

**2019 (10) TMI 792 - AUTHORITY FOR ADVANCE RULING, KARNATAKA**

**IN RE: M/S. KWALITY MOBIKES (P) LTD.,**

KAR ADRG 76/2019

**Dated: - 24 September 2019**

Levy of GST - rate of GST - volume discount received on purchases - volume discount received on retail (on sales) - Requirement for issuance of taxable invoice - HELD THAT:- The applicant when makes more purchases is eligible for the volume discount on purchases and a credit note is issued by the authorised supplier and no adjustment of price is made in respect of the goods already sold nor any adjustment of GST is made in the credit note. The applicant is also not claiming any reduction in input tax credit already claimed by him as it does not affect the price of the goods sold. Hence, the amount received by the applicant is in the form of an incentive provided by the authorised supplier and does not affect the sale price of the goods already sold and hence there is no liability to charge GST on the same.

Further, the applicant when sells more than his target is eligible for the incentive which is provided by the authorised supplier in the form of a credit note without affecting the sale price of the goods purchased or sold. Even this is in the form of incentive and no adjustment of price nor tax is done either by the applicant or the authorised supplier - Hence, the amount received by the applicant is in the form of an incentive provided by the authorised supplier and does not affect the sale price of the goods already sold and hence there is no liability to charge GST on the same.

Requirement for issuance of credit notes - HELD THAT:- The credit note issued by the supplier in the pertinent case does not have any effect on the value of supply and hence is only a financial document for account adjustment for the incentive provided. Hence there is no effect on the GST.

**Judgment / Order**

**SRI. HARISH DHARNIA, AND DR. RAVI PRASAD M.P. MEMBER**

**Represented by : Sri K.V. Balasubramanyam, Chartered Accountant**

**ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS & SERVICES TAX ACT, 2017 AND UNDER 98(4) OF THE KARNATAKA GOODS & SERVICES TAX ACT, 2017**

1. M/s. Kwality Mobikes Private Limited, (called as the 'Applicant' hereinafter), having GSTIN number 29AAGCK4555K2Z0, has filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 and Section 97 of the KGST Act, 2017, in FORM GST ARA-01 discharging the fee of ₹ 5,000-00 each under the CGST Act and the KGST Act.

2. The Applicant is a private limited company and is registered under the Goods and Services Act, 2017. The applicant has sought advance ruling in respect of the following question:

*a) Whether the volume discount received on purchases is liable for GST? If yes, under which HSN/SAC?*

*b) Whether volume discount received on retail (on sales) is liable for GST? If yes, under which HSN /SAC?*

*c) Whether the Company has to issue taxable invoice to this effect?*

3. The applicant furnishes some facts relevant to the stated activity:

*a. The applicant states that he is in the business of supplying motor vehicles. He is the authorised dealer for Harley-Davidson India (hereinafter called “authorised supplier”) who manufactures high end two wheeler motorcycles. The applicant in its regular course of business purchases the vehicles from the authorised supplier wherein it charges 28% GST plus applicable Cess.*

*b. The Authorised supplier allows credit period of 30 days and also fixes sales targets to the applicant. Besides, on purchase of vehicles which are over and above the limit fixed on regular purchases, the applicant is also eligible for volume discount, which is paid on monetary terms.*

*c. Hence, the company is eligible for Volume Discount on retail i.e. Sales Commission) and on purchases over and above the target is eligible for Regular Volume Discount (i.e. on purchases). The authorised supplier issues Credit Note and this credit note is not affecting the purchase price or sale price and hence has no effect on GST collected in the invoices.*

#### **4. FINDINGS & DISCUSSION:**

We have considered the submissions made by the applicant in their application for advance ruling as well as the additional submissions made by Sri. KV Balasubramanyam, CA, during the personal hearing. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts. At the outset, we would like to state that the provisions of both the CGST Act and the KGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the KGST Act.

4.1 The transaction of the applicant is examined and found that the authorised supplier is issuing a tax invoice on the supply of goods to the applicant and the applicant is taking credit of the input tax charged in the invoice. The applicant when makes more purchases is eligible for the volume discount on purchases and a credit note is issued by the authorised supplier and no adjustment of price is made in respect of the goods already sold nor any adjustment of GST is made in the credit note. The applicant is also not claiming any reduction in input tax credit already claimed by him as it does not affect the price of the goods sold. Hence, the amount received by the applicant is in the form of an incentive provided by the authorised supplier and does not affect the sale price of the goods already sold and hence there is no liability to charge GST on the same.

4.2 Further, the applicant when sells more than his target is eligible for the incentive which is provided by the authorised supplier in the form of a credit note without affecting the sale price of the goods purchased or sold. Even this is in the form of incentive and no adjustment of price nor tax is done either by the applicant or the authorised supplier. Hence, the amount received by the applicant is in the form of an incentive provided by the authorised supplier and does not affect the sale price of the goods already sold and hence there is no liability to charge GST on the same.

4.3 Further, the applicant is not providing any service to the authorised supplier and is only receiving the incentive. Indirectly, it has an effect on the sale price of the goods purchased by the applicant from the authorised supplier and is actually in the form of discount. But Section 15(3) of the CGST Act, 2017 states as under:

*“(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.”*

Since the credit note is issued as a post sale event, the same is not covered under the clause (a) of the above provision. Further, the applicant has not reversed the input tax credit attributable to the discount received in the form of credit note from the authorised supplier, the same cannot be covered under clause (b) above. Hence in view of the above, the credit note issued by the supplier in the pertinent case does not have any effect on the value of supply and hence is only a financial document for account adjustment for the incentive provided. Hence there is no effect on the GST.

5. In view of the foregoing, we rule as follows

#### **RULING**

1. The Volume Discount received on purchases in the form of credit note without any adjustment of GST is not liable for GST.
2. The Volume Discount received on Retail (on sales) in the form of credit note without any adjustment of GST is not liable for GST.
3. Since the amount received in the form of credit note is actually a discount and not a supply by the applicant to the authorised supplier, the applicant need not issue tax invoice for this transaction.