



ALL ABOUT THE CONCEPT OF DISTINCT PERSON IN GST

CA Sachin Kumar Jain

Senior Partner, Sachin K Jain & Co., Chartered Accountants

DISTINCT PERSONS BY REFERENCE TO HOW CGST CREDIT OF ONE STATE CANNOT BE USED IN OTHER STATE

1. Under GST a new concept of distinct person is added.
2. According to this concept if a person has obtained or is required to obtain more than one registration, whether in one state or union territory or more than one state or union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act or
3. Where a person who has obtained or is required to obtain registration in a state or union territory in respect of an establishment has an establishment in another state or union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.
4. As per Section 25(2) of the GST Act every person shall obtain one registration per State. Proviso to section 25(2) provides that a person having multiple business verticals may obtain separate registration for each business vertical in the State.
5. Therefore under GST same establishment or offices or branches or godown which are situated outside the state are treated as distinct person and inter-state supply also chargeable under GST i.e. IGST is payable here.
6. Therefore, when two units of the same business have taken different registration, then they will be considered as a distinct entity/ person as per the GST law. The laws relating to filing of returns and other compliance procedures shall apply to both of them separately.
7. Hence, Distinct persons can be :-
 - An establishment in India and an establishment outside India
 - An establishment in one state or a union territory and an establishment in another state or union territory
8. For example, if A (in Bangalore) has branches in Germany and Maharashtra, the branches in Maharashtra and Germany will both be distinct persons/ entities. If A has another component B which is different from A and has obtained a different GST registration, A and B will be distinct entities.
9. The supply stated above is covered under Schedule I of the GST Act and as per this schedule, when a supply is made between distinct persons during the course of business, it is considered as a supply even when there is no consideration. Therefore these transactions are considered as taxable supply. Example- stock transfers made between distinct units, even if without a consideration will be a taxable supply.
10. Another example is suppose a person have an branch office in Delhi and head office in Jaipur, some employees of Delhi join personality grooming services or training services given by the head office in Jaipur than as per distinct person both offices are separate under GST and therefore GST is payable here as per schedule I, but as per section 12(4) place of supply is Jaipur head office and CGST and SGST is charged by Jaipur office under this case and no credit is available to Delhi branch of such CGST in this case.
11. Therefore under the above discussion it is clear to us what is the meaning of distinct persons is and as we know already that under only IGST will be set- off from CGST and SGST but CGST credit of one distinct person cannot be utilized by the other distinct person for paying CGST liability.