

M/s Flora Kingdom Farm Resort v. Commissioner of Commercial Taxes, Karnataka

ITC on goods and services used to construct a resort building – blocked under Section 17(5)(d) after the retrospective 2025 amendment (“plant and machinery”) and Safari Retreats.

Date of Order: September 30, 2026
Case Law No: GIB-GSTAT-2026-123
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CASE DESCRIPTION / SUMMARY

Background

The appellant, which runs a resort at Udupi supplying accommodation, restaurant services and wedding and event venues, availed ITC in FY 2019-20 on inputs used to build the resort. After allowing Rs. 1,47,922.92 on electrical items, air-conditioners and expensed purchases, a Section 73 demand of Rs. 9,32,177 (tax Rs. 8,45,972, interest Rs. 1,607, penalty Rs. 84,598) was confirmed and upheld in first appeal. Relying on Safari Retreats, the appellant claimed that the resort is a “plant” and was not built “on its own account”.

Final Verdict

The Tribunal held that, by Section 124 of the Finance Act, 2025 and the corresponding KGST amendment, **clause (d) must be read from 01.07.2017 with the defined expression “plant and machinery”, which expressly excludes buildings and civil structures, so a resort building cannot qualify**. Even under the unamended clause, Safari Retreats framed the functionality test only for “a mall, warehouse or any building other than a hotel or a cinema theatre” (citing Anand Theatres), so a resort supplying accommodation and food was outside it. Applying Safari Retreats on “own account”, which the amendment did not touch, it held that **a building used as the setting of the taxpayer’s own hotel, restaurant and events business is constructed on its own account**; no lease or licence to third parties was shown, and the words “including when ... used in the course or furtherance of business” defeat the contrary plea. Under Section 155 the burden of identifying items outside clause (d) lay on the appellant, which identified nothing beyond what was already allowed. Interest (computed under Rule 88B) and penalty under Section 73(9) were sustained, and the appeal was dismissed.

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