

**GIB/PN/ADFERT/04-11-2019/HC-67**

**High Court Category :** TRAN-1

**State :** Punjab

**Order No.:** GIB/PN/ADFERT/04-11-2019/HC-67

**Name of Entry :**  
ADFERT TECHNOLOGIES PVT. LTD.

**Date :** 04-11-2019

**Breif Issue :**

**ISSUE INVOLVED :**

In many cases where TRAN-1 could not be filed or wrongly filed by Dec-27-2017 , would be allowed to carry forward their unutilized credits or not ?

**FACT OF THE CASE :**

- Writ petition were filed by Various Taxpayers who are not being able to carry forward their unutilized credit of Duty Paid under (“CEA,1944) and Input Tax Credit of VAT Paid under Punjab VAT Act, 2005 (“PVAT Act”) or Haryana VAT Act ,2003 (“HVAT Act”)
- Writ Petitions in 102 different cases were filed .

**THE PETITIONER HAS MENTIONED THE FOLLOWING REASONS FOR WHICH THE WRIT HAS BEEN FILED :**

- (Reason for not filing or wrongly filing the form) – Press release showing last date Dec-31-2017 , Lack of proper Knowledge of computer System ,Complexity In filing different columns of TRAN-1, System Glitches ,Etc.
- They also have contented that unutilized credits are vested rights of the taxpayers Which cannot be washed away ,and no section or rule of CGST Act provides that unutilized ITC would lapse, if TRAN-1 is not filed by Due Date .
- Thus, refund in cash may be sanctioned in terms of proviso to Section 142(3) of CGST Act if it is held that petitioners are not entitled to carry forward unutilized ITC because they failed to file TRAN-1 by December 27,2017.

**Decision of Advance Ruling Authority :**

**DECISION :**

The court also relied on the judgements in case of Siddharth Enterprises Vs the Nodal Officer and the Krish Automotors Pvt. Ltd. Vs UOI and others.

Hon'ble Punjab And Haryana HC Directed the respondents to permit the petitioners to file or revise TRAN-1 on or before 30<sup>th</sup> November 2019. The respondents are liable to verify genuineness of Claim of petitioners but nobody shall be denied carrying forward legitimate claim of CENVAT / ITC on the ground of non- filing of TRAN-1 by December 27,2017.

Referring the view taken in similar cases, it has been allowed to File or Revise TRAN-1 form to petitioner on the basis of Rule 120 A.