

Case Brief

Bunny Holdings (BVI) Ltd v MIRA [2024] SC 55

Facts

1. Bunny Holdings leased 11 villas situated on Sonevafushi tourist resort, for 35 years on a strata basis.
2. MIRA determined that these transactions are subject to GST under section 15(d) of the GST Act.
3. Bunny Holdings argued that GST is not applicable to strata leases, as they fall under section 3(b)(1) – rights and interests under a law or contract, and 3(b)(2) – immovable property, both of which are excluded from the definition of goods.
4. Bunny Holdings also challenged the Audit Notice issued by MIRA under the Tax Administration Act, as it did not reference the TGST Act that applied to the transaction conducted while that Act was in effect.

Issues

1. Is GST applicable to the long lease of villas on a strata basis?
2. Is the audit notice served to Bunny Holdings valid?

Held

On the applicability of GST

1. That the transactions in question fall under the exemption in section 3(b) of GST Act, as rights under strata lease transactions

are derived from the Tourism Act, and these transactions are governed by the Regulation on Transfer of Rights Related to Tourist Resorts.

2. That the long-term leasing of villas on a strata basis does not constitute a sale of immovable property as it only involves the transfer of specific rights and interests related to an immovable property rather than the transfer of ownership.

On the Audit Notice

1. That the Audit Notice is invalid, applying the ruling in *Minor International (Labuan) Ltd v MIRA* which states that a valid notice must specify the relevant Act, section, and subsection under which it is issued.
2. That Audit Notice is invalid as such notices under the Tax Administration Act must specify the relevant substantive law.
3. That, where a taxpayer challenges the delivery of an Audit Notice, the burden falls on MIRA to provide evidence proving that the notice was indeed delivered.
4. That the MIRA may not extend the audited period beyond what is specified in the Audit Notice.



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