



The Institute of Chartered Accountants of India

**THE INSTITUTE OF CHARTERED
ACCOUNTANTS OF INDIA
GST & INDIRECT TAXES COMMITTEE**

**Webinar on GST Implications in FMCG
Sector**

Date: 26-05-2026

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- Faceless Consumer (some sectors Ad Ban)
- Brand Power (trade mark & duplicates)
- Market ,Segment, Value & Volume Share
- Competitive pressures ; Pricing sensitivity
- GST taxing points inward and outward
- Changing preferences : Impact on Capital
- Key geographies and supply chain(“transit”)
- Interplay with Legal Metrology, FSSAI etc.
- Pricing ; impact on margins, trade relationships, and market strategy (freshness, availability, awareness)



- Volume vs Value dilemma ; food items, personal care goods, household products, and packaged consumables.
- Multiple layers viz. manufacturer, clearing and forwarding agents (CFAs), distributors, wholesalers, retailers, and finally consumers.
- E-commerce platforms, and direct-to-consumer (D2C) models
- Outsourcing manufacture; (illegal manufacture)



- Valuation, discounts, incentives, promotional schemes
- Classification of products : Classification of goods in 5% and 18% after rate restructuring w.e.f. 22nd September 2025. product composition or intended use may lead to different tax treatment
- Secondary discounts ; buy-one-get-one offers, free samples, volume-based incentives, determining taxable value and input tax credit adjustments.
- Principal-to-principal as well as agency models
- Valuation under section 15: pre-agreement and linkage to invoices. Section 15(3) of CGST Act, 2017 vide Finance Act, 2026 aims to liberalise the issue of post-sale discounts.



- Sin Goods (Comp Cess Nil Rated; MRP based)
- E-commerce and D2C models : introduced complexities relating to place of supply, intermediary involvement, and compliance obligations
- Complex process of proof for non existence of unjust enrichment in refund matters



Trade Schemes vs. Discounts vs. Supply

- Free samples and gifts are not supply except Schedule I activities; Sec 17(5)(h) attracted
- Buy one get one free offers: Eg. Toothbrush. Free of cost not supply u/s 7(1)(a). Two or more for single price (Composite or Mixed Supply); ITC available
- Discounts : Buy more save more; Year end; Secondary discount (Financial C/N) Dispute on ITC availed by the recipient distributor/retailer (non-payment of full consideration to supplier
- Dept Claims: Marketing services for Volume Disc.; Subsidy or third party consideration for Seasonal discount
- Cir No 92/11/2019 dt 7-3-2019(Para D may have to be altered)



Incentives vs. Trade discount vs. Supply

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- Incentive received under Intel Approved Component Supplier Program is not trade discount
- Taxable as services rendered
- (MEK Peripherals India Private Ltd : MH/AAAR/DS-RM/04/2023/2024 dt 13-6-2023)
- High compliance in case of post-supply discounts



Inclusion of disc. - Secondary sales

- Price adjustment or support by manufacturer to the distributor for reduction in price through financial credit notes is not consideration for the supply (*Supreme Paradise v Asst Com ST Mad HC : 2024(2)TMI 351(MHC)*)



ITC on Promotional items

- Trade Loyalty Schemes
- Distribution of various items for the trade
- Sanofi India Limited *2019(10)TMI 1388 (AAAR)*



Classification Issues

- Medicament vs Cosmetic (5% v 18%)
- Composite or Mixed supply(5% v 18%)
- Paper Bags (5% v 18%)
- Ready to drink beverages (5% v 40%)



Medicament vs Cosmetic (5% v 18%)

- Acne Clear Gel
 - Is it a medicament Sl No 234 Sch I * (HSN 3004)@5% or Cosmetic Sl No 61 Sch II (HSN 3304)* @ 18%
 - Composition: Clindamycin 1%; Niacinamide 4%
 - Clinically proven for acne Or is it for beauty or skin care
- * Nofn No 9/2025 CT ® dated 17-9-2025



Composite or Mixed supply(5% v 18%)

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- Bundle : Complete oral care kit
- Mouthwash bottles plus toothbrush
- Single price: S1 No 504 HSN 96032100 @5% : tooth brushes including dental plate brushes (Sch I Nofn No 9/2025-CT® dated 17-9-2025)
- S1 No 63 HSN 3306: Preparations for dental or oral hygiene incl denture fixative pastes and powders(other than toothpowder, toothpaste and yarn to clean between the teeth dental floss) @18% Sch II (Nofn No 9/2025-CT® dated 17-9-2025)



Paper Bags (5% v 18%)

- Sch I Nofn No 9/2025-CT® dated 17-9-2025) S1 No 319 (Chapter 39 or 48 Paper sacks/bags and bio-degradable bags) @5%
- Sch II Nofn No 9/2025-CT® dated 17-9-2025) S1 No 185 Goods of HSN 4819 except 481910 or 481920 other than cartons, boxes and cases of Corrugated or non Corrugated Paper or Board) @ 18%
- Paper Bags under HSN 4819 (No decision by AAR for lack of scientific evidence in M/s Sunita Kohli 2026-VIL-91-AAR-Raj)



Ready to drink beverages (5% v 40%)

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- Composition: Collagen Peptide and lemon with additive and preservatives
- Claims: Beverage for Skin health hydration & beauty from within
- FSSAI: Not aerated, caffeinated or carbonated
- HSN: 2106 : Food Preparation NES @5% : S1 No 145 Sch I (Nofn No 9/2025 CT® dated 17-9-2025
- HSN: 220210 : All Goods incl aerated waters containing added sugar or other sweetening matter or flavoured @40% S1 No 1 Sch III Nofn No 9/2025 CT ® dated 17-9-2025
- AAR holds that Black Mineral Water (no sweetener) Sch I S1 No 146 @ 5% (Oxy Hydra Beverages 2026-VIL-AAR-102-Guj)



- Credit Note mechanism not always suitable (SI No 3 Cir No 137/07/2020 dt.13-4-2020) and refund for excess payment Cir No 72/46/2018 dt 26-10-2018 in the case of pharma for time expired drugs or medicines
- Outside the time limits: tax is a cost



Place of Supply and Distribution

- Purchases online by unregd. person where place of delivery is different from the State of billing address- Sec 10(1)(ca) – IGST (Circular No 209/03/2024-GST dated 26-6-2024)
- Direct to Consumer (D2C models) ; online grocery/ quick commerce/dark store (*Flipkart AAR on GTA v Courier*)2026(2)TMI 582 :AAR (AAR says GTA while AAAR says Courier TS-339-AAAR(WB)-2026 GST
- ITC for e commerce : No reversal for supply under Sec 9(5) (Circ No 240/34/2024 dt 31-12-2024)



Time of Supply

- **Supply on approval basis:** Time of supply is Earlier of
 - Date of approval/acceptance by buyer, OR
 - 6 months from date of removal/despatch
- Goods taken for supply on approval basis can be moved to customer place within the same State or to outside the State on a delivery challan along with the e-way bill (*Circular No. 10/10/2017-GST dated 18.10.2017*)



Exports

- Excess IGST paid on price revision (Circ 226/20/2024 dt 11-7-2024) :
- Time delay in refund processing puts a high-stress on working capital/margins



- Job work is a preferred route for distribution and trade marketing reasons. Sec 143 compliance in case of imported goods in bonded warehouse operations could invite implications in cases of delay in return of goods.
- Tracking of finished goods correlation with inputs, in case of continuous manufacture and lack of one-to-one mapping



Inverted Duty Structure

- Advertising and logistics services at 18% while many FMCG at 5%
- Accumulation of input tax credit



Branded v Unbranded Packaging

- Size and labelling ingredients
- MRP and Packaging changes
- Linkage with Legal Metrology Act, 2009 and Legal Metrology (Packaged Commodity) Rules, 2011



Compensation Cess

- Clarity on accumulated Cess after the rate rationalization and NIL rating of compensation cess from 1-2-2026



Stock Transfer

- Valuation and compliance issues in various States
- Applicability of Rule 28 for purpose of valuation



Imported materials

- Services procured with goods from overseas and included in Customs Valuation. Applicability of Mohit Minerals V UOI (SC) (*CA No 1390/2022 dated 19-5-2022*)
- Mandarin Orange concentrate CTI 20093900 is different from Orange Juice CTI 20091100. This is clear from Chapter 8 where a distinction is made between oranges and mandarin known as frozen concentrate. Common parlance cannot override clear statutory scheme (*Varun Beverages v COC Mum., 2026-VIL-402-CESTAT Mum*)



ITC on Ex-Works Supplies

- Expl. below Sec 16(2)(b) : where the property in the goods and delivery is made ex-works the recipient will be entitled to take credit on the basis of the invoice and not await actual receipt of goods (subject to safeguards) Cir No 241/35/2024-GST dt 31-12-2024)



Retailer Support

- Supply of deep freezers to retailers on free of cost basis for exclusive use in the distribution of the supplier's products
- Supply of marketing material, POP displays, etc. on FOC basis



- Tax optimisation based on business exigencies
- Construct of Matrix :
 - Low Hanging Fruits to be harvested
 - Post some process re-work
 - Medium term plan
 - Not at present but subject to periodic review



Thank You

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