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January 13, 2021

Shri Yogendra Garg
Principal Commissioner – GST-I
Ministry of Finance

Subject: (i) Request to dispense with the time limitation for bringing back the Capital goods sent for Job Work under Section 143 of CGST Act, 2017

(ii) Request for inclusion in Finance Bill 2021

Respected Sir,

Greetings from MAIT!

We are writing w.r.t. the time limitation clause for bringing back the Capital goods sent for Job Work under Section 143 of CGST Act, 2017. We request for the inclusion of below recommendations in the upcoming Finance Bill 2021.

Background of Job Work

Manufacturing sector plays a significant role in Indian economy. It includes subcontracted activities that may or may not culminate into manufacture. The term sub-contracting/Job-work is processing of goods supplied by the principal. The concept of job work was already existed in Central Excise, wherein a principal manufacturer can send inputs or semi-finished goods to a job worker for further processing. Many facilities, procedural concessions have been given to the job workers as well as the principal supplier, who sends Inputs and capital goods for job work.

The whole idea is to make principal responsible for meeting compliances on behalf of the job worker on the goods processed by him (job worker), considering the fact that normally the job-workers are having limited resources, who are unable to comply with the discrete provisions of the law.

The GST Act makes special provisions with regard to removal of goods for job-work and receiving back the goods after processing from the job worker without payment of GST. The benefit of these provisions shall be available both to the principal and the job worker.

Job work procedure under Excise regime vis-à-vis GST Regime

Excise Regime: Rule 16(A) of Central Excise Rules, 2002

Removal of goods for job work, etc. - Any inputs received in a factory may be removed as such or after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose subject to the fulfilment of condition specified in this behalf by the Principal Commissioner of Central Excise or Commissioner of Central Excise, as the case may be having Jurisdiction.

Rule 4 of Cenvat Credit Rules, 2004

Conditions for allowing CENVAT Credit - (5)(a)(i) The CENVAT credit on Inputs shall be allowed even if any inputs as such or after being partially processed are sent to a job worker and from there subsequently sent to another job worker and likewise for further processing, testing, repair, re-conditioning or for the manufacture of intermediate goods necessary for the manufacturing of final products or any other purposes, and it is established from the records, Challans or memos or any other document produced by the manufacturer or the provider of output service, taking the CENVAT credit that the inputs or the products produced thereon are received back by the manufacturer or the provider of output service, as the case may be, **within one hundred and eighty days** of their being sent from the factory or premises of the provider of output service, as the case may be:

(ii) the CENVAT credit on capital goods shall be allowed even if any capital goods as such are sent to a job worker for further processing, testing, repair, re-conditioning or for the manufacture of intermediate goods necessary for the manufacture of final products or any other purposes, and it is established from the records, challans or memos or any other document produced by the manufacturer or the provider of output service, taking the CENVAT credit that the capital goods are received back by the manufacturer or the provider of output service, as the case may be, **within two years of their being so sent:**

GST Regime: Job Work procedure of CGST Act 2017

Section 143 (1) A registered person (hereafter in this section referred to as the “principal”) may under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise, and shall,—

(a) **bring back inputs**, after completion of job work or otherwise, or **capital goods**, other than moulds and dies, jigs and fixtures, or tools, **within one year and three years, respectively**, of their being sent out, to any of his place of business, without payment of tax;

(b) supply such inputs, after completion of job work or otherwise, or **capital goods**, other than moulds and dies, jigs and fixtures, or tools, within one year and **three years**, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be:

As per Second proviso, Provided further that the period of one year and three years may, on sufficient cause being shown, be extended by the Commissioner for a **further period not exceeding one year and two years respectively**.

3) Where the **inputs** sent for job work are not received back by the principal after completion of job work or otherwise in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out.

(4) Where **the capital goods**, other than moulds and dies, jigs and fixtures, or tools, sent for job work are not received back by the principal in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) **within a period of three years of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out.**

Comparison between Excise VS GST regimes on Capital goods:

•As per Rule 16(a) of Central Excise Rules'2002 and Rule 4(5) of Cenvat credit rules '2004, Capital goods other than Moulds, Dies, Jigs, Fixtures, tools can send for Job work without payment of Excise duty with the condition of bring back **within 2 Years**.

•As per section 143(1) of the CGST Act 2017, principal may send Capital goods to job worker without payment of tax, but principal shall bring back these capital goods within a period of **three years**, however, through second proviso of section 143 of CGST Act'2017, on sufficient cause being shown, the Commissioner may extend the time limit for a further period of two years.i.e.**5 years** (Total 3+2 Years).

Electronic Manufacturing Industry requirement in support of Make in India Initiative

Since our Prime Minister Shri Narendra Modi Ji has announced make in India initiative and then enlarged it into make for world, Electronic manufacturing Industry has welcomed this initiative.

Electronic manufacturing and in particular the Mobile manufacturing, where the companies are bringing in large scale manufacturing into the country has required complete ecosystem, which could be leveraged for value added manufacturing. India still has not been able to create a single cluster. Cluster manufacturing works well and has shown great results in various countries like China, Taiwan, etc. We need to have a manufacturing cluster, where a lot of the activities can be clubbed and shared by different vendors to bring down costs and enjoy economies of scale.

However, the Electronic manufacturing companies are developing various vendors including job worker within their vicinity for creation of a Robust Local Supply Chain that boosts make in India initiatives too.

Challenges with Electronic Manufacturing Industry to develop local vendors

As, local vendors are being developed by Electronic manufacturers in different methods, one of the methods is to develop the Job worker facility which helps the manufacturers to get their goods quickly, faster and more efficiently. In this process Industry is facing many challenges at vendor level such as unequipped infra, lack of automation, old technology and paucity of finance.

To alleviate the challenges companies are supporting their vendors through providing latest Capital infrastructure (Machines, Utility, testing equipment, Jigs, Tools, molds, etc.), suggesting process improvements, upskilling their manpower, so that they can produce quality of goods for competitive market of Electronic manufacturing industry.

However, in existing GST provisions, capital goods need to be returned within a period of **five years** (3 years + 2 years= 5 years), but it is not feasible to bring back installed capital goods (which are highly precision equipment and require experts for shifting, installation & calibration) from the Job-worker(s), and which is required for supporting in manufacturing process. Therefore dismantling, bringing back and re-sending to job worker again is merely loss of production, wastage of time and resources for performing all this activity.

Safeguard of Government revenue

As per the provisions contained in section 143 of the CGST Act, if the inputs or capital goods (other than Moulds and dies, jigs and fixtures or tools) are neither received back by the principal nor supplied from the job worker's place of business within the specified time period, the inputs or capital goods would be deemed to have been supplied by the principal to the job worker **on the day** when such inputs or capital goods were sent out to the job worker.

Thus, the principal is ultimately liable to **pay tax along with interest @18%** on these goods from the day sent out by deeming the activity as an output supply.

Prayer / Request

As the whole liability of Government revenue lying with Principal and considering the challenges faced by the Electronic manufacturing industry, it is requested to kindly make suitable amendments in Section 143 of the CGST Act 2017 and dispense with the time limit condition for bringing back the capital goods, as similar facility has already been given for Moulds and Dies, Jigs and fixtures or tools.

OR

Time limit for bringing back Capital goods may be extended till the end of usable machines life, or contract ending with the job worker, whichever is earlier.

With regards,



George Paul
Chief Executive Officer

CC: Shri Ajay Prakash Sawhney, Secretary, Ministry of Electronics & IT

CC: Shri Saurabh Gaur, Jt. Secretary, Ministry of Electronics & IT

CC: Shri S K Marwaha, Sr. Director, Ministry of Electronics & IT