Shewratan Company Pvt Ltd

Authority for Advance Ruling — West Bengal

29/WBAAR/2019-20 dated 21/10/2019 as printed (the listing gives 30/WB… Dated **21.10.2019**

Q Questions Before the Authority

- Whether the applicant's supply of stores (paint, rope, spare parts, electronic equipment and similar items) to foreign going vessels is an export or zero-rated supply, and therefore whether the applicant is liable to pay tax on such supplies under the GST Act or the IGST Act.

F Facts

The applicant, a Kolkata company, supplies stores such as paint, rope, spare parts and electronic equipment to foreign going vessels. The vessels obtain these stores while anchored at Indian ports, and both the supplier and the recipient are located in India at the time of supply. The applicant contends that such supplies are exports and zero-rated under section 16 of the IGST Act, relying on the Customs Act provisions on stores and on an Andhra Pradesh ruling.

H Ruling

Whether supply of stores to foreign going vessels is export or zero-rated supply	**Not export or zero-rated supply; taxable under the GST Act or the IGST Act, as applicable**	Exception only where the stores are marked specifically for a location outside India. No rate or HSN is stated in the ruling.

The authority held that the supply of stores to foreign going vessels is **not an export or zero-rated supply** , unless the stores are marked specifically for a location outside India. The applicant is therefore liable to pay tax on such supplies under the GST Act or the IGST Act, as the case may be.

R Reasoning

The authority held that export under section 2(5) of the IGST Act and section 2(19) of the Customs Act, 1962 means taking goods from India to a place outside India, and that the place of supply under section 11(b) of the IGST Act is then the location outside India. A foreign going vessel anchored in Indian territory is not a place outside India, so supplying stores to it is not export. Section 69 of the Customs Act cannot extend to such cases, and section 88(a) needed a special provision to cover warehoused goods taken on board as stores. Since supplier and recipient are both in India at the time of supply, the supply is not export, whether or not the goods are warehoused. The authority distinguished the Andhra Pradesh ruling in Fairmacs Shipstores because there the stores were carried on a foreign run and not consumed until the vessel left Indian waters.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

P Provisions Relied On

- Section 97(2)(e) of the CGST/WBGST Act (admissibility)
- Section 20(xviii) of the IGST Act (admissibility)
- Section 2(4) of the IGST Act (customs frontier of India)
- Section 2(5) of the IGST Act (export of goods)
- Section 11(b) of the IGST Act (place of supply)
- Section 16 of the IGST Act (zero-rated supply; argued by applicant)
- Section 2(19) of the Customs Act, 1962 (export)
- Section 2(21) of the Customs Act, 1962 (foreign going vessel, as used in the ruling)
- Section 2(44) of the Customs Act, 1962 (warehoused goods; numeral read from the scan)
- Section 69 of the Customs Act, 1962 (export of warehoused goods)
- Section 88(a) of the Customs Act, 1962 (warehoused goods taken on board as stores)
- Section 89 of the Customs Act, 1962 (goods manufactured in India as stores; cited by applicant)
- Central Sales Tax Act, 1956 (sale in the course of export; considered)
- Sections 103(2) and 104(1) of the CGST/WBGST Act (validity of ruling)
- AAR Andhra Pradesh, Fairmacs Shipstores Pvt Ltd, order dated 20/08/2018 (distinguished)

! For the Practitioner

This ruling helps Revenue and ship-chandlers who must decide whether to charge GST on stores delivered to vessels in Indian ports. It settles that such supplies are taxable and not zero-rated unless the goods are specifically marked for a foreign destination. It does not bind other authorities or courts, and the Andhra Pradesh ruling it distinguishes points the other way, so a practitioner should consider the appellate route under section 100 and the facts of any foreign-run supply. The full order should be read for the Revenue's concurrence and any further conditions. The scan is partly unclear on the order number and some section numbers.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> wb_aar_30_2019_21.10.2019_scpl.pdf

Prepared 13-11-2026.

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