

Dear All,

As you all aware that the Hon'ble Supreme Court of India (*Union of India vs. Filco Trade Centre Pvt. Ltd*¹) had asked GST Council to reopen GST portal to allow taxpayers to file revised Tran 1/ Tran 2. Initially, the portal was to be made open w.e.f. 01st September 2022 till 30th October 2022. However, on Government's request, the Hon'ble Supreme Court has extended the time to reopen the portal by another 4 weeks.

Revised timelines for filing Tran 1/ Tran 2: 01st October 2022 till 30th November 2022.

Broad guidelines laid down by the Hon'ble Supreme Court:

1. To allow Companies to file revised Tran 1/Tran 2 within given timelines
2. GST officers are given 90 days window to verify the claim and pass appropriate orders
3. Credit availment only after verification, and subsequent appearance of the amount in ECL
4. CBIC to issue clarifications for field formations

In pursuance of the said guideline, the Central Board of Indirect Taxes & Customs (CBIC) has issued Circular No. 180/12/2022 dated 09th September 2022 laying down the conditions and manner for filing revised Tran 1/ Tran 2.

We (at Artham Law Chambers) have summarized the key conditions of the CBIC circular, and what steps can be taken by the Companies who intend to refile Tran 1/ Tran 2.

Sl. No.	CBIC Clarification	Next Steps
Tran 1 related		
1	Table 7A: Upload credit transfer documents	To collate supporting documents, and ensure uploading of the same.
2	Table 5b & 5C, w.r.t. Form C, Form F, Form I cannot be amended	In light of the impermissibility of Form C, etc, taxpayers can consider exploring alternatives to challenge this condition.
Tran 2 related		
3	Single consolidated Tran 2 to be filed, with the last month of the consolidated period as 'Tax Period'	To be mindful in selection of the 'Tax Period'.
Common clarifications		
4	Physical submission of Tran 1, Tran 2 or Tran 3 (as applicable) with Annexure A and supporting documents within a period of 7 days	To be mindful of physical submission of documents, within prescribed time.

¹ SLP(C) No. 32709-32710/2018

5	Amendment is a one time opportunity	To review the draft workings, before submitting.
6	After clicking on ‘submit’, no further changes can be made	Companies to be mindful and double sure before submitting Tran 1/ Tran 2.
7	This facility is not available to those cases where Tran 1 / Tran 2 has been partially rejected. In such cases, appellate proceedings should be explored	To explore the existing and alternative mechanisms for expeditious resolution.
Annexure A Declaration : Key conditions		
8	Date of filing original Tran 1 / Tran 2	To be complied.
9	Amount claimed in original Tran 1/ Tran 2	To be complied.
10	If any notice is issued under Sec 73/74, and details of order passed against such notice	To review the underlying notice and identifying the correct details.
11	Amount ordered as ineligible, pursuant to Sec 73/74 proceedings	To be provided.
12	If any appeal is filed against the said order. If yes, status of such appeal and whether any ineligible credit has been re-allowed	To be provided.
13	Amount of credit being claimed through revised Tran 1 / Tran 2	To identify and submit the accurate details.
14	If any notice/ order has been issued which has held proposed re-claimable amount as ‘ineligible’	To review any such amount, and provide correct details.

ALC’s take on the CBIC Circular:

Needless to mention that the Hon’ble Supreme Court’s final order was a sigh of relief to Companies who have been struggling with Tran 1 / Tran 2 related issues. The CBIC clarifications seem to be in tandem with the Supreme Court’s guidelines, and does not appear to caste any additional obligations on the Companies. However, the Companies have to be cognizant while filing the returns, since this could very well be the last opportunity to rectify the past errors. After this, there is a likelihood that Companies may not get any other option to get relief on the grounds of technical issues/ challenges in Tran 1 / Tran 2.
