

Clarifications on the applicability of GST on "pre-packaged and labelled" goods

Pursuant to the recommendations from the Goods and Service Tax (GST) Council in its 47th meeting, the changes relating to GST rates came into effect from 18 July 2022, which includes imposition of GST on "pre-packaged and labelled" goods. In this respect, various issues are clarified in the form of Frequently Asked Questions (FAQs) as below:

Issue	Clarification
What change has been made w.r.t. packaged and labelled commodity w.e.f. 18 July 2022?	<p>Prior to 18 July 2022, GST was applied on specified goods when they were put up in a unit container and bore a registered brand name/ were bearing brand name in respect of which an actionable claim or enforceable right in a court of law is available.</p> <p>However, w.e.f. 18 July 2022, GST has been made applicable on supply of "pre-packaged and labelled" commodities attracting the provisions of the Legal Metrology Act, 2009 (LMA).</p> <p>Thus, there is a change in modalities of imposition of GST on branded specified goods to "pre-packaged and labelled" specified goods.</p>

Issue	Clarification
What is the scope of "pre-packaged and labelled" for the purpose of GST levy on food items like pulses, cereals and flour?	<p>The expression "pre-packaged and labelled" defined in LMA is to be referred for the purpose of GST. Thus, supply of specified commodity having below two attributes would attract GST:</p> <ul style="list-style-type: none">• It is pre-packaged.• It is required to bear the declarations under the provisions of the LMA. <p>However, if such specified commodities are supplied in a package that do not require declaration(s)/ compliance(s) under LMA, the same would not be treated as pre-packaged and labelled for the purpose of levy of GST.</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" if such pre-packaged and labelled packages contained a quantity up to 25 KG/litres, subject to other exclusions.</p>

Clarifications on the applicability of GST on "pre-packaged and labelled" goods

Issue	Clarification
What is the scope of various exclusion(s) provided under the LMA and the rules made thereunder?	For such commodities, a single package of items containing a quantity of more than 25 Kg/litres shall not fall in the category of pre-packaged and labelled commodity. Hence, GST shall not apply.
Would GST apply to a package that contains multiple retail packages?	Yes, GST shall be applicable on several packages which are intended for retail sale to the ultimate consumer. Such packages may be sold by a manufacturer through a distributor. However, a package containing more than 25 KG in one individual package would not be considered a pre-packaged and labelled commodity for the purposes of GST levy even though declarations on such wholesale packages are mandatory under the rule
Would GST apply on specified goods sold by manufacturer /producer to a wholesale dealer who subsequently sells it to a retailer?	GST would be applicable whenever a supply of such specified goods is made by any person. Further, the manufacturer/wholesaler/retailer would be entitled to an input tax credit (ITC) on GST charged by his supplier in accordance with the ITC provisions. Further, a supplier availing threshold exemption or composition scheme would be entitled to exemption or composition rate.

Issue	Clarification
Is the retailer liable to pay tax if goods are purchased in packages upto 25 Kg/litres but sells it in loose quantity?	GST applies when goods are sold in pre-packages and labelled packs. Therefore, GST would apply when pre-packaged and labelled package is sold by a distributor/ manufacturer to such retailer. However, if retailer supplies the item in loose quantity from such package, such supply by a retailer is not a supply of packaged commodity for the purpose of GST levy
Would GST apply if packaged commodities are supplied for consumption by industrial consumers or institutional consumers?	As per the rules, the supply of packaged commodity for consumption by industrial consumers or institutional consumers is excluded from the purview of LMA. Therefore, GST shall not be applicable.
If packages containing 20kg are sold without making the required declaration, will it be considered as pre-packaged and labelled, liable to GST?	Such packages would be considered as pre-packaged and labelled commodity for the purposes of GST as it requires making a declaration. Hence, GST would apply on supply of such package(s).