

## Pursuant to the Supreme Court's order, the CBIC issues guidelines to file/revise transitional forms

13 September 2022



## Summary

The Central Board of Indirect Taxes and Customs (CBIC), in order to ensure uniformity in the implementation of the directions of the Supreme Court (SC), has issued guidelines for applicants to file/revise the transitional forms. The CBIC has provided a one-time opportunity to file the transitional forms and hence, applicants should take utmost care and thoroughly check the details before filing the forms. Further, the transitional credits shall be subject to the verification of the proper officer, post which the amount allowed by the proper officer will be reflected in the electronic credit ledger (ECrL) of the taxpayer on the Goods and Services Tax (GST) portal.

Pursuant to the directions of the Hon'ble SC<sup>1</sup>, the CBIC has issued a clarification that the facility for filing original/revised form GST TRAN-1/ TRAN-2 (forms) on the common portal will be made available by the GST network (GSTN) from 1 October 2022 to 30 November 2022. The CBIC stipulates the following guidelines<sup>2</sup>, to ensure uniformity in implementation of the directions of the SC:

- The option of filing or revising the forms is a one-time chance given to the applicant. Therefore, the applicant should take utmost care and thoroughly check the details before filing the forms online. Once an applicant submits the forms on the GST portal, editing of the details shall not be allowed. Subsequently, the applicant will not be available with any further opportunity either to again file or revise the forms. The GSTN will issue a detailed advisory which will be considered by the applicant for filing the forms on the portal.
- The applicant may file original/ revised forms duly signed or verified through EVC<sup>3</sup> on the GST portal along with a declaration in 'Annexure-A' of the circular.
- A facility to download the forms furnished earlier will be provided on the GST portal.
- A self-certified copy of the forms shall be submitted to the jurisdictional tax officer within seven days of filing on the portal, along with the declaration<sup>4</sup> and form GST TRAN-3, if applicable.
- The applicant claiming credit<sup>5</sup> based on the CTD<sup>6</sup> is required to upload the form GST TRANS-3 containing the prescribed details<sup>7</sup>.

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<sup>1</sup> SC order dated 22 July 2022 in SLP(C) No. 32709-32710/2018 and Miscellaneous application No.1545-1546/2022 in SLP(C) No. 32709-32710/2018, SC vide order dated 2 September 2022

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

<sup>3</sup> Electronic verification code

<sup>4</sup> in Annexure A

<sup>5</sup> in Table 7A of Form GST TRAN-1 (Details of inputs held in stock or inputs contained in semi-finished and finished goods held in stock where duty paid invoices are available)

<sup>6</sup> Credit Transfer Document

<sup>7</sup> in terms of the Notification No. 21/2017-CE (NT) dated 30 June 2017

- Transitional credit in respect of C-Forms, F-Forms and H/ I-Forms will not be available in form<sup>8</sup> if such forms have been issued after 27 December 2017.
- A consolidated form GST TRAN-2 should be filed instead of filing the forms periodically, and the last month of the consolidated period to be mentioned in the 'tax period' column.
- Where the credit availed earlier in the transitional forms is rejected either wholly or partially by the proper officer, the applicant can either file an appeal or pursue alternate remedies. Further, where the adjudication/ appeal proceeding is pending, same should be pursued. In such cases, filing fresh forms using this option is not the appropriate course of action.
- The declaration filed will be subjected to necessary verification by the tax officers which may require the submission of requisite supporting documents of the claim. The tax officer, after due verification, will pass a suitable order after providing a reasonable opportunity of being heard to the applicant.
- The transitional credit, so allowed by the tax officer, will be reflected in the ECrL of the taxpayer on the GST portal.

### Our comments

The Apex Court has recently issued directions to open the GST portal, pursuant to which the facility for filing/ revising the transitional forms by an applicant on the GST portal will be made available by the GST network from 1 October 2022 to 30 November 2022. The re-opening of this window will be beneficial for the taxpayers enabling them to transfer their transitional credits into the electronic credit ledger on the GST portal.

The present guidelines issued by the CBIC in accordance with the SC's order provide due clarity and much-awaited relief to the aggrieved registered assessee in filing/ revising the transitional forms. Further, the directions issued by the CBIC to the taxpayers, to keep ready all the requisite documents for submission to the concerned tax officers for verification, will encourage applicants to ensure the correct filing of the transitional forms to avoid any loss of credit and minimise unwarranted litigations.

This is a welcome step by the CBIC towards mitigating the confusion in the mind of the taxpayers while availing of the transitional credits. Further, the advisory from the GSTN is awaited, which may further ease the process and provide further clarifications in this regard.

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<sup>8</sup> Tables 5(b) and 5(c) of Form GST TRAN-1

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