

# **ICAI HYDERABAD - 7th October, 2021 - Vivek Agarwal FCA, CS, LLB**

## **GST IMPLICATIONS ON GEMS AND JEWELLERY INDUSTRY**

- Vivek Agarwal

FCA, CS, LLB

### **Synopsis:**

1. Rates
2. Job work
3. Wastage and losses
4. Purchase of old gold
5. Exhibitions
6. Composite and Mixed Supplies

### **COMMON GST RATES APPLICABLE TO GEMS AND JEWELLERY INDUSTRY**

What is the GST Rate on Jewellery ?

What is the GST Rate on job work of jewellery ?

GST rate for supply of loose diamonds, stones etc?

## GST rate for repair?

Gold Jewellery	3%
Gold bullion	3%
Loose diamonds/ precious or semi precious stones	0.25%
Job work	5%
Job work in relation to diamonds	1.5%
Residuary Services (Repair)	18%

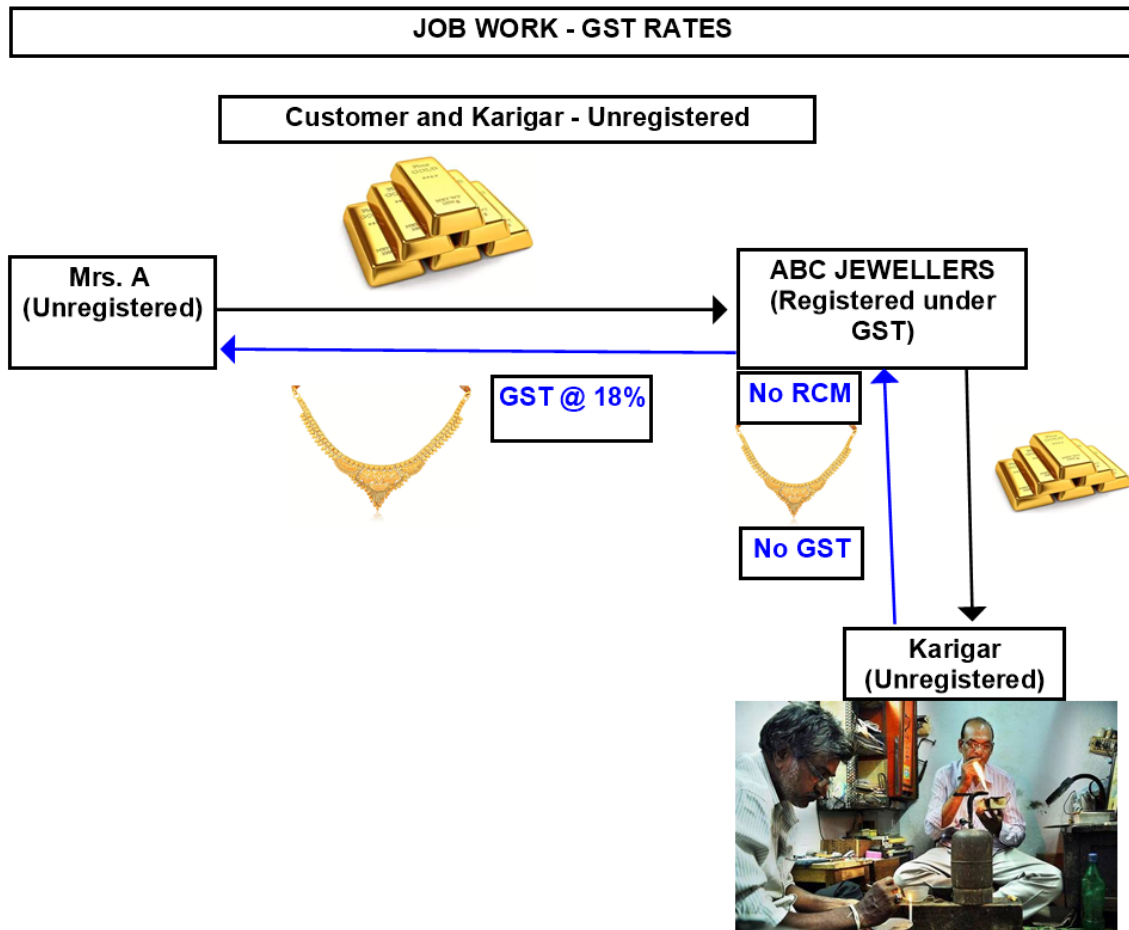
**GST IMPLICATIONS ON JOB WORK FOR JEWELLERY**  
**[Section 2\(68\)](#)**

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

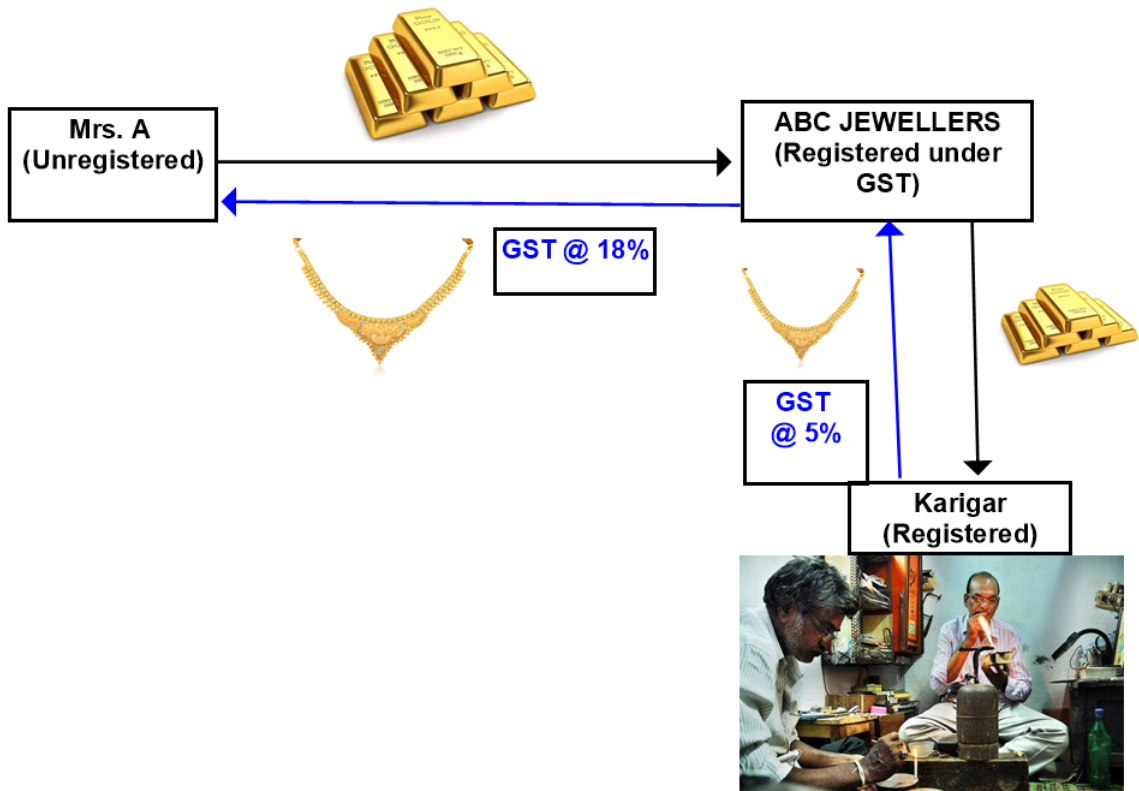
What is the GST rate on making charges if the principal is a registered person?

What is the GST rate on making charges if the principal is an unregistered person?

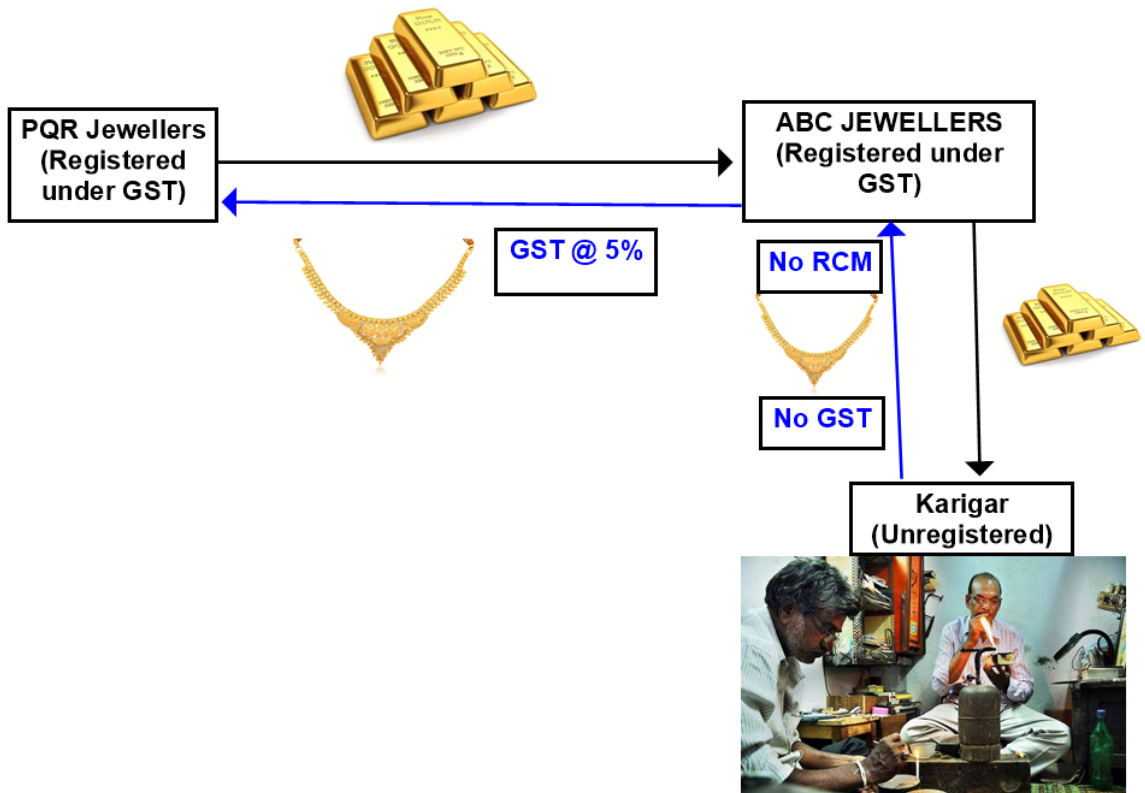
Thus in case the person who is sending goods for job work is a **registered person** then GST at the rate of **5%** is applicable  
In case the principal is an **unregistered person**, it would not fall in the definition of job work, hence GST at the rate of **18%** would be applicable.

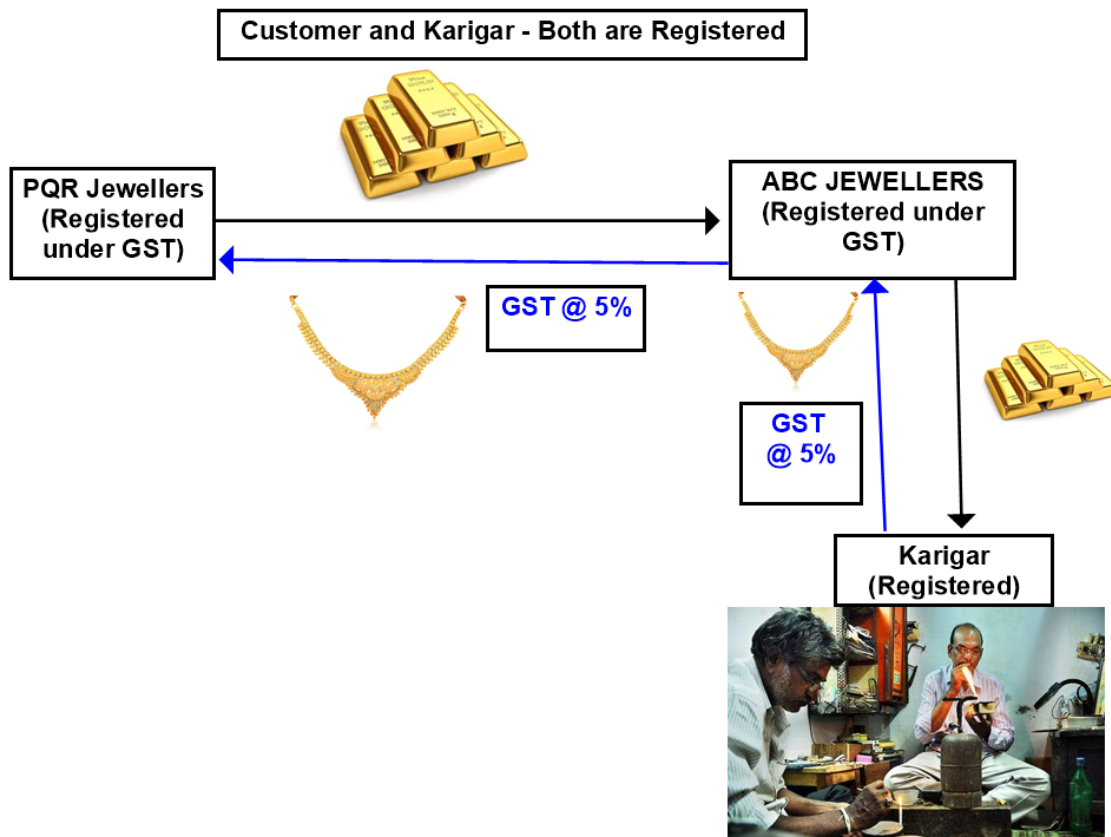


Customer - Unregistered ; Karigar - Registered



Customer - Registered ; Karigar - Unregistered





## Job work Procedure:

**143. (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**;

(b) supply such 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 from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be:

**Provided** that the principal **shall not supply the goods from the place of business of a job worker** in accordance with the provisions of this clause unless the said principal declares the place of business of the job worker as his **additional place of business except** in a case-

- (i) where the **job worker is registered** under section 25; or
- (ii) where the principal is engaged in the supply of such goods as may be notified by the Commissioner.

<sup>1</sup>[Provided further that the period of one year and three years may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively.]

(2) The **responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.**

(3) Where the inputs sent for job work are **not received back by the principal after completion of job work** or otherwise in accordance with the provisions of clause (a) of sub-section (1) **or are not supplied from the place of business of the job worker** in accordance with the provisions of clause (b) of sub-section (1) **within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out.**

(4) Where the **capital goods**, other than moulds and dies, jigs and fixtures, or tools, sent for job work are not received back by the principal in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) within a period of **three years** of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out.

(5) Notwithstanding anything contained in sub-sections (1) and (2), **any waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax, if such job worker is registered, or by the principal, if the job worker is not registered.**

**Explanation.**—For the purposes of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker.

## **Rule - 45 , Central Goods and Services Tax Rules, 2017**

### **<sup>4</sup>Conditions and restrictions in respect of inputs and capital goods sent to the job worker**

**45.** (1) The inputs, semi-finished goods or capital goods shall be sent to the job worker under the **cover of a challan** issued by the principal, including where such goods are sent directly to a job-worker <sup>5</sup>[, and where the goods are sent from one job worker to another job worker, the **challan may be issued either by the principal or the job worker** sending the goods to another job worker:

**Provided** that the challan issued by the principal may be **endorsed** by the job worker, indicating therein the **quantity and description of goods** where the goods are sent by one job worker to another or are returned to the principal:

**Provided further** that the challan endorsed by the job worker may be **further endorsed** by another job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal.]

(2) The challan issued by the principal to the job worker shall contain the **details specified in rule 55.**

(3) The details of challans in respect of goods dispatched to a job worker or received from a job worker <sup>6</sup>[\*\*\*] <sup>6a</sup>[during a specified period] shall be included in **FORM GST ITC-04** furnished for that period on or before the twenty-fifth day of the month succeeding <sup>6aa</sup>[the said period]<sup>7</sup>[or within such further period as may be extended by the Commissioner by a notification in this behalf:

**Provided** that any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.]

<sup>6ab</sup>[Explanation.- For the purposes of this sub-rule, the expression "specified period" shall mean.-

(a)	the period of six consecutive months commencing on the 1st day of April and the 1st day of October in respect of a principal whose aggregate turnover during the immediately preceding financial year exceeds five crore rupees; and
(b)	a financial year in any other case.]

(4) Where the inputs or capital goods are **not returned to the principal within the time stipulated** in section 143, it **shall be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the**

*day when the said inputs or capital goods were sent out and the said supply shall be declared in FORM GSTR-1 and the principal shall be liable to pay the tax along with applicable interest.*

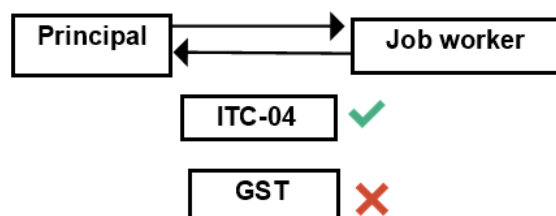
*Explanation.—For the purposes of this Chapter,—*

(1)	<i>the expressions "capital goods" shall include "plant and machinery" as defined in the Explanation to section 17;</i>
(2)	<i>for determining the value of an exempt supply as referred to in sub-section (3) of section 17—</i>

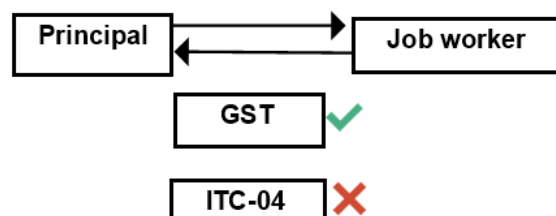
(a)	<i>the value of land and building shall be taken as the same as adopted for the purpose of paying stamp duty; and</i>
(b)	<i>the value of security shall be taken as one per cent of the sale value of such security.</i>

**SENDING TO OR RECEIVING FROM JOB WORKER - ANY OF THE TWO OPTIONS CAN BE OPTED BY THE "PRINCIPAL"**

**Option 1: Section 143 - Yes: Supply Inputs or Capital Goods to Job worker**



**Option 2: Section 143 - No: Supply Inputs or Capital Goods to Job worker**



**Circular:**



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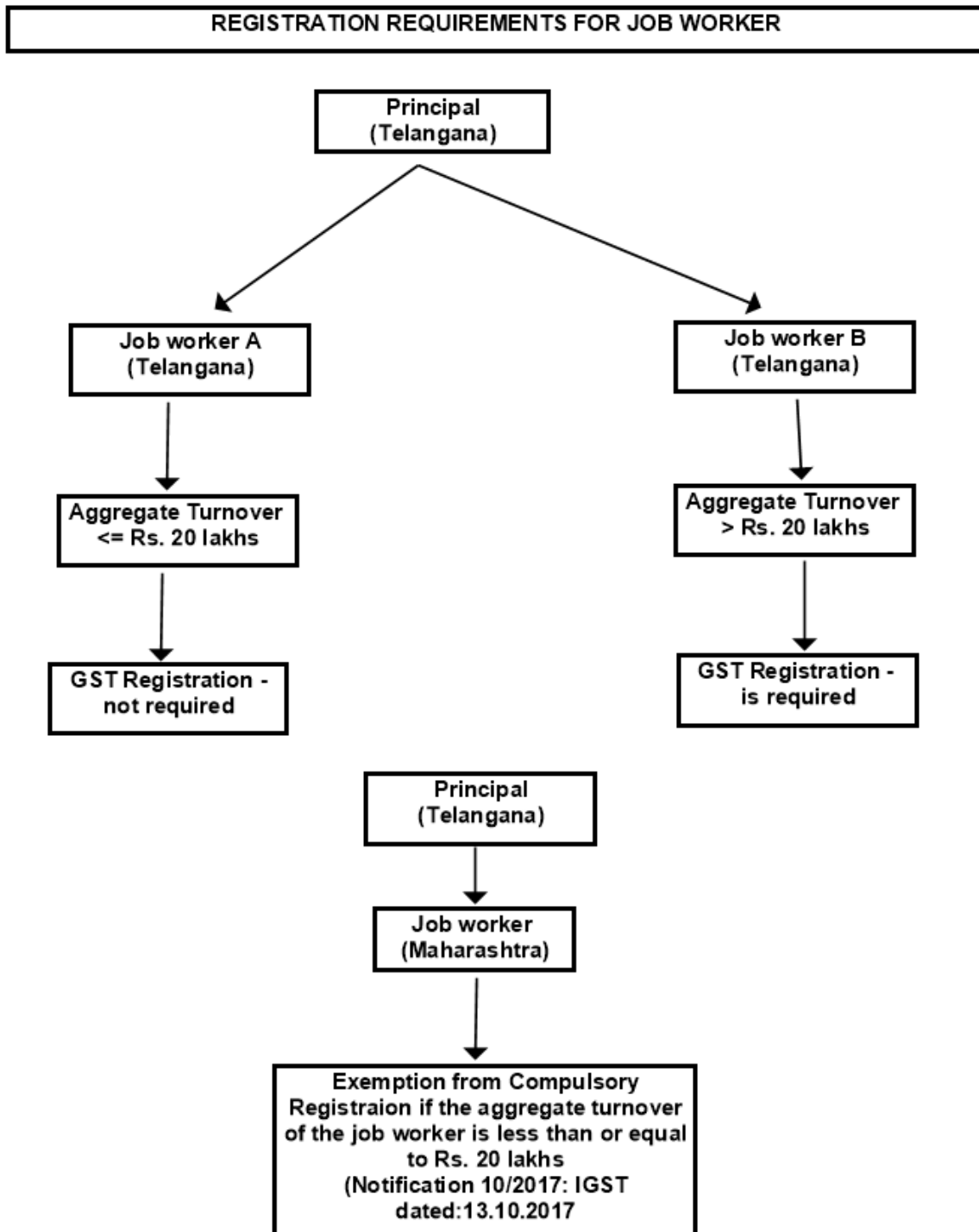
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### **REGISTRATION FOR JOB WORKER:**

#### ***Compulsory registration in certain cases.***

*24. Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act,—*

- (i) persons making any inter-State taxable supply;*



**Exemption from compulsory GST registration even making interstate supply:-**

- (a) A person making inter-state supply of services is not required to register under GST if his aggregate turnover is less than Rs 20/10 lakhs. **Notification No. 10/2017-IT dated 13-10-17)**

**Notification:(Refer image below).**

 notfctn-10-igst-english.pdf

69 kB

**[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]**

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 10/2017 – Integrated Tax**

New Delhi, the 13<sup>th</sup> October, 2017

G.S.R. ....(E).— In exercise of the powers conferred by section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with sub-section (2) of section 23 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby specifies the persons making inter-State supplies of taxable services and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of twenty lakh rupees in a financial year as the category of persons exempted from obtaining registration under the said Act:

Provided that the aggregate value of such supplies, to be computed on all India basis, should not exceed an amount of ten lakh rupees in case of “special category States” as specified in sub-clause (g) of clause (4) of article 279A of the Constitution, other than the State of Jammu and Kashmir.

## What are the consequences of non - filing of ITC-04?

### Consequences of non filing of ITC-04:

1. **General penalty** of up to Rs. 50,000 can be levied u/s 125 or
2. **Intimation to commissioner is not served**, hence **provisions of Section 143 are violated** and it may be deemed that the registered person has not opted for Section 143 leading to all the transactions between the principal and the job worker can be converted into taxable supplies where the Department can say that the principal has suppressed the transaction and levy tax , interest and even penalty for all such transactions.

### **ITC-04 RELAXATION**

Requirement of filing FORM GST ITC-04 under rule 45 (3) of the CGST Rules has been relaxed as under:

- a. Taxpayers whose annual aggregate turnover in preceding financial year is **above**

**Rs. 5 crores** shall furnish ITC-04 **once in six months**;

b. Taxpayers whose annual aggregate turnover in preceding financial year is **upto**

**Rs. 5 crores** shall furnish ITC-04 **annually**.

**Notification:**

 notfctn-35-central-tax-english-2021... 150 kB

**Extract of the notification:**

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)  
Central Board of Indirect Taxes and Customs

**Notification No. 35/2021 – Central Tax**

New Delhi, the **24<sup>th</sup> September, 2021**

(4) In rule 45 of the said rules, in sub-rule (3), with effect from the 1<sup>st</sup> day of October, 2021, -

- (i) for the words “during a quarter”, the words “during a specified period” shall be substituted;
- (ii) for the words “the said quarter”, the words “the said period” shall be substituted;
- (iii) after the proviso, the following explanation shall be inserted, namely: -

“Explanation. - For the purposes of this sub-rule, the expression “specified period” shall mean:-

- (a) the period of six consecutive months commencing on the 1<sup>st</sup> day of April and the 1<sup>st</sup> day of October in respect of a principal whose aggregate turnover during the immediately preceding financial year exceeds five crore rupees; and
- (b) a financial year in any other case.”;

#### **Format of ITC-04:**

 itc-04.pdf

607 kB

#### **ITC-04 relaxation:**

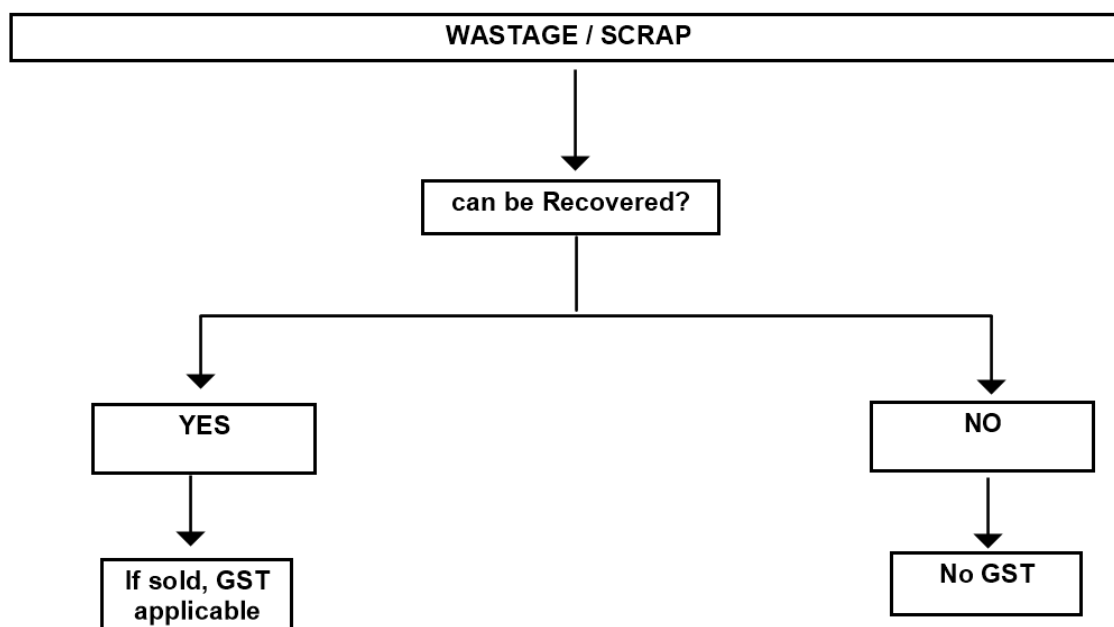
**Government of India**  
**Ministry of Finance**  
**(Department of Revenue)**  
**Central Board of Indirect Taxes and Customs**

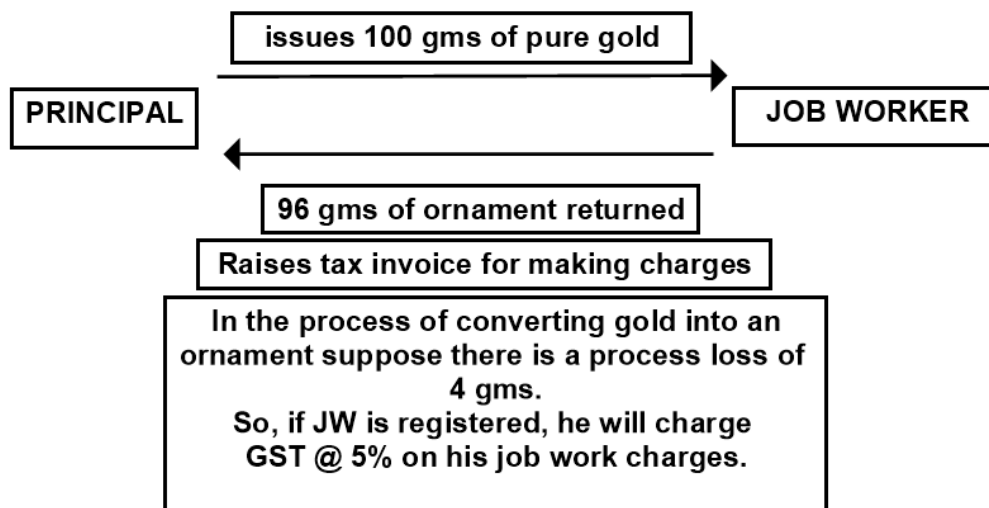
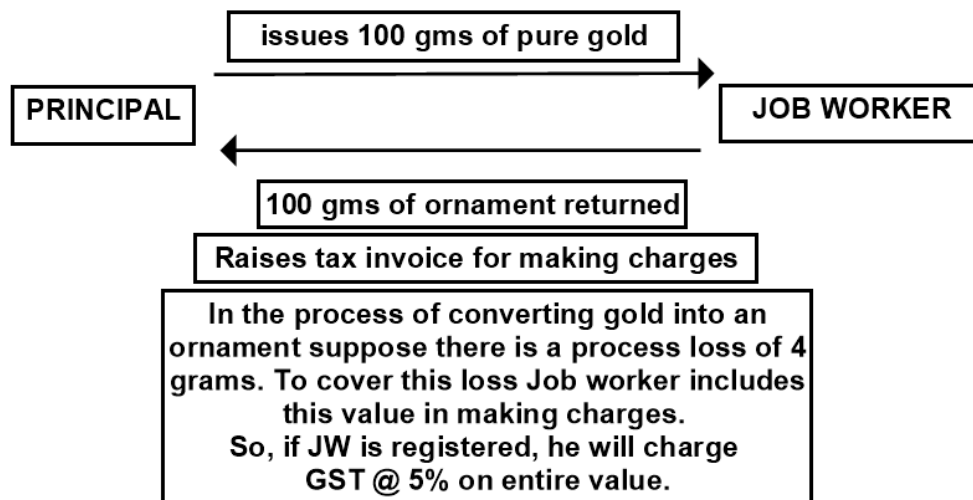
**Notification No. 38/2019 – Central Tax**

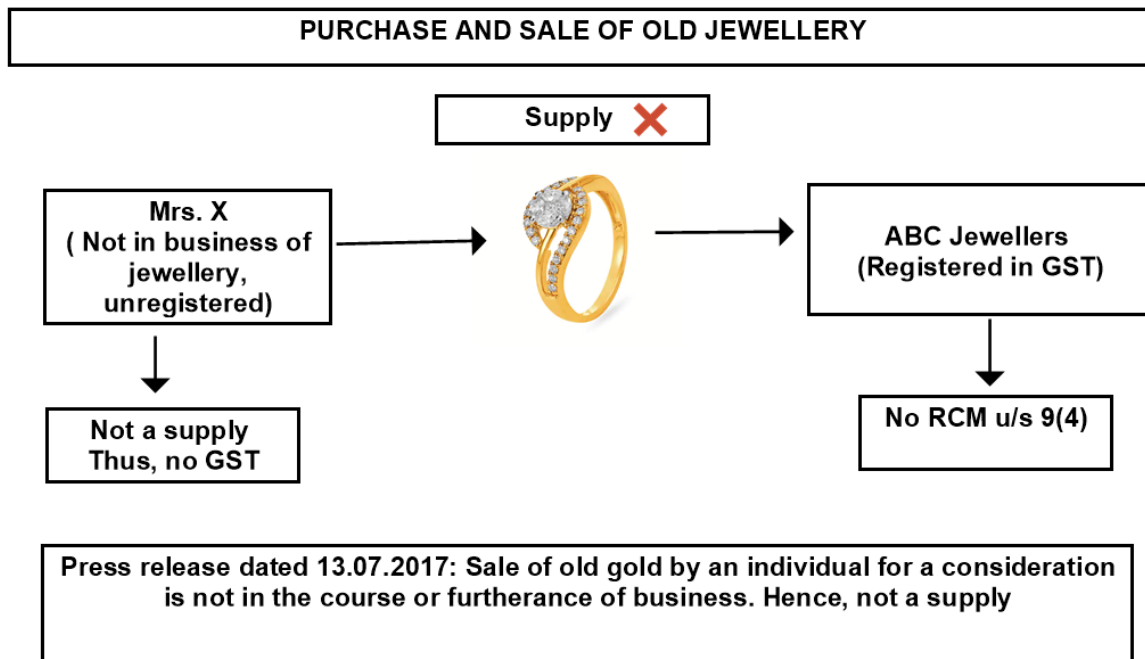
New Delhi, the 31<sup>st</sup> August, 2019

G.S.R.....(E).— In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies the registered persons required to furnish the details of challans in **FORM ITC-04** under sub-rule (3) of rule 45 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), read with section 143 of the said Act, as the class of registered persons who shall follow the special procedure such that the said persons shall not be required to furnish **FORM ITC-04** under sub-rule (3) of rule 45 of the said rules for the period July, 2017 to March, 2019:

Provided that the said persons shall furnish the details of all the challans in respect of goods dispatched to a job worker in the period July, 2017 to March, 2019 but not received from a job worker or not supplied from the place of business of the job worker as on the 31<sup>st</sup> March, 2019, in serial number 4 of **FORM ITC-04** for the quarter April-June, 2019.







Press-Release-Reverse-Charge.pdf

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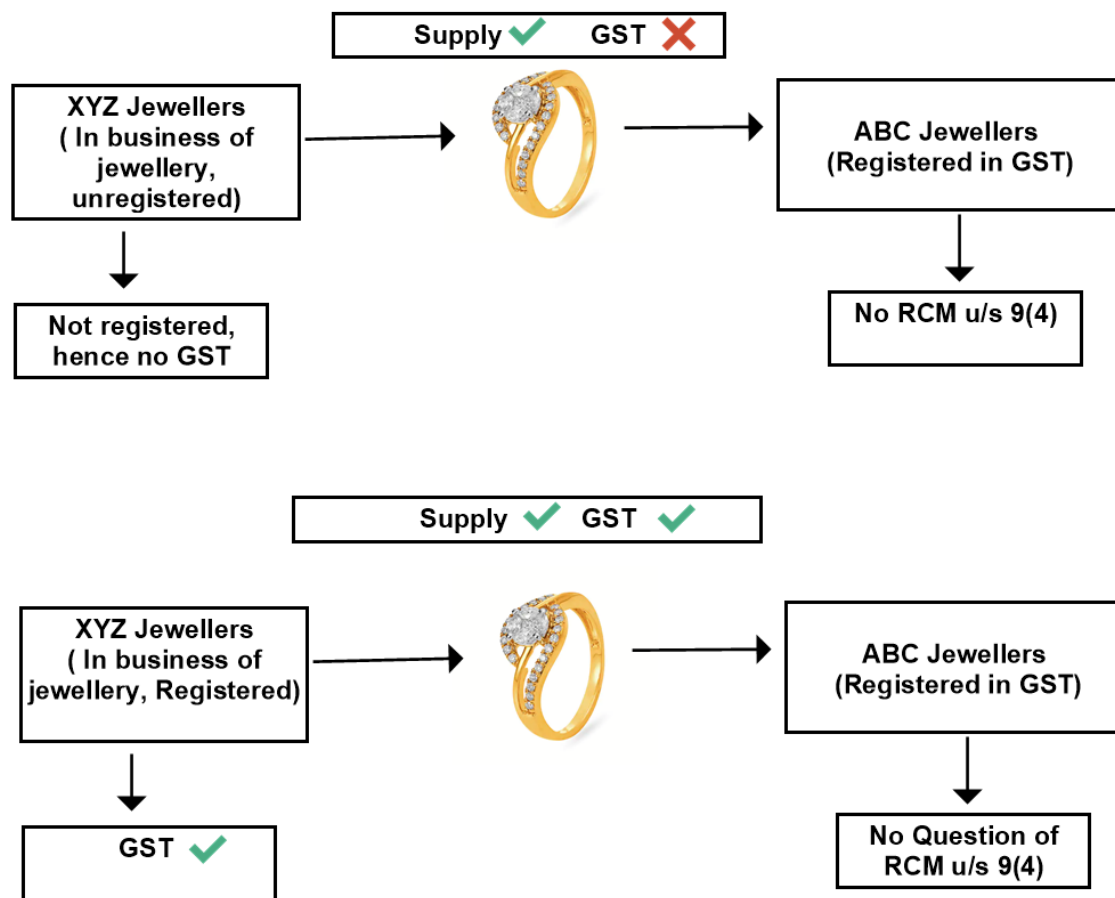
### **PRESS RELEASE**

**13<sup>th</sup> July, 2017**

**Sub : Further clarification on tax in reverse charge on gold ornaments**

4. Even though the sale of old gold by an individual is for a consideration, it cannot be said to be in the course or furtherance of his business (as selling old gold jewellery is not the business of the said individual), and hence does not qualify to be a supply per se. Accordingly the sale of old jewellery by an individual to a jeweller will not attract the provisions of section 9(4) and jeweller will not be liable to pay tax under reverse charge mechanism on such purchases. However, if an unregistered supplier of gold ornaments sells it to registered supplier, the tax under RCM will apply.

\*\*\*\*\*



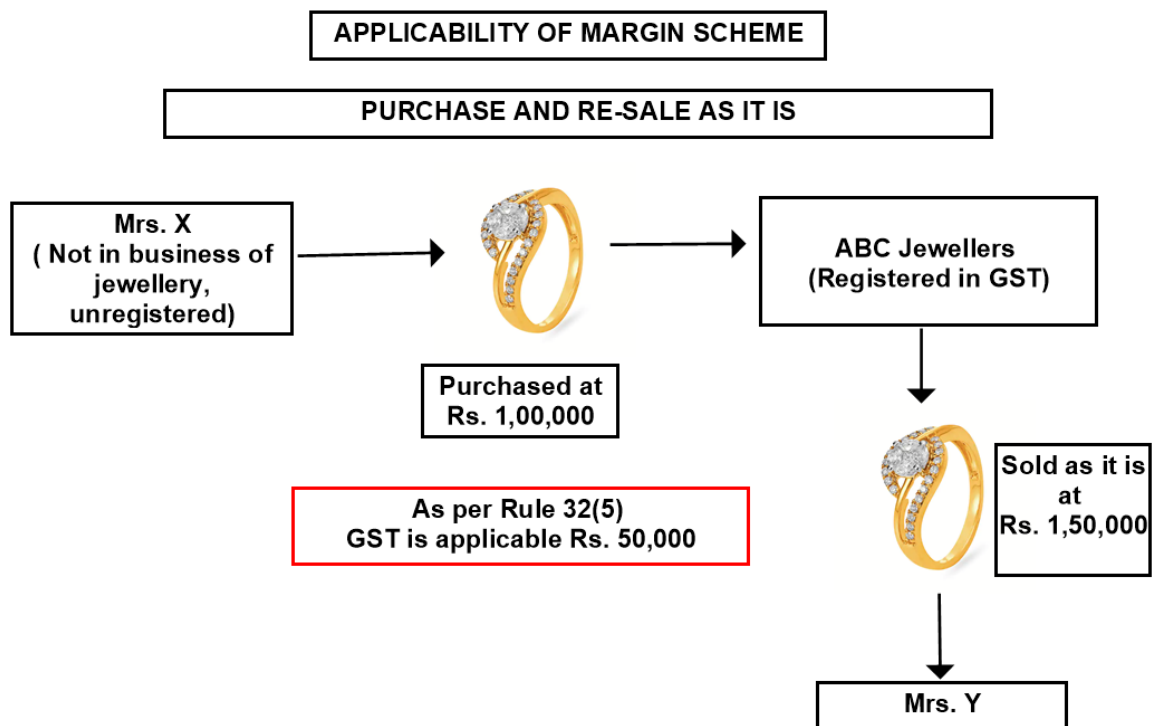
## Margin scheme under GST

**What is the margin scheme in GST for person dealing in second hand goods?**

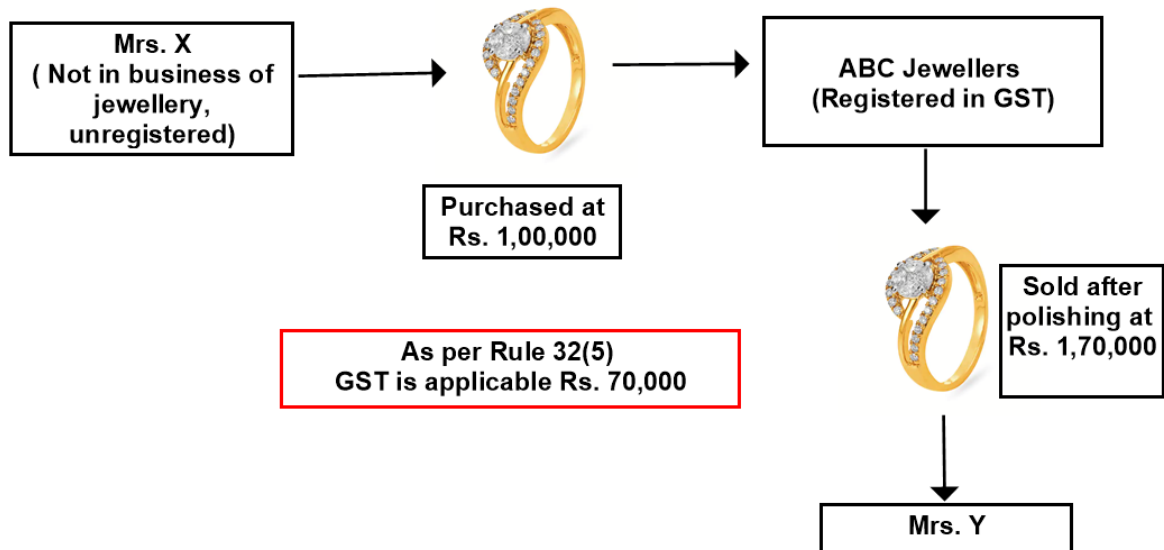
### Rule 32 - Determination of value in respect of certain supplies

(5) Where a taxable supply is provided by a **person dealing in buying and selling of second hand goods** i.e., used goods **as such or after such minor processing which**

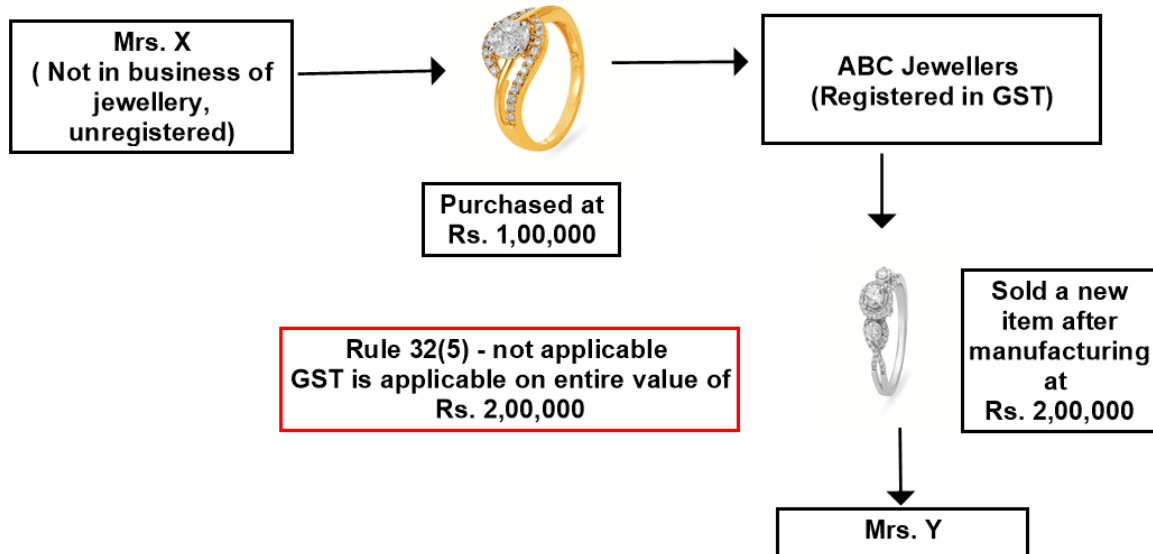
*does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored:*



**PURCHASE AND RE-SALE AFTER MINOR PROCESSING**



### MANUFACTURING A NEW ITEM AFTER MELTING



**Case law - Karnataka AAR -dated: 09th July, 2021**



AadhyaGoldPrivateLimited13721.pdf

3 MB

## **JEWELLERY TAKEN FOR EXHIBITIONS:**

### ***Persons liable for registration.***

22. (1) Every supplier **shall** be liable to be registered under this Act in the State or Union territory, other than special category States, **from where** he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees:

Section 2(20) "**casual taxable person**" means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has **no fixed place of business**;

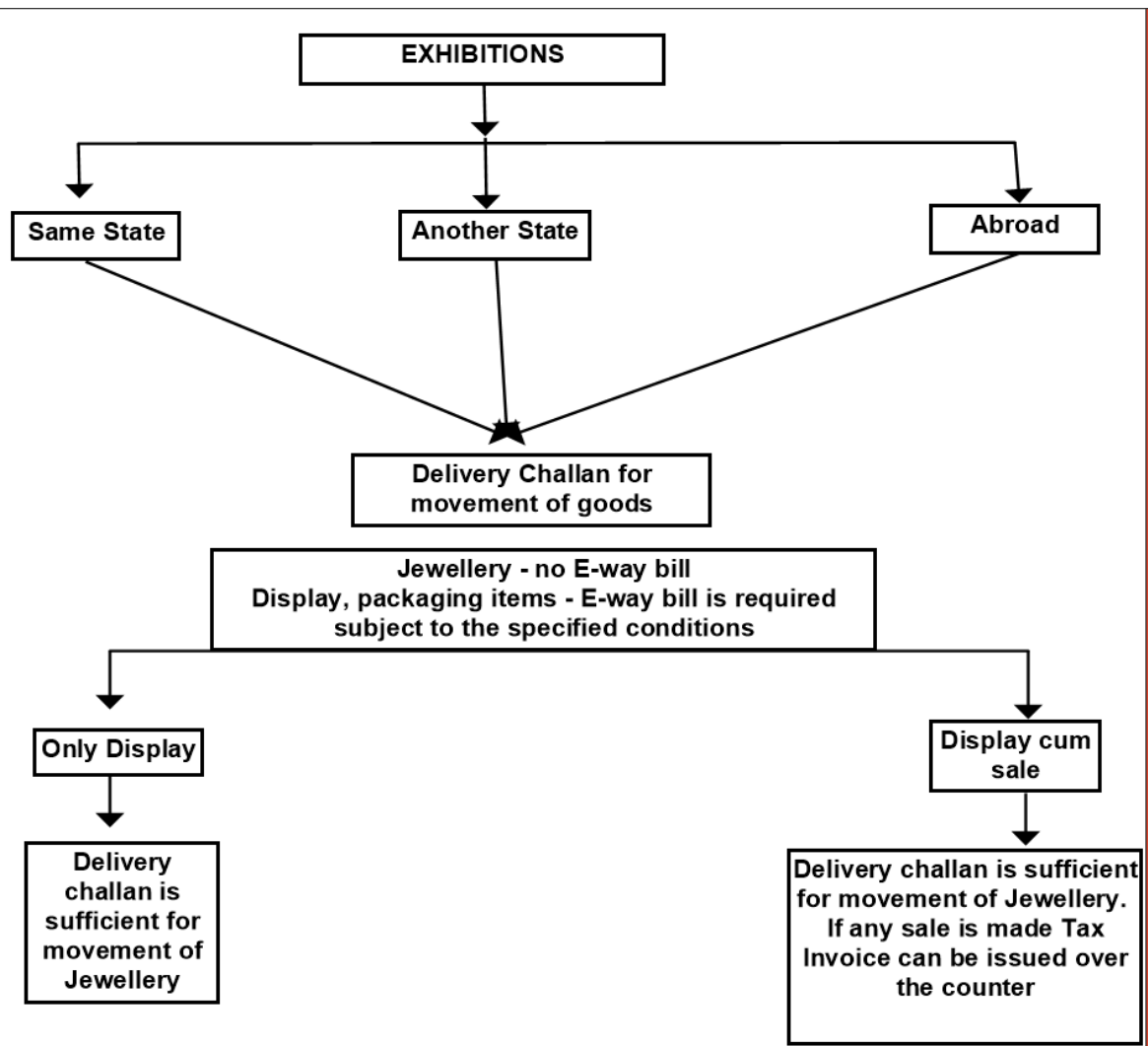
(2) A casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration under sub-section (1) of section 25, make an **advance deposit of tax in an amount equivalent to the estimated tax liability** of such person for the period for which the registration is sought:

**Circular for movement of jewellery within the state or another state:**

 Circular10\_2017\_Goods-on-Approval... 200 kB

**Circular for movement of jewellery abroad:**

 circular-cgst-108.pdf 349 kB



## COMPOSITE AND MIXED SUPPLIES:

### **Composite Supply:**

Section 2(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.

**Example:** Freight charges for transportation of jewellery. The principal supply is of jewellery and freight is only incidental. So, in this case the rate of GST for freight would be the rate of GST of jewellery. GST rate on freight is 5% while it is 3% on Jewellery. If both are supplied together and are naturally bundled then though the GST rate on freight is 5%, the GST rate applicable on the total value of the invoice would be 3% i.e., of the Jewellery being the principal supply.

### **Mixed Supply:**

(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.*

For tax under GST, a mixed supply comprising two or more supplies shall be treated as a supply of that item which has the highest rate of tax.

Example: Loose diamonds and Jewellery both are supplied in the same invoice. These are not naturally bundled and both are independent supplies. GST rate on loose diamonds is 0.25% while GST rate on Jewellery is 3%. If separate bills are prepared for each then their respective GST rates would be applicable but if same invoice is prepared and total value is mentioned on the invoice then the rate of supply attracting highest rate would be applicable on the total value i.e., 3%. Highest rate is applicable if a single price is charged for both the items.

**ABC Jewellers Pvt. Ltd. sells gold ornaments of 50 grams for Rs. 1,50,000/- and making charges of Rs. 25,000/- are also charged totalling the transaction value to Rs.1,75,000. What will be the GST impact on this transaction?**

The given question falls under the concept of Composite Supply.

- **Principal Supply:** Sale of Jewellery
- **Incidental Supply:** Making charges.

GST rate of **principal supply** would be applicable i.e., **3%** will be applicable on the **entire amount of Rs. 1,75,000**

**ABC Jewellers Pvt. Ltd sells jewellery to a customer in a jewellery box. The GST rate on jewellery box is 28% whereas the GST rate on jewellery is 3%. In this case, which rate is to be charged on the invoice?**

The GST rate applicable in this case is of principal supply which is jewellery @ 3%.

**ABC Jewellers Pvt. Ltd sells jewellery to a customer and in return gets old jewellery from him. There is no additional consideration paid by the customer. What is the GST impact on such transaction?**

**Ans.** The given example is a barter. In GST, barter is treated as a taxable 'supply'. We can divide this into two transactions:

Transaction no. 1: Receiving old jewellery from customer: No GST is applicable on such transaction as it is not a supply. There is no question of reverse charge as well.

Transaction no. 2: Barter of new jewellery to the customer: The supplier - ABC Jewellers Pvt Ltd. in our example is in the business of jewellery. Thus, supply of new jewellery to customer is taxable. For the purpose of valuation of new jewellery sold to the customer, the open market value of the new jewellery must be considered.

**ABC Jewellers Pvt. Ltd. gets an order for making an ornament. The retailer, registered in GST, provides a part of the gold. The remaining gold is purchased by ABC Jewellers Pvt. Ltd. What are the GST implications on this transaction in the following two scenarios?**

**a) Invoice shows gold value and making charges value separately?**

**b) Invoice value does not show separate break-up of gold value and making charges?**

**Ans.** In this case, the principal supply is the making of the ornament. In such cases it is better to prepare two separate bills.

1. In a case where the invoice shows gold value and making charges value separately, GST will be at 3% for gold and 5% for making charges as it is difficult to locate which of the two supplies is a principal supply. Both the supplies are of equal importance.
2. If the invoice value does not show separate break-up of gold value and making charges, this will be a composite supply and tax should be paid at the rate of 5% being the rate of tax of principal supply.

Therefore, in this case, separate bills can be raised for the additional gold supplied (GST @3%) and for the making charges (GST @5%) or they should be separately mentioned on the same tax invoice.

**What would be the treatment of wastage of gold that normally occurs during manufacture of jewellery by a job worker?**

**Ans.** Wastage may be classified as recoverable wastage and irrecoverable wastage. Irrecoverable wastage is where the gold cannot be used anymore for e.g. gold dust which cannot be accumulated and used in manufacturing. Such wastage is normal wastage and is already considered by the principal while sending raw material to the job worker. Hence, it is included in the account of the principal and hence no GST would be payable.

With regard to the wastage limits, no specific limits have been prescribed.

In case of Recoverable wastage, this may be to the account of the job worker, and would be taxed as follows:

- If the consideration paid to the job worker includes only the making charges, the job worker has to return the wastage to the principal. Therefore, GST is payable only on the making charges.

- Consideration to the job worker could also be in the form of wastage. In such a case, the wastage will be a non-cash consideration paid to the job worker, and GST will be paid on the open market value of the wastage.
- If the job worker is given a combination of both making charges and wastage as consideration, GST will be payable on the sum total of the making charges plus the open market value of the wastage.



**Vivek Agarwal**  
FCA, CS, LLB

**Hari Agarwal and Associates**  
*Chartered Accountants*  
*(Estd. 1987)*

**Head office:** Basheerbagh

**Branch office:** Jubilee Hills, Road no. 36

**Web:** [www.haacas.com](http://www.haacas.com)

**Email:** [cavivekagarwal@haacas.com](mailto:cavivekagarwal@haacas.com)

**Contact:** 63000-93804

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