

RELIEF FOR INDUSTRY

Gujarat HC says no GST on transfer of state land leases

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In a landmark judgment, the Gujarat High Court has ruled goods and services tax (GST) does not apply to the transfer of leasehold rights to a third party in land granted by Gujarat Industrial Development Corporation (GIDC).

The ruling — in the *Suyog Dye Chemie vs Union of India* case — brings significant relief to companies that faced the burden of retrospective demand for 18 per cent GST on such lease transfers, amounting to liabilities of approximately ₹8,000 crore only in Gujarat and Maharashtra.

The court's decision not only alleviates the financial strain on affected businesses but also addresses long-standing concerns regarding double taxation.

It offers hope for resolving similar disputes, including those pending before the Bombay High Court, where the Chamber of Small Industry Associations has filed a writ challenging the GST implications.

The core legal issue under scrutiny is whether GST should be levied on transfers of leasehold or industrial land, given that these transactions are already subject to state-

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WHAT IT MEANS

- Ruling brings relief to industries facing burden of retrospective demand for 18% GST on transfer of leasehold rights
- Decision addresses long-standing concerns regarding double taxation
- The core issue under scrutiny is if GST should be levied on such transactions as they are already subject to state-imposed stamp duty
- Petitioners argue these transfers should be treated as sales of land, which are excluded from the GST regime

imposed stamp duty. Petitioners argued that such transfers should be treated as sales of land, which are explicitly excluded from GST.

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Gujarat HC ruling may set precedent

The imposition of 18 per cent GST on each subsequent transfer has resulted in a heavy tax burden, leading to cascading taxes and rendering many transactions economically nonviable.

“The GST framework ignores tax applicability on sales of land and buildings and these transactions are within the exclusion. Any deviation will lead to tax cascading and double taxation. Industry needs a quick resolution. Several demand notices have been issued, thereby leading to litigation and the burden of pre-deposit for appeals,” said Abhishek A Rastogi, founder of Rastogi Chambers.

He is representing petitioners in the case before the Bombay High Court.

Saurabh Agarwal, tax partner, EY, said: “While this landmark ruling provides interim clarity and would be a strong precedent for similar disputes across India, the maturity of GST law and a definitive judgment from the Supreme Court are essential to settle these issues conclusively. It will be beneficial for industry if the Central Board of Indirect Taxes and Customs provides clarity on this aspect and industry doesn’t have to wait for the final verdict from the Supreme Court.”