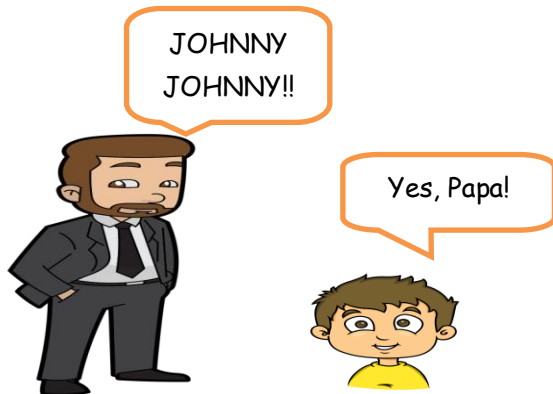
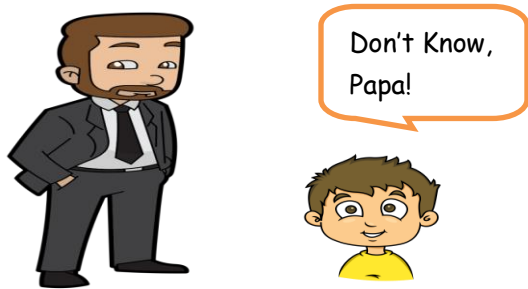


GST and JOHNNY- UPDATE No.27



Different advance rulings pronounced for same issues. Which decision should be followed?



Lets
discuss



A legally constituted body called AAR can give a binding ruling to an applicant who is a registered taxable person or is liable to be registered. The advance ruling given by the Authority can be appealed before an AAAR.

Surprisingly, the Advance Ruling Authorities of various states had not only come up with contradictory rulings on the same subject but also most of the rulings were decided in favour of the revenue only. Further, the applicants rarely got any relief before the Appellate Authority of Advance Ruling as well.

Probably, the constitution of this forum, which consists only of revenue officers and not having an independent judicial member, is one of the biggest reasons for this outcome. Further various AAR in different states provided for conflicting rulings in various cases.

This situation was further worsened by the recent order passed by the Bombay High Court in the case of JSW Energy Limited wherein it has been held that no appeal can be filed against an order of the Appellate Authority of Advance Rulings on "merits" since no appeal has been provided under the GST Act.

In case of IIM, two different judgements for the same Institution and for the same courses was given by AAR Karnataka and AAR West Bengal; imagine the plight of the students and Institution

The issue arises what the other taxpayers should proceed; different rulings on same case is a headache for applicants as well other taxpayers. This confuses them about the provisions to be followed by them to avoid litigations.

Formulation of GSTAT which was put on hold is the only way possible solution for this problem.