

## JUDGMENT UPDATE | TAXATION

### Ruling on levy of GST @18% on Hand Sanitizers by AAR (GST), GOA

#### Background facts

- Springfields (India) Distilleries (**Applicant**) is a registered partnership firm manufacturing Hand Sanitizers in Goa and had approached Authority of Advance Ruling (**AAR**) under GST at Goa to seek clarity on whether sanitizers are an essential commodity and if not, will it be subject to levy of GST at 12%.
- Applicant contended that:
  - Hand Sanitizers are covered under HSN Code “30049087 - Anti-hypertensive drug: Antibacterial formulations not elsewhere specified or included HS Code and Indian Harmonized System Code”. The rate of GST applicable on products is 12%.
  - Entry no. 3004 of Notification No. 1/2017-Central Tax (Rate) (**Notification**) provides for mixed/unmixed medicaments for therapeutic or prophylactic uses to be taxed at the rate of 12% GST. On the other hand, products covered under Entry no. 3808 of the Notification deals with disinfectants and similar products are taxed at 18% GST.
  - Further, as per Notification CG-DL-E13032020-218645, Ministry of Consumer Affairs, Food and Public Distribution (**Ministry**) has classified Hand Sanitizers as an essential commodity under Essential Commodities Act, 1955 and thus exempting same from GST.

#### Issue at hand?

- Applicant sought opinion of AAR on whether Hand Sanitizers supplied by them are classifiable as essential commodities and exempt from GST?

#### Decision of the AAR

- AAR opined that alcohol-based Hand Sanitizers will classify as a product under Entry no. 3808 on which GST will be levied at 18%.
- With regards to exempting Hand Sanitizers from levy of GST, AAR held that exempted goods are already covered under Notification and mere classification of any goods as an essential commodity cannot be a criterion for exemption of GST levied upon said goods.



#### Our Viewpoint

Classification of Sanitizers is a matter of debate as it can be classified under multiple entries because of its composition and uses.

However, given its significance during the pandemic, government should consider issuing an explicit clarification to control unwarranted litigation on this aspect.”

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