

Supreme Court dismisses review petition in Safari Retreats case, upholds relief on input tax credit

23 May 2025

In a significant development, the Supreme Court (SC) has dismissed the Revenue's review petition¹ in the case of Safari Retreats Pvt. Ltd, thereby reaffirming the relief granted to the taxpayer.

The SC had earlier upheld the constitutional validity of Sections 17(5)(c) and (d) of the CGST Act and clarified that the classification of a building as a 'plant' depends on its functionality and role in business operations. It observed that buildings like malls or warehouses, which are actively involved in business activities, may qualify as a 'plant' if they serve an essential role in business operations. ([link of tax alert attached](#))

Thereafter, the Finance Act, 2025, introduced a retrospective amendment to Section 17(5)(d), replacing the term 'plant or machinery' with 'plant and machinery', effective from 1 July 2017, aligning it with the definition and reinforcing the ITC restriction on immovable property.

While the SC's dismissal of the review petition upholds the relief granted to Safari Retreats, the retrospective amendment curtails its practical applicability.

¹ Diary No.1188 of 2025

Our comments

The SC's dismissal of the review petition reaffirms the importance of the functionality test and the commercial use of immovable property in determining the ITC eligibility. However, the retrospective amendment² raises concerns around policy certainty, sanctity for settled judicial interpretation, and its impact on taxpayer confidence.

This divergence between judicial relief and legislative override could lead to new constitutional challenges. Although the amendment is yet to be notified, it remains to be seen whether it will be subjected to judicial scrutiny. Taxpayers should closely monitor future developments, particularly any litigation that could shape the contours of ITC entitlement in similar fact patterns.

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² introduced through the Finance Act, 2025