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CREDIT NOTES AND INTEREST PAYMENT

Issuance of Credit Notes and Debit Notes are integral part of any business in case where there is a reduction or increase in taxable value of the goods or services or both. Goods and Services Tax (GST) law is in tune with the business needs with regard to issuance of Credit Notes and Debit Notes and made elaborate provisions for accommodating the business scenarios. In this Article I would like to discuss the issue of Credit notes and its implication on 'Input Tax Credit' ('ITC' for short) availment or reversal by the receivers of the Credit notes issued by the suppliers.

Section 34 of CGST Act, 2017 deals with issuance of Credit Notes and Debit Notes. As per Section 34 (1) of CGST Act, 2017 Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.

On vivisection of the Section 34(1) of CGST Act, 2017, the following are the scenarios wherein the supplier is obligated to issue Credit notes: for the following reasons:

i. Taxable Value charged for the supply in the tax invoice is found to exceed the taxable value;

ii. Tax charged in the invoice is found to exceed the tax payable in respect of such supply;

iii. Goods supplier are returned by the Recipient of the goods;

iv. Goods or Services or both supplied are found to be deficient

Due to the above reasons, the supplier may issue to the recipient one or more credit notes for the supplied made in a Financial Year containing the particulars as prescribed. The particulars to be incorporated in the Credit Notes have been notified under Rule 53(1A) of CGST Rules, 2017. The particulars to be incorporated are summarized hereunder:

a) Name, address and Goods and Services Tax Identification Number of the supplier;

b) Nature of the document;

c) A consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year;

d) Date of issue of the document;

e) Name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;

f) Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;

g) Serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply;

h) Value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and

i) Signature or digital signature of the supplier or his authorised representative.

On verification of the above provisions, it is clear that the Credit Notes will be issued by the suppler of the goods or Services or both in case the supplier is required to decrease the Taxable Value, decrease the Tax charged in the invoice, reduction of Taxable value due to short-receipt, reduction in Taxable Value due to deficiency in the Goods or Services supplied. In all the cases, the supplier has to reduce the value of the taxable value Goods or Services or both supplied due to reasons mentioned above. Since there is a reduction in Taxable value of the goods or services, the proportionate reduction in tax paid is also to be adjusted.

Section 34(2) of CGST Act, 2017 has provided the ways and means for declaration of Credit notes by the supplier and adjustment of the tax liability. As per Section 34(2) of CGST Act, 2017 any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed. As per proviso to the above, no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

Therefore, as per Section 34(2) of CGST Act, 2017 the supplier can adjust the tax liability in case a credit note is issued in relation to a supply during the month in which such supply was made but not later than September following the end of the Financial Year in which such supply was made.

Section 15 of CGST Act, 2017 deals with valuation of taxable supplies. As per Section 15(3)(b) of CGST Act, 2017 the Value of the Supply shall not include any discount which is given after the supply has been effected if (i) 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 (ii) input tax credit as is attributable to the discount issued by the supplier has been reversed by the recipient of the supply.

As per Section 15(3)(b) of CGST Act, 2017 Value shall not include discounts know after the supply has been effected if satisfies the following conditions viz. Discount is established in terms of an agreement entered into at or before time of supply and linked to supply and ITC as is attributable to the discount on the basis of document issued by the supplier has been reversed by recipient of the supply.

On reading the provisions of Section 15 of CGST Act, 2017 and Section 34 of CGST Act, 2017 in tandem, the supplier is allowed to reduce the tax liability in case of reduction of value by way of issuance of Credit notes only when the receiver has reduced the applicable ITC availed pertaining to such supply. Now the point for further discussion is with regard to late reversal of ITC by the recipient of such credit notes.

As discussed above, the supplier can adjust the tax liability in case a credit note is issued in relation to a supply during the month in which such supply was made but not later than September following the end of the Financial Year in which such supply was made. Now the two situations will arise viz. (i) Credit note issued in the month of supply and reduction of value of taxable supplies and (ii) Credit notes issued subsequent month not later than September following the end of the Financial Year. For both the cases, the reduction of ITC is compulsory for adjustment of tax by the supplier. If the supplier has reduced the tax liability and the receiver has not reversed the ITC for the whole year, then the excess ITC availed by the recipient, based on the original invoices, is an undue ITC availed by the recipient since the supplier has less paid to the Government as the excess ITC corresponding to the Credit notes was adjusted from the taxable value of supplies made by him. If any undue or excess credit is availed by the recipient, the same is recoverable along with interest and penalty under the provisions of Section 73 of CGST Act, 2017 or Section 74 of CGST Act, 2017.

In view of the above discussion, it is clear that ITC reversal is mandatory mandate for the receivers of the supplies with regard to Credit notes issued by their suppliers and all provisions of relating to recovery of ITC will follow automatically.

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