

ISSUES IN JOB WORK WITH RELEVANT ADVANCE RULINGS

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ORGANISED BY THE GOODS & SERVICES TAX PRACTITIONERS' ASSOCIATION OF MAHARASHTRA

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JOB-WORK - DEFINITION

- Definition -Section 2(68) -Job work means
 - undertaking any treatment or process
 - on goods
 - belonging to another **registered taxable person**
 - And the expression “job-worker” shall be construed accordingly.
- Some Highlights
 - Activity may or may not culminate into manufacture
 - Ownership of the goods does not transfer to the jobworker.

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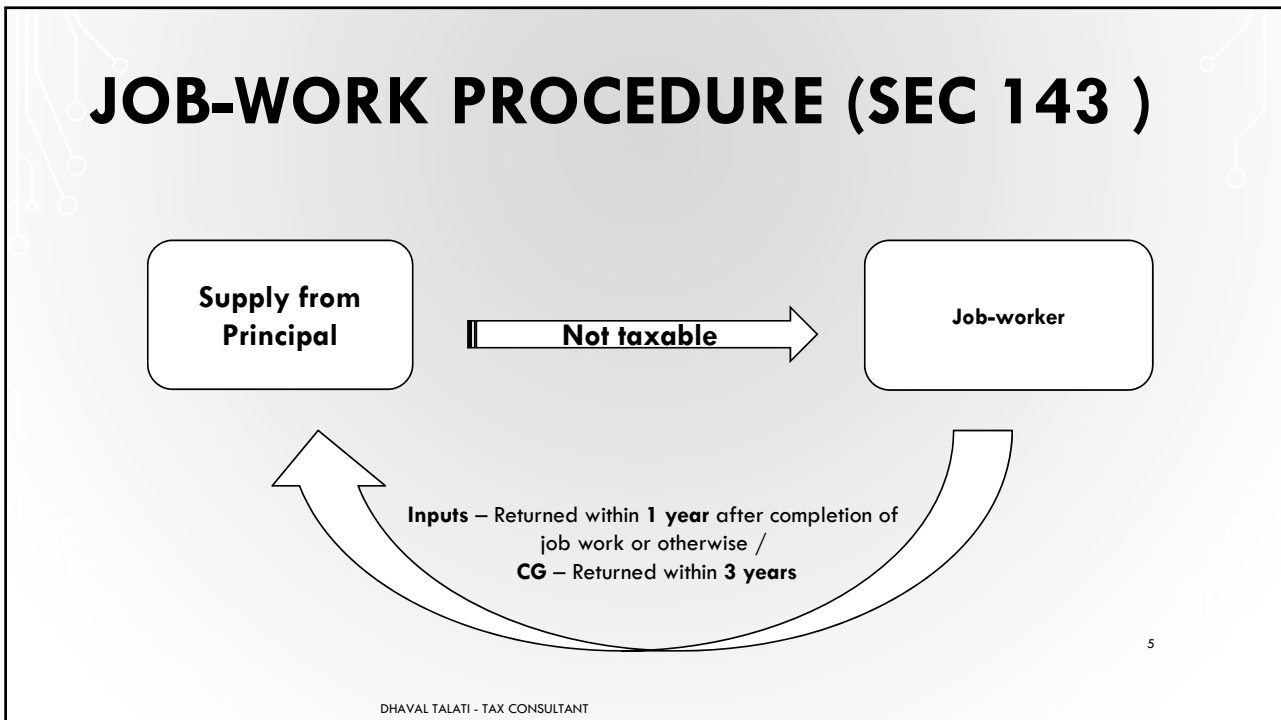
JOB-WORK PROCEDURE (SEC 143)

- Supply from Principal → Job-worker – **Not taxable, if**
 - Inputs – **Returned** within 1 year/ CG – Returned within 3 years or
 - Inputs –after completion of job work or otherwise
 - **Supplied from Job-worker premises – on payment of tax** within 1yr(inputs) & 3yr(CG) **or non-payment of tax for exports – If** Principal declares the unregistered job workers premise as his additional place of business **-Except**
 - If job worker is registered u/s 25 **or**
 - Principal is engaged in the supply of such goods notified by Commissioner
 - Such supply – of principal only
- Accountability & Responsibility of inputs/CG – with the principal
- CG doesn't include **moulds and dies, jigs and fixtures, or tools**
- **Jobworker in addition to the goods received from Principal, can use his own goods for providing the services of job work**
- **These provisions are not applicable if non-taxable or exempt goods are sent for job-work.**

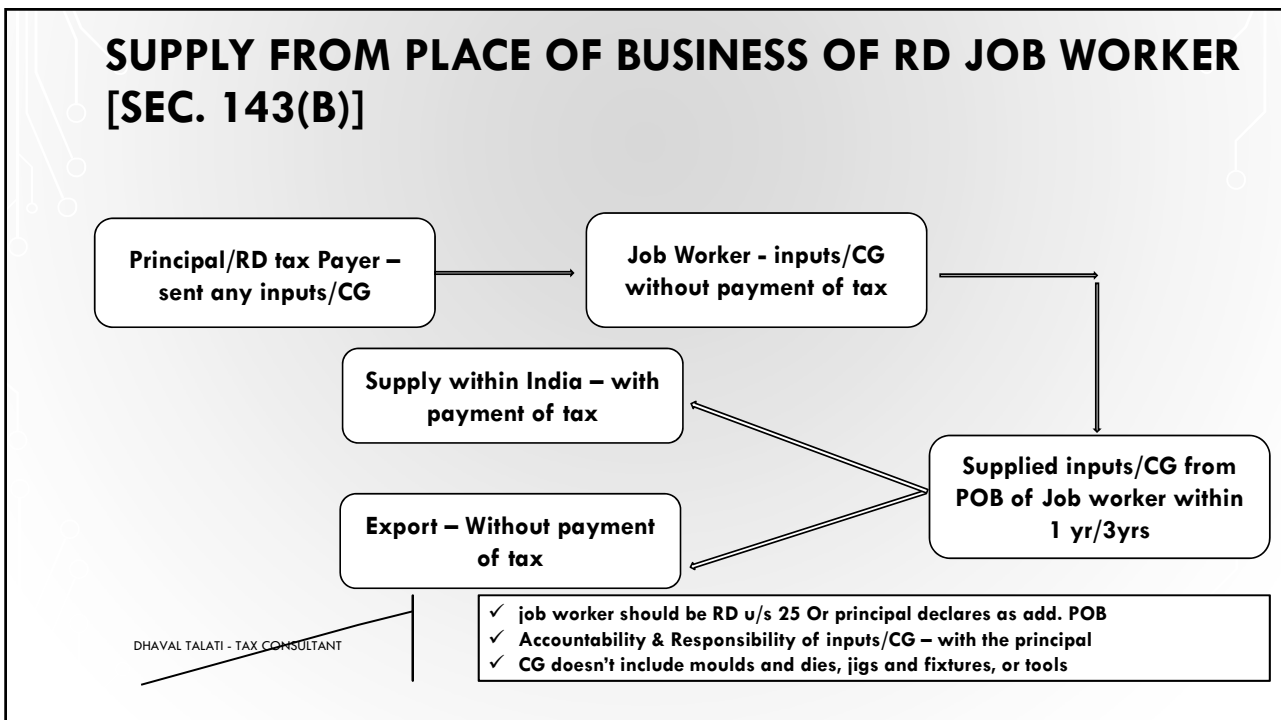
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INPUTS/CG NOT RETURNED - JOB-WORK SUPPLY BY JOB-WORKER

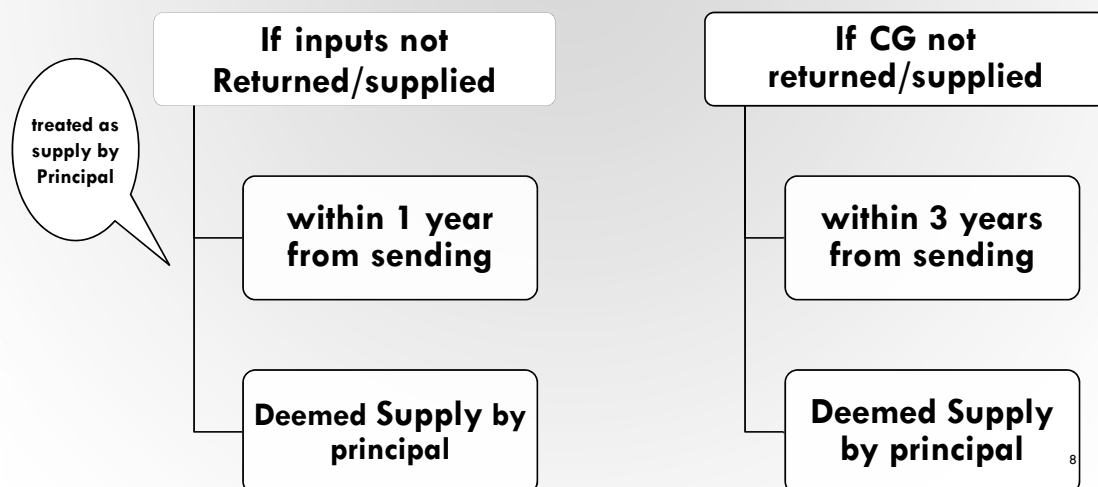
- If inputs not returned/supplied as per S 143(b)(i) or (ii) within 1 year for sending
 - **Deemed Supply**
 - inputs supplied by principal **on day of goods were sent out**
- If CG not returned/supplied S 143(b)(i) or (ii) within 3 years for sending
 - **Deemed supply**
 - CG supplied by principal on day of goods were sent out
- Supply of goods after completion JW by a Registered JW- treated as supply by Principal [Explan (ii) to Sec 22(4)]
- Manufacturer and the job worker to declare stock on the appointed date

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INPUTS/CG NOT RETURNED - JOB-WORK SUPPLY BY JOB-WORKER



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DOCUMENTATION – MOVEMENT OF GOODS

- Rule 45(CGST) inputs, semi-finished or CG dispatched for jobwork
 - Including being sent from one jobwork to another
 - Being sent directly to job worker from vendor
 shall be under a cover of challan
- Notification 14/2018-Central Tax dt. 23-03-2018
- Job worker may endorse the challan issued by the Principal
- Principal to file GST ITC -04
 - Every quarter

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E-WAY BILL – RULE 138

- Person causes movement of goods exceeding Rs.50,000/-
- Even in cases where such movement is for reasons other than for supply – e.g. job work, warranty replacement, repairs
- E-Way bill shall be generated either by the Principal or by the Registered job worker
 - For inter-state movement
 - Irrespective of the value of the consignment [Rule 138(3)-3rd proviso]
 - In case of movement by unregistered person to a registered person the movement shall be said to be caused by such recipient [138(1) Expl-I]. Thus in case of un-registered job-worker, e-way bill to be generated by Principal.

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PLACE OF SUPPLY – VALUATION – TIME OF SUPPLY

- General provisions regarding POS, TOS & valuation contained in sections 10(IGST), Sections (12,13 & 15)(CGST) will apply
- Supply of job work services
 - Job worker liable for GST for service provided (if required to get registered)
 - If not registered – Principal liable for RCM (currently Sec 9(4) is deferred – therefore no RCM)
 - Value of job work services
 - Will include service charges but also the value of any goods or services used him for supplying the job work services
 - Value of moulds, jigs & fixtures provided by Principal not to be included if the price thereof is factored
 - Section 15(2)(b) of CGST would apply

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SUPPLY OF GOODS

- Since supply of goods is being made by Principal
 - Place of supply
 - Time of supply
 - Value of supply

to be determined in the hands of the Principal irrespective of the location of the job workers place of business / premises
- Invoice to be issued by Principal
- LUT – where applicable – by Principal

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ITC – PRINCIPAL (CGST RULE 45)

ITC available to Principal

- Inputs or CG to be sent to JW to be issued under challan (**as per CGST Rule 55**) by Principal
 - Including cases where inputs/CG directly sent directly to JW
- Challan Doc Nos of goods dispatched and /or received to/from JW to be reported in Form GSTR -1 and ITC-04
- If inputs/CG not returned in time – Challan will be deemed to be invoice on the date of original despatch – report in GSTR-1 of the month of expiry of prescribed period
- Capital good shall include P&M but not dies, jigs & fixtures

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ITC – JOB WORKER

- Input / input services used by job worker is eligible to provide taxable services
- Job worker eligible to claim ITC
 - Even CG used in the process
 - In case of 'deemed supply' by principal sec 143(b), the job worker can claim ITC on such supply subject to limitation of section 19

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SOME ISSUES

- Job-work
 - does it require to result in 'Manufacture'?- No, broad definition
 - What if goods are belonging to 'URD'? Would it be still a job-work?
 - What if the person becomes taxable persons at a later date?
- Can the job-worker supply/transfer goods to another job-work? If yes, would it be taxable? – Also consider expln (ii) to Sec 22(4)
- Should the Principal and JW be located in same state/UT? – refer notification 07/2017 – IGST dt.14.9.2017 & 10/2017 – IGST dt.13.10.2017 job worker engaged in making inter-state supply of services to a RP are exempted, if the aggregate turnover (all India basis) does not exceed prescribed limits (20 lacs or 10 lacs)
- CG doesn't include moulds and dies, jigs and fixtures, or tools
 - **Is it, supply of moulds and dies, jigs and fixtures, or tools to Job-worker – TAXABLE? – no – there is no necessity to return (para 9.6 of circular) [refer circular no. 38/12/2018 DT 26/03/2018]**

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SOME ISSUES – JOB WORK

- Notes : (Circular 38/2018 dt. 26.3.2018)



- A job worker, using his packing material to pack the goods processed
- Job worker uses some chemicals catalyst, oxygen (for cutting, welding) as processing chemicals or consumables
- Job worker may use some components / parts as a part of his jobwork process besides the inputs sent by Principal. Property in such goods may also pass in the process.

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SUPPLY OF SCRAP/WASTE

- Supply of waste/scrap
 - Generated during job-work
 - May be supplied from job-worker premises
 - **On payment of tax** by job-worker(if registered)
 - **Or on payment of tax** by principal
- What if scrap is returned back to Principal?
 - Is it taxable? If yes, in whose hands? Principal or Job-worker
 - What if job-worker is not registered? RCM?

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TRANSITIONAL PROVISIONS

- Inputs/ semi-finished goods removed in Old regime for job work – returned in GST regime
 - Not taxable – if returned within 6m from **appointed day**. Can be extended for another 2m by the Commissioner
 - And only if principal & job worker declare the details of inputs held in stock
 - If above conditions not met – ITC liable to be recovered u/s 142(8)(a)
 - The manufacturer may transfer the goods from said other premises **on payment of tax in India or without payment of tax for Export** within the specified period
- What about Capital goods sent/ removed to JW under existing law?
 - What about Dies, Moulds, Jigs, fixture or tools? – not required
- Value of goods held by registered job-worker of principal not to be included in aggregate turnover of the job-worker [expln- to Sec 22(4)]

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ADVANCE RULINGS – JOB WORK

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BUS BODY – FABRICATION – JOBWORK OR SUPPLY?

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- M/s PARAS MOTOR INDUSTRIES (HAR/HAAR/R/2018-19/8 dt 26/04/18)
- **FACTS OF THE CASE**
 - Engaged in the business of fabrication & fitting out bus bodies on the chassis
 - Chassis' are supplied by its customers aka principal
 - Mandate - Fabrication of ordinary bus body on TATA chassis w/o passenger seat as per broad specifications provided by client.
- **CONTENTION OF DEPARTMENT**
 - Applicant supplies bus bodies along with fitting and fabrication services.
 - Major part of this process is supply of bus bodies and
 - fabrication/fitting of bus bodies is an associated work along with supply.
 - Must be considered as supply under HSN 8707 i.e. supply of bus
- **DISCUSSIONS AND FINDINGS OF THE AUTHORITY**
 - Referred Circular No. 34/8/2018-GST dt.03.03.2018 – clarification by CBIC - determination bus body activity as goods or services to be determined on case to case basis
 - No treatment or process is undertaken by the applicant on the chassis itself, except fitment/mounting of bus body on the same
 - Bus body building involves use of raw materials/inputs etc., for manufacture/fabrication of bus body
 - Such cost of inputs forms part of the value charged to customers

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CIRCULAR NO.52/26/2018-GST

- Agreement states customer is providing only chassis. All inputs/materials required for fabrication of bus body, has to be used by the applicant from its own account.
- Under such situation it is the bus-body which is being fabricated and also being mounted on the chassis provided by the customer. Therefore, it is not merely job-work. Rather it is supply of bus body and an activity of fitting/mounting of bus body on chassis is an ancillary activity to the principal activity of supply of bus-body.
- Clarification regarding applicability of GST Bus body building as supply of motor vehicle or job work
- Fabrication of buses may involve the following two situations:
 - Bus body builder builds a bus - working on the chassis owned by him
 - supplies the built-up bus to the customer
 - charges the customer for value of the bus.
 - Supply of bus – attracts GST at 28%

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CIRCULAR NO.52/26/2018-GST

- Bus body builder builds body - on chassis provided by the principal
 - Charges fabrication charges
 - including certain material that was consumed during the process of job-work.
 - Job work – attracting 18% GST
- How to interpret term CERTAIN material used during process of job-work
- Circular 52/26/2018-GST issued post AAR. What prevails?
- Contrary AAR in M/s ARPIJAY FABRICATORS PVT LTD where such bodybuilding work is held as 'COMPOSITE SUPPLY" (MP AAR 04/2018) dt. 30/06/2018
- Supporting AAR in M/s AUTOMOBILE CORPORATION OF GOA LIMITED (GOA/GAAR/1 of 2017-18/2018-19/1929) dt. 21/08/2018

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FAQ'S – BY IDI– ICAI-SEPT'S EDITION

- Q-27 – Bus body building Job work & circular 52/2018 dt. 9/8/18
 - 2 scenarios
 - Bus chassis owned by job work & built body there on it is supply of bus -@ 28%
 - Chassis provided by principal & bus body built there on – it is job work @ 18%

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GENERATION OF POWER – JOBWORK OR SUPPLY

- M/s JSW ENERGY LIMITED MAH/AAAR/01/2018-19 dt. 02/07/18 against Advance Ruling No. GST-ARA-05/2017/B-04 dt 05/03/18
- FACTS OF THE CASE
 - JSW Energy Limited (JEL) - engaged in the business of power generation
 - JSW Steel Limited (JSL) - engaged in the business manufacturing of steel
 - Enter into a jobwork arrangement where JSL supplies coal to JEL for generation of electricity
 - Power generated will be supplied back to JSL by JEL for job-work charges through regulator
 - Title of inputs (Coal) vests with JSL
 - In addition to power, fly ash and other resultant products generated at power plant using the Inputs will also vest with JSL
 - Whether such arrangement would construe as Job-work and inputs sent to JEL will not be considered as supply?

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GENERATION OF POWER – JOBWORK OR SUPPLY - CONT

- ORDER PASSED BY MAH AAR
 - Activity of the Appellant is manufacture which cannot be read into the words 'treatment or process' as found in the definition of 'job work'
 - Relied on the decision of Manganese Ore India Ltd. V. State of M.P. [(2017) 1 SSC 81] - held that intent of the legislation is not to cover such 'treatment or process' into the ambit of the 'job work' which results into a distinct commodity and thereby amounting to manufacture.
 - Since JEL and JSL are related parties, any supplies made between them, even without consideration will be subject to GST.
- Being aggrieved filed Appeal to AAR
- ARGUMENTS OF APPELLANT
 - Job-work is a wider term to manufacture
 - Manufacturing activity is a sub-set of job work and job-work has a much wider meaning to excise
 - Relied and quoted various judgments – that job-work can result into manufacture as well as electricity can be generated on job-work

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GENERATION OF POWER – JOBWORK OR SUPPLY - CONT

- DISCUSSIONS AND FINDINGS OF THE APPELLATE AUTHORITY
 - Agreed to the appellants view that the scope of Job work appears to be wider. Did not concur with AARs view and held Job work may or may not involve manufacturing.
 - On JEL-JSL arrangement whether job-work - Does not qualify as job-work since
 - if principal sends minor inputs to the job worker and all other inputs/goods utilized in the final product are being procured/purchased by the job worker.
 - Principal will not be in a position to bring back the inputs - depends on regulator (MSEDCL) after processing by the proposed job-worker independent of a third person or entity, - no option with the Principal but to follow the laid down regulations. So much so, the return of the inputs after processing is not guaranteed if not allowed by the regulator or third person/entity.
 - Considered as supply between related parties and should be taxed accordingly.
- IMPLICATIONS
 - To what extent can job-work be interpreted. Is it necessary all (major) inputs must be supplied by principal. What about the case of bus-body?

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