

SNIPPET ON CREDIT NOTE UNDER GST LAW

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I. Central Goods and Services Tax Act, 2017 (CGST Act, 2017)

1. **Credit note¹:** Credit note is defined to mean a document issued by a registered person under Section 34 (1) of the CGST Act, 2017.
2. **Issuance of credit note²:** A registered person can issue one or more credit notes where one or more tax invoices have been issued for supply of goods or services or both in a financial year under the following circumstances:
 - a. "Taxable value" or "tax charged" in a tax invoice is found to exceed the taxable value or tax payable in respect of supply effected.
 - b. Goods supplied are returned by the recipient.
 - c. Goods or services or both supplied are found to be deficient.

Amongst other details which are required to be provided in the credit note, serial number and date of corresponding tax invoice / bill of supply is required to be provided in a credit note [ref - Rule 53 (1A)]; thus, every credit note must be inextricably linked with an underlying tax invoice/tax invoices / bill of supply issued for "such supply".

Section 34 of the CGST Act, 2017 does not mention the phrase 'post supply discount' for issuance of credit note. A question arises as to whether a credit note can be issued after the supply has been effected, when the conditions specified under section 15(3) (b) of the CGST Act, 2017 are fulfilled. In this context the author is of the view that the post supply discount will fall under the phrase 'taxable value or tax charged in a tax invoice is

found to exceed the taxable value or tax payable in respect of supply effected' and thus, the issuance of credit note in case of post supply discount is possible.

3. **Post supply discount:** Value of supply shall not include discount given after supply is effected³, if the following conditions are fulfilled:
 - a. 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**
 - b. 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.

It would be relevant to the note the Advance Ruling in the case of *Ultratech Cement Limited 2018 (15) G.S.T.L. 455 (A.A.R. - GST) - Authority for Advance Rulings Maharashtra* in the aspect of the condition laid down in Section 15(3)(b) wherein the relevance of establishment of discount in an agreement is mentioned - held that "**The wordings of Section 15 (3) (b) (i) very clearly states that quantum of discount is given after the supply of goods has taken place has to be there in the terms of such agreement i.e. it cannot be open ended not based on any criteria.** Thus, this discount quantum cannot be arrived at without any basis only at the discretion of the supplier. The supplier has to clearly mention the quantum of discount or percentage of discount which is to be worked out on the basis of certain parameters or certain criteria which may be agreed to between the supplier and the recipient and which are predetermined and mentioned in agreement in respect of supply of the goods."

¹ Section 2 (37) of the CGST Act, 2017

² Section 34 (1) of the CGST Act, 2017

³ Section 15 (3) (b) of the CGST Act, 2017



4. **Time limit to issue credit note:** A credit note for supplies made in a financial year should be issued and declared in Form GSTR-1/Form GSTR 3B not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, for the purpose of adjustment of tax. Amendments made vide Finance Act, 2022 i.e., extension of time limit for issuance of credit notes from 'September' of the following financial year to '30th November' of the following financial year is NOT YET NOTIFIED as on the date when the article has been penned.

To illustrate, goods supplied on February 15, 2020 (FY 2020-21) are returned on December 15, 2021. Can a credit note be issued in terms of Section 34 of the CGST Act, 2017?

A credit note under Section 34 of the CGST Act, 2017 in the instant case cannot be issued since the time limit to issue credit note is September 30, 2021. However, a credit note under the normal accounting principles without the tax (CGST/SGST or IGST as the case maybe) can be issued. Reconciliation statement in Form GSTR 9C Table 5J requires disclosure of 'Credit notes accounted for in the audited Annual Financial Statement but are not permissible under GST'.

5. **Contents of credit note:** A credit note to be issued under Section 34 of the CGST Act, 2017 should contain all particulars prescribed in Rule 53(1A) of the CGST Rules, 2017.

6. **Single credit note with multiple invoice numbers:** On introduction of GST law, a separate credit note had to be issued for each invoice. Vide Notification No. 03/2019 – Central Tax dated 29.01.2019 effective 01.02.2019, a single credit note with multiple invoice numbers can be issued. However, as on date, to the best of author's knowledge, the online facility for filing the application Form GSTR 1 does not provide the option of linking a single credit note with multiple invoices. Thus, until this facility is activated on the GST portal, it would be prudent to issue a separate

credit note for each invoice.

II. Erstwhile Service tax provision and VAT Laws

Service Tax provision	State Value Added Tax Law
<p>A credit note under the service tax provisions could have been issued under the following circumstances:</p> <ol style="list-style-type: none"> Invoice has been issued or payment has been received against a service to be provided which is not so provided either wholly or partially for any reason; Where the amount of invoice is renegotiated due to deficient provision of service, or any terms contained in a contract. 	<p>Under the erstwhile VAT laws credit notes could have been issued under the following circumstances:</p> <ol style="list-style-type: none"> Sales return if the goods are returned within 6 months of date of sale or date of delivery of goods (State specific); Post sales discount with certain conditions which varied from State to State. <p>The issue relating to deduction from total turnover in respect of post-sale discounts given through credit note, under the Karnataka VAT Act, 2003 in the case of Southern Motors Vs State of Karnataka 2017 (358) E.L.T. 3 (S.C.) - was held as an eligible deduction.</p>

To sum up

- Time limit prescribed for issuance of credit note to be checked.
- Conditions prescribed for issuance credit note are to be fulfilled.
- Disclose credit note details in Form GSTR 1 and give effect in Form GSTR 3B within the prescribed timeline.
- Contents prescribed for credit note to be complied.

The article reflects the personal view of the author. The views written in this article is as on September 24, 2022.

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