

Analysis of Job work provisions under GST Model Law

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In this article we will cover the various provisions of GST Model law covering the goods sent on Job work. If we go by normal definition of supply it will include the goods sent for job work also. But then Law has provided specific provisions for the same. Mainly following section covers the Job work related provisions.

Section 2(62) of GST Model Law: Definition of "Job work". (Term job worker will be construed accordingly)

Section 2(77) of GST Model Law: Definition of "Principal"

Section 16A of model GST Law: Taking input tax credit in respect of inputs sent for job work.

Section 43A of Model GST Law: Special procedure for removal of Goods for certain purpose.

Section 150 of Model GST law (CGST Law): Inputs removed for job work and returned on or after the appointed day.

Section 151 of Model GST Law (SGST Law): Semi – Finished Goods removed for job work and returned on or after the appointed day.

Section 152 of Model GST Law: Finished Goods removed for carrying out certain processes and returned on or after the appointed day.(CGST Law)

Let us start from meaning of basic terms we will use in this article.

Principal: "principal" means a person on whose behalf an agent carries on the business of supply or receipt of goods and/or services;

Job Worker: "job work" means undertaking any treatment or process by a person on goods belonging to another registered taxable person and the expression "job worker" shall be construed accordingly;

Section 43A containing the basic provisions for removal of goods for job work without payment of GST. Its basic feature is as given:

Permission by Commissioner: Section gives right to commissioner to permit a registered taxable person to send taxable goods, without payment of tax, to a job worker for job-work and from there to another job worker.

This permission will be through an order and will be subject to conditions as commissioner may specify.

Supply from place of principal: Commissioner may also permit to bring back such goods to any of place of business of principal, without payment of tax for supply there from

- Within India on payment of tax
- For export without(with) payment of tax

Supply from place of Job worker: Commissioner can also allow to supply the goods from the place of business of a job worker

- Within India on payment of tax
- For export without(with) payment of tax

Restriction on supply from place of job worker: Section also provide that goods shall not be permitted to be supplied from the place of business of a job worker in terms of clause (b) unless the "principal" declares the place of business of the job-worker as his additional place of business except in a case-

- (i) Where the job worker is registered under section 19; or
- (ii) Where the "principal" is engaged in the supply of such goods as may be notified in this behalf.

Section:16A: Provisions related to ITC on Goods sent for job work. Section 16A put some conditions on Input tax credit of inputs sent for job work.

Credit of inputs if received back: Input tax credit for tax on inputs sent for job work will be available only if inputs are receiver back by the principal within 180(One hundred and eighty days)

- Credit is available if the inputs are directly received at the place of job worker.

Credit of capital Goods: Credit of tax on capital Goods sent to a job worker will be available only if the capital goods are received back by principal within 2 years.

- Just like in case of inputs credit of capital goods will also be available if they are directly received at the place of job worker.

In both cases the abovementioned period will be calculated from the date of receipt of goods at the place of job worker.

Reversal of Credit: In both cases(input and capital Goods) if the goods are not received back by the principal in specified time period he will be liable to pay the amount of credit availed on those inputs or capital goods plus interest as per provisions of section 36(1).

Reclaim of ITC: Principal can reclaim the amount of ITC availed which was paid back by him earlier and interest (on both inputs and capital goods), if he later on receive the goods back.

Food for thought: *It is interesting to see that section 43A allow a principal to supply the goods from place of job worker. But section 16A denies the credit of input if the goods are not received back by him. In case goods are supplied by principal as per provision of section 43A from the place of job worker if it will be deemed equivalent to receipt under section 16A. If no then in case of supply from place of job worker principal will have to reverse the credit he availed on input.*

Permission from commissioner in each case will be another hardship in itself. It should be freely allowed or may be intimation could have worked but here every taxpayer who needs to send goods to a job worker will have to apply for permission.

Transition provisions for the goods removed without payment of tax before appointed date for GST: Section 150,151,152:*In present taxation system a manufacturer can sent materials for job work without payment of excise duty under rule 4(5)(1) of Cenvat Credit rules.*

Section 150 provide for return of inputs sent to job worker without payment of tax if returned within six months of appointed date or further extended time of two months.

Section 151 provide for return of semi-finished goods sent for any manufacturing process without payment of tax if returned within 6 months (plus 2 months if extended)

Section 151 provide for the return of finished goods sent for testing if returned within 6 months. These Goods can also be supplied directly on the payment of GST or without payment of GST in case of Exports.

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