MRF Limited (Old No. 124, New No. 114, Greams Road, Thousand Lights, Chennai 600 006)

Appellate Authority for Advance Ruling — Tamil Nadu

ORDER-in-Appeal No. AAAR/04/2019 (AR), A.R. Appeal No. 3/2019/AAAR Dated **24.06.2019**

Q Questions Before the Authority

- Whether the appellant, as buyer, can avail input tax credit of the full GST charged on the undiscounted supply invoice, or whether a proportionate reversal is required where the supplier gives a post-purchase discount through the C2FO platform.
- Whether, when GST is paid by the supplier on the full invoice value and the credit note issued for the discount does not include GST, the appellant can take full ITC on the undiscounted value.

F Facts

MRF proposed to join an automated data exchange platform operated by C2FO India LLP, on which its suppliers may offer early-payment discounts (by APR or flat amount) on approved, unpaid invoices. The discount is not known at the time of supply and is settled after supply through a commercial credit note. MRF pays the discounted amount, while the supplier pays GST on the undiscounted invoice value. The original authority ruled that ITC was limited to the invoice value less the discount actually paid.

H Ruling

Full ITC on undiscounted invoice where a post-purchase discount is given via C2FO platform (proportionate reversal required or not)	**Yes. Full ITC of GST charged on the undiscounted supply invoice may be availed. No proportionate reversal is required.**	Subject to the other conditions of law being fulfilled, and provided the supplier does not reverse, reimburse or re-credit the GST to MRF, in any manner, after credit is availed. Limited to post-purchase discounts under the C2FO arrangement.

The Appellate Authority set aside the original advance ruling. It held that MRF can avail ITC of the full GST charged on the undiscounted invoice, and that no proportionate reversal is required for a post-purchase discount given through the C2FO platform. The ruling is conditional on MRF meeting the other statutory conditions and on the supplier not reversing, reimbursing or re-crediting the GST in any manner after the credit is availed. It is limited to the C2FO-type arrangement described in the application.

R Reasoning

The Authority held that section 15(3) does not apply because the discount was not recorded in the invoice, was not established under a pre-supply agreement linked to specific invoices, and the related ITC was not reversed by the recipient, so the transaction value under section 15(1) is the undiscounted price on which GST was charged. A conjoint reading of sections 15 and 16 leads to the conclusion that the recipient is entitled to full credit of tax charged. The second proviso to section 16(2) applies only where the recipient fails to pay the supplier the amount

towards the value of supply along with tax, and the buyer here had paid the tax charged on the undiscounted value. GST Council discussions were treated as persuasive only. CBEC circulars on CENVAT credit were relied on by analogy, since section 16 speaks of tax 'charged' and not 'chargeable', and the Supreme Court's principles on interpreting taxing statutes were applied.

P Provisions Relied On

- Section 9(1) of the CGST Act, 2017
- Section 15(1) of the CGST Act, 2017
- Section 15(3) of the CGST Act, 2017
- Section 16(1) of the CGST Act, 2017
- Section 16(2) and second proviso to Section 16(2) of the CGST Act, 2017
- Section 102 and Sections 103 and 104 of the CGST/TNGST Act, 2017 (as to binding effect and rectification)
- Circular No. 122/3/2010-S.T. dated 30.04.2010 (CBEC) on Rule 4(7) of CENVAT Credit Rules 2004 (persuasive)
- Circular No. 877/15/2008-Cx dated 17.11.2008 (CBEC) on reversal of CENVAT credit for trade discount (persuasive)
- Rule 3 of CENVAT Credit Rules, 2004 (referred to in circular)
- Rule 37 of CGST Rules, 2017 (cited by appellant; not relied on by the Authority)
- Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Company, 2018 (361) E.L.T. 577 (S.C.) on interpretation of taxi…

! For the Practitioner

This ruling helps buyers who take part in supplier early-payment or discount platforms where the discount is credited after supply by a commercial credit note, and who pay the discounted amount while the supplier discharges GST on the full invoice. It settles that such post-supply discounts do not, by themselves, require proportionate ITC reversal. Under section 103 it binds only the applicant and the concerned or jurisdictional officers. It does not decide cases where the supplier reverses or refunds GST, where discounts are recorded in the invoice or pre-agreed under section 15(3), or where the buyer's payment shortfall is not linked to a platform-type discount. The ruling is expressly confined to the C2FO arrangement.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> tn_aaar_04_2019_24.06.2019.pdf

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