कम्प्यूटर परिपत्र सं० 2223048 दिनांक 15-09-2022

Office of the Commissioner,
State Tax, Uttar Pradesh,
(GST Section)
Letter No. GST/2022-23/ 46 /State Tax
Lucknow: Dated: 14 September, 2022

To

All Zonal Additional Commissioner, Grade -1,
Additional Commissioner, Grade -2, (S.I.B.)
Joint Commissioner, (Executive/Corporate Circle/ S.I.B)
State Tax, Uttar Pradesh.

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 ofUnion of India vs. Filco Trade Centre Pvt. Ltd. -reg.

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

"*1. 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.*

2. 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).

3. GSTN has to ensure that there are no technical glitch during the said time.

4. 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.

5. Thereafter, the allowed Transitional credit is to be reflected in the Electronic Credit Ledger.

6. 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."

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

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

3. In accordance with the directions of Hon'ble Supreme Court, 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 (hereinafter referred to as the 'applicant') will be made available by GSTN during the period from 01.10.2022 to 30.11.2022. In order to ensure uniformity in implementation of the directions of Hon'ble Supreme Court, the Commissioner, in exercise of powers conferred under section 168 of the UPGST Act, 2017 hereby clarifies the following:

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

4.1 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. In cases where the applicant is filing a revised TRAN-1/TRAN-2, a facility for downloading the TRAN-1/TRAN-2 furnished earlier by him will be made available on the common portal.

4.2. The applicant shall at the time of filing or revising the declaration in FORM GST TRAN-1/TRAN-2, also upload on the common portal the pdf copy of a declaration in the format as given in **Annexure 'A'**of this circular. The applicant claiming credit in table 7A of FORM GST TRAN-1 on the basis of Credit Transfer Document (CTD) shall also upload on the common portal the pdf copy of TRANS-3, containing the details in terms of the Notification No. 21/2017-CE(NT) dated 30.06.2017.

4.3 No claim for transitional credit shall be filed in table 5(b) & 5(c) of FORM GST TRAN-1 in respect of such C-Forms, F-Forms and H/I-Forms which have been issued after the due date prescribed for submitting the declaration in FORM GST TRAN-1 i.e. after 27.12.2017.

4.4 Where the applicant files a claim in FORM GST TRAN-2, he shall file the entire claim in one consolidated FORM GST TRAN-2, instead of filing the claim tax period wise as referred to in sub-clause (iii) of clause (b) of sub-rule (4) of rule 117 of the Uttar Pradesh Goods and Services Tax Rules, 2017. In such cases, in the column 'Tax Period' in FORM GST TRAN-2, the applicant shall mention the last month of the consolidated period for which the claim is being made.

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4.5 The applicant shall download a copy of the TRAN-1/TRAN-2 filed on the common portal and submit a self-certified copy of the same, along with declaration in **Annexure 'A'** and copy of TRANS-3, where ever applicable, to the jurisdictional tax officer within 7 days of filing of declaration in FORM TRAN-1/TRAN-2 on the common portal. The applicant shall keep all the requisite documents/records/returns/invoices, in support of his claim of transitional credit, ready for making the same available to the concerned tax officers for verification.

4.6 It is pertinent to mention that 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 for the applicant to either file the said forms, if not filed earlier, or to revise the forms earlier filed. The applicant is required to take utmost care and precaution while filing or revising TRAN-1/TRAN-2 and thoroughly check the details before filing his claim on the common portal.

4.6.1 In this regard, it is clarified that the applicant can edit the details in FORM TRAN-1/ TRAN-2 on the common portal only before clicking the "Submit" button on the portal. The

applicant is allowed to modify/edit, add or delete any record in any of the table of the said forms before clicking the 'Submit' button. Once "Submit" button is clicked, 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. The applicant shall, therefore, ensure the correctness of all the details in FORM TRAN-1/ TRAN-2 before clicking the "Submit" button. GSTN will issue a detailed advisory in this regard and the applicant may keep the same in consideration while filing the said forms on the portal.

4.6.2 It is further clarified that pursuant to the order of the Hon'ble Apex Court, once the applicant files TRAN-1/TRAN-2 or revises the said forms filed earlier on the common portal, no further opportunity to again file or revise TRAN-1/TRAN-2, either during this period or subsequently, will be available to him.

4.7 It is clarified that those registered persons, who had successfully filed TRAN-1/TRAN-2 earlier, and who do not require to make any revision in the same, are not required to file/ revise TRAN-1/TRAN-2 during this period from 01.10.2022 to 30.11.2022.In this context, it may further be noted that in such cases where the credit availed by the registered person on the basis of FORM GST 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. Where the adjudication/ appeal proceeding in such cases is pending, the appropriate course would be to pursue the said adjudication/ appeal. In such cases, filing a fresh declaration in FORM GST TRAN-1/TRAN-2, pursuant to the special dispensation being provided vide this circular, is not the appropriate course of action.

5. The declaration in FORM GST TRAN-1/TRAN-2 filed/revised by the applicant will be subjected to necessary verification by the concerned tax officers. The applicant may be required to produce the requisite documents/ records/ returns/ invoices in support of their claim of transitional credit before the concerned tax officers for verification of their claim. After the verification of the claim, the jurisdictional tax officer will pass an appropriate order thereon on merits after granting appropriate reasonable opportunity of being heard to the applicant. The transitional credit allowed as per the order passed by the jurisdictional tax officer will be reflected in the Electronic Credit Ledger of the applicant on the common portal.

6. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

7. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Undersigned.

By Order,

14/9/2022

(Ministhy S.)
Commissioner, State Tax,
Uttar Pradesh

Copy To:

1. Joint Commissioner (I.T.), State Tax HQ, Lucknow for uploading the Circular on the Departmental Website.

14-9-2022

Additional Commissioner (GST)

State Tax HQ, Lucknow.

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Annexure-A

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

PART A

1. Name and Style of Business:
2. GSTIN:
3. Registration effective from: *(specify Date)*
4. 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:

4.1 Details of TRAN-1/TRAN-2 furnished earlier:

Date of furnishing TRAN-1:

Date(s) of furnishing TRAN-2:

4.2 Amount of credit claimed earlier through TRAN-1:

CGST-

SGST-

4.3 Amount of credit claimed earlier through TRAN-2:

CGST-

SGST-

4.4 Whether notice or order u/s 73/74 of CGST/UPGST Act,2017 issued in respect of the credit availed through TRAN-1/TRAN-2 filed earlier: YES NO

4.5 If reply to point 4.4 is 'Yes', then mention the reference number and date of notice/ order referred to in 4.4 above:

4.6 Amount of credit determined as in-eligible, if any, vide order referred to in 4.5 above:

CGST-

SGST-

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4.7 Whether Appeal preferred u/s 107 of CGST/UPGST Act/ petition before Hon'ble High Court against order referred to in point 4.5 above--- YES NO

4.8 If reply to 4.7 is 'Yes', then whether Appeal/Petition referred to in point 4.7 above disposed off: YES NO

4.9 If reply to point 4.8 above is 'Yes', then amount of credit determined as in-eligible:
CGST-
SGST-

5. Amount of credit claimed through TRAN-1/TRAN-2 being filed now:
CGST-
SGST-

5.1 Whether any notice issued or order passed under existing law with regard to admissibility of the credit claimed as transitional credit: YES NO

5.2 If reply to point 5.1 above is 'Yes', then date of issuance of notice/ passing the order:

5.2.1 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)*

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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:

1) I/We have submitted all returns for the period January, 2017 to June, 2017 required under the existing law;
2) 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;

3) (a) *I/We have not claimed any credit, within the meaning of sections 140, 141 and 142 of the Central/ Uttar Pradesh Goods and Services Tax Act, 2017, in any return in FORM GSTR-3B filed by me/us; **OR**

4) (b) *I/We have claimed credit, within the meaning of sections 140, 141 and 142 of the Central/ Uttar Pradesh 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/Uttar Pradesh 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.

5) 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;

6) 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	Signature
Date	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*