

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX

14 Beliaghata Road, Kolkata – 700015

(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

Members present:

Sarthak Saxena, Joint Commissioner, CGST & CX Joyjit Banik, Senior Joint Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed thereunder, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	AESTHETIK ENGINEERS PRIVATE LIMITED
Address	Room No.503-505, 5th Floor, Acropolis Mall, 1858/1 Rajdanga Main Road, Kolkata 700107
GSTIN	19AAHCA0167A1Z4
Case Number	WBAAR 03 of 2023
ARN	AD190123001079H
Date of application	January 10, 2023
Jurisdictional Authority (State)	SALKIA Charge
Jurisdictional Authority (Central)	BALLY I Division, HOWRAH Commissionerate
Order number and date	10/WBAAR/2023-24 dated 26.06.2023
Applicant's representative heard	Mr. Anil Dugar , Authorized Advocate

1.1 At the outset, we would like to make it clear that the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for certain

provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression 'GST Act' would mean the CGST Act and the WBGST Act both.

1.2 The applicant is a registered person under the GST Act and is engaged in the business of manufacturing and reselling of goods and also in providing of services. The applicant intends to carry on business activities from other states too.

1.3 The applicant has made this application under sub section (1) of section 97 of the GST Act and the rules made there under raising following questions vide serial number 14 of the application in FORM GST ARA-01:

- (i) Whether the applicant is required to take separate registration for each type of business i.e. manufacturing/reselling/providing services carried on from same place of business?
- (ii) Whether the applicant is entitled to get separate registration for each type of business i.e. manufacturing/reselling/providing services carried on from same place of business?
- (iii) Whether the applicant is required to take separate registration for each state for carrying on said business in such state?
- (iv) Whether the applicant is compulsorily required to take separate registration for the each state, where execution of contract /job would required to be carried, in case applicant being registered under the WBGST Act, 2017 receives the work/job order from contractees situated within / outside West Bengal and inputs (both goods and services) are procured within West Bengal or state where contract would be executed?

1.4 The aforesaid question on which the advance ruling is sought for is found to be covered under clause (f) of sub-section (2) of section 97 of the GST Act.

1.5 The applicant states that the question raised in the application has neither been decided by nor is pending before any authority under any provision of the GST Act.

1.6 The officer concerned from the revenue has raised no objection to the admission of the application.

1.7 The application is, therefore, admitted.

2. Submission of the Applicant

2.1 The applicant submits that sub-section (2) of section 25 of the CGST Act provides for a single registration in a State or Union territory. However, as per proviso to the said sub-section, a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.

2.2 The applicant refers rule 11 of the CGST / WBGST Rules, 2017 in this regard which reads as follows:

“(1) Any person having multiple places of business within a State or a Union territory, requiring a separate registration for any such place of business under sub-section (2) of section 25 shall be granted separate registration in respect of each such place of business subject to the following conditions, namely:—

(a) such person has more than one place of business as defined in clause (85) of section 2;

(b) such person shall not pay tax under section 10 for any of his places of business if he is paying tax under section 9 for any other place of business;

(c) all separately registered places of business of such person shall pay tax under the Act on supply of goods or services or both made to another registered place of business of such person and issue a tax invoice or a bill of supply, as the case may be, for such supply.

Explanation.—For the purposes of clause (b), it is hereby clarified that where any place of business of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 10, all other registered places of business of the said person shall become ineligible to pay tax under the said section.

(2) A registered person opting to obtain separate registration for a place of business shall submit a separate application in FORM GST REG-01 in respect of such place of business.

(3) The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, mutatis mutandis, apply to an application submitted under this rule.’

2.3 The applicant has also drawn attention to the definition of ‘place of business’ under clause (85) of section 2 of the GST Act which is reproduced herein under:

"place of business" includes—

(a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or

(b) a place where a taxable person maintains his books of account; or

(c) a place where a taxable person is engaged in business through an agent, by whatever name called;

2.4 The applicant submits that a conjoint reading of the aforesaid provisions of the GST Act and the rules refers that if a taxable person has been carrying on business of manufacturing/reselling/providing services from same place of business i.e. same address, such taxable person is not required to take separate registration for each type of business i.e. manufacturing/reselling/providing services but there is no bar under the Act to get separate registration for each type of business from same place of business.

2.5 The applicant further submits that being registered under the WBGST Act, 2017, he is not required to take registration in each State in cases where the work / job is executed in such State other than the State of registration because the applicant is entitled to procure the goods/services from (a) the states other than the State of registration upon payment of IGST and can raise invoice by charging IGST in respect of supply of services (works contract) in terms of section 12 of the IGST Act, 2017, and (b) State of registration upon payment of CGST and SGST and transfer it to the State of execution and can raise invoice by charging IGST in respect of supply of services (works contract) in terms of section 12 of the IGST Act, 2017.

3. Submission of the Revenue

3.1 The concerned officer from the revenue has not expressed any view on the issue raised by the applicant.

4. Observations & Findings of the Authority

4.1 We have gone through the records of the issue as well as submissions made by the authorised advocate of the applicant during the course of personal hearing.

4.2 We find that all the questions raised by the applicant are in respect of requirement of registration. However, while the first two questions are related to registration in the State of West Bengal, rest of the questions are in relation to requirement of registration in other States. We first proceed to deal with the issue whether this authority can decide requirement of registration of the applicant in a State other than the State of West Bengal. In this context,

we like to refer sub-section (2) of section 1 of the West Bengal Goods and Services Tax Act, 2017 which speaks that the Act extends to the whole of the State of West Bengal. We thus find that though clause (f) of sub-section (2) of section 97 enables the applicant to make the instant application seeking an advance ruling whether the applicant is required to be registered, this authority is not empowered to pronounce any ruling in cases where the question is found to be in respect of registration required to be obtained in a State other than the State of West Bengal. As a result, we refrain to pronounce any ruling in respect of questions raised by the applicant vide questions number (iii) and (iv) under serial number 14 of the instant application.

4.3 Now we take the issue related to requirement of registration in the State of West Bengal. To be specific, the questions are in respect of requirement for separate registration in West Bengal as the applicant is already registered under the GST Act. The applicant has referred inter alia proviso to sub-section (2) of section 25 of the GST Act which deals with the provision for separate registration. We find that prior to the amendment made in the Central Goods and Services Tax (Amendment) Act, 2018 and brought into force with effect from 01.02.2019, the aforesaid proviso was as under:

“Provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed”

4.4 It thus appears that a person having separate business verticals had the option to obtain separate registration for each such vertical in a State or Union territory till 31.01.2019. The expression ‘business vertical’ was also defined in clause (18) of section 2 of the GST Act as under:

" business vertical " means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.

Explanation.- For the purposes of this clause, factors that should be considered in determining whether goods or services are related include-

(a) the nature of the goods or services;

(b) the nature of the production processes;

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

(d) the methods used to distribute the goods or supply of services; and (e) the nature of regulatory environment (wherever applicable), including banking, insurance, or public utilities;"

4.5 We find that rule 11 of the CGST / WBGST Rules, 2017 has also undergone an amendment with effect from 01.02.2019 wherein the manner for 'Separate registration for multiple business verticals within a State or a Union territory' has been substituted by 'Separate registration for multiple places of business within a State or a Union territory'. Further, a new rule 41A has also been inserted w.e.f. 01.02.2019 prescribing the manner for transfer of credit on obtaining separate registration for multiple places of business within a State or Union territory.

4.6 It therefore appears that the GST Act and rules made there under provided an option for separate registration within a State for multiple business verticals till 31.01.2019 and thereafter option for separate registration as well as transfer of unutilized input tax credit has been provided to a person having multiple places of business within the State. What we find that with effect from 01.02.2019, the law has made provision for a registered person, who has obtained separate registration for multiple places of business, to transfer his unutilised input tax credit lying in his electronic credit ledger, either wholly or partly, to any or all of the newly registered place of business. In other words, option for separate registration may be availed by a registered person provided such registered person has multiple places of business. Therefore, in cases where a registered person carries on separate type of businesses from same place of business within a State, he cannot opt to obtain separate registration within the said State as per proviso to sub-section (2) of section 25 of the GST Act read with rules made there under.

In view of the above discussions, we rule as under:

RULING

Question: Whether the applicant is required to take separate registration for each type of business i.e. manufacturing/reselling/providing services carried on from same place of business?

Answer: The answer is in negative.

Question: Whether the applicant is entitled to get separate registration for each type of business i.e. manufacturing/reselling/providing services carried on from same place of business?

Answer: As per proviso to sub-section (2) of section 25 of the GST Act, separate registration in a State may be granted to a person who has multiple places of business in that State.

(SARTHAK SAXENA)
Member
West Bengal Authority for Advance Ruling

(JOYJIT BANIK)
Member
West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 26th June, 2023

To,

AESTHETIK ENGINEERS PRIVATE LIMITED

Room No.503-505, 5th Floor, Acropolis Mall,
1858/1 Rajdanga Main Road, Kolkata 700107

Copy to:

- (1) The Principal Chief Commissioner, CGST & CX, 180, Shantipally, R.B.Connector, Kolkata-7000107
- (2) The Commissioner of State Tax, West Bengal, 14, Beliaghata Road, Kolkata-700015
- (3) The Joint Commissioner, Salkia Charge, 7/1, Mackenzie Lane, Howrah-711101
- (4) The Commissioner, Howrah Commissionerate, 2nd floor, 15/1, Strand Road, Custome House, M.S. Building, Kolkata-700001
- (5) Office Folder