



Analysis of Service Tax applicability on Job Work

The goods produced or manufactured are subject to levy of duty of Central Excise under Section 3 of Central Excise act, 1944. Job work is an intermediary process. It is done by outside agency. We hereby analysis of Service Tax chargeability on Job work. 2(f) “manufacture” includes any process, -

- (i) Incidental or ancillary to the completion of a manufactured product;.....

Job work is defined in Notification No. 214/86 dated 25.03.1986

Explanation I. - For the purposes of this notification, the expression "job work" means processing or working upon of raw materials or semi-finished goods supplied to the job worker/ so as to complete a part or whole of the process resulting in the manufacture or finishing of an article or any operation which is essential for the aforesaid process.

And under Rule 2(n) of the Cenvat Credit Rules, 2004

(n) "job work" means processing or working upon of raw material or semi-finished goods supplied to the job worker, so as to complete a part or whole of the process resulting in the manufacture or finishing of an article or any operation which is essential for aforesaid process and the expression "job worker" shall be construed accordingly;

Under Negative list regime, we have to analyze the negative list which contains 17 services which are out of the purview of service tax. As per Section 66D(f) of the Finance Act, 1994 **any process amounting to manufacture or production of goods is not taxable service.** Accordingly, it is clear that if the process amounts to manufacture, then no service tax liability arises.

“Process amounting to manufacture or production of goods”, which is defined under section 65B (40) of act, means,

a process on which duties of excise are leviable under section 3 of the Central Excise Act, 1944 or any process amounting to manufacture of alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics on which duties of excise are leviable under any State Act for the time being in force.



Hence, it is clear that even under negative list regime, if the process amounts to manufacture service tax is not application and one should refer negative list serial number (f) for the same.

Now, what happens if the process does not amount to manufacture; the job worker should refer to the exemption provided in Notification No. 25/2012 ST 20.06.2012 (called as Mega Exemption Notification). As per the said Notification, **job work in relation of any goods on which appropriate duty is payable by the principal manufacturer, is exempted.**

Appropriate duty means “duty payable on manufacture or production under a Central Act or a State Act, but shall not include ‘Nil’ rate of duty or duty wholly exempt”.

Conclusion:

Hence in case of job work done by job worker for a manufacturer, the first test which have to be satisfy is whether “**Process amounting to manufacture or production of goods**” or not.

If yes, then no service tax applicable.

If not, then go for Exemption Notification 25/2012 ST 20.6.12, which says if appropriate duty (*which should not be ‘Nil’ or ‘wholly exempted’*) paid then no service tax should be charged. If not paid, then service tax should be payable.