

28 January 2022

Shri. Rohit Kumar Singh
Secretary,
Department of Consumer Affairs
Ministry of Consumer Affairs & Food & Public Distribution
Krishi Bhawan
New Delhi 110001

Subject: Meeting on proposed amendment of the Legal Metrology (Packaged Commodities) Rules, 2011;

Proposed amendment to Regulation 26 to exempt loose items / items packaged at the point of sale, booked through e-commerce channel from being deemed to be a pre-packaged commodity under Rule 4 and 6 (10)

Honorable Secretary,
Greetings from RAI!

Retailers Association of India (RAI) is the unified voice of Indian retailers working with all the stakeholders for creating the right environment for the growth of the modern retail industry in India. RAI is the premier body of Retailers in India, having around 13667 member establishments, including large and small retailers in the country, having approximately 500,000 stores providing Direct and Indirect employment to 50 million Indians.

At the outset, we would like to express our gratitude to your good offices for providing us an opportunity to present our views and suggest amendments to the Legal Metrology (Packaged Commodities) Rules, 2011. In the meeting, we had orally presented our views in relation to certain issues that we faced operationally due to Rule 4 and Explanation to Rule 6(10) which states that:

Rule 4

"Regulation for pre-packing and sale etc. of commodities in packaged form. - On and from the commencement of these rules, no person shall pre-pack or cause or permit to be prepacked any commodity for sale, distribution or delivery unless the package in which the commodity is pre-packed bears thereon or , a label is securely affixed thereto, and such declarations as are required to be made under these rules.

Explanation:- The existence of packages without the declaration of retail sale price within the manufacturer's premises shall not be construed as a violation of these rules and it shall

be ensured that all packages leaving the premises of manufacturer for their destination shall have declaration of retail sale price on them as required in this rule.”

Explanation to Rule 6 (10)

“.....For the removal of doubts, it is hereby clarified that the provision of this subrule shall not provide exemption from the declarations required to be made under these rules on pre-packaged commodities delivered to the consumers.”

The above rules impose declarations to be made for pre-packaged commodities on goods sold through e-commerce. While the intention of the rule is to ensure that all relevant information is provided to the consumer, there are some unintended effects as well. Keeping in mind these effects and to mitigate potential issues, Rule 26 provides enumerates exemptions with respect to certain types of packages. This has been extracted below:

Rule 26

“26. Exemption in respect of certain packages.-Nothing contained in these rules shall apply to any package containing a commodity if—

(a) the net weight or measure of the commodity is ten gram or ten millilitre or less, if sold by weight or measure;

Provided that the provisions of this clause shall not be applicable for tobacco and tobacco products.

(b) any package containing fast food items packed by restaurant or hotel and the like;

(c) it contains scheduled formulations and non-scheduled formulations covered under the Drugs (Price Control) Order, 2013 made under section 3 of the Essential Commodities Act, 1955 (10 of 1955);

Provided that no exemption shall be applicable to medical devices declared as drugs.

(e) Any thread which is sold in coil to handloom weavers.”

Operational issues

As e-commerce goods are deemed to be pre-packaged commodities, even items that are solely required to be packed for consumer convenience, safe transportation and for protection during storage and handling are required to meet the declaration requirements for pre-packaged commodities. For example, in the case of loose grocery commodities such as dal or rice, when the same are bought in a physical store – they are bagged, weighed and sold directly to the consumer. In this case, the consumer is aware that loose goods are being purchased and therefore, there are no declaration / labelling requirements.

On the other hand, when the same item is bought online, they are subject to the declaration requirements for pre-packaged commodities. This has the effect of taking away the choice of consumers to order items such as loose groceries in their desired quantities.

It is important to note that the two situations discussed above, i.e., purchasing loose groceries through offline mode or online mode, has no difference when it comes to the awareness of the consumer and the choice available to the consumer. The consumer is aware that they would be purchasing loose quantities of these groceries in a quantity of their choice.

Currently, the declaration requirement leads to a situation where such loose grocery is required to be packaged in pre-determined quantities in pre-printed packaging. This leads to decreased choice for the consumer who is forced to purchase these items in these quantities as opposed to their desired quantity. Therefore, to rectify this the same set of rules must be applicable in both scenarios, i.e., online and offline.

Recommendation

Therefore, to rectify this issue we suggest the following addition to Rule 26:

“26. Exemption in respect of certain packages.-Nothing contained in these rules shall apply to any package containing a commodity if—

(a) the net weight or measure of the commodity is ten gram or ten millilitre or less, if sold by weight or measure;

Provided that the provisions of this clause shall not be applicable for tobacco and tobacco products.

(b) any package containing fast food items packed by restaurant or hotel and the like;

(c) it contains scheduled formulations and non-scheduled formulations covered under the Drugs (Price Control) Order, 2013 made under section 3 of the Essential Commodities Act, 1955 (10 of 1955):

Provided that no exemption shall be applicable to medical devices declared as drugs.

(e) Any thread which is sold in coil to handloom weavers.

(f) it is solely required to be packed to fulfil the consumer's order for loose items, their safe transportation and for protection during storage and handling.”

The incorporation of the above suggestion through amendment of the Legal Metrology (Packaged Commodities) Rules, 2011 would go a long way in removing encumbrances, simplifying regulations and providing consumers with greater choice.



This also provides the freedom and option to sell loose items such as those described above through e-commerce / internet, therefore, leading to the provision of cheaper and more affordable options to consumers.

Further, this would also help small kirana stores to sell their existing inventories online without getting into the complication of being termed as pre-packaged commodities.

We remain available for any further assistance in this regard.

Thanking you.

Warm Regards,
For and on Behalf of Retailers Association of India,

Gautam Jain, Director – Advocacy, RAI

CC to:

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