

**Tax Liability cannot be imposed merely because the financial statement did not provide State-wise turnover**

The Hon'ble Madras High Court, in the case of *Tvl. Future General India Insurance Co. Ltd. v. Assistant Commissioner (State Tax) [WP No. 3534 OF 2024 dated February 16, 2024]* held that an assessment order passed by the Assessing Officer, had accepted the explanation of the assessee with regard to certain defects but had imposed GST at rate of 36% instead of 18% on the ground that the financial statements submitted by the assessee did not reflect state-wise turnover, the impugned assessment order was to be set aside, and the matter was to be remanded to the Competent Authority for reconsideration. Thus, the writ petition is disposed of and the assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh assessment order in accordance with law.

**Facts:**

Tvl. Future General India Insurance Co. Ltd. (**"the Petitioner"**), was a private general insurance company engaged in the business of providing insurance products. On August 16, 2021, the Petitioner received an audit notice from the Assistant Commissioner (State Tax) (FAC) (**"the Respondent"**). The Petitioner submitted documents in response to the said notice and replied to the defects raised in the audit slips. After issuing an intimation and a show cause notice (**"the SCN"**), the assessment order dated December 30, 2023 (**"the Impugned Order"**), was passed by the Competent Authority.

In the Impugned order, regarding defect No. 10, which pertains to the difference of turnover between P & L account and balance sheet, on the one hand, and GSTR-9, on the other. The Respondent accepted the Petitioner's explanation that the difference in turnover between the Profit & Loss account, balance sheet, and GSTR-9 arose due to the financial statements pertaining to Pan-India operations, whereas GSTR-9 was limited to turnover in Tamil Nadu.

The Petitioner had submitted a Chartered Accountant's certificate specifying the turnover specific to Tamil Nadu, amounting to Rs. 80,89,05,068/-. However, the Respondent imposed State Goods and Services Tax (SGST) and Central Goods and Services Tax (CGST) at 18% each (36% in total) on the said turnover of Rs. 80,89,05,068/-, despite the Petitioner having already paid tax on the same.

Aggrieved by the impugned assessment order, the Petitioner filed a writ petition before the Hon'ble High Court of Madras.

**Issue:**

Whether Tax Liability can be imposed merely because the financial statement did not provide State-wise turnover?

**Held:**

The Hon'ble Madras High Court, in ***Writ Petition No. 3534 OF 2024*** held as under:

- Observed that, the turnover for an entity operating in multiple states in India, as reflected in the financial statements, and the turnover attributable to its operations in a particular state (in this case, Tamil Nadu) would vary.
- Opined that the bifurcation of total and state-wise turnover is the only relevant factor, and the Competent Authority erred in imposing GST at rate of 36% instead of the applicable rate of 18%, despite the Petitioner having already paid tax on the turnover of Rs. 80,89,05,068/-.
- Held that the Impugned Order was to be quashed and the matter was to be remanded to the Respondent for reconsideration.
- Directed that, the Respondent to provide a reasonable opportunity to the Petitioner, including a personal hearing, and thereafter issue a fresh assessment order in accordance with law within a maximum period of two months.

*(Author can be reached at [info@a2ztaxcorp.com](mailto:info@a2ztaxcorp.com))*

***DISCLAIMER: The views expressed are strictly of the author and A2Z Taxcorp LLP. The contents of this article are solely for informational purpose and for the reader's personal non-commercial use. It does not constitute professional advice or recommendation of firm. Neither the author nor firm and its affiliates accepts any liabilities for any loss or damage of any kind arising out of any information in this article nor for any actions taken in reliance thereon. Further, no portion of our article or newsletter should be used for any purpose(s) unless authorized in writing and we reserve a legal right for any infringement on usage of our article or newsletter without prior permission.***