Golden Tobacco Limited

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-121/2018-19/B-52, Mumbai, dated 04/05/2019 (order date as… Dated **04.05.2019**

Q Questions Before the Authority

- (i) In the above transaction, whether the extra packs of cigarettes would again be leviable to GST?
- (ii) If yes, the taxable value which can be attributed to such extra packs of cigarettes for levy of GST?
- (iii) Whether extra packs of cigarettes would be considered as exempt supplies or free samples and hence attract the provisions of Section 17(2) of the CGST Act, 2017 read with Rule 42 of the CGST Rules, 2017, or clause (h) of Section 17(5) of the CGST Act, 2017?

F Facts

Golden Tobacco Limited, a Mumbai-based seller of cigarettes under HSN 2402, proposed to supply its distributors an extra quantity of packs free of any additional charge. Under the illustration, an order for 100 packs at Rs. 15,000 would be invoiced as 110 packs at the same taxable value of Rs. 15,000, with GST and compensation cess charged on that value. The applicant later added a staggered or volume-based scheme, under which the extra packs increase with the size of the order, and the distributors know the extra quantity before ordering.

H Ruling

Q(i): whether the extra packs of cigarettes are again leviable to GST	****Answered in the negative.****	The authority treated the arrangement as a Buy 100 Get 10 free scheme, covered by Para B of CBIC Circular No. 92/11/2019-GST dated 07.03.2019. This means two individual supplies made for the price of one, with rate and classification under Section 8 to be determined on whether the supply is composite or mixed.
Q(ii): taxable value attributable to the extra packs, if leviable	**Not answered.**	The order states this is not answered in view of the answer to Q(i).
Q(iii): whether the extra packs are exempt supplies or free samples under Section 17(2) read with Rule 42, or Section 17(5)(h)	****Not exempt supplies or free samples; Section 17(2) read with Rule 42 and Section 17(5)(h) not applicable.****	The authority reasoned that the extra packs are supplied against a single consideration, so they are not supplied free of cost without consideration.

The authority answered that the extra packs of cigarettes are not leviable to GST as a separate supply, in view of the discussion in the order. It held that the extra packs are not exempt supplies or free samples, so the restriction under Section 17(2) read with Rule 42, and clause (h) of Section 17(5), does not apply. The question of taxable value was not answered because it was consequential on the first answer.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

R Reasoning

The authority relied on the CBIC circular dated 07.03.2019, which the applicant had cited after filing. Para B of the circular treats a buy-one-get-one-free offer as two individual supplies for a single price, not as a free supply under Section 7(1)(a). The authority held that the applicant's Buy 100 Get 10 scheme falls within that paragraph and that ITC remains available on inputs used for such offers. It distinguished Para C (staggered value discounts) and Para D (post-supply discounts), finding that the scheme involves no value discount and that the discounts are known before supply. The Section 15(3) argument raised by the jurisdictional office was therefore not applied to the extra quantity.

P Provisions Relied On

Section 7(1)(a) of the CGST Act, 2017	Section 8 of the CGST Act, 2017
Section 15(3) of the CGST Act, 2017	Section 17(2) of the CGST Act, 2017
Section 17(5)(h) of the CGST Act, 2017	Rule 42 of the CGST Rules, 2017
Section 168(1) of the CGST Act, 2017	
CBIC Circular No. 92/11/2019-GST dated 07.03.2019 (F. No. 20/16/04/2018-GST), Paras B, C and D	

! For the Practitioner

This ruling is useful for cigarette and similar manufacturers planning free-quantity offers to distributors. It settles that extra packs given against a single price are not a separately taxable free supply and are not barred from input tax credit under Section 17(5)(h). It does not decide the taxable value of the bundle, which the authority left unanswered, nor whether the supply is composite or mixed under Section 8. As an advance ruling, it binds only the applicant and the revenue in this case, so practitioners should read the full order and the circular before relying on it.

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 -> maharashtra_aar_121_2018-19_gtl_04.05.19.pdf

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