



BEFORE THE AUTHORITY FOR ADVANCE RULINGS

for the State of Andhra Pradesh (Goods and Service Tax)
(5th Floor, O/o Chief Commissioner of Commercial Taxes, D.No:5-56, Block-B, R.K
Spring Valley Apartments, Edupugallu, Vijayawada-521151.)

Present:

Sri. J.V.M Sarma (Member)

Sri.Amaresh Kumar (Member)

The 20th day of August 2018

Ruling No. AAR/AP/10(GST)/2018

In

Application No.AAR/15(GST)/2018

1	Applicant	M/s FAIRMACS SHIPSTORES PRIVATE LIMITED (GSTIN: 37AAACF1406C1ZC) #.23-33-12, soldierepeta, Near One town Police Station, Visakhapatnam-530001
2	Jurisdictional Officer	Assistant Commissioner (ST), Kurupam Market Circle, Visakhapatnam.
3	Present for the Applicant	Sri.K.V.J.L.N Sastry
4	Present for the Jurisdictional Officer	Remarks Received
5	Date of Personal hearing	07 th July 2018

Note: Under Section 100 of the APGST Act'2017, an appeal against this ruling lies before the appellate authority for advance ruling constituted under section 99 of APGST Act'2017, within a period of 30 days from the date of service of this order.

M/s FAIRMACS SHIP STORES PRIVATE LIMITED (hereinafter also referred as an applicant), having GSTIN 37AAACF1406C1ZC are holders of Special Warehouse License No. 14/2016, issued under Section 58 (A) of The Customs Act, 1962, duty free ship store supplier through special warehouse as per customs warehousing regulations 2016.

2.1 The applicant had earlier filed an application before this authority seeking Advance Ruling on following questions:

- i. Whether they are exempted from tax under GST on their outward supplies made to ocean going merchant vessels on foreign run, Indian Naval Ships and Indian Coast Guard Ships or not ?
- ii. If at all they are liable for GST on their outward supplies whether they can collect the GST from the recipient for the goods namely:
 - Ocean going merchant vessels on foreign run.
 - Indian Naval Ships
 - Indian Coast Guard Ships or from their authorized agents

2.2 After following due process of law this advance ruling authority vide **Ruling No. AAR/AP/01(GST)/2017 dated 25.01.2018** had given the following ruling on the applicant's question:

- (i) The applicant are not exempted from tax under GST on their outward supplies made to ocean going merchant vessels on foreign run, Indian Naval Ships and Indian Coast Guard Ships
- (ii) The applicant can collect the applicable GST from their customers, in case it is not exports. However, in case of exports the option lies with the applicant based on manner of exports i.e. whether they intend to export under bond or on payment of tax.





- 2.3 Aggrieved by the above order, the applicant filed an appeal before Appellate Authority, primarily for the authority to decide whether their transaction falls under 'export' or not. They further prayed in their appeal to remand back to the Advance Ruling Authority to decide whether their transaction falls under export (zero rated) or not.
- 2.4 Appellate Authority, vide Order/AAR/AP/01(GST)/2018, dated 31st May, 2018 observed that applicant has raised a new issue for clarification which was not placed before the Advance Ruling Authority i.e. to decide whether the transactions are export (zero rated) or not and directed the Advance Ruling Authority to issue necessary ruling after hearing the applicant afresh. Hence the ruling.
- 3.1 Accordingly, a personal hearing was conducted on 07.08.2018. Shri. M.R.N Sreenivas (authorized signatory) along with legal representative, reiterated the facts mentioned in their application. The applicant submitted that the circular 31/2018 dt 25th May 2018 further clarified the issues relating to the transaction of sale /transfer etc of the warehoused goods between the importer and other person which is squarely applies the present transaction. It was submitted that as per his own assessment , the transactions dealt by him fall under 'exports' only and requested the Advance Ruling Authority to decide in the light of facts and legal position whether their transaction falls under 'exports' or not.

FACTS OF THE CASE :

- 4.1 The applicant is importing cosmetics, toiletries food products like confectioneries and cigarettes etc,. The Foreign manufacturers will maintain stores in SEZ units and the same will be supplied to bonded ware house or duty free ship store supplier. For example the brands like Marlboro ,L&M, Bond street they are not having any manufacturing

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units in India. All these goods are manufactured outside India and the manufacturer will maintain a hub at SEZ unit from there they will supply to the applicant. Further the applicant also imports the same from foreign also. The goods so imported will be kept in special warehousing without collecting duties. The applicant is permitted to export the above goods which were kept in special warehouse as duty free to the

- Ocean going merchant vessels on foreign run.
- Indian Naval Ships
- Indian Coast Guard Ships or from their authorized agents

The Captain/ Master of the foreign going vessel will raise an indent on supplier, in accordance with the indent; the supplier will file a shipping bill for export of duty free goods, with the customs authority. The customs authority upon verification and on satisfaction they will permits the supplier to supply the goods to the merchant ships on foreign run. The master of the vessel cannot open the seal and will not consume the goods, until vessel crosses the International waters.

In case of supplies to Indian Naval Ships and Indian Coast-guard ships, the indents will be raised by the commanding officer and on approval, the indents will be placed to the supplier. The indented goods will be supplied to those ships with due procedures of customs authorities

4.2 The relevant legal provisions are as under.

Definition of 'Export of goods': As per Section 2(5) of IGST Act,2017, "export of goods" with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India;

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Definition of 'Customs frontier of India' : As per Section 2(4) "customs frontiers of India" means the limits of a customs area as defined in section 2 of the Customs Act, 1962.

Section: 87 of Indian Customs Act, 1962 : Imported stores may be consumed on board a foreign-going vessel or aircraft.—Any imported stores on board a vessel or aircraft (other than stores to which section 90 applies) may, without payment of duty, be consumed thereon as stores during the period such vessel or aircraft is a foreign-going vessel or aircraft.

Section 88(a) of Indian Customs Act, 1962: for the words "exported to any place outside India" or the word "exported", wherever they occur¹, the words " taken on board any foreign-going vessel or aircraft as stores" shall be substituted

Section : 90 of Indian Customs Act, 1962. Concessions in respect of imported stores for the Navy.—

(1) Imported stores specified in sub-section (3) may without payment of duty be consumed on board a ship of the Indian Navy.

(2) The provisions of section 69 and Chapter X shall apply to stores specified in sub-section (3), as they apply to other goods, subject to the modifications that—

(a) for the words "exported to any place outside India" or the word "exported" wherever they occur¹, the word "taken on board a ship of the Indian Navy" shall be substituted;

Further, as per the circular F.No 21/31/63, dated:17.08.1966, the Government of India, decided to treat Indian Naval vessels, as 'foreign going vessels' for the purposes of section 87 of the Customs Act, 1962.

As per section 88(A) of Customs Act, 1962, the goods supplied to merchant ships on foreign run will be treated as export. **As per section 16 of IGST Act'2017, the exports will be treated as 'zero' rated supplies.**

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5.1 Basing on the above observations and **record on merit** the following ruling issued by this authority.

RULING

The outward supplies made by the applicant to a) ocean going merchant ships which are in foreign run, b) Indian Navy ships , c) Indian Coast guard ships, will be treated as '**exports**'.



Sd/- (J.V.M SARMA)
Joint Commissioner (State Tax),
Authority for Advance Ruling,
Andhra Pradesh.



Sd/- (AMARESH KUMAR)
Joint Commissioner (Central Tax),
Authority for Advance Ruling,
Andhra Pradesh.