

## SUBJECT

Guidelines for filing/revising TRAN-1/TRAN-2 in terms of order dated 22.07.2022 & 02.09.2022 of Hon'ble Supreme Court in the case of Union of India vs. Filco Trade Centre Pvt. Ltd. -reg.

## CIRCULAR NO:

180/12/2022-GST

## Date :

09/09/2022

The Hon'ble Supreme Court vide order dated 22.07.2022 in the matter of Union of India vs. Filco Trade Centre Pvt . Ltd. , SLP(C) No.32709 – 32710/2018 issued the following order :-

- Goods and Service Tax Network (GSTN) is directed to open common portal for filing concerned forms for availing Transitional Credit through TRAN-1 and TRAN-2 for two months i.e. w.e.f. 01.09.2022 to 31.10.2022.
- Considering the judgments of the High Courts on the then prevailing peculiar circumstances, any aggrieved registered assessee is directed to file the relevant form or revise the already filed form irrespective of whether the taxpayer has filed writ petition before the High Court or whether the case of the taxpayer has been decided by Information Technology Grievance Redressal Committee (ITGRC).
- GSTN has to ensure that there are no technical glitch during the said time.
- The concerned officers are given 90 days thereafter to verify the veracity of the claim/transitional credit and pass appropriate orders thereon on merits after granting appropriate reasonable opportunity to the parties concerned.
- Thereafter, the allowed Transitional credit is to be reflected in the Electronic Credit Ledger.

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- If required GST Council may also issue appropriate guidelines to the field formations in scrutinizing the claims. The Special Leave Petitions are disposed of accordingly. Pending applications, if any, also stand disposed of.

**Further the Hon'ble Supreme Court vide order dated 2nd September, 2022 in response to Miscellaneous Application No.1545-1546/2022 in SLP(C) No. 32709-32710/2018 has ordered as follows:-**

“The time for opening the GST Common Portal is extended for a further period of four weeks from today.”

Consequently the facility for filing TRAN-1/ TRAN-2 or revising the earlier filed TRAN-1/TRAN-2 on the common portal by an aggrieved registered assessee will be made available by GSTN during the period from 01.10.2022 to 30.11.2022.

The CBIC in exercise of powers under section 168(1) of the CGST Act, 2017 has issued clarifications as mentioned below.

**Guidelines for the applicant for filing TRAN-1/TRAN-2 or revising earlier filed TRAN-1/TRAN-2:**

- The applicant may file 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. The common portal will facilitate downloading of TRAN-1/TRAN-2 filed earlier in case of revised forms.
- The applicant is required to upload the pdf copy of a declaration in the format given in “Annexure A” of the circular on the common portal. Further the pdf copy of the TRANS -3 containing the details in terms of the Notification No. 21/2017- CE (NT) dated 30.06.2017 should also be uploaded on the common portal where credit is claimed on the basis of Credit Transfer Document (CTD) in table 7A of FORM GST TRAN-1.
- The applicant is not allowed to claim transitional credit in table 5(b) & 5(c) of FORM GST TRAN-1 in respect of such C-Forms, F-Forms and H/I-Forms issued after 27.12.2017, being the due date prescribed for submitting the declaration in FORM GST TRAN-1.
- The entire claim can be filed in one consolidated FORM GST TRAN-2 instead of filing the claim tax period wise mentioning the last month of the consolidated period for which the claim is being made in the column “Tax Period” in FORM GST TRAN-2.
- Within 7 days of filing of declaration in FORM TRAN-1/TRAN-2 on the common portal, a self-certified copy of the same along with declaration in Annexure ‘A’ and copy of TRANS-3, where ever applicable, should be submitted to the jurisdictional tax officer. All the requisite documents/records/returns/invoices, in support of his claim of transitional credit should be made available by the applicant to the concerned tax officers when called for.

- The applicant should take utmost care and should carefully check the details before filing his claim on the common portal as the option of filing or revising TRAN-1/TRAN-2 on the common portal during the period from 01.10.2022 to 30.11.2022 is a one-time opportunity provided to the applicant.
- The details entered in FORM TRAN-1/TRAN-2 on the common portal are editable only before clicking the “Submit” button on the portal, thereafter the form gets frozen and no further editing of details is allowed. This frozen form would then be required to be filed on the portal using “File” button, with Digital signature certificate (DSC) or an EVC. A detailed advisory would be issued by the GSTN in this regard which should be adhered to by the applicants.
- The facility provided to the applicants to file TRAN-1/TRAN-2 or revise the said forms filed earlier is only a one time opportunity available in pursuance of the Hon’ble Apex Court’s order and cannot be exercised again either during this period or at a future date.
- A fresh declaration in pursuance of the given circular is not required to be filed by the registered persons who do not need any revision in the claims successfully filed in TRAN-1/TRAN-2 earlier. In cases where the claim filed earlier has been rejected either wholly or partly 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. Where the adjudication/ appeal proceeding in such cases is pending, it is advised to pursue the said adjudication/ appeal instead of filing a fresh declaration.

## Annexure–A to Circular 180/12/2022–GST

### Declaration to be uploaded by the Applicant on the common portal along with TRAN-1/TRAN-2(in accordance with para 4.2of the Circular)

- Name and Style of Business:
- GSTIN:
- Registration effective from: (specify Date)
- Whether TRAN–1/TRAN–2 furnished earlier:
  - YES NO

### If reply to point 4 is ‘Yes’, then fill 4.1 to 4.9, else proceed to point 5 below:

- Details of TRAN–1/TRAN–2 furnished earlier:
  - Date of furnishing TRAN–1:
  - Date(s) of furnishing TRAN–2:
- Amount of credit claimed earlier through TRAN–1:
  - CGST–SGST/UTGST–

- Amount of credit claimed earlier through TRAN-2:
  - CGST-SGST/UTGST-
- Whether notice or order u/s 73/74 of CGST Act,2017 issued in respect of the credit availed through TRAN-1/TRAN-2 filed earlier:
  - YES NO
- If reply to point 4.4 is 'Yes', then mention the reference number and date of notice/ order referred to in 4 above:
- Amount of credit determined as in-eligible, if any, vide order referred to in 4.5 above:CGST-SGST/UTGST-
- Whether Appeal preferred u/s 107 of CGST Act/ petition before Hon'ble High Court against order referred to in point 5 above YES NO
- If reply to 4.7. is 'Yes', then whether Appeal/Petition referred to in point 7 above disposed off: YES NO
- If reply to point 4.8 above is 'Yes', then amount of credit determined as in-eligible:CGST-SGST/UTGST-
- Amount of credit claimed through TRAN-1/TRAN-2 being filed now:CGST-SGST/UTGST-
  - Whether any notice issued or order passed under existing law with regard to admissibility of the credit claimed as transitional credit: YES NO
  - If reply to point 5.1 above is 'Yes', then date of issuance of notice/ passing the order:
    - Amount of credit claimed in TRAN-1/TRAN-2 disputed/ held as in-admissible under existing law vide notice/ order referred to in 5.2 above: .....(provide details under each of the existing law)

## PART-B

I, \_\_\_\_\_(name and designation of person making this declaration on behalf of the registered person)on behalf of ..... (Name of registered person) bearing GSTIN\_\_\_\_\_, do hereby solemnly declare and affirm that:

- I/We have submitted all returns for the period January, 2017 to June, 2017 required under the existing law;
- I/We are in possession of all documents, evidences, invoices, accounts, statutory declarations and other records necessary for substantiation of claim of transitional credit being made in FORM GST TRAN-1/TRAN-2;
- (a) \*I/We have not claimed any credit, within the meaning of sections 140, 141 and 142 of the Central/ State/ UT Goods and Services Tax Act, 2017, in any return in FORM GSTR-3B filed by me/us;OR
- (b) \*I/We have claimed credit, within the meaning of sections 140, 141 and 142 of the Central/ State/ UT Goods and Services Tax Act, 2017, amounting to Rs.\_\_\_\_ on account of central tax and Rs.\_\_\_\_on account of State/ union territory tax in my/ our return in FORM GSTR-3B filed by me/ us for the period \_\_\_\_and I/ we have reversed an amount of Rs.\_\_\_\_on account of central tax and Rs.\_\_\_\_on account of State/ union territory tax, along with an interest of Rs..... vide <<details of such debit/ payment to be provided>>\*/ have not\*\*reversed the said amount, along with applicable interest.I/We have neither been refunded nor have claimed refund or would claim refund of the credit of tax carried forward in accordance with sub –section (1) of Section 140 of the Central/State/UT Goods and Services Tax Act, 2017, in the return relating to the period ending with the day immediately preceding the appointed day, furnished by me/us under the existing law, in respect of which this claim of transitional credit is made.
- I/We have not utilized or adjusted any amount of credit under the existing law, in response to any demand/ liability arising out of self-determination or assessment or audit or investigation, out of the amount being claimed as transitional credit in FORM GST TRAN-1/TRAN-2;
- The information furnished in **Part A** hereinabove is based on the accounts, information, records, documents and other necessary evidences in my possession and is true and correct to the best of my knowledge and belief, and nothing has been concealed therefrom.

Place.....

Date.....

Signature  
Name

Designation in relation to registered person

\* Only (a) or (b) of Paragraph 3 of Part B to be filled up, as applicable

\*\* Strike off, whichever is not applicable



