

MAHARASHTRA AUTHORITY FOR ADVANCE RULING
GST Bhavan, 8th floor, H-Wing, Mazgaon, Mumbai - 400010.
 (Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)

(2) Shri B. V. Borhade, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id	27AAACG3996J1Z6
Legal Name of Applicant	GANDHAR OIL REFINERY (INDIA) LIMITED
Registered Address/Address provided while obtaining user id	18TH FLOOR, DLH PARK, S V ROAD, GOREGAON WEST Maharashtra MUMBAI CITY 400062
Details of application	GST-ARA, Application No. 112 Dated 25.01.2019
Concerned officer	Dy. Commr. of S.T.(E-604) LTU-1, MUMBAI
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Factory/Manufacturing, Wholesale Business
B Description (in brief)	The company is engaged in trading activity of Non coking Coal and Manufacturing activity of Petroleum Products and carrying on business from various states.
Issue/s on which advance ruling required	(vi) Whether applicant is required to be registered
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

PROCEEDINGS

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by GANDHAR OIL REFINERY (INDIA) LIMITED, the applicant, seeking an advance ruling in respect of the following questions.

1. WHETHER APPLICANT REQUIRES REGISTRATION IN EACH STATE SEPERATELY?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / MGST Act would be mentioned as being under the "GST Act".

02 FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-
 The Gandhar Oil Refinery (India) Limited is registered under companies Act, 1956 having registered office at 18th floor DLH Park, S V Road, Goregaon West, Mumbai -400062. The company is engaged in trading activity of Non coking Coal and Manufacturing activity of Petroleum Products.

The manufacturing activity is carried out from plant located at Silvassa (D &H) and Taloja (Maharashtra) State. The company is engaged in trading activity of Non coking Coal and carrying on business from various states. The company is importing said coal at various ports and also purchasing from dealers within India from various states. The said coal is imported at various ports situated in various states registered with GST department. The detail of port, states and GST numbers are given below:

		Port	State	GST Number	Status of the office
A	1	Dharamtar Port	Maharashtra	27AAACG3996J1Z6	Head Office and Registered Office
	2	Jaigard Port	"		(covered under GST No.of Maharashtra)
B	3	Hazira/Magdalla	Gujarat	24AAACG3996J1ZC	Branch
	4	Porbundar	"		Branch
	5	Bhavnagar	"		Branch
	6	Navlakhi	"		Branch
	7	Kandla	"		Branch
C	8	Vishakhapatnam	Andhrapradesh	37AAACG3996J2Z4	Branch
	9	Gangavaram	"		Branch
	10	Kakinada	"		Branch
	11	Krishnapatnam	"		Branch
D	12	Paradip	Orissa	21AAACG3996J1ZI	Branch
E	13	Haldia	West Bengal	19AAACG3996J1Z3	Branch
F	14	Tuticorin	Tamilnadu	33AAACG3996J1ZD	Branch

The company is concerned herewith for coal business. The said coal business to be carried out under the GST no. 27AAACG3996J1Z6 of Maharashtra. i.e. we shall import coal and store the material at various states under Maharashtra GST Number and sell it under the Maharashtra GST Number.

We will cancel the GST number of different states, if Law permit us to do business from our Head Office under the GST number of Maharashtra

The Present application has been filed under section 97 of the Central Goods and Service tax Act, 2017 and The Maharashtra Goods and Service Act, 2017.

The applicant is seeking an advance ruling in respect of the following issue.

- (1) Whether the applicant can adopt the procedure to raise the invoice from Mumbai Head Office for imports received at various ports, located in various states in India and charge IGST from Mumbai to our customers in various state is proper or not.
- (2) If we cancel separate registration in various state can we do the transaction on Mumbai head office GSTN, then in case of issuance of E way bill is it correct to mention the GSTN of Mumbai and mention Dispatch place of port of respective state/port

Now we are giving hereunder the facts of the Case and our contention thereon

STATEMENT OF FACTS

Gandhar oil refinery (India) limited is a company having registered under Companies Act 1956 having Registered office at 18th floor DLH park SV Road Goregaon West Mumbai 400062 having GSTN: 27AAACG3996126. The company is engaged in Trading activity of Non cooking Coal and manufacturing activity of petroleum products. The manufacturing activity is carried out only from plant located at Silvassa (D& H) and Taloja (Maharashtra) State. All the major decisions are taken in the state of Maharashtra. Also all the directors perform their work mainly from registered office in Maharashtra. The Company is also an importer of Non coking Coal. This AAR is for Import of coal at various ports of

India and supply there. The Company has GSTN at various locations and Import coal under following Ports

Sr.no	Port	State	GSTN	Status
1	Dharamtar Port	Maharashtra	27AAACG3996J1Z6	HEAD OFFICE
2	Jaigard Port	Maharashtra	27AAACG3996J1Z6	HEAD OFFICE
3	PNP PORT	Maharashtra	27AAACG3996J1Z6	HEAD OFFICE
4	Vishakhapatnam	Andhra Pradesh	37AAACG3996J2Z4	BRANCH
5	Gangavaram	Andhra Pradesh	37AAACG3996J2Z4	BRANCH
6	Kakinada	Andhra Pradesh	37AAACG3996J2Z4	BRANCH
7	Krishnapatnam	Andhra Pradesh	37AAACG3996J2Z4	BRANCH
8	Paradip	Orissa	21AAACG3996J1Z1	BRANCH
9	Haldia	West Bengal	19AAACG3996J1Z3	BRANCH
10	Tuticorin	Tamil Nadu	33AAACG3996J1ZD	BRANCH

In the VAT regime it was mandatory to take registration where the goods were imported and sales made from there on the basis on Movement of goods. We had received Provisional GST ID as we had VAT and Excise registration in these states and therefore we applied for GSTN for the same.

In States of Andhra Pradesh, Orissa, West Bengal, and Tamil Nadu the company only have a liaison office for ease of doing transaction. There are two types of Purchases mainly Imports and sometimes Local purchases. As stated above all Directors and Executives are situated and reside in State of Maharashtra. All the decision making and documentation are made at H.O in Mumbai.

We are giving hereunder stepwise transaction details;

STEP 1

First we make an agreement with foreign supplier for import. The agreement terms and conditions are decided from registered office in Maharashtra. The agreement is entered with registered office in Maharashtra

{Copy attached (a)}

STEP 2

Letter of credit and other facilities are opened in Bank which is located in Maharashtra. All the facilities are in name of registered office located in Maharashtra

{Copy attached (b)}

STEP 3

Commercial Import Invoice is made by the seller which is also in the name of Registered Office located in Maharashtra

{Copy attached (c)}

STEP 4

Bill of lading also mentions the name and address of Registered Office located in Maharashtra

{Copy attached (d)}

STEP 5

Certificate of origin is also in name of registered office located in Maharashtra

{Copy attached (e)}



STEP 6

There is an agreement with the vessel owner for transportation of goods which is also in name of Registered Office located in Maharashtra

{Copy attached (f)}

Step 7

When the goods reach the port we unload the same at Port warehouse and remove the goods from the port warehouse to customer. We do not have any godown or storage facility in the state

CONTENTION

- (1) We propose to cancel GST number in the state Andhra Pradesh, Orissa, West Bengal, and Tamil Nadu and to carry out the transactions from Head Office in Mumbai, Maharashtra. There may be other state ports where we are likely to Import the Coal. The earlier laws made it mandatory to have the number because of situs of sale and movement of Goods and hence we had no option but to take number in those states. We received provisional ID from the GST and hence we applied for the same. Now the GST laws are getting more and more clear therefore we propose to cancel the other states GST number and carry out business from Maharashtra
- (2) The relevant section is section 11 which states that the place of supply of goods-(a) Imported into India shall be the location of the Importer. (b) Exported from India shall be the location outside India. Hence in case of Import of Goods the place of supply of Goods is location of the Importer which in our opinion is the Head Office because Agreement, Commercial Invoice, Bill of Lading is with Head Office Registered in State of Maharashtra and is most directly related.
- (3) As we are making supplies from our registered office in Maharashtra we propose that this transaction be treated as interstate supply of goods as defined in Section 7(3) of the IGST Act 2017 and therefore the transaction shall attract IGST

- (4) As per Section 22 of the CGST Act states, Every Supplier is liable to be registered under this Act in the State 'from' where he makes a taxable supply of goods or services or both. Thus as per our understanding registration is required 'in' the state 'from which' Taxable supplies are made. Registration is not required 'in' the State 'to which' taxable supplies are made. It is important to identify the 'origin' of supply even though GST is a 'destination' based tax. So the Location of Supplier is relevant for registration. Hence, location of supplier (Importer) of goods is where business is ordinarily carried on, it is the place where the supplier holds control over the goods ready to deliver. The word 'location' in this phrase refers to the site or premises (geographical point) where the supplier is situated, with the goods in his control, ready to be supplied. So if we see in our case taxable supply is made from the state of Maharashtra (Head Office)

For Local Purchases through the Head Office the company can do normal Bill to Ship to Transaction as per Section 10(b) of the IGST Act 2017

The Honourable Advance Ruling Authority in case of M/s Sonkamal Enterprises pvt ltd ARA application no 48 dated 30.03.2018 has also hold the similar view (copy attached)

Hence it is our humble submission that the company should allowed to cancel the GSTN of above states and be allowed to carry on the business from Maharashtra GST Number



03. CONTENTION – AS PER THE CONCERNED OFFICER

The submission, as reproduced verbatim, could be seen thus-

Company's Questions :

Whether the GST of different state other than Maharashtra can be cancelled as per Law.

As per section 22(1) & (2) of MGST Act , 2017 which read as under :

22. (1) Every supplier making a taxable supply of goods or services or both in the State shall be liable to be registered under this Act if his aggregate turnover in a financial year exceeds twenty lakh rupees : Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.

(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. As regards to state of Maharashtra, dealer's aggregate turnover of taxable supply of goods or services or both exceeds the prescribed limit. Further the dealer was already registered in Maharashtra under MVAT Act, 2002. So dealer shall continue the GSTIN for Maharashtra State. Dealer has not given any details regarding taxable supply of goods or services or both in other state mentioned in above chart. Generally in trade the importers imports goods at particular port to facilitate the delivery of goods to customers in the state or nearby state where port is located. Dealer has not given any details regarding taxable supply of goods or services or both in other state mentioned in above chart. If the turnover of taxable supply of goods or service or both in the state exceeds the prescribed limit in that case this office is of the opinion that the dealer should continue with the GSTIN in respective state. Further as a Jurisdictional officer of this case, this office cannot comment regarding the registration status in other state.

04. HEARING

The Preliminary hearing in the matter was held on 26.02.2019, Sh. T. M. Parikh, C.A. appeared and requested for admission of application as per contentions made in their application. He was asked to deposit short fee paid and to submit letter of authority. The date of filing of an application starts from removal of defects. Jurisdictional Officer Sh. Sanjay R. Choudhar, Dy. Commr. of S.T.(E-604) Large Tax Unit-1, Mumbai appeared and made written submissions.

The application was admitted and called for final hearing on 10.04.2019. Sh. T.M. Parikh, C.A., appeared made oral and written submissions. Jurisdictional Officer Sh. Sanjay R. Choudhary, Dy. Commr. of S.T.(E-604) Large Tax Unit-1, Mumbai appeared and argued the case.

05. OBSERVATIONS

We have gone through the facts of the case, documents on record and submissions made by both, the applicant as well as the department.

The applicant is an importer of non-coking coal and a manufacturer of petroleum products with Head Office/Registered Office at Mumbai. The applicant is engaged in trading activity of Non-coking Coal in various states and importing the said coal at various ports in India and also purchasing from dealers within India from various states. The said coal is imported at various ports situated in various

states and they are registered with GST department in all such places. They have submitted that coal shall be imported by them and stored in the various states under Maharashtra GST Number and that they shall also sell the same under the Maharashtra GST Number. They want to cancel the GST number of different states and do business from their Head Office/Registered Office at Mumbai under the GSTIN of Maharashtra. They have submitted that they obtained provisional GSTIN in the various states only because they were registered in those states under the earlier VAT regime as required under the VAT Laws. They have submitted that their entire transactions are done from Maharashtra; agreement for purchase and sale of coal is entered with Head Office/Registered Office at Mumbai in Maharashtra; letter of credit and other facilities are opened in Bank which is located in Maharashtra; commercial import invoice made by the seller is also in the name of Registered Office located in Maharashtra; Bill of lading also mentions the name and address of Registered Office located in Maharashtra, etc.

They have submitted that they will be importing the said goods at various Indian ports but with Mumbai Head Office/Registered Office at Mumbai GSTIN and after importing the goods the same will be stored at godowns in various states and they want to clear the goods from the warehouses/godowns in the name of their Mumbai Head Office/Registered Office at Mumbai. The Tax Invoice will be raised From Mumbai Registered Office with Mumbai GSTIN levying IGST.

Hence the following question has been raised by the applicant in this application:-

WHETHER APPLICANT REQUIRES REGISTRATION IN EACH STATE SEPERATELY?

In this connection they have also raised following two issues as under:-

Whether the applicant can adopt the procedure to raise the Invoice from Mumbai Head office for imports received at various ports, located in various states in India and charge IGST from Mumbai to our customers in various state is proper or not.

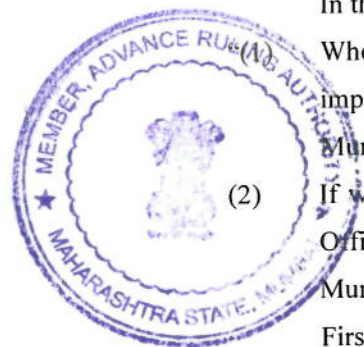
If we cancel separate registration in various state can we do the transaction on Mumbai Head Office GSTN, then in case of issuance of E way bill, is it correct to mention the GSTN of Mumbai and mention Dispatch place of port of respective state/port.”

First and foremost, since the applicant will be importing the goods into India, as per Section 7(2) of the IGST Act, 2017 such supply of goods imported into India shall be treated as supply of goods in the course of inter state trade or commerce.

Secondly in respect of goods imported into India, as per Section 11(a) of the IGST Act, 2017, the place of supply shall be the location of the importer and in the present case since the importer is registered in Mumbai, the place of supply shall be Mumbai, Maharashtra.

Chapter VI of the CGST Act, 2017, consisting of Sections 22 to 30 deals with registration under GST. Section 22 speaks of persons who are liable for registration and as per Section 22 (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

In the present case as mentioned above the place of supply is the location of the importer who is situated in the State of Maharashtra and hence the applicant will be clearing the goods by paying IGST from their GSTIN issued in Mumbai, Maharashtra. Since the applicant will be storing the goods, after



import, in various states for further sales, whether that would be interstate or intrastate supply would depend upon the place of supply of goods as per Section 10 and Section 11 of the IGST Act, 2017. Hence we are of the opinion that the place from where the applicant makes a taxable Supply of Goods shall be his location, in this case, the Mumbai Head Office/Registered Office at Mumbai and even if the applicant has godowns in different states, we feel that the applicant can clear the goods on the basis of invoices issued by the Mumbai Head Office/Registered Office at Mumbai *on payment of IGST in the State of Maharashtra* and therefore they need not take separate registration in other states. This would answer their question mentioned above.

05. In view of the extensive deliberations as held hereinabove, we pass an order as follows :

ORDER

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 112/2018-19/B- 40 Mumbai, dt. 15/04/2019

For reasons as discussed in the body of the order, the questions are answered thus –

Question 1:- Whether the applicant requires registration in each State separately?

Answer :- In view of the discussions made above, and on the basis of facts of the case applicant is not required to have separate registration in each state.

Question 2 :- Whether the applicant can adopt the procedure to raise the invoice from Mumbai Head Office/Registered Office at Mumbai for imports received at various ports, located in various states in India and charge IGST from Mumbai to our customers in various state is proper or not.

Answer :- Not answered since the question is not covered under Section 97 of the CGST Act, 2017.

Question 3 :- If we cancel separate registration in various state can we do the transaction on Mumbai Head Office GSTN, then in case of issuance of E - way bill is it correct to mention the GSTN of Mumbai and mention dispatch place of port of respective state/port

Answer :- Not answered since the question is not covered under Section 97 of the CGST Act, 2017.



—sd—
B. TIMOTHY
(MEMBER)

—sd—
B. V. BORHADE
(MEMBER)

CERTIFIED TRUE COPY

- Copy to:-
1. The applicant
 2. The concerned Central / State officer
 3. The Commissioner of State Tax, Maharashtra State, Mumbai
 4. The Chief Commissioner of Central Tax, Churchgate Mumbai
 5. Joint commissioner of State tax , Mahavikas for Website.

MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai – 400021.