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W.P.No.3534 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

**Writ Petition No.3534 of 2024**  
**and W.M.P.Nos.3799 & 3800 of 2024**

Tvl. Future General India Insurance  
Company Limited,  
Represented by its Authorised Signatory,  
Mr.Devi Dayal Garg,  
Unit Nos.801 & 802, Tower C,  
247 Embassy Park, LBS Marg,  
Vikhroli (West), Mumbai-400 083.

... Petitioner

-VS-

1.The Assistant Commissioner (ST) (FAC),  
T.Nagar Assessment Circle,  
Station:46, Mylapore Taluk Office Building,  
3<sup>rd</sup> floor, Greenways Road,  
R.A.Puram, Chennai-600 028.

2. The Assistant Commissioner (ST),  
Amaindakarai Assessment Circle,  
No.5-50, 1<sup>st</sup> avenue, Anna Nagar East,  
Chennai-600 102.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned assessment order in GSTIN/33AABCF0191R1ZG/2017-2018



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with ARN:AD330223051552L dated 30.12.2023 passed by the 1<sup>st</sup> respondent and quash the same.

For Petitioner : Mr.Raghavan Ramabadran  
for M/s.Lakshmi Kumaran and Sridharan

For Respondents : Mr.T.N.C.Kaushik,  
Additional Government Pleader (T)

### **ORDER**

The petitioner assails an assessment order dated 30.12.2023.

2. The petitioner is a private general insurance company engaged in the business of providing insurance products. On 16.08.2021, the petitioner received an audit notice. The petitioner submitted documents in response to the said notice and replied to the defects raised in the audit slips. Eventually, after issuing an intimation and show cause notice, the impugned assessment order came to be issued.

3. Learned counsel for the petitioner invited my attention to the findings in the impugned order relating to 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. He points out that the assessee had



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explained that the difference arises as a result of the fact that the financial statements pertain to the operation of the entity at a Pan India level, whereas the GSTR-9 return is limited to the turnover in Tamil Nadu. For purposes of providing information relating to the turnover specific to Tamil Nadu, he submitted that a certificate from a Chartered Accountant specifying such turnover was submitted. In spite of providing such documents, he pointed out that SGST and CGST was imposed at 18% each (instead of 18% in the aggregate) on Rs.80,89,05,068/-. He also pointed out from the returns of the petitioner that tax was already paid on the said sum of Rs.80,89,05,068.44. He also submits that the impugned order contains a jurisdictional error with regard to the determination of transitional credit, which was dealt with in defect No.5.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice on behalf of the respondents. He submits that the issues raised by the petitioner are factual issues and that the petitioner should be directed to avail of the statutory remedy.

5. On examining the impugned order, I find that the assessing officer



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has accepted the explanation of the petitioner with regard to certain defects.

As regards defect No.10, as contended by learned counsel for the petitioner, the assessing officer has recorded findings without applying his mind to the fact 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 Tamil Nadu would vary. From the findings, it also appears that tax liability was imposed merely because the Chartered Accountant's certificate did not provide State-wise turnover. This finding does not stand to reason because only the bifurcation of total and Tamil Nadu turnover is germane. It also appears that GST has been imposed at 36% instead of the applicable rate of 18%. Even with regard to GST at 18%, from the return placed on record by the petitioner, it appears that the tax liability in respect of the turnover of Rs.80,89,05,068/- was duly discharged. The total tax imposed under this head is about Rs.14.56 crores and the patent errors justify interference with the assessment order even without examining the order in respect of other defects for which liability was imposed. Therefore, the impugned assessment order cannot be sustained.

6. Accordingly, the impugned assessment order is quashed in so far as



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defect Nos.1, 4, 5, 7, 10 and 11 are concerned and the matter is remanded for reconsideration. 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. It is open to the petitioner to raise all contentions before the assessing officer. The fresh reassessment order shall be issued within a maximum period of two months from the date of receipt of a copy of this order.

7. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

**16.02.2024**

Index : Yes / No  
Internet : Yes / No  
Neutral Citation: Yes / No

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**SENTHILKUMAR RAMAMOORTHY,J.**



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To

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