

# GST rate tussle over flavoured milk

AARs of Gujarat, TN and AP rule 12%, Karnataka goes for 5%

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Flavoured milk has found different flavours with different Authorities for Advance Rulings (AARs). While Gujarat AAR followed its counterparts in Tamil Nadu and Andhra Pradesh to hold GST at the rate of 12 per cent, the Karnataka AAR went for 5 per cent.

Latest rulings from Gujarat are related to two famous milk product brands, Amul and Vadilal. Gujarat Co-Operative Milk Marketing Federation Ltd, owner of Amul brand, approached the AAR to get ruling regarding its flavoured milk product sold under the trade name of 'Amul Kool/Amul Kool Cafe'. Another application was moved with a similar question by Vadilal for its flavoured milk product being sold under the trade name of 'Power Sip'.

## Production process

Gujarat Co-operative submitted that the process of the flavoured milk is standardisation of fresh milk according to the fat contents and then heating at certain temperature followed by filtra-



tion, pasteurisation and homogenisation and then mixing of sugar and various flavours and finally bottling. Highlighting the fact that since the commodity milk and milk products are enumerated in Chapter 4 of the tariff list and flavoured milk will be covered under tariff item/HSN (Harmonised System of Nomenclature, a globally accepted system for application of tariff under custom duty and GST), '04029990' which means GST rate would be 5 per cent.

Giving similar arguments, Vadilal said in its application that the National Dairy Research Institute, Bangalore has also confirmed that flavoured milk falls, under Dairy produce as per the FSSAI regulation. The applicant also highlighted ruling by Karnataka AAR which held that 'flavoured milk' is classified under the Tariff heading 04029990 which means GST at the rate of 5 per cent. The said Advance Ruling Authority has also taken



note of the judgment rendered by Allahabad High Court in Gujarat Co-operative Milk Marketing Federation where it was specifically observed that 'flavoured milk' is a form of milk, and it is neither a derivative of milk nor a milk product.

After going through all the arguments and facts, Gujarat AAR noted that this matter was represented before GST Council for its meeting on December 12. Companies requested to shift the classification so that rate could be lowered to 5 per cent from 12 per cent. However, Fitment Committee (the committee of tax officials recommend rate classification which is then considered by GST Council) did not favour which was accepted by GST Council.

AAR also took note of rulings by Tamil Nadu's AAR (in the mat-

ter of Britannia Industries) and Andhra Pradesh's AAR (in matters of Tirumala Milk and Sri Chakra Milk) and accordingly held "flavoured milk' is classifiable under Tariff Item 2202 99 30 of the First Schedule to the Customs Tariff Act, 1975 as a 'beverage containing milk'." This means GST rate would be 12 per cent.

## Diverse tax positions

According to Harpreet Singh, Partner at KPMG, this is another instance of diverse tax positions being adopted by States. While three AARs have held flavoured milk to be taxable at 12 per cent, Karnataka AAR has held it to be liable at 5 per cent. "There cannot be a more compelling reason for constituting a National level Advance ruling authority, for providing tax certainty," he said.