

# ***CGST***

Circular No. – 92/2019

Date – 7.03.2019

## Circular clarifying various doubts related to treatment of sales promotion scheme under GST

There are several promotional schemes which are offered by taxable persons to increase sales volume and to attract new customers for their products.

Various representations have been received seeking clarification on issues raised with respect to tax treatment of sales promotion schemes under GST.

In this regard, some of these schemes have been examined and clarification on the aspects of taxability, valuation, availability or otherwise of Input Tax Credit in the hands of the supplier are explained hereunder.

### **Free samples and gifts:**

The goods or services or both which are supplied at free of cost (without any consideration) shall not be treated as „supply“ under GST (except in case of activities mentioned in Schedule I of the said Act). Accordingly, the samples which are supplied free of cost, without any consideration, do not qualify as „supply“ under GST, except where the activity falls within the ambit of Schedule I of the said Act.

ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. 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. However, where the activity of distribution of gifts or free samples falls within the scope of „supply“ on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC.

### **Buy one get one free offer:**

Sometimes, companies announce offers like ‘Buy One, Get One free’ . This 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.

Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.

It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

### **Discounts including ‘Buy more, save more’ offers**

Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase in purchase volume). Such discounts are shown on the invoice itself.

Some suppliers also offer periodic / year ending discounts to their stockists, etc. Such discounts are passed on by the supplier through credit notes.

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.

It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

### **Secondary Discounts**

These are the discounts which are not known at the time of supply or are offered after the supply is already over.

Secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied.

There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-92.pdf;jsessionid=B40E2D645D147F9FD387B12292D6E831>