

INTERNAL CIRCULAR

No. GST/MISC/2019/35/B - 4/6
Internal Circular No. 35A of 2019

Date... 19.10.2019.

Subject: Verification of TRAN-1 credits

Reference: 1. Internal Cir. No. 1A dated 1st Jan. 2018

2. Internal Cir. No. 23A dated 1st Sep. 2018

Synopsis: Detailed guidelines were given to the authorities for verification of transitional credits under GST by Internal Circulars in Jan. 2018 and Sep. 2018. During verification, the Nodal Authorities have come across certain situations, for which clarification is being issued.

This Circular gives guidelines on issues such as allowing credit, as per revised return, verification of CST declarations, verification of MVAT credit etc.....

Background

Earlier, guidelines have been given to the departmental officials for verification of TRAN-1 credit by Internal Circulars referred above. In most of the cases, verification must have been done. However, some queries have been received from the departmental officials and tax payers and hence further guidelines are being given in this circular. For the sake of consistency in the terminology, the term "dealer" is used for tax-payers.

2. Credit as per revised return under MVAT:

Earlier by Internal Circular No. 1A of 2018 and 23A of 2018, instructions had been given to allow credit in TRAN-1, as per original MVAT return for the period ending on 30th June 2017 and not to allow credit as per the revised MVAT return for the said period.

It has been brought to our notice that there are some cases, in which the credit in TRAN-1 u/s 140(1) of the MGST Act is being denied. In

this regard, following guidelines are being issued, for different situations, to allow TRAN-1 credit u/s 140(1):

- i. **Situation 1:** A dealer has mentioned an amount in his MVAT original return field "*excess credit claimed as refund in this return*" for the period ending on 30th June 2017. Actually, this dealer desired to carry forward the excess MVAT credit in TRAN-1 and hence was required to mention such amount in MVAT return field "*excess credit carried forward to subsequent tax period*".

Realising the mistake, the dealer corrects the mistake and :

- a) files revised MVAT return and mentions same amount in the field "*excess credit carried forward to subsequent tax period*".

Clarification: In this situation, the credit claimed in TRAN-1 may be allowed.

- b) files revised MVAT return and mentions higher amount in the field "*excess credit carried forward to subsequent tax period*".

Clarification: In this situation, the credit may be allowed to be claimed in TRAN-1, equal to the amount of refund claimed as per the original return.

The difference in amount of such credit as per the original return and the revised return can be considered during MVAT assessment proceedings of the said dealer. In case, such dealer has not applied in e-501 for MVAT refund, then the dealer may make a request in writing to the nodal authority. The nodal authority, after verification of such request, shall send it to the Zonal Selection Committee through proper channel.

- c) files revised MVAT return and mentions lesser amount in the field "*excess credit carried forward to subsequent tax period*".

Clarification: In this situation, the credit may be allowed to be claimed in TRAN-1, as per the revised return.

- ii. **Situation 2:** A dealer has carried forward credit in revised MVAT return for the period ending on 30th June 2017 but such amount is more than amount of credit carried forward by him in his original MVAT return.

Clarification: In this situation, the credit, carried forward in original return, shall be allowed to be taken in TRAN-1.

As explained on page 2, difference in credit claimed and credit allowed can be considered during MVAT assessment.

- iii. **Situation 3:** A dealer has carried forward credit in revised MVAT return but such amount is less than amount of credit carried forward by him in his MVAT original return for the period ending on 30th June 2017.

Clarification: In this situation, the amount of excess credit carried forward by him in the revised MVAT return (i.e. lesser amount), for the period ending on 30th June 2017 should be considered for the purpose of allowing TRAN-1 credit claim.

- iv. **Situation 4:** A dealer has claimed refund and has also carried forward balance credit in his original MVAT return for the period ending on 30th June 2017. Subsequently, he files a revised return for the period ending on 30th June 2017, claiming refund as well as carrying forward credit but the amounts so claimed as refund and carried forward as excess credit are different.

Clarification: In this situation, the amount of credit carried forward by him in his original return and the amount of credit carried forward in his revised return shall be compared and the lesser of these two amounts shall be allowed to be claimed in TRAN-1.

It goes without saying that in no case, the dealer shall be eligible for MVAT refund of excess credit as well as to claim it in TRAN-1, in respect of the same credit and hence the MVAT refund application shall not be considered for the grant of refund. In any case, the nodal authorities shall ensure avoidance of such duplicate claims.

3. Verification of CST declarations:

Verification of CST declarations is necessary to determine the credit eligible to be taken u/s 140(1) and u/s 140(4)(a) of the MGST Act.

A. Periods for which verification to be done: A dealer, who has carried forward credit in his MVAT return for the period ending on 30th June 2017 in his TRAN-1, is expected to furnish details of CST declarations received for the periods starting from 1st April 2015 to 30th June 2017.

Nodal authorities are expected to verify CST declarations, only for the years or periods, for which credit is being carried forward.

Illustration 1: A dealer has carried forward credit in his return for the period ending on 30th June 2017 and has also claimed credit in TRAN-1 u/s 140(1). He has claimed MVAT refund for the year 2015-16 and 2016-17. In this case, CST declarations for the period 1st April 2017 to 30th June 2017 must be verified however, CST declarations for the years 2015-16 and 2016-17 need not be verified during TRAN-1 verification proceedings.

Illustration 2: A dealer has carried forward credit in his MVAT return for the period ending on 30th June 2017 and has accordingly claimed credit in TRAN-1 u/s 140(1). He has claimed MVAT refund for the year 2015-16, but has carried forward excess MVAT credit for the year 2016-17. In this case, CST declarations for the year 2016-17 and for the period 1st April 2017 to 30th June 2017 must be verified, however CST declarations for the year 2015-16 need not be verified during TRAN-1 verification proceedings.

B. CST declarations received after filing of TRAN-1:

It is also noticed that some dealers have claimed lesser credit in TRAN-1 u/s 140(1) than the amount of credit carried forward in their MVAT returns for the period ending on 30th June 2017 because they were not in possession of all CST declarations. Subsequently, such CST declarations may have been received by them.

Clarification: In such cases, credit claimed in TRAN-1 u/s 140(1), supported by valid CST declarations, should only be allowed. However, in any case, as provided in the proviso to sec. 140(1), such dealers may ask for MVAT refund, if otherwise

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eligible. In case, such a dealer has not filed an application for refund in e-501, then he may make a request in writing for taking up his case for MVAT/CST assessment to grant MVAT refund. The nodal authority, after verification of such request shall send the application to the Zonal Selection Committee through the respective Jt. Commissioner.

4. Verification of MVAT credits:

A. Mismatch of VAT credit: Earlier, by Internal Circular No 23A of 2018, the nodal authorities had been asked to verify MVAT set-off on the basis of the EIU data and the SAP portal data [BI Launch pad]. In case of mismatch, instructions were given to issue notice in FORM-603. Such verification may have already been done. In case, any such verification is pending in any case, then it need not be done now by the nodal authorities. Instead, EIU would communicate such reports to the nodal authorities after data analysis and recommend suitable cases for MVAT assessment etc.

B. Verification of MVAT credit, in respect of cases, allotted to central tax authorities: Earlier, administrative instructions, had been given that after verification of MVAT credit in TRAN-1 is completed, in respect of a dealer, allotted to the central tax authorities, a report should be submitted to the respective central tax authority and the central tax authority was expected to complete further process by issuing notice in DRC-01 etc. and vice versa.

These instructions are modified and so henceforth, after verification of VAT credit claims in TRAN-1, in respect of cases allotted to the central tax authorities, further action shall also be initiated and completed by the respective nodal authorities i.e. issuing DRC-01A, DRC-01 and so on.

5. TRAN-1 verification process :

A. Issuing of DRC-01A & DRC-01: Proceedings u/s 73 must have been initiated by issuing show cause notice along with

summary in DRC-01 [Rule 142(1)(a)]. Rule 142 has now been amended by notification No. 49 dated 9th Oct. 2019. In view of this amendment, it is now necessary to communicate details of any tax and interest, as ascertained by the nodal authority, in Part A of the newly introduced Form DRC-01A before issuing show cause notice and summary in DRC-01. Such communication in DRC-01A may be made physically to the dealers till this functional utility becomes available on the GSTN BO System.

- B. Intimation in DRC-03:** Dealers must have been informing about the payments made by them in Form DRC-03 [rule 142(2)]. Now, by virtue of the amendment to rule 142 [Notification No. 49 dated 9th Oct. 2019], where a dealer, on whom DRC-01A has been served, makes partial payment of the amount communicated to him or desires to file any submissions against the liability proposed in DRC-01A, then he may make such submission in Part B of FORM GST DRC-01A. Normal compliances are expected to be filed by dealers in DRC-03, instead of GSTR-3B.
- C. Issuing of DRC-07:** In case, an order in DRC-07 has already been issued earlier physically, then such orders in DRC-07 should now be issued through the system. In this case, the actual date of service of DRC-07, which was physically served on the dealer, should be entered in the system.

6. Interest u/s 50 on excess credit availed in TRAN-1:

Clarification has been sought by the nodal authorities as regards the applicability of interest u/s 50 of the MGST Act on excess credit in TRAN-1.

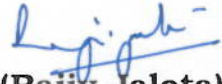
In this regard, clarification is given as follows:

1. Interest on excess credit "availed": Interest u/s 50 is payable in case excess credit has been "availed" in TRAN-1 by a dealer. In other words, mere availment of excess credit in TRAN-1 is sufficient to attract interest u/s 50 of the MGST Act and such excess credit need not have been "utilized" to discharge GST

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liability. Thus, interest u/s 50 shall become payable, in respect of such excess credit claim, from the date of filing of TRAN-1 till the date the dealer reverses such excess credit in GSTR-3B (as per earlier instructions) or makes payment and informs either in DRC-03 or in Part B of DRC-01A.

2. Revised TRAN-1: In case, a dealer has filed a revised TRAN-1 and has increased the amount of MVAT credit, which is found to be inadmissible, then interest shall be payable u/s 50 from the date of submission of such revised TRAN-1, in respect of such inadmissible credit claimed in revised TRAN-1.

7. Difficulty, if any, in implementation of this circular may please be brought to the notice of this office.


(Rajiv Jalota)

Commissioner of Sales Tax,
Maharashtra State, Mumbai

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Copy forwarded to the Joint Commissioner of Sales Tax (Mahavikas) with a request to upload this circular on the Website.


(Shriram H. Umale)

Joint Commissioner of Sales Tax,
HQ1, Maharashtra, Mumbai

