



Representation points on GST Registration – Legal – BCAS/IDTC/REP-01/21-22

Sr. No.	Current provision	Issue/ Dispute	Suggested solution/ amendment
1	S. 22 of CGST Act, 2017 –Requirement of obtaining registration in different States.		
	<p>Currently, every supplier whose aggregate turnover in a financial year on PAN India level exceeds Rs. 20 lakhs/ Rs. 40 lakhs is required to obtain registration under GST law in every State from where he is making a supply. Therefore, a person who makes a supply of say, Rs. 100 from a State is also required to obtain GST registration in such State.</p>	<p>Taxpayer’s issue:</p> <p>Due to such a provision, the taxpayer is liable to take registration in multiple states even if he does not have significant business operations in that State. As a result, he has to incur costs like renting a premise, engaging a local manager (as at times for the purpose of registration, the department also demand the details of locally based authorised representative having the address of that State) and a consultant, maintaining books of accounts, etc. which are extremely disproportionate to the size of his business.</p> <p>Department’s concern :</p>	<p>Suggested solution:</p> <p>In cases where the “turnover in a State or Union Territory” does not exceed Rs.20 Lakhs or as the case may be Rs. 40 Lakhs, and if the assessee is already registered in any other State, the assessee may be given an option not to register in that State/UT in which its turnover does not exceed the above limits and the assessee may be allowed to issue a tax invoice from any State in which the assessee holds the registration.</p> <p>Suggested Amendment:</p> <p>Following subsection (1A) may be incorporated below section 22 (1)“(1A) Notwithstanding anything contained in (1), and section 24, a supplier shall have the option to issue Tax</p>



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		<p>The Department's precious and limited resources are burdened with such low tax contributors ultimately resulting in higher tax collection costs.</p>	<p>Invoice and pay tax and other dues from any one or more registrations under the same Income Tax Permanent Account Number in respect of the supply of goods or services or both made from that State or Union Territories in which his "turnover in State" or, as the case may be, "turnover in Union territory" does not exceed the Rupees 20 lakhs or, as the case may be, 10 lakhs and for the purpose of this Act, such supply shall be deemed to have been made from the place from where the Tax Invoice is issued by the supplier. For the removal of doubt, it is clarified that this sub-section shall not apply in the case where the "turnover in State" or "turnover in Union Territory" exceeds rupees 20 lakhs or, as the case may be, 10 lakhs.</p>
2.	S. 22 of CGST Act, 2017 – Clarifying the State "from where" the supply is made and, therefore, obtaining registration		



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<p>Section 22(1) of the CGST Act requires an assessee to obtain registration in the State or Union Territory “from where” the supply is made.</p>	<p>Taxpayer’s issue:</p> <p>The question arises about the State or Union Territory <u>“from where”</u> a supplier has supplied goods or services. This requires determination of the location from where the goods or services are supplied. In the case of ‘goods’, there has been differing interpretation placed by authorities and businesses alike. In many cases, the State “from where” the goods are supplied has been interpreted to be the location of the goods themselves.</p> <p>Section 2(15) of the IGST Act and section 2(71) of the CGST Act define ‘location of supplier of service’. However, there is no definition of ‘location of supplier’ (although this term has been used in the IGST Act) or ‘location of supplier of goods’. Introducing</p>	<p>Suggested solution:</p> <p>Sections 7 and 8 of the IGST Act provide for the determination of the nature of supplies, that is, whether the supplies are inter-State supplies or intra-State supplies. Both these sections provide for classification of the supplies based on the ‘location of the supplier’ and not with reference to the location of the goods themselves. Therefore, it is evident that the location of the supplier will be the State or Union Territory from where the sale is made and where the supplier is required to obtain registration. Provisions of sections 10 and 11 of the IGST Act are also aligned to sections 7 and 8 thereof.</p> <p>Suggested Amendment:</p> <p>The following amendments are suggested to achieve the above objective.</p>
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		<p>these definitions will address the divergent practice followed and bring clarity enabling the tax payers to obtain registration in the appropriate State or Union Territory.</p>	<p>(a) Introduce a new definition of 'location of supplier' and 'location of supplier of goods' as follows.</p> <p>“(xx) 'location of supplier' shall mean the 'location of the supplier of goods' or as the case may be the 'location of the supplier of services' or both.</p> <p>“(xx)'location of the supplier of goods' means,—</p> <p>(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;</p> <p>(b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;</p>
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			<p>(c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and</p> <p>(d) in absence of such places, the location of the usual place of residence of the supplier;</p> <p>Explanation: For the purpose of this clause, 'supply' shall mean the contract or agreement of supply or, as the case may be, the invoice for the said supply."</p> <p>(b) Amend section 22 of the CGST Act as follows:</p>
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			<p>“22. Persons liable for registration.— (1) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both if his aggregate turnover in a financial year exceeds twenty lakh rupees:</p> <p>Explanation: For the purpose of this section and section 23, the supply shall be deemed to have been made from the location of the supplier, the location of the supplier of goods or, as the case may be, the location of the supplier of services as defined in this Act and the Integrated Goods and Services Tax Act.”</p>
3	Proviso to S. 25(2) of CGST Act, 2017 – Registration of Business Verticals and Places of Business		



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	<p>Currently, the facility to obtain separate GST registration for separate business verticals is not available</p>	<p>Taxpayer's issue:</p> <p>A person having multiple business verticals within the same premises is not allowed to take separate GST registration. Due to this, all the transactions, records, and documents of all the business verticals are examined and assessed as a single unit.</p>	<p>Suggested solution:</p> <p>Taxpayers should be permitted to obtain a separate GST registration based on separate business verticals.</p> <p>Suggested Amendment:</p> <p>The proviso to S. 25(2) of CGST Act, 2017, maybe amended as under:</p> <p>Provided that a person having multiple places of business or having multiple business verticals in a place of business within the State or Union Territory may be granted a separate registration for each such place of business or, as the case may be, business verticals, subject to such conditions as may be prescribed.</p>
4	<p>S. 29(2) of CGST Act, 2017 and R. 21 of CGST Rules, 2017 – Cancellation of Registration</p>		
	<p>Even for defaults like non-filing of returns, inability to commence business, or some</p>	<p>Taxpayer's issue:</p>	<p>Suggested solution:</p>



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	<p>violation of the smallest provisions of law, the power of cancellation of registration has been given under this provision to the Superintendent.</p>	<p>In many cases, situations like non-furnishing of returns or non-commencement of business are temporary in nature and not necessarily with an intention to avoid the payment of tax. Cancellation of Registration has far-reaching implications on businesses. Many times registration is canceled even if the taxpayers have filed the return after receipt of notice u/ 29 This is causing unwanted fear in the minds of taxpayers as this provision can be used as a tool of harassment.</p> <p>Department's concern :</p> <p>The provisions relating to cancellation of registration are required in cases involving frauds or to keep in check inactive assessee.</p>	<ol style="list-style-type: none"> 1. The power of cancellation of registration shall be granted only to the officer who is not below the rank of Joint Commissioner. 2. If the cancellation is attributable to reasons like non-furnishing of returns or non-commencement of business then registration may merely be suspended till the time assessee regularises his returns. As soon as the assessee regularises the return or gives a declaration of his intention to commence the business, the same may be restored. <p>Suggested Amendment:</p> <p>Clause (a), (b), (c), and (d) to S. 29(2) of CGST Act, 2017 must be omitted.</p>
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			<p>Cancellation may be kept limited to cases covered in clauses (i) to (iv) and clause (xii) of Section 122 (1) of the CGST Act if the amount of tax involved is more than 50 Lacs and the order passed in this regard has attained finality.</p>
5	Section 29 and R. 21A(2) of CGST Rules, 2017 – Suspension of Registration		
	<p>Currently, no intimation is issued or no opportunity of being heard is allowed before the suspension of GST registration.</p>	<p>Taxpayer's issue: GST registration of a taxpayer should not be suspended without an intimation and granting the opportunity of being heard.</p>	<p>Suggested solution: Intimation and Opportunities of being heard should be provided before suspending the GST registration.</p> <p>Suggested Amendment: R. 21A(2) of CGST Rules, 2017 must be amended to provide for the issue of intimation and affording an opportunity of being heard before the suspension of GST registration.</p>



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6	Section 30 and R. 23 of CGST Rules, 2017 – Revocation of Cancellation of Registration		
	<p>Revocation of Registration – (Rationalisation of provisions)</p> <p>First Proviso to Rule 23 provides that no application for revocation shall be filed, if the registration has been canceled for the failure of the registered person to furnish returns, unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns</p>	<p>The department requires the assessee to provide various details like reconciliation of ITC as per GSTR-2A and GSTR-3B, Reconciliation between GSTR-1 and GSTR-3B, Payment of interest on cash component, etc., and till the time assessee makes the payment, the order or revocation of cancellation is not passed.</p>	<p>The law at present requires the assessee to file the returns on a self-assessment basis. Hence, so long as the assessee pays the tax amount mentioned in the returns (GSTR-3B) and files the pending returns, his application for revocation may be accepted.</p> <p>Any verification of the details and recovery of tax, interest, the penalty for other reasons may be carried out as separate proceedings and the same may not be linked to the revocation proceedings.</p> <p>Further, the assessee should first be permitted to file the revocation application before filing the returns and make payment of tax, although the application may be processed only after the filing of the returns. The time limit of 30 days</p>



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			<p>should be permitted to file the return and make the payment of tax after the filing of the application for revocation</p> <p>Accordingly, it is suggested that First Proviso to Rule 23 be substituted with the following:</p> <p>“Provided that no revocation shall be made if the registration has been canceled for the failure of the registered person to furnish returns unless such returns are furnished, and any amount of tax declared in terms of the said returns (GSTR-3B) are paid not later than 30 days from the date of filing of the application for revocation or the date of order passed in terms of Rule 23(2) (b) whichever is later.”</p>
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