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Sales Promotion / Trade Discount
under GST

SHAH TEELANI & ASSOCIATES

CHARTERED ACCOUNTANTS



Compiled By
Team Shah Teelani

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Sales Promotion Scheme/ Trade Discount under GST

In the general trade and business, there are several promotional schemes and discounts which are offered by taxable persons to increase sales volume and to attract new customers for their products. Circular No. 92/11/2019-GST; Dated the 7th March, 2019 issued to clarify on the aspects of taxability, valuation, availability or otherwise of Input Tax Credit in the hands of the supplier. Clarifications are made on the following aspects

- A. Free samples and gifts,**
- B. Buy one get one free offer,**
- C. Discounts including 'Buy more, save more' offers and**
- D. Secondary Discounts.**

A. Free samples and gifts: -

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 service 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.

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 sample.

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 sample distributed without any consideration.

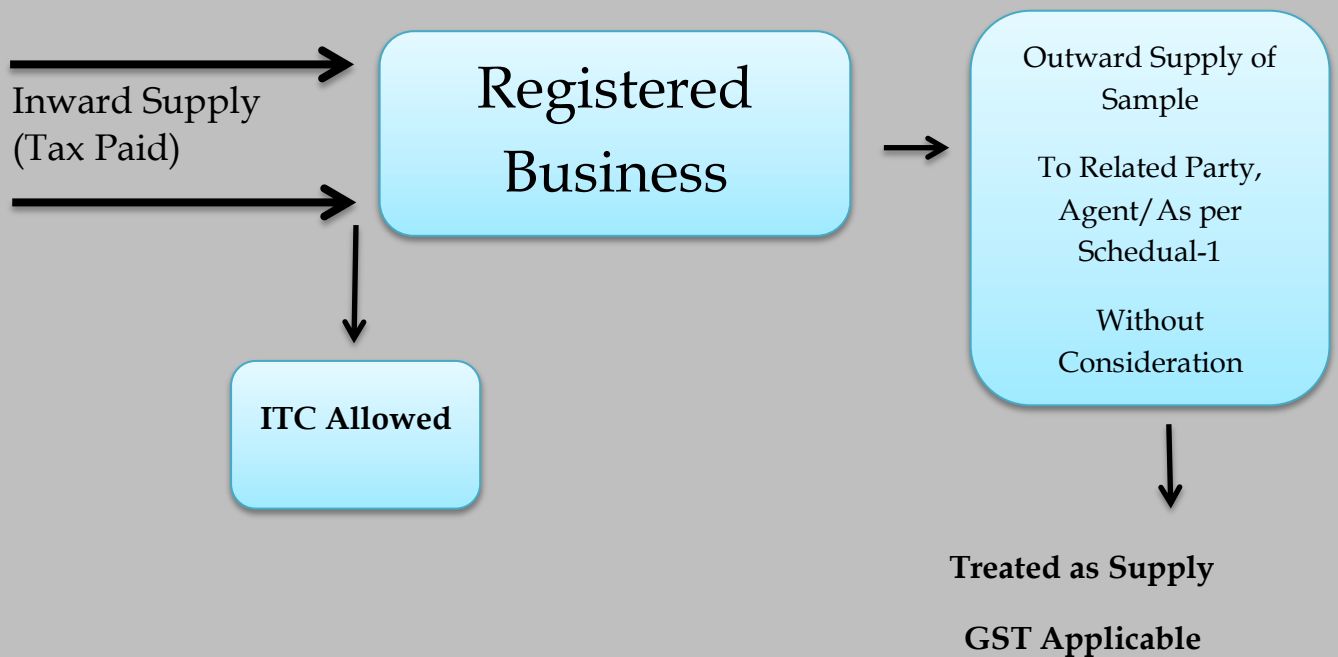


However, where the activity of distribution of gifts or free samples falls within the scope of 'supply' on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC.

Schedule - 1

Activities Treated as Supply Even If Made Without Consideration

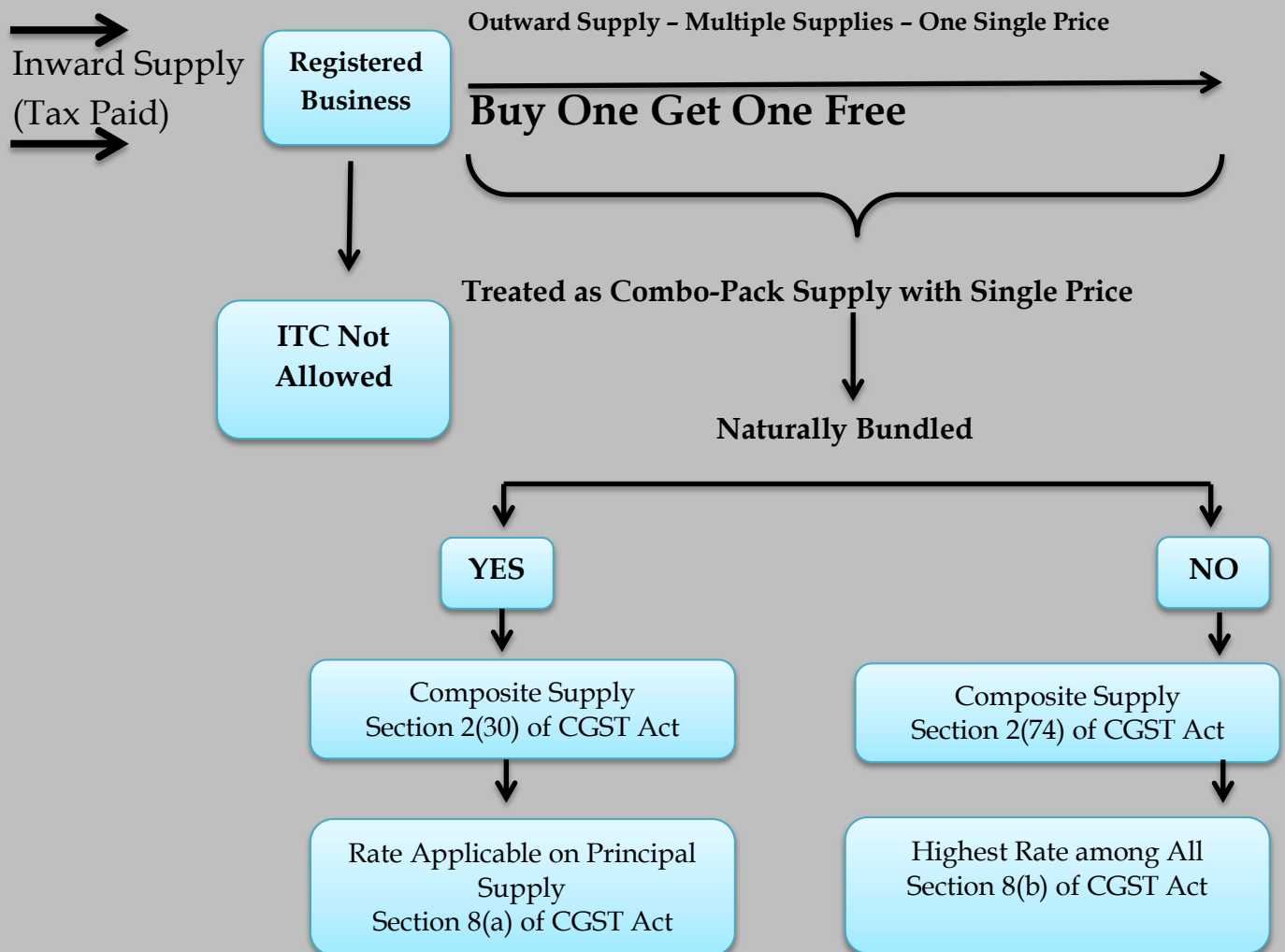
1. Permanent Transfer of Assets
2. Supply between related persons
3. Supply between Principal & Agent
4. Import of services - Related Persons



B. Buy one Get one Free Offer: -

- 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 service 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
- 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 service or both as part of such offers.



C. Discount including “Buy More, Save More” Offers: -

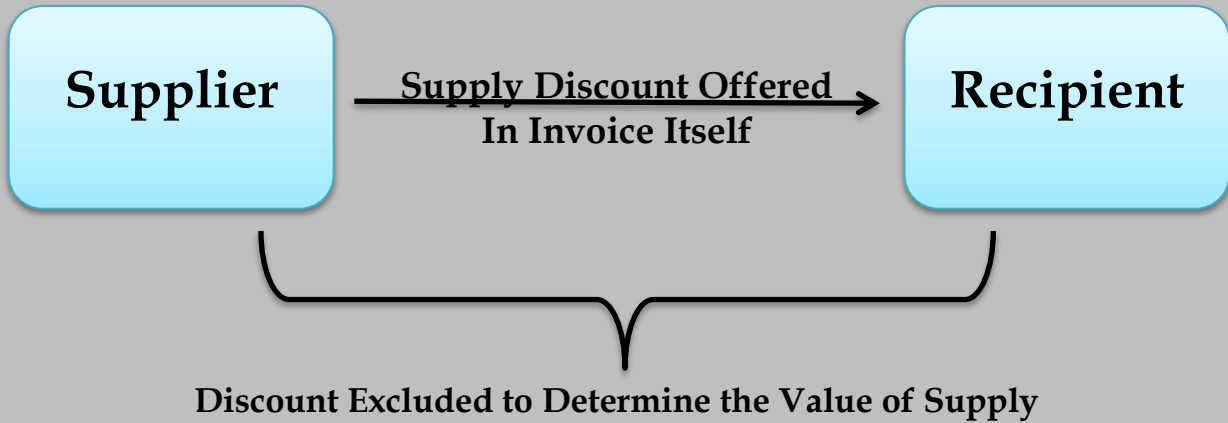
- Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase in purchase volume).

For example- Get 10 % discount for purchases above Rs. 5000/-,

20% discount for purchases above Rs 10,000/- and

30% discount for purchase above Rs 20,000/-.

Such discounts are shown on the invoice itself.



Example:

Basic Value	: Rs 1,000
Discount @ Say 10%	
Less Discount	: Rs 100
Taxable Value	: Rs 900
GST @ 18%	: Rs 162
Invoice Value	: Rs 1,062

- Some suppliers also offer periodic / year ending discounts to their stockists, etc.

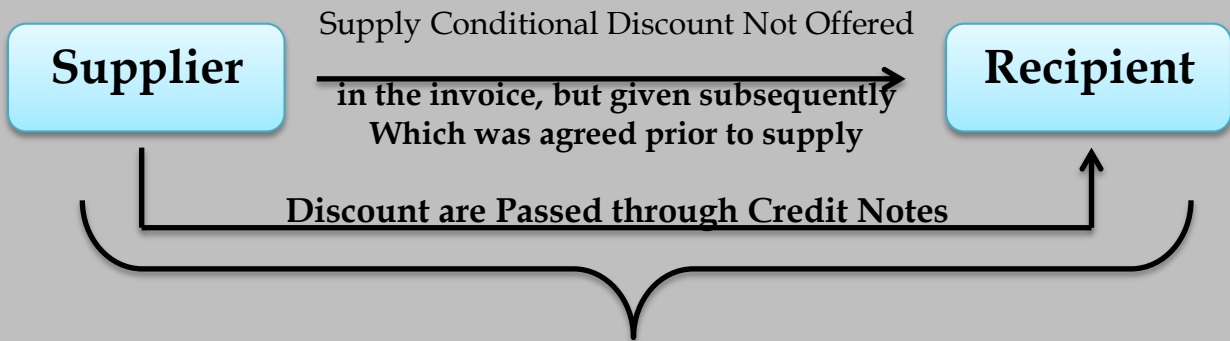
For example- Get additional discount of 1% if you purchase 10000 pieces in a year,

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

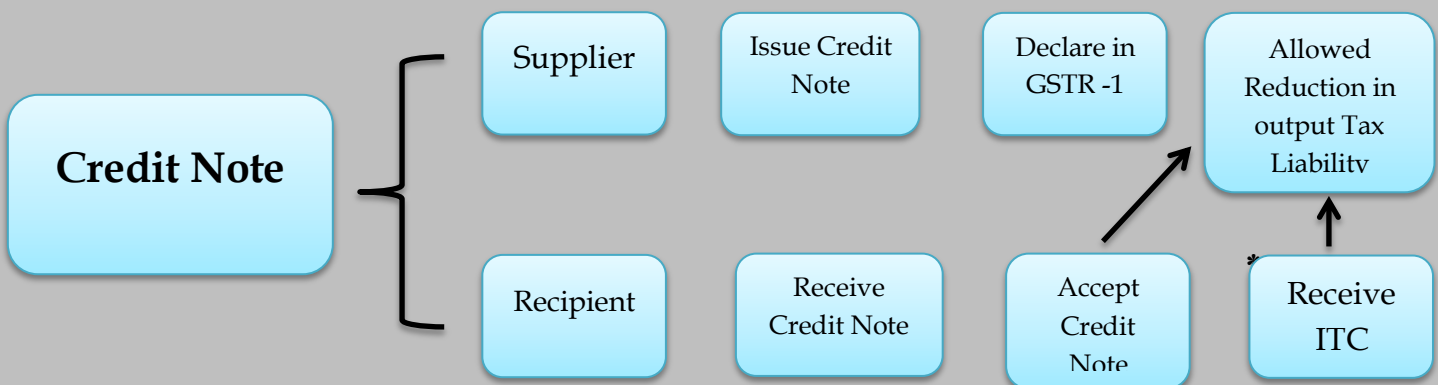
been effected and generally at the year end. In commercial parlance, such discounts are colloquially referred to as “volume discounts”.

Such discounts are passed on by the supplier through Credit Notes.



Discount Excluded to determine the value of Supply , Subject to conditions of Sec 15(3) of CGST Act

- 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.



*** Only after Recipient Accept Credit Note & Reverse Credit**

Note :

Credit Note/ Debit Note

Central Goods and Services Tax (Amendment) Rules, 2019

Notification No. 03/2019 – Central Tax 29/01/2019

W.e.f 01/02/2019

A registered person can issue a Consolidated Credit Note / Debit Note in respect of multiple invoices issued in a financial year.

C. Secondary Discount: -

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.

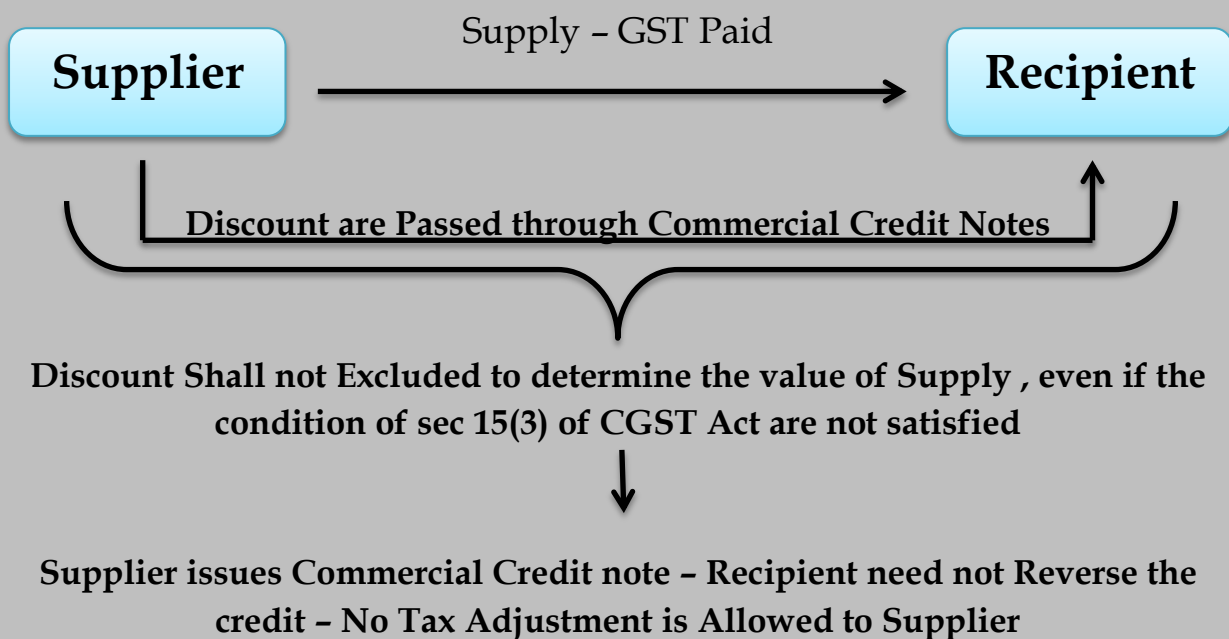
It is hereby clarified that financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied.

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.



SHAH TEELANI & ASSOCIATES



CHARTERED ACCOUNTANTS

302-303, Shubh House, Bh Jain Dairy,

Swastik Cross Road, Off C G Road, Ahmedabad – 380009

M-9978292929, L-079 48492929

Email- gst@shahteelani.com

Web- www.shahteelani.com