

HC allows input tax credit under GST regime to realtor making shopping mall

The Orissa High Court has resolved an important issue of blocked credit under the goods and services tax (GST) regime for real estate companies constructing commercial spaces for the purpose of letting it on rent or lease.

The court has allowed input tax credit to a shopping mall construction company.

Meanwhile, real estate companies moved Delhi High Court over a similar issue. The issue resolves around Section 17 (5) (c) and (d) of the CGST Act and similar sections under the respective state GST laws.

The sections disallow input tax credit for goods and services used to build immovable property on own account.

One of the interpretations was that since property given on rent or lease is owned by owners and not by a tenant or lessee, input tax credit should not be given.

This interpretation was there despite the fact that GST is imposed on rent and lease.

The court said, “If the assessee is required to pay GST on the rental income arising out of the investment on which he has paid GST, it is required to have the input tax credit on GST.”

Meanwhile, real estate companies have petitioned the Delhi High Court to strike down the provisions of Section 17 (5) (c) and (d) of the CGST Act and similar provisions in the Delhi GST Act.

“The entire controversy resolves around the phrase ‘on own account’ and the rules of interpretation will come into play before deciding whether real estate players will be eligible to claim input tax credit,”

Source: Business Standard