

**Chapter XV**  
**ANTI-PROFITEERING**

**<sup>1</sup>[122. Constitution of the Authority.-**

The constitution of the Authority shall be in accordance with the provisions of rule 122 of the Central Goods and Services Tax Rules, 2017.

**123. Constitution of the Standing Committee and Screening Committee.-**

The constitution of the Standing Committee and Screening Committee shall be in accordance with the provisions of rule 123 of the Central Goods and Services Tax Rules, 2017.

**124. Appointment, salaries, allowances and other terms and conditions of service of the Chairman and Members of the Authority.-**

The appointment, salary, allowances and other terms and conditions of service of the Chairman and Members of the Authority shall be in accordance with the provisions of rule 124 of the Central Goods and Services Tax Rules, 2017.

**125. Secretary to the Authority.-**

The Secretary to the Authority shall be in accordance with the provisions of rule 125 of the Central Goods and Services Tax Rules, 2017.

**126. Power to determine the methodology and procedure.-**

The power to determine the methodology and procedure of the Authority shall be in accordance with the provisions of rule 126 of the Central Goods and Services Tax Rules, 2017.]

**127. Duties of the Authority.-**

It shall be the duty of the Authority,-

- (i) to determine whether any reduction in rate of tax on any supply of goods or services or the benefit of the input tax credit has been passed on to the recipient by way of commensurate reduction in prices;
- (ii) to identify the registered person who has not passed on the benefit of reduction in rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices;
- (iii) to order, reduction in prices;
- (a) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen percent. from

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1. Rules 122, 123,124,125 & 126, substituted by Noti.GHN-75 Dt/30/8/17 w.e.f. 1/7/17 Noti.27/2017

the date of collection of higher amount till the date of return of such amount or recovery of the amount not returned, as the case may be, in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Fund referred to in section 57;

(b) imposition of penalty as specified in the Act; and

(c) cancellation of registration under the Act.

<sup>1</sup>[(iv) to furnish a performance report to the Council by the tenth <sup>2</sup>[day]of the close of each quarter.]

**128. Examination of application by the Standing Committee and Screening Committee.-**

(1) The Standing Committee shall, within a period of two months from the date of receipt of a written application, in such form and manner as may be specified by it, from an interested party or from a Commissioner or any other person, examine the accuracy and adequacy of the evidence provided in the application to determine whether there is *prima-facie* evidence to support the claim of the applicant that the benefit of reduction in rate of tax on any supply of goods or services or the benefit of input tax credit has not been passed on to the recipient by way of commensurate reduction in prices.

(2) All applications from interested parties on issues of local nature shall first be examined by the State level Screening Committee and the Screening Committee shall, upon being satisfied that the supplier has contravened the provisions of section 171, forward the application with its recommendations to the Standing Committee for further action.

**129. Initiation and conduct of proceedings.-**

(1) Where the Standing Committee is satisfied that there is a *prima-facie* evidence to show that the supplier has not passed on the benefit of reduction in rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, it shall refer the matter to Director General of Safeguards for a detailed investigation.

(2) The Director General of Safeguards shall conduct investigation and collect evidence necessary to determine whether the benefit of reduction in rate of tax on any supply

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1. In rule 127, after clause (iii), clause (iv) inserted by Noti.GHN-83, Dt.15/9/17 w.e.f. Dt.15/9/17 Noti.34/2017

2. In ruel 127, in clause (iv), after the words "to furnish a performance report to the Council by the tenth", the word "day" shall be inserted by Noti.GHN-38 Dt.23/3/18, w.e.f.23/3/18, Noti.14/2018

of goods or services or the benefit of the input tax credit has been passed on to the recipient by way of commensurate reduction in prices.

- (3) The Director General of Safeguards shall, before initiation of investigation, issue a notice to the interested parties containing, *inter alia*, information on the following, namely:-
  - (a) the description of the goods or services in respect of which the proceedings have been initiated;
  - (b) summary of statement of facts on which the allegations are based; and
  - (c) the time limit allowed to the interested parties and other persons who may have information related to the proceedings for furnishing their reply.
- (4) The Director General of Safeguards may also issue notices to such other persons as deemed fit for fair enquiry into the matter.
- (5) The Director General of Safeguards shall make available the evidence presented to it by one interested party to the other interested parties, participating in the proceedings.
- (6) The Director General of Safeguards shall complete the investigation within a period of three months of receipt of reference from the Standing Committee or within such extended period not exceeding a further period of three months for reasons to be recorded in writing <sup>1</sup>[as may be allowed by the Authority] and, upon completion of the investigation, furnish to the Authority a report of its findings, along with the relevant records.

**130. Confidentiality of information.-**

- (1) Notwithstanding anything contained in sub-rules (3) and (5) of rule 129 and sub-rule (2) of rule 133, the provisions of section 11 of the Right to Information Act, 2005 (22 of 2005), shall apply *mutatis mutandis* to the disclosure of any information which is provided on a confidential basis.
- (2) The Director General of Safeguards may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of the party providing such information, the said information cannot be summarised, such party may submit to the Director General of Safeguards a statement of reasons as to why summarisation is not possible.

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1. In rule 129, in sub-rule (6), for the words "as allowed by the Standing Committee", the words "as may be allowed by the Authority" shall be substituted by Noti.GHN-38 Dt.23/3/18, w.e.f.23/3/18, Noti.14/2018

**131. Cooperation with other agencies or statutory authorities.-**

Where the Director General of Safeguards deems fit, he may seek opinion of any other agency or statutory authorities in discharge of his duties.

**132. Power to summon persons to give evidence and produce documents.-**

(1) The Director General of Safeguards, or an officer authorised by him in this behalf, shall be deemed to be the proper officer to exercise power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing under section 70 and shall have power in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908 (5 of 1908).

(2) Every such inquiry referred to in sub-rule (1) shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860).

**133. Order of the Authority.-**

(1) The Authority shall, within a period of three months from the date of receipt of the report from the Director General of Safeguards determine whether a registered person has passed on the benefit of reduction in rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.

(2) An opportunity of hearing shall be granted to the interested parties by the Authority where any request is received in writing from such interested parties.

(3) Where the Authority determines that a registered person has not passed on the benefit of reduction in rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, the Authority may order -

(a) reduction in prices;

(b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen percent. from the date of collection of higher amount till the date of return of such amount or recovery of the amount including interest not returned, as the case may be, in case the eligible person does not claim return of the amount or is not identifiable, and

depositing the same in the Fund referred to in section 57;

- (c) imposition of penalty as specified under the Act; and
- (d) cancellation of registration under the Act.

<sup>1</sup>[(4) If the report of the Director General of Safeguards referred to in sub-rule (6) of rule 129 recommends that there is contravention or even non-contravention of the provisions of section 171 or these rules, but the Authority is of the opinion that further investigation or inquiry is called for in the matter, it may, for reasons to be recorded in writing, refer the matter to the Director General of Safeguards to cause further investigation or inquiry in accordance with the provisions of the Act and these rules.]

<sup>2</sup>[**134. Decision to be taken by the majority.-**

- (1) A minimum of three members of the Authority shall constitute quorum at its meetings.
- (2) If the Members of the Authority 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, and in the event of equality of votes, the Chairman shall have the second or casting vote.]

**135. Compliance by the registered person.-**

Any order passed by the Authority under these rules shall be immediately complied with by the registered person failing which action shall be initiated to recover the amount in accordance with the provisions of the Integrated Goods and Services Tax Act or the Central Goods and Services Tax Act or the Union territory Goods and Services Tax Act or the State Goods and Services Tax Act of the respective States, as the case may be.

**136. Monitoring of the order.-**

The Authority may require any authority of central tax, State tax or Union territory tax to monitor implementation of the order passed by it.

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1. In rule 133, after sub-rule(3), the following sub-rule shall be inserted by Noit.GHN-38 Dt.23/3/18, w.e.f.23/3/18, Noti.14/2018

2. For rule 134, the following rule shall be substituted by oit.GHN-38 Dt.23/3/18, w.e.f.23/3/18, Noti.14/2018.

Earlier rule 134:

**134. Decision to be taken by the majority.-**

If the Members of the Authority differ in opinion on any point, the point shall be decided according to the opinion of the majority.

<sup>1</sup>**[137. Tenure of Authority.-**

The tenure of the Authority shall be in accordance with the provisions of rule 137 of the Central Goods and Services Tax Rules, 2017.]

**Explanation.-**For the purposes of this Chapter,

- (a) “Authority” means the National Anti-profiteering Authority constituted under rule 122;
- (b) “Committee” means the Standing Committee on Antiprofitteering constituted by the Council in terms of sub-rule (1) of rule 123 of these rules;
- (c) “interested party” includes
  - a. suppliers of goods or services under the proceedings; and
  - b. recipients of goods or services under the proceedings;
  - [c. *any other person alleging, under sub-rule (1) of rule 128, that a registered person has not passed on the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.*]
- (d) “Screening Committee” means the State level Screening Committee constituted in terms of sub-rule (2) of rule 123 of these rules.

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1. Rule 137 substituted by Noti. GHN-75 Dt.30/8/17 w.e.f. 1/7/17 Noti.27/2017

Earlier rule 137:

**137. Tenure of Authority.-**

The Authority shall cease to exist after the expiry of two years from the date on which the Chairman enters upon his office unless the Council recommends otherwise.