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Friday Tax Alert

GST: Interstate Transfer of ITC Allowed Post-Amalgamation: Bombay High Court Landmark Ruling

In a significant and precedent-setting judgment, the Bombay High Court (Goa Bench) has held that the unutilized Input Tax Credit (ITC) of a transferor company can be transferred to the transferee even when both entities are registered in different states following a court-sanctioned scheme of amalgamation. This decision in the case of **Umicore Autocat India Pvt. Ltd. vs. Union of India** provides much-needed clarity on the scope of ITC portability across state registrations and reinforces the principle of seamless credit under GST, despite technical restrictions on the GSTN portal.

1. Facts of the Case:

➤ **Companies Involved:**

- Transferor: Umicore Anandeya India Pvt. Ltd. (registered in Goa)
- Transferee: Umicore Autocat India Pvt. Ltd. (registered in Maharashtra)

➤ **Amalgamation:**

- A court-approved NCLT scheme of amalgamation became effective April 1, 2019, and was sanctioned in May 2020.
- Under the scheme, all assets and liabilities—including Input Tax Credit (ITC)—were to be transferred to the transferee company.

➤ **Dispute:**

- At the time of the merger, the Goa entity had unutilized ITC in its electronic credit ledger.
- The transferee attempted to transfer this ITC using Form GST ITC-02 under Rule 41 of the CGST Rules. However, the GSTN portal rejected the request, stating that ITC transfer can only occur between entities registered in the same state.

➤ **Petitioner's Action:**

Filed a representation with the department, which was rejected and subsequently, filed a Writ Petition (L) No. 4263 of 2022 before the Goa Bench of the Bombay High Court, challenging the denial of ITC transfer.

2. Analysis of the Case:

➤ **Legal Provisions Involved**

- Section 18(3) of the CGST Act allows the transfer of ITC in case of business reorganization.
- Rule 41 of the CGST Rules outlines the procedure to transfer ITC using Form ITC-02.
- Section 25(4): treats each GST registration in different states as a distinct person.

➤ **Petitioner's Argument:**

- The merger was lawfully approved and included all assets and liabilities. The law allows ITC transfer in such scenarios and does not restrict it to intra-state only.
- GSTN's portal restriction is technical in nature and not supported by law. Denial of credit violates the seamless flow of credit, a core GST principle.

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➤ Respondent's Argument:

- The two GST registrations (Goa and Maharashtra) are distinct persons under the Act. ITC should only be used within the state where it accrued. Permitting the transfer may cause SGST revenue loss to Goa.
- Cited the Madras HC decision in MMD Heavy Machinery (India) Pvt. Ltd., where such transfer was disallowed.

➤ Court's Findings:

The amalgamation was court-approved, and liabilities (including ITC) were to be transferred. Rule 41 does not bar interstate ITC transfer post-merger. ITC is a vested right, and denial based on technical system limitations is arbitrary. GST aims to enable seamless credit flow; disallowing such a transfer would defeat that purpose.

3. Conclusion

The Bombay High Court ruled in favor of the petitioner, holding that: Interstate transfer of ITC is valid and legal in the case of a court-approved amalgamation. System limitations (GSTN portal restrictions) cannot override statutory entitlements under the GST law. The tax authorities were directed to allow the transfer of unutilized ITC from the Goa registration to Maharashtra.

This judgment sets a strong precedent for businesses undergoing mergers or restructuring, affirming their right to transfer accumulated credits even across state registrations. It also emphasizes the need for administrative systems (like GSTN) to align with the legal intent of the GST framework.

[Umicore Autocat India Pvt. Ltd. Vs. Union of India and Ors. [TS-639-HC(BOM)-2025-GST]]

CBDT Issues Relief for Inoperative PAN Cases

The CBDT has partially modified Circular No. 3/2023 regarding PAN becoming inoperative under Rule 114AAA. It clarifies that no higher TDS/TCS rate shall apply under sections 206AA/206CC for transactions from 01.04.2024 to 31.07.2025 if PAN becomes operative by 30.09.2025.

Similarly, for payments post 01.08.2025, relief is allowed if PAN becomes operative within two months. This move addresses grievances about short deductions or defaults where PANs were inoperative due to Aadhaar linkage issues. Other provisions of Chapter XVII remain applicable.

[Circular no 9/2025]

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