

Professional Services for Jewellery Sector in Central Excise Law

The new assessee engaged in manufacture of jewellery may find it difficult to cope with vast compliance requirements under Central Excise law as excise levy has been reintroduced suddenly and unexpectedly in budget 2016. There is hardly any time for the assessee to comply with legal requirements. Therefore, it would be essential for the assessee to engage a professional for assistance who can not only assist in compliance but could be helpful in adding value which could be in form of Cenvat credit optimisation, export benefits, better tax planning etc. The important assistance areas for an assessee by a professional could be as under:

- 1. Certification of closing stock:** Jewellery manufacturers who intend to avail Cenvat credit on inputs or inputs contained in goods lying in stock shall keep the stock declaration of finished goods, goods in process & inputs, as on 29.02.2016 duly certified by Chartered Accountant (CA). Therefore, unless the manufacturers opt for 1% duty payment without Cenvat credit, shall get the certification done from the professional. The professional shall ensure that the credits are availed subject to provisions of Cenvat credit Rules 2004 at the time of certification.
- 2. Assistance for computing SSI exemption:** Jewellery manufacturers having turnover of less than Rs. 12 crore in the previous financial year 2014-15 shall be eligible for SSI exemption and there is no excise liability on first clearances up to Rs. 6 crore. For March 2016, for value of Rs.50 lakh, SSI exemption is eligible. However, for this purpose the SSI computation, a CA certificate shall be obtained based on the books of accounts of 2014-15. CA should ensure that the exemption is computed in accordance with Noti.no.8/2003-CE. Even a small error in computation could lead to loss of benefit for the manufacturer or lead to additional cost in form of penalty / interest.
- 3. Registration assistance:** The registration process would be the first important process for manufacturers after ascertaining SSI exemption. Normally, registration is complete within a couple of days as deemed registration concept exists after filing online application. Now, there is a special provision for jewellers wherein the registration would be granted without physical verification of

premises. Professional should ascertain the registration requirements including suggesting on centralised registration if it is feasible for the assessee.

Professional should also ascertain if registration is required under service tax law as there are various services wherein the recipient of service would be liable for payment of service tax. Numerous errors being committed by the assessee in case of reverse charge compliance.

- 4. Initial disclosures to department:** It is very important for an assessee to file an initial declaration letter with the department disclosing the detailed activities. The books of account, procedures to be followed, credit mechanism, option opted etc. can all be provided. This practice would establish bonafide act of the assessee in case of future litigations which could reduce tax / penalty / interest liability if any.
- 5. Initial compliance hand holding:** Initially the assessee would find it difficult to ascertain and maintain the required books of accounts for compliance with central excise law including method of raising bills, orders, filing returns, payment etc. Therefore, a good professional shall ensure that he offers assistance initially till assessee is confident enough to take care of compliance. A simple checklist or standard operating procedure (SOP) can be designed to maintain consistency in compliance.
- 6. Monthly/ Quarterly payment of excise duty:** Computation, availment of credit, net payment, liability as receiver etc., needs to be verified before remitting tax on monthly / quarterly basis. As the excise law and Cenvat credit provisions are still not free from litigation, professional should keep himself abreast of the latest changes to ensure that the client is not surprised at a later date from the department. Suggestion should also to be provided on best option between 1% payment without credit and 12.5% payment with credit option.
- 7. Monthly / Quarterly return review and filing:** Verifying the collated information and filing of information required properly in the specified return format (ER-1 / ER-3 / ER-8) is critical. Department depends on the information provided by the assessee in periodical return. Therefore, assessee shall fill and file the return with utmost care. An experienced professional could help the assessee in this

regard. However, it should not become review of only arithmetic accuracy of computation. He should try to add value to the assessee in every possible manner.

8. Periodical review (half year / annual): Many manufacturers find periodical review of indirect tax compliance as value added service. Review by independent professional can build confidence in assessee to face departmental audit. The review by professional and departmental audit could not be equated. This is because a professional would not only highlights the mistakes / errors but he provides solution for rectifying the errors. Also gives suggestion for obtaining all eligible benefits legally.

9. Opinions/ Clarifications: Assessee could also find it worth to seek opinions/ clarifications on grey areas in indirect tax including excise levy on jewellery as it is new. The opinion would not only clarify the doubts of the assessee but acts as a defence tool in case of litigation with department if any. Availing of the proper opinion and understanding the correct position aids management's decision making and can also lead to focus on areas where tax is optimal.

Alternatively, assessee could hire the professional on retainer basis with provision of regular clarifications (e-mail / telephone) including review on periodical basis. Request could be made to provide regular updates as well as indirect tax laws keep changing. This would put assessee in comfort as he need not approach professional every time and wait for appointment to seek clarifications. However, it is very important that the experienced professional is approached for this purpose as slight mistake in indirect tax could be very costly.

10. Training the employees: A good professional can not only execute the work but he can train the assessee and the employees handling day to day affairs in indirect tax to ensure compliance. Assessee could request a professional to train the employees to handle the compliance independently.

11. Assistance during department's audit: As self assessment has been introduced in indirect tax laws, there is no concept of assessment by the tax department. However, this does not mean that department does not look into the

compliance of assessee. Therefore, department would conduct the audits of assessee on regular basis depending on various criteria like type of goods being manufactured, amount of duty paid etc. It is very common for assessee to panic during department's visit. In such cases, professional help could be sought to handle the audits. If assessee has chosen for regular review by a professional, in such cases there would be no / less room for panic as all possible errors would be known in advance and rectified. The assistance could also be in form of reply to audit notes, compilation of necessary information for submission with department etc. Professional shall ensure that only correct and relevant information is filed to department with proper covering letter with the department.

12. Show Cause Notice (SCN)reply:It may so happen that the department do not agree for contention of assessee and issues show cause notice for payment of any tax / interest / penalty. When assessee is not clear about the future step, then he shall approach professional who could guide on course of action. If the liability is genuine, then it should be responsibility of professional to inform the assessee about the same and should not try to drag the case with an intention to make more money. On the other hand, when assessee has stronger case, a proper reply shall be filed with the department with regular follow up. Assessee should approach professionals in these matters unless he is very confident to handle the matter.

13. Representation before adjudicating authority: This normally follows the SCN reply. All the important evidences and defenses should be put forward at this point before the authorities. Therefore, assessee or the professional appointed should be ready with all necessary information for representation before the authorities.

14. Reply / Representation at appellate forums:After SCN stage, unless the litigation is dropped, the appeal and representation before the Commissioner(Appeals) and then totibunal is to be made. At these stages, the chances of litigation getting solved are high though it is very time consuming. It is practically not possible for assessee himself to handle the litigation at these stages as it is time consuming and tedious. Regular follow up would be essential to solve the issues. An experienced professional could help the assessee to reduce this

burden from assessee. Where stakes are high, assistance should be sought from an experienced professional who could be an advocate or a chartered accountant. Advocates could help the assessee even at High court and Supreme court stage.