MAHARASHTRA AUTHORITY FOR ADVANCE RULING

GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.

(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Shri. Dipak Gojamgunde, Joint Commissioner of State Tax, (Member)

(2) Smt. Himani Dhamija, Joint Commissioner of Central Tax, (Member)

ARN No.		**AD270921001391G**
GSTIN Number, if any/ User-id		**27AACCG9397F1Z6**
Legal Name of Applicant		**M/s Goldmedal Electricals Pvt. Ltd.**
Registered Address/Address provided while obtaining user id		Building No.2, Shripall Industrial Estate, Vallv Road, Valliv, Vashi East, Palghar, Maharashtra 401208.
Details of application		GST-ARA, Application No. 37 Dated 21.09.2021
Concerned officer		**Deputy Commissioner of State Tax, Vasai-503, Thane Rural Nodal-1, Bhayandar.**
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	**Wholesale Business, Retail Business**
B	Description (in brief)	The applicant is engaged in the business of supply of various electrical goods such as switches etc.
Issue/s on which advance ruling required		(iv) admissibility of input tax credit of tax paid or deemed to have been paid. (v) determination of the liability to pay tax on any goods or services or both.
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.

PROCEEDINGS

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 37/2021-22/B-151 Mumbai, dt. 28.09.2026

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act" respectively] by **M/s Goldmedal Electricals Pvt. Ltd.,** the applicant, seeking an advance ruling in respect of the following questions.

(1) Whether the applicant is required to pay GST in which goods are supplied from e-Mall (An App known as 'Dhan Barse' App made by Applicant for redeeming reward points)?

(2) Whether the application is eligible to avail ITC in respect of tax charged by supplier while purchasing said goods which are subsequently supplied from e-Mall?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act. During the course of proceedings, the applicant has redrafted the question No. 1 as follow.

Q.1 Whether Applicant is liable to discharge GST on supply of reward goods, such as Mobile, Refrigerator, Television Set, etc., to dealers/retailers against redemption of points availed on fulfillment of target in terms of Dhan Barse Scheme?

1. FACTS AND CONTENTION – AS PER THE APPLICANT FACTS:

1.1 M/s. Gold Medal Electricals Private Limited (hereinafter referred to as 'the Applicant') are engaged in the business of supply of various electronic items such as switches etc. Applicant is having GST registration No. **27AACCG9397F1Z6A**.

1.2 Applicant is also known in the industry for reaching out to its Dealers, Retailers, Electricians and Counter Boys to build better, stronger and lasting relationships.

1.3 Applicant has launched a scheme in the name of "Dhan Barse Scheme" to make connections with each of these partners truly unbreakable.

1.4 Under the said scheme every time dealer purchase goods from Applicant, dealer will receive Retailer Reward Points (RRP) from the company. This gets converted

to Dealer Reward Points (DRP) when dealer transfer the RRPs to retailers. This strengthens the relationship between dealer and retailers.

1.5 Dealer can use the Dealer points to purchase a variety of items on the Dhan Barse Reward Store.

1.6 Step by step said scheme can be explained as under:

- Dealer and Retailers need to download the Dhan Barse app from Google Play or the App Store.
- After downloading the Dhan Barse App, dealer and retailer would login using their CIN (assigned by Applicant) and the OTP sent to them by SMS on the mobile number registered with Applicant.
- Every time dealer purchase any Applicant products worth Rs. 1,000 (invoice value), he will get 1 Retailer Reward Point (RRP) credited to his Dhan Barse app within 48 hours. These points have to be transferred to retailers when they purchase Applicant products from dealer.
- Retailers will receive 1 point from dealer for every Rs. 1,000 (invoice value) worth of purchase. Minimum bill raised by dealer should be Rs. 5,000. Any return of goods will lead to equivalent RRPs being deducted from dealers account.
- Once dealer transfer RRPs to a retailer, dealer will receive the same number of Dealer Reward Points (DRPs) in their account. Dealer can also revoke the RRPs which dealer gave a retailer within a period of three months in case of return of goods by the retailer or any other dispute.
- Dealer also have an option to transfer the RRPs to Applicant, in which case dealer will receive 0.25 DRPs for every 1 RRP transferred. Dealer cannot transfer more than 30% of RRPs to a single retailer.
- The Dealer Reward Points that dealer receive in his Dhan Barse app can be used to redeem any product available in the Dhan Barse Reward store (E-Mall).

- Dealer can use DRPs to buy goods from the Rewards Store in the Dhan Barse App (E-Mall) within 18 months of receipt.

  Copies of brochure of Dhan Barse scheme are collectively enclosed with this application.

1.7 The goods which are listed on the rewards stores in the Dhan Barse App are purchased by the applicant from various suppliers on which GST is charged by supplier.

1.8 In light of the above, the Applicant wants to know whether applicant is liable to discharge GST while making outward supply of goods to dealers/retailers against redemption of points from the rewards store in the Dhan Barse App and whether the applicant is duly eligible to take full credit of GST charged in Tax Invoice issued by suppliers of said products. Accordingly, the Applicant has approached the Authority for Advanced Ruling to seek ruling from the Authority on the following questions:

- Whether applicant is liable to discharge GST while making supply of goods to dealers/retailers against redemption of points from the rewards store in the Dhan Barse App (E-Mall).
- Whether the applicant is duly eligible to take full credit of GST charged in Tax Invoice issued by such supplier and GST was paid by supplier to government.

2. STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW

2.1 It is submitted that GST is payable only when assessee is making supply under CGST Act. Thus, taxable event is supply. In absence of supply, GST would not be applicable. For ease of reference, definition of Supply u/s 7 is extracted and re-produced. Section 7(1) of the CGST Act, 2017, reads as under:

"7. Scope of supply. - (1) For the purposes of this Act, the expression "supply" includes -

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business

(b) ….

(c) ….

2.2 The above definition of supply clearly states that the term "supply" includes all forms of supply of goods or services or both made for a consideration by a person in the course or furtherance of business.

2.3 It is submitted that the phrase in course or furtherance of business is a very vide term and has not been defined in the CGST Act, 2017.

2.4 Further to Qualify a supply, there has to be consideration. In other words, in absence of consideration, there cannot be supply under GST.

2.5 In the present case, applicant procures goods from the supplier, and makes such goods available on E-Mall. Later on, such goods were supply to different Dealers, Retailers, Customers, etc. on the basis of redemption of accumulated reward points i.e. DRP's or RRP's on Dhan Barse Reward store (E-Mall) on account of such dealer or retailer.

Redemption of rewards points towards supply of goods from reward store is not consideration.

2.6 It is submitted that to qualify as supply under GST, the said activity must be for consideration. Clause (31) of Section 2 of the CGST Act, 2017 defines the term "consideration" which is as under:

"*(31) "consideration" in relation to the supply of goods* or *services or both includes -*

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or *a State Government.*"

2.7 In view of the above submission, it is submitted that the rewards points which are redeemed against the goods supplied from Dhan Barse Reward store (E Mall) would not be counted as consideration, as it does not have any monetary value.

2.8 For such supply of goods through E-Mall, applicant is neither generating/issuing any Tax Invoice, nor realizing any consideration, in monetary form, from the dealer or retailer or customer, against the subject goods. Applicant is only raising Delivery challan for transfer of title to the goods to the recipient.

Illustrative copy of such Delivery Challan, Courier Receipt, Delivery Status, along with snapshots of Dhan Barse App for redemption of points, for supply of goods through E-Mall is enclosed with this application.

2.9 Thus, in absence of any monetary consideration or otherwise, the supply of subject goods to retailers or dealers from Dhan Barse Reward Store (E-Mall) would not be treated as "Supply" under GST in terms of Section 7 of CGST Act, 2017, and therefore, applicant is not liable to discharge any GST Liability on supply of said goods through reward store (E-Mall) against redemption of Reward Points from the application of store.

2.10 Section 16 of CGST Act, 2017, which deals with eligibility to avail credit of Input Tax paid by the recipient of goods or services, on inward supplies, with the fulfilment of below mentioned conditions 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 : (emphasis supplied)*

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.*

2.11 The applicant relied on following judgments, which are discussed in observation and discussion part.

1. Barendra Prasad Ray v. Income Tax Officer, AIR 1981 SC 1047

2. Arvinder Singh v. Lal Pathlabs (P) Ltd. MANU/DE/0936/2015, the Division Bench of Delhi High Court.
3. State of Karnataka v. Shreyas Paper Put. Ltd. Hon'ble Supreme Court (Appeal (civil) 3170-3173 of 2000 decided on 5th January 2006)
4. Magazon Dock Ltd. v. Commissioner of Income Tax and Excess Profits Tax - AIR 1958 SC 861, the Hon'ble Supreme Court.
5. Narain Swadeshi Weaving Mills v. Commissioner of Excess Profits Tax –1955 1 SCR 952, Hon. Supreme Court.
6. Coca Cola India (P) Ltd. v. CC*E* - MANU/MH/*0*784/2009 Hon. Bombay High Court
7. S. Mohanlal v. R. Kondiah, AIR 1981 SC 1047, Hon. Supreme Court
8. State of Maharashtra vs. Dr. Praful B. Desai (2003) 4 SCC 601. Hon. Supreme Court.
9. CCE vs. Ultratech Cements Limited. MANU/MH/1408/2010 Hon. Bombay High Court

2.12 The meaning of *furtherance*', as per Black's Law Dictionary, 6th Edition, 11th reprint, 1997, is "act of furthering, help forward, promotion, advancement or progress". *Furtherance of business will, thus mean, act of furthering business, helping forward business, promotion of business, advancement of business or progress of business*. Therefore, if a service provider is renting the property in the course of or for furtherance of business or commerce, it will amount to an activity in favour of service recipient for helping forward business, promotion of business, advancement of business and progress of business.

Conditions to Avail ITC in terms of Section 16(2) of CGST Act, 2017, are dully fulfilled by applicant.

2.13 The applicant has procured various goods/inputs which is later on made available on E-Mall for further supply on redemption of reward points.

Illustrative copy of Purchase Order, Tax Invoice, Lorry Receipt, GRN, E-Way Bill, GSTR-2A (reflecting the respective supply), and Payment Voucher/Bank

Statements (reflecting the payment made for respective supply) are collectively enclosed with this application.

Further illustrative copy of GST Returns i.e. GSTR-1 and GSTR-3B filed by the applicant are also enclosed with this application.

2.14 Therefore, in view of the foregoing paras, and based on the facts and legal submission, the goods purchased by applicant which is made available on E Mall is related to business. The said activity is also in the course or furtherance of business. Therefore the input tax credit of GST Charged by the supplier for the said purchase of goods/inputs shall be available to the applicant in the present case.

2.15 Further, based on the documents enclosed in Annexure-D & Annexure-E, it is submitted that all the conditions stipulated in Section 16(2) of CGST Act, 2017 has been duly satisfied, such as

- Applicant is in possession of all the Tax Invoices for the supplies procured from the different suppliers,
- Applicant has duly received the goods for aforesaid supplies received.
- Supplier has paid the applicable Tax and also all the aforesaid supplies were duly reflected in GST Return in FORM GSTR-2A, it means supplier has duly furnished the respective supplies in FORM GSTR-1, made to the applicant
- Applicant has regularly furnished the GST Return under section 39 and also made the payment of tax and taxable value as per tax invoice raised by the suppliers.

Therefore, from the above submission of facts and legal position, it is clear that the applicant has duly complied with the provisions contained in Section 16(2) *ibid,* and therefore, applicant is duly eligible to avail Input tax credit of GST paid for the goods procured from the supplier and made available on E-Mall.

Supply of goods on E-Mall is as good as promotional or advertising activities.

2.16 The act of supplying goods to the dealer, electricians etc. on redemption of reward points is similar to an activity of promotion or advertisement of brand of company. Further, when a company makes a supply without consideration, then the cost of such product, which is supplied, is always has taken into account by the company in fixing price of the rest of supplies.

2.17 Thus, the business is not bearing any loss due to such supply, and indirectly the government will also get GST even on the value of free supplies, and therefore there is no revenue loss to the government as well.

2.18 Further, if the business promotion and advertisement expenses are not specifically excluded from the eligible credit, and are considered as 'in the course or furtherance of business', then in view of the instant case, same treatment is also available to goods supplied through E-Mall against the rewards points, which has been earned by such dealer, wholesaler, etc. on achieving a particular target as per the scheme.

2.19 Further, as per the scheme of Dhan Barse, retailer/dealer, etc. get promotional items based on the rewards points earned on the basis of products of company sold by such retailer or dealer. Thus, they have earned such reward points on the basis of target sales achieved by them.

2.20 On the basis of target sale, such dealer or retailer gets a product on redemption of rewards points earned, and therefore such product could not be considered as 'gift' as the said product is given under the contractual obligations under the scheme which was accepted by such retailer or dealer, and then the product is supplied to them. It is a consideration for achieving a particular target sale and hence, input tax credit on purchase of said product should be available to the applicant. Further, the said expenditure is incurred in furtherance of business so as to increase the overall sales of the company.

2.21 Further, reliance has been placed on the decision of Hon'ble first tier tax tribunal in United Kingdom in the case of 'Marks & Spencer PLC', wherein under an offer

M&S was providing "free wine for dine" in 10 pounds. The tribunal held that when a commercial common sense approach' is adopted, the term 'free' was being used in a marketing sense, but the economic and commercial reality of the offer was that M&S was offering a package of four items for 10 pounds, so the price must be allocated across all four items for VAT purposes.

2.22 In the instant case, applicant is supplying goods through E-Mall on the redemption of rewards points earned by the retailer or dealer. Such reward is given on achieving on particular target sale, under the scheme, and thus being a promotional & advertising activity, ITC would be available to the applicant.

Circular bearing No. 92/11/2019-GST dated 07th March 2019, issued for clarifying various doubts related to sale promotion schemes.

2.23 CBIC vide Circular No. 92/11/2019-GST dated 07-03-2019, has issued clarification in respect to various doubts related to treatment of sales promotion schemes under GST. This circular is discussed in the para no. 5.22.

2.24 In the said circular, at Para B, under offer "Buy one get one free", it has been clarified that -

> "As *per sub-clause (a) of sub-section (1) of section 7 of the said Act, the goods or services which are supplied free of cost (without any consideration) shall not be treated as supply" under GST* (e*xcept in case of activities mentioned in Schedule I of the said Act). It may appear at first glance that in case of offers like ,,Buy One, Get One Free", one item is being supplied free of cost" without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one. (ii) Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act. (iii) 'It is also clarified that ITC shall be available to the supplier for the inputs,*

input services and capital goods used in relation to supply of goods or services or both as part of such offers."

2.25 Further, in the said circular, at Para C, under offer "Buy more, save more".

"*discounts offered by the suppliers to customers (including staggered discount under, Buy more, save more" scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in sub-section (3) of section 15 of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.*

iv. It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts."

2.26 From the above paras, the intent of the legislature is clear to allow the supplier to avail ITC for the goods offered for free or at discounts, as the price of such product, supplied for free, is already included in the single price charged for the product on which amount is charged.

2.27 In the instant case, applicant has run Dhan Barse Scheme through an App as an incentive to their retailer or dealers, which is on similar if not identical lines. Instead of giving any cash discount or offering any product for free with any other product, applicant has choose to provide incentive to their retailer or dealer through a reward scheme, being more attractive and lucrative, which offers rewards points against the purchases made by them.

2.28 At the time of redemption of rewards points, retailer or dealer can choose any product from the catalogue annexed to the application. It is completely a choice of the respective retailer or dealer to choose any items available on the app.

2.29 Further, at time of login on the login page of Dhan Barse App of the applicant, a check box of "Privacy and Terms & Conditions" appears, which have to be accepted before they get access to the app. Such Privacy and Terms & Conditions

can be accessed at full by the respective user by clicking on such link of Terms & Conditions (marked Bold on the page).

Snapshot of Login Page of the App and of Terms & Conditions, are collectively enclosed with this application.

2.30 Such, acceptance of terms and conditions on the first page of the app creates a contractual obligation between the user of the app and the applicant herein. Such acceptance also enable either party to take a recourse to a civil suit or action for specific performance of contract on failure to adhere to the terms & conditions.

2.31 Therefore, in light of the above submission, it is contended that the articles or products given under the scheme of Dhan Barse, by the applicant, are in the course or furtherance of business and not in the manner of gift. Thus, the applicant humbly submits that they would be eligible to input tax credit of GST paid on expenses incurred towards promotional schemes of Dhan Barse Programme, in terms of section 16(1) of CGST Act, 2017 and same will not hit by the bar of Section 17(5)(h) of CGST Act, 2017.

2.32 Further, copy of GST Challan of payment of Rs. 5,000/- under head CGST-Fees and Rs. 5,000/- under head SGST-Fees, is enclosed as "Annexure-H".

2.33 Further, we request the authority to kindly provide the opportunity of being heard before passing any ruling on the questions on which advance ruling is sought by the applicant.

3.CONTENTION – AS PER THE JURIDICTIONAL OFFICER:

The department's response to the application filed by the applicant is submitted as follows:

Que: 1) Whether the applicant is required to pay GST while goods are supplied from E-mall?

Ans: - No, goods supplied by the applicant from e mall are supplied without consideration hence there is no supply as per section 7 of CGST Act 2017.

Que: 2) Whether the applicant is eligible to avail ITC in respect of tax charged by supplier while purchasing said goods which are subsequently supplied from e -mall?

Ans: -As per Section 17(5) of CGST Act 2017 ITC is not available on such purchases.

Section 17. Apportionment of credit and blocked credits. –

5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18. input tax credit shall not be available in respect of the following, namel namely:-

[(a)

……

……

……

(1) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples.

4. HEARING

Preliminary hearing in the matter was held on 25.01.2022. Smt. Madhu Jain (Advocate) appeared and requested for admission of the application. The jurisdictional Officer was absent. The application was admitted subject to redrafting of Question No.1.

The application was admitted as the applicant has redrafted the Question No. 1 vide his letter dated 02.02.2022 and called for final hearing on 24.09.2025. Smt. Madhu Jain (Advocate)., authorized representative, appeared made oral and written submissions. The Jurisdictional Officer Shri. Rajesh Vishe (Deputy Commissioner of State Tax) was present. Case is heard.

5. OBSEVATIONS AND DISCUSSION

5.1 We have gone through the written and oral submissions made by the applicant M/s. Goldmedal Electricals Pvt. Ltd (hereinafter referred to as 'Applicant') and the jurisdictional officer in connection with the questions asked.

5.2 The Applicant has submitted that it is a company having its registered office at Building No.2, Shripal Industrial Estate, Valliv Road, Valliv, Maharashtra, Palghar-401208 and having correspondence address of A-302/303, Kemp Plaza, Mind Space, Chincholi Bunder, Link Road, Malad (West), Mumbai, Maharashtra-400064. Applicant is registered under Goods and Service Tax Act with GSTIN 27AACCG9397F1Z6A. The applicant is manufacturer of electrical products such as modular switches, wires, wiring devices, LED lights, appliances etc.

5.3 We find from the facts mentioned in the application, that the applicant has launched a scheme named as 'Dhan Barse scheme'. Under the said scheme, every time a dealer purchases goods from the applicant, dealer receives Retailer Reward Points (RRP) from the company. According to the applicant, this gets converted to Dealer Reward Points (DRP) when dealer transfers the RRPs to retailers. Dealer can use the Dealer points to purchase variety of items on the Dhan Barse Reward Store.

5.4 The applicant has explained the said 'Dhan Barse Scheme'step by step at Para 1.6 above.

5.5 The goods which are listed on the rewards stores in the Dhan Barse App are purchased by the applicant from various suppliers on which GST is charged by them.

5.6 In light of the above facts, the Applicant wants to know whether he is liable to discharge GST while making outward transfer of reward goods to dealers/retailers against redemption of points from the rewards store in the Dhan Barse App and whether the applicant is duly eligible to take full credit of GST charged in the tax Invoices issued by the suppliers of said products.

5.7 The applicant has submitted that he procures goods from the suppliers, and makes such goods available on E-Mall, an app of the applicant. Later on, such goods are supplied to different dealers, retailers on the basis of redemption of accumulated

reward points i.e. DRP's or RRP's on Dhan Barse Reward store (E-Mall) in the account of such dealer or retailer.

5.8 The applicant has contended that the reward points which are redeemed against the goods supplied from Dhan Barse Reward store (E Mall) would not be counted as consideration, as it does not have any monetary value. For such supply of goods through E-Mall, applicant is neither generating/issuing any tax invoice, nor realizing any consideration, in monetary form, from the dealer or retailer against the said goods. Applicant is only raising delivery challan for transfer of title to the goods to the recipient.

5.9 The applicant has referred to the term 'consideration' and contended that, to qualify as a supply under GST, the said activity must be for consideration. According to the applicant, in the absence of any monetary consideration or otherwise, the supply of subject goods to retailers or dealers from Dhan Barse Reward Store (E-Mall) would not be treated as "supply" under GST in terms of Section 7 of CGST Act, 2017, and therefore, applicant is not liable to discharge any GST Liability on supply of said goods through reward store (E-Mall) against redemption of reward points.

5.10 The present application is in respect of a sales promotional scheme known as "Dhan Barse" for their dealers, retailers, electricians and counter boys to build better, stronger and lasting relationships. The dealers, retailers who purchase products from applicant become entitled to get reward points based on the amount of purchases made by them. The applicant procures promotional goods from various suppliers, and displays such goods on E-Mall, an App of the applicant. Then, such goods are supplied to different dealers, retailers, customers, etc. on the basis of redemption of accumulated reward points i.e. DRP's or RRP's on Dhan Barse Reward store (E-Mall) in the account of such dealers or retailers. It is seen from the submission, that the said scheme is not mandatory, rather it is left to the discretion of dealers, retailers to participate in the scheme.

5.11 It is seen that, the applicant procures the goods such as car, motorcycles, refrigerator, and mobile phones for transferring them against redemption of reward points. It is submitted that this redemption is without consideration.

The scheme launched is to promote sale of company's products. The promotional goods as mentioned above are given as gifts to the dealers, retailers and others as a incentive for the goods procured by them. The reward points earned by dealers, retailers and others can be used by them to get certain products like motorcycle, refrigerator etc. This is done on Dhan Barse App maintained by the applicant. As per the requirement of the promotional goods that are to be transferred against redemption of points on this app, the applicant purchases these goods from the market in his name and then dispatches them to the persons who have redeemed points. This transfer of promotional goods cannot be said to be supply as it is not against any consideration. The reward points held by the dealers, retailers or others are not in the nature of any actionable claim but it is just a mechanism created to identify the persons who can be rewarded with the gifts commensurate to their purchases. The holding of reward points is not in the nature any actionable claim against the applicant on account of following terms of the scheme.

1. The company will not be liable for compensation, reimbursement, or damages in connection with your use of the services or any termination or suspension of services.
2. The rewards for this scheme will change from time to time with or without notice.
3. The applicant will not be liable for any consequences, directly or indirectly.
4. In case of any dispute, the decision by the applicant will be final and binding in all respects.

Thus, this supply of promotional goods against redemption of reward points, cannot be said to be against any actionable claim or extinguishment of such claim against the applicant. As there is not monetary or valuable consideration in the

transaction of supply of promotional goods, these transactions cannot be considered as supply u/s. 7 of MGST Act.

5.12 The applicant has further submitted that the said goods procured for redemption are inputs for them and GST levied for such purchases qualifies as input tax credit as per the provisions of section 16(1) of the CGST Act.

5.13 We find that the provisions of ITC are governed by Sections 16 and 17 of the CGST Act, 2017. As per Section 16, a taxpayer is entitled to take credit of input tax charged on any supply of goods or services to him which are used in the course or furtherance of his business. Section 17 (5) of the CGST Act deals with blocked credits and begins with a non obstante clause, which means even if Section 16 (1) allows ITC, Section 17(5) shall block the same in respect of certain eventualities. Clause (h) of Section 17(5) deals with ITC on gifts and as per Section 17(5)(h), "Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples". Under the GST law, the intention of denial of ITC is envisaged in situations where there is no tax on output supply.

5.14 We will, therefore, discuss whether the goods for redemption in the subject case can be treated as a gift. The word 'gift' has not been defined in the CGST Act. The Gift-Tax Act (18 of 1858) has defined the word 'gift' to mean transfer by one person to another of any existing movable or immovable property voluntarily and without consideration in money or money's worth. It is seen from the definition that the transfer i.e. the gift given in such a case has to be voluntary. The applicant has submitted that, on the basis of purchases made, each dealer or retailer gets certain reward points. These reward points can be redeemed to get a product. However, no contract is signed with the dealers, retailers and others, that would lead to a contractual obligation. Such contractual obligation can be said to exist only when it bestows upon the dealers, retailers and others an actionable claim. However, no contract signed by the two parties is in place. Rather, a scheme has been issued whose terms are designed completely at the behest of the applicant. The nature of

the scheme is completely in the form of 'Incentivisation', more like a reward or a gift. We find that the goods are not given to their customers under any contractual obligation but are voluntarily given on fulfilment of certain criteria by their customers. Such criteria is solely decided by the applicant. The mechanism of linking quantum of reward points to the extent of purchases is just a incentive scheme for promoting sales and brand loyalty. The products given are not out of obligation but as rewards for this loyalty. Thus, they are clearly in the nature of 'gift'. A 'gift' is normally seen as an enticement to customers as in the subject case which would bear heavily on the customers mind while making purchases of quantities and value.

5.15 In the case of M/s. Ars Steel and Alloys International Pvt. Ltd. Hon'ble Madras High Court in its order dated 24.10.2024 (2024-VIL-1319-MAD) has held that,

"Be that as it may, since the provisions of the respective GST enactments are clear in terms of Section17 (5)(h) of the Act, the petitioner was not entitled to avail the input tax credit on T-Shirts and Gold Coins purchased for Sales Promotional Activity."

It means that goods purchased for promotional activities are subject to the restrictions outlined in Section 17(5) (h) of the CGST Act. The said provision applies to goods that are disposed of by way of gift or free samples.

Further in the case of M/s. Biostadt India Limited, Maharashtra Authority for Advance Ruling GST-ARA-72/2018-19/B-165 dated 20.12.2018 has made detailed and elaborate observation on the issue of "input tax credit on promotional goods" and concluded that,

'ITC on "gifts" will not be available when no GST is being paid on their disposal. Just because the applicants submits that they have satisfied Section 16(1) of the CGST Act 2017 does not mean that they are entitled to credit since Section 17(5) starts with "Notwithstanding anything contained in sub-section 1 of the Section 16….". The implication is that in the subject case even if it seems, as per the applicant, that Section 16(1) is applicable in their case allow them credit, Section 17(5) shall block such credit.'

The above Maharashtra AAR is squarely applicable to the present case.

5.16 The applicant has submitted that, CBIC vide Circular No. 92/11/2019-GST dated 07-03-2019, has issued clarification in respect to various doubts related to treatment of sales promotion schemes under GST, it has been clarified that –

In the said circular, at Para B, under offer "Buy one get one free", it has been clarified that -

> "As *per sub-clause (a) of sub-section (1) of section 7 of the said Act, the goods or services which are supplied free of cost (without any consideration) shall not be treated as supply" under GST* (except *in case of activities mentioned in Schedule I of the said Act). It may appear at first glance that in case of offers like ,,Buy One, Get One Free", one item is being supplied free of cost" without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one. (ii) Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act. (iii) 'It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers."*

Further, in the said circular, at Para C, under offer "Buy more, save more".

> "*discounts offered by the suppliers to customers (including staggered discount under, Buy more, save more" scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in sub-section (3) of section 15 of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.*
>
> *iv. It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of*

goods or services or both on such discounts."

It is contended by the applicant that, from the above paras, the intent of the legislature is to allow the supplier to avail ITC for the goods offered for free or at discounts, as the price of such product, supplied for free, is already included in the single price charged for the product on which amount is charged.

5.17 It is seen from the above circular, the situation mentioned at para (B) of the above-mentioned Circular, where offers like "Buy One, Get One Free", one item is being supplied free of cost without any consideration. In this situation, a view is taken that when same commodities are being given, one as a free for other, the price charged is actually for both the articles. It is clearly stated that it is not an individual supply of free goods but a case of two or more individual supplies for a single price. In the present case the applicant is supplier of electrical goods i.e. switches, but procures the goods for redemption such as car, motorcycles, refrigerator, and mobile phones for redemption of reward points. Therefore, the said instructions will not be applicable in the present case.

Further, the situation mentioned at para (C) of the above said circular is about the situations where post sale discounts are offered. The issue clarified is about applicability of discounts while determine sale price. As the supply of all the goods is taking place, it was clarified that ITC would be available. The said clarification is not applicable here as here the issue is regarding ITC in respect of articles that are given as gifts.

Hence, the promotional goods that are transferred by the applicant to various persons against redemption of points under 'Dhan Barse Scheme' of the applicant, are 'gifts' and are covered by section 17(5)(h) of GST Act and not eligible for input tax credit.

5.18 The applicant has quoted various judgments as mentioned in his submission in support of his contention. The decisions relied upon by the applicant have facts and provisions of law applied to those facts different than the facts of this case and their applicability under GST law.

6. In view of the extensive deliberations as held herein above, we pass an order as follows:

ORDER

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

For reasons as discussed in the body of the order, the questions are answered thus –

Q 1: -Whether Applicant is liable to discharge GST on transfer of reward goods, such as mobile, refrigerator, television etc., to the dealers, retailers and others against redemption of points in the Dhan Barse Scheme?

Answer: - Answered in the Negative.

Q 2: Whether the applicant is eligible to avail ITC in respect of tax charged by the suppliers while purchasing said promotional goods which are subsequently supplied from e-Mall, an app of the applicant?

Answer: - The applicant is not eligible to avail ITC of tax charged by the suppliers, while purchasing promotional goods that are given as rewards.

D.P. GOJAMGUNDE
(MEMBER)

HIMANI DHAMIJA
(MEMBER)

PLACE - Mumbai
DATE -
Copy to:-
1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Pr. Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint commissioner of State Tax, Mahavikas for Website.

Note:-An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on **gst.gov.in** for online appeal application against order passed by Advance Ruling Authority.