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THE GRAIN, RICE & OLSEEDS MERCHANTS' ASSOCIATION™

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Press Note

08th September 2017

Dealers in APMC market who are dealing exclusively in exempt commodities (Nil Rated) i.e. food grain & Pulses sold under unregistered brand name, are not required to obtain registration u/s 23 of CGST Act.

However due to fear & lack of awareness in market various Suppliers, Importers as well as millers are not ready to sell exempt goods to unregistered dealer exempt u/s 23.

Similarly Buyers are also not ready to purchase nil rated goods from such an unregistered dealer.

We have discussed the said matter with Commissioner of GST & he has appropriately clarified that there is no need of obtaining GST number for those who are dealing exclusively in nil rated food grains & pulses. He also clarified that there is no requirement of obtaining GST number of buyer as well as seller for making Interstate as well as Intrastate Purchase & Sale of nil rated food grains & pulses. There will be no liability under GST act on those who are either purchasing exempt goods from or selling exempt goods to unregistered dealers. Also there is no need to prepare E-way bill for intrastate as well as interstate transportation of Exempt goods.

Thus considering above we hereby appeal all the Customers, Suppliers, Millers, Importers, Canvassing Agents, Brokers as well as transporters to continue purchase, Sale & transport of nil rated food grains & pulses from unregistered dealers without GST number only by obtaining their PAN number.

Since Government have only given us exemption u/s 23 of CGST Act, thus there is no question of registering under GST Act or compulsorily obtain GST number for purchase or sale of nil rated commodities i.e. Food Grains & Pulses sold under unregistered Brand name.

We once again appeal all the concerned parties to kindly cooperate & continue dealing with our unregistered dealers without forcing them to give GST number for purchase or sale of Exempt commodities i.e. Good grains & pulses sold under unregistered brand name.

Detailed circular on said matter as well as letter from GST Commissioner, Belapur is attached alongwith this for your understanding & reference.



Ashok B. Badia
(Ashok B. Badia)
Jt. Hon. Secretary

Encl : As stated

Download Source- www.taxguru.in

GST Awareness for dealers dealing exclusively in Exempt Food Grains & Pulses

To all those dealing in Nil rated food grains & Pulses,

Good & Service Tax (GST) is implemented w.e.f. from 01st July 2017, since then there is lot of confusion prevailing in our market regarding applicability of GST to APMC market, need of obtaining GST registration, asking GST registration number from customer, Taxability of URD purchases under reverse charge, transportation of Food Grains & Pulses, generation of E-way bill etc. There were differences of opinion amongst various members with respect to various provisions of Goods & Service Tax Act. Hence in order to remove confusion on the subject as well as to obtain clarification on various matters we approached GST Commissioner. We have also received written clarification from him clarifying various provisions of GST Act as applicable to us.

After considering Clarification received from GST commissioner & detailed study of GST provisions, we have concluded on various questions of GST as under:

- 1) Exemption from obtaining GST number & registration for dealers dealing exclusively in Exempt Food Grains & Pulses (i.e. chargeable to Nil rate of Tax) even if Turnover exceeds Rs. 20 Lacs :
Section 23 of CGST Act read as under:

"23. (1) the following persons shall not be liable to registration, namely:—

(a) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;"

Section 2 (4) of CGST Act read as under:

"2 (47) "exempt supply" means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;"

From combine reading of both the section as well as from reply received from commissioner it very much clear that If a dealer is dealing exclusively in supply of Exempt Goods i.e. Food grains & Pulses chargeable to Nil rate of Tax (other than those sold in unit container bearing registered brand name) then as per section 23(1)(a) of CGST Act he is not liable to register under GST Act & there is no need to obtain GST Registration number even if his turnover exceeds Rs. 20 Lacs.

NOTE : The said Exemption from GST u/s 23 is available only if following two conditions are satisfied:

- 1) Dealer is dealing 100 % in Exempt Food Grains & Pulses and not having any other Incomes or receipts or sales (not even in the name of proprietor i.e. under the same PAN number) which are taxable under GST such as Rent of Commercial Property, sales of food grains & Pulses bearing registered brands, Commission income from other than agricultural produce etc..
- 2) Dealer is not incurring any Expenditure covered under Section 9(3) such as Payment Advocate Fees, Payment of Sponsorship of any event or payment of transport charges other than that of food grains & pulses.

Thus we recommend that everyone should first consult their own Chartered Accountant alongwith financials before surrendering GST registration u/s.23 & make sure that any of the above condition is not being violated.



- 2) Those who are have already registered under CGST Act & dealing only in Exempt Food Grains & Pulses can surrender & cancel their Registration Number & become unregistered dealer :

As explained in point no 1 if dealer is dealing exclusively in exempt Food Grains & Pulses then there is no need to obtain GST registration. However, many of us have already obtained GST registration number as we were already registered under MVAT Act & hence migrated to GST Act.

So now if are dealing only in exempt Food Grains & Pulses then as per Rule 24(4) we can surrender & cancel our GST registration by filing form No GST REG-29 on or before 30th September 2017 & become unregistered dealer.

Hence we advice all the dealers who are dealing exclusively in Exempt goods & not having any taxable Supply or receipt taxable under GST Act to surrender their registration on or before 30th September 2017 after due consultation with your Chartered Accountant so that you can be saved from additional compliances such as return filing & reverses charge under GST Act and many more provisions.

- 3) No requirement of GST number for Making Interstate (outside state) Sales as well as Intra state (Local) Sales of Exempt Food Grains & Pulses :

As per Section 24(i) of CGST Act compulsory GST registration is required only if person is making any inter-State taxable supply. Hence it is very much clear that even if we are a dealer making interstate sales of Exempt Food Grains & Pulses then also we are not required to obtain GST registration under GST Act & being an unregistered dealer we can continue making Interstate as well as intrastate sales of exempt Goods.

- 4) Non Applicability of Reverse Charge Section 9 (4) for taxable goods & services procured by unregistered person from unregistered persons :

Section 9(4) of CGST Act read as under:

"9 (4) The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both"

It is very much clear from above section that provisions of section 9(4) of CGST Act are applicable only if taxable Goods & Services are procured by registered person from unregistered person.

So if we continue holding registration under GST then we will be liable to Pay GST at applicable rates under reverse charge on all taxable goods, services as well as all the Expenses such as Brokerage, Rent, Freight, Stationery, loading-unloading, tea coffee etc procured from unregistered dealer exceeding total Rs. 5,000 in a day if they are not charging GST to us. Further we won't be able to claim Input credit of the said taxes paid as we are dealing in exempt goods only & there is no output tax liability. Hence it will directly increase our expenses by GST amount. And also this will put lot of compliance Burden on us.

On the other hand if we surrender our registration u/s 23 then we will become unregistered person for the purpose of GST Act & it is clarified Commissioner that reverse charge u/s 9(4) will not apply if we being an unregistered person procure taxable goods as well as services such as Brokerage, Rent, Freight, Stationery etc... from unregistered person. Thus this will be a major relief to us if we are surrendering our registration certificate as clarified in point no 2.



5) No Liability on suppliers, Importers & Millers Selling Exempt food grains & Pulses to unregistered person being exempt u/s 23 CGST Act :

Since there is Specific Exemption u/s 23 of CGST Act from obtaining GST number to our dealers dealing exclusively in exempt goods, hence many of us are not liable to obtain GST Number & are being treated as unregistered dealers.

It is promptly clarified by commissioner of GST that there is no requirement under GST laws to compulsorily obtain GST registration number of buyers for selling exempt food grains & pulses.

Also there is no restriction under GST laws to make interstate as well as within the state sales to unregistered dealer. Hence there will be no liability of supplier, importers as well as millers if they are selling Exempt goods to unregistered dealer being exempt u/s 23.

Further while filing GST return also Seller has to only mention total amount of Exempt food grains & pulses Sold to unregistered person & no bill wise or party wise details is required to be submitted for exempt goods.

Hence we appeal to all the Suppliers, Importers, Canvassing Agents & millers within Maharashtra state as well as Outside Maharashtra state to continue selling exempt food grains & Pulses to unregistered dealers in our market only by obtaining their PAN number since they are specifically exempted under sec 23 & there is no liability on seller under GST Act to compulsorily obtain GST number of buyer for selling Exempt Goods. If required seller can also obtain deceleration from buyer to the effect that buyer is dealing only in exempt food grains & Pulses and is unregistered because of exemption available u/s 23.

6) No liability on Buyer Purchasing Exempt food grains & Pulses from unregistered dealer being exempt u/s 23 CGST Act :

There is lot of confusion prevailing amongst customer that they cannot purchase Exempt food grain & pulses from unregistered dealer in APMC Market.

Since there is Specific Exemption u/s 23 of CGST Act from obtaining GST number to dealers dealing exclusively in exempt goods, hence many of us are not liable to obtain GST Number.

Further reverse charge u/s 9(4) will also not apply to those registered buyers whether within the state or outside state, who Purchases Exempt food grains & Pulses from unregistered Seller as reverse charge u/s 9 (4) is applicable only if taxable goods or services are procured from unregistered dealer. Since we are dealing exclusively in exempt goods hence there will be no liability of buyer to pay GST on reverse charge basis u/s 9(4). Thus it does not make any difference whether exempted goods are purchased from registered dealer or unregistered dealer.

While filing GST return also buyer has to only mention total amount of Exempt food grains & pulses purchased from unregistered person & no bill wise or party wise details is required to be submitted for exempt goods.

Hence we appeal to all our buyer as well as brokers within Maharashtra state as well as Outside Maharashtra state to continue Purchasing exempt food grains & Pulses from unregistered dealers in our market since they are specifically exempted under sec 23 & there is no liability on buyer under GST Act to compulsorily obtain GST number of seller for Purchasing Exempt Food grains & Pulses. If required Buyer can also obtain deceleration from Seller to the effect that Seller is dealing only in exempt food grains & Pulses and is unregistered because of exemption available u/s 23.



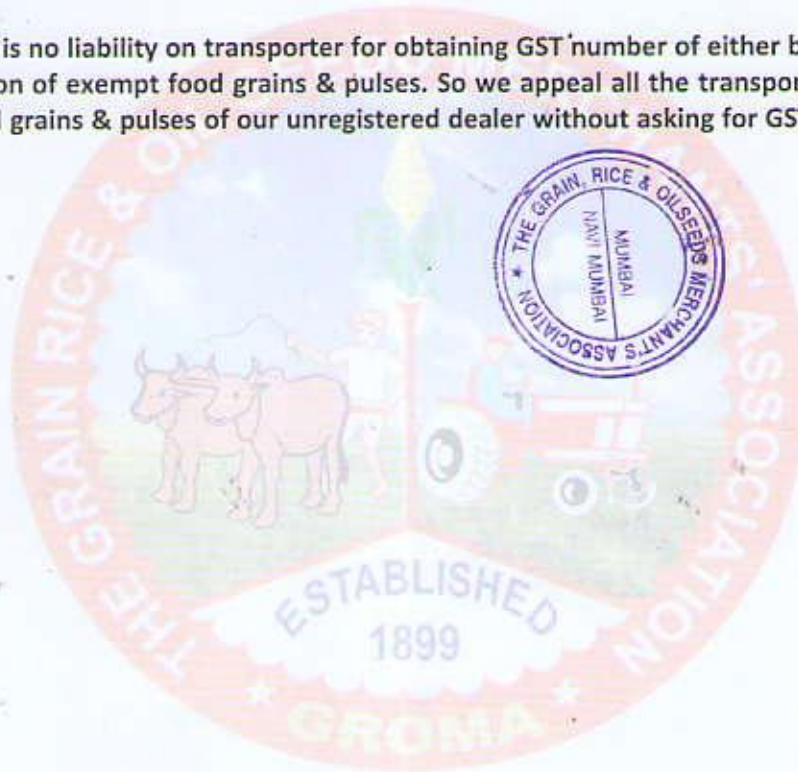
7) Exemption from E-way Bill as well as No restriction on transportation of Exempt food grains & Pulses sold by unregistered dealer being exempt u/s 23 CGST Act :

As per notification no 27 / 2017 – Central Tax dated 30th August 2017, sub clause 14 of Rule 138 No E-way bill is required to be generated for transportation of Exempt Goods which include Food Grains & Pulses sold in unregistered brand name.

Further as per Sr. No. 21 of Exemption Notification No. 12/2017- Central Tax (Rate) dated 28th July 2017 providing list of exempt service, Services provided by Goods Transport Agency by way of transport of agricultural produce as well as milk, salt and food grain including flour, pulses and rice is Exempt from GST. Hence there is no need to charge GST on freight paid for transportation of Food Grains & Pulses.

Thus considering all of above only bill of supply or invoice is sufficient document for transportation of exempt food grains & pulses.

Hence there is no liability on transporter for obtaining GST number of either buyer or seller for transportation of exempt food grains & pulses. So we appeal all the transporters to transport exempt food grains & pulses of our unregistered dealer without asking for GST numbers of the same.





GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER
GST COMMISSIONERATE, BELAPUR
1ST FLOOR, CGO COMPLEX, CBD BELAPUR, NAVI MUMBAI-400 614.

G. MA	
RECD. ON	31/8/2017 TIME 12:50 P.M.
INWARD NO.	915 BY 8
PRESIDENT.....	
VICE PRESIDENT.....	
JT. HON. SECRETARY.....	

Recvd by Hand delivery

F.No.II/36-25-GST/Queries/Bel/17/28 ⁷⁹⁴
31.08.17

Dated: 30.08.2017

To

✓ The Grain, Rice & Oilseeds Merchant's Association
A/2/1, Groma House, 2nd Floor, Plot No.14-C,
Sector-19, Vashi,
Navi Mumbai-400 703.

Gentlemen,

Sub: Written clarification regarding applicability of Section 23 & 24 of CGST Act-reg.

Please refer to your letter No.GROMA/2017-18/135 & 136 both dated 18.8.2017 on the above mentioned subject.

In this regard, it is to inform you that all the queries raised are clearly and unambiguously covered in the related statutory provisions. The desired reply to the relevant statutory provisions are mentioned point wise below against each query.

- a. Whether we are entitle to surrender their registration U/s 23 of CGST Act, when they are dealing exclusively in Exempted Goods & services?

Reply:- Yes, Please refer Rule 24(4). As per Rule 24(4) of CGST Rules, 2017 "every person registered under any of the existing laws, who is not liable to be registered under the Act may, within a period of thirty days from the appointed day at his option, submit an application electronically in FORM GST REG-29 at the common portal for the cancellation of registration granted to him and the proper officer shall, after conducting such enquiry as deemed fit, cancel the said registration.

- b. They all are dealing in Inter-state (out of Maharashtra) as well as Intra state (within Maharashtra) purchase & sale of exempted goods. Whether they are entitled to Surrender their GST Registration considering provisions of section 24(i) of CGST Act?

Reply- Compulsory registration provision u/s 24(i) applies on persons making any inter-state taxable supply.

- c. There is lack of awareness at all levels dealing with person unregistered U/s 23 of CGST Act right from Suppliers (Millers), Transporters , Buyers (Retailers) within state as well as outside Maharashtra state. They simply refuse to deal with unregistered dealers under GST. Hence you requested to clarify that neither there are any restrictions nor any additional compliances in dealing with dealers unregistered U/s 23 of CGST Act.

Reply: Section 23 & Section 9(4) are amply clear and unambiguous. There is no provision putting any such restriction on dealing with an unregistered buyer who is not liable for registration under the extant provisions of GST Law. The statutory prescriptions under the said Sections 23 & Section 9(4) themselves are the authority in the matter. The same may be cited to those who, probably due to ignorance of the provision, may be hesitant to deal with unregistered persons.

- d. If you are surrendering your registration u/s 23 of CGST Act & become unregistered dealer, then whether provisions of section 9(4) of CGST Act are applicable to you? i.e. whether you are liable to pay GST under reverse charge u/s 9 (4) for taxable goods as well as services received (Purchased) by you from unregistered dealer (as this will become transaction from unregistered dealer to unregistered dealer)

Reply: Section 9(4) does not apply to supply procured by an unregistered person from another unregistered person.

Yours sincerely,


(R.K.Mishra)
30/08/2017
Commissioner