

**GUJARAT AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD – 380 009.**



ADVANCE RULING NO. GUJ/GAAR/R/104/2020
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2020/AR/21)
Date: 14.10.2020

Name and address of the applicant	:	M/s. Uday Laxman Jadhav (Legal name), Shree Ashapuri Touch Refinery (Trade Name), Shop No. 3, Panchtirth Apartment, Nani Mehtwad, Valsad- 396001.
GSTIN/ User Id of the applicant	:	24AHIPJ0290Q1Z1
Date of application	:	28.05.2020
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	a) Classification of any goods or services or both b) Applicability of a notification issued under the provisions of this Act e) Determination of the liability to pay tax on any goods or services both. g) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or result in a supply of goods or services or both, within the meaning of that term.
Date of Personal Hearing	:	24.09.2020 (Through Video Conferencing)
Present for the applicant	:	Shri Kamal J Parekh

M/s. Uday Laxman Jadhav (Legal name), Shree Ashapuri Touch Refinery (Trade Name), Shop No. 3, Panchtirth Apartment, Nani Mehtwad, Valsad-396001 having a GSTIN : 24AHIPJ0290Q1Z1, has filed an application for Advance Ruling under Section 97 of CGST Act, 2017 and Section 97 of the GGST Act, 2017 in FORM GST ARA-01 discharging the fee of Rs. 5,000/- each under the CGST Act and the GGST Act.

2. M/s. Uday Laxman Jadhav (Legal name), Shree Ashapuri Touch Refinery (Trade Name) is a registered under GST law. The applicant submitted that they are engaged in the providing services of Testing and Refinery of gold.

2.1 Purpose of refine gold:- Gold jewellery is not always all pure gold. The reason is that gold of jewellery is soft. For this reason, refiner must evaluate material to calculate what percentage of pure gold it is. “Karat” a unit of measurement used to know the how much gold is in an alloy. A “karat” is one part out of 24. Pure gold is converted into 22K gold for manufacturing of gold jewellery or coins/ biscuits. To make it harder, manufacturers use other metals

like platinum, silver or copper and this gold alloy can be used to make jewellery as well as coins/biscuits.

2.2 Process of refine gold:- The most accurate methods of refining gold is the fire assay method. This method is one of the industry standard processes for refining the gold. This process can require highly skilled workers to carry out meticulously.

3. The applicant submitted that they receive gold jewellery or coins/ biscuits (after melting old jewellery) from service recipient to refine pure gold and testing of purity of gold. All old gold jewellery or coins/biscuits collected by applicant are placed in vessel made up of magnesium and heated and melted at a temperature between roughly 1000 and 12000 degree Celsius in furnace. During the process all metals absorbs in the alloy and left only gold and silver. The available gold and silver is heated in Nitric acid to separate the silver from gold. The remaining pure gold is weighted to determine the percentage of purity. Upon completion of process and analysis, the applicant issued the certificate of purity of gold. After that, a certificate of purity with pure gold will be sent to the recipient of service. This pure gold is used by service recipient in the further process of making new jewellery or coins/biscuits.

4. Service provided by applicant:- Generally following services are provided by the applicant to service recipient:

Sr. No.	Service (Process)	Service involved	Purpose
1.	Old Gold (22K gold) jewellery or coins/biscuits converted into pure gold coin (24K gold)	Refining of gold (job work)	To find pure gold
2.	Conversion of gold jewellery into coins/biscuits as per specification given by service recipient.	Job work for conversion of jewellery into coins/biscuits.	Conversion/melting/Shaping/sizing of gold.
3.	Testing of purity gold	Testing of gold	To know the purity of gold.
4.	Old gold (22K gold) jewellery or coins/biscuits converted into pure gold (24K gold) and	Refining and testing of gold (Job Work and Testing)	To find pure gold and to know the purity of gold.

	testing of purity of gold.		
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5. Accordingly, the applicant sought the Advance Ruling on the following questions :

1. Whether services of ;

(i) Refining of gold from old jewellery and coins/biscuits, and

(ii) Conversion of old gold jewellery into coins/biscuits as per specification given by service recipient;

Provided to registered person will be covered under the definition of job work under section 2 (68) of CGST Act, 2017?

What is the classification and rate of tax for these services provided to registered person and unregistered person?

2. What is the classification and rate of tax for services of testing of purity of gold?

3. If the applicant rendered the service of refine of old gold jewellery or coins/ biscuit as well as testing of purity of gold, then it will be considered as composite supply? If yes, what is the rate of tax applicable on it?

4. What are the consequence if, the applicant charged more or less the rate of services of refining gold than the actual rate?

Applicant's interpretation of law and/or facts

6. The relevant provisions of GST law for service of refine gold are extracted as under :

6.1 Section 2(68) of Central Goods and Service Tax Act, 2017

(68) "Job work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression job work shall be construed accordingly;

6.2 Treatment or process

(i) Definition of treatment as per Lexico UK Dictionary

"Treatment" means the use of a chemical, physical or biological agent to preserve or give particular properties to something.

(ii) Definition of "process" as per Collins English Dictionary

A “process” is a series of actions which are carried out in order to achieve a particular result.

6.3 Section 2(94) of CGST Act, 2017

(94) “registered person” means a person who is registered under Section 25 but does not include a person having a Unique Identity Number.

From the above definitions, it is clear that the process of refine gold belonging to a registered person is covered under the service of Job work.

6.4 Classification and rate of tax

The applicant submitted that in view of the above, their interpretation regarding classification and rate of tax are given below:

- a. Service of refine gold provided to registered person (Not. No. 11/2017-CT (Rate) dated 28.06.2017 and read with Notification No. 11/2017-ST (Rate) dated 30.06.2017

Sl. No.	Chapter	Description of Service	Rate (CGST+ SGST) %	Condition
26	Heading 9988	Manufacturing services on physical inputs (goods) owned by others		
(i)		Service by way of job work in relation to-		
(c)		All products [other than diamonds] falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)	5	-

- b. Service of refine gold provided to unregistered person (Notification No. 11/2017-CT (Rate) dated 28.06.2017 and read with Not. No. 11/2017-ST (Rate) dated 30.06.2017.

Sl. No.	Chapter	Description of Service	Rate (CGST+ SGST) %	Condition
26	Heading 9988	Manufacturing services on physical inputs (goods) owned by others		
(iv)		Manufacturing services on physical inputs (goods) owned by others, other than (i),(ia), (ii), (iia) and (iii) above	18	

7. The relevant provisions of GST law for service of testing of purity of gold :-

7.1 Section 65(106) of Finance Act, 1994 as amended:

(106) “technical testing and analysis” means any service in relation to physical, chemical, biological or any other scientific testing or analysis of information technology software or any immovable property, but does not include any testing or analysis service provided in relation to human beings or animals;

Explanation – For the removal of doubts, it is hereby declared that for the purposes of this clause, “technical, testing and analysis” includes testing and analysis undertaken for the purpose of clinical testing of drugs and formulations; but does not include testing or analysis for the purpose of determination of the nature of diseased condition, identification of a disease, prevention of any disease or disorder in human beings or animals.

7.2 Section 65 (107) of Finance Act, 1994 as amended

(107) “technical testing and analysis agency” means any agency or person engaged in providing service in relation to technical testing and analysis.

7.3 Classification and rate of tax

The applicant submitted that in view of their interpretation regarding classification and rate of tax for services of testing of gold are given below (Not. No. 11/2017-Ct (Rate) dated 28.06.2017 and read with Not. No. 11/2017-St (rate) dated 30.06.2017)

Sl. No.	Chapter	Description of Service	Rate (CGST+ SGST) %	Condition
21	Heading 9983	Other professional, technical and business services		
(iv)		Other professional, technical and business services other than (i) and (ia) above and serial number 38 below.	18	

8. The relevant provisions of GST law for services of refine of gold and testing of purity of gold as composite supply:-

8.1 Section 8(a) of CGST Act, 2017

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely;

- (a) Composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

8.2 Section 2(30) of CGST Act, 2017

(30) “composite supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Illustration: Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.

8.3 Section 2(90) of CGST Act, 2017

(90) “Principal supply” means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;

8.4 Classification and rate of tax

The applicant further submitted that in view of the above, if the applicant provide service of refine gold as well as testing of purity of gold, then rate for the services provided is given below (Notification No. 11/2017-CT (Rate) dated 28.06.2017 and read with Not. No. 11/2017-ST (Rate) dated 30.06.2017).

Sl. No.	Chapter	Description of Service	Rate (CGST+ SGST) %	Condition	Applicable rate (CGST+SGST)(percent) for composite supply
21	Heading 9983	Other professional, technical and business services			18
(iv)		Other professional, technical and business services other than (i) and (ia) above and serial number 38 below.	18	--	
26	Heading 9988	Manufacturing services on physical inputs (goods) owned by others			
		Services by way of job work in relation to-			
(iv)		All products other than diamonds falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)	5	--	

Personal Hearing

9. Personal hearing in the matter was held on 24.09.2020. Authorised representative of the company appeared on behalf of the applicant and reiterated the submission made in the Application.

DISCUSSION & FINDINGS

10. We have considered the submissions made by the applicant in their application for advance ruling as well as the arguments/discussions made by their representative. We have also considered the issues involved on which Advance Ruling is sought by the applicant.

11. At the outset, we would like to state that the provisions of both the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the GGST Act.

12. The applicant submitted that they are engaged in the work of refining of pure gold from old jewellery/coins received from the service recipient. They are also doing the work of conversion of gold jewellery into coins/biscuits as per the specification given by service recipient. Further, they are engaged in the work of testing of purity of gold and issue the certificate of purity of gold to the customer, who have supplied the gold to the applicant. Also the applicant carried out testing of purity of gold which are converted into pure gold from old gold (22K gold) jewellery or coins/ biscuits after carrying out the certain process to extract the pure gold.

13. We observe that the applicant has elaborated the process of conversion of old jewelley (22k) gold /coins/biscuits into pure gold of 24K. The applicant has submitted that following process is required to convert the old jewelley (22k) gold /coins/biscuits into pure gold of 24K.

Purpose of refine gold:- Gold jewellery is not always all pure gold. The reason is that gold of jewellery is soft. For this reason, refiner must evaluate material to calculate what percentage of pure gold it is. "Karat" a unit of measurement used to know the how much gold is in an alloy. A "karat" is one part out of 24. Pure gold is converted into 22K gold for manufacturing of gold jewellery or coins/ biscuits. To make it harder, manufacturers use other metals like platinum, silver or copper and this gold alloy can be used to make jewellery as well as coins/biscuits.

2.2 Process of refine gold:- The most accurate methods of refining gold is the fire assay method. This method is one of the industry standard

processes for refining the gold. This process required highly skilled workers to carry out meticulously.

14. We observe that the applicant received gold jewellery or coins/ biscuits (after melting old jewellery) from service recipient/customer to refine pure gold and testing of purity of gold. All old gold jewellery or coins/biscuits collected by applicant are placed in vessel made up of magnesium and heated and melted at a temperature between roughly 1000 and 12000 degree Celsius in furnace. During the process, all metals absorb in the alloy leaving behind only gold and silver. The available gold and silver is heated in Nitric acid to separate the silver from gold. The remaining pure gold is weighted to determine the percentage of purity. Upon completion of process and analysis, the applicant issues the certificate of purity of gold. After that, a certificate of purity with pure gold has been given to the recipient of service/customer. This pure gold is used by service recipient/customer in the further process of making new jewellery or coins/biscuits.

15. From the above, we find that the applicant is providing the following service to the service recipient/ customers and are summarized as under:

1. Refining of gold: Old Gold (22K gold) jewellery or coins/biscuits received from the service recipient/customer to convert into pure gold coin (24K gold) to find pure gold .
2. Conversion of jewellery into coins/biscuits: Conversion of gold jewellery into coins/biscuits as per specification given by service recipient.
3. Testing of gold: The applicant carried out the testing to know the purity of gold.
4. Refining and testing of gold: Old gold (22K gold) jewellery or coins/biscuits converted into pure gold (24K gold) and carried out testing of purity of gold.

16. Now we take up the chronologically wise all the questions on which Advance Ruling is sought by the applicant. The applicant has sought clarification that whether the activity as discussed in Sr. No. 15 (1) & (2) provided to registered person will be covered under the definition of job work under section 2 (68) of CGST Act, 2017 and also what is the classification of Service and rate for the service provided to registered and unregistered person.

17. To decide whether the said activity gets covered under the definition of job- work or otherwise, we have to refer to the definition of Job-work as provided under CGST Act and Rules, 2017.

17.1 Job-work is defined under Section 2(68) of Central Goods and Service Tax Act, 2017, which is read as under:

(68) “Job work” means any treatment or process undertaken by a person on goods belonging to another registered person and the expression job work shall be construed accordingly;

17.2 From the above definition, it is clear that job work involves (i) two persons, (ii) goods and (iii) process/treatment on the goods. Also, the procedure for job work is prescribed under Section 143 of CGST Act and Rule 45 of the CGST Rules, in terms of Section 143(1)(a) :

(1) A registered person (hereafter in this section referred to as the ‘principal’) may under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise, and shall, -

(a) bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out, to any of his place of business, without payment of tax.

On a harmonious reading of the definition of Job Work and the procedure for the same, it is construed that the principal will send the inputs to the job worker for conducting any treatment/process (which may or may not amount to manufacture) and shall bring back the same after completion of job work or otherwise. Therefore, the goods sent to the job worker should be the inputs of the Principal.

18. On perusal of the relevant provisions of CGST Act, it can be stated that if all of the following conditions are fulfilled, the transaction would qualify as an activity of Job work and consequently the Principal will be allowed to send the goods without payment of tax viz :

- (i) Treatment or process should be undertaken by a person;
- (ii) Such treatment or process should be on goods, and
- (iii) These goods should belong to another registered person

18.1 In the GST legislation the term “treatment” or “process” has not been defined, accordingly, reference is sought to the dictionary meaning which explains the said terms, are reproduce as follows :

- (i) Definition of treatment as per Lexico UK Dictionary

“Treatment” means the use of a chemical, physical or biological agent to preserve or give particular properties to something.

- (ii) Definition of “process” as per Collins English Dictionary

A “process” is a series of actions which are carried out in order to achieve a particular result.

18.2 The term “goods” is defined under Section 2(52) of CGST Act, 2017, which is read, as under:

(52) “goods” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

18.3 The term “Registered person” is defined under Section 2 (94) of CGST Act, 2017, which is defined, as under:

(94) “registered person” means a person who is registered under section 25 but does not include a person having a Unique Identity Number

18.4 In the instant case, the applicant is a person, who is carrying out the process of refining the pure gold from old gold jewellery and coins/biscuit and converting the old gold jewellery into coins/biscuits, as per the specification of the customer. Both the said processes are being done on old jewellery and/or coins/biscuits i.e. on the goods and the goods i.e. old jewellery and/or coins/biscuits belonging to another registered person. The applicant being a job worker satisfies all the necessary ingredients to carry out job work activity. Hence, we can conclude that the said process of refining of pure gold on old jewellery or coins/biscuits and converting the old gold jewellery into coins/biscuits, as per the specification of the recipient, who is a registered person, gets covered under the definition of “Job work”.

19. The applicant also carries out the said process of refining the pure gold from old jewellery and coins/biscuits and converting the old gold jewellery into coins/biscuits as per the specification of the customer belonging to un-registered person. The said activity of refining of pure gold from old jewellery and coins/biscuits and converting the old gold jewellery into coins/biscuits as per the specification of the recipient, who is a un-registered person does not get covered under the definition of Job-work as defined under Section 2(68) and Section 143 of CGST Act, 2017. It is on account of the fact that in order to qualify any process/ treatment under the category of “Job-work”, the principal i.e. owner of the goods should be registered person. Accordingly, the said service provided to un-registered person is treated as services on physical input (goods), which are owned by persons other than those registered under the CGST Act, 2017.

20. To decide the Classification of the aforesaid services, we refer to the explanatory notes of classification of Service Code SAC. The relevant entry of said explanatory Notes reads, as under:

9988 Manufacturing services on physical inputs owned by others

The services included under Heading 9988 are performed on physical inputs owned by units other than the units providing the service. As such, they are characterized as outsourced portions of a manufacturing process or a complete outsourced manufacturing process. Since this Heading covers manufacturing services, the output is not owned by the unit providing this service. Therefore, the value of the services in this Heading is based on the service fee paid, not the value of the goods manufactured.

Further, we refer to the Annexure to the Notification No. 11/2017-CT (rate) dated 28.06.2017 for the classification of the said service. The relevant entry No. 498 of the said Annexure is reproduced, as under:

498	Heading 9988		Manufacturing services on physical inputs (goods) owned by others
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537	Group 99889		Other manufacturing services
538		998891	Furniture manufacturing services
539		998892	Jewellery manufacturing services
540		998893	Imitation jewellery manufacturing services
541		998894	Musical instrument manufacturing services
542		998895	Sports goods manufacturing services
543		998896	Game and toy manufacturing services
544		998897	Medical and dental instrument and supply manufacturing services
545		998898	Other manufacturing services nowhere else classified

Hence, service of refining pure gold from old jewellery and coins/biscuits and converting the jewellery into coins/biscuits, as per the specification of the registered person and un-registered person, merits classification under Service Accounting Code (SAC) 9988.

21. To determine GST rate of service classifiable under SAC 9988, we refer the Notification No. 11/2017-CT (Rate) dated 28.06.2017, as amended. The relevant entry No. 26 of Notification No. 11/2017-CT(Rate), as amended vide various Notifications, is as under :

26	Heading 9988 (Manufacturing services on physical inputs (goods) owned by others)	(i) Services by way of job work in relation to- (a) Printing of newspapers; “(b) Textiles and textile products falling under Chapter 50 to 63 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);”; “(c) all products other than	2.5	-
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		Diamonds falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);”;		
		<p>(d) Printing of books (including Braille books), journals and periodicals;</p> <p>“(da) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 2.5 per cent. or Nil;”</p> <p>(e) Processing of hides, skins and leather falling under Chapter 41 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).</p> <p>“(f) all food and food products falling under Chapters 1 to 22 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);</p> <p>(g) all products falling under Chapter 23 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), except dog and cat food put up for retail sale falling under tariff item 2309 10 00 of the said Chapter;</p> <p>(h) manufacture of clay bricks falling under tariff item 6901 00 10 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);”;</p>		
		<p>“(ia) Services by way of job work in relation to -</p> <p>(a) manufacture of umbrella;</p> <p>(b) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 6 per cent.</p>	6	-
		<p>“(ib) Services by way of job work in relation to diamonds falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);</p>	0.75	

	(ic) Services by way of job work in relation to bus body building;	9	
	(id) Services by way of job work other than (i), (ia), (ib) and (ic) above;	6	
	“(ii) Services by way of any treatment or process on goods belonging to another person, in relation to – a. Printing of News Paper; b. Printing of books (including Braille books), journals and periodicals (c) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 2.5 per cent. or Nil.”;	2.5	-
	“(iia) Services by way of any treatment or process on goods belonging to another person, in relation to printing of all goods falling under Chapter 48 or 49, which attract CGST @ 6 per cent.	6	-
	“(iii) Tailoring services.	2.5	-
	(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), “(ib), (ic), (id),” (ii), (iia) and (iii) above.	9	-

21.1 In view of the said entry No.(i) (c) of 26 of Notification No. 11/2017-CT (Rate) dated 28.06.2017, the rate of GST for the service of refining pure gold from old jewellery and coins/biscuits and conversion of gold jewellery into coins/biscuits, as per the specification belonging to the registered person, covered under Job-work would be leviable to GST @ 5 % i.e. {CGST 2.5% +SGST 2.5%}. Further, GST rate for the aforesaid services provided on physical input

(goods) owned by un-registered person would be leviable GST @ 18% i.e. {9% CGST + 9% SGST} in terms of entry No. (iv) of Notification No. 11/2017-CGST (Rate) dated 28.06.2017. In this regard, CBIC vide Circular No. 126/45/2019-GST dated 22.11.2019 has clarified the following:

“I am directed to say that doubts have been raised with regard to scope of the notification entry at item (id) under heading 9988 of Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017 inserted with effect from 1-10-2019 to implement the recommendation of the GST Council to reduce rate of GST on all job work services, which earlier attracted 18% rate, to 12%. It has been stated that the entry at item (id) under heading 9988 of Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017 inserted with effect from 1-10-2019, prescribes 12% GST rate for all services by way of job work. This makes the entry at item (iv) which covers “manufacturing services on physical inputs owned by others” with GST rate of 18%, redundant.

2. The matter has been examined. The entries at items (id) and (iv) under heading 9988 read as under:

(3)	(4)	(5)
(id) Services by way of job work other than (i), (ia), (ib) and (ic) above;	6	-
(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ib), (ic), (id), (ii), (iia) and (iii) above.	9	-

3. Job work has been defined in CGST Act as under.

“Job work means any treatment or processing undertaken by a person on goods belonging to another registered person and the expression ‘job worker’ shall be construed accordingly.”

4. In view of the above, it may be seen that there is a clear demarcation between scope of the entries at item (id) and item (iv) under heading 9988 of Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017. Entry at item (id) covers only job work services as defined in section 2(68) of CGST Act, 2017, that is, services by way of treatment or processing undertaken by a person on goods belonging to another registered person. On the other hand, the entry at item (iv) specifically excludes the services covered by entry at item (id), and therefore, covers only such services which are carried out on physical inputs (goods) which are owned by persons other than those registered under the CGST Act.

5. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board.

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21.2 Board Circular has clarified that the entry at item (iv) covers only such services, which are carried out on physical inputs (goods) owned by persons other than those registered under the CGST Act. Hence, service of refining of

pure gold from old jewellery and coins/biscuits owned by unregistered person is covered under entry No. (iv) of aforesaid Notification No. 11/2017-CT (rate) dated 28.06.2017 and accordingly, GST rate would be 18 % { 9% CGST + 9% SGST}.

22. Now, we take up the second question of classification and rate of tax for services of testing of purity of gold.

23. We observe that the applicant receive gold jewellery or coins/ biscuits (after melting old jewellery) from service recipient/customer for testing of purity of gold. All old gold jewellery or coins/biscuits collected by applicant are placed in vessel made up of magnesium and heated and melted at a temperature between roughly 1000 and 12000 degree Celsius in furnace. In this process, all metals absorbs in the alloy and left only gold and silver. The available gold and silver is heated in Nitric acid to separate the silver from gold. The remaining pure gold is weighted to determine the percentage of purity. Upon completion of process and analysis, the applicant issues the certificate of purity of gold. After that, a certificate of purity with pure gold has been given to the recipient of service/customer.

24. To determine the classification of service of testing of purity of gold, we refer Annexure to the Notification No. 11/2017-CT (rate) dated 28.06.2017 for the classification of the said service. The relevant entry No. 296 of the said Annexure is read, as under:

296	Heading 9983		Other professional, technical and business services
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324	Group 99834		Scientific and other technical services
325		998341	Geological and geophysical consulting services
326		998342	Subsurface surveying services
327		998343	Mineral exploration and evaluation
328		998344	Surface surveying and map-making services
329		998345	Weather forecasting and meteorological services
330		998346	Technical testing and analysis services
331		998347	Certification of ships, aircraft, dams, and the like
332		998348	Certification and authentication of works of art
333		998349	Other technical and scientific services nowhere else classified

Hence, service of testing of purity of Gold merits classification under Service Accounting Code (SAC) 9983.

25. To determine GST rate of service classifiable under SAC 9983, we refer to the Notification No. 11/2017-CT (Rate) dated 28.06.2017, as amended. The

relevant entry No. 21 of Notification No. 11/2017-CT (Rate), as amended vide various Notifications reads, as under :

21	Heading 9983	(i) Selling of space for advertisement in print media.	2.5	-
	(Other professional, technical and business services)	(ii) Other professional, technical and business services other than (i) above.	9	-

25.1 In view of the entry No 21 of Notification No. 11/2017-CT (Rate) dated 28.06.2017, the rate of GST for the service of testing of purity of gold would be 18 % i.e. {CGST 9% +SGST 9%}.

26. Now, we take up the third question whether the service of refining of old gold jewellery or coins/ biscuit as well as testing of purity of gold, will be considered as composite supply? If yes, what is the rate of tax applicable on it?

27. To determine whether the service of refining of old gold jewellery or coins/ biscuit as well as testing of purity of gold is a composite supply or otherwise. First, we decide whether the supplies are naturally bundled & in conjunction with each other as required by the definition of “composite supply”. Hence, we refer to the definition of ‘**Composite Supply**’ as mentioned in sub-section (30) of Section 2 of CGST Act, 2017, which is as under:

*‘**Composite supply** means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply’.*

Under the GST Act, a composite supply would mean a supply consisting of two or more taxable supplies of goods or services or both or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply. We find that applicant proposes to provide more than two taxable supplies to the recipient. In respect of supply, which consists of more than two taxable supplies and to fall within the ambit of composite supply, it will be necessary for us to determine whether a particular supply is naturally bundled in the ordinary course of business or otherwise.

The Flyers issued by the Central Board of Excise and Customs (‘CBEC’) for composite supply have provided guidance on how to determine whether supplies are naturally bundled in the ordinary course of business as below:

“Whether services are bundled in the ordinary course of business would depend upon the normal or frequent practices followed in the area of business to which services relate. Such normal and frequent practices adopted in a business can be ascertained from several indicators some of which are listed below: -

- *The perception of the consumer or the service receiver. If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business.*
- *Majority of service providers in a particular area of business provide similar bundle of services. For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.*
- *The nature of the various services in a bundle of services will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service. For example, service of stay in a hotel is often combined with a service or laundering of 3-4 items of clothing free of cost per day. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in the ordinary course of business.*
- *Other illustrative indicators, not determinative but indicative of bundling of services in ordinary course of business are –*
 - *There is a single price or the customer pays the same amount, no matter how much of the package they actually receive or use.*
 - *The elements are normally advertised as a package.*
 - *The different elements are not available separately.*
 - *The different elements are integral to one overall supply - if one or more is removed, the nature of the supply would be affected.*

No straight jacket formula can be laid down to determine whether a service is naturally bundled in the ordinary course of business. Each case has to be individually examined in the backdrop of several factors some of which are outlined above.

28. Thus, for a supply to qualify as a ‘composite supply’, the following needs to be satisfied:

- (i) There should be more than two supplies of goods or services or both;
- (ii) They should be naturally bundled and supplied in conjunction with each other in the ordinary course of business; and

(iii) There should be one principal supply.

29. The above conditions have been examined in the present case, as under:

29.1 There should be more than two supplies of goods or services or both:

The applicant is providing services of (i) refining of pure gold from old jewellery and coins/biscuits and (ii) testing of purity of gold. Accordingly, they are providing more than two above services.

29.2 They should be naturally bundled and supplied in conjunction with each other in the ordinary course of business:

The applicant is providing services of (i) refining of pure gold from old jewellery and coins/biscuits and (ii) testing of purity of gold to their customer. Both these services are independent services as such customer can take the service either (i) or (ii) Or both. These two service are not naturally bundled in ordinary course of business as such it totally depends upon the customer whether he wants to avail either both the service or one service on their old jewellery and coins/biscuits.

29.3 There should be one principal supply.

The applicant is providing services of (i) refining of pure gold from old jewellery and coins/biscuits and (ii) testing of purity of gold to their customer. Therefore, these services can be provided by the applicant independently. As such it totally depends upon the customer whether he wants to avail the service of refining of pure gold from old jewellery and coins/biscuits along with testing of purity gold or not. The “Principal supply” is defined under Section 2(90) of CGST Act, 2017 and same is reproduced as under:

Section 2(90) of CGST Act, 2017

(90) “Principal supply” means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

As per the aforesaid definition of Principal supply, one of the supply of goods or service should have predominant element and other supply of goods or service should be of ancillary of principal supply. In the instant case, both the supply of service refining of pure gold and testing of purity of gold are equivalent to principal supply. Therefore, in such a scenario, it is not possible to assume one of supply as principal supply and other one as to ancillary supply.

29.4 Hence, in view of the above discussion, it is concluded that the applicant’s service of refining of pure gold from old jewellery and coins/biscuits

and testing of purity of gold are not covered under the definition of Composite supply, as defined in Section 2(30) of CGST Act, 2017.

30. Now, we are to decide whether the aforesaid supply of services is covered under Mixed supply or otherwise. Mixed supply is defined under Section 2(74) of the CGST Act. Section 2(74) is being reproduced here in under:

(74) "Mixed Supply" means two or more individual supplies of goods or services or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Illustration: A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;

30.1 **The Flyers issued by the Central Board of Excise and Customs ('CBEC')** for mixed supply have provided guidance on how to determine whether supplies are mixed supply:

In order to identify if the particular supply is a Mixed Supply, the first requisite is to rule out that the supply is a composite supply. A supply can be a mixed supply only if it is not a composite supply. As a corollary it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business then it would be a Mixed Supply. Once the amenability of the transaction as a composite supply is ruled out, it would be a mixed supply, classified in terms of a supply of goods or services attracting highest rate of tax.

31. There is no dispute that applicant's supplies consist of two supplies. It is also not in dispute that the supplies are made in conjunction with each other if customer demands. We have already observed in aforesaid paras that each of the supplies can be supplied separately as they are not dependent on each other and one supply of goods does not occasion the supply of other goods. Further, in the foregoing paras, it has already been ruled out that both the supply of services do not get covered under the definition of Composite Supply as defined in Section 2(30) of CGST Act, 2017. As the transaction put before us satisfies all the ingredient of 'mixed supply', we conclude that the transaction would get covered under the definition of 'mixed supply' as defined in Clause 74 of Section 2 of the GST Act.

32. To determine the tax liability for the supply of both the services (i) refining of pure gold from old jewellery and coins/biscuits and (ii) testing of purity of gold which are covered under Mixed supply, we refer to the Section 8 of CGST Act, 2017. Section 8 of CGST Act, 2017 is produced as under:

8. The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—

(a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

32.1 In view of the above Section 8(b) of CGST Act, 2017, the rate of tax for a mixed supply would be the rate of a particular supply, which attracts higher rate of tax out of two supplies of service. Accordingly, we refer to the Notification No. 11/2017-CT (Rate) in order to determine the Rate of tax of both the supply of Services.

(i) Entry No. 26 (i) (c) of Notification No. 11/2017-CT (Rate) is applicable in case of supply of service of refining of pure gold to registered customer/ recipient and same is re-produced, as under:

26	Heading 9988 (Manufacturing services on physical inputs (goods) owned by others)	(i) Services by way of job work in relation to- (a) Printing of newspapers; “(b) Textiles and textile products falling under Chapter 50 to 63 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);”; “(c) all products other than Diamonds falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);”;	2.5	-
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(ii) Entry No. (iv) of Notification No. 11/2017-CT (Rate) dated 28.06.2017, as amended, is applicable in case of supply of service of refining of pure gold to un- registered customer/ recipient and same is re-produced, as under:

(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), “(ib), (ic), (id),” (ii), (iia) and (iii) above.	9	-
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(iv) The relevant entry No. 21 of Notification No. 11/2017-CT(Rate), as amended, vide various Notifications, is applicable for the supply of testing of purity of gold service and same is re-produced, as under :

21	Heading 9983	(i) Selling of space for advertisement in print media.	2.5	-
	(Other professional, technical and business services)	(ii) Other professional, technical and business services other than (i) above.	9	-

32.2 In view of the above, it is observed that the higher GST rate of tax of a particular supply of Service is 18 % i.e.[9% CGST+9%SGST]. Hence, we are of the view that supply of service of refining of pure gold and testing of purity of gold is a mixed supply and GST rate would be 18 % { 9% CGST + 9% SGST}.

33. Now we take up the fourth question of the applicant that what are the consequence if, the applicant charged more or less the rate of services of refining gold than the actual rate.

34. The above question on which applicant sought advance ruling is very vague and hypothetical question because the applicant in his advance Ruling application has not submitted any facts with regard to the said question. Therefore, in absence of any facts in this regard, we members of authority are not in position to give any ruling in respect of this question. Therefore, we members of the authority restrict ourselves to give any ruling on the said question.

35. In the light of the above, we rule as under :

RULING

1. Whether services of;

(i) Refining of gold from old jewellery and coins/biscuits, and

(ii) Conversion of old gold jewellery into coins/biscuits as per specification given by service recipient;

Provided to registered person will be covered under the definition of job work under section 2 (68) of CGST Act, 2017?

What is the classification and rate of tax for these services provided to registered person and unregistered person?

Ans. Above services provided will be covered under the definition of Job work under Section 2(68) of CGST Act, 2017 only when provided to registered person and **not** as Job work when provided to un-registered person.

Above Services merit classification under SAC 9988.

The rate of GST for the above service provided to registered person is 5% { 2.5% CGST+ 2.5% SGST} in terms of Sr. No. 26 (i) (c) of Notification No. 11/2017-CT (Rate) dated 28.06.2017. The rate of GST for the above service provided to un-registered person is liable to 18% { 9% CGST+ 9% SGST} in terms of Sr. No. 26 (iv) of Notification No. 11/2017-CT (Rate) dated 28.06.2017.

2. What is the classification and rate of tax for services of testing of purity of gold?

Ans. The classification of testing of purity of gold is 9983 and GST rate is liable to 18 % { 9% CGST+ 9% SGST} in terms of Sr. No. 21 of Notification No. 11/2017-CT (Rate) dated 28.06.2017.

3. If the applicant rendered the service of refine of old gold jewellery or coins/ biscuit as well as testing of purity of gold, then it will be considered as composite supply? If yes, what is the rate of tax applicable on it?

Ans. The service of refine of old gold jewellery or coins/ biscuit as well as testing of purity of gold will be covered under Mixed supply in terms of Section 2(74) of CGST Act, 2017. The GST rate would be 18 % {CGST 9%+9% SGST}.

4. What are the consequence if, the applicant charged more or less the rate of services of refining gold than the actual rate?

Ans. No ruling in view of the above discussion.

(SANJAY SAXENA)

MEMBER

(MOHIT AGRAWAL)

MEMBER

Place: Ahmedabad

Date: 14.10.2020.