

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**  
**GST Bhavan, 1<sup>st</sup> floor, B-Wing, Mazgaon, Mumbai - 400010.**  
 (Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)  
**BEFORE THE BENCH OF**

(1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)

(2) Shri B. V. Borhade, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id		27AAACF0220A1ZN
Legal Name of Applicant		WILHELMSSEN MARITIME SERVICES PRIVATE LIMITED
Registered Address/Address provided while obtaining user id		FLOOR-6,PLOT-122, MISTRY BHAVAN, DINSHAW WACHHA ROAD, K C COLLEGE , CHURCHGATE, MUMBAI - 400020
Details of application		GST-ARA, Application No. 136 Dated 16.03.2019
Concerned officer		Dy. Commissioner of S.T.(E-629) LTU-3, Mumbai
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Warehouse/Deport ,Bonded Warehouse, Service Provision
B	Description (in brief)	Wilhelmsen Maritime Services Pvt Ltd ( <i>herein after referred to as "WMSPL"</i> ), has the largest maritime services network in the world supplying a wide portfolio of maritime goods and services worldwide to every conceivable vessel type, in every market and region. WMSPL has three major business activities: A. Maritime Products B. Ships Agency C. Maritime Logistics
Issue/s on which advance ruling required		(v) Determination of the liability to pay tax on any goods or services or both (vii) Whether any particular thing done by the applicant with respect to any goods and/or services amounts to or results in a supply of goods and/or services, within the meaning of that term
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.

**PROCEEDINGS**

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

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act" respectively] by M/s WILHELMSSEN MARITIME SERVICES PRIVATE LIMITED, the applicant, seeking an advance ruling in respect of the following questions.

1. Whether the delivery of goods to the owner of the ship proceeding to foreign port at the Indian port is an "export of goods" as per the section 16 of the Integrated Goods and Service Tax Act, 2017?
2. WMSPL has w.e.f 1.7.2017 levied and paid GST under protest on all its "Maritime Products"

supplies. If the supply is exports as per section 16 then, will WMSPL will be liable to claim refund for zero rated supply i.e.; exports?

3. If at all taxable, whether the tax will be levied as intra-state or interstate supply?

Vide their additional submissions their questions have been reframed as under:-

1. The advance ruling is sought to confirm whether this supply will fall under Schedule III of CGST Act?
2. The advance ruling is sought to confirm whether the supply will be termed as Exports of Goods. If No, then what will be the supply, whether Intra State or Inter State and which Tax will be levied CGST and SGST or IGST?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST 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 MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

## 2. FACTS AND CONTENTION – AS PER THE APPLICANT

1. The submissions, as reproduced verbatim, could be seen thus-

### "Brief fact of case:

Wilhelmsen Maritime Services Pvt Ltd (*herein after referred to as "WMSPL"*), has the largest maritime services network in the world supplying a wide portfolio of maritime goods and services worldwide to every conceivable vessel type, in every market and region.

WMSPL has three major business activities: (A). Maritime Products ; (B). Ships Agency and (C). Maritime Logistics.

A. Brief description about "Marine Products" Activity:

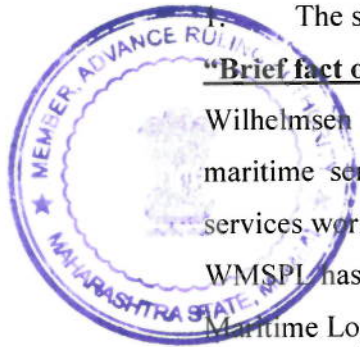
- **What is Maritime Products?**

Marine Products consists of Cleaning chemicals, Gases, Water testing and treatment solutions, Lubricants, Welding equipment, Firefighting solution and other spares which are required for the ship's maintenance, consumption etc.

- **Purchase and sale of Marine Products**

WMSPL procures goods from its parent company formerly known as Wilhelmsen Ships Service AS, Oslo (WSS AS) having an establishment outside India. Goods procured from the WSS AS are stored either at the Bonded warehouse or Non-Bonded Warehouse. WMSFL sells the goods to its customer viz. Owner or Operator of the ship proceeding to a foreign port.

- **Invoicing**





WMSPL raised invoice to the owner of the ship proceeding to a foreign port, located outside India. The Owner does not have any place of business in India,

- **Delivery of Goods**

The delivery of the goods is given at the vessels onboard at the Indian Port.

- **Consideration**

The consideration for the supply is received in foreign convertible exchange within the RBI permitted time period.

**Brief description of activity for which advance ruling is sought:**

WMSPL is seeking an advance ruling for the applicability of GST:

1. Whether the delivery of goods to the owner of the ship proceeding to foreign port at the Indian port is an "export of goods" as per the section 16 of the IGST Act, 2017?
2. WMSPL has w.e.f 1.7.2017 levied and paid GST under protest on all its "Maritime Products" supplies. If the supply is exports as per Section 16 than, will WMSPL will be liable to claim refund for zero rated supply i.e.; exports?
3. If at all taxable, whether the tax will be levied as intra-state or interstate supply?

WMSPL imports the goods from foreign countries and keep them in either in Bonded Warehouse or Non-Bonded Warehouse and supply the same to ship proceeding to a foreign port from the Indian Sea-ports. The facts of this transaction are mentioned below:

**Delivery of goods to ship proceeding to a foreign port can be done in three following ways:**

- I. The goods can be delivered from the Bonded Warehouse by paying the Duty:

Steps:

1. WMSPL receives the order from the customer.
2. Based on the order WMSPL check if the vessel is not on foreign run/ or if vessel's present port of call is not within 90 Kms radius from the Bonded warehouse.
3. WMSPL prepares the Delivery note and Invoice to file it with customs.
4. WMSPL pays the applicable duty as per the value mentioned in the invoice.
5. Customs issues a Bill of Entry Document and out of charge document.
6. After the clearance of documents, WMSPL collects the goods from the warehouse and the delivers the goods to the vessel.
7. WMSPL files the Shipping bill at the relevant port.
8. WMSPL delivers the goods on board and obtains vessel's acknowledgment on delivery note.

- II. The goods can be delivered from the Non-Bonded Warehouse by paying the Duty:

Steps:

1. WMSPL receives the order from the customer.
2. WMSPL prepare the Delivery note and Invoice to file it in customs.

3. WMSPL files the Shipping bill at the relevant port.
  4. WMSPL delivers the goods on board and obtains vessel's acknowledgment on delivery note.
- III. The goods can be delivered from the Bonded Warehouse in Bond:

Steps:

1. WMSPL receives the order from the customer.
2. Based on the order WMSPL checks if the vessel is not on foreign run/ or if vessel's Present port of call is not within 90 Kms radius from the Bonded warehouse.
3. WMSPL prepare the Delivery note and Invoice to file it in customs.
4. Customs will issue an ex-bond document to WMSPL.
5. WMSPL collects the goods from the warehouse and the delivers the goods to the vessel.
6. WMSPL files the Shipping bill at the relevant port.
7. WMSPL delivers the goods on board and obtains vessel's acknowledgment on delivery note.
8. WMSPL submits the above vessel acknowledgment to the Customs and close the ex-bond document.

- 3b. **Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of the aforesaid question(s)**

**WMSPL has w.e.f 1.7.2017 levied and paid GST under protest on all its "Maritime Products" supplies. If the supply is made from the warehouse to the port located in same state, WMSPL has charged CGST+SGST (assuming it as Intra State) and if the port is in different state then IGST is charged assuming it as Inter State).**

**Relevant definitions and provision under GST Law:**

- **Definition of Exports:** As per section 2(6) of IGST Act, "*export of goods*" with its grammatical variations and cognate expressions, means taking goods out of India to a place out of India.
- **Definition of India:** As per section 56 of CGST Act, "*India*" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters.
- **Place of Supply of Goods:** As per section 11 of IGST Act, The place of supply of goods - (a) Imported into India shall be the location of the importer; (b) Exported from India shall be the location outside India.

2. **Relevant definition and provisions under Customs and Excise Law:**

- **Definition of exports - Customs:** The definition of export under the Customs Act is referred to in Sec. 2(18) as per which "*export*", with its grammatical variations and



*cognate expressions, means taking out of India to a place outside India.* The definition under the IGST Act & the Customs Act is the same, except for the fact that word goods is not used in Customs Act.

- Section 87 of the Indian Customs Act, 1962 : *Imported stores may be consumed on board a Foreign-going vessel or aircraft. Any imported stores on board a vessel or aircraft (other than stores to which section 90 applies) may, without payment of duty, be consumed thereon as stores during the period such vessel or aircraft is a foreign-going vessel or aircraft.*
- Section 88(a) of the Indian Customs Act, 1962: *for the words "exported to any place outside India" or the word "exported", wherever they occur, the words "taken on board any foreign going vessel or aircraft as stores" shall be substituted.*
- Section 69 of the Customs Act provides for clearance of warehoused goods for export and Chapter X of the Customs Act provides for drawback on re-export of duty paid goods or imported materials used in manufacture of goods which are exported. By virtue of section 88 of the Customs Act, the benefit of section 69 and Chapter X has been extended to stores which are taken on board a foreign going vessel or aircraft.
- Definition of exports - Excise Duty: Rule 18 of the Central Excise Rules, 2002 relating to rebate of duty paid on goods exported, has an explanation as below:

*[Explanation. - For the purposes of this rule, "export", with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India and includes shipment of goods as provision or stores for use on board a ship proceeding to a foreign port or supplied to a foreign going aircraft.*

**Analysis:**

WMSPL has w.e.f 1.7.2017 levied and paid GST on all its "Maritime Products" supplies. However, in WMSPL view the said supply should be considered an "Export of goods" as defined under Section of the IGST, 2017 and thus be considered as a zero-rated supply as per Section 16 of IGST Act, 2017 based on the following grounds:

1. The activity carried out by WMSPL is export of goods as the goods will move out of India when the next port call is not within the territorial waters of India.
2. The shipping bill is filed to the customs at the relevant port for the purpose of delivery of goods on board.
3. As per the Customs Act, 1962 and the Central Excise Act, 1944 goods delivered to a ship proceeding to a foreign port at Indian sea-port were treated as exports of goods.
4. Similar issue was filed before the appellant authority for advance ruling under Sec. 99 of the Andhra Pradesh GST Act, 2017 in the case of *M/s Fairmacs Shipstores Pvt*



Ltd., were in it was held that, "As per Sec. 88(A) of the Customs Act, 1962, the goods supplied to merchant ships on foreign run will be treated as exports. As per Sec.16 of the IGST Act, 2017, the export will be treated as zero rated supplies"

Ruling held that the outward supplies made by the applicant to a) ocean going merchant ships which are in foreign run, b) Indian Navy ships, c) Indian Cost guard ships, will be treated as "exports".

**Additional submission given by the applicant:**

In reference to Hearing dated 07/06/2019, please note below additional details required and questions are reframed, so earlier questions submitted may be ignored for this proceedings.

**Nature of Purchase :** WSS imports the goods from the foreign countries.

**Where are these imported goods stored :** Imported goods are stored in (1) Bonded Warehouse and (2) Non-bonded warehouse after clearance for home consumption

**Process of supply :** The delivery of goods to foreign going vessel can be done in following 2 ways,

A. Supply directly from Bonded Warehouse (shipping bill is filed for supply of goods on board Vessel )

1. Once received order from customer, WSS check item wise INBOND BOE number.

2. Prepare CHECKLIST for shipping bill.

3. Send Checklist of shipping bill to WSS for approval once it is approved then we have to file and generate shipping bill number.

4. Submit docs into customs for clearance along with request letter.

5. Coordinate with vessel agent for vessel detail (for ETA, ETB and ETD).

6. We have to arrange seal truck for taking forwarding and passing of shipping bill as per vessel planning.

7. Give one Delivery note and Order confirmation copy to driver to get receiving copy from vessel agent or vessel depends on order.

8. Give one DN copy to warehouse for record purpose

9. Submit 1 acknowledged DN copy to customs, for closure of the Bond Entry.

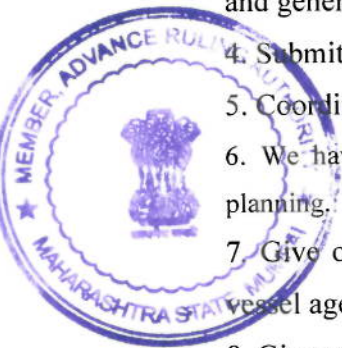
**Question(s) on which advance ruling is required**

"The advance ruling is sought to confirm whether this supply will fall under Schedule III of CGST Act "

**B. Supply of goods from non-bonded warehouse or from bonded warehouse after clearance With Duty Shipment (In-bond BOE filing). This process is used when the delivery is urgent. (shipping bill is filed for supply of goods on board vessel)**

1. Received the mail regarding cargo which we have to pay the duty and deliver on board into vessel.

2. Segregate the cargo into BOE wise and Prepare and send checklist BOE wise for filing exbond BOE to WSS for approval.





3. Once received confirmation from WSS we will file Exbond BOE.
4. Once BOE no. generated, then we have to passing and get the assessed BE print for duty payment.
5. Pay the Duty of cargo as per BOE wise.
6. Received invoice, OC, and DN from WSS for delivery of cargo into vessel.
7. Arrange truck and do the on-board as per planned vessel.
8. Get acknowledgement for delivery from the vessel & submit a copy to WSS.

**We request you to reframe our questions under application as under**

**Amended Questions:**

**Question(s) on which advance ruling is required**

1. "The advance ruling is sought to confirm whether this supply will fall under Schedule III of CGST Act".
- 2."The advance ruling is sought to confirm whether the supply will be termed as Exports of Goods. If No, then what will be the supply, whether Intra State or Inter State and which Tax will be levied CGST and SGST or IGST".

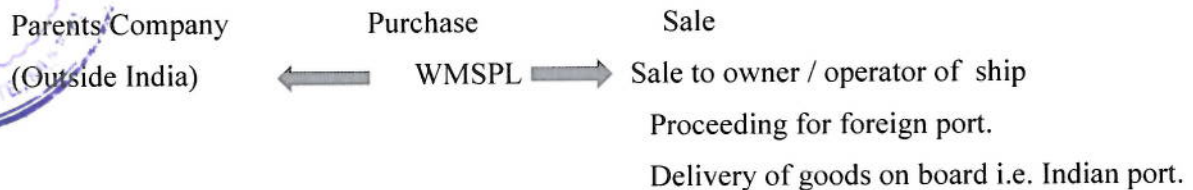
**04. CONTENTION – AS PER THE CONCERNED OFFICER**

The submission, as reproduced verbatim, could be seen thus-

"WILHELMSSEN MARITIME SERVICE PVT LTD has the largest maritime service network in the world supplying a wide portfolio of maritime goods and service worldwide to every conceivable vessel type in every market and region.

Major 3 business activities : Maritime products ; Ships agency ; Maritime logistics

**BUSINESS ACTIVITY OF DEALER IN SHORT**



**WMSPL is seeking an advance ruling for the applicability of GST & raised following queries:-**

- Q. 1) Whether the delivery of goods to the owner of the ship proceeding to foreign port at this Indian port is an "export of goods" as per the sec. 16 of the IGST Act 2017?
- Q. 2) WMSPL has w.e.f. 1.7.2017 levied and paid GST under protest on all its "Maritime products" supplies . If the supply is exports as per section 16 than, will WMSPL will be liable to claim refund for zero rated supply i.e. exports?
- Q.3) If at all taxable, whether the tax will be levied as intra-state or interstate supply?

**Submission of this office with respect to the queries raised by WMSPL is as follows**

Q 1) Whether the delivery of goods to the owner of the ship proceeding to foreign port at this Indian port is an “export of goods” as per the sec. 16 of the IGST Act 2017?

**1. With respect to question 1, this office submits as below :**

- i. Taxable territory is defined in Sec. 2(109) as territory to which the provisions of this Act apply. Non Taxable Territory is defined in Sec. 2(79) as territory outside the taxable territory. As per Sec. 1(2) of CGST Act, the Act extends to the whole of India and as per Sec. 1(2) of MGST Act it extends to whole of State of Maharashtra.

India has been defined under section 2(56) as :

*“(56) “India” means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters;”*

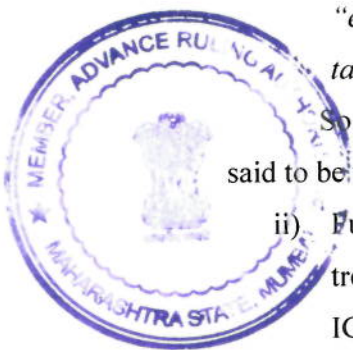
So from the definition itself it is clear that the limits of taxable territory in GST is extended upto 200 nautical miles from the landmass of the India.

Now, the definition of export of goods as per Section 2(5) of IGST Act is-

*“export of goods” with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India;*

So when goods are taken beyond the limits of 200 nautical miles, only then they can be said to be taken out of India and will qualify as export of goods.

- ii) Further, warehoused goods to any person before clearance for home consumption is treated as no supply as per item 8(a) of Sch. III only w.e.f 1.2.2019. As per Sec. 16 of IGST Act, export of goods is zero rated supply. When the sale from warehoused goods, in present case, supply from licenced warehouse, is no supply at threshold, the question that the same is zero rated supply as referred to in Sec. 54 does not arise and hence cannot be treated as export for eligibility of refund of unutilised Input Tax Credit (ITC) after 1.2.2019. Even prior to 1.2.2019, sale in present case is not liable to be treated as export because, by sale, it is not taking the goods out of India to a place outside India. In fact the ship owner or operator receive the goods at Indian port & then destined to foreign port. The ratio of Burmah Shell Oil Storage and Distributing Co. of India Ltd. vs. Commercial Tax Officer AIR 1961 SC 315, & followed in Commr. of Sales Tax v/s Pure Helium P Ltd 2012(49) VST 14 is squarely applicable to the present situation.
- iii) Also, the recent judgement of Honourable Bombay Court in Radhasons International in STR 52/2009 decided on 8.2.2019 has held that when the bill of entry for warehouse





is filed in the course of import is over and any sale thereafter, cannot be treated as sale in course of import.

- iv) Order dt 27.03.2018 Delhi Authority for Advance Ruling has held that supply of goods to the international passengers going abroad from retail outlet situated in Security Hold Area of IGI Airport cannot be treated as export and taxable person is liable for GST.
- v) The MGST Act, CGST Act and IGST Acts are collectively codes in themselves and it is not permissible to borrow any provisions of other laws such as Customs Act or Central Excise Act, for affecting the applicability of the MGST Act, CGST Act and IGST Acts not warrant exemption to be applied to supplies liable to tax under such laws. If exemption or non-applicability of laws of the MGST Act, CGST Act & IGST Acts are to be claimed, the same must be found in the said MGST Act, CGST Act & IGST Acts and not outside.
- vi) Proviso to Section 5(1) of IGST nor Sec. 3 of Custom Tariff Act 1975 does not in any manner establish the transactions of ship chandelier to be export nor it is correct to say that exemption under Custom Act can be said to be ipso make supply by applicant exempt from GST levy.

**Hence in no case the sale by the applicant to ship stationed in Indian port , may or may not be destined to Foreign port can qualify as export of goods.**

Q 2) WMSPL has w.e.f. 1.7.2017 levied and paid GST under protest on all its "Maritime products" supplies . If the supply is exports as per section 16 than, will WMSPL will be liable to claim refund for zero rated supply i.e. exports?

2) As discussed in with respect to question 1, the answer to question 2 is negative.

Q3) If at all taxable ,whether the tax will be levied as intra-state or interstate supply?

3) **With respect to question 3, this office submit as follows-**

- (i) Chapter V of IGST Act deals with place of supply. Sections 10 & 11 are for place of supply in case of goods. Sec.11 deals with place of supply when goods are either imported or exported. Therefore, in the present case provision of Sec.10 which is dealing for supply other than supply of goods imported into or exported from India will have to read. Clause (a) of sub section (1) of Section 10 provides for place of supply where supply involves movement of goods. As in present case, there is movement of goods, the transaction will be covered under above clause. Thus, it can be inferred that in the present case, as the supply is from ship chandeliers to the ship located in Indian port, it is in territorial water. Section 9 provides provision for supplies in territorial water which is reproduced below :

9. Notwithstanding anything contained in this Act,—

(a) where the location of the supplier is in the territorial waters, the location of such supplier; or

(b) where the place of supply is in the territorial waters, the place of supply, shall, for the purposes of this Act, be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

- (ii) Thus, it is clear that, supply of goods by ship chandeliers to the ship located in Indian port will be supplied in territorial water and hence, the place of supply will be in coastal state. In present case, obviously in the state of Maharashtra.

**In view of above it is very clear that, transaction in question will be intra-state supply and CGST and SGST will be levied.”**

#### 04. HEARING

Preliminary hearing in the matter was held on 09.04.2019. Sh. Pranav Mehta, C.A. appeared and requested for admission of their application. Jurisdictional Officer Sh. Mangesh More, State Tax Officer (C-815) Mumbai also appeared.

The application was admitted and called for final hearing on 07.06.2019. Sh. Pranav Mehta, C.A appeared, made oral & written submissions. Jurisdictional Officer Smt. Gitanjali Temgire, Dy. Commissioner of S.T.,(E-629) LTU-3, Mumbai appeared and made both, oral and written submissions. We heard both the parties.

#### 05. OBSERVATIONS AND FINDINGS:

We have gone through the facts of the case, documents on record and written submissions made by both, the applicant as well as the jurisdictional office.

The applicant, registered under the GST Act, imports and supplies goods like "Marine Products", which are required for the ship's maintenance, consumption etc. Applicant imports the aforesaid Marine Products from its parent company formerly known as Wilhelmsen Ships Service AS, Oslo (WSS AS) situated abroad. The goods so procured from out of India are stored either at Bonded warehouses or Non-Bonded Warehouses.

The applicant sells these imported goods from the warehouses to its customer viz. Owner or Operator of the ship proceeding to a foreign port & invoices the owner/operator of the ship. Delivery of the goods is given at the vessels on board at the Indian Port & consideration for the supply is received in foreign convertible exchange. The Owner of the ship does not have any place of business in India. The methods for the supply of goods to the boat vessels either from Bonded or Non bonded warehouse are stated by the applicant in their submissions.



Considering the facts of the transactions and procedure followed to deliver the goods on board a vessel, applicant has reframed their questions before this authority and are seeking a ruling on the same. The two reframed questions are taken up for discussions as under:-

**Question No. 1 -“The advance ruling is sought to confirm whether this supply will fall under Schedule III of CGST Act “.**

As per the aforesaid procedure submitted by the applicant, we find that the imported procured goods are kept in Bonded/Non-Bonded Warehouses. These goods are imported and import duty is paid on them. Once the import duty is paid, it would imply that the said goods have been received & cleared by the applicant and are in taxable territory. Further, on receiving purchase orders from the owners/operators of the vessels, they clear the said goods by filing of shipping bills & deliver the goods to the vessels at an Indian port, along with delivery challan & order confirmation. These documents are handed over to the vessels which are landed at Indian port.

Schedule III of the CGST ACT 2017, as amended is reproduced as under:-

**Schedule III to CGST Act 2017: Activities or Transactions which shall be treated neither as a Supply of Goods nor a Supply of Services (See Section 7)**

1. *Services by an employee to the employer in the course of or in relation to his employment.*
2. *Services by any court or Tribunal established under any law for the time being in force.*
3. (a) *the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;*  
(b) *the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or*  
(c) *the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.*
4. *Services of funeral, burial, crematorium or mortuary including transportation of the deceased.*
5. *Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.*
6. *Actionable claims, other than lottery, betting and gambling.*
7. *Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.*
8. (a) *Supply of warehoused goods to any person before clearance for home consumption;*  
(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.*

**Explanation 1:** *For the purposes of paragraph 2, the term “court” includes District Court, High Court and Supreme Court.*

*Explanation 2: For the purposes of paragraph 8, the expression “warehoused goods” shall have the same meaning as assigned to it in the Customs Act, 1962.*

We find that Schedule III of CGST Act, is listing activities or transactions which shall be treated neither as a supply of goods nor supply of services. Clause 8(a) of the Schedule mentions “**Supply of warehoused goods to any person before clearance for home consumption**”. In the subject case the supply of warehoused goods is of two types, namely;

1. Clearance from Bonded Warehouses to the vessels, and
2. Clearance from Non-Bonded Warehouses to the vessels.

A Bonded Warehouses is a customs-controlled warehouse for the retention of imported goods until the duty owed is paid. A bonded warehouse is a secured area in which dutiable goods may be stored, without payment of duty. It may be managed by the state or by private enterprise. Upon entry of goods into the warehouse, the importer and warehouse proprietor incur a liability under a bond which is generally cancelled when the goods are: exported; or deemed exported; withdrawn for supplies to a vessel or aircraft in international traffic; destroyed under Customs supervision; or withdrawn for consumption domestically after payment of duty. Thus it can be said that goods in a Bonded Warehouse has not been cleared for home consumption. We find that clause 8(a) mentioned above would cover the situation mentioned at 1 above and therefore we are of the opinion that the present supply in such a case will fall under Schedule III of CGST Act. However we also find that in situation mentioned at 2 above, the imported goods would have been cleared to such non-bonded warehouses on payment of appropriate IGST/Customs duty and therefore we are of the opinion that the supply in such a case as in (2) above will not fall under Schedule III of CGST Act.

We now take up question no. 2 for discussion as under:-

**Question No.2 “The advance ruling is sought to confirm whether the supply will be termed as Exports of Goods. If No, then what will be the supply, whether Intra State or Inter State and which Tax will be levied CGST and SGST or IGST “.**

As per the said subsection (2) of Section 97 of the CGST Act advance ruling can be sought by an applicant in respect of :-

- (a) Classification of any-goods or services or both.
- (b) Applicability of a notification issued under the provisions of this Act,
- (c) Determination of time and value of supply of goods or services or both,
- (d) Admissibility of input tax credit of tax paid or deemed to have been paid
- (e) Determination of the liability to pay tax on any goods or services or both
- (f) Whether the applicant is required to be registered
- (g) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both within the meaning of that term.



In the present case on the basis of the arguments made by them and scrutiny of records submitted by the applicant and the arguments put forth by them, we find that their main question is whether the transaction effected in the present case can be considered as exports. On proper and detailed examination of full facts as put by the applicant at the time of the hearings, we find that this question is not covered under the purview of Section 97 of the CGST Act, 2017. Hence we hold the subject application is not maintainable in this respect and cannot be entertained and therefore no opinion is given by us since the matter is beyond the purview of this Authority.

06. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

**ORDER**

**(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)**

NO.GST-ARA- 136/2018-19/B- 71 Mumbai, dt. 15/06/2019

For reasons as discussed in the body of the order, the questions are answered thus –


Ques. No. 1 -“The advance ruling is sought to confirm whether this supply will fall under Schedule III of CGST Act “.

Answer :- In view of the discussions made above, supply from Bonded warehouse will fall under Schedule III of CGST Act “and exempted from GST and supply from Non-Bonded warehouse will not fall under Schedule III of CGST Act “and therefore not exempted from GST

Ques. No.2 - ”The advance ruling is sought to confirm whether the supply will be termed as Exports of Goods. If No, then what will be the supply, whether Intra State or Inter State and which Tax will be levied CGST and SGST or IGST “.

Answer :- Not answered in view of discussions made above.



  
B. TIMOTHY  
(MEMBER)

  
B. V. BORHADE  
(MEMBER)

- Copy to:-
1. The applicants
  2. The concerned Central / State officer
  3. The Commissioner of State Tax, Maharashtra State, Mumbai
  4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
  5. Joint commissioner of State Tax , Mahavikas for Website.

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India building, Nariman Point, Mumbai – 400021.

**CERTIFIED TRUE COPY**  
  
**MEMBER**  
**ADVANCE RULING AUTHORITY**  
**MAHARASHTRA STATE, MUMBAI**