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Judicial Interpretation of "Plant" in GST: Key Insights

Judicial Interpretation of "Plant" in GST and Distinction Between "Plant and Machinery" and "Plant or Machinery"

Introduction

The recent Supreme Court judgment in *Chief Commissioner of Central Goods and Service Tax & Ors. v. M/s Safari Retreats Private Ltd. & Ors.* (2024) has provided a significant interpretation of the term **"Plant"** under the Goods and Services Tax (GST) regime. The Court examined the **distinction between "Plant and Machinery" and "Plant or Machinery"** as used in Section 17(5) of the [Central Goods and Services Tax Act, 2017 \(CGST Act\)](#). This ruling has far-reaching implications for Input Tax Credit (ITC) eligibility for immovable properties used in businesses, such as shopping malls, warehouses, and industrial facilities.

Distinction Between "Plant and Machinery" and "Plant or Machinery"

One of the key issues addressed by the Supreme Court was the deliberate legislative distinction

between **"Plant and Machinery"** and **"Plant or Machinery"** in **Section 17(5)(d)** of the CGST Act:

- 1. Legislative Intent:** The term **"Plant and Machinery"** is consistently used throughout **Chapters V and VI** of the CGST Act, while **"Plant or Machinery"** appears only in **Section 17(5)(d)**. This suggests a broader scope for ITC eligibility under certain conditions.
- 2. Definition Applicability:** The explanation to **Section 17** defines **"Plant and Machinery"** as **equipment, apparatus, and machinery affixed to the earth for business purposes**, excluding land, buildings, and other civil structures. However, **this definition does not apply to "Plant or Machinery" in Section 17(5)(d).**
- 3. ITC Implications:** Under **Section 17(5)(d)**, ITC is **blocked** for goods and services used in the construction of immovable property unless the property qualifies as a **"Plant or Machinery."** This distinction allows businesses to claim ITC if they can prove the asset functions as a **"Plant."**

Judicial Interpretations of “Plant” in Taxation Laws

The Supreme Court referred to several landmark judgments that have shaped the meaning of

“Plant” under Indian tax laws. A comparative summary of these rulings is presented below:

Case Name	Court	Key Interpretation of “Plant”
CIT, Andhra Pradesh v. Taj Mahal Hotel (1971)	Supreme Court	“Plant” includes buildings and structures essential for business operations .
Solid and Correct Engineering Works (2010)	Supreme Court	The functionality test should be applied; an asset is a “Plant” if it is an essential part of the business process.
CIT v. Anand Theatres (2000)	Supreme Court	Hotels and cinema theatres do not qualify as “Plant” since they serve as business premises rather than functional business tools.
Karnataka Power Corporation v. CIT (2002)	Supreme Court	A power station qualifies as a “Plant” due to its functional role in generating electricity.
Victory Aqua Farm Ltd. (2016)	Supreme Court	Prawn farming ponds were classified as “Plant” since they were specially designed for business use.
Indcon Structurals (P) Ltd. v. CCE, Chennai (2006)	Supreme Court	The term “Plant” should be interpreted based on trade and commercial usage .

Key Tests for Determining “Plant” under GST

To establish whether an immovable asset qualifies as a “Plant” under GST, courts have applied

various legal tests:

- Functionality Test:** If an asset is essential to the business operation and not merely a setting in which business is conducted, it qualifies as a “Plant.”
- Essentiality Test:** The asset must be indispensable for business activities, such as a power plant for electricity generation.
- Movability Test:** If an asset is permanently fixed, it generally does not qualify as a “Plant,” but exceptions exist where its fixed nature is integral to its function (e.g., a dry dock).

Conclusion and Implications for Businesses

The Supreme Court’s decision provides **clarity on ITC eligibility** for businesses engaged in constructing immovable properties for commercial use. This ruling particularly benefits sectors such as **real estate, manufacturing, hospitality, and warehousing**, where the

classification of assets as “Plant” can significantly impact tax liabilities.

For businesses, this judgment underscores the importance of **proper classification of immovable assets** and **maintaining documentation** to support ITC claims. Tax authorities and businesses must adopt a case-by-case approach, evaluating the **functional role** of an asset in determining ITC eligibility.

Final Thought

While the judgment clarifies several aspects of ITC under GST, it also leaves room for further litigation, especially concerning the classification of specific assets. Businesses should consider seeking **expert tax opinions** and conducting internal assessments to align with the latest legal interpretations.

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