

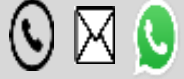


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By Nidhi, Advocate



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Section 22 of CGST Act, 2017

22. Persons liable for registration.

(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 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.

Provided further that the Government may, at the request of a special category State and on the recommendations of the Council, enhance the aggregate turnover referred to in the first proviso from ten lakh rupees to such amount, not exceeding twenty lakh rupees and subject to such conditions and limitations, as may be so notified.

Provided also that the Government may, at the request of a State and on the recommendations of the Council, enhance the aggregate turnover from twenty lakh rupees to such amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.

Explanation. —For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

(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.

(3) Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.

(4) Notwithstanding anything contained in sub-sections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, demerger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.

Explanation. —For the purposes of this section, —

- (i) the expression- “aggregate turnover” shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals;
- (ii) the supply of goods, after completion of job work, by a registered job worker shall be treated as the supply of goods by the principal referred to in section 143, and the value of such goods shall not be included in the aggregate turnover of the registered job worker;
- (iii) the expression- “special category States” shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution except the State of Jammu and Kashmir and States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand.

Relevant Rule	Subject	Relevant Forms
Rule 24	Migration of persons registered under existing law	REG-06, REG-20, REG-25, REG-26, REG-27, REG-28, REG-29

Our Interpretation

Section 22	<p>Section 22 states that Supplier shall be liable to be registered under GST in various circumstances.</p> <p>A taxable person is liable for registration under GST in following cases</p> <ul style="list-style-type: none"> i) On crossing of threshold Limit of Aggregate Turnover (AT) u/s 22(1) ii) Person registered under earlier law shall be liable to be registered under GST u/s 22(2) iii) Transferee shall be liable to be registered on Transfer of Business on succession or otherwise u/s 22(3) iv) Transferee shall be liable to registered on Amalgamation or Demerger u/s 22(4) v) Compulsory Registration u/s 24 vi) Voluntary Registration u/s 25(3) 									
Section 22(1)	<p><u>Persons liable for Registration based on threshold limit of aggregate turnover</u></p> <p>Every supplier shall be liable to be registered under this Act in the State from where he makes supplies of taxable goods or services or both, if his aggregate turnover in a financial year exceeds threshold limit.</p> <p>As per section 2(6), Annual Turnover Includes:</p> <ul style="list-style-type: none"> • Taxable and Exempt (including Non-GST) Supplies to another person • Exports of goods or services or both • Inter-state supplies of all branches having same PAN <p>but excludes</p> <ul style="list-style-type: none"> • central tax, State tax, Union territory tax, integrated tax and cess; • Inward supplies on which tax is payable under RCM <p>As per Article 279A(4)(g) of the Constitution, there are 11 Special Category States, namely, Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand. But as per Explanation (iii) to Section 22, Special category States shall be Manipur, Mizoram, Nagaland and Tripura. Accordingly, threshold limit was Rs.10 Lacs for the States of Manipur, Mizoram, Nagaland and Tripura and Rs.20 lacs for all other states upto 31.03.2019.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 33%;">State/UT of Supplier</th> <th style="width: 33%;">If his aggregate turnover (AT) in a FY exceeds</th> <th style="width: 33%;">Applicability</th> </tr> </thead> <tbody> <tr> <td>Supplier of Other State/UT</td> <td>Rs.20 lacs</td> <td>Upto 31.03.2019</td> </tr> <tr> <td>Supplier of Special category States</td> <td>Rs.10 lacs</td> <td>Upto 31.03.2019</td> </tr> </tbody> </table>	State/UT of Supplier	If his aggregate turnover (AT) in a FY exceeds	Applicability	Supplier of Other State/UT	Rs.20 lacs	Upto 31.03.2019	Supplier of Special category States	Rs.10 lacs	Upto 31.03.2019
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Supplier of Other State/UT	Rs.20 lacs	Upto 31.03.2019								
Supplier of Special category States	Rs.10 lacs	Upto 31.03.2019								

At the request of a special category State, Government may enhance annual turnover from Rs.10 lacs to such amount, not exceeding Rs.20 lacs. Also, Government may enhance threshold limit from Rs. 20 lacs to such amount not exceeding Rs.40 lacs in case of **supplier engaged exclusively in the supply of goods subject to such conditions and limitations, as may be notified**. A person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

W.e.f. 01.04.2019, new threshold limits have been summarized as under:

FOR SUPPLIER ENGAGED IN “SUPPLY OF SERVICES” OR BOTH “GOODS AND SERVICES”	Threshold limit
Manipur, Mizoram, Nagaland, Tripura	Rs.10 lacs
Other States	Rs.20 lacs
FOR SUPPLIER ENGAGED EXCLUSIVELY IN “SUPPLY OF GOODS”	Threshold limit
Manipur, Mizoram, Nagaland, Tripura	Rs.10 lacs
Uttarakhand, Meghalaya, Sikkim, Arunachal Pradesh, Puducherry, Telangana	Rs.20 lacs
Other States	Rs.40 lacs

In GST, Registration is PAN based and state specific and hence u/s 22(1), he is liable to take a registration separately for each of the states where he has a business operation and is liable to pay GST. There must be at least one taxable supply for person to be liable for registration. If supplier makes all exempt supplies, then he shall not be liable to be registered under GST by virtue of Section 23(1). A person is required to obtain registration with respect to each place of business in India from where a taxable supply has taken place. However, supplier is not liable to obtain registration in a State/UT from where he makes an exempt/non-taxable supply.

Explanation (i) – All supplies made by taxable person whether on his own or on behalf of his principal, all supplies shall be considered for calculating threshold limit for Registration purpose. Supply by agent on behalf of principal, shall be treated as supply of Agent.

Explanation (ii) – After completion of job work, supply by registered job worker shall be treated as supply of Principal and Value of such goods shall not be included in aggregate turnover of the job worker. Only the value of Service Charges charged by such Job Worker would be the value of his supplies for calculating threshold limit for Registration purpose.

Section 22(2)

Migration under GST

Any person who was registered under earlier existing laws, which merged into GST, on the day preceding to appointed day, is required to migrate under GST from the appointed day i.e., 01st July-2017.

Section 22(3)

Transfer of business on succession or otherwise

If any registered person transfers its entire running business on account of succession or otherwise, then such transferee or the successor shall be liable for registration, if he is unregistered on the day of succession. For example: Mr. A (proprietary concern), registered under GST, gifts his running business to a partnership firm M/s XYZ, an unregistered person, then by virtue of section 22(3), the successor M/s XYZ is liable for registration from the date of succession.

Section 22(4)

Transfer due to amalgamation or demerger

Section 22(4) specifies the obligatory provision in relation to companies which are formed as consequence of Amalgamation or demerger. As per Section 22(4), if any **Company** comes into existence as a result of **Amalgamation of two or more companies or because of demerger** on the order of High Court or Tribunal or otherwise, then the newly formed company or transferee company is under obligation to get itself registered under GST. This obligation arises from the date of receipt of certification of incorporation from the registrar.