

Gujarat HC's Landmark Ruling on Leasehold Rights - A Game-Changer for Industries

Jan 09, 2025



Abhishek A. Rastogi

Founder of Rastogi Chambers



Dhriti Kar

Associate, Rastogi Chambers

The Gujarat High Court's recent ruling on the contentious issue of Goods and Services Tax (GST) applicability to leasehold rights has delivered a much-needed relief to businesses operating in industrial estates. In a significant decision on January 3, 2025, the Court addressed long-standing ambiguity in the taxation of leasehold rights, a matter that had posed significant financial and operational challenges to industries.

This ruling is particularly important for businesses in sectors like manufacturing, logistics, and other industrial ventures that rely heavily on long-term lease agreements with governmental or semi-governmental bodies.

In the case of Gujarat Chamber of Commerce and Industry & Ors. v. Union of India & Ors., the petitioners contested the GST demands on leasehold rights assigned by the Gujarat Industrial Development Corporation (GIDC). The Court concluded that such assignments do not amount to a taxable "supply of services" under GST, thereby nullifying the 18% GST levy previously imposed. This ruling not only provides substantial financial relief but also reinforces core principles governing the taxation of immovable property, delivering much-needed legal certainty in this complex area of law.

The decision is poised to have far-reaching implications for industries, especially MSMEs, that have struggled with the financial burden of the GST on leasehold transactions. By clarifying the tax treatment of these assignments, the Court has paved the way for more predictable and equitable taxation policies that support business growth.

The judgment also establishes a precedent for future cases, providing a clear reference point for both businesses and tax authorities when navigating the intricacies of GST and property law.

GST on Leasehold Rights: The Legal Debate

Under the GST framework, "supply" is broadly defined to include leases and rentals of property, but transactions involving the sale of land and buildings are explicitly excluded under Schedule III of the GST Act. This exclusion reflects the fundamental principle that immovable property transactions are traditionally taxed through stamp duties rather than GST.

Despite this exclusion, disputes persisted regarding the taxability of long-term leasehold rights. Tax authorities contended that the assignment of such rights constituted a “supply of services” and imposed an 18% GST. On the other hand, businesses argued that leasehold rights represent an interest in immovable property, making their transfer akin to the sale of land, which lies outside the GST framework.

Court's Key Observations

In a detailed analysis, the Gujarat High Court made the following key determinations:

1. **Leasehold Rights are Immovable Property:** The Court observed that leasehold rights constitute an interest in immovable property. Assigning such rights entails the complete transfer of obligations and ownership-like privileges, aligning them with property transactions rather than services.
2. **Lack of Service Component:** The absence of any ongoing relationship or obligation between the assignor and the assignee post-assignment negated the characterization of these transactions as services.
3. **Consistency with GST Principles:** The Court noted that taxing leasehold assignments while exempting the sale of land under Schedule III would create inconsistencies. Aligning such transactions with the principles of immovable property taxation ensures legal and fiscal clarity.
4. **Relevance of GST Exemptions:** The Court cited Notification No. 12/2017, which exempts long-term leases (30 years or more) provided by government entities. It emphasized that taxing assignments while exempting initial leases would lead to arbitrary and inequitable tax treatment.

The case in focus: Gujarat Chamber of Commerce and Industry & Ors. v. Union of India & Ors.

The ruling was a response to multiple petitions, led by the Gujarat Chamber of Commerce and Industry, challenging the GST demands on leasehold assignments of GIDC plots. The petitioners argued that the levy violated the principles of the GST framework and imposed an undue burden on businesses.

The Court quashed the GST demands, declaring that such assignments do not constitute a supply of services. It also provided a strong basis for businesses to contest similar notices, setting a precedent for other industrial development corporations and state governments operating under similar lease models.

Conclusion

The Gujarat High Court's pronouncement on January 3, 2025 that the GST exemption for the assignment of leasehold rights marks a significant milestone in the taxation of immovable property transactions in India. By affirming that such assignments do not constitute a taxable “supply of services” under GST, the Court has not only relieved industries from the financial burden of an 18% GST but has also provided a clearer legal framework for individuals and businesses involved in leasehold agreements.

This judgment holds broad implications for both large enterprises and individual entrepreneurs. It reduces transaction costs, enhances investment opportunities in industrial estates, and simplifies tax compliance for businesses, particularly MSMEs and startups. By eliminating one of the major tax-related obstacles, it creates a more favourable environment for growth and development, driving industrial investment and economic activity.

The Court's decision sets a precedent that could influence similar cases across the country, offering legal clarity for future disputes and ensuring consistency in the application of GST to leasehold transactions. The ruling also underscores the importance of having a clear and standardized approach to immovable property taxation across India, which can significantly reduce litigation and streamline business operations.

Ultimately, while the ruling brings immediate relief to industries and individuals, the onus now shifts to the GST Council to formalize and standardize the taxation approach nationwide. If implemented effectively, this decision could help foster a more transparent and predictable business environment, promoting long-term economic growth and legal certainty in the realm of property transactions.