Alstom Transport India Limited v. Additional Commissioner, CGST & Central Excise (Appeals)

Partial transfer of amalgamation credit through FORM GST ITC-02, with the retained balance separately claimed and encashed as an export refund, later reversed on departmental review. At issue: whether FORM GST ITC-02 is the sole route for such credit, and

Date of Order: January 7, 2026
Case Law No: GIB-GUJHC-2026-79
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background.

By NCLT order dated 10.08.2023, three entities including Alstom Rail Transportation India Pvt. Ltd. (ARTIPL) were dissolved and amalgamated into the petitioner; the certified copy was filed with the Registrar of Companies on 22.09.2023, which was the effective date under the scheme, and intimation was given to the department on 10.10.2023. On 20.10.2023 ARTIPL filed FORM GST ITC-02 transferring Rs. 192,87,53,211 out of total unutilised credit of Rs. 242,02,00,000, retaining Rs. 49,14,00,000 in its own electronic credit ledger, and then filed month-wise refund claims under Section 54(3) for that balance on account of April 2023 exports. A refund of Rs. 2,56,75,437 was sanctioned and encashed, was reviewed under Section 107(2), and was set aside in appeal on 08.01.2025. ARTIPL's registration was cancelled only on 29.11.2024.

Observations of the Court.

The Court noted that although ARTIPL stood dissolved and amalgamated from the dates set out above, it continued to be treated as a registered person under GST and was so recognised by the authorities until 29.11.2024, which reflected a flawed approach on the part of the jurisdictional officers.

On amalgamation and formation of the petitioner, the only and exclusive manner of transferring the unutilised credit from the transferor's electronic ledger was through FORM GST ITC-02, which it resorted to only in substantial part, that is about eighty per cent. The petitioner was entitled to claim the entire unutilised credit and to encash it had it been transferred by following the statute, since the petitioner itself had never exported the goods. No patent illegality was found in the appellate order. Applying the doctrine of pari delicto, the Court held that where the action of both the entities and the jurisdictional officer was pernicious to the statutory provisions, the law aids neither party, and the transferor could not seek the benefit of a refund from the fault of the officer when it was equally at fault.

Final verdict.

The writ petitions failed legal scrutiny and were dismissed, rule discharged. The Court additionally directed the Revenue to issue appropriate instructions for scrupulously following the mandate of the statutory provisions while dealing with the registrations of both entities in cases of amalgamation, and for taking prompt steps within the prescribed time frame as soon as the jurisdictional officer learns of an amalgamation.