

The background is a dark, textured surface with faint, light-colored sketches of various symbols. These include a large letter 'V' in the top left, a globe in the top center, a microscope on the left side, a stack of books at the bottom left, a cross symbol at the bottom center, an open book at the bottom center, and a large percentage sign (%) at the bottom right.

# **RECENT IMPORTANT JUDGEMENTS UNDER GST**

Vikram Nankani  
Senior Advocate

# Chief Commissioner v. Safari Retreats (2025) 2 SCC 523

- Challenge to Section 17(1) (c) –works contract & Section 17(1)(d)- construction of immoveable property
- Plant and machinery vs. Plant or machinery- former different from latter #52-53
- Functionality Test #66
- Hotels & Cinema exceptions and cannot be plant and machinery

# Indian Medical Association v. UOI Kerala High Court

## Order dated 11.4.2025

- Mutuality of Interest
- Plurality of persons-service definition
- Ranchi Club and Calcutta Club (2019) SC Judgements
- Section 7(1) (aa) amended in 2021 retrospectively wef 1.7.2017 making supply of services to association of persons, incorporated or not, taxable
- Amendment to CGST/SGST Acts amends definition of “supply” without deeming to be service like Article 366(29A) which makes supply of goods to members a deemed sale
- Section 2(17)(e) and Section 7(1)(aa) and Explanation ultravires Article 246A read with Article 366(12A)

# Shrinivasan Realcon P. Ltd v. Deputy Commissioner

## Order dated 8.4.2025 in WP 7135/2024 Bom (Nagpur)

- Holds that Development Rights Agreement does not fall under Entry 5B of Schedule II
- Facts not clear
- Entry 5B covers services supplied by way of transfer of development rights or FSI for construction of a project by the promoter
- High Court construed Entry 5B to apply to transfer of development rights in conjunction with FSI and therefore would apply to TDR
- Entry 5B does not cover rights derived by developer from the owner.



# Gujarat Chamber of Commerce & Industry v. UOI

## 2025 SCC Online Guj 537

- Issue- GST on assignment of leasehold rights in respect of land leased by GIDC
- Building was developed by original lessee (transferor)
- Transfer of leasehold rights amounts to sale/transfer of immovable property covered by Schedule III and hence no GST
- Lease by GIDC for 99 years falls under Schedule II and hence taxable
- But transfer of leasehold rights is a transaction in immovable property
- Effect of Stamp Duty Act considered
- Schedule III contemplates transfer of title.
- Is the decision good law?

## Rohan Corporation India P. Ltd v. UOI Karnataka High Court Order dated 10.9.2024 in WP 12700/23

- Sale of under constructed building by Liquidator is sale of immovable property
- There is no construction service render by the original developer under liquidation to the new buyer
- Liquidator does not render any service

# Goa University v. UOI

## Order dated 25.4.2025 in WP 723/2024 Goa Bench

- Held affiliation fees charged by University to colleges is not for service rendered
- University not in the business of granting affiliation

# Aberdare Technologies P. Ltd v. CBIC

## Order dated 29.7.2024 in WP 7912/2024 Bombay High Court

- Bonafide mistake with no revenue loss can be carried out beyond September of the following financial years.
- Bar under Section 37(3) and Section 39 cannot deny genuine errors from being corrected.



## Poomika Infra Developers v. STO Madras High Court (2025) LivLaw Mad 149

- Uploading notices and orders on GST portal is valid service

# Commissioner v. Citibank NA (2025) 1 SCC 750

- Tax paid on higher amount (Merchant Discounting Rate) by collecting bank of credit card payment
- Interchange fee paid to issuing bank
- No service tax payable once again by issuing bank.

# Bharti Airtel v. Commissioner

## 2024 SCC Online SC 3374

- Issue whether ITC on inputs available for mobile towers
- Held mobile towers were not immovable property and hence capital goods
- Held also such towers were inputs used for providing output service