

# LEGALFOXES LAW TIMES

## “Aggregate Turnover” considering the Gujarat Authority on Advance

### Rulings Decision

By: Prathamesh Gargate

#### Abstract

The Goods and Services Tax law came with the new concepts departing from the old but the drawback with such new concepts is its interpretation. This paper examines the concept of Aggregate Turnover and related provisions. This paper also tries to analyze the decision given by the Gujarat Authority on Advance Ruling regarding the concept of Aggregate Turnover and the interpretation **adopted by the authority along with the effect of such a decision.**

#### Introduction

The Indian taxation system is one of the most complex tax systems in the world. There are many reasons for that, largely due to the quasi-federal nature of the Constitution of India. According to the Constitution, both the Central and State governments have the power to levy and collect Indirect taxes. The government tried to improve the system. But, there was a need to completely overhaul the entire structure and hence the Goods and Services Tax (GST) was introduced. The GST subsumed various taxes levied at multiple levels by the State and Central Governments.

The GST law comprises of several new concepts that were primarily introduced to fill the loopholes in the previous system. The concepts of Supply, Provision for Goods, Mixed and Composite supply are a few examples. The concept of Aggregate Turnover was also introduced with the same; though the word turnover is not new to the business world and is often used in our daily lives it has a bit different meaning in the GST. The Gujarat Authority on Advance Ruling gave a decision in the matter of Shree Sawai Manoharlal Rathi<sup>1</sup> in which the concept of Aggregate Turnover was interpreted by the authority. The given below is an analysis of the concept of Aggregate Turnover and the ruling given by the authority.

In Section 97(2) and 100(1) of Central Goods and Services Tax Act, 2017 (CGST Act) there is a list of matters in which advance ruling can be sought by a person, in case he needs an advance verdict on the matters in that list. Such a ruling or verdict is binding on both the parties. The main objective is to provide certainty regarding the matter in advance and reduce the burden of litigation.

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<sup>1</sup> GUJ/GAAR/R/2020/10

In the Shree Sawai Manoharlal Rathi, such advance ruling was sought for the question that whether he is liable for registration under the act.

### **Facts in brief**

Shree Sawai Manoharlal Rathi (hereinafter referred to as Applicant) is an individual not engaged in any business. His revenue is primarily from Interest, on PPF, Savings Bank account, and personal loans along with rental receipts.

The applicant submitted his estimated revenue for Financial Year 2018-2019 which is likely to be above 20 Lac Rupees the breakup of it is

Rent Receipts – 9,84,000 Rs

Bank Interest – 3,000 Rs

Interest on PPF – 2,76,000 Rs

Interest on Personal Loans and advances – 7,49,000 Rs

### **Issue**

Whether the Interest on Savings Bank Account, PPF, Personal Loans, and Advances would be considered for calculating the threshold of Rs 20 Lac for registration under GST Laws?

### **Ruling**

The Authority on Advance ruling held that the Interest on Savings Bank Account, PPF, and Personal Loans and Advances would be considered for calculating the threshold of Rs 20 Lac and the applicant will have to get himself registered under the Act.

### **Analysis**

The question sought to be answered lies in a narrow compass. The applicant wants to confirm inclusions in the calculation of Aggregate Turnover. To comprehend the matter better, we should delve into the concept of Aggregate Turnover and related provisions.

As per, section 2(6) of CGST Act, 2017 Aggregate Turnover means

Aggregate Values of a) All Taxable Supplies b) Exempt Supplies c) Export of goods or services or both d) Inter-State Supplies of a person having the same PAN. It excludes a) Tax paid under Reverse Charge Mechanism b) Central Tax, State-Tax, Union Territory Tax, Integrated Tax, and Cess.

The new definition of aggregate turnover tries to cover different types of supplies. The idea behind inclusions is to bring as many businesses as possible under the scope of GST. It also includes non-taxable supplies such as Exempt Supplies and export of goods and services.

Exempt supply is defined under section 2(47) of CGST Act, 2017 it means a supply of Goods and Services or both which is a) Nil rated b) exempt under section 11 or section 6 of Integrated Goods and Services Tax Act c) non-taxable supplies. The difference between Exempt supply and nil rated supply is nowhere given under the act. But, the basic point of distinction is that tariff for nil rated supply is 0% whereas in exempt supply the exemption is granted by way of the exemption notification.

The authority included following kinds of supplies for calculation of Aggregate Turnover

#### Taxable Supplies

Supply that has a nil rate of tax

Exempt supplies

Supplies that are not taxable under the act (alcoholic liquor, petroleum products)

Export of goods and services or both including zero-rated goods

One of the key elements in the concept of Aggregate Turnover is Supply; it is also the taxable event in the GST. The authority further delved into the concept of Supply to get a clear understanding that activities done by the applicant would fall into the scope of supply.

Section 7 of the CGST Act, 2017 defines the term supply it includes a sale, transfer, exchange, barter, license, rental, lease, and disposal of goods or services or both for consideration during business or in furtherance of business. The two main elements of supply are consideration and transaction done in the course of or in furtherance of Business.

The authority analysed the transactions to be done by the applicant and provided that activities of deposits, loans, and advances are within the scope of GST as per Section 7. The interest income derived from deposits, loans, and advances by the applicant is exempt under Entry 27(a) of Notification No. 12/2017 – Central Tax (Rate) and Entry 28(a) of Notification No 9/2017 – Integrated Tax (Rate). The only transaction of Renting is taxable under GST

The authority concluded that no GST is payable on interest income as it is exempt but, such exempt supply will be considered for calculation of aggregate turnover under GST. Since the annual turnover which includes Rental receipts and Interest crosses the threshold limit of Rs 20 Lakhs the applicant will be liable for registration under the act.

#### Authors Opinion

## Interpretation of “Aggregate Turnover” and “Supply”

The definition of aggregate turnover stated above covers all forms of supplies. The issue is with the concept of the supply as it is the taxable event in the GST and a part in the definition of Aggregate Turnover. The basic principle is that such supply should be made in the course of or in furtherance of Business. The applicant above is not engaged in any kind of business and his revenue is derived from rental receipts and interest income. This begs the answer to the question that why to include such revenue which is not anyway related to business in the calculation of aggregate turnover. The authority gave the widest possible interpretation of aggregate turnover and supply, to bring as many people under the tax net as possible. However, the idea of bringing the people who are not doing any businesses under the scope of supply is detrimental to the interest of the general public.

The exemption notification exempts the interest from GST liability. The difficulty arises on the point that whether interests on such deposits are supplying under the GST. If we closely peruse the definition of supply the activity of depositing the money for safekeeping and interest on such deposits hardly qualifies as an activity within supply another reason is these deposits are made out of personal savings and in most cases, they do not have any relation to business then why interest on such should be included in the calculation of aggregate turnover.

The other moot point is rental receipts. Real estate is another form of investment. Thus, many people have purchased apartments for purposes of investments so that they get monthly returns in the form of rent. The rent receipts of a person who is engaged in that business should be taxed. For a person who has purchased with an intention of investments should be ideally left out from the tax net.

The items which are specifically excluded from the GST like alcohol for human consumption by the decision of the authority will be considered for calculation of Aggregate Turnover. On the other hand, these products are already taxed by way of VAT or Central Excise then why consider the supply of these products for the calculation of the same. Many questions like the above are unanswered.

### **Impact of the decision**

The concept of turnover in the previous tax system was just the gross receipts or sales made in business or profession although now there is a complete shift with the inclusion of all forms of supply. Most of the people are not well versed with the GST law and are bound to get confused regarding the same. The GSTN portal requires a declaration of turnover for filing of returns to know whether the taxpayer can opt for quarterly filing of returns, many people have entered the turnover as they knew as per previous laws as a consequence they have started getting emails from GSTN for clarifications.

Further, by including deposits like in the above case now the rental income after crossing the threshold becomes taxable and the applicant will have to levy GST which in turn will increase the cost to the tenant. In the metro cities where rent is already sky-high the addition of GST will break the back of the common man. The other consequences cannot be predicted now nonetheless they will be detrimental in the long run.

### **Conclusion**

The authority on the advance ruling was created to reduce the burden on litigation. But, due to such rulings by the authority people may prefer to go to the courts and the purpose for the creation of such authority would be defeated. This ruling comes as an eye-opener to many taxpayers and professionals who had no idea to include personal deposits in their turnover. Further, the GSTN demanding clarifications regarding the same will create more chaos. The only hope of honest taxpayers is that this ruling is overturned and some clarity regarding the same from the GST Department. The aim of creating a simple tax for the benefit of taxpayers seems to left only in statement of object and reasons of the GST law.

