

**AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-600 006.**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.**

Members present are:

1. Ms. Manasa Gangotri Kata, IRS Joint Commissioner/Member,
Office of the Commissioner of GST & Central Excise, Chennai
2. Thiru S. Vijayakumar, M.Sc., Joint Commissioner (CT) / Member (FAC),
Office of the Joint Commissioner (ST), Enforcement /
Inter-State Investigation Cell, Chennai-6.

ORDER No. 5/AAR/2019 DATED: 22.01.2019

GSTIN Number, if any / User id		33AAACM4154G1ZU
Legal Name of Applicant		M/s. MRF Limited
Registered Address/Address provided while obtaining user id		Old No.124/ New No.114, Greams Road, Thousand Lights, Chennai-600006.
Details of Application		GST ARA-01 Application Sl. No. 40 dated 03.08.2018
Concerned Officer		Centre: Chennai North Commissionerate-Division -Egmore State: The Assistant Commissioner(ST), Egmore Assessment Circle,
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Manufacturing
B	Description (in Brief)	Post-invoice discount is offered by the supplier in the C2FO platform, the Applicant intends to use and this discount is not captured in PO. The Applicant submits that the proportionate Input Tax Credit attributable to such discount is not required to be reversed.
Issue/s on which advance ruling required		Admissibility of Input Tax Credit
Question(s) on which advance ruling is required		Whether the Applicant can avail the Input Tax Credit of the full GST charged on the supply of invoice or a proportionate reversal of the same is required in case of post purchase discount given by the supplier of the goods or services.

Note : Any Appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s. MRF Ltd, Old No.124, / New No.114, Greams Road, Thousand Lights, Chennai-600006 (hereinafter called the Applicant or the Company) is registered under the applicable provisions of the CGST 2017 and TNGST 2017 vide registration number 33AAACM4154G1ZU. They have preferred an application seeking Advance Ruling on

“Whether the MRF Ltd can avail the ITC of the full GST charged on the supply of invoice or a proportionate reversal of the same is required in case of post purchase discount given by the supplier of the goods or services.”

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted the copy of Challan evidencing payment of application fees of Rs.5,000/-each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The Applicant has informed that they intend to enter into an arrangement with M/s. C2F0 INDIA LLP (hereinafter referred as C2F0), a subsidiary of Pollen Inc, having its Indian Office at, 303, OIA House, 470, Cardinal Gracious Road, Andheri (East), Mumbai — 400099, Maharashtra, India for setting up an interactive automated data exchange which can be installed for data interaction relating to sale & purchase of goods and services between a Buyer (the Applicant) and a Supplier (any supplier of goods or input services of the Applicant) in compliance to various ethical, accounting and business standards. Both the Supplier and Recipient of goods or services should register on the platform provided by C2F0. The transactions are explained by the Applicant as follows:

- Based on the defined schedule, C2FO outbound program will extract approved open invoices (remaining unpaid) and Supplier (vendor) data from SAP and transfer the data to C2FO cloud on AWS (Amazon Web Services).
- Data first loaded to client SFTP (Secured File Transfer Protocol) staging area. Automated process picks up data from Secure Transfer of Invoices Platform (SFTP) to C2FO AWS S3 cloud.
- Successfully discounted invoice data is sent back to client SFTP staging area.
- The supplier can place discount offer either as APR (Annual Percentage Rate) or flat discount on the C2FO platform 24x7.
- C2FO platform alerts Supplier Relationship Manager (SRM) on key trigger points such as supplier activity on the portal to engage with suppliers at the opportune moment.
- Client Finance team provide guidance on desired APR, minimum APR and cash pool. C2FO algorithms will use these settings to take a decision on which invoices are awarded for early payment by client.
- By accepting C2FO's Terms and Conditions, the Supplier will be agreeable to offer certain discount in return for an early payment of an Invoice from the recipient of goods or services (i.e., the applicant).

2.2 The Applicant has stated that since this is a post-invoice discount being offered on optional basis, the same is not captured in the supply contract between the company and supplier. Hence, once the goods and or the services are delivered and the invoice is booked in ERP and marked as approved to pay, the supplier via C2FO can take a voluntary decision to accelerate the payment and receive early payment. The supply of goods/services is made by the supplier to the recipient in terms of the purchase contract and the recipient on receipt of the goods/services takes ITC in the invoice which is paid to the government by the supplier. Through the use of the automated process, the supply invoices in respect of which the recipient will be prepared to pay the invoices at an early date subject to the supplier accepting to extend certain quantified discount will be offered to the supplier. On acceptance of the same, the payment of the invoices after considering the discount will be processed by the recipient of the goods or services. This discount arrangement is not part of the Purchase Contracts or the invoices since it is not known at that point of time whether supplies against the purchase contracts or invoices will be considered for the discount and also the rate /quantum of such discount is not known. It is a case of offering discount post supply falling under "Cash Discount not agreed before or at the time of supply".

2.3 The Applicant stated that as per Section 15(3) of CGST Act, discount in this case is not allowable for deduction from the price at the time of supply since the same is known either before or at the time of supply. The taxable value for the purpose of payment of GST will be the value as per purchase contract without considering such discount so offered and the supplier is liable to pay tax on the value before discount. As per Section 16(2), a person who fails to pay to the supplier of goods, the amount towards the value of supply along with the tax payable within a period of 180 days from date of invoice, ITC taken by him shall be added to the output tax liability. Value of supply is the value on which GST is payable by the supplier. In the present case, the buyer pays price minus the discount plus GST on the value without considering discount, since such discount is not allowed for deduction from price. GST is paid by the supplier on the entire price of the goods without considering the discount. Recipient will pay the discounted price along with GST on the original price to the supplier. The Applicant states that the payment made by the recipient has to be construed as proper payment in compliance with Section 16(2) though there is an actual lower payment to the extent of discount. This is because the discount is not allowed as deduction for the purpose of payment of GST since the required conditions are not satisfied. There is no requirement to reverse ITC by the recipient attributable to the amount of discount so allowed for the reason that such discount is not considered by the supply for payment of GST and he is not entitled to issue any credit note for the discount amount including GST in terms of Section 34(1) and (2). Any post supply arrangement resulting in reduction in price should not alter the payment of GST by the supplier and the respective availment of ITC by the recipient. Any requirement of insistence for reversal of credit on the discount portion at the hands of the recipient is not warranted.

In view of the above, the Applicant has sought Advance Ruling to clarify Whether the company can avail the ITC of the full GST charged on the supply of invoice or a proportionate reversal of the same is required in case of post purchase discount given by the supplier of the goods or services.

3. The Authorized Representative of the Applicant was heard in the matter. They stated that they intend to subscribe to an online platform C2FO where post sale, post supply and post issue of invoice depending on the early payment schedule offered by the supplier, the buyer (Applicant) can accept discount and make payment. Then a credit note would be issued. The payment would be made

one time for each invoice at the discounted price. They stated that they do not fall under Section 15(3) (a) or (b) of CGST Act, 2017, hence the value of supply should be full undiscounted value. In light of the above, they want to know whether GST is paid on full value by supplier and credit note does not include GST and hence they can take full ITC on undiscounted value. They submitted a write up/ brochure of the software C2FO along with screenshots of the C2FO software prepared for their internal use.

4.1 We have gone through the submissions made by the Applicant. It is seen from the brochure of C2FO that the SAP system of MRF will be interfaced with the cloud server of C2FO. The invoices for receipt of goods or services received by the Applicant are uploaded onto the system. The vendors, registered on the C2FO software platform, place discount offer, either Annual Percentage Rate or flat discount to receive early payment. The C2FO algorithms use settings of desired annual percentage rate, minimum Annual percentage rate, cash availability to decide on which invoices are chosen for early payment. This process happens continually in which the discount offers can be varied by the vendors which would determine the amount and date of payment for each of these invoices. Screenshots of the software pertaining to the Applicant shows that the Applicant can set a desired annual percentage rate either monthly or quarterly and also set the cash availability monthly. This cash availability can be replenished periodically. It displays the suppliers who are participating at any given time. Screenshots of software pertaining to the suppliers show that each invoice is shown with original due date, invoice amount, discount offered and how many days it was paid earlier than due date.

4.2 From the various submissions, it is seen that the Applicant intends to enter into an agreement with C2FO for setting up an interactive automated data exchange which can be installed for data interaction relating to sale & purchase of goods and services between them and their Suppliers. Both the Supplier and Recipient of goods or services should register on the platform provided by C2FO. From the transactions envisaged in the platform, it is seen that a schedule is to be defined, based on which approved open invoices and supplier data is picked for offering the same for discounting by the supplier and if agreed by the supplier, the discounted invoices are placed for early payment. It is observed that by registering in the platform, the supplier is agreeable to offer certain discount in return for an early payment and the discount offer can either be as APR (Annual Percentage Rate) or flat discount pre-fixed. Based on the discounted invoice the applicant pays

the supplier. The supplier on raising the invoice (undiscounted price), pays the applicable GST. The Applicant on receipt of the goods/services and the invoice avails the tax paid by the supplier as credit and thereafter when such invoice is staged for discount against early payment in the C2FO platform and the price is discounted, only the discounted amount is paid by the applicant to his suppliers and not the amount indicated in the invoice. The Applicant claims that there is no need on their part to reverse the Input Tax credit availed by them in proportion to the discount in the invoice price. The Applicant has sought ruling only on whether proportionate ITC is to be reversed. The Applicant has stated that the discount in price which is offered through the platform is not captured in the Purchase order/agreement. The question before us relates to admissibility of the ITC to the extent of the undiscounted value or of the value after discount and requirement of reversal of proportionate credit.

4.2 The eligibility to Input Tax Credit is governed under Section 16 of CGST Act 2017/TNGST Act 2017. The relevant provisions are given under for ease of reference:

Section 9 of CGST Act

9. (1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

Section 12 of CGST Act states:

12. (1) The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section.

(2) The time of supply of goods shall be the earlier of the following dates, namely:—

(a) the date of issue of invoice by the supplier or the last date on which he is required, under sub-section (1) of section 31, to issue the invoice with respect to the supply; or

(b) the date on which the supplier receives the payment with respect to the supply:

Section 15 (3) of CGST Act states

(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.

Section 16 of CGST Act

16. *(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.*

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

(b) he has received the goods or services or both.

Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and

(d) he has furnished the return under section 39:

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

4.3 Section 16(1) states that a registered recipient is eligible to take credit on the input tax charged on any supply of goods or services. As per Section 9(1) of the act, CGST tax is leviable on the value of supply as determined by Section 15 of the Act. Section 15 (3) states that value of supply does not include any discount which is given 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 those discounts given after the supply has been effected, if 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 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. Time of supply of goods as per Section 12 is the earlier of the following dates, namely the date of issue of invoice by the supplier or the last date on which he is required, under sub-section (1) of section 31, to issue the invoice with respect to the supply or the date on which the supplier receives the payment with respect to the supply.

4.4 In the instant case, the invoices are all raised before the payment dates, so the time of supply is the date of raising invoices. The discount is given after the invoices are raised and supply of goods is made and no discount is recorded in the invoice. Hence, Section 15 (3) (a) does not apply. All the invoices are uploaded by the supplier in the C2FO software after they are raised. Based on various parameters such as desired annual percentage discount rate, cash availability set by the recipient and the varied offers of discounts made by the suppliers based on their need for an early payment, C2FO software optimizes the dates of early payment for each invoice and determines the final discounted transaction value of

a particular invoice. The C2FO platform is a marketplace model where both the Applicant/recipient and his suppliers are registered but the discounts offered are not mentioned in the supply contract between the applicant and his suppliers at the time of raising invoices or before, though the discounts are specifically linking the relevant invoices. In the event such an agreement exists indicating the discount mechanism made possible by C2FO software and the applicant reverses the input tax credit pertaining to the discount, such a discount is allowed and the value of supply would be the discounted value. However, this is not the case here and hence, Section 15 (3) (b) does not apply in the instant case. Therefore, the value of supply in such transactions is the full undiscounted value mentioned on the invoice.

4.5 Proviso to Section 16 states that where a recipient fails to pay to the supplier of goods or services or both, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, and the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon. In the instant case, the value of supply is the full undiscounted value indicated in the tax invoice and the recipient /Applicant only makes payment to the extent of invoice value less the discount thrown up by the C2FO software. As per proviso to Section 16, the recipient is entitled to avail the credit of input tax on the payment made by him alone and if any amount is not paid as per the value of supply and the recipient has availed full input tax credit, the same would be added to his output tax liability. Therefore, in the instant case, the Applicant can avail Input Tax Credit only to the extent of the invoice value less the discounts as per C2FO software. If he has availed input tax credit on the full amount, he should reverse the difference amount equal to the discount, to avoid adding to his output liability.

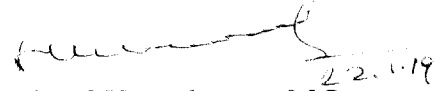
5. In view of the above, we rule as under:

RULING

As per the Provisions of Section 16 of the CGST Act 2017/TNGST Act 2017, the Applicant can avail Input Tax Credit only to the extent of the invoice value raised by the suppliers less the discounts as per C2FO software which is paid by him to the suppliers.



Ms. Manasa Gangotri Kata, IRS
Member

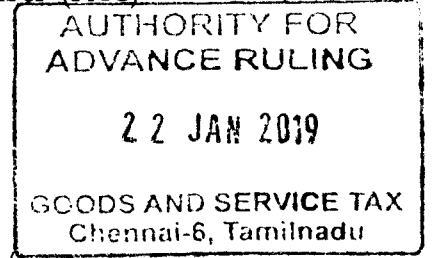


Shri. S. Vijayakumar, M.Sc.,
Member (FAC)

To

M/s. MRF Ltd,
Old No.124/ New No.114,
Greams Road, Thousand Lights,
Chennai-600006.

/ By Speed Post with Ack .Due /



Copy Submitted to:

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II Floor, Ezhilagam, Chepauk, Chennai-600 005.
2. The Principal Chief Commissioner of GST & Central Excise,
No 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.

Copy to:

3. The Commissioner of GST & C.Ex.,
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