

# IMPACT & INTRICACIES OF GST

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*Manufacturing, Job Work.*

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# MANUFACTURING SECTOR

## Threshold for Registration and Composition.

- ▶ SSI Exemption under Central Excise – 1.5 crore ( excluded exports, deemed exports, exempted goods) – subject to previous year turnover of 4 crores.
- ▶ Threshold Registration under GST – 20 lakhs covers all supplies.
- ▶ Composition Benefit allowed under section 10 to Manufacturers.

*“ (72) “manufacture” means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term “manufacturer” shall be construed accordingly;”*

*No concept of Composition benefit to deemed manufacturer.*

*Other conditions to be satisfied – no supplies of inter-state, **no other turnover of taxable services.***

*Composition GST also payable on turnover of exempted goods by the manufacturers.*

# Change in Taxable Levy

- Taxable Levy under Central Excise was “Manufacturing”.
- Taxable levy under GST – Supply for a consideration to another person or deemed supply.
- Impact on Captive consumption, Deemed Manufacture ( labelling / relabeling), Inter-unit transfer, Branch Transfers, Multi-Kit packs.

# Change in Taxable Levy

- Warranty Period supplies.
- Combo Offer supplies ( buy 1 get 1) or 10 + 2.
- Free Replacement / Breakages.
- Free Goods on fulfillment of Sales Targets by customers.

# Area – based exemptions

- No Area – based exemptions under GST so GST payable for such units also.
- Refund to Such suppliers based on the special scheme announced by the respective central and state Government.
- As refund under special scheme, time limit and procedures as per scheme to be fulfilled.

# Exports and refund.

- Procedure of duty-free procurement from manufacturer discontinued.
- Alternate mechanism to procure at concessional rate of 0.1% GST notified. But the same is applicable for direct exports of final products only.
- No procedure for procurement of goods under concessional rate of duty for further manufacture or in bond.
- Refund notified for deemed exports for advance authorization / EOU – No ab-initio exemption for such supplies.
- Exemption from IGST when imports made against the EXIM licenses.

# Exports and refund.

- System for automation of refund of IGST paid on exports through shipping bill.
- Rule 96 (9) amended to stated that exporter exporting the goods on payment of IGST cannot receive goods at concessional rate of 0.1% and various other Export benefit.
- The restriction is made retrospective from 23-10-2017.
- Refund for goods exported under LUT is based on Turnover and not Actual Credit or consumption.
- Drawback Rates have been rationalized for GST Impact.

# Exports and refund.

- Usual reasons for non-sanction of refund of IGST paid through shipping bill.
- Manner of invoicing – separate invoice number for commercial invoice and GST invoice or proforma invoice.
- Non-uploading of the details in the shipping bill.
- Mis-match in GSTR-1.
- Details of Port Code.



# Inter / Intra state Supplies.

- Determination of place of Supply.

*10. (1) The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,—*

*(a) where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;*

*(b) where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person;*

*Ex-work V/s FOR Supply – Intra V/s Inter.*

# Time of Supply

- Time of liability under Central Excise – date of removal.
  
- Time of Supply under GST-
  - a. Raising of invoice
  - b. Advance (not applicable currently).
  
  - c. Time limit to issue invoice on or before the following –
    - i. Removal of goods or
    - ii. Delivery of goods to recipient.
  
  - d. Impact of time of supply for Goods sent on approval.

# Handling sales / purchase returns

- **Return of Goods – sales return and purchase return, rejection on quality issues.**
- **Whether tax invoice or credit note for returns.**
- **Time limit to issue credit note.**
- **Manner of issue of credit note.**
- **Impact of sales returns for expired goods, breakages, leakages ( especially pharmaceutical and food products manufacturers)**

## Issues w.r.t Valuations of the goods.

### <sup>12</sup> Recovery of freight and insurance separately.

- Sales of goods on FOR basis – Under Central Excise, excise duty was not applicable on freight and insurance but sales tax is applicable on the total sales price and all components till sales takes place.
- Ex-works sale where freight and insurance is charged separately on the invoice or by way of the debit note. Excise was not applicable on freight and insurance. Sales tax is also not payable if such amounts are charged separately.
- Position under GST for recovery of freight and insurance separately on invoice ?.
- Valuation of Goods on MRP basis – Under excise there were certain goods are value based on MRP less abatement – Impact under GST?

## Issues for valuation - Transaction Value

Sub section (2) of section 15 provides that the transaction value shall include the following:

- (b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

Issues - How to determine whether it is liability of supplier or not. What should be the basis to determine liability ? Say, Mr. A sold goods to Mr. B and Mr. B has incurred the transportation charges. Whether Mr. A is liable to pay such transportation charges or not and consequently the same will be included in transaction value or not ???????

Inclusion of value of free mould and tools supplied to the Manufacturer.

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## Issues for valuation - Transaction Value

- Valuation of goods (inter-depot / inter-branch transfer) – open market value or similar goods value.
- If recipient eligible for full credit then invoice value is deemed to be transaction value.
- If supply through agent like consignment agent or C & F agent then value will be 90% of the value of similar goods sold by the agent or the open market value.
- What is the impact if the principal declares the premises of the agent as additional place of business ??

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## C) Discount

### **PRE-SUPPLY DISCOUNT.**

The discount is allowed as deduction as provided under Rule 15(3)

(3) The value of the supply shall not include any discount that is given:

(a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply.

Thus value of discounts which are offered on invoice will not be included:

- Trade discount, Discount on purchases from App.
- Buy onions and get 20% off on potatoes.
- Buy 10 get 2 units extra discount.
- Buy 2 get 1 free, Redemption of discount Vouchers.

## **POST – SUPPLY DISCOUNT.**

(3) The value of the supply shall not include any discount that is given:

(a) after the supply has been effected, if –

- (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
- (ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

It is specifically provided that discount or incentive which have been provided subsequent to sale of goods will not be permitted unless it is established as per agreement and is known at or before the time of supply and specifically linked to the relevant invoice. Thus all the 3 conditions must be satisfied. If these 3 conditions are satisfied, value will not include discount.



# Issues regarding giving Discount

1. <sup>17</sup> Discount given due to deficiency in service or defect in goods
2. Cash Discount not passed on to the customers.
3. Year –end turnover discount based on targets achieved.
4. Sales target Achievement discount.
5. Re-negotiating of invoices.
6. Bad debts.
7. Schemes.

# Transitional credit Impact and intricacies.

- Credit of Excise duty paid on Inputs lying in Depot across India.
- Credit of capital Goods in Transit as on 30<sup>th</sup> June 2017.
- Credit available in the Excise return of the Job worker.
- Credit available on stock with Job-workers of Raw-material, Semi-finished and Finished Goods and
- Input service distributor credit pertaining to outsourced manufacturer.

“outsourced manufacturing unit” means a job-worker who is liable to pay duty on the value determined under rule 10A of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 on the goods manufactured for the input service distributor or a manufacturer who manufactures goods, for the input service distributor under a contract, bearing the brand name of such input service distributor and is liable to pay duty on the value determined under section 4A of the Excise Act.

# Input Tax Credit.

- Credit of R & D expense for failed project, Exhibit batch ( not allowed under Central Excise ) – Position under GST.
- ITC eligible only for registered persons – Expenses incurred for land procurement for new factory in a different state or a new place of business.
- Credit not allowed for CGST / SGSST or other state or for goods where the place of supply is not the state of the receiver. ( Ex-factory purchases)

## IMPACT OF CREDIT PERTAINING TO RENOVATION / REPAIR OF THE FACTORY.

- a. works contract services or goods and services used for construction of immovable property, other than plant and machinery, **except where it is an input service for further supply of works contract service;**
- b. **Credit Admissible even if plant and machinery is immovable – HVAC Plants, Chillers, etc. – Even Foundation of plant and machinery is covered for credit.**
- c. “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property.
- d. Reversal of capital goods – rule 43

## Items on which credit not allowed.

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(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

### Issues:

- a. Goods lost as process loss.
- b. Goods lost before put to use.
- c. Physician Samples.
- d. Provision made in books of account towards old Stock.

**RECENT AMENDMENT WITH RESPECT TO CREDIT OF MOTOR-VEHICLE AND CANTEEN.**

## Impact of conditions for availing the credit

### Provisions -

- i. GST credit allowed only when the registered person has received the goods or services or both.
- ii. If recipient fails to pay to the supplier of goods or services or both, the amount towards the value of supply along with tax payable thereon within a period of **one hundred and eighty days** from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, **along with interest thereon.**
- iii. **Period of 180 days to count from the date of invoice.**

### Impact on following situations:

- a. Handling Loss during Transportation.
- b. Weighment Differences.
- c. Credit note issued towards rate renegotiation for post – supply discount.

## Impact of Reversal of Credit on account of Exempted Goods Supply..

### Provisions -

1. <sup>23</sup>Capital goods means those goods, the cost of which is capitalised.
2. Reversal of capital goods credit pertaining to exempted goods to be made over a period of 60 months.
3. Depreciation not to be claimed for credit availed on capital goods.
4. Reversal of credit on input and input services to be made based on turnover for each GSTN

### Impact on following situations:

- a. Computing the GST credit attributed to exempted goods for capitalisation.
- b. Reversal of credit of input and input services received by various manufacturing locations having different exempted product.
- c. Impact on exempted income of interest on loan. ( AMENDMENT TO BE MADE FROM 25<sup>TH</sup> Jan)

## Anti-Profiteering Rules

Section 171(1) of Central Goods & Service Tax Act, 2017 states that

*“Any reduction in rate of Tax on any supply of goods or services or the benefit of Input Tax Credit shall be passed on to the recipient by way of commensurate reduction in prices.”*

### Effect of Non Compliance:

If found guilty, the authority after granting an opportunity of Hearing may order the supplier-

- a) Reduction in Prices
- b) Reimburse certain amount along with 18% interest from the date of collection to eligible person, or if unclaimed- transfer to Consumer Welfare Fund
- c) Impose Penalty as specified in the Act.
- d) Cancellation of Registration under the Act.

**Recently Hindustan Unilever, McDonald's Restaurant, Honda Motors and many other firms were sent notices under GST Anti-Profiteering Rules and HUL offered set aside ₹ 119 crores for Consumer Welfare fund.**



## 141 (1). Inputs removed for job work and returned on or after the appointed day

- 1) Where any inputs received at a place of business had been removed as such or removed after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of existing law prior to the appointed day and such inputs **are returned to the said place on or after the appointed day, no tax shall be payable if such inputs, after completion of the job work or otherwise, are returned to the said place within six months from the appointed day:**

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

**Provided further that if such inputs are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (a) of sub-section (8) of section 142.**

# Job work

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## Present Law

Excise	Service Tax	VAT
Excise duty is payable when activity under J/w results into manufacture	Service tax is payable when activity under J/w does not result into manufacture	VAT is payable in case when there is transfer of goods by J/w,
Rule 10A of Central Excise Valuation Rules, 2000 deal with valuation of excisable goods manufactured by job worker on behalf of principal or value is COP + job charges	No specific valuation provision  If there is transfer of goods, then service tax is not applicable on the value of goods transferred.	Payable on value of material transferred.
J/w exempt if principal undertakes the liability to pay duty	J/w exempt if value of J/w is included in the final product on which principal manufacturer undertakes the liability to pay duty	No VAT is payable in case of job work operations involving pure labour.

# Definition of Job Work under GST law

<sup>27</sup>  
Job work has been defined in section 2(62) of CGST Act, 2017 as follows:

(62) “*job work*” means any treatment or process undertaken by a person on goods belonging to another registered taxable person and the expression “job worker” shall be construed accordingly;

Job-work definition under Central Excise currently.

n) “job work” means processing or working upon of raw material or semi-finished goods supplied to the job worker, so as to complete a part or whole of the process resulting in the manufacture or finishing of an article or any operation which is essential for aforesaid process and the expression “job worker” shall be construed accordingly;

# Whether job work is supply of goods or service.

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Schedule II.

## 3. Treatment or process

- (a) Any treatment or process which is being applied to another person's goods is a supply of services.

**Thus, job work activity is a service activity.**

# Tax rate for job work service

Heading	Description	Rate
9986	(Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.	NIL
9988	Job work services in relation to printing of newspapers, Textiles and textile products, Printing of books (including Braille books), journals and periodicals, printing of all goods falling under Chapter 48 or 49, which attract CGST @ 2.5per cent. or Nil, Processing of hides, skins and leather, all food and food products, manufacture of clay bricks, manufacture of handicraft goods and various products falling under various chapter heading of First Schedule to the Custom Tariff Act, 1975	5%
9988	Services by way of job work in relation to manufacture of umbrella and printing of all goods falling under Chapter 48 or 49, which attract CGST @ 6per cent.	12%
	Other than above	18%

**In the GST council meeting held on 18<sup>th</sup> January 2018, it is proposed to reduced GST rate on tailoring service from 18% to 5%.**

## Special procedure for removal of goods for certain purposes (Section 143)

- i. A registered person (“principal”) may, under intimation and subject to such conditions, send any inputs and/or capital goods, **without payment of tax, to a job worker for job-work** and from there subsequently send to another job worker likewise.
  
- ii. Movement to be on the basis of the challan specified in rule 10 of ITC rules.
  - i. The “principal” can bring back the goods **to any of his place of business** without payment of tax; within the following time
    - bring back inputs, after completion of job-work or otherwise, **within one year** of their being sent out.
    - **bring back** capital goods, other than moulds and dies, jigs and fixtures, or tools, **within three years, respectively**, to any of his place of business, without payment of tax;

### Impact on Inter-state Job work movement.

### **Job Work. Contd ..... (Section 143)**

- iii. The principal also has the option to supply such goods on payment of tax within India or export without payment of tax directly from the premises of the job-worker after completion of job-work within one year for inputs and three years for capital goods, respectively, of their being sent for job-work.
  
- iv. The option of direct supply from the job-workers place is available only when if the “principal” declares the place of business of the job-worker as his additional place of business except where the job worker is registered under section 25.
  
- Export or supply of goods directly from job worker premises located in another state.

## Job Work. Contd ..... (Section 143)

vi. Where the inputs sent for job-work are not received back by the “principal” or supplied within a period of one year of their being sent out, **it shall be deemed that such inputs had been supplied by the principal to the job-worker on the day when the said inputs were sent out.**

vii. Where the capital goods, other than moulds and dies, jigs and fixtures, or tools, sent for job-work are not received back or supplied within a period of three years of their being sent out, **it shall be deemed that such capital goods had been supplied by the principal to the job-worker on the day when the said capital goods were sent out.**

**viii. Thus interest will be payable from the date of dispatch of inputs or capital goods.**

vi. Any waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax if such job worker is registered, or by the principal, if the job worker is not registered.

**What would be the treatment of receipt back of material sent to job worker after period of one year or three years. Whether it will be treated as sales return ?**



## II. DISPATCH OF GOODS TO JOB WORKER -

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The job worker can receive the goods from principal in following manner–

### a) Directly from principal –

As per section 143(1) the input or capital goods can be sent by principal without payment of tax to a job worker. Although the transfer of goods to job worker is considered as supply under Section 7 yet, as per section 143(1) the input or capital goods can be sent without payment of tax. The goods shall be sent to a job worker under the challan which should be serially numbered.

Whether this challan is different than challan under Rule 55 of GST Rules.

## b) From supplier to job worker –

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The principal can instruct supplier to supply the goods directly to the job worker. The section 10(1)(b) of the IGST Act provides that the place of supply of goods will be location of person (principal) under whose instruction goods are delivered to job worker.

After receipt of goods from supplier the job worker shall intimate the details of receipt to principal who shall thereafter prepare the challan and sent to job worker.

**c) From one job worker to another job worker –**

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As per the first proviso to Rule 45(1) when the goods are to be sent from one job worker to another job worker, the challan issued by principal may be endorsed by the first job worker indicating therein the quantity and description of goods. Thus the challan issued by principal to job worker shall be endorsed by job worker to send the goods to another job worker.

# Filing of Form ITC 04

- As per rule 45 of CGST Rules, 2017 every registered person required to furnish details of challans in respect of **goods dispatched to a job worker or received from** a job worker or sent from one job worker to another worker.
- Registered person needs to declare details of goods sent or received from job worker during a quarter in **FORM GST ITC-04**.
- Form GST ITC 04 needs to be filed on or before the twenty-fifth day of the month succeeding the said quarter - Issues in filling - ITC 04.
- Commissioner by a notification may extend the time limit of filing of Form GST ITC 04.



**ASK YOUR QUERY**