

Post-Supply Discounts Under India GST

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A. Discounts, in Trade Parlance

Broadly, discounts can be classified in to two types:

1. Those, which are offered by means of a reduction from the price of the commodity being sold, at the time the sale is effected; and
2. Those which are given at a later date after the sale transaction has been effected.

Our bone of contention now, is with respect to point 2 above.

Since this type of discount is widely used by the consumer durables industry, let us take an example of a manufacturer of air conditioners who supplies the same to various dealers, who, in turn, would cater to the needs of the ultimate customers.

There are typically, specific parameters based on which these discounts are accorded; for example, sale targets of a particular air conditioner model. If the dealer is able to push a particular model in the market and attain the targeted sales quantum, he would be eligible for a discount based on the earlier price which was billed on him. The above parameters are usually documented in the form of an agreement between the manufacturer and the dealer.

Discounts are passed on to the dealer via the 'rebate mechanism', i.e., the manufacturer issues a separate credit note to the dealer for the value of the discount.

B. Discounts, in the VAT Era

A typical case of how post-supply discounts are treated in the VAT era can be seen from the below rule from Tamil Nadu VAT:

Rule 10(6) (b) (ii) (C): "Wherever any credit notes are to be issued for **discount or sales incentives** by any dealer to another dealer **after issuing tax invoice**, the selling dealer shall pass a credit note **without disturbing the tax component** on the price in the original tax invoice, so as to **retain the quantum of input tax credit already claimed by the buying dealers** as well as **not to disturb the tax already paid by the selling dealer.**"

The above provision is self-explanatory. Since the selling dealer would already have claimed input tax credit corresponding to his sale on the output side, and the buyer, in turn, would have claimed credit of the VAT charged on him by the seller, it would be easier to let things remain as they are. Basically,

this is the relevance of the phrase "without disturbing the tax component on the price in the original tax invoice."

C. The Proposed GST Era

1. Treatment of Post-Supply Discounts

Section 15 of the draft GST Act states that, "*the value of supply shall not include any discount that is given after the supply has been effected provided that 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 input tax credit has been reversed by the recipient of the supply as is attributable to the discount on the basis of document issued by the supplier.*"

As such, under the proposed GST era, three conditions would need to be fulfilled to avoid the discount being included in the transaction value for GST calculation purposes, viz.,

- Such post-supply discount should be known at the time of sale (duly supported by an agreement);
- The dealer should be able to map the discounts to the corresponding invoices raised on the buyer; and
- The input credit attributable to the discount is reversed by the buyer.

If the above conditions are not met, then, the principle applicable under the current VAT scenario should apply—credit notes can be raised on the customer for the discount, but excluding the GST component. Effectively, the transaction value for calculation of GST would therefore include the discount.

2. Points to Ponder

- Such discount credit notes, are actually in the nature of an incentive given to the dealer for giving an extra push to specific products.
- Given that the requirements under Section 15 of the draft GST law have not been fulfilled, it may not be apt for him to deduct the discount component from his purchases.
- Since the income of the dealer as per his books of accounts has to be aligned with the GST returns, he might have to consider the discount credit note as a **service income for additional efforts by him to push a particular product in the market.**

- The service income would typically be treated as **independent of the original sale transaction** (since the requirements under Section 15 of the draft GST law have not been met).
- Since it is an independent transaction, it could **result in levy of GST on the discount, treating it as a service.**
- The above modus could result in a cascading effect of taxes on the same transaction. GST would first be levied on the sale. Later, the discount component alone would suffer GST as a service.
- It is apt to note that treating the above transaction as a taxable service may be difficult under the current tax regime, since, an activity which constitutes sale of goods is outside the purview of service tax; secondly, there doesn't seem to be provisions similar to Section 15 of the draft GST law, under the current regime.

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