

TAX FLASH NEWS

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Input tax credit on post-supply discounts cannot be availed – AAR, Tamil Nadu

The Authority for Advance Ruling, Tamil Nadu has held that input tax credit (ITC) can be availed only to the extent of payments made by the recipient to the supplier i.e. ITC attributable to post supply discounts cannot be availed irrespective of the fact the supplier has discharged tax on full value of supply.

Facts of the case

MRF Ltd.¹ (Applicant) intends to enter into an arrangement for setting up an interactive data exchange system between the buyer (being the applicant itself) and supplier of goods and services. The reports generated by the system provide guidance to the applicant, to decide which invoices are eligible for discounts on early payment.

In light of the above, the applicant had filed an application to seek a ruling on whether it can avail full ITC of the GST charged on the supply by the supplier or proportionate reversal of the same is required in case of post-purchase discount given by the supplier.

AA Ruling

By virtue of section 15(3) of the Central Goods and Services Tax Act (CGST), discounts which do not form a part of the purchase contracts are not allowed as deduction from the original price of the goods and accordingly suppliers are liable to pay tax on the full value of supply i.e. before such discount.

Further for the purpose of availing ITC, section 16(2) of the CGST Act, requires the recipient to pay to the supplier, the amount towards the value of supply along with the tax payable thereon within a period of one hundred eighty days from the date of issue of invoice.

In the instant case, the value of supply is the full undiscounted value indicated in the tax invoice on which the supplier would pay GST and the applicant makes payment only to the extent of the invoice value less the discount. Thus the applicant can avail only proportionate ITC i.e. credit attributable to invoice value less the discounts.

Our comments

The AAR seems to have not considered the intention of the law requiring the payment of the full value of supply along with tax thereon for the purpose of availing ITC. It does not consider the fact that full settlement of the supply under consideration is done, including the full value of the tax payable on the supply.

Whilst, recently, Central Board of Indirect Taxes and Customs had issued a circular² where it had recognised issuance of financial/commercial credit notes for carrying out commercial transaction between contracting parties, the instant AAR limits the credit to the recipient, which may not be in line with the intent considering that full amount of tax has been deposited in the Government treasury.

The ruling will have large ramification in all the post supply discounts offered by the suppliers.

¹ MRF Ltd. [2019-TIOL-AAR-GST]

² Circular No. 92/11/2019-GST dated 7 March 2019 - Treatment of sales promotion scheme under GST

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