

SEMINAR IN PHARMA INDUSTRY

ORGANIZED BY : WIRC OF ICAI



Presented by CA RAJIV LUTHIA



PHARMA INDUSTRY: THE JOURNEY SO FAR.....

- The Indian pharmaceutical industry is the principal supplier of generic drugs all over the world, with 80% of all AIDS drugs produced in India.
- Indian pharmaceutical companies manufacture 20% of all generic drugs used around the world.
- The average VAT rate for most of the pharmaceutical products is around 5% and for the formulations is 9%. The excise duty charged on pharma products was 12.5%.
- To be fair though, the government provides relief on excise to pharmaceutical product manufacturers by introducing excise-free manufacturing zones.
- In most of the states, the VAT on the pharmaceutical products is charged on the maximum retail price and is charged at a single point.

GST RATES ON Pharmaceutical Products

GST RATE


NIL Rate	GST – 5%	GST – 12%
Human blood and its components	Animal or human blood vaccines	All goods not specified elsewhere: Medicines made by mixing two or more constituents for therapeutic or prophylactic uses. (including Ayurvedic medicines)
All types of contraceptives	Diagnostic kit for all types of hepatitis	Medicines made by mixing two or more products for therapeutic or prophylactic uses. (including Ayurvedic medicines)
	Cyclosporin	Wadding gauge, bandages, and similar articles

GST RATE

NIL Rate	GST – 5%	GST – 12%
	Oral Rehydration Salts	Forms or packing for retail sale regarding surgical, dental or veterinary purposes
	Desferrioxamine Injection or Deferiprone	Pharmaceutical goods specified such as sterile laminaria, dental adhesion barriers etc.
	Medicines (including veterinary medicines) used in bio-chemical systems and not bearing any brand name	
	Formulations manufactured from bulk drugs listed in the list 1 of notification 12/2012 -central excise	

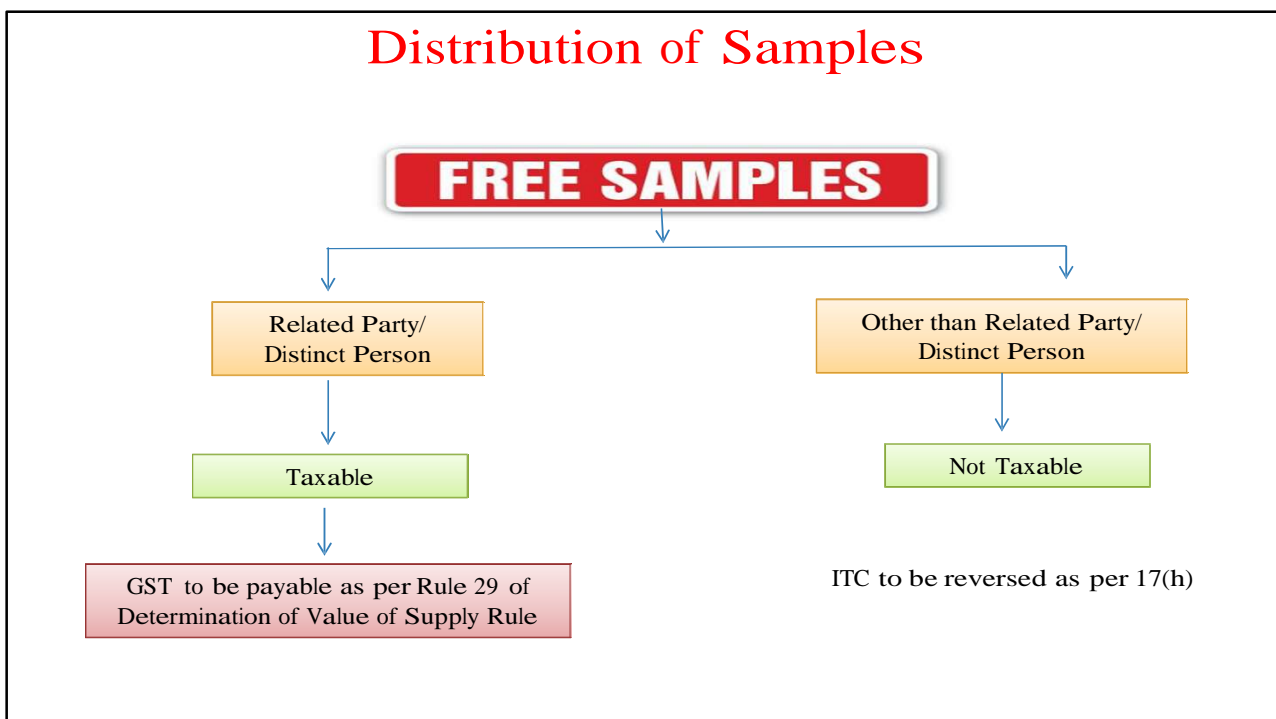
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SAMPLE DISTRIBUTION



FREE SAMPLES: TWIST & TURN.....

- Section 7(1)(C) provides that the activities specified in Schedule I, made or agreed to be made without a consideration, is a supply under GST
- As per Para 2 to said schedule, supplies between related persons or distinct persons in the course or furtherance of business without consideration shall be termed as supply.
- As a result, free supplies between unrelated persons are not 'supplies', therefore, not taxable, whereas free supplies between related persons are 'supplies' and therefore, such supplies are liable to GST
- In other words, GST shall be levied on the supplies made even without consideration between distinct or related persons on such value as determined in accordance with Section 15 of CGST Act, 2017 read with Valuation Rules under CGST Rules, 2017



Expiry Products



Supply the Medicine to distributor
in July, 2017 for 5 lacs



Distributor return the expired medicine
amounting to Rs. 2 lacs in Feb, 2018



Whether ITC to be reduced by Sun Pharma in case it disposed the expiry Medicines?

Section 17(5)(h) – ITC shall not be available for “ Goods lost, stolen, Destroyed, written off or disposed off by way of gift or free sample

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Sponsorship



Enrolled a team of 5 Doctors for
attending the medical conference
at Dubai organised by IMA India by
paying subscription



- The Doctors are neither the employee of Sun Pharma nor related to company
- Entire expenses of Medical conference tour is borne by Sun Pharma & debited to business promotion expense
- Whether RCM on subscription will be applicable ?
- Whether Sun Pharma eligible for ITC on expenses incurred for medical tour ?

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Expenditure on Sale & Distribution



Registered in Maharashtra

Sends its various employee/salesman to different states all over INDIA for promoting & marketing their products



- Sales man incur various expenditure such as Hotel stay, Food expenditure, Travelling etc. while travelling to various state in India & get the same reimbursed from company.
- Whether Glenmark will be eligible for ITC charged on Hotel Stay, Food, Travelling etc.?

Formulation & Marketing



Provide Formulation & other Raw material to Sun Pharma who send manufacture the medicine & medicines to Glen mark



Glenmark Pharma send the manufactured goods to Poonam Pharma who get the medicines label & market the same



Discuss the Taxability of above transaction

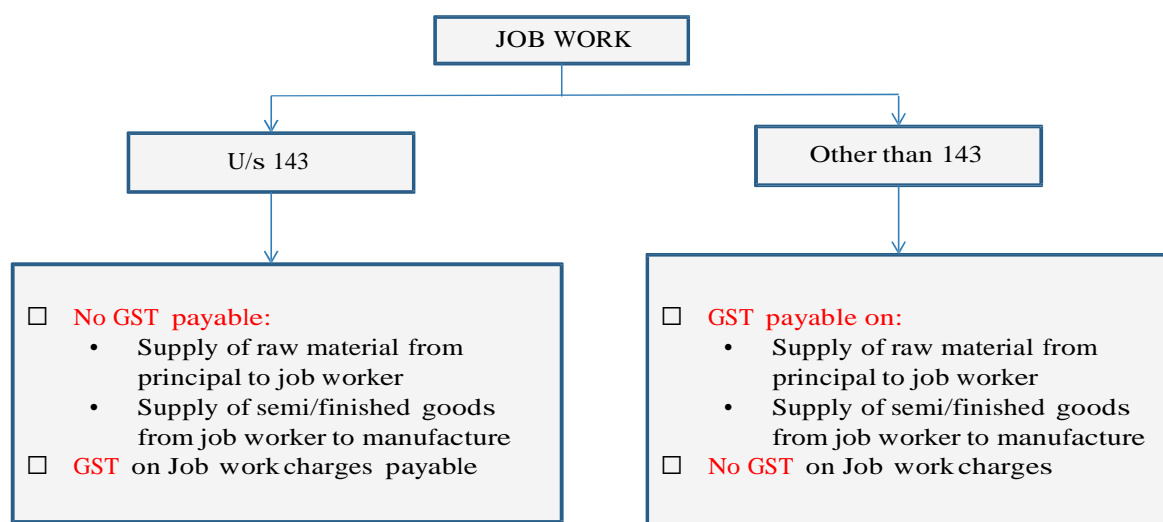
JOB WORK – section 2(61)

▀ Job work means

- ▷ Undertaking any treatment or process by a person
- ▷ on goods belonging to another registered taxable person

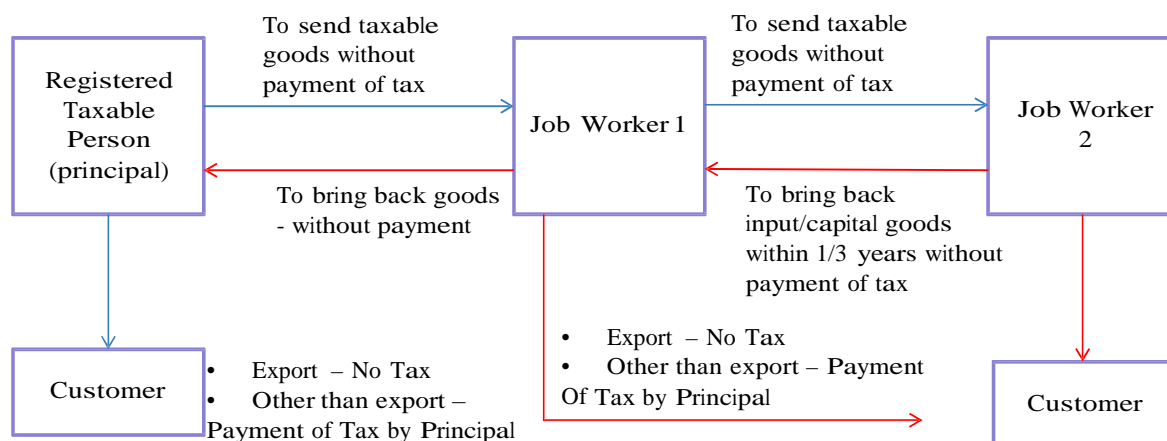
- Term “job worker” shall be construed accordingly

Taxation of Job work- section 143

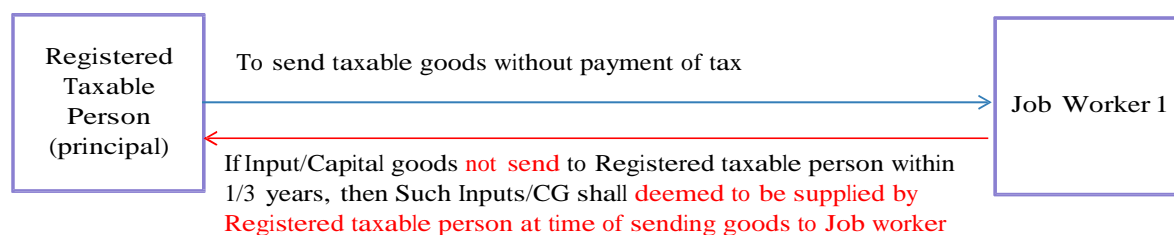


JOB WORK U/S 55-PROCEDURE FOR REMOVAL OF GOODS

- Register Taxable person under Intimation may send input/capital Goods without payment of Tax to job worker



JOB WORK -PROCEDURE FOR REMOVAL OF GOODS



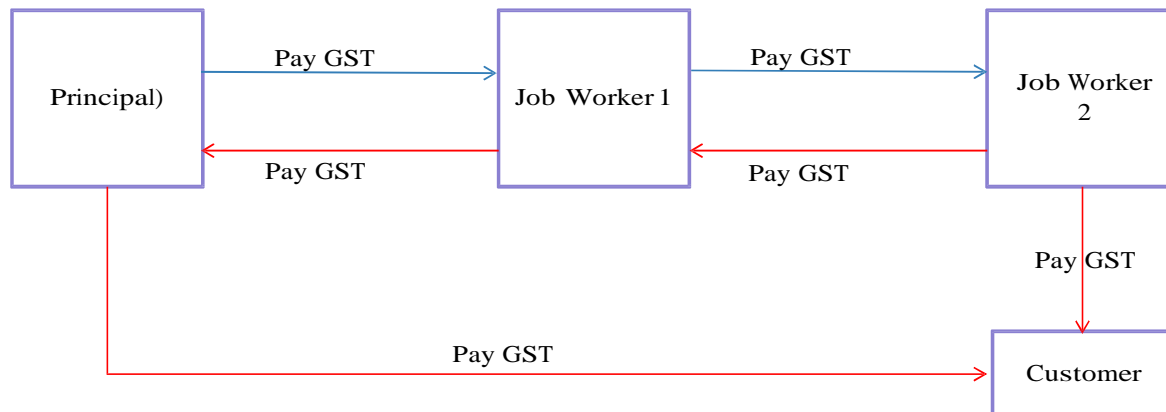
JOB WORK U/S 143

- Supply of goods by a principal to a job-worker u/s 143 not to be treated as supply of goods
- Supply of goods (after completion of job work) by registered job-worker [Schedule III]
 - ▷ Shall be treated as the supply of goods by the “principal” (referred in section 143); and
 - ▷ Value of such goods shall not be included in the aggregate turnover of the registered job worker

JOB WORK U/S 143

- Principal is responsible for accountability of goods including payment of tax thereon
- Goods are permitted to be supplied from place of business of job worker provided:
 - ▷ Principal declares the place of business of job worker as his ‘additional place of business’ **Except job worker is registered u/s. 22**

JOB WORK OTHER THAN U/S 143



ROYALTY



India

Provide Formulation to Glenmark for production of IODEX



Glenmark will give royalty to GSK based on number of units sold in India



USA

Discuss the Time of Supply & whether GLENMARK is required to pay GST on RCM?

C & F agent



Glenmark Pharma sends its medicines to Poonam Pharma (C&F agent) to distribute its medicine to buyer in various parts of Maharashtra



- Poonam Pharma will get the order for medicines & invoice will be prepared in the name of GLENMARK
- Poonam Pharma will get its commission for handling & distributing from Glenmark

Discuss the Taxability of above transaction

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Disposal of Business Asset



SUN PHARMA give 500 Used laptop to SMILE FOUNDATION free of cost as its CSR activity



Where SUN PHARMA would require to pay GST on such supply?

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Thank you!

CA. RAJIV LUTHIA

