TATTVAM

Clarification on Post-Supply/Secondary Discounts

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- Dealing in Indirect Tax Litigation and Advisory, Investment Banking, Valuations, Audit & Assurance
- Team of around **200 people (60+ CA's & Advocates)**
- Founded and led by Partners having experience in leading firms (**LKS/Big 4s/MNCs**) - **12 Partners**
- Serving more than **300 Corporates/MNCs** across various sectors
- Knowledge partner of **PHD Chamber, Assocham, Taxsutra** and various platforms
- Awarded by **Achromic Point** as '**Indirect Tax Consulting Firm of the Year**' and '**Best Investigation Team**'

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Clarification on Post-Supply/Secondary Discounts

Background

Manufacturers and brand owners frequently implement promotional schemes for their dealers and channel partners to boost product sales. As part of these schemes, post-sale or secondary discounts may be extended to dealers after the completion of a sale.

The Central Board of Indirect Taxes and Customs (CBIC), through **Circular No. 251/08/2025-GST dated 12.09.2025**, has provided clarifications on various issues relating to the treatment of such post-supply/secondary discounts under GST.

According to the Circular, payments made by manufacturers/brand owners to dealers can be broadly classified into three categories:

1. Ad-hoc Payments
2. Additional Consideration for Supply to Customers of Dealers
3. Consideration for Services Rendered by Dealers

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1. Ad-hoc Payments

The Circular clarifies that manufacturers and dealers operate on a principal-to-principal basis. The supply from the manufacturer to the dealer, and subsequently from the dealer to the customer, are treated as independent transactions.

Following the initial sale, manufacturers may offer monetary incentives to dealers under various schemes which can be aimed towards competitive pricing and to push sales of the dealers. These incentives are not linked to any specific service or activity performed by the dealer for the manufacturer/brand owner.

Examples:

- **Margin Protection Schemes**: Manufacturer/brand owner may operate margin protection schemes wherein the dealers are compensated in case they are not able to make a pre-decided amount/percentage as margin on their sales. In such cases, the manufacturer/brand owner verifies the expenses made by the dealers and thereafter provides the said amount to compensate the dealers.

- **Clearance of Slow-Moving/Nearing Expiry Inventory**: Manufacturers may provide financial support to enable dealers to reduce prices and sell stagnant inventory. However, this compensation is not linked to the sale price of the dealers.

These ad-hoc payments may be voluntary or governed by pre-agreed contractual terms. However, since the dealer is not required to perform any specific activity in exchange for such payments, they do not qualify as consideration for a supply and are not taxable under GST.

Documentation:

Such payments can be passed on through **commercial credit notes** issued by the manufacturer/brand owner.

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2. Third-Party Consideration

As per Section 2(31) of the CGST Act, "consideration" includes:

- Any payment (monetary or otherwise) made **in respect of, in response to, or for the inducement of a supply**, whether by the recipient or **any other person** (excluding subsidies from the government).
- The **monetary value of any act or forbearance** provided in a similar context.

Hence, if a third party (e.g., the manufacturer) makes a payment in relation to a supply made by the dealer, such payment becomes part of the dealer's consideration for the supply and is included in the taxable value.

In the Circular, it has been specifically clarified that where a manufacturer has an agreement with an end customer to supply goods at a discounted rate, the manufacturer may issue credit notes to the dealer so that the dealer can offer the agreed price to the customer. In such scenarios, the amount paid by the manufacturer to the dealer qualifies as third-party consideration and is included in the value of supply made by the dealer to the end customer.

Therefore, as per the Circular, for a payment to qualify as third-party consideration:

- There must be a clear agreement between the manufacturer and the end customer.
- The manufacturer must direct the dealer to sell the goods at a specified price.

- The manufacturer must reimburse the dealer for the differential amount.

Documentation:

- The dealer must include the amount received from the manufacturer/brand owner in the invoice issued to the end customer.
- The manufacturer/brand owner can issue a commercial credit note to reimburse the dealer.

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3. Consideration for Services Rendered by Dealers

The Circular draws a clear distinction between two scenarios:

i. Promotional Activities Undertaken Voluntarily by the Dealer

If the dealer undertakes promotional or marketing activities on its own volition, any post-sale discounts received from the manufacturer/brand owner cannot be treated as consideration for a separate supply of services.

- **Documentation**: These payments may be made by issuance of commercial credit notes.

ii. Promotional Activities Undertaken at the Direction of the Manufacturer

Where specific promotional activities such as advertising campaigns, co-branding, customer support, etc. are performed by the dealer as per a contractual agreement with the manufacturer and such services are explicitly stated in the agreement with a clearly defined consideration payable for the same, such activities will constitute a taxable supply of services.

- **Documentation**: In this case, the dealer is required to issue a tax invoice to the manufacturer for the services rendered, and GST will be applicable.

The distinction between the above two scenarios is whether the promotional activities are undertaken by the dealer on its own or at the behest of the manufacturer/brand owner. In cases wherein the said activities are undertaken as per the directions of the manufacturer/brand owner and clearly defined consideration is payable for such activities, it has been clarified that the transaction will qualify as 'supply of service' and applicable GST will have to be discharged by the dealer.

Availability of ITC in Cases Where Discounts Are Provided via Commercial Credit Notes

The Circular clarifies that recipients of supply are not required to reverse Input Tax Credit (ITC) in cases where discounts are extended through the issuance of financial or commercial credit notes by the supplier.

In such instances, since there is no reduction in the original transaction value, the corresponding tax liability remains unchanged. Therefore, it has been clarified in the Circular that no adjustment to ITC is warranted.

This clarification addresses a long-standing area of ambiguity, as there are conflicting rulings on this issue. Further, the said issue has frequently been raised during departmental audits and investigations.

Notably, the Madras High Court in ***Tvl. Shivam Steels vs. Assistant Commissioner- 2024 (7) TMI 1202,*** ruled that ITC reversal is not required when discounts are passed through commercial credit notes—reinforcing the position now adopted in the Circular.

This Circular thus provides much needed clarity, and is expected to significantly reduce litigation and disputes around ITC reversal in such cases.

Potential Disputes Arising from the Circular

While the Circular provides welcome clarity on the GST treatment of post-supply discounts, potential disputes may still arise, particularly regarding the evidentiary requirements.

The Circular places significant emphasis on the existence of documented agreements in the following situations:

- Between the manufacturer and the end customer (for third-party consideration); and
- Between the manufacturer and the dealer (for services rendered).

However, in practice, especially in the FMCG sector, promotional schemes are often communicated informally through verbal communication by field staff, Whatsapp messages etc. Formal, written agreements detailing scheme terms or customer-specific pricing are often absent.

Although Indian law recognizes oral agreements, the Circular's language suggests that tax authorities may insist on formal documentation. This raises the risk of disputes over whether informal communications or unwritten instructions will constitute as an agreement for the purpose of the Circular.

TATTVAM

CONTACT US

A-17, Pushpanjali Enclave, New Delhi - 110034

Oahfeo Workspaces, Building No 618P, Durga Colony, Sector 39, Gurugram, Haryana 122002

501, Sheetal Enclave, Mindspace, Nr. Tangent Showroom, Off New Link Road, Malad (W), Mumbai - 400064

+91 11 4904 0239

indirecttax@tattvamgroup.in

www.tattvamadvisors.com