

Here, we like highlight the ambiguity between the provisions of the statute and intention of the legislature relating to Registration under the GST regime.

As we know unlike the Service Tax or Central Excise regime, in the GST regime, a person once registered, will be liable to discharge GST liability irrespective of the turnover.

Therefore, the question arises, when the turnover of a person was much below Rs. 20 lakhs (or ₹ 10 lakhs as the case may be), but since he was registered under the existing law (i.e excise, service tax or vat etc.), whether he would be eligible to avail the benefit of exemption from the GST on the basis of turnover?

As per the provisions of the Sub-Section (2) of the [Section 22 - Persons liable for registration](#) of the [THE CENTRAL GOODS AND SERVICES TAX ACT, 2017](#), for the existing registered assessee, it is mandatory to seek GST registration, as reproduced hereinafter:

(2) Every person who, on the day immediately preceding the appointed day, is registered or holds a licence under an existing law, shall be liable to be registered under this Act with effect from the appointed day.

Therefore, it appears it is mandatory for such persons to have GST registration without any exclusion or exception.

Further [Q. 33](#) (registration) of the FAQs, it is stated that all the existing registration shall be migrated to GSTN automatically and provisional registration no. shall be allotted. If an assessee fails to submit the documents and information as sought by the GSTN, provisional registration so allotted will be cancelled.

As per [section 29](#) of the GST, a person can apply for cancellation of GST registration only in the following circumstances:

- (a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or
- (b) there is any change in the constitution of the business; or
- (c) the taxable person, other than the person registered [under sub-section \(3\) of section 25](#), is no longer liable to be registered under section 22 or section 24.

As per the provisions of [Section 25\(3\)](#), a person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily.

Therefore, a person who is registered under the existing laws (i.e. central excise, service tax, VAT etc.) is required to obtain without any option since it is not voluntary by virtue of section 22(2) as above.

However, as per the all the information and statements from the Central Government, the persons who has turnover upto 20 lakhs will be out of GST.

Therefore, it is absolute necessary that Central Government must issue suitable clarification in time to avoid unwarranted litigation that may arise since this issue is going to effect lakhs of existing registered persons who otherwise would not be falling within the GST framework.

References

[Section - 22 - Persons liable for registration](#) of the [THE CENTRAL GOODS AND SERVICES TAX ACT, 2017](#)

[Section - 025 - Procedure for registration](#) of the [THE CENTRAL GOODS AND SERVICES TAX ACT, 2017](#)

[Section - 29 - Cancellation of registration](#) of the [THE CENTRAL GOODS AND SERVICES TAX ACT, 2017](#)

[Draft Rule 12 - Application for cancellation of registration](#) of the [GST - REGISTRATION - Draft Rules 31-3-2017](#)

[Q. 23 - Whether Cancellation of Registration Certificate is permissible?](#) of the [FAQ on GST \(2nd Edition\) dated 31.3.2017](#)

[Q. 33 - Whether all assesses / dealers who are already registered under existing central excise/service tax/ vat laws will have to obtain fresh registration?](#)