

Issue No : I/7626/2017

OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES: ODISHA, CUTTACKNo. III-11/3/2015-Policy 16386 /CT., Dt. 7 / 11 /2017

To

All the JCCTs in charge of Territorial Ranges and Enforcement Ranges
All the DCCTs and ACCTs in charge of Circle offices / Assessment Units
and Vigilance Units

Sub: **Rate of GST on Construction Services and Goods Transport Services -
reg.**

Madam/Sir,

In inviting reference to the subject cited above, I am directed to enclose here with the following compilations on rate of GST on (i) construction services, (ii) GTA services and (iii) the taxability of goods sold in unit containers bearing a "brand name" for information and guidance.

List of compilations

1. GST Rate on Construction Services (As on 31.10.2017) (Chapter 99, Section 5) Heading 9954
2. GST Rate on Goods Transport Services (As on 31.10.2017) (Chapter 99, Section 6) Heading 9965
3. Concept of branded/ un-branded food items taxable (As on 31.10.2017 under GST

Yours faithfully

[Signature]
Deputy Commissioner of Commercial Taxes
(Policy)

Memo No. 16387 /CT.,Dated 7 / 11 /2017

Copy along with copy of the list of Services showing the rate of GST forwarded to all Special CCTs / Addl. CCTs including Addl. CCT-cum-SR-I & II & Addl. CCT (Vigilance) / all JCCTs / all DCCTs and ACCTs of Head Office for information and necessary action.

[Signature]
Deputy Commissioner of Commercial Taxes
(Policy)

GST Rate on Construction Services (As on 31.10.2017)**(Chapter 99, Section - 5)****Heading 9954**

Description of Service	Intra-State Supply			Inter-State Supply
	OGST	CGST	Total	IGST
(i) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.	9	9	18	18
(ii) Composite supply of works contract as defined in clause 119 of section 2 of the OGST Act'2017 as well as the CGST Act'2017.	9	9	18	18
(iii) Composite supply of works contract as defined in clause (119) of section 2 of the OGST Act'2017 as well as CGST Act'2017, <u>supplied to the Central Government, State Government, UT, a local authority, a Government Authority or a Government Entity</u> by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, - (a) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958); (b) canal, dam or other irrigation works; (c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal. <i>[Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, UT or local authority, as the case may be.]</i>	6	6	12	12
(iv) Composite supply of works contract as defined in clause (119) of section 2 of the OGST Act'2017 as well as the CGST Act'2017, supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,- (a) a road, bridge, tunnel, or terminal for road transportation for use by general public; (b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana; (c) a civil structure or any other original works pertaining to the "In-situ rehabilitation of existing slum dwellers using land as a resource through private participation" under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers; (d) a civil structure or any other original works pertaining to the "Beneficiary led individual house construction / enhancement" under the Housing for All (Urban)	6	6	12	12

<p>Mission/Pradhan Mantri Awas Yojana;</p> <p>(e) a pollution control or effluent treatment plant, except located as a part of a factory; or</p> <p>(f) a structure meant for funeral, burial or cremation of deceased.</p>				
<p>(v) Composite supply of works contract as defined in clause (119) of section the OGST Act'2017 as well as the CGST Act'2017, supplied by way of construction, erection, commissioning, or installation of original works pertaining to,-</p> <p>(a) railways, excluding monorail and metro;</p> <p>(b) a single residential unit otherwise than as a part of a residential complex;</p> <p>(c) low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;</p> <p>(d) low cost houses up to a carpet area of 60 square metres per house in a housing project approved by the competent authority under-</p> <p>(1) the "Affordable Housing in Partnership" component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;</p> <p>(2) any housing scheme of a State Government;</p> <p>(e) post-harvest storage infrastructure for agricultural produce including a cold storage for such purposes; or</p> <p>(f) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages.</p>	6	6	12	12
<p>(vi) Services provided to the Central Government, State Government, Union Territory, a local authority, a Governmental Authority or a Government Entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –</p> <p>(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;</p> <p>(b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or</p> <p>(c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.</p> <p><i>[Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, UT or local authority, as the case may be.]</i></p>	6	6	12	12

(vii)	Composite supply of works contract as defined in clause (119) of section 2 of the OGST Act'2017 as well as the CGST Act'2017, involving predominantly earth work (that is, constituting more than 75 per cent of the value of the works contract) provided to the Central Government, State Government, Union territory, local authority, a Governmental Authority or a Government Entity. <i>[Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be]</i>	2.5	2.5	5	5
(viii)	Composite supply of works contract as defined in clause (119) of section 2 of the OGST Act'2017 as well as the CGST Act'2017 and associated services, in respect of offshore works contract relating to oil and gas exploration and production (E&P) in the offshore area beyond 12 nautical miles from the nearest point of the appropriate base line.	6	6	12	12
(ix)	Construction services other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii)above.	9	9	18	18

Explanation

“Governmental Authority” means an authority or a board or any other body,-

- (i) set up by an Act of Parliament or a State Legislature; or
- (ii) established by any Government,
With 90 per cent or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243 W of the Constitution or to a Panchayat under article 243 G of the Constitution.

“Government Entity” means an authority or a board or any other body including a society, trust, corporation,

- (i) set up by an Act of Parliament or State Legislature; or
- (ii) established by any Government,
With 90 per cent or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority”.

- Principal Notification – GOI Notification No. 11/2017 (28.06.17) – Central Tax (Rate)
- Amendment - 1 - GOI Notification No. 22/2017 (22.08.17)- Central Tax (Rate)
[Sl. No. (iii), (iv), & (v) inserted]
- Amendment - 2 - GOI Notification No. 24/2017 (21.09.17) – Central Tax (Rate)
[Sl. No. (vi) inserted]
- Amendment - 3 - GOI Notification No. 31/2017 (13.10.17) – Central Tax (Rate)
[Sl. No. (vii) & (viii) inserted
and the words ‘Government Entity’ and
the proviso to the Sl. No. (iii) & (vi) inserted.]
- Notifications under OGST Act have also been issued by the State Government of Odisha corresponding to the above-mentioned CGST Notifications

GST Rate on Goods Transport Services (As on 31.10.2017)
(Chapter 99, Section 6)
Heading 9965

Sl. No.	Description of Service	GST Rate	Condition
1	<p>Services by way of transportation of goods-</p> <p>(a) by road except the services of-</p> <p style="padding-left: 20px;">(i) a goods transportation agency;</p> <p style="padding-left: 20px;">(ii) a courier agency;</p> <p>(b) by inland waterways.</p>	Nil	Nil
2	<p>Services by way of transportation of goods by an aircraft from a place outside India up to the customs station of clearance in India.</p>	Nil	Nil
3	<p>Services by way of transportation by rail or a vessel from one place in India to another of the following goods-</p> <p>(a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;</p> <p>(b) defence or military equipments;</p> <p>(c) newspaper or magazines registered with the Registrar or Newspapers;</p> <p>(d) railway equipments or materials;</p> <p>(e) agricultural produce;</p> <p>(f) milk, salt and food grain including flours, pulses and rice; and</p> <p>(g) Organic manure</p>	Nil	Nil
4	<p>Services provided by a goods transport agency, by way of transport in a goods carriage of-</p> <p>(a) agricultural produce;</p> <p>(b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees;</p> <p>(c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty;</p> <p>(d) milk, salt and food grain including flour, pulses and rice;</p> <p>(e) organic manure;</p> <p>(f) newspaper or magazines registered with the Registrar of Newspapers;</p> <p>(g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or</p> <p>(h) defence or military equipments.</p>	Nil	Nil

5	<p>Services provided by a goods transport agency to an unregistered person, including an unregistered causal taxable person, other than the following recipients, namely:-</p> <p>(a) any factory registered under or governed by the Factories Act, 1948(63 of 1948); or</p> <p>(b) any Society registered under the Societies Registration Act, 1860(21 of 1860) or under any other law for the time being in force in any part of India; or</p> <p>(c) any Co-operative Society established by or under any law for the time being in force; or</p> <p>(d) anybody corporate established, by or under any law for the time being in force; or</p> <p>(e) any partnership firm whether registered or not under any law including association of persons;</p> <p>(f) any casual taxable person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.</p>	Nil	Nil
6	Transport of goods by rail	5	[Provided that credit of input tax charged in respect of goods in supplying the service is not utilized for paying central tax or integrated tax on the supply of the service]
7	Transport of goods in a vessel.	5	[Provided that credit of input tax charged on goods (other than on ships, vessels including bulk carriers and tankers) used in supplying the service has not been taken]
8	<p>Services of goods transport agency (GTA) in relation to transportation of goods (including used household goods for personal use).</p> <p><i>Explanation.- "goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.</i></p>	5	[Provided that credit of input tax charged on goods and services used in supplying the service has not been taken]
		OR	
		12	[Provided that the goods transport agency opting to pay tax @ 12% under this entry shall, thenceforth, be liable to pay tax @ 12% on all the services of GTA supplied by it.]
9	Transport of goods in containers by rail by any person other than Indian Railways.	12	
10	Transportation of natural gas through pipeline	5	[Provided that credit of input tax charged on goods and services used in supplying the service has not been taken]
		OR	
		12	-
11	Goods transport services other than 1 to 10 above	18	-

- **Principal Notification - No. 11/2017 (28.06.17) – Central Tax (Rate)**
 - **No. 12/2017 (28.06.17) – Central Tax (Rate)**
- **Amendment 1 - Notification No. 20/2017 (22.08.17)- Central Tax (Rate)**
(Sl. No. 8 amended)
- **Notification No. 22/2017 (22.08.17) amending the reverse chargeability of GTA service u/S 9(3).**
- **Amendment 2 - Notification No. 31/2017 (13.10.17) – Central Tax (Rate)**
(Sl. No. 10 added)
- **Amendment 3 - Notification No. 32/2017 (13.10.17) – Central Tax (Rate)**
(Sl. No 5 added)
- **Notifications under OGST Act have also been issued by the State Government of Odisha corresponding to the above-said CGST Notifications.**

CONCEPT OF BRANDED/ UN-BRANDED FOOD ITEMS
TAXABLE UNDER GST

(A) With Effect from 22.09.2017

Definitions

1. The phrase "unit container" means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a pre-determined quantity or number, which is indicated on such package.
2. The phrase "brand name" means brand name or trade name, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person.
3. The phrase "registered brand name" means,-
 - (A) a brand registered as on the 15th May 2017 under the Trade Marks Act, 1999 irrespective of whether or not the brand is subsequently deregistered;
 - (B) a brand registered as on the 15th May 2017 under the Copyright Act, 1957 (14 of 1957);
 - (C) a brand registered as on the 15th May 2017 under any law for the time being in force in any other country.

Taxability

4. The food items at serial numbers 11, 13, 25, 45, 46, 47, 48, 49,50, 51, 52, 53, 54, 55, 56, 58 and 59 of Schedule – I shall be taxable @5% when put up in unit container and
 - (a) bearing a registered brand name; or
 - (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or any enforceable right in respect of such brand name has been voluntarily foregone, subject to the conditions as in the ANNEXURE given below].
5. **ANNEXURE**
 - For foregoing an actionable claim or enforceable right on a brand name,-
 - (a) the person undertaking packing of such goods in unit containers which bear a brand name shall file an affidavit to that effect with the jurisdictional commissioner

of Central Tax or State Tax (as the case may be) that he is voluntarily foregoing his actionable claim or enforceable right on such brand name as defined in (2) above, and

- (b) the person undertaking packing of such goods in unit containers which bears a brand name shall, on each such unit containers, clearly print in indelible ink, both in English and the local language, that in respect of the brand name as defined in (2) printed on the unit containers he has foregone his actionable claim or enforceable right voluntarily.

(B) During 01.07.17 to 21.09.17

Definitions

1. The phrase "unit container" means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a pre-determined quantity or number, which is indicated on such package.
2. The phrase "registered brand name" means brand name or trade name, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person, and which is registered under the Trade Marks Act, 1999.

Taxability

3. The food items at serial numbers 11, 13, 25, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 58 and 59 of Schedule – I shall be taxable @5% when put up in unit container and bearing a registered brand name.

(Note: These food items sold under a brand name, not registered under the Trade Marks Act'1999, shall not be taxable during the period 01.07.17 to 21.09.17.)

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- Principal Notification – GOI Notification No. 1/2017 (28.06.17) – Central Tax (Rate)
 - Amendment – GOI Notification No. 27/2017 (22.09.17) – Central Tax (Rate) (Sl. No. 2, 3, & 5 inserted and Sl. No. 4 amended)
 - Notifications under OGST Act have also been issued by the State Government of Odisha corresponding to the above-mentioned GOI Notifications