



GST 2.0 – Discounts under GST

One of the several measures proposed by the 56th GST Council Meeting pertain to legislative amendment in respect of post-sale discounts. Section 15(3) of CGST Act, 2017 stipulates that value of supply shall not include discounts subject to certain conditions. While trade discounts offered on face of invoice is explicitly allowed as a deduction from value of supply, treatment of post-sale discount has always been a contentious issue. GST Council has recommended reforms in the treatment of post-sale discounts, by amending Sections 15 and 34 of the CGST Act, 2017.

Proposed amendments to Section 15 in respect of post-sale discounts

- Presently, Section 15(3) of the CGST Act allows for exclusion of discounts from the value of supply if:
 - (a) They are given before or at the time of supply and recorded in the invoice (trade discount);
 - (b) They are given after the supply (post-sale discount), provided:
 - (i) Such discounts were agreed at or before the time of supply and linked to specific invoices; and
 - (ii) The recipient reverses the Input Tax Credit (ITC) attributable to the discount.
- Where conditions of discount as outlined in Section 15(3) is not met, the supplier can issue a financial or commercial credit note in which case, GST liability and ITC availed by customer at the time of original supply remains unaffected.

- The requirement that post-supply discounts be pre-agreed 'at or before' the time of supply and linked to invoices has resulted in frequent disputes due to the strict interpretation adopted by tax authorities. The proposed removal of Section 15(3)(b)(i) aims to mitigate such litigation by providing greater flexibility in discount treatment.
- Under the proposed amendment, post-supply discounts will no longer have a condition of mention in an agreement or linking to a specific invoice.
- This amendment is expected to provide much-needed clarity and operational ease, particularly for industries where post-supply discount schemes are dynamic and communicated through evolving digital or administrative channels.

Proposed amendment to Section 34 to explicitly cover issuance of credit notes for post-sale discounts

- Section 34(1) currently does not explicitly permit the issuance of credit notes for post-supply discounts not contemplated at the time of supply.
- It is now proposed to amend Section 34 of the GST Act to be aligned with Section 15(3) of the GST Act to provide that post-supply discounts have to be passed on by way of credit notes, with a requirement on the recipient to reverse ITC.

- The CBIC had earlier issued Circular No. 212/6/2024–GST dated 26 June 2024, requiring suppliers to obtain certificates from recipients confirming ITC reversal. However, this was only a stopgap measure pending system changes.
- It is also now proposed to rescind this Circular as with the introduction of the Invoice Management System (IMS), the need for manual verification of ITC reversal should mitigate. The IMS is designed to automate the process, allowing for real-time tracking and reconciliation of credit notes and corresponding ITC reversals.

Issuance of Circulars on issues pertaining to post-sale discount

- The Council has also proposed issuance of a Circular on contentious issues such as treatment of commercial credit notes, dealer incentives, and promotional discounts. The Circular is *inter alia* expected to clarify on following:
 - a) Non-requirement of ITC reversals on discounts offered through commercial/financial credit notes;
 - b) Treatment of manufacturer's discount to the dealer as additional consideration, in the dealer to end customer transaction); and
 - c) Treatment of discount as consideration for promotional activities performed by the dealer.
- It is hoped that the new Circular will clearly articulate the tax position regarding discounts provided to transacting versus non-transacting parties. Furthermore, in the case of services, clear criteria should be laid out within the agreement to avoid future disputes and ensure consistent tax treatment.

Dhruva Comments:

The current requirement under Section 15(3) of the CGST Act that mandates documenting post-sale discounts in the agreement and linking them to the relevant invoice has acted as a significant compliance bottleneck. It has also posed a

practical hindrance to the ease of doing business, especially in industries where discount schemes are dynamic and rolled out through digital channels or administrative processes.

The issuing of a GST credit note and mandating ITC reversal could however see some teething issues, till IMS as a system gets fully implemented.

Overall, the proposed liberalization of the provisions is a welcome step and is expected to foster greater confidence among businesses to run post-sale discount and promotional schemes without the fear of stringent compliance requirements.

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