The Institute of Chartered Accountants of india
(Set up by an Act of Parliament)

GST Sectoral Guide on Fast-Moving Consumer Goods

(July, 2026)

- Comprehensive GST coverage for FMCG
- Updated with Finance Act, 2026 Amendments
- Practical Compliance Insights & Analysis
- Sector-Specific Issues, Rulings & Advance Rulings

GST Sectoral Guide
on
Fast-Moving Consumer Goods

The Institute of Chartered Accountants of India
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New Delhi

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Foreword

The Goods and Services Tax (GST) represents a landmark reform that has redefined India's indirect tax framework. Beyond integrating multiple Central and State taxes, GST has simplified compliance, improved tax governance, broadened the tax base, and fostered greater economic integration across the country. Supported by continuous policy refinement and digital innovation, the GST framework has evolved into a dynamic system that balances revenue efficiency with taxpayer facilitation while contributing to India's sustained economic growth.

Keeping pace with the evolving GST ecosystem, the Institute of Chartered Accountants of India (ICAI), through its GST & Indirect Taxes Committee, has consistently played a proactive role in knowledge dissemination and capacity building endeavors. As part of this commitment, the Committee has launched an **Industry-Specific GST Publication Series,** recognising that each sector presents unique GST implications due to their distinct business models and operational structures. These series aim to provide focused sector-specific guidance on key GST issues, addressing the practical challenges and compliance requirements of different industries.

I am pleased to note that the Committee has released its second booklet under this series titled ***"GST Sectoral Guide on Fast-Moving Consumer Goods"***. The FMCG sector occupies a position of considerable significance in the daily life of the Indian consumer, encompassing a wide array of essential goods ranging from personal care products to food & beverages consumed across households on a regular basis. Beyond its consumer relevance, the sector contributes substantially to employment generation, retail expansion and rural market penetration, rendering its GST treatment a matter of considerable practical importance to manufacturers, traders and professionals.

My sincere appreciation to CA. Umesh Sharma, Chairman and CA. Rajendra Kumar P, Vice-Chairman, GST & Indirect Taxes Committee of ICAI along with all the members of the Committee for their initiative and dedication in developing this publication and their continued efforts in disseminating GST knowledge and providing practical guidance to members and stakeholders.

I am confident that this publication will serve as a valuable resource for chartered accountants, tax professionals, and all stakeholders associated with the FMCG sector, facilitating a better understanding and application of GST provisions.

CA. Prasanna Kumar D
President, ICAI

Date: 24.07.2026
Place: New Delhi

Preface

The Fast-Moving Consumer Goods (FMCG) sector represents one of the most vital and dynamic segments of the Indian economy, encompassing packaged foods, beverages, personal care and household products consumed daily by millions of households across the country. Operating through a complex, multi-tiered supply chain spanning manufacturers, distributors and retailers, the sector witnesses continuous inter-State and intra-State movement of goods, extensive stock transfers between distinct registrations, and diverse business models. Its heavy reliance on promotional schemes, trade discounts, combo offers, free samples and rapidly expanding e-commerce channels brings distinct GST considerations relating to valuation, classification, rate rationalisation and input tax credit that warrant focused and structured examination by practitioners and administrators alike.

With this objective, we are pleased to present ***"GST Sectoral Guide on Fast-Moving Consumer Goods,"*** the second publication in the GST & Indirect Taxes Committee's Industry-Specific GST Publication Series. This publication is structured across four chapters: Chapter 1 covers the industry background, business models and the sector's GST interface; Chapter 2 analyses the relevant statutory provisions, notifications, exemptions and applicable compliance framework; Chapter 3 discusses pertinent judicial decisions, advance rulings and emerging litigation trends; and Chapter 4 outlines key sectoral considerations, interpretational issues, practical compliance concerns and reasoned recommendations for the way forward.

We express our sincere gratitude to CA. Prasanna Kumar D, President, ICAI, and CA. Mangesh Kinare, Vice-President, ICAI, for their valuable encouragement and support to the initiatives of the GST & Indirect Taxes Committee. Their guidance has been a source of inspiration in bringing out this publication. We place on record our appreciation for CA. Kunal Jain for authoring this publication and for his dedicated contribution to the knowledge initiatives of ICAI. We are equally grateful to CA. Thirumalai Sampath and CA. Gaurav Kenkre for their meticulous review of this publication and for enriching it with their deep knowledge and expertise on the subject of FMCG. We also acknowledge the sincere efforts of CA. Madhav Kumar Jha and CA. Jaya Kumari from the Secretariat of the GST & Indirect Taxes Committee for

their painstaking efforts in rendering essential technical and administrative support throughout the preparation of this publication.

While every effort has been made to ensure accuracy in line with the prevailing legal position, readers may note that divergent views may exist on certain issues. Feedback and suggestions on any inadvertent errors or omissions are welcome at gst@icai.in. Readers are also encouraged to visit https://idtc.icai.org for a wide range of technical and educational resources on GST.

CA. Umesh Sharma	**CA. Rajendra Kumar P**
Chairman	Vice-Chairman
GST & Indirect Taxes Committee	GST & Indirect Taxes Committee

Date: 24.07.2026
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Chapter I
Industry Background

BACKGROUND

The fast-moving consumer goods (FMCG) and consumer products industry constitutes a critical pillar of the Indian economy. The sector encompasses a wide spectrum of goods including packaged food items, beverages, personal care products, household goods and other consumables. The industry operates through a multi-layered supply chain involving manufacturers, depots, super stockists, distributors, retailers and ultimately the end consumer. This structure results in frequent inter-State and intra-State transactions, including stock transfers between distinct registrations of the same legal entity, which are deemed as supplies in terms of Schedule I read with Section 7(1)(c) of the Central Goods and Services Tax Act, 2017 (CGST Act), even in the absence of consideration.

The business models in the FMCG sector include manufacturer-led distribution, contract manufacturing arrangements (commonly structured as job work under Section 2(68) read with Section 143 of the CGST Act), and increasing reliance on e-commerce platforms. The sector is also characterized by heavy dependence on marketing and promotional schemes such as volume discounts, trade incentives and free sample distribution, which have significant implications under GST, particularly in relation to valuation and input tax credit eligibility.

FMCG SECTOR DURING THE PRE GST ERA

The FMCG sector primarily deals in products that are consumed on a regular and recurring basis by a large segment of the population. Consequently, the taxation framework applicable to this sector has a direct impact not only on manufacturers and distributors but also on the end consumers. Prior to the implementation of GST, the industry was subject to multiple indirect taxes such as excise duty, entry tax, central sales tax (CST) and varying State VAT laws, leading to significant tax inefficiencies and cascading effects. One of the major challenges under the earlier regime was the restricted availability of input tax credit across different taxes. In particular, credit of service tax paid on input services could not be effectively utilized against VAT or CST liabilities, resulting in such taxes becoming part of the cost and being recorded as expenses or write-offs in the books of accounts. With the introduction of GST, a unified credit mechanism has been established, enabling seamless utilization of tax paid on input services against the GST liability on both goods and services. This has substantially reduced the embedded costs and improved the overall tax efficiency within the FMCG sector.

ORGANISED *VERSUS* UNORGANISED SECTOR

The FMCG sector under GST reflects a clear distinction between the organized and unorganized segments from a compliance as well as operational perspective. The organized sector is comparatively more aligned with the GST framework due to its structured business processes, proper accounting systems, documented supply chain mechanisms and technology-driven compliance environment. Transactions in the organized FMCG sector are generally supported through tax invoices, e-way bills, ERP systems, return reconciliations and systematic input tax credit (ITC) tracking. Further, the organized players extensively operate through modern retail chains, institutional distributors, warehouses, e-commerce platforms, and centralized procurement systems, which increases the transparency and makes GST implementation more efficient and auditable. Such businesses are also comparatively better equipped to comply with anti-profiteering requirements, invoice matching concepts, e-invoicing provisions and reconciliation of outward and inward supplies under the GST law.

On the other hand, the unorganized FMCG sector continues to face comparatively higher challenges under the GST regime. A substantial portion of trade in this segment is still fragmented and dependent upon local distribution channels, small traders, cash-based transactions, and limited documentation practices. Due to weaker accounting infrastructure and lower technological integration, issues relating to invoice generation, maintenance of records, e-way bill compliance and proper reporting of transactions are more common. This often impacts the seamless flow of ITC within the supply chain and increases the possibility of mis-matches, non-compliance, and tax leakage. In several cases, the absence of proper documentation at one stage of the supply chain may result in blockage or denial of ITC for subsequent recipients.

From a GST perspective, the FMCG sector is significantly impacted by issues relating to rate rationalisation, product classification, treatment of discounts and incentives, free samples, promotional schemes, combo packs, vouchers, buy-one-get-one offers, sales return adjustments, and secondary distribution mechanisms. These issues require robust documentation and proper contractual understanding for determining the correct GST implications. In the organized sector, such schemes are generally backed by formal agreements, accounting entries, tax invoices, and reconciliation mechanisms, thereby making GST treatment relatively more manageable. However, in the unorganized sector, verification and substantiation of such transactions become comparatively difficult due to inadequate documentation and informal trade practices, leading to increased litigation exposure and compliance risks under the GST law.

MAJOR SEGMENTS UNDER GST

1. Household & Personal Care

The household and personal care (HPC) segment constitutes a major portion of the FMCG industry under GST. Daily-use products such as toilet soaps, shampoos/ hair oil, toothpaste and basic hygiene products are generally covered under the 5 percent GST slab. However, premium cosmetics, perfumes, beauty products and specialized personal care products are taxable at 18 percent. The sector is highly ITC-driven due to substantial procurement of chemicals, packaging materials, advertising and distribution services.

2. Food and Beverages

The food and beverages (F&B) sector involves multiple GST classifications depending upon the nature of products. Essential food items such as fresh fruits, vegetables, milk and unbranded food grains are generally exempt from GST. Processed and packaged food products such as biscuits, *namkeens*, sauces, cereals, butter, ghee and cheese are largely taxable at 5%. Ready to eat foods, certain specialty beverage preparations and similar processed products generally attract GST at 18 percent. Aerated drinks, energy drinks and carbonated beverages are covered under the higher tax category of 40 percent.

The classification of food products should not be determined merely on the basis of the trade name or marketing description adopted by the manufacturer. The applicable GST rate must be determined after examining the relevant tariff heading, Section Notes, Chapter Notes and the General Rules for the Interpretation (GRI) of the First Schedule to the Customs Tariff Act, 1975.

Pre-packaged and Labelled Commodities

One of the most significant developments affecting the FMCG sector relates to the taxation of pre-packaged and labelled commodities. For several food products, GST liability is determined not merely by the nature of the commodity but also by the manner in which it is packaged and labelled. Notification No. 10/2025-Central Tax (Rate) dated 17 September 2025 has amended the Explanation appearing below the GST rate notifications. The amended Explanation now provides that the expression "pre-packaged and labelled" shall have the same meaning as assigned under Section 2(1) of the Legal Metrology Act, 2009. Consequently, while determining the GST liability on packaged food products, FMCG companies must examine not only the product classification but also whether the package satisfies the conditions prescribed under the Legal Metrology Act and the Rules framed thereunder.

Accordingly, the GST treatment of commodities such as rice, pulses, flour, cereals, spices, dry fruits and similar food products may differ depending upon whether they qualify as pre-packaged and labelled commodities under the Legal Metrology framework. Since the applicability of GST is intrinsically linked with the Legal Metrology provisions, FMCG manufacturers, packers and distributors should ensure that the packaging, declarations and labelling requirements are examined simultaneously while determining the applicable GST rate.

3. Healthcare and Over-the-Counter Products

The healthcare and over-the counter (OTC) segment under FMCG primarily covers medicines, vitamins, healthcare products, Ayurvedic products and wellness items. Essential and lifesaving drugs are generally exempt. Most OTC healthcare products, nutritional supplements, Ayurvedic preparations, and medical wellness products are taxable at 5 percent. Certain specialized healthcare and cosmetic-related products may attract GST at higher rates depending upon their classification under the GST tariff.

NATURE AND FEATURES OF THE FMCG INDUSTRY

The FMCG industry is characterized by high-volume sales, extensive consumer reach and continuous product movement across the supply chain. Since FMCG products are of daily-use and fast-moving in nature, the sector operates on rapid inventory turnover and frequent replenishment cycles.

- **High Turnover and Volume-Based Business**

FMCG products generally have short consumption cycles and are sold in very large quantities. The sector primarily operates on a high-volume and low-margin business model, where profitability depends upon economies of scale, efficient supply chain management and continuous market penetration. Due to rapid movement of goods, inventory turnover remains significantly high as compared to other industries.

- **Competitive and Organized Market Structure**

The FMCG sector is highly competitive with the presence of large multinational and domestic companies. The industry involves an extensive ecosystem comprising of manufacturers, wholesalers, distributors, stockists, retailers and e-commerce operators. Strong distribution capability and market reach play a crucial role in sustaining the market share.

- **Extensive Distribution Network**

The sector operates through a widespread distribution chain involving carrying & forwarding agents, distributors, wholesalers, retailers, supermarkets and online platforms. Products are required to be available across urban as well as rural markets, making logistics, warehousing, and transportation critical components of the business model.

- **Dealer and Distributor-driven Supply Chain**

FMCG companies heavily rely on distributor and dealer networks for product movement and market penetration. Distributors generally operate on thin margins and manage warehousing, inventory handling, transportation, and retailer servicing within assigned territories.

- **Retail-oriented Industry**

The FMCG sector is significantly dependent upon retail touchpoints including *kirana* stores, supermarkets, hypermarkets, and e-commerce platforms.

Retail presence and shelf visibility directly influence consumer purchasing decisions and brand performance.

- **Importance of Packaging and Branding**

Packaging plays a vital role in the FMCG industry both from marketing as well as product protection perspectives. Attractive packaging, labelling and product presentation significantly influence customer preferences. Additionally, companies invest heavily in advertising, celebrity endorsements, digital campaigns and brand promotion activities to maintain market visibility and consumer loyalty.

- **Promotional Schemes and Discounting**

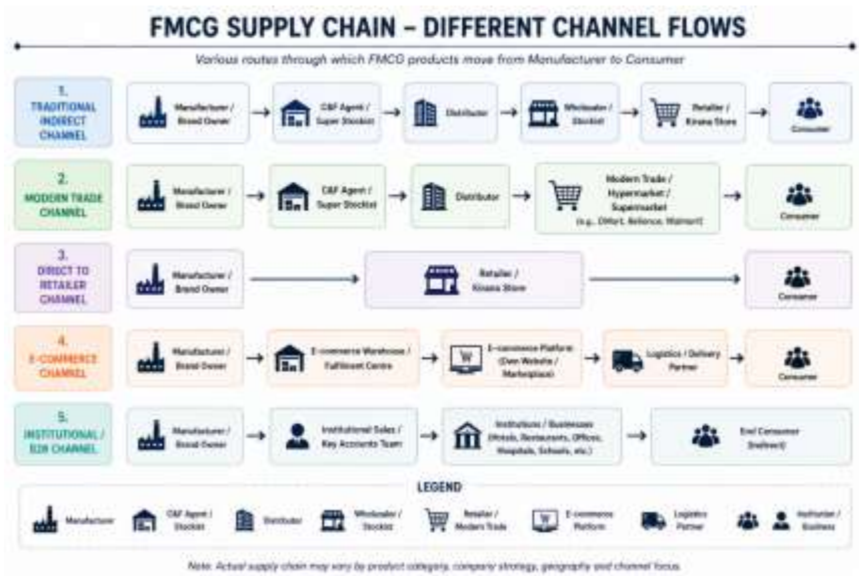
The FMCG industry frequently adopts promotional schemes such as discounts, combo offers, free products, cashback schemes and seasonal campaigns to increase sales volume and market penetration. Festival-driven and promotional sales form an important part of the sector's marketing strategy.

- **MRP-Based Pricing Structure**

Most FMCG products are sold on maximum retail price (MRP) basis, ensuring price transparency throughout the supply chain. The increasing role of e-commerce and digital marketplaces has further enhanced price comparison and competitive pricing within the sector.

FMCG SUPPLY CHAIN STRUCTURE

The FMCG supply chain is all about speed, volume and widespread reach. Because these products (like snacks, soaps and soft drinks) have low profit margins but high turnover rates, the network needs to be highly efficient. The following diagram depicts the supply chain flow.


FMCG SUPPLY CHAIN – DIFFERENT CHANNEL FLOWS
Various routes through which FMCG products move from Manufacturer to Consumer
1. TRADITIONAL INDIRECT CHANNEL
Manufacturer / Brand Owner
C&F Agent / Super Stockist
Distributor
Wholesaler / Stockist
Retailer / Kirana Store
Consumer
2. MODERN TRADE CHANNEL
Manufacturer / Brand Owner
C&F Agent / Super Stockist
Distributor
Modern Trade / Hypermarket / Supermarket
Consumer
3. DIRECT TO RETAILER CHANNEL
Manufacturer / Brand Owner
Retailer / Kirana Store
Consumer
4. E-COMMERCE CHANNEL
Manufacturer / Brand Owner
E-commerce Warehouse / Fulfilment Centre
E-commerce Platform (Own Website / Marketplace)
Logistics / Delivery Partner
Consumer
5. INSTITUTIONAL / B2B CHANNEL
Manufacturer / Brand Owner
Institutional Sales / Key Accounts Team
Institutions / Businesses (Hotels, Restaurants, Offices, Hospitals, Schools, etc.)
End Consumer (Indirect)
LEGEND
Manufacturer
C&F Agent / Stockist
Distributor
Wholesaler / Stockist
Retailer / Modern Trade
E-commerce Platform
Logistics Partner
Note: Actual supply chain may vary by product category, company strategy, geography and channel focus.

CHAPTER II

Analysis of Relevant Statutory Provisions

I. SUPPLY UNDER GST IN FMCG SECTOR

Section 7(1) of the CGST Act, 2017 provides that the expression 'Supply' includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease, or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. The provision further includes import of services for consideration and activities specified in Schedule I even when made without consideration.

The definition of 'supply' under GST is intentionally broad and inclusive in nature. The use of the phrase "such as" indicates that the activities specifically mentioned in the provision are only illustrative and not exhaustive. Therefore, any transaction having commercial substance and undertaken in the course or furtherance of business may potentially qualify as supply under GST.

In the FMCG sector, the concept of supply covers a wide range of transactions including sale of packaged products, branch transfers, supply through distributors, e-commerce sales, leasing of coolers and refrigerators, warehousing support services, marketing recoveries and supply of promotional items.

Scope of Supply Under Section 7(1)(a)

The primary charging provision is contained in Section 7(1)(a), which reads: *"all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business."*

This single clause contains six essential conditions, each of which must be present simultaneously for a transaction to constitute supply under this limb: (i) there must be a supply of goods or services or both; (ii) it must take one of the enumerated forms — sale, transfer, barter, exchange, licence, rental, lease, or disposal; (iii) it must be made or agreed to be made; (iv) for a consideration; (v) by a person and (vi) in the course or furtherance of business. Once these conditions are satisfied, the transaction generally falls within the scope of GST.

The day-to-day sale of consumer goods by a manufacturer to their C&F agents and distributors across India is the most straightforward manifestation of Section 7(1)(a). The goods are supplied, title and/or possession transfers, consideration is paid and the transaction occurs in the course of business. Each such transaction is, without exception, a taxable supply under this provision.

The phrase "made or agreed to be made" is equally important. It ensures that even advance booking arrangements, future supply contracts, annual procurement agreements and trade arrangements entered into with distributors are brought within the scope of 'supply' from the time such arrangements are agreed upon.

The concept of consideration must be read with Section 2(31) of the CGST Act. Consideration may be monetary or non-monetary in nature. Accordingly, certain FMCG promotional arrangements may also qualify as supplies. For instance, where a retailer provides premium shelf space or enhanced product visibility in exchange for discounted products or marketing support, both sides of the arrangement may involve supplies for consideration.

Supply to Members and Cooperatives

Section 7(1)(aa) provides that supply includes *"the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration."* The Explanation appended to this clause further clarifies that *"notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another."*

Section 7(1)(aa), inserted by the Finance Act, 2021 with retrospective effect from 1 July 2017, provides that activities or transactions by a person, other than an individual, to its members or constituents, or vice versa, for consideration shall be treated as supply. The provision further creates a deeming fiction that the entity and its members shall be treated as separate persons.

This provision is particularly relevant for FMCG cooperatives and producer organisations. Dairy cooperatives, agricultural marketing federations and similar organisations involved in manufacturing, processing, packaging, and distribution of FMCG products can no longer contend that transactions between the organisation and its members are outside GST merely because of the principle of mutuality.

Accordingly, supplies of FMCG products by a cooperative to its member societies, distributors, or constituent units are treated as taxable supplies under GST.

Import of Services

Section 7(1)(b) provides that supply includes *"import of services for a consideration whether or not in the course or furtherance of business".* It provides that import of services for a consideration shall constitute supply, whether or not such import is in the course or furtherance of business.

Import of services received by Indian subsidiaries of multinational FMCG companies from their overseas group entities — such as brand royalty, management support services, technical know-how, ERP and software support, global advertising cost allocations, market research, and supply chain support — qualifies as "supply" under Section 7(1)(a) of the CGST Act, since these services are received in the course or furtherance of the Indian entity's business. Such transactions are taxable under the reverse charge mechanism per Section 5(3) of the IGST Act, read with Notification No. 10/2017-Integrated Tax (Rate). Section 7(1)(b), which taxes import of services "whether or not in the course or furtherance of business," remains relevant only as a residual provision — it becomes operative where an FMCG group's related party (e.g., a promoter or trust) imports a service unconnected to business, not for the company's own routine procurement.

Supply Without Consideration; The Deeming Fiction

Section 7(1)(c) provides that supply includes *"the activities specified in Schedule I, made or agreed to be made without a consideration."* One of the most significant features of GST is that certain transactions are treated as supply even in the absence of consideration. Section 7(1)(c) read with Schedule I creates this deeming fiction.

This provision is of immense practical importance in the FMCG sector because several routine business transactions occur without monetary consideration.

Permanent Transfer of Business Assets

Entry 1 of Schedule I covers permanent transfer or disposal of business assets where input tax credit has been availed on such assets. This provision becomes relevant when FMCG companies permanently dispose of refrigeration units, display freezers, vending machines, manufacturing equipment, or promotional assets on which ITC was earlier availed. Even if no consideration is received, GST may become payable because the transaction is deemed to be a supply. Since the transaction itself is treated as a taxable supply under Section 7(1)(c) read with Schedule I, the asset continues to be used for making a taxable outward supply. Therefore, Section 17(5)(h) has no application in such cases, and there is no requirement to reverse the ITC originally availed on the asset. Instead, the supplier is required to discharge GST on the value determined in accordance with Section 15 read with Rules 27 to 31 of the CGST Rules, wherever applicable.

On the other hand, Section 17(5)(h) specifically blocks ITC in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. In these situations, the transaction itself is ordinarily not regarded as a taxable supply, as there is no consideration and the transaction is generally not covered by Schedule I. Since the goods are not used for making taxable outward supplies, the Legislature has expressly denied the corresponding ITC by virtue of Section 17(5)(h).

Stock Transfers between Distinct Persons

Entry 2 of Schedule I is perhaps the most important provision for the FMCG industry. Section 25(4) treats separate GST registrations under the same PAN as distinct persons. Consequently, movement of goods between different registrations of the same legal entity is treated as supply even if no consideration is charged.

Accordingly, transfer of goods between:

- factory and depot
- depot and warehouse
- warehouse and branch office

- one State registration and another State registration

constitutes a taxable supply under GST.

For illustration, when a manufacturer transfers shampoo stock from its Gujarat factory to its Delhi depot, GST becomes payable notwithstanding the fact that ownership remains with the same company. Valuation of such supplies is governed by Rule 28 of the CGST Rules, including the 90 per cent rule and full ITC proviso discussed separately under valuation provisions.

The Proviso to Entry 2 further provides that gifts by an employer to an employee not exceeding ₹50,000 in a financial year shall not be treated as supply. This provision assumes relevance where FMCG companies distribute festival hampers, product gift boxes, or promotional gifts to employees.

Principal-Agent Transactions

Entry 3 of Schedule I deals with supplies between principal and agent. This provision assumes particular significance because the FMCG sector extensively operates through Carrying and Forwarding (C&F) agents, consignment agents, redistribution stockists and commission agents.

Where goods are supplied by a principal to an agent for onward supply, or by an agent to a principal for receipt on behalf of the principal, the transaction may qualify as a deemed supply even if no consideration is charged. Accordingly, movements between FMCG manufacturers and their agents require careful examination under Schedule I.

Classification of Supply

Section 7(1A) provides: *"Where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.* Once a transaction qualifies as supply under Section 7(1), Schedule II shall determine whether such supply is to be treated as supply of goods or supply of services.

This classification is extremely important because GST rates, place of supply provisions and compliance requirements often differ between goods and services.

For Illustration, FMCG companies frequently provide branded refrigerators, coolers, display racks, vending machines, and dispensers to retailers. Where ownership remains with the FMCG company and only the right to use is granted against the consideration, such transaction is treated as supply of service under Schedule II. Where FMCG companies operate canteens or provide food and beverages to employees through cafeteria arrangements, such supplies are also treated as supply of services under Schedule II.

Activities Not Treated as Supply

Section 7(2) opens with the phrase *"Notwithstanding anything contained in sub-section (1)"* — establishing that it overrides the inclusive definition — and provides that *"activities or transactions specified in Schedule III... shall be treated neither as a supply of goods nor a supply of services."* Section 7(2) provides that activities specified in Schedule III shall be treated neither as supply of goods nor supply of services. This provision begins with a non-obstante clause and therefore overrides the broad definition of supply contained in Section 7(1).

The most important exclusion for the FMCG sector is services provided by an employee to employer in the course of employment. Accordingly, salaries, wages, bonuses and employment benefits paid by FMCG companies to their employees remain outside the scope of GST.

Schedule III also excludes sale of land and completed buildings. Therefore, where an FMCG company disposes of factory land, warehouse land, or completed immovable property, such transaction generally remains outside GST. Similarly, transactions involving securities, shares, debentures, and certain actionable claims are also excluded from GST.

For multinational FMCG companies engaged in merchant trade transactions, Schedule III entries relating to offshore supplies may also become relevant where goods move directly from one non-taxable territory to another without entering India.

Mixed and Composite Supply

Under the goods and services tax (GST) architecture, classifying bundled transactions as either a composite supply or a mixed supply is one of the most litigated and commercially impactful challenges in the FMCG sector.

Composite Supply and the "Natural Bundle" Test

Statutory Definitions

- *Composite supply [Section 2(30)]: "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.*
- *Principal Supply [Section 2(90)]: "principal supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.*

The three-Part Judicial Test for "Natural Bundling"

Whether a bundle is ’natural’ or ’artificial’ cannot be determined by an invoice alone. Tax authorities and courts apply three structural tests derived from international jurisprudence and legacy service tax education. Though it has persuasive value one should consider it.

- *The Consumer Expectation Test:* Does the average consumer expect to receive these items together as a singular economic utility? (e.g., when buying a bottle of liquid handwash, the consumer expects the plastic pump devise to be included).
- *The Industry Practice Test:* Do competing FMCG companies routinely bundle these products together in the ordinary course of business? If the practice is a standard cross-industry norm, it points towards a composite supply.
- *The Interdependency Test:* Can the ancillary item fulfill its purpose without the principal item? If one item is entirely dependent on the other to provide value to the consumer, they are naturally bundled.

It is equally important to appreciate that these tests are not static and must be applied having regard to the prevailing commercial realities. What constitutes a 'natural bundle' is a question of fact that may vary across jurisdictions, industries and periods of time. A combination of goods or services that is ordinarily supplied together in India may not necessarily be regarded as naturally bundled in another country, such as the United

Kingdom or Australia, where consumer preferences, regulatory requirements, packaging norms or business practices may differ. Likewise, evolving marketing strategies, technological developments, changes in consumer behaviour and industry practices may alter the character of a supply over time.

Section 8(a) of the CGST Act prescribes: "*a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply.*"

The consequence of this provision is absolute and clear — the entire composite bundle is taxed at the GST rate applicable to the principal supply alone. The individual GST rates of the ancillary components are irrelevant. Parliament's intent is to avoid the commercially unworkable outcome of requiring a single invoice to carry multiple GST rates for what is, in substance, one transaction. The tax follows the dominant element of the transaction.

Mixed Supply: Section 2(74) & The "Single Price" Trap

Statutory Definition

- *Mixed Supply [Section 2(74)]: "mixed supply" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.*

A transaction can only fall under the restrictive tax liabilities of a mixed supply if it is sold for a single, consolidated price. If an FMCG company bundles unrelated items into a promotional box but lists the individual price of each item clearly on the commercial invoice, it is not a mixed supply. Instead, each component is taxed at its own independent GST rate.

Section 8(b) of the CGST Act prescribes: *" a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax."*

Unlike composite supply, where the tax follows the nature of the principal supply in a mixed supply, the tax follows the highest rate among all the components. There is no principal supply in a mixed supply; each component is independent and capable of being sold separately. The Legislature addresses the bundled pricing by applying the highest rate to the entire bundle, to prevent tax arbitrage through deliberate packaging of high-rated goods with low-rated goods.

The following classification matrix illustrates how standard FMCG bundles are categorized under GST, highlighting the specific tax exposures created by misclassification:

Product Bundle / Combo Strategy	**Tax Classification**	**Principal Supply (If Applicable)**	**Tax Treatment & Exposure**
Detergent Powder + Plastic Bucket	Mixed Supply	None	Highest rate applies: Detergent (18%) and the bucket (18%) may match here, but if the bucket contains a specialized plastic mechanism taxed higher, the entire transaction is pushed to that higher bracket.
Diwali Gift Box (Chocolates + Canned Juices + Aerated Soda)	Mixed Supply	None	Highest rate penalty: Because it is sold for a single price, the presence of aerated soda (40%) forces the entire value of the box (including low-rated juice or chocolates) to be taxed at 40%.
Instant Noodle Pack + Seasoning Sachet Inside	Composite Supply	Noodles	Principal supply rate: The seasoning (*masala* packet) cannot be used logically without the noodles. It is an inseparable, natural bundle.

II. CLASSIFICATION OF FMCG PRODUCTS UNDER GST

Classification of goods forms the foundation of the GST framework applicable to the FMCG sector. The applicable GST rate, exemption eligibility, valuation implications and compliance requirements are all determined based on the classification adopted for a product. Since the FMCG industry deals with a wide range of products including food items, beverages, confectionery, dairy products, personal care products, cosmetics, healthcare products, tobacco products and household consumables, classification continues to be one of the most litigated areas under GST.

The significance of classification becomes more pronounced because products having similar appearance, ingredients or end-use may attract different GST rates depending upon their classification under the Customs Tariff Act, 1975. Consequently, correct determination of HSN classification is essential not only for payment of appropriate GST but also for avoiding future disputes, interest liability and penal consequences.

Statutory Framework

Classification of goods under GST is based upon the Harmonised System of Nomenclature (HSN) adopted under the Customs Tariff Act, 1975. Notification No. 09/2025-Central Tax (Rate) prescribes the current consolidated GST rates for goods based on their respective tariff classifications. It may be noted that corresponding State rate notifications must equally be verified since GST operates on a dual structure and State-side notifications must be aligned in parallel. These notifications have been amended from time to time to incorporate changes recommended by the GST Council.

The classification of goods is generally determined with reference to the following:

- Customs Tariff Act, 1975
- First Schedule to the Customs Tariff Act
- Section Notes and Chapter Notes
- General Rules for Interpretation (GRI)
- Harmonised System Explanatory Notes

- Relevant GST notifications issued from time to time.

Accordingly, classification cannot be determined merely on the basis of product description, trade name, brand name or marketing literature like labelling and packaging requirements under Legal Metrology Act 2009 etc. The classification must always be determined in accordance with the tariff structure and interpretational principles prescribed under the Customs Tariff.

For example, the classification of ready-to-drink (RTD) beverages has been a recurring area of dispute under GST, particularly in the case of fruit-based drinks, energy drinks, dairy-based beverages, flavoured drinks and carbonated beverages. The applicable GST rate depends upon the classification of the product under the Customs Tariff and not merely upon its trade name, marketing description or FSSAI categorisation. While FSSAI classification may provide useful guidance regarding the nature of the product, it is not conclusive for determining the GST rate. The actual composition of the product, manufacturing process, ingredients used, percentage of fruit content, carbonation levels and the relevant tariff entries are the primary factors for classification under GST.

A significant controversy arises where a beverage contains fruit juice or fruit pulp but is also carbonated. In such cases, manufacturers often contend that the product should be classified as a fruit-based beverage attracting a lower rate of tax, whereas the tax authorities seek to classify the product as a carbonated beverage liable to GST at 40 per cent. Following the GST rate rationalisation carried out in 2025, the classification of beverages has assumed even greater significance. The Government has rationalised the taxation of several beverage categories by aligning the GST schedules with the revised Customs Tariff classification. Specified fruit juice-based drinks and certain milk-based beverages now attract GST at the concessional rate prescribed under Schedule I, whereas specified carbonated beverages, caffeinated beverages and other notified non-alcoholic beverages continue to fall under the special 40 per cent GST category. Accordingly, manufacturers should carefully examine the applicable tariff entry instead of proceeding on the assumption that every carbonated beverage or every fruit-based beverage attracts the same rate.

Judicial precedents have consistently emphasised that classification must be determined on the basis of the product's essential character, composition and tariff description rather than solely on product labels, advertisements or regulatory classifications under other laws. Accordingly, FMCG companies dealing in ready-to-drink beverages should carefully evaluate the product formulation, FSSAI licence category, laboratory reports, ingredient declarations and tariff descriptions before determining the applicable GST rate. Given the significant rate differential between the concessional rate applicable to certain special beverages and notified beverages attracting GST at 40 per cent, an incorrect classification may result in substantial tax exposure, interest and litigation.

Harmonised System of Nomenclature

The harmonised system of nomenclature (HSN) is an internationally accepted system for classification of goods. The HSN structure is arranged in a hierarchical manner consisting of Chapters, Headings, Sub-headings and Tariff Items. Under GST, the HSN code serves as the basis for determination of applicable tax rates and reporting requirements. The mandatory HSN digit requirement — 4-digit or 6-digit — for reporting in GSTR-1 is based on the Aggregate Annual Turnover (AATO) of the registered person in the preceding financial year. FMCG businesses should determine their applicable digit-level based on their turnover slab and ensure compliance in GSTR-1. Separately, 8-digit HSN reporting is not turnover-based — it applies to specified goods, such as certain chemical products, irrespective of the supplier's turnover. FMCG companies dealing in such notified goods must comply with the 8-digit requirement even where their general turnover-based obligation would otherwise only require 4 or 6 digits.

For FMCG companies, the HSN assumes particular importance because even minor differences in product composition, manufacturing process or intended use may result in classification under different tariff entries attracting different GST rates. For illustration, products falling under Chapter 19 relating to preparations of cereals may attract a different GST treatment from products classified under Chapter 21 relating to miscellaneous edible preparations. Similarly, products marketed as healthcare products may require examination to determine whether they are classifiable as medicaments under Chapter 30 or cosmetic preparations under Chapter 33.

Methodology for Identifying the Correct HSN Classification

One of the most common challenges faced by FMCG businesses is identification of the correct HSN classification for new products and product variants. With increasing product innovation and evolving consumer preferences, classification disputes have become more frequent. Therefore, FMCG businesses should adopt a systematic approach while determining the HSN classification of any product.

The first step is to identify the essential character of the product. Classification should not be based merely on the trade name or marketing description. Instead, the product composition, ingredients, manufacturing process, intended use and technical or scientific characteristics should be examined as the primary determinants of classification.

For illustration, a product marketed as a "Herbal Wellness Drink" cannot be classified merely because the word "herbal" appears on the packaging. The actual ingredients, nutritional content and intended use must be examined to determine whether the product is classifiable as a beverage under Chapter 22, a food preparation under Chapter 21 or a healthcare product under Chapter 30. Where the product contains a standardised herbal extract with a therapeutic claim and is licensed under the Drugs and Cosmetics Act, 1940, classification as a medicament under Chapter 30 would merit consideration.

The next step is to identify the relevant Chapter of the Customs Tariff. Certain Chapters are particularly relevant for FMCG products. Dairy products are generally covered under Chapter 4, sugar confectionery under Chapter 17, cocoa and chocolate preparations under Chapter 18, preparations of cereals under Chapter 19, processed food products under Chapters 20 and 21, beverages under Chapter 22, tobacco and pan masala products under Chapter 24, medicaments under Chapter 30, cosmetics and personal care products under Chapter 33 and soaps and detergents under Chapter 34.

Once the appropriate Chapter is identified, the relevant Section Notes and Chapter Notes should be carefully examined. These Notes frequently contain specific inclusion and exclusion provisions which override the general product descriptions and play a decisive role in classification.

It is also relevant to note that for food preparations falling under Chapters 4, 11 and 19, the taxability threshold may pivot on whether the product is pre-packaged and labelled within the meaning of the Legal Metrology Act, 2009 and the Rules framed thereunder. Following the clarifications introduced with effect from 18 July 2022, a distinction is drawn between goods that are pre-packaged and labelled and goods that are pre-packaged but not labelled and the applicable GST treatment differs accordingly. FMCG businesses should therefore verify the pre-packaging and labelling status of their products before determining the applicable rate.

Where a product appears to be capable of classification under multiple tariff headings, the General Rules for Interpretation become relevant. In such cases, preference is generally given to the Heading providing the most specific description. Where multiple Headings appear equally applicable, classification is determined based on the Heading that imparts the essential character of the product.

General Rules for Interpretation

The General Rules for Interpretation (GRI) form the backbone of classification under GST. Rule 1 provides that classification shall be determined according to the terms of the headings and any relevant Section Notes or Chapter Notes. Therefore, the tariff entry itself remains the primary basis for classification.

Rule 2 deals with incomplete or unfinished goods and provides that such goods may be classified as complete goods if they possess the essential character of the finished article. Rule 3 becomes relevant where a product appears classifiable under two or more headings and requires classification based on specificity and essential character. Rule 5 governs the classification of packaging materials and containers presented with the goods, which is of practical relevance for FMCG products that are sold in distinctive packaging. Rule 6 governs classification at the sub-heading level and applies the same interpretational principles to sub-heading comparisons within the same heading. These principles are particularly relevant in the FMCG sector where products frequently contain multiple ingredients and perform multiple functions.

III. REGISTRATION UNDER GST FOR FMCG SECTOR

Registration is one of the most important compliances under the GST regime for the FMCG sector considering its extensive manufacturing, warehousing, stock transfer, distribution, retail, and e-commerce network. FMCG companies generally operate through factories, depots, warehouses, carrying & forwarding (C&F) agents, super stockists, distributors, retailers and e-commerce fulfilment centres spread across multiple States and Union Territories.

Accordingly, GST registration becomes critical for ensuring:

- seamless movement of goods across States;
- uninterrupted flow of input tax credit (ITC) across the supply chain;
- proper compliance for inter-State stock transfers;
- efficient distribution of common credits through input service distributor (ISD) and
- smooth functioning of large distribution and retail networks.

Threshold Limit for Registration

Section 22 of the Central Goods and Services Tax Act, 2017 (CGST Act) provides that every supplier shall be liable to obtain GST registration in the State or Union Territory from where the taxable supplies are made, if the aggregate turnover exceeds the prescribed threshold limit.

Presently, the threshold limits are as under:

Category	**Threshold Limit**
Supplier engaged exclusively in supply of goods	₹40 Lakhs
Supplier engaged in supply of services	₹20 Lakhs
Special Category States	₹10 Lakhs

The enhanced threshold limit of ₹40 lakhs for suppliers engaged exclusively in supply of goods has been prescribed vide Notification No. 10/2019-Central Tax dated 07.03.2019, subject to prescribed conditions. For FMCG businesses, this provision becomes relevant particularly for local distributors, stockists, wholesalers, and small retailers perform within a single State.

Meaning Of Aggregate Turnover

The term “aggregate turnover” has been defined under Section 2(6) of the CGST Act. Aggregate turnover includes:

- taxable supplies
- exempt supplies
- export supplies and
- inter-State supplies

of all persons having the same permanent account number (PAN), computed on an all-India basis.

However, aggregate turnover excludes:

- inward supplies liable to tax under reverse charge mechanism (RCM);
- CGST/ SGST/ IGST/ UTGST

It may be noted that aggregate turnover is required to be computed at PAN level and not GST registration-wise. Accordingly, turnover of all branches and registrations under the same PAN across India is required to be clubbed for determining the registration liability.

Persons Not Liable for Registration

Section 23 of the CGST Act, 2017 provides exemption from registration to specified categories of persons.

The following persons are generally not required to obtain GST registration:

- persons engaged exclusively in supply of exempt goods or services;
- agriculturists supplying produce out of cultivation of land; and
- persons whose aggregate turnover does not exceed the prescribed threshold limit.

In the FMCG sector, this provision may become relevant for persons dealing exclusively in exempt food products, fresh agricultural produce, or unprocessed items. However, once branding, packaging, or processing is involved, the exemption may not be available.

Compulsory Registration

Section 24 of the CGST Act begins with a non-obstante clause and provides that notwithstanding anything contained in Section 22, certain categories of persons are mandatorily required to obtain GST registration irrespective of the threshold limit prescribed under Section 22. Accordingly, where a person falls within any of the categories specified under Section 24, the benefit of threshold exemption is not available. Although Section 24 contains several categories of compulsory registration, only a few of them ordinarily assume significance in the FMCG sector.

(i) Persons Making Inter-State Taxable Supplies – Section 24(i)

Section 24(i) provides that persons making inter-State taxable supplies are required to obtain GST registration irrespective of the threshold limit prescribed under Section 22. However, the Government has granted relaxation to specified categories of suppliers through various notifications. In the FMCG sector, inter-State supplies are common because manufacturers frequently supply goods from factories or depots located in one State to distributors, wholesalers, modern trade chains and institutional customers situated in another State. Similarly, stock transfers between distinct persons located in different States are also treated as inter-State supplies under the IGST Act. Consequently, most organised FMCG businesses are required to obtain registration in each State from where taxable supplies are made.

(ii) Casual Taxable Persons – Section 24(ii)

Section 24(ii) mandates compulsory registration for every Casual Taxable Person (CTP). Section 2(20) of the CGST Act defines a Casual Taxable Person as a person who occasionally undertakes transactions involving supply of goods or services in a State or Union Territory where he has no fixed place of business. This provision become relevant where organisation participate in temporary trade fairs, promotional exhibitions, food festivals, product launch events or seasonal sales campaigns in a State where they do not have an existing GST registration.

(iii) Persons liable to pay tax under Reverse Charge – Section 24(iii)

Section 24(iii) mandates registration for persons who are required to pay tax under the reverse charge mechanism. FMCG entity making taxable supplies and becoming liable to discharge GST under reverse charge is required to comply with the applicable registration provisions.

(iv) Input Service Distributor (ISD) – Section 24(viii)

One of the most significant provisions for large FMCG organisations is Section 24(viii), which mandates registration as an Input Service Distributor (ISD). Large FMCG companies generally incur common expenditure such as national advertising campaigns, ERP licences, statutory audit fees, legal and professional charges, market research, digital marketing, brand promotion and employee training at the Head Office. Since the benefit of these services accrues to multiple registrations, the corresponding input tax credit is required to be distributed through the ISD mechanism in accordance with Section 20 read with Rule 39 of the CGST Rules. Following the amendments made effective from 1 April 2025, ISD registration has become mandatory in cases covered by the amended provisions.

<u>(v) Supply through Electronic Commerce Operator – Section 24(ix)</u>

Section 24(ix) requires persons supplying goods or services through an electronic commerce operator required to collect tax at source under Section 52 to obtain GST registration. However, the Government has granted a significant relaxation in respect of suppliers of goods through Notification No. 34/2023-Central Tax dated 31 July 2023, effective from 1 October 2023. Subject to the prescribed conditions and compliance with the special procedure, eligible suppliers of goods making supplies through electronic commerce operators are exempted from compulsory registration and may continue to avail the threshold exemption under Section 22. This relaxation is particularly relevant for small FMCG manufacturers and local food producers selling products through platforms such as Amazon, Flipkart and other electronic commerce operators.

State-Wise Registration Requirement

FMCG companies generally operate through a pan-India supply chain structure involving factories, depots, warehouses, stock transfer locations, C&F agents and fulfilment centres across multiple States.

Section 25 of the CGST Act, 2017 requires separate GST registration in every State or Union Territory from where taxable supplies are made. Accordingly, large FMCG companies generally hold multiple GST registrations across India.

Further, Section 25(4) provides that separate registrations obtained under the same PAN shall be treated as “distinct persons”. Accordingly, if an FMCG company has registrations in different States, each GSTIN shall be treated as a separate taxable person under GST law.

This concept becomes extremely important for:

- inter-State stock transfers

- cross charging
- ISD distribution and
- movement of goods between depots and warehouses.

Input Service Distributor – Mandatory w.e.f. 01.04.2025

For FMCG companies with multiple branches or offices under the same PAN, input service distributor (ISD) registration is mandatory under GST if they receive common input services centrally, such as IT services, legal and advisory fees, national marketing and advertising campaigns, audit and consulting fees, head office rent, utilities, HR and training services, and logistics or supply chain management services. This registration became compulsory from April 1, 2025, following Notification No. 16/2024-Central Tax, which removed the optional nature of ISD registration. There is no turnover threshold for ISD registration, meaning it is required regardless of the company's turnover, and a separate ISD GSTIN must be obtained in addition to regular GST registration. The application is to be made through Form GST REG-01, Serial No. 14, by selecting "Input Service Distributor" as the registration type, typically at the head office location where common services are received.

The legal framework for ISD is governed by Section 2(61) of the CGST Act, which defines an ISD as an office that receives tax invoices for input services used by distinct persons (branches) under the same PAN. Section 24(viii) of the CGST Act mandates compulsory registration for ISDs, making the threshold exemption inapplicable. Section 20 of the CGST Act governs the manner of input tax credit (ITC) distribution, requiring that CGST, SGST/UTGST, and IGST be distributed separately. Rule 39 of the CGST Rules prescribes the procedure for ITC distribution, specifying that credit must be distributed based on the turnover ratio of recipient branches, with eligible and ineligible credits distributed separately. The ITC must be distributed in the same month it is available and starting April 1, 2025, reverse charge ITC can also be distributed through the ISD mechanism.

Registration in Case of E-Commerce Supplies

The FMCG sector increasingly operates through e-commerce and quick commerce platforms such as Amazon, Flipkart, Blinkit, Zepto and Swiggy Instamart. Earlier, persons supplying goods through e-commerce operators were mandatorily required to obtain GST registration under Section 24(ix) irrespective of their turnover. However, the Government has granted relaxation vide Notification No. 34/2023-Central Tax dated 31.07.2023 effective from 01.10.2023.

Pursuant to the said notification, suppliers making supply of goods through e-commerce operators are not required to obtain compulsory registration subject to fulfilment of the following conditions:

- supplier should not make inter-State supplies;
- aggregate turnover should remain within threshold limit under section 22;
- such persons have been granted an enrolment number on the common portal on successful validation of the Permanent Account Number declared; and
- no supply of goods shall be made by such persons through electronic commerce operator unless such persons have been granted an enrolment number on the common portal;

Accordingly, small FMCG suppliers selling goods within the same State through e-commerce platforms may avail threshold exemption from registration.

Further, e-commerce operators themselves are mandatorily required to obtain registration under section 24 and comply with tax collection at source (TCS) provisions under section 52 of the CGST Act.

Registration of Casual Taxable Person

FMCG companies frequently undertake promotional campaigns through exhibitions; trade fairs, temporary kiosks, mall counters and seasonal promotional events etc.

Where taxable supplies are made from a temporary place in a State where no fixed place of business exists, provisions relating to “casual taxable person” under Section 2(20) and Section 27 of the CGST Act become applicable. Such registration is generally valid for 90 days and requires advance deposit of estimated tax liability.

Composition Scheme and FMCG Sector

A registered person can opt for the Composition Scheme only if the aggregate turnover in the preceding financial year does not exceed ₹1.50

crore. In the case of certain special category States, the threshold limit is ₹75 lakh. The term "aggregate turnover" is required to be computed on an all-India basis for all registrations held under the same permanent account number (PAN).

A person opting for the Composition Scheme can supply goods only within the State in which he is registered. Since most FMCG manufacturers, distributors and wholesalers operate through pan-India supply chains and regularly undertake inter-State transactions, they generally fail to satisfy this condition.

Another important restriction relates to supplies made through electronic commerce operators. A composition taxpayer is not permitted to supply goods through e-commerce platforms that are required to collect tax at source under Section 52 of the CGST Act. With the increasing reliance of FMCG businesses on online marketplaces and quick commerce platforms such as Amazon, Flipkart, Blinkit, Zepto, and Swiggy Instamart, this condition significantly restricts the availability of the scheme for FMCG businesses.

Further, the benefit of the Composition Scheme is not available to manufacturers of certain notified goods. The Scheme is also unavailable to casual taxable persons and non-resident taxable persons. Therefore, only regular taxable persons satisfying all prescribed conditions are eligible to avail the benefit of composition taxation. From a practical perspective, the Composition Scheme is generally relevant only for small local FMCG retailers, neighbourhood grocery stores, *kirana* shops and small traders operating within a single State and having limited turnover.

IV PLACE OF SUPPLY UNDER GST IN FMCG SECTOR

The concept of "place of supply" is one of the most important concepts under the GST regime as it determines whether a transaction shall qualify as:

- inter-State supply liable to Integrated GST (IGST) or
- intra-State supply liable to Central GST (CGST) and State GST (SGST).

The place of supply provisions are primarily governed by Sections 10 to 14 of the Integrated Goods and Services Tax Act, 2017 (IGST Act). In the fast-moving consumer goods (FMCG) sector, these provisions assume significant importance considering the extensive movement of goods through factories, depots, warehouses, distributors, retailers, e-commerce operators and quick commerce platforms across multiple States.

The GST Law operates through destination-based supply chains where goods move continuously from manufacturing units to distributors, retailers, and ultimately consumers. Accordingly, determination of the correct place of supply becomes critical for:

- identifying correct nature of tax
- proper invoicing
- seamless input tax flow
- e-Way Bill compliance
- branch transfer taxation and
- avoiding litigation relating to wrong payment of tax.

Inter-State Supply and Intra-State Supply

Section 7 of the IGST Act provides that where the location of supplier and place of supply are situated in two different States or Union Territories, the transaction shall qualify as inter-State supply and IGST shall be applicable.

On the other hand, Section 8 of the IGST Act provides that where the location of supplier and place of supply are situated within the same State or Union Territory, the transaction shall qualify as intra-State supply and CGST along with SGST shall be applicable. For illustration, where a shampoo manufacturer located in Himachal Pradesh supplies goods to a distributor in Delhi, the transaction shall qualify as inter-State supply and IGST shall be applicable.

Place of Supply of Goods Involving Movement

Section 10(1)(a) of the IGST Act provides that where the supply involves movement of goods, whether by supplier, recipient, or any other person, the place of supply shall be the location of goods at the time where movement terminates for delivery to the recipient.

This is the most commonly applicable provision in the FMCG sector because almost every FMCG transaction involves movement of goods through the supply chain.

Accordingly, in FMCG transactions:

- place of supply generally becomes the destination State where goods are delivered;
- GST follows the destination-based consumption principle.

For illustration, where a beverage company located in Maharashtra supplies goods to a distributor in Karnataka, the place of supply shall be Karnataka since movement terminates there. Accordingly, IGST shall be applicable. Similarly, where goods are supplied through e-commerce platforms such as Amazon, Flipkart, Blinkit, or Zepto, the place of supply generally becomes the customer's delivery location.

Bill-to Ship-to Transactions

Section 10(1)(b) of the IGST Act governs "Bill-to Ship-to" transactions. The provision states that where goods are delivered by supplier to a recipient or any other person on the direction of a third person, it shall be deemed that the third person has received the goods. This provision becomes highly relevant in the FMCG sector due to centralized procurement models and distributor-based supply chains.

Illustration- An FMCG manufacturer in Gujarat receives an order from a super stockist in Maharashtra, who instructs the manufacturer to deliver the goods directly to a retailer in Goa. The manufacturer invoices the super stockist (bill-to: Maharashtra) while shipping the goods to the retailer (ship-to: Goa).

Under section 10(1)(b) of the IGST Act, 2017, the **place of supply for the first supply** (manufacturer to super stockist) is **Maharashtra**, being the location of the person to whom the goods are billed. The **second supply** (super stockist to retailer) is governed by section 10(1)(a), and the place of supply is **Goa**, where the goods are delivered.

Place of Supply Where No Movement of Goods Is Involved / On the Counter Sale

Section 10(1)(c) of the IGST Act 2017, where the supply does not involve movement of goods, the place of supply shall be the location of the goods at the time of delivery to the recipient.

This applies to ordinary over-the-counter FMCG retail sales, where the customer takes delivery at the shop itself and there is no movement of goods.

Illustration- A customer purchases biscuits from a retail store in Delhi and takes delivery at the counter.

- Location of goods at delivery: Delhi
- Location of supplier: Delhi
- Place of supply: Delhi
- Nature of supply: Intra-State
- Tax applicable: CGST + SGST

Section 10(1)(ca) of the IGST Act 2017, where the supply of goods is made to a person other than a registered person, the place of supply shall be: (i) the address of the said person recorded in the invoice; or (ii) the location of the supplier, where such address is not recorded.

This applies to e-commerce/quick-commerce FMCG sales, where the fulfilment point and the customer's delivery address may differ.

Illustration- A customer in Haryana orders packaged snacks through a quick-commerce platform; the order is fulfilled from a warehouse in Delhi, and the invoice records the customer's address as Haryana.

- Address recorded on invoice: Gurugram, Haryana
- Location of supplier: Delhi
- Place of supply: Haryana
- Nature of supply: Inter-State
- Tax applicable: IGST

With the rapid growth of e-commerce and direct-to-consumer (D2C) business models, determination of the place of supply in transactions involving unregistered customers has assumed significant importance for FMCG companies. In many online transactions, the customer may not provide billing address, the place of supply shall be the location of the supplier in terms of section 10(1)(ca) of the IGST Act, 2017.

CBIC Circular No. 209/03/2024-GST dated 26.06.2024 clarifies the place of supply under Section 10(1)(ca) of the IGST Act in cases where goods are supplied to an unregistered person through an e-commerce platform, and the billing address differs from the delivery address. The Circular illustrates this with an example: an unregistered customer in State X places an order for delivery to an address in State Y, while providing a billing address in State X. It clarifies that in such cases, the place of supply is State Y — the State of the delivery address recorded on the invoice — and not the billing address, since Section 10(1)(ca) read with its Explanation deems the address recorded on the invoice to be the address of the recipient for this purpose. The Circular further advises that suppliers may resolve this ambiguity at source by recording the delivery address itself as the recipient's address on the invoice, thereby aligning invoicing practice with the statutory test. Only where no address whatsoever is recorded on the invoice does the place of supply default to the location of the supplier under the residual limb of Section 10(1)(ca). This clarification is particularly relevant for FMCG companies selling through e-commerce and quick-commerce platforms, where billing and shipping details frequently diverge across States.

Place of Supply for Imports and Exports

The FMCG sector is increasingly engaged in cross-border procurement and international trade. Large FMCG companies regularly import raw materials, packaging materials, flavours, fragrances, machinery, software, and technical know-how from overseas suppliers. Similarly, many FMCG manufacturers export packaged food products, beverages, cosmetics, personal care products, healthcare products, and other consumer goods to international markets. Accordingly, determination of place of supply for import and export transactions assumes significant importance under GST.

Section 11(a) of the Integrated Goods and Services Tax Act, 2017 provides that the place of supply of goods imported into India shall be the location of the importer. Thus, whenever goods are imported into India, the location of the importer becomes the place of supply. In such cases, IGST is generally levied at the time of customs clearance along with applicable customs duties under the Customs Act, 1962. The importer is thereafter eligible to avail input tax credit of the IGST paid on import, subject to fulfilment of the prescribed conditions. For FMCG companies, this provision is particularly relevant in cases involving import of raw materials, packaging materials, flavours, additives, machinery, and capital equipment used in manufacturing operations.

Section 11(b) of the IGST Act provides that the place of supply of goods exported from India shall be the location outside India. Consequently, exports of goods may qualify as “Zero Rated Supplies” under Section 16 of the IGST Act subject to the conditions prescribed.

The concept of zero-rating ensures that exports remain free from domestic tax burden and remain internationally competitive. Ordinarily, an FMCG exporter may either export goods under a bond or Letter of Undertaking (LUT) without payment of IGST and subsequently claim refund of unutilised ITC, or export goods on payment of IGST and claim refund of the tax so paid. This mechanism ensures that taxes do not form part of the cost of exported products.

However, this dual option is not available uniformly across all goods. Vide Notification No. 1/2023–Integrated Tax, dated 31-7-2023 (as amended by Notification No. 5/2023–Integrated Tax, dated 26-10-2023), the "with payment of tax" route has been withdrawn for specified sin goods, such as pan masala and tobacco products. Exporters of such notified goods must export only under bond or LUT, without payment of integrated tax, and claim refund of unutilised input tax credit accordingly

Place of Supply of Services Relevant for FMCG Sector

Apart from supply of goods, FMCG companies also receive and provide several services such as:

- advertisement services
- warehousing services
- transportation services
- ERP and software support
- consultancy services and
- brand licensing services.

The place of supply provisions for services are governed by Sections 12 and 13 of the IGST Act. Generally, Section 12(2) provides that place of supply of services shall be the location of registered recipient where recipient is registered. This provision becomes highly relevant for large FMCG companies receiving centralized services at Head Office level requiring ISD distribution.

V. TIME OF SUPPLY UNDER GST IN FMCG SECTOR

Time of supply is one of the most important concepts under the GST framework as it determines the exact point at which GST liability arises. While Section 7 of the CGST Act determines whether a transaction constitutes a supply, the provisions relating to time of supply determine the tax period in which such liability is required to be discharged. Consequently, even where the taxability of a transaction is undisputed, an incorrect determination of time of supply may result in interest liability under Section 50, return mismatches, denial of credit to customers and disputes during Departmental audits.

The provisions relating to time of supply are primarily contained in Sections 12, 13 and 14 of the CGST Act, 2017. Section 12 governs the time of supply of goods, Section 13 governs the time of supply of services, while Section 14 contains special provisions applicable where there is a change in the rate of tax.

From an FMCG sector perspective, determination of time of supply assumes significant importance because the industry operates through large-scale manufacturing facilities, multiple depots and warehouses, extensive distributor networks, modern trade channels, e-commerce platforms, quick commerce operators and centralized procurement models. Further, FMCG companies frequently undertake inter-State stock transfers, promotional schemes, sale-or-return arrangements, distribution of vouchers, import of services and procurements under reverse charge mechanism. Each of these transactions may trigger different time of supply provisions and therefore requires separate examination.

Time of Supply of Goods

Section 12 of the CGST Act governs the time of supply of goods. Section 12(2) provides as under:

"The time of supply of goods shall be the earlier of the following dates, namely:-

(a) the date of issue of invoice by the supplier or the last date on which he is required under Section 31 to issue the invoice; or

(b) the date on which the supplier receives the payment with respect to the supply."

Accordingly, GST liability on goods generally arises on the earlier of:

- date of invoice or
- date of receipt of payment.

However, after Notification No. 66/2017-Central Tax dated 15 November 2017, registered persons supplying goods are not required to pay GST merely on receipt of advances. Consequently, for most FMCG transactions, GST liability arises at the time of issuance of invoice.

Illustration-

ABC FMCG Ltd. dispatches toothpaste worth ₹10 lakh to a distributor on 10 July 2025 and issues the tax invoice on the same date. Payment is received on 25 August 2025. In this case, GST liability shall arise on 10 July 2025 being the date of issuance of invoice. Subsequent receipt of payment will not alter the time of supply.

The provisions relating to issuance of tax invoices are primarily governed by Section 31 of the CGST Act, 2017 read with Rules 46, 47, 47A and 48 of the CGST Rules, 2017. Section 31(1) of the CGST Act provides as under:

A registered person supplying taxable goods shall issue a tax invoice before or at the time of:

(a) removal of goods for supply to the recipient, where supply involves movement of goods; or

(b) delivery of goods or making available thereof to the recipient, in any other case.

This provision is the most relevant provision for FMCG companies because most FMCG transactions involve physical movement of goods through factories, warehouses, depots, distributors and retailers. Accordingly, where supply involves movement of goods, the invoice must be issued before or at the time of dispatch of goods. The invoice cannot be issued after the goods have already been removed from the factory or warehouse.

Illustration-

An FMCG manufacturer dispatches goods worth ₹10 lakh to a distributor on 10 July 2025. Under Section 31(1), the tax invoice was required to be issued on or before the date of removal of goods. However, due to an internal system error, the invoice is actually issued on 15 July 2025. Payment is received on 30 August 2025. Since the goods were removed on 10 July 2025, the invoice was legally required to be issued on that date itself. Therefore, although the invoice was actually issued on 15 July 2025, the time of supply shall be 10 July 2025, being the last date on which the invoice ought to have been issued.

Supply without Movement of Goods

Section 31(1)(b) provides that where supply does not involve movement of goods, invoice shall be issued before or at the time of delivery or making goods available to the recipient. Although less common in FMCG, this provision may become relevant in cases involving:

- sale of old machinery
- transfer of display racks
- sale of refrigeration equipment
- transfer of warehouse assets.

Illustration-

An FMCG company sells a refrigeration unit installed at a retailer's premises without physically moving it. The invoice must be issued before or at the time the unit is handed over or made available to the buyer.

Continuous Supply of Goods

Section 31(4) provides that in case of continuous supply of goods, where successive statements of account or successive payments are involved, the invoice shall be issued before or at the time each statement is issued or each payment is received. This provision may apply in situations where FMCG products are supplied continuously under long-term contracts with:

- institutional customers
- hotels
- airline caterers
- large retail chains

- defence establishments.

Illustration-

An FMCG company enters into a one-year contract with a hotel chain to supply packaged beverages on a recurring basis, with monthly statements being issued for the supplies made. If the arrangement qualifies as a continuous supply of goods under section 2(32), the tax invoice must be issued before or at the time the monthly statement is issued.

Alternatively, where the contract provides for periodic payments instead of successive statements, the invoice shall be issued before or at the time each payment is received.

Goods Sent on Approval Basis (Sale or Return Basis)

Section 31(7) provides where goods are sent on approval for sale or return and are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

In these scenarios, the tax invoice must be issued at the earlier of the following two dates:

- Before or at the time of supply (i.e., when the recipient formally accepts the goods or confirms the sale).
- Six months from the date of removal from the supplier's premises.

This provision is frequently used in FMCG industry for new product launches, modern retail placements, distributor trials and seasonal products. Such goods are generally moved under a delivery challan rather than tax invoice at the time of dispatch.

Illustration-

A cosmetics company dispatches a newly launched skincare product to a retailer on 1 April 2025 on approval basis.

The retailer confirms acceptance on 15 May 2025.

The tax invoice must be issued on or before 15 May 2025.

However, if approval is neither received nor goods returned, the invoice must be issued not later than 30 September 2025, being six months from removal.

Time of Supply of Services

While the FMCG industry is predominantly engaged in supply of goods, it also receives and provides a significant number of services such as advertising services, warehousing services, transportation services, software support services, ERP implementation services, brand licensing services, management consultancy services and logistics support services. Accordingly, determination of time of supply of services assumes considerable importance for FMCG businesses.

Section 13(2) of the CGST Act provides that the time of supply of services shall be the earlier of:

(a) the date of issue of invoice by the supplier, if the invoice is issued within the prescribed period; or

(b) the date of receipt of payment.

Where the invoice is not issued within the prescribed period, the time of supply shall be the earlier of:

- date of provision of service or
- date of receipt of payment.

Where neither of the above can be determined, the time of supply shall be the date on which the recipient records the receipt of service in its books of account.

Section 31(2) read with Rule 47 provides that invoice for taxable services shall be issued before or after provision of service but within the prescribed period. Rule 47 prescribes that the invoice must be issued within 30 days from the date of supply of service. For banks, insurers and financial institutions, the time limit is 45 days.

Illustration-

An FMCG company provides warehousing services to a group entity on 1 July 2025. The invoice may be issued either before or after providing the service but must be issued not later than 31 July 2025.

Continuous Supply of Services

Section 31(5) governs continuous supply of services.

Where:

- the due date of payment is ascertainable from contract, the invoice shall be issued on or before such due date;
- the due date is not ascertainable, the invoice shall be issued before or at the time of receipt of payment;
- the payment is linked to completion of an event, the invoice shall be issued on or before completion of that event.

This provision commonly applies to annual ERP contracts, long-term warehousing agreements, marketing retainership arrangements, brand licensing contracts etc.

Illustration-

An FMCG company enters into a one-year advertising contract where payment is due on the 5th day of every month. The service invoice must be issued by the advertising company on or before the respective due date prescribed in the contract.

Time of Supply of Goods /Services Under RCM

The FMCG sector generally operates under the forward charge mechanism. However, GST under reverse charge mechanism may arise in respect of specified supplies such as legal services, sponsorship services, import of services and other notified transactions. Since the liability to pay GST shifts from the supplier to the recipient, separate provisions have been prescribed for determining the time of supply.

Time of Supply of Goods under RCM

Section 12(3) of the CGST Act provides that the time of supply of goods liable to reverse charge shall be the earliest of the following:

- Date of receipt of goods.
- Date of payment as recorded in the books of account or date of debit in bank account, whichever is earlier.
- The day immediately following 30 days from the date of issue of invoice by the supplier.

Where none of the above can be determined, the time of supply shall be the date of entry in the books of account of the recipient.

Illustration-

An FMCG company receives goods on 10 August 2025 against an invoice dated 1 August 2025 and makes payment on 25 September 2025. Since the goods are received on 10 August 2025, GST under reverse charge becomes payable on 10 August 2025.

Time of Supply of Services under RCM

Section 13(3) of the CGST Act provides that the time of supply of services liable to reverse charge shall be the earliest of the following:

- Date of payment as recorded in books of account or date of debit in bank account, whichever is earlier; or
- The day immediately following 60 days from the date of issue of invoice by the supplier, or
- The date of issue of invoice by the recipient, in case where invoice is to be issued by the recipient,

Where the above cannot be determined, the time of supply shall be the date of entry in the books of account of the recipient.

Further as per Rule 47A of the CGST Rules, 2017 — inserted alongside the Section 13(3) amendment and effective 01.11.2024 vide Notification No. 20/2024-Central Tax — a registered person who is liable to pay tax under reverse charge (Section 9(3) or 9(4)) and is required to issue a self-invoice under Section 31(3)(f) must issue that invoice within 30 days from the date of receipt of the supply of goods or services.

Illustration-

An FMCG company avails services from an unregistered goods transport agency, which does not issue any invoice or document, and FMCG company is required to raise a self-invoice, which it issues on 20 January 2026, and payment is made on 10 February 2026. Time of supply is 20 January 2026.

E-Commerce and Quick Commerce Transactions

The FMCG sector has witnessed substantial growth through:

- e-commerce platforms

- direct-to-consumer channels
- quick commerce operators
- online grocery platforms.

Although the mode of sale differs, the provisions relating to time of supply remain governed by Section 12. Accordingly, GST liability generally arises upon issuance of invoice or dispatch of goods, depending upon the transaction structure.

Illustration-

An FMCG company receives an online order through a quick commerce platform on 5 July 2025. Goods are dispatched and invoice issued on the same date. GST liability shall arise on 5 July 2025 irrespective of when the e-commerce operator remits the sale proceeds.

Change in Rate of Tax

The FMCG sector has witnessed several GST rate rationalisation measures since the introduction of GST. Changes in tax rates have impacted various product categories such as packaged food products, household goods, personal care products, cosmetics, consumer goods, beverages and healthcare products. Whenever the GST rate applicable to a product is revised, the determination of the correct rate of tax becomes crucial, particularly in cases where the supply, invoice and payment occur on different dates.

Section 14 of the CGST Act contains special provisions for determining the applicable GST rate where there is a change in the rate of tax. The provision overrides the normal time of supply rules contained in Sections 12 and 13 and prescribes a separate mechanism to determine whether the old rate or the new rate will apply.

The determination under Section 14 depends upon three critical events:

- Date of supply of goods or services
- Date of issue of invoice and
- Date of receipt of payment.

Under Section 14 of the CGST Act, where a rate change occurs, the applicable rate is determined by the relative timing of three events - supply of goods/services, issuance of invoice, and receipt of payment. Whichever rate applies is decided by whichever two of these three events occur on the same side (before or after) the rate-change date.

a. <u>Supply Made Before Change in Rate of Tax</u>

Where the supply is made before the change in tax rate, the following situations may arise:

- ***Invoice and Payment both after Rate Change***

Where the supply has taken place before the rate revision but both the invoice and payment are received after the revised rate becomes effective, the time of supply shall be the earlier of the invoice date or payment date. Since both events occur after the rate change, the revised GST rate becomes applicable.

Illustration-

GST rate on a dairy product is reduced from 12 to 5 per cent with effect from 1 October 2025. The goods are supplied on 25 September 2025. The invoice is issued on 5 October 2025 and payment is received on 15 October 2025.

Since both invoice and payment occur after the change in rate, GST shall be payable at 5 per cent.

- ***Invoice before Rate Change and Payment after Rate Change***

Where the invoice is issued before the rate revision but payment is received after the change, the time of supply shall be the date of invoice. Accordingly, the old rate shall continue to apply.

Illustration-

An FMCG manufacturer supplies packaged food products on 25 September 2025 and issues the invoice on 28 September 2025. Payment is received on 10 October 2025.

Since the invoice was issued before the rate change, GST shall be payable at the old rate.

- ***Payment before Rate Change and Invoice after Rate Change***

Where payment is received before the rate revision but the invoice is issued after the change, the time of supply shall be the date of payment. Accordingly, the old rate shall apply.

Illustration-

A distributor makes payment on 28 September 2025 against a proposed supply. The invoice is issued on 5 October 2025 after the GST rate reduction.

Since payment was received before the change in rate, GST shall be payable at the old rate.

b. <u>Supply Made After Change in Rate of Tax</u>

Where the actual supply takes place after the change in tax rate, the following situations may arise:

- ***Invoice and Payment before Rate Change***

Where both invoice and payment occur before the revised rate becomes effective but the actual supply takes place after the rate change, the time of supply shall be the earlier of the invoice date or payment date. Consequently, the old rate shall apply.

Illustration-

An FMCG company issues an invoice on 25 September 2025 and receives payment on 28 September 2025. The goods are actually dispatched on 3 October 2025 after the rate revision. GST shall be payable at the old rate.

- ***Invoice before Rate Change and Payment after Rate Change***

Where invoice is issued before the change but payment is received after the change and supply takes place after the rate revision, the time of supply shall be the date of payment. Accordingly, the revised GST rate shall apply.

Illustration-

Invoice is issued on 28 September 2025, payment is received on 10 October 2025 and goods are supplied on 5 October 2025.

Since payment is received after the rate change, GST shall be payable at the revised rate.

- ***Payment before Rate Change and Invoice after Rate Change***

Where payment is received before the rate revision but invoice is issued after the change and supply also takes place after the rate change, the time of supply shall be the date of invoice. Consequently, the revised GST rate becomes applicable.

Illustration-

A distributor pays advance on 25 September 2025. Goods are supplied on 5 October 2025 and invoice is issued on the same date. Since invoice is issued after the rate change, GST shall be payable at the revised rate.

CHANGE IN RATE OF TAX AS PER SECTION 14

S. No.	Date of Supply (1)	Date of Invoice (2)	Date of Payment (3)	Applicable GST Rate
Supply before rate change				
1	Before change	After change	After change	New Rate
2	Before change	Before change	After change	Old Rate
3	Before change	After change	Before change	Old Rate
Supply after rate change				
4	After change	Before change	Before change	Old Rate
5	After change	Before change	After change	New Rate
6	After change	After change	Before change	New Rate

VI. DOCUMENTATION AND RECORD KEEPING

Documentation forms the backbone of GST compliance in the FMCG sector. The industry is characterized by high-volume transactions, extensive distribution networks, multiple warehouses and depots, inter-State stock transfers, promotional schemes, e-commerce sales and frequent movement of goods. Since GST is a transaction-based tax, every supply, movement and credit claim must be supported by prescribed documents. Proper maintenance of documentation not only facilitates compliance but also plays a critical role during Departmental audits, investigations, refund proceedings and litigation.

The documentation requirements in the FMCG sector may broadly be classified into:

- Outward supply documentation
- Movement and transportation documentation
- Input tax credit documentation
- Reverse charge documentation
- Export documentation and
- Documentation relating to special transactions such as goods sent on approval basis, stock transfers, expiry write-offs and promotional schemes.

Documentation for Outward Supplies

The primary document for taxable supplies under GST is the tax invoice issued under Section 31 of the CGST Act read with Rule 46 of the CGST Rules. Since FMCG products move through multiple layers of the distribution chain, tax invoices are generated at every stage from manufacturer to distributor, distributor to retailer and retailer to customer. The invoice serves as the foundation for determination of time of supply, payment of GST and availment of input tax credit by the recipient.

Large FMCG companies are also generally covered under the e-invoicing framework prescribed under Rule 48(4) of the CGST Rules. Accordingly, invoices are required to be authenticated through the Invoice Registration Portal (IRP) and contain a valid Invoice Reference Number (IRN) and QR Code. Failure to generate a valid e-invoice may result in denial of ITC to the recipient and penal consequences under the GST law.

In cases involving exempt supplies or supplies made by composition taxpayers, a bill of supply is required to be issued instead of a tax invoice. FMCG businesses dealing in exempt products should ensure appropriate documentation depending upon the nature of supply.

Further, credit notes and debit notes issued under Section 34 assume particular significance in the FMCG sector due to sales returns, damaged goods, expiry-related returns, post-supply discounts, trade schemes and price revisions.

Documentation for Movement of Goods

Movement of goods is a routine business activity in the FMCG sector. Goods are frequently transported between factories, depots, warehouses, redistribution centres, retail outlets and customer locations. Depending upon the nature of movement, different documentation requirements may apply.

Where goods are moved for reasons other than supply, such as job work, promotional stock movement, exhibition stock, goods sent on approval basis or temporary stock transfers movement may be undertaken on the basis of a delivery challan issued under Rule 55 of the CGST Rules. The delivery challan serves as documentary evidence for movement of goods in situations where a tax invoice is not required at the time of dispatch.

For inter-State stock transfers between distinct persons, however, a tax invoice is required because such transfers constitute supply under Schedule I of the CGST Act. Accordingly, FMCG companies operating through multiple GST registrations must issue tax invoices and generate corresponding e-way bills for inter-State stock transfers.

The e-way bill prescribed under Rule 138 remains one of the most important movement-related documents in the FMCG sector. It is generally required whenever goods having a consignment value exceeding ₹50,000 are transported, irrespective of whether the movement is pursuant to a tax invoice, delivery challan or bill of supply. Proper generation and maintenance of e-way bills is essential to avoid detention of goods under Section 129.

Documentation for Goods Sent on Approval Basis

The FMCG industry frequently introduces new products through modern retail chains, distributors and marketing partners on an approval or sale-or-return basis. Section 31(7) of the CGST Act specifically governs such transactions.

At the time of dispatch, goods are generally moved on the basis of a delivery challan and, wherever applicable, an e-way bill. Upon acceptance of the goods by the recipient, a tax invoice is subsequently issued. In cases where the goods are rejected and returned, the return movement is generally supported by a delivery challan and e-way bill, with appropriate reference to the original dispatch documentation.

Proper maintenance of approval correspondence, acknowledgement records, stock movement registers and return documentation becomes essential for establishing the movement trail during Departmental audits.

Documentation for Bill-To Ship-To Transactions

Bill-to ship-to transactions are widely prevalent in the FMCG sector due to centralized procurement systems, distributor-based logistics arrangements and institutional sales models.

In such transactions, the invoice and transportation documents must clearly capture both the billing party and the actual delivery location. Particular care should be taken while generating e-way bills to ensure that the bill-to and ship-to details are correctly reported, as any discrepancy may result in detention of goods and litigation.

Documentation for Input Tax Credit

Input tax credit represents a significant component of working capital; besides, loss of input credit means tax cost where the seamless flow of credit through trade channels gets denied for FMCG companies due to substantial expenditure on raw materials, packaging materials, freight, warehousing and advertising services.

Section 16 of the CGST Act requires a registered person to possess prescribed tax documents before availing ITC. Accordingly, FMCG companies should maintain tax invoices, debit notes, bills of entry, ISD documents, goods receipt notes (GRNs), supplier reconciliations and GSTR-2B matching records.

The introduction of GSTR-2B has made monthly reconciliation a critical compliance activity. FMCG companies should establish robust controls to ensure that ITC is availed only on eligible credits appearing in GSTR-2B and supported by valid documentation.

Documentation for Reverse Charge Mechanism

Large FMCG companies frequently procure services such as legal services, transportation services, sponsorship services and also import services which may be liable to GST under reverse charge.

In such cases, the documentation generally includes supplier invoices, self-invoices issued under Section 31(3)(f), payment vouchers, contracts and supporting records evidencing payment of GST under reverse charge. These documents become critical for substantiating ITC claims and demonstrating compliance during Departmental reviews.

Documentation for Exports

Many FMCG companies export food products, cosmetics, beverages, healthcare products and consumer goods. Since exports qualify as zero-rated supplies under Section 16 of the IGST Act, extensive documentation is required for GST refund purposes.

Key documents generally include export invoices, LUT/bond, shipping bills, bills of lading, airway bills, customs clearance documents, bank realisation certificates and refund applications. Particular attention should be paid to ensuring consistency between GST returns and customs documentation to avoid delays in processing export refunds.

Documentation for Expired, Damaged and Written-Off Goods

The FMCG sector is uniquely exposed to product expiry and inventory obsolescence. Goods may become unfit for sale due to expiry, damage, quality concerns or seasonal demand fluctuations.

Since Section 17(5)(h) restricts ITC on goods that are lost, destroyed, written off or disposed of by way of gift or free samples, FMCG companies should maintain comprehensive documentation including stock write-off approvals, destruction certificates, physical verification reports, ITC reversal workings and accounting records. Such documentation assumes critical importance in defending the correctness of ITC reversals during Departmental audits.

VII. VALUATION FOR FMCG

Valuation under the Goods and Services Tax (GST) regime assumes substantial importance in the fast-moving consumer goods (FMCG) sector considering the extensive supply chain structure involving factories, depots, warehouses, carrying & forwarding (C&F) agents, super stockists, distributors, retailers, e-commerce operators and quick commerce fulfilment centers (dark stores).

The FMCG sector frequently undertakes stock transfers, branch transfers, promotional schemes, secondary discounts, quantity discounts, related-party transactions and inter-unit movements. Accordingly, determination of the correct taxable value is critical for payment of GST, seamless availment of input tax credit (ITC), working capital management, and litigation avoidance.

The valuation provisions under GST are primarily governed by Section 15 of the Central Goods and Services Tax Act, 2017 (CGST Act) read with Rules 27 to 35 of the CGST Rules, 2017. In cases involving branch transfers and supplies between distinct persons, Rule 28 assumes special significance.

Transaction Value Under Section 15(1)

Section 15(1) of the CGST Act provides that the value of a taxable supply shall be the "transaction value", i.e., the price actually paid or payable for the supply, provided:

- the supplier and recipient are not related and
- the price is the sole consideration for the supply.

Accordingly, in normal FMCG transactions between unrelated parties (such as manufacturer to distributor, distributor to retailer, or retailer to consumer), GST is payable on the actual transaction value charged in the invoice. This provision is highly relevant because FMCG products are sold through multiple layers of distribution involving trade discounts, promotional incentives and variable pricing structures.

Illustration- Where an FMCG manufacturer supplies packaged food products to a distributor for ₹1,00,000 and no additional consideration exists, GST is payable on ₹1,00,000, subject to specific rules regarding inclusions and discounts.

Section 15(2) mandates that the value of supply must include:

- Taxes, duties, and fees levied under any law other than GST (if charged separately).
- Any amount the supplier is liable to pay but has been incurred by the recipient.
- Incidental expenses, including commission and packing charged by the supplier.
- Interest, late fees, or penalties for delayed payment of consideration.
- Subsidies directly linked to the price (excluding Central/State Government subsidies).

FMCG companies frequently recover freight/transportation costs, special promotional repacking charges, or secondary handling fees from distributors.

If these are recovered separately, they must be bundled into the taxable value under Section 15(2).

Discounts Under Section 15(3)

The FMCG industry operates heavily on discount matrices (trade discounts, volume-based quantity discounts, performance-linked turnover discounts, and spot discounts). Section 15(3) permits the exclusion of these discounts from the taxable value under the following strict conditions:

- Pre-supply or in-invoice discounts [Section 15(3)(a)]: Before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply;
- Post-supply discounts [Section 15(3)(b)]: after the supply has been effected, if for such discount, a credit note has been issued by the supplier and input tax credit as is attributable to such discount has been reversed by the recipient of the supply, in accordance with the provisions of section 34.

Proposed Amendment (Not Yet Effective): The **Finance Act, 2026** has substituted Section 15(3)(b). Once the amendment is notified, the existing requirements that the post-supply discount must be **pre-agreed** and **specifically linked to the relevant invoices** will no longer apply. Instead, reduction in the value of supply would be permissible where the supplier issues a credit note under Section 34 and the recipient reverses the proportionate input tax credit attributable to such discount, subject to the prescribed conditions. As on the date of this publication, **this amendment has not been notified and is therefore not yet in force**.

Subsidies for Computing Taxable Value

Under Section 15(2)(e) of the CGST Act, subsidies directly linked to the price, excluding subsidies provided by the Central Government and State Governments, are includible in the transaction value for computing the taxable value. Subsidies granted by the Government (Central or State), even if price-linked, stand excluded from valuation, whereas subsidies from third parties (e.g., trade associations, private bodies) that are directly linked to price form part of the taxable value and attract GST accordingly.

Supplies Between Distinct Persons and Related Persons

The FMCG sector typically operates through multiple manufacturing facilities, depots, warehouses, redistribution centres, dark stores and branch offices located across different States. Consequently, inter-unit movement of goods is a routine business activity. Since GST is a destination-based tax and registrations obtained in different States are treated as separate taxable persons, valuation of such internal stock transfers assumes significant importance.

Section 15(1) of the CGST Act provides that the value of a supply shall ordinarily be the transaction value, i.e., the price actually paid or payable where the supplier and recipient are not related and the price is the sole consideration. However, in case of supplies between related persons or distinct persons, the transaction value may not always be available. Accordingly, valuation is governed by Rule 28 of the CGST Rules, 2017.

Distinct Persons

According to the Section 25(4) of the CGST Act, 2017 a *person who has obtained or is required to obtain more than one registration, whether in one State or Union Territory or more than one State or Union Territory shall, in respect of each such registration, be treated as distinct persons*.

Further, Section 25(5) provides that establishments of the same person located in India and outside India shall also be treated as distinct persons.

Illustration-

A manufacturer has:

- Factory in Himachal Pradesh
- Depot in Delhi
- Warehouse in Maharashtra
- Redistribution Centre in Karnataka

Each GST registration is treated as a separate taxable person. Therefore, movement of goods between these registrations constitutes a supply under Schedule I even if no consideration is charged.

RELATED PERSONS

The Explanation to Section 15 provides that persons shall be deemed to be related if:

- they are officers or directors of one another's businesses;
- they are legally recognised partners;
- they are employer and employee;
- one directly or indirectly controls the other;
- both are controlled by a third person;
- together they directly or indirectly control another person;
- they are members of the same family;
- Any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them.

In FMCG groups, supplies between parent companies, subsidiaries, group companies and controlled entities frequently fall within this category.

Rule 28

Rule 28 provides as under:

(1) The value of the supply of goods or services or both between distinct persons as specified in sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall-

(a) be the open market value of such supply;

(b) if the open market value is not available, be the value of supply of goods or services of like kind and quality;

(c) if the value is not determinable under clause (a) or (b), be the value as determined by the application of rule 30 or rule 31, in that order:

Provided that where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person.

Provided further that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services.

- **Hierarchy under Rule 28**

The valuation mechanism under Rule 28 follows the following sequence:

Supply to Related Person / Distinct Person
|
Open Market Value (OMV)
|
If OMV not available
|
Like Kind and Quality Value
|
If value not available
|
Rule 30 (110% Cost) or Rule 31 (Residual Method)

Step 1 – Open Market Value (OMV)

Rule 28 first requires adoption of open market value.

Explanation to Rule 35 defines "open market value" as the full value in money payable by an unrelated person where the supplier and recipient are not related and price is the sole consideration.

OMV can generally be determined by reference to:

- Price charged to independent distributors
- Price charged to wholesalers
- Price charged to modern trade chains
- Price charged through e-commerce channels
- Price lists applicable to unrelated buyers

Illustration-

A Maharashtra factory transfers shampoo to a Delhi depot. The same shampoo is simultaneously sold to unrelated distributors at ₹100 per unit.

OMV = ₹100 per unit.

GST payable on ₹100.

Step 2 – Like Kind and Quality

Where identical products are not available, the value may be determined based on goods of like kind and quality.

Illustration-

A newly launched cosmetic product is transferred to a depot. No external sales have yet taken place. The company may use the price of comparable cosmetic products having similar characteristics, quality, ingredients and market positioning.

Step 3 – Cost Method (Rule 30)

Value = 110 per cent of cost of production / manufacture / acquisition.

Illustration-

Mr. A, a manufacturer, produces toothpaste for captive consumption (i.e., not sold to an independent buyer, and value cannot be determined under Rules 27–29 because there is no comparable open-market value or similar goods available). Cost of manufacture of toothpaste (per unit) = **₹50**

Value under Rule 30:

₹50 × 110 per cent = ₹55

GST payable on ₹55.

Step 4 – Residual Method (Rule 31)

Where value cannot be determined under Rules 27 to 30, Rule 31 permits determination using reasonable means consistent with GST valuation principles. This provision is generally used only in exceptional circumstances.

Ninety percent Rule – First Proviso to Rule 28

The First Proviso to Rule 28 provides a significant relaxation.

Where:

- goods are supplied to a distinct person or related person;
- recipient intends to further supply the goods "as such";
- recipient sells to an unrelated customer;

the supplier may value the supply at 90 per cent of the price charged by the recipient to the unrelated customer.

Illustration-

A factory transfers toothpaste to depot. Depot sells same goods to distributor at ₹100. Factory may value stock transfer at: ₹100 × 90 per cent = ₹90. GST payable on ₹90.

When can 90 per cent Rule be used?

- Depot sells goods without further processing.
- Goods supplied "as such".
- Subsequent sale to unrelated customer.

When it cannot be used?

- Goods are repacked.
- Goods are relabelled.
- Goods are manufactured further.
- Goods are not sold "as such".

Second Proviso to Rule 28 – "Any Value" Rule

The Second Proviso provides that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value. This is one of the most important valuation provisions for FMCG companies.

When can "any value" be adopted?

Where:

- Supply is between distinct persons or related persons
- Recipient is eligible for 100 per cent % ITC

Illustration-

ABC Ltd. has a factory in Delhi and a depot in Mumbai, registered separately under GST but having the same PAN (hence "distinct persons" under Section 25(4)).

- The factory transfers goods to its Mumbai depot.

- Invoice Value declared = ₹50
- Open Market Value (OMV) of such goods = ₹100
- The Mumbai depot is eligible to avail full Input Tax Credit on this inward supply.

Hence, in terms of Second Proviso, ₹50 itself shall be deemed to be OMV. No requirement to adopt ₹100.

Which Rule Should FMCG Companies Prefer?

Situation	Preferred Rule
Recipient eligible for full ITC	Second Proviso (Any value rule)
Recipient sells goods as such	90 per cent rule may be adopted
Independent market price available	OMV
No OMV available	Like kind & quality
No comparable value available	Rule 30
Exceptional situations	Rule 31

Stock Transfers Where Recipient is Not Eligible for Full ITC

If the receiving branch or unit is *not* eligible for full ITC, the Second Proviso breaks down. This occurs when the receiving unit:

- Engages in exempt supplies (e.g., certain unbranded or raw agricultural food products).
- Is subject to common credit reversals under Rule 42 or 43.
- Utilizes the goods for blocked credit items under Section 17(5) (e.g., promotional free sampling).

In these scenarios, the company must strictly back up its valuation using actual OMV, goods of like kind and quality, or resort to the 110 per cent cost of production rule (Rule 30). Accurate cost-accounting data becomes highly critical here to survive Departmental audits.

Valuation Based on Retail Sale Price (RSP)

A significant structural change in the GST valuation framework has been brought about through the simultaneous insertion of Rule 31D in the CGST Rules, 2017 with effect from 1 February 2026. The Rule introduces a special method of valuation for notified supplies of *pan masala* and specified tobacco products, thereby carving out an exception to the general principle of transaction value embodied in Section 15 of the CGST Act. While GST has, since its inception, largely relied upon the actual consideration between the supplier and the recipient as the basis for valuation, Rule 31D prescribes that, in respect of the notified goods, the value of supply shall instead be determined with reference to the retail sale price (RSP) declared on the package.

Although introduced under the GST regime, the underlying approach is conceptually similar to the RSP-based valuation mechanism that existed under the erstwhile central excise law for specified goods. Under Rule 31D, the declared retail sale price is deemed to be inclusive of GST, and the taxable value is required to be derived by excluding the tax component from the declared RSP in accordance with the statutory formula prescribed under the Rule. Accordingly, the taxable value is determined as:

TAXABLE VALUE = RSP × 100 ÷ (100 + APPLICABLE GST RATE)

The GST liability is thereafter computed on the value so determined. Consequently, the tax payable is no longer dependent upon the actual transaction price between the manufacturer and the buyer. Whether the goods are supplied at a discount, under promotional schemes or at any other negotiated commercial price, the valuation for GST purposes continues to be governed by the declared retail sale price.

The Government has also inserted a new clause (f) in the first proviso to Rule 86B, effective from 1 February 2026, which reads: *"the registered person other than a manufacturer shall be exempted from the provisions of this rule only in respect of goods specified under Rule 31D, on which the tax has been paid by the supplier on the basis of retail sale price."*

Since the RSP is printed on the package and remains fixed throughout the distribution chain, this valuation mechanism applies uniformly at every stage of supply from manufacturer to distributor, distributor to wholesaler, and wholesaler to retailer and not merely to the first taxable supply by the manufacturer. Because value is thus fixed by RSP rather than the actual price charged, downstream registered persons typically have no scope for value addition, and their output GST liability closely mirrors the ITC available to them from the tax already paid at earlier stages. Rule 86B, however, mandates that at least 1% of output tax liability be discharged in cash irrespective of available ITC, to curb the misuse of fake ITC in high-risk sectors. Applying this restriction rigidly to non-manufacturers in this specific goods category would have imposed an unnecessary cash outflow despite there being no real risk of ITC-based revenue leakage, since the underlying goods are already taxed on a fixed, verifiable RSP basis. The newly inserted clause (f) was therefore introduced to relieve non-manufacturer registered persons from this 1% cash-payment restriction specifically for goods covered under Rule 31D, provided the supplier has already discharged tax on an RSP basis.

VIII. INPUT TAX CREDIT

The input tax credit (ITC) mechanism is the backbone of the GST regime and assumes particular significance in the FMCG sector. The industry operates through an extensive supply chain involving procurement of raw materials, packaging materials, contract manufacturing arrangements, warehousing facilities, transportation networks, distributors, retailers, modern trade channels and e-commerce platforms. Since GST is intended to be a value-added tax, seamless flow of credit across this supply chain is critical to avoid cascading of taxes and ensure tax neutrality. The provisions relating to ITC are primarily contained in Sections 16 to 21 of the CGST Act, 2017 read with Rules 36 to 45 of the CGST Rules, 2017.

Eligibility of ITC

Section 16(1) of the CGST Act provides that every registered person shall be entitled to take credit of input tax charged on any supply of goods or services or both which are used or intended to be used in the course or furtherance of business.

The expression "in the course or furtherance of business" is of fundamental importance in the FMCG industry. The scope of the provision is wider than direct manufacturing activities and covers all expenditures having a nexus with business operations. Accordingly, ITC is generally available on raw materials, packaging materials, warehousing services, transportation services, advertising expenditure, brand promotion expenses, ERP systems, consultancy services, audit services, legal services, market research expenditure and similar business-related procurements.

Illustration-

- Expenditure incurred on national advertising campaigns, celebrity endorsements, product launch events and consumer awareness programmes is intended to enhance market penetration and increase the sales. Such expenditure is incurred in furtherance of business and therefore ordinarily qualifies for ITC unless specifically restricted under Section 17(5).
- Expenditure incurred on product formulation, laboratory testing, packaging innovation, consumer research and market testing is ordinarily incurred in furtherance of business. Accordingly, ITC on such expenditure should generally be available unless specifically restricted under Section 17(5).

Section 16(2) of CGST 2017 provides:

Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both unless—

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

[1]*(aa) the details of the invoice or debit note referred to in clause (a) have been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient in such manner as may be specified under Section 37;*

(b) he has received the goods or services or both;

[2]*[Explanation.- For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services-*

[1] *Inserted vide sec 109 of The Finance Act, 2021 (No. 13 of 2021), notified through Notification No. 39/2021- CT dated 21.12.2021, w.e.f. 01.01.2022.*

[2] *Substituted vide sec 8 of The CGST (Amendment) Act, 2018 (No. 31 of 2018), notified through Notification No.02/2019 dated 29.01.2019, w.e.f. 01.02.2019, prior to its substitution, it was read as: "Explanation.- For the purposes of this clause, it shall be deemed that the registered person*

(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person;]

[3](ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;

(c) subject to the provisions of [4][Section 41], the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and

(d) he has furnished the return under Section 39.

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment.

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be [5][paid by him along with interest payable under section 50], in such manner as may be prescribed.

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has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;".

[3] Inserted vide sec 100 of The Finance Act, 2022 (No. 6 of 2022), notified through Notification No. 18/2022 – CT dated 28.09.2022, w.e.f. 01.10.2022.

[4] Substituted vide sec 8 of The CGST (Amendment) Act, 2018 (No. 31 of 2018), w.e.f. a date yet to be notified, prior to its substitution, it was read as: "section 41"

[5] Substituted vide The Finance Act, 2023 dated 31.03.2023, notified through Notification No. 28/2023 – CT dated 31.07.2023, w.e.f. 01.10.2023, Prior to its substitution, it was read as: "added to his output tax liability, along with interest thereon".

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him [6][to the supplier] of the amount towards the value of supply of goods or services or both along with tax payable thereon.

While Section 16(1) grants the substantive right to avail input tax credit, Section 16(2) prescribes the conditions that must be fulfilled before such credit can be availed. Accordingly, even where goods or services are used in the course or furtherance of business, ITC cannot be availed unless the conditions prescribed under Section 16(2) are satisfied.

a. Possession of Tax Invoice –

The first condition stipulated in Section 16(2)(a) requires the recipient to be in possession of a valid tax invoice, debit note or other prescribed document. In the FMCG sector, where procurement transactions are undertaken through a large vendor network, maintaining proper invoice documentation becomes critical.

However, mere possession of an invoice is not sufficient. The invoice must contain the particulars prescribed under Rule 46 and should correctly capture the GSTIN of the recipient. Although disputes often arise where an incorrect GSTIN is mentioned, businesses should endeavour to obtain rectified invoices to minimise litigation exposure.

b. Invoice Reporting By Supplier

Section 16(2)(aa), inserted with effect from 1 January 2022, provides that the details of the invoice or debit note must be furnished by the supplier in the statement of outward supplies and such details should be communicated to the recipient.

This provision effectively links ITC entitlement with supplier compliance. Consequently, even if the recipient possesses a valid invoice, ITC may be disputed where the supplier fails to report the transaction in GSTR-1. The introduction of GSTR-2B and IMS (Invoice Management System) has further strengthened this requirement. FMCG companies should therefore undertake periodic vendor reconciliations and monitor invoices appearing in IMS.

[6] *Inserted vide The Finance Act, 2023 dated 31.03.2023, notified through Notification No. 28/2023 – CT dated 31.07.2023, w.e.f. 01.10.2023*

c. Receipt of Goods or Services

Interms of Section 16(2)(b) the recipient must have received the goods or services.

In the FMCG sector, this condition is generally straightforward in case of raw materials, packaging materials and inventory purchases. However, greater attention is required for common services such as advertising, software subscriptions, consultancy services and brand promotion activities.

d. ITC has not been Communicated as Restricted

Section 16(2) (ba) of the CGST Act was inserted by the Finance Act, 2022 and made effective from 01 October 2022. This provision introduced a significant shift in the GST credit framework. Prior to this amendment, ITC entitlement was largely dependent upon possession of tax invoice, receipt of goods or services and payment of tax by the supplier. However, after insertion of Section 16(2)(ba), ITC entitlement has also become dependent upon the information communicated electronically under Section 38.

Accordingly, even where all other conditions prescribed under Section 16(2) are satisfied, the recipient must additionally ensure that the credit communicated through the GST system or portal is not categorised as restricted. To understand Section 16(2)(ba), it is necessary to examine Section 38 of the CGST Act which governs the communication of details of inward supplies, eligible credits and restricted credits to the recipient through the GST system/ portal.

Section 38(2) provides that the details made available to the recipient may include:

- details of ITC which may be available and
- details of ITC which cannot be availed, wholly or partly, as may be prescribed.

Thus, Section 38 acts as the communication mechanism, whereas Section 16(2)(ba) makes such communication a statutory condition for availment of ITC. In other words, Section 38 tells the taxpayer what credit is being communicated by the system, while Section 16(2)(ba) requires the taxpayer to ensure that such credit is not communicated as restricted by the portal itself.

The significance of Section 16(2)(ba) has further increased with the introduction of the Invoice Management System (IMS). Under IMS, the recipient can:

- Accept invoices
- Reject invoices
- Keep invoices pending.

This mechanism enables the taxpayers to actively manage invoices reported by suppliers. For FMCG companies, IMS becomes particularly important because suppliers may sometimes:

- report invoices against incorrect GSTIN
- upload duplicate invoices
- upload invoices pertaining to another entity
- report cancelled transactions.

This mechanism enables taxpayers to actively manage invoices reported by suppliers. It is important to note that IMS did not originally have express statutory backing. When it was rolled out on the GST portal with effect from 1 October 2024, it operated purely as a portal-level facility, without any corresponding amendment to Section 38 or the CGST Rules. This position has since changed. **Section 38 of the CGST Act was itself substituted by the Finance Act, 2025**, notified vide **Notification No. 16/2025-Central Tax dated 17 September 2025**, with effect from **1 October 2025**. The amendment replaced the expression "auto-generated statement" with "statement," thereby legally recognising that the FORM GSTR-2B statement is no longer a purely system-generated output but one that reflects the recipient's own actions — Accept, Reject, or Pending — taken on the IMS dashboard.

e. Tax Payment by Supplier

Section 16(2)(c) requires that the tax charged in respect of the supply must have been paid to the Government either in cash or through utilisation of admissible ITC. From a practical perspective, the recipient generally has limited visibility regarding actual payment of tax by the supplier.

f. Furnishing of Return

Section 16(2)(d) requires the recipient to furnish the return under Section 39 before availing ITC. Accordingly, ITC cannot be finally availed unless the relevant GSTR-3B has been furnished.

g. Payment to Supplier Within 180 Days

One of the most significant compliance requirements is contained in the Second Proviso to Section 16(2). The Proviso provides that where the recipient fails to pay the supplier the value of supply along with tax within 180 days from the date of issue of invoice, the ITC availed shall be added to the output tax liability of the recipient along with applicable interest. This provision effectively requires reversal of ITC where payment to the supplier remains outstanding beyond 180 days. However, where payment is subsequently made, the credit may be re-availed, further the time limit specified in Section 16(4) of the CGST Act, 2017, shall not be applicable.

Rule 37(1) explicitly covers partial non-payment. The recipient who fails to pay "whether wholly or partly" within 180 days must reverse ITC proportionate to the amount not paid, along with interest under Section 50-not the entire ITC on the invoice.

Where the recipient makes only a partial payment to the supplier within 180 days from the date of issue of the invoice, the reversal of input tax credit under the second proviso to Section 16(2), read with Rule 37 of the CGST Rules, 2017, is proportionate and not absolute. Only the input tax credit attributable to the unpaid portion of the invoice value, along with applicable interest under Section 50, is required to be reversed; the credit corresponding to the amount already paid remains unaffected. Such reversal is to be given effect by adding the proportionate credit to the output tax liability in the return in FORM GSTR-3B for the tax period immediately following the expiry of the 180-day period. Where the recipient subsequently pays the balance amount to the supplier, the proportionate credit so reversed may be re-availed in accordance with Rule 37(2).

Section 16(4) of CGST 2017 provides:

A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the

[7][thirtieth day of November] following the end of financial year to which such invoice or [8][****] debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Time Limit for Availment of ITC

Section 16(4) provides that ITC pertaining to any financial year can be availed up to 30th November of the succeeding financial year or the date of furnishing the annual return, whichever is earlier.

Apportionment and Blocked Credits Under GST

Section 17 operates as a limiting provision to the broad entitlement conferred by Section 16. While Section 16 grants ITC on all goods and services used in the course or furtherance of business, Section 17 carves out specific situations where credit is either partially restricted [Sections 17(1) and 17(2)] or fully blocked [Section 17(5)].

For FMCG companies, Section 17 is arguably the most operationally significant ITC provision given the sector's inherent characteristics — extensive promotional activities, large-scale product sampling, diverse employee welfare schemes, significant capital expenditure on manufacturing infrastructure, and growing CSR obligations.

Apportionment Between Business and Non-Business Use

Section 17(1) provides:

"Where the goods or services or both are used by the registered person partly for the purposes of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business."

The underlying principle is that GST is intended to grant credit only for business-related expenditure. Where goods or services serve a dual purpose — partly business and partly personal or non-business — credit is available only to the extent attributable to business use.

[7] Substituted vide sec 100 of The Finance Act, 2022 (No. 6 of 2022), notified through Notification No. 18/2022 – CT dated 28.09.2022, w.e.f. 01.10.2022, Prior to its substitution, it was read as: "due date of furnishing of the return under section 39 for the month of September".
[8] Omitted vide sec 120 of The Finance Act, 2020 (No. 12 of 2020), notified through Notification No. 92/2020 - CT dated 22.12.2020, w.e.f. 01.01.2021, prior to its omission, it was read as: "invoice relating to such".

Illustration-

An FMCG company maintains a company guest house which is used for visiting business delegations, distributors and auditors (business use) and for personal stays of senior executives and their families during holidays (non-business use). GST paid on maintenance, housekeeping and utility services of the guest house is required to be apportioned. Only the portion attributable to business use qualifies for ITC. A suitable apportionment basis (e.g., number of nights — business vs. personal) should be documented.

Section 17(1) and Section 17(2) empower the prescribed computational mechanism set out under Rules 42 and 43 of the CGST Rules, 2017, which give operational effect to these sub-sections. Accordingly, FMCG companies are required to apply the prescribed Rule 42/43 mechanics not merely for apportioning credit between business and non-business use, but more broadly for reversing common input tax credit attributable to exempt supplies as against taxable supplies, wherever such inputs, input services or capital goods are used partly for taxable and partly for exempt or non-business purposes, rather than devising an independent apportionment basis.

Apportionment Between Taxable and Exempt Supplies

Section 17(2) provides:

" Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies."

Section 17(2) is of particular relevance to FMCG companies because many of them deal in a mixed portfolio of taxable and exempt goods — for instance, a company manufacturing packaged branded snacks (taxable) alongside certain unbranded food items, fresh produce, or specified essential commodities (exempt) within the same business. Input tax credit attributable directly and exclusively to exempt supplies — such as inputs or input services used solely in the manufacture, storage, or distribution of the exempt product line — must be reversed in full. Separately, where common inputs and input services — such as factory rent, administrative overheads, marketing spend, or head-office expenses — are used for both taxable and exempt supplies, full credit cannot be availed either; this common credit must be restricted proportionately, based on the ratio of exempt turnover to total turnover, with credit attributable to taxable supplies (including zero-rated exports and supplies to SEZs) alone being eligible. Both limbs — full reversal of directly attributable exempt-supply credit, and proportionate reversal of common credit — operate together and are computed in accordance with the mechanism prescribed under Rule 42 (for inputs/input services) and Rule 43 (for capital goods).

Illustration-

An FMCG company manufactures:

- Taxable products (packaged biscuits, noodles, branded beverages) — Turnover ₹900 crore
- Exempt products (fresh lassi and unbranded curd) — Turnover ₹100 crore

Common advertisement expenditure (national brand campaign) attracts GST of ₹18 lakh. Since the campaign promotes the overall brand (covering both taxable and exempt products), proportionate reversal under Rule 42 would be required.

Reversal = (₹100 crore / ₹1,000 crore) × ₹18 lakh = ₹1.80 lakh

Meaning of Exempt Supply for Rule 42/43 Purposes

Section 17(3) provides that:

" The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

[9]*[Explanation.- For the purposes of this sub-section, the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III,* [10]*[except,—*

(i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and

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[9] *Inserted vide sec 9 of The CGST (Amendment) Act, 2018 (No. 31 of 2018), notified through Notification No.02/2019 – CT dated 29.01.2019, w.e.f. 01.02.2019.*

[10] *Substituted vide The Finance Act, 2023 dated 31.03.2023, notified through Notification No. 28/2023 – CT dated 31.07.2023, w.e.f. 01.10.2023, prior to its substitution, it was read as: "except those specified in paragraph 5 of the said Schedule".*

(ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule.]."

This provision has a significant practical impact because it expands the definition of "exempt supply" beyond merely notification-exempt goods and services.

Transaction	**Included in "Exempt Supply" under Section 17(3)?**	**Implication**
Sale of land by FMCG company	Yes-expressly included	Rule 42 reversal required
Sale of completed building	Yes-expressly included	Rule 42 reversal required
Supplies on which recipient pays RCM	Yes-expressly included	Rule 42 reversal required
Transactions in securities (treasury operations)	Yes-expressly included	Rule 42 reversal required
Sale of business as going concern	Yes-Exempt supply (Notification)	Rule 42 reversal required

Treatment of Interest Income in Working of Rule 42/43.

A recurring issue in the FMCG sector is whether exempt interest income - from fixed deposits, margin money, security deposits, or inter-corporate loans - must be counted as "exempt supply" when computing Rule 42/43 ITC reversal. The answer is settled directly by the Rules themselves: Explanation 1(b) to Rule 43 (which applies to Rule 42 as well) specifically excludes interest/discount income from deposits or loans from the exempt-turnover figure used in the reversal formula - unless the company is a bank, financial institution, or NBFC. Since FMCG companies don't fall in that exception, their interest income is excluded from the denominator, and no common ITC reversal is triggered on that account.

Section 9(5) E-Commerce Supplies Not "Exempt" for Rule 42/43 Purposes

A significant clarification has been issued by CBIC through *Circular No. 240/34/2024-GST dated 31.12.2024* regarding the treatment of input tax credit in respect of supplies made through e-commerce operators covered under Section 9(5) of the CGST Act. Under this provision, the liability to pay GST is shifted from the actual supplier to the e-commerce operator in respect of specified categories of services. Doubts had arisen as to whether such supplies should be treated as exempt supplies for the purpose of reversal of common input tax credit under Rules 42 and 43 of the CGST Rules.

The Circular clarifies that supplies covered under Section 9(5) are taxable supplies and merely because the tax is discharged by the e-commerce operator does not alter the nature of the supply. Accordingly, such supplies shall not be treated as exempt supplies for the purpose of Rule 42 or Rule 43 and no reversal of common input tax credit is required on this account. The clarification reinforces the principle that the mechanism for payment of tax does not determine the taxability of a supply.

This clarification is particularly relevant for businesses operating through digital platforms and e-commerce ecosystems, as it ensures that eligible input tax credit is not denied merely because the responsibility for payment of GST has been shifted to the e-commerce operator under the statutory framework.

Blocked Credits

Section 17(5) overrides the general entitlement available under Section 16 and specifically denies ITC even where expenditure is incurred wholly for business purposes. For FMCG companies, this provision generates the highest number of disputes and litigation.

Motor Vehicles for Transportation of Persons

In terms of Section 17(5)(a) ITC shall not be available on motor vehicles for transportation of persons having approved seating capacity not exceeding thirteen persons (including the driver), except where used for:

- Further supply of such vehicles (dealers)
- Transportation of passengers (taxi operators)
- Imparting driving training

ITC is not blocked on:

- Motor vehicles used for transportation of goods (trucks, delivery vans, tempos)
- Motor vehicles with seating capacity exceeding thirteen persons (large staff buses)
- Tractors and other non-passenger vehicles

Illustration 1 Sales Force Vehicles

An FMCG company maintains a fleet of 200 hatchbacks and sedans for its territory sales managers (TSMs) and area sales managers (ASMs) for market visits. GST paid on purchase of these vehicles is blocked.

Illustration 2 Distribution Fleet

The same FMCG company operates 150 delivery vans and trucks for distributing products from depots to distributors. GST paid on purchase, insurance and maintenance of these goods-carrying vehicles is eligible for ITC as the restriction applies only to vehicles carrying persons.

Illustration 3 Employee Bus

The company operates a 45-seater employee bus for ferrying factory workers from the nearest town to the factory. Since the seating capacity exceeds thirteen persons, this vehicle falls outside the restriction of Section 17(5)(a) and ITC is eligible.

Services Relating to Motor Vehicles

Section 17(5)(ab) provides that ITC is blocked on general insurance, servicing, repair and maintenance insofar as they relate to motor vehicles on which credit is blocked under Section 17(5)(a).

Illustration

- Annual insurance premium on 200 company cars used by the sales force - GST thereon is blocked, mirroring the block on the vehicles themselves.
- Annual service contract for 150 delivery trucks - GST thereon is eligible, since ITC on the underlying trucks is eligible.

- **Food and Beverages, Outdoor Catering**

In terms of Section 17(5)(b)(i) ITC is blocked on:

"food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply."

The Proviso to Section 17(5) provides that where the Government notifies that an inward supply is obligatory for an employer to provide to its employee under any law in force, the block on ITC does not apply.

Illustration 1 Factory Canteen under Factories Act

Section 46 of the Factories Act, 1948 requires every factory employing 250 or more workers to maintain a canteen for the use of workers. An FMCG beverage manufacturer employing 500 workers at its plant maintains a subsidised factory canteen through an outsourced caterer. The caterer raises a GST invoice on the company. Since the canteen is maintained to comply with a statutory obligation under the Factories Act, the exception under Section 17(5) may be invoked and ITC should be eligible.

Illustration 2 Dealer / Distributor Conference Meals

An FMCG company organises an annual national distributor conference at a five-star hotel in Goa. The programme includes:

- Conference sessions (ITC potentially eligible - conference hall, AV equipment, event management)
- Gala dinner and cocktail reception (ITC blocked - food and beverages, outdoor catering)

The FMCG company should ensure that the hotel provides separate invoices for conference facilities and food/catering to enable maximum eligible ITC availment on non-food components. Further, the company should maintain proper documentation to show that this event is not actually for the employee but for the dealers.

Illustration 3 Vending Machine Contract

The company enters into a contract with a vending machine operator to provide beverages and snacks to employees at subsidised rates at the corporate office. GST on the vending machine contract (which is a food supply service) would generally be blocked.

Illustration 4 - Plant Drinking Water Facility

The Factories Act also requires provision of adequate drinking water for workers. GST paid on supply and maintenance of RO / drinking water systems at the factory may be examined separately, as this may be considered a health/safety infrastructure item rather than "food and beverages" *per se*. However, caution is advised and the position is not free from doubt.

Health Insurance — An Important Distinction

Health insurance for employees does not fall strictly within "health services" in the context of Section 17(5)(b)(i). Health insurance may also be examined under the statutory exception.

Insurance Type	Statutory Basis	ITC Eligibility
Group health insurance (voluntary, above legal minimum)	No statutory mandate	Generally blocked
Employee State Insurance (ESI) contribution	ESI Act - statutory	No GST (ESI is a statutory levy, not a GST supply)
Group personal accident insurance (factory workers)	Factories Act / Workmen's Compensation Act	Potentially eligible
Life / term insurance for employees	Voluntary	Blocked

- **Club Memberships and Health Centres**

In terms of Section 17(5)(b)(ii) ITC is blocked on:

"Membership of clubs, health and fitness centres."

Illustration 1 Golf Club for Dealer Entertainment

An FMCG company obtains corporate membership of a premium golf club for its national sales director to entertain key distributors and modern trade buyers. Annual membership fee attracts GST. Despite the business purpose (dealer relationship management), ITC is categorically blocked under Section 17(5)(b)(ii). The business purpose of the expenditure is irrelevant to the blocking provision.

Illustration 2 Gym Membership for Employee Wellness

The company subscribes to a corporate wellness programme that allows employees to access fitness centres across the country. GST on the subscription is blocked.

Illustration 3 Trade / Industry Association Membership

Membership of a trade association or industry body (e.g., FICCI, CII, ASSOCHAM) is different from "membership of clubs, health and fitness centres." ITC on trade association membership fees may not be covered by this restriction and should generally be eligible, subject to the supply being used in furtherance of business.

- **Travel Benefits to Employees on Vacation**

Under section 17(5)(b)(iii) ITC is blocked on:

"Travel benefits extended to employees on vacation such as leave or home travel concession."

Illustration 1 LTA Reimbursement

An FMCG company reimburses leave travel allowance (LTA) to employees as part of their CTC. GST paid on such travel (air / rail tickets booked through the company's travel desk) is blocked.

Illustration 2 Sales Team Official Tour vs. LTA

A regional sales manager travels to Kolkata for a market visit and customer meetings. The travel is official. The same employee later travels to Shimla on annual leave and submits an LTA claim.

- Official tour to Kolkata: ITC on air ticket and hotel is eligible
- LTA claim for Shimla vacation: ITC is blocked

The FMCG company should maintain travel requests and approvals to clearly distinguish official travel from vacation travel.

Illustration 3 International Marketing Conferences

Senior FMCG brand managers attend an international FMCG trade fair (e.g., World Food Innovation Awards, Anuga, or a global category conference) in a business capacity. ITC on international air tickets and hotel is eligible as this is business travel and not vacation.

- **Construction of Immovable Property**

Section 17(5)(c) blocks ITC on:

"Works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service."

Section 17(5)(d) blocks ITC on:

"Goods or services or both received by a taxable person for construction of an immovable property (other than [11][plant and machinery]) on his own account including when such goods or services or both are used in the course or furtherance of business."

"Construction" as explained in Section 17(5) includes re-construction, renovation, additions or alterations or repairs to the extent of capitalisation in the books of accounts.

Meaning of "Plant and Machinery"

The Explanation to Section 17 defines plant and machinery as under :

"plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes-

(i) land, building or any other civil structures;

[11] Substituted vide the Finance Act, 2025, notified through Notification No. 16/2025 – CT dated 17.09.2025. Brought into force on 01.10.2025, effective retrospectively w.e.f. 01.07.2017. Prior to its substitution, it was read as "plant or machinery"

(ii) telecommunication towers; and

(iii) pipelines laid outside the factory premises.

Illustration 1 Factory Building Construction

An FMCG company constructs a new manufacturing facility. The civil construction cost is ₹50 crore and is capitalised. GST on the civil works contract is blocked under Section 17(5)(c).

Illustration 2 Production Line Installation

The same company installs a new biscuit production line including:

- Mixing machines, baking ovens and packaging equipment fixed to the factory floor by bolts and structural supports — Plant and Machinery → ITC eligible
- Civil work to build the production hall housing the equipment — Immovable Property → ITC blocked

FMCG companies should obtain separate invoices from contractors for civil work and machinery installation to preserve maximum eligible ITC.

Illustration 3 Cold Storage Chamber Construction

An FMCG company involved in ice cream or dairy products constructs a cold storage chamber. The chamber structure is civil construction (blocked), but the refrigeration plant and compressors installed within the chamber are plant and machinery (ITC eligible).

Illustration 4 Revenue Repairs vs. Capitalised Repairs

The company carries out repairs and whitewashing of warehouse premises.

- If charged to P&L as revenue expenditure: ITC is generally eligible (not covered by Section 17(5)(c)/(d) as it is not capitalised)
- If capitalised as an addition to the building: ITC is blocked

This distinction makes accounting treatment critical for ITC purposes. FMCG companies should review their capitalisation threshold policies.

- **Goods Lost, Stolen, Destroyed, Written Off or Disposed as Gift or Free Samples**

Section 17(5)(h) provides that ITC shall not be available on:

"Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples."

This provision is one of the most practically significant one for the FMCG industry.

Illustration 1 Expired Packaged Food Products

A biscuit manufacturer has ₹2 crore of biscuit inventory in store that has exceeded the date of expiry mentioned on the label. The goods are written off and subsequently destroyed. ITC of approximately ₹36 lakh (18 per cent of ₹2 crore, assuming biscuits taxable at 18 per cent) attributable to the expired inventory is required to be reversed in GSTR-3B.

Illustration 2 Expired Cosmetics and Personal Care Products

An FMCG company in the personal care segment regularly destroys small quantities of expired creams, shampoos and colour cosmetics. ITC reversal should be computed on a batch-wise basis by reference to the original purchase invoices (or on a standard cost basis where exact tracing is impractical).

Illustration 3 Warehouse Fire

A company's warehouse catches fire and finished goods worth ₹5 crore are destroyed. Under Section 17(5)(h), ITC on "goods destroyed" is blocked. Accordingly, ITC attributable to the destroyed goods is required to be reversed. Receipt of insurance proceeds does not reinstate ITC eligibility. The reversal must be made irrespective of insurance recovery.

Illustration 4 Transit Losses (Normal vs. Abnormal)

FMCG companies routinely experience minor breakage and spillage during transit (e.g., broken glass bottles, crushed cartons).

Where such losses are:

- *Normal / expected transit losses:* The goods cannot be said to have been "destroyed" in the sense in which the same is employed in Section 17(5)(h) if the shortfall is within acceptable tolerance. Industry practice generally does not reverse ITC on marginal normal transit losses.

- *Abnormal transit losses (major accidents, large-scale damage):* ITC reversal on such damaged / destroyed goods is more clearly required.

FMCG companies should document their transit loss policy with reference to industry norms and maintain records to distinguish normal from abnormal losses.

Illustration 5 Consumer Free Samples (Trial Packs)

An FMCG company launches a new shampoo. It manufactures 5 lakh sachets of 5 ml trial packs and distributes them door-to-door without any consideration. ITC on all inputs, packing materials and other costs attributable to the 5 lakh trial packs is blocked under Section 17(5)(h).

Illustration 7 BOGO Promotional Scheme

An FMCG company offers a "Buy 2 Packs, Get 1 Free" scheme on a cooking oil brand during the festive season. As per CBIC Circular No. 92/11/2019-GST dated 07.03.2019, where the additional quantity is supplied as a trade discount and is part of the same transaction (i.e., the price of 2 packs effectively covers all 3), ITC is not required to be reversed on the "free" third pack. This is because the transaction is treated as a supply for consolidated consideration and not a supply without consideration.

Illustration 8 Gifting at Festivals (Diwali / New Year)

An FMCG company distributes Diwali hampers (containing company's own products) to key distributors / dealers, business associates, employee etc. Such gifting constitutes "disposal by way of gift" under Section 17(5)(h). ITC on the products included in Diwali hampers is blocked.

Illustration 9 Promotional Display Materials (POS)

FMCG companies incur significant expenditure on point-of-sale (POS) promotional materials — standees, danglers, wobblers, shelf strips, branded display racks and refrigerators provided to retailers.

Type of POS Material	**Nature**	**ITC Treatment**
Returnable branded display rack / visi cooler	Company's own asset; ownership not transferred	ITC eligible
Branded standees, danglers (non-	Contested — advertising material vs. gift; fact-dependent	ITC eligible if genuinely incidental to sales promotion; blocked

returnable)		under 17(5)(h) only if treated as outright gift on facts
Branded refrigerators given permanently to retailers	Permanent transfer of business asset (ITC availed) — deemed supply under Schedule I para 1 / Sec 7(1)(c)	ITC available; GST payable as output tax on OMV — no 17(5)(h) reversal
Promotional merchandise (T-shirts, caps) given to trade	Outright gift, no consideration, no Schedule I coverage	ITC blocked under Section 17(5)(h)

Illustration 10 Product Recall and Destruction

An FMCG company in the food sector issues a product recall for a batch of packaged snacks due to a quality alert. The recalled products are:

- *Scenario A - Reworked and re-sold:* No ITC reversal required as goods re-enter the taxable supply chain.
- *Scenario B - Destroyed (unfit for human consumption):* ITC on the recalled and destroyed batch is required to be reversed under Section 17(5)(h).
- *Scenario C - Returned by trade but re-labelled and re-sold*: No ITC reversal required.
- CSR Expenditure

Section 17(5)(fa) inserted by the Finance Act, 2023 with effect from 01 October 2023 blocks ITC on:

"Goods or services or both received by a taxable person which are used or intended to be used for activities relating to obligations under Corporate Social Responsibility referred to in section 135 of the Companies Act, 2013 (18 of 2013)."

Prior to the insertion of Section 17(5)(fa), the availability of ITC on CSR expenditure was a hotly debated issue. The insertion of Section 17(5)(fa) conclusively settles the controversy by expressly blocking ITC prospectively from 01.10.2023.

Illustration- Distribution of Company Products under CSR

An FMCG food company distributes its own food packets as part of a mid-day meal programme (CSR obligation). Even though the goods bear GST and the distribution is for a statutory CSR obligation, ITC on such goods is blocked from 01.10.2023.

An important question is whether the block applies only to the mandatory portion (2 per cent of net profits under Section 135 of the Companies Act) or extends to voluntary CSR expenditure beyond the mandate. A strict reading of Section 17(5)(fa) suggests that it applies to "obligations under corporate social responsibility referred to in Section 135." Accordingly, purely voluntary social expenditure beyond the statutory mandate may not be caught by Section 17(5)(fa), though such expenditure still requires evaluation under Section 16(1) for business nexus.

- **Goods or Services Used for Personal Consumption**

Section 17(5)(g) blocks ITC on:

"Goods or services or both used for personal consumption."

This is a standalone, catch-all blocking provision that operates independently of the other clauses in Section 17(5). Unlike Section 17(5)(a) or (b), which block ITC on specific categories of goods and services, Section 17(5)(g) focuses not on the nature of the goods or services procured but on their end use — personal consumption as opposed to business consumption.

Section 17(5)(g) must be read along with Section 17(1), which provides for apportionment of ITC where goods or services are used partly for business purposes and partly for other purposes. A combined reading shows thus:

- Where goods or services are exclusively for personal consumption - ITC is fully blocked under Section 17(5)(g).
- Where goods or services are used partly for business and partly for personal use - ITC is available only to the extent attributable to business use, as per the apportionment principle under Section 17(1).

The term "personal consumption" is not defined under the CGST Act. It refers to goods or services consumed for the private or personal benefit of an individual - whether proprietor, partner, director, employee or any other person - as distinct from consumption for the purposes of the registered business.

Illustration 1 Personal Grocery Purchases by Promoter

The promoter of an FMCG company purchases household grocery items (including the company's own products) through the company's procurement system and charges them to the company. The goods are consumed at the promoter's residence. ITC on such purchases is blocked under Section 17(5)(g) as the goods are used for personal consumption and not in the course or furtherance of business.

Illustration 2 Company Flat Maintained for Personal Use of Director

An FMCG company maintains a furnished apartment in Mumbai, which is used by a director for his personal residence. GST is paid on interior design and furnishing services, household maintenance services, utility services etc. ITC on all such services is blocked under Section 17(5)(g) as they relate to personal consumption of the director. This is to be distinguished from a guest house maintained for business visitors, where apportionment under Section 17(1) may be applicable.

Illustration 3 FMCG Products used Personally by Employees

Where the FMCG company provides its own products (e.g., shampoos, soaps, food items) to employees as part of a welfare scheme or as a perquisite (not as a statutory obligation), the input tax on such products used for personal consumption of employees may be blocked under Section 17(5)(g).

However, this requires careful examination as under:

- If the products are provided as part of mandatory employee welfare under labour laws: the statutory obligation exception may apply.
- If the products are provided as a taxable perquisite (where the employee is taxed): the personal consumption angle is present.
- If the products are gifted to employees: Section 17(5)(h) — goods disposed of by way of gift —ITC need to be reversed. It should also be noted that, under the Proviso to Entry 2 of Schedule I, gifts by an employer to an employee not exceeding ₹50,000 in value in a financial year are not treated as a supply and consequently no GST is payable on such outward transaction. However, this Proviso governs only the taxability of the outward supply and does not, by itself, remove the ITC restriction contained in Section 17(5)(h). Conversely, where the value

of gifts exceeds ₹50,000 and GST is payable under Schedule I, an arguable view exists that ITC should be admissible since tax has been discharged on the outward supply.

Statutory Framework of ISD

Definition of ISD

Section 2(61) of the CGST Act defines an input service distributor as:

"Input Service Distributor" means an office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of section 9 11[of this Act or under sub section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act, 2017] , for or on behalf of distinct persons referred to in section 25, and liable to distribute the input tax credit in respect of such invoices in the manner provided in section 20;]"

Thus, ISD is merely a mechanism for distribution of input tax credit of common input services and does not involve any actual supply.

Mandatory Registration

The mandatory ISD requirement from Section 20, as substituted by the Finance Act, 2024, which now provides that any office receiving common input service invoices — including RCM invoices — "shall be required to be registered" as ISD and "shall distribute" the credit. Section 24(viii) merely mandates compulsory registration for this category. The amended Section 20, brought in through the Finance Act, 2024, made ISD distribution mandatory for common credit benefiting multiple registrations with effect from 01.04.2025.

The FMCG sector is heavily dependent upon common services.

For illustration, a national television advertisement promoting a toothpaste brand may be procured by the head office located in Delhi. However, the benefit of such advertisement is not restricted to Delhi. The advertisement contributes towards sales of the product throughout India.

Similarly, expenses relating to:

- Brand promotion
- Celebrity endorsements

- ERP systems
- SAP licences
- Legal retainership;
- Statutory audit
- Internal audit
- Market research
- Consumer surveys
- Digital marketing campaigns and
- Employee training programmes

are generally incurred centrally but benefit multiple registrations. Therefore, retaining the entire ITC in one registration would result in incorrect credit allocation.

Illustration:

An FMCG company has registrations in:

- Maharashtra
- Gujarat
- Karnataka
- Tamil Nadu

The head office in Delhi receives an invoice from an advertising agency:

Particulars	**Amount**
Advertisement Charges	₹1,00,00,000
GST @18%	₹18,00,000

The advertisement is broadcast nationally and promotes sales in all States. If the head office avails the entire ITC of ₹18,00,000 and does not distribute it to other registrations, the credit remains concentrated in Delhi even though the benefit is consumed throughout the country. Such treatment would be contrary to the ISD framework. Accordingly, the ITC should be distributed to the registrations which derive benefit from the advertisement.

Manner of Distribution

Section 20 of the CGST Act provides the legal framework for distribution of ITC by ISD. Rule 39 of the CGST Rules prescribes the methodology for distribution. The Rule provides that credit attributable to more than one recipient shall be distributed on a pro-rata basis having regard to the turnover of the recipient units during the relevant period.

The formula prescribed under Rule 39 is:

CREDIT TO RECIPIENT = (TURNOVER OF RECIPIENT ÷ AGGREGATE TURNOVER OF ALL RECIPIENTS) × COMMON CREDIT

Illustration Distribution of Advertisement Credit

Assume the turnover of various units is as follows:

State	Turnover (₹ Cr.)
Maharashtra	400
Gujarat	300
Karnataka	200
Tamil Nadu	100
Total	1,000

Common advertisement ITC = ₹18,00,000

Distribution under Rule 39:

State	Credit Distributed
Maharashtra	₹7,20,000
Gujarat	₹5,40,000
Karnataka	₹3,60,000
Tamil Nadu	₹1,80,000

Thus, each registration receives credit proportionate to its turnover.

Whether Every Common Service Must be Distributed to All Units?

No. Section 20 read with Rule 39 requires that credit should be distributed only to the recipient units which actually use or benefit from the service.

For example if a market research study relates only to Southern India and benefits only Karnataka and Tamil Nadu operations, the corresponding credit should be distributed only to those States. Similarly, where an advertising campaign is undertaken exclusively for a regional product sold only in Maharashtra and Gujarat, the credit should not be distributed to other registrations.

Accordingly, identification of beneficiary units becomes a critical exercise in the FMCG sector.

IX. JOB WORK UNDER FMCG

Job work is one of the most widely used business models in the FMCG industry. Manufacturers frequently engage third-party processors for activities such as blending, mixing, filling, bottling, repacking, relabelling, printing, packaging, quality testing, contract manufacturing and warehousing. Since such activities are often carried out through specialised vendors located across different States, GST contains a separate framework governing movement of goods for job work without payment of tax.

The objective of the job work provisions is to facilitate outsourcing of manufacturing and processing activities without causing unnecessary tax costs or blockage of working capital.

Statutory Framework

Section 2(68) of the CGST Act defines "job work" to mean:

"any treatment or process undertaken by a person on goods belonging to another registered person and the expression 'job worker' shall be construed accordingly."

Thus, ownership of goods remains with the principal and only the processing activities are undertaken by the job worker.

Section 143 permits a registered person (principal) to send inputs; and capital goods to a job worker without payment of tax.

The goods may be:

- sent directly to a job worker
- sent through multiple job workers or

- supplied directly from the job worker's premises subject to prescribed conditions.

Time Limits under Section 143

Particulars	***Time Limit***
Inputs	1 Year
Capital Goods	3 Years
Moulds, Dies, Jigs, Fixtures and Tools	No Time Limit

If goods are not returned or supplied within the prescribed period, they are deemed to have been supplied by the principal to the job worker on the date of original dispatch.

Input Tax Credit in Job Work Transactions

As per Section 19 the principal is entitled to avail ITC on:

- Inputs sent to job worker
- Capital goods sent to job worker

even if such goods are sent directly to the job worker without first being received at the principal's premises. Accordingly, physical receipt of goods by the principal is not mandatory for availing ITC where goods are sent directly to the job worker.

Documentation Requirements

➢ ***Rule 45 – Challan Mechanism***

Movement of goods for job work must be covered by a challan containing prescribed particulars.

The challan should contain:

(i) date and number of the delivery challan;

(ii) name, address and Goods and Services Tax Identification Number of the consigner, if registered;

(iii) name, address and Goods and Services Tax Identification Number or Unique Identity Number of the consignee, if registered;

(iv) Harmonised System of Nomenclature code and description of goods;

(v) quantity (provisional, where the exact quantity being supplied is not known);

(vi) taxable value;

(vii) tax rate and tax amount - central tax, State tax, integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee;

(viii) place of supply, in case of inter-State movement; and

(ix) signature.

The challan issued by the principal may be endorsed by subsequent job workers where goods move from one job worker to another.

➢ **Form GST ITC-04**

The principal is required to furnish details of goods dispatched to and received from job workers in Form GST ITC-04 within the prescribed timelines. The time limit for filing Form GST ITC-04 depends on the aggregate annual turnover in the preceding financial year. Where turnover exceeds Rs. 5 crore, ITC-04 must be filed half-yearly i.e. for the April–September period by 25th October, and for the October–March period by 25th April. Where turnover is up to Rs. 5 crore, ITC-04 must be filed annually, covering the entire preceding financial year, by 25th April.

Direct Supply from Job Worker's Premises

Section 143 permits the principal to supply goods directly from the job worker's premises without first bringing them back to the factory.

Such direct supply is permissible where:

- the job worker is registered or
- the job worker's premises have been declared as an additional place of business of the principal.

This provision is widely used in FMCG industries where finished goods are dispatched directly to distributors or warehouses from contract manufacturing units.

X. GST IMPLICATIONS ON E-COMMERCE AND QUICK-COMMERCE TRANSACTIONS

The FMCG sector has witnessed a fundamental shift in its distribution model with the emergence of e-commerce and quick-commerce platforms such as Amazon, Flipkart, BigBasket, JioMart, Blinkit, Zepto and Swiggy Instamart. Traditionally, FMCG products moved through a supply chain consisting of manufacturers, super-stockists, distributors, wholesalers and retailers. However, digital commerce has enabled manufacturers and traders to directly reach customers through online platforms.

While the basic principles of GST continue to apply, supplies through e-commerce operators involve additional provisions relating to registration, tax collection at source (TCS), invoicing, returns, stock transfers, warehousing arrangements, promotional discounts, product returns and refund of excess cash ledger balances.

Tax Collection at Source (TCS)

Section 52 of the CGST Act provides that every electronic commerce operator shall collect tax at source on the net value of taxable supplies made through it where consideration is collected by the operator.

Presently TCS is collected at 0.25 per cent CGST / SGST or 0.5 per cent IGST on inter-State supplies. TCS so collected is deposited with the Government and reflected in the electronic cash ledger of the supplier.

Illustrations:

An FMCG trader sells goods worth ₹50,00,000 through Amazon during a month.

Particulars	**Amount (₹)**
Taxable Value	50,00,000
GST @18 per cent	9,00,000
Invoice Value	59,00,000
TCS @0.5%	25,000

Amazon will deposit ₹25,000 as TCS with the Government and the same will appear in the supplier's electronic cash ledger.

GST Flow in E-Commerce Transactions

The GST flow in a typical FMCG e-commerce transaction is as follows:

FMCG MANUFACTURER / TRADER

|

LISTING ON AMAZON / FLIPKART / BLINKIT

|

CUSTOMER PLACES ORDER

|

INVOICE ISSUED BY SUPPLIER

|

GST CHARGED ON SUPPLY

|

PLATFORM COLLECTS PAYMENT

|

TCS DEDUCTED U/S 52

|

NET AMOUNT REMITTED TO SUPPLIER

|

TCS CREDITED TO ELECTRONIC CASH LEDGER

Refund of Excess Electronic Cash Ledger Balance

Section 49(6) of the CGST Act provides:

" The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of section 54."

Section 54 read with Rule 89 permits refund of excess balance lying in the electronic cash ledger.

Unlike ITC refunds, refund of excess cash ledger balance:

- does not require exports
- does not require inverted duty structure
- does not require accumulation of ITC.

The taxpayer only needs to establish that excess balance is available in the electronic cash ledger. Accordingly, FMCG suppliers receiving substantial

TCS credits should periodically review cash ledger balances and file refund applications where necessary.

Platform-funded vs Manufacturer-Funded Discounts

One of the most litigated issues in the FMCG e-commerce ecosystem is the treatment of discounts. Where the discount is offered by the FMCG supplier and satisfies the conditions of Section 15(3), GST may be payable only on the reduced value.

Where Amazon, Flipkart or another operator independently provides a discount from its own funds, the supplier may continue to discharge GST on the original transaction value.

Advertisement and Sponsored Listing Charges

FMCG companies frequently incur expenditure on:

- sponsored listings
- banner advertisements
- product ranking fees
- platform promotion charges

Section 16(1) permits ITC on goods or services used in the course or furtherance of business. Such expenditure is generally incurred for increasing sales and market visibility and therefore ordinarily qualifies for ITC. Where the benefit accrues to multiple States, credit should be distributed through the ISD mechanism in accordance with Section 20 and Rule 39.

Chapter III

Judicial Decisions & Advance Rulings

I. CC, CE & ST, Bangalore ETC v. M/s Northern Operating Systems Pvt. Ltd., Supreme Court, Civil Appeal Nos. 2289–2293 of 2021, Dated 19-05-2022

Facts

The assessee, an Indian company belonging to a multinational group, had entered into secondment arrangements under which employees of overseas group entities were deputed to work in India. Although the secondees worked under the operational control and supervision of the Indian company, they continued to remain on the payroll of the overseas entities. The overseas entities paid the salaries and other employment-related benefits to the secondees and the Indian company reimbursed such costs without any markup. The issue before the Supreme Court was whether these arrangements constituted a supply of manpower services by the overseas entities to the Indian company, thereby attracting service tax under the reverse charge mechanism.

Decision

The Supreme Court held that, on the facts and contractual arrangements of the case, the overseas group entities were providing manpower supply services to the Indian entity. Accordingly, the reimbursement of salary and other employment-related costs constituted consideration for such services and was liable to service tax under the reverse charge mechanism. The Court clarified that its conclusion was based on the specific contractual and factual matrix and not merely on the nomenclature of the arrangement.

Reasoning

The Supreme Court examined the substance of the secondment arrangement rather than its form. It observed that the secondees continued to have an employment relationship with the overseas entities, which retained significant employment rights and obligations, including appointment, termination, salary payments and other service conditions. The Indian company merely exercised day-to-day operational supervision over the secondees while the overseas entities remained their legal employers. Consequently, the Court concluded that the overseas entities had placed their employees at the disposal of the Indian entity for consideration, thereby constituting a taxable supply of manpower services. The reimbursement of salary costs was held to be the consideration for such supply, irrespective of the absence of any profit element or markup.

Key Takeaway

Although the judgment was rendered under the erstwhile service tax regime, the principles laid down therein continue to be relevant under GST while examining cross-border secondment arrangements. Where the contractual and factual matrix indicates that the overseas entity is supplying manpower services to the Indian entity for consideration, the arrangement may qualify as an import of services under Section 7 of the CGST Act, attracting GST under the reverse charge mechanism.

However, CBIC Instruction No. 05/2023-GST dated 13 December 2023 has clarified that the *Northern Operating Systems* judgment should not be applied mechanically. The taxability of each secondment arrangement must be determined on its own facts after examining factors such as the contractual terms, the actual employer-employee relationship, the degree of control and supervision, the payroll structure, the reimbursement mechanism, and the overall substance of the arrangement. Accordingly, the decision does not lay down a universal principle that every secondment arrangement is taxable; rather, each arrangement requires an independent factual and legal evaluation.

II. M/s Doms Industries (P.) Ltd., (AAR-Gujarat), GUJ/GAAR/R/2022/52, dated 30-12-2022

Facts

The applicant, a manufacturer of stationery products, supplied various products such as pencils, sharpeners, erasers, scales, colouring books, crayons and colour pencils together in a single retail pack (e.g., Doms AI Pencil, Doms Smart Kit and Doms My First Pencil Kit) for a single consolidated price. The applicant contended that these products constituted a composite supply as the principal supply was the pencil or colouring material, while the remaining items were merely ancillary. Accordingly, it was argued that the entire kit should be taxed at the GST rate applicable to the principal product.

Decision

The Gujarat Authority for Advance Ruling held that the stationery kits supplied by the applicant constituted mixed supplies under Section 2(74) of the CGST Act and not composite supplies under Section 2(30). Consequently, in terms of Section 8(b) of the CGST Act, the entire kit would be liable to GST at the highest rate applicable to any individual product contained in the kit.

Reasoning

The Authority observed that although the products were supplied together for a single price, the essential requirement of a composite supply, namely that the goods should be naturally bundled and supplied together in the ordinary course of business, was not satisfied. The Authority noted that pencils, sharpeners, erasers, scales, colouring books and crayons are all independently marketable products, each having a separate classification under the Customs Tariff and capable of being purchased separately by consumers. The mere fact that these items were packed together for convenience or promotional purposes did not make them naturally bundled. The Authority also rejected the contention that sharpeners and erasers were integral to pencils merely because they were supplied as accessories, observing that accessories are not indispensable to the principal product and are separately available in the market. Since the supplies did not qualify as a composite supply but were supplied together for a single consideration, they satisfied all the ingredients of a mixed supply under Section 2(74).

Key Takeaway

The ruling reiterates that mere packaging of different goods together for a single price does not automatically constitute a composite supply. To qualify as a composite supply, the goods must be naturally bundled in the ordinary course of business, with one supply being the principal supply and the others being ancillary. Where independently marketable goods are bundled together primarily for convenience or promotional purposes and sold for a single price, the transaction would ordinarily qualify as a mixed supply, attracting GST at the highest rate applicable to any constituent item under Section 8(b) of the CGST Act.

The applicant challenged the AAR ruling before the Gujarat Appellate Authority for Advance Ruling (AAAR). The AAAR, vide **Advance Ruling (Appeal) No. GUJ/GAAAR/APPEAL/2025/05 dated 22.01.2025**, upheld the findings of the AAR and dismissed the appeal. The Appellate Authority concurred that the stationery kits did not satisfy the test of "natural bundling" required for a composite supply, as each constituent item retained its independent identity and could ordinarily be supplied separately. Accordingly, the supplies were held to be **mixed supplies**, liable to GST at the highest rate applicable to any constituent item under Section 8(b) of the CGST Act.

III. M/s. Columbia Asia Hospitals Pvt. Ltd., AAAR Karnataka, KAR/AAAR/05/2018-19, dated 12-12-2018

Facts

The applicant operated hospitals across multiple States through separate GST registrations. The head office incurred expenditure on common functions such as finance, accounting, human resources, legal, information technology, administration and management, with employees at the head office performing activities that benefited other registered units. The applicant contended that these activities did not constitute taxable supplies since the services were rendered by employees to the employer and were covered by Entry 1 of Schedule III to the CGST Act.

Decision

The Karnataka AAR held and the Karnataka Appellate Authority for Advance Ruling (AAAR) affirmed, that the activities performed by the head office for the benefit of other GST registrations constituted taxable supplies between distinct persons under Entry 2 of Schedule I read with Sections 7 and 25(4) of the CGST Act. Consequently, GST was payable on such inter-unit services even though no consideration was charged.

Reasoning

The Authorities observed that each GST registration of the same legal entity is deemed to be a distinct person under Section 25(4) of the CGST Act.

Accordingly, services supplied by one registered establishment to another registered establishment in the course or furtherance of business are specifically covered by Entry 2 of Schedule I, which treats such supplies as taxable even when made without consideration.

The Authorities also referred to the Explanation to Section 15, which treats establishments of the same legal entity as related persons, reinforcing the conclusion that supplies between such registrations are taxable.

Rejecting the applicant's reliance on Entry 1 of Schedule III, the Authorities held that the employees stationed at the location of a particular establishment of a distinct person are deemed to be rendering their services only to that establishment of a distinct person and not to any other distinct person even though all distinct persons are of the same business entity. Therefore, the employee exclusion under Schedule III did not apply to the inter-unit supply, which remained taxable under Entry 2 of Schedule I.

The Authorities further held that the value of such services should be determined in accordance with Rule 28 of the CGST Rules, governing supplies between distinct or related persons.

Key Takeaway

The *Columbia Asia* ruling is a landmark decision on the GST treatment of inter-unit services. It established that common administrative and management services provided by one GST registration to another registration of the same legal entity constitute taxable supplies under Entry 2 of Schedule I, notwithstanding the absence of consideration. The ruling also clarified that the exclusion for employee services under Entry 1 of Schedule III cannot be invoked where employees of one registration provide benefits to another distinct registration.

Although the ruling significantly shaped the law relating to cross-charge, its practical application must now be considered in the light of subsequent legislative and administrative developments, including CBIC Circular No. 199/11/2023-GST dated 17 July 2023, the amendments to Rule 28 and the mandatory input service distributor (ISD) framework introduced by the Finance Act, 2024 (effective from 1 April 2025). These subsequent changes have substantially refined the manner in which common input services are required to be distributed among multiple GST registrations.

IV. Commissioner of Customs (Import) v. M/s

Welkin Foods Pvt. Ltd., 2026, Supreme Court, Civil Appeal No. 5531 of 2025, dated 06-01-2026

Facts

The respondent imported aluminium shelving systems, floor drains and an automatic watering system for use in mushroom cultivation. While the floor drains and watering system were accepted as parts of agricultural machinery, the dispute related to the classification of the aluminium shelving. The importer classified the shelving as "parts of agricultural machinery" under Heading 8436, contending that the goods were exclusively designed and commercially understood as mushroom growing racks. The Revenue, however, classified them as "aluminium structures" under Heading 7610 based on their objective characteristics and tariff description. The dispute primarily concerned the applicability of the ‘common parlance test’ and the ‘end-use’ test in tariff classification.

Decision

The Supreme Court allowed the Revenue's appeal and held that the aluminium shelving was correctly classifiable as "aluminium structures" under Heading 7610. The Court held that classification must primarily be determined by applying the General Rules for Interpretation (GRI), the tariff headings, Section Notes, Chapter Notes and HSN Explanatory Notes. The importer could not rely upon common parlance or intended use to override the statutory tariff description.

Reasoning

The Supreme Court undertook an exhaustive examination of the principles governing tariff classification under the Harmonised System. The Court observed that the *common parlance test* is not an independent or primary rule of classification under an HSN-based tariff. It is merely a supplementary principle that can be invoked only where the tariff entry is ambiguous, the statute does not prescribe a technical meaning, and the General Rules for Interpretation do not conclusively determine the classification. Where the tariff description and statutory notes clearly identify the goods, commercial understanding cannot displace the statutory scheme.

The Court further clarified the scope of the *end-use test*, holding that the intended or actual use of goods is relevant only where the tariff entry itself expressly or impliedly incorporates use as a criterion for classification. Since Heading 7610 did not make the intended use of aluminium structures relevant, the fact that the shelving was specially designed for mushroom cultivation could not alter its classification. The Court emphasised that tariff classification must be based primarily on the objective characteristics, composition and intrinsic nature of the goods rather than their commercial nomenclature or intended use.

Key Takeaway

The judgment significantly clarifies the hierarchy of classification principles under the Customs Tariff and by extension, the GST rate notification based on the HSN. It establishes that:

- GRI, tariff headings, Section Notes, Chapter Notes and HSN Explanatory Notes are the primary tools of classification.
- The *common parlance test* is a residual interpretative aid, applicable only where statutory provisions do not conclusively determine the classification.
- The *end-use test* is relevant only where the tariff entry itself permits consideration of use.
- Commercial understanding or market nomenclature cannot override a clear statutory tariff description.

V. M/s. Hamdard (Wakf) Laboratories v. Commissioner, Commercial Tax, Uttar Pradesh, 2026 Supreme Court, Civil Appeal No. 2578& 2579 of 2026, dated 25-02-2026

Facts

The dispute related to the classification of Rooh Afza under the Uttar Pradesh VAT Act. The assessee claimed that the product was classifiable as a fruit drink/processed fruit product taxable at the concessional rate, whereas the Revenue classified it under the residuary entry on the ground that it was merely a flavoured syrup. Since the relevant entry did not define the expression "fruit drink", the dispute centred on the appropriate interpretative approach for classification.

Decision

The Supreme Court allowed the appeals filed by Hamdard (Wakf) Laboratories and held that Rooh Afza was classifiable under the specific entry relating to fruit drinks/processed fruit products and not under the residuary entry.

Reasoning

The Supreme Court reiterated the settled principle that where a taxing statute does not define an expression used in a tariff entry, the words must ordinarily be understood in the sense in which they are recognised in trade and by the consuming public, rather than by reference to a technical, scientific, or regulatory definition. The Court held that this common parlance rule prevails unless the statute itself supplies a specific definition or the tariff entry otherwise indicates a technical meaning, and reaffirmed, relying on *Commissioner of Customs (Import), Mumbai v. Dilip Kumar and Company,* (2018) 9 SCC 1, that while taxing and exemption provisions must be construed strictly, this strictness operates in favour of the assessee where genuine ambiguity exists as to which of two competing entries a product falls under.

Applying this framework, the Court examined the composition, manufacturing process, product literature, market identity, and consumer perception of Rooh Afza. It rejected the Revenue's contention that the predominance of invert sugar syrup, which constituted approximately 80 per cent of the product, was determinative of its classification. The Court held that composition by volume alone does not decide classification where one ingredient serves merely a functional role; here, the sugar syrup operated only as a carrier and preservative medium, while the fruit content and allied distillates imparted to the product its essential and distinguishing character as a fruit-based beverage preparation. On this essential character test, the Court found that Rooh Afza retained a substantial and reasonable claim to classification as a "fruit drink" within Entry 103, notwithstanding its comparatively modest fruit juice content.

The Court further held that classification under a food safety or licensing statute, such as the description of the product as a "non-fruit syrup" under the Fruit Products Order, 1955, operates in an entirely distinct regulatory domain concerned with quality control and labelling and cannot control or curtail the interpretation of a fiscal entry unless the taxing statute expressly incorporates or adopts such a definition. Nomenclature adopted for licensing purposes, or the fact that the product is marketed and sold as a "sharbat," was accordingly held not to be determinative for tax classification.

Finally, the Court placed the burden of proof squarely on the Revenue to justify displacing a specific entry in favour of a residuary one. It held that once an assessee makes out a reasonable and substantial claim to classification under a specific entry, the onus shifts to the Revenue to demonstrate, through cogent evidence such as trade surveys or consumer perception studies, that the product falls outside that entry. In the present case, the Revenue had produced no such evidence and had relied only on a bare assertion that the product was unclassified; this failure to discharge the burden was held fatal to the residuary classification.

Key Takeaway

The judgment reaffirms that commercial or common parlance remains the primary interpretative tool for classification where a taxing statute does not define the expression in question and that this principle yields only where the statute itself prescribes a specific definition or technical meaning. It also establishes two further points of practical significance for classification disputes generally: *first,* that the essential character of a product, rather than the numerical predominance of any single ingredient by volume or weight, governs its classification where one component serves only a carrier, preservative, or functional role; and *second*, that the burden of proof lies on the Revenue to justify resort to a residuary Entry, which cannot be discharged by a bare assertion and requires affirmative evidence displacing the assessee's claim to a specific Entry. Read alongside *Commissioner of Customs (Import) v. M/s Welkin Foods*, the two decisions together map a consistent hierarchy for classification disputes under fiscal statutes: statutory definitions, tariff entries, Section Notes, and Chapter Notes govern first; where these do not conclusively resolve the classification, the essential character of the product and its recognised commercial identity rather than technical composition, regulatory labelling, or predominant ingredient by volume determine the outcome; and in either case, it is the party seeking to depart from the specific entry into a residuary or generic one that bears the burden of establishing that departure.

VI. M/s. Supreme Paradise v. Assistant Commissioner, 2024, Madras High Court W.P. Nos. 13424, 13427, 13429, 13433 & 13435 of 2023, dated 10-01-2024

Facts

The petitioner, a retailer of mobile phones, received volume discounts and trade incentives from manufacturers and distributors through post-sale credit notes. The Department sought to include the amount of such discounts in the petitioner's taxable turnover on the ground that the discounts did not satisfy the conditions prescribed under Section 15(3)(b) of the CGST Act and therefore formed part of the value of supply under Section 15(2). The petitioner contended that GST had already been discharged on the invoice value paid to the supplier and that the manufacturer's post-sale discount could not be added to the value of the petitioner's subsequent sale to its customers.

Decision

The Madras High Court quashed the assessment orders and remanded the matter for fresh adjudication. The Court held that the discount received by the dealer from the manufacturer could impact only the transaction value of the supplier's supply and could not be added to the transaction value of the dealer's subsequent supply to its customers. It further held that a post-sale discount received from the supplier cannot be treated as part of the dealer's taxable value unless it represents a subsidy directly linked to the price within the meaning of Section 15(2)(e) of the CGST Act.

Reasoning

The Court distinguished between two independent supplies under the GST framework. The first supply was between the manufacturer and the dealer, while the second was between the dealer and the retail customer. It observed that Section 15(3) governs only the valuation of the supplier's supply and determines the circumstances in which the supplier may exclude post-supply discounts from the value of its own supply. The provision has no application while determining the transaction value of the dealer's subsequent outward supply.

The Court further held that the transaction value of the dealer is the price actually paid or payable by its customer under Section 15(1). A discount subsequently received by the dealer from the manufacturer does not automatically enhance that transaction value. Such discount can be included only where it is, in substance, a subsidy provided by a third party directly linked to the price under Section 15(2)(e). A normal commercial or trade discount does not constitute a subsidy merely because it is granted after the supply. The Court emphasised that the manufacturer's discount and the dealer's discounted sale price are two separate commercial transactions, and there is no legal basis to intermingle them for the purpose of levying GST.

Key Takeaway

The judgment clarifies that post-sale trade discounts or volume discounts received by a dealer from a manufacturer do not, by themselves, form part of the dealer's transaction value. Section 15(3) governs the valuation of the supplier's supply and cannot be invoked to alter the valuation of the dealer's independent outward supply. Unless the amount received is in the nature of a subsidy directly linked to the price under Section 15(2)(e), it cannot be added to the dealer's taxable value. The decision is particularly significant for FMCG, automobile, electronics and consumer goods industries, where post-sale incentives, volume discounts and trade support schemes are a common commercial practice.

Chapter IV

Key Sectoral Considerations and the Way Forward

I. FREE SAMPLES AND GIFTS

One of the most common marketing practices in the FMCG sector is distribution of free samples. Manufacturers of soaps, shampoos, cosmetics, beverages, food products and healthcare products often distribute product samples to prospective customers without charging any consideration. The primary objective is to encourage product trials and generate consumer awareness. Under Section 7(1)(a) of the CGST Act, a transaction qualifies as a supply only when it is made for a consideration in the course or furtherance of business. Since free samples are distributed without any consideration, such transactions ordinarily do not qualify as supply under Section 7(1)(a). Further, free samples distributed to customers generally do not fall within any of the entries specified in Schedule I and therefore are not treated as deemed supplies under Section 7(1)(c).

A question that arises here is whether free samples, being goods and therefore assets of the business in a general sense, could still be covered by Entry 1 of Schedule I, which treats as supply the "permanent transfer or disposal of business assets where input tax credit has been availed on such assets," even without consideration. On a closer examination, Entry 1 does not extend to free samples.

Entry 1 requires that ITC has actually been availed on the asset being disposed of. Section 17(5)(h) of the CGST Act provides that "input tax credit shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples." Where credit has been taken on inputs used in manufacturing such samples, it must be reversed; where it has not been taken, it stands blocked from the outset. In either case, at the point of disposal there is no ITC standing availed against the samples, and the precondition to Entry 1 is not satisfied.

This position is affirmed administratively by CBIC Circular No. 92/11/2019-GST dated 07.03.2019, which clarifies that free samples do not qualify as supply except where covered by Entry 2 of Schedule I (transactions between related or distinct persons), and that ITC on free samples is instead blocked under Section 17(5)(h). Had Entry 1 been intended to apply, there would have been no need to block ITC separately, since a deemed taxable supply under Schedule I would itself entitle the supplier to credit under Section 16(1). The Circular's approach of denying credit rather than taxing the disposal confirms that Entry 1 is not the operative provision for free samples given to unrelated customers.

Accordingly, where an FMCG company distributes shampoo sachets, beverage cans, toothpaste samples, cosmetic trial packs or similar products without charging any consideration, GST is ordinarily not payable on such distribution. However, the position with respect to input tax credit is materially different. Section 17(5)(h) of the CGST Act specifically blocks ITC on goods disposed of by way of gifts or free samples. Consequently, although GST may not be payable on the outward distribution of free samples, the ITC attributable to such goods is required to be reversed.

II. BUY ONE GET ONE (BOGO) SCHEMES

Another widely adopted promotional strategy in the FMCG industry is the “Buy One Get One Free” scheme. Such schemes are commonly advertised as:

- Buy One Soap, Get One Soap Free
- Buy One Shampoo, Get One Shampoo Free
- Buy One Shaving Cream, Get One Shaving Foam Free
- Buy One Biscuit Pack, Get Another Pack Free.

At first glance, such schemes may appear to involve a free supply of goods. However, the CBIC Circular clarifies that these arrangements are not free supplies in the legal sense. The economic reality is that the customer pays a single consolidated consideration for the entire bundle of products. Accordingly, GST is payable on the entire transaction value charged from the customer and the scheme must be analysed under the provisions relating to composite supply and mixed supply contained in Section 8 of the CGST Act.

Where identical products are supplied under a BOGO arrangement, such as “Buy One Soap, Get One Soap Free”, the transaction effectively represents supply of two units of the same product for a single consideration. GST is payable at the rate applicable to that product.

More complex issues arise where different products are bundled together. For instance an FMCG company may offer a toothpaste along with a toothbrush, a shaving cream along with a shaving foam, or a packet of chips along with a toy. In such situations, the nature of the bundle must be examined to determine whether it constitutes a composite supply or a mixed supply.

If the products are naturally bundled and supplied together in the ordinary course of business, the transaction qualifies as a composite supply under Section 2(30). In such cases, GST is payable at the rate applicable to the principal supply.

Conversely, where the products are not naturally bundled and are independently capable of being supplied separately, the transaction may qualify as a mixed supply under Section 2(74). In such cases, Section 8 provides that the entire bundle shall be taxed at the highest GST rate applicable to any product forming part of the package.

III. FREIGHT AND INSURANCE CHARGES – COMPOSITE SUPPLY OR INDEPENDENT SUPPLY

In the FMCG sector, freight, insurance, packing, handling and delivery charges are often recovered separately in the tax invoice. However, merely because such charges are separately disclosed in the invoice does not mean that they constitute an independent supply liable to GST at a separate rate.

Section 15(2)(c) of the CGST Act specifically provides that the value of supply shall include any incidental expenses, including commission, packing and any amount charged by the supplier for anything done in respect of the supply of goods at or before delivery thereof. Accordingly, where freight, insurance or similar charges are recovered in connection with the supply of goods, such charges ordinarily form part of the value of the principal supply.

Further, Section 2(30) defines a composite supply as a supply consisting of two or more taxable supplies which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is the principal supply. Section 8 provides that a composite supply shall be treated as a supply of the principal supply. In the FMCG industry, goods are generally supplied on a Free on Road-destination basis or delivered basis, where the supplier undertakes responsibility for transportation and delivery of goods to the distributor, retailer or customer. In such cases, freight and insurance are merely ancillary to the principal supply of goods and are naturally bundled with the supply. Consequently, even if freight and insurance charges are shown separately in the invoice, the entire transaction would ordinarily qualify as a composite supply and GST would be payable at the rate applicable to the goods.

However, a different view may arise where transportation is not an obligation of the supplier and is arranged separately at the option of the customer. This may occur where goods are sold on an ex-factory or ex-warehouse basis, ownership and risk pass to the customer at the factory gate, and transportation is separately contracted after completion of the supply of goods. In such circumstances, transportation may be regarded as an independent supply of service and may attract GST at the rate applicable to such transportation service.

Therefore, the mere separate disclosure of freight or insurance charges in the invoice is not determinative. The tax treatment depends upon the contractual arrangement, the nature of the transaction, the responsibility for delivery and whether the transportation or insurance is naturally bundled with the supply of goods. In the normal FMCG distribution model, freight and insurance charges generally form part of a composite supply and are taxable at the same rate as the underlying goods.

IV POST-SALE DISCOUNTS UNDER GST

Post-sale discounts are widely used in the FMCG sector in the form of turnover rebates, quantity incentives, target discounts, market support schemes and dealer incentives. Under Section 15(3)(b) of the CGST Act, the value of supply may be reduced by way of a GST credit note issued after the supply, subject to the conditions prescribed under the Act. Pursuant to the amendments introduced by the Finance Act, 2026, the earlier requirement that the discount must be pre-agreed and specifically linked to individual invoices has been removed. Presently, reduction in taxable value is permissible where a credit note is issued by the supplier and the recipient reverses the proportionate input tax credit attributable to such discount in accordance with Section 34 of the CGST Act. However, this amendment shall come into force from such date as may be notified by the Central Government. Accordingly, until the notified effective date, the existing provisions of Section 15(3)(b) continue to govern post-sale discounts.

It is important to distinguish between a GST credit note and a financial/commercial credit note. Where a GST credit note is issued under Section 34 and the supplier reduces its output tax liability, the recipient is required to reverse the corresponding input tax credit. However, where a financial or commercial credit note is issued without any reduction in GST liability, the original tax charged on the invoice remains unchanged and the recipient is not required to reverse input tax credit. This position has been clarified by CBIC in Circular No. 92/11/2019-GST dated 07.03.2019 and further reinforced by Circular No. 251/08/2025-GST dated 12.09.2025.

The CBIC has also clarified that ordinary post-sale discounts granted by manufacturers to dealers on a principal-to-principal basis for achieving sales targets, increasing market penetration or supporting competitive pricing do not constitute consideration for any separate supply by the dealer. However, where the dealer undertakes specific promotional or marketing activities for the manufacturer, such as product demonstrations, preferential shelf placement, advertising campaigns or in-store promotions, the consideration received may be treated as consideration for an independent taxable supply of service liable to GST.

Given the current legal position, FMCG companies should maintain the following for each post-sale discount arrangement:

- *Type of credit note:* Clearly classify as either a GST credit note under Section 34 or a financial/commercial credit note. The choice determines the entire compliance chain.
- *Scheme documentation:* Even though pre-agreement will no longer be mandatory post the Finance Act 2026 amendment, formal trade scheme circulars should continue to be maintained as evidence of the commercial basis of the discount.
- *IMS monitoring:* With the introduction of the Invoice Management System (IMS), credit notes reported by the supplier will appear in the recipient's IMS dashboard. The recipient must act on these credit notes to ensure ITC reversal is properly recorded - this has become

the primary compliance mechanism replacing the CA certificate requirement.

- *Dealer service agreements:* Where dealers perform promotional activities, a separate service agreement must exist to document the nature of services and consideration to avoid the discount being re-characterised as a supply of service by the dealer.

The mechanism for adjustment of post-sale discounts is provided under Section 34 of the CGST Act. Section 34(1) provides that where the taxable value or tax charged in the original invoice exceeds the actual taxable value or tax payable, the supplier may issue a credit note to the recipient. Accordingly, where an FMCG company grants a post-sale discount which qualifies for exclusion under Section 15(3), a GST credit note may be issued under Section 34 and the corresponding output tax liability may be adjusted in accordance with the provisions of the Act.

V. PAYMENT TO SUPPLIER WITHIN 180 DAYS

One of the most significant compliance requirements is contained in the Second proviso to Section 16(2). The Proviso provides that where the recipient fails to pay the supplier the value of supply along with tax within 180 days from the date of issue of invoice, the ITC availed shall be added to the output tax liability of the recipient along with applicable interest. This provision effectively requires reversal of ITC where payment to the supplier remains outstanding beyond 180 days.

A significant practical issue arises where the recipient fails to pay the supplier and the amount is later written off as bad debt, a disputed liability, or waived in the supplier's books. GST law provides no exception from the 180-day condition merely because the liability becomes disputed or irrecoverable. Under the second proviso to Section 16(2), ITC on the unpaid amount must be reversed, along with interest, if payment is not made within 180 days of the invoice date. However, once payment is made, the recipient may re-avail the reversed credit.

This provision was introduced to ensure that ITC is not retained indefinitely where the underlying commercial consideration remains unpaid. However, the law does not prescribe any specific mode through which such payment must be made. A practical issue frequently arises in the FMCG sector and large corporate groups where liabilities are not always settled through direct bank transfers to the supplier. Commercial transactions are often settled through book adjustments, inter-company settlements, adjustment against receivables, security deposits, credit balances or tripartite arrangements. In such situations, the relevant question is whether the supplier has effectively received the consideration and whether the liability of the recipient towards the supplier stands discharged.

In the absence of any specific requirement under the GST law that payment must necessarily be made through banking channels, a reasonable view can be taken that the expression “payment to the supplier” should be interpreted in a commercial manner. Accordingly, where the liability towards the supplier is discharged through a legally enforceable book adjustment or accounting settlement, the condition prescribed under the Second Proviso to Section 16(2) should ordinarily be regarded as satisfied. The essence of the provision is the extinguishment of the liability towards the supplier rather than the manner in which such settlement is achieved.

Similarly, business arrangements often involve mutual settlements through journal entries. An FMCG manufacturer may be required to pay incentive or promotional support amounts to a distributor while simultaneously having receivables outstanding from the same distributor. Instead of making separate payments, both parties may agree to adjust their respective obligations through accounting entries. To the extent the liability is extinguished through such adjustment, the amount should be regarded as paid for the purposes of Section 16(2), since the supplier no longer has an enforceable claim against the recipient.

The same principle should apply where liabilities are adjusted against advances, security deposits, debit notes, credit notes, inter-company balances or other contractual settlements. Once the supplier acknowledges the adjustment and the outstanding liability ceases to exist, it may be argued that the commercial substance of payment has been achieved. Accordingly, the requirement of payment within 180 days should be regarded as satisfied. From a practical perspective, FMCG companies should maintain adequate documentation to substantiate such settlements. This may include written instructions authorising third-party payment, supplier confirmations, settlement agreements, journal vouchers, ledger extracts, correspondence between parties and any other evidence demonstrating that the liability has been effectively discharged.

Reversal and Re-Availment

Where ITC has already been availed and payment is not made within 180 days, the credit is required to be reversed through GSTR-3B together with applicable interest. Upon subsequent payment to the supplier, the same ITC may be re-availed in the return for the relevant tax period. Therefore, the compliance cycle may be summarised as follows:

Invoice received → ITC availed → Payment not made within 180 days → ITC reversed with interest → Payment subsequently made → ITC re-availed.

The re-availment is not subject to the time limit prescribed under Section 16(4) because the law specifically permits restoration of credit once payment is made to the supplier. But such reversal shall be properly disclosed in GSTR 3B as temporary reversal and then reclaimed.

VI. INTERACTION WITH INVOICE MANAGEMENT SYSTEM (IMS)

The introduction of IMS has created a practical challenge for taxpayers following a payment-based ITC policy. An invoice may appear in IMS and GSTR-2B immediately after being reported by the supplier. If the recipient takes no action, the invoice may be deemed accepted under the IMS framework. However, deemed acceptance in IMS does not mean that ITC must necessarily be availed in GSTR-3B.

IMS primarily determines invoice status. Actual availment of ITC continues to be governed by Section 16 and the amount reported in GSTR-3B. Accordingly, a taxpayer may allow the invoice to remain accepted in IMS but defer actual availment of credit until payment is made.

VII. ITC REFLECTED IN WRONG GSTIN

A practical issue frequently encountered in large FMCG groups is where a supplier issues an invoice in the GSTIN of one registration while the services are actually received and utilised by another registration of the same legal entity.

The GST law does not expressly address this situation. With the introduction of the Invoice Management System (IMS), FMCG companies are required to actively review invoices appearing in their records. In many cases, invoices may appear in GSTR-2B despite not pertaining to the recipient. Such situations generally arise due to incorrect GSTIN reporting by suppliers. Since non-action in IMS may result in deemed acceptance, invoices not belonging to the taxpayer should be appropriately rejected through IMS. Failure to do so may result in future disputes regarding excess or incorrect ITC availment in GSTR-3B on account of such invoices.

VIII. INPUT SERVICE DISTRIBUTOR (ISD) *VERSUS* CROSS CHARGE

The FMCG industry typically operates through multiple manufacturing units, depots, warehouses, branch offices and sales offices spread across various States. In such a business model, several services are procured centrally at the head office level while the benefit of such services is consumed by multiple registrations. Common instances include national advertising campaigns, brand promotion expenses, ERP software, legal and professional services, audit fees, market research expenses, employee training programmes and digital marketing campaigns.

Under GST, the credit pertaining to such common services cannot remain at the head office merely because the invoice is issued in its name. The credit must be distributed to the registrations which actually consume or benefit from such services. The mechanism for such distribution is governed through the provisions relating to input service distributor (ISD) and, in certain circumstances, through cross charge.

ISD — Now Mandatory for Common Third-Party Services

Until 31 March 2025, distribution of ITC on common input services procured from third parties could be done either through the ISD mechanism or through cross charge. However, pursuant to the amendment of Section 20 of the CGST Act (vide the Finance (No. 2) Act, 2024) and Notification No. 16/2024-Central Tax dated 6 August 2024, the ISD mechanism has become **mandatory** with effect from 1 April 2025. Consequently, where the head office receives common input services from third parties that are attributable to, or actually provided to, multiple registrations, it must obtain ISD registration and distribute such credit only through the ISD mechanism, and can no longer do so through cross charge.

Cross Charge – Meaning and Concept

Cross charge is different from ISD. Cross charge arises where one GST registration provides services to another registration of the same legal entity.

The concept flows from:

- Section 25(4)
- Section 25(5)
- Entry 2 of Schedule I

These provisions treat distinct registrations under the same PAN as separate persons. Therefore, supply of services between such registrations is treated as a taxable supply even without consideration.

Internally Generated Services — Continue to Require Cross Charge

The mandatory ISD requirement applies only to common input services procured from third parties. It does not extend to internally generated services — i.e., services rendered by employees or resources of one registration for the benefit of another registration (such as management, administrative, HR, or marketing support). Such internally generated services continue to be governed by cross charge, requiring valuation under Rule 28.

IX. ONE-TO-ONE CORRELATION IN JOB WORK

One of the most common disputes in job work transactions is whether a strict one-to-one correlation between inputs sent and goods received back is required.

The GST law does not prescribe any requirement for maintaining a strict item-wise or batch-wise one-to-one correlation. The objective of Section 143 is to ensure accountability of goods and not mathematical matching of each unit dispatched with each unit received.

In FMCG industries, job work activities often involve:

- Mixing
- Blending
- Bottling

- Repacking
- Labelling
- Process loss
- Wastage
- Common production lines.

In such circumstances, exact one-to-one correlation may be commercially impractical.

Illustration

A shampoo manufacturer sends 10,000 litres of shampoo concentrate to a contract bottling unit. The job worker fills the concentrate into:

- 100 ml packs
- 180 ml packs
- 340 ml packs and
- promotional sachets.

During processing, normal process loss, evaporation loss and quality control consumption occur. In such cases, it may not be possible to establish exact correlation between each litre sent and each retail pack manufactured. However, the principal should maintain:

- Job work challans
- Production records
- Yield statements
- Wastage reports
- Inventory reconciliations.

Where the overall quantitative reconciliation is available, absence of strict one-to-one correlation should not by itself result in denial of job work benefits.

X. PRACTICAL ISSUES IN JOB WORK ARRANGEMENTS

Despite the detailed framework prescribed under Sections 19 and 143 of the CGST Act, job work transactions continue to be a frequent area of dispute during GST audits and investigations. One of the most common issues relates to the non-return of goods within the prescribed period of one year for inputs and three years for capital goods. Tax authorities often seek to treat such cases as deemed supplies under Section 143, resulting in demands for GST, interest and penalties. Businesses should therefore establish robust monitoring mechanisms to track statutory timelines and movement of goods across multiple job workers.

Another recurring dispute concerns process loss, wastage and yield variations. In FMCG industries involving blending, bottling, repacking, filling, evaporation, drying and quality testing, a certain degree of process loss is commercially inevitable. However, the tax authorities may question excessive losses where appropriate technical records, production reports and standard consumption norms are not maintained. Accordingly, businesses should preserve manufacturing records, yield statements and technical justifications supporting normal process loss.

Disputes are also witnessed in cases where goods are supplied directly from the job worker's premises without first returning them to the principal's factory. Although Section 143 specifically permits such supplies subject to prescribed conditions, taxpayers should ensure that the job worker is registered or that the premises have been declared as an additional place of business wherever required. Proper documentation and traceability of goods remain critical to avoid allegations of unaccounted clearances.

The CBIC has, from time to time, issued clarifications regarding job work procedures. Circular No. 38/12/2018-GST dated 26.03.2018 clarified several practical issues including direct dispatch of goods to job workers, movement of goods between multiple job workers, issuance of challans, treatment of waste and scrap, and supply of goods directly from the job worker's premises. The Circular emphasises that the job work provisions are intended to facilitate business operations and should be interpreted in a manner that avoids unnecessary hardship where the movement and accounting of goods can be satisfactorily established.

Given the extensive use of contract manufacturing and outsourced processing arrangements in the FMCG sector, businesses should implement strong inventory controls, periodic reconciliations, timely filing of Form GST ITC-04 and comprehensive documentation of production losses and material consumption. These measures would significantly reduce the risk of disputes relating to deemed supplies, valuation, ITC eligibility and procedural non-compliance.

XI. ACCUMULATION OF ELECTRONIC CASH LEDGER BALANCE – A MAJOR FMCG ISSUE

One of the most significant working capital challenges faced by FMCG suppliers operating through e-commerce platforms is continuous accumulation of electronic cash ledger balances. The issue arises because tax collected by the platform is deposited into the electronic cash ledger irrespective of whether the supplier has any corresponding cash liability.

At the same time, most FMCG suppliers have substantial ITC available from purchases. Consequently, GST liability is discharged through ITC while TCS keeps accumulating in the cash ledger.

Illustration

Particulars	**Amount (₹)**
Output GST Liability	15,00,000
ITC Available	14,50,000
Net Cash Liability	50,000
TCS deposited by ECO	2,50,000

In this case, only ₹50,000 is required for payment of tax but ₹2,50,000 gets deposited into the electronic cash ledger. Accordingly, ₹2,00,000 accumulates every month. Over time, this results in significant accumulation of idle balances, adversely affecting working capital and increasing the cost of doing business.

Although the accumulated balance may be claimed as a refund under Section 54 of the CGST Act, the refund process involves procedural compliance, documentation and processing time, thereby delaying the availability of funds. Considering the high volume and low-margin nature of

FMCG operations, such continuous accumulation of cash ledger balances has emerged as a significant liquidity concern for businesses operating through e-commerce platforms.

XII. ACCUMULATION OF COMPENSATION CESS CREDIT AFTER WITHDRAWAL OF COMPENSATION CESS

One of the significant transitional challenges arising from the implementation of the GST rate rationalisation (GST 2.0) is the accumulation of unutilised compensation cess input tax credit (ITC). Pursuant to the recommendations of the 56th GST Council Meeting, compensation cess was discontinued on almost all goods with effect from 22 September 2025, excepting specified tobacco and related products. Subsequently, even the compensation cess on tobacco products was effectively withdrawn by prescribing a Nil rate from 1 February 2026. As a result, businesses dealing in goods that were earlier subject to compensation cess no longer have any corresponding output cess liability against which the accumulated cess credit can be utilised.

Under the existing statutory framework, compensation cess credit can be utilised only towards payment of compensation cess liability and cannot be cross-utilised for payment of CGST, SGST or IGST. At present, the GST law does not provide any mechanism for transfer, transition or refund of such accumulated cess credit following the withdrawal of the levy. Consequently, substantial balances of compensation cess credit continue to remain blocked in the electronic credit ledger, resulting in significant working capital constraints for affected businesses.

The absence of a statutory transition mechanism has resulted in substantial blockage of working capital for affected businesses. Unless an appropriate legislative or judicial solution is provided, accumulated compensation cess credit will continue to remain unutilisable despite the discontinuance of the levy. This issue assumes particular significance for industries that historically discharged substantial compensation cess liability, including segments of the FMCG industry dealing in aerated beverages and other products previously subject to compensation cess.

Notes

Notes

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