

GOVERNMENT OF ASSAM  
OFFICE OF THE PRINCIPAL COMMISSIONER OF STATE TAX  
CUM COMMISSIONER OF TAXES, ASSAM  
KAR BHAWAN :: DISPUR, GUWAHATI-6

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CIRCULAR NO. 130/2022-GST

Dated Dispur the 12<sup>th</sup> December, 2022.

**Subject: Guidelines for verifying the Transitional Credit in light of the order of the Hon'ble Supreme Court in the Union of India vs. Filco Trade Centre Pvt. Ltd., SLP(C) No. 32709-32710/2018, order dated 22.07.2022 & 02.09.2022-reg.**

**No. CT/GST-15/2017/742.**— Attention is invited to the directions issued by 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. The operative portion of the judgment is as follows:

- “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 glitches 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.”
- 1.2 Subsequently in Miscellaneous Application No. 1545-1546/2022 in SLP(C) No. 32709-32710/2018, Hon'ble Supreme Court vide order dated 2<sup>nd</sup> 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.**

**It is clarified that all questions of law decided by the respective High Courts concerning Section 140 of the Central Goods and Service Tax Act, 2017 read with the corresponding Rule/Notification or direction are kept open.”**

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2. As is clear from the above, the Hon'ble Court has directed that the common portal be opened for filing prescribed forms for availing Transitional Credit through FORM GST TRAN-1 and TRAN-2 for two months from 01.10.2022 to 30.11.2022 for the aggrieved registered assessee (henceforth, referred as 'applicant'). The Transitional Credit claimed by the applicant shall be credited in his electronic credit ledger to the extent allowed by the jurisdictional tax officer through an order after carrying out necessary verifications. As per the Hon'ble Court's order, the said verification has to be carried out within 90 days after completion of the above window of two months, i.e. within 90 days from 01.12.2022 i.e. up to 28.02.2023.
  - 2.1 It is to be noted that while allowing the applicant to file/revise FORM GST TRAN-1/TRAN-2 during this window of 2 months, Hon'ble Supreme Court has kept all questions of law open.
  - 2.2 It may be mentioned that Hon'ble Supreme Court has only allowed filing of FORM GST TRAN 1/TRAN-2 or revising the FORM GST TRAN-1/TRAN-2 already filed by the applicant and has not allowed the applicant to file revised returns under the existing laws.
3. Reference is also invited to this Commissionerate Circular No. 129/2022-GST dated 16.09.2022 vide which guidelines have been issued for the applicants for filing new FORM GST TRAN-1/TRAN-2 or revising the already filed FORM GST TRAN-1/TRAN-2 on the common portal.
4. To ensure uniformity in the implementation of the directions of the Hon'ble Supreme Court across field formations, the Principal Commissioner of State Tax, Assam, in exercise of its powers conferred by section 168 of the Assam Goods and Services Tax Act, 2017 (hereinafter referred to as "Assam GST Act"), hereby issues the following guidelines for verifying the Transitional Credit:
5. **Verification of the Transitional Credit**
  - 5.1 The jurisdictional tax officers can access the FORM GST TRAN-1/TRAN-2 filed/revise by the applicant on their back office systems (which is the CBIC-AIO portal for the central tax officers, the respective State portal for MODEL-1 States and BO portal for MODEL 2 States). Further, a self-certified downloaded copy of FORM GST TRAN-1/TRAN-2 filed/revise by the applicant shall also be made available to the jurisdictional tax officer by the said applicant as mentioned in Para 4.5 of this Commissionerate Circular No. 129/2022-GST dated 16.09.2022.
  - 5.2 The verification of the transitional credit shall be conducted by the jurisdictional tax officer who will pass an appropriate order regarding the veracity of the claim filed by the applicant, based on all the facts and the provisions of the law. In respect of FORM GST TRAN-1/TRAN-2 filed/revise by the applicant under the administrative control of the state tax authorities, such verification and issuance of order shall be done by the jurisdictional officer of central tax, whereas in respect of FORM GST TRAN-1/TRAN-2 filed/revise by the applicant under the administrative control of the central tax authorities, the same shall be done by the jurisdictional officer of central tax. The jurisdictional tax officer shall start the verification process immediately on availability of FORM GST TRAN-1/TRAN-2

filed/revised by the applicant on the back office system or on receipt of self-certified downloaded copy of the same from the applicant, whichever is earlier. It is needless to mention that principles of natural justice shall be followed in the process of passing the order relating to allowance or disallowance of the Transitional Credit.

- 5.3** The jurisdictional tax officer shall, on the basis of declaration made by the applicant in the format specified in **Annexure A** to this Commissionerate Circular no. 129/2022-GST dated 16.09.2022, and on the basis of data available on the back office system, shall check whether the applicant had earlier filed FORM GST TRAN-1/ TRAN-2 or not. In cases where FORM GST TRAN-1/ TRAN-2 had already been filed by the applicant earlier, the tax officer shall check whether there is any change from the earlier filed FORM GST TRAN-1/TRAN-2 or not. In case, there is no change from the earlier filed FORM GST TRAN-1/ TRAN-2, then such claim of transitional credit is liable for rejection by the tax officer, through a reasoned order, after providing due reasonable opportunity to the applicant.
- 5.3.1** In other cases, the jurisdictional tax officer shall proceed for verification of claim of transitional credit made by the applicant in FORM GST TRAN-1/TRAN-2. In this regard, in respect of transitional credit pertaining to state tax, the tax officer refer to the guidelines detailed in **Annexure I** to this circular. In respect of verification of transitional credit pertaining to the Central Tax, the tax officer may refer to the guidelines detailed in Annexure I of CBIC Circular No. 182/14/2022-GST, dated 10.11.2022.
- 5.3.2** There may be cases where the transitional credit claim filed/revised by the applicant may have components of both state tax and central tax. In such cases, where the applicant is under the jurisdiction of state tax officer and where the transitional credit claimed has component of central tax also, the jurisdictional state tax officer shall refer the said claim for verification of component of central tax to his counterpart central tax officer. For this purpose, he shall share the list of GSTINs/ARNs with the counterpart officer, in respect of which verification report is needed from him, on a weekly basis, along with an intimation of the same to the nodal officer of state tax as well as central tax referred in **Para 6.1 below** through his official email ID or physically. Similar action, as above, shall also be taken by the jurisdictional central tax officers in cases where the applicant is under the jurisdiction of central tax officer and where the transitional credit claimed has component of state tax also.
- 5.3.3** The jurisdictional tax officer shall, in parallel, continue the verification of the remaining portion of the transitional credit at his end.
- 5.3.4** The jurisdictional tax officer shall also receive the request for verification of transitional credit claimed under the SGST Act, from the counterpart central jurisdictional officers. The jurisdictional officer shall verify the transitional credit claimed under the SGST head pertaining to taxable persons originating in his office as well as received from the counterpart central jurisdictional officers, by referring to the guidelines detailed in **Annexure I** of this circular. While conducting the verification, the officer must also check whether any adjudication or appeal proceedings in FORM GST TRAN-1/TRAN-2 related matter are pending/ concluded against the applicant. In such cases, where any adjudication or appellate proceedings have been initiated against the applicant in respect of FORM GST TRAN-1/TRAN-2, the officer should take a note of the relevant facts in the notice/ order, and the grounds/reasons for inadmissibility of transitional credit, if any, in the said notice/

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order. It is pertinent to note that the verification of the transitional credit claimed under the CGST Act by the taxable persons under State jurisdiction and also the taxable person under central jurisdiction shall be verified by the concerned central jurisdictional authority.

- 5.3.5** In respect of verification done by the state officer, after verification, the said officer will prepare a verification report, in the format detailed in **Annexure-II** of this circular, specifying the amount of transitional credit which may be allowed to be credited to the electronic credit ledger of the applicant and the amount which is liable for rejection, along with detailed reasons/ grounds on which the said amount is liable to be rejected. Such duly signed verification report shall be sent by the counterpart jurisdictional central officer to the jurisdictional tax officer at the earliest, though generally not later than ten days from the date of receipt of the request from the jurisdictional officer. In case, where the adjudication or appeal proceedings in respect of FORM GST TRAN-1/TRAN-2 related matter are pending/ concluded against the applicant, the state tax officer shall categorically bring out the relevant facts in his/her verification report along with his detailed findings, admissibility/ inadmissibility, reasons of inadmissibility thereof and the copy of the relevant notice and/or orders. Similarly the jurisdictional State tax officer will receive the verification reports from his counterpart central tax officer in cases allotted to State jurisdiction regarding the admissibility / inadmissibility of transitional credit claimed under the CGST Act.
- 5.3.6** For the purpose of verification of the claim of the transitional credit, the jurisdictional tax officer as well as the counterpart tax officer, if required, may call for relevant records including requisite documents/returns/invoices, as the case may be, from the applicant.
- 5.3.7** After receiving the verification report from the counterpart officer, the jurisdictional tax officer shall decide upon the admissibility of the credit claimed by the applicant. In case the jurisdictional tax officer finds that the transitional credit claimed by the applicant is partly or wholly inadmissible as per the provisions of the Act and the rules thereof, then a notice shall be issued by the jurisdictional tax officer to the applicant preferably within a period of seven days from the receipt of report from the counterpart officer, seeking explanation of the applicant as to why the said credit claimed by him should not be denied wholly/partly, as the case may be. The applicant shall also be provided an opportunity of personal hearing by the jurisdictional tax officer in such cases. If required, the jurisdictional tax officer may seek comments of the counterpart officer on the submissions made by the applicant in so far as the said submission relates to the tax (State or Central) being administered by such counterpart officer.
- 5.3.8** After considering the facts of the case, including verification report received from the counterpart officer, submissions made by the applicant and the comments, if any, of the counterpart officer on the same, the jurisdictional tax officer shall proceed to pass a reasoned order, preferably within a period of fifteen days from the date of personal hearing, specifying the amount of transitional credit allowed to be transferred to the electronic credit ledger of the applicant and upload a pdf copy of the said order, on the common portal for crediting the amount of allowed transitional credit to the electronic credit ledger of the applicant. In any case, such order shall be passed within a period of 90 days from 01.12.2022 i.e. up to 28.02.2023.

5.3.9 Where the amount credited to the electronic credit ledger pursuant to the originally filed TRAN-1/TRAN-2 exceeds the amount of credit admissible in terms of the revised FORM GST TRAN-1/TRAN-2 filed by the applicant, such excess credit is liable to be demanded and recovered from the applicant, along with interest and penalty, in accordance with the provisions of Chapter XV of the Act and the rules made thereunder.

5.3.10 GSTN will also issue a separate advisory for entering the details on the portal by the tax officers.

**6. Modalities of coordination between central tax authorities and state tax authorities**

6.1 It is to be noted that, the Principal Commissioner of Commercial Taxes (Assam) has appointed a Nodal Officer for proper co-ordination between State and central authorities for verification of transitional credit claims and has made available the details of the said Nodal Officer, along with phone numbers and email IDs. to the counterpart tax authority. The Nodal Officer shall ensure that the verification reports/comments sought by the jurisdictional tax officers are being sent in a timely manner by the counterpart officers in their formations.

6.2 State Officers shall strictly adhere to the timelines mentioned in the Hon'ble Supreme Court's order dated 22.07 .2022 and 02.09 .2022.

7. Where any communication is required to be made through a mode other than through the portal, by the State Tax Officer with the applicant for the purpose of verification of FORM GST TRAN-1/ TRAN-2, the same should be made with the use of Government-mail ID.

8. Difficulties, if any, in implementation of these instructions may be informed to this office.

Sd/=

(Rakesh Agarwala, IAS,)

Principal Commissioner of State tax, Assam,  
Dispur, Guwahati

Memo No. CT/GST-15/2017/742-A

Dated Dispur the 12<sup>th</sup> December, 2022

Copy to :

1. The Commissioner & Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information.
2. The Commissioner of Central GST, Guwahati / Dibrugarh for information.
3. The Special Commissioner of State Tax (All) / Additional Commissioner of State Tax (All)/ Joint Commissioner of State Tax (All) / Deputy Commissioner of State Tax (All) / Assistant Commissioner of State Tax (All) / Superintendent of State Tax (All) for information and necessary action.

Principal Commissioner of State tax, Assam,  
Dispur, Guwahati

**ANNEXURE-I**

**GUIDANCE NOTE FOR VERIFICATION OF ASSAM GST TRANSITIONAL  
CREDIT CLAIMED BY THE APPLICANT IN TRAN-1/TRAN-2**

**1. Description of Entries in TRAN-1 Table**

- (i) In the FORM GST TRAN-1, there are details of statutory forms received for which credit is being carried forward during the period from 1st April 2015 to 30th June 2017 in Table 5(b) and Table 5(c) in the return filed under existing laws.
- (ii) In the FORM GST TRAN-1, all the entries relating to SGST credit which is posted in the electronic credit ledger are briefly described below. It is advised that the full text of law be referred for better understanding of the issue.

<b>S. No.</b>	<b>Table No. in TRAN-1</b>	<b>Provision in CGST Act</b>	<b>Indicative list of nature of Credit</b>
1.	Table 5(c)	140(1) and 140(4)(a)	This table captures details of the VAT credit carried forward in the return (FORM-14) relating to the period ending with 30.06.2017, subject to conditions specified in section 140(1) of Assam GST Act, by the registered persons
2.	Column 10 of table 6(b)	140(2)	This table captures details of un-availed credit of capital goods in the pre-GST era. This table is meant to be used by the taxpayers who have availed a portion of VAT credit on capital goods through VAT return and now intend to avail remaining credit in respect of capital goods which has not been availed through the VAT return. The said amount of credit should have been admissible as input tax credit under GST law as well as under existing law
3.	Table 7(b), (c) & (d)	140(3), 140(4)(b), 140(5), 140(6) and 140(7)	This table pertains to credit claim by new taxpayers or taxpayers who were either not registered or were not part of VAT Credit chain earlier. Here, Credit can be claimed in TRAN- I in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the

			appointed day based on invoice / document evidencing payment of tax, subject to fulfillment of other conditions specified in section 140(3), 140(4)(b), 140(5), 140(6) and 140(7) as the case may be. Further, Table 7(b) captures transitional credit taken on such inputs which were received after 1st of July, 2017, but taxes on which were paid under the existing law (Goods in Transit). It does not apply to capital goods.
4.	Column (7) in Table 10 (a) & (b)	Section 142 (14)	This table pertains to Input Tax Credit claim on the details of goods held as agent on behalf of the principal & details of goods held by the agent.
5.	Column (7) in Table 11	Section 142 (11)(c) read with Rule 118 of Assam GST Rules	Transition of credit in respect of supplies which attracted VAT and Service Tax in pre-GST era and where VAT and Service Tax both were paid, before 1st July 2017, on any supply, but the supply is made after 1st July, 2017. The taxable person is entitled to take as SGST credit, the VAT paid under the existing law to the extent of supplies made after 1st July, 2017 as he would be liable to pay SGST in respect of such supplies. (Service tax credit cannot be taken as VAT credit and vice versa).

**2. CHECKS FOR VERIFICATION OF ENTRIES IN TRAN-1 TABLE:**

As a matter of assistance, following checks are suggested in relation to the entries provided in various tables of TRAN 1. The list of checks is not exhaustive but is indicative only based on provisions of law, the likely error and the inputs received from the field formations.

**3. Checks for Table 5(c):**

**3.1 Check I:**

- a. Transitional credit should be less than amount shown in Sl. 13 (t) of Part-I in Form-14 (VAT

Return) of June-2017.

- b. Verily whether the registered person has filed returns for the previous 6 months.
- c. Whether the Input Tax Credit claimed as transitional credit is an admissible Input Tax Credit under the GST Act.
- d. Whether the amount claimed under TRAN-1 is already refunded under the VAT Act out of Sl. 13(t) of Part-I of FORM-14 (VAT Return) during any re-assessment proceedings.
- e. Check for the CST Assessment order for the tax periods April-2017 to June-2017 and find out whether there are any arrears of CST Tax, if yes subtract such arrears amount from the claim in Sl. 13(t) and the balance transitional credit claimed after such deduction shall be allowed as transitional credit. Further, this rejected transitional credit shall be intimated to the jurisdictional tax officer to reconcile the arrears amount and make suitable adjustments to the CST arrears with the amount in balance. The same shall be flagged to the jurisdictional tax officer for recovery of arrears from the Input Tax Credit of GST. The other method that can be followed is to allow the transitional credit claimed on this account in full and the arrears of CST may be recovered from this transitional credit so allowed as per the provisions of section 142(8) of the Assam GST Act.

**Checks for Table 6(b):**

**4.1 Check 2:**

Check that in table 6 only credit on capital goods not availed in any return is taken as per Explanation to section 140 (2). In respect of invoices involving large credit, due verification as deemed fit may be done.

Check the details of credit relatable to the capital goods other than those on which Input tax credit has been claimed in the VAT period and whether this Input tax credit is eligible under the GST Law, if the Input tax credit is eligible, the same may be allowed, if not eligible, the same shall be restricted by passing order of demand under section 73 or 74 of the Assam GST Act, 2017. Also check the calculation of input tax credit eligible on the capital goods as per the Assam GST Rules, 2017.

Check whether the transitional credit claimed is eligible for Input tax credit both under the VAT Law and CST Law.

**Checks for Table 7(b), (c) & (d):**

**5.1 Check3:**

**5.1.1** Check the tax paid document exists and take confirmation from the taxpayer that the tax paid document is recorded in the books of account of such person as per the conditions prescribed in law. Where goods under movement are shown in exorbitant quantity, transport verification may be considered.

**5.1.2** Check whether goods sold by the registered person in the VAT period is exempted goods and check the invoices related to the inputs held in stock and inputs contained semifinished and finished goods and validate the eligibility output tax credit on the opening stock as



transitional credit and also check whether the said taxable person has passed on the benefit of such credit by reducing the prices if such claimant is not a manufacturer or supplier of services. if the said registered person has claimed that he is not in possession of invoices or documents evidencing the payment of tax on such inputs.

- 5.1.3** Also check whether such invoices are issued on or after 01.07.2017 and whether such inputs are used for making taxable supplies under the GST Act and the claimant is eligible for Input tax credit under the GST Act.
- 5.1.4.** Check whether the inputs are received after 01.07.2017 but invoiced prior to 01.07.2017 and whether such Input tax credit has been claimed on such invoices during the earlier period and whether any revised return has been filed to claim this Input tax credit. Also check whether the claimant has filed a statement in respect of this input tax credit.
- 5.1 .5.** COT to GST: Check whether the person was under composition scheme under the VAT Law and is under regular scheme under the CST Law and has stock of inputs or semi-finished or finished goods as on 01-07-2017 and he is eligible for input tax credit under the GST Law and has the tax paid documents with him which is dated after 01.07.2017, In such cases, calculate the credit and verify if any excess claim is made, the same shall be restricted by passing order of demand under section 73 or 74 of the Assam GST Act, 2017.

**6. 1 Check for Table 11:**

Check whether the taxable person is entitled to take SGST credit, the VAT paid under the existing law to the extent of supplies made after 1st July, 2017 as he would be liable to pay SGST in respect of such supplies. Service tax credit cannot be taken as VAT credit and vice versa.

**General check:**

Check that credit which is being claimed through TRAN 1/TRAN-2 is not taken through return in FORM GSTR-3B. This can lead to double credit being taken.

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**VERIFICATION REPORT FOR FORM GST TRAN-1/TRAN-2 TO BE SUBMITTED BY THE COUNTERPART OFFICER TO THE JURISDICTIONAL TAX OFFICER**

**1. Basic information:**

(a)	Name	
(b)	GSTIN	
(d)	Whether transition credit claimed earlier	Yes/ No

2. (a) Whether SCN/Adjudication order issued in respect of credit availed through FORM GST TRAN-1/TRAN-2 filed earlier; if “Yes”, provide reference number and date:

(b) If answer to (a) above is “Yes”, then amount of transitional credit disallowed/proposed to be disallowed out of total claim filed by the applicant earlier:

	*Table of TRAN-1/TRAN-2	# Amount of credit disallowed/ proposed to be disallowed	@Grounds on which credit is disallowed/ proposed to be disallowed	§ Whether recovered
(a)				
(b)				
(c)				

Notes:

- 1) Add additional rows if required
- 2) \*Specify the serial number of the Table (of earlier filed FORM GST TRAN-1/TRAN-2), the credit in respect of which has either been disallowed through an order or is proposed to be disallowed through an SCN
- 3) #Specify the amount which has been disallowed/proposed to be disallowed
- 4) @Specify the grounds for disallowance of the said credit
- 5) §Specify whether amount has been recovered, either in cash or debit to credit ledger
- 6) Attach copies of the relevant notice/ adjudication order

3. (a) Whether appeal has been filed against the adjudication order, if any, specified in serial number 2 above; if “Yes”, provide appeal number and date of filing appeal.

(b) If appeal has been disposed of, then provide order number and date:

(c) Details relating to Appellate Order:

	*Table of TRAN-1/TRAN-2	Findings of Appellate Authority	§ Whether recovered
(a)			
(b)			
(c)			

Notes:

- 1) Add additional rows if required
  - 2) \*Specify the serial number of the Table (as mentioned in Table at serial number 2 above) and the amount of tax the claim in respect of which has been adjudicated and the appeal has been decided.
  - 3) \$Specify whether amount has been recovered, either in cash or debit to credit ledger
  - 4) Attach copies of the order of the appellate authority
4. Amount of credit claimed afresh/revised (as per FORM GST TRAN-1/ TRAN-2 filed/ revised during the present window of two months) by the applicant, the amount admissible, the amount inadmissible, if any, along with the grounds/ reasons for non-admissibility thereof:

	Table	Amount Claimed in newly filed/ revised FORM GST TRAN-1 / TRAN-2		Amount Admissible		Amount inadmissible, if any		Grounds of inadmissibility, along with the relevant provisions of law/ rules
		SGST	CGST	SGST	CGST	SGST	CGST	
(a)	5(a) of TRAN -1							
(b)	5(c) of TRAN-1							
(c)	6(a) of TRAN-1							
(d)	6(b) of TRAN-1							
(e)	7(a)(7A) of TRAN-1							
(f)	7(a)(7B) of TRAN-1							
(g)	7(b) of TRAN-1							
(h)	7(c) of TRAN-1							
(i)	8 of TRAN-1							
(j)	10(a) of TRAN-1							

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(k)	10(b) of TRAN-1							
(l)	11 of TRAN-1							
(m)	Aggregate of Table 4 of TRAN- 2							
(n)	Aggregate of Table 5 of TRAN- 2							

**5. Other relevant information, if any (Please give details):**

Place:

Date:

Signature of counterpart officer

*(Name and designation of counterpart officer)*