

Case Study Series – GST Advance Ruling

Crux of the case:

Will the applicant require a separate registration in the below mentioned case,

The applicant has GST registration in one state. He is making subsequent sales of imported goods from the state of importation (i.e. state where the port is located). Is the applicant required to get himself registered under GST in the state of importation of goods?

Authority	Telangana State Authority For Advance Ruling
Legal Name of Applicant	M/s Euroflex Transmissions (India) Private Limited
Details of Application	A.R.Com/02/2021 TSAAR Order No. 22/2022 Dated:08.04.2022

Facts of the case:

- The applicant has a GST registration in the state of Telangana.
- The applicant wants to sell the imported goods directly from the port of importation without bringing such goods to the state of Telangana.
- With regard to the above, the applicant wants to know the following,
 - Whether a separate GST registration is required in the state of importation of goods?
 - Whether the applicant can claim ITC in respect of the imported goods if the same are sold without bringing them to Telangana?

Discussion & Findings

- The applicant is clearing the goods for home consumption after payment of customs duty and IGST. He is subsequently selling the imported goods directly from the state of importation.
- Since the applicant has cleared the goods for home consumption before selling, the supply will not be covered under Schedule III of the CGST Act, 2017 and hence is not exempted.
- Subsequent sales is made from the state in which the goods are imported to various states including Telangana.
- The applicant has already obtained a GST registration in the state of Telangana which is sufficient to cover the transactions or supplies made by the applicant.
- By virtue of the existing registration, subsequent sales made by the applicant from the state of importation will be treated as intra state (CGST & SGST) if sold to Telangana and interstate (IGST) if sold to other states.
- As per Section 16 of the CGST Act, 2017 read with section 20 of the IGST Act, 2017, the IGST paid on imports can be availed as ITC on both intra and interstate sales.

Order:

1. Whether the applicant is required to obtain registration in the state in which goods are imported if the said goods are directly sold from the port of importation to the customers located across different states in India?

The applicant has an existing registration in the state of Telangana which will cover all taxable transactions.

2. Whether the applicant is entitled to avail Input Tax Credit of IGST paid on import of goods if the said goods are directly sold from the port of importation to the customers located across different states in India, without bringing such goods into Telangana?

- Yes

Key Takeaways from the above decision:

- This order by the Telangana authority for advance ruling is a tricky one to interpret.
- To explain more, the authority of advance ruling in its order says “The liability for registration arises under section 22 of the CGST Act, 2017 if the supplier makes taxable supplies, the aggregate turnover of which exceeds Rs.20 Lakhs in a financial year. Such registration is to be obtained in the state from which the taxable supply is made”
- One can interpret the same paragraph in many ways, one of which being,
 - That an applicant should get registered under GST in each state where the value of taxable supply made by him exceeds Rs.20 Lakhs. In the given case, the taxable supply is being made from the state of importation instead of the state of registration.
 - **Therefore, the applicant is required to get a GST registration in the state of importation if the taxable supply made by him from such state exceeds Rs.20 Lakhs.**
 - However, the authority has concluded that a single registration in Telangana is sufficient to cover all the supplies and transactions.
- We cannot give any concrete opinion based on this ruling and hence is open for interpretation. We can however say that the CGST Act, 2017 by virtue of section 22 requires registration in each state where the aggregate turnover exceeds Rs.20 lakhs/10 lakhs as the case maybe.