

From	Karvy Data Management Services Ltd.
Date	February 24, 2018
Subject	Directions regarding non-transition of CENVAT credit or non-utilization thereof in certain cases
Category	Circular
Reference	Circular No. 33/07/2018-GST dated 23 rd February, 2018
Series	Karvy/GST/49

Section 140 of CGST Act 2017 states that a registered person shall be entitled to take into his electronic credit ledger the amount of CENVAT Credit as per last return filed under existing law. Most of the taxpayers have carried forward CENVAT Credit to the GST regime as Input tax Credit by filing Form GST TRAN-1.

In this relevance, CBEC has issued directions under Section 168 of CGST Act 2017 regarding non-transition of CENVAT Credit or non-utilisation thereof in certain cases. Gist of scenario based directions issued by CBEC is mentioned below:

Sl. No.	Particulars	Scenario	Direction by CBEC
1	Non-utilization of Disputed Credit carried forward	In cases where in relation to CENVAT Credit, Show Cause Notice (SCN) was issued under Rule 14 of CENVAT Credit Rules 2004, which has been adjudicated or where in the last adjudication order or the last order-in-appeal as it existed on 01.07.2017, it was held that such CENVAT Credit is not admissible.	<ul style="list-style-type: none"> Direction has been given that such CENVAT Credit amount credited to the electronic credit ledger in terms of the provisions of Section 140 of CGST Act 2017 <u>shall not be utilised by a registered taxable person to discharge his tax liability under this Act or under the IGST Act 2017</u>, till the order-in-original or the last order-in-appeal, as the case may be, holding that disputed credit as inadmissible is in existence. Till the period the last order-in-original or the last order-in-appeal as the case may be holding that disputed credit as inadmissible is in operation, <u>if the said disputed credit is utilised, it shall be recovered from the taxpayer with interest and penalty as per the provisions of the Act</u>
2	Non-transition of Blocked Credit	In cases where a registered person has taken in his electronic credit ledger amount of CENVAT Credit as is carried forward in the last return filed under the existing law which is not eligible as Input Tax Credit (ITC) under Section 17(5) of CGST Act 2017 (Blocked Credit)	<ul style="list-style-type: none"> Direction has been given that such CENVAT Credit amount credited to the electronic credit ledger in contravention of Section 140 of CGST Act 2017, <u>shall not be utilised by a registered taxable person to discharge his tax liability under this Act or under the IGST Act 2017.</u> <u>Such amount shall be recovered from the taxpayer with interest and penalty as per the provisions of the Act.</u>
3	Submission of undertaking with the jurisdictional officer	• In all cases where disputed credit in terms of sl. no. 1 above and blocked credit in terms of sl. no. 2 above is <u>higher than Rs.10 lakhs</u> , the taxpayer shall submit <u>an undertaking</u> to the jurisdictional officer of the Central Government that such credit shall not be utilized or has not been availed as transitional credit, as the case may be.	
4	Non-submission of undertaking with the jurisdictional officer	• In other cases of transitional credit of an amount <u>lesser than Rs.10 lakhs</u> , the directions mentioned in <u>sl. no. 1 & sl. no.2 above shall apply</u> but the need to submit the <u>undertaking</u> as mentioned in sl. 3 above <u>shall not apply.</u>	

About KARVY DATA MANAGEMENT SERVICES LTD.

Karvy Data Management Services Limited (KDMSL), a GST Suvidha Provider which has developed ASP Solution for easing GST compliance for tax payers. Easy to use interfaces are made available at the disposal of the tax payers to simplify their compliances in terms of dashboards, MIS, returns, payments, refunds and other compliance process. So, 'HELP US HELP YOU' we offer following services for GST - GSP & ASP Services (on cloud or on premises) with ERP Integration and Vendor Management Solution. We also offer managed services for Outsourced GST Compliance which will take care of end to end compliances.

In India, GST Team of KDMSL are located in following cities: Hyderabad, Mumbai, Bangalore, New Delhi and Kolkata. For more information about KDMSL service offerings, visit www.karvygst.com

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