



सत्यमेव जयते

## BEFORE THE APPELLATE AUTHORITY FOR ADVANCE RULING

For the State of Andhra Pradesh (Goods and Service Tax)

(Office at O/o Chief Commissioner of Central Tax & Customs, 1st Floor, GST Bhawan,  
Port Area, Visakhapatnam, Andhra Pradesh – 530035)

Present:

**Sri. Y.S SHAHRAWAT, (Member)(Central Tax)**

**Sri. J.SYAMALA RAO, (Member)(State Tax)**

The 31<sup>st</sup> day of May 2018

Order /AAR/AP/ 01(GST)/2018

In

Application No.AAR/01(GST)/2018

1	Applicant	M/s Fairmacs Ship Stores Private Limited (GSTIN: 37AAACF1406C1ZC)
2	Present for the Applicant	Sri. K.V.G.L.N Sastry
3	Date of Personal hearing	29 <sup>th</sup> May 2018

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### ORDER :

1. M/s Fairmacs Ship Stores Private Limited, GSTIN: 37AAACF1406C1ZC, (hereinafter also referred as an appellant), are engaged in operations of special ware/bonded ware housing of goods like cosmetics, toiletries, food products like confectioneries and cigarettes etc., all the said goods are imported from foreign countries and also from the units established by the foreign manufactures located in Special Economic Zones and keeps the same in customs ware house and makes supply to-

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



2. The appellant had filed an application before the Appellate Authority for Advance Ruling, in Form GST ARA-02, dated 06.03.2018, for review of the ruling passed by the Advance Ruling Authority, vide ruling no.AAR/AP/01(GST) 2017,dated 25<sup>th</sup> Jan 2018,

The issues on which the appellant filed application before the Advance Ruling Authority are as follows:

- (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.

The Advance Ruling Authority, after careful consideration, had ruled above question as follows:

(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.*

Aggrieved to the ruling the Appellant filed appeal before this authority. It is further submitted that the Advance Ruling Authority observed in the ruling that in para 5.1 as under.

*"5.1 We have observed that , at best some of the supplies of applicant may fall under the definition of 'exports' which is considered a zero rated supply, however the same is not within the prerogative of present application. "*

The appellant pleaded that the ARA has not clarified what are the transactions that fall under zero rated on the ground that same is not within the prerogative of present application. It is also mentioned that the Advance Ruling Authority has not considered the Circular .No 21/31/63 Cus.IV, Dated 17<sup>th</sup> Aug 1966. They submitted that the above observation of the ARA is not correct and needs review.

Further, they have requested to decide 'whether the transactions made by the appellant falls under export (zero rated) or not.' , which is not a plea before the Advance Ruling Authority.



A personal hearing is called for on 29<sup>th</sup> May 2018. Sri. K.V.G.L.N Sastry, authorized representative of appellant has appeared before this authority and submitted the facts of the transactions and requested to clarify whether the transaction falls under 'export' or not.

The 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. Hence, we direct the Advance Ruling Authority to issue necessary ruling after hearing the applicant afresh, and taking a wholistic view of the applicant's plea. The Advance Ruling Authority must decide the case within 90 days of receipt of this order. Accordingly, the matter is remanded back to Advance Ruling Authority.

Sd/- (J Syamala Rao )  
Chief Commissioner (State Taxes)  
Member

Sd/- (YS Shahrawat)  
Chief Commissioner (Central Taxes)  
Member

//t.c.f.b.o//

*P. Jayasankar*  
Assistant Commissioner (GST).