

EY Tax Alert

CBEC clarifies issues relating to job work under GST

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Executive summary

This Tax Alert summarizes a recent Circular^[1] issued by the Central Board of Excise and Customs, dealing with the procedure to be followed for goods sent for job work and the compliance requirements for the principal and the job worker under the provisions of the Central Goods and Services Tax Act (CGST Act).

The important clarifications issued are as follows:

- ▶ Job worker can use his own goods along with goods received from the principal for providing services of job work.
- ▶ Job worker is required to obtain registration only in cases where his aggregate turnover exceeds the threshold limit regardless of whether the principal and job worker are located in the same state or in different states.
- ▶ Supply of goods from the job worker's premises will be regarded as a supply by the principal and not job worker.
- ▶ Form GST ITC-04 will serve as the intimation for the principal to remove goods to send to the job worker without payment of tax.
- ▶ Input tax credit (ITC) is available to the principal on inputs even if goods move directly from the supplier to the job worker. Registered job worker can also avail ITC on inputs procured by him in supplying the job work services.

^[1] Circular No.38/12/2018 dated 26 March 2018

Background

Section 2(68) of the Central Goods and Services Tax Act, 2017 (CGST Act), defines job work as “any treatment or process undertaken by a person on goods belonging to another registered person”.

Section 143 of the CGST Act contains the provisions related to job work procedure to be read with Rules 45 and 55 of the CGST Rules, 2017. Section 19 deals with the input tax credit (ITC) provisions for job work.

Various representations were received regarding the procedures to be followed for sending goods for job work and the related compliance requirements for the principal and the job worker.

Central Board of Excise and Customs (CBEC) has issued Circular No. 38/12/2018 dated 26 March 2018 to provide clarification on issues in this regard.

Clarifications

Scope of job work

- ▶ The Circular clarifies that whether the activity is covered within the scope of job work or not, would have to be determined on the basis of facts and circumstances of each case.
- ▶ It further clarifies 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.

Requirement of registration for the principal and job worker

- ▶ **For principal**
 - ▶ The Circular clarifies that the provisions of section 143 of the CGST Act are applicable to a registered person and thus, only a registered person can send goods for job work under the said provisions.
 - ▶ The Circular also clarifies that the provisions of section 143 are optional. The registered person (principal) is not obligated to avail the benefits of these provisions.
- ▶ **For job worker**
 - ▶ A job worker is required to obtain registration only if his aggregate turnover (computed on all India basis), in a financial year exceeds the threshold limit irrespective of whether the principal and the job worker are located in the same state or in different states.

Supply of goods by the principal from job worker's place of business

- ▶ The supply of goods by the principal from the place of business / premises of the job worker will be regarded as supply by the principal and not by the job worker.

Movement of goods from the principal to the job worker and documents required

- ▶ The Form GST ITC-04 will serve as the intimation as required under section 143 of the CGST Act.
- ▶ Further, it is the responsibility of the principal to include the details of all the challans relating to goods sent by him to one or more job worker or from one job worker to another and its return therefrom in Form GST ITC-04.
- ▶ **Goods sent by principal to job worker**
 - ▶ The principal shall prepare the delivery challan in triplicate for sending the goods to a job worker.
 - ▶ Two copies of the challan may be sent to the job worker along with the goods.
- ▶ **Goods sent from one job worker to another job worker**
 - ▶ The goods may move under the cover of a challan issued either by the principal or the job worker.
 - ▶ Alternatively, the challan issued by the principal may be endorsed by the job worker sending the goods to another job worker, indicating therein the quantity and description of goods being sent.

Goods returned to the principal by the job worker

- ▶ The job worker should send one copy of the challan received from the principal while returning the goods after carrying out the job work.

Goods are sent directly by the supplier to the job worker

- ▶ Goods may move directly from the place of business of the supplier to the place of business/premises of the job worker with a copy of the invoice issued by the supplier in the name of the buyer (i.e. the principal) wherein the job worker's name and address should also be mentioned as the consignee.
- ▶ If the goods, imported by the principal, are supplied to the job worker directly from the customs station of import, then such goods must be accompanied by a copy of the Bill of Entry.
- ▶ The principal also needs to issue the challan directly to the job worker.

Goods returned in piecemeal by the job worker

The Circular clarifies that if the goods are sent in piecemeal by the job worker to another job worker or to the principal after carrying out the job work, the challan issued originally by the principal cannot be endorsed and a fresh challan is required to be issued by the job worker.

Liability to issue invoice, determination of place of supply and payment of GST

▶ Supply of job work services

- ▶ The job worker is liable to pay GST as a supplier of services, if he is liable to be registered.
- ▶ The Circular clarifies that the value of job work services would be determined as per section 15 of the CGST Act and would also include the value of any goods or services used by him for supplying the job work services, if recovered from the principal.
- ▶ Further, the value of moulds and dies, jigs and fixtures or tools provided by the principal to the job worker will not be included in the value of job work services if its value has been factored in the price for the supply of such services by the job worker.
- ▶ The Circular draws attention to the fact that if the job worker is not registered, GST would be payable by the principal for job work charges on reverse charge basis as per section 9(4) of the CGST Act (which is now kept in abeyance till 30 June 2018)

▶ Supply of goods by the principal from the job worker's premises

- ▶ The Circular clarifies that since the supply is being made by the principal, the time, value and place of supply will be determined in the hands of the principal irrespective of the location of the job worker's premises.
- ▶ Further, the invoice would have to be issued by the principal.
- ▶ In cases of exports directly from the job worker's premises, the LUT or bond, shall be executed by the principal.
- ▶ The Circular also provides an illustration in this regard:
 - ▶ The principal is located in State A, the job worker is in State B and the recipient is in State C. In case the supply is made from the job worker's premises, the invoice will be issued by the principal located in State A to the recipient located in State C. The transaction will be an inter-State supply. However, if the recipient is also located in State A, it will be an intra-state supply.

▶ Supply of waste and scrap generated during the job work

- ▶ The waste and scrap generated during the job work may be supplied by the registered job worker directly from his premises or by the principal in case the job worker is not registered.
- ▶ The above principles of time, place and value of supply will be followed in this case also.

▶ Violation of conditions laid down in section 143

- ▶ If the inputs or capital goods are neither returned nor supplied from the job worker's premises within the specified time period, the principal would issue an invoice for the same and declare such supplies in his return for that particular month in which the time period of one year / three years has expired.
- ▶ The date of supply shall be the date on which such goods were initially sent to the job worker and interest for the intervening period will be payable.
- ▶ If such goods are returned by the job worker after the stipulated time period, the same would be treated as a supply by the job worker to the principal and the job worker would be liable to pay GST if he is registered under GST.
- ▶ If the job worker is not registered, GST would be payable by the principal on reverse charge basis as per section 9(4) of the CGST Act (which is now kept in abeyance till 30 June 2018)

Availability of input tax credit to the principal and job worker

- ▶ The input tax credit (ITC) will be available to the principal, irrespective of whether the inputs or capital goods are received by the principal and then sent to the job worker for processing, etc. or whether they are received directly at the job worker's place of business/premises from the supplier, without being brought to the premises of the principal.
- ▶ Further, the job worker is also eligible to avail ITC on inputs and services procured by him in supplying the job work services if he is registered.

Comments

Clarifications issued by CBEC clear the ambiguity on several open issues and may help the industry in ensuring effective compliance while dealing with job workers.

The clarification with respect to the use of own goods by the job worker in providing job work service may need to be analyzed based on the facts of each case in the light of the apex court's ruling on the characterization of a transaction as "job work" basis the criteria of additions of substantial nature and value of goods used in such process.

While clarifying on taxability in the hands of the job worker on return of goods beyond the stipulated time limit, the Circular might have overlooked the absence of express provisions to treat such return of goods as "deemed supply." This could trigger unwarranted litigation unless the provisions of the GST law are suitably amended.

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