

**AUTHORITY FOR ADVANCE RULINGS
(CENTRAL EXCISE, CUSTOMS AND SERVICE TAX)
HOTEL SAMRAT, 4TH FLOOR, KAUTILYA MARG, CHANAKYAPURI
NEW DELHI**

Hon'ble Mr. Justice P.K.Balasubramanyan (Chairman)
Mr. Y.G.Parande (Member)

The 1st June, 2012

Ruling No. AAR/ C.Ex./ 03/2012
In
Application No. AAR/44/C.Ex/5/2011

Applicant	:	M/s MMTC-PAMP India Pvt. Ltd., C-27,3 rd Floor, Qutab Institutional Area, New Delhi- 110016
Commissioner Concerned	:	The Commissioner of Central Excise Delhi-III Commissionerate, Udyog Minar, Vanijya Nikunj, Udyog Vihar Phase-V, Gurgaon, Haryana-122016
Present for the Applicant	:	Sh. Vivek Kohli, Advocate Sh. Ashwani Sharma, Advocate
Present for the Commissioner	:	Sh. B.K.Singh, Jt.CDR (AR) Shri Sumit Kumar,(AR)

Ruling

(Y.G. Parande)

In this application filed under Section 23C of the Central Excise Act, 1944, the applicant, M/s MMTC-PAMP India Pvt. Ltd, which is a joint venture company formed by

M/s MMTC and MKS Holding BV, Amsterdam, Netherlands, initially sought a ruling on the following four questions:

- 1 Whether the process proposed to be employed by the Applicant amounts to manufacture or job work under the Central Excise Law?**
- 2 If it amounts to 'manufacture', would it be subject to the levy of Central Excise Duty in terms of the Central Excise Act, 1944 and the Central Excise Tariff Act, 1985?**
- 3 If so, what would be the standard and the effective rate of duty?**
- 4 Where gold / silver products are manufactured with customer's brand name, on what value is excise duty, if any, payable?**

2. The application was admitted for a ruling, vide the Authority's order dated 26th August, 2011.

3. While the case was pending, the Union Budget, 2012 introduced a number of changes in the duty rates on precious metals and articles thereof, which affected the goods produced by the applicant. In view of these changes, the applicant, vide their letter dated 24/04/2012, requested for withdrawal of questions No. 3 & 4 above. According to them these questions were no longer relevant and were of academic interest. We are inclined to accede to the applicant's request and allow this withdrawal. Accordingly, this ruling now deals only with questions 1 and 2 above.

4. The applicants are engaged in refining and minting of products of precious metals namely gold, silver and platinum. The products are minted as per the orders placed by their customers and the work is done, in the large majority of cases, on the precious metal in bullion form supplied by their customers. The articles of precious metals that are made and supplied by the applicant to their customers include medallions/coins made according to specifications and designs agreed with the customers and some articles of jewelry like pendants of various shapes and sizes. The application furnishes the details of the processes undertaken by the applicant to

produce the final products from the precious metal which is usually received by them in bullion form. It is unnecessary for us to narrate in detail all the stages of the process. Suffice it to say that it involves a number of steps involving complex processes such as manufacture of dies and moulds, purification of metal, melting of the gold or silver, cold rolling, blanking, pickling and polishing, stamping with the aid of dies made as per designs agreed with their customers and lacquering and packing. In short, what they take in is precious metals in raw (bullion) form and what they produce is finished articles, such as medallions and articles of jewelry etc, in marketable form.

5. As some of the facts were not entirely clear, a joint inspection by the department and the applicant's representative was undertaken and the inspection report based on observations was submitted to the Authority by learned AR vide his letter dated 30th January, 2011. According to the inspection report, the Revenue representatives, after studying the process, depicted in the form of a flow chart at Annexure E to that report, concluded that process did amount to manufacture of a new item, with distinct name, identity and use. The report further mentions that in the majority of cases, processing would be on job work basis wherein the applicant would get the raw material in the form of silver / gold / platinum granules or bars from their clients and would supply the finished articles as per customer requirements back to the customer. Only in very rare cases would applicant be procuring raw material itself for its conversion into final articles such as jewelry and effect sales to their customers.

6. In its own submissions contained in the application, the view expressed by the applicant is that the process undertaken by them amounts to manufacture and that articles manufactured by them would be liable for Central Excise duty.

7. We have considered the matter. It is clear that the processes undertaken by the applicant result in the emergence of goods which have their own distinct character, identity and use. The activities of the applicant, therefore, clearly meet the definition of

manufacture beyond any shadow of doubt. The department's findings as well as the applicant's views also converge on the same conclusion.

8. We are constrained to observe, however, that question 1, as formulated by the applicant, is a trifle confusing. It seeks a ruling on whether the processes proposed to be undertaken by them amount to "manufacture" or "job work" – the apparent underlying premise being that if it is one then it cannot be the other. This premise appears to us to be unfounded. It cannot be that where an activity is undertaken on job work basis, it would be precluded from being considered as manufacturing. It is not as though the two are mutually exclusive. If in a given transaction, the raw material is supplied by the customer and the applicant charges only its making charges, it could well be a case of manufacture on job work basis. It is, therefore, our understanding that what the question seeks an answer to is whether the activities amount to 'manufacture'. It is on that basis we are ruling on the questions.

9. Accordingly, we rule as follows:

- (a) Question 1 is answered in the affirmative i.e. the activities referred to in the application amount to manufacture for the purpose of Central Excise Act, 1944.
- (b) Consequently, question 2 is also answered in affirmative i.e. the goods in question would be liable to duties of excise at the appropriate rate(s) as specified in the Central Excise Tariff Act, 1985 read with any applicable notifications issued under Central Excise Act, 1944.

10. Pronounced on this day, the 1st of June, 2012.

Sd/-
(Y.G.Parande)
Member

Sd/-
(P.K.Balasubramanyan)
Chairman