

# INDIRECT TAX

## Weekly Digest

19 January 2022  
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## GOODS & SERVICES TAX

### JUDICIAL UPDATES

#### ORDERS BY AUTHORITY FOR ADVANCE RULING (AAR)

##### Conditions specified for GST exemption should be complied with to avail such benefit

###### Facts of the Case

- M/s Golconda Hospitality Services and Resorts Limited ("Taxpayer") is in the business of providing accommodation and related hospitality services. The taxpayer has provided certain services to officials of a local authority;
- In this regard, taxpayer intends to know whether benefit of exemption from levy of GST would be available on said services provided to officials of a local authority.

###### Question Before the AAR

Whether services provided to officials of a local authority would be covered under the ambit of entry no:3 of notification no:12/2017-CT(R) dated 28 June 2017 ("exemption notification")?

###### Contention of the Taxpayer

The taxpayer submitted that GST should not be levied on said services in view of Article 243W of the Constitution of India.

###### Observations and Ruling by the AAR

- The AAR observed that the functions to be discharged by the local authority by availing the services from the taxpayer, does not fall under the conditions to avail exemption benefit;
- Accordingly, exemption of levy of GST on accommodation services provided to officials of local authority is not

available, as the local authority will not perform the specified functions by availing these services.

[AAR-Telangana, M/s. Golconda Hospitality Services and Resorts Limited, TSAAR Order No.32/2021, A.R. Com/11/2021, Dated 29 December 2021]

##### Composite supply of service by way of milling of food grains into flour provided to Government Authority is exempted from GST

###### Facts of the case

- M/s Shiv Flour Mill ('Taxpayer') is engaged in business of selling flour (atta) and providing service of job work in crushing food grains supplied and owned by food & supplies department, Government of West Bengal;
- The taxpayer entered into an agreement with the District Controller of food and supplies, Kolkata, Government of West Bengal for the supply of forfeited whole meal Atta. The agreement states that the food and supplies department send the whole, unpolished food grain to the taxpayer. The taxpayer in turn returns the flour(atta) packed by fortifying the crushed grain with the vitamin as per the State Government's requirement.

###### Question before the AAR

- Whether the instant composite supply of service by way of milling of food grains into flour to food & supplies department, Govt. of West Bengal for distribution of such flour under public distribution system is eligible for exemption under entry no:3A of notification no:12/2017-CT(R) dated 28 June 2017?

- What shall be rate of GST on such milling, if it does not fall under entry no:3A?

#### Contention of the taxpayer

- The taxpayer stated that the flour is packed with the material procured by him and they are supplied in conjunction with each other in the ordinary course of business. Therefore, the supply of flour is said to be composite supply of goods and services;
- The taxpayer contended that the composite supply of the food grains into flour would be exempted from paying GST as per entry no:3A of the notification no:2/2018-CT(R) dated 25 January 2018;
- The taxpayer further stated that the value of goods in the above composite supply is 23.03% which is much lesser than 25% as specified in the entry no:3A of the notification no:12/2017-CT(R) dated 28 June 2017 and hence eligible to claim exemption;
- The taxpayer also stated that the said supply of service by way of job work in relation to food and food products falling under chapters 1 to chapter 22 in the first schedule to the Customs Tariff Act, 1975 would be taxable at the rate of 5% as per the notification no:11/2017-CT(R) dated 28 June 2017.

#### Observations and ruling by the AAR

- The AAR stated that the supply of flour by fortifying the crushed grain and adding vitamins would amount to composite supply, in terms of clause 30 of section 2 of the CGST Act, 2017;
- AAR also observed that the composite supply of flour to the food and supplies department would come under public distribution at entry no:28 of the 11th schedule to the Constitution, in terms of para 3.1 of the circular no:153/09/2021-GST dated 17 June 2021;
- Further, the AAR referred to the AAAR, Andhra Pradesh order in the matter of Sri Kanakadurga Rice and flour mill held that the value of by-products retained by the taxpayer shall also be included as value of supply;
- The AAR observed that the composite supply by the taxpayer by way of milling of food grains into flour, is not eligible for exemption under entry no:3A of notification no:12/2017-CT(R) dated 28 June 2017, if the value of goods has exceeded 25% of the value of composite supply, in terms of para 3.2 of circular no:153/09/2021-GST dated 17 June 2021;
- The AAR held that the composite supply of services is eligible for exemption under entry no:3A of the notification no:12/2017-CT(R) dated 28 June 2017 if the value of goods does not exceed 25% of the value of supply or if the value of goods exceeds 25% of the composite supply would be taxed @ 5% vide entry no:26 of the notification no:11/2017-CT(R) dated 28 June 2017.

*[GST-AAR- West Bengal, M/s Shiv Flour Mill, West Bengal Advance Ruling no:16/WBAAR/2021-22, Dated 31 December 2021]*

## FOREIGN TRADE POLICY (FTP)

### PUBLIC NOTICE

#### Inclusion in HBP of FTP 2015-20 to notify the procedure for GAEC

The DGFT has notified Paragraph 2.79G of HBP, which has been added in the Handbook of Procedures (HBP) of FTP 2015-20 to lay down the procedure for General Authorisation for Export of Chemicals and related equipment (GAEC).

*[Public Notice no:45/2015-20 dated 13 January 2022]*

#### Amendment in ports allowed to import metallic waste and scrap

The DGFT has notified that, import of metallic waste and scrap from 6 safe countries/region without PSIC is now permitted from 10 designated ports including through Hazira port and Kamarajar port. As a result, the total number of sea ports exempted for PSIC for import of metallic scrap under Para 2.54 of HBP have increased from existing 08 to 10.

*[Public Notice no:46/2015-20 dated 14 January 2022]*

### TRADE NOTICE

#### Guidelines for online submission of SCOMET license and post-reporting requirements for export of chemicals under GAEC

- DGFT has clarified that the one-time registration for obtaining General SCOMET license is required to be obtained from DGFT for export under GAEC separately for each category/sub-category falling under this policy;
- It would provide the exporters a unique authorization/license number for export of specified chemicals to any end user in 42 specified countries and 1E chemicals to Chemical Weapon Convention (CWC) signatory parties with a validity of 5 years;
- All such applications for one time Registration for obtaining GAEC SCOMET license are required to be filed and submitted through DGFT's online portal w.e.f. 19 January 2022;
- Post reporting of export of chemicals under GAEC permitted to specified countries, is also required to be filled through DGFT online post-reporting module for exports w.e.f. 19 January 2022.

*[Trade Notice no:30/2021-22 dated 13 January 2022]*

#### De-Activation of IECs not updated at DGFTs

- The DGFT has notified the third phase of deactivation of IECs which are not yet updated is being initiated;
- All IECs which have not been updated after 01 July 2020 shall be de-activated with effect from 01 February 2022;
- The concerned IEC holders are provided an opportunity to update their IEC in this interim period till 31 January 2022, failing which the given IECs shall be de-activated from 01 February 2022. Any IEC where an online updation application has been submitted but is pending with the DGFT RA for approval shall be excluded from the de-activation list;

- It may further be noted that any IEC so de-activated, would have the opportunity for automatic re-activation without any manual intervention or any visits to the DGFT RA. For IEC re-activation after 31 January 2022, the said IEC holder may navigate to the DGFT website and update their IEC online. Upon successful updation the given IEC shall be activated again and transmitted accordingly to Customs system with the updated status.

*[Trade Notice no:31/2021-22 dated 14 January 2022]*



## NEWS FLASH

- “Clothes to get costlier: 15-20% price rise likely this year, or even more if GST rates increase”  
<https://www.financialexpress.com/industry/clothes-to-get-costlier-15-20-price-rise-likely-this-year-or-even-more-if-gst-rates-increase/2406732/>  
 [Source: Financial Express, 14 January 2022]
- “Budget 2022 Podcast: Clear calls for reduced GST on insurance premiums, separate tax rebate on ELSS, mutual funds”  
<https://www.cnbctv18.com/personal-finance/budget-2022-podcast-clear-calls-for-reduced-gst-on-insurance-premiums-separate-tax-rebate-on-elss-mutual-funds-12112432.htm>  
 [Source: CNBC TV, 14 January 2022]
- “Extending GST compensation as a reform catalyst”  
<https://www.thehindu.com/opinion/lead/extending-gst-compensation-as-a-reform-catalyst/article38243062.ece>  
 [Source: The Hindu, 12 January 2022]
- “How real is the GST boost?”  
[https://www.business-standard.com/article/opinion/how-real-is-the-gst-boost-122011101645\\_1.html](https://www.business-standard.com/article/opinion/how-real-is-the-gst-boost-122011101645_1.html)  
 [Source: Business Standard, 12 January 2022]

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