Hindustan Equipment Craft vs. Assistant Commissioner of State Tax & Ors.

Whether assignment of leasehold rights in an MIDC industrial plot by a lessee in favour of a third party for consideration constitutes a taxable supply of service under the Maharashtra GST Act, 2017 and is liable to GST at 18%.

Date of Order: February 27, 2026
Case Law No: GIB-BHC-2026-51-DB
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

BACKGROUND

The petitioner-assessee held a 95-year lease of an industrial plot allotted by MIDC. In exercise of the transferable rights under the lease deed, the petitioner assigned the entire leasehold rights in favour of a third party with prior consent of MIDC, receiving consideration for the said assignment. The Department issued a Show Cause Notice under Section 73(5) of the Maharashtra GST Act, 2017 alleging that the petitioner had concealed this transaction and had not paid GST on it. The Department's case was that this assignment amounted to supply of services classifiable under other miscellaneous services taxable at 18% under Entry No. 35 of Notification No. 11/2017-CT (Rate). It was also admitted in the notice itself that the transaction did not amount to a sub-lease, as the petitioner's rights stood extinguished upon assignment. An adjudication order was passed on 30.12.2025 confirming the demand, which was challenged before the High Court.

CRUCIAL COURT OBSERVATIONS (Verbatim)

"*In the case before us, the transaction under question is assignment of leasehold rights by the petitioner in favour of assignee, which, admittedly, is not a lease nor does it amount to sub-lease. In fact, in the show cause notice issued by respondent no.1, he has categorically mentioned that the transaction under question does not amount to sub-lease, as the petitioner's right stands extinguished by the said transaction.*"

"*Such petty services, in our view, cannot be extended to assignment of leasehold rights in an immovable property, to term it to be other miscellaneous services, as classified under Clause at Sr. No. 35 of the Notification. In that view of the matter, the notice could be said to be bad in law on this count alone.*"

"*This transaction, on the face of record, constitute transfer of immovable property by the petitioner*

to M/s. Kothari Belting Company. The transaction pertains exclusively to transfer of benefits arising out of an immovable property and has no nexus whatsoever with the business of the petitioner Company. Consequently, the essential element of supply of service, in the course of business or in furtherance of business, is completely absent."

"*We subscribe to this view for the reasons quoted in earlier part of our judgment so also because the view, in our considered opinion, is in consonance with the provisions of law on supply of services.*" *(referring to Gujarat HC conclusion)*

"*Further, the law laid down by the Gujarat High Court is binding on the authorities, i.e. the respondents in terms of the judgment of this Court in the case of Commissioner of Income-tax, Vidarbha and Marathwada, Nagpur Vs. Smt. Godavaridevi Saraf Tumsar [1978 (2) ELTJ 624 Bombay], wherein, the Court held that until a contrary decision is given by any other competent High Court, which is binding on Tribunal in the State of Bombay, it has to proceed on the footing that the law declared by the High Court, though of another State, is the final law of land.*"

"*We subscribe to the finding of the Gujarat High Court that the assignment by sale and transfer of leasehold rights of the plot of land allotted by the Corporation, like GIDC or MIDC to the lessee in favour of third party-assignee for a consideration, shall be assignment/sale/transfer of benefits arising out of immovable property by the lessee-assignor in favour of third party, and in such circumstances, the transaction would not be subject to levy of GST in terms of the GST Act.*"

FINAL VERDICT

The Writ Petition was allowed, the adjudication order dated 30.12.2025 was quashed and set aside, holding that assignment of leasehold rights in an MIDC plot constitutes transfer of benefits arising out of immovable property and is not liable to GST as it lacks the essential element of supply in the course or furtherance of business.

ADDITIONAL FOOTNOTES

CASES REFERRED

Case	Citation	Relevance
Gujarat Chamber of Commerce and Industry vs. Union of India	(2025) 170 taxmann.com 251 (Gujarat)	Assignment of leasehold rights of GIDC land is transfer of benefits arising out of immovable property — not subject to GST
Commissioner of Income Tax, Vidarbha and Marathwada, Nagpur vs. Smt. Godavaridevi Saraf Tumsar	1978 (2) ELTJ 624 (Bombay)	Law declared by a High Court of another State is binding on authorities until a contrary decision is given by another competent High Court

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