

## CBIC issues guidelines on the filing of Form GST TRAN-1 and TRAN-2

The Supreme Court has directed<sup>1</sup> Goods and Service Tax Network (GSTN) to open the common portal for filing Form GST TRAN-1 and TRAN-2 for availing transitional credit. Any aggrieved registered assessee can file the relevant forms or revise the already filed forms. The common portal will be kept open from 1 October 2022 to 30 November 2022. Proper officers are given ninety days after submission of the claim to verify the veracity of the claim and pass the appropriate order. Transitional credit will thereafter be reflected in Electronic Credit Ledger. In this regard, CBIC has issued a circular<sup>2</sup> laying down the guidelines for filing/revising TRAN-1 and TRAN-2.

### Gist of clarification

#### 1. One-time opportunity

- Filing or revising TRAN-1 and TRAN-2 is a one-time opportunity.
- The applicant may file a declaration in FORM GST TRAN-1/TRAN-2 or revise earlier filed TRAN-1/TRAN-2 duly signed or verified through electronic verification code on the common portal.
- A facility for downloading the TRAN-1/TRAN-2 furnished earlier will be made available on the common portal.
- No further editing will be allowed once the 'Submit' button is clicked.

#### 2. Documents to be uploaded

- The declaration in the format annexed to the circular is to be uploaded while filing or revising TRAN-1/TRAN-2. The declaration contains affirmation that the assessee possesses all documents and other records necessary to substantiate transitional credit, among other assertions.
- Copy of TRANS-3 in terms of Notification No. 21/2017-CE(NT) dated 30 June 2017, wherever applicable, is to be uploaded by applicants claiming credit on the basis of CTD in table 7A (i.e. details of inputs held in stock or inputs contained in semi-finished or finished goods held in stock where duty paid invoices including Credit Transfer Document (CTD) are available) of FORM GST TRAN-1. Notification (supra) contains conditions and procedures for a manufacturer registered under the erstwhile Central Excise Act, 1944 to issue CTD to a person registered under CGST Act, 2017 but not under erstwhile Central Excise Act, 1944, evidencing payment of excise duty on goods held in stock.

#### 3. No transitional credit of statutory forms

No claim for transitional credit shall be filed in TRAN-1 in respect of C-Forms, F-Forms and H/I-Forms, which have been issued after 27 December 2017.

<sup>1</sup> Union of India & Anr. v. Filco Trade Centre Pvt. Ltd. & Anr. [2022-VIL-38-SC and 2022-VIL-63-SC]

<sup>2</sup> CBIC Circular No. 180/12/2022-GST dated 9 September 2022

#### 4. Option to file one consolidated TRAN-2

The applicant can file the entire claim in one consolidated TRAN-2 instead of filing the claim tax period-wise for each of the six tax periods during which the scheme was in operation.

#### 5. Submission and verification by the jurisdictional tax officer

- Within seven days of filing TRAN-1/TRAN-2 on the common portal, a self-certified copy of the same along with declaration (supra) and copy of TRANS-3, wherever applicable, is to be submitted to the jurisdictional tax officer.
- All the requisite documents and other records in support of transitional credit shall be made available to the concerned tax officer for verification.
- After the verification of the claim, the jurisdictional tax officer shall pass the appropriate order thereon on merits after granting a reasonable opportunity of being heard to the applicant.
- The transitional credit allowed as per the order will be reflected in the Electronic Credit Ledger of the applicant.

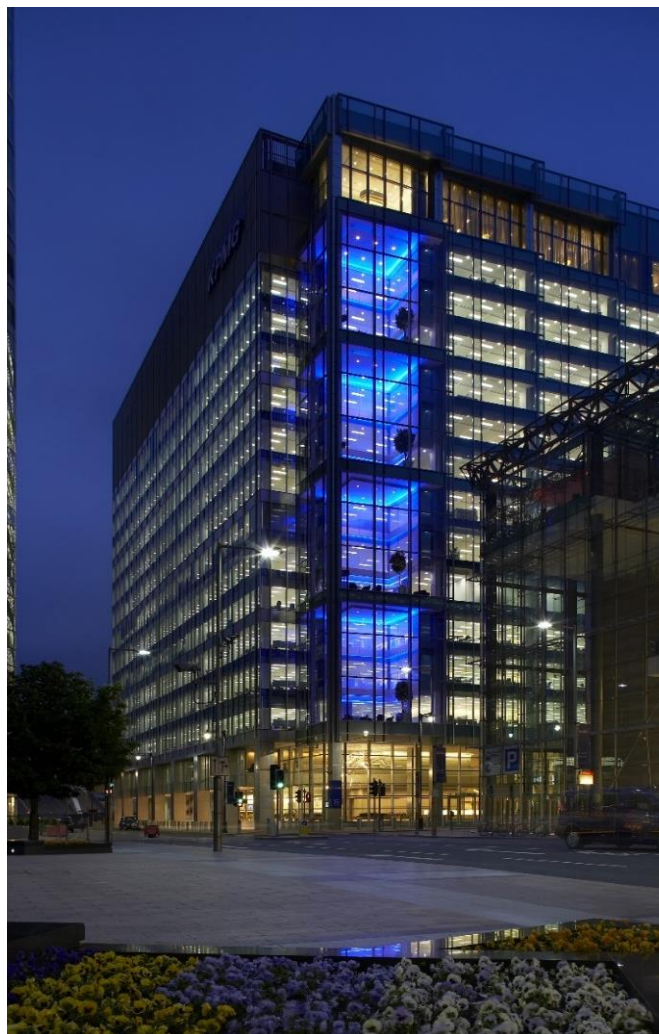
#### 6. Appropriate remedy in cases where transitional credit is rejected

- In instances in which the credit availed by the registered person on the basis of TRAN-1/TRAN-2 filed earlier has either wholly or partly been rejected by the proper officer, the appropriate remedy in such cases is to prefer an appeal against the said order or to pursue alternative remedies available as per law.
- Filing fresh TRAN-1/TRAN-2 is not the appropriate course of action.

### Our comments

This is one of the most awaited circulars in compliance with the directions of the Supreme Court, as any assessee can file or revise TRAN-1/TRAN-2.

Applicants should be cautious while filing TRAN-1 and TRAN-2 since there will be no further option to rectify the claim after clicking the 'Submit' button. Applicants should also be judicious in deciding to file or revise TRAN-1/TRAN-2 since the jurisdictional officer would assess the claim in detail.



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