

Sasan Power Limited

Authority for Advance Ruling — Madhya Pradesh

Order No. 01/2018

Dated 06.06.2018

Q Questions Before the Authority

- Whether the applicant is entitled to carry forward the accumulated cenvat credit as reflected in its Excise returns for the month of June 2017 to GST regime in terms of provisions under the CGST Act 2017, more particularly Section 140 of the CGST Act?
- If the answer to the above is in affirmative, whether the accumulated Cenvat Credit so carried forward, not being the credit availed under the GST regime, is required to be adjusted/restricted in the manner prescribed under Rule 42 and 43 of the CGST Rules 2017?

F Facts

The applicant operates captive coal mines to generate electricity, which was exempt under Central Excise duty prior to GST, leaving an unutilized CENVAT credit balance. Upon implementation of GST, the applicant claimed this accumulated CENVAT credit via Form GST TRAN-1. The jurisdictional tax authorities subsequently initiated audit objections and scrutiny regarding the validity of this transitional credit claim.

H Ruling

The Authority **rejected the application at the admission stage** without ruling on the merits of the questions. It held that transitional CENVAT credit under Section 140 falls outside the statutory scope of advance rulings, and the issue was already pending in departmental proceedings.

R Reasoning

The Authority observed that under Section 97(2)(d) of the CGST Act, advance rulings can only be sought on admissibility of 'input tax credit' as defined under Section 2(63), which does not extend to CENVAT credit carried forward under Section 140. Furthermore, under the proviso to **Section 98(2)**, the Authority cannot admit an application where the question raised is already pending or decided in any proceedings under the Act. Because the applicant had already filed Form TRAN-1 and the departmental officers had initiated audit and scrutiny on the same credit, the application was barred from admission.

P Provisions Relied On

Section 97(2)

Section 97(2)(d)

Section 98(2)

Section 140

Section 2(63) of CGST Act, 2017

Rule 42 of CGST Rules, 2017

Rule 43 of CGST Rules, 2017

! For the Practitioner

This ruling establishes that **transitional CENVAT credit under Section 140 cannot be adjudicated by the AAR** under Section 97(2)(d). Additionally, if a taxpayer has already filed Form GST TRAN-1 and departmental scrutiny or audit has commenced, the proviso to Section 98(2) strictly bars the AAR from admitting the advance ruling application.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> [order_reliance_sasan_power_limited.pdf](#)

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