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Important Changes in GST w.r.t Foods industry w.e.f July 18, 2022

Earlier, there was exemption from GST on Unbranded or Branded Commodities where right on the brand has been foregone which has been done away w.e.f July 18, 2022, and now GST exempted only when it is not a pre-package and labelled commodities.

Now, GST leviable on pre-package and labelled commodities, on which declaration is required under Legal Metrology Act, 2009 and rules made there under and the concept of branded or unbranded has been done away with.

For example, items like pulses, cereals like rice, wheat, and flour (aata), etc., earlier attracted GST at the rate of 5% when branded and packed in unit container. W.e.f. July 18, 2022, these items would attract GST when "pre-packaged and labelled". Additionally, certain other items such as Curd, Lassi, puffed rice etc., when "pre-packaged and labelled" would attract GST @ 5% with effect from July 18, 2022.

The expression 'pre-packaged and labelled' has been defined as:

"a 'pre-packaged commodity' as defined in clauses (l) of section 2 of the Legal Metrology Act, 2009 (1 of 2010) where, the package in which the commodity is pre-packed or a label securely affixed thereto is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made thereunder."

Thus, supply of such specified commodity having the following two attributes would attract GST:

- i. It is pre-packaged; and
- ii. It is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made thereunder.

However, if such specified commodities are supplied in a package that do not require declaration(s)/compliance(s) under the Legal Metrology Act, 2009, and the rules made thereunder, the same would not be treated as pre-packaged and labelled for the purposes of GST levy.

It is to be noted that Section 2(l) of the Legal Metrology Act, 2009 defines 'pre-packed commodity' as under:

"(l) "pre-packaged commodity" means a commodity which without the purchaser being present is placed in a package of whatever nature, whether sealed or not, so that the product contained therein has a pre-determined quantity;"

Further, the definition of retail package and wholesale package is defined in the chapter II (retail sale) and III (wholesale) of the Legal Metrology (Packaged Commodities) Rules, 2011:

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2(k) "retail package" means the packages which are intended for retail sale to the ultimate consumer for the purpose of consumption of the commodity contained therein and includes the imported packages:

Provided that for the purpose of "retail food package", the definition of the same contained in the rules or regulations made under the Food Safety and Standards Act, 2006 (34 of 2006) shall apply

2(l) "retail sale", in relation to a commodity, means the sale, distribution or delivery of such commodity through retail sales shops, agencies or other instrumentalities for consumption by an individual or a group of individuals or any other consumer

(r) "wholesale package" means a package containing-

(i) a number of retail packages, where such first mentioned package is intended for sale, distribution or delivery to an intermediary and is not intended for sale direct to a single consumer; or

(ii) a commodity sold to an intermediary in bulk to enable such intermediary to sell, distribute or deliver such commodity to the consumer in similar quantities; or

(iii) packages containing ten or more than ten retail packages provided that the retail packages are labeled as required under the rules."

Specific Exclusion from levy of GST when:

- Packages of commodities containing quantity of more than 25 kilogram or 25 litre;
- Cement, fertilizer, and agricultural farm produce sold in bags above 50 kilograms; and
- Packaged commodities meant for industrial consumers or institutional consumers

Certain important clarifications and illustrations:

- Supply of pre-packed atta meant for retail sale to ultimate consumer of 25 Kg shall be liable to GST. However, supply of such pack of 30 Kg thereof shall be exempt from levy of GST.
- Single package of these items [cereals, pulses, flour etc.] containing a quantity of more than 25 Kg/25 litre would not fall in the category of pre-packaged and labelled commodity for the purposes of GST and would therefore not attract GST.
- If several packages intended for retail sale to ultimate consumer, say 10 packages of 10 Kg each, are sold in a larger pack, then GST would apply to such supply. Such package may be sold by a manufacturer through distributor. These individual packs of 10 Kg each are meant for eventual sale to retail consumer.

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- A package of say rice containing 50 Kg (in one individual package) would not be considered a pre-packaged and labelled commodity for the purposes of GST levy, even if Rule 24 of Legal Metrology (Packaged Commodities) Rules, 2011, mandates certain declarations to be made on such wholesale package.
- X' is a rice miller who sells packages containing 20 kg rice but not making the required declaration under legal metrology Act and the Rules made thereunder (although the said Act and the rules requires him/her to make a declaration), such packages would be considered as pre-packaged and labelled commodity for the purposes of GST as it requires making a declaration under the Legal Metrology (Packaged Commodities) Rules, 2011 (rule 6 thereof). Hence, miller 'X' would be required to pay GST on supply of such package(s).

At what stage, GST would apply on such supplies:

GST would apply whenever a supply of such goods is made by any person, i.e. manufacturer supplying to distributor, or distributor/dealer supplying to retailer, or retailer supplying to individual consumer. Further, the manufacturer/wholesaler/retailer would be entitled to input tax credit on GST charged by his supplier in accordance with the Input Tax Credit provisions in GST.

A supplier availing threshold exemption or composition scheme would be entitled to exemption or composition rate, as the case may be, in usual manner.

Important Notification for effecting changes in GST:

Changes particularly in respect of food items like pulses, flour, cereals, etc. (specified items falling under the Chapters 1 to 21 of the Tariff), as has been notified vide **Notification No. 6/2022-Central Tax (Rate), dated July 13, 2022** by amending **Notification No. 01/2017- CGST Rate Schedule Central Tax (Rate) dated June 28, 2017** ("the Goods Rate Notification") and the corresponding notifications issued for SGST/ UTGST and IGST.

Schedule I – 5%

S. No.	Chapter/ Heading	Particulars
1.	0202, 0203, 0204, 0205, 0206, 0207, 0208, 0209, 0210	All goods, other than fresh or chilled, pre-packaged and labelled.
2.	0303, 0304, 0305, 0306, 0307, 0308, 0309	All goods, other than fresh or chilled and, pre-packaged and labelled.

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9A.	0403	Curd, Lassi, Butter milk, pre-packaged and labelled.
11.	0406	Chena or paneer, pre-packaged and labelled.
13.	0409	Natural honey, pre-packaged and labelled.
16.	0504	All goods, other than fresh or chilled, pre-packaged and labelled.
25.	0713	Dried leguminous vegetables, shelled, whether or not skinned or split, pre-packaged and labelled.
26.	0714	Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, frozen, whether or not sliced or in the form of pellets, pre-packaged and labelled.
30.	08	Dried makhana, whether or not shelled or peeled, pre-packaged and labelled.
45.	10	All goods i.e. cereals, pre-packaged and labelled
46.	1001	Wheat and meslin, pre-packaged and labelled.
47.	1002	Rye, pre-packaged and labelled.
48.	1003	Barley, pre-packaged and labelled.
49.	1004	Oats, pre-packaged and labelled.
50.	1005	Maize (corn), pre-packaged and labelled.
51.	1006	Rice, pre-packaged and labelled.
52.	1007	Grain sorghum, pre-packaged and labelled.
53.	1008	Buckwheat, millet and canary seed; other cereals such as Jawar, Bajra, Ragi, pre-packaged and labelled.
54.	1101	Wheat or meslin flour, pre-packaged and labelled.
55.	1102	Cereal flours other than of wheat or meslin, maize (corn) flour, Rye flour, etc., pre-packaged and labelled.
56.	1103	Cereal groats, meal and pellets, including suji and dalia, pre-packaged and labelled.
58.	1105	Meal, powder, Flour flakes, granules and pellets of potatoes pre-packaged and labelled.
59.	1106	Meal and powder of the dried leguminous vegetables of heading 0713 (pulses) other than guar meal 1106 10 10 and guar gum refined split 0713, of sago or of roots or tubers of heading 0714 or of the products of Chapter 8 pre-packaged and labelled.
101A	210690	Namkeens, bhujia, mixture, chabena and similar edible preparations in ready for consumption form, other than those pre-packaged and labelled
182.	3101	All goods i.e. animal or vegetable fertilisers or organic fertilisers, pre-packaged and labelled.
215.	5305 to 5308	All goods other than coconut coir fibre including yarn of flax, jute, other textile bast fibres, other vegetable textile fibres; paper yarn, including coir pith compost, pre-packaged and labelled

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Schedule II – 12%

S. No.	Chapter/Heading	Particulars
41A	2009 89 90	Tender coconut water, pre-packaged and labelled.
46.	2106 90	Namkeens, bhujia, mixture, chabena and similar edible preparations in ready for consumption form [other than roasted gram], pre-packaged and labelled

Further, the CBIC vide **Notification No. 07/2022-Central Tax (Rate) dated July 13, 2022** has issued amendments in the Goods Exemption Notification No. **02/2017-Central Tax (Rate)** so as to withdraw exemption on certain specified food items, grains etc., in the following manner:

S. No.	Chapter/Heading	Particulars
9.	0202, 0203, 0204, 0205, 0206, 0207, 0208, 0209, 0210	All goods, other than fresh or chilled, other than pre-packaged and labelled.
22.	0303, 0304, 0305, 0306, 0307, 0308, 0309	All goods, other than fresh or chilled and, other than pre-packaged and labelled.
26.	0403	Curd, Lassi, Butter milk, other than pre-packaged and labelled.
27.	0406	Chena or paneer, other than pre-packaged and labelled.
29.	0409	Natural honey, other than pre-packaged and labelled.
30B.	0504	All goods, other than fresh or chilled, other than pre-packaged and labelled.
45.	0713	Dried leguminous vegetables, shelled, whether or not skinned or split, other than pre-packaged and labelled.
46A	0714	Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, frozen, whether or not sliced or in the form of pellets, other than pre-packaged and labelled.
46B	08	Dried makhana, whether or not shelled or peeled, other than pre-packaged and labelled.
65.	1001	Wheat and meslin, other than pre-packaged and labelled.
66.	1002	Rye, other than pre-packaged and labelled.
67.	1003	Barley, other than pre-packaged and labelled.
68.	1004	Oats, other than pre-packaged and labelled.
69.	1005	Maize (corn), other than pre-packaged and labelled.

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70.	1006	Rice, other than pre-packaged and labelled.
71.	1007	Grain sorghum, other than pre-packaged and labelled.
72.	1008	Buckwheat, millet and canary seed; other cereals such as Jawar, Bajra, Ragi, other than pre-packaged and labelled.
73.	1101	Wheat or meslin flour, other than pre-packaged and labelled.
74.	1102	Cereal flours other than of wheat or meslin, maize (corn) flour, Rye flour, etc., other than pre-packaged and labelled.
75.	1103	Cereal groats, meal and pellets, other than pre-packaged and labelled.
77.	1105	Flour, powder, flakes, granules or pellets of potatoes, other than pre-packaged and labelled.
78.	1106	Flour, of the dried leguminous vegetables of heading 0713 (pulses) , other than guar meal 1106 10 10 and guar gum refined split 1106 10 90, of sago or of roots or tubers of heading 0714 or of the products of Chapter 8 i.e. of tamarind, of singoda, mango flour, etc., other than pre-packaged and labelled.
94.	1701 or 1702	Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery; Khandsari Sugar, other than pre-packaged and labelled.
95.	1904	Puffed rice, commonly known as Muri, flattened or beaten rice, commonly known as Chira, parched rice, commonly known as khoi, parched paddy or rice coated with sugar or gur, commonly known as Murki, other than pre-packaged and labelled.
97A	2009 89 90	Tender coconut water, other than pre-packaged and labelled.
108.	3101	All goods and organic manure, other than pre-packaged and labelled.
132A	53	Coir pith compost, other than pre-packaged and labelled

To know more, kindly watch video on “What is Pre-packaged and Labelled Commodity for levy of GST || CA Bimal Jain” at following link: https://youtu.be/IL1Dj_nGobE

To know further, kindly watch video on “Important Clarification on levy of GST on Pre-packaged Commodities - FAQ || CA Bimal Jain” at following link: <https://www.youtube.com/watch?v=OBPOZTcBi1o&t=1s>

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