

GST Guidance Note 8

Job Work

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8.01 Meaning of job work

In the age of outsourcing, it is common to get certain operations done from another person. This latter person may carry out either a part of the process allowing its completion by another person or by the person sending the goods or may himself complete the goods. Such operations are called job work operations.

The person sending the goods is known as principal and that carrying out the operation is known as job worker.

Section 2(68) of the CGST Act defines job work to mean any treatment or process undertaken by a person on goods belonging to another registered person. Thus, the job worker is expected to work on the goods sent by the principal and 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. The job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work. As held in *Prestige Engineering (India) Limited v Commissioner of Central Excise, Merrut* [1994 (73) ELT 497 (SC)], addition or application of minor items by the job worker would not detract from the nature and character of his work

8.02 Need for registration/ declaration of the place of business of job worker as principal's additional place of business

A contract between owner and job worker is a contract between two principals. Place of business of job worker is not the place of business of the principal and therefore the principal is not required to register/ declare the place of business of job worker as his additional place of business. However, if the principal intends to supply job worked inputs and/or capital goods from the place of job worker itself, the principal will have to declare the place of business of the job-worker as his additional place of business in case the job worker is not registered.

8.03 Permission from/ intimation to department for sending the goods for job work

No permission of the tax department is required for sending the goods for job work. However the principal sending goods for job work will have to intimate to the department about his intention to send inputs for job work [section 143 of the CGST Act, 2017]. Reporting of sending of goods by the principal to a job worker in FORM GST ITC-04 will serve as the intimation as envisaged under section 143.

8.04 Removal of goods for job to be without payment of GST

The GST law suspends the levy of GST for goods sent for job work.

The input goods are required to be returned within one year and the capital goods are required to be returned within three years of the date of sending it for job work. However, in the case of capital goods in the nature of moulds, dyes, jigs, fixtures or tools, it is not necessary to receive back these goods.

8.05 Job work on semi-finished goods

GST law does not distinguish between raw material, finished goods and semi-finished goods. It talks about inputs and capital goods. Even semi-finished goods or intermediates are 'goods' and in turn 'input'. By way of an Explanation in section 143, it has been clarified that inputs include intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker.

8.06 Supply of job worked inputs and capital goods from the place of business of job worker

Job worked inputs and capital goods can be supplied from the place of business of job worker provided principal declares the place of business of the job worker as his additional place of business, in case the job worker is not registered. Therefore, if the job worker is registered under GST law, the principal can supply the inputs and capital goods, after job work, from the place of job worker without declaring the place of business of the job worker as his additional place of business.

8.07 Computation of period of one year or three years in cases where inputs and/or capital goods are sent directly to job worker

In such a case, date of receipt of inputs and/or capital goods by job worker will be considered as the date on which these goods were sent for job work and period of one year or three year, as may be the case will be counted accordingly.

8.08 Consequences if inputs and/or capital goods are not received back within stipulated time

Section 143(3) and 143(4) of the Act and also rule 45(4) of the Rules provide that if the inputs and/or capital goods are not received back by the principal within stipulated time or are not supplied from the place of business of the job worker, it shall be deemed that such inputs and/or capital goods had been supplied by the principal to the job worker on the day when the said inputs were sent out. Consequently, in addition to applicable tax, the principal will also become liable for interest on late payment of tax. The tax so paid in turn will be eligible for input tax credit in the hands of job worker. However, in case the job worker is not registered under GST, it will lead to loss of tax.

If removal of goods for job work is deemed as supply on invocation of sections and rule mentioned above, the principal shall 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 CBIC vide circular number 38/12/2018 dated 26th March, 2018 has clarified that 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. If the job worker is not registered, the principal will be liable to tax on reverse charge basis in terms of the provisions of section 9(4) of the CGST Act, 2017

The understanding of law in the circular, so far it relates to consequences of return of goods by jobworker beyond the stipulated time limit, need to be revisited. In UCO Bank v Commissioner of Income Tax 237 ITR 889; 2002-TIOL-697-SC-IT-LB, the Apex Court has observed “Also a circular cannot impose on the taxpayer a burden higher than what the Act itself, on a true interpretation, envisages”.

8.09 Refund of tax levied on deemed supply due to non-receipt of job worked inputs and/or capital goods within specified time, if such inputs are brought back subsequently

There is no provision in the GST law providing for taking refund of tax paid if inputs/capital goods that are not received back within specified time are brought back subsequently. As stated above, such return would be treated as a fresh supply on which job worker will have to discharge appropriate GST liability and the principal will be able to take credit of the tax so paid. There is some ambiguity as to whether job worker will be able to take credit of the inputs originally received by him for job work which is later deemed as a supply. In all likelihood this credit would be available since the inputs originally supplied for job work will become a deemed taxable supply at the hands of the principal on which appropriate GST will have to be discharged.

8.10 Disposal of waste and scrap generated during the job work from job worker's place

It is not necessary to bring back such waste and scrap to the principal's place of business. If job worker is registered under GST law, waste and scrap can be supplied directly by the job worker. If job worker is not registered under GST

law, waste and scrap can be supplied by the principal directly from the place of job worker.

8.11 GST on service charges of job worker

GST will be payable on the job work charges including on any material used by the job worker at his own level. Principal will be entitled to take tax credit of same subject to usual conditions.

8.12 Document for movement of goods for Job work

Rule 55 of the CGST Rules, 2017 provide that for the purposes of transportation of goods for job work, the consigner may issue a delivery challan, serially numbered, in lieu of invoice at the time of removal of goods for transportation. Rule also provide minimum contents for such challan. Where the goods are 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. In the alternative, 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. The same process may be repeated for subsequent movement of the goods to other job workers. As per the provisions contained in rule 138, an e-way bill is required to be generated by every registered person who causes movement of goods. The third proviso to rule 138(1) of the CGST rules provides that the e-way bill shall be generated either by the principal or by the registered job worker irrespective of the value of the consignment, where such movement is inter-State.
