Shewratan Company Pvt Ltd

Authority for Advance Ruling — West Bengal

32/WBAAR/2019-20 dated 11/11/2019 (order pronounced 21/10/2019, rect… Dated **11.11.2019**

Q Questions Before the Authority

- Whether the applicant's supply of stores (such as paint, rope, spare parts and electronic equipment) to foreign going vessels is liable to tax, and more specifically whether such supplies are zero-rated supplies (export) under the IGST Act.

F Facts

The applicant supplies stores and spare parts such as paint, rope, spare parts and electronic equipment to foreign going vessels. The vessels obtain these stores while anchored at Indian ports, and the stores may include warehoused goods. The applicant contends that such supplies are exports and zero-rated under section 16 of the IGST Act.

H Ruling

Whether supply of stores to foreign going vessels is export / zero-rated under the IGST Act	**Not export and not zero-rated; taxable under the GST Act or IGST Act, as applicable**	Does not apply where the stores are specifically marked for a location outside India. Rectified portion: supply of warehoused goods before clearance for home consumption is treated neither as a supply of goods nor services under paragraph 8(a) of Schedule III, to the extent covered.

The applicant's supply of stores to foreign going vessels is **not export or a zero-rated supply** unless the stores are marked specifically for a location outside India. The applicant is therefore liable to pay tax under the GST Act or the IGST Act, as the case may be. The rectified portion adds that supply of warehoused goods to a person before clearance for home consumption is treated neither as a supply of goods nor of services under paragraph 8(a) of Schedule III, to the extent covered.

R Reasoning

The authority held that a foreign going vessel anchored in Indian territory is not a place outside India, so supplying stores to it is not a supply to a location outside India under section 2(5) of the IGST Act or section 2(19) of the Customs Act, 1962, and the place of supply under section 11(b) of the IGST Act is not outside India. Section 69 of the Customs Act, 1962 does not reach such supplies, and section 88(a) would need a special provision to extend duty exemption to imported stores taken on board. Both supplier and recipient are in India at the time of supply, so the supply is not zero-rated under section 16 of the IGST Act. The authority distinguished the Andhra Pradesh ruling in Fairmacs Shipstores, where the stores were consumed only after the vessel left Indian waters. The rectification under section 102 was made suo motu and did not enhance tax liability.

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

P Provisions Relied On

- Section 96 of the West Bengal GST Act, 2017 (constitution of the Authority)
- Section 97(2)(e) of the GST Act (admissibility)
- Section 100 and 102 of the GST Act (appeal and rectification)
- Section 103(2) and 104(1) of the GST Act (validity of ruling)
- Section 7(2)(a) of the GST Act and paragraph 8(a) of Schedule III (rectified portion)
- Section 2(4), 2(5) and 11(b) of the IGST Act
- Section 16 of the IGST Act (zero-rated supply)
- Section 20(xviii) of the IGST Act
- Section 2(19), 2(21) and 2(44) of the Customs Act, 1962
- Section 69 and 88(a) of the Customs Act, 1962
- Section 89 of the Customs Act, 1962
- Central Sales Tax Act, 1956 (reference only)
- AAR Andhra Pradesh, Fairmacs Shipstores Pvt Ltd, order dated 20/08/2018 (distinguished)

! For the Practitioner

This ruling is useful for ship chandlers and suppliers of stores to foreign going vessels at Indian ports. It settles that such supplies are not zero-rated merely because the recipient vessel is foreign going, and that taxability follows unless goods are specifically marked for a destination outside India. It also addresses the narrow case of warehoused goods supplied before home-consumption clearance. It does not decide the tax treatment of goods actually exported to a foreign destination, or of stores consumed only after the vessel leaves Indian waters. As an advance ruling it binds only the applicant and the Revenue, and it is appealable.

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_32_2019_11.11.2019_scpl.pdf

Prepared 14-11-2026.

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