

TAX INFO

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Latest update on GST Law: Information regarding **Advance Ruling cannot be sought by a Company on behalf of the customers who are seeking GST registration.**

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Name of Applicant	M/s Spacelance Office Solutions Private Limited
Authority	GST AAR Tamilnadu
Date of Ruling	28.02.2022
Ruling No.	Order No.06/AAR/2022

Brief Facts Of The Case:

The applicant is involved in the business of sub-leasing of office spaces (also known as “co-working spaces”) to start-up companies in their initial time of business to have a place to work and get the registrations done without much investment. They have a Lease agreement with the landlord which permit them to do sub-leasing. They have also obtained NOC from the landlord for registering GST for their customers. They provide dedicated landline number, Fax number, high speed internet, Air-conditioning, housekeeping, pantry with drinking water, power back-up, receptionist support, letter and postage handling and meeting rooms to companies registered there.

The Applicant’s customers are into Service category where no stock is to be maintained. These companies are maintaining their financial records in electronic form which are very well accessible from the co-working space at all the time. The applicant has stated that leasing and maintaining full-fledged independent offices in big cities like Chennai are unaffordable and unfeasible to most of the start-up companies due to the high rental and related charges for amenities. Also in current pandemic situation, no one is doing good business to pay for rent, staff etc. Due to this reason, many start-ups prefer co-working solution. The applicant has stated that many of these businesses would not have survived, hadn’t they adopted this kind of cost control and cost reduction measures.

The Applicant’s clients are facing issues on GST registration as the principal place of business accommodates multiple units requiring separate registrations and as a space provider it affects their business. He stated that they issue NOC to their customers and they want to know whether their customers are eligible for GST registration based on the NOC issued by them, i.e., Multiple registration in the same building. Can GST registrations be allowed for multiple companies from same address, provided they follow all GST rules related to “Principle Place of Business”?

Contention of Department:

During the course of premises verification (PV) of new registrations, it is noticed that the applicant company are issuing rental agreements and not sub-lease agreement to their customers/lessees with NOC to use the said premises without even mentioning the details of original lease agreement. The above rental agreements are being used by such lessees for obtaining new registrations with GST department. The applicant has also mentioned that their model of co-working solutions offers their customers to work from a separate and identifiable office within the same space. However, on verification, it is found that the total area of the premises of the applicant is 1055 Sq. Ft. only as per the original lease agreement issued by its owner Mrs. Rajshree Choudhary, whereas the applicant have issued rental agreements to more than 100 customers giving them permission to use the said premises without even mentioning the specific suite/ desk number to its customers. There is no specific desk number/ suit numbers mentioned in the Rental agreement to identify any particular taxpayer/company (to whom such rental agreements are issued) for any necessary verification. Hence at the time PV of new registration, it is very difficult to find such particular company. It is further submitted that most of the time, customers (applying for new GST registrations) have informed that they obtained rental agreement from M/s Spacelance Office Solutions Pvt Ltd for the sake of getting GST registration only without any particular work space such as table/chairs. Hence the contention of the applicant that they provide separate and identifiable space to its customers is misleading and incorrect. Moreover, is such practice is allowed to continue, such registrations will pave way for fake firms and companies getting GST registrations, issuing fake invoices passing on huge ineligible credit and vanishing from the scene before their illegal activities are brought to book. Issuing rental agreement for 1055 sq.ft premises to more than 100s of other customers does not seem to be legally correct for obtaining GST.

Ruling:

An applicant can seek an Advance Ruling only in relation to supply of goods or services or both undertaken or proposed to be undertaken by them. In the case at hand, entities sharing the work space are to be registered under GST Act and they have to furnish details of principal place of business along with documentary proof for the same. Hence the activity of registration is undertaken or proposed to be undertaken by the entities sharing the space and not the applicant, who lets out the shared space. The applicant in the instant case has admitted before the authority that the ruling is sought on behalf of their customers who are seeking registration and are facing issues on registration as the principal place of business accommodates multiple units requiring separate registrations.

In the instant case the applicant has sought ruling before us on behalf of their customers and the act of registration is not undertaken or to be undertaken by the applicant. Therefore, this question is not admissible as per Section 97 of the CGST Act, 2017.

The provisions of Section 103 categorically states that the ruling pronounced is binding only on the applicant. The section reads as under:

- (1) The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only-
- (a) on the applicant who had sought it in respect of any matter referred to in sub section (2) of section 97 for advance ruling;
 - (b) on the concerned officer or the jurisdictional officer in respect of the applicant.

Hence the ruling applied for by the applicant will not be binding on their clients.

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