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GST on Job Work in Case of International Trade



JOB WORK IN CASE OF INTERNATIONAL TRADE:

Relevant Notification- Custom Notification No. 32/97

Relevant Sections- Sec. 2(68) of **CGST Act 2017**, Sec. 13 of IGST Act 2017 and Section 2 (5) of IGST Act 2017

First of all we need to understand what is Job Work under GST?

Job work is very widely defined under the GST ACT. **As per Section 2(68) of the CGST Act, 2017 Job Work means "any treatment or process undertaken by a person on goods belonging to another registered person".** The one who does the said job would be termed as 'job worker'. The ownership of the goods does not transfer to the job worker but it rests with the principal. The job worker is required to carry out the process specified by the principal, on the goods."



Now the question arises what will be the GST & Duty implication when a Job worker (importer) receive goods from foreign principal and re-export processed goods?

Notification 32/1997 Custom dated 01.04.1997**,** permits import of goods without payment of customs duties, for carrying out job works and re-export of the same. However the said exemption under Notification 32/1997 was not extended to the IGST payable on the imported goods and hence IGST is payable in all cases even when the goods are imported for job work purposes and re-export after process as agreed.

Now the second question whether returning backs the goods to foreign principal is Export & can the IGST paid on Import of Goods be claimed as Input?

After various job work, job worker return back the goods to foreign principal however it is to be noted that no price/consideration to be receive from foreign principal for the goods as the goods belong to the principal and job worker returning the goods after job work. So the question is returning back the goods to foreign principal be treated as export? Here we need to understand what is export under GST? **As per Section 2 (5) of IGST Act**, "***export of goods means taking goods out of India to a place of outside India***" and receipt of consideration is not a pre-condition to consider the transaction as export of goods. Thus the return of imported goods to the foreign principal after job work is "export of goods", which is declared as a "zero rated supply" as per Section 16 (1) of the IGST Act. The IGST paid on the import of goods for job work purpose can be availed as ITC by the importer / job worker; even the **input tax credit** can be claimed as refund.

GST Liability on job Work charges claimed from foreign principal?

With regard to GST liability**, Sec.13 of IGST Act, 2017** reads as under:-

13. (1) The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.

(2) The place of supply of services **except** the services specified in sub-sections (3) **to**(13) shall be the location of the recipient of services: **Provided** that where the location **of** the recipient of services is not available in the ordinary course **of** business, the place of supply shall be the location of the supplier of services.

(3) The place of supply of the following services shall be the location where the services are actually performed, namely:

(a) Services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services:

Provided that when such services are provided from a remote location by **way of electronic** means, the place of supply shall be the location where **goods are** situated at the time of **supply of services:**

Provided further that nothing contained in this clause shall **apply in** the case of services supplied in respect of goods which are temporarily imported into India **for repairs** and are exported after repairs without being put to any other use in India, than that which is required for such repairs:

(b) Services supplied to an individual"

As per the above, it is clear that the said transaction is squarely falling under first limb of clause (a) of Sub-sec.3 to Sec.13 of IGST Act 2017 and accordingly the place of supply of service provided by the Job worker (importer) would be the location, where such services are actually performed, i.e. the Job worker's (importer) location, which would be in taxable territory. Hence the transaction would not amount to export of service as one of the conditions prescribed under Section 2 (6) of the IGST Act is not satisfied. Hence, the Job worker would be liable to charge GST on the job charges claimed from the foreign principal, irrespective of payment currency i.e INR or convertible foreign exchange.

Place of Supply for temporarily import of Goods for Repair/other treatment & re-export

In the amendments carried out to **IGST Act, 2017** with effect from 01.02.2019, the second proviso under Section 13 (3) (a) has been substituted as below.

Provided further that nothing contained in this clause shall apply in the case of services

supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process.

Accordingly, the place of supply of such job work services would be the location of the recipient of supply (foreign principal's location), as per Section 13 (2), which is outside the taxable territory. Hence, with effect from 01.02.2019, Job worker (Importer) is not liable to pay GST on the labour charges received from the foreign principal.

In so far as the entitlement to ITC in respect of the IGST paid on imported goods, the position remains the same as discussed above in detail.

Disclaimer: – "The above article is prepared by author with full caution and understanding of relevant section & notification for study & understanding of students. Please consult before taking any decision on the subject issue".

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