GST Registration and Tax Liability Under Reverse Charge Where Turnover is Below the Threshold Limit: A Study of Advocate Fees and Mining Royalty Payments

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1. Illustration

A common misconception among small taxpayers is that a turnover below the GST registration threshold automatically insulates them from every GST obligation. This is not correct where the Reverse Charge Mechanism ("RCM") is involved. The following two illustrations, drawn from live advisory situations, demonstrate that identical facts — a turnover of ₹15–20 lakh — can lead to two diametrically opposite outcomes, depending on the nature of the RCM supply received.

Illustration A — Mr. Sharma, Retail Trader

Mr. Sharma runs a small retail trading business with an aggregate turnover of ₹18 lakh in FY 2025-26. He engages an advocate to defend a civil suit and pays professional fees of ₹50,000 during the year. Question: Is Mr. Sharma liable to pay GST under RCM on the advocate's fees, and is he required to obtain GST registration on this account?

Illustration B — Mr. Patil, Stone Excavator

Mr. Patil operates a stone-quarrying business with an aggregate turnover of ₹15 lakh in FY 2025-26. He holds a mining lease from the State Government and pays annual royalty of ₹3 lakh for the right to excavate stone. Question: Is Mr. Patil liable to pay GST under RCM on the royalty paid to Government, and is he required to obtain GST registration on this account?

As demonstrated in Sections 3 and 4 below, Mr. Sharma remains outside the GST net despite incurring an RCM-notified expense, while Mr. Patil is compulsorily liable for registration and RCM payment — notwithstanding a lower turnover. The differentiating factor is not the taxpayer's turnover, but the specific exemption architecture applicable to the particular category of RCM supply.

2. Statutory Framework Governing RCM Registration

The starting point for analysis is the interplay between the general registration threshold and the compulsory registration provision applicable to RCM liability.

- **Section 22(1), CGST Act, 2017 — prescribes the base registration threshold (₹20 lakh for services; ₹10 lakh for specified special category States).**

- Notification No. 10/2019-Central Tax, dated 07.03.2019 — enhances the threshold to ₹40 lakh for a person engaged exclusively in the supply of goods, subject to specified conditions (discussed in Section 5).
- Section 9(3), CGST Act, 2017 — empowers Government to notify categories of supply where the recipient, not the supplier, is liable to pay tax (Reverse Charge).
- Section 24(iii), CGST Act, 2017 — mandates registration for "persons who are required to pay tax under reverse charge" irrespective of the Section 22 threshold. This is a non-obstante, threshold-blind provision.

The critical question in every RCM fact pattern is, therefore, not "what is my turnover," but "is a taxable supply actually being received by me, such that RCM tax becomes payable." If the supply itself stands exempted at source by a specific notification, Section 24(iii) is never triggered, because there is then no tax "required to be paid" under reverse charge in the first place.

3. Position I — Legal Services (Advocate Fees)

Legal services supplied by an individual advocate (including a senior advocate) or a firm of advocates to a business entity are notified for RCM under Sl. No. 2, Notification No. 13/2017-Central Tax (Rate), dated 28.06.2017, as amended by Corrigendum G.S.R. 1199(E), dated 25.09.2017.

However, Sl. No. 45 of Notification No. 12/2017-Central Tax (Rate), dated 28.06.2017 ("the Exemption Notification") separately exempts such legal services, at the level of the supply itself, where rendered to:

- another advocate or firm of advocates;
- any person other than a business entity;
- a business entity whose aggregate turnover in the preceding financial year does not exceed the amount that would make it eligible for exemption from registration under the CGST Act, 2017; or
- Central/State Government, Union territory, local authority, Governmental Authority or Government Entity.

Entry 45 has been amended twice since original issuance:

Amending Notification	Date	Nature of Amendment
Notification No. 2/2018-CT (Rate)	25.01.2018	Added Government bodies (Central/State Government, UT, local authority, Governmental Authority, Government Entity) as an additional exempt recipient category.
Notification No. 21/2019-CT (Rate)	30.09.2019 (w.e.f. 01.10.2019)	Replaced the fixed turnover figures (₹20 lakh / ₹10 lakh) with a dynamic reference — "such amount in the preceding financial year as makes it eligible for exemption from registration" — so the threshold automatically tracks whichever Section 22 limit applies to the specific recipient, consequential to the ₹40 lakh threshold introduced for goods suppliers.

Effect: Because the exemption threshold is now recipient-specific, the applicable limit is not uniformly ₹20 lakh. It is ₹40 lakh where the recipient is exclusively a goods trader satisfying the conditions of Notification

No. 10/2019-CT (see Section 5), and ₹20 lakh (₹10 lakh in specified special category States) where the recipient is a service provider or mixed supplier.

Since the supply is exempted at source, no tax is "required to be paid" under Section 9(3) in respect of it. Consequently, Section 24(iii) is not attracted, and no compulsory registration arises merely on account of the advocate's fees, regardless of whether the applicable comparison figure is ₹20 lakh or ₹40 lakh, so long as the recipient's turnover remains below that applicable figure.

4. Position II — Royalty Paid to Government for Mining Rights

Royalty paid by a lessee/licence-holder to the Central or State Government for the right to excavate minerals (including building stone) is classified as "licensing services for right to use minerals including its exploration and evaluation" (SAC 997337, Heading 9973). The service is supplied by Government to a business entity and is accordingly notified for RCM under Sl. No. 5, Notification No. 13/2017-Central Tax (Rate), dated 28.06.2017.

Sl. No. 5 of the Exemption Notification (No. 12/2017-CT (Rate)) does provide a general small-business exemption for services supplied by Government to a business entity with turnover below the Section 22(1) threshold. However, this general exemption carries an express carve-out: it does not extend to "services by way of assignment of right to use natural resources" where the grant is made to a person for use of such natural resource in the course or furtherance of business. Mining royalty falls squarely within this excluded category and therefore does not qualify for the small-business exemption available to other Government services.

The rate applicable is the same rate as leviable on the supply of like goods (i.e., the mineral being extracted), computed under the residual entry of Notification No. 11/2017-Central Tax (Rate), dated 28.06.2017, as clarified by CBIC Circular No. 164/20/2021-GST, dated 06.10.2021 (Para 9.1).

Effect: The supply remains taxable irrespective of the recipient's turnover. RCM liability under Section 9(3) genuinely arises, and Section 24(iii) is triggered — registration becomes compulsory even where turnover is as low as ₹15 lakh.

5. Conditions for the Enhanced ₹40 Lakh Threshold (Goods Suppliers)

Where a recipient claims the ₹40 lakh comparison figure under Entry 45 (legal services) on the ground that he is exclusively a goods supplier, the enhanced threshold under Notification No. 10/2019-Central Tax, dated 07.03.2019, is available only if all of the following conditions are cumulatively satisfied:

- the person is engaged exclusively in the supply of goods (not services, and not a mixed supplier);
- the person is not engaged in supply of ice cream and other edible ice, pan masala, or tobacco and manufactured tobacco substitutes (Chapters 21 and 24 of the Customs Tariff);
- the person is not making any inter-State taxable supply of goods;
- the person is located in a State/Union territory that has adopted the ₹40 lakh threshold for intra-State supply (certain special category States retained the lower limit); and
- the person is not otherwise compulsorily registrable under Section 24 on any independent ground (inter-State supply, e-commerce operation, an existing RCM liability such as mining royalty, etc.).

This last condition is decisive where a taxpayer is simultaneously exposed to more than one RCM category. A person who is compulsorily registrable under Section 24(iii) on account of mining royalty (Position II) cannot, for that very reason, claim the benefit of "turnover-based non-registration" for testing his eligibility for the Entry 45 legal-services exemption — he is, as a matter of fact, a person required to be registered, and the exemption in Entry 45 is calibrated to persons who would otherwise be eligible for exemption from registration. The two RCM exposures must therefore always be tested together, not in isolation, for a taxpayer engaged in mining or excavation activity who also incurs legal expenses.

6. Comparative Summary

Parameter	Advocate Fees (Position I)	Mining Royalty (Position II)
RCM notification	Sl. No. 2, Notification 13/2017-CT (Rate)	Sl. No. 5, Notification 13/2017-CT (Rate)
Small-business exemption available?	Yes — Sl. No. 45, Notification 12/2017-CT (Rate)	No — expressly excluded (assignment of right to use natural resources)
Applicable comparison turnover	₹40 lakh (goods trader, conditions apply) or ₹20 lakh (services/mixed)	Not applicable — exemption unavailable regardless of turnover
RCM tax payable below threshold?	No	Yes
Section 24(iii) registration triggered?	No (supply itself exempt)	Yes (compulsory, irrespective of turnover)

7. Conclusion

Turnover alone is not a reliable indicator of GST registration liability where reverse charge is involved. The determinative question is always whether the specific category of RCM supply carries an independent, source-level exemption for small business entities. Legal services from advocates enjoy such an exemption under Sl. No. 45, Notification No. 12/2017-CT (Rate) — tested against a recipient-specific threshold of ₹20 lakh or ₹40 lakh depending on whether the recipient is a service provider or an exclusive goods trader satisfying the conditions of Notification No. 10/2019-CT. Royalty paid to Government for mining or quarrying rights carries no such exemption, being expressly excluded from the general small-business concession under Sl. No. 5 of the same notification; RCM liability and consequential compulsory registration under Section 24(iii) arise irrespective of turnover.

Practitioners advising small businesses and traders should, as a matter of standard due diligence, separately map every RCM-notified expense incurred by the client against the corresponding exemption notification, rather than applying a uniform turnover-threshold assumption across all reverse-charge categories. Where a client is exposed to a genuine RCM liability on one count (such as mining royalty), that registration, once obtained, extends to all of the client's outward and inward supplies, and any turnover-based exemption otherwise available for a different RCM category (such as legal fees) should be re-tested in that light.

References

Central Goods and Services Tax Act, 2017 — Sections 9, 22, 24.

Notification No. 12/2017-Central Tax (Rate), dated 28.06.2017, Sl. No. 5 and Sl. No. 45, as amended by Notification No. 2/2018-CT (Rate) dated 25.01.2018 and Notification No. 21/2019-CT (Rate) dated 30.09.2019.

Notification No. 13/2017-Central Tax (Rate), dated 28.06.2017, Sl. No. 2 and Sl. No. 5, as amended by Corrigendum G.S.R. 1199(E) dated 25.09.2017.

Notification No. 11/2017-Central Tax (Rate), dated 28.06.2017 (rate schedule for services).

Notification No. 10/2019-Central Tax, dated 07.03.2019 (enhanced ₹40 lakh threshold for goods suppliers).

CBIC Circular No. 164/20/2021-GST, dated 06.10.2021, Para 9.1 (rate of tax on mining/exploration rights).

Official sources: www.cbic.gov.in | www.gst.gov.in | cbic-gst.gov.in (consolidated notifications).
