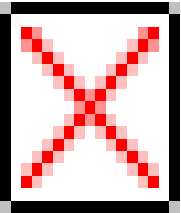


Job Work - Redefined

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SECTION 143(3) of the CGST [Act, 2017](#) [Chapter XXI - Miscellaneous - Job Work Procedure] reads -

(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.

Section 19(3) [Chapter V - Input Tax Credit - Taking input tax credit in respect of inputs and capital goods sent for job work.] resound the concept envisaged above as follows -

(3) Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise or are not supplied from the place of business of the job worker in accordance with clause (a) or clause (b) of sub-section (1) of section 143 within one year of 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:

Provided that where the inputs are sent directly to a job worker, the period of one year shall be counted from the date of receipt of inputs by the job worker.

Thus, the statute by a deeming provision treats the non-receipt of goods within the specified time limit as if the goods have been supplied on the day when they were sent out by the principal to the job worker for job work.

There is an argument that Section 143 not being the charging section it can't provide for levy of tax without the same being covered within the scope of supply by virtue of Section 7.

Any transaction can't be levied to tax if first not attracted by the scope of **"supply"** and by a mere deeming provision as has been provided in section 35(6), levy can't be activated is the argument.

However, Section 143 implies that if the principal does not opt for the option provided under this section then, he would have to send the goods against payment of tax as applicable to any form of supply duly covered within the scope of Sec 7.

There would be no need to apply any deeming fiction to the above situation, to term it as a taxable supply for the goods would have been actually supplied to the job worker even at the first instance.

No deeming fiction would appear especially necessary in the section, for the principal not opting for sending goods without payment of tax, for payment of tax is automatically attracted like in any regular supply of goods by any person to any other person for the said Job work transaction without Sec 143 option exercised. It automatically falls within the scope of supply under section 7 on its own. The deeming fiction would be required only when the goods are not received within the prescribed time limit.

Transportation of goods for job work is not to be mistaken as categorized differently from the transportation of goods for reasons other than by way of supply under Rule 55(Rule 55(a)/(b) refers) on a wrong presumption that it has a connection with Section 143, treating job work differently as not a supply from other movement of goods which are treated as supply.

The legislative intent of treating the movement from principal to job worker different from the movement otherwise than for supply under Rule 55, is to show distinctly the movement of goods for other purposes which are covered under Bill of materials instead of a Tax Invoice and the like from job work and nothing more to it.

Once the goods either moves without exercise of option Under 143 on payment of tax or comes back beyond one year after job work, is tantamount to supply by default within the meaning and scope of supply under Sec 7 and what is kept on hold is fast forwarded to the date of actual removal of inputs from the Principal to the Job worker.

It follows strictly from the above that no one can challenge that sending goods for job work by principal to job worker is not essentially a supply and, therefore, no tax can be demanded on not opting for procedure laid down in Section 143.

It is needless for the section to provide for sending of goods without following the procedure laid down under Sec 143, would be deemed as a supply.

On the one hand, it is necessary to provide for deeming provision as provided under 143(3)/19(3) *ibid*, that if the goods are not received back within the specified time period one year, it will be treated as a deemed supply.

While, on the other hand it is necessary to provide for a machinery provision through Sec 35(6) of the Act as tax needs to be demanded under Sec 73/74 as in any other case for recovering tax not paid, despite the option exercised but time not complied with as per Law.

The sending of goods to job worker though essentially is not a supply then, section 143 prescribes optional procedure for ratification of sending the goods for job work without payment tax.

And if such optional procedure has not been followed, it will be then the sole criterion for holding the principal liable to payment of tax for an activity which in itself falls within the purview of supply.

Circular No. [38/12/2018](#)

Dated 26th March 2018 by CBIC was in fact issued, only to set at rest various doubts raised by the stake holders if one can send goods for job work without exercising the option under Sec 143, on payment of tax, as a perfect possibility of normal supply under Sec 7.

The Government did add a proviso to Para 5 of Schedule I [Provided that the supply of goods by a registered taxable person to a job-worker in terms of section 43A shall not be treated as supply of goods.] and an Explanation 2 to Para 1 of Schedule III [Explanation 2.- The supply of goods, after completion of job-work, by a registered job- worker shall be treated as the supply of goods by the "*principal*" referred to in section 43A, and the value of such goods shall not be included in the aggregate turnover of the registered job worker.] in the Model Law read with Sec 43A.

But, it was getting too cumbersome.

As nothing great was thought either lost or gained by the said additions in Schedule I/III, it was felt unnecessary to do so. Suffice to go with the present scheme of Sections 143/19/35/7 in that order, was the decision of the Government.

Hope there are no further doubts, as in the collective wisdom of the draftsman and Law Ministry, all forms of movement by default are supplies under Sec 7.

So, any movement not relaxed by S.143 will stand included automatically under the generic description of supply as well laid out under Sec 7 of the Act.

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