

Greetings to all our readers!

The GST Council held its' 56<sup>th</sup> Meeting on 03.09.2025 and announced the much-awaited set of reforms titled as GST 2.0. One of the proposals was to clarify the GST treatment of secondary and post-sale discounts. Consequently, on 13.09.2025, the CBIC has issued a clarification bearing Circular 251/08/2025-GST dated 12.09.2025.

The circular provides clarity on the GST treatment of various forms of secondary and post-sale discounts. It emphasizes the importance of the underlying contractual arrangements and the nature of the transaction (e.g., principal-to-principal vs. specific inducement for a discounted sale to an end customer) in determining tax implications for both ITC and the leviability of GST on related activities. Businesses should review their discount policies and agreements in light of these clarifications to ensure compliance.

The circular addresses three main areas of doubt concerning post-sale discounts:

### **1. Input Tax Credit (ITC) Availability on Discounted Payments with Financial/Commercial Credit Notes:**

#### Background of the Issue

Section 15(3)(b) of the CGST Act delineates the conditions under which a discount given after the supply has been effected may be excluded from the value of supply, thereby permitting the supplier to reduce their tax liability. These conditions mandate that:

- Such discount is established in terms of an agreement entered into at or before the time of such supply and is specifically linked to relevant invoices.
- Input Tax Credit attributable to the discount, based on the document issued by the supplier, has been reversed by the recipient of the supply.

Where these conditions are satisfied, the supplier issues a “tax credit note” under Section 34(1) of the CGST Act, which results in a reduction of the supplier’s outward tax liability. In such instances, a logical and statutory implication is that the recipient must correspondingly reverse the ITC claimed, as the reduction in the value of supply applies to both parties. Section 15(3) explicitly provides for this reversal in the context of eligible discounts.

Financial/Commercial Credit Notes and ITC Reversal: In scenarios where the post-sales discount granted by the supplier does not meet the conditions of Section 15(3) of the CGST Act, the supplier is not eligible to reduce their original tax liability. In such cases, the supplier may issue a “financial” or “commercial credit note”. The critical question then arises as to whether the recipient is required to reverse the ITC attributable to the tax originally paid by the supplier.

The prevailing view, even as advocated in Circular No. 105/24/2019-GST, dated 28th June, 2019 (subsequently withdrawn by Circular No. 112/31/2019-GST, dated 3rd October, 2019), clarified that if the supplier of goods is not eligible to reduce their original tax liability, the dealer (recipient) will **not be required to reverse ITC attributable to the tax already paid** on such post-sale discount received through financial/commercial credit notes. This position is contingent on the dealer paying the value of the supply as reduced after adjusting the post-sale discount, plus the amount of original tax charged by the supplier.

This interpretation draws support from the principle that the issuance of a credit note, to the extent the supplier agrees to receive a lower amount, means that there is no “failure to pay” by

the recipient. The Bombay High Court in *Malaysian Airlines vs. UOI* [2010 (262) E.L.T. 192 (Bom.)] held that failure to pay implies non-payment when an amount is due. If the supplier itself foregoes its right to receive the consideration, the amount is not due, and thus, the question of failure to pay does not arise. This view has also been advocated under the service tax regime vide Board Circulars 877/15/2008-CX, dated 17th November, 2008, and 122/3/2010-ST, dated 30th April, 2010.

#### Current Clarification

Despite the said legal interpretation that a recipient is not required to reverse input tax credit in case of financial/commercial credit notes, notices were being issued by the field formations on this issue. Accordingly, Circular 251/08/2025-GST dated 12.09.2025 (currently issued) has clarified that the recipient will not be required to reverse the Input Tax Credit attributed to the discount provided on the basis of financial/commercial Credit notes issued by the supplier, as there is no reduction in the original transaction value of the supply and accordingly the corresponding tax liability would also not get reduced.

## **2. Post-Sale Discount as Consideration for Dealer's Supply to End Customer (Inducement):**

#### Background

In many cases, a dealer receives a discount from the manufacturer to supply goods at a lower price to the end customer (at times mentioned as discount, cashback, schemes, etc.). In many situations, there is no pre-agreed contract directly between the manufacturer and the end customer.

Even in the absence of a direct pre-agreed contract between the manufacturer and the end customer, if the discount received by the dealer from the manufacturer is explicitly linked to the dealer supplying the goods at a lower price to the end customer, the Department used to treat the said discount either as additional consideration received by the dealer from the customer or as a consideration for a separate “act” of selling at a reduced price, possibly to achieve sales targets, clear inventory, or respond to market conditions.

Circular No. 105/24/2019-GST was initially issued to consider such a discount as taxable. However, based on representations, such circular was immediately withdrawn. Despite the withdrawal of the circular, the Department was issuing notices on this aspect.

#### Current Clarification

Circular 251/08/2025-GST dated 12.09.2025 (currently issued) has clarified that the treatment of post-sale discounts as consideration depends on the contractual relationship and the nature of the discount.

- **General Rule (Principal-to-Principal Basis):** Where no agreement exists between the manufacturer and the end customer, the transaction between the manufacturer and the dealer operates on a principal-to-principal basis. The dealer takes ownership and then resells. In such cases, the post-sale discounts are simply given for competitive pricing to push sales and merely reduce the sale price of the goods and are not linked to any independent activity rendered by the dealer to the manufacturer. Therefore, it is clarified that such a discount cannot be included in consideration as the monetary value of the inducement of further supply of these goods.

- **Exception (Agreement with End Customer):** However, in cases where the manufacturer has some agreement with an end customer to supply goods at a discounted price, the manufacturer may issue commercial or financial credit notes to the dealer, enabling such dealer to provide the goods at the agreed discounted rate to the end consumer. In such specific scenarios, it is clarified that such a post-sale discount, given by the manufacturer to the dealer for supplying goods to the end customer at a discounted rate, should be included in the overall consideration as it is an inducement towards the supply of goods by the dealer to the end customer.
- This distinguishes between general sales promotion discounts and discounts specifically structured to fulfil a prior agreement with the end customer, which are treated as part of the consideration for the subsequent supply.

### **3. Post-Sale Discount as Consideration for Promotional Activities by Dealer:**

- It is clarified that post-sale discounts generally do not constitute consideration for separate promotional services rendered by the dealer to the manufacturer, unless there is a clear and explicit agreement for such services.
- **General Rule (Discount as Price Reduction):** When dealers receive post-sale discounts and engage in promotional activities, these activities ultimately enhance the sale of goods that the dealers themselves own, thereby increasing their own revenue. In this context, the discount merely reduces the sale price of the goods and is not linked to any independent service rendered to the manufacturer. Therefore, it is clarified that post-sale discounts offered by manufacturers to dealers in such cases shall not be treated as consideration for a separate transaction of supply of services.
- **Exception (Explicit Service Agreement):** However, GST would be leviable in cases where a dealer undertakes specific sales promotional activities, such as advertising campaigns, co-branding, customization services, special sales drives, exhibition arrangements, or customer support services, etc., only when such services are explicitly stated in the agreement with a clearly defined consideration payable for such a supply. In such instances, the dealer is providing a distinct service to the supplier, and GST would be chargeable.
- The Circular reiterates that a discount given to encourage sales of the dealer's own inventory is generally not a payment for a service. However, if specific, identifiable promotional services are contractually agreed upon with defined consideration, GST would apply to those services.

This newsletter is for general public information and knowledge sharing. In case any clarifications required, you may connect with us at:

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