

Anti-profiteering body in talks with FMCG firms over GST rate cut benefits

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The National Anti-Profiteering Authority is calling large fast-moving consumer goods companies to understand if last November's GST rate cut benefits were passed on to consumers. Only two FMCG companies, Hindustan Unilever and Nestle, have approached the quasi-judicial body voluntarily. The GST benefits include both rate cuts and input tax credit available. The GST Council had reduced rates for over 200 items of common use on November 10 and the changes came into effect from November 15.

The authority has held hour-long meetings with Reckitt Benckiser, Godrej, P&G, Nirma and Marico among a dozen companies at its Delhi office to understand if they had passed on benefits to consumers and to what extent. Meetings with more companies have been planned. "We are holding informal discussions with firms for their feedback on the GST and to understand if they have passed on entire benefit to consumers," an official said.

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In case the authority is not satisfied with a company's computation, it may ask GST commissioners to file an anti-profiteering complaint.

The industry is, however, concerned over the lack of clear profiteering guidelines. Also there is no formula to calculate the benefits due. According to sources, the majority of the FMCG companies that the authority has met so far have failed to agree with it over the quantum of benefits that remains due. The companies blame large inventories based on an older pricing formula for their failure to pass on all the benefits.

Authority's orders favour firms for anti-profiteering in times of GST

Marico and Reckitt Benckiser said they were not in a position to comment at the moment. Queries sent to Nirma, P&G and Godrej remained unanswered. Anti-profiteering body in talks with FMCG firms over GST rate cut benefits "Scrutiny of the cost structures of FMCG companies without an approved common methodology to determine whether the benefits were passed on will be a difficult task," said M S Mani, partner, Deloitte India. In many cases, stock with trade on the transition date would be difficult to determine from a profiteering perspective, he added.

"Since these meetings could lead to a formal enquiry, industry needs to be prepared with adequate documentation," said Pratik Jain, partner, PwC India. He added it was important for the authorities to understand industry's concerns, as no guidelines had been issued by the government on compliance. "One will not be surprised if these meetings extend beyond the FMCG sector in the next few days," Jain said.

An ITC spokesperson said, "We have passed on the benefits of the GST rate cuts to customers and this has been communicated to the relevant authorities." The spokesperson declined to elaborate. The two factors mentioned in the statutory provisions cannot determine profiteering and hence

other factors such as incremental cost of doing business needs to be looked into, according to Abhishek A Rastogi, partner at law firm Khaitan & Co.

Hindustan Unilever and Nestle have offered to pay the profiteered amount. Hindustan Unilever calculated a profiteered amount of Rs 1.60 billion and offered it to the government. Nestle is assessing the final amount. Hindustan Unilever is yet to deposit the money with the government as it awaits instructions related to bank account details.

The anti-profiteering mechanism is a three-stage process. There is a state-level screening committee for local complaints and a standing committee for national-level complaints; then, investigation by the Directorate General of Safeguards and a probe by the National Anti-Profiteering Authority. The authority is chaired by BN Sharma, is assisted by four officials of the rank of joint secretary and above.

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