



Central Excise Levy on Jewellery wef 01st Mar 2016

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When is Excise Duty levied?

Central Excise levy is on the taxable event of manufacture of jewellery. There is no excise duty levy on trading. It means that if a jeweler is purchasing the ready jewellery and selling the same either on retail or wholesale basis, there is no activity of manufacture and hence the same shall not be subjected to excise duty.

In the context of Jewellery sector in addition to normal understanding of manufacture, the processes of affixing or embossing trade name or brand name on articles of Jewellery is also deemed to be "manufacture".

In case of repair/reconditioning etc. if such process amounts to manufacture, duty need to be paid again. The criteria for manufacture as per leading judgments on the issue is that a process amounts to manufacture where it results into a distinctly new product which is movable and marketable.

On whom Excise Duty is levied?

Collection of duty is made from the manufacturer. However in the jewellery sector, in case of job work by virtue of special provision contained in Rule 12AA, there is an exception to the rule 'manufacturer has to pay duty irrespective of ownership', the 'principal' who gets the jewellery manufactured on his behalf on job work basis will be liable to pay duty and comply with all provisions as if he is an assessee. Job worker has been defined under Rule 12AA of the Central Excise Rules as 'Any person engaged on manufacturing or processing on behalf of and under instruction of person getting the goods manufactured on any inputs supplied by said person or any person authorized by said person; so as to complete a part or whole of the process resulting ultimately in manufacture of articles of Jewellery falling under heading 7113'.

Excise Duty has to be paid on removal of the goods from the place of manufacture, in case the place of manufacture and sale is one and

the same, then in such case excise duty can be paid on sale to customer. In case the place of manufacture and the place of removal are different, then the excise duty has to be paid on removal of goods from place of manufacture (workshop) to place of sale (showroom). Excise Duty in case of job work would be paid by the principal at the time of removal of goods from job worker's place.

Even though liability arises at the time of removal, account of liability has to be kept and payment has to be made once a month by 6th of the following month (quarterly for SSI units).

On what is Excise levied (What is jewellery)?

Budget 2016 has levied excise duty on goods falling under Tariff head 7113 i.e. Articles of Jewellery and parts thereof, of precious metal or of metal clad with precious metal. Article of Jewellery as per chapter notes means any small objects of personal adornment (for example, rings, bracelets, necklaces) and also includes articles of personal use of a kind normally carried in the pocket, in the handbag or on the person (e.g. cigar, snuff boxes etc.).

Note that Excise duty is applicable on articles of jewellery except silver jewellery not studded with diamonds, ruby, emerald or sapphire. It is pertinent to add that silver jewellery plated with gold essentially remains the jewellery of silver and to be treated accordingly.

Jewellery of platinum is covered under heading 7113 and hence is also liable to duty of excise similar to gold article. Also imitation Jewellery is already under excise duty net @6% and there is no change in the same. Further change in purity of gold i.e. it may be 18K or 22K or hallmark

article will not impact the duty liability.

What is the rate at which Excise Duty is levied Jewellery?

- i) Either pay Excise duty @ 1% without Cenvat credit on Inputs and Capital Goods (Cenvat credit available on Input Services)
- ii) Or @ 12.5% with Cenvat credit

Thus under both the options Credit can be taken on all expenses satisfying the definition of input service. The illustration could be renting of showroom/premise, advertisement, audit expenses, bank charges and similar other expenses incurred in the business of manufacturer. However if the credit is relating to both dutiable activity as well as exempted activity, the proportionate credit is eligible. There are certain items excluded from the definition of input service on which CENVAT credit is not eligible such as construction of civil structure, renting of motor vehicles, expenses incurred for personal use or consumption of employees.

However concessional 1% duty as per Sl. No. 199 of Exemption Notification No. 12/2012-CE dated 17.03.2012 is subject to the following condition – if articles of jewellery are manufactured from inputs or capital goods on which appropriate Central Excise Duty or CVD has been paid and no CENVAT credit of such duties has been taken. However practically speaking it will be difficult for the manufacturer to establish the same in all cases.

From when Excise Duty is levied?

Duty is levied on jewelry from 01st Mar 2016. However relaxation is provided by means of

extension of time for registration up to 01st Jul 2016 and payment of duty as a special case for the month of March, April & May 2016 has been allowed to be made along with payment of excise duty for the month of Jun, 2016 (Circular No. 1026/14/2016-CX dated April 23, 2016).

What is the Exemption Threshold and SSI benefit?

If the domestic value of clearance has not crossed 12 crores (all goods manufactured including silver Jewellery) crores in the previous financial year, exemption upto 6 crores of value of clearances can be availed in the current financial year. The benefit for March 2016 is upto Rs 50 lakhs clearance provided value of aggregate clearance in FY 14-15 does not exceed Rs 12 crores.

However the said exemption based on value of clearance is not available if manufacturer affixes the brand name of another person. The test of goods being branded would be if the buyer seeks to buy the goods because they bear or are sold under a particular brand. As such, a mere mark of identity put by a jeweler or the job worker, commonly known as a "house-mark" shall not be considered a brand name.

For determining the eligibility for availing SSI exemption based on previous financial year, a certificate from a chartered accountant, based on books of account is recommended to be obtained by the jeweler.

While computing the above said value of clearances, the value of Exports or the value of traded goods i.e. purchased and sold or the goods manufactured with the brand name of

others (on which duty has to be paid) should not be counted.

What are the exemptions from Excise duty?

There are many exemptions from payment of duty relating to Jewellery related products. The important among them are listed as follows:

(a) Sl. No. 188 of Notification No. 12/2012-CE dated 17.03.2012 – Full Exemption for Primary gold converted with the aid of power from any form of gold. However it should not be out of gold ore or concentrate. This also covers conversion from old Jewellery to primary form of gold. The primary form of gold means gold in any unfinished or semi-finished form and includes ingots, bars, blocks, slabs, billets, shots, pellets, rods, sheets, foils and wires

(b) Sl. No. 192 of Notification No. 12/2012-CE dated 17.03.2012 – Full exemption for

i) Articles of goldsmiths' or silversmiths' wares of precious metal or of metal clad with precious metal (egs gold coin), not bearing a brand name; if it is having a brand name, it is liable for 1% duty with the similar conditions for Jewellery.

ii) Strips, wires, sheets, plates and foils of gold, used in the manufacture of articles of Jewellery and parts thereof;

iii) Precious and semi-precious stones, synthetic stones and pearls;

(c) Sl. No. 200 of Notification No. 12/2012-CE dated 17.03.2012 – Full exemption for Gold coins of purity 99.5% and above and silver coins of purity 99.9% and above, bearing a brand name when manufactured from gold or silver respectively on which appropriate duty of

customs or excise has been paid;

Therefore, if the gold coin is unbranded, it is exempted from payment of duty. But if it is branded then exemption is available only if purity is 99.5% and above.

(d) Sl. No. 195 of Notification No. 12/2012-CE dated 17.03.2012 – Full exemption for

i) Dust and powder of natural precious or semi-precious stones i.e. scrap sale is exempt; However if it is of synthetic precious or semi-precious stones, it is liable to duty at 6%.

ii) waste and scrap of precious metals or metals clad with precious metals, arising in course of manufacture of goods falling in Chapter 71; exemption for Strips, wires, sheets, plates and foils of silver.

(e) Sl. No. 196 of Notification No. 12/2012-CE dated 17.03.2012 – Full exemption for Strips, wires, sheets, plates and foils of silver.

(f) Sl. No. 199 of Notification No. 12/2012-CE dated 17.03.2012 – Full exemption for Articles of silver Jewellery, other than those studded with diamond, ruby, emerald or sapphire

(g) The goods exported will be free from duty in terms of Central Excise Rules, 2002. However the procedures that are set out in the rules may have to be followed.

What are the Liabilities of Assessee?

As a person liable to pay duty (both as a manufacturer or principal in case of job worker), he is required to: -

- i) obtain registration;
- ii) raise invoice for removal of goods

(irrespective of the fact whether it is for sale or not) from the place of manufacture;

iii) maintain records as to inputs and finished goods having details as to opening balance; receipts/manufacture; removal; value and duty payable in case of finished goods; and closing stock;

iv) quantify the duty payable on periodical basis;

v) avail CENVAT Credit on inputs if applicable and on input services in all cases;

vi) file periodical returns.

However with a view to provide relaxation, Notification No. 35/2001- CE(NT) has been amended to provide that manufacturer engaged in manufacturing of articles of jewellery shall not be visited by department. In case of job workers, the liability to pay duty and taking registration is on manufacturer under Rule 12AA. Hence, the department cannot visit the job worker's premise.

What is the Applicability of excise on Stock lying as on 01st Mar 2016?

For all the clearances from the place of manufacture on or after 1st March 2016, duty is liable to be paid. Excisable goods which were produced on or before 29.2.2016 but lying in stock at the place of manufacture and are not removed as on 29.2.2016 shall attract excise duty upon clearance.

However if the goods were already cleared from the place of manufacture and are lying in stock in any other place like showroom, warehouse, stocking place, etc., are not liable for duty as goods were already cleared from the place of manufacture. This is for the reason that point of

collection of duty is the point of clearance of goods from the place of manufacture. Since this event would have been already completed in these cases, there cannot be duty liability.

It is suggested to have a certification from Chartered Accountant as to stocks lying at different places since duty liability differs depending upon where the stocks were situated as on 29.02.2016.

At what value is the Excise Duty levied (Valuation)?

The duty needs to be paid on gross amount including the value of material including all charges such as wastage, making etc. Excise Duty has to be paid on transaction value of the goods, in case the place of manufacture and sale is one and the same. In case the place of manufacture and the place of removal (from where the goods are sold subsequent to removal from the place of manufacture) are different, then the excise duty has to be paid on the value of goods prevailing at the place of sale (showroom) at the time of removal from the place of manufacture (workshop), i.e. In case of job work the valuation has to be normal transaction value prevailing at the showroom at about the time when the goods were removed from the job-worker premises. The government has provided that the value shall be taken based on first commercial sale invoice for the day on which goods are removed.

Reconditioning old jewellery to New

Jeweler manufacturing the jewellery using gold supplied by customer shall be treated as job worker while the customer bringing the gold for

getting it manufactured shall be considered as assessee under Rule 12AA of CER.

The customer would be liable to pay duty and making compliances under the central excise subject to the benefit of SSI exemption. There is no liability on jeweler to charge and pay duty of excise in terms of exemption granted to job workers. It shall raise invoice for labor charges only. There should be clear mention on the invoice that the goods covered by invoice have been processed under Rule 12AA of CER on the material supplied by customer and the customer is liable to pay duty of excise if any. [Identity of customer should be verifiable]

As far as responsibility of retail end-user, since the value of goods manufactured on his behalf is less than exemption limit, there is no statutory compliance required from his end. As far as responsibility of job worker i.e. jewellery shop is concerned, proper documents should be maintained as to receipt of the goods from the retail end-user and the same goods should be sent for processing for final products. It is important to note that to be called as job worker the finished goods should be manufactured out of the raw materials supplied and not in exchange of goods.

Whether credit can be taken on sales return made by customer?

If the process undertaken on returned goods amount to manufacture, there would be duty liability on subsequent removal. Credit of duty paid earlier @ 1% would not be available though.

What is duty liability on goods sent for approval basis? If it is rejected/returned by

customer, how to adjust the tax already paid?

Liability to pay duty arise on removal of goods whether on account of sale or otherwise. Hence, the goods must have suffered duty before or at the time of removal on approval basis. There could be following possibilities:

i) Duty paid at the time of stock transfer from workshop to point of sale (showroom): Duty is paid at the time of removing the goods from workshop to showroom. Hence, duty need not be paid again at the time of removal from showroom on approval basis.

ii) Duty paid at the time of removal of goods on approval basis: If the goods are manufactured at showroom/workshop and send directly from there on approval basis, duty needs to be paid at the time of such removal.

The returned goods should be stored separately as duty paid stock. There is no liability on subsequent removal.

In case of person liable to pay duty is different from manufacturer which premises have to be registered?

The registration needs to be taken at the premise of the person liable to pay duty. For example, in case of job work, the factory is premise of job work where actual manufacturing activities are undertaken but the person liable to pay duty is person getting the goods manufactured. Hence, such person needs to obtain registration at his showroom/place of business.

A notification providing for an optional centralized central excise registration for Jewellery manufacturers with centralized billing

or accounting system is being issued under Rule 9 (2) of the Central Excise Rules, 2002. Manufacturer opting for centralized registration is required to give details of all the premises where manufacturing activities are carried out. However, details of job worker premise are not required to be given.

It is possible to show workshops as job work unit so as not to disclose in the registration certificate as each of the workshops may be considered as job work unit. If considered so, there is no need to give details of all such workshops in the registration application.

It is not necessary to obtain centralized registration. It is a facility not compulsion. Manufacturer may obtain separate registration for each of his workshops (factories) instead of obtaining centralized registration.

When Central Excise Invoice has to be raised and by whom?

Excisable goods needs to be removed from the place of manufacture based on excise invoice under Rule 11 of the Central Excise Rules. The invoice needs to be issued by the person liable to take registration and pay the duty.

The workshops are places of manufacture i.e. factory. The showroom i.e. centralized registered place is only place of removal. Hence, the goods should move from the place of manufacture (workshop) to place of registration (showroom) based on excise invoice. The invoice shall be raised from registered premise and sent to workshop to accompany the goods during physical movement. The goods should be removed based on excise invoice from

the place of job worker to the person getting the goods manufactured.

Each excise invoice should be prepared in triplicate. Further Central excise invoice could be different from the commercial invoice. It is suggested to have separate invoice to avoid confusion between sales tax and Central Excise. Central Excise is applicable for manufactured goods movement and commercial invoice is for sale generally. It is suggested to intimate such practice to the different departments to avoid confusion at a later point in time.

In case of sale from showroom, as the duty has already been charged at the time of removal of goods from the workshop, there is no need to

issue excise invoice. Goods should be sold based on commercial invoice. However, it is suggested to mention a declaration in the invoice that the goods covered by invoice are duty paid. Appropriate record should be maintained to establish the fact as to payment of duty with reference of the excise invoice through which removal was made from workshop/job worker premise. (An option can be kept to indicate the amount of duty paid if the buyer desires to have the details).

The author has drawn information from various notifications mentioned as well as from the ICAI publication titled – “Central Excise Law & Procedure for Jewellery Industry”

