



JUDGEMENT

Assignment of Long-Term Leasehold Rights in Industrial Land Treated as Transfer of Immovable Property and Held Outside GST Levy

| | |
|--------------------|--------------------------|
| Issued By: | Bombay High Court |
| In Case Of: | Aerocom Cushions Pvt Ltd |
| Order No: | WP No. 2145 of 2025 |
| Order Date: | 9th Jan 2026 |

FACTS & OBSERVATIONS

- The petitioner, Aerocom Cushions Private Limited, challenged a show cause notice issued under Section 74(1) of the CGST Act proposing **recovery of GST on the alleged supply arising from assignment of long-term leasehold rights in an industrial plot allotted by MIDC, Nagpur.**
- The **department alleged that the petitioner had concealed a transaction involving assignment of leasehold rights for consideration of ₹1.50 crore** and treated the same as a taxable supply of services under Section 7 read with Schedule II, classifying it as “other miscellaneous services.”
- It was undisputed that the petitioner held a 95-year lease, had constructed a factory building on the land, and **transferred its leasehold rights to a third party with prior approval of MIDC, along with payment of applicable transfer charges.**
- The petitioner contended that the **transaction amounted to transfer of benefits arising out of immovable property, was not in the course or furtherance of business, and therefore fell outside the scope of “supply” under GST.**

JUDGEMENT

- The Court held that **assignment of leasehold rights is neither a lease nor a sub-lease**, and once the assignor's rights stand extinguished, the transaction cannot be artificially classified as a supply of services under Schedule II.
- It was observed that the **transaction constituted transfer of immovable property rights, lacked any nexus with the petitioner's business activities**, and therefore failed the essential requirement of being "in the course or furtherance of business."
- The **Court rejected the department's attempt to classify the transaction as "other miscellaneous services,"** noting that such residual entries cannot be stretched to cover transfer of valuable immovable property rights.
- Relying on the Gujarat High Court decision in Gujarat Chamber of Commerce and Industry, the **Court held that assignment of leasehold rights by an industrial allottee amounts to transfer of benefits arising from immovable property and is not liable to GST**, consequently quashing the show cause notice.

N J JAIN & ASSOCIATES

CHARTERED ACCOUNTANTS

WWW.NJJAIN.COM

info@niteshjain.co.in

079-4002-2628