

# Hallmarking Alert!

Can anyone be held responsible for another's person's crime? Would this not be unconstitutional? Surprisingly, the BIS Act proposes this. Furthermore, it goes against the basic tenet of 'Ease of Doing Business', as it proposes duplication of work; it takes us back to the era of 'license raj' by requiring a license to sell hallmarked jewellery. The United Kingdom introduced hallmarking 700 years ago and there is much to learn from them. The system of hallmarking introduced in the UK promotes trade, while ensuring customers are protected from under-caratage. Given their long history of hallmarking, the proposal to introduce hallmarking in India should use the UK as a benchmark and learn from them, to avoid any inconvenience to the trade. Unfortunately, a closer look at the two systems suggests otherwise.

A disclaimer needs to be made before getting into this article: Hallmarking is a good idea and is certainly needed in India. The concern at hand is to ensure that trade is not negatively impacted under the guise of 'customer protection', which, might I add, is extremely important. (But to do so in a fashion which supports trade and which the entire industry embraces, as has been successfully done in the United Kingdom).

While hallmarking is essential, making it mandatory may prove to be a huge mistake in the current infrastructure. But can I inject a word of caution without being vilified? Or without the reader presuming that I sell under-caratage jewellery, thus am opposed to it? This article is on a subject-matter which is extremely delicate, as any opposing voice shall be deemed malafide. Nonetheless, I shall attempt to dissent and hope to keep my reputation intact.

What is hallmarking of gold jewellery? Does it guarantee the purity of the jewellery? The answer is 'no'. Hallmarking is a process undertaken on a 'sample-testing' basis, thus there is no guarantee that the item hallmarked is as marked. Guarantee of purity can only be given if the jewellery piece is melted and the purity verified, (this is called, fire-testing'), thereafter, but this is obviously not possible as it would destroy all the pieces awaiting hallmarking. The entire hallmarking process is dependent on the Assaying & Hallmarking Centre, (AHC), carrying out random checks, thus if a hundred items are to be hallmarked, a

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small number of pieces are melted, and their purity is ascertained. If the purity is found to be appropriate, the balance pieces are hallmarked accordingly. As you would agree, mistakes are possible. For example, what if the AHC does not carry out the fire-testing on the number of pieces as recommended? What is most disappointing is that the BIS Act, 2016 proposes to hold the seller responsible for any under-caratage. This is absurd as it holds the seller responsible for the AHC's action. Incidentally, in the United Kingdom, the AHC is solely responsible for any under-caratage, as it is the AHC which determines the purity of the ornament. Can this proposal be legally upheld within the



constitution of our country?

According to the Gold Control Act, a license was needed to sell jewellery. The government realised its folly and abolished the Act in 1990, after which any entity was permitted to enter the gold industry. Quite frankly, requiring a license for conducting any business may seem ludicrous today. Sadly, the BIS Act requires all manufacturers and sellers of hallmarked jewellery to obtain a license to conduct their trade. If this is not regressive, what is?

Juxtapose this against the hallmarking laws of the United Kingdom and you would find that their aim is merely to promote hallmarking of jewellery. Period. A nominal fee is payable to the AHC by the person sending the jewellery for hallmarking, (referred to as the 'Sponsor'), which is used for making the stamp and, once stamped, it may be sold by any person or entity. The hallmarking stamp carries the identity of the Sponsor, thereby creating a trail for verification, if needed.

The irony of the situation is that selling hallmarked jewellery requires a license while selling of non-hallmarked jewellery has no such stipulation. Given the

proclivity of businesspeople to avoid government interference, is this not a discouragement for voluntarily choosing hallmarking? Does the BIS department really need this revenue? And at what cost? Would this not choke trade? Let's not forget that the gold industry is constituted 90-95% by MSMEs. Do they really have the wherewithal to obtain a license?

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In the beginning of his tenure, the Hon'ble Prime Minister spoke at length about 'Ease of Doing Business' and how it is essential that entrepreneurs be permitted to ply their trade rather than be bogged down by needless legislative requirements. The BIS Act is the antithesis of this entire concept. The Sponsor, in addition to the AHC, is required to maintain the accounts of the hallmarked items. Is this not duplication of work? Why is this needed? Incidentally, in the United Kingdom only the AHC maintains accounts of the hallmarked items and there is no such requirement for the Sponsor to do so.

Rather than focussing on ensuring the purity to be appropriate, the BIS Act has laid out what the preference of the consumer should be, which is absurd. The United Kingdom permits the sale of all purities and the AHC is confined to ensuring that the purity which is claimed at the time of sale is so, which is exactly where the focus should lie.

The BIS Act recommends that only 22 ct, 18 ct and 14 ct jewellery be sold in India. It does not take into cognizance the fact that people in Punjab prefer 23 ct jewellery and in Madhya Pradesh like 20 ct jewellery. Furthermore, export surplus of 21 ct jewellery which was intended for

the Middle East is now longer permitted to be sold nationally. Jewellery of low caratage, i.e. 9 ct or 10 ct jewellery, is no longer permissible for sale in the country either. Why is this so?

There is a proposition to make hallmarking mandatory throughout the nation, as has been recently reported in the news. While the concept of mandatory hallmarking is certainly welcome, is there enough infrastructure to support this? More than 80% of all hallmarking centres are in Mumbai and Delhi. The North Eastern states have one or two AHCs, if at all. Given that 60% of gold jewellery is sold in rural areas, (as per RBI and the NITI Aayog gold report), do all rural areas have AHCs? If not, would trade not be suffocated? Naysayers may argue that most jewellers located in smaller towns come to the metros to purchase their jewellery and sell it in rural areas thereafter. Is this then to say that there is no manufacturing activity in cities and towns outside metros?

The number of stamps on the ornament is another contentious issue. The BIS stamp, AHC stamp, Sponsor stamp, purity stamp and the purity in % terms' stamp need to be stamped on the ornament. This is a total of five stamps on each ornament. First off, this shall compromise the design of the ornament, as customers choose to buy jewellery which pleases their eye and is aesthetically well made. Why the BIS stamp, purity and % terms' stamp is needed is simply confounding. The United Kingdom merely places three stamps on each ornament, the AHC, Sponsor and the purity stamp. This reduces the size of the stamp and serves the intended purpose of informing the customer of the purity that is being sold. Compromising design for hallmarking cannot, and should not, be permitted, as it shall deter a customer from choosing the ornament itself.

Despite being rather critical of the BIS Act, I am a great supporter of hallmarking and feel that it should be introduced in the country. It is an essential step and

one that needs to be implemented at the earliest. However, to do so in the current manner would be a huge mistake, as the current legislation is not progressive and shall debilitate trade. It is critical that the infrastructure be developed before embarking on such an endeavour. Hallmarking is a step for further quality control for the manufacturer. It would be harsh, and inappropriate, to presume that every manufacturer and seller of jewellery are malafide in intention. Truth be told, most jewellers are honourable and integrous, which is supported by their very existence, as being otherwise would reduce their business.

NITI Aayog published "Transforming India's Gold Industry" under the aegis of Mr Ratan P Watal, Principal Advisor, NITI Aayog and Member-Secretary, Economic Advisory Council to the Prime Minister. The Report had representation from all stakeholders of the industry, including industry members as well as officials from various Ministries. The Report was welcomed by the industry and lauded as a path-breaking one, as it laid out a roadmap for the gold industry for the first time in independent India. Everything that has been mentioned in this article has been recommended in the Watal Committee Report. It is now for the government officials to inculcate the recommendations of the Report and to introduce hallmarking in India on internationally accepted lines. This would help the industry grow and make India the global destination for gold jewellery, as aspired in the Watal Committee Report.

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