



TAX BAR ASSOCIATION PUNE

AN ASSOCIATION OF ADVOCATES OF MAHARASHTRA
Registered Under Society Registration Rules 1860
Reg. No. MAH/424/2017/Pune dt. 29/03/2017

Date 25/09/2018

To,

GST Council,

5th floor, Tower II, Jeevan Bharati building,

Janpath Road, Connaught Place,

New Delhi 110 001,

Sub : System created difficulties for registration as GSTP.

Respected members,

GST administration is relying more and more on online compliances. We understand and appreciate that it is necessary to bring objectivity in administration, but it is our experience that many times system is not in tune with the provisions of Act or rules. We would like to bring to your kind attention one such instance of system is not according to provision of law which may create problems and avoidable disputes. We request you to please redress the same at the earliest.

The GST Acts make special procedure for Goods and service tax practitioners Sec. 48 is as follows

(1) The manner of approval of goods and services tax practitioners, their eligibility conditions, duties and obligations, manner of removal and other conditions relevant for their functioning shall be such as may be prescribed.

(2) A registered person may authorize an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the

details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 in such manner as may be prescribed.

(3) Notwithstanding anything contained in sub-section (2), the responsibility for correctness of any particulars furnished in the return or other details filed by the goods and services tax practitioners shall continue to rest with the registered person on whose behalf such return and details are furnished.

Thus the Act provides for procedure for approval of Goods and Service Tax practitioners. The Government is authorized to prescribe the eligibility criteria, duties and obligations of GSTPs. These provisions are not applicable to advocates and other professionally qualified persons. It may please be noted that the provisions of said Section 48 and the procedures prescribed therein in the said Section and the rules framed thereunder, has restricted application to the provisions of Section 116 (2) (e) which deals with – “any person who has been authorised to act as a goods and services tax practitioner on behalf of the concerned registered person” and not to any other professionals covered therein including Advocates. Needless to mention, other professionals [covered by Sec 116 (2) (a), (b), (c)] having attained the qualification under various acts, like that of an Advocate who attain qualification in the field of law, already holds a certificate of practice, for dealing with any subject of law in any legal field, which includes direct and also indirect taxes, as well. Hence, the provisions of Section 48 laying the procedures for practice in GST law, inter -alia, rightly excludes Advocates covered by Section 116 (2) (b) of CGST Act, 2017, for the reason that such professionals once they hold certificate of practice and is a registered Advocate in recognized Bar Council, then he is allowed to practice in GST law as well.

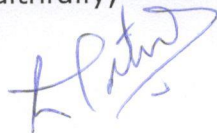
However, the GSTP online registration form prepared by GSTN inadvertently includes all professionals authorized under Sec. 116. This has created an impression that other professionals like Advocates also need to register as GSTP. Many advocates have inadvertently uploaded the form. Once you

upload the form then it may become necessary for them to appear for examination. Rule 84 further provides that unless you are registered as GSTP and passed examination you will not be authorized to represent. It is apprehended that GST authorities may not allow Advocates to appear without registration as GSTP. In fact one of our members when he wanted to appear before GST authority, was questioned "whether he is registered as GSTP on portal",

It is reiterated that the said Rule 84 is amply clear that it is applicable only to GSTP and not to other professionals. However, the form of registration as GSTP has a column titled "**enrolment sought as**" specify other professionals, which is against the provision of law as well as rules and create wrong impression that other professionals have to take registration as GSTP. It is therefore requested to delete reference to the other professionals such as advocates in the online GSTP registration form and only qualifications for GSTP as provided in rule 83 be retained in the form.

Thanking you,

Yours faithfully,



Adv. G.Y. Patwardhan

President

Tax Bar Association, Pune