

Marble and Granite Industry: Issues in the implementation of Goods and Services Tax

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Background

The granite and marble industry is highly fragmented and unorganised. It also has high exports for raw as well as processed blocks. Granite accounts for about Rs. 13,000 crores of exports and domestic maybe around the same though some part is not accounted. This is concentrated in Karnataka, Andhra, Orissa etc. Marble industry is largely concentrated in Rajasthan & Gujrat.

India is the largest producer of natural stone in the world though China has the highest exports, more than 2 times the value of Indian exports. The value-added products in this industry multiply the value which is slowly picking up in India.

Key feature and Business Processes or Business Models followed in the industry

1.0. Quarrying operations

Broadly there are two classifications of the business models that are possible:

1) Ownership basis

The quarry is owned by the owner and mining license is secured by the owner directly from the government for the purpose of quarrying.

2) Lease basis:

The quarry is taken on lease by the lessee from the owner and mining license is secured by the lessee for the purpose of quarrying.

2.0. Processing

The processing activity broadly consists of three models as under:

2.1 Ownership basis – In this case the factory or the unit is exclusively set up by the quarry owner for the purpose of processing of raw blocks from own quarry.

2.2 Job-work/works contract basis – In this case the factory or the unit is set up by the persons independent of whether they own the quarry or not and they carry out the processing activity on job work or on works contract basis to the quarry owners/licensee.

2.3 Lease basis – In this model, the factory is owned by the third party and the same is leased to the quarry owners/licensee/processing units.

3.0. Trading

The trading activity broadly consists of four models as under:

- 3.1 Trading by the quarry owners/licensee – The quarry owners/licensee sell the raw blocks without further processing.
- 3.2 Trading by the processing units – In this model, the processing units purchase raw blocks from the quarry owners/licensee and sell the processed blocks in market.
- 3.3 Trading by the retailers –Retailers either purchase un-processed marble from the quarry owners/licensee or processed marbles from the units and resell in the retail market.
- 3.4 Trading by the integrated units – This model comprises of those units which operates in both the quarrying and processing segments. Besides purchasing raw blocks from third parties, they process the marble and sell it to the end users.

4.0. Present indirect tax structure

4.1 Present applicable taxes:

- 1) Royalty
- 2) Cess
- 3) Seignior age fee
- 4) Dead rent
- 5) Surface rent
- 6) Stamp duties
- 7) Lease rent to the Government
- 8) Octroi and entry tax
- 9) State Value Added Taxes
- 10) Central Sales Tax
- 11) Customs and central excise
- 12) Service tax
- 13) Taxes on fuel
- 14) Electricity duty

4.2 Exemptions/concessions

Since the EOU route in the case of integrated units has been a preferred option, exemptions or concessions are mainly those allowed to EOUs, SEZs and Exports.

4.3 Special provisions on service tax

- 4.3.1 Service Tax on reverse charge basis –It is payable under reverse charge basis on royalty, Goods Transport Agency payments, Labour contracts and other contractual payments made in terms of license by quarry owners, factories or processing units servicing the quarries under their ownership.

- 4.3.2 Besides tax under GTA services, except where the transport is through operators, service tax is payable on railway transport, man power supply, royalty; providing services in the form of **processing/cutting/polishing or any other form of service to third parties:**

Effect of the above on various Business Processes or Business Models

- 4.3.3 Effect on mining activity i.e. Quarrying operations
Though mining activity is carried either on ownership basis or lease basis, the overall impact due to taxes is neutral whether the mine is taken on ownership basis or lease basis because the mining license shall have to be obtained by the person undertaking mining operations.
However, if the mine is taken on lease from landlord, service tax and VAT on lease will become applicable which is absent in ownership model.
- 4.3.4 Effect on EOU/SEZ/Export units:
Since EOU/SEZ/Export units enjoy exemptions, there is no impact of taxes on these entities. However, there is no exemption available in case of payment of royalties, seigniorage fee, dead rent, cess on mining licenses. These entities can remove the goods without payment of duty.
Refund of input taxes paid can also be claimed. However, if there are domestic clearances, all the applicable taxes shall have to be discharged
- 4.3.5 Effect on manufacturing or processing activity
CENVAT is applicable in case of cutting/processing of raw blocks. This activity is covered within the definition of manufacture. In addition, further processing such as polishing or treatment of slabs or tiles is also covered within the definition of manufacture, hence CENVAT is applicable. CENVAT is applicable irrespective of model i.e. whether such processing activity is carried out on own material or by independent processing units servicing third parties.
- 4.3.6 Effect on Trading entities
Trading entities, irrespective of model are not covered by CENVAT provisions. Such trading enterprises are covered under VAT provisions irrespective of model. Further, service tax provisions on reverse charge primarily on transportation is applicable

5.0. Credits under present tax system and challenges faced

- Credit is not available in respect of royalty, cess, dead rent, seigniorage fee paid to the Government. Hence, there is a cascading effect on account of these payments.

- Service tax paid on royalty and input services such as GST, Leasing of mining equipment etc. Can be availed as credit in the year in which such tax is paid.
- Service tax paid on reverse charge basis on GTA or railway transportation can be claimed as input tax credit only in case of exports by way of refund. CENVAT paid on consumables or the capital goods or raw blocks is available as input credit.
- VAT paid on purchases is available as input credit to be set off against local VAT payment
- Taxes paid on fuel namely diesel and duty paid on electricity are not available as input credit.
- Refund of CST paid on import of goods from another State, there is no clarity on availment of this incentive from the DGFT

6.0. Tax structure under GST and Credits under GST

- Royalties, cess, dead rent, seigniorage fee paid to the Government do not come within the purview of the GST hence there is no possibility of any input tax credit on these items. There will be a cascading effect due these payments.
- Similarly, since taxes on fuel (diesel), duty on electricity, stamp duties paid to state government are also out of the purview of GST, there will be no input credit on these items leading to a cascading effect.
- Except basic customs duties, all other existing taxes such as Excise, Service Tax, Entry tax & Octroi, VAT, CST will be subsumed in GST.
- Since, GST is on supply, the raw blocks extracted and supplied will have to be subject to tax and with corresponding credit in the supply chain being available
- The GST paid on inputs whether goods, capital goods, services, utilized in extracting the raw blocks can be availed as input credit and the same can be utilized towards payment of GST on outward supplies
- In case of EOUs/SEZ/Exports, the GST has to be paid, input credit shall have to be taken and refund shall be claimed subject to fulfillment of conditions. This would mean increase in the working capital requirements for these units
- In case of units which are exclusively engaged in processing operations, either job work provisions or works contract provisions will be applicable. The job work procedures could enable tax free movement in the case of job work units. But if classification is under works contract then there could implications of tax under GST. Trading units can avail input credit on inward supplies and utilize towards payment of tax on outward supplies.

7.0. Net impact of GST on industry

- 7.1 Under existing provisions, in case of undertakings engaged in domestic operations the following tax rates are prevalent:
- Excise – 12.5%

- Service tax on Royalty payments-reverse charge-15%
- Service Tax on GTA – reverse charge – 4.5%
- Service Tax on Manpower supply – reverse charge – 15%
- VAT – 5% or 14.5%
- CST – 2%

7.2 In case of EOUs/SEZ/Exports, the above taxes are exempt or there are refund mechanisms for export. Though the base for each of the above tax is different, the overall impact on the end product could be around 26 to 30% except in case of wholly export operations where there is neutralization to a large extent. In case of GST, if the rate is 18% on supply of goods and services, then that would benefit the industry.

8.0. Challenges under GST

8.1 Under the GST law the input tax credit in respect of works contract services when supplied for construction of immovable property, other than plant and machinery, except where it is an input service for further supply of works contract service is not allowed.

Plant and machinery includes such foundation and structural supports but excludes land, building or any other civil structures.

8.2 Matching concept

Quarrying and processing operations

Quarrying units operate in unorganized sector and the level of documentation involved in provision of such services is not adequate. This could lead to difficulty in tracking the supply of service and hence matching the input credit.

8.3 Valuation

Mining activity involves payment of substantial portion of taxes, duties, cesses, fees and charges levied for issue of the mining license. As per the GST law, value of supply shall include all such taxes including royalties etc.

In case of processing units, costs need to be allocated to finished products in order to arrive at a transaction value. Currently there is no standard guideline available

8.4. Agency Transactions

As per the GST law the supplies between the principal and the agent shall be treated as supply and will pose a significant challenge to existing players

