

JAITELY'S GOLD
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"GOLD" . The most loved, adored, hated, feared four letter word in the world. From the pundits of stock exchanges, investment scholars to an ordinary housemaid, Gold is always the ultimate dream.

Now, with this year's Union Budget, the Hon'ble Finance Minister did the unthinkable, levying Central Excise Duty on Gold Jewellery and Silver Jewellery, *albeit* with a starting rate of 1 per cent. There are so many instructions, sops given to the industry, like you are the person to decide the stocks, etc.,

The fraternity of jewellers got up with a shock and the old ones the wise ones were worried remembering the horror stories of bygone era under the Gold (Control) Act, 1968.

This is not an article to discuss whether the levy of Central Excise duty on Gold Jewellery is correct or incorrect or will it further burden the ultimate buyer. Simply because, the Act has inherent power to levy duty and collect it in public interest and it is not the author's intention to question such levy which is an act of Parliament.

The question which I want to raise in this article is what will be the Valuation for the purpose of payment of Central Excise duty on Gold Jewellery.

The concept of going to an artisan/goldsmith sitting with him getting your jewellery made are long back gone and forgotten and it is history now. Now, it is corporate companies like Tanishq, Malabar Gold, Joy Allukkas, TBJ, Musaddilal which have replaced the old system. These are giants with their own Designing Studios, with their own Work Shops and exclusive show rooms catering to the needs of the modern day buyers. Everything now is in a systematic mode and the concept of good olden days of gold sold without bills/invoices and without taxes has been dispensed with by these modern jewelers.

The Government has given elaborate guidelines about the newly introduced duty structure, exemptions, accounting etc., However, the one vital fact in this regard has not been explained and that is **VALUATION**.

The normal way jewellery is sold in any jewellery shop is that once the customer is satisfied with the design, stones/gems/diamonds etc., then the item of jewellery is weighed and then they will add the cost of making and a concept known as Wastage at a fixed percentage is added and then basing on the Price of the gold on that particular given day, the final price is arrived at. The price varies from Customer to Customer, since, the seller may extend benefit of less making charges or less wastage or higher making charges or higher wastage depending upon the buyer. Thus, there is no fixed

price for a fixed piece of jewellery. Further, with the advent of styling there may not be a mass produced design of jewellery and each piece may be different from the other. The jewellery displayed in a Show Room will not have price tags but will have tags showing the weight, which *inter alia* includes the weight of gems/stones.

Now, a Company having 100 show rooms all over India with manufacturing facilities say around in 20 cities catering to 5 show rooms each. The price of each item of jewellery when manufactured and cleared from the manufacturing facility cannot be ascertained as there is no Sale of Goods and it is only a stock transfer from the manufacturing facility to the Show Room. It may be highly impossible to arrive at Costing basing on CAS 4, inasmuch as each one item is different from the other.

What is the recourse? Will Rule 7 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 (Valuation Rules for the sake of brevity) apply to the above situation? The said Rule 7 of Valuation Rules reads as under:

RULE 7. Where the excisable goods are not sold by the assessee at the time and place of removal but are transferred to a depot, premises of a consignment agent or any other place or premises (hereinafter referred to as "such other place") from where the excisable goods are to be sold after their clearance from the place of removal and where the assessee and the buyer of the said goods are not related and the price is the sole consideration for the sale, the value shall be the normal transaction value of such goods sold from such other place at or about the same time and, where such goods are not sold at or about the same time, at the time nearest to the time of removal of goods under assessment.

The problem that may arise in following the above provision is that no one piece of jewellery may be comparable to the other. Take the case of a plain gold chain, even here also there will be varied designs and they are not like excisable goods mass produced, say like a MS Pipe or a transformer. The above rule cannot be implemented in its entirety since the price of jewellery is decided only at the time of fruitful sale to the ultimate customer and even then also there may be difference of price basing on the price of Gold, Price of precious stones/diamonds on that particular date, percentage of making charges, wastages etc., decided to be charged by the seller.

Therefore, it appears that there is no solace for a Jewellery Show Room which gets its own designed jewellery in their own Designer Studio/manufacturing facility.

Now, coming to the job worker. The clarification states that it is the responsibility of the Principal Manufacturer to pay the duty on the jewellery manufactured through a job worker/artisan etc., This, ofcourse, will help

such job worker since he is not liable to pay duty. However, again the vexed question of valuation again raises its head here once again. The Principal will supply the design, gold, gems/diamonds and other consumables to the job-worker who will manufacture as per the requirement and returns them to the Principal's show room, then what? The Principal has to pay the duty on such jewellery and if such is the case on what price? As per rule 10 A of Valuation Rules, the assessable value shall be the price at which the goods are sold to the ultimate customer. Fine, but, when such duty shall be paid? If the jewellery is directly sent to any one of the Show Rooms, without being brought to the Principal's manufacturing premises when and how the Central Excise duty will be paid. Does the Principal is expected to keep track of each one item of jewellery got manufactured through job worker and identify the sale and then pay the Central Excise Duty? And if such an item of jewellery is not sold for a very long time, when the duty element shall be paid.

Unlike any other manufacturing industry, Gold Jewellery industry is a peculiar one, the price is always fluid and tastes of the buyers always fickle and aptitude for new designs and new varieties is insatiable.

Without realizing the ground realities the levy was brought and brought in a hurry. It is high time, the Central Board of Excise and Customs shall come out with a specific valuation for this wonderful four letter word "**GOLD**". Otherwise, be ready for another round of the era of Gold (Control) Act, 1968.

Before parting, with this levy are we going back to more controls over the trade or imposing the so called *Inspector Raj*?