

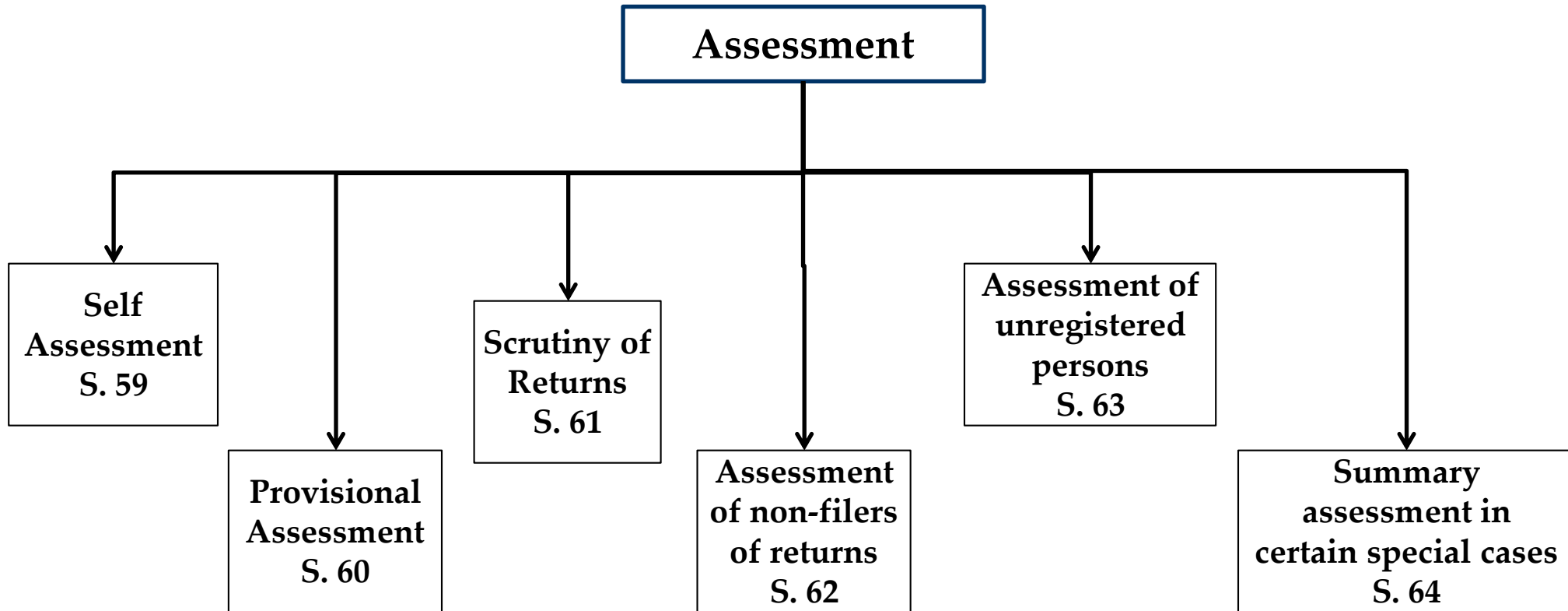


Assessment, Audit, Advance Ruling, Appeals and Revision

Assessment : Meaning & Types

Assessment means determination of tax liability

Types of Assessment



Self Assessment

- **Every Registered taxable person**
- **Himself assesses the tax payable**
- **Furnish the return for each tax period**



Provisional Assessment

- **Ambiguity in Value & or Rate of tax**
- **Execution of security bond as may be prescribed**
- **Officer may permit to pay tax provisional basis.**
- **Final assessment to take place within six months**
- **The balance payable or refund due to be settled**



Scrutiny of Returns

- **Scrutinize the return to verify correctness**
- **Discrepancy noticed to be intimated**
- **On submission of acceptable explanation:
No further action required**
- **Unsatisfactory explanation: Appropriate
action will be initiated**



Best Judgement Assessment

- **Also called Assessment for Non-filers of Returns**
- **Registered taxable person**
 - **fails to file returns**
 - **fails to respond to notice**
- **Assessed by Proper Officer based on the information available to the best of his judgment**



Best Judgement Assessment...

- **On filing of return within 30 days on receipt of assessment order**
- **Best Judgment order deemed to be withdrawn**



Assessment of Unregistered Person

- Taxable person fails to take registration
- Assess to the best of his judgment
- Serving of show cause notice & opportunity of personal hearing
- The assessment to be made with in 5 years from the due date for filing annual return



Summary Assessment

- **Having evidence and delay may adversely effect the revenue**
- **In the interest of revenue and with due permission**
- **Application filed or on his own motion Addl. / Joint Commissioner**
- **If the order is erroneous; Addl./Joint Commissioner may withdraw such order**



AUDIT UNDER GST



Audit

- **Section 2(14): “Audit” means :**
- **examination of records, returns and other documents maintained or furnished by the taxable person under this Act or rules made thereunder or under any other law for the time being in force to verify, inter alia,**
 - **the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and**
 - **to assess his compliance with the provisions of this Act or rules made thereunder**



Kinds of Audits under GST

**Audit by tax
authorities**

Special Audit

**Annual Audit
by CA/CWA**

CAG Audit



Audit by tax authorities

- **Commissioner of CGST / SGST or any officer authorized**
- **Audit of taxable person**
- **At the place of taxable person or in their office**
- **Guidelines for audit**
- **Taxable person to provide the required information & facility**
- **Result of audit to be intimated and further action will be taken**



Special Audit

- **Proceedings pending before Dy. / Asst. Commissioner**
- **Nature & complexity of the case**
- **In the interest of revenue**
- **Correct value and eligible ITC**
- **Direct the taxable person to be subject to special audit**
- **Nominated by the Commissioner of CGST / SGST**
- **Time limit & audit conclusion**



Annual Audit

- As per Section 53, every registered taxable person whose turnover during a financial year crosses the **threshold limit** shall get his accounts audited by
 - Chartered Accountant or
 - Cost Accountant
- Contents of the audit report
- Other particulars and reconciliation
- Time limit



Annual Return

Due Date for filing is 31st December of subsequent financial year

Details of all Incomes and Expenditures, arrears and Pending Litigations, all pending refund claims

Quantity of Goods Sold / Purchases

Copy of Audited Financial Statements to be enclosed

Reconciliation statements to be Provided between Financials and GST Returns

Profit / Loss as per Annual returns must match as per Annual Accounts



Power of CAG to call for information

On the request of CAG, the PO shall furnish information, records and returns required for the conduct of audit



Demand & Recovery



Determination of tax not paid or short paid or erroneously refunded

Section 73: Applicable in case of non-payment or short payment of tax without fraud or willful-misstatement.

Section 74: Applicable in case of non-payment or short payment of tax with fraud or willful-misstatement

Proper officer to issue a Show Cause Notice in both cases

Time limit for the proper officer to issue notice – at least 3 months prior to issuance of order

Time limit for the proper officer to issue notice – at least 6 months prior to issuance of order

Time limit for the proper officer to issue an order is within **three years from the due date / actual date of filing of annual return.**

Time limit for the proper officer to issue an order is **within five years from the due date / actual date of filing of annual return**



Determination of tax not paid or short paid or erroneously refunded....

Section 73:	Section 74:
<p>No issue of Show Cause Notice where:-</p>	
<p>Voluntary payment of Tax + Interest as per section 45 made before issue of notice either</p> <ul style="list-style-type: none"> • As per the ascertainment of the defaulter or; • As per the ascertainment of the proper officer; 	<p>Voluntary payment of Tax + Interest as per section 45 + 15% of tax as penalty made before issue of notice either</p> <ul style="list-style-type: none"> • As per the ascertainment of the defaulter or; • As per the ascertainment of the proper officer;
<p>However amount paid as per the ascertainment of the defaulter falls short, the Department can issue a notice for the tax still payable.</p>	



Determination of tax not paid or short paid or erroneously refunded....

Section 73:	Section 74:
Case where all proceedings are deemed to be concluded after issue of SCN:	
Payment of Tax + Interest as per section 45 made within 30 days of issue of notice. No penalty	Payment of Tax + Interest as per section 45 +25% of tax as penalty made within 30 days of issue of notice
Payment of Tax + Interest as per section 45 +(10% of tax or Rs.10,000 w.e.h) as penalty made after 30 days of issue of notice	Payment of Tax + Interest as per section 45 +50% of tax as penalty made within 30 days of communication of order



General provisions relating to demand of tax: Sec 75

- **Opportunity of personal hearing**
- **Personal hearing can be adjourned for a maximum of 3 times**
- **The relevant facts and basis of the decision shall be set out in the order.**



Tax collected but not deposited with the Central or State Government: Sec 76...

- **There is no time limit to commence proceedings under this section.**
- **Under the present tax laws, similar provision exists in Central Excise Law(11D) , Customs Law (28B) as well as Service Tax Law (73A).**
- **Similar provision also exists in all most all the state VAT Acts**
- **Proper Officer shall determine the amount due from the person and pass an order within one year from the date of issue of notice**



Tax wrongfully collected and deposited with the Central or a State Government: Sec 77

- Taxable person has paid CGST/SGST considering a transaction to be intra-state supply
 - Subsequently held to be inter-state supply
 - Allowed refund of CGST/SGST paid, subject to conditions
- A taxable person who has paid IGST on a transaction considered by him to be an inter-state supply
 - Subsequently held to be an intra-state supply
 - Not be required to pay any interest on the amount of CGST/SGST payable



Advance Ruling



Questions for Advance Ruling

- (a) classification of any goods or services or both;**
- (b) applicability of a notification issued under the provisions of this Act;**
- (c) determination of time and value of supply of goods or services or both;**
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;**

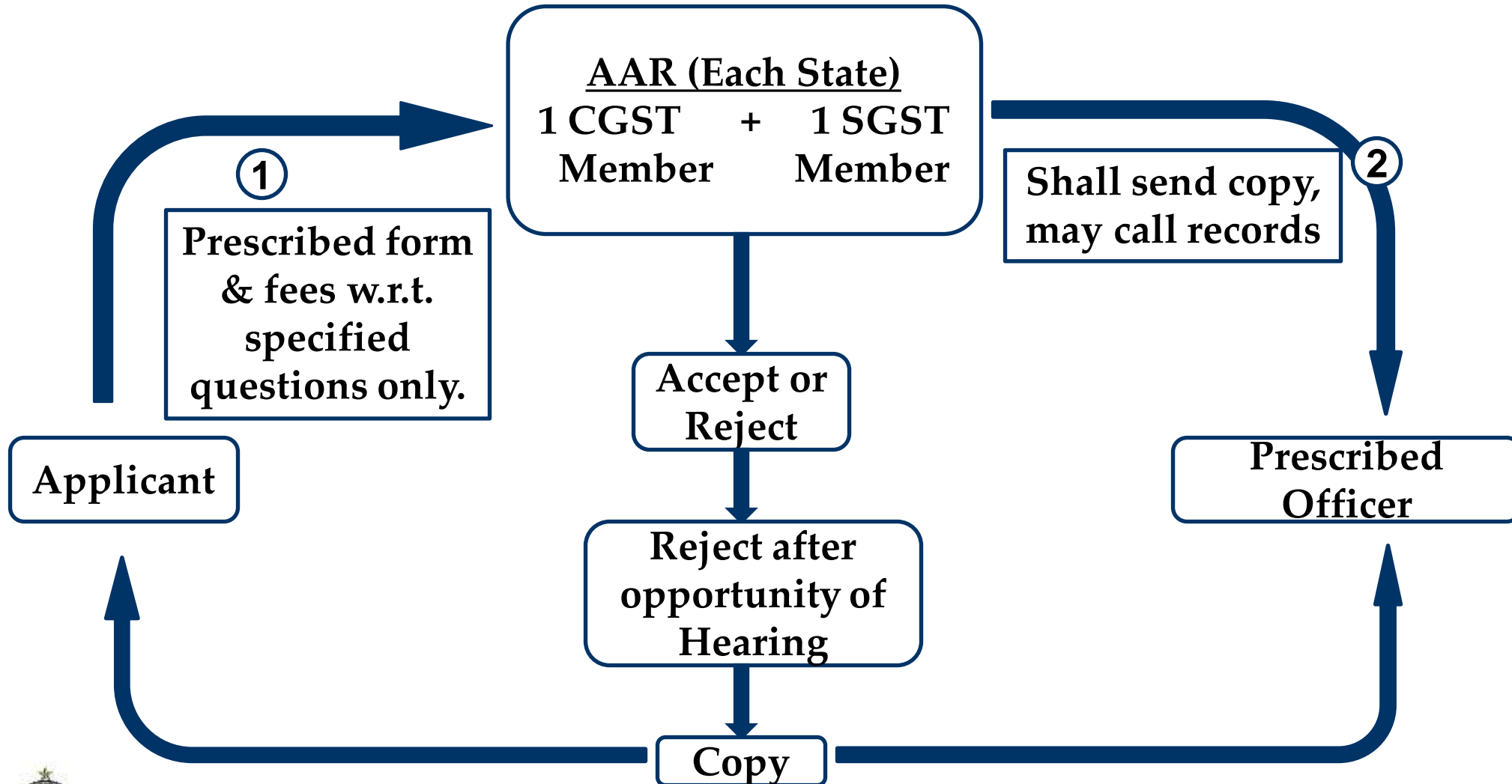


Questions for Advance Ruling...

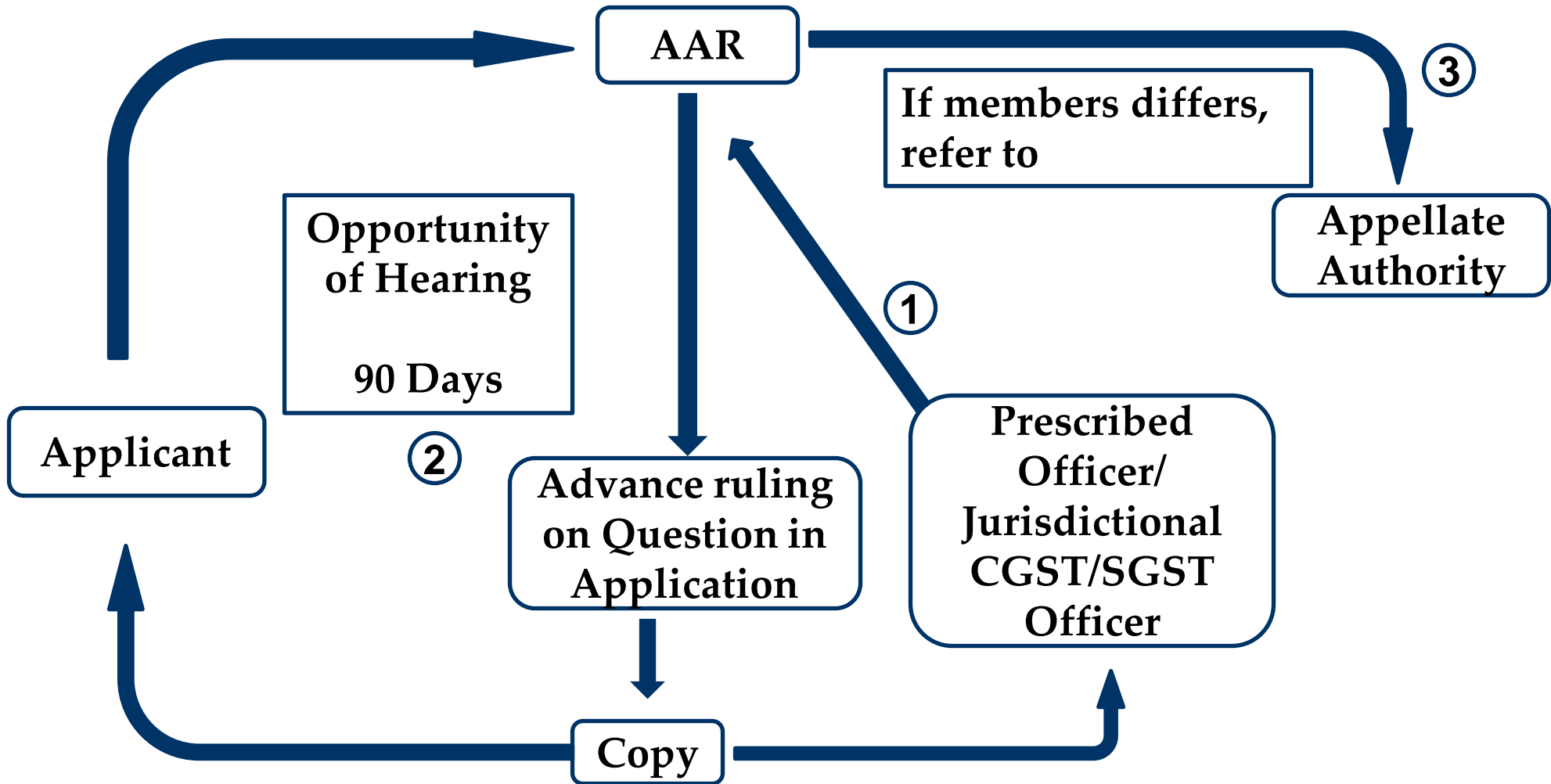
- (e) determination of the liability to pay tax on any goods or services or both;**
- (f) whether applicant is required to be registered;**
- (g) Anything done amounting to supply**



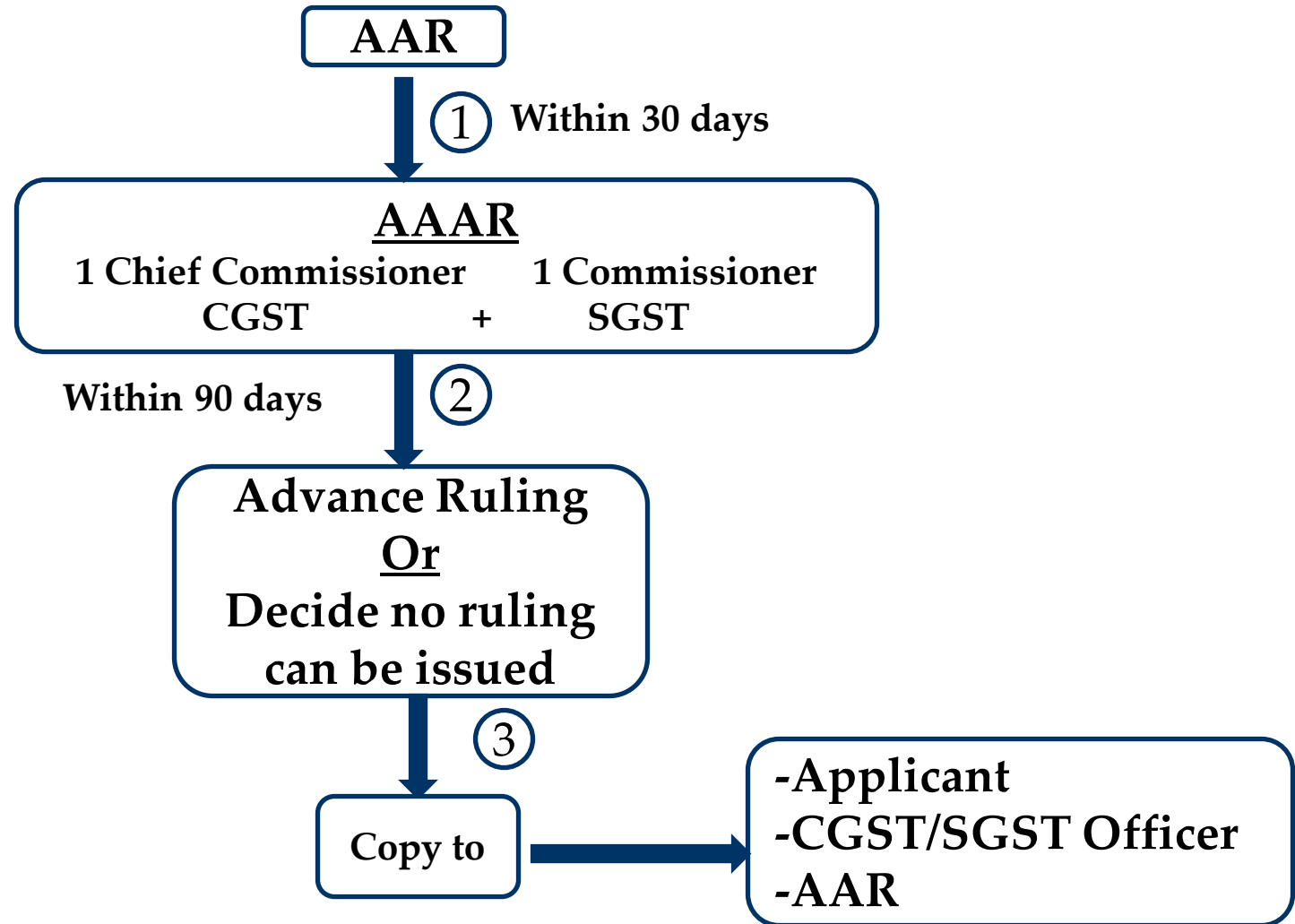
Application for Advance ruling – Sec: 95 to 106



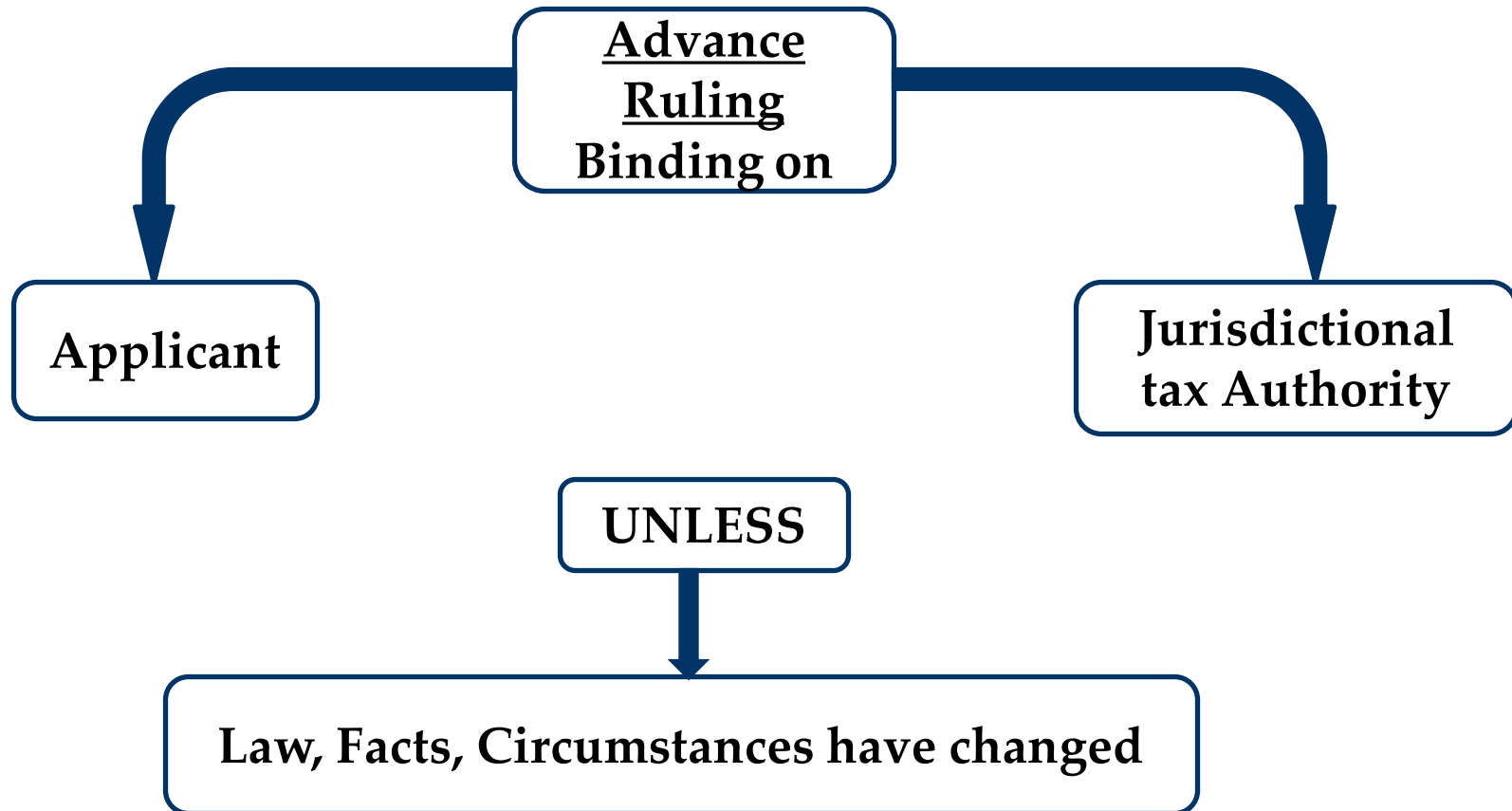
Procedure for Advance ruling



Appellate Authority for Advance ruling Section 100



Applicability of Advance ruling – Sec:103



Appeal

- **First Appeal to an Appellate Authority**
- **By Assessee within 3 months (1 month condonation)**
- **By Department within 6 months**
- **Taxes agreed shall be paid**
- **10% of disputed amount to be paid as Pre-Deposit**
- **Auto Stay of recovery on payment of Pre-Deposit**
- **Not more than 3 hearings**



Appeal...

- Time limit within 1 year
- Next level Appeal
 - Appellate Tribunal to be constituted
- National Bench & Regional Bench
- 25% Pre-Deposit
- High Court
 - Substantial Question of Law
- Supreme Court



Intra State Sale - Current Scenario

	(in Rs.)			
	Mfr - 1	Mfr - 2	Dlr	
Purchase Cost		1,000	1,350	
Value Addition @ 20%		200		
Value Addition @ 10%			135	
Selling Price	1,000	1,200	1,485	
Excise Duty @ 12.5%	125	150	-	
	1,125	1,350	1,485	
VAT @ 14.5%	163	196	215	
Selling Price	1,288	1,546	1,700	
Central Taxes	125	25	-	150
State Taxes	163	33	20	215
				365



<u>Intra State Sale - GST Scenario</u>				
			(in Rs.)	
	Mfr - 1	Mfr - 2	Dlr	
Purchase Cost		1,000	1,200	
Value Addition @ 20%		200		
Value Addition @ 10%			120	
Selling Price	1,000	1,200	1,320	
CGST @ 9%	90	108	119	
SGST @ 9%	90	108	119	
Selling Price	1,180	1,416	1,558	8.39%
Central Taxes	90	18	11	119
State Taxes	90	18	11	119
				238



Inter State Sale - Current Scenario

			(in Rs.)	
	Mfr - 1	Mfr - 2	Dlr	
Purchase Cost		1,000	1,377	
Value Addition @ 20%		200		
Value Addition @ 10%			138	
Selling Price	1,000	1,200	1,515	
Excise Duty @ 12.5%	125	150	-	
	1,125	1,350	1,515	
VAT @ 14.5%	163	-	220	
CST @ 2%	-	27		
Selling Price	1,288	1,377	1,734	
Central Taxes	125	52	-	177
State Taxes	163	-	220	383
				560



<u>Inter State Sale - GST Scenario</u>				
			(in Rs.)	
	Mfr - 1	Mfr - 2	Dlr	
Purchase Cost		1,000	1,200	
Value Addition @ 20%		200		
Value Addition @ 10%			120	
Selling Price	1,000	1,200	1,320	
CGST @ 9%	90		119	
SGST @ 9%	90		119	
IGST @ 18%		216		
Selling Price	1,180	1,416	1,558	10.19%
Central Taxes	90	36	-	126
State Taxes	90	0	22	112
				238

