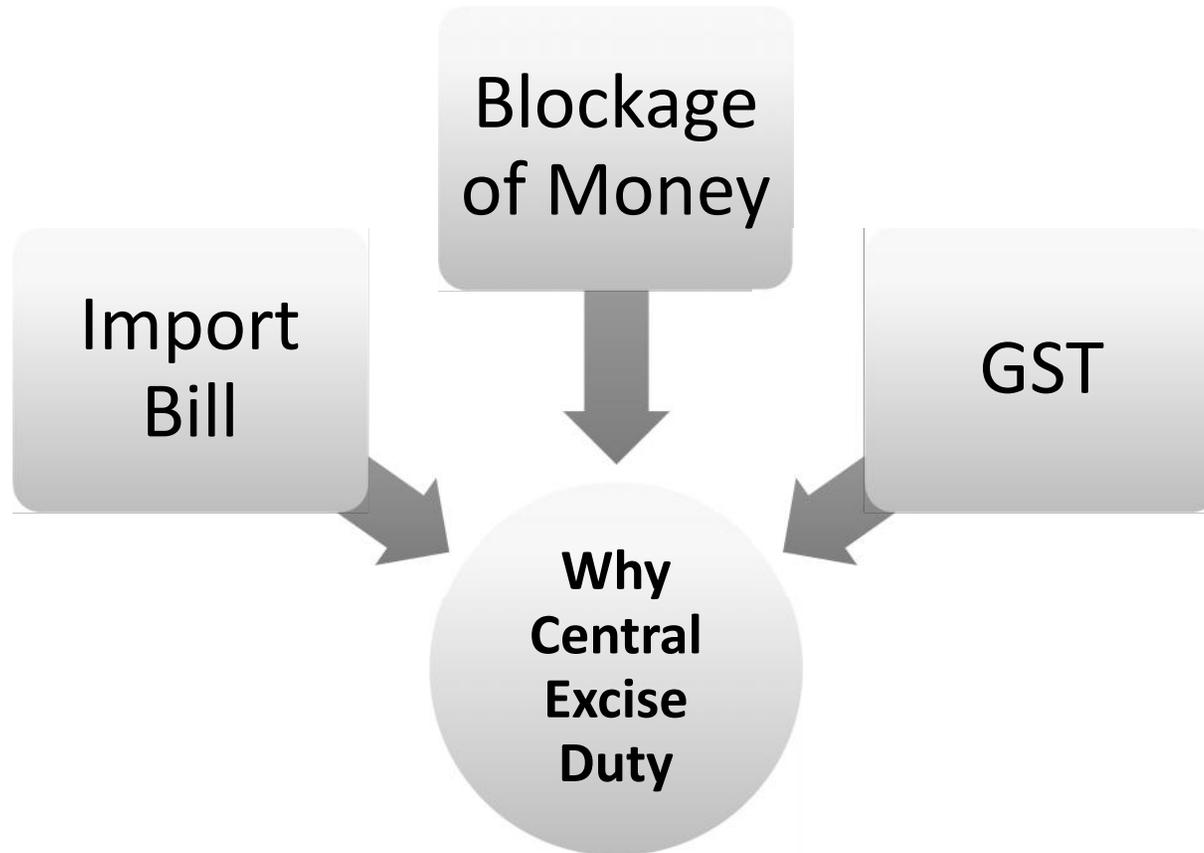


Central Excise on Jewellery Industry

Organised by
Borivali Central CPE study circle
of WIRC of ICAI

Presented by
Ca. Jayesh Gogri

Why Central Excise Duty?



Economic Survey 15-16

- *“Gold is a strong demerit good as 80 per cent is consumed by top 20 per cent income earners while it is taxed at 1 to 1.6 per cent compared with tax of about 26 per cent for normal goods. The Central Excise duty on Jewellery is zero as compared to 12.5 per cent for normal commodities.”*

Chief Economic Advisor Report

*“This historic opportunity of cleaning up the tax system is necessary in itself but also to support GST rates that facilitate rather than burden compliance. Choices that the GST Council makes regarding exemptions/low taxation (for example, on gold and precious metals, and area-based exemptions) will be critical. The more the exemptions that are retained the higher will be the standard rate. There is no getting away from a simple and powerful reality: the broader the scope of exemptions, the less effective the GST will be. **For example, if precious metals continue to enjoy highly concessional rates, the rest of the economy will have to pay in the form of higher rates on other goods, including essential ones. As the table shows, very low rates on precious metals would lead to a high standard rate closer to 20 percent, distorting the economy and adding to inflationary pressures. On the other hand, moderately higher taxes on precious metals, which would be consistent with the government’s efforts to wean consumers away from gold, could lead to a standard rate closer to 17 percent.** This example illustrates that the design of the GST cannot afford to cherry pick—for example, keeping a low RNR while not limiting exemptions--because that will risk undermining the objectives of the GST.”* Press release dated 4-12-2015

Which products are liable to Central Excise duty?

Which Products are liable?

Tariff ID	Description of goods
7113	Articles of Jewellery and parts thereof, of precious metal or of metal clad with precious metal
	Of precious metal whether or not plated or clad with precious metal:
7113 11	Of silver, whether or not plated or clad with other precious metal:
7113 11 10	Jewellery with filigree work
7113 11 20	Jewellery studded with gems
7113 11 30	Other articles of Jewellery
7113 11 90	Parts
7113 19	Of other precious metal, whether or not plated or clad with precious metal:
7113 19 10	Of gold, unstudded
7113 19 20	Of gold, set with pearls
7113 19 30	Of gold, set with diamonds
7113 19 40	Of gold, set with other precious and semi-precious stones
7113 19 50	Of platinum, unstudded
7113 19 60	Parts
7113 19 90	Other
7113 20 00	Of base metal clad with precious metal

Articles of Jewellery

Chapter Note No. 9 of Chapter 71

- Any small object of personal adornment (For example: Rings, Bracelets, Necklaces, Brooches, Ear Rings, Watch Chains, Fobs, Pendants, Tie Pins, Cuff Links, Dress Studs, Religious or other medals and insignia) and
 - Articles of personal use of a kind normally carried in a pocket, in the handbag or on the person (For example: Cigar or Cigarette Cases, Snuff Boxes, Cachou and Pill Boxes, Powder Boxes, Chain Purses or Prayer Beads)
- articles of imitation Jewellery not covered by 7113.
- covered by Tariff Heading 7116 @ 6%.

Precious Metal

Chapter 71, Note 4(A)

- The expression “precious metal” means silver, gold and platinum

Metal Clad with Precious Metal

Chapter 71, Note 7

Means :

- material made with a base of metal
- upon one or more surfaces of which is affixed by soldering, brazing, welding, hot rolling or similar mechanical means
- a covering of precious metal.

Exemption to Silver Jewellery

Notification No. 12/12- Sr. no. 199

Silver Jewellery, other than those studded with:

- Diamond,
- Ruby,
- Emerald or
- Sapphire

(1)	(2)	(3)	(4)	(5)
"199	7113	(I) Articles of jewellery	1%	16
		(II) Articles of silver jewellery, other than those studded with diamond, ruby, emerald or sapphire	Nil	-";

Which activities are liable to Central Excise Duty?

Manufacturing for Own

- Making New Jewellery
- Affixing Brand name
 - Chapter 71, Note 13

What is brand name?

Chapter 71, Note 12

- means a brand name or trade name,
- whether registered or not,
- that is to say, a name or a mark, such as symbol, monogram, label, signature or invented words or any writing
- which is used in relation to a product,
- for the purpose of indicating, or so as to indicate,
- a connection in the course of trade between the product and some person using such name or mark
- with or without any indication of the identity of that person
- **Circular dated 4.3.2005, 25.3.2011, 2.3.2012**

Getting Manufactured through a Job Worker

- Who is a Job Worker?
- Explanation 1 to Rule 12AA of CER

Means

- a person engaged in manufacture or processing
- on behalf and under the instructions of the said person
- from any inputs or goods supplied by the said person or by any other person authorized by the said person,
- so as to complete a part or whole of the process resulting ultimately in manufacture of articles of jewellery
- the term “job work” shall be construed accordingly

Job-worker	Seller manufacturer
Works on the material supplied/replenished by the principal manufacturer	Works on own material
Earns labour charges	Earns sale value
Risk & reward remain with principal manufacturer	Risk & rewards remain with self
There will not be any situation of pending unsold stock	There may be a situation of having stock of various unsold goods
Labour charges are liable for TDS	Sales value are liable to VAT/CST
Central Excise Duty has to be discharged by principal manufacturer	Central Excise Duty is applicable on Seller manufacturer

Which activities are not liable to Central Excise Duty?

- Trading
- Manufacturing on job work basis
- Exchange
- Repair
- Polishing
- Hallmarking

Who is liable to pay?

Who is liable to pay?

- Person who manufactures for Self
- Principal Manufacturer
 - Rule 12AA(1) Notwithstanding any thing contained in these rules, every person (not being an export-oriented unit or a unit located in special economic zone) who gets article of jewellery or other articles of precious metals following under Heading 7113 or 7114 as the case may be the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) (hereinafter referred to as the Tariff Act), produced or manufactured on his behalf, on job work basis, (hereinafter referred to as “the said person”) shall obtain registration, maintain accounts, pay duty leviable on such goods and comply with all the relevant provisions of these rules, as if he is an assessee

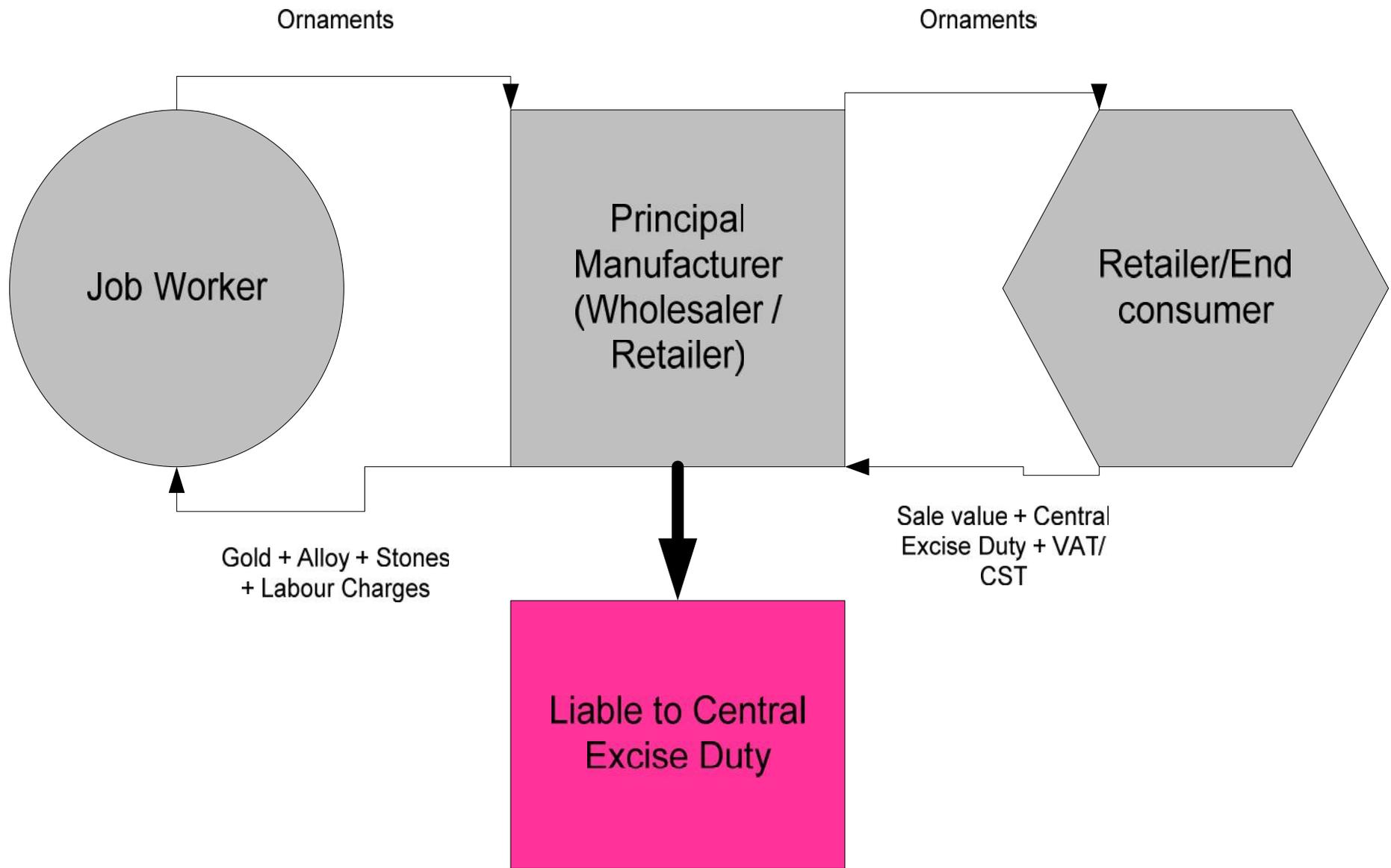
Can Job worker discharge duty liability voluntarily?

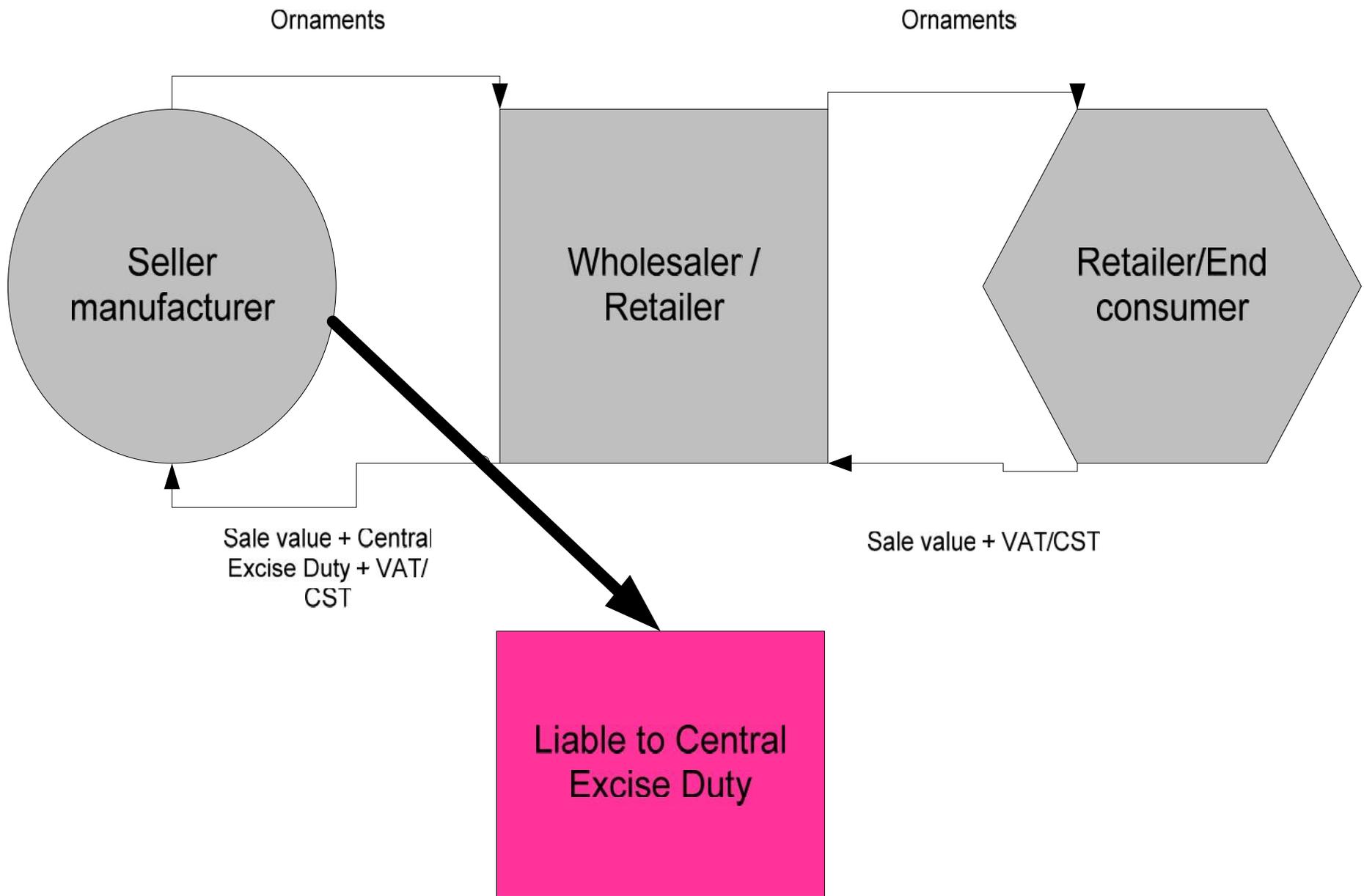
- Rule 12AA(1) Proviso

- Provided that the job worker may, at his option, agree to obtain registration, maintain accounts, pay the duty leviable on such goods, prepare the invoice and comply with the other provisions of these rules and in such a case the provisions of these rules shall not apply to the said person.
- **Deleted w.e.f. 17th March, 2012 vide Notification No. 8/12 C.E.(NT)**

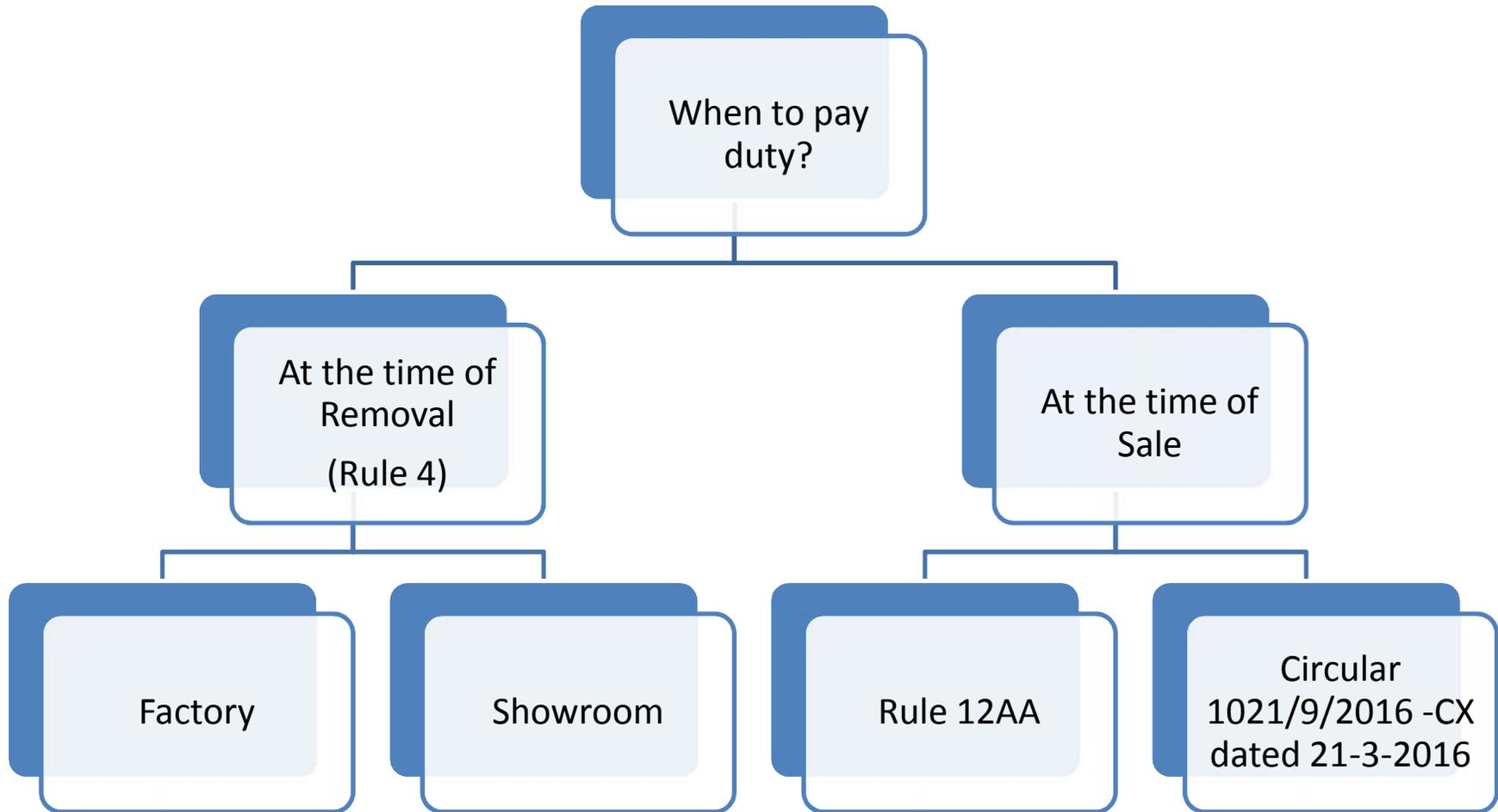
- Agent?

- Katrina Turcotte 31 STR 670



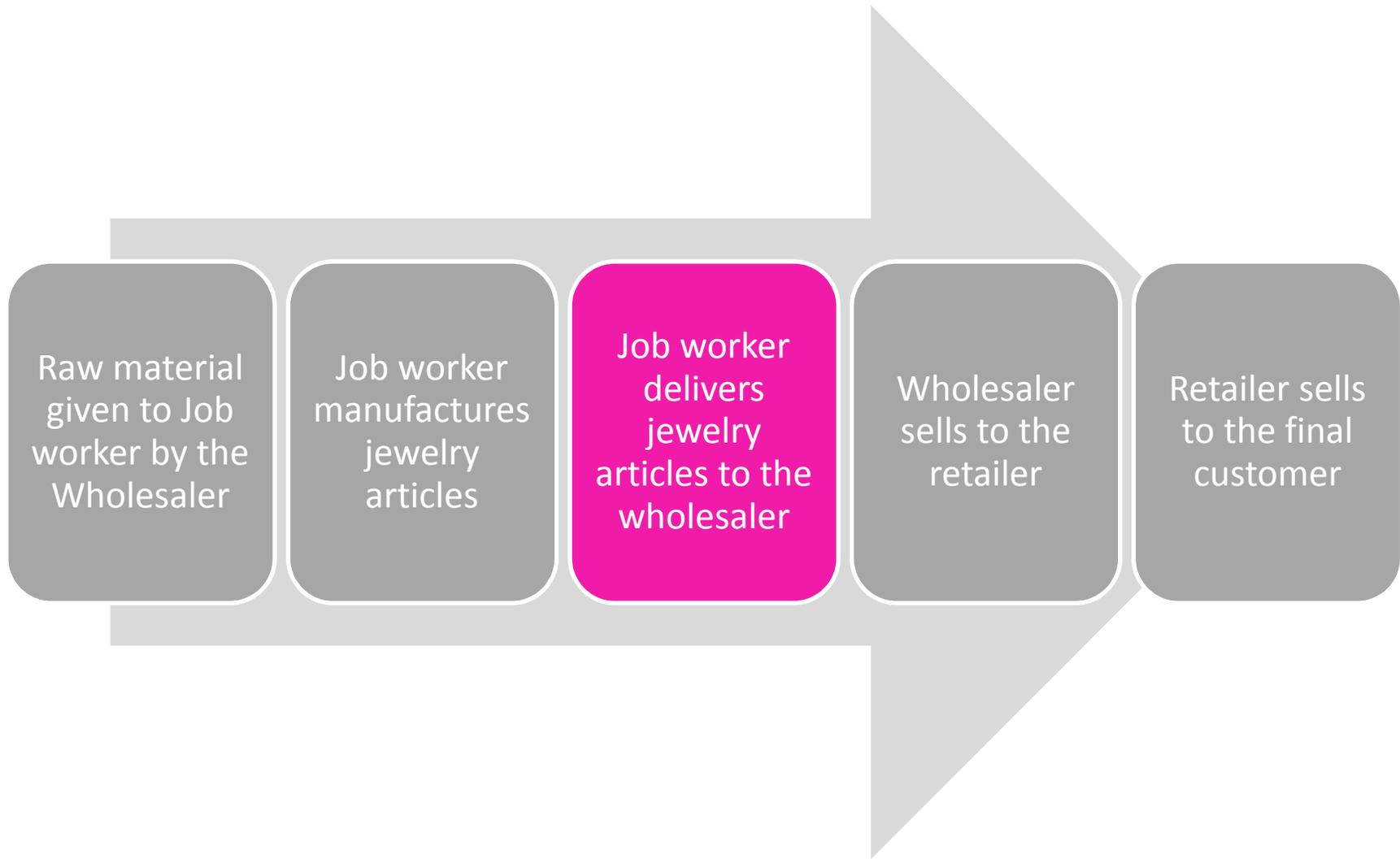


When to pay duty?



First view

- *Rule 4 of CER: at the time of removal from any place, where they are produced or manufactured, or from a warehouse*
- *Section 2 (e) of CEA : “factory” means any premises, including the precincts thereof, wherein or in any part of which excisable goods other than salt are manufactured, or wherein or in any part of which any manufacturing process connected with the production of these goods is being carried on or is ordinarily carried on;”*

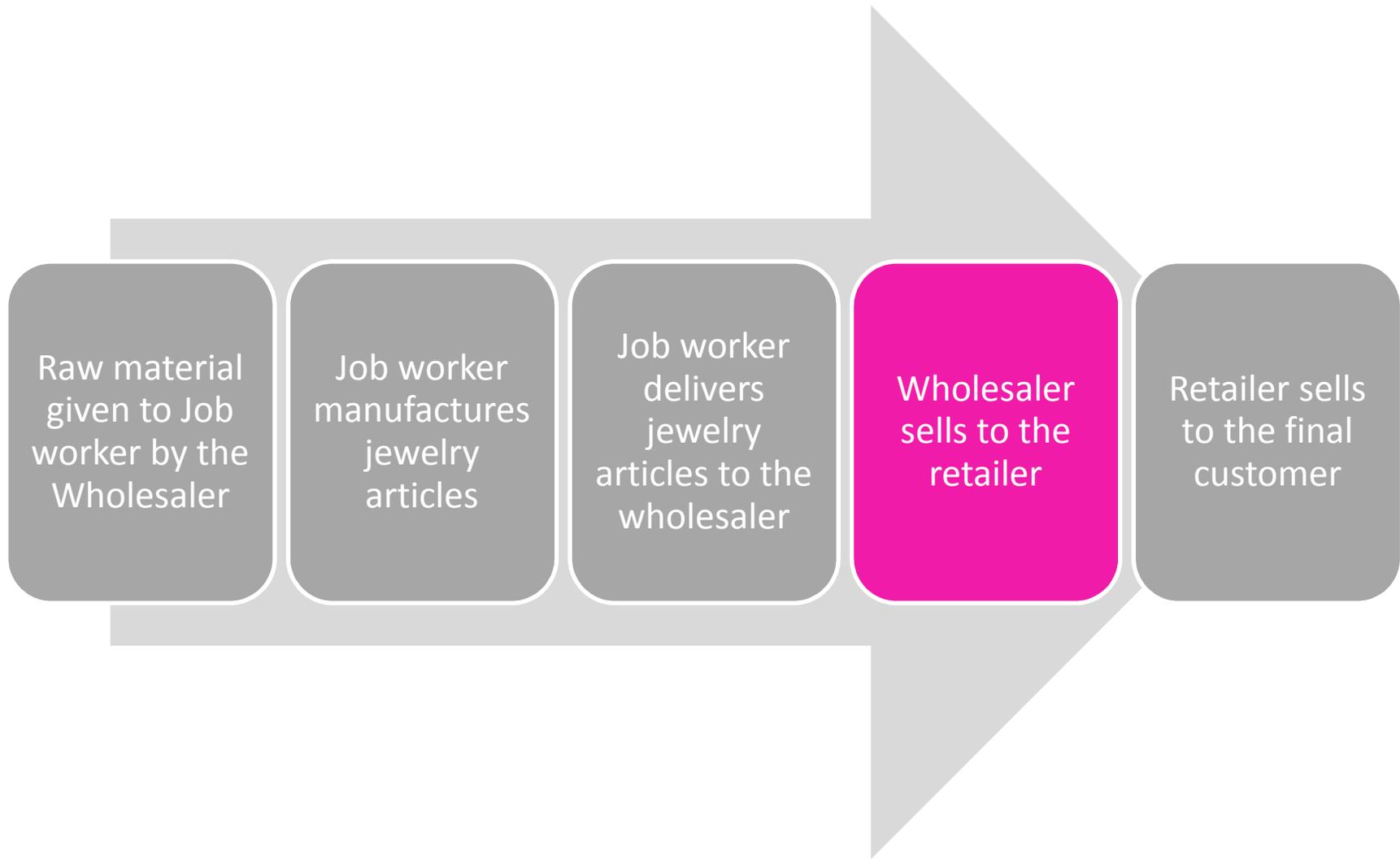


Second view

- Circular no. 1021/9/2016 -CX dated 21-3-2016

5. Till the recommendations of the Sub-Committee are finalized, the following shall be adhered to :

(a) All payments of central excise duty will be based on first sale invoice value;



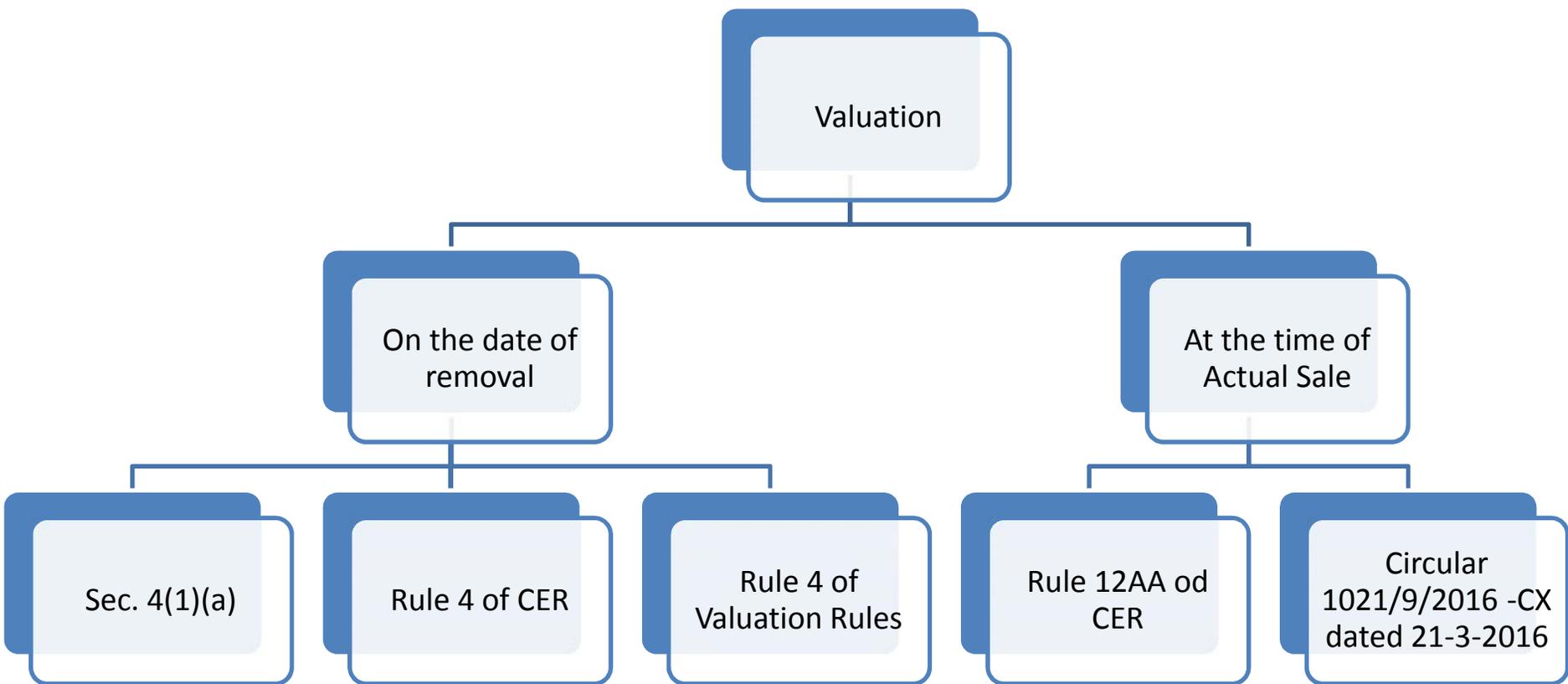
Which Value?

Transaction Value (Section 4(1) (a))

- Conditions for adopting actual transaction value:
 - Excisable goods – sold by the assessee
 - Goods sold for delivery at the time and place of removal
 - Factory
 - Warehouse
 - Depot
 - Not related party transaction
 - Price – Sole consideration for sale
- If all the above conditions not satisfied cumulatively
 - Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000

Scenario in Jewellery Sector

- 2 Views
 - Value prevailing at the time of removal
 - Value during actual sale



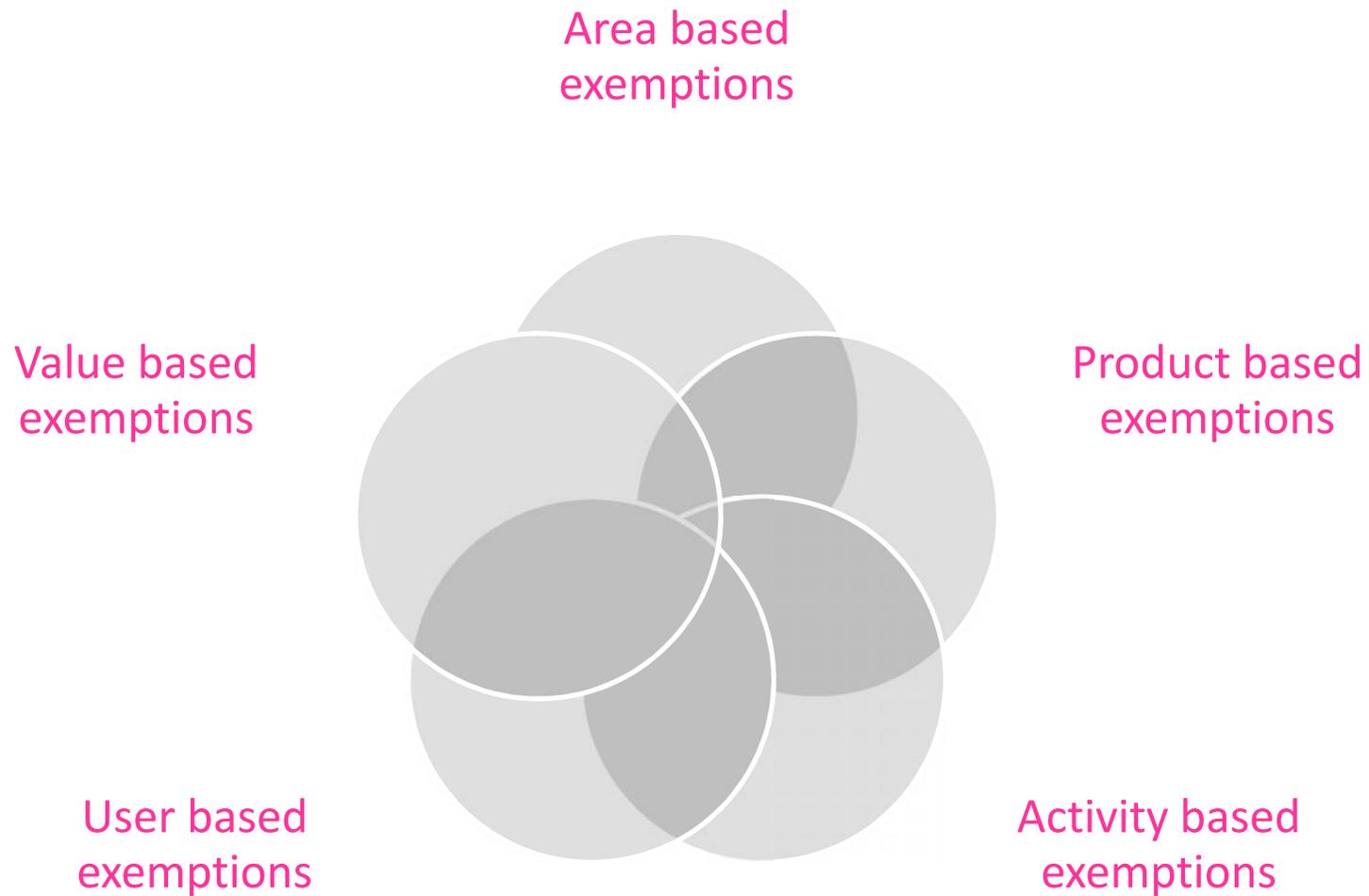
Related Party Transactions – Rule 9 of Valuation rules

- Normal Transaction value at which such related person sells to outsiders
- Related persons (Exp to Sec 4(3))
 - they are **inter-connected undertakings**;
 - they are **relatives**;
 - amongst them the buyer is a relative and a distributor of the assessee, or a sub-distributor of such distributor; or
 - they are so **associated** that they have interest, directly or indirectly, in the business of each other.

- Discounts
 - Normal
 - Influenced by other Factors
 - Heavy Advances
 - Schemes
- Exchange Value
- Excise on VAT

EXEMPTIONS/EXCLUSIONS

Exemptions/exclusions



Area based exemptions

- Manufacturing Units set up in following specified areas may be exempted on the basis of value addition undertaken in the manufacture of Jewellery articles subject to fulfillment of specified conditions in respective notifications:
 - Units located in Industrial Growth Centre or Integrated/Industrial Infrastructure Development Centre or Export Promotion Industrial Park or Industrial Estates or Industrial Area or Commercial Estate or Scheme Areas
 - North East areas
 - Kutch
 - Jammu & Kashmir
 - Sikkim. Notification

(Nos. 32/1999-CE dated 8-7-1999; 56/2002-CE dated 14-11-2002 and 71/2003-CE dated 9-9- 2003, Notification Nos. 33/1999-CE dated 8-7-1999 and 20/2007-CE dated 25-4-2007, Notification No. 39/2001-CE dated 31-7-2001, Notification No. 01/2010-CE dated 6-2-2010, Notification No. 56/2003-CE dated 25-6-2003)

Product Based Exemption...

- Silver Jewellery (Other than those studded with diamond, ruby, emerald or sapphire)
- Handicrafts
- Primary gold converted from any form of gold
- Ornaments, table-ware, toilet-ware, smokers' requisites and other articles of household, office or religious use not bearing a brand name

...Product Based Exemption

- Strips, wires, sheets, plates and foils of gold, used in the manufacture of articles of Jewellery and parts thereof
- Waste and scrap of precious metals or metals clad with precious metals, arising in course of manufacture of goods falling in Chapter 71
- Gold coins of purity 99.5% and above and silver coins of purity 99.9% and above. Notification No. 12/2012-CE dated 17-3-2012 (Sr. No. 199)

Activity Based Exemption

- All excisable goods either used or consumed within the factory of production for manufacture of excisable products
 - Notification No. 10/1996-CE dated 23-7-1996
- Goods sent abroad: As exhibits for exhibition in international trade fair or for demonstration or for carrying out test or for trial
 - Notification No. 263/1979-CE dated 22-9-1979

SSI Exemptions

Notification 08/2003 CE

- Manufacture has option not to avail SSI
- While exercising the option, manufacturer needs to inform AC
- Shall not **avail** Credit of Inputs
- Shall not **utilize** Credit of Capital Goods
- Aggregate value from all factories
- Goods cleared by more than 1 manufacturers from a single factory then aggregate of all the manufacturers for Turnover limit
- Brand Name - Not Eligible

- What is includible for the calculation of aggregate value of clearances of Rs. 6 Crores/Rs. 50 Lacs?
 - Clearance of goods for home consumption including free gifts, donations, captive consumption etc. as discussed in previous chapter
 - Clearances for home consumption shall include exports made to Bhutan
 - Clearances from one or more factories of a person should be clubbed
 - Clearances from one factory by more than one manufacturer should also be clubbed
- However, following shall not be included for calculation of Rs. 6 Crores/Rs. 50 Lacs:
 - Exports
 - Completely exempted clearances (except SSI exemption)
 - Non-dutiable clearances (Eg.: NIL rated clearances)
 - Goods bearing brand name or trade name of other person (Central Excise Duty needs to be paid in such cases as discussed at Para above)

- The aggregate value of clearances of previous Financial Year shall not exceed Rs. 12 Crores. The limit of Rs. 12 Crores has to be calculated excluding-
 - Exports
 - Clearances to a unit in Free Trade Zone
 - SEZ/100% EOU/EHTP/STP/
 - United Nations or international organization shall not form part of clearances of Rs. 12 Crores
 - Clearances bearing brand name of another person
 - Clearance exempted by Certain specific notifications

Clubbing of clearances

- The following circumstances may indicate existence of other units of the same manufacturer as a dummy unit:
 - Both the units are located in a single block of premises
 - The office staff is common for both the units
 - Beneficial financial interest which indicates financial flow back
 - The products of both the units are sold through a common marketing agent
 - Both the units are controlled by one single family
 - Common procurement or sale (common products and sales force)
 - All the production activities are carried out in the premises of one unit and raw materials and packing materials are stored in the other premises

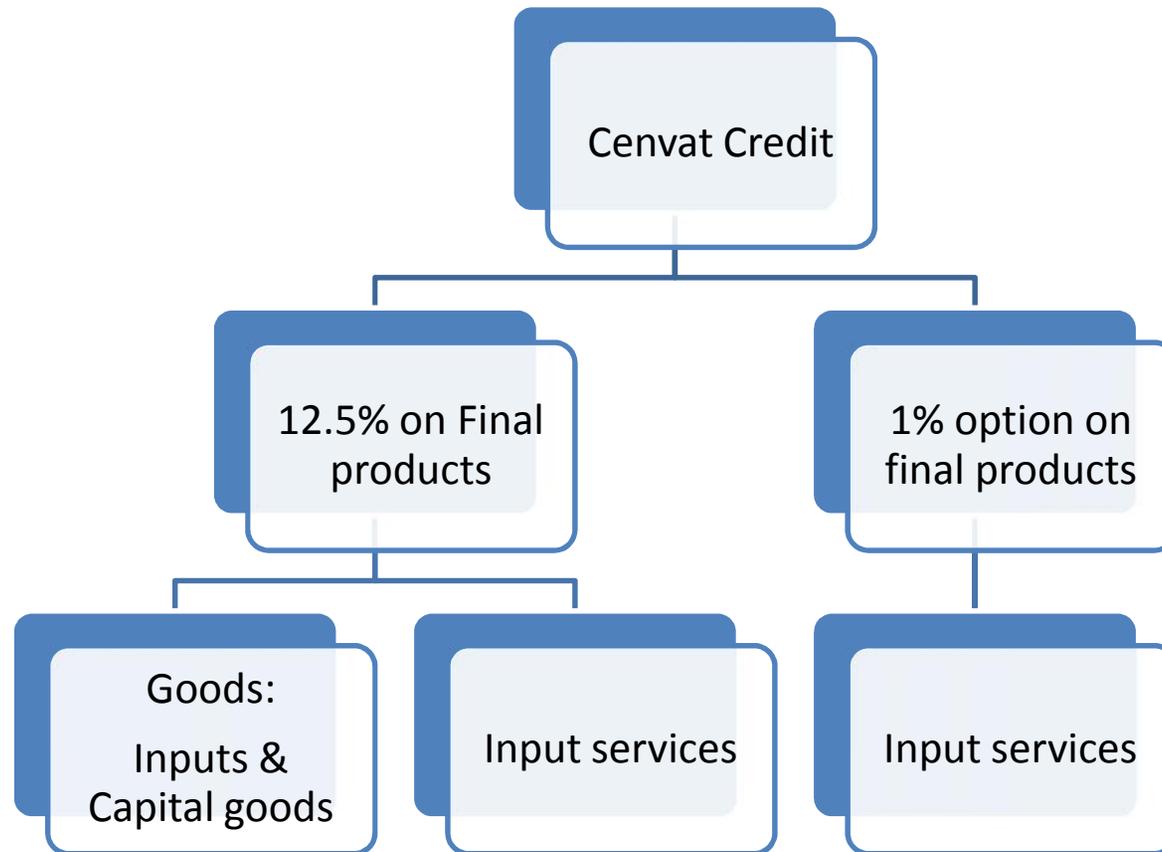
No Clubbing of Clearances

- Following cases where units are genuine unit, clubbing provisions shall not apply:
 - No clubbing if, one unit is trading and other manufacturing from the same premises
 - Turnover of subsidiary not to be clubbed with holding company
 - Mere commonness of partners/directors does not mean that the firm is dummy unit
- No clubbing if, owners are different say, if one unit belongs to a proprietor and other unit belongs to a partnership firm then turnover of both the units cannot be clubbed as the partnership has independent legal status different from its partners.
- Burden to prove that only one unit is real unit and others are dummy units is lies on revenue.

Treatment of pending stock as on 29.02.2016

- Raw Materials
- WIP
- Finished Goods
 - Trading
 - Manufacturing

Cenvat Credit



Rule 6 of CCR

- Trading activity to be considered as an exempt service
- CENVAT credit to be apportioned
- Options of apportionment
 - Separate records- only relatable credit
 - Common records-proportionate as per formula
- Intimation of option
- Complete discharge by 30th June of the next year

Compliances

Registration

- Within two working days
- No physical verification of the premises
- Optional centralized registration

Invoice (Rule 11)

- Serial number
- Invoice to be raised in Triplicate :
 - Original For Buyer
 - Duplicate For Transporter
 - Triplicate For Assessee
- Name and address of the Jewellery units
- Central excise registration number
- Address of the concerned Central Excise Division of the Jewellery unit
- Name of the buyer/consignee
- Description and classification of goods

Contents of invoice

- Quantity and value of goods
- Rate and amount of duty payable (can be rounded off to nearest rupee)
- Time and date of removal
- Mode of transport
- Vehicle registration number
- In case of a proprietary concern or a business owned by Hindu Undivided Family, the name of the proprietor or Hindu Undivided Family, as the case may be, shall also be mentioned

Computerization of Invoice

- Freely permissible
 - Third copy can be maintained in book bound manner
- Generation of serial number by software permissible provided computer automatically
- Generates serial number and same number is not repeated
- Central Excise Officer may periodically verify the software

Which are the registers advisable to maintain:

- Stock register showing:
 - Description of goods manufactured
 - Opening balance
 - Quantity manufactured
 - Inventory of goods
 - Quantity removed
 - Assessable value
 - Amount of Excise payable
- Details of issue and receipt of raw materials pertaining to job workers
- Details of goods return on which duty has already been paid
- Details of branch transfer
- Details of goods received/sent for repairs/polishing/certification etc.
- Details of duty collection and payment

Documentation for Cenvat Credit

- Receipt, disposal, consumption and inventory of the input and capital goods
- Receipt and consumption of input services
- Value and duty/tax paid in respect of such goods/services
- CENVAT Credit taken and utilized
- The person from whom the goods/services have been procured

In case, the option of paying duty @1% has been chosen, the aforementioned details need to be maintained only in respect of input services.

Consequences for non-maintaining records?

- Not accounting for excisable goods manufactured, produced or stored by the assessee is an offence. Penalty can be imposed up to the amount of duty payable on goods. Further the goods for which records are not maintained can be confiscated.
- Further, personal penalties may also be imposed on the directors/partners/employees of the company/firm in case of default
- Lack of documentation may have adverse effects in case of where excise audits are conducted. Auditee may not be able to justify the stand in case any audit objections are raised.

Payment of duty

- Extension upto 6th July – circular dated 23rd April, 2016
- 0038 0003
- Interest and Penalty 0038 0087

Particulars	Periodicity	Payment due date
Assessees eligible for SSI exemption	Quarterly	<ul style="list-style-type: none">• April to December-6th of the month following the quarter• January to March-31st March
Other assesseees	Monthly	<ul style="list-style-type: none">• April to February-6th of next month• March-31st March

Note: All the payments have to be discharged electronically

Returns

- Simplified return applicable for optional excise duty of 1%/2% without CENVAT credit under notification No.1/2011-CE, under Rule 12 of the Central Excise Rules, 2002.

Form	Periodicity	Type of the Jeweler assessee	Time limit
ER-1	Monthly	Jewelers opting to pay duty @ 12.5% on jewellery products	10 th of the following month from end of the relevant month
ER-2	Monthly	Export Oriented Unit (EOU)	10 th of the following month from end of the relevant month
ER-3	Quarterly	Small Scale Jeweler (SSI)	10 th of the following month from end of the relevant quarter
ER-8	Quarterly	Jewelers opting to pay duty @ 1%	10 th of the following month from end of the relevant quarter. 31 st march for year-end quarter
Annual Return (Form as may be prescribed)	Annually	All Jewelers	30 th November of the succeeding financial year

Returns

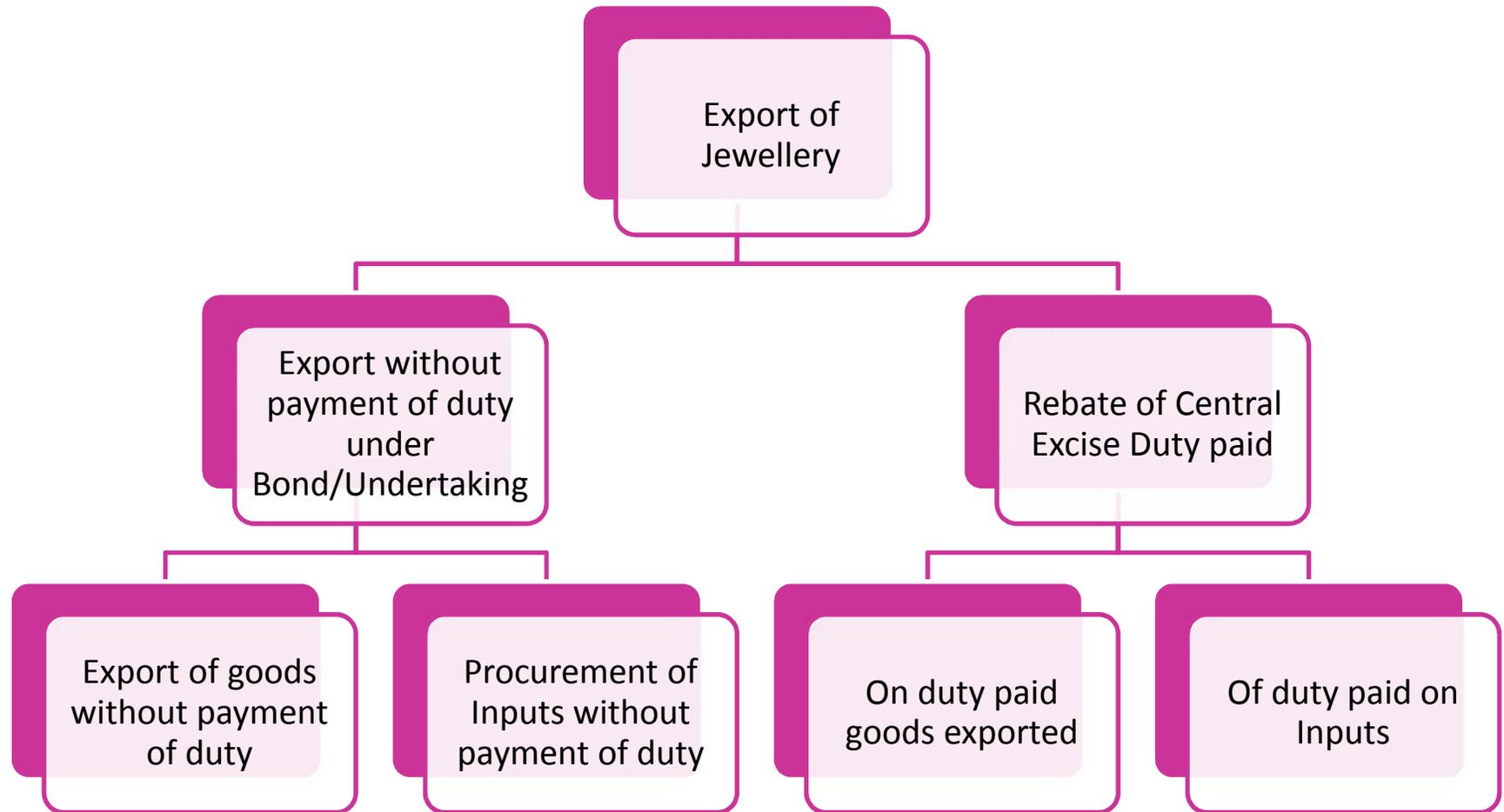
- Late Fee
 - 100/day, maximum upto 20,000/-
- Can Return be revised?
 - return which is filed within due date can be revised by the end of the calendar month in which it was filed
 - Rule 12(8)(a) of the Central Excise Rules, 2002

Documentation - Relaxation

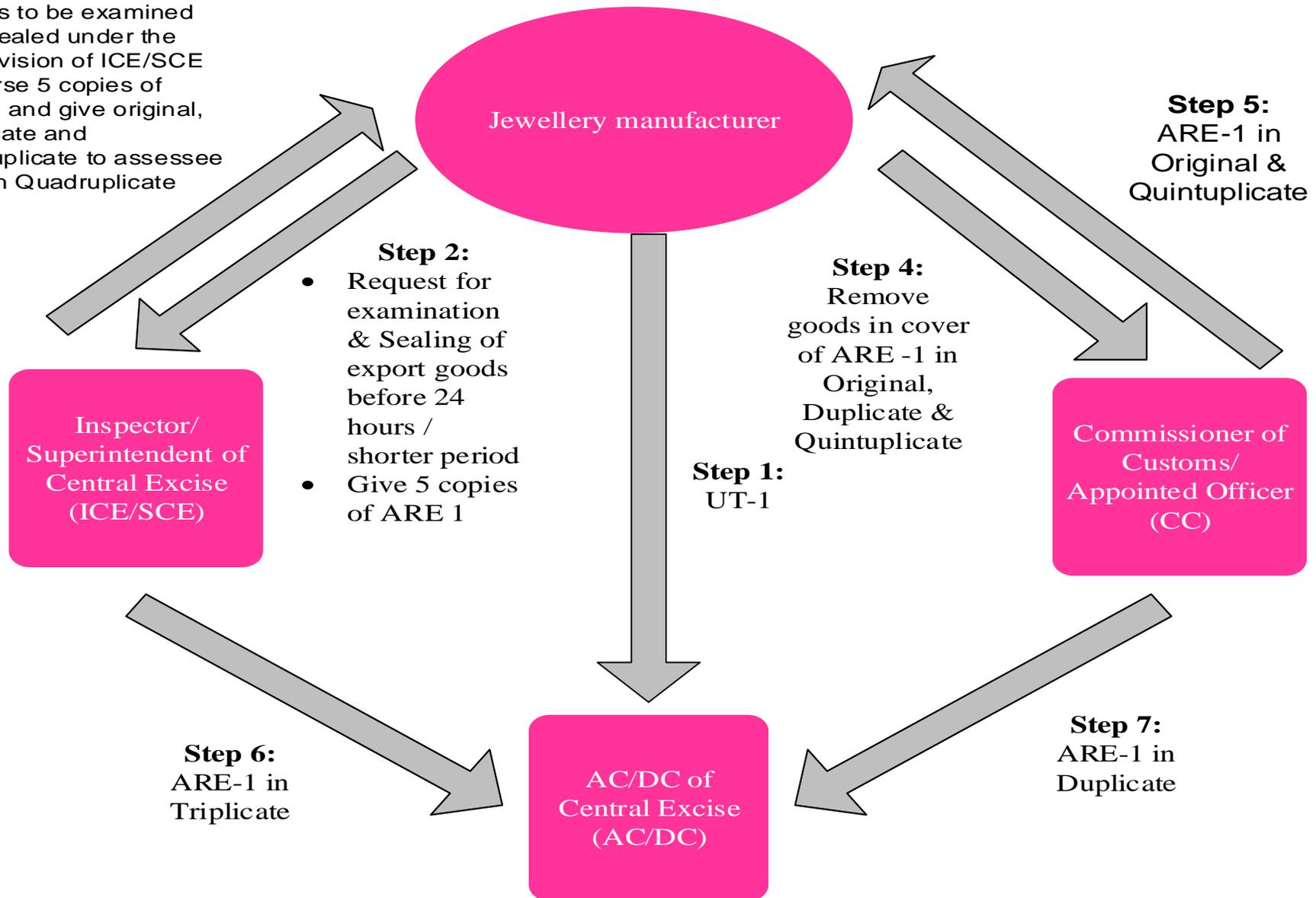
- Documents being maintained by the jewellery manufacturers for State VAT or Bureau of Indian Standards (in the case of hallmarked jewellery) shall suffice for Excise purposes also
- The private records of the jewellery manufacturers, giving details of daily stock for his own purposes, shall be accepted for the purposes of Rule 10 of the Central Excise Rules 2002

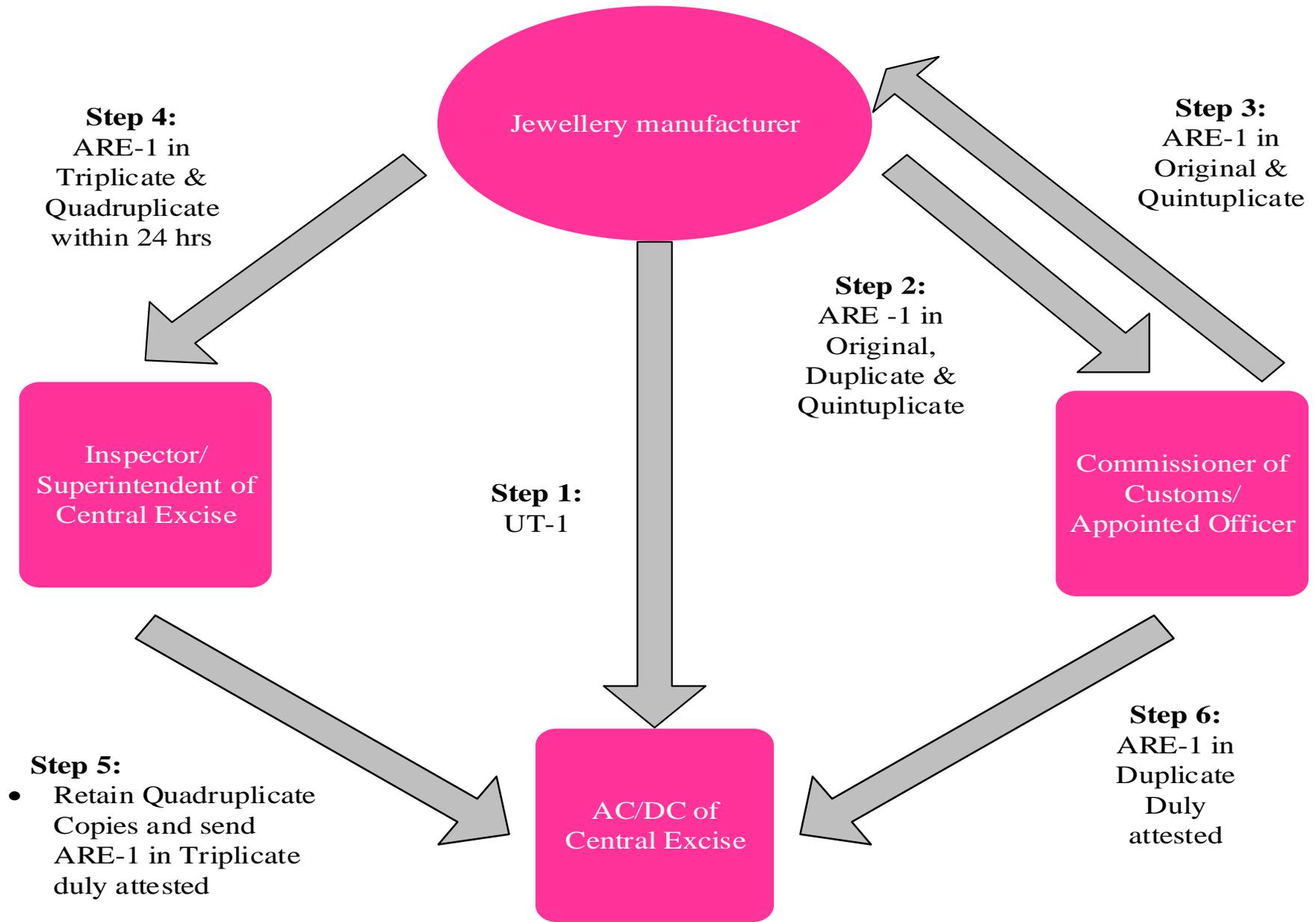
Transactions

Export out of India



- Step 3:**
- Goods to be examined and sealed under the supervision of ICE/SCE
 - Endorse 5 copies of ARE1 and give original, duplicate and quintuplicate to assessee
 - Retain Quadruplicate Copy





Goods Removed for Exhibition

- The Central government has issued a notification by which it has exempted from the payment of duty all goods removed for exhibition, trade fares, or sent **abroad** for the purpose of demonstration or for carrying out any tests or trial.
- The export procedure shall be same as that followed for export of goods without payment of duty.
- Notification no.263/79-C.E. dated 22-7-1979

Job Work on material supplied by others

- The job worker is not liable to pay Central excise duty Rule 12AA of Central Excise Rules, 2002
- Principal manufacturer would carry out all related compliances such as obtaining registration, filing returns, maintenance of records etc.

Can a principal manufacturer directly dispatch goods to his customer from the place of job worker?

- Yes
 - Rule 12AA (2) of Central Excise Rules, 2002

Rule 12AA of CER

- *(2) If the said person desires clearance of excisable goods for home consumption or for exports from the premises of the job worker, he shall pay duty on such excisable goods and prepare an invoice, in the manner referred to in rules 8 and 11 respectively except for mentioning the date and time of removal of goods on such invoice.*
- *(3) The original and the duplicate copy of the invoice so prepared shall be sent by him to the job worker from whose premises the excisable goods after completion of job work are intended to be cleared, before the goods are cleared from the premises of the job worker.*

Which are the documents to be sent along with material to be sent to job worker?

As per Rule 12AA(5) read with 11(2) of Central Excise Rules, 2002: A challan containing:

- Serial number
- Central Excise registration details including address of jurisdictional Division office of the principal manufacturer
- Description and classification of goods sent
- Time and date of removal
- Mode of transport and vehicle registration number
- Rate of excise duty
- Quantity of goods

Whether job worker will be held responsible for accountability of goods received by him?

- The duty liability has been shifted to principal manufacturer as against job worker
- Therefore, it is the jewellery manufacturer who will be held responsible for accountability of goods/inputs sent to job worker
 - Rule 12AA(6) & (7) of Central Excise Rules, 2002 and Circular No. 1021/9/2016-CX dated 21-3-2016

Rule 12AA of CER

- *(6) The responsibility in respect of accountability of the goods, referred to in sub-rule (5) shall lie on the said person.*
- *(7) Notwithstanding any thing contained in these rules, the job worker shall not be required to get himself registered or shall not be required to maintain any record evidencing the processes undertaken for the sole purposes of undertaking job work under these rules unless he has exercised his option in terms of the proviso to sub-rule (1).*

Service Tax on activity of Job Work

- Manufacture or production of goods are classified under Negative list of services- clause (f)
- If Job worker carries out mere repairing and such activities which does not amount to manufacturing then Service tax will be applicable

Sale in Schemes

- Explanation 2 to the Rule 6 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 is quite specific on the subject and provides as under:
- ***“Explanation 2. - Where an assessee receives any advance payment from the buyer against delivery of any excisable goods, no notional interest on such advance shall be added to the value unless the Central Excise Officer has evidence to the effect that the advance received has influenced the fixation of the price of the goods by way of charging a lesser price from or by offering a special discount to the buyer who has made the advance deposit”***

Branch Transfer

- VAT or CST is payable on sale but not on branch transfers subject to certain conditions. Unlike VAT/CST, levy of Excise Duty is on the event of 'manufacture'
- Jewellery manufacturers are also facilitated with the option of centralised registration for units spread across India even if such units are not in the same Range. In such cases, branch transfers may not be liable to duty.
- Where there is no centralized registration, branch transfer may not be liable to Central excise as per Circular no.1021/9/2016-CX dated 21-3-2016 which clarifies that the duty would be leviable on the basis of the first sale invoice value.

Certain Transactions

- End-customer provides gold to Jewellery manufacturers to make the Jewellery articles. Whether value of such gold is includible in assessable value?
- if in above, instead of gold, old Jewellery has been provided by the Customer?
- Duty implications when job worker takes back such goods due to defects and subsequently, delivers to the principal manufacturer post required modifications?
- Buy back of Jewellery and resale thereof?
- Excise Duty implications when duty paid goods are brought back to the factory of the manufacturer?
 - Rule 16
 - CENVAT
 - 1%?
- Repairs?
- Exchange
- Consignment Sale

Audit and Assessment

Assessment

- Classification and rate of duty
- Valuation
- Quantity Removed

- Self Assessment
 - Rule 6 of CER
- Provisional Assessment
 - Reasons
 - Order from Ac/DC
 - Executing Bond
 - Interest @15%

Powers and Penalties

Powers conferred upon CEO

- **Access to registered premises**
 - Rule 22 of Central Excise Rules, 2002
- **Power to issue Summons**
 - Section 14 of Central Excise Act, 1944
- **Power of search & seizure**
 - Section 12F of Central Excise Act, 1944
- **Power to stop and search conveyance**
 - Rule 23 of Central Excise Rules, 2002
- **Power to detain or seize goods**
 - Rule 24 of Central Excise Rules, 2002
- **Power of confiscation of goods**
 - Rule 25 of Central Excise Rules, 2002
- **Power to arrest**
 - Section 13 of Central Excise Act, 1944

Adjudication Proceedings

- *Show Cause Notices*
 - *Bona fide* cases - may be issued within 2 years
 - Case of fraud, collusion, willful misstatement or suppression of facts, or contravention of provisions of the Central Excise Act - SCN may be issued within 5 years
- Interest @ 15% per annum

Sr. No.	Particulars	<i>Bona fide</i>	<i>Mala fide</i>
1.	Time limit	2 years	5 years
2.	Maximum Penalty	Higher of Rs.5,000/- or 10% of the amount of duty payable	Equal to amount of duty payable
2 (a)	Duties and interest demanded paid within 30 days of SCN	No Penalties	15% of the amount of duty
2 (b)	Duties and interest demanded paid within 30 days of the issue of adjudication order	25% of the amount of duty payable	25% of the amount of duty payable

Contraventions punishable with imprisonment

- Section 9(1)
 - Evasion of the payment of any duty payable under this Act
 - Removal of any excisable goods in contravention of law
 - Acquisition possession of, or in any way concerning himself in transporting, depositing, keeping, concealing, selling or purchasing, or in any other manner dealing with any excisable goods which he knows or has reason to believe are liable to confiscation under this law
 - Contravention of any of the provisions of the law in relation to credit
 - Failure to supply any information which he is required to supply, or supply of false information (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true)
 - Attempt to commit, or abet the commission of evasion of payment of duty

Punishment

- If the duty amount exceeds two hundred lakhs of rupees, with imprisonment for a term which may extend to seven years and with fine. In the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court such imprisonment shall not be for a term of less than six months;
- In any other case, with imprisonment for a term which may extend to three years or with fine or with both.

Offences by Companies – Sec 9AA

- If offence is made by companies, every person who, at the time the offence was committed was **in charge of**, and was **responsible to**, the company for the conduct of the business of the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. **No punishment** can be made if, person liable proves that the offence was committed **without his knowledge or he had exercised due diligence** to prevent the commission of such offence.
- In case, if it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company then such persons shall be deemed to be guilty of the offence and punished accordingly.

Confiscation

- Rule 25 of CER:
- Penalty not exceeding the duty or Rs. 2000 whichever is higher
- Following contraventions:
 - For removal of goods in contravention of rules
 - For Non- accounting of any excisable goods manufactured or stored
 - For manufacture, production or storage of excisable goods without applying for registration
 - Contravention of any rules with intent to evade payment of duty
- In addition the penalty, such goods are liable for confiscation. A person may pay fine in lieu of confiscation, as the officer thinks fit. Generally, fine is equivalent to market price of the goods and storage charges Section 34 of the Central Excise Act, 1944

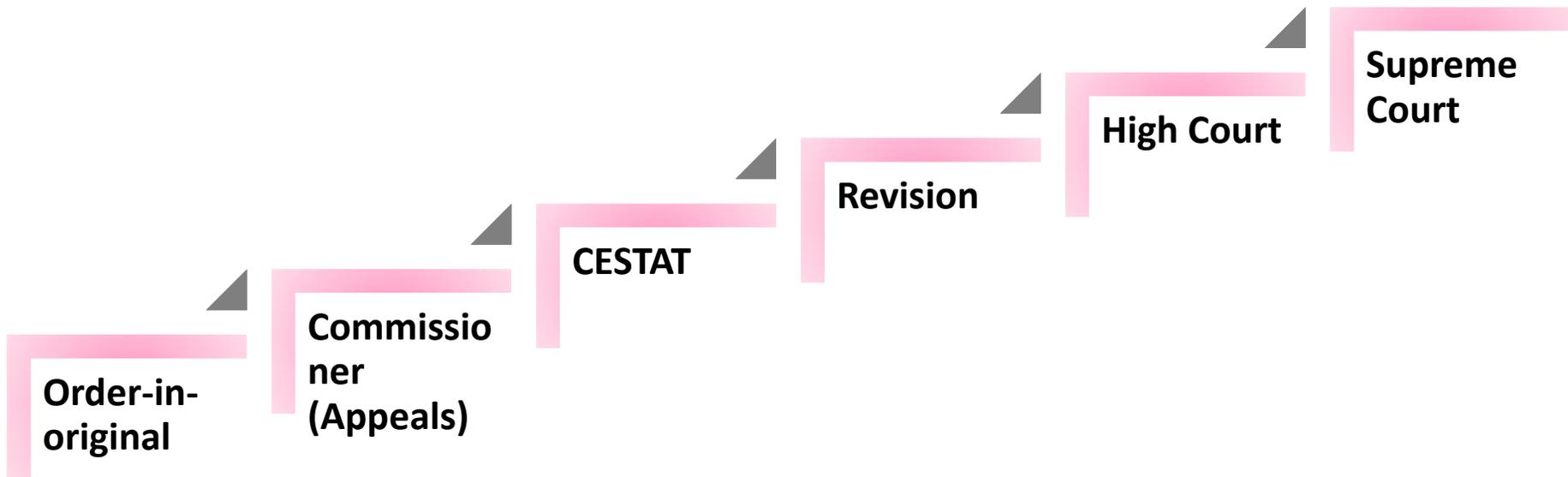
Penalty for certain offences

- Rule 26 of the Central Excise Rules, 2002; prescribes for the following penalties:
 - Any person who acquires possession of goods or in any concerned with transportation, removing, depositing, keeping, concealing, selling or purchasing or in any other manner dealing with any **excisable goods** which he knows or has reason to believe are **liable to confiscation** shall be liable to a **penalty upto duty amount** or Rs. 2,000/- whichever is higher.
 - Any person issues or abates in issuance of invoice without delivery of such goods or any other document and on the basis of which, the user of the said invoice or document is likely to take or has taken any intangible benefit under this law like claiming CENVAT Credit or refund shall be liable to a **penalty of duty amount** or Rs. 5,000/- whichever is higher.

General Penalty

- In respect of breach of rules where no specific penalty has been prescribed in the Act or Rules shall be liable for penalty upto Rs. 5,000 and confiscation of the goods.

Appeals



Can Duty be passed on to
customers?

Can there be any liability in absence of Sale?

- It may be important to note that in order to attract Central Excise Duty, merely the activity of manufacture is sufficient
- Actual sale is not required
- With respect to Jewellery, a Circular has carved out an exception by levying Central Excise Duty only on the first sale value. Therefore, activities prior to first sale may not attract Central Excise Duty in view of such Circular. Circular No. 1021/9/2016-CX dated 21-3-2016

Gold & Fire



Ca. Jayesh Gogri

Director



GSC Intime
Services Pvt. Ltd

Right advice at right time...



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