

TAX INFO

Dated:23.10.2021

Latest update on GST Law: Information regarding Is there any requirement of mandatory Commercial premises and NOC from Landlord for GST Registration?

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In any tax system registration is the most fundamental requirement for identification of tax payers in the economy. Without registration, a person can neither collect tax from his customers nor claim any input tax credit of tax paid by him.

Under GST, registrations need to be taken State-wise. A business entity having its branches in multiple States will have to take separate State wise registration for the branches in different States. Further, within a State, an entity with different branches would have single registration wherein it can declare one place as principal place of business and other branches as additional place(s) of business.

General documents needed for GST Registrations are:

PAN and Aadhaar of applicant
Proof of business registration
Identity and address proof of promoters
Address proof of business
Bank account proof
Digital signature
Letter of authorization

GST DEPARTMENT VIEW ON RESIDENTIAL ADDRESS:

GST Department, particularly State Department Officers still live-in mindset of Sales Tax era. During Sales Tax Registrations, in some states, there was requirement of Commercial Address for Sales Tax Registrations. When VAT was introduced generally the registration form all over states had two addresses to be filled one was for Residential Address and another one was Commercial Address. Some State VAT Officers started demanding commercial address and started rejecting applications on residential address.

GST was implemented on 1st July'2017 and GST Registration was online. GST Registration Procedure is governed by Section 25 Act and Rule 8 & Rule 9 Rules. **Requirement of Commercial Address for GST Registration is not mentioned in GST Laws or any Circular / Notification / Instructions. But then also some State Officers are demanding Commercial Address for GST Registration.**

Whether business can be carried from Residential Unit was matter before West Bengal Tax Tribunal in case of Puspa Lohia Vs. Sales Tax Officer, Durgapur Range [(2009) 21 VST (Tri.) (WB) / (2007) 9 TMI 588 (WBTT)] / (2009) 12 STM 702 (WBTT)]?

Department made a visit to the registered premises of the assessee and cancelled the Registration on the ground that assessee had no office room to carry on her business and had no godown or warehouse and her declared place of business was a residential premises

Assessee asserted that she carried on business at the premises recorded in the registration certificate, maintained records in the office which was also maintained at the said premises, and that she also kept goods imported by her at the said premises.

Assessee submitted that the taxation law does not require maintenance of godown for obtaining registration certificate and no restrictions have been imposed by sales tax law for maintenance of office and for carrying on business at residential premises.

West Bengal Tax Tribunal held that, "Where business is carried from Residential Unit and the dealer had not declared any godown, warehouse or separate office, cancellation of certificate of registration on that ground alone not justified."

Corona Pandemic has done huge loss to mankind both in terms of loss of human life and economy. But "Work from Home" is new norm, and it will continue forever now whether there is corona or not.

GST Department need to understand this basic thing and stop demanding Commercial Address. They should stop rejecting Applications for GST Registration for non-submission of Commercial Address. Alternatively, Government could issue some SOP's in this matter or issue clarification on the same.

Officer's sometimes asks for "No Objection Certificate" from Landlord. Department ask these in pretext to check "proof" of Legal Possession of Principal Place and/or additional places of Business. This can be established even without 'NOC' from the Landlord.

In order to facilitate the registration of dealers running business from rented premises Circular No. 13 of 2012-13; No. F.7(456)/Policy/VAT/2012/484-491 dated 16-August-2012 was issued. Through this Circular it was decided that "it will not be mandatory for dealers to submit "No Objection Certificate" from Landlord if they submit **other supporting documents like Rent receipts, Rent Agreement, Water/Electricity Bills etc. in support of Legal Possession of the Premises."**

Today when all the Registrations are either Aadhaar based or approved after Physical Verification demanding "NOC" from Landlord is not improvement in comparison to old regime. GST Department need to understand this basic thing and stop demanding "NOC"s. They need to trust the applicant. They should stop rejecting Applications for GST Registration for non-submission of "NOC" as possession of place of business can be established from other documents too. Alternatively, Government could issue some Standard Operation Procedure (SOP) or some clarification in this matter.

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