

Note on the preferred tax rate recommended by the gems and jewellery industry ('GJI') under the Goods and Service Tax ('GST') regime

1. Introduction

This Representation is being filed by the Gem & Jewellery Export Promotion Council, on behalf of the entire gem & jewellery industry, constituting of diamonds, coloured gemstones and gold/silver/platinum jewellery (including studded jewellery and Costume Fashion Jewellery), having businesses both in the export and domestic (DTA) markets.

The issue of the rate of indirect taxes imposed on the GJI has always been a highly sensitive issue given the extremely high price sensitivity of the products of the GJI. Tax and fiscal policy makers in India have, over several decades, experienced and accepted that, **for domestic transactions, an indirect tax rate of 0 - 1.25%** at the most, best ensures tax compliance and collection, while curbing the well-known adverse economic impacts of higher taxation in the GJI. **For export transactions**, where India has, through several years of intense efforts by the industry and our Government achieved pre-eminent global position, it is urged that as currently, **all transactions, directly or indirectly, in the course of exports of the products of the GJI, should continue not to suffer a tax burden under GST.**

The GJI is completely supportive of India's move towards GST, and, is looking forward to migrating to a GST regime, which is exactly in line with the current rate structures that are being enjoyed by the industry, specifically in relation to the issues such as the **rate of tax, the legal framework, and, the prescribed compliance structure.** This note focuses only on the GJI's submission as to the issue of appropriate GST rate for products under GJI.

2. Key facts as to the economic and social significance of the GJI

- (a) The GJI currently offers employment to 4.6 million of our citizens. The GJI offers a unique employment opportunity in the Indian context as it provides employment to millions of skilled workers (Karigars) who are not formally educated and are not readily employable in other sectors. The GJI also provides employment on a cyclical basis to workers who participate in the agricultural sector, for that part of the year in which such workers are not engaged in agriculture. The GJI is also one of the largest employers of woman at various points in the manufacture, distribution and retailing of the products of the GJI. The employment generated by the GJI is not localized to few locations in our Country, but the GJI creates employment opportunities throughout our Country. The GJI thus plays a unique role as an employer in the Indian economy.
- (b) The products of the GJI have for long been the preferred instrument of savings, specifically for the lower income group in both rural and urban areas. Jewellery in the form of 'Streedhan' and 'Meher' have for several centuries defined the concept of security for married women in India. Savings in the form of gold and jewellery, which have an instant encashability, are deeply ingrained elements of our socio economic heritage.
- (c) The GJI is highly export-oriented and a major contributor to the foreign exchange earnings (USD 38.59 billion in FY 2015-16), and, therefore, the Government has declared the sector as a thrust area for export promotion. For instance, the diamonds processed in India account for 85% in volume, 92% in pieces and 65% in value of the total world diamond market (*in the recent Diamond Insight Report published by the De Beers internationally, it has been stated that India consumes 7% of world diamond produce, which means 93% of India's diamond production is getting exported. Hence any deviation to levy any tax on loose diamonds would affect very adversely the exports of loose diamonds. The same is true for coloured gemstones like Tanzanites and Emeralds.*) To facilitate the growth of export segment of this sector, beneficial tax policies have been formulated, which has fostered growth of the GJI in the global market. For example raw (rough) diamonds have been enjoying exemption from duty and other taxes at import level for decades. This has resulted in India becoming world leader in the field of Diamonds. Such leadership is increasingly under strain from nations like China, Vietnam, Thailand, etc. It is therefore imperative that the GST regime continues to fully support exports of the GJI.
- (d) The GJI contributes 6% to 7% to India's GDP. It is hoped that with introduction of GST at the rates requested, this contribution would increase.

3. History of taxation of the GJI

Historically, the GJI has always been recognised as a sector, the taxation of which poses several challenges and sensitivities. It has been understood by all Governments that for this sector, only a very low rate of tax ensures effective compliance and collection. There is compelling anecdotal evidence in India and universally, that, owing to the products of

this sector being highly price sensitive, even a marginal increase in taxation has an immediate impact on the uncontrolled growth of the grey market.

Given this sensitivity that the GJI faces as well as considering its economic and social significance, the GJI has always been taxed at the very lowest level in the current system of indirect taxation. The table below depicts the broad current tax structure of the major products of the GJI-

End product	Sourcing of raw materials (Import)			Manufacturing	Processing	Sales [VAT/CST]
	BCD	CVD	SAD			
Diamonds	Nil	Nil	Nil	Nil	Nil	1% [excluding Gujarat (Nil)]
Colored gemstones	Nil	Nil	Nil	Nil	Nil	1%
Jewellery	10%*	Nil	Nil	1%**	Nil	1%

**to the extent of gold content, **With effect from 1st March 2016 (without CENVAT), #Currently the processing charges paid to the job-worker are exempted from the levy of Service tax in terms of Entry 30 of Notification No. 25/2012-S.T., dated 20 June 2012*

Presently exports are effectively zero rated or any element of tax in exports is required to be rebated. As regards VAT, it is typically charged at the rate of 1% on the sale price.

The GJI has, since the introduction of Central Excise Duty ('CED') in 1944, not been levied to CED, other than for very brief periods of levy, post which also the levy was withdrawn. It was only vide Union Budget 2016-17 that a levy of CED was imposed on articles of jewellery, with the stated motive of transitioning this sector into GST. Even in context of this levy, the Government reaffirmed its understanding of the sensitivities and nuances of the GJI by introducing several specific provisions and procedures to support the levy of CED. Further, the said levy is applicable only if the taxable turnover of the assessee is in excess of Rs. 10 crores. It is pertinent to note that pre-dominant part of the assesseees in the GJI fall below the said limit, and, as a result, the levy of CED is only focused on a limited segment of the trade. Under GST, since the threshold for taxable turnover is Rs. 20 lakhs, the universe of taxpayers within the GJI is likely to increase dramatically. The GJI is therefore predominantly paying indirect tax at an effective rate of 1% (VAT) on its domestic transactions.

4. Recommendations

In light of the aforesaid discussion, it is urged that the following rates are adopted-

- Transactions for export-** Export transactions should continue not to be subjected to any effective GST as regards the exports. All related consumption of raw materials, inputs and input services such as input of rough diamonds, gold/silver/platinum (through duty free export promotion schemes) at the input level should continue to be free from levy of any import duty/GST. All transactions, whether direct or indirect, for exports, should continue not to be taxed to any indirect taxes in the form of GST.
- Transactions for domestic consumption-** As regards transactions for domestic consumption (other than those meant for ultimately converging into exports), it is suggested that the tax rates for different segments of the GJI should be as under-

Segments	Suggested rate of GST
Gold/Silver/Platinum Jewellery (including studded jewellery and costume fashion jewellery)	1.25%
Gold /Silver/Platinum	1.25% (however, gold procured from nominated agencies for purpose of use in exports should continue to be exempted in line with the existing framework) <i>Rationale: Most of the states has come down from high VAT rates of 10-12 % in the last decade to 1% which ultimately has increased tax revenue against jewellery sales in all the states of India.</i>
Rough (Raw) Diamond	0%
Cut & Polished Diamonds	0%
Colored gemstones	0%