

18<sup>th</sup> July 2022

### **FAQs on GST applicability on 'pre-packaged and labelled' goods**

The changes relating to GST rate, in pursuance of recommendations made by the GST Council in its 47<sup>th</sup> meeting, came into effect from 18<sup>th</sup> of July, 2022. One such change is moving from imposition of GST on specified goods when bearing a registered brand or brand in respect of which an actionable claim or enforceable right in a court of law is available to imposition of GST on such goods when "pre-packaged and labelled".

Certain representations have been received seeking clarification on the scope of this change, 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 the 13<sup>th</sup> of July, 2022, and the corresponding notifications for SGST and IGST. Following are the Frequently Asked Questions (FAQ) to clarify certain doubts/queries regarding the GST levy on 'pre-packaged and labelled' goods which came into effect from 18<sup>th</sup> of July, 2022:

<b>S. No.</b>	<b>Question</b>	<b>Clarification</b>
1.	What change has been made with respect to packaged and labelled commodity with effect from the 18 <sup>th</sup> July, 2022?	Prior to 18 <sup>th</sup> of July, 2022, GST applied on specified goods when they were put up in a unit container and were bearing a registered brand name or were bearing brand name in respect of which an actionable claim or enforceable right in a court of law is available. With effect from the 18 <sup>th</sup> July 2022, this provision undergoes a change and GST has been made applicable on supply of such "pre-packaged and labelled" commodities attracting the provisions of Legal Metrology Act, as detailed in subsequent questions. 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 (as mentioned above). With effect from 18.7.2022, these items would attract GST when "prepackaged and labelled". Additionally, certain other items such as Curd, Lassi, puffed rice etc. when "prepackaged and labelled" would attract GST at the rate of 5% with effect from the 18 <sup>th</sup> July, 2022.

		<p>Essentially, this is a change in modalities of imposition of GST on branded specified goods to “pre-packaged and labelled” specified goods.</p> <p>[Please refer to notification No. 6/2022-Central Tax (Rate) and corresponding notification under respective SGST Act, IGST Act]</p>
<p>2.</p>	<p>What is the scope of ‘pre-packaged and labelled’ for the purpose of GST levy on food items like pulses, cereals, and flours?</p>	<p>For the purposes of GST, the expression ‘pre-packaged and labelled’ means a ‘pre-packaged commodity’ as defined in clause (l) of section 2 of the Legal Metrology Act, 2009, 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 and the rules made thereunder.</p> <p>Clause (l) of section 2 of the Legal Metrology Act reads as below:</p> <p>(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.</p> <p>Thus, supply of such specified commodity having the following two attributes would attract GST:</p> <ul style="list-style-type: none"> <li>(i) It is pre-packaged; and</li> <li>(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.</li> </ul> <p>However, if such specified commodities are supplied in a package that do not require declaration(s)/compliance(s) under the Legal Metrology Act, 2009 (1 of 2010), and the rules made thereunder, the same would not be treated as pre-packaged and labelled for the purposes of GST levy</p>

		<p>In the context of food items (such as pulses, cereals like rice, wheat, flour etc), the supply of specified pre-packaged food articles would fall within the purview of the definition of 'pre-packaged commodity' under the Legal Metrology Act, 2009, and the rules made thereunder, if such pre-packaged and labelled packages contained a quantity upto 25 kilogram [or 25 litre] in terms of rule 3(a) of Legal Metrology (Packaged Commodities) Rules, 2011, subject to other exclusions provided in the Act and the Rules made thereunder.</p>
3.	<p>What is the scope of this coverage taking into account various exclusion(s) provided under the Legal Metrology Act and the rules made thereunder?</p>	<p>For such commodities (food items- pulses, cereals, flour, etc.), rule 3 (a) of Chapter-II of Legal Metrology (Packaged Commodities) Rules, 2011, prescribes that package of commodities containing quantity of more than 25 kg or 25 litre do not require a declaration to be made under rule 6 thereof. Accordingly, GST would apply on such specified goods where the pre-packaged commodity is supplied in packages <b>containing quantity of less than or equal to 25 kilogram.</b></p> <p>Illustration: Supply of pre-packed atta meant for retail sale to ultimate consumer of 25 Kg shall be liable to GST. However, supply of such a 30 Kg pack thereof shall be exempt from levy of GST.</p> <p><b>Thus, it is clarified that a 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.</b></p>
4.	<p>Whether GST would apply to a package that contains multiple retail packages. For example, a package containing 10 retail packs of flour of 10 Kg each?</p>	<p>Yes, 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</p>

		<p>individual packs of 10 Kg each are meant for eventual sale to retail consumer.</p> <p>However, 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.</p>
5.	<p>At what stage would GST apply on such supplies, i.e., whether GST would apply on specified goods sold by manufacturer/producer to wholesale dealer who subsequently sells it to a retailer?</p>	<p>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.</p> <p>A supplier availing threshold exemption or composition scheme would be entitled to exemption or composition rate, as the case may be, in usual manner.</p>
6.	<p>Whether tax is payable if such goods are purchased in packages of up to 25 kg/25liters by a retailer, but the retailer sells it in loose quantities in his shop for any reason?</p>	<p>GST applies when such goods are sold in pre-packaged and labelled packs. Therefore, GST would apply when prepackaged and labelled package is sold by a distributor/ manufacturer to such retailer. However, if for any reason, retailer supplies the item in loose quantity from such package, such supply by retailer is not a supply of packaged commodity for the purpose of GST levy.</p>
7.	<p>Whether tax is payable if such packaged commodities are supplied for consumption by industrial consumers or institutional consumers?</p>	<p>Supply of packaged commodity for consumption by industrial consumer or institutional consumer is excluded from the purview of the Legal Metrology Act by virtue of rule 3 (c) of Chapter-II of Legal Metrology (Packaged Commodities) Rules, 2011. Therefore, if supplied in such manner as to attract exclusion provided under the said rule 3(c),it will not be considered as pre-</p>

		packaged and labelled for the purposes of GST levy.
8.	'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), would it still be considered as pre-packaged and labelled and therefore be liable to GST?	Yes, 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).
9.	Any other relevant issue?	The Legal Metrology Act and the rules made thereunder prescribe criterion(s) for exclusion (as stated above) and provides certain exemptions under rule 26 of Legal Metrology (Packaged Commodities) Rules, 2011. It is reiterated therefore that, if supplied in such manner as to attract exclusion, or such exemption, the item shall not be treated as pre-packaged commodities for the purposes of GST levy.

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