M/s. Aditya Birla Retail Limited

Appellate Authority for Advance Ruling — Maharashtra

MAH/AAAR/SS-RJ/05/2018-19 Dated **07.08.2018**

Q Questions Before the Authority

- Whether the subject goods, proposed to be sold under Stream 1, where the package of the subject goods would merely have a declaration mentioning the name and registered address of the Applicant as the manufacturer, as per the statutory requirement under the Subject Statutory Provisions, can be considered as 'not bearing a brand name', and, accordingly eligible for exemption from GST in terms of relevant entries to Notification No. 2/2017 Central tax (Rate) dated 28th June 2017 ('CGST Notification'), and, corresponding entries under Notification No. 2/2017-Intergrated tax (Rate) dated 28th June 2017 ('IGST Notification') and Notification No.2/2017-State Tax (Rate) dated 29th June 2017 [collectively referred to as 'the Exemption Notifications']?
- Whether the subject goods proposed to be sold under Stream 2, where the package of the subject goods would have a declaration mentioning the name and registered address of the manufacturer as per the statutory requirement under the Subject Statutory Provisions as also the declaration 'Marketed by- Aditya Birla Retail Limited' can be considered as 'not bearing a brand name', and, accordingly eligible for exemption in terms of relevant entries to the Exemption Notifications?
- Whether the declarations made on the package, by inter alia using common/ generic terms viz. 'Value', 'Choice' and 'Superior', for the sole purpose of indicating the quality of the product so as to enable the customers to identify and buy products based on their requirements, budget and preferences can be construed to be a 'brand name' for the purpose of the Exemption Notifications?

F Facts

The appellant operates supermarket and hypermarket stores under the name 'More Stores' and sells various packaged food grains, pulses, cereals, and flour. To claim GST exemption available for unbranded food products under Notification No. 2/2017-Central Tax (Rate), the appellant proposed to remove its registered brand logos ('More' and 'Aditya Birla') from the packaging. The revised packaging would display only the manufacturer details mandatory under FSSAI and Legal Metrology laws, along with quality descriptors such as 'Value', 'Choice', and 'Superior', while continuing sales through its exclusive 'More' retail stores.

H Ruling

Exemption for goods bearing only manufacturer details as per statutory requirements (Question 1)	**Not eligible for exemption; answered in the negative.**	Removing brand logos while maintaining store environment and manufacturer details still conveys a brand connection.
Classification of quality descriptors 'Value', 'Choice', and 'Superior' on packaging (Question 3)	**Construed as brand name for the purpose of Exemption Notifications.**	Used in conjunction with store environment to retain brand advantage of 'More'.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

The Appellate Authority for Advance Ruling affirmed the AAR order, holding that removing brand logos does not render the goods unbranded when sold in exclusive retail stores with unchanged packaging styles and associated quality descriptors. Mentioning the manufacturer's name alongside terms like 'Choice', 'Value', or 'Superior' in the surrounding environment of 'More Stores' preserves the brand connection in the minds of consumers. Consequently, the subject goods do not qualify as **not bearing a brand name** and are not eligible for GST exemption.

R Reasoning

The authority observed that under Notification No. 2/2017-Central Tax (Rate) (as amended by Notification No. 28/2017-Central Tax (Rate)), exemption is intended strictly for unbranded goods where actionable claims or brand rights are foregone. Citing the Supreme Court decision in *Australian Foods India (P) Ltd.*, the authority held that physical affixation of a trademark logo is not mandatory if **surrounding circumstances and retail environment** convey a trade connection between the product and the brand owner. Since the goods continue to be sold exclusively in 'More' stores with unchanged color schemes, packaging layouts, billing descriptions, and quality terms previously registered under 'More', customers easily link the products to the applicant's brand. Furthermore, exemption notifications must be **strictly construed** as held in *Rajasthan Spg. & Wvg. Mills Ltd.*, disentitling the applicant from claiming the benefit of tax exemption while retaining commercial brand equity.

P Provisions Relied On

- Section 9 of the CGST Act, 2017
- Section 101 of the CGST Act, 2017
- Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017
- Notification No. 28/2017-Central Tax (Rate) dated 22.09.2017
- Section 18 of the Legal Metrology Act, 2009
- Rule 6 of the Legal Metrology (Packaged Commodities) Rules, 2011
- Section 23 of the Food Safety and Standards Act, 2006
- Section 9 and Section 2(zb) of the Trade Marks Act, 1999

! For the Practitioner

This ruling establishes that business entities cannot achieve GST exemption on food staples merely by removing registered brand logos if the **overall retail environment and packaging cues** preserve customer brand recognition. Tax practitioners should note that brand connection is evaluated holistically through surrounding trade circumstances rather than narrow textual presence of a registered mark. It settles that statutory mandatory disclosures when combined with established commercial brand trade dress will disentitle goods from unbranded GST exemptions.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> aditya-birla-appellate-authority-order.pdf

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