



THE GRAIN, RICE & OILSEEDS MERCHANTS' ASSOCIATION™

A/2/1, Groma House, 2nd Floor, Plot No. 14-C, Sector 19, Vashi, Navi Mumbai - 400 703.

Email : groma1899@gmail.com

President

Shri Sharadkumar D. Maru
9322298284

Vice President

Shri Mahendra J. Gajra
9821030891

Jt. Hon. Secretary

Shri Ashok B. Badia
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Jt. Hon. Secretary

Shri Amritlal G. Jain
9821612163/9870057579

Jt. Hon. Secretary

Shri Bhimji S. Bhanushali
9820064969

22nd September, 2017

Clarifications on Press Release Dated 20th September 2017 regarding definition of Brand Name

Ministry of Finance has issued press release on 20th September 2017 clarifying meaning of actionable claim used in definition of registered brand name as proposed in council meeting held on 09th September 2017. Copy of said press release is attached herewith for ready reference.

As per sub-clause (d) of said definition **"A mark or name in respect of which actionable claim is available shall be deemed to be a registered brand name for the purposes of levy of 5% GST".**

It means that if an actionable claim or enforceable right in court of law is available, then it will deem to be registered brand & hence 5% GST will be applicable on said brand.

However, Government has also clarified in said press release dated 20th September 2017 that this 5% GST will not apply if the person concerned (Manufacturer, Miller, or Packer) voluntarily foregoes any actionable claim or enforceable right on such brand name, subject to the conditions that he:

- files an affidavit to the effect that he is voluntarily foregoing his actionable claim or enforceable right on such brand name with the jurisdictional Commissioner of Central Tax or State Tax, or the jurisdictional officer of Union Territory Tax, as the case may be, and
- prints in indelible ink, both in English and local language on each such unit container, that in respect of brand name printed on the unit containers he has voluntarily foregone his actionable claim or enforceable right.

It is very clear from above press release that if both the above conditions are satisfied i.e.

- 1) Manufacturer, Importer or Packer files affidavit to this effect with jurisdictional commissioner **and**
- 2) Prints disclaimer of such waiver in indelible ink in English and Local language on each Bag.

Hence w.e.f. 22nd September 2017 now Manufacturers, Packers or Importers will have to comply with these two additional requirements so that we still remain eligible for Exemption.

Considering all the difficulties faced by members we are attaching herewith two separate guidance note for Traders as well as Manufacturers, Importers & Packers.

All are requested to comply with attached guidance note w.e.f. 22nd September 2017 in order to remain exempt under GST.

Further all the canvassing agents are requested forward the copy of this circular immediately to all the Manufactures, Importers or Packers so that same can be complied with as soon as Possible.

Ashok B. Badia
(Ashok B. Badia)
Jt. Hon. Secretary



Tel. : 2789 7454 / 55 / 56

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Practice to be followed by traders in APMC Market from 22nd September 2017 in order to remain eligible for exemption :

- 1) Every Traders should make sure that on all the Fresh Goods received on or after 22nd September 2017 following disclaimer is Compulsorily printed on all the Bags in inedible ink in English as well as Local Languages (Hindi) :
 - Disclaimer in English Language
"I/We hereby voluntarily forego any Actionable Claim or Enforceable right in respect of brand name printed on this bag"
 - Disclaimer in Hindi Language
"हम यह बारदान पर लगाए हुए ब्रांड के प्रति किसी भी प्रकार के कार्रवाई योग्य दावे का हक एवं प्रवर्तनीय अधिकार का स्वैच्छिक त्याग करते है।"
- 2) Purchase bill received after 22nd September should also contain following disclaimer :
"Goods sold under this invoice bear unregistered brand names & I/We hereby voluntarily forego any Actionable Claim or Enforceable right in respect of these Brand names – Exempt Supply under GST chargeable to 0% Tax"
- 3) Our Sales Bill should only contain following declaration :
"Goods sold bear unregistered brand names – Exempt Supply under GST chargeable to 0% Tax"
- 4) Further we request all the canvassing Agents to obtain & Keep in Records Acknowledged copy of Affidavit filed by Manufactures, Packers or Importers with their jurisdictional Commissioner of GST at earliest.
- 5) For Opening Stock of APMC trader on 22nd September 2017 we should request all the manufactures to authorise us by sending following Disclaimer on their Letter Head immediately :

Declaration for unregistered Brand (On the Letter-head)

Product Type:

Un-registered Brand Name:

"I/We hereby voluntarily forego any Actionable Claim or Enforceable right in respect of brand mentioned above"

Further I / we authorise you to use this disclaimer for selling stock as available with you.

Ashok B. Badia

(Ashok B. Badia)
Jt. Hon. Secretary



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22nd September, 2017

Procedure to be followed by Manufactures, Importers or Packers:

All the Manufactures, traders or packers who are using unregistered brand name should comply with following three conditions immediately on or after 22nd September 2017 in order to remain exempt under GST.

1) File a Notarized affidavit at earliest to the effect that he is voluntarily foregoing his actionable claim or enforceable right on all the unregistered brand names in which he is dealing with the jurisdictional Commissioner of GST.

Notes:

- GST council has not specified any format of affidavit. However as per our discussion with GST Commissioner, Belapur the same can be furnished on non judicial stamp paper duly notarised.
 - Single Affidavit for all the unregistered brands alongwith type of products (e.g Toor Dal, Chana Dal) will be sufficient compliance of said provisions of GST.
 - Acknowledgement can be easily obtained from Jurisdictional Commissioners office simply by submitting affidavit in duplicate copy alongwith Covering Letter.
- Make sure that on all the Goods Sold on or after 22nd September 2017 following disclaimer is **Compulsorily printed on all the Bags in inedible ink** in English as well as Local Languages (Hindi) :
 - Disclaimer in English Language
"I/We hereby voluntarily forego any Actionable Claim or Enforceable right in respect of brand name printed on this bag"
 - Disclaimer in Hindi Language
"हम यह बारदान पर लगाए हुए ब्रांड के प्रति किसी भी प्रकार के कार्रवाई योग्य दावे का हक एवं प्रवर्तनीय अधिकार का स्वैच्छिक त्याग करते हे।"
 - To Print following disclaimer on all the Sales Bill issued on or after 22nd September 2017 :

"Goods sold under this invoice bear unregistered brand names & I/We hereby voluntarily forego any Actionable Claim or Enforceable right in respect of these Brand names – Exempt Supply under GST chargeable to 0% Tax"

Ashok B. Badia

(Ashok B. Badia)
Jt. Hon. Secretary