

## GOODS & SERVICES TAX / IDT UPDATE-170

### 1) Powers of Superintendent of Central tax assigned to Additional Assistant Directors in DGGSTI, DGGST and DG Audit

[Notification No. 01/2023-CT dt. 04.01.2023](#) has amended *Notification No. 14/2017-CT dated 01.07.2017* to assign the powers of Superintendent to Additional Assistant Director, GST Intelligence or Additional Assistant Director, GST or Additional Assistant Director, Audit.

### 2) Clarification regarding GST rates and classification of certain goods based on the recommendations of the 48<sup>th</sup> GST Council meeting

#### a) Rab -classifiable under Tariff heading 1702

It has been stated that under the U.P. Rab (Movement Control Order), 1967, "Rab" means 'massecuite prepared by concentrating sugarcane juice on open pan furnaces, and includes Rab Galawat and Rab Salawat, but does not include khandsari molasses or lauta gur.' Although, a product of sugarcane, Rab exists in semi-solid/liquid form, and is thus not covered under heading 1701. The Hon'ble Supreme Court in its order in *Krishi Utpadan Mandi Samiti vs. M/s Shankar Industries and others [1993 SCR (1)1037]* has distinguished Rab from Molasses. Thus, Rab being distinguishable from molasses is not classifiable under heading 1703.

Accordingly, it has been hereby clarified that Rab is appropriately classifiable under heading 1702 attracting GST rate of 18% (S. No. 11 in Schedule III of *Notification No. 1/2017-CT(R) dt. 28.06.2017*).

#### b) Applicability of GST on by-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi/Chuni

The GST Council in its 48<sup>th</sup> meeting had recommended to fully exempt the supply of subject goods, irrespective of its end use. Hence, with effect from 1<sup>st</sup> January, 2023, the said goods are exempt under GST vide s. no. 102C of schedule of *Notification No. 2/2017-CT(R) dt. 28.06.2017*.

Further, as per recommendation of the GST Council, in view of genuine doubts regarding the applicability of GST on subject goods, matters that arose during the intervening period are hereby regularized on "as is" basis from the date of issuance of [Circular No. 179/11/2022-GST dt. 03.08.2022](#), till the date of coming into force of the above-said s. no. 102C and the entries relating thereto. This is in addition to the matter regularized on 'as is' basis vide para 8.6 of the said Circular.

#### c) Clarification regarding 'Carbonated Beverages of Fruit Drink' or 'Carbonated Beverages with Fruit Juice

On the basis of the recommendation of the GST council in its 45<sup>th</sup> meeting, a specific entry has been created in *Notification No. 1/2017-Central Tax (Rate), dated the 28<sup>th</sup> June, 2017* and *Notification No. 1/2017-Compensation Cess (Rate), dated the 28<sup>th</sup> June, 2017*, vide S. No. 12B in Schedule IV and S. No. 4B in Schedule respectively, with effect from 1<sup>st</sup> October, 2021, for goods with description ‘Carbonated Beverages of Fruit Drink’ or ‘Carbonated Beverages with Fruit Juice’.

It has been clarified that the applicable six-digit HS code for the aforesaid goods with description ‘Carbonated Beverages of Fruit Drink’ or ‘Carbonated Beverages with Fruit Juice’ is HS 2202 99. The said goods attract GST at the rate of 28% and Compensation Cess at the rate of 12%. The s. nos. 12B and 4B mentioned in Para 4.2 cover all such carbonated beverages that contain carbon dioxide, irrespective of whether the carbon dioxide is added as a preservative, additive, etc.

In order to bring absolute clarity, an exclusion for the above-said goods has been provided in the entry at s. no. 48 of Schedule-II of [Notification No. 1/2017-CT\(R\) dt. 28.06.2017](#) vide [Notification No. 12/2022-CT \(R\) dated the 30<sup>th</sup> December, 2022](#).

**d) Applicability of GST on Snack pellets manufactured through extrusion process (such as ‘fryums’)**

It has been clarified that the snack pellets (such as ‘fryums’), which are manufactured through the process of extrusion, are appropriately classifiable under tariff item 1905 90 30, which covers goods with description ‘Extruded or expanded products, savoury or salted’, and thereby attract GST at the rate of 18% vide s. no. 16 of Schedule-III of [Notification No. 1/2017-CT\(R\) dt. 28.06.2017](#).

**e) Applicability of Compensation cess on Sports Utility Vehicles (SUVs)**

It has been clarified that Compensation Cess at the rate of 22% is applicable on Motor vehicles, falling under heading 8703, which satisfy all four specifications, namely these are popularly known as SUVs; the engine capacity exceeds 1,500 cc; the length exceeds 4,000 mm; and the ground clearance is 170 mm and above.

This clarification is confined to and is applicable only to Sports Utility Vehicles.

**f) Applicability of IGST rate on goods specified under [Notification No. 3/2017-IT\(R\)](#)**

On the basis of the recommendation of the GST Council in its 47<sup>th</sup> Meeting, held in June 2022, the GST rate has been increased from 5% to 12% on goods, falling under any Chapter, specified in the list annexed to the *Notification No. 3/2017-IT(R) dated the 28<sup>th</sup> June, 2017*, when imported for the specified purpose (like Petroleum operations/Coal bed methane operations) and subject

to the relevant conditions prescribed in the said notification. However, some goods specified in the list annexed to *Notification No. 3/2017-IT(R), dated the 28<sup>th</sup> June, 2017*, are also eligible for a lower schedule rate of 5% by virtue of their entry in Schedule I of [Notification No. 1/2017-IT\(R\) dated the 28<sup>th</sup> June, 2017](#).

Accordingly, it has been hereby clarified that on goods specified in the list annexed to the *Notification No. 3/2017-IT(R), dated the 28<sup>th</sup> June, 2017*, which are eligible for IGST rate of 12% under the said notification and are also eligible for the benefit of lower rate under Schedule I of the *Notification No. 1/2017-IT(R), dated the 28<sup>th</sup> June, 2017* or any other IGST rate notification, the importer can claim the benefit of the lower rate.

[Circular No. 189/01/2023-GST dt. 13.01.2023](#)

### **3) Clarifications regarding applicability of GST on certain services**

#### **a) Applicability of GST on accommodation services supplied by Air Force Mess to its personnel**

It has been clarified that accommodation services provided by Air Force Mess and other similar messes, such as, Army mess, Navy mess, Paramilitary and Police forces mess to their personnel or any person other than a business entity are covered by Sl. No. 6 of [Notification No. 12/2017 -CT\(R\) dated 28.06.2017](#) provided the services supplied by such messes qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority.

#### **b) Applicability of GST on incentive paid by MeitY to acquiring banks under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions**

Under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions, the Government pays the acquiring banks an incentive as a percentage of value of RuPay Debit card transactions and low value BHIM-UPI transactions up to Rs.2000/-.

The Payments and Settlements Systems Act, 2007 prohibits banks and system providers from charging any amount from a person making or receiving a payment through RuPay Debit cards or BHIM-UPI.

The service supplied by the acquiring banks in the digital payment system in case of transactions through RuPay/BHIM UPI is the same as the service that they provide in case of transactions through any other card or mode of digital payment. The only difference is that the consideration for such services, instead of being paid by the merchant or the user of the card, is paid by the central government in the form of incentive. However, it is not a consideration paid by the Central Government for any service supplied by the acquiring bank to the Central Government. The incentive is in the nature of a subsidy directly linked to the price of the service and the same does not form part of the taxable value

of the transaction in view of the provisions of section 2(31) and section 15 of the CGST Act, 2017.

As recommended by the Council, it has been hereby clarified that incentives paid by MeitY to acquiring banks under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable.

[Circular No. 190/02/2023-GST dt. 13.01.2023](#)

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