

“Important Alerts in GST for Jewelers”

by

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The introduction of the GST regime in India has been heralded as a revolutionary reform that aims to simplify the indirect tax landscape which was earlier beset by multiplicity of levies, cumbersome compliances and cascading taxes. In this article, we highlight certain key GST issues that are relevant to the jewelry sector.

Classification & rates of tax

At the outset, it may be noted that for the purpose of classification of goods under the GST law, the Customs Tariff is to be referred to. The classification of services has been provided under the GST rate notification itself. With this background, we have summarized the classifications which could be relevant for players in the jewelry sector:

HS Code	Description of product	Rate of GST
7102, 7103, 7104	Diamonds (rough and polished); other precious and semi-precious stones like ruby, opals, etc.; synthetic and reconstructed diamonds and other precious stones [Excluding such stones if set in or mounted in jewelry]	0.25%
7101	Pearls	3%
7106, 7108, 7110, 7113	Gold, silver, platinum Jewelry of gold, silver, platinum, including jewelry on which diamonds, pearls or other stones are set or mounted	3%

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HS Code	Description of product	Rate of GST
7114	Articles of gold, silver and platinum or metal clad with precious metal [includes other articles such as tableware, spoons, forks, etc., toilet articles, etc.]	3%
7118	Coins of any metal	3%
7117	Imitation jewelry	3%
9706	Antiques of an age exceeding one hundred years [except articles of pearls, diamonds falling under Chapter 7101 to 7103]	12%
9101	Watches with case of precious metal or metal clad with precious metal	18%
9988	Job work services in relation to all products under Chapter 71 other than diamonds	5%
9988	Job work services in relation to diamonds	1.5%
9988	Other manufacturing services on physical inputs (goods) owned by others	18%

For the purpose of classification, some of the important aspects are highlighted below:

- Gold, silver or platinum **plated** jewelry and articles also attracts 3% GST rate
- Alloy of any metals consisting more than 2% of precious metal (i.e. gold, silver or platinum) is treated as precious metal as such and charged to GST accordingly
- Household articles such as utensils, show-pieces, etc., if made of precious metals also attracts 3% GST rate
- All jewelry, etc. which is more than 100 years old may not be considered as antique (12% GST), but only such items where interest in the item is derived from its age and rarity
- Wrist watches or any other watches, where the case is made of gold, silver or platinum (including studded by diamonds) or where the case is plated with gold, silver or platinum is chargeable to 18% GST
- Where the principal (customer of jeweler) is not registered under the GST law, in that case, GST authorities may take the view that the transaction of making of jewelry out of old jewelry given by such customer may not satisfy the definition of 'job work' and therefore, the jeweler may be required to pay GST @ 18% on the making charges. This interpretation is based on a circular³ issued by the CBIC

³ Circular No. 126/45/2019-GST, dated 22.11.2019

Supply of jewelry against old jewelry or gold coin, etc. given by customer

Many a times, a retail customer brings his own old jewelry, coin, etc. and requests the shop-keeper to make jewelry of his design. There could be many scenarios, but the two most popular scenarios are discussed hereinafter. In one scenario, the jeweler would charge only making charges. In that case, the jeweler would be acting as a job worker and would require to pay GST @ 5% on making charges. However, if the quantity of gold in the new jewelry is more than the quantity given by the customer, the GST authorities may consider the said transaction as job work and may demand GST @ 5% on the entire value, including value of extra gold used by the jeweler. This could lead to substantial tax cost because 5% GST would be chargeable on value of gold also. In this regard, it is suggested that the jeweler may estimate the quantity of extra gold and raise the sale invoice for the said extra gold to be used for the customer, charging 3% GST and thereafter, the said gold would be given to the jeweler for carrying out job work along with the old jewelry, coin, etc. In this transaction, 5% GST would be applicable only on the job work charges, whereas value of extra gold will be subject to 3% GST.

In some cases, the customer may choose a ready-made new jewelry available in the shop and for payment, he may give his old jewelry/coin along with balance amount in cash. This transaction would not be treated as job work and would be a case of barter/exchange where the jeweler would be required to pay GST on the entire value of jewelry @ 3%, without reducing value of old jewelry.

Making charges – inclusions in value and use of other material

In case where the jeweler uses the gold supplied by the customer for making the ornament as required by the customer, there is no restriction on using other material such as copper, other metal, etc., if required. Mere use of such material should not detract from the true nature of the transaction which is that of job work. In such cases, GST would be payable on the gross making charges recovered from the customer, which would naturally include the value of such other metals as well.

Charging of GST in case value of gold and making charges shown separately

In case of sale of jewelry, many of the jewelers reflect the cost of gold and making charges separately on their invoice. In such cases, the entire amount received would be considered as being towards the supply of goods (i.e. taxable @ 3%), irrespective of whether or not making charges, design charges,

etc. are separately shown on the invoice. This aspect has been specifically clarified by the Government through one of its GST flyers.

Purchase of old jewelry from private individuals

Many a times, it may so happen that the jeweler purchases old jewelry held by private individuals. In such cases, the individual may not be registered under the GST law. As the sale by the individual is not in the course of his business, it will not satisfy the definition of 'supply' under GST. Hence, the same is not chargeable to GST. Consequently, there would not be any liability on the jeweler to pay under reverse charge basis on such purchases. In any case, the provision for payment of GST under reverse charge basis on purchase from unregistered persons has been done away with.

Sale to traders from other States – to pay CGST + SGST or IGST?

Number of times, a registered trader from one State visits a jeweler in another State and purchases the jewelry and carries the same to his own State. In such cases, the question arises as to whether the transaction should be treated as inter-State supply or intra-State supply. In this regard, we are of the view that such transactions should be treated as inter-State supplies and chargeable to IGST because the buyer would furnish his GST registration number, which is of another State and the same would be reflected in the GSTR-1 return of the supplier.

Sale in exhibition/on-approval

A jeweler may take the jewelry from his registered premises for the purpose of display in exhibition or for showing to prospective customers. In such cases, the GST treatment would depend on the location of exhibition or of the said customer. The jewelry can be taken under the cover of a delivery challan and invoice may be prepared subsequently at the time of actual sale thereof. If the customer is from other State, IGST would be required to be paid⁴.

In case of sale-on-approval, a time limit of 6-months is provided under the GST law. Hence, goods sent on approval may be under the cover of a mere delivery challan, without charging any GST. However, if the time limit of 6-months expires, the same would be deemed to be a supply and appropriate GST would have to be charged.

⁴ Circular No. 10/10/2017-GST, dated 18.10.2017

Normal loss in making of ornaments – whether ITC to be reversed?

During the manufacture or making of various ornaments, a certain small quantity of gold or silver or platinum may be lost on account of the very nature of the process carried out (e.g. in the form of dust, on account of melting, etc.). The same is considered a normal loss in the industry. In this scenario, a question arises as to whether proportionate input tax credit should be reversed in view of the restriction under the GST law [Section 17(5)(h)] on taking of input tax credit on goods which are lost, stolen, destroyed or written off. In our view, as the loss is a normal loss which is an acceptable norm, there should be no requirement to reverse the proportionate input tax credit. This has been consistently held by the Courts in the erstwhile Central Excise regime also.

Related party transactions

Recently, it has been noticed that the GST authorities have booked some cases where gold bars were sold to related companies, without movement of the gold bars. In some cases, the transactions were routed between a large number of companies. The tax authorities generally look into such transactions with suspicion and a common allegation is that in the absence of receipt of goods by a buyer, the ITC is not eligible. In this regard, it may be noted that there is no legal requirement of physical movement of goods for a supply to be made. However, it is suggested that as far as possible, transactions with related parties should be carried out like normal third party transactions, where goods are also physically moved to the buyer in order to avoid any unwarranted litigation.

Records to be maintained

The GST law requires that an account of production or manufacture of goods, inward and outward supply of goods, stock of goods, input tax credit availed, etc. have to be maintained at the registered premises of the supplier. Furthermore, in case the gold is sent out for job work to 'karigars', the job work return in Form ITC-04 would be required to be furnished on a quarterly basis containing details of material sent as also received from the respective karigars during that quarter.

In case the karigars are the employees of the jeweler, the work done by them would not amount to job work and accordingly, no procedure is required to be followed.

E-way bill

It may be noted that e-way bill compliances are not required for goods falling under Chapter 71. Hence, most of the goods dealt with by jewelers should fall within the exemption and there would be no need to issue e-way bills.

Job workers (karigars) to pay GST if their turnover exceeds Rs. 20 Lakhs

In case the karigars earns labour/making charges which exceed Rs. 20 Lakhs in a year, such karigars would be liable to obtain GST registration and undertake all compliances under the GST law, including payment of tax and filing of returns. In such cases, the karigar would be liable to charge GST on the labour/making charges from the jeweler, who would, in turn, be entitled to avail input tax credit on the GST so paid. For calculating the limit of Rs. 20 Lakhs, any other income earned by the said karigar like sale of jewelry, bank interest, rental income, etc. would be included. It is also clarified that once GST registration is obtained, a person is required to pay GST, irrespective of his turnover. To illustrate, if a person has taken GST registration in 2020-21, he would be required to pay GST on all his taxable supplies for the year 2021-22, irrespective of whether the value of said supplies is less than Rs. 20 Lakhs.

Promo schemes

It is seen that various promo schemes are offered to boost sales. The GST treatment would depend on the exact mechanics and terms and conditions of each scheme. A few schemes are discussed below:

- **Insurance is given free of cost along with the jewelry supplied:** In such case, this can be considered as a composite supply, where supply of jewelry is the principal supply and accordingly, entire consideration should be taxed at the GST rate applicable to jewelry (i.e. 3%). As the intention of the customer is to buy the jewelry and not the insurance, the transaction should not be treated as that of a mixed supply. As the insurance has been provided as a business promotion, the ITC of GST paid on insurance premium should be allowed.
- **Savings schemes wherein customer pays instalments for 11 months and gets jewelry at the end of the 12th month:** In such cases, there should be no tax implications on the 11 instalments received from the retail customer. GST would be payable when the jewelry is actually sold at

the end of the 12th month. The value should be the total amount charged from the customer (i.e. the sum total of 11 instalments received).

To summarize, although the GST regime has brought in manifold benefits (both monetary and non-monetary) to the industry, the tax positions adopted need to be carefully scrutinized and vetted to avoid huge exposures in the future. This is especially true at this juncture when the various tax positions have not been tested by the Courts.