

GOVERNMENT OF WEST BENGAL
DIRECTORATE OF COMMERCIAL TAXES
14, BELIAGHATA ROAD, KOLKATA-700015

TRADE CIRCULAR No. 52/2018 (Circular No. 73/47/2018-GST)

DATED: 22.11.2018

Subject: Scope of principal and agent relationship under Schedule I of WBGST Act, 2017 in the context of *del credere* agent.

Post issuance of Trade Circular No. 40/2018 dated 17th September, 2018, various representations have been received from the trade and industry, as well as from the field formations (i.e. jurisdictional officers) regarding the scope and ambit of principal agent relationship under GST in the context of *del credere* agent (hereinafter referred to as “DCA”). In order to clarify these issues and to ensure uniformity of implementation across field formations (i.e. jurisdictional officers), the Commissioner, in exercise of his powers conferred under section 168 (1) of the West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as “WBGST Act”) hereby clarifies the issues in succeeding paras.

2. In commercial trade parlance, a DCA is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal. The factor that differentiates a DCA from other agents is that the DCA guarantees the payment to the supplier. In such scenarios where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of the buyer (effectively providing an insurance against default by the buyer), and for this reason the commission paid to the DCA may be relatively higher than that paid to a normal agent. In order to guarantee timely payment to the supplier, the DCA can resort to various methods including extending short-term transaction-based loans to the buyer or paying the supplier himself and recovering the amount from the buyer with some interest at a later date. This loan is to be repaid by the buyer along with an interest to the DCA at a rate mutually agreed between DCA and buyer. Concerns have been expressed regarding the valuation of supplies from Principal to recipient where the payment for such supply is being discharged by the recipient through the loan provided by DCA or by the DCA himself. Issues arising out of such loan arrangement have been examined and the clarifications on the same are as below:

Sl. No.	Issue	Clarification
1	Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the WBGST Act?	As already clarified <i>vide</i> circular No. 40/2018 dated 17 th September, 2018, whether or not the DCA will fall under the ambit of agent under Para 3 of Schedule I of the WBGST Act depends on the following possible scenarios: <ul style="list-style-type: none">• In case where the invoice for supply of goods is issued by the supplier to the

		<p>customer, either himself or through DCA, the DCA does not fall under the ambit of agent.</p> <ul style="list-style-type: none"> • In case where the invoice for supply of goods is issued by the DCA in his own name, the DCA would fall under the ambit of agent.
2	<p>Whether the temporary short-term transaction based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) where DCA is not an agent under Para 3 of Schedule I of the WBGST Act?</p>	<p>In such a scenario following activities are taking place:</p> <ol style="list-style-type: none"> 1. Supply of goods from supplier (principal) to recipient; 2. Supply of agency services from DCA to the supplier or the recipient or both; 3. Supply of extension of loan services by the DCA to the recipient. <p>It is clarified that in cases where the DCA is not an agent under Para 3 of Schedule I of the WBGST Act, the temporary short-term transaction based loan being provided by DCA to the buyer is a supply of service by the DCA to the recipient on Principal to Principal basis and is an independent supply.</p> <p>Therefore, the interest being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier. It may be noted that vide notification No. 1135-F.T. dated 28th June, 2017 (Sl. No. 27), services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) has been exempted.</p>
3.	<p>Where DCA is an agent under Para 3 of Schedule I of the WBGST Act and makes payment to the principal on behalf of the buyer and charges interest to the buyer for delayed payment along with the value of goods being supplied, whether the interest will form a part of the value of supply of goods also or not?</p>	<p>In such a scenario following activities are taking place:</p> <ol style="list-style-type: none"> 1. Supply of goods by the supplier (principal) to the DCA; 2. Further supply of goods by the DCA to the recipient; 3. Supply of agency services by the DCA to the supplier or the recipient or both; 4. Extension of credit by the DCA to the recipient. <p>It is clarified that in cases where the DCA is an agent under Para 3 of Schedule I of the WBGST Act, the temporary short-term transaction based credit being provided by</p>

	<p>DCA to the buyer no longer retains its character of an independent supply and is subsumed in the supply of the goods by the DCA to the recipient. It is emphasised that the activity of extension of credit by the DCA to the recipient would not be considered as a separate supply as it is in the context of the supply of goods made by the DCA to the recipient.</p> <p>It is further clarified that the value of the interest charged for such credit would be required to be included in the value of supply of goods by DCA to the recipient as per clause (d) of sub-section (2) of section 15 of the CGST Act.</p>
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3. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Commissioner.
4. This Trade Circular shall be deemed to have come into force from 05.11.2018.

Sd/-
(Smaraki Mahapatra)
Commissioner, State Tax,
West Bengal

Memo. - 479 CT/PRO
3C/PRO/2018

Date: 22.11.2018

Copy forwarded to the Additional CST/ISD for information and for uploading it on the official website of the Directorate for information of all concerned.

Sd/-
(Adesh Kumar)
Special CST & PRO