

Tax alert: Registration mandatory for manufacturer of exempt supplies if liable to pay under reverse charge mechanism - Maharashtra AAR

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Summary

The Maharashtra Authority for Advance Ruling (AAR) has recently held in a case that a supplier exclusively engaged in exempt goods shall be required to obtain registration under the GST laws if he/she is liable to pay GST under the reverse charge mechanism.

Facts of the case

- The Applicant¹ is exclusively engaged in the manufacture of animal compound feed, which is exempt under GST.
- The Applicant procures services of Goods Transport Agency (GTA) on which it is liable to pay GST under the reverse charge mechanism (RCM).
- The Applicant approached the Maharashtra AAR to obtain a ruling on whether it is liable to obtain registration² under the GST law or whether it is exempted³ from obtaining registration.
- Before the AAR, the Applicant contended that provisions related to 'compulsory registration'⁴ do not override provisions⁵ providing an exemption from registration. Thus, it was argued that the taxpayer being a supplier of exempted supplies is not required to get itself registered.

Department's contentions

- The Tax Department argued that the provisions of compulsory registration and exemption from registration are independent sections. Thus, it was contended that the Applicant has to register himself under the Act to pay his tax liability under RCM although his taxable supply is below the specified threshold limit, which is zero in the present case.
- The Tax Department also clarified that taking registration would not mean that the taxpayer will have to pay taxes on his exempted supplies. Accordingly, exempted supplies would continue to remain exempted.
- If the contention of the Applicant is accepted, then neither the supplier of GTA service nor the recipient would pay GST and government would not lose revenue. This will defeat the basic purpose of RCM.
- Thus, the Applicant shall be required to be registered.

¹ M/s Jalaram Feeds

² U/s 24 of the Central Goods and Services Tax Act, 2017 (CGST Act)

³ U/s 23 of the CGST Act

⁴ Sec 24 of the CGST Act

⁵ Sec 23 of the CGST Act

Maharashtra AAR's observations and ruling

- The AAR observed that GTA services are covered under the RCM and the Applicant being a recipient of supply is liable to pay tax on a reverse charge⁶ basis.
- The AAR, rejecting the Applicant's argument, stated that a law should not be interpreted in such a way to make any part of the statute redundant.
- Thus, the AAR held that the Applicant would be required to obtain registration in order to discharge his duty liability under RCM, notwithstanding the turnover limits specified under the GST law.

Our comments

This ruling provides the required clarity in respect of registration dilemma faced by the taxpayers who are exclusively engaged in exempt supplies or have turnover below the threshold limit. A taxpayer will be liable to obtain registration if he/she is liable to discharge GST liability under RCM irrespective of the nature or volume of output. However, this may increase the compliance burden for the small businesses or suppliers exclusively involved in exempt goods or services.

Though the AAR's decision is applicable only to the applicant, it may be used as a yardstick for other taxpayers engaged in similar business models.

⁶Section 9(4) of the CGST Act

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