their plenary powers under Article 142 read with Article 141 of the Constitution of India and passed an order extending the limitation period for petitions, applications, suits, appeals and all other proceedings under the general or special law, both under central and/or state legislations, in all courts and tribunals across the country with effect from 15th March 2020 till further orders. The Apex Court vide subsequent orders dated 08-03-2021, 27-04-2021 and 27-09-2021 kept extending the period of limitation. By its order dated 10-01-2022, the Apex Court brought an end to the indefinite extension of the period of limitation and permitted the exclusion of period between 15-03-2020 and 28-02-2022 for purposes of computing limitation and made it clear that the period of limitation would start from 01-03-2022. It is evident from the above that the extension of limitation granted by the Supreme Court vide its orders dated 23-03-2020, 08-03-2021, 27-04-2021, 27-09-2021 and 10-01-2022, in exercise of its powers under Article 142 read with Article 141 of the Constitution of India is applicable for all judicial and quasi-judicial proceedings which are in the nature of appeals/suits/petitions, etc and is binding on all Courts/Tribunals and authorities.

12. The applicability of the Supreme Court order to GST matters was addressed by the CBIC after seeking a legal opinion and it has been clarified in Circular No 157/13/2021-GST dated 20th July 2021 that for the purpose of counting the period(s) of limitation for filing of appeals before any appellate authority under GST law, the limitation stands extended as ordered by the Supreme Court. It is also clarified in Para 3(iii) of the said Circular that even under this category, the Hon'ble Supreme Court order applies only to a lis which needs to be pursued within a time frame fixed by the respective statutes. Clearly, the directions of the Supreme Court as contained in Para 5(IV) of its order dated 10-01-2022, to exclude the period from 15-03-2020 to 28-02-2022 in computing the period of limitation under any law which prescribes periods of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings, squarely applies to Section 100 of the CGST Act.

13. There are two situations in the instant case. Situation 1 is as per Section 100 of the CGST Act and Situation 2 is the case after applying the extension of limitation granted by



the Supreme Court in its final order dated 10th January 2022. The two situations are as follows:

Actions relating to the impugned advance ruling	Dates as per Section 100 of the CGST Act Situation 1	Dates computed as per Supreme Court order dt 10-1-2022 Situation 2	Remarks
Date of issue of AAR order	21-01-2022	21-01-2022	-
Date of receipt of AAR order by the Appellant	19-02-2022	19-02-2022	-
Date of limitation for filing an appeal	21-03-2022	30-03-2022	Period between 20-02-2022 to 28-02-2022 is excluded as per SC order
Further period of 30 days condonable by AAAR	20-04-2022	29-04-2022	
Date of filing appeal	26-05-2022	26-05-2022	
No of days delay after condonable period	36	27	

The Appellant has contended that the limitation of 90 days from 01-03-2022 as granted by the Supreme Court in Para 5(III) of its final order dated 10-01-2022 is applicable to them and accordingly they have 90 days time to file the appeal and not 30 days as per the GST statute; that the appeal filed on 26-05-2022 is well within the limitation period of 90 days as granted by the Supreme Court.

14. We do not agree with this interpretation. Para 5(III) of the Supreme Court order dated 10-01-2022 does not apply to the instant case due to the following reasons. The directions at Para 5(III) of the Supreme Court's order dated 10-01-2022 applies to only to those cases where the period of limitation as prescribed under any general or special laws for judicial or quasi-judicial matters has expired during the period 15-03-2020 to 28-02-2022.



Only in such cases, the Apex Court has directed that all persons will have a limitation period of 90 days from 1-03-2022. In the instant case, the period of limitation for filing an appeal under Section 100 of the CGST Act **ends on 21-03-2022** which is **after the period 15-03-2020 to 28-02-2022**. As already mentioned above, the period of limitation in terms of Section 100(2) of the CGST Act (but for the Supreme Court's order) commences on 20-02-2022 and expires only on 21-03-2022 and the condonable period (by AAAR) expires on 20-04-2022. Since both timelines are outside the period covered by Para 5(III) of the Supreme Court order viz, 15-03-2020 to 28-02-2022, the same is not applicable to this case. This case therefore, falls under Para 5(I) of the Supreme Court order.

15. There is another reason why the directions at Para 5(III) extending the limitation period to 90 days from 28-02-2022 will not apply to this case. No doubt the Hon'ble Supreme Court has passed the orders on extending the period of limitation by exercising its power under Article 142 of the Constitution. However, it is a settled principle of jurisprudence that even while exercising that power, the Supreme Court cannot render the statutory provision otiose. The limitation period of 30 days as laid down in Section 100(2) of the CGST Act will continue to prevail with the exception that the 30 days period will be computed from 01-03-2022 as per the Hon'ble Supreme Court's directions at Para 5(I) and not from 19-02-2022 which is the date of communication of the impugned order. Therefore, the appeal filed on 26-05-2022 is beyond the period of limitation prescribed under Section 100(2) of the CGST Act.

16. The proviso to Section 100(2) empowers this Authority to condone a further delay of 30 days if it is satisfied that the Appellant was prevented by sufficient cause from filing the appeal within the prescribed period of 30 days. This grace period which is available to the Appellant for filing the appeal and which is condonable by us expires on 20-04-2022 in the case of Situation 1 of above Table and on 29-04-2022 in the case of Situation 2 of the above Table. The appeal in this case, has been filed on 26.05.2022 which is 36 days after the expiry of the grace period in the case of Situation 1 and 27 days after the expiry of the grace period in the case of Situation 2. In both situations the delay is beyond the condonable powers of the Appellate Authority. The question whether this Appellate Authority can entertain an appeal under Section 100 of the CGST Act beyond the condonable period does not require much debate and has been answered in the negative by the Supreme Court in the case of *Singh Enterprises vs CCE reported in (2008) 3 SCC 70*. The Supreme Court in the said case interpreted Section 35 of the Central Excise Act, 1944 which is similar to Section 100 of the



CGST Act and examined the question whether the Commissioner (Appeals) has the power to condone the delay beyond the period of 30 days from the date of expiry of the period prescribed for filing the statutory appeal and also whether the High Court, in exercise of the power conferred under Article 226 of the Constitution of India, can condone the delay. The Hon'ble Supreme Court in Para 8 of its order held that the proviso to sub-section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the condonable period of 30 days. The language used makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning delay only up to 30 days after the expiry of 60 days which is the normal period for preferring appeal.

17. We are also not empowered to condone the delay beyond the prescribed period by invoking the provisions of Section 5 of the Limitation Act, 1963. The said Section 5 gives an opportunity to a litigant to file applications beyond the prescribed period of limitation provided, he is able to establish that he was prevented by sufficient cause from approaching the Court within the said period. However, when any special statute prescribes certain period of limitation as well as provision for extension up to specified time limit, on sufficient cause being shown, then the period of limitation prescribed under the special law shall prevail, and to that extent the provisions of the Limitation Act shall stand excluded. The Supreme Court in the case of *Kiren Enterprise vs State of Tripura* – 2021 (52) GSTL 29 (Tripura), while examining whether the Superintendent of State Tax had the authority to condone the delay beyond the period of six months under Section 161 of the TSGST Act for rectifying the defects or errors, has held that Section 161 of the TSGST Act is a complete code in itself and it has impliedly excluded the Limitation Act. The Hon'ble Supreme Court has also held that the Limitation Act will not apply automatically unless it is extended to the special statute such as TSGST Act. Further, in the case of *Commissioner of Customs and Central Excise vs Hongo India (P) Ltd* – (2009) 5 SCC 791, the Hon'ble Supreme Court considered the question whether Section 5 of the Limitation Act can be invoked for condonation of delay in filing an appeal or reference to the High Court under the Central Excise Act and observed that the scheme of the Central Excise Act, 1944 supports the conclusion that the time limit prescribed under Section 35H(1) to make a reference to High Court is absolute and unextendible by court under Section 5 of the Limitation Act. It is well settled law that it is the duty of the court to respect the legislative intent and by giving liberal interpretation, limitation cannot be extended by invoking the provisions of Section 5 of the Act



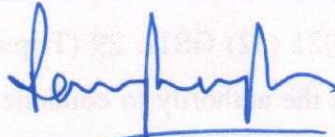
18. In view of the above settled legal position, it is evident that this Appellate Authority being a creature of the statute is empowered to condone a delay of only a period of 30 days after the expiry of the initial period for filing appeal. As far as the language of the proviso to Section 100 (2) of the CGST Act is concerned, the crucial words are “not exceeding thirty days”. To hold that this Appellate Authority could entertain this appeal beyond the extended period under the proviso would render the phrase “not exceeding thirty days” wholly otiose. No principle of interpretation would justify such a result. Therefore, we hold that we are not empowered to condone the delay of 27 days beyond the condonable period, in filing this appeal.

19. Since the appeal cannot be allowed to be presented on account of time limitation, the question of discussing the merits of the issue in appeal does not arise.

20. In view of the above we pass the following order

ORDER

We dismiss the appeal filed by the appellant Sri. Sairam Gopalkrishna Bhat, No 401, Dwarkemayee Building, 16th Cross, Jnanabharathi 2nd Block, Nagadevanahalli, Bengaluru 560056, on grounds of time limitation.



(RANJANA JHA)

Member

Karnataka Appellate Authority
for Advance Ruling

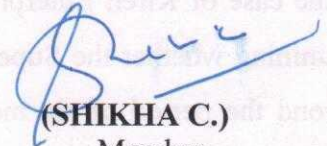
Appellate Authority for Advance Ruling

To,

The Appellant

Copy to

1. The Member (Central), Advance Ruling Authority, Karnataka.
2. The Member (State), Advance Ruling Authority, Karnataka
3. The Principal Commissioner of Central Tax, West Commissionerate, Bangalore
4. The Assistant Commissioner, LGSTO-061, Bangalore
5. Office folder



(SHIKHA C.)

Member

Karnataka Appellate Authority
for Advance Ruling

Appellate Authority for Advance Ruling

