



JOB WORK AND ITS INTRICACIES



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1. Introduction

Section 2(68) of the CGST Act, 2017 defines the term “job work” as under:

“Job work” means any treatment or process undertaken by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly.

This means that job work under GST can cover all treatments or processes carried out by a person on another registered person’s goods whether or not the same amounts to manufacture [results into a new product with distinct name character use or not]. A job worker under GST can be understood to be as follows:

- i. The job worker should be engaged in treatment or processing activity.
- ii. Such activity should be on goods supplied by a registered principal, In short during the job work, the ownership of materials sent should be all time should be with such principal and in no case, it should be transferred to another person.
- iii. The activity would be carried under the instruction of the registered principal who owns the goods, and
- iv. The processed goods would be sent back to the principal or on his instruction to other job worker or even to the customer of the principal.

2. Job work Models

Though job work is a commonly used term for all processes performed on materials by other persons, they may not necessarily fall within the ambit of job work for the purpose of GST law. To exactly determine what is to be construed as job work and the manner of their compliances within the GST law, one should understand three prominent models prevalent:

- a. **Where goods used in the process belong to the job worker**– In some cases, job worker undertakes contract for completing the process by utilizing materials of his own. Where the job worker uses own materials in the process, it would still be covered under the scope of job work. For instance, a job worker may be contracted to for washing garments by utilizing the washing material of his own such as chemicals,

detergent etc. In such situations, this would be treated as a job work service, through the job worker uses certain own goods in providing the service. The job worker may use 5-10% of own materials which would usually be in the nature of consumables.

- b. **Where goods belong to the principal and job work is undertaken at principal's premises**– Where the material belongs to the principal but the same is processed at the premises of the principal itself by an external labour, then it would be considered as job work as the definition of job work **does not require the job worker to carry out the activity at his own premise**. There may not be any requirement to file ITC-04 as the goods are not sent out or received from job worker in such a case. In effect, it means engagement of external contract labour by the principal for carrying out processing at his premises for which the service charges are paid to the labour for carrying out an activity, which would certainly be construed as job work.
- c. **Where goods belong to the principal and job work is undertaken at job worker's premises**– Here the whole or substantially the whole material belongs to the principal. These are sent out for job work processing at job worker's premises. This is a pure case of job work as the activity is clearly covered by the definition. Intimation under Form ITC-04 is mandatory. Form ITC-04 should contain the entire details of challans in respect of goods sent out, transferred from one job worker to the other and the final goods received from the job worker by the principal. However, the requirement of filing of ITC-04 for the financial year 2017-18 and 2018-19 has been waived.

3. Classification of job work as services

The scope of supply is an inclusive definition and shall cover job work services under its ambit. Job work services made or agreed to be made by a person for a consideration shall be in the course or furtherance of business is taxable to GST.

Schedule II of the CGST Act, which sets out the activities to be treated as supply of goods or supply of services, provides that any treatment or process which is applied to another person's goods is a supply of services. Accordingly, the job worker is liable to GST at applicable rates on the consideration paid for the processing services by registered principal.

It is integral to the process of job work that the goods (main or part) should be belonging (or supplied) to another registered person. The process carried out on goods belonging to a registered person would only be covered within the scope of job work.

If the goods belong to an unregistered principal, then it may be treated as “*manufacturing services on physical inputs (goods) owned by others*” by way of treatment or process belonging to another person as provided in Schedule II and treated it to be a service but it would not amount to “job work” services in terms of the GST law.

4. Sending and receiving back goods on job work

Section 143 of the CGST Act prescribes the job work procedure to be followed. It provides that a registered person i.e., principal can under intimation and subject to prescribed conditions send any inputs or capital goods to a job worker for job work, without payment of any tax provided that:

- (a) Inputs are brought back or supplied from the job workers premise within 1 year from the date it was sent out and
- (b) Capital goods other than moulds and dies, jigs and fixtures, or tools are brought back or supplied from the job workers premise within 3 year from the date it was sent out.

This period of one and three years may be extended by the Commissioner for a further period of one and two years respectively on sufficient cause. Reversal of credit is not required to be done by the principal. Through the Finance Act 2020, the power of extension has been given to the jurisdictional Commissioner of the registered person.

In case of any failure, it shall be deemed that such inputs or capital goods have been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out, consequently it makes the principal to issue a tax invoice as on date and principal shall pay interest at the rate of 18% p.a. for minimum one or three years, as the case may be.

5. Job work charges

Once any transaction is covered by the scope of supply, the same would be taxable under the GST law at the rate prescribed in the rate notification¹ unless exempted² specifically. If the job worker is registered or liable to be registered, then the liability to pay GST on job work services shall be in the hands of job worker. Job worker shall be required to charge GST for the services provided by the job worker to the principal at the rate as prescribed in the rate notification.

6. Job Work on Principal to Principal basis

There is also a practice in the industry of principal to principal dealing with job workers where the registered principal would discharge the GST for the supply of goods to the job worker and the job worker being registered would charge back adding his value. In this case they would not be working in accordance with section 143 as the principal is sending goods to the job worker on payment of GST.

This model would have the following implications:

- (a) The job worker should pay the value of goods + taxes to the principal for the purpose of availing credit of taxes paid. This would have huge impact on the working capital.
- (b) The turnover of the job worker shall increase substantially and may be required to file GSTR-9 and GSTR-9C thereby increasing the compliance and cost.
- (c) The exposure of GST, if any, would be on the entire value including the value of goods vis-à-vis only on his job work charges.

If the primary goods belong to the job worker, then the job worker would be treated as contract manufacturer. This means he would not be considered as a person only providing job work services. He would be treated as a person supplying the relevant goods itself. Depending on the goods getting supplied by the contract manufacturer, the classification of goods may differ and it would not be considered as a supply of service. One may find the HSN

¹ Notification No. 11/2017- Central Tax (Rate) dt 28.06.2017 as amended from time to time.

² Notification No. 12/2017- Central Tax (Rate) dt 28.06.2017 as amended from time to time.

code of the goods supplied by such contract manufacturer and the tax rate would be charged accordingly. Examples could be where the fabric is owned by the job worker and some consumables are procured separately. In such cases the exemption for sending and receiving goods without payment of GST would not be available under section 143 of the CGST Act as it is not a case of job work.

7. Other relevant aspects

a. Job worker is not a hired labour and cannot be considered as a manpower supplier liable under reverse charge mechanism as the responsibility of the work is on the job worker.³ This would be so even if the job worker works within the premises of the principal.⁴ This may not be applicable under GST as payment of reverse charge is applicable only on security services and not manpower supply services.

b. Contractor who works under the direct control and supervision of the principal's quality control staff in their factory could be said to be a hired labour and consequently a manpower supplier.⁵

c. The job worker who crosses the threshold or wishes to opt for registration voluntarily and avail the input tax credits would be eligible for credit on the stocks in hand u/s 142.

8. Use of Incidental material by job work would not amount to not being treated as job work

Job worker is a person who contributes mainly through labour and skill, though done with the help of tool, gadgets or machinery. In case where job worker uses his own material entirely then it does not amount to job work services. However job worker uses his own materials 5-10% along with the goods sent by the principal, the activity could be considered as job work when the own materials used by job worker are minor items, when most of major products are supplied by registered principal it would be considered as a job worker services when price of minor additions are included in job work invoice.

³ Apex Electricals P Ltd Vs UOI – 1992 (61) ELT 413(Guj)

⁴ Tata Iron & Steel Co Ltd Vs CCE – 2003 (156) ELT 681 (T-K)

⁵ Blue Star Ltd. Vs UOI- 2003 (161) 141(Bom)

In case some material such as dyes, threads, embroidery, accessories is used by the job workers in addition to the fabric/material supplied by the principal then such materials procured and used for job work by job worker would be charged to the principal along with the job work charges. The activity shall still be construed as job work within the terms of Section 143. Suppose let's say, in case of dyeing of fabrics, the fabric belongs to the manufacturer but the dye belongs to the job worker. The cost of such dyes may either be recovered separately or the entire value of service which may include the cost of dyes as well.

Mere addition of minor materials by job worker would not detract from treating as job work like a tailor stitching a shirt out of cloth supplied by principal, may use his own buttons, thread and lining cloth similarly held in case of Prestige⁶. If some negligible raw material is used by job worker, it would be still said as job work services if such use is only of incidental nature as confirmed in case of Madura coats⁷

Further the government⁸ clarified that the job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work.

In case of Sujag Fine Chemicals⁹ it was held that in absence of any restriction in notification the job worker can use his own material in job work similarly held in case Shakti Insulated Wires Ltd.¹⁰ that the wording of the notification does not prohibit an assessee job worker utilizing other inputs in addition to the raw material received by him.

Conclusion

In the present competitive industry, it is very important for the MSMEs, trader and service providers to be aware of the legal implications under GST in order to avoid extra costs.

The main purpose of job work is to avoid the unnecessary GST cost when goods are sent for further processing. However, the principal has to ensure the proper records of documents, generation of the e way bill by principal or job worker where registered.

It is be noted that the goods sent for job work is required to be returned back/ sold from the premises of job worker within 1 year/3 years as the case maybe else the interest on deemed

⁶Prestige Engineering v. CCE 1994 (73) ELT 497 (SC)

⁷Madura coats v. Collector 1980 (6) ELT 582 (Cal HC)

⁸ Circular No. 38/12/2018 dated 26.03.2018 (para 5)

⁹CC v. Sujag Fine Chemicals 2013 (295) E.L.T. 32 (Bom)

¹⁰Shakti Insulated Wires Ltd.v CCE 1999 (114) ELT 424 (Tribunal)

supply has to be paid from date when inputs/capital goods were sent out of which would be cost to the principal thus he has to ensure the proper tracking of the goods one to one correlation from the date of removal and has to ensure goods well receive on time.

Thanks & Regards,

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