Job work
E-commerce
TDS & TCS

- By

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Coverage

- Job-work
- E-commerce
- TDS & TCS
- Questions

Levy under GST – Charging Section

Section 9: CGST/SGST levied on intra-state supply of goods/service.

Not exceeding 20%

Rate prescribed in schedule (to be notified)

CGST/SGST to be paid by taxable person

Govt can notify supplies on which tax is payable under reverse charge.

JOB WORK UNDER GST

Meaning of Job Work - General

Also called

- Sub-contract

Why Job work

- Mfr. industries stick to their core competencies and get most jobs done on outsourced basis.
- Various reasons like infrastructure, man power, expertise etc.

Defined under CCR 2004

- Processing or working upon RM, Semi –FG
- Supplied to job-worker
- To complete some processes
- Resulting in manufacture or finishing of an article

Jobwork under Excise

Excise duty is on manufacture.

Duty liability arises only when goods are manufactured during Job Work

The test whether amounts to manufacture or not determined in section 2(f) of CE Act, 1944

Manufacture includes any process incidental or ancillary to the completion of a manufactured product

Ntfn.214/86 Job worker need not pay ED, if such duty has been paid by the principal manufacturer with the support of declaration.

Job work under Service Tax

Process amounting to manufacture – Not liable to ST – Covered under negative list

Process not amount to manufacture – Liable to ST

However, entitled for exemption under Notf. 25/2012

Exemption when appropriate duty paid by principal manufacturer

Appropriate duty not paid – Liable to ST

Job Work under VAT/CST

- In most of the States - “Sale" includes the transfer of property in goods (same or other form) in execution of works contract

- Job worker employing only labour in the contract and there is no transfer of material, then there is no levy of VAT/CST for such labour contract

- Job worker uses own goods in addition to the inputs supplied by the manufacturer, the job worker would be liable to VAT/CST on the cost of material.

Job Work – Meaning – under GST

Job work means : any treatment or process

Undertaken by a person

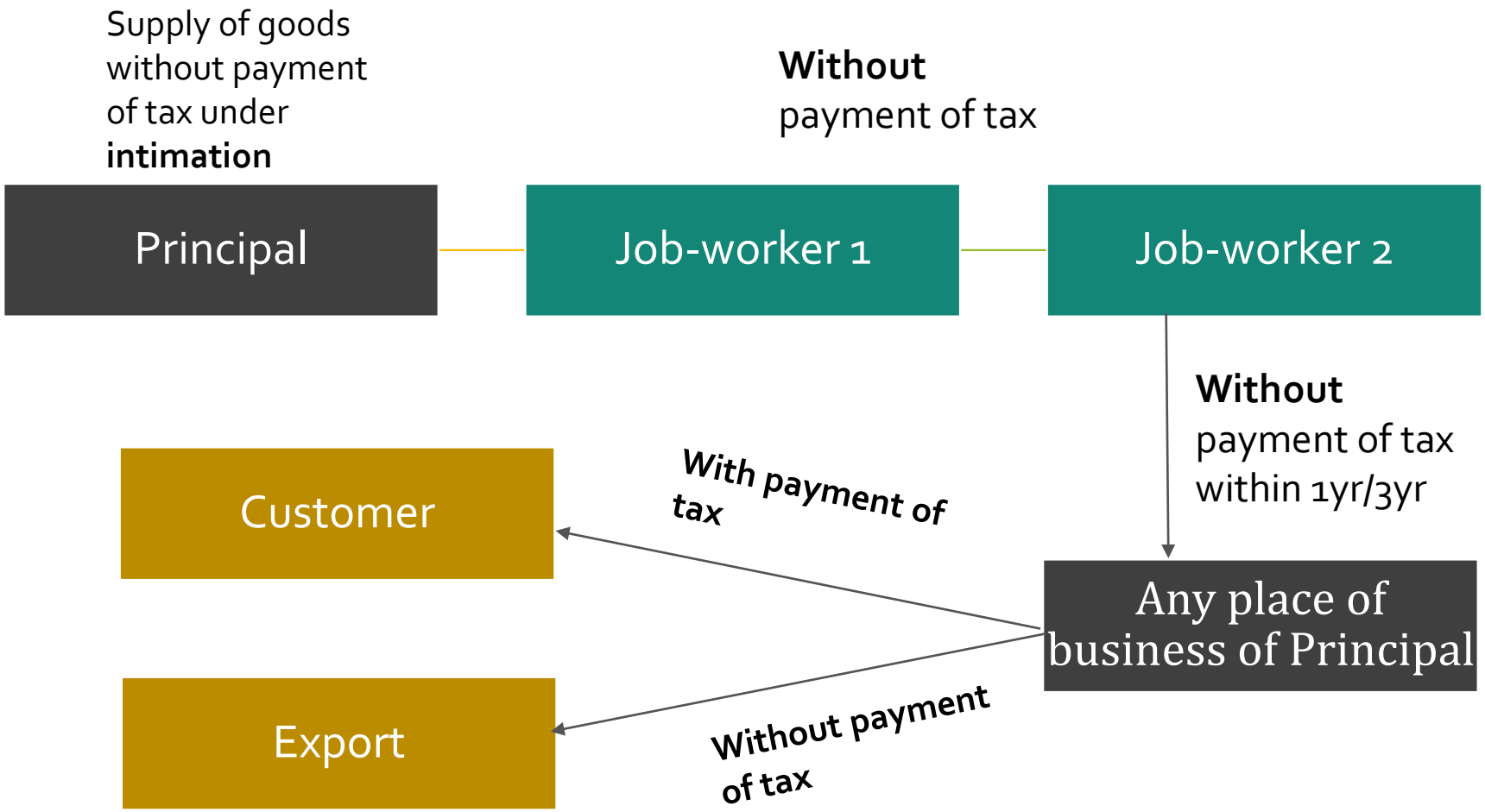
On goods belonging to another registered taxable person

The expression job worker shall be construed accordingly

<u>Job work definition is only for the purpose of Sec. 143.</u>
Is it supply ? Is it liable to GST?
Schedule II (3) - Any treatment or process which is being applied to another person's goods – Supply of service

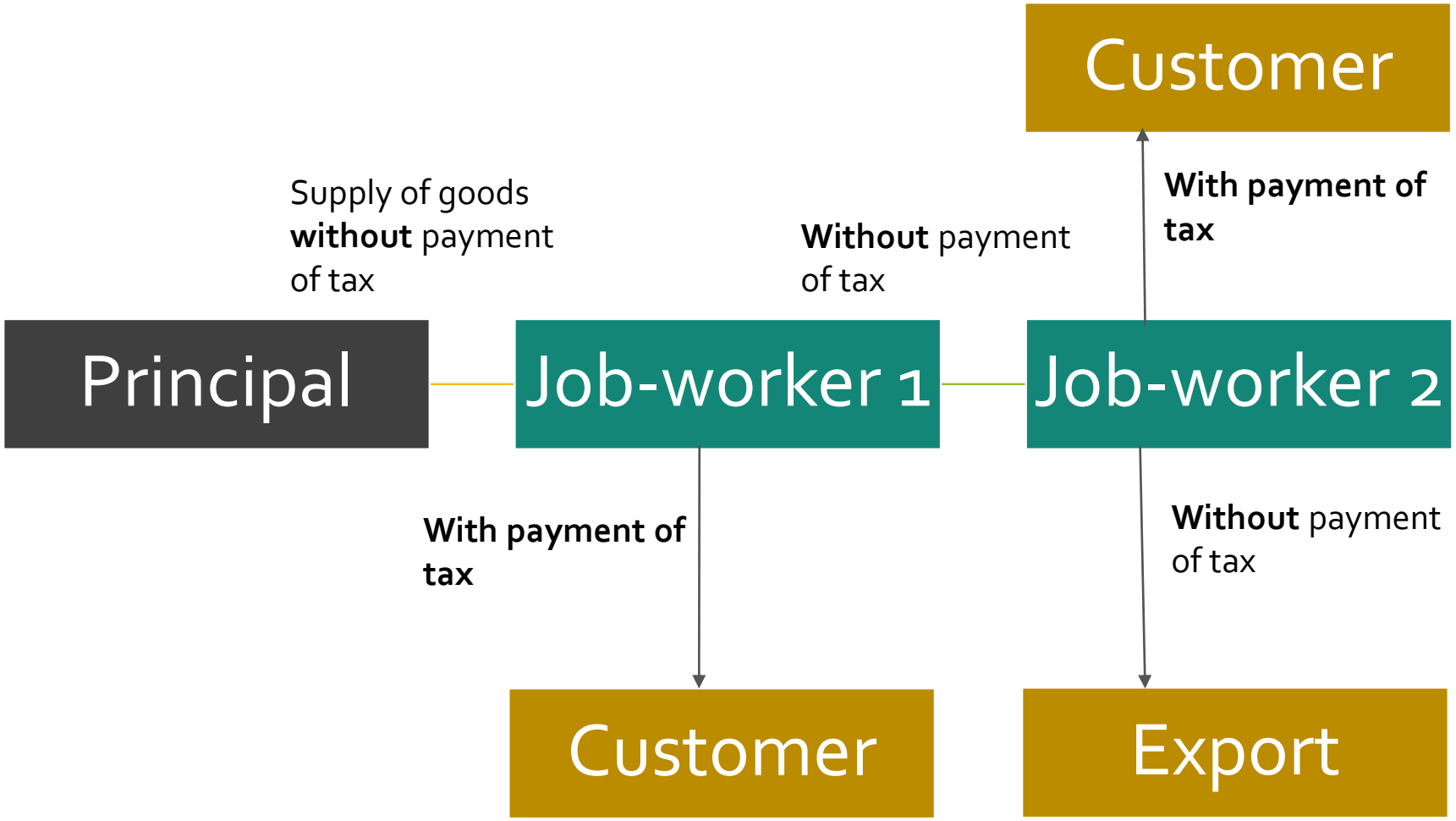
Job work – S. 143- Procedure

[Supply from place of business of **Principal Manufacturer**]

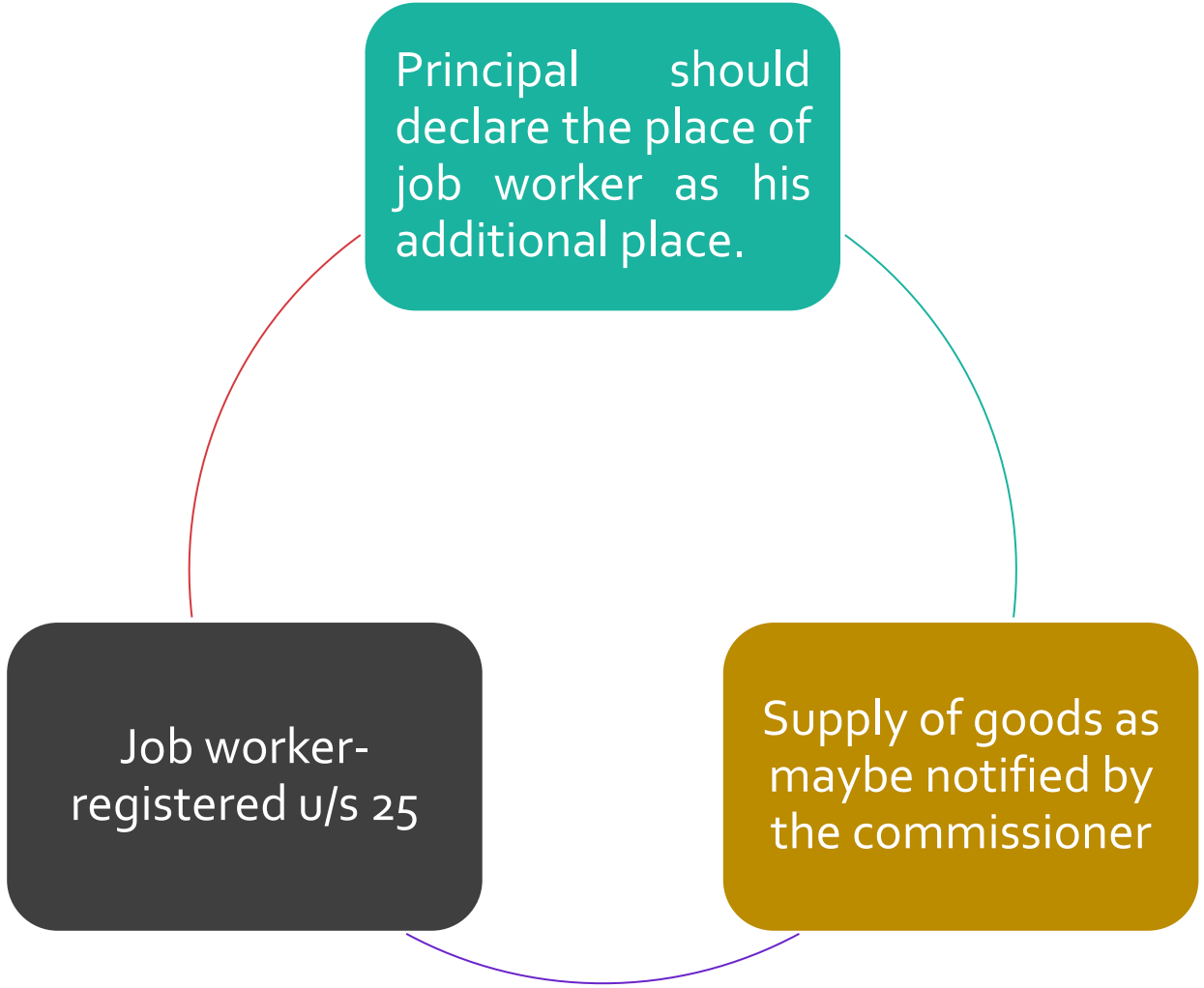


Job work under GST

[Supply from place of business of **Job-worker**]



Condition to supply goods from Job-worker place



Input Tax Credit – Sec. 19

Principal can avail credit on inputs/ CG sent for job work

Credit can availed on the inputs/ CG **directly** sent to the job worker

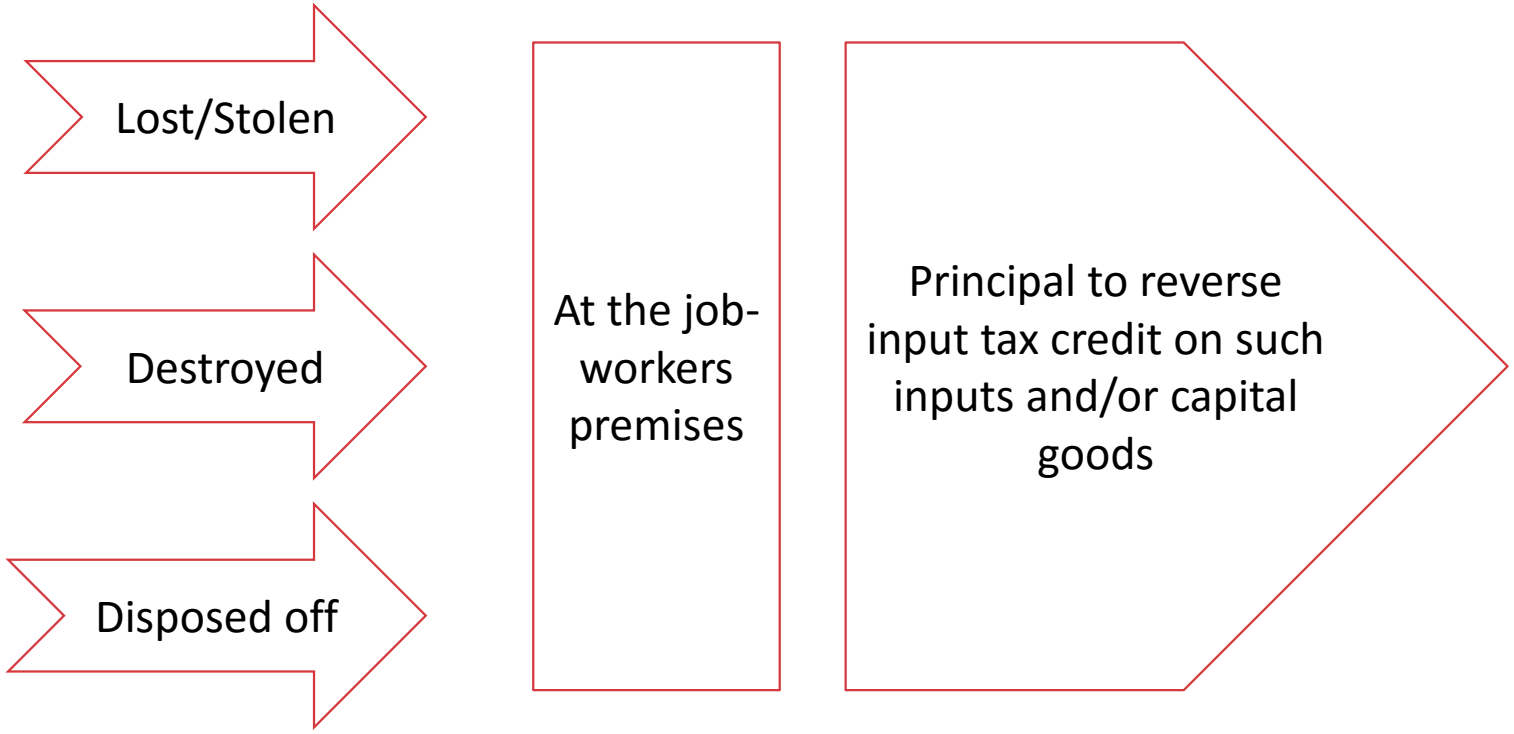
Time limit for return – Inputs - 1 year

Time limit for return – Capital goods – 3 years.

No time-limit for moulds and dies, jigs and fixtures or tools

Not received within the time limit specified – to be treated as **deemed supply** from the original date of supply – interest liability ??

Reversal of Input credit



Other Points

Waste/ Scrap generated during JW

- Supplied by the Job worker directly, if registered;
- If not registered - supplied by the principal

Finished goods cleared directly from Job worker premises – **Not to be included in taxable turnover of job worker``**

Threshold limit less under GST - Compliance burden & Negative cash flow impact – Cash payment by Job worker

The principal is responsible and accountable for all the transactions between him and the job worker

Transitional Provisions

Inputs / Semi finished goods removed for Job work (Sec 141(1) & 141(2))

- Inputs/ Semi finished removed before appointed day for job work, received within 6 months (+ 2 months extension) **from appointed day** – No GST subject to declaration of goods held in stock by the manufacturer and job worker
- **Returned after 6 months (+ 2 months)**
  - GST to be paid by job worker on the date of returning back
  - GST to be paid by manufacturer immediately after 6 months (+ 2 months)

Finished goods removed for carrying out tests or processes not amounting to manufacture (Sec 141(3))

- Same provisions as above

Issues

What if treatment or process done for non-taxable person?

Is job work charges liable to GST?

Who can avail the credit in inputs or input services used by the job worker?

Can a job worker apply for Composition scheme?

Issues

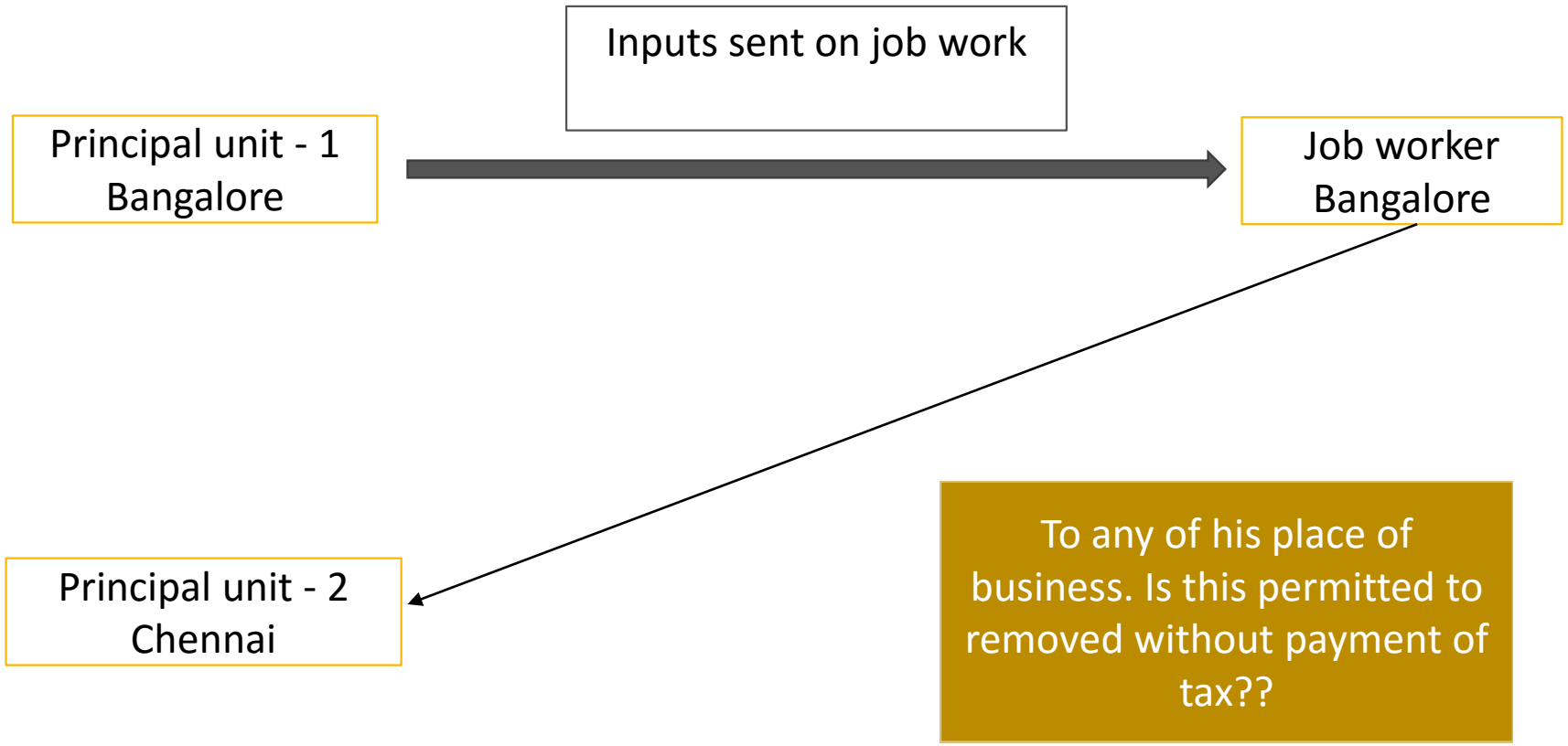
Can job worker eligible for the credit of duty paid by the principal treating it as deemed supply

Any tax implication on capital goods lying with job-worker on the appointed day?

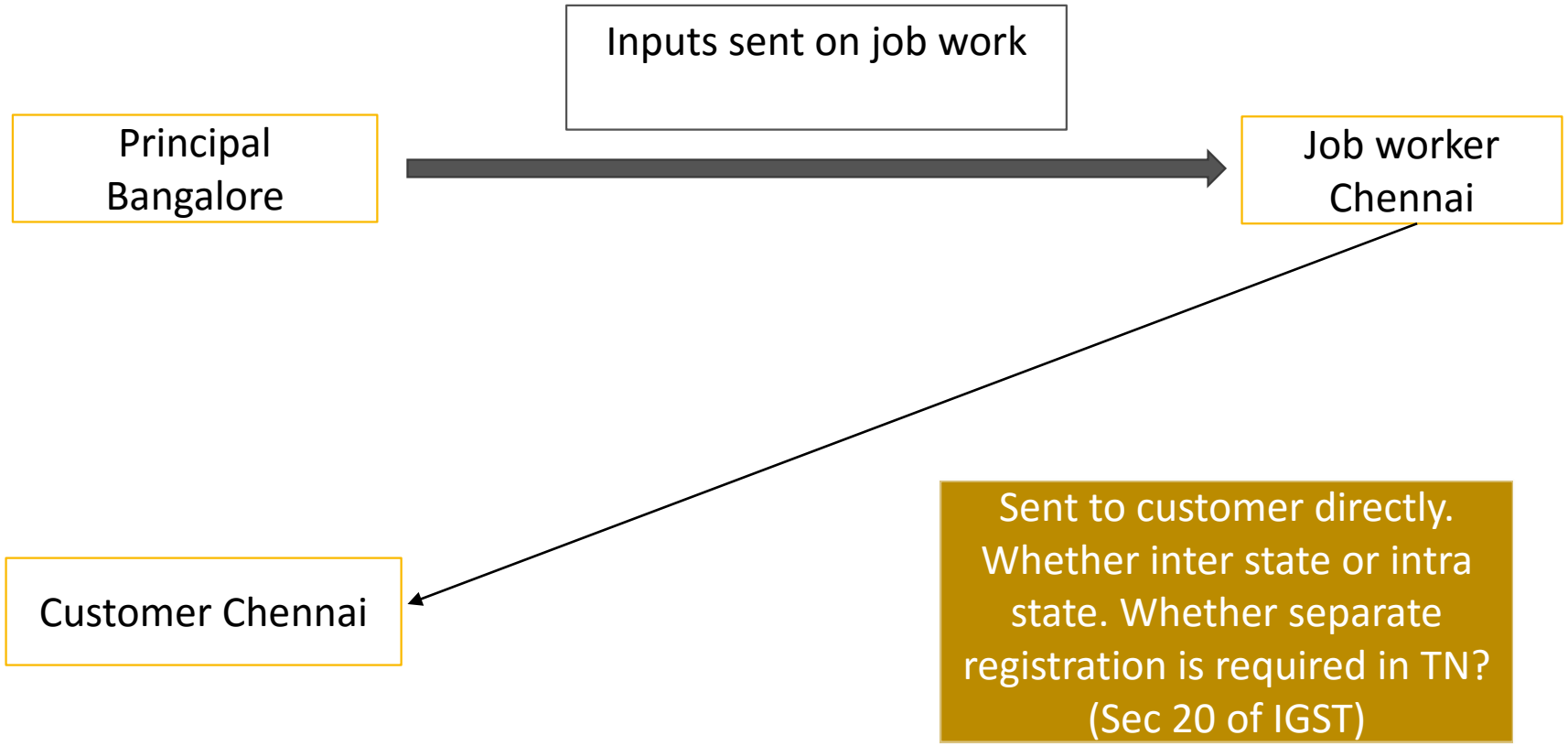
Any impact if the job worker and the Principal located in different States?

Whether job work by another unit of the same PAN tantamount to supply or can it be covered by Section 143 ?

Case


Inputs sent on job work
Principal unit - 1
Bangalore
Job worker
Bangalore
Principal unit - 2
Chennai
To any of his place of business. Is this permitted to removed without payment of tax??

Case


Inputs sent on job work
Principal Bangalore
Job worker Chennai
Customer Chennai
Sent to customer directly. Whether inter state or intra state. Whether separate registration is required in TN? (Sec 20 of IGST)

E-Commerce

Definitions under CGST Act

Electronic commerce means

- supply of goods or services or both including digital products over digital or electronic network.

Electronic commerce operator means

- any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

Levy under GST – Charging Section 9 (5)

E-Commerce Operator (ECO) -

- CG / SG, on the recommendation of the Council, by notification,
- Specify **categories of <u>services</u>** the tax on which shall be paid by the electronic commerce operator.
- If such services are **supplied through it**, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the person liable for paying the tax in relation to the supply of such services.

If physical presence not in in taxable territory

- Any person representing ECO shall deemed to be the person liable for tax.

If physical presence & no person represents

- ECO shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Various models under E- Commerce at glance

- Inventory Model
- Market Place Model
- Aggregator Model
- C2C Model
- Online information Services

Difficulties faced by E-commerce under the present regime

- **Difficulty in categorizing** the offerings into 'goods' or 'services' for charging either VAT / CST or ST.
- In case of sales returns, **managing returned goods** is a challenge to e-comm cos. as they must dispose of them even though it has no rights in the goods.
- Both VAT and service tax authorities claim their right over such digital transactions which lead to **disputes and never-ending litigations.**

Difficulties faced by E-commerce under the present regime

- VAT and service tax results in significant **non-recoupable tax cost impact** for the e-commerce sector.
- For **discounts**, even though the actual consideration paid by the customer is reduced, the service tax and VAT authorities are proposing that **taxes should be levied on the full value of the sale**, with no regard for the discounts.
- The unique and varied business models in this sector make it **difficult to define a broad base for tax positions** —for example, the implications on prepaid sale could be different from those on COD sale.

Summary of GST impact on parties involved in E-commerce transaction

Party	Current regime	GST regime	Impact under GST
Seller	•VAT/CST is charged to customer depending on movement of goods. •ST charged by online marketplace becomes a cost as the same cannot be utilized.	Seller would charge CGST + SGST or IGST depending on the nature of transaction. All input taxes (including GST charged by online marketplace) would now be available as credit, leading to efficiency in costs	• Possible higher tax rate on output side • Seller can claim credit of all taxes on input • Impact on pricing to be analyzed keeping in mind interplay between tax rate and credits

Summary of GST impact on parties involved in E-commerce transaction

Party	Current regime	GST regime	Impact under GST
Online market place	•The online marketplace charges ST to vendor for providing facilitation services. The online marketplace can avail credit on the same. •VAT credit becomes a cost.	•The online marketplace would charge CGST + SGST or IGST depending on nature of transaction. Such taxes would be now available as credit to the vendor. •Full credit of all inputs and input services available.	• Possible higher tax rate on output side • All output taxes to be creditable on provision of services to seller • Can also claim credit of all taxes on input side (currently taxes on procurements becomes cost). • No concept of centralized registration: multiple registrations may be required • Impact on pricing to be analyzed keeping in mind the interplay between tax rate and credits

E- Commerce – Amazon, Flipkart etc. (Sec 52)

- Supply of goods or Services over digital network
- Individual suppliers of goods and service liable in their own accord (except in notified services)
- E- com operator will pay 1% of Net goods/ services provided (Tax Collected at Source)
- List of supplies & returns monthly
- Matched to Supplier outward supplies

Compliance requirements

- E-commerce operator will be liable to collect TCS on the supplies of goods and services made by the supplier.
- It will be the responsibility of e-commerce firm to file **monthly and annual returns**.
- Also, the supplies reported by the e-commerce firm will be matched with the details given by the supplier in his return for outward supplies and in case of a **mismatch;** the output liability of the vendor will be re-determined.

Compliance requirements

- The amount of TCS collected shall be paid to the account of the appropriate Government by the operator within ten days after the end of the month in which such collection is made in the manner as may be prescribed.
- E-commerce operator is required to register in each state where supply is being made.
- Supplier required to register-irrespective of threshold limit.

Compliance requirements

- E-commerce operator has a complex position in GST:
  - Separate registration in each sate
  - Collect 1% TCS from all the suppliers
- Difficulties:
  - Unworkable, compliance shall be cumbersome.
  - Lack of co-ordination with in states-viewing same transaction differently.
- However, on recommendation with council specific category of persons who may
  - be exempted from separate registration
  - Collect tax at one place

Illustration

- ‘A’ buys an iPhone on Amazon for Rs.90,000/- and makes payment to Amazon. Amazon will need to deduct TCS @ 1% on the value of Rs.90,000/- and remit the balance of Rs.89,100/- to the iPhone dealer. The iPhone dealer will be able to claim a credit of the TCS deducted by Amazon and will be allowed to set-off the same against output taxes payable by him.
- Cost of iPhone purchased by ‘A’ Rs.90,000/-
- Remittance to Amazon by ‘A’ Rs.90,000/-
- Deduction of 1% TCS by Amazon Rs. 900/-

  Remittance of amount to iPhone dealer By Amazon Rs.89,100/- Amazon will need to remit the TCS amount to the tax authorities and the iPhone dealer will be allowed to claim credit of Rs.900/- and set-off the same against output taxes payable by him

Place of Supply in case of e-commerce operator

Services provided by e-commerce operators to vendors

Place of supply shall be the location of recipient of services and this is applicable for all kinds of services being provided by operators to these supplies

Goods supplied by vendors to Customers

Place of supply shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient which means the address of the customer in their record.

Point of Taxation

- POT for the services rendered by the e-commerce marketplace company should be the date of invoice raised or date of payment received, whichever is earlier.
- POT for the vendors/retail companies selling goods through the online portal should be the date of invoice.

Eligibility of input tax credits under the GST regime

- Under the existing regime of VAT and ST both e-commerce operators and suppliers of goods suffers huge loss of Input tax credit.
- The operators make investments in various assets on which VAT is charged whereas input tax on services received by vendors from operators is again nonadjustable.
- Under the GST law, cross offsetting of ITC is allowed for both e-commerce operators as well as the vendors.

Entry tax subsumed in GST

- ✓Under the present tax regime, many State Governments have already levied entry tax on the goods entering the States through e-commerce portals for safeguarding the interest of local dealers.
- ✓Since GST is destination based tax where the consuming State would get the tax revenue, the State governments which have levied entry tax on these e-commerce transactions would promote such inter-State supplies so as to enhance their State's revenue. The very intent behind levying entry tax by various States has no more relevance in GST.

Working capital issues for small sellers

- No threshold limit available to small businesses with annual turnover of less than Rs.20 lakh,
- It expects e-commerce platforms to collect tax on every transaction no matter how small the seller might be.
- This essentially means that a small seller on the platform will invariably end up paying tax and would later apply for a refund.
- This could be a grave issue for small and medium businesses that work on very tight working capital.
- A specific proposal in the CGST Act relating to tax collection at source will prove to be detrimental to lakhs of small and medium sellers who do business on e-commerce platforms.

Cash on delivery, Returns and Cancelled Order

- E-commerce in India has a return or cancellation rate of about **15-18%.**
- Also, more than **two-third** of the transactions in the country are still on cash on delivery (COD) and the cash reconciliation for e-commerce firms happens about 7-15 days later
- Deducting tax at source would require e-commerce firms to bear the tax amount from their own capital and later seek refund from the government in case of returns and cancellations.
- Thus TCS can be a major cash flow disadvantage for e-commerce firms especially in the case of cash on delivery or orders being rejected later.

No Composition scheme

- No Composition scheme provided to ECO – who makes any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52

Stock transfers

- In the e-commerce model, goods may be stock-transferred from vendor location to warehouse (maintained by the e-commerce company), or from one warehouse to another if needed.
- Currently, stock transfers are not liable to any tax (except for VAT credit retention) and entry tax, if applicable.
- Under GST, interstate stock transfers will be liable to IGST.

Points to ponder

- Whether the electronic commerce operator can sell goods and/or services on his own behalf? Whether TCS is applicable
- Is electronic commerce operator liable to collect tax at source if the consideration for supplies is not collected by him?
- Whether every supplier on electronic commerce liable to charge GST from Re.1? Is there any threshold limit specified for collection of tax at source?
- What is the time at which the tax should be collected at source by the electronic commerce operator?
- Whether the rate of tax of 1% specified in section 52 is CGST or SCGST or a combination of both CGST and SGST?
- Whether distancing from collection of consideration relieves the responsibility of operator to collect TCS?

Tax Deduction at Source

TDS by Govt. L.A. and G.A (Sec 51)

- C.G. or SG. may mandate the following to Deduct Tax
  - CG/SG. Dept. or Establishment; or
  - Local authority; or
  - Governmental agencies; or
  - Council recommended notified persons or category of persons;
- Such dept, authority, agency or person has to deduct and pay 1% of value of supply of goods or services or both if under a contract it exceeds 2.5 Lakhs.
- No TDS if state of registration is different from POS and LOS.

Compliance requirements

- The amount of TDS to be paid to Government within **ten days** after the end of the month in which such deduction is made in the prescribed manner.
- Deductor will issue a certificate containing contract value, rate of deduction, amount deducted, amount paid to the Government and such other prescribed particulars.

Compliance requirements

- Failure to issue certificate within 5 days from the deposit of tax would attract penalty of Rs. 100/day subject to maximum of 5000.
- Failure to pay deducted tax to Govt. will attract interest as well.
- Deductor shall file prescribed returns within 10th of next month.
- The deductee will be eligible for claiming credit in Cash ledger as contained in the returns filed by deductor.

THANK YOU

For any clarification
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