

Treading the GST Path – X
Registration – Some practical issues
(G. Natarajan, Advocate, Swamy Associates)

1.0 As per section 19 of the model GST Act, every person who is liable to be registered under Schedule III of the Act shall obtain registration in every state in which he is liable to be registered. As per S.No. 1 of Schedule III, every supplier shall be registered in the State from where he makes a taxable supply of goods or services, beyond the prescribed threshold limit.

2.0 Let us assume that a factory in Chennai is having its depot in Bangalore, from where the goods are sold. It may be noted that the goods would first be supplied from the factory at Chennai to the depot at Bangalore. Hence, the person requires a registration in Tamil Nadu. Further, as the goods would be further supplied from the Bangalore depot, the person would require a registration in Bangalore (Karnataka) also.

3.0 A Chartered Accountant based at Mumbai and already registered at Mumbai, is auditing the records of company in its registered office at Bangalore. In this case it has to be seen from where he provides the service. Though he may be visiting Bangalore for the purpose of carrying out the audit, since the location of the service provider is at Mumbai it has to be considered that he is supplying his services from Mumbai only and hence there is no need for the Chartered Accountant to obtain any registration in Bangalore.

4.0 A transport firm based at Delhi and registered at Delhi, is engaged by a customer in Mumbai, for transporting goods from Bangalore to Kolkatta. Let us assume that the transporter is not having any branch office in Bangalore but arranges the transportation from Bangalore to Kolkatta and raises his invoice also from Delhi. Accordingly, it has to be considered that the transport firm is supplying its service only from Delhi and hence they do not require any registration for any other place in the given example. But, if they have a branch office at Bangalore, which arranges for the transportation from Bangalore to Kolkatta the services are supplied from the Bangalore branch office the said Bangalore branch would require a registration at Bangalore (Karnataka). (The applicability of reverse charge for transportation services is not considered).

5.0 If a person is supplying goods or services from multiple locations in the same State, through various branches, does he require separate registration for all such branches within the State or a single Registration in the State would suffice?

5.1 In this connection, it may be observed that Section 19 (2) provides for separate registration for different business verticals in a State. The term "business vertical" has been defined in Section 2 (18) of the Act as "business vertical shall have the meaning assigned to a "business segment" in Accounting

Standard 17 issued by the Institute of Chartered Accountant of India. The said definition reads as under.

A business segment is a distinguishable component of an enterprise that is engaged in providing an individual product or service or a group of related products or services and that is subject to risks and returns that are different from those of other business segments.

Factors that should be considered in determining whether products or services are related include:

(a) the nature of the products or services;

(b) the nature of the production processes;

(c) the type or class of customers for the products or services;

(d) the methods used to distribute the products or provide the services; and

(e) if applicable, the nature of the regulatory environment, for example, banking, insurance, or public utilities.

5.2 It may be observed from the above different factories / depots located in different places of the same State and involved in the manufacture / sale of the same commodity would not be considered as a "business vertical". Hence it appears that even though an entity is having different manufacturing factories / depots in a single State, they can have only a single registration in the State. They cannot opt to have separate registration for such factories / depots within the same State, unless they qualify as "business vertical".

5.3 It should now be seen whether supply of goods or services from one such factory / depot to another factory / depot within the same State, would also be a supply, attracting GST. It may be noted that as per Section 3 of the model GST Act, in order to constitute supply, it should be for a "consideration". The inter depot / branch supplies would normally be without any consideration and hence the same would not qualify as supply. If such inter depot / branch supplies are in the course of inter state transactions, it would be between two taxable persons (as separate registration is required in each State) and even though such supplies are made without consideration, the same shall constitute "supply" as per Schedule I of the Act. In other words, for any supplies between the same entity, between its location within the same State would not attract any GST whereas such supplies between its locations situated in different States would attract GST. This view is also confirmed in the recently published FAQ on GST by CBEC – Q.7 / Chapter 4.

5.4 In order to clearly bring out the above intention, the Title of Schedule I of the CGST Act may be amended. The present title reads as "Matters to be treated as supply without consideration". It gives an impression that the cases mentioned thereunder would be considered as made without consideration, though they are made for consideration. The purpose of Schedule I is very clear from Section 3 (1) (c) of the Act, which is to tax such supplies,

even if they are made without consideration. Appropriate heading would be "Matters to be treated as supply, even if made or agreed to be made without a consideration" or "Deemed Supplies even if made or agreed to be made without a consideration".

5.5 A person making taxable supplies from more than one State shall obtain separate registration in all such States. For example, a consultant having his head office in Delhi and branches at Bhopal, Jaipur and Kolkatta shall obtain Registration in Delhi, Madhya Pradesh, Rajasthan and West Bengal.

5.6 A manufacturing unit having its factories in 4 states and depots in 5 states and head office in another state would require registration in all the States where they have factory / depot. In the state where they have their registered office, they would also require a registration as Input Service Distributor to distribute the input tax credit on input services received, under section 17 of the Act.

5.7 If goods are supplied from the factory at Maharashtra to the depot at Bhopal, at Maharashtra, IGST would be paid on such supply, which would be availed as input tax credit by the Bhopal depot. Separate registrations would be required in Maharashtra and Madhya Pradesh and separate returns would also be filed by these two registrants.

5.8 A unit is supplying goods and / or services from 10 States, out of which in 2 States, their value of supply is below the threshold limit. The threshold limit for registration should be determined for the entity as a whole and in this case, registration would be required in all 10 States.

6.0 S.No. 5 of Schedule III also provides that the following persons would also require registration.

(i) persons making any inter-State taxable supply, irrespective of the threshold limit.

ii) casual taxable persons, irrespective of the threshold.

(iii) persons who are required to pay tax under reverse charge, irrespective of the threshold.

(iv) non-resident taxable persons, irrespective of the threshold.

(v) persons who are required to deduct tax under section 37.

(vi) persons who supply goods and/or services on behalf of other registered taxable persons whether as an agent or otherwise, irrespective of the threshold specified.

(vii) input service distributor.

(viii) persons who supply goods and/or services, other than branded services, through electronic commerce operator, irrespective of the threshold.

(ix) every electronic commerce operator, irrespective of the threshold.

(x) an aggregator who supplies services under his brand name or his trade name, irrespective of the threshold.

(xi) such other person or class of persons as may be notified by the Central Government or a State Government on the recommendations of the Council.