

VATR 54 (Govt Gazette No.95 of 29 September 2012)

Facts

R Ltd, referred to as the company, operates a hypermarket and sells consumables which it purchases both locally and from foreign suppliers. All the trading agreements with the vendors / suppliers are embodied in a contract with the company and as part of this agreement the company negotiates certain terms of trade which is of an agreed percentage of the total supplies' value excluding VAT. The terms are as follows:

Incentive Discount

This discount is pre-agreed with the suppliers and is available on certain goods purchased and is based on the volume of goods purchased. It is commonly referred to as an incentive given to a purchaser to buy more. The suppliers do not show it on their invoice, but instead the company sends an invoice to claim the discount. It is a fixed percentage on total purchases exclusive of VAT for a particular period.

Settlement Discount

This is a cash discount on settlement of amounts due and is a term of payment.

Advertising

Some vendors' products are published in the company's brochures and as part of this arrangement, vendors have to pay for this service.

Category Management

Some vendors are allowed to occupy certain particular shelf space in the shop and they pay a fee for this.

Swell Allowance

This is a compensation that the company receives for lost sales due to expiry of goods or damaged products.

Points at issue

1. Whether Incentive Discount is subject to VAT, if any, under Section 9 (1) of the VAT Act depending on whether the product carries VAT at 15%, 0% or if it is exempt? If there is no VAT implication, should the invoice for the Incentive Discount be reported on the VAT return and how?

2. Whether Settlement Discount is vatable?
3. Whether Advertising is vatable?
4. Whether Category Management Fee is vatable?
5. Whether Swell Allowance is vatable?

Rulings

On the basis of the information provided, the VAT treatment for the items mentioned in the application is as follows:

1. Incentive Discount

The Incentive Discount does not constitute a supply in accordance with Section 4 of the VAT Act and is therefore not subject to VAT. Hence, the company is not required to report the incentive discount invoiced in its VAT returns.

2. Settlement Discount

Cash Discount received for early settlement of amounts due is not a consideration in return for a supply and is therefore not subject to VAT.

3. Advertising

The publishing of suppliers' products in the company's brochures constitute a supply of service in accordance with Section 4(2) of the VAT Act and the payments received are therefore subject to VAT at the standard rate of 15%.

4. Category Management Fee

The occupation of shelf space by suppliers for their products in shops is a taxable supply of services by owners of shops in accordance with Section 4(2) of the VAT Act. The supply is subject to VAT at the standard rate of 15% irrespective of whether the product is taxable or exempt.

5. Swell Allowance

Swell allowance, which is an allowance received for lost sales due to expired or damaged goods, is a compensation rather than a supply of goods and is outside the scope of VAT. VAT is therefore not chargeable on swell allowance received in respect of taxable goods which are expired or damaged.