

GIB/MH/Sonkamal/27.09.2018/AAR-241

Advance Ruling Category : Registration

State : Maharashtra

Order No.: GIB/MH/Sonkamal/27.09.2018/AAR-241

Name of Entry :

Sonkamal Enterprises Private Limited

Date : 27-09-2018

Breif Issue :

Facts & Issue of the Ruling:

M/s Sonkamal Enterprises Private Limited is a Company having its Head office at Mumbai and a Branch in Gujarat - Gandhidham; both are registered under the GST Act. Applicant is importer of Chemicals especially phenol which they currently import at INPT Port, Maharashtra and Kandla Port, Gujarat. Applicant wish to Import the Chemicals at Haldia Port (Kolkata, West Bengal). They are storing goods at rented Customs warehouse at Haldia Port, and do not have any establishment or place of operation in State of West Bengal, applicant endeavour to clear the goods from that warehouse (Ex Bond) in the name of our Mumbai Head Office. The importation will be completed by payment of Custom Duty in Mumbai Head Office Name and petitioner further wants to sell the goods to customers in West Bengal and other States nearby from that warehouse and charge IGST to their customer by raising bill from Mumbai and not West Bengal. The Applicant contends that they do not have any godown in the state of West Bengal and will not have any other godown or storage facility in the state other than the Haldia Port Customs Warehouse.

The petitioner wants to seek advance ruling on, whether the procedure to raise the invoice from Mumbai Head Office for imports received at Haldia Port, Kolkata where they do not have any separate GST Registration and Charge IGST from Mumbai to their Customers is correct or not or do they have to take separate Registration in the State of West Bengal for the mentioned transactions and if they do not need separate registration in West Bengal, can they do the transaction on Mumbai Head Office GSTIN, then in case of issuance of e-way bill is it correct to Mention the GSTIN of Mumbai and Dispatch place of Haldia Port.

Decision of Advance Ruling Authority :

Decision:

Since the applicant is an importer, the place of Supply of Goods shall be the location of the importer as per Section 11(a) of the IGST Act, 2017, Further, the applicant does not have any office in West Bengal as per the application and the goods will be cleared from rented Custom Warehouse (Ex bond) at Haldia. As per Section 22(1) of CGST Act, 2017, "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: ...". In this case, the applicant makes a taxable supply of goods from Mumbai Head Office, as he does not have any office in the state of West Bengal as per his application. Hence, place from where the supplier makes a taxable Supply of Goods shall be the location of the supplier i.e. Mumbai Head Office, since the applicant do not have any godown in the state of West Bengal as per their application and hence it appears that separate registration need not be taken in the State of West Bengal.

The applicant need not take separate registration in West Bengal and they can do the transaction on Mumbai Head Office GSTIN and it appears to be correct to mention the GSTIN of Mumbai Head Office in the E-way Bill and dispatch place as Customs Warehouse situated at Haldia, Kolkata. However, the aforesaid is subject to issuance of an invoice and paying applicable IGST or CGST+SGST or Compensation Cess etc., as applicable as per the CGST/SGST/UTGST/IGST Acts respectively. Following AAR can be referred in context of decision made in the Advance Ruling Authority, Maharashtra in the case of "Kardex India Storage Solutions" and "Aarel Import Export Private Limited."

GIB/KN/KARDEX/18.03.2020/AAR-242

GIB/MH/AAREL/24.04.2019/AAR-240