

CBIC Circular No. 92/11/2019 Dt. 07.03.2019 - Clarified.

Quote :

Thus, it is clarified that input tax credit shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration.

Unquote:

From the above it appears that when a manufactured product is given as sample / gift, ITC attributable to the inputs, input services and capital goods to such sample / gift needs reversal. The value of such sample / gift shall be considered for the purpose of reversal of credit under Rule 42 and 43.

Quote:

It may appear at first glance that in case of offers like „Buy One, Get One Free“, one item is being „supplied free of cost“ without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

Unquote:

In case of Buy one get one free kind of offers, the price charged shall be considered as the price of all the goods being sold and there is no need for any reversal of credit. For example, if a pillow is given free along with a mattress being sold, ITC for the pillow purchased would be eligible and if GST is paid for the price at which the mattress is sold, the same is sufficient.

Quote :

It is clarified that discounts offered by the suppliers to customers (including staggered discount under „Buy more, save more“ scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in sub-section (3) of section 15 of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.

Unquote :

Discounts of any type which are pre determined can be excluded from value for the purpose of payment of GST. If such discounts are passed on post clearance, Credit Notes can be issued by the Supplier under section 34 and his GST liability can be reduced, subject to reversal of equivalent credit by the recipient. Or a commercial credit can be issued without any GST impact. If discounts, which are not known at the time of supply are extended later,

by way of credit note, only commercial Credit Notes have to be issued and there would be no impact of GST paid earlier by the supplier and the ITC already availed by the recipient.

Examples:

- (i) X has sold 1100 pieces of certain goods during 2018-19 to Y W Rs.1000 each on payment of GST @ 18 %. X's has a policy whereby, if any buyer buys more than 1000 pieces in an year, a quantity discount of 5 % of such sale value would be given by way of issue of credit note. X intends to issue such Credit Note on 1st April 2019. The value of discount to be passed on is Rs.55,000 and GST thereon is Rs.9,900. X would issue a Credit note for Rs.55,000 plus Rs.9,900 GST and his GST liability of April 2019 would be reduced by Rs.9,900 subject to reversal of ITC by Y to an extent of Rs.9,900.
- (ii) Same situation as in (i) above, but for the fact that there is no such Discount policy in place. It has been later decided between X and Y, considering the volume of offtake by Y during 2018-19 a discount of 5 % would be extended by X by way of issue of Credit Note. This discount does not satisfy the conditions prescribed in Section 15 (3) (b) of the Act as the same is not known at the time of supply. Hence, X would issue a Credit Note only for Rs.55,000 and the GST already paid by X at the time of supply and the ITC availed by Y would not be affected.