

TAMILNADU STATE APPELLATE AUTHORITY FOR ADVANCE RULING  
(Constituted under Section 99 of Tamil Nadu Goods and Services Tax Act, 2017)

A.R.Appeal No.03/2023 AAAR

Date: 20.12.2023

**BEFORE THE BENCH OF**

Dr. Ram Niwas, I.R.S., Chief Commissioner of GST & Central Excise, Member, Appellate Authority for Advance Ruling, Tamil Nadu	Dr. D. Jagannathan, I.A.S., Commissioner of Commercial Taxes, Member, Appellate Authority for Advance Ruling, Tamil Nadu
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**Order-in-Appeal No. AAAR/06/2023 (AR)**

(Passed by Tamil Nadu State Appellate Authority for Advance Ruling under Section  
101(1) of the Tamil Nadu Goods and Services Tax Act, 2017)

**Preamble**

1. In terms of Section 102 of the Central Goods & Services Tax Act 2017/Tamil Nadu Goods & Services Tax Act 2017("the Act", in Short), this Order may be amended by the Appellate authority so as to rectify any error apparent on the face of the record, if such error is noticed by the Appellate authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer or the applicant within a period of six months from the date of the Order. Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made, unless the appellant has been given an opportunity of being heard.
2. Under Section 103(1) of the Act, this Advance ruling pronounced by the Appellate Authority under Chapter XVII of the Act shall be binding only
  - (a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling;
  - (b) on the concerned officer or the jurisdictional officer in respect of the applicant.
3. Under Section 103 (2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the said advance ruling have changed.
4. Under Section 104(1) of the Act, where the Appellate Authority finds that advance ruling pronounced by it under sub-section (1) of Section 101 has been obtained by the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio and thereupon all the provisions of this Act or the rules made thereunder shall apply to the appellant as if such advance ruling has never been made.

Name and address of the Appellant	HAWORTH INDIA PRIVATE LIMTIED 260/4A, 6A1,6A2,6A3, Vayalur Road, Kiloy Village, Sriperumbudur Taluk, Kancheepuram, Tamil Nadu 602105.
GSTIN or User ID	33AAACH8417K1ZK
Advance Ruling Order against which appeal is filed	Order No.23/ARA/2023 Dated: 20.06.2023 received on 24.08.2023 by the Appellant
Date of filing appeal	22.09.2023



Represented by	Shri. S Thirumalai, Advocate
Jurisdictional Authority-Centre	Chennai Outer Commissionerate
Jurisdictional Authority -State	Sriperumbudur Assessment Circle
Whether payment of fees for filing appeal is discharged. If yes, the amount and challan details	Yes. Payment of Rs. 20000/- made vide Challan CPIN 23093300460466 dated 22.09.2023

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Services Tax Act are in *pari materia* and have the same provisions in like matter and differ from each other only on few specific provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act, 2017 would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act, 2017.

2.1. The subject appeal was filed under Section 100(1) of the Tamilnadu Goods & Services Tax Act 2017/Central Goods & Services Tax Act 2017 (hereinafter referred to 'the Act') by M/s HAWORTH INDIA PRIVATE LIMITED (hereinafter referred to as 'Appellant'). The Appellant was registered under the GST Act vide GSTIN 33AAACH8417K1ZK. The appeal was filed against the Order No.23/ARA/2023 dated: 20.06.2023 passed by the Tamilnadu State Authority for Advance ruling on the Application for Advance ruling filed by the Appellant.

2.2. The Appellant has stated that they are a private limited company wholly owned subsidiary of Haworth, Inc. United States and is engaged in manufacture and sale of office furniture under the brand name 'Haworth'. They propose to operate import and resale transaction from a Free Trade Warehousing Zone(FTWZ) for operation convenience and swift clearance process so as to expedite project execution. The Applicant submits that FTWZ is a Special Economic Zone wherein trading, warehousing and other activities related thereto are carried out. The Appellant submitted that the operation flow of the proposed transaction would be as follows:

- The Appellant secures space in the FTWZ for a fee to store the imported goods from a unit holder. The Appellant executes required lease agreement with the FTWZ unit holder and deposits the goods from the port by filing Bill of Entry (BOE). FTWZ, owned and operated by independent third party merely clears and warehouses the goods imported. The FTWZ shall collect warehousing charges from the Appellant.
- On receipt of purchase order from the customer, the Appellant places an order with the overseas supplier for required goods. Once the goods are shipped, the Applicant intimates the FTWZ unit holder and provides copy of the purchase order and other documents for clearance of goods from the port and storage of the same in FTWZ. The FTWZ unit clears the goods from the port by filing Bill of Entry on behalf of the Appellant and stores the same in the warehouse. The FTWZ unit hands over the import invoice and other necessary documents to the



Appellant. The FTWZ unit does not pay any import duty on clearance from the port.

- The Appellant transfers the title of goods to customer under the cover of an invoice. The customer shall either clear goods from the FTWZ or shall make further transfer of such goods to other customers. It is important to note that every transfer of title of goods does not result in physical delivery of goods. The goods shall continue to remain in FTWZ unit holder till the final customer files BOE and clears goods from FTWZ. The Applicant wishes to highlight that multiple transfers are made while goods are lying in FTWZ.
- The final customer, produces transfer of title document and files BOE for re-warehousing (SEZ) / home consumption (others) and clears the goods from the FTWZ. At this juncture goods are removed from the warehouse and is taken to the premises of the Customer.

2.3. In the above background, the Appellant had approached Authority for Advance Ruling(AAR), Tamil Nadu, vide GST-ARA-01 dated 08.07.2022, raising the following questions:

- “1. In the facts and circumstances of the case, whether the transfer of title of goods by the Applicant to its customers or multiple transfers within the FTWZ would result in bonded warehouse transaction covered under Schedule III of the CGST Act, 2017 r/w CGST Amendment Act, 2018?*
- 2. Whether the Integrated Tax (IGST) Circular No. 3/1/2018 dated 25.05.2018 is applicable to the present factual situation?”*

2.4. The AAR, Tamil Nadu, vide their Ruling NO.23/ARA/2023 dated 20.06.2023, ruled that-

- “ 1. In the facts and circumstances of the case, the transfer of title of goods by the Applicant to its customers or multiple transfers within the FTWZ will not be covered under Schedule III of the CGST Act, 2017 r/w CGST Amendment Act, 2018.*
- 2. The Integrated Tax (IGST) Circular No. 3/1/2018 dated 25.05.2018 has been rescinded, in view of the amendment made in Schedule III of the CGST Act, 2017”.*

2.5. The Original Authority had arrived at the above decision based on the following discussions held therein:

*“7.4.4. Whereas, Free Trade Warehousing Zone is a Special Economic Zone wherein mainly trading and warehousing and other activities related thereto are carried on. It is a deemed foreign territory within the geography of India for the purpose of tariff and trade. The Special Economic Zones Act, 2005 and the Special Economic Zones Rules, 2006 are the legal framework for FTWZ. Instructions are also issued by the Ministry of Commerce & Industries from time to time to clarify various operational aspects of FTWZ. Even though the day to day activities like warehousing and clearing of goods for home consumption on payment of applicable custom duties are supervised/monitored by Customs officials posted in the FTWZ in accordance with SEZ Act, 2005 read with Customs Act, 1962, the approval/license/administrative control for FTWZ are fully governed under the provisions of SEZ Act, 2005. Therefore, FTWZ is not a warehouse licensed under Customs Act, 1962. Therefore, paragraph*



8(a) in the Schedule III is specific to the warehoused goods lying in the warehouses licensed under Customs Act, 1962.

7.4.5. Whereas the transactions narrated in the application are in FTWG, which are warehouses governed under the provisions of SEZ Act, 2005 and not licensed under Customs Act, 1962. Therefore, the transactions in the FTWG narrated in question no.1 of the ARA, will not be covered under Schedule III of CGST Act, 2017 read with CGST Amendment Act, 2018."

3. Aggrieved of the decision of AAR in the Order No: 23/ARA/2023 dated: 20.06.2023, M/s HAWORTH INDIA PRIVATE LIMITED preferred the subject appeal. The grounds of appeal, they stated, *inter alia*, as follows:

- The Impugned Ruling has failed to address the question in entirety by restricting its finding to 'whether or not the proposed transaction is covered under paragraph 8(a) of Schedule III to GST Act, 2017'.
- The Ld. AAR, has not answered the question in the Impugned Ruling and has acted in contravention of Section 98(4) of the GST Act, 2017 and therefore, the Impugned Ruling is liable to be set aside and in this regard reliance was placed on the case of **Kasturba Health Society v. Union of India, W.P. No. 1745 of 2020 Order dated 13.09.2021 (Bombay High Court)**
- Reliance is placed on **Columbia Sportswear Company v. Director of Income Tax – 2012 (8) TMI 105 – Supreme Court**, wherein the Hon'ble Supreme Court dealt with the preliminary question of whether an Advance Ruling can be subject to judicial review under Article 226 of the Constitution of India.
- The Impugned Ruling failed to address the question raised in the application of the Appellant and has also failed to apply its mind to other paragraphs of Schedule III to GST Act, 2017 and therefore merits to be set aside.
- The proposed transaction is squarely covered under Schedule III to GST Act, 2017 and more specifically, paragraph 8(b) and satisfies all the criteria under Para 8(b) of Schedule III of the CGST Act, which are:
  - (i) sale of goods by consignee to any other person;
  - (ii) by endorsement of documents of title to the goods;
  - (iii) after the goods have been dispatched from the port of origin located outside India;
  - (iv) before clearance for home consumption.
- In this regard, reliance was placed on **M/S AIE Fiber Resource and Trading (India) P. Ltd., 2021 (12) TMI 1265 – AAR, Telengana.**

Further, the Appellant, without prejudice to the above submissions, they further stated that-

- Licensing of bonded warehouse is governed by Public Warehousing Licensing Regulations, 2016, Private Warehousing Licensing Regulations, 2016 or Special Warehousing Licensing Regulations, 2016; Similarly, as per Rule 22 of the SEZ Rules r/w Section 53(2) of the SEZ Act, 2005 every SEZ is required to execute Bond-cum-Letter of Undertaking (BLUT) in order to avail exemptions, duty drawback and concessions under customs.
- Both bonded warehouse and FTWZ is required to execute bond with the customs in order to import and store the goods in warehouse without payment of any duty; Although the provisions of bonding by a bonded warehouse and bonding by an SEZ/ FTWZ is governed by different laws with differing obligations, the



rationale of bonding imported goods remains the same, viz. to avail duty benefit under the Customs Act, 1962 and therefore, it is submitted that every SEZ becomes a bonded premises under the Customs Act, 1962 by virtue of the deeming fiction created by Section 53(2) of SEZ Act and Rules mentioned thereunder; In support of the submission that the FTWZ are custom bonded warehouses, reliance was placed on **M/S AIE Fiber Resource and Trading (India) P. Ltd., 2021 (12) TMI 1265 – AAR, Telengana.**

- Reliance was placed on the following Advance Rulings passed by Tamil Nadu Advance Ruling Authority in case of:
  - **The Bank of Nova Scotia – Order No. 23/ AAR/ 2018 dated 31.12.2018**
  - **Sadesa Commercial Offshore De Macau Limited – Order No. 24/ AAR/ 2018 dated 31.12.2018**
- The above Rulings were rendered in favour of the Appellant, wherein it was held that transfer of ownership in FTWZ/ customs bonded warehouse prior to clearance for home consumption or removal of goods from FTWZ/ customs bonded warehouse is outside the purview of GST and is not subjected to provisions of GST and that the supplier need not have to charge GST on transfer of title or sale of goods in FTWZ.
- Therefore, the proposed transactions are covered under paragraph 8(a) of Schedule III to GST Act, 2017 and the Impugned Ruling merits to be modified, and that the Appellant's transactions are neither supply of goods, nor supply of services and that IGST is not leviable.
- The AAR had acted inconsistently that in the above Rulings, for the same issue, the rulings were in favour of the applicants; though the rulings have been rendered in relation to other assesseees, the decisions are on interpretation of the law and lay down a position of Law and the Ld. AAR cannot take a completely different position of Law in the Appellant's case.
- The above inconsistency is on the face of the record and the same displays arbitrariness and discriminatory treatment by the Ld. AAR and therefore the impugned Ruling unsustainable in Law; In this regard, reference is made to the case of **Columbia Sportswear Company v. Director of Income Tax, Bangalore, (2012) 11 SCC 224**, wherein it has been held that Advance Rulings have persuasive values in respect of other parties and when the Advance Rulings lay down a position of Law they are followed.

Regarding Question No.2 raised in the original application, they stated that the question does not survive.

4. The Appellant made additional submissions on 11.12.2023, wherein they stated that the principal question in this case is whether the expression "warehoused goods" employed in Schedule III of the CGST Act in Entry 8(a) would cover warehousing under the SEZ Act, 2005 and the SEZ Rules, 2006 in the case of a unit in a FTWZ. In support of their claim that it would cover, they submitted that -

- That there is no inconsistency between the provisions of the Customs Act, 1962 and the SEZ Act, 2005 and the SEZ Rules, 2006 with respect to warehousing.
- SEZ Act, 2005 defines FTWZ as follows:
  - 2(n) "**Free Trade and Warehousing Zone**" means a Special Economic Zone wherein mainly trading and warehousing and other activities related thereto are carried on.



- Since “warehousing” in the above definition is not defined in the SEZ Act, 2005 reference is required to be made to Sec 2(zd) which reads as follows:
  - 2(zd) - **all other words and expressions** used and not defined in this Act but defined in the Central Excise Act, 1944, the Industries (Development and Regulation) Act, 1951, the Income-tax Act, 1961, the Customs Act, 1962 and the Foreign Trade (Development and Regulation) Act, 1992 shall have the meanings respectively assigned to them in those Acts.
- Sec 2(zd) of the SEZ Act, 2005 by way of referential legislation has adopted the meaning of “warehousing” from the Customs Act, 1962 for purpose of the said Act.
- Sec 2(44) of the Customs Act, 1962 defines “warehoused goods” as follows:
  - 2(44) "warehoused goods" means goods deposited in a warehouse
- Provisions of the SEZ Act, 2005 read with relevant SEZ Rules, 2006 provides as under
  - a) Sec 7 provides for exemption from duties, taxes and cesses;
  - b) Sec 26 provides for exemptions from Customs Duties to FTWZ;
  - c) Sec 51 has an overriding effect that notwithstanding anything inconsistent therewith contained in any other law for the time being in force ;
  - d) Rule 27(10) of the SEZ Rules provides that: The Assessment of imports and domestic procurement by a Developer or a Unit, shall be on the basis of self-declaration.
  - e) Rule 75 of the SEZ Rules says that the goods in the FTWZ shall be dealt with on the basis of self-declaration
- The AAR in Telangana in the matter of AIE Fibre (2021 (12) TMI 1265 – *Authority for Advance Ruling, Telangana*) has held that the goods warehoused in the FTWZ are warehoused goods for the purpose of the Customs Act, 1962 and would be covered by the relevant entry 8 in Sch III of the CGST Act.
- Intention of the legislature to consider FTWZ like a customs warehouse is also clear from the documentation and procedures i.e., Form-II (Bill of entry for warehousing) is the document filed by the importer for moving goods from the port to FTWZ unit which clearly establishes FTWZ are considered as Warehouses.
- Legislative History also points out the fact that there has been no question in the erstwhile tax regime or even in the present regime with regard to warehousing by FTWZ for purpose of Customs Act; Reliance in this regard is place on the order of Authority for Clarification and Advance Ruling of the **TN VAT Authority in the matter of Reddington India Ltd (ACAAR No. 27/2015-16 dated 22.06.2015)**.
- Chapter XA of the Customs Act, 1962 was omitted by the Finance Act, 2007 in view of the Special provisions made by separate SEZ legislation which had adopted the definition of warehousing by way of legislation by reference as stated above.
- Provisions of the IGST Act and Sch III of the CGST Act (Entry 8(a) have to be construed harmoniously
  - 3.1. Proviso to Sec 5(1) of the IGST Act states the integrated tax on goods other than the goods as may be notified by the Government on the recommendations of the Council imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 (CTA)
  - 3.2. Sec 7 (2) states that Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce.
- It is therefore clear that until the goods in CBW or FTWZ unit is cleared on payment of Customs Duties under the CTA, 1975 the same are treated in the course of import and there could be no incidence of tax on any transfers while the goods lay stored in the warehouse.



- This accords with the reason for the treatment for “warehoused goods” under Sch III which is so as to avoid double taxation (a theme addressed in the GST Council Meetings recommending the above amendment to Sch III in 2019); This interpretation is also recognized by the Hon’ble CESTAT in a Customs matter where the interplay of Sec 5(2) of the IGST Act and Sec 3(7) of the CTA were examined in **Interglobe Aviation Ltd 2020 (11) TMI 151 - CESTAT NEW DELHI**.

- Therefore, it is to be held that the goods stored in the FTWZ under the SEZ Act, 2005 will be covered within the scope of Sch III of the CGST Act.

Hence, the Appellant prayed that the Appellate Authority may pass orders to set aside impugned order under Appeal and pass such other orders, as deemed fit.

#### **PERSONAL HEARING:**

5. The Appellant was given an opportunity to be heard vide virtual hearing on 11.12.2023. The Authorized Representative (AR), Shri S Thirumalai, Advocate, appeared for the virtual hearing and reiterated the submissions made in their grounds of appeal as well as in their additional submissions submitted on 11.12.2023.

#### **DISCUSSION AND FINDINGS:**

6.1 We have carefully considered all the material on record, the various submissions made by the Appellant and the applicable statutory provisions. The Appellant is before us, seeking to set aside/modify the Ruling given by the Authority for Advance Ruling (hereinafter referred to as ‘AAR’) and pass any such order(s) as deemed fit and proper. We observe that the main contention of the Appellant is that goods stored in FTWZ will be covered under the scope of Schedule III of the CGST Act, 2017.

6.2 We find that the Appellant is proposing to import, store the goods in FTWZ, transfer the title of the goods within the FTWZ, during which time the goods continue to remain in FTWZ until the final customer files the BOE and clears the goods from FTWZ. In such a scenario, the Appellant has raised 2 questions before the AAR, that -

- “1. Whether the transfer of title of goods by the Applicant to its customers or multiple transfers within the FTWZ would result in bonded warehouse transaction covered under Schedule III of the CGST Act, 2017 r/w CGST Amendment Act, 2018?
2. Whether the Integrated Tax (IGST) Circular No. 3/1/2018 dated 25.05.2018 is applicable to the present factual situation?”

The AAR vide Ruling No.23/ARA/2023 dated 20.06.2023, had given the ruling in negative for the first question raised and in respect of the second question it was stated that the circular was rescinded in view of the amendment made in Schedule III of CSGT Act, 2017. On perusal of the ruling, we notice that AAR had discussed in length about whether the proposed activity would be covered under para 8(a) of Schedule III (Activities or transactions which shall be treated neither as a supply of goods nor a supply of services), which states that

*8(a) Supply of warehoused goods to any person before clearance for home consumption*

Wherein, in explanation 2, it was stated that ‘warehoused goods’ shall have the same meaning as assigned to it in the Customs Act, 1962.



6.3. The AAR, in their discussion and findings have stated that FTWZ is not a warehouse licensed under Customs Act, 1962 and paragraph 8(a) in the Schedule III is specific to the warehoused goods lying in the warehouses licensed under Customs Act, 1962; Whereas the transactions narrated in the application are in FTWG, which are warehouses governed under the provisions of SEZ Act, 2005 and not licensed under Customs Act, 1962. The AAR held that therefore, the transactions in the FTWG narrated in question raised in the application, will not be covered under Schedule III of CGST Act, 2017 read with CGST Amendment Act, 2018.

6.4. We find that the Appellant, in their Grounds of Appeal, for the first question, has mainly contended that their proposed transaction would be squarely covered under paragraph 8(b) of Schedule III to the Act *ibid*, which states that

*“8(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.”*

Further, the Appellant in their additional submissions, has stated *interalia* that, specifically mentioning that SEZ Act, 2005 by way of referential legislation has adopted the meaning of “warehousing” from the Customs Act, 1962 for purpose of the said Act. The Appellant has also placed reliance on the ruling No.30/2021 dated 24.12.2021 passed by the AAR, Telengana in the case of M/s AIE Fiber Resource and Trading (India) Private Limited, wherein it was held that the transactions proposed to be made in a FTWZ are covered under Entry 8 of Schedule III of the CGST Act, 2017 and do not attract tax under CGST/SGST/IGST Acts.

6.5 We find, in respect of the second question, in the grounds of appeal, the appellant stated that the question no longer proves to be of relevance as the Circular No. 3/01/2018 – Integrated Tax (IGST) dated 25.05.2018 has been rescinded. Therefore, the question no.2 does not survive. Hence, we observe that the present appeal is in respect of question no.1 only raised in the original application.

6.6. We notice from the discussion held in the AAR ruling in the subject case, the AAR had discussed only about para 8(a) of Schedule III of the CGST Act, 2017 and its inapplicability to the present issue. Whereas the question raised by the Appellant in their original application is that whether the proposed activity would be covered under Schedule III of the CGST Act, 2017, which clearly means the entire Schedule III and not specific to para 8(a) of the said Schedule. We find that the AAR had restricted the discussion only to para 8(a) of the said Schedule and not proceeded to discuss about the applicability/inapplicability of 8(b) of the said Schedule to the present issue.

6.7. Further we find that the following grounds were raised before AAR in their original application, but not discussed in the ruling:

a. That transfers prior to customs clearance in case of high sea sales and bonded warehouse is expressly provided in the Schedule III. Such transactions are intentionally kept outside the purview of GST by including the same under Schedule III of the CGST Act, 2017. The Applicant submits that, even in the present case, the transfer of goods in FTWZ is before clearance and is similar to transfer of title of goods in a high sea or bonded warehouse. Therefore, transfer



of title of goods lying in FTWZ also deserves similar treatment i.e. outside the levy of GST.

b. That transfer of title of goods by the Applicant to customers and subsequent transfers within the FTWZ would not result in supply and is not subjected to levy under sub section 1 of section 5 of the IGST Act 2017 or under the provisions of CGST Act, 2017 or Tamil Nadu GST Act, 2017 and the rules made there under as FTWZ is a bonded warehouse as per section 2(43) of the Customs Act, 1962 and as per Schedule III, supply of warehouse goods to any person before clearance for home consumption does not amount to supply u/s 7 of the CGST Act, 2017 r/w CGST Amendment Act, 2018.

c. Advance ruling pronounced by Tamil Nadu Advance Ruling Authority which are in their favour, in the case of:

- i. The Bank of Nova Scotia – Order No.23/AAR/2018 dated 31.12.2018.
- ii. Sadesa Commercial Offshore De Macau Limited – Order No.24/AAR/2018 dated 31.12.2018.

6.8. We observe that the AAR has not answered the question raised by the Appellant in its entirety, by restricting their findings to only para 8(a) of the said Schedule. The AAR ought to have discussed the para 8(b) of said Schedule, which is also relevant provision of law to the activity proposed to be undertaken by the Appellant, when the Appellant had raised the question in general as to whether their proposed activity would be covered under Schedule III of the CGST Act, 2017. Further, we find that the Appellant has brought in points regarding FTWZ to be treated as Customs bonded warehouse in their original application which were not discussed in the ruling passed by the AAR. Also, the AAR has not discussed about the Advance rulings pronounced by the TN AAR in similar issues, which were cited by the Appellant in their original application.

6.9. Further, at the time of virtual hearing held on 11.12.2023, the AR was requested to state whether the approval/ licence/ monitoring of the FTWZ unit is governed by the SEZ Act or Customs Act for which the AR stated that he would examine and submit his reply. This is a moot point which needs to be decided, so that whether FTWZ unit can be classified as customs bonded warehouse. This ought to have been examined by the lower authority, considering the specific grounds submitted by the Appellant.

6.10. Therefore, we are of the considered opinion that since the Authority for Advance Ruling had erred in not answering the question raised by the Appellant in its entirety and also not discussed all the contentions of the Appellant put forth in their original application. Hence, we hold that, justice will be met by remanding the case to the lower authority, with direction to consider the question raised by the Appellant in its entirety, to give findings on the other points raised by the Appellant and to offer them another opportunity of personal hearing before deciding the case as per the provisions of law. The AAR should examine afresh whether the activities proposed to be undertaken by the Appellant are covered by entry 8(a), 8(b) or any other entry in Schedule III of CGST Act, 2017 or otherwise. All aspects of the matter are kept open for decision by the AAR.





We further find that this authority is empowered vide Section 101(1) of the CGST/TNGST Acts, 2017 to pass such orders as deemed fit.

7. Accordingly, we pass the following order:

**ORDER**

The Advance Ruling No.23/ARA/2023 dated 20.06.2023 passed by the Advance Ruling Authority in the case of the Appellant is set aside. The matter is remanded to the Lower Authority for consideration and passing of appropriate orders, after following the principles of natural justice.

  
(D. JAGANNATHAN)  
Commissioner of Commercial Tax  
Tamil Nadu/Member AAAR

  
(RAM NIWAS)  
Chief Commissioner of GST  
& Central Excise, Chennai Zone/  
Member AAAR

To

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Kancheepuram, Tamil Nadu 602105.

//BY RPAD//

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4. The Assistant Commissioner (ST),  
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