# M/s. Aditya Birla Retail Limited (Appellant). The listing names Merit Hospitality Services Pvt. Ltd. with order reference MAH/AAAR/SS-RJ/12/2018-19 dated 01.11.2018, but the document supplied does not match that listing.

Appellate Authority for Advance Ruling — Maharashtra

**Order No. MAH/AAAR/SS-RJ/05/2018-19, dated 07.08.2018 (Maharashtra…** Dated **01.11.2018**

## Q Questions Before the Authority

- Question 1: Whether subject goods (cereals, pulses and flour under Chapter 10), sold under Stream 1 where the package carries only the Appellant's name and address as manufacturer, can be treated as 'not bearing a brand name' and so be eligible for exemption under the CGST, IGST and SGST exemption notifications.
- Question 2: Whether subject goods sold under Stream 2, where the package carries the manufacturer's name and address together with the declaration 'Marketed by Aditya Birla Retail Limited', can be treated as 'not bearing a brand name' and so be eligible for the exemption.
- Question 3: Whether declarations such as 'Value', 'Choice' and 'Superior', used for the sole purpose of indicating quality, can be construed as a 'brand name' for the purpose of the exemption notifications.

## F Facts

The Appellant processes or procures cereals, pulses and flour and sells them under the 'More' trademarks (More for you, More Selecta, More value) and the 'Aditya Birla' logo, mainly through its More Stores. It proposed to remove the registered trademarks from the packs, keeping only the manufacturer's name and statutory customer-care details (Stream 1), with a 'Marketed by' declaration for third-party-sourced goods (Stream 2), and to use quality words such as 'Value', 'Choice' and 'Superior'. The question was whether the goods would then be unbranded and so exempt under entry 69 of the CGST exemption notification (2/2017-CT(Rate)), with the corresponding IGST and SGST entries.

## H Ruling

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| **Q1: Stream 1 goods, package showing only manufacturer's name and address (statutory details)** | ****No infirmity** with the ARA's negative answer; goods not treated as unbranded, so not exempt** | Reasoning rests on the continuing More Stores environment and the Aditya Birla Retail name on pack, not on the name alone. |
| **Q2: Stream 2 goods, 'Marketed by Aditya Birla Retail Limited' declaration** | **Not decided; withdrawn by the Appellant at the hearing** | Recorded at para 26 and para 28 of the order; the Authority did not rule on it. |


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

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| **Q3: Quality words 'Value', 'Choice', 'Superior' on the packs** | ****Would be construed as a 'brand name'** for the Exemption Notifications** | Applies where the words are used without altering the surrounding environment to take advantage of the 'More' brand. |

The Appellate Authority found no infirmity in the Advance Ruling Authority's answer to Question 1, so Stream 1 goods are not exempt. It held that using 'Value', 'Choice' or 'Superior' on the proposed packs, without changing the More Stores environment, would be construed as a brand name for the exemption. Question 2 was not pursued at the hearing because the Appellant withdrew it.

## R Reasoning

The Authority held that a brand name under the notification's definition need not be physically affixed to the goods. It looked at the surrounding circumstances, including exclusive More Stores selling, the retained billing and customer-care details, and the Aditya Birla Retail name on the pack, and found a connection in the course of trade. It relied on Australian Foods (2013) 12 SCC 468 and Grasim (2005) 183 ELT 123 (SC), and distinguished Tarai Foods (2006) 198 ELT 323 (SC), Synotex, Pepsi Foods and Nirula. It applied the rule that exemption notifications are construed strictly, citing Rajasthan Spinning & Weaving Mills (1995) 77 ELT 474 (SC) and BPL (2015) 319 ELT 556 (SC). It rejected reliance on CBEC circulars 1031/19/2016-CX and 947/8/2011-CV as dealing with different situations.

## P Provisions Relied On

- Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, entry 69 (heading 1005), with its Annexure I, and the correspon…
- Definitions of 'unit container', 'brand name' and 'registered brand name' in the exemption notifications
- Section 18 of the Legal Metrology Act, 2009, and Rule 6 of the Legal Metrology (Packaged Commodity) Rules, 2011
- Section 23 of the Food Safety and Standards Act, 2006, and Regulation 6 of the Food Safety and Standards (Packaging and…
- Section 99 and Section 101 of the CGST Act, 2017 and corresponding MGST provisions (as cited in the order)
- Article 141 of the Constitution of India (as cited in the Appellant's submissions)
- Circulars 1031/19/2016-CX dated 14.06.2016 and 947/8/2011-CV dated 21.06.2011 (considered and distinguished)

## ! For the Practitioner

This order is useful for practitioners on whether statutory manufacturer details alone make goods 'branded' under entry 69 and its IGST and SGST counterparts. It holds that the test is the connection in trade created by the surrounding environment, not physical affixing, and that quality words can create a brand connection. It does not decide the position of goods sold outside the Appellant's own stores, and Question 2 was never ruled on. Note that the listing gives a different applicant and order number (Merit Hospitality Services Pvt. Ltd., MAH/AAAR/SS-RJ/12/2018-19, dated 01.11.2018) from the document supplied, which is Aditya Birla Retail Limited's order dated 07.08.2018. Confirm the correct order before relying on this summary.

## 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_0.pdf

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