



## **SUPREME COURT JUDGEMENT:**

**Bunny Holdings (BVI) Limited v MIRA  
(2023/SC-A/03)**

## FACTUAL BACKGROUND

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Bunny Holdings (BVI) Limited (“Bunny Holdings”) entered into lease agreements with non-resident parties, for the long-term leasing of villas in their resort on strata basis. These leases were executed in accordance with the Grant of Rights Regulation.<sup>1</sup>

Maldives Inland Revenue Authority (“MIRA”) issued a tax assessment, requiring Bunny Holdings to remit additional taxes pursuant to the Goods and Services Tax Act (“GST Act”) stating that long-term strata leases constitute a taxable supply under the GST Act Section 15(d).<sup>2</sup>

Bunny Holdings challenged the assessment before the Tax Appeal Tribunal, which ruled in taxpayer’s favor. A subsequent appeal was filed by MIRA at the High Court, which overturned the Tribunal’s ruling in favor of MIRA. Bunny Holdings then appealed the High Court’s decision to the Supreme Court, which ultimately ruled in their favor, concluding the case.

## LEGAL ISSUE

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The legal issue of the case mainly revolved around the applicability of the GST on long-term strata leases of individual villas in tourist resorts.

The essence of the contentions raised by Bunny Holdings in the Supreme Court regarding the issue are as follows.

- Section 3 of the GST Act defines ‘Goods’ for the purpose of the Act and specifically carve outs the rights or interests under a law or contract from the definition of ‘Goods’.
- Villa lease transactions carried out by Bunny Holdings are not possible except under the Grant of Rights Regulation framed under the Maldives Tourism Act. Accordingly, it is excluded from the definition of ‘Goods’ under Section 3 of the GST Act.
- Whilst MIRA doesn’t deny this fact, MIRA reiterates that GST is applicable on the transaction under section 15(d) of the GST Act.

Bunny Holdings also challenged that the audit notice issued by MIRA does not make reference to the authority under which the tax is assessed, as required by the Tax Administration Act.

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1. GRANT OF RIGHTS REGULATION (2010/R-14)  
2. GOODS AND SERVICES TAX ACT (LAW NUMBER 10/2011)

## HELD

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The Supreme Court held that the leasing transactions made by Bunny holdings fall under “rights or interests under a law or contract” and as such is outside the scope of the GST Act.

In arriving at the above decision, the Court emphasized that while Section 15 of the GST Act provides for the determination of goods and services in the tourism sector, Section 3(a) of the GST Act stipulates the goods within the purview of the Act. Accordingly, any goods which are not within the purview of the GST Act cannot be considered in the reading and implementation of the GST Act.

Prior to the first amendment to the GST Act in 2014, immovable property was also carved out from the definition of the ‘goods’ for the purpose of the Act.<sup>3</sup> This exclusion was subsequently removed following the amendment. As the villa lease transactions in question pertain to the period before this amendment, the court opined on whether these transactions could be considered immovable property. The court clarified that the transaction in question is not a sale of immovable property rather rights associated with an immovable property.

With respect to the audit notice, the Supreme Court held that MIRA shall make reference to the specific legal provision under which the audit notice is issued. Accordingly, MIRA's tax assessments are limited to the authority explicitly granted by the legal provision cited on the audit notice.

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3. GOODS AND SERVICES TAX ACT (LAW NUMBER 10/2011) SECTION 3(B)(2)