



Supreme Court Ruling on **ITC** for Commercial Real Estate

Implications for India's Commercial
Leasing and Rental Market

Overview of the **SC Ruling on ITC**



Key Decision

The Supreme Court allows Input Tax Credit (ITC) on construction costs for commercial properties rented out, classifying them as "plant and machinery" under GST law.



Legal Context

Section 17(5)(d) of the CGST Act typically restricts ITC on immovable property. The ruling, however, applies a functionality test, allowing ITC if the building is essential for providing rental services.



Implications

This decision aims to reduce financial burdens on commercial developers and support greater investment in the commercial real estate sector.



Key Benefits of the Ruling

Financial Relief for Commercial Real Estate

■ Eligible Properties:

Malls, warehouses, hotels, and other commercial properties for rent may now qualify for ITC.

■ Cost Reduction:

Lower tax burden expected to reduce costs, making commercial leasing more financially feasible.

Functional Test for Eligibility

■ Case-by-Case Assessment:

Eligibility based on functionality and purpose within business operations.

■ Potential Sectors Benefiting:

Commercial leasing, hospitality, airports, and warehousing, among others.

Impact on Commercial Real Estate Investment



Ease of development:

Positive for developers aiming to lease commercial spaces; potential boost in investments.



Cost Savings for Tenants:

Expected reduction in rental costs as tax savings are passed on, benefiting tenants in sectors like retail and logistics.

Outlook for Investors and Developers

- Increased interest from NRIs and institutional investors.
- Positive long-term trajectory for market growth with reduced project costs.

An aerial photograph of a city skyline, featuring numerous skyscrapers and buildings. The image is overlaid with a semi-transparent blue filter. On the far left, a sliver of the original image is visible, showing a bright sunset or sunrise with a yellow and orange glow. The text "Elements | Asset Management" is centered in white, sans-serif font.

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