



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri B. Raghu Kiran, IRS, Additional Commissioner (Central Tax)

Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax)

A.R.Com/07/2019

Date: 24.12.2021

TSAAR Order No. 30/2021

[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE TEALANGANA GOODS AND SERVICES TAX ACT, 2017.]

1. M/s. AIE Fiber Resource and Trading (India) Private Limited , 3rd Floor, Megana Towers, Ayyappa Society Road, Madhapur, Hyderabad, Telangana, 500081 (36AAQCA7356J1Z3) has filed an application in **FORM GST ARA-01** under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.
2. At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.
3. It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- for SGST and Rs. 5,000/- for CGST towards the fee for Advance Ruling. The Applicant has declared that the questions raised in the application have neither been decided by nor are pending before any authority under any provisions of the GST Act.
4. **Brief facts of the case:**
M/s. AIE Fiber Resource and Trading (India) Private Limited are intending to make the following transactions:
 - a. Supply of imported goods to Indian customers on High Sea Sale (HSS) basis.
 - b. Supply of imported goods to Indian customers from Free Trade Warehousing Zone (FTWZ).

The applicant sells the imported goods before goods cross the customs frontier of India i.e., prior to clearance of goods from the customs to pre-identified customers. The invoice will be raised by the applicant from the office located in the State of Telangana.

On other occasions, the applicant would import the goods and entrust them to a logistic service provider i.e., DHL logistics pvt ltd. who will store the imported goods of the applicant at their FTWZ facilities of Mumbai & Chennai. The applicant would then identify the Indian customer and on the directions of the applicant M/s. DHL would cause delivery of goods to the Indian customer. The Indian customer would take delivery of such goods by filing ex-bond BOE and discharging their liability to the customs.

The applicant is desirous of a clarification regarding liability of the said supplies to IGST and availability of ITC against such supplies.

The applicant is also desirous of knowing whether issuing of invoice from Hyderabad for supply of goods from FTWZ to their local customers in other States would satisfy the conditions enumerated under Section 31 of the CGST Act. Hence the application.

5. **Questions raised:**

1. Whether, in the facts and circumstances of the case, supply of imported goods on High Sea sale basis or supply of goods from FTWZ facilities by the Applicant to the Indian customers would be subject to IGST?
2. In case the answer to question -1 is in the negative viz there is no liability to tax under IGST, then in that case whether input tax credit already taken will have to be reversed, to the extent of inputs, input services and capital goods used by the Applicant to the extent of the aforesaid supply dealt with in Question -1 above?
- 3A. Whether the issue of the invoices from the Applicant's only office located at Hyderabad, Telangana for sale of goods from the Mumbai and Chennai FTWZ facilities of the third party logistic service provider namely DHL would qualify for purpose of discharge of its obligation in terms of Sec 31 of the CGST Act, 2017 considering the fact that the Applicant does not have any other business/fixed establishment in the States where such FTWZ facilities are located?
- 3B. In case the answer to the Question 3 is in the negative, then whether the Applicant ought to obtain registration in the States of Maharashtra and Tamil Nadu (location of the FTWZ facilities) for sale of such goods from the FTWZ facilities belonging to the logistic service provider namely DHL?

6. **Personal Hearing:**

The authorized representative Sri S. Thirumalai, Advocate & Authorised representative attended the personal hearing held on 05-10-2021. The authorised representative reiterated their averments in the application and filed additional material in support of his contention.

7. **Discussion & Findings:**

Free Trade Warehousing Zone (FTWZ) is part of SEZ scheme and it is a customs bonded warehouse. An FTWZ operates similar to an SEZ. They will be trading and warehousing of Goods that are imported without payment of customs duty in these zones.

Rule 18(5) of SEZ Rules-MC&I(DC) SEZ Instruction No. 60 dated 6-7-2010 prescribe the conditions under which the FTWZ can hold goods on behalf of foreign suppliers, foreign buyer, DTA supplier and DTA buyer.

The applicant imports goods and stores them in a FTWZ till he finds a local customer who will purchase the goods and such purchaser clears the goods under the Customs Act.

The transactions proposed to be made by the applicant are covered by Entry 8 of Schedule III of CGST/SGST Acts inserted vide CGST (Amendment) Act, 2018 w.e.f. 1-2-2019, i.e., supply of goods by the consignee to any other person, by endorsement of document of title of the goods, after the goods have been dispatched from the port of origin located outside India but before the clearance for home consumption; or supply of warehoused goods to any person before clearance for home consumption. And such transactions by virtue of Entry 8 of Schedule III do not attract tax under CGST or SGST or IGST Acts.

Further, according to the explanation to section 17(3) of CGST Act inserted vide CGST (Amendment) Act 2018, w.e.f. 1-2-2019 all transactions falling under Schedule III except Entry 5 will not be considered as 'value of exempted supply for purpose of reversal of ITC of common input services. Therefore the value of the transaction referred above will not form part of value of the exempt supply.

The applicant directs the FTWZ warehouse keeper to deliver the goods to a customer chosen by the applicant. Under Section 10(1)(a) of the IGST Act the place of supply in such case shall be the location of goods at the time of which the movement of goods terminates for the delivery to the recipient.

Further the applicant i.e. supplier in this case is situated at Hyderabad, Telangana State whereas the goods are delivered in Other States. That is the supplier of the goods and the place of supply of goods are in two different states. Therefore it is an inter-state supply. Hence the applicant need not obtain any registration in the Other State in order to effect such inter-state transactions.

8. In view of the observations stated above, The ruling is given as below :

Advance Ruling

Questions	Ruling
1. Whether, in the facts and circumstances of the case, supply of imported goods on High Sea sale basis or supply of goods from FTWZ facilities by the Applicant to the Indian customers would be subject to IGST?	No
2. In case the answer to question -1 is in the negative viz there is no liability to tax under IGST, then in that case	No.

	whether input tax credit already taken will have to be reversed, to the extent of inputs, input services and capital goods used by the Applicant to the extent of the aforesaid supply dealt with in Question -1 above?	
3A.	Whether the issue of the invoices from the Applicant's only office located at Hyderabad, Telangana for sale of goods from the Mumbai and Chennai FTWZ facilities of the third party logistic service provider namely DHL would qualify for purpose of discharge of its obligation in terms of Sec 31 of the CGST Act, 2017 considering the fact that the Applicant does not have any other business/fixed establishment in the States where such FTWZ facilities are located?	Refer to detailed reply in the discussion above.
3B.	In case the answer to the Question 3 is in the negative, then whether the Applicant ought to obtain registration in the States of Maharashtra and Tamil Nadu (location of the FTWZ facilities) for sale of such goods from the FTWZ facilities belonging to the logistic service provider namely DHL?	Refer to detailed reply in the discussion above


(S.V. KASI VISWESWARA RAO)
Addl. Commissioner (State Tax)


(B. RAGHU KIRAN)
Addl. Commissioner (Central Tax)

[Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order]

To
M/s. AIE Fiber Resource and Trading (India)
Private Limited , 3rd Floor, Megana Towers,
Ayyappa Society Road, Madhapur, Hyderabad,
Telangana, 500081

Copy submitted to :

1. The Commissioner (State Tax) for information.
2. The Commissioner (Central Tax), 1st Floor, Posnett Bhavan, Tilak Road, Abids, Hyderabad.

Copy to:

1. The Superintendent (Central Tax) Madhapur Range, 5th Floor, H.No.10-3-301 to 303, Serene Heights, above Ratnadeep Super Market, Humayan Nagar, Masab Tank, Hyderabad.

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

Superintendent (Gazetted)(Gr-I)