

## GOODS & SERVICES TAX / IDT UPDATE-162

### Clarification on “date of applicability” of refund related Notifications

Circular has been issued to clarify on the date of applicability of the notifications pertaining to refund in case of inverted duty structure:

1. [Notification No. 14/2022 CT dt. 05.07.2022](#) was issued to amend the formula related to calculation of refund of unutilised input tax credit in case of inverted duty structure prescribed under rule 89(5) of the CGST Rules, 2017. In order to clarify the date of its applicability, the circular has been issued to reiterate that the new formula shall be applicable only in case of refund applications filed on or after 05.07.2022. Therefore, the refund applications filed before 05.07.2022 shall be dealt as per the formula as it existed before the amendment made vide above notification.
2. [Notification No. 9/2022 CT \(R\) dt. 13.07.2022](#) was issued to place restriction on refund of unutilised input tax credit on account of inverted duty structure in case of certain goods. The Circular has clarified that restriction imposed by the above notification shall apply prospectively. Hence, restriction imposed by the said notification would be applicable in respect of all refund applications filed on or after 18.07.2022 and would not apply to the refund applications filed before 18.07.2022.

### [Circular No. 181/13/2022-GST dt. 10.11.2022](#)

#### Guidelines for verifying the Transitional Credit

As per the directions of the Hon'ble Supreme Court in the case of *Union of India vs. Filco Trade Centre Pvt. Ltd.* dated 22.07.2022 & 02.09.2022 that the common portal be opened for filing prescribed forms for availing Transitional Credit through TRAN-1 and TRAN-2 for two months from 01.10.2022 to 30.11.2022 for the aggrieved registered assessee (hereinafter referred to as the 'applicant'), [Circular No. 180/12/2022-GST dt. 09.09.2022](#) was issued specifying that the declaration in FORM GST TRAN-1/TRAN-2 filed/revised by the applicant shall be subjected to necessary verification by the concerned tax officers. The guidelines for verifying the same have been issued through [Circular No. 182/14/2022-GST dt. 10.11.2022](#), few of which have been mentioned hereinunder:

- 1) 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.
- 2) In respect of TRAN-1/TRAN-2 filed/revised by the applicant under the administrative control of the state tax authorities, the same shall be done by the jurisdictional officer of state tax.
- 3) Principles of natural justice shall be followed in the process of passing the order

relating to allowance or disallowance of the Transitional Credit.

- 4) Whether the applicant had earlier filed TRAN-1/ TRAN-2 or not, needs to be checked. In case, there is no change from the earlier filed 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) In respect of verification done by the counterpart officer, after verification, he will prepare a verification report, in the format detailed in Annexure-II of the latest 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.
- 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.
- 7) It has also been iterated that Hon'ble Supreme Court has only allowed filing of TRAN 1/TRAN-2 or revising the TRAN-1/TRAN-2 already filed by the applicant and has not allowed the applicant to file revised returns under the existing laws.

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.

The detailed guidelines and the modalities of coordination between central tax authorities and state tax authorities can be accessed at:

[\*\*Circular No. 182/14/2022-GST dt. 10.11.2022\*\*](#)

### **Amendment in Form GSTR-9**

Para 7 of the instructions pertaining to Form GSTR-9 have been amended to incorporate the extended date of 30<sup>th</sup> November, 2022 i.e., instead of earlier mentioned period "between April, 2022 to September, 2022", "April, 2022 to October, 2022 filed upto 30th November, 2022" have been substituted.

[\*\*Notification No. 22/2022-CT dt. 15.11.2022\*\*](#)

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