

DRAFT

# QUICK INSIGHT ON GST

## TEXTILE INDUSTRIES

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## **TEXTILE INDUSTRIES**

### **1. Introduction:**

India's textiles sector is one of the oldest industries in Indian economy dating back several centuries. Even today, it is one of the largest contributors to India's exports with approximately 13 per cent of total exports. The textiles industry is also labour intensive and is one of the largest employment provider in the country. The textile industry employs about million people directly and indirectly.

India's overall textile exports during FY 2015-16 stood at US\$ 40 billion. In the global exports of textiles, India is ranked as the third largest exporter, trailing EU-27 and China. The position has been achieved by tremendous government support in way of subsidies and tax reliefs. Under GST, some of the existing subsidization would be taken care of automatically.

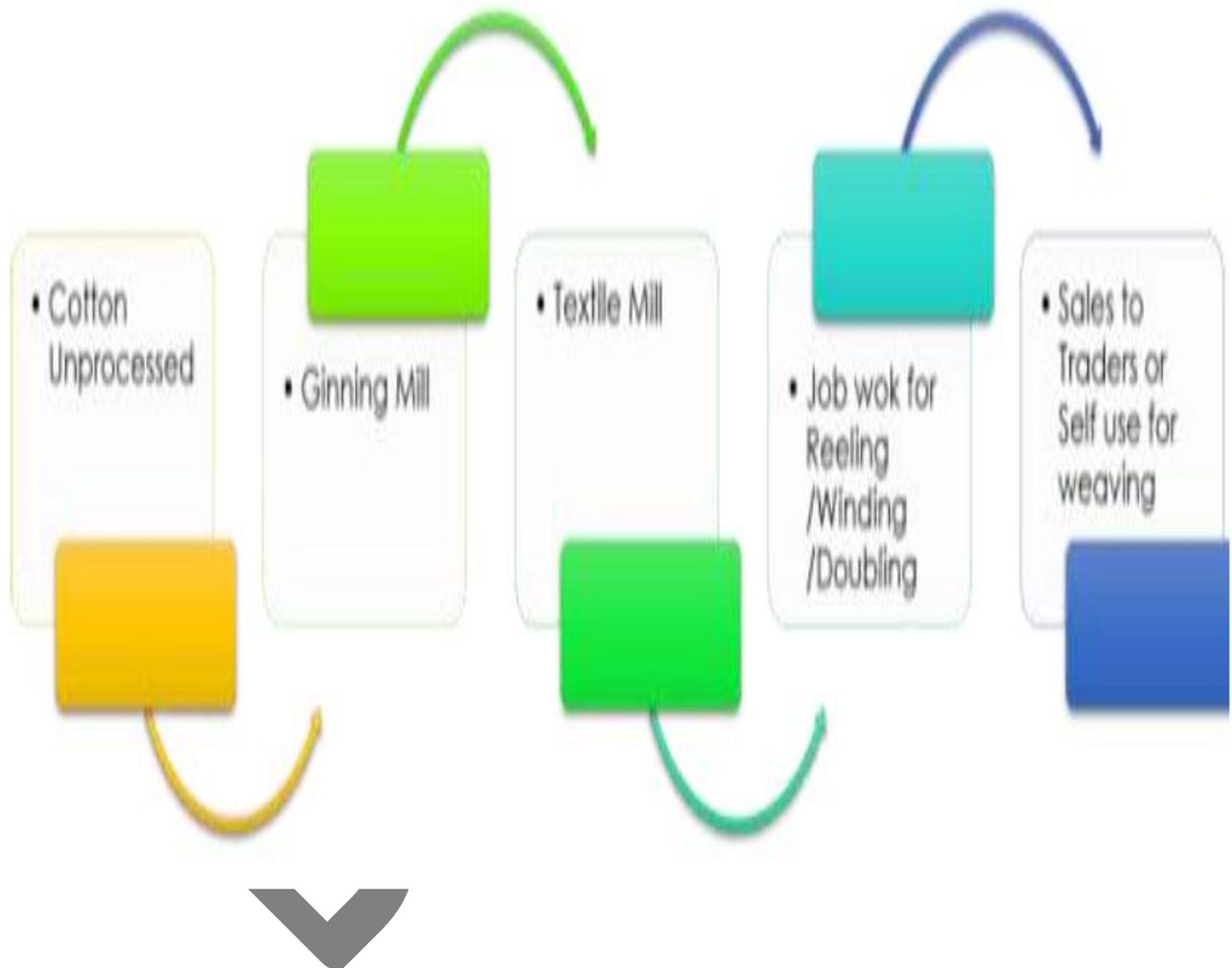
The textile industry has two broad segments. First, the unorganized sector consisting of handloom, handicrafts and sericulture, which are operated on a small scale and through traditional tools and methods. The second is the organized sector consisting of spinning, apparel and garments segment which apply modern machinery and techniques, both in respect of inputs and finished products. The textile industries draw various inputs (Raw Cotton, Yarn, Silk, Viscous etc.) and services (Job worker, weaver, handcraft etc.) from many other sectors consisting of both goods and services including dyes and chemicals and other allied products.

India being vastly geographically diversified country, the quality and nature of fabric available for production and manufacture varies from region to region. Based on this the whole country can be divided on the basis of type of fabric produced and based on this the industries can be deduced as well.

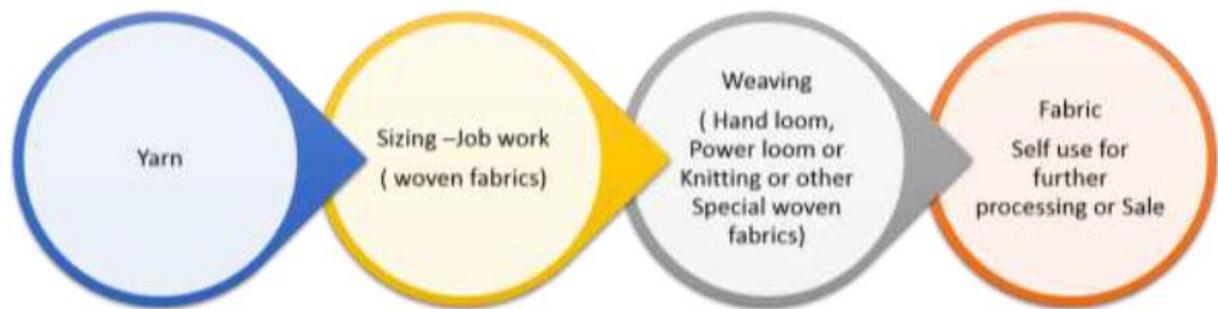
The textile sector consisting of the following major sub-sectors.

## Various supply chains in Textile Sector

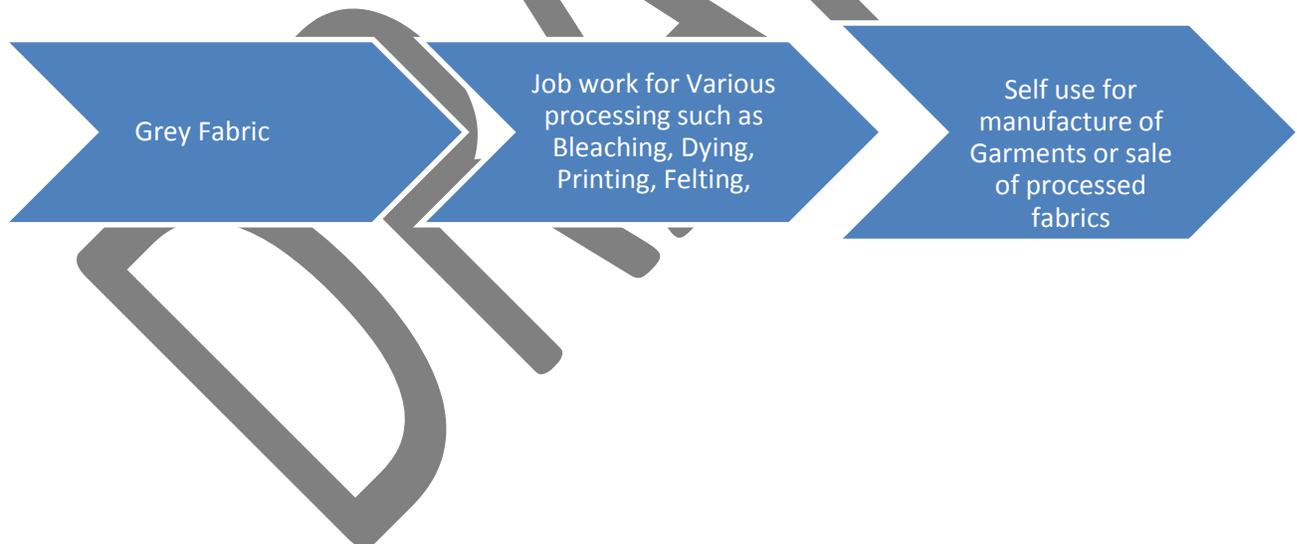
### 1. Fibres- Cotton to Yarn



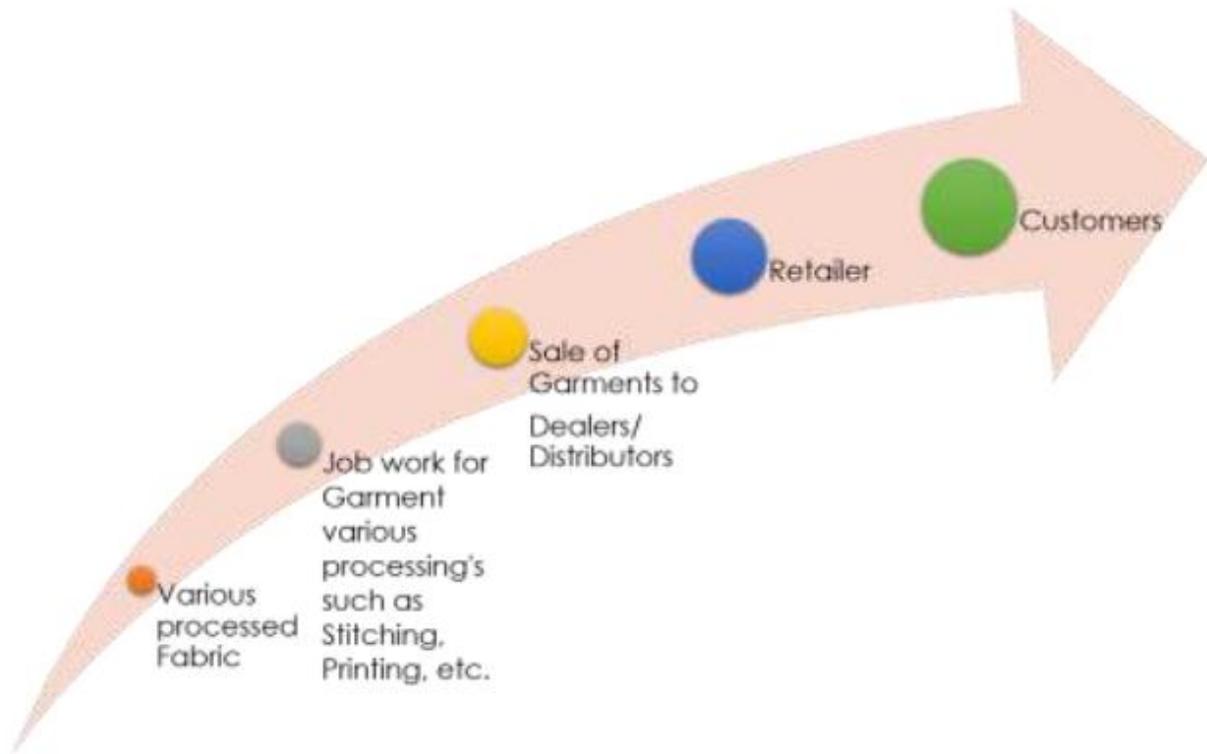
## 2.Yarn to Grey /Processed Fabric (Woven/Knitted etc.,)



## 3.Grey Fabrics to Processed Fabric/ Garment



#### 4. Garment to Consumer



Different types of textiles sector:

- Khadi and handlooms
- Cotton textiles
- Woolen textiles
- Silk textiles
- Art silk and synthetic fibre textiles
- Jute, hemp, and Mesta textiles
- Ready-made garments
- Miscellaneous textile products

This booklet aims to shed light on the ongoing conundrums in the textile industry and the various problems faced by it.

## **2. Historical Tax Regime**

Historically Indian textile industry being vastly based on the handloom industry, the government of India have always been inclined towards keeping this particular industry out of the tax net. The motive being increase in production and exports resulting in increase in employment and net foreign inward remittances. The indirect tax structure in the country basically consisted of 3 major taxes i.e. excise duty, sales tax and the service tax. Out of the three taxes, the excise duty was implemented in the 40's whereas the sales tax and the service tax are of relatively younger age. Initially the textile industry was kept out of the excise net and it continued for several decades. Finally, in the initial phase of 90's i.e. when the liberalization started, the textile industry was brought under the excise net. Yet due to continuously increasing competition and the deteriorating health of the industry forced the government to withdraw excise duty on the textile industry. Similarly, sales tax was not made applicable on it and service tax had a very limited coverage that was only by reverse charge mechanism. Another major reason of the failure of the taxation scheme was the huge impact of cascading effect because the credit flow was restricted due to non-alignment of the taxes into each other. Credit of inter-state transaction not being allowed was also a impactful reason of trade being limited to specific regions only. It can be concluded that not being in the tax net obviously helped the industry to thrive but also forced it to remain largely unorganized sector.

# Pre-GST Indirect Tax Structure in India



## Central Taxes

- Central Excise duty
- Additional duties of excise
- Excise duty levied under Medicinal & Toilet Preparation Act
- Additional duties of customs (CVD & SAD)
- Service Tax
- Surcharges & Cesses

## State Taxes

- State VAT / Sales Tax
- Central Sales Tax
- Purchase Tax
- Entertainment Tax (other than those levied by local bodies)
- Luxury Tax
- Entry Tax (All forms)
- Taxes on lottery, betting & gambling
- Surcharges & Cesses

+ 13 Cesses



Constitution amended to provide concurrent powers to both Centre & States to levy GST  
(Centre to tax sale of goods and States to tax provision of services)



### **3. Overview of GST**

The concept of GST was introduced keeping in consideration the trade practices prevalent worldwide. It aimed towards streamlining the flow of goods and services across borders. The baby steps were taken in the initial decade of 2000 where it was discussed for the first time in the parliament. After intensive and intense debates and discussions and crossing many hurdles, it finally saw the dawn in year 2017.

The main objective of GST is to replace the numerous central and state taxes. The important taxes that were subsumed in GST are Excise and Service tax at the Central level and State VAT/Sales tax, Central sales tax and entry tax at the state level along with other duties and cess and surcharges. Taxation of textile sector is opaque and non-neutral across its various segments. Most of the textile outputs are either exempt under the central and state tax regimes or are subjected to relatively low tax rates. Most of the indirect taxes fall on inputs, both goods and services, and therefore remain hidden. On the whole, the textile sector is lightly taxed and extensively subsidized. Textile exports are supported through payments of un-rebated taxes (duty drawback) on textile inputs and other subsidies. With the introduction of GST on Textile industries the whole industry is being affected as the sector was majorly dependent on non-taxation and subsidies which were the first things to be removed under GST.

Now, because the sector was unorganized and not used to indirect taxation, the basic infrastructure needed for implementation of a new and large scale taxation was absent. As a result, the industry initially couldn't sustain the impact and as a result faced a shut down for about a month. The issues faced by the industry in the intervening period have been discussed in detail hereunder.

#### **4. Transitional phase**

The most important period of the GST implementation was the transitional phase which was initially supposed to run till 30<sup>th</sup> September 2017. It was subsequently extended till December end due to various technical and system hiccups. The transitional phase aimed to smoothly transit the existing and the new aspirants into GST regime. It aimed towards the transfer of stocks and conversion of credits along with liabilities to the GST taxation. This became important for the textile industry because as on 30<sup>th</sup> June 2017, there was no tax and suddenly from 1<sup>st</sup> July they were to be taxed under GST. Huge stocks were lying in the textile factories, trading concerns and job workers. How they would be taxed and how they were to be consequently subsidized was discussed and implemented under the GST phase. The important aspects of the transitional phase are summarized below:

1. **Issue:** Transitional provisions were stated in the section 140-143 read with CGST rules 117 and onwards. According to it, the manufacturers and traders were allowed the credit of the stock lying with them. The reason behind it was that the raw material used in the manufacture of fabric was subject to the excise and VAT duties. In absence of any tax, neither excise nor VAT, on finished goods, these taxes formed part of cost component. But under GST, the finished goods were taxed thus it became important to provide the assessee with credit of tax on goods lying in stock.

Now because the industry was unorganized, there was lack of infrastructure in place to keep a consistent track of the stock. The movement of stock was unaccounted for and this resulted in difficulties for the manufacturers to account the stock for claiming credits. Apart from this the quantitative measurement in the textile industry keeps changing at every stage of manufacture and thus it became more difficult for the manufacture to keep track of production.

As a result of this the transitional phase proved to be an unfruitful exercise in case of textile industry as majority of assesses were unable to avail benefit of this formulation.

2. **Issue:** A registered person who was not registered under the earlier law is allowed to take an ad-hoc input tax credit on the basis of the goods held in stock on the appointed day if he is not in possession of any document evidencing payment of central excise duty. In order to avail this credit, that person needs to submit Form GST TRAN-1 and GST TRAN-2 for declaring stocks and subsequently showing the supplies effected for each of the six tax periods ranging from July to December 2017 the date of which was extended till 31<sup>st</sup> march 18. The assesseees were supposed to get 40/60% re-credit of the taxes paid on such sales but here again due to continuous technical and system problems, assesseees were unable to file these statements on time resulting in huge loss in GST regime due to non-availability of credit on stocks.

Similarly, job work is also a major aspect of textile industry. So is its impact that in many instances the stock at a job worker's premise is more than the manufacturer's itself. Thus accounting for that stock also for claiming credits was necessary and it proved to be a tedious job as well.

## **5. Levy and collection**

As per Section 7(1) of CGST Act 2017, the expression “supply” includes—

- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
- (b) import of services for a consideration whether or not in the course or furtherance of business;
- (c) the activities specified in Schedule I, made or agreed to be made without a consideration; and
- (d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

Thus the definition has more or less included every possible transaction. Thus supply of textile products as well as the intermediate processes more commonly known as job work have been made leviable to GST. As a result, the manufacturers, traders, job workers and commission agents have all been covered under this net. The major rates of taxes applicable on this industry are summed up in table below:

<b>Type of assessee</b>	<b>Rate applicable</b>
Manufacturer and trader	5% on most textile products
Job worker	Initially 18% later on reduced to 5%
Commission agent	18%

Textile industry comprises of medium and small scale industries whose major customer base are unregistered consumers who don't need the credit of GST for further consumption. The textile products are also of basic utility and consumers can't afford them getting costlier. As a result, the consumers don't want to bear the burden of taxation. The small business, thus in order to keep the prices unchanged, bears the burden of taxes himself. A major setback of GST on consumer basic utilities is they are getting costlier.

## **6. Classification of Goods:**

Classification of goods has always been a center spot for litigation under indirect tax laws. The Excise and VAT laws are full of instances on classification disputes over textile fabrics. GST too couldn't remain untouched and had its share of clarifications in its initial phase itself.

### **Classification of unstitched salwar fabrics**

Before becoming readymade articles or an apparel, fabric is cut from bundles or thans and sold in that unstitched state. The consumers buy these sets or pieces and get it stitched to their shape and size. Fabrics are classifiable under chapters 50 to 55 of the First Schedule to the Customs Tariff Act, 1975 on the basis of their constituent materials and attract a uniform GST rate of 5% with no refund of the unutilized input tax credit as per Notification No 5/2017 – CT (Rate) dated 28<sup>th</sup> June 2017.

Government clarified this issue by issuing clarification vide Circular no. 13/13/2017-GST dated 27th October 2017 that by Mere cutting and packing of fabrics into pieces of different lengths from bundles or thans, will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the respective heading as the fabric and attract the 5% GST rate.

## **7. Composition Scheme**

As per Section 10 of the CGST Act, 2017 provides an option to the 'Registered person' whose 'aggregate turnover' during preceding FY does not exceed "One Crore rupees" Vide Notification 46 dated 13th October 2017 and "Seventy-Five Lakh" for certain special category states to discharge its GST liability on a composite or nominal rate. The Person registered under Composition scheme is neither permitted to collect any tax and nor can avail any credit on input the registered person received.

The limit to increase aggregate turnover limit from current limit of Rs. 1 Crore to Rs. 1.5 crore is under consideration for composition scheme the same is approved

by Lok Sabha THE CENTRAL GOODS AND SERVICES TAX (AMENDMENT) BILL, 2018 dated 10<sup>th</sup> August 2018. Official notification for increase of limit is awaited till date.

Here Aggregate Turnover means:

As per Section 2(6) of CGST Act 2017 “aggregate turnover” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;

Under this scheme a Trader or Manufacturer can take registration if his turnover is less than the prescribed limit.

**Major benefit to register under composition scheme as follow:**

1. The persons paying tax under composition scheme are required to pay tax on quarterly basis and also required to file a quarterly return in FORM GSTR-4. Hence the compliance cost for such will remain less as compare to regular filling of returns.

**Important Points to be taken care of in composition scheme:**

1. This scheme is not provided to the service provider. Hence in textile industry the Job work services are not eligible to take registration under composition scheme.

**Issue 1:** The textile sector works on very prominent pattern that same assessee has both job unit and manufacturing unit. Thus a person having a job unit can't opt for composition scheme for its manufacturing unit because single PAN holder can't opt composition and regular registration simultaneously for its units.

**Issue 2:** Another issue faced by a composition dealer is that if a person registered under composition scheme received earns consideration in the form of interest or discount against services by way of extending loans, deposits or advances will be not eligible for composition scheme. That means even if interest on saving bank account is earned, it would render the composition scheme ineffective. This was proving to be major hindrance in the application of this scheme.

This problem was addressed by government vide Order no. 1/2017-Central Tax dated 13th October 2017 in which the government clarified that such services provided by registered Person will not render him ineligible for composition scheme.

**Issue 3:** Further, in the computation of aggregate turnover for determining eligibility to composition scheme, value of supply of any exempt services including services by way of extending loans, advances or deposits will not be considered. To resolve this problem the GST council, in its 28<sup>th</sup> meeting held on 21<sup>st</sup> July, 2018 decided to propose a threshold limit of value not exceeding 10% of turnover or preceding or 5 lakhs whichever is higher, to which a composition dealer can provide services.

**Issue 4:** As discussed earlier the definition of aggregate turnover includes turnover of exempt supplies. So if trader/manufacturer supplies some exempted goods along with taxable goods, he has to pay taxes on the total turnover including the exempted turnover. This way, the exempted goods were also being taxed which was against the intention of law. To remove this conflict in law, notification no. 01/2018-Central Tax was issued on 01<sup>ST</sup> January 2018 whereby the words “taxable turnover” was inserted thereby giving the effect that composite rate will be applicable only on the taxable portion of total turnover.

2. The composition dealer cannot sale the goods in interstate transaction. But can purchase the goods from interstate. It has restricted trade opportunities for small traders as well as manufacturers.

3. The person registered under composition scheme can't avail registration under regular scheme in any other state if he has the same PAN no. that means the registration under composition or regular scheme has to be opted on PAN India basis. This proves a hurdle for persons having diversified businesses in service sector and manufacturing/trading sector. This can be very well related to the textile sector comprising of manufacturing/service sector.
4. The goods held in stock by a person to opt the composition scheme on the appointed day had not been purchased in the course of inter-State trade or commerce or imported from a place outside India or received from his branch situated outside the State or from his agent or principal outside the State. This again has relevance in case of textile structure where huge amounts of stock remains lying with the job worker and the agents across India.
5. A registered person opting for composition scheme shall not issue a tax invoice. He shall issue a BILL OF SUPPLY hence the person opting such scheme may face issues as tax credit is not passed on to buyer.
6. Taxable person under composition scheme is not eligible to claim input tax credit.

## **8. Reverse Charge Mechanism (RCM)**

The GST law has also brought in a concept of RCM on Goods and Services u/s Section 9(4) of CGST Act, 2017 and Section 5(4) of IGST Act, 2017 according to which if supply of Goods & Services is taken from Unregistered Person then the recipient of such Goods and Services has to pay the tax on Reverse Charge Basis.

The RCM mechanism is directly hampering the textile industries. Since purchase of inputs (Ex. Raw Cotton from Farmers, Yarn purchased from Unregistered traders/ dealer etc.) and input services (Ex. Job worker services, Rent, Transport services) are majorly procured from unregistered dealers, it attract reverse charge. The GST Act requires the tax under RCM to be deposited in cash and thus directly affecting the working capital of the entity. Simultaneously this tax paid is allowed as credit but it only raises question on the viability of this proposition. The Government had to defer the applicability of this section on 13<sup>th</sup> October, 2017 in wake of heavy public agitation.

### **Major Issues in Reverse Charge Mechanism for Textile industries.**

1. **Issue:** As per Notification no. 8/2017-Central Tax dated 28th June 2017 the intra state supplies received by a registered person from Unregistered taxpayers will be exempted subject to the amount of Rs. 5000 per day. This means that only when the aggregate value of taxable supplies exceeds Rs. 5000 in a day from all unregistered persons, tax will be payable under reverse charge mechanism. However, if such supplies are below Rs. 5,000 in a day, they will be considered as exempted. For Inter State Supplies the limit of 5,000 is not applicable.

This provision resulted in increase of workload and paper work as to check the 5000 limit on daily basis proved to be very difficult. Practically the invoices are not received on the same of the provision of services or supply of goods. Thus the limit check has to applied every time a new invoice was entered.

Due to many representation and in benefit for the public in large the Government released Notification no. 38/2017-Central Tax (Rate) and 32/2017-Integrated Tax (Rate), wherein any intra /inter State supplies received by a registered person from unregistered persons was exempted irrespective of the aggregate value in a day. The limit of Rs. 5,000 was been withdrawn from 13th October 2017. Although this notification was for the good of the public, the experts found a lacuna in this notification also. The language of this notification gave an impression that the exemption has been given retrospectively from 01/07/2017. There was no clarification issued in this regards.

**Current Scenario:** Government Notification No. 22/2018 – Central Tax (Rate) dated 06<sup>th</sup> August 2018 and Notification no. 23/2018-Integrated Tax (Rate) dated 06<sup>th</sup> August 2018, deferred reverse charge under Section 9(4) till 30th September 2019. This means that all such supplies will be treated as exempted in nature till 30th September 2019. But services and goods notified under sec. 9(3) are still covered under RCM. Hence the tax under RCM is still to be paid on such goods and services. Some of the notified services by government are Goods Transport Agency (GTA) Services, Director Services, Advocates Services etc.

## **9. Time and value of supply**

The most prominent issue faced by the industry due to provisions contained in section 12 of the CGST Act was that due to tax on advance receipts of payments by manufacturer/trader. The provision is reproduced here for ready reference:

*Time of supply in case of goods as per Section 12(2) has been stated to be earlier of the following dates:*

- a) Date of issue of invoice or the last date on which he is required to issue the invoice with respect to the supply*
- b) Date on which supplier receives the payment with respect to the supply.*

The introduction of the date of payment as the time of supply under GST was a completely new concept for supplier of goods. Under the Excise and VAT law, the person manufacturing/selling goods did not consider the date of payment at all while making the payment of taxes. The introduction of GST led to an additional process for these persons supplying goods. Receipt of advance led to the time of supply to arise under GST.

The textile industry is basically a credit based industry and working capital requirement are met out by payments received in arrears for supplies made during prior periods. In such adverse conditions, introduction of this section cause severe adversaries to this already cash deprived industry. liability to pay taxes on advance would only result in more liquidity issues for the industry.

As a result, the Government had to remove the condition of date of payment while determining the time of supply ***Vide Notification No. 66/2017-Central Tax dated 15th November 2017 and now only the time of issuance of invoice is considered for payment of taxes in case of goods.***

## **10. Valuation of Supply:**

The major problem faced by the textile sector under this section is the provision related to interest on delayed payments:

Section 15(2)(d) states that *value of supply shall include interest or late fee or penalty for delayed payment of any consideration for any supply.*

As mentioned earlier textile sector works primarily on credit based sale pattern and it is a prevalent practice in industry to charge interest on late payments made by buyers. In the earlier tax regimes, there was no such provision for charging of tax on such delayed payment's interest but under GST, the scene has changed. Now such interest or late fee received is also chargeable to tax. But the real problem arises when this section is read in conjunction with section 12(6). It reads as follows:

*The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.*

According to above mentioned sections, the tax on such receipt of interest has to be paid at the time of receipt of such amount. The practical problem in this case arises because no buyer would like to pay GST on interest component. As a result the seller has to assume the receipt inclusive of GST and pay it out of his own pocket. The accounting of receipt of interest and tax thereon and generation of invoice for the same is yet another matter which is cumbersome.

## **11. Input tax credit under GST**

Input tax credit on inputs and input services and Capital goods are provided for the complete supply chain. It is to be noted that materials such as chemicals, dyes, accessories and packing materials which constitutes major raw material cost is eligible as input tax credit. Although the governing section 17 comes with its own set of restrictions and the major one is the restriction imposed in relation to supply of free gifts and samples.

Section 17(5)(h) states that *goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples will not be eligible for input tax credit.*

In textile sector it is common practice give away free fabric pieces as gift items or even as samples for sales promotion. Restricting its input credit despite it being used as a business practice results in loss of credit for the assessee which simultaneously results in increased payment of taxes in cash. This affects the cash flow and working capital of the entity too.

## **12. Registration under GST**

- As per section 22(1) of CGST Act 2017 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:

Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.

This threshold limit of turnover is not applicable if persons making any inter-State taxable supply as per Section 24 of CGST Act 2017. Hence registration is mandatory if any inter-state taxable supply is there.

### **For Inter-State supply:**

The business pattern of the textile industry is such that the goods are supplied from the factory premises/job premises to the sales offices or depots situated in other states. As a result of GST, such registered persons having different establishments in different states (if under same PAN no.) were made liable to avail separate registration in each and every state. This increased the compliance cost and also increased the number of returns to be filed by a single person despite of having inter unit transactions. Given the current regime, a taxable person having turnover more than 1.5 Cr. has to file at least 24 returns for a single establishment in a state. Multiply that to no. of registrations taken all over India and that will be the total number of returns to be filed by single person.

### **For Intra-State supply:**

The current system and provisions of CGST Act and rules provides for single registration in a state. As a result suppliers having more than one unit in a state has to consolidate data for each unit every month for the purpose of filing returns. This was resulting in mistakes in uploading of data and payment of taxes. In the latest meeting of council, it was decided to extend the facility of separate registration for units located in the same state. It is a welcome step towards easement of business processes.

### **Major Issue on Registration under GST:**

1. **Issue:** Textile Trader or Manufacturer has to take mandatory registration under GST if he is availing services covered under the provisions of Section 9(3) of the CGST Act (refer sec. 24(1)(iii)) So here threshold limit of turnover (20 Lakhs & 10 Lakhs) will be not considered for taking registration. This hampers the small traders who don't cross the threshold limit and still they have to take registration. This increases the compliance cost heavily for such small traders and also results in inflation of their product's prices.
2. **Issue:** Textile Industries is majorly having smaller business units and SME's. Sec. 24(1)(i) mandates assessee's having inter-state transactions to mandatorily avail registration. These small traders/manufacturer take part in exhibitions in other states to sell his finished goods and also regularly makes taxable supplies of such items in other States. Due to mandatory registration provision as per section 24 of CGST act, these small traders/manufacturer have to take registration under GST act.

**Solution:** To remove the hardship and in public interest Government vide its Notification No. 8/2017 – Integrated Tax dated 14<sup>th</sup> September 2017 notified some tariff on which the sec. 24(1)(i) won't apply. These notified items were basically textile related goods. This came as major

relief to small traders having turnover less than 20 lakhs including inter-state transactions.

**Notified tariff items:**

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Textile (handloom products)	including 50, 58, 62, 63
Textiles hand printing	50, 52, 54
Zari thread	5605
Carpet, rugs and durries	57
Textiles hand embroidery	58

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### **13. Job Work Mechanism Under GST**

In Textile Industries Job Work process is the backbone activity of the industries as textile material is processed/transformed from raw cloth to finished product or semi-finished product by the process of Job work. The process of Job Work may be Printing, Embroidery, Stretching, Designing and many other allied activities which is done by various Small Scale SMEs/Units and individual Job Worker.

The term Job work has been defined in the CGST Act 2017. As per clause (68) of section 2 of the CGST Act, 2017, “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. Further the clause 3 of the Schedule II states that any treatment or process which is applied to another person’s goods is a supply of services.

Before introduction of GST, under service tax regime, the intermediate process related to job work of textile products was specifically exempted in the mega exemption notification. Post introduction of GST, the exemption for textile related job work was withdrawn. Thus now the job workers have to follow all the provisions of GST.

Here we will discuss some of the key issues face by Job Work Industries vis-a-vis Principal Manufacture/trader under GST regime.

#### **1. Scope of Job Work definition:**

The definition of job work is an extensive definition covering almost every process and that is why even a small process can get covered under job work and all the compliances have to be followed with. For eg. Even a bike given for repair will be covered under job work. Similarly, textiles industry comprises of many type of simultaneous processes and thus at each stage all the compliances are to be done regarding job challans and returns. This has

in practical terms proved to be very tedious for both the principal and job worker.

## 2. Registration under GST for Job Worker and Principal

Issue: As we have earlier discussed and as per provision of section 24 of CGST Act 2017 if a person supplies any goods/services interstate then he has to take mandatory registration under GST Act. The same applies to job worker too. Although the Government vide Notification no. 7/2017-Integrated Tax dated 14th September 2017 exempted job workers from obtaining registration under GST even if they are making inter-State taxable supply of services. However, this exemption from registration will not apply if they exceed the threshold limit for registration under Section 22(1) or they had opted for registration voluntarily.

Similarly, sec 143(1) also stipulates 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.*

Thus this additional liability has been conferred upon the principle to add the unregistered job worker in his registration if any goods are supplied directly from his premises. In case where there are numerous such unregistered job workers, then adding all these names in registration required frequent amendments in registration certificate which is not plausible in practical scenarios.

### **3. Rate of GST in case of Job Worker Services:**

**Issue:** Initially in GST regime a Registered Job worker providing services of Job work to any principal had to charge GST @ 18%. This higher rate of tax on textile industry is creating harsh impact on various small SME's and Job workers as the output tax rate on textile sector is just 5%. As a result, huge amounts of credit balances are accumulated with the principal restricting the cash flows of the entity.

To overcome this, the Government, on the recommendations of the Council reduced the rate of tax on Job Work services from 18% to 5% vide Notification No. 11/2017-Central Tax (Rate) dated 28<sup>th</sup> June 2017 on the following services which was further amended by Notification No 20/2017 – Central Tax (Rate) Dated 22<sup>nd</sup> August 2017:

- (i) Services by way of job work in relation to-
- (b) Textiles and textile products falling under Chapter 50 to 63 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

### **4. Filling of Return:**

**Issue:** In the excise regime, there were no return compliance for job works. Only challan movement and tracking of challans would suffice for compliance purposes. But the GST act require to file a statement for the details of movement of goods from principal to Job Worker and vice versa in form GST ITC-04. It contains the details of goods sent by the principal to the job worker or received by the principal from the job worker or sending of goods from one job worker to the other. The time limit for furnishing of such return has been specified as 25<sup>th</sup> day of the month succeeding the quarter in which the said goods have been sent/received. There are many practical issues in compliance of this return which are listed below:

1. Challan wise details have been asked for in return, the number of which is generally extensive and thus filling all the details in the return manually is very tedious.

2. Separate details of onward and return of goods have been asked challan wise which again is a very tiring job and practically very difficult to comply, for small and medium enterprise.
3. The goods on job work are sent without payment of duty and yet in the return and in challan, the value of goods and tax payable is asked which has to be derived. The problem increases when the processed goods are returned because at that time the value derivation is more complex.
4. Another problem which arises is when multiple items are sent through single challan and a singular product is returned back. Entering separate details of every item value wise is very typical.
5. When the unit of measurement is changed while conversion, it becomes difficult to enter such quantities and relate them to original challan.
6. In the initial phase of GST, the return format even not accepted the entry of goods sent in one quarter and returned in another quarter. Due to this error, many assesseees were unable to file these returns.
7. Even today due to difficulty in record keeping of these challans the rate of return filing in the industry is very low.

## **14. REFUNDS IN TEXTILE INDUSTRY**

Section 54 of the CGST Act, talks about the refunds available to various categories of assessee under different scenarios. The two basic scenarios for refunds are as follows:

1. refund of IGST or input duties to exporters
2. refund of accumulated balance of credit on account of supplies under inverted duty structure i.e. where rate of tax on input supplies is higher than that of output supplies.

Refund on exports is available to all categories of assessee including the textile sector. But there are restrictions placed for textile sector for claiming refund under inverted duty structure. Initially Notification No. 5/2017-Central Tax (Rate) dated 28.06.2017 was issued stating certain goods on the supply of which the refund of inverted duty structure was not allowed. The table is as follows:

**TABLE**

<b>S. No.</b>	<b>Tariff item, heading, sub-heading or Chapter</b>	<b>Description of Goods</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
1.	5007	Woven fabrics of silk or of silk waste
2.	5111 to 5113	Woven fabrics of wool or of animal hair
3.	5208 to 5212	Woven fabrics of cotton
4.	5309 to 5311	Woven fabrics of other vegetable textile fibres, paper yarn
5.	5407, 5408	Woven fabrics of manmade textile materials
6.	5512 to 5516	Woven fabrics of manmade staple fibres
7.	60	Knitted or crocheted fabrics [All goods]

As a result, the manufacturers and traders dealing in these goods faced a typical problem of accumulation of credit. This was due to the reason that generally the output tax rate of such supplies is 5% only whereas the rate of input tax credit was coming at 18/28%. The major raw material such as colour, chemical and dyes are all chargeable at 18/28%. This bore a huge impact on working capital requirement of the entity.

Representations were made to the government in this regards and as a result the GST Council Meeting proposed that the refund of accumulated ITC on account of inverted duty structure shall be allowed. The notification allowing refund of inverted duty structure on fabrics is 20/2018-Central Tax (Rate) dated 26.07.2018. But there is a huge issue in this notification which has caused concern in the textile industry but the said notification clearly states that the assesseees will be able to avail the benefit of refund of inverted duty structure on or after 01.08.2018.

Another major point that is a matter of huge concern is the provision wherein it has been stated that the accumulated input tax credit lying unutilised in balance after payment of tax for and upto the month of July, 2018 on the inward supplies received upto 31.07.2018 shall lapse. This will be definitely setback for textile sector as this provision is against the basic settled principle that the right validly earned cannot be extinguished. There is no provision in Section 54(3) of CGST Act as well as in State GST Act that empowers the Central Government to lapse the credit.

Another major cause of accumulation of credit was the procurement of job services the rate of tax on job workers is 5% as discussed earlier.

Since the term output supplies included both supply of goods and services, it was interpreted that the supplier of goods or supplier of services where rate of tax on inputs is higher than rate of tax on output supplies would be eligible to claim the refund of inverted duty structure as per section 54(3)(ii) of the CGST Act, 2017. Moreover, it was also mentioned in the said provision that the government may notify the supplies of goods or services on which the refund of inverted duty structure would not be admissible which also strengthened the interpretation that the refund of inverted duty structure was available to service providers.

However, the mechanism for claiming refund under Rule 89(5) of the CGST Rules, 2017 did not support this interpretation because the formula

mentioned therein only specified the “Turnover of inverted rated supply of goods”. In the absence of words “and services” after this phrase and the phrase “Tax payable on such inverted rated supply of goods”, refund claims on account of inverted duty structure filed by service providers were being rejected on the grounds that the formula prescribed in Rule 89(5) does not mention ‘services’ and so refund is not admissible. The cries of the service providers appear to have been heard by the government and amendment has been made in Rule 89(5) of the CGST Rules, 2017 vide Notification No. 21/2018-Central Tax dated 18.04.2018 wherein the words “and services” have been included in the formula given for computing the maximum amount of refund claim on account of inverted duty structure.

This amendment has brought a great sigh of relief to the service providers eligible for claiming refund of accumulated credit on account of inverted duty structure. However, it is pertinent to mention that the amendment in formula has been made applicable w.e.f. 18.04.2018 thereby meaning that the revenue authorities have got a strong ground to deny the refund claim to service providers for the period from 01.07.2017 to 17.04.2018 as the amendment has prospective effect. Therefore, it is requested that the government realises the difficulty faced by the service providers in claiming the refund of accumulated credit on account of inverted duty structure due to lacunae in the formula prior to 18.04.2018 and give retrospective effect to the rectification made vide the notification no. 21/2018-Central Tax dated 18.04.2018.

Another issue pertinent to note here is that Earlier there was mentioned in the provision under the section 54(3)(ii) of CGST Act that ***output goods and service*** will be eligible for refund but rule 89 does not include the refund for services. So there was a contradiction in Act and Rule. It is proposition of law that when there is conflict in Act and Rule then Act will prevail.

However, the department did not agree. Many assesseees providing output

service and having inverted duty structure have applied for refund but were not granted. They have received show cause notices from the department that there is no provision in the Rule to grant the refund on output services. Textile job workers have mostly applied such type of refund claims.

However, the CBIC had come forward to resolve the issue and they have issued notification number 21/2018-CGST dated 18.04.2018 and amended the rule 89 to allow the refund to output service providers. But their problems did not end here. The department took the stand that it is prospective amendment and refund will be allowed after that date. Earlier refund claims continued with the show cause notice. Even some of the claims were rejected also. Many associations once again represented the matter to the Government.

The present Government is listening to voice of associations and they came up with this present notification 26/2018 cited supra wherein the rule was amended retrospectively. Now there was no dispute and now service providers having inward duty structure will get the refund from the department. But for those assesses whose refund claim has been rejected, they have only a remedial action of going further for an appeal, and can refer to this Notification 26/2018 dated 13.06.2018 on the basis of the order received from the department. But it will take some time and hearing will come in due course before the Commissioner (Appeal). However, there is no doubt that they will get the refund claim. The government intended to more specific for textile processors and came up with a circular 48/22/2018 dated 14.06.2018 that wherein it clearly provided that refund will be granted to textile processors. The Textile industry should welcome this step of present Government.

Further, roses always have thorns also. This notification came up with a big relief for output service providers having inverted duty structure but has also a demerit point also. Initially, the Section 54 of CGST Act does not allow the refund of input

services whereas the rule 89 provided for the same. Many assessees have applied for the refund and it was allowed also. Later on, to remove the ambiguity, the CBIC has come up with the amendment by notification 21/2018 and amended the rules. Now, it was clear that refund will not be allowed on input services. It will be allowed only on inputs. But since this notification had prospective effect, the refund of previous period was allowed. However, by current notification, the Government has amended the Rule 89 with retrospective effect and amended the rule. The change in the rule 89(5) of CGST Rules, 2017 has been reproduced as following:

*“(5) In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:-  
Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services.*

*Explanation: - For the purposes of this sub-rule, the expressions –  
(a) Net ITC shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and  
(b) Adjusted Total turnover shall have the same meaning as assigned to it in sub-rule (4).”*

However, many assessee who had applied for refund and were also granted the refund of input services, they may face the problem of receiving the show cause notices from the department now. This is a demerit of this Notification.

## **15. E-Way Bill under GST**

After a lot of delay and deliberation over the E-way bill provisions, it was finally agreed to phase it out in a step by step manner and on differentiated dates. As per the current set of rules, every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees

1. in relation to supply;
2. or reasons other than supply;
3. or inward supply from unregistered person

shall generate e-way bill. It means, the consignor or consignee, as a registered person or a transporter of the goods can generate the e-way bill. The unregistered transporter can enroll on the common portal and generate the e-way bill for movement of goods for his clients.

Here "Consignment Value", means value determined as per section 15 of the CGST Act as mentioned on the invoice, bill of supply or delivery challan as the case may be including the applicable tax thereon. However, such consignment value shall exclude the value of exempted supply, where the invoice is issued in respect of both exempt and taxable supply of goods.

### **By whom the E-way Bill to be generated:**

The primary responsibility to generate e-way bill shall be of the registered person who causes the movement of goods, i.e. the consignor or the consignee, as the case may be. However, if such consignor or consignee doesn't generate the e-way bill, it may be generated by transporter as well, if authorized by the registered person.

Also, in case of supply of goods by an unregistered person to registered person, the liability to generate e-way bill is on the recipient.

### **For Inter-State Supplies:**

**Issue:** Mr. A trader of textile based in Rajasthan send some goods to process from job worker Mr. B (Job Worker) his consignment value is less than Rs 50,000. The place of Mr. B is Gujrat. Does E way bill to be generated since the consignment value is less than Rs. 50,000?

**Solution:** Proviso 3rd to Rule 138 (1) of CGST Rules 2017 provides that where goods are sent by principal located in one state to job worker located in another state, e-way bill shall be generated either by the principal or the job worker, if registered, irrespective of the value of the consignment. Hence Mr. A has to generate E way bill since the movement of goods is inter-state.

**Practical Difficulty:** Normally, in Textile industry the goods move from one job worker to another job worker. Goods move to one job worker for bleaching and then it send to another job worker for dyeing and thereafter to another job worker for printing and so on for finishing, washing, felt and packing. In each case, the principal has to generate e-way bill for each onward movement. Thus, it will make the procedure very cumbersome. The difficulty is immense if the principal is situated in another state.

So for job work of Inter-State nature, E way bill has to be generated even if the value of consignment is less than 50,000.

### **For Intra State Supplies:**

**Issue:** Mr. A trader of textile based in Rajasthan send some goods to process from job worker Mr. B (Job Worker) his consignment value is more than Rs 50,000. The place of Mr. B is Rajasthan itself. Does E way bill to be generated since the consignment value is more than Rs. 50,000?

Normally, in Textile industry the goods move from one job worker to another job worker. If the value exceeds 50,000 then principal has to generate E Way Bill. This is very typical task for principal whose goods or services processed at multiple location in same state and goods transferred to multiple job workers.

**Solution:** A welcome step has been taken by Rajasthan Governments vide notification dated 06<sup>th</sup> August 2018 to reduce the compliance burden on taxpayer by exempting the requirement to generate the E way Bill if the goods are transported for the distance upto 50 KM within the state of Rajasthan for any value for the purpose of Job Work are being sent from one job-worker to another job worker or are being return to the principal after such job work and where such transportation is not for final delivery of the finished goods.

**Issue:**

Another issue faced by job workers and principal is that the e-way bill can be generated by principal or job worker in case of return back of goods by job worker. This has been provided in Rule 138 cited supra. The circular number 38/12/2018 dated 26.03.2018 also allows the movement of goods either by principal or job worker. This can be done either by endorsement of job work challan or by issuance of new challan by job worker. However, the e-way portal shows that option of “job work return” in inward transaction type and as soon as the same is entered then the address of registrant comes in “Bill to” column.

Hence, it implies that the principal has also to generate e-way bill in case of return of job work. Normally, in industry the goods move from one job worker to another job worker. This is most common in textile industry. Goods move to one job worker for bleaching and then it send to another job worker for dyeing and thereafter to another job worker for printing and so on for finishing, washing, felt and packing. In each case, the principal has to generate e-way bill for each onward movement. Thus, it will make the procedure very cumbersome. The difficulty is immense if

the principal is situated in another city.

Although the law as well as circular provides for the movement of goods by job worker but the e-way portal provides for job work return by principal only. The other option to job worker in case of return of job work goods generate the challan in other column. This anomaly in e-way portal is creating problems. Hence, in case of job work return, the portal should allow to enter name either in “Bill to” or “Bill from”. It will smoothen the process of e-way bill.

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