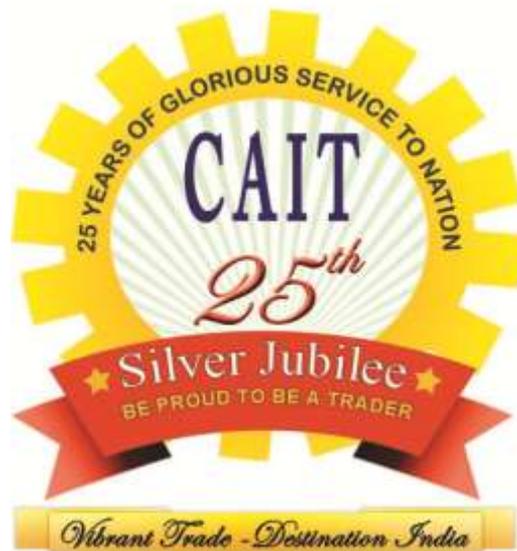


WHITE PAPER

ON

LEVY OF EXCISE DUTY

ON JEWELLERY TRADE



Confederation of All India Traders

New Delhi

In Association With

All India Bullion, Jewelers, Swarankar Federation



WHITE PAPER ON LEVY OF EXCISE DUTY ON JEWELLERY TRADE

The Confederation of All India Traders (CAIT) has always raised strong voices and concern to bring transparency, efficiency, accountability in retail trade and at the same time has also advocated ease of doing business in India free from the clutches of outdated laws, Rules & Regulations as also from the vicious circle of bureaucratic hurdles which have become an integral part of business structure in India. Prompted by its vision, the CAIT stands in support of visionary programs " Digital India", Skill India, Startup India and financial inclusion through MUDRA" of Prime Minister Mr. Narendra Modi. Curbing circulation of black money in retail trade is yet another vision of CAIT and in furtherance of the same, the CAIT in association with MasterCard, the global leader in card payment technology is already conducting a nationwide campaign for promotion of "less cash economy" in India.

However, as happen always, in this budget too, the Government announced levy of 1% Excise duty on manufacturing of gold & diamond jewellery and in protest of the same, the jewellery fraternity is on a national indefinite strike. Since the issue involves livelihood of crores of people not only the traders but artisans, skilled, semi-skilled and unskilled labor, jewellery designers, converters and other verticals of jewellery trade, it is almost necessary to look in to the issue in depth.

ISSUE :

What is the object or intention of imposing 1% excise duty on manufacturing of gold & diamond jewellery ?

- a. Is it for raising revenue of the Government ?
- b. Is it to check alleged circulation of black money in jewellery trade ?
- c. Is it to destroy indigenous trade and left crores of people unemployed ?
- d. Is it to enable easy entry of MNCs to control & dominate jewellery trade ?
- e. Is it an attempt by the set of bureaucracy which failed twice in UPA regime for imposing excise and now wish to paint Modi Government as Anti-traders ?

PERTINENT QUESTION :

Why only jewellery business is chosen for imposing such a levy ?

As per the Economic Survey 2016 (brain child of Chief Economic Adviser Mr. Arvind Subramaniam), the government loses over Rs. 4,000 crore because of tax exemptions on gold. The yellow metal is only taxed at about 1-1.6 per cent compared with tax of about 26 per cent for normal goods. Barring kerosene, which is used by poor, most other commodities are predominantly used by the rich, the Economic Survey found. The Economic Survey also called for widening of the tax base from current 5.5 per cent of earning individuals to more than 20 per cent. The rich consume 98 per cent of the gold in the country, and yet gold is taxed at only 1-1.6 per cent (the Centre and the States combined).





LEGAL POSITION :

a. In the budget, the Finance Minister announced to levy 1% excise on manufacturing of gold & diamond jewellery. Since traders are not manufacturers, the levy of excise on traders by giving term " Principle Manufacturer" runs contrary to the Budget announcement and provisions of Central Excise Act.

b. Jewelry business is distinct to other businesses. This trade has its own unique features. Unlike other where expenditure is done for consumption in jewelry business it is not only expenditure for consumption but payment for investment. Taxing jewelry is not a tax on goods but it is in fact tax on investment. This is the precise reason that when we sell jewelry the profit/surplus earned on its sale is taxed as CAPITAL GAINS and not as income from other sources or business income for as individual under income tax laws which is also a central govt enacted law. Thus taxing jewelry is nothing but taxing investments.

There are many products for investment in our country. No investment product is taxed. Then why tax jewelry????

c. The jewelry being traded in market is from different sources. It is not necessary that all jewelry sold in the market is freshly manufactured. We have concept of sale of antique jewelry, resale of old jewelry, remake/reconditioning of old jewelry for sale etc. All such jewelry comes to market for sale from holders of these jewelry for years. These sellers are individual not in jewelry trade. They cannot give any invoice of sale to the shop keeper. If excise is levied on jewelry traders all such already taxed jewelry will be taxed again. All the other goods are taxed only once but in absence of authenticated purchase invoice these jewelry will be taxed again and again which is against a settled law that once taxed, goods can not be re-taxed.

d. Central excise can be levied either on manufacturing or branding in own name. In case of jewelers they are neither manufacturing nor selling by putting its brand name on the product. Than how can excise be levied. It appears the point of levy excise is being extended too far.

e. The excise is levied on manufacturing of products by machinery whereas the jewellery is made by hand process and is a handicraft industry. Therefore, it do not come under ambit of excise.

f. The excise is levied on manufacturing and traders on whom excise is levied are not doing any manufacturing. Therefore excise can not be levied on traders since manufacturing is done by small skilled and semi skilled artisans and karigars.

g. By & large, the traders are not manufacturers but they supply gold & diamond to small artisans for manufacturing the jewellery. They are the real manufacturers . Do the Government will tax them following provisions of Excise Act. Under the garb of rescuing artisans & karigars, the Government by circumventing the provisions and taking advantage of legal loop holes drafted a self styled term " Principle Manufacturer" and made them liable to pay excise and comply with the complex paper procedure. Such circumvention is against the letter and spirit of the Excise Act.

MANUFACTURING PROCESS :

1. The jewellery is manufactured by artisans and labor primarily involving a seven stage process including melting of gold, dye making and drawing wire, designing, coloring, studding stones, cutting and polishing & making and then it is handed over to traders from whom artisans takes gold. They purely do work on job work basis.





2. The artisans works in a group under umbrella of a single leader/contractor and the trader maintains complete record of each group leader.

Levy of excise will land small artisans into multiple compliance of different laws which they may not be able to comply with since most of them are highly uneducated, employ family members also in the group and have never been under the tax net and will not withstand against the bureaucratic mindset of the administration.

WHICH OTHER LAWS WILL BE ATTRACTED TO ARTISANS :

1. So far the artisans though may be under the leadership of one group are earning their livelihood through job work on individual basis but levy of excise will make them liable to pay service tax once the job work amount is crossed Rs. 10 lakhs which is easy since now group leader will receive a composite amount of job work of his respective group and will be liable to comply with Service Tax in all manners.

2. The provisions of Tax Deducted at Source (TDS) will be applied on them.

3. Since the artisans use soldering material during manufacturing process, the VAT Department can bring them under Works Contract Act.

4. Once these laws become applicable, the Department can began process of making rules & regulations for them to keep KYC of each artisan.

5. Artisans will be liable to take Registration under The Shop & Establishment Act.

6. The artisans will be under obligation to maintain proper records of Service Tax, Income Tax, Filing Returns, Paying Taxes and getting Assessment done by different Departments.

7. Subsequently, the Government will introduce Training Program to become eligible as certified artisan and will make compulsory doing Diploma course for doing this work. Similar process has been done in Pharma Industry and at every Chemist shop, it is mandatory to have a Pharmacist.

All the above compliance can not be done by artisans and karigars and it will force them to leave this work and remain unemployed.

BLACK MONEY ISSUE :

1. Parallel economy is a big challenge to the growth of economy and GDP of the Country and the Government is under obligation to come tough on existence of any such money on which Income Tax is required to be paid but not paid. Existing Taxation laws should be used to detect such money for augmentation of revenue from tax payer in a hassle free way.

2. Certainly it amounts to a Crime just like Corruption and can be termed as theft on exchequer. We already have Indian Penal Code and Anti Corruption Law to check on such activities. In what way levy of Excise will curb the black money when having already sufficient law, the circulation of black money has not been curbed. Rather it will encourage uasge of more black money.





3. The trader is not the source of black money. It is always the end consumer from where black money generates. Therefore the Government needs to educate Consumers to make more usage of Digital payments rather than using Cash as mode of payment and incentives should be given on usage of Digital payments. We appreciate that the Government has notified guidelines for promoting Digital payments on 29th February. We fully support the Government and call upon to engage Trade Associations in this national drive.

4. It is like Clean Ganga project. If Ganga is need to be cleaned, the first & foremost job is to stop all waste water lines ending in Ganga rather than allowing waste water to enter into Ganga.

5. Similarly, to curb black money, the Government needs to make an in depth study of all sources of black money and a comprehensive policy is to be made to plug all such sources. Painting traders singularly as black money generators is uncalled for, highly objectionable and strongly refuted. Failure of the Government machinery can not allow anyone to make traders a scapegoat.

IMPACT ASSESSMENT :

1. Generally in other Countries, before drafting any law, a deep study is conducted for a social, cultural, economic & political impact assessment of the proposed policy.
2. In the instant case, unfortunately no such impact assessment was made prior to announcing the levy.
3. Merely on the recommendations of foreign educated bureaucrats and on the basis of reports of global consulting companies, so far the policies are being made in our Country without realizing, the ground realities, nature of countrymen connected with such policy etc and also without taking the stakeholders into confidence. The situation warrants a change.

REMEDIAL MEASURES :

1. Taking into consideration, the seriousness of the issue and to drive an amicable solution, the Government should initiate dialogue with the Organisation(s) leading the agitation and both sides should come at the table with an open mind without making it an issue of ego.
2. In the light of above eye opener facts, the Government should announce suspension of levy of 1% excise duty on jewelers till the time the Committee constituted by the Government submit its report and with this announcement made public through due course, the indefinite strike should be called off without any further delay.
3. Principle of natural justice demands fair representation of both sides in the Committee. Therefore, numbers of representatives of the traders should be increased to match with number of officials.
4. As far as revenue generation is concerned, the Government should take Trade Organisations into confidence and draw a policy guidelines under which problems of traders and support of traders in generating more revenue should be discussed and availed.

