

Advance Ruling

Applicant

Applicant { Who can apply ~~to~~ Advance Ruling Authority }

1. Non-Resident (NR)
2. Resident on behalf of Non-Resident (R in behalf of NR)
3. Resident does transaction of ₹100 cr or more.
4. Public Sector Unit (PSU) → Case pending in CIT/ITAT
5. Resident / Non-Resident → to know whether an arrangement is Imhermissible Avoidance Agreement as per GAAR. (Chapter X-A)

* Fees :

Transaction : upto ₹100 cr → ₹2 lac
100 - 300 cr. → ₹5 lac
> ₹300 cr. → ₹10 lac

~~PSU~~ PSU → ₹50000

- Application in prescribed form
- 4 copies (Quaduplicate)
- Can be withdrawn within 30 Days - (MK Jam case law)

* Question pending in CIT/ITAT/HC/SC → Can't go for AR

Exception → PSU (Point 4) → If pending in CITCA/ITAT → Can go for AR

* Straightforward Rejection of Application in 3 cases:

1. Normal Assessee ^{pending} → ITAT / CITCA / HC / SC
PSU → question pending in HC / SC
2. Question involves → determination of FMV of any asset
3. Question relates to a transaction → Prima facie designed for tax avoidance
(except for the PSU & GAAR cases)
(4) (5) (6)

Judgement of AR binding on ^{Assessee Applicant Only &} Department upto level of CIT

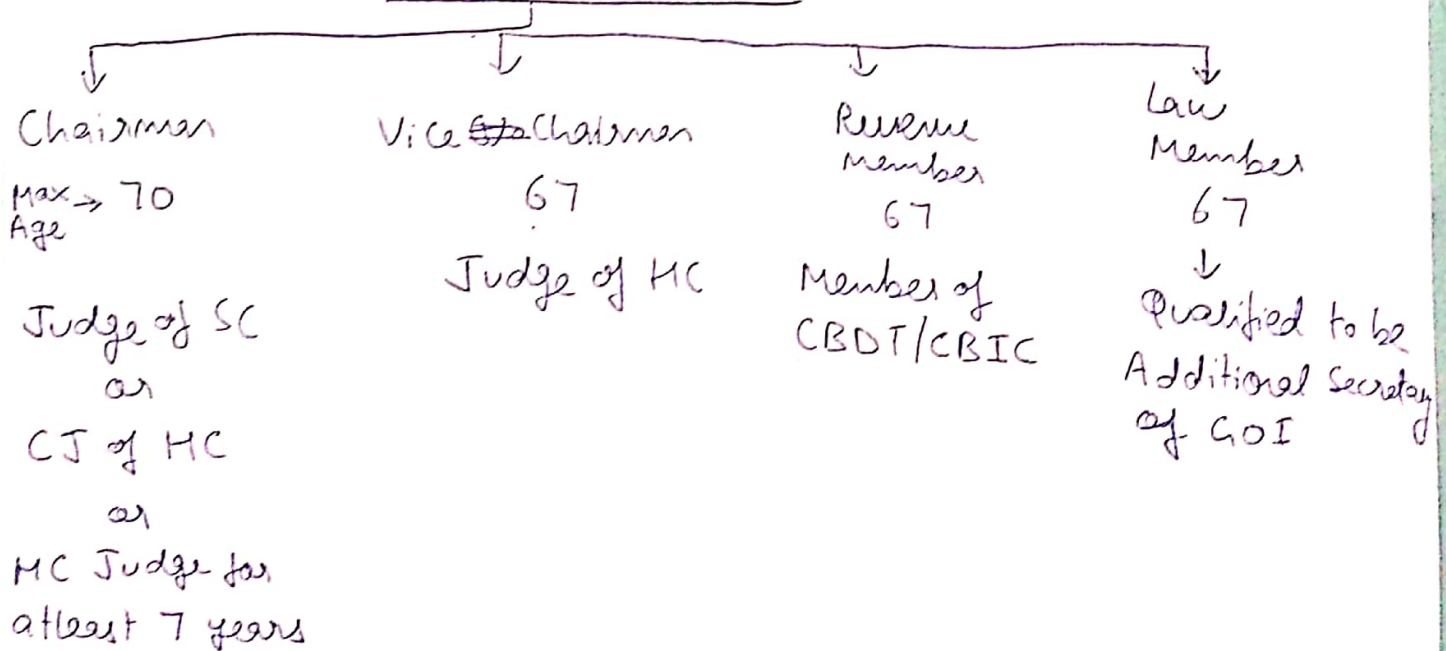
* So, judgement of AR not binding on ITAT, HC, SC

Judgement within 6 months of Application.

Judgement of AR applies only for the applicant & no one else even if doing similar transactions.

Ruling on binding if → law/Facts change
↳ obtained by fraud/misrepresentation
↓
void ab initio

Composition of AAR



Tenure of All Members → 5 years

Location of AAR → Delhi

Composition of AAR → 3 members → Chairman / Vice Chairman
Revenue Member
Law Member

Death of Chairman → senior most vice chairman shall act as chairman

*** Machine Cola Sum in computer

Question raised by Coca Cola was not in the behalf of Machine Cola or for its benefit. Case relates to different matter altogether. Thus machine file application