

PRASAR BHARATI
(India's Public Service Broadcaster)
Prasar Bharati Secretariat
(Taxation Section)
6th Floor, Prasar Bharati House,
Copernicus Marg, New Delhi-110001

No. PB-7(14)(1)/2018-Fin/GST/3000-13

Dated 11.09.2019

GST Circular no.17

Sub: Treatment of Free Commercial Time (FCT) allowed as Bonus to Govt. Departments/ Clients under the GST regime - reg.

Ref.: Circular No.92/11/2019-GST dated 07.03.2019 issued by GST Policy wing of CBIC, Ministry of Finance, Govt. of India (copy enclosed)

Doordarshan is allowing discounts in the form of bonus airtime across Doordarshan Channels to various Ministries, Government departments & clients who are directly deal with Doordarshan. Similarly, All India Radio is also allowing discount in the form of bonus airtime. The principal airtime and bonus airtime are being telecast either on same channel or on different channels located outside the boundaries of a particular State. Further, it is learnt that the commercial units are issuing invoices only for airtime against principal amount with full value of revenue and no invoice is being issued for bonus airtime.

2. In this connection, section 7(1)(a) of CGST Act, 2017 is being referred to which states that "Supply" includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

3. Sometimes, it is interpreted that goods or services which are supplied free of cost (without any consideration) shall not be treated as supply under GST in the light of section 7(1)(a) of the CGST Act 2017, except in case of activities mentioned in Schedule I of the CGST Act 2017. In this connection, Circular under reference issued by GST Policy wing of CBIC may be referred to which states that it may appear at first glance that in case of bonus airtime, it is being supplied free of cost without any consideration. In fact, it is not an individual supply of free goods or services but a case of two or more individual supplies where a single price is being charged for the entire supply. Hence, the price charged shall be treated as price for supplying, both, principal airtime as well as bonus airtime.

4. The amount equivalent to bonus airtime will be treated as discount and this should be applied across full airtime (i.e. principal as well as bonus) proportionately. Accordingly, invoices should be issued for principal airtime as well as for bonus airtime against the GSTIN(s) of that State registration from where the Channel is broadcasted. In case of govt. business, the revenue should be further apportioned between all States and UTs of India as per the GST Circular no. 8 and Integrated Tax Notification no.12 dated 15.11.2017.

For example, DCD has secured a business of Rs. 6 crores from a Government Department and allowed bonus airtime for an equal amount of business. The advertisements are telecast from National channel (Delhi) against principal airtime and from regional

channels- Sahyadri (Maharashtra) and Chandana (Karnataka) against bonus airtime equally. In this case, invoices for an amount equivalent to Rs.3 crores [i.e. Total amount received Rs. 6 crore / (Principal amount Rs.6 crore+ Amount of bonus Rs. 6 crore) X amount attributable to advertisement run on National Channel Rs.6 crore] against advertisement run on National Channel should be issued using GSTIN of Doordarshan Delhi and invoices for amount equivalent to Rs.1.50 each against the advertisement run on Sahyadri Channel and Chandana Channel should be issued against GSTINs of Doordarshan Maharashtra and Karnataka respectively. Since this is a govt. business, the revenue pertaining to National channel (Rs. 3 crore), Sahyadri Channel (Rs. 1.50 crore) and Chandana Channel (Rs. 1.50 crore) should be further bifurcated between all States and UTs of India as per the Integrated Tax Notification no.12 dated 15.11.2017.

5. Further, it has also been observed that sometimes a time limit for utilising the bonus airtime is also being given to clients. In case the bonus airtime is not utilised by the said time limit, the bonus will lapse. In such a situation, when bonus airtime is forfeited, the revenue involved in forfeited bonus airtime should be billed using the GSTIN(s) of that State registration against which bonus airtime was supposed to be utilised as per Bonus Media Plan. In case of Govt. business, this forfeited bonus airtime revenue may require to be bifurcated as per Integrated Tax Notification no.12 dated 15.11.2017.

6. The concerned section(s) which are procuring the business against which bonus airtime is allowed should ensure that invoices should be issued as per the methodology given in Paras above to comply with the GST provisions and to avoid penal provisions under GST laws and rules made thereunder.

7. The Sales and Marketing team of Prasar Bharati and commercial sections of AIR and Doordarshan are requested to circulate these instructions between all concerned and ensure that the instructions are followed by all concerned in its true spirit.

This issues with the approval of Member (Fin.), Prasar Bharati.

Encls: a.a.



(C.K. Jain)

Dy. Director General (Fin.)

**National Sales Head, Prasar Bharati, PB Sectt.
ADG (Commercial), Prasar Bharati, PB Sectt.**

Copy for information & necessary action to:

1. ADG(Fin.), DG:DD / DG:AIR, for information.
2. DDG (S&M), Prasar Bharati, PB Sectt.
3. DDG(Fin.), DG:DD/ DG:AIR, for information.
4. DDG (Comm.), DG:DD/ DG:AIR, information & n/a.
5. All SNOs of DG:DD/ DG:AIR, for information.
6. DDG (Technical) w.r.t arrange to upload on the website of PB.

Copy for information to:

1. SO to CEO.
2. PS to Member (Fin.)

F. No. 20/16/04/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 7th March, 2019

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners /
Commissioners of Central Tax (All)

The Principal Director Generals/Director Generals (All)

Madam/Sir,

**Subject: Clarification on various doubts related to treatment of sales
promotion schemes under GST.- Reg.**

Various representations have been received seeking clarification on issues raised with respect to tax treatment of sales promotion schemes under GST. To ensure uniformity in the implementation of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the said Act") hereby clarifies the issues in succeeding paragraphs.

2. It has been noticed that there are several promotional schemes which are offered by taxable persons to increase sales volume and to attract new customers for their products. 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 (hereinafter referred to as the "ITC") in relation to the said schemes are detailed hereunder:

A. Free samples and gifts:

- i. It is a common practice among certain sections of trade and industry, such as, pharmaceutical companies which often provide drug samples to their stockists, dealers, medical practitioners, etc. without charging any consideration. As per sub-clause (a) of sub-section (1) of section 7 of the said Act, the expression "supply"

includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. Therefore, the goods or services or both which are supplied 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, it is clarified that 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.

- ii. Further, clause (h) of sub-section (5) of section 17 of the said Act provides that 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.

B. Buy one get one free offer:

- i. Sometimes, companies announce offers like '**Buy One, Get One free**' For example, 'buy one soap and get one soap free' or 'Get one tooth brush free along with the purchase of tooth paste'. As per sub-clause (a) of sub-section (1) of section 7 of the said Act, the goods or services which are supplied 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). 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*.
- ii. 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.

- iii. 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.

C. Discounts including 'Buy more, save more' offers:

- i. Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase in purchase volume). For example- Get 10 % discount for purchases above Rs. 5000/-, 20% discount for purchases above Rs. 10,000/- and 30% discount for purchases above Rs. 20,000/-. Such discounts are shown on the invoice itself.
- ii. Some suppliers also offer periodic / year ending discounts to their stockists, etc. For example- Get additional discount of 1% if you purchase 10000 pieces in a year, get additional discount of 2% if you purchase 15000 pieces in a year. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. In commercial parlance, such discounts are colloquially referred to as "volume discounts". Such discounts are passed on by the supplier through credit notes.
- iii. 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.
- iv. 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.

D. Secondary Discounts

- i. These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s A supplies 10000 packets of

biscuits to M/s B at Rs. 10/- per packet. Afterwards M/s A re-values it at Rs. 9/- per packet. Subsequently, M/s A issues credit note to M/s B for Rs. 1/- per packet.

ii. The provisions of sub-section (1) of section 34 of the said Act provides as under:

“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.”

- iii. Representations have been received from the trade and industry that whether credit notes(s) under sub-section (1) of section 34 of the said Act can be issued in such cases even if the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied. It is hereby clarified that financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied. In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.
- iv. It is further clarified that such 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.
- v. In other words, value of supply shall not include any discount by way of issuance of credit note(s) as explained above in para 2 (D)(iii) or by any other means, except in cases where the provisions contained in clause (b) of sub-section (3) of section 15 of the said Act are satisfied.
- vi. There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

(Upendar Gupta)
Principal Commissioner (GST)