



BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH

Goods and Service Tax

D.No.12-468-4, Adjacent to NH-16 Service Road, Kunchanapalli, Guntur-522501

Present

1. Sri. K.Ravi Sankar, Commissioner of State Tax (Member)
2. Sri.B. Lakshmi Narayana, IRS, Additional Commissioner of Central Tax (Member)

AAR No.17/AP/GST/2024 dated: 28.02.2025

1	Name and address of the applicant	M/s Devi Fisheries Limited
2	GSTIN	37AAACD7852Q1ZZ
3	Date of filing of Form GST ARA-01	10.12.2024
4	Personal Hearing	21.01.2025
5	Represented by	Ramesh Pathuri, Chartered Accountant
6	Jurisdictional Authority – Central	Siripuram Range, Visakhapatnam North Division
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	b) Applicability of a notification issued under the provisions of the act; e) Determination of the liability to pay tax on any goods or services or both

ORDER

(Under sub-section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub-section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and APGST Act, 2017 are in parimateria and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act, 2017 would also mean reference to the corresponding similar provisions in the APGST Act, 2017.
2. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s. Devi Fisheries Limited (hereinafter referred to as applicant), registered under the Central Goods & Services Tax Act, 2017.

3. Brief Facts of the case:

- i) M/s Devi Fisheries Limited (the Applicant/the Company), has been engaged in the business of processing and exporting of shrimp. The applicant procures raw shrimp locally from farmers and processes it at the factory. Shrimp processing includes washing, de-veining, peeling, de-heading, tail removal, sorting, grading, and freezing. However, further processing can be done independently based on the customer's requirements to produce the desired results.

In the freezing procedure, the applicant employs two distinct freezing techniques to preserve the processed shrimp:

- Individual Quick Freezing (IOF)
- Block Freezing

- ii) Processed frozen shrimp are packaged separately in accordance with the buyer's specifications. The Applicant employs the following packaging methods:

- a) Primary packaging: The final product is packed into individual pouches or boxes, weighing between approximately 250 grams and 2.5 kilograms.
- b) Secondary Packaging: The aforementioned pouches or boxes (i.e., primary packaging) are placed into master cartons, with a maximum weight limit of 25 kilograms.

- iii) The primary packaging serves as the principal container for the processed shrimp. These pouches should be stored within master cartons to facilitate convenient transportation. Both the primary and secondary packaging are printed with comprehensive details regarding the product, such as the type, weight, branding information and other relevant specifications (i.e. packaged and labeled).

- iv) The applicant packages the processed frozen shrimp as mentioned above and exports it to international buyers.

- v) The applicant seeks clarification on whether the export of pre-packaged and labeled processed shrimps incurs GST liability, considering the changes in tax rates outlined in Notification no.06/2022-CGST (R) dated July 13,2022, in light of the aforementioned context.

4. Questions raised before the authority:

The applicant sought advance ruling on the following:

- I. Is the export of processed frozen shrimps (HSN 0306), which are packaged in individual printed pouches or boxes and subsequently placed inside a print master carton (with a maximum weight of 25 Kilogram each) that includes the design, label, and other specification about the product to GST?

- II. Is the export of processed frozen shrimps (HSN 0306), packaged in individual printed pouches or boxes and subsequently placed inside a printed master carton weighing up to 25 kilograms, subject to GST?

On Verification of basic information of the applicant, it is observed that the applicant is under Central jurisdiction i.e, Siripuram Range, Visakhapatnam North Division. Accordingly, the application has been forwarded to the jurisdictional officer and a copy marked to the Central Tax authorities to offer their remarks as per Sec. 98(1) of CGST /APGST Act 2017.

In response, remarks are received from the Central jurisdictional officer concerned stating that no proceedings lying pending with the issue, for which the advance ruling sought by the applicant.

5. Applicant's Interpretation of Law:

- i). Till 12.07.2022, the processed shrimp (HSN: 0306) used to cover under entry No. 2 of Schedule I of Notification No. 01/2017-CGST(R) dated 01.07.2017 updated from time to time and taxable at 5% of GST. The respective description of the entry reads as follows,

"All goods (other than fresh or chilled), and put up in a container are.

(a) bearing a registered brand name; or

(b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available[other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the ANNEXURE]*

- ii) From 13.07.2022, the above entry was amended vide Notification No. 06/2012-CGST(R) and same is reads as below,

"All goods (other than fresh or chilled), pre-packaged and labelled

- iii) Vide explanation in the notification, the expression 'pre-packaged and labelled' means a 'pre-packaged commodity' as defined in clause of section 2 of the Legal Metrology Act, 2009 (1 of 2010) where, the package in which the commodity is pre-packed or a label securely affixed thereto is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made thereunder.

- iv) As per Section 2(l) of the Legal Metrology Act 2009, the term "pre-packaged commodity" means a commodity which without the purchaser being present is placed in a package of whatever nature, whether sealed or not, so that the product contained therein has a pre-determined quantity.

v) The Applicant submits, that the legal metrology act will apply to the commodities packed in India, where the ultimate consumer details are lot available at the time of sale, irrespective of the fact whether the goods are being sold in India or exported outside India.

vi) The Applicant further submits that the main motive behind introducing the present amendment is to tax all products pre-packed and sold to customers and to curb tax evasion by the trade by way of forgoing the rights to brand names. In the case of an applicant, the processed shrimp is packaged in pouches/boxes by printing the customer brand name and other details, ranging from 0.5 kg to 2 Kg based on customer requirements.

vii) Further the applicant submits that the clarification, released by the Ministry of Finance regarding the GST levy on pre-packaged and labeled goods vide press release dated 18th July 2022 as follows,

a) If such specified commodities are supplied in a package that does not require declaration(s)/compliance(s) under the Legal Metrology Act, 2009 (1 of 2010), and the rules made thereunder, the same would not be treated as pre packaged and labeled for the purposes of GST levy.

b) In the context of food items (such as pulses, cereals like rice, wheat, flour, etc.), the supply of specified prepackaged food articles would fall within the purview of the definition of 'pre-packaged commodity' under the Legal Metrology Act, 2009, and the rules made thereunder if such pre-packaged and labeled packages contained a quantity up to 25 kilograms [or 25 liters] in terms of rule 3(a) of Legal Metrology (Packaged Commodities) Rules, 2011, subject to other exclusions provided in the Act and the Rules made thereunder.

viii) Further the applicant wishes to rely on the following decisions in support of the cases,

a) M/s Asvini Fisheries Private Limited (AAR Andhra Pradesh) (AAR No.10/AP/GST/2024 dated:26.06.2024)

b) M/s. Sri Seetharamanjaneya Sortex (AAR Andhra Pradesh) - (08/AP/GST/2023 dated 08.05.2023)

c) M/s. DD International Private Limited (AAR Haryana) - (HR/ HAAR/34/2022-23 dated 09.02.2023)

ix) In the above cases it was held that GST would be leviable on the export of pre-packaged and labeled rice up to 25 kg to foreign buyers. As per the above legal provisions and various Advance Ruling decisions, the applicant's understanding is as below,

- a) GST would be applicable on specified goods (namely Shrimps) where the pre-packaged commodity is supplied in packages containing a quantity of less than or equal to 25 kgs
- b) Pre-packaged and labeled commodities processed exclusively for export have not been excluded from the Legal Metrology Act, 2009 and rules made there under.

Therefore, we understand that GST would be applicable on the supply of processed frozen shrimp in packages of up to 25 Kg, irrespective of the fact that the said supply is meant for domestic sale or export.

7. Personal Hearing:

The proceedings of Personal Hearing was conducted on 21.01.2025, for which the authorized representative, Sri Ramesh Pathuri, Chartered Accountant has appeared and reiterated the facts narrated in their application.

8. Discussion and Findings:

8.1 We have carefully gone through the submissions made by the applicant in the advance ruling application, the additional submissions made during the personal hearing and judgements made by the Hon'ble Courts in the same issue .

8.2 From the submissions made at the time of filing the application, it is seen that the applicant M/s Devi Fisheries Limited (the Applicant/the Company), has been engaged in the business of processing and exporting of shrimp. The applicant procures raw shrimp locally from farmers and processes it at the factory. Shrimp processing includes washing, de-veining, peeling, de-heading, tail removal, sorting, grading, and freezing. However, further processing can be done independently based on the customer's requirements to produce the desired results.

In the freezing procedure, the applicant employs two distinct freezing techniques to preserve the processed shrimp:

- Individual Quick Freezing (IQF)
- Block Freezing.

The applicant uses different types of packing such as

- a) Primary packaging or inner packing i.e., packaging of inner boxes or pouches
- b) Secondary packaging or outer packing i.e., packaging of master carton.

The primary packaging is based on the technique used for the orders they received. The products are weighed and packed into food grade polythene pouches/boxes. The sealed pouches are further packed into the master cartons, both are as per the specification and requirements of the buyer. The weight of the individual inner package generally ranges from about 250 grams to 2 Kilograms which are further packed in master cartons with a maximum weight of up to 25 Kilograms.

8.3 It is relevant to go through the Provisions of the GST Act – 2017. As per Section 2(5) of the IGST Act, 2017.

"export of goods" with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India".

Further, vide Section 7(5), read with Section 11 of the IGST Act, 2017, export of impugned product shall be treated as a supply of goods in the course of inter-State trade or commerce. Section 5 of the IGST Act, 2017, envisages that

"Subject to the provisions of sub-Section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person."

Accordingly, it may be noted that all exports are to be deemed as inter-state supplies', and as per Section 16 of the IGST Act, 2017, export of goods or services or both are to be treated as Zero Rated Supplies'. It may be noted here that the exporter has the option either to export under Bond/Letter of Undertaking without payment of tax and claim refund of unutilised input tax credit or pay IGST at the time of export and claim refund of the same, as the case may be.

8.4 The point for determination here is as to whether the export of specified pre-packaged and labelled frozen Shrimp meant for export would fall within the meaning of the definition of 'pre-packaged and labelled commodity' under the Legal Metrology Act, 2009, and the rules made there under, as defined under explanation (ii) of the respective Notifications, which is reproduced below :-

"The expression pre-packaged and labelled' means a 'pre-packaged commodity' as defined in clause (l) sub section (1) of section 2 of the Legal Metrology Act, 2009 (1 of 2010) where, the package in which the commodity is pre-packed or a label securely affixed thereto is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made there under."

Further, Section 2(1) of the Legal Metrology Act, 2009 (1 of 2010), defines the term "pre-packaged commodity" as follows:

*"pre-packaged commodity" means a commodity which without the purchaser being present is placed in a package of whatever nature, whether sealed or not, so that the product contained therein has a **pre-determined quantity**.*

Therefore, we find that a commodity to be considered as Pre-packed and labelled' shall associate with the following features, viz.,

- a. that which comprises a pre-determined quantity as circumscribed under the meaning of "pre-packaged commodity" vide Section 2(1) of the Legal Metrology Act, and
- b. that which is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made there under.

8.5 We take note of the fact that out of the two queries raised by the applicant, the first query relates to processed frozen shrimps packed in individual printed pouch/box, further packed inside a printed master carton (of up to 25 kgs each) containing the design, label, and other particulars provided by the buyer. On going through the statement of facts, as in para 6 of SI.No. 15 of the application for advance ruling furnished by the applicant, it is seen that they have stated as follows

"The weight of the individual inner packaging generally ranges from about 250 grams to 2 Kilograms which are further packaged in master cartons with a maximum weight of up to 25 Kilograms."

As per the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made there under, as the inner packing is printed and is having pre-determined quantity it immediately attains the characteristics of pre-packaged and labelled' category, meant for retail sale, irrespective of the fact whether the outer packaging is printed or not. Under these circumstances, the inner packaging which ranges from 250 grams to 2 kilograms becomes liable to GST, as the same fall within the ambit of 'pre-packaged and labelled' category which is mandated to bear the declarations.

8.6 The above fact regarding the levy of GST as "pre-packaged and labelled" gets validated through the FAQs dated 18.07.2022 issued by the CBIC which has a persuasive value while interpretation the legal provisions. Under the said "FAQs on GST applicability on 'pre-packaged and labelled' goods", the relevant clarification under SI.No.4, goes as below:-

S.No	Question	Clarification
4	<i>Whether GST would apply to a package that contains multiple retail packages. For example, a package containing 10 retail packs of flour of 10 Kg each?</i>	<i>Yes, if several packages intended for retail sale to ultimate consumer, say 10 packages of 10 Kg each, are sold in a larger pack, then GST would apply to such supply. Such package may be sold by a manufacturer through distributor. These individual packs of 10 Kg each are</i>

		<p><u>meant for eventual sale to retail consumer.</u></p> <p>However, a package of say rice containing 50 Kg (in one individual package) would not be considered a pre-packaged and labelled commodity for the purposes of GST levy, even if rule 24 of Legal Metrology (Packaged Commodities) Rules, 2011, mandates certain declarations to be made on such wholesale package.</p>
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Further, We invite reference to the Notification no 06/2022 (CT Rate), dated 13th July 2022 wherein, GST has been made applicable on supply of "pre-packaged and labelled" commodities attracting provisions of Legal Metrology Act, 2009.

G. after the Schedule VII, in the Explanation, for clause (ii) and the entries relating thereto, the following clause shall be substituted, namely:-

(ii) The expression 'pre-packaged and labelled' means a 'pre-packaged commodity' as defined in clause (1) of section 2 of the Legal Metrology Act, 2009 (1 of 2010) where, the package in which the commodity is pre-packed or a label securely affixed thereto is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made there under.

The applicant also made a reference to the clarifications issued by Ministry of Finance which is stated as under:

Ministry of Finance clarification on doubts/queries regarding the GST levy on 'pre-packaged and labelled' goods vide Press Release dated 18th July 2022.

a) If specified commodities are supplied in a package that do not require declaration (s)/compliance(s) under the Legal Metrology Act, 2009 (1 of 2010), and the rules made there under, the same would not be treated as pre-packaged and labeled for the purposes of GST levy.

b) In the context of food items (such as pulses, cereals like rice, wheat, flour etc), the supply of specified pre-packaged food articles would fall within the purview of the definition of 'pre-packaged commodity' under the Legal Metrology Act, 2009, and the rules made there under, if such pre-packaged and labelled packages contained a quantity upto 25 kilogram [or 25 litre] in terms of rule 3(a) of Legal Metrology (Packaged Commodities) Rules, 2011, subject to other exclusions provided in the Act and the Rules made there under.

The applicant submitted that Notification No.6 of 2022-CTR dated 13.7.2022 enumerates that "GST is applicable on the export of 'pre-packaged and labelled' commodities as per the provisions of the Legal Metrology Act w. e. f 18.07.2022".

In this regard we find that neither notification no 6/2022 dated 13.07.2022, nor the Legal Metrology Act 2009 has made any differentiation

with regard to applicability of GST on exports of goods/ mentioning of declarations or pre packed commodities for export.

- 8.7 In the instant case, the supply of shrimps in pouches or boxes of upto 25kg, which are duly pre-packaged and labelled as per Legal Metrology Act 2009 is a taxable supply which is neither exempted nor nil rated supply . As per the Notification no 06/2022 (CT Rate), dated 13th July 2022 ,GST has been made applicable on supply of such "pre-packaged and labelled" commodities attracting provisions of Legal Metrology Act, 2009. Therefore, where the quantity involved is 25Kgs or less in respect of specified commodities including shrimps (HSN 0306, as per S.No.4 of schedule 1 of notification 01/2017-central tax (rate) dated 28th June 2017) which are pre-packed, they would mandatorily get covered within the ambit of Legal Metrology Act, 2009, and the rules made there under. Accordingly, we are of the considered view that GST would be applicable on the supply of "pre-packaged and labelled" shrimps, capacity upto 25 kgs, it will be liable for GST @ 5%, irrespective of the fact whether it is for domestic supply or for exported outside the country.

9. In view of the above discussions, we pass the following orders:

RULING

(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

Question: Is the export of processed frozen shrimps (HSN:0306), which are packed in individual printed pouches or boxes and subsequently placed inside a printed master carton (with a maximum weight of 25 kgs each) that includes the design, label and other specifications about the product, subject to GST.

Answer : Affirmative

Question: Is the export of processed frozen shrimps (HSN:0306), packed in individual printed pouches or boxes and subsequently placed inside a printed master carton weighting up to 25 kilograms, subject to GST.

Answer : Affirmative

Sd/-K.Ravi Sankar
Member

Sd/-B.Lakshmi Narayana
Member

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


Deputy Commissioner (ST)
Registrar

Authority for Advance Ruling
O/o. Chief Commissioner (State Tax)
Andhra Pradesh

To

M/s. Devi Fisheries Limited, D:No -21-7, East Point Colony, Visakhapatnam, Visakhapatnam, Andhra Pradesh, 530017. **(By Registered Post)**

Copy to

1. The Assistant Commissioner (ST), China Waltair Circle, Visakhapatnam-I Division (through mail) with a direction to communicate the copy to the Central Tax authorities)
2. The Superintendent (CT), Siripuram Range, Visakhapatnam North Division (through mail)
3. The Commissioner of Central Tax, CGST, GST Bhavan, Central Revenue Buildings, Kannavari Thota, Guntur - 522 004

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Kunchanapalli, Guntur District, (A.P)
2. The Principal Chief Commissioner (Central Tax), O/o Principal Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035. A.P.

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, with in a period of 30 days from the date of service of this order.