# TATA UNISTORE LIMITED v. COMMISSIONER, CGST & CENTRAL EXCISE, NAVI MUMBAI COMMISSIONERATE

*Eligibility of transitional ITC under Section 140 of the CGST Act relating to CENVAT credit, Krishi Kalyan Cess and VAT credit. Whether denial of transitional credit and invocation of Section 74 are sustainable in the absence of concealment or suppression*

**Date of Order:** July 31, 2026
**Case Law No:** GIB-GSTAT-2026-91
**Source:** GST INDIA Biz (www.gstindia.biz)

## CASE DESCRIPTION / SUMMARY

### BACKGROUND

The taxpayer transitioned credit from the pre-GST regime into GST under Section 140. The credit had been reflected in the pre-GST returns and had not been disputed under the erstwhile regime. The Department subsequently issued proceedings challenging the eligibility of the transitioned credit.

The lower authorities confirmed recovery of the disputed transitional credit along with interest and penalty. The taxpayer challenged the denial, contending that credit validly existing under the erstwhile law could not be denied merely because it had transitioned into GST.

### COURT OBSERVATION

The Tribunal examined the legal effect of transition from the pre-GST regime and held that the transitional credit could not be denied merely by raising objections that had not been raised under the erstwhile regime. In respect of Krishi Kalyan Cess, the Tribunal relied upon the existing legal position and held that its transition was in order.

The Tribunal also held that the VAT credit transitioned under Section 140(6) could not be denied in the absence of a specific contrary finding or evidence. Other objections such as invoice description/address issues were also found insufficient where such objections had not been raised at the relevant stage.

The Tribunal further found invocation of Section 74 and the 100% penalty wholly unjustified, since the proceedings arose from disclosures made through TRAN-1 and subsequent submissions rather than concealment.

**FINAL VERDICT**

The Tribunal held that the transitional ITC was eligible, set aside the impugned order and allowed the appeal with consequential relief.

**CASE REFERRED BY COURT**

Godrej & Boyce Mfg. Co. Ltd. v. Union of India & Ors. — Bombay High Court .

Usha Martin Limited — High Court — order dated 10.11.2022.

Kunjal Synergies Pvt. Ltd. v. Assistant Commissioner of CGST & CEX — Calcutta High Court.

Steel Authority of India Ltd. v. State of Jharkhand — Jharkhand High Court.