

Transitional issues relating to Job-work

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1. Introduction: The definition of job-work under the GST regime has not been adopted from the earlier law(s). The earlier law defined job-work to mean processing of raw-material or semi-finished goods to complete a part or whole of the process resulting in the manufacture. With reference to the definition under the GST law, it is apparent that the scope of the term job-work has been extended by way of using 'goods' in place of 'raw-material / semi-finished goods'. As such, it can be construed that job-work under GST regime may be on the goods even if such goods do not qualify as raw-materials / semi-finished goods. While the earlier definition did not refer to the registration status of the person, the GST law specifies that the goods should belong to *another registered person*. Given such deviations from the definitions in past regime, it would lead to diverse interpretations to parse the phrase 'job-work' or 'job-worker' referred to in the transitional provisions. An attempt is made in this article to discuss transitional issues involved in job-work transactions.

2. Statutory provisions in brief: The transitional provisions contained in GST law not only deals with spill over job-work transactions but also deals with situations involving semi-finished goods and excisable goods sent to another premises for manufacturing and for carrying out tests, respectively. It would be of paramount importance during the transitional phase to distinguish the inputs, semi-finished goods and excisable goods for the purpose of claiming the transitional benefits appropriately since separate provisions have been specified in this regard. The process referred to in Section 141(1) - involving inputs or semi-finished goods may or may not involve

Goods type	Sec #	Proce-ssing	Test-ing	Rep-air	Recon-dition-ing	Manuf-acturing	Other purpo-se
Inputs as such	141(1)	✓	✓	✓	✓	✓	✓
Inputs Semi-processed	141(1)	✓	✓	✓	✓	✓	✓
Semi-finished	141(2)	✗	✗	✗	✗	✓	✗
Finished	141(3)	✗	✓	✗	✗	✗	✓

manufacturing whereas Section 141(2) – involving semi-finished goods should necessarily involve manufacturing. As such, it is of utmost

requirement to split the goods sent for job-work under the earlier law into two categories

discussed *supra*. In the light of this background, it is relevant to understand the process which involves manufacturing or otherwise. This is explained by way of an illustrative list of activities appended to this article for ready reference.

3. **Movement of goods from the Job-worker:** The Principal who has spill over job-work transactions should ensure that the goods sent in pre-GST regime are received back after job-work (or otherwise) to a place of business from where the goods were originally dispatched. In other words,

on a plain reading of Section 141(1) it is evident that a job-worker holding goods as on the appointed date cannot transfer the goods to another Job-worker of the Principal – in which

Section Ref #	Trsf to anthr Reg. Prms	Supply to RD	Supply to URD	Exports
141(1)	✘	✘	✘	✘
141(2)	✓	✓	✘	✓
141(3)	✓	✓	✘	✓

case the transitional benefit could be denied to the Principal and would be susceptible to Section 142(8) liability. However, in case of semi-finished goods or excisable goods sent for manufacture or for carrying out tests respectively, such a condition is not applicable. In fact the third proviso to Section 141(2) states that in case of semi-finished goods, the Principal has an option to effect supply from such other premises belonging to another person or may transfer goods to another premises. Similarly, proviso to Section 141(3) states that in case of excisable goods sent for carrying out tests, an option is available to the Principal to supply goods to a Recipient in India from such other premises on payment of tax or export such goods without payment of tax.

4. **Impact of non-compliance:** Non-compliance with the provisions or any deficiencies or short comings from the declaration filed by either the Job-worker or the Principal would attract provisions of Section 142(8)(a) wherein the input tax credit will be recovered as arrears in tax. The

Request for additional time (exceeding six months) for receiving back declared goods should be filed within 6 months as provided under Section 141(1), 141(2) and 141(3).

provisions of Section 142(8)(a) are also attracted on receipt of declared goods after six months from the appointed date. A bare reading of the relevant provisos to Section 142(1), (2) and (3) would suggest recovery of input tax credit claimed under the earlier laws at the time the goods

were dispatched to the Job-worker – in all such situations. However, whether movement of goods from the Job-worker to the Principal after the lapse of timelines specified under either Section 141(1) or 141(2) or 141(3) would qualify as taxable supply attracting the incidence of GST would still be a question to ponder.

5. **Applicable to inputs only:** The transitional provisions dealing with spill over job-work transactions refers to inputs, semi-finished goods and excisable goods removed during pre-GST regime and held by the Job-worker as on the appointed date (1.7.2017). In other words, the provisions do not mention capital goods sent by the Principal to the Job-worker for use in the process of job-work. Accordingly, it could be inferred that receipt of capital goods in GST regime (sent to the Job-worker under pre-GST regime) would be liable to GST irrespective of whether such capital goods are returned within specified timelines. In such a scenario, the Principal may choose to dispose such capital goods from the Job-workers premises without bringing back such capital goods. Alternatively, the liability to pay GST can be deferred indefinitely in case the Job-worker retains the possession of the capital goods without sending it back to the concerned Principal. However, in the absence of specific restrictions, it can be deduced that the Principal being the recipient would be entitled to claim the input tax credit where the tax is paid on receipt of capital goods from the Job-worker.

Capital goods for the purpose of transitional provisions shall have the same meaning as assigned under the earlier Central Excise Act, 1944 or the Rules made therein. (*Explanation below Section 142(13) – end of Chapter on “Transitional Provisions”*)

6. **Declaration of stock:** The provisions require that the Principal and the Job-worker should declare the goods lying with the Job-worker as on the appointed date. This may have an adverse impact if either the Principal or the Job-worker do not furnish such details or delays in furnishing the

Difficulty in furnishing details by the unregistered Job-worker can be alleviated by giving an option to the Principal to declare the stock details on behalf of such unregistered Job-worker.

details beyond the specified date. This will cause denial in the benefit specified under the transitional provisions. Further, the provisions do not provide the procedure that an unregistered Job-worker should follow for filing the declaration. Therefore, in the

absence of the clarity on this aspect, it could be inferred that the goods received back from an unregistered Job-worker, would be liable to GST on the value of goods including the job-work charges. The liability to pay GST would arise on the Principal under reverse charge and the Principal can claim credit of such GST paid under reverse charge mechanism.

While the declaration should be filed by the Principal and the Job-worker, it becomes essential for the Principal to match (not merely reconcile) the value of goods and quantity of the stock lying with each of the Job-worker before filing Form GST TRAN 01. Any differences in value and quantity in the declarations filed by the

All the details viz., GSTIN, Challan No., Challan date, type of goods, HSN, description of goods, measure unit, quantity and value furnished in Form GST TRAN 01 by the Principal and the Job-worker should match to avail the exemption.

Principal and the Job-worker may lead to additional tax liability or denial of input tax credit to the Principal. This is vital as the provisions do not stipulate subsequent revision of the declaration filed. As such, the Principal should ensure physical verification of the goods lying at the premises of each of the Job-worker, which could be supported by way of a certificate from a Chartered Accountant to justify the declaration. With respect to the goods-in-transit from the Job-worker to the Principal or *vice-versa*, the obligation to declare the details should be predicated with reference to the terms of the agreement between them. Consequently, the method to be adopted to declare the details of such goods should be mutually agreed upon to claim the transitional benefits.

According to one school of thought, the Principal would seek registration of the premises of the Job-worker as additional place of business. This would be mainly with a view to secure credit of goods lying with the Job-worker as on the appointed date. In such a scenario, post 1.7.2017, the Principal may not pursue the procedures outlined under Section 143 for sending goods to such premises for job-work. However, such exception may not be available in respect of goods sent for job-work in pre-GST regime and received back in GST regime either in case of registered Job-worker or unregistered Job-worker.

- 7. Implication of GST on transitional job-work charges:** Under the earlier laws, job-work charges were liable to service tax unless the activity/process resulted in manufacture of excisable goods. However, such job-work charges were exempted vide Notification 25/2012-ST, dt.20.6.2012 (Sl. No. 30) subject to conditions. Under the GST regime, job-work viz., any process or treatment undertaken by the Job-worker on the goods belonging to another registered person would qualify as taxable supply of services and is liable to GST. The rate of tax applicable to such charges would be 'nil' or 5% or 12% or 18% depending on the nature of job-work. Accordingly, in case of spill over transactions, it would be important to ascertain the point of taxation on job-work charges. Apropos, the levy and incidence would be discernible based on the agreement between the Principal and the Job-worker. However, drawing reference to the provisions of Section 142(11),

Illustrations: Production process as job-work in relation to cultivation of plants and rearing of specified life forms of animals is liable to GST at 'nil' rates. Whereas, job-work in relation to printing of news-paper; textile and textile product; printing of books, journals and periodicals etc., is liable to GST at 5% (However, in case of services by way of printing of newspapers, books, journals and periodicals, where only content is supplied by the publisher and the physical inputs including paper used for printing belongs to the printer, GST would be levied at 12%.) Unspecified job-works will be liable to GST at standard rates which is 18%.

the Job-worker can claim exemption if the tax was leviable under the earlier Service tax laws. The incidence of tax on job-work charges insofar as the tax department is concerned may be with reference to the details declared in Form GST TRAN 01. Thus the Job-worker and the Principal should maintain the records to justify that the point of taxation was prior to the appointed date in case exemption is claimed on the ground that incidence was under the earlier law.

8. **Job-work vis-a-vis works contract (State laws) – transitional issues:** The term 'works contract' under the earlier laws, more specifically under the State VAT laws included the activity of building, construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, modification, repair or commissioning of any **movable or immovable property**. However, GST law defines 'works contract' to mean a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of **any immovable property** wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract. Due to such a conspicuous change in construing the meaning of the term 'works contract', it would be an instantaneous requirement to re-look at the existing or ongoing contracts to evaluate the nature of transactions and applicability of tax. To illustrate, under the provisions of the Karnataka VAT Act, 2003 painting and polishing, electroplating, electro-galvanizing, anodising and the like, dyeing and printing textiles etc., would qualify as works contract liable to tax. Even otherwise such an activity would be termed as job-work under the Central Excise laws, subject to certain conditions. However, such activities would not qualify as works contract under the GST regime due to the peculiar definition. This would not have much impact on the spill over job-work transactions except the base for levy of GST. In relation to the job-work charges on the spill over transactions, the Job-worker would be liable to pay GST on the total value unlike under the earlier law where tax was applicable on the taxable value under State VAT laws and Service tax laws exempted it subject to conditions or where it amounted to manufacture of excisable goods.

Illustrative instances for process amounting / not amounting to manufacture (Refer para 2):

<i>Process not amounting to manufacture</i>		<i>Process amounting to manufacture</i>	
Final Product	Product / Process undertaken	Final Product	Product / Process undertaken
<i>Aluminium</i>	Cutting, drilling and punching of aluminium section	<i>Absorbent cotton wool</i>	Conversion of raw cotton
<i>Aluminium doors, windows etc</i>	Construction at site by contractor	<i>Automotive parts</i>	Ultrasonic testing and packing of automotive parts
<i>Chemicals</i>	Purification / distillation, crystallization, solvent extraction, filtration etc.	<i>Batteries</i>	Repair / remaking of defective / damaged batteries
<i>Cement</i>	Homogenisation	<i>Bed sheets, bed spread and table cloth</i>	Cutting, hemming and stitching of running cloth
<i>Coffee</i>	Reprocessing of coffee	<i>Bleached fabric</i>	Bleaching of fabric and bleaching dyeing / mercerising of grey cotton fabric
<i>Coal</i>	Washing / reducing the ash content of the coal	<i>Canned foods</i>	Canning of vegetable products
<i>Electrical wires</i>	Insulation	<i>Chemicals</i>	Purification of chemicals
<i>Fabric</i>	Pleating on fabric	<i>Coffee berries</i>	Conversion to coffee beans
<i>Food flavour</i>	Mixing of food flavour	<i>Cotton (ginned)</i>	Ginning of cotton
<i>Furniture</i>	Polishing / colouring of old furniture	<i>Garments</i>	Conversion of fabrics to garments as per the specification of individual customers
<i>Imitation jewellery</i>	Gold plating of imitation jewellery	<i>Granite slabs</i>	Sawing & polishing of granite blocks
<i>Jelly</i>	Breaking of boulders	<i>Iron rod</i>	Conversion of scrap iron
<i>MS Scrap, boring, turnings etc.,</i>	Generated during maintenance and repair work	<i>Jewellery</i>	Conversion of crude diamonds
<i>Printed paper board</i>	Process of printing on the coated paper board	<i>New jewellery</i>	Melting / conversion of old jewellery
<i>Spectacles</i>	Assembling of frames / glasses	<i>Powdered spices</i>	Mixing & powdering of spices
<i>Tea</i>	Mixing of tea (different types)	<i>Sarees</i>	Heat treatment process of man-made fabrics

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