

Understanding GST Model Law – Job Work – Part- 10

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This is the tenth in the series of articles to understand the GST Model Law. The purpose is mainly to create awareness and enable one to look at the unintended impact on his/ her sector. It would aid in making representations to make this law tax payer friendly, simple and transparent.

The GST Model Law has been put in public domain to get the feedback for amendments. This law requires in the opinion of the paper writers large number of amendment to make it workable.

Background

The manufacturing industries now a days stick to their core competencies and get most jobs done on outsourced basis. The sending of raw materials/semi-finished materials for some manufacturing process or for completion as per the directions of principal manufacturer is known as job work.

The industries who undertake the work of job work should be aware of the provisions under GST, so that can be compliant and not face demands of levy or excess availment of credit.

Even the principal manufacturer should be aware of the provisions applicable for job work not only for the purpose of enabling them to plan their processes effectively but also to cut manufacturing costs.

The job work concept available without payment of central excise duty under Notification 214/86 has been continued under GST.

Meaning of Job work under GST

Section 2(62)-“job work” means

- undertaking any treatment or process
- by a person
- on goods
- belonging to another registered taxable person.

Comments:

In CCR it only covers processing on goods supplied to job worker. This definition is different from existing definition in CCR as it now specifies job work on goods of registered taxable person.

Unregistered persons sending goods for job work would not be considered as job work under GST.

Place of business:

2(75) "place of business" includes:

- (a) a place from where the business is ordinarily carried on, and includes
 - a warehouse,
 - a godown or
 - any other place where a taxable person stores his goods, provides or receives goods and/or services; or
- (b) a place where a taxable person maintains his books of account; or
- (c) a place where a taxable person is engaged in business through an agent

Job Work and GST

- Under GST, levy gets attracted on supply of goods.
- Therefore normally the taxable person [who is called as principal] for job work would have to pay applicable GST at time of supply of materials dispatched for job work. The job worker would avail credit of tax paid by principal. Later the job worker would clear job worked goods on payment of GST. Principal would avail credit of GST charged by job worker and discharge GST on supply of final processed goods.
- Under section 43A the Principal could send materials without paying of taxes and discharge GST on the final goods which are resulting out of processing of job worked goods received back from job worker, subject to following prescribed procedure in this regard.
- The job worker can receive the goods directly from the raw material/ component supplier.
- The principal would engage in further processing resulting into final product. The final product would be supplied on payment of applicable GST by the principal.
- Job worked goods could be sent directly from job worker premises to customer of principal.
- The responsibility for accounting of materials and payment of tax on job worked goods lies on principal.
- The procedure for job work has been prescribed in Section 43A and given below.
- Job worker would pay GST on processing charges.

Procedure to send goods for job work

- a. **Send Goods by Order of Commissioner:** The Commissioner may by special order and subject to specified conditions permit a **registered taxable person** (hereinafter referred as the “principal”) to send taxable goods, without payment of tax, to a job worker for job-work.
- b. **Registered taxable Person:** means a person who carries on any business at any place in India /State and who is registered under GST law.
- c. The job worked goods could be sent directly from first job worker to another job worker and so on.
- d. The job worked goods could either be brought back to principal’s place or supplied to end customer of principal direct from job worker’s location.

A. When job worked goods are brought back goods to premises of principal

After completion of job-work, Commissioner could allow to-

- bring back such goods to any of principal manufacturer’s place of business, without payment of tax, for supply therefrom on
- payment of tax within India, or
- with or without payment of tax for export

B. When job worked goods are supplied directly from premises of job worker

- Principal could supply such goods from the place of business of a job-worker on payment of tax within India, or outside India with or without payment of tax for export
- The goods shall not be permitted to be supplied directly from the place of business of a job worker unless the “principal” declares the place of business of the job-worker as his additional place of business except where-
 - (i) the job worker is registered under GST; or
 - (ii) the “principal” is engaged in the supply of such goods as notified in this behalf.

Note: The responsibility for payment of tax shall lie with the principal.

Tax would be paid on exports when exported final goods under rebate claim

Paper writer comments:

The above procedures are in line with existing facility including Rule 4(6) of CCR which provides for clearance of final goods direct from job worker premises.

Job work & Credit:

- The supplier of materials [principal] can avail credit of input tax on inputs and capital goods sent to a job-worker for job-work.

- Such credit availment shall be subject to such conditions and restrictions prescribed
- If the inputs/capital goods, are not received back within 180 days/2 years respectively of being sent to job worker premises, then credit availed to be reversed along with interest.
- Credit can be availed on inputs/capital goods even if directly sent to a job worker for job-work.
- In such a case, the period of 180 days/2 years shall be counted from the date of receipt of the inputs/Capital goods by the job worker.
- Principal can reclaim the input tax credit and interest paid earlier when the inputs or capital goods, are received back by him at his place of business.

Paper writer comments:

Similar provisions for credit availment on inputs/capital goods sent for job work exist in CCR.

Existing provisions on job work:

1. **Job work amounting to manufacture of excisable goods:** Manufacturing of excisable goods can be done by a job worker for another on the materials sent to him for job work.
2. Alternatively, the job worker can be completing part of processing related to the manufacturing activity related to manufacture of excisable goods. These could then be further processed and converted to final goods by principal manufacturer.
3. The notification no.214/86-CE is exempting the excisable goods produced as a job work in a factory from payment of the whole of the duty of excise.
4. The benefit of this exemption is available to the job worker only when the principal undertakes responsibility to discharge excise duty on final products.
5. When job work amounts to manufacture of excisable goods, it is covered in negative list and excluded from ST levy in hands of Job worker.
6. **When job work does not amount to manufacture:** When processing done by job worker does not amount to manufacture, then service tax is applicable on processing charges.
7. There is ST exemption in 25/12-ST when the principal discharges excise duty on final manufactured products/exports such final products resulting from further processing of job worked materials.
8. Cenvat credit can be availed by job worker on the inputs/consumables used for job work.

Landmark Decisions under present provisions:

- **Usage of own materials by job worker:** the Honorable Supreme Court in Prestige Engineering (India) Ltd Vs CCE Meerut (1994 (73) ELT 497 (SC)) wherein the court held that where the sub contractor or job worker contributed his own raw material for manufacturing, the transaction was not one of job work at all. However, minor additions by the job worker would not detract the transaction from being one of job work.
- **Eligibility to cenvat credit:** In Sterlite Industries (I) Ltd v/s C.C.Ex, Pune [2005 (183) ELT 353 (LB)]” held that job worker, who received goods from manufacturer under Rule 57E of erstwhile Central Excise Rules, 1944 entitled to take credit of duty in respect of other inputs received directly and used by him in manufacture of said goods on job work basis.

Recommendations:

- *Time limit fixed for return of inputs and capital goods back from job worker to be increased uniformly to 2 years.*
- *Clarify what is the period for which Commissioner’s order permitting to remove final products from job worker premises is valid.*
- *No interest payable on credit availed on inputs/CG, when inputs/CG not returned within prescribed period.*

Conclusion

In this article, the paper writer has examined job work under GST. The above is based on model GST law which has been placed for comment in public domain. It maybe noted that the job work on payment of GST is also possible and many may prefer that as maintenance of records and reconciliation can be avoided. If there are any specific issues faced by any sector of manufacturers who send materials for job work, due to the nature of goods involved, it is advisable to make representation to Finance Minister ASAP to ensure the change sought is incorporated into final GST law.

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