

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.

(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Ms. P.Vinitha Sekhar, Addl. Commissioner of Central Tax, (Member)

(2) Shri A. A. Chahure, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id	27AAACC1645G1ZZ
Legal Name of Applicant	M/s. CEAT Limited
Registered Address/Address provided while obtaining user id	3" Floor, RPG House, 463, Dr. Annie Beasant Road, Worli, Mumbai 40030
Details of application	GST-ARA, Application No. 41 Dated 28.08.2019
Concerned officer	MUM-VAT-E-614, LTU-002, Mumbai
Nature of activity(s) (proposed/present) in respect of which advance ruling sought	
A Category	Factory/Warehouse/Deport
B Description (in brief)	Issue of credit note for post-sale discounts.
Issue/s on which advance ruling required	(iii) Determination of time and value of supply of goods or services or both
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

PROCEEDINGS

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act" respectively] by **M/s. CEAT Limited**, the applicant, seeking an advance ruling in respect of the following questions.

- 1. Whether dealer is required to reverse input tax credit proportionate to the reduction in the value of supply?***
- 2. Whether the applicant can issue commercial credit note to its dealers for post sale discounts without charging GST?***

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is

specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions made by the applicant is as under:-

2.1 CEAT Limited (hereinafter referred to as "applicant") is engaged in the manufacture and sale of tyre, tubes and flaps. The said goods are sold to various customers viz. dealers/distributors for their subsequent sale, Original Equipment Manufacturers like Tata Motors, Maruti, etc., Institutional customers, Government department and defence, who in turn sell to retailers/customers and many of whom are end users as well.

2.2 Applicant offers various kinds of discounts such as product discounts, cash discounts and post-sale discounts to its dealers. Such discounts are known to the dealers before sale of the said goods. The recipient dealers of such discounts makes the payment to applicant equal to invoice value minus post sale discount.

2.3 The post-sale discounts such as turnover discount etc. are known at the end of the quarter half year / year end and are passed on by way of credit notes.

2.4 Section 15(3) provides that the value of supply shall not include any discount provided that the two conditions are followed as stipulated under the provision, as follows;

"(3) The value of the supply shall not include any discount which is given

(a) Before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply, and

(b) 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 on the basis of document issued by the supplier has been reversed by the recipient of the supply."

2.5 In cases of post-sale discounts, it is not possible for the applicant to satisfy to the condition as stipulated under section 15(3) (b) (ii), for various reasons like; dealers may not be registered under GST Act and hence, not entitled for such credit; there may be end customers who may also not be entitled for such credit, etc. Hence applicant intends to

issue commercial credit notes to its dealers with the value of supply to be full undiscounted value of such commercial credit note.

- 2.6 Therefore, applicant want to know whether their dealers / customers are eligible to take ITC on undiscounted value, when GST is paid on full value by supplier and credit note does not include GST.
- 2.7 Applicant has submitted that on a conjoint reading of Sections 15 and 16 of the CGST Act, 2017, one can conclude that a registered person is entitled to take full ITC charged on the goods or services or both. The recipients/dealers have reimbursed the GST charged on the undiscounted transaction value at the time of supply and in circumstances where the GST charged and paid has not been refunded/reversed on whole or in part, the credit availed need not be reversed. Accordingly, the recipient will not be required to reverse the input tax credit.
- 2.8 Applicant has placed reliance on the decision of Appellate Authority for Advance Ruling in MRF Tyres reported at 2019-TIOL-61-AAAR-GST as well as on the Circular No.123/3/2010 dated 30.04.2010 issued under the erstwhile service tax laws, wherein it was clarified that if there is a reduction in the amount mentioned in the invoice/bill/challan and discounted payment is being made, then the same shall be considered as final payment towards the service. Reliance is also placed on Circular No.877/15/2008-CX dated 17.11.2008. an5.7.
- 2.11 Hence applicant has concluded that the dealers/recipients are not required to reverse the credit in case of a post-sale discount provided by the applicant. Accordingly, the applicant can issue commercial credit notes without the GST component to its dealers.
- 2.12 Applicant has also cited Circular No. 92/11/2019-GST dated 07.03.2019 to state that in cases where the conditions under section 15(3)(b)(ii) cannot be satisfied, applicant can issue commercial credit notes for the same.
- 2.13 Further submissions states that once the applicant has not claimed any refund or deduction in the value of the tax payable, the entire tax has been paid to the exchequer. Therefore, there is no revenue implication in the instant case.



03. CONTENTION – AS PER THE JURISDICTIONAL OFFICER:

In reply to the first question, the jurisdictional officer has submitted that the applicant is not fulfilling the condition as per section 15(3)(b)(ii) because there being several dealers to whom post-sales discounts are offered, it is not possible for the applicant to ascertain whether ITC as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

In reply to the second question the jurisdictional officer has submitted that the applicant can issue the commercial note to his customers.

04. HEARING

Preliminary hearing in the matter was held on 17.12.2019. Sh. Bharat Raichandani, Advocate along with Sh. V. R. Inamdar, Sr. Manager appeared, and requested for admission of the application. Jurisdictional Officer Sh. R.R. Pednekar, Dy. Commr. of S.T.(E-614), LTU-2, Mumbai also appeared and made written submissions.

The application was admitted and called for final hearing on 06.02.2020. Sh. Bharat Raichandani, Advocate along with Sh. V. R. Inamdar, Sr. Manager, appeared, made oral and written submissions. Jurisdictional Officer Sh. R.R. Pednekar, Dy. Commr. of S.T.(E-614), LTU-2, Mumbai also appeared. We heard both the sides.

05. OBSERVATIONS AND FINDINGS:

- 5.1** We have gone through the facts of the case, documents on record and submissions made by the applicant as well as the jurisdictional office.
- 5.2** We find that applicant is registered person under GST Act. The first query of the applicant is:- ***“Whether their dealer is required to reverse input tax credit proportionate to the reduction in the value of supply?”***
- 5.2.1** This authority is governed by the provisions of Chapter XVII of CGST ACT & the relevant Sections 95 to 98, 102, 103, 104 and 105. As per Section 95, the term ‘advance ruling’ means a decision provided by this authority to the applicant on matters or questions specified in Section 97(2), in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. As per provision of Section 95 of CGST ACT, **this authority can give a ruling to the applicant on matters**

or questions raised, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

5.2.2 The question no. 1 raised by the applicant is not in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. This question may be raised only by the concerned dealer and not by the applicant. Hence in view of the provisions of Section 95 of the GST Act, we are of the opinion that this authority is not allowed to answer the question raised by the applicant, being out of the purview of Sec. 95 of CGST Act.

5.3 Further, the applicant has placed reliance on the decision of Appellate Authority for Advance Ruling in **MRF Ltd** reported at **2019-TIOL-61-AAAR-GST**. The said order was passed by the Appellate Authority on an appeal filed by MRF Ltd against Order No. 5/AAR/2019 dated 22.01.2019, passed by the Advance Ruling Authority, Tamil Nadu.

5.3.1 In the said case the applicant in the original instance was filed by MRF Ltd and the question was “Whether the MRF Ltd can avail the ITC of the full GST charged on the supply of invoice or a proportionate reversal of the same is required in case of post purchase discount given by the supplier of the goods or services.

5.3.2 We find that in the said referred case the applicant had raised question for themselves whereas in the subject case, the question asked by the applicant pertains to third party, i.e. Whether their dealers are required to reverse input tax credit proportionate to the reduction in the value of supply.

5.3.3 Therefore the said referred decision of the Appellate Authority is not applicable in this case.

5.4 The second query of the applicant is:- **“Whether the applicant can issue commercial credit note to its dealers for post sale discounts without charging GST?”**

5.4.1 Section 97(2) of the CGST Act, 2017, states that *the question on which the advance ruling is sought under this Act, shall be in respect of,—*

- a. classification of any goods or services or both;*
- b. applicability of a notification issued under the provisions of this Act;*
- c. determination of time and value of supply of goods or services or both;*
- d. admissibility of input tax credit of tax paid or deemed to have been paid;*
- e. determination of the liability to pay tax on any goods or services or both;*
- f. whether applicant is required to be registered;*

g. whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

5.4.2 We observe in the instant case, the question which has been raised by the applicant is not pertaining to any of the matters mentioned in Section 97 (2) of the GST Act. In fact the question raised is with respect to procedure which the applicant wants to follow. Section 97(2), which encompasses the questions, for the ruling by this Authority does not deal with the issue of whether the applicant can issue commercial credit note to its dealers for post-sale discounts without charging GST. Hence, it is held that this authority does not have jurisdiction to pass any ruling on such matters.

5.5 In view of the above discussion, we reiterate that, the questions posed before us does not pertain to matters in respect of which an Advance Ruling can be sought under the GST Act. In view thereof, we find that the impugned application is not maintainable. No proceeding of Advance Ruling under the GST Act lies in the instant case.

06. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

ORDER

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 41/2019-20/B- 37 Mumbai, dt. 17/3/2020

For reasons as discussed in the body of the order, the questions are answered thus –

The application for advance ruling is rejected, as being non-maintainable.



—sd—
A.A.CHAHURE
(MEMBER)

—sd—
F.VINITHA SEKHAR
(MEMBER)

CERTIFIED TRUE COPY


MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint Commissioner of State Tax, Mahavikas for Website.

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai – 400021.

