



RECOMENDATIONS OF HLC COMMITTEE MADE TO GOVERNMENT FOR APPROVAL

Date: 14th JULY 2016

Members of the Gems & Jewellery industry,

A brief summary of the key issues discussed there have been resolutions accepted by the HLC and sent to the Finance Minister for approval are mentioned below for the benefit of all Gems & Jewellery industry members. The government has issued a press release on 13 July 16 specifying that all the recommendations made by the HLC in their report have been considered.

This note has been prepared in coordination, with the best understanding and approval by the 3 industry members of the High Level Committee and are only for the purpose of guidance and knowledge of the industry. The notes are subject to necessary clarifications by way of circulars and notifications and can be treated as full & final only then.

Definitions of Job work, Job worker & Principal Manufacturer:

"Job work" means processing or working upon of raw materials or semi-finished goods supplied to the job worker, so as to complete a part or whole of the process resulting in the manufacture or finishing of articles of jewellery falling under heading 7113 of the First Schedule to the Central Excise Tariff Act;

"Job worker" (JW) means a person engaged in manufacture or processing on behalf of a principal manufacturer, from any inputs or goods supplied by the principal manufacturer, so as to complete a part or whole of the process resulting ultimately in manufacture of articles of jewellery falling under heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985;

(NO EXCISE DUTY IS APPLICABLE ON JOB WORKERS (KARIGARS) FOR ANY AMOUNT OF MANUFACTURING DONE AS LONG AS NO SALES TAKES PLACE BY HIM OR HIS COMPANY EXCEEDING THRESHOLD LIMIT)

"Principal manufacturer" (PM) of jewellery means every person who gets articles of jewellery, produced or manufactured on her behalf, on job-work basis, and, causes the first sale of such jewellery.

(PM not applicable to an export-oriented unit or a unit located in a Special Economic Zone or any person who gives her pre-owned gold, ornaments or jewellery for the purpose of being re-made or re-conditioned)

The principal manufacturer shall, for the purposes of the Act and rules made thereunder, be regarded as the manufacturer of jewellery and will be solely responsible for payment of excise duty and other procedural compliances.

1. ED will be payable only on 1st point of sales of the manufactured jewellery.

Excise duty is generally levied on point of clearance of manufacturing ie. factory but for articles of jewellery Govt. has permitted excise duty point of 1st sales.

This means when jewellery is manufactured by JW and returned to PM and when PM sells the jewellery it will be considered the 1st point of sales.

There is no excise payable on traded jewellery ie. Jewellery purchased from dealers with Vat invoice.

Excise duty has to be paid on the final value of goods + vat + excise - Total amount

2. SSI EXEMPTIONS LIMIT increased to 10 CRS / 15 CRS (THRESHOLD LIMIT)

The SSI exemption is Rs. 10 crore while the eligibility limit is Rs. 15 crore for jewellery sector.

A For those who register in March 2016, you are required to register for payment of ED if the turnover of manufactured jewellery crosses eligibility limit of 15 CRS for 2014/15 you will get exemption of 85 lakhs in Mar 2016.

You will also need to register if your turnover crosses exemption limit of 10 CRS for 2015/16.

B i. For those registering in 2016-17, the exemption is available for first clearance up to Rs. 10 crore provided total clearances in 2015-16, did not exceed Rs. 15 crore.

ii. If your turnover exceeds 15 crore in 2015-16 you do not receive any 10 crs exemption.

iii. For those who remain under 15 crs, clearances in excess of Rs. 10 crore will be liable to pay excise duty but the exemption already availed of will not be disturbed.

You will also need to register if your turnover is expected to cross exemption limit of 6 Crs for 2016/17 or you may opt to register once you cross 90% of 10 crs limit.

If your turnover continues to stay under 10 crores in 2015-16 you do not need to register. A declaration needs to be filed with ED if the t/o crosses 9 crs.

If your turnover continues to stay between 10 crs & 15 crs you will need to register but you will receive exemption of 10 crs. All sales crossing 10 crs will be entitled to 1% ED.

If your turnover once exceeds 15 crs then you will need to register, you will now not receive any SSI exemption of 10 crs and you will need to pay ED on all sales amount.

If sales of your manufactured jewellery is below SSI exemption limit there is no Excise duty.

In case your company qualifies to register but you does not intend to continue manufacturing activity you may file nil returns and write to ED for termination of your registration.

3. Status of stocks as on 29 Feb 2016.

A. Stocks lying with your manufacturers on 29 Feb 16 when received & sold will attract ED and will form part your opening balance of manufactured stock wef 1.3.16.

B. All stocks lying in your shops / lying on approval on 29.2.16 whether manufactured or traded will be considered as traded stocks.

C. So no excise payable from 1.3.16 on sales of such traded stocks.

D. Wef 1.3.16 need to maintain separate accounts like in VAT for manufactured n traded stock to be **maintained in weight** in books. (Not by way of pcs)

E. Self-assessment of taxable stocks on 29 Feb 2016 will be accepted & there will be no stock declaration required for excise duty payment of stocks as on 29 Feb 2016.

Note: a. Buying from unregistered excise dealer will be considered as traded stocks.
b. Take confirmation from suppliers if they fall under threshold.
c. So excise will be required to be paid on sales.

4. Floor plan for registration

No need to submit ground plan for single or multiple premises with online registration available @ aces.gov.in. Can register for head office and avoid all branch registrations for large chain stores / offices

5. Multiple companies in one premises

Multiple companies with separate Vat registrations can operate from 1 premise but then manufacturing turnover of all such Cos will be merged to determine eligibility & exemption of ED 10 / 15 CR limit.

There is an issue here wherein those businesses who are in manufacturing of cut & polished diamonds who are exempted from ED will be clubbed with the turnover of jewellery manufacturers from same premises for the calculation of eligibility limits for ED. Clarification for this is necessary.

6. Trading & Manufacturing activity

Trading & Manufacturing activity can be transacted from same premise.

7. Valuation:

Valuation in excise is generally an issue as it based on clearance from factory but for G&J industry Valuation of goods will be considered at the point of 1st Sale and final invoice value will be accepted for ED payment.

8. Options on mentioning ED in invoicing:

A jeweller can follow 2 ways of invoicing. Excise Duty can be shown in tax invoice separately or not shown separately (incl as price cum duty as final amount).

9. Record Keeping & documentation

It will be necessary for all jewellers to maintain their business transactions related to manufacturing activity. The record keeping can be based on the State Vat records / private records showing details of inputs, stocks, manufactured goods, sold/exported goods, etc., as per the scheme opted by the jewellery manufacturer, may suffice for all central excise purposes.

10. ED payment & Filing returns:

i) Returns have to be filed online filing on a quarterly basis but payment of ED to made on a monthly basis. Returns will have to be filed for Mar, Apr, May, June, July 2016 by the 10th of July 2016. The return ER-8 format may be suitably modified for the jewellery industry, to provide for aggregate of first sale value & in weight/carat. Revised return for March 2016, and April to June 2016 will have to be filed in separate quarterly returns. Also, a column for input services tax credit availed may be inserted in this format. When for all other commodities, it may not be possible to carve out an exception for the jewellery industry.

11. Movement of goods

In course of manufacturing / wholesale / retailing if goods require to be taken out of factory, office, shop for any reason a) to be shown as samples, b) branch transfers not involving sale, c) for display in exhibition, d) for hallmarking, and e) for approval before sale, may not be liable to excise duty.

There shall be free movement of goods permitted before 1st Sale has taken place as long as the jewellery is accompanied with supporting documents like repair voucher, issue voucher, approval voucher etc & along with proof of id of person carrying.

12. Amendment of 12AA:

Section 12 AA to be suitably modified to accommodate valuation, conversion of old customer's jewellery, maintenance of stocks along with clear definition of job work, job worker, Principal Manufacturer.

- a) No additional compliance requirements are cast upon the principal manufacturer, intermediaries or the job worker, in addition to those already being maintained in terms of the existing VAT regime;
- b) All movements of inputs / semi-processed inputs or finished products (including for repairs, alteration etc.) are in terms of record keeping and documentation presently followed and no additional requirement is introduced;
- c) Movement of inputs are freely permitted between more than one job workers, based on currently followed documentary mechanism;
- d) The definition of principal manufacturer to be inserted in clear terms;

13. Customer's jewellery received for remaking:

For conversion of retail customer's old jewellery / gemstones for mounting or remaking into new jewellery ED will only be applicable on value addition. Proper records of receipt / issue vouchers / documentation need to be maintained.

14. Customer's gold received for remaking:

For Retail customer's who want to remake new jewellery from their gold (Bullion) this will attract ED on full market value of that day. Proper records of receipt / issue vouchers / documentation to be maintained.

15. Repairs & alterations

Jewellery of customers, when received for repairs or alterations, must be accepted with proper receipts and records to be maintained. For Repairs & alterations made if they do not change the form or character it will be free from ED. In case there is addition of gold added then the value addition may attract ED.

16. Sales return

Sales return of ED paid goods will be free of ED at the time of resale provided no refund is claimed and proof of items can be proved by sales & purchase invoices.

17. ED on findings & parts of jewellery

Parts of jewellery (findings, screws, clasps etc) will also attract 1% duty instead of 12.5% as proposed.

18. Excise Duty on Silver jewellery

ED will be applicable only on silver jewellery studded with diamonds, ruby, emerald, sapphire and on branded articles & silverware.

ED will not be applicable to silverware, utensils, gift articles, furniture, and coins.

19. Excise Duty payment with optional scheme:

Those who are in a position to have complete segregation of manufacturing and trading stock physically would have no difficulty in paying excise duty on the manufacturing stock which will be reflected in the respective first sale invoices.

There is an optional scheme offered for ED payment.

For those who cannot maintain separate stock of traded & manufactured stocks separately can include ED in total amount & pay on price cum duty formula.

A. This will be considered as the **optional scheme** of ED payment.

A principal manufacturer of jewellery will pay excise duty on her first sale value, by treating first sales during a month solely as sale of manufactured goods, if the quantity of such sales during the month is less than or equal to the opening stock of manufactured jewellery at the start of such month. Sales in excess of opening stock of manufactured goods, during a month will be deemed to be sale of traded goods on which no excise duty will be payable. If sales during a month are less than the opening stock of manufactured goods, then the balance stock of manufactured goods will be carried forward and as a result the opening stock of manufactured goods for the succeeding month will be sum total of such carried forward stock of manufactured goods and quantity of manufactured goods received during the preceding month.

B. ED will be paid on 1st sales on FIFO basis to the extent of manufactured stock as stated by weight in the books every month.

C. In this scheme both traded & manufactured stocks may be clubbed together to derive at the quantity for ED taxation for the month.

D. The balance stocks if any could be carried forward towards the next month.

Jewellers must adhere to any one option only and maintain continuously for 1 year.

Jewellers can change the option next year with prior intimation to Excise Dept.

20. Maintenance of stocks:

Maintenance of stocks on with & purity basis for:

- a. Silver studded jewellery
- b. Gold & Platinum jewellery plain & studded with stones
- c. Gold & Platinum jewellery studded with precious gems & diamonds.

These stocks can be maintained in the books of accounts like as for Vat purposes under manufacturing account heads purity/product wise.

21 Excise Audit

Excise audit EA2000 will be applicable by way of desk audit only (at excise office only) with no physical stock verifications to be done. No shop visits will be made by Excise dept officers for Audit. No audit will be conducted for the first 2 yrs for below 1 CR tax payment.

a. Annual audit will be applicable for jewellers who have made ED payment of over 3 Crores in a year. (ie: Manufacturing Turnover of 300 crs)

b. Audit will be conducted once in 2 yrs for those jewellers who have made ED payment between 1-3 crore in a year.

c. Only 5% of units paying ED under 50 Lakhs will be audited. There shall be no repeat audit in the same period again.

22. Search & Seizure

Search & Seizure to be conducted only when there is clear reason to believe there is an act of evasion, for a jeweller for tax collected but not paid to ED

In case there is a need of seizure then Stocks to be released by Supratnama instantly. (The seizure can only be to the extent of the tax payable. This will maintain legality and will not stop any business activities of any jeweller. No search & seizure may be resorted to in cases where the expected evasion of excise duty is less than Rs. 75 lakh.

23. Summons, visits, arrest & prosecution

Summons, visits, arrest & prosecution to be conducted only when there is clear reason to believe there is an act of evasion, for a jeweller for tax collected but not paid to ED. Certain clear guidelines of instances in which such actions may, or, may not, be taken, must be formulated, such as where there is information to the satisfaction of an officer of a level of a Commissioner that there has been a substantial evasion of duty.

- a. Summons to be issued by Superintendent with permission of Assistant Commissioner with sound reasons only.
- b. Senior management, CEO, CFO, GM not to summoned at 1st instance.
- c. Jewellers can be summoned by approval of Commissioner only.
- d. Visit by officers only permitted on basis of specific intelligence with Commissioner's approval.
- e. No visits or search n seizure to be resorted unless expected duty evasion of lesser than 75 lacs.
- f. Arrest & prosecution can resorted only there is duty evasion of 2 crore (200 crore T/o).
- g. Even if such actions are to be taken, the administrators must ensure that it does not result in an unjustified targeting of certain persons. The administration must also ensure such actions, when justifiably taken, must not be taken against karigars or others, and, must be taken only in respect of a principal manufacturer, and should not result in any disruption of business, or, actions at the place of business or place of residence of such principal manufacturer.

Instances in which aforesaid actions may not be taken:

- i. For issues relating to procedures or compliance related matters;
- ii. For issues related to documents such as invoices, registers, etc.;
- iii. For issues related to pure matters of legal interpretation.

24. Dead or slow moving stocks:

The formulation adopted for payment of excise duty by deeming the first clearances to be from the manufactured stock may be adopted for dead stock also.

The application and tax benefit for dead or slow moving stocks in jewellery can be offered in the following manner:

Situation 1 – Cumulative sales at the end of return cycle are more than the cumulative receipts of manufactured goods:

- a) Cumulative receipts of manufactured goods till the end of the quarter = 100 kg.
- b) Cumulative sales till the end of the quarter = 110 kg, out of which on 100 kg the jeweller has paid excise duty.
- c) Dead stock at the end of such quarter will be treated as that of traded stock.
- d) New jewellery made out of such dead stock on its receipt back by the principal manufacturer would form part of traded stock.

Situation 2 – Cumulative sales at the end of return cycle are less than the cumulative receipts of manufactured goods:

- a) Cumulative receipts of manufactured goods till the end of the quarter = 210 kg.
- b) Cumulative sales till the end of the quarter = 200 kg on which excise duty has been paid.
- c) If the dead stock is 15 kg, then 10 kg will be treated as that of manufactured stock and balance 5 kg will be treated as that of traded stock.
- d) New jewellery made out of 10 kg dead stock on its receipt back by the principal manufacturer would form part of his manufactured stock while new jewellery made out of balance 5 kg dead stock on its receipt back by the principal manufacturer would form part of his traded stock.

25. Handicrafts and jewellery

This matter has been extensively discussed at the HLC meeting. It was agreed upon that much of Indian jewellery is handmade and is a matter accepted by all. The expression “handicraft” is not defined in the excise tariff schedule. But its scope has been interpreted in various judicial decisions. The Sub-Committee notes that the judgement of the Hon’ble Supreme Court in the case of *Padmini Products Vs Collector of Central Excise [1989 (43) ELT 195 (SC)]* also may be relevant in this regard.

It is conceivable that jewellery units would have been covered by one or more of these exemptions, and ostensibly there was no need to debate whether jewellery was handicrafts or not. Therefore, whether a particular article would merit to be classified as “handicraft” is a question of fact to be decided in the context of above mandated two tests, namely, predominance of hand work and artistic improvement of a substantial nature.

The High Level Sub-Committee also took note of the fact that there is a Writ Petition pending before the Hon’ble High Court filed on behalf of the Coimbatore Jewellery Manufacturers Association, challenging the recent levy of excise duty, including on the issue of jewellery being handicraft. The Sub-Committee considered it beyond its mandate to consider the issue whether some jewellery would be classifiable as handicrafts for taxation purposes and recommended that Authorities may take this issue into consideration for appropriate action.

FOR EXPORTS:

Clarification on levy of excise exporters:

1. Exporter will export in same system as he was exporting pre budget. He will now have to give bank guarantee at 1% of excise duty on his jewellery to nominated agency / bank besides what he is currently giving for availing duty free gold. The same will be reversed on his completing export obligation.

2. Exporters will not need to file ARE 1 form. However, he may have to incorporate certain information in his custom attested invoice, modalities of which will be informed in due course.
3. For exporter, who is doing 100% export, no need to register with Central Excise, provided he does not claim any service tax or excise input credit.
4. All other exporters will have to register if they are above the threshold limit as explained above.

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