

Prasar Bharati
Directorate General: Doordarshan
GST: Cell
Doordarshan Bhawan, Mandi House,
Copernicus Marg, New Delhi.

No. DD/GST/Circular/2019-20

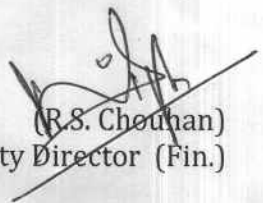
Dated:- 17.01.2020

Office Memorandum

Sub:- Clarification on Issue of GST compliant Credit Note/Commercial Credit Note -reg.

Reference is invited to Prasar Bharati Secretariat's O.M. No. No. PB-7(14)(1)/2019-20-Fin/GST/III/3/3448-62 Dated. 16.01.2020 for the above subject (Copy attached).

All concerned are requested to kindly adhere to the instructions issued by Prasar Bharati strictly on the above subject.


(R.S. Chouhan)
Deputy Director (Fin.)

To,

All State Nodal Officers (GST)/ DDOs

Copy to:

1. All Zonal ADG (E)/ ADG (P)
2. DDG (F) P.B. Sectt.
3. PS to ADG (A)/ ADG(F), DG: DD
4. DDG (Admin-II), DG:DD
5. DDG(F), DG:DD.
6. IT Cell- w.r.t. uploading the same on website.

Prasar Bharati
(India's Public Service Broadcaster)
Prasar Bharati Secretariat
(Taxation Section)
6th Floor, Prasar Bharati House,
Copernicus Marg, New Delhi-110001

No. PB-7(14)(1)/2019-20-Fin/GST/III/3448-62

Dated .01.2020

GST Circular no. 14 A

Sub: Clarification on Issue of GST compliant Credit Note/Commercial Credit Note -reg.

- Ref.:1. This office GST Circular no. 14 dated 07.03.2019 regarding Incentive with/ without GST**
- 2. Circular No. 92/11/2019-GST dated 07.03.2019 issued by GST Policy wing of CBIC, Ministry of Finance, Govt. of India**

Please refer to this office circular no. 14 (mentioned under reference no.1) regarding incentive with or without credit note wherein it was stated that the GST compliant Credit Notes need to be issued for allowing incentive to Sales agents/ canvassers/ agencies to whom incentive is to be allowed after issue of invoices.

This office is in receipt of queries from some of the commercial units regarding issue of credit notes for the business done in the year 2017-18 and 2018-19. In this regard, it is stated that-

- a) As per clause (b) of sub-section (3) of section 15 of CGST Act, 2017, after issue of invoice, the value of supply can be reduced by issuing GST compliant credit note(s) only if the following conditions are satisfied:
- (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.
- b) As per sub section (2) of Sec 34 of CGST Act, 2017, "*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*".

In view of Section 34(2) of CGST Act, as mentioned above, in order to reduce the value of supply by issuing GST compliant credit note(s), it needs to be issued upto



September following the end of the financial year in which such supply was made, or the date of furnishing of relevant annual return, whichever is earlier. The GST compliant credit note(s) for the financial year 2017-18 and 2018-19 could be issued only up to September 2018 and September 2019 respectively as the annual return for the financial year 2017-18 and 2018-19 were not filed before the end of September of immediately next financial year. The Commercial units cannot issue Credit Notes under GST Acts now. Further, as without issue of credit note(s) in accordance with Section 34 of CGST Act, the conditions mentioned under sub-clause (ii) of clause(b) of sub-section (3) of section 15 of CGST Act 2017 can not be satisfied, therefore the supplier (i.e. here Prasar Bharati) cannot reduce its value of supply & GST tax liability thereon and the recipient(s) of supply (i.e. here Sales agent/ Canvassers / agencies) is/are also not bound to reverse the Input Tax Credit (ITC) already claimed.

In such scenarios wherein the last date of credit note has already been over or prevailing situation does not permit to issued credit note under GST Acts and incentive is necessary to be allowed to Sales Agents/ Canvassers/ agencies, the commercial units may issue Commercial/ Financial Credit Note (not GST compliant credit note) as clarified by the CBIC under para D (iii) of its circular under reference no. 2 (copy enclosed). Such commercial/ financial credit note will not reduce the value of supply and tax liability thereon. It will merely be a commercial transaction between two contracting parties. Such Commercial/ Financial Credit Note(s) will neither allow the supplier of the supply to reduce the GST liability nor bound the recipient of supply to reverse input tax credit already claimed. It will not have any GST implication at all.

For allowing incentive to Sales agents/ Canvassers/ Agencies, the commercial units must ensure while issuing the Commercial Credit Note(s) that the Commercial Credit Notes shall be issued **equivalent to the amount of taxable value of supply as if the GST compliant credit note was allowed to be issued** in that case.

For example, Prasar Bharati intends to allow incentive of Rs.11800 (including GST) to Mr X, a sales agent. The Credit note as per section 34 of CGST Act and Commercial Credit Notes can be issued, as the case may be, by the following amount:

Particulars	Credit Note as per Sec 34 of CGST Act	Commercial / Financial Credit Note
Incentive to be allowed to Mr. X (including GST)	11,800	11,800
Taxable Value included in total incentive to be allowed figure (assuming 18% GST rate)	10,000	10,000
GST on Taxable Value	1,800	---
Total Note value (including GST, if any)	11,800	10,000

All commercial units must note that the Commercial Credit Note should be issued only by the amount of taxable value of supply involved in such incentive value as if the incentive was allowed by issuing GST compliant Credit Note. Accordingly, the ledger of such



sales agent/ canvasser/ agency should also be adjusted by allowing the incentive amount equivalent to the 'Total Note Value'.

It should also be noted that invoice(s) issued against such GST compliant credit note(s) or Commercial credit note(s) shall be issued as if normal invoice(s) is/are being issued. The total amount recoverable against such invoices will be reduced with amount of 'Total Note Value (including GST, if any)' to settle the incentive amount allowed to that particular sales agent/ canvasser/ agency in the books of account.

Both the Directorates are requested to circulate this circular to all the field units under their control and ensure that the instructions are followed scrupulously. A copy of this circular is also being uploaded on the website of Prasar Bharati.

This issues with the approval of Member (Fin.), Prasar Bharati.

Encls: a.a.


16.1.2020

(C. K. Jain)

Dy. Dir. General (Fin.)

ADG (B&R), Prasar Bharati, PB Sectt.

Copy for information & necessary action to:

1. ADG (Fin.), DG:DD/ DG:AIR.
2. ADG (CRD), Mumbai
3. Sales Head, PB Sectt.
4. DDG (S&M), Prasar Bharati, PB Sectt.
5. DDG (RA&BM), PB Sectt.
6. DDG (Fin.), DG:DD/ DG:AIR.
7. DDG (Comm.), DG:DD/ DG:AIR.
8. All SNOs of DG:DD/DG:AIR.
9. ✓ DDG (Tech.) w.r.t. arrange to upload on the website of PB.

Copy for information to:

1. SO to CEO
2. PS to Member (Fin.)

F. No. 20/16/04/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 7th March, 2019

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners /
Commissioners of Central Tax (All)

The Principal Director Generals/Director Generals (All)

Madam/Sir,

**Subject: Clarification on various doubts related to treatment of sales
promotion schemes under GST.- Reg.**

Various representations have been received seeking clarification on issues raised with respect to tax treatment of sales promotion schemes under GST. To ensure uniformity in the implementation of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the said Act") hereby clarifies the issues in succeeding paragraphs.

2. It has been noticed that there are several promotional schemes which are offered by taxable persons to increase sales volume and to attract new customers for their products. Some of these schemes have been examined and clarification on the aspects of taxability, valuation, availability or otherwise of Input Tax Credit in the hands of the supplier (hereinafter referred to as the "ITC") in relation to the said schemes are detailed hereunder:

A. Free samples and gifts:

- i. It is a common practice among certain sections of trade and industry, such as, pharmaceutical companies which often provide drug samples to their stockists, dealers, medical practitioners, etc. without charging any consideration. As per sub-clause (a) of sub-section (1) of section 7 of the said Act, the expression "supply"

includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. Therefore, the goods or services or both which are supplied free of cost (without any consideration) shall not be treated as 'supply' under GST (except in case of activities mentioned in Schedule I of the said Act). Accordingly, it is clarified that samples which are supplied free of cost, without any consideration, do not qualify as 'supply' under GST, except where the activity falls within the ambit of Schedule I of the said Act.

- ii. Further, clause (h) of sub-section (5) of section 17 of the said Act provides that ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Thus, it is clarified that input tax credit shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration. However, where the activity of distribution of gifts or free samples falls within the scope of 'supply' on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC.

B. Buy one get one free offer:

- i. Sometimes, companies announce offers like '*Buy One, Get One free*'. For example, 'buy one soap and get one soap free' or 'Get one tooth brush free along with the purchase of tooth paste'. As per sub-clause (a) of sub-section (1) of section 7 of the said Act, the goods or services which are supplied free of cost (without any consideration) shall not be treated as 'supply' under GST (except in case of activities mentioned in Schedule I of the said Act). It may appear at first glance that in case of offers like 'Buy One, Get One Free', one item is being 'supplied free of cost' without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as *supplying two goods for the price of one*.
- ii. Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.

- iii. It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

C. Discounts including 'Buy more, save more' offers:

- i. Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase in purchase volume). For example- Get 10 % discount for purchases above Rs. 5000/-, 20% discount for purchases above Rs. 10,000/- and 30% discount for purchases above Rs. 20,000/-. Such discounts are shown on the invoice itself.
- ii. Some suppliers also offer periodic / year ending discounts to their stockists, etc. For example- Get additional discount of 1% if you purchase 10000 pieces in a year, get additional discount of 2% if you purchase 15000 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 effected and generally at the year end. In commercial parlance, such discounts are colloquially referred to as "volume discounts". Such discounts are passed on by the supplier through credit notes.
- iii. It is clarified that discounts offered by the suppliers to customers (including staggered discount under 'Buy more, save more' scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in sub-section (3) of section 15 of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.
- iv. It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

D. Secondary Discounts

- i. These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s A supplies 10000 packets of

biscuits to M/s B at Rs. 10/- per packet. Afterwards M/s A re-values it at Rs. 9/- per packet. Subsequently, M/s A issues credit note to M/s B for Rs. 1/- per packet.

- ii. The provisions of sub-section (1) of section 34 of the said Act provides as under:

“Where one or more tax invoices have 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 exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.”

- iii. Representations have been received from the trade and industry that whether credit notes(s) under sub-section (1) of section 34 of the said Act can be issued in such cases even if the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied. 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 sub-section (3) of section 15 of the said Act are not satisfied. In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.
- iv. 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 and the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied.
- v. In other words, value of supply shall not include any discount by way of issuance of credit note(s) as explained above in para 2 (D)(iii) or by any other means, except in cases where the provisions contained in clause (b) of sub-section (3) of section 15 of the said Act are satisfied.
- vi. There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

(Upender Gupta)
Principal Commissioner (GST)