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Zero GST on Sanitary Napkins: A Populist Measure

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ABSTRACT

This article will focus on the other side of the coin i.e. the real impact of putting sanitary napkins under zero percent GST slab. After much protests, Court cases and social media outcry, the Indian Government did so with a view of keeping these sanitary napkins affordable to all but in reality, this decision is bound to make them more expensive. This step is a direct blow to the domestic industries dealing in the manufacturing of these sanitary napkins as there is no Input tax credit mechanism available to the manufacturing. The manufacturers are still paying the GST on other materials required to make sanitary napkins and with no ITC available, the rates of these napkins are bound to rise.

Keywords: GST, Sanitary napkins, zero GST, Populist Measure, GST Council, ITC.

I. INTRODUCTION

GST stands for Goods and Service tax introduced by the Government of India in the year 2017³. It is a form of indirect taxation and replaces all indirect taxation levied on Goods and Services by the Central and State Governments. The GST Council has placed more than 1300 goods and 500 services under these four GST slabs 5%, 12%, 18% and 28%. Sanitary napkins were kept under 12% GST slabs by the GST Council but the rates were revised to NIL in the year 2018 by the GST Council.⁴ Sanitary hygiene is the need of every women in India and the Government should always try to keep all the sanitary products affordable to all. With this objective, the Government reduced the rate of GST on sanitary napkins to NIL. This decision looks very welcoming with a naked eye but the question arises that whether GST on sanitary napkins being reduced to NIL really makes the product more affordable?

II. BACKGROUND

With the implementation of GST in the year 2017, the Government kept sanitary napkins

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³ The Constitution (One Hundred and First Amendment) Act, 2016, Acts of Parliament, 2016 (India).

⁴ 28th GST Council Meeting held on 21st July 2018.

under 12% slab. However, this decision was not very welcoming and heavy retaliation was faced by the Government in form of Protests, Court Cases and petitions. The then Finance Minister⁵ was recorded as saying that there would be two standard rates –the rate at which bulk of goods will be taxed –of 12% and 18%⁶. The question raised by the public was why sanitary napkins which are the basic need of every women not only in India but globally has been kept under 12% GST slab which is for majority of luxury goods. A petition stating that women want reduction or total exemption of sanitary napkins under GST was launched and was signed by 4,00,000 people. The reason given by these women was more than 70% of women in India cannot afford sanitary napkins.⁷

In India, women not only face hygienic problems but the social stigma related to it. These are the times where women need to be encouraged to use sanitary napkins or products instead of the old practice of using cloths during menstruation to prevent infection, leakage, straining. To do the same, the government was pressurized to reduce the indirect tax imposed on these sanitary products.

In a specific question given in a survey, 92% of the participants who took the survey said GST should not be applicable on sanitary napkins. However, the Government issued a press release dated 10th July 2017, stating the reason to put 12% GST on sanitary napkins. It said “Reducing the GST rate on sanitary napkins to NIL, will however, result in complete denial of Input tax credit to domestic manufacturers of sanitary napkins and zero rating imports⁸.” Despite this release, the Government was enveloped with mass social media protests.

(A) #LAHUKALAGAAN

SheSays, a non profit organization of women rights started a Twitter protest #LahuKaLagaan which means in literal sense “tax on blood” against the Government’s decision to put sanitary napkins under 12% GST slab. The instant popularity of the hashtag was due to the support and opinion extended by actresses like Malika Arora Khan and Aditi Rao Hydari and a petition was filed by the NGO under the hashtag #Don’tTaxMyPeriod requesting the then Finance Minister to exempt sanitary napkins under the GST regime.

It was only after the failure of this petition due to lack of popularity and substance, the

⁵ Late Sh. Arun Jaitley.

⁶ *GST Rate Structure Finalized, Slabs Fixed at 5%, 12%, 18% & 28%*, OMMCOM NEWS (November 3, 2016), <https://www.ommcomnews.com/business-news/gst-rate-structure-finalised-slabs-fixed-at-5-12-18-28->.

⁷ *Sanitary Napkins Now Exempt From GST After Year-Long Opposition*, NDTV (July 22, 2018, 08:14 AM), <https://www.ndtv.com/india-news/sanitary-napkins-now-exempt-from-gst-decides-tax-council-1887368>.

⁸ Harpreet Singh, *GST rate on sanitary napkins: At nil rate, do prices go up or down?*, E. TIMES, July 23, 2018, <https://economictimes.indiatimes.com/small-biz/policy-trends/gst-rate-on-sanitary-napkins-at-nil-rate-do-prices-go-up-or-down/articleshow/65102634.cms>.

#LahuKaLagaan protest was started. It raised the awareness of menstrual personal hygiene with the need of tax free sanitary napkins. Following the mass pressure by the #LahuKaLagaan supporters, the government decided to put sanitary napkins under 12% slab instead of 14% GST slab which was the initial proposal⁹.

(B) LACK OF POLICY IMPLEMENTATION

It is not like that the government was completely blind folded on the personal hygiene issue of women in this Country and had no policies and plans to uplift the continuously depreciating level of menstrual and personal hygiene of the Indian women. Although a series of failures in policy implementation led to the masses raising their opinion and subsequently creating pressure to exempt sanitary napkins from GST. They are as follows:

1. FAILURE OF MENSTRUAL HYGIENE INSTRUCTION GUIDE

There is no clarity as to the work done by the committee formed by the Government to issue a menstrual hygiene instruction guide to all the educational institutions in the Country that mandated all these institutions to have closed toilets for girls and women.

2. FAILURE TO PROVIDE FREE SANITARY NAPKINS

The Government came up with a very brilliant scheme to provide free sanitary napkins to all the adolescent girls in the rural areas of the Country which soon failed due to lack of funds with the Government. This program would provide girls with 4 to 5 sanitary napkins in a month which was not an adequate number as per the requirements of a girl. So this program was also a failure overall.

III. TAX REDUCTION

The GST slab of sanitary napkins was finally changed from 12% to NIL in the year 2018 by the GST Council keeping in mind the objective to make them more affordable to the women from all strata's of the Indian society. The decision was also welcomed by the people open heartedly and the revised rates of sanitary napkins came from 27th July 2018. But it is important to note that this decision like every other is two folded.

(A) POPULIST OPINION

This decision of the GST Council looked as a shining star to the general public and especially the women. Although, the direct beneficiary of this decision are the younger women or the

⁹DeepaFadnis, *Feminist activists protest tax on sanitary pads: attempts to normalize conversations about menstruation in India using hashtag activism*, RESEARCHGATE (September, 2017), https://www.researchgate.net/publication/320028328_Feminist_activists_protest_tax_on_sanitary_pads_attempts_to_normalize_conversations_about_menstruation_in_India_using_hashtag_activism.

working female class of this country who indeed welcomed the decision with warm hands. They all see sanitary napkins as a basis of intimate hygiene and an irrevocable part of their lives. These sentiments are largely motivated by the women rights movement that happened all over the country because of the initial decision of the Government to place sanitary pads under luxury item's GST slab. The populist opinion we are talking here is not a result of only one successful movement like the one mentioned above or only the failure of the Government rather it is a mixture of all.

1. APPRAISAL OF THE DECISION

A report suggests that average packet of sanitary napkins costs around INR 145. So, at the previous rate of 12% the expense of one girl would come about INR 2500 a year. But with this change to put sanitary napkins under NIL category, one girl will now save around INR 500 which is considered to be a substantial amount to school going or college girls¹⁰.

An engineer from New Delhi was recorded as saying “whether you are in hostel or at home with family, this legislation is so important. I'm not in hostel anymore but I really could have used this kind of consideration from the Government. It's an example to the people around the world too, that women shouldn't be taxed for something they are born with.”

Amar Tulsyan, founder of the NGO Niine Movement said “the Government's decision to exempt a basic hygiene product like the sanitary napkins from GST is a very big win to the people across the country.” He further added “we live in a country where 71% of women have no knowledge of menstruation before their first period and 82% of females have no access to sanitary napkins. Any tax on sanitary napkins would have been a big step backward¹¹.”

Arunachalam Muruganantham, also known as Padman, says that rural markets where he has helped women set up 4418 bio-degradable units, giving employment to 50,000 workers will indeed be benefited from this decision. He was recorded as saying “earlier our manufacturing cost per pad was INR 2.5 and women were selling it at INR 3 and INR 4 per pad with a profit margin of 50 or 100%. In fact with no GST, our manufacturing cost per pad has reduced to INR 2 only. So, it's better for decentralized units that GST has been exempted.”

2. ANTI PROFITEERING

¹⁰Pragya Sood, *Only 18% women in India have access to sanitary hygiene in India*, TIMEA OF INDIA, July 11, 2018. <https://timesofindia.indiatimes.com/life-style/health-fitness/health-news/only-18-women-in-india-have-access-to-sanitary-hygiene-in-india/articleshow/64931350.cms>.

¹¹Divya Kala Bhavani, *Sanitary pads should never have been taxed in first place*, THE HINDU, July 24, 2018. <https://www.thehindu.com/life-and-style/gst-exemption-of-sanitary-pads-out-of-the-red/article24502781.ece>.

Many people and the Government felt that the actual price benefit would not be forwarded to the general public by the manufacturers as the price difference would be only INR 1 or 2 per pack. The then interim Finance Minister asked the Directorate General of anti profiteering to Keep keen observation on prices and to monitor whether actual benefit is passed or not.

(A) INDUSTRIALIST OPINION

The industrialist aspect of this decision taken by the Government to exempt the sanitary napkins from GST is that now the prices of these napkins are bound to rise instead of providing a considerable relief to the consumers. They are of the view that the social media protests and the NGO movements are all based on misinformed supporters who are way too much short sighted and lacks the understanding of GST and subsequent effect of it on the final price of a product. Same has happened in this case of sanitary napkins. What the populist opinion has failed to consider is the fact that exemption of sanitary napkins from GST which is a final product of synthesis of many raw materials will not be of much help in the price reduction of the product. The manufacturers still have to pay GST on the purchase of raw materials which are all broadly under 12% to 18% GST slab.

The following table shows the widely used raw materials and services to make a sanitary napkin and the rate of GST applicable on them.

Raw materials	Rate of GST
Cotton	5%
Wood Pulp	12%
Release Paper	12%
Packaging plastic sheet	18%
Glue	18%
Advertising	18%

With the sanitary napkins' exemption from GST, the output GST liability is waived for sure but the input GST liability remains as earlier. This has created a scenario in which there is absence of appropriate output GST liability and the input GST liability adds to the final cost of the sanitary napkins which as a result only make them expensive and not cheaper.

1. NO INPUT TAX CREDIT

Input Tax Credit means lessening the taxes payable on inputs from taxes payable on output. This means that whenever goods or services are supplied to a taxable person, the GST imposed upon such transaction is known as Input Tax. With sanitary napkin's exemption from GST, the ITC which was claimed by the manufacturers earlier is not available now as there is no output tax anymore.

As per the latest scenario, if a manufacturer claims ITC of INR 30 on one pack of sanitary napkins worth INR 150, then the tax paid will be INR 120. But now with no ITC available, the final tax paid will be higher, which naturally will lead to an increase in the prices of sanitary napkins.

The Feminine and Infant Hygiene Association (FIHA) has also written to the Prime Minister stating that the decision to scrap GST on sanitary pads, following which no ITC will be available to the manufacturers, may have been influenced by misinformed campaigns.

The Founder and Managing Director, Noble Hygiene also said “with GST exemption there is no ITC, therefore the costs for domestic manufacturers will increase. Also, it may not lead to any reduction in the MRP of customers. Infact, it will make it inevitable to make sanitary napkins in this Country.”

The Founder and CEO of Carmesi, a brand that makes bio-degradable sanitary napkins was recorded as saying “since the benefit of ITC on manufacturing, shipping or packaging will be forfeited, it may lead to an increase in overall cost of making for manufacturers and brands.¹²”

2. MARKET SIZE

With ITC no longer available with the domestic companies as well as multi national corporations making sanitary napkins in India, it will rapidly become inevitable to continue manufacturing in India. As per IMARC Group, the Indian sanitary napkins market reached \$441 million in the year 2018. It is important to note that most of the sanitary napkins are produced domestically even by MNC and the four significant players in the Indian sanitary napkins industry are:

- P&G's Whisper
- Japanese brand Sofy
- Johnson and Johnson

¹²M. Verma Ambwani, *Why zero GST on sanitary napkins may be just a populist measure*, THE HINDU, July 16, 2018. <https://www.thehindubusinessline.com/economy/why-zero-gst-on-sanitary-napkins-may-just-be-a-populist-measure/article24513795.ece/amp/>

- Glenmark Pharma's Vwash

All four of these brands produce domestically and with no ITC available to these players now, the price of imported sanitary napkins will be less than those produced domestically. According to the data presented by Commerce Ministry, \$19 million or only 4.30% of sanitary napkins are imported from China, South Korea, Thailand and Taiwan.

However, now this data is bound to change as the sanitary napkins imported into India will be cheaper and the majority of the Indian population will shift to these foreign products. This will eventually kill the domestic industries and discourage the MNC's from investing in India. It will hence kill the Make in India initiative also.

Arunachalam Muruganatham, also known as Padman, is also of the view that GST exemption will affect the domestic manufacturers who run companies in urban locations, and have invested about 5-10 crores and produce disposable non – degradable pads¹³.

IV. CONCLUSION

The Indian sanitary napkins market is very diverse in nature with only 12% women using these sanitary napkins. Rest of the 88% women use other substitutes as non sanitized cloth, husk sand, ashes, newspaper or dry cow dung during periods¹⁴. The objective here is to shift these 88% women to sanitary napkins but the irony is that the sanitary napkins which are considered to be a basic personal hygiene product were way too much expensive under 12% GST slab and are way too much expensive with GST exemption.

The decision for exemption of sanitary pads from GST was indeed a populist measure but what the masses failed to understand despite many statements from ministers and press releases from the Government is that this decision is anyway insignificant to these 88% women using substitutes of sanitary pads. Hence, the exemption of sanitary pads from GST has come at the decline of domestic industries and increased imports without any actual benefit to the customers.

¹³DivyaRajagopal, *Leading pad manufacturers unhappy with tax cuts*, E. TIMES, July 27, 2018.

<https://economictimes.indiatimes.com/industry/cons-products/leading-pad-manufacturers-unhappy-with-tax-cuts/articleshow/65158431.cms?from=mdr>.

¹⁴*Department of Pharmaceuticals*, GOVERNMENT OF INDIA.