

A Detailed Analysis on Credit (Including Commercial/ Financial) & Debit Note under GST

❖ Meaning of Credit Note & Debit Note

- **Section 2(37) of CGST Act**, unless the context otherwise requires, - “**credit note**” means a document issued by a registered person under **Sub-Section (1) of Section 34**;
- **Section 2(38) of CGST Act**, unless the context otherwise requires, - “**debit note**” means a document issued by a registered person under **Sub-Section (3) of Section 34**;

❖ Issuance of Credit Note under Section 34(1)

A registered supplier of goods or services or both is **mandatorily** required to issue a tax invoice. However, during the course of trade or commerce, after the invoice has been issued there could be situations may arise like:

- the taxable value or tax charged in that tax invoice is found to **exceed** the taxable value or tax payable in respect of such supply (Where Declared Value more than Actual Value) / (Rate of tax charged higher than rate applicable) or
- where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient (Quantity received less than Declared Quantity) / (Quality is not as per specifications)
- Any other similar reasons,

the registered person, who has supplied such goods or services or both, **may issue** to the recipient a **credit note** containing such particulars as may be prescribed.

Once the credit note has been issued, the tax liability of the supplier will **reduce**.

❖ Time Limit for issuance of Credit Note under Section 34(2)

Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but **not later than September** following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:

Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

Explanation to Rule 89(2) provides that where the amount of tax has been recovered from the recipient, it shall be deemed that the incidence of tax has been passed on to the ultimate consumer.

In other words, the output tax liability cannot be reduced in cases where credit note has been issued after September or filing of annual return whichever is earlier.

In such cases, financial/ commercial credit notes to be issued, i.e. without tax.

❖ Issuance of Debit Note under Section 34(3)

A registered supplier of goods or services or both is **mandatorily** required to issue a tax invoice. However, during the course of trade or commerce, after the invoice has been issued there could be situations may arise like:

- Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply (Where Declared Value less than Actual Value) / (Rate of tax charged lesser than rate applicable) or
- where the goods supplied are received by the recipient, or where goods or services or both supplied are found to be in excess (Quantity received more than Declared Quantity)

the registered person, who has supplied such goods or services or both, **shall issue** to the recipient a debit note containing such particulars as may be prescribed.

- Where the supplier charges a penalty for delayed payment of consideration from the customer, the supplier would issue a debit note for that amount of penalty, to the customer to specify that amount which is payable to the supplier by the customer.

❖ Time Limit for issuance of Debit Note under Section 34(4)

Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

There is no time limit for issuance of debit note.

It is important to note that the debit note will benefit the government as it results in tax collection but the credit note reduce the tax liability. Therefore, the government has only specified the time limit to issue a credit note but there is no time limit for the debit note.

It is also important to note that the debit note issued under section 74 (**Determination of tax not paid**), 129 (**Detention, seizure and release of goods and conveyances in transit**) or 130 (**Confiscation of goods or conveyances and levy of penalty**) would not entitle the recipient to avail credit in respect thereof, and the supplier shall also specifically mention on the debit note the words **“Input Tax Credit Not Admissible” as per rules 53(3) of CGST Rules, 2017.**

Explanation - For the purposes of this Act, the expression **“debit note”** shall include a supplementary invoice.

❖ Format of Credit/ Debit Note

There is no prescribed format but credit/ debit note issued by a supplier must contain the following particulars, namely:

- ❖ name, address and GSTN of the supplier;
- ❖ nature of the document;

- ❖ a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
 - ❖ date of issue of the document;
 - ❖ name, address and GSTN or Unique Identity Number, if registered, of the recipient;
 - ❖ name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;
 - ❖ serial number and date of the corresponding tax invoice (s)* or bill (s)* of supply, as the case may be, bill of supply;
 - ❖ value of taxable supply of goods or services, rate of tax and the amount of the tax credited/ debited as the case may be to the recipient; and
 - ❖ signature or digital signature of the supplier or his authorised representative.
- * **Amendment Incorporated** vide Notification No. 03/2019- Central Tax dated January 29, 2019, effective from February 1, 2019.

❖ **Reduction of Output Tax Liability of the Supplier Issuing Credit Note**

The output tax liability of the supplier gets reduced once the credit note is issued and it is matched. The details of the credit note relating to outward supply furnished by the supplier for a tax period shall, be matched:

- with the corresponding reduction in the claim for input tax credit by the recipient in his valid return for the same tax period or any subsequent tax period; and
- for duplication of claims for reduction in output tax liability

The claim for reduction in output tax liability by the supplier that **matches** with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated to the supplier. However, the reduction in output tax liability of the supplier shall not be **admitted**, if the incidence of tax and interest on such supply has been passed on to any other person.

❖ **Maintenance of Records**

The records of the credit have/ debit note or a supplementary invoice to be retained **until the expiry of seventy-two months** from the due date of furnishing of annual return for the year pertaining to such accounts and records. Where such accounts and documents are maintained manually, it should be kept at every related place of business mentioned in the certificate of registration and shall be accessible at every related place of business where such accounts and documents are maintained digitally.

❖ **Disclosure of Credit/ Debit Note in Prevailing GST Returns**

- The credit/ debit notes shall be reported in the GSTR – 1. It can be divided into two parts as follows:

- a) Credit/ Debit Note issued to Unregistered Persons (B2C supplies) - must be declared in **Table '9B – Credit/ Debit Notes (Unregistered)' (CDNUR)**. The details required are as follows:
- Debit/ Credit Note Number
 - Original Invoice Number
 - Original Invoice Date
 - Type (whether Debit/ Credit Note or Refund Voucher),
 - Value and also whether the supply is eligible to be taxed at a different rate of tax, as notified by the government.
- Credit note/debit note issued to registered persons (B2B supplies): This must be reported in **Table '9B – Credit/ Debit Notes (Registered)' (CDNR)**. The details required are as follows:
- GSTIN of Receiver
 - Debit/Credit Note No.
 - Date
 - Original Invoice Number (in relation of which Credit/ Debit Note is being issued)
 - Original Invoice Date
 - Type (whether Debit/ Credit Note or Refund Voucher)
 - Value & Supply type (whether Inter-State or Intra-State and also if the supply is eligible to be taxed at a different rate of tax, as notified by the government).

❖ **Issuance of Credit Note in respect of Volume Discount**

- Some suppliers offer periodic/ year end discounts to their stockists, etc. For Example - Get additional discount of 1.5% if you purchase 1,00,000 pieces in a year, get additional discount of 1.75% if you purchase 1,50,000 pieces in a year. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been affected and generally at the year end. In commercial parlance, such discounts are referred to as “volume discounts”. Such discounts are passed on by the supplier through **credit notes**.
- Till 31.01.2019, only one credit note was allowed to be issued in respect of one invoice. The reference of original invoice was required to be specified in return at the time of credit note. However, it was not possible to issue one credit note in case of volume discount. **Volume Discount** shall be given generally by the supplier on completion of the target by the customer as agreed. In this case, the credit note shall not be possible to be issued in relation to one by one invoice in respect of which discount is given.
- The amendment in **Section 34 vide CGST (Amendment) Act, 2018** comes effective from 01.02.2019, now one or more credit note can be issued in respect of an invoice. **i.e.** can issue consolidated credit/debit notes in respect of multiple invoices issued in a Financial Year. An assessee faced difficulties while issuing individual credit/ debit notes against individual invoices, more specifically in those industries, where a significant/ multiple levels of credit/debit notes are involved like pharmaceutical sector, auto component/ parts etc. However, it is observed that no amendment made in the return in respect of this provision. **Therefore, we can mention any one invoice number out of the total invoices issued during the agreed period against the credit note issued for volume discount.**

❖ **Issuance of Credit Note in respect of Secondary Discount**

- **As per Circular No. 92/11/2019 - GST** Secondary Discounts are the discounts which are not known at the time of supply or are offered after the supply is over. For Example – M/s ABC supplies 15,000 packets of chips to M/s XYZ at Rs. 15/- per packet and afterwards M/s ABC revalue it at Rs. 9/- per packet. Therefore, M/s ABC issues credit note to M/s XYZ for Rs. 6/- per packet.
- Now the question arises whether credit note(s) under section 34(1) of the CGST Act can be issued in above case even if the conditions laid down in clause (b) of section 15(3) of the CGST Act are not satisfied?
- **Section 15(3) of CGST Act** - The value of the supply shall **not** include any discount that is given
 - a) before or at the time of the supply, provided such discount has been duly recorded in the invoice issued in respect of such supply;
 - b) after the supply has been effected, provided that:
 - i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
 - ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.
- It is hereby clarified that **financial / commercial credit note(s)** can be issued by the supplier even if the conditions mentioned in clause (b) of section 15(3) of the CGST Act are not satisfied. **In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.**
- It is further clarified that such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply as the conditions laid down in clause (b) of section 15(3) of the CGST Act are not satisfied.
- Therefore, the value of supply shall not include this type of discount and its results no change in availability or otherwise of input tax credit in the hands of the supplier.

❖ **Method of Issuing Credit Note in case of Expired Drugs/ Medicines as per Circular No. 72/46/2018 - GST Dated 26th October, 2018**

- The common trade practice in the pharma sector is that of drugs/ medicines (considered here as goods) return back to the supplier on account of their expiry and in such case, the wholesaler/ retailer can follow either of the method for the return of such drugs/ medicines:

a) Return of expired drugs/ medicines to be treated as fresh supply

- The customer (**registered as regular taxpayer**) returning the expired drugs/ medicines by raising a tax invoice treating it as a fresh outward supply. In this case, the supplier can treat it as purchase and take input tax credit as specified in the invoice. However, in case the customer **registered as a composition taxpayer** shall issue bill of supply and charge tax at the rate applicable to a composition taxpayer and the supplier shall not be eligible to claim input tax credit. In case, the customer is **not registered**, shall issue any commercial document without charging any tax.

- On receiving back the goods, if the supplier destroys such goods then he has to reverse the input tax credit taken on such invoice **as per provisions of clause (h) of sub – section (5) of section 17 of the CGST Act** and it is further clarified that reversal of the input tax credit shall be based up on tax invoice issued by the customer returning such goods not the tax on inputs used to manufacture of such goods.

- Such goods returned by the customer by issuing sale invoice is actually not a supply for him and the supply who receives the goods and accounts it as a purchase is actually not a purchase for him. In actual, this is a purchase return for the customer and sale return for the supplier and if supplier consider it as a purchase then his purchases will go up and sales figure also show higher amount and therefore, the supplier shall pass a journal entry in order to reduce his purchase as well as reduce the sale revenue figure and on the other hand, the customer also reduces his sales revenue and purchases by passing journal entry.

b) Return of expired drugs/ medicines by issuing credit note

- The supplier can issue credit note with tax if it is issued within the specified time limits **as per provisions of the section 34(2) of the CGST Act**. Such credit note shall be stated in the GSTR – 1 in order to adjust the tax liability and adjusted tax shall be reversed by the customer from his input tax and on the other hand, if the credit note is issued after the specified time limits, then the credit note without tax shall be issued and no tax shall be adjusted and there is no requirement to declare such credit note on the common portal by the supplier.

It may be noted that both the scenarios in relation to return of goods on account of expiry of the same, it may be also applicable to such other scenarios where the goods are returned on account of reasons other than the one detailed above.

❖ Issuance of E-way Bill in case of Credit Note

The issuance of e-way bill is compulsory in case of goods received back by the supplier through the issuance of credit note. The e-way bill can be raised either by the customer returning the goods or the supplier. Even the customer can inform the supplier about the quantity as well as value of the returned goods and on the basis of that the supplier shall issue credit note and send it to the customer. On receiving back, the customer shall prepare delivery challan and generate e-way bill and return the goods to the supplier.

❖ We shall discuss here two situations in order to determine whether the credit note shall be issued or not?

Situation – 1 Mr. XYZ an architect, received an advance in respect of contract of service entered by him with Mr. ABC. After a few days, the contract got cancelled but before the cancellation, Mr. XYZ has issued the invoice before performing any act under the contract and paid the tax thereon.

In such situation, Mr. XYZ is now required to issue a 'credit note' as per **Section 34 of the CGST Act, 2017** and shall declare all the details of this credit note in the return. The tax liability shall be adjusted in the return as per the conditions specified in **Section 34 of the CGST Act, 2017**.

Situation – 2 Mr. XYZ an architect, received an advance in respect of contract of service entered by him with Mr. ABC. After a few days, the contract got cancelled but before the cancellation, Mr. XYZ has issued the receipt voucher before performing any act under the contract and paid the tax thereon.

In such situation, Mr. XYZ is now required to issue a 'refund voucher' as no invoice is issued in terms of **Section 31(3)(e) of the CGST Act, 2017 read with rule 51 of the CGST Rules**. Mr. XYZ has to apply for the refund of taxes paid by him on such advance by filing 'Form GST RFD – 01' under the category "Excess Payment of Tax".

❖ **Other Important Considerations**

- Credit note (and to a lesser extent, debit note) under **section 34 of the CGST Act, 2017** differs with financial/ commercial credit note issued in common trade practice. Above mentioned **Circular No. 72/46/2018-GST dated 26th October, 2018 along with Circular 92/11/2019- GST dated 7th Mar 2019** make it clear that
 - (a) financial/ commercial credit note exists in common trade practices and
 - (b) if tax adjustment is **NOT** made, then such credit notes are **NOT** required to be reported in GSTR 1.

The most important thing is to recognize that whether credit notes as well as debit notes are issued to record a mutual agreement where treatment of credit note in suppliers' books of accounts & GST returns must be matched with the dealer/ customers books of accounts & GST returns.

It would be concern if supplier treats the financial credit note as inward supply in his books of accounts whereas the dealer/ customer treats the same as reduction from cost of purchase.

Issuance of Credit Note & its treatment in case of cash discount

- **Cash Discount**

Example – A company has a policy of allowing a cash discount of 5% if a customer makes payment of a particular invoice within 20 days. In such a situation the discount will **not** be added to the value of taxable supply as conditions are pre-determined. The customer has to reverse the ITC on the amount of the discount allowed.

- **Cash Discount not agreed before or at the time of supply**

Example – A company doesn't have a policy of cash discounts at the time of payment, however, has supplied goods to a customer who didn't pay his debts. If this company now offers the customer a 5% discount in order to encourage the customer to clear all his debts, but the discount wasn't agreed before or at the time of supply, and can't be linked to a particular invoice, this discount will be added in the value of the taxable supply.

- Another **Circular No. 105/24/2019-GST dated 28th June, 2019** laid down some clarification on various doubts related to treatment of secondary or post-sales discounts under GST

- **ITC eligibility of the dealer where discount is given by a way of issuing a commercial credit note** - Supplier is not eligible to reduce its tax liability as post sale discounts are not allowed to be reduced from the value of supply due to issuance of commercial/ financial credit note issued by him. Even recipient shall also not require to reverse input tax credit proportionate to the tax already paid on post sale discounts received by him through commercial/ financial credit note and shall be eligible for input tax credit as he pays the value of the supply (after reduction of post-sale discounts) and the amount of actual tax charged by the supplier (on gross value exclusive of post-sale discounts)

- **Dealer obligation to perform certain activities** – The recipient is required to do certain activities like sale promotion, exhibition etc. and get additional discount from the supplier and such additional discount shall be the amount charged for such

activities separately and results in supply of service by him to the supplier and the recipient shall be required to charge tax on the value of additional discount and the supplier shall claim input tax credit of such taxes charged by the recipient.

- **Discount in order to offer reduced price to customer by the recipient acting as a dealer** – the dealer is required to offer a special reduced price to the customer to get the discount and such additional discount would represent the consideration flowing from the supplier to the dealer in order to make supply to the customer and value of such discount shall be added to the consideration payable by the customer in order to determine the value of supply made by the dealer and the customer if registered, shall be entitled for input tax credit charged by the dealer to the extent of taxes paid by the customer as per proviso to **the Section 16(2) of the CGST Act, 2017 (Requirement for availing input tax credit).**

But this circular was withdrawn ab initio via **Circular No. 112/31/2019-GST dated 3rd October, 2019** (by 37th GST Council decision) without specifying whether those principles were not applicable to GST or the circular was erroneous due to certain reasons.

Circulars before the introduction of GST Law

- **Circular No. 122/3/2010 dated 30.4.2010** in the context of **Rule 4(7) of the CENVAT Credit Rules** has also clarified that 'In the cases where the receiver of service reduces the amount mentioned in the invoice/ bill/ challan and makes discounted payment, then it should be taken as final payment towards the provision of service.'
 - **Circular No. 877/15/2008 dated 17.11.2008** - Central Board of Indirect Taxes and Customs regarding reversal of CENVAT Credit in case of trade discount or reduction in the price, it was observed that such discounts were given only in respect of value of inputs and not in respect of duty. The effect of reduction in value of inputs may be that the duty required to be paid on inputs was lesser. However, higher duty was paid. It was clarified that in such cases, the entire amount of duty paid would be available as ITC.
 - Credit note also can be issued for accounting any unilateral treatment such as write-off of bad debts. Therefore, due care shall be taken in order to determine
 - a) whether the credit/ debit note reflects a mutual/ unilateral arrangement
 - b) whether such credit/ debit notes are existed in both parties' books of accounts and GST returns or not
 - c) whether such credit/ debit notes are a reflection of pre-supply or a post-supply understanding
 - d) whether such credit/ debit note is a traditional document issued when even a tax invoice (from the other party) ought to be issued.
- ❖ **AAR in respect of amount paid for GST rate difference after effecting supply cannot be considered as part of transaction value**

Case Name: **Re. M/s. Ultra tech Cement Limited (AAR Maharashtra)**

Appeal Number: Advance Ruling NO.GST-ARA-34/2017-18/B-56

Date of Judgement/Order: 27/06/2018

Related Assessment Year:

Courts : [AAR Maharashtra](#) (236) [Advance Rulings](#) (1321)

The applicant is engaged in the manufacturing and supply of cement and allied products and supplied to various authorised dealers/ stockists. The applicant entered into an agreement with them for the supply of goods at fixed price and the discount will be decided from time to time by the applicant. The market in this sector is highly competitive and dynamic and which results some time to the authorised dealers at a price lower than the actual purchase price and they are compensated by the name of “rate difference” and this amount is unknown to the authorised dealers. The applicant pays compensation in the form of credit note and linked to the sale invoice issued in a particular month.

The applicant sought to know that

- a) Whether the amount paid to authorized dealers towards “rate difference” after effecting the supply of goods by the applicant to aforesaid dealers can be considered for the purpose of arriving at the ‘transaction value’ in terms of Section 15 of the CGST Act.
- b) Whether the amount paid to authorized dealers towards “rate difference” after effecting the supply of goods would be allowed under Section 15(1) read with Section 34(1) of the CGST Act or under Section 15(3) read with Section 34(1).

Conclusion: The AAR ruled that Section 15(3)(b)(i) states that the quantum of discount given after the supply of goods should be as per terms of the agreement entered by the applicant with the authorised dealers. The quantum of discount should be specified in the agreement like percentage based on targets etc. and here it is decided by the applicant every time as it is unknown. The AAR held that in case, there is no pre fixed criteria, basis or rationale for arriving at the quantum of discounts then it will not consider and allowed as discount. These discounts are not complying with the requirements of section 15(3)(b)(i) of the CGST Act and therefore cannot be considered and allowed as discount for the purpose of arriving at the ‘transaction value’ in terms of Section 15 of the CGST Act.

❖ **AAR in respect of ITC on credit note issued by supplier post supply of goods : Controversial Ruling**

Case Name: **In re M/s. MRF Limited (GST AAR Tamil Nadu)**

Appeal Number: Order No. 5/AAR/2019

Date of Judgement/Order: 22/01/2019

Related Assessment Year:

Courts : [AAR Tamil Nadu](#) (103) [Advance Rulings](#) (1318)

In this case, the company intended subscribing to an online platform, C2FO, which would connect the buyer with vendors. Those are registered with the e-platform place a discount offer, either annual percentage rate or a flat discount, in order to receive an early payment. Invoices for discount are picked up by the software algorithm, based on which the discount offers to be varied.

The Advance Ruling Authority was approached by MRF for the purpose of finding out if it could legally avail of the input tax credit on the entire GST that was charged on the supply of invoice. They also wanted to know if a proportionate reversal of the tax was required if the vendor gave a post-purchase discount on the basis of early payment.

The discount is given as post-sale discount and the applicant submitted that this cash discount cannot be excluded from the value of supply as per the provisions of Section 15 of the CGST Act, 2017. As per this, the applicant is required to pay tax on the undiscounted net

invoice value. Therefore, the gross payment by the applicant to its vendors would be the discounted net amount plus the GST on the undiscounted net amount.

Conclusion: The AAR ruled that MRF can avail the input tax credit only to the extent of the invoice value raised by the suppliers reduced by the discounts provided by the C2FO software. The AAR bench also said that if the input tax credit was taken on the full amount, the company should be required to reverse the difference.

It is common trade practice for companies to issue a financial/ commercial credit note (without GST adjustment) for adjusting prices in cases of post-supply discount. In such cases, companies generally furnish GST on the full value of supply.

But here AAR stood very strong in this case and stated that even if the company is generally paying tax on the full value of the supply, proportionate credit would not be available to the recipient of such supply.

In the case of MRF, the AAR stood very strong in this case and ruled that proportionate credit would not be available to the recipient of supply even though GST has been paid on the full value.

In this ruling, the AAR is completely relied on the second provision of section 16(2) which states that if the recipient fails to make the **payment towards the value of supply** within 180 days from the date of invoice, the input tax credit availed in respect of such supply shall be required to reverse and added to output tax liability. The AAR linked such discount with the provision of this section and states that discount shall not be paid by the applicant within the specified time and hence, not be entitled to claim input tax credit as proportionate to the value of discount. But according to us, the phrase here '**payment towards the value of supply**' states the value of the supply is gross payment reduced by post supply discount but the AAR consider here the value as gross payment exclusive of such discount.

As it is observed that the mostly business entities had taken a different view on this and claimed the input tax credit of the entire tax paid by the supplier. The GST council should consider a precise clarification related to this issue, in order to avoid any unwarranted litigation on this issue.

However, above ruling had been withdrawn and AAAR dated 24.06.2019 ruled that M/s MRF Ltd. can avail the input tax credit of the full tax charged on the undiscounted supply invoice of goods/ services by their suppliers. A proportionate reversal of the credit is not required to be done by them if post purchase discount provided by the suppliers to them through the software as mentioned above. This is subject to the fulfilling the required conditions specified by law and the tax paid by them is not reversed or reimbursed to them in any manner by their supplier or on their behalf, after the credit has been availed by M/s MRF Ltd. This ruling is limited to the case where a post purchase discount is provided by the supplier of the goods or services to the appellant on account of their registering in the automated data exchange arrangement setup by C2FO India LLP, which is the subject matter of this advance ruling.

❖ **AAR in respect of discount allowed against goods provided by distributors free of cost to KSEB on the instructions of supplier**

Case Name: In re M/s. Polycab Wires Pvt. Ltd. (GST AAR Kerala)

Appeal Number: Advance Ruling No. KER/30/2019

Date of Judgement/Order: 02/03/2019

Related Assessment Year:

Courts : [AAR Kerala](#) (73) [Advance Rulings](#) (1321)

KSEB had requested from the distributors of the Polycab Wires to supply electrical goods for the restoration of power supply at flood ridden areas. These materials are supplied by the distributors at free of cost being CSR Activity for reinstating connectivity in flood ridden areas.

The applicant sought to know about the determination of any tax liability with respect to goods provided free of cost by the Distributors of M/s Polycab Wires Private Limited to KSEB for reinstating connectivity in flood ridden areas; and admissibility of input tax credit in relation to such goods and applicability of **Section 17(5) of CGST Act, 2017** on these CSR expenses.

Conclusion: The AAR held that the distributors raised bills to KSEB, in relation to the materials supplied free of cost to Kerala State Electricity Board. However, the GST liability was paid to Government.

In the invoice so issued, the distributor had valued the goods for the purpose of tax and value was shown as discount. In this supply, since the consideration is not wholly in money, Rule 27 of the CGST/KSGST Rules would apply for valuation. After the goods are supplied to Kerala State Electricity Board, distributor would raise claim to the applicant who will reimburse the value to the distributor. This being the case, the distributor would be entitled for input tax credit on the goods supplied to Kerala State Electricity Board on instructions from the applicant.

On the other hand, distributed electrical items like, switches, fan, cables etc. to flood affected people under CSR expenses on free basis without collecting any money. For these transactions input tax credit will not be available as per **Section 17(5)(h) of the KSGST and CGST Act, 2017**.

❖ **AAR in respect of tax GST payable on reimbursement of discount / rebate from principal company**

Case Name: **In re M/s. Santhosh Distributors (GST AAR Kerala)**

Appeal Number: Advance Ruling No. KER/60/2019

Date of Judgement/Order: 16/09/2019

Related Assessment Year:

Courts : [AAR Kerala](#) (73) [Advance Rulings](#) (1321)

In this case, Santosh Distributors (Applicant), an Authorized Distributor of Castrol India Limited held that when an Applicant is reimbursed Discounts passed on to Retailers/Customers, the reimbursement would result to an additional consideration in their hands and hence eligible to GST.

Question arising now

- a) On the tax liability of the applicant for the transactions mentioned herein and explained as above. The petitioner is paying the tax due as per the invoice value issued by the applicant and availing the input credit of tax shown in the inward invoice received by the applicant from the Principal Company.
- b) Whether the discount provided by the Principal Company to their dealers through the applicant attracts any tax under the provisions of GST laws.

- c) Whether the amount shown in the Commercial Credit Note issued to the applicant by the Principal Company attracts proportionate reversal of input tax credit.
- d) Is there any tax liability under GST laws on the applicant for the amount received as reimbursement of discount or rebate provided by the Principal Company as per written agreement between the Principal Company and their dealers and also an agreement between the principal and distributors?

Conclusion: The AAR ruled that the additional discount reimbursed by the principal company to the applicant is in the nature of additional consideration and liable to be added in the consideration payable by the customer to the applicant. On the other hand, in relation to commercial credit notes, since the principal company is not eligible to reduce its tax liability to the extent of value of credit note issued by them, the applicant shall not be liable to reverse the input tax credit in proportionate to the value of commercial credit notes. Also, held that the tax shall be levied and payable at the applicable rate by the applicant on the amount of reimbursement of discount/ rebate from the principal company as per **Section 15 of the CGST Act, 2017**.

It is important to understand there is no reasoning provided here in respect of reimbursement taken as additional consideration and how such reimbursements covered under **section 2(31) read with section 7 and section 15 of the CGST Act, 2017**.

As per Section 2(31), subsidies given by any person other than government shall be taxable as consideration but here discount means amount deducted from the price offered by the supplier and it is cleared that a reimbursement or discount can not result in consideration as what is reimbursed is equal to amount parted as a Discount. Discount cannot be treated as subsidy because subsidy means benefit flowing from the third party which leads to a fall in price and whereas the discount is flowing from the manufacturer who has supplied the product to the distributor. On the other hand, it will be a fair construction if consideration provided by third party to a transaction that is in the nature of a subsidy, then it is taxed as additional consideration.

According to us, only the amount paid by the customer to the distributor shall be included in the value of supply and not the discount offered by the manufacturer as it doesn't violate the conditions mentioned in **Section 15(1) of the CGST Act, 2017** and the same is also not in the nature of subsidy.

In this case, the post-sale discount to the applicant has been passed through the commercial credit notes and the value taxed would be inclusive of the discount passed on and the special discounts generally included in the value and treated as selling & promotion expenses by the manufacturer. Therefore, considering such discounts are already included in the value on which taxes has been paid and such issued commercial credit note has no tax impact, the concept of additional consideration should be reviewed once by the GST Council Committee and such type of ruling will results only in litigation.

❖ **AAR in respect of tax not payable on volume discount where no tax adjustment is made**

Case Name: **In re Kwaliti Mobikes (P) Ltd. (GST AAR Karnataka)**

Appeal Number: Advance Ruling No. KAR ADRG 76/2019 (In Judgment written as 76/2018)

Date of Judgement/Order: 24/09/2019

Related Assessment Year:

Courts : [AAR Karnataka](#) (213) [Advance Rulings](#) (1321)

M/s Kwaliti Mobikes (P) Ltd. ("**the Applicant**") is in the business of supplying motor vehicles. The Authorised supplier allows credit period of 30 days and fixes sales targets to the Applicant. Besides, on purchase of vehicles which are over and above the limit fixed on

regular purchases, the Applicant is also eligible for volume discount, which is paid on monetary terms.

In order to this, the authorised supplier issues credit note to the applicant which is not affecting the purchase price or sale price and hence there is no as such adjustment of tax.

Question arises now

- c) Whether such volume discount received on purchases and sales is liable for tax? If yes, under which HSN/ SAC?
- d) Whether volume discount received on retail (on sales) is liable for tax? If yes, under which HSN /SAC?
- e) Whether the applicant has to issue taxable invoice to this effect?

Conclusion: The AAR ruled that where the applicant make more purchases then it is eligible for the volume discount and a credit note is issued by the authorised supplier and no adjustment of price is made in respect of goods already sold nor any adjustments of taxes is made in the credit note. On the other hand, no reduction in input tax credit already claimed by him as it does not affect the price of the goods sold.

Therefore, the amount received by the applicant is in the nature of an incentive provided by the authorised supplier and does not affect the sale price of the goods already sold and hence there is no liability to charge tax on the same. The credit note issued is also not covered under **section 15(3)(a) of the CGST Act, 2017** as it is post sale event and the same also not covered under **section 15(3)(b) of the CGST Act, 2017** as the applicant has not reversed the input tax credit attributable to the discount received in the form of credit note from the authorised supplier.

Hence, the volume discount received on purchases/ retail (sales) in the form of credit note without any adjustment of tax is not liable for GST. As the amount received in the form of credit note is actually is in the nature of discount and not a supply made by the applicant to the authorised supplier, the applicant need not issue tax invoice for this type of transaction.