

# TAXTIME

## NEWSLETTER

### INDIRECT TAX NEWS

## FOOD DELIVERY APPS MUST PAY GST FOR SUPPLY FROM BOTH REGISTERED, UNREGISTERED RESTAURANTS



E-commerce operators (ECOs) engaged in food delivery, such as Zomato and Swiggy, will be required to pay Goods and Services Tax (GST) not just for supply from registered but also unregistered restaurants. Also, they will not get input tax credit (ITC).

This clarification comes in a circular issued by the Finance Ministry for the new system that will kick in from January 1. Under the new system, food-delivery ECOs will be responsible for paying GST. At present, it is the restaurant that is paying. The government has already clarified that this is no new tax and there will be no implication for customers. The rate of tax will continue to be 5 per cent. "ECOs will be liable to pay GST on any restaurant service supplied through them including by an unregistered person," the circular said. By law, any restaurant or any individual supplying 'restaurant service' will need to register if its annual turnover is ₹20 lakh (₹10 lakh in some States of North-East and others) or more. This turnover will also include the aggregate value of supplies made by the restaurant through ECOs. Since the GST on restaurant services is levied at 5 per cent but without ITC, the same principle will be applicable for ECOs. "It may also be noted that on restaurant service, ECO shall pay the entire GST liability in cash (no ITC could be utilised for payment of GST on restaurant service supplied through ECO)," the circular said.



## OECD RELEASES PILLAR-II MODEL RULES FOR IMPLEMENTING NEW SYSTEM



The Organisation for Economic Co-operation and Development (OECD) on Monday published detailed rules to assist in the implementation of new international tax system, which will ensure multinational enterprises (MNEs) will be subject to a minimum 15 per cent tax rate from 2023.

India is one among 137 countries that are signatory to new global tax regime. These rules have come at a time when preparations are underway for the Budget for the next fiscal. This would imply that the Finance Ministry may take a cue from these rules to include similar provisions in the Finance Bill.

“They are drafted as model rules that provide a template that jurisdictions can translate into domestic law, which should assist them in implementing Pillar Two within the agreed time frame and in a co-ordinated manner,” OECD said.

The rules define the scope and set out the mechanism for the Global Anti-Base Erosion (GloBE) Rules under Pillar Two. These will assist countries to bring the GloBE rules into domestic legislation in 2022. The minimum tax will apply to MNEs with revenue above €750 million and is estimated to generate around \$150 billion in additional global tax revenues annually.

The term ‘Permanent establishment’ has been defined as well under the model rules. It has surely added more compliance for MNEs in terms GloBE Information Return to be furnished with the tax administration in order to provide information on the tax calculations made by the MNE under the GloBE Rules no later than 15 months after the last day of the Reporting Fiscal Year.

## RAVA IDLI MIX TO ATTRACT 18% GST: KARNATAKA AAR



The Karnataka Authority for Advance Ruling (KAAR) has stated that rava idli mix will attract Goods & Services Tax (GST) at 18 per cent.

This is the second ruling in the recent time on food mixes and the third one on food items that are part of the main course. Earlier in June, the Tamil Nadu AAR had ruled there will be 18 per cent GST on branded mixes for dosa, idli, tiffin, health and porridge. In June, the Gujarat AAR had also held that preserved paratha will attract GST at the rate of 18 per cent.

In the present case, the applicant, Bengaluru-based Swastik Masala, moved the AAR seeking advance ruling on HSN (Harmonised System of Nomenclature, the heading being used for determining tax rate). The applicant, at present, has classified the product under tariff heading ‘2106-9090’ and a merit classification under ‘HSN 1106’. They argued that the major raw material for ‘rava idli mix’ is flour, which is produced by the milling industry.

Under this HSN 1106, flour, meal and powder made from peas, beans or lentils have been included. Even if the flour is improved by the addition of small quantities of additives, it will continue to be categorised under same HSN. Such unbranded product will attract GST at the rate of zero per cent. Branded products will attract a GST of five per cent.

After going through hearings and facts presented, the AAR said chapter 1106 covers products of individual raw material and not mixtures. “Rava idli mix is admittedly a mixture of flour of pulses, cereals, and other ingredients resulting in a different product,” AAR said while making it clear that it cannot be under tariff heading of 1106.

AAR also made it clear that the applicant’s argument on the applicability of 2018 circular on the said product, will not hold true. “The circular is in respect of flour of individual pulses with addition of flour of cereals as additive, but not in respect of mixture of the flours of cereals and pulses. Further, it says, addition of very small amounts of additives, but not addition of different flours or cereals, resulting in a different product,” AAR said.

Further, it mentioned that Rule 3(b) of the general rules for the interpretation of customs tariff specifies that “mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale ... shall be classified as if they consisted of the material or component which gives them their character.” In the instant case, the said product is admittedly a mixture and does not give the character of either of the constituent flour.



# TODAY'S QUOTE

*Words can inspire, thoughts can provoke, but only action truly brings you closer to your dreams*

*- Brad Sugars*

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