

Unregistered contractors evading GST

Many in the construction industry have avoided GST registration due to lack of familiarity with taxes. There is a need for the authorities to help bring these businesses into the fold

By **Kenneth Joseph**
kennethjoseph@malaysiasme.com.my

Contractors and e-commerce businesses are the two biggest groups of businesses that have not yet registered for GST. This was a recent statement made by Royal Malaysian Customs Department (RMCD) Deputy Director-General Datuk Subromaniam Tholasy.

He said, "Contractors and sub-contractors from various classes made up the largest errant group. Even associations of contractors consisting of 10,000 members have shunned GST registration which is a huge encumbrance to the overall implementation of GST."

Speaking to *MALAYSIA SME*, New Zealand tax barrister and GST expert Dave Ananth said, "This proves to be a huge issue for the overall system of GST in Malaysia, as it is unfair that certain businesses contribute GST, while others do not."

"But, this is not to say that this is a uniquely Malaysian issue, as even after 26 years of GST implementation in New Zealand, it is not uncommon to find contractors who are yet to be registered for GST. Some avoid payment of GST, while there are some who are just not registered at all."

Dave said that this is a common thread among those in construction, as many contractors may not even have a registered business as such. At most, most of them are registered as sole proprietors, without then becoming GST-compliant.

Dave explained, "So, because of this, many contractors have never had any experience deal-



ing with or paying tax in the past, as most transactions would have been made in cash terms. They may not have any experience dealing with or paying tax, so they may simply feel overwhelmed by the administrative requirements of GST."

He went on to say that this is a teething issue in GST implementation that should be addressed by RMCD to boost GST registration. There are certain programmes and initiatives that RMCD can take to overcome these issues.

He said, "One such initiative would be to institute an amnesty

period for companies to legally register for GST. Not all businesses who have failed to register for GST are errant businesses who have wilfully decided to not register for GST."

"A significant majority of these businesses may have simply missed the deadline due to poor advice and awareness. These businesses may now be too afraid to register for GST, fearing heavy fines or even criminal convictions."

"So, implementing a short two-week amnesty period may help to boost GST registration, which are beneficial for the whole economy in the long run. Similar initiatives

Such a trend is common among contractors, as the large majority of these contractors may not even have registered businesses. At the very best, most of the contractors may be registered as sole proprietors of the business."

— Dave

were conducted when New Zealand implemented GST and it receive positive feedback from businesses."

Dave went on to say however, that any amnesty period would have to be well-publicised, and strictly enforced for only a short period. This is because a long, drawn out window would be unfair to responsible businesses that registered in time.

Another key initiative that should be implemented by RMCD are sector-specific compliance and enforcement units. Dave said that this was common in New Zealand where each industry has a dedicated and specialised team for compliance and enforcement.

"These teams are comprised of officers who have had experience in the sector to boost unit's understanding of the practical implications and realities of tax regulations in that particular sector. This significantly increased compliance rates as the enforcement units were able to better understand the sourcing, logistics and operational requirements of a particular business."

"These teams were also multilingual, which helped drive compliance and registration from businesses as they were able to communicate effectively with officers. This was particularly true for specialised businesses such as Chinese medicine shops and Ayurvedic product dealers."

"So, these teams would make monthly trips to various towns and cities operating in mobile offices, where compliance seminars were given and compliance issues could be addressed immediately."

"All businesses could register on the spot as even unregistered businesses could sign up with personal identification. The same principle applies in Malaysia unregistered businesses can register for GST with their personal iden-

tification," he said.

Moving forward, he said that there will be some other issues that will need to be addressed for the construction sector. Particularly, when it comes to steel bars and cement which are crucial materials for contractors in the industry. These very basic construction materials contribute to higher final costs, which are then passed on to consumers.

"So, it would be beneficial for contractors in the industry if these items were zero-rated, to reduce the cost that is passed on to consumers."

That said, Dave cautioned against having such a large list of zero-rated or exempt items, as that would complicate the administrative process of GST, "inevitably reducing the total collection for the government."

Dave said that another issue in the construction sector is the inability for developers to opt for voluntary registration as a GST vendor. At the moment, developers are not able to register for GST until the completion of their development projects as they do not have any taxable supply prior to completion of the development.

"This results in developers having to take on input tax costs while developing their projects, which can take up to three years to complete. This is a huge financial strain on developers, so a change in the regulations would benefit these developers and encourage them to register for GST."

"Overall, the introduction of GST is a positive step that benefits both the government and businesses alike, as businesses are able to claim input tax on supplies which they previously could not. This is a huge advantage that they should tap and in order to do so, RMCD should put in effort to make compliance to GST regulations as easy and business-friendly as possible," said Dave. **MSME**



Presently, property developers are unable register and claim input tax under GST