

AUTHORITY FOR ADVANCE RULING, TAMILNADU
ROOM NO.207, 2ND FLOOR, PAPJM BUILDING, NO.1, GREAMS ROAD,
CHENNAI-600 006

ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND
UNDER SECTION 98(4) OF THE TNGST ACT, 2017

Members present:

Shri. Balakrishna. S, I.R.S., Additional Commissioner/ Member(CGST), Office of the Commissioner of GST & Central Excise, Audit II Commissionerate, Chennai -600 034.	Shri. B. Suseel Kumar, B.E, MBA., Joint Commissioner/Member(SGST), Authority for Advance Ruling, Tamil Nadu, Chennai-600 006.
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Advance Ruling No. 22 /ARA/2025 Dated: 09.05.2025

1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-Section (1) of Section 100 of CGST Act 2017/TNGST Act 2017, within 30 days from the date on which the ruling sought to be appealed is communicated.
2. In terms of Section 103(1) of the Act, Advance Ruling pronounced by the 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) Section 97 for advance ruling.
 - (b) On the concerned officer or the Jurisdictional Officer in respect of the applicant.
3. In terms of Section 103(2) of the Act, this Advance Ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.
4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void *ab initio* in accordance with Section 104 of the Act.
5. The provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act (herein referred to as the Act) are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act.

GSTIN Number, if any/User id	Unregistered
Legal Name of Applicant	M/s. West Pharmaceutical Packaging India Private Limited
Trade Name of Applicant	-
Registered Address/ Address provided while obtaining User id	102, Gowra Grand, 1-8-384 & 385, S.P Road, Begumpet, Hyderabad 500 003.
Details of Application	Application Form GST ARA-01 received from the applicant on 01.10.2024.
Jurisdictional Officer	Center – Chennai (Outer) Commissionerate State – Sriperumbudur Assessment Circle, Kancheepuram Division
Nature of activity (s) (proposed/present) in respect of which advance ruling sought for A. Category B. Description (in brief)	Bonded Warehouse (FTWZ) The applicant is engaged in trading of “rubber stopper” products for pharmaceutical use which is imported through Free Trade Warehousing Zone unit located in Tamil Nadu.
Issues on which advance ruling required	Whether applicant is required to be registered under the Act
Question(s) on which advance ruling is required	Whether the applicant is required to obtain registration under GST in the state of Tamil Nadu as per Section 22 of the CGST Act for the operations undertaken from the FTWZ unit?

M/s. West Pharmaceutical Packaging India Private Limited (hereinafter called as the “Applicant”) is registered in the state of Telangana bearing GSTIN 36AAACW8510C1ZM. The applicant is engaged in the trading of “rubber stopper” products for pharmaceutical use which is imported through Free Trade Warehousing Zone unit located in Tamil Nadu. The applicant is seeking advance ruling on the question, “***Whether the applicant is required to obtain registration under GST in the state of Tamil Nadu as per Section 22 of the CGST Act for the operations undertaken from the FTWZ unit?***”

2. The Applicant has made a payment of application fees of Rs.5,000/- each under sub rule (1) of Rule 104 of CGST Rules, 2017 and SGST Rules, 2017.

Statement of Relevant facts:

3.1 The applicant has submitted that they are engaged in trading of “rubber stopper” products for pharmaceutical use. Their company is located at Hyderabad, Telangana and holds GST registration in the state of Telangana bearing GSTIN 36AAACW8510C1ZM. Additionally they have GST registrations in Andhra Pradesh for manufacture and sale of healthcare products located in SEZ area and in Karnataka for IT/ITeS and other support services to overseas group companies. The applicant is affiliated to the overseas group companies which have presence across countries like Singapore, US, Japan, Germany and China. Certain group companies based out of US and Singapore are engaged in manufacturing and production of pharmaceutical products including rubber stopper and supply the same to the Applicant for further sale to end customers located across India.

3.2 Further, it is reported by the applicant that for the procurement of “Rubber Stopper” products from overseas group companies, the applicant places a purchase order from the state of Telangana bearing GSTIN 36AAACW8510C1ZM to import goods from respective countries into a FTWZ namely J.Matadee Chennai Free Trade Zone, which is located in Chennai, Tamil Nadu.

3.3 The FTWZ unit is operated by a service provider holding requisite licenses and approvals under SEZ Act, 2005. Such service provider assists the applicant in warehousing, storage, packaging, logistics, undertaking customs clearances and activities relating to the import of the goods into FTWZ, Chennai. The agreement for such services is enclosed by the applicant with their application. The range of such services rendered by the FTWZ service provider for bringing the goods into the FTWZ warehouse and responsibilities for holding the goods on behalf of the Applicant is provided below-

- a) Transportation service is provided by the service provider which includes logistics services for bringing the goods from the port into the FTWZ unit.
- b) The service provider assists in filing ‘Bill of Entry for Warehousing’ and assists in obtaining necessary customs clearances for warehousing imported goods on behalf of the Applicant i.e., for storing the goods into the FTWZ unit.
- c) The service provider holds goods on behalf of the Applicant based on the instructions provided. Such goods are held in the warehouse till the Applicant identifies the end customer.
- d) The service provider undertakes repacking activities on the instructions of the Applicant. This includes relabeling and packaging of the goods sold.

As the imported goods are stored in such bonded warehouse (FTWZ) and not cleared for home consumption, the Applicant states that they are not required to discharge customs duty till goods are cleared for home consumption.

3.4 The applicant, being registered in Telangana undertakes aforesaid activities through FTWZ unit situated in Tamil Nadu. The said operation is supervised by the Applicant from the state of Telangana and does not have any presence in the state of Tamil Nadu i.e., the applicant is not registered under GST in Tamil Nadu.

Accordingly, goods are imported on a “Bill to-Ship-to” arrangement where the export invoice issued by overseas supplier is billed in the name of the Applicant and the goods are dispatched or shipped to the location of the FTWZ Unit for the purpose of import. The payment is made by the applicant to the supplying group company based on the price agreed as per the invoice issued by overseas supplier. Once the customer is identified and contracted for sale, a commercial invoice is raised by the applicant from the state of Telangana on the customer for the sale transaction with “Bill from Telangana Ship from FTWZ arrangement”. The customer remains as the ‘Importer on record’ for customs clearances. The applicable duties of customs along with Integrated Tax is discharged by the service provider on behalf of the customer. Such duty amount paid is recovered by the service provider from the applicant, who in turn recovers the same from the end customer.

Applicant’s Interpretation of Law:

4.1 On interpretation of law, the applicant has stated that in terms of Section 7(2) of the IGST Act, import of goods is deemed to be inter-state supply of goods. Under sub-section (1) of Section 5 the IGST Act, IGST is payable on import of goods into India. Accordingly, Section 3 of the Customs Tariff Act, 1975 (“the Customs Tariff Act”) was also amended with effect from 01.07.2017 and IGST became payable under sub-section (7) of Section 3 of the Customs Tariff Act on import of goods into India.

4.2 The Applicant undertakes trading activities through Free Trade Warehouse Zone (FTWZ) unit operated by a service provider. Such FTWZ unit is regulated under the provisions of Section 3(4) and section 4(1) of Special Economic Zones Act, 2005 (‘SEZ Act’) and is notified as a special category of Special Economic Zone (‘SEZ’) with a focus on trading and warehousing.

4.3 FTWZ definition is provided in Section 2(n) of SEZ Act, and the relevant extract is provided below for reference.

“(n) “Free Trade and Warehousing Zone” means a Special Economic Zone wherein mainly trading and warehousing and other activities related thereto are carried on;”

Hence, it can be implied that any provision issued and enforceable in the context of an SEZ shall equally apply for an FTWZ unit.

4.4 Further, Instruction No.60 dated 6th July 2010, issued by the Ministry of Finance, has specifically clarified that units established in FTWZ can hold goods on behalf of the foreign suppliers as well as domestic suppliers and buyers. Further, the SEZ Act or rules framed thereunder do not prescribe that a person storing goods with a FTWZ unit would be required to get itself registered with the Development Commissioner of SEZ. Accordingly, it could be inferred that the Applicant should not be required to get itself registered as a unit under the SEZ legislation in a situation where the Applicant has engaged a licensed FTWZ unit (through an service provider) to warehouse the goods under its license. The FTWZ

unit would be responsible to comply with the SEZ licensing and compliance requirements.

"It is clarified that FTWZ units can hold goods on behalf of the foreign supplier and buyer and DTA supplier and buyer as well, subject to fulfilment of provisions made in Rule 18(5) of SEZ Rules, 2006."

4.5 An FTWZ unit is exempted from the levy of customs duty including Integrated tax (IGST) on import of goods as per section 26(1)(a) of SEZ Act read with Rule 27 of SEZ rules 2007 and the same is continued under the GST regime. The relevant excerpt is provided below for reference-

"Section 26(1) Subject to the provisions of sub-section (2), every developer and the entrepreneur shall be entitled to the following exemptions, drawbacks and concessions namely:-

(a) Exemption from any duty of customs, under the Customs Act, 1962 or the Customs Tariff Act, 1975 or any other law for the time being in force, on goods imported into, or service provided in, a Special Economic Zone or a Unit, to carry on the authorized operations by the developer or the entrepreneur."

4.6 The Applicant has placed reference to the following definitions provided in the Customs Act, 1962 ('Customs Act') –

"Section 2(23) "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;"

"Section 2(25) "imported goods" means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;"

"Section 2(27) "India" includes the territorial waters of India;"

4.7 Further, reference is drawn to Section 12(1) of the Customs Act, which provides the following-

"Section 12. Dutiable goods. –

*(1) Except as otherwise provided in this Act, or any other law for the time being in force, **duties of customs shall be levied** at such rates as may be specified under 1 [the Customs Tariff Act, 1975 (51 of 1975)], or any other law for the time being in force, **on goods imported into**, or exported from, **India**."*

Therefore, conjoint reading of the above-mentioned definitions and provisions of the Customs Act shall imply that in case of import of goods, the taxable event would be considered when goods are entered into the territorial water of India but continues and is completed when they become part of the mass of goods within the country. Accordingly, when goods are brought from outside the territorial waters of India, they become imported goods and duty is payable only when such goods are cleared for home consumption.

4.8 Thus, when the goods are imported into an FTWZ unit, procedure prescribed under Section 46(1) of the Customs Act is required to be followed. Relevant excerpt of the provision is provided below-

“Section 46: Entry of goods on importation. –

(1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer a bill of entry for home consumption or warehousing [in such form and manner as may be prescribed].”

From the above, it can be inferred that when goods are brought into an FTWZ unit, the importer is required to file 'Bill of Entry for warehousing' as per the Customs Act. As the imported goods are stored in FTWZ unit and not cleared for home consumption, there is no levy of customs duty (import duty) in line with Section 26(1)(a) of SEZ Act.

4.9 Such view is further crystallized from the issuance of Notification No.64/2017-Customs dated 5th July 2017 which sought to provide specific exemption from IGST for SEZ units. Relevant excerpt from the said notification is provided below-

*“the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby **exempts all goods imported by a unit or a developer in the Special Economic Zone for authorized operations, from the whole of the integrated tax leviable thereon under sub-section (7) of section 3 of the Customs Tariff Act, 1975 (51 of 1975) read with section 5 of the Integrated Goods and Service Tax Act, 2017 (13 of 2017)**”*

4.10 Further, Circular No.3/1/2018-IGST dated 25th May 2018 was issued to clarify the applicability of IGST on goods supplied while being deposited in customs bonded warehouse. The said Circular stated that Integrated tax shall be levied and collected at the time of final clearance of the warehoused goods for home consumption i.e., at the time of filing the ex-bond bill of entry; and the value addition accruing at each stage of supply shall form part of the transaction value on which the integrated tax would be payable at the time of clearance of the warehoused goods for home consumption. From the combined reading of the provisions and the Circulars mentioned above, it can be contended that the supply of goods before their clearance from the warehouse would not be subject to the levy of customs duty and consequent integrated tax (IGST). Given that the taxability of imported goods is established, the Applicant now seeks to address the sale transaction to the customer. After the goods are imported into FTWZ unit, the Applicant identifies customers and executes sale of warehoused goods to end customer located in India.

4.11 The Applicant hereby draws reference to Schedule III of the CGST Act which enlists the activities or transactions that are treated neither as a supply of goods nor a supply of services. Relevant excerpt of the provision is provided below-

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

*1[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 (50 of 1962).]"

4.12 Under Schedule III of the CGST Act, the supply of warehoused goods to any person before clearance for home consumption is covered as one of the activities which is not treated as a supply under GST. This is accompanied with an explanation which states that the expression "warehoused goods" shall have the same meaning as assigned to it in the Customs Act. Further, reference is made to sub-clause 2(44) of Customs Act, which provides definition of "warehoused goods". Relevant excerpt is provided below-

"Section 2(44) "warehoused goods" means goods deposited in a warehouse;"

"Warehouse" is further defined to mean a public warehouse licensed under Section 57 or a private warehouse licensed under Section 58 or a special warehouse licensed under Section 58A as per Customs Act."

4.13 As per Section 53(2) of SEZ Act, an SEZ is notified by the Central Government to be deemed a port, airport, inland container depot, land station and land customs stations, as the case may be, under section 7 of the Customs Act, 1962.

Section 2(13) of Customs Act defines 'customs station' as below-

"(13) "customs station" means any customs port, customs airport [international courier terminal, foreign post office] or land customs station;"

From the above provision, it can be seen that a land customs station is covered under the definition of "customs station". Further as per Section 2(11) of Customs Act, "customs area" means the area of a customs station [or a warehouse] and includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities.

4.14 "J Matadee Free Trade zone" is a notified FTWZ as per Annexure to Public Notice 43/2015, from where the FTWZ service provider provides warehousing and other handling services to the Applicant. FTWZ being a special category of an SEZ, can be implied as a customs warehouse under provisions of Customs Act. From the conjoint reading of provisions of Schedule III of CGST Act and definition of warehoused goods in the Customs Act, the Applicant is of the view that sale of goods lying in the FTWZ warehouse to the customer would squarely get covered as one of the activities listed in Schedule III of CGST Act. This shall deem the sale transaction of goods from FTWZ to be treated as neither supply of goods nor services. Accordingly, sale of goods stored in the FTWZ to the Indian customer is covered under Schedule III (neither supply of goods nor services) and hence, such transaction is not subject to IGST in the hand of the Applicant. Keeping the above interpretations as the focal point of understanding of the statutes, the Applicant in

the instant application raises question 1 regarding whether the Applicant is required to obtain a registration in the state of Tamil Nadu where the FTWZ unit is located from where the trading activities takes place.

4.15 The Applicant refers to Section 22 of CGST Act which prescribes the persons liable for registration. Under sub-section (1), every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a **taxable supply of goods or services** or both. Further, reference is made to Section 23 of CGST Act which exempts certain classes of persons from obtaining registration under GST. Relevant excerpt of the provision is provided-

“Section 23 of CGST Act prescribes the persons not liable for registration.-

*(1) The following persons shall not be liable to registration, namely:-
any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;”*

4.16 Section 2(108) of CGST Act defines "taxable supply" to mean a supply of goods or services or both which is leviable to tax under this Act. Considering that the sale transaction undertaken by the Applicant to an Indian customer is covered under Schedule III of the CGST Act and are neither supply of goods nor services. Hence, an inference can be drawn that the activity of trading from an FTWZ is not liable to tax and therefore, registration under GST may not be required at all as per Section 22 (*supra*). It is also pertinent to note that Rule 11(5) of the SEZ Rules prohibits FTWZ from leasing of space to non-SEZ units. Hence, the Applicant would practically not be able to take registration in Tamil Nadu inside the FTWZ unless they register as an FTWZ unit. Even in case the Applicant takes registration outside FTWZ, it may face challenge in adding the FTWZ location as an additional place of business.

4.17 In order to strengthen their contention, the applicant has placed reliance on the following rulings issued by the Advance Ruling Authorities, viz.,

i)	Ruling of the Hon'ble Authority for Advance Ruling, Telangana in the case of AIE Fiber Resource and Trading (India) Private Ltd
ii)	Ruling of the Hon'ble Authority for Advance Ruling, Tamil Nadu in the case of Sadesa Commercial Offshore De Macau Ltd
iii)	Ruling of the Hon'ble Authority for Advance Ruling, Maharashtra in the case of Kamdhenua Agrochem Industries LLP
iv)	Ruling of the Hon'ble Authority for Advance Ruling, Maharashtra in the case of Gandhar Oil Refinery (India) Ltd
v)	Ruling of the Hon'ble Authority for Advance Ruling, Maharashtra in the case of AAREL Import Export Private Ltd

vi)	Ruling of the Hon'ble Authority for Advance Ruling, Maharashtra in the case of Sonkamal Enterprises Private Ltd
vii)	Ruling of the Hon'ble Authority for Advance Ruling, Karnataka in the case of Pine subsidiary industry
viii)	Ruling of the Hon'ble Authority for Advance Ruling, Karnataka in the case of Kardex India Storage Solution Private Ltd

In view of the above, the applicant submitted that they are not required to obtain registration under GST as per Section 22 of GST Act, 2017 in the state of Tamil Nadu where the FTWZ unit is located from where goods are sold by the applicant to the customers.

5.1 The applicant falls within the administrative jurisdiction of 'CENTER', and the concerned Authorities of the Centre and State were addressed to report the detailed remarks and pendency report on the questions raised by the applicant in their ARA application.

5.2 Since, no remarks have been received from the Center as well as State Authorities, it is construed that there are no pending proceedings against the applicant on the question raised by them in their advance ruling application.

Personal Hearing

6.1 The applicant was given an opportunity to be heard in person on 16.04.2025 vide this office memorandum No.21/2024/ARA, dated 03.04.2025. Shri Kunal Mittal and Shri. Rajesh K R, Chartered Accountants of M/s.BSR & Co. LLP, appeared for the personal hearing as the Authorised Representatives (AR) of M/s. West Pharmaceutical Packaging India Private Limited. The AR reiterated the submissions made in their application for advance ruling.

6.2 They further explained that the applicant based at Telangana imports goods through Chennai Port and Warehouses the said goods in a FTWZ Unit in J Matadee Free Trade Zone, Chennai. As and when the customer is identified for such goods, the same are sold to the said customer, by way of raising a commercial invoice on the customer. Simultaneously, a Bill of Entry is raised by the FTWZ unit in the name of the customer on discharge of appropriate duty liability. They also stated that the applicant does not have presence or any office at Chennai, and added that the transaction relating to warehousing of the imported goods in FTWZ or SEZ Unit, does not fall within the scope of 'supply' as per Schedule III of the CGST Act, 2017.

6.3 The members then requested the AR to furnish sample copies of all the documents involved in the said transaction, like the Bill of Entry for Warehousing, Bill of Entry for Home Consumption, Commercial invoice etc., which they undertook to furnish within a weeks' time.

6.4 As undertaken by them, the applicant filed the additional submissions vide their letter dated 24.04.2024 enclosing copies of the documents called for. Under the additional submissions made, they stated that the relevance of the recent

amendment of Schedule III issued as per the Finance Act, 2025, which seeks to bring in retrospective effect to exclude any supply of goods warehoused in a SEZ or FTWZ to any person before clearance for exports or the Domestic Tariff area from the levy of GST, was emphasised before the authorities at the time of personal hearing. Further, they had also explained the implications of Customs duty applicable as per Section 47(2) of the Customs Act, 1962, at the time of filing Bill of Entry for home consumption. Since the Bill of Entry for Home Consumption is filed by the applicant on behalf of the customer at the time of clearance from FTWZ, the applicant initially pays the applicable customs duty on the basis of TR-6 challan generated by DHL and later recovers the same from the customer through commercial sales invoice along with the price of the goods. In this regard, as undertaken during the personal hearing, the applicant furnished the documents, viz., Invoice raised by M/s. West Pharma Inc., United States for export of 'rubber stopper products, commercial invoice raised by West Pharma, India on the end customer, BOE for warehousing for admission of goods into FTWZ, BOE for home consumption filed for clearance of goods from FTWZ, DHL service invoice and Customs duty payment challan. Accordingly, they requested to take the additional submissions on record and stated that no adverse action be taken without providing them with another opportunity for personal hearing.

Discussions and Findings:

7.1 We have carefully examined the submissions made by the applicant in their advance ruling application and the submissions made during the personal hearing and also the additional submissions/documents furnished by them after the personal hearing vide their letter dated 24.04.2025. We note that in the instant case, the applicant has raised the question as to whether applicant is required obtain a registration in the state of Tamilnadu, under the CGST Act, which squarely gets covered under Section 97(2)(f) of the CGST Act, 2017, and hence the application for advance ruling filed by the applicant is liable to be admitted.

7.2 The applicant states that they are engaged in trading of "rubber stopper" products for pharmaceutical use. They are having GSTIN 36AAACW8510C1ZM in the State of Telangana. They import rubber stopper on a "Bill to-Ship to" arrangement from overseas group companies and are storing the goods in the Free Trade Warehousing Zone (FTWZ), viz., J.Matadee Chennai Free Trade Zone, Chennai, Tamil Nadu. They do not have a separate GST registration in the State of Tamil Nadu. After identifying the customer, an invoice is raised by the applicant from the state of Telangana on the customer on a 'Bill to Ship to Model' viz., "Bill from Telangana, Ship from FTWZ", Chennai, Tamil Nadu. The customer remains as the 'Importer on record' for customs clearances. For clearing the goods from FTWZ-Chennai to their customers, the applicant has entered into a Logistic Services Agreement dated 15.12.2021 with M/s. DHL Logistics Private Limited, Mumbai 400 099 (hereafter referred as service provider) to provide freight forwarding, customs clearance, logistics/warehousing and supply chain solutions services since they have the necessary expertise and know-how. Further, it is understood that the applicant who is registered with GST in Telangana, undertakes activities through FTWZ Unit situated in Tamil Nadu, they do not have any business activity

or presence in the State of Tamil Nadu, and that the said operation is supervised by the applicant from the State of Telangana. As per the “**Schedule –II The Services**” of the Logistic Services Agreement, the scope of Work is elucidated as below :-

- Transportation from the port into the FTWZ
- Storage
- Handling of goods for shipments from the FTWZ to DTA (West Pharma as IOR) Outbound Customs Clearance (West Pharma IN as IoR)

Further as per **Point no. 4 “Charges”** of Logistic Services Agreement, it is stated that in consideration of DLH performing the services, the applicant shall pay to DHL the charges set out in Schedule-3 of the agreement. The applicant in turn recovers the same from the end customer.

7.3 In order to answer the query raised by the applicant, the crucial aspect as to whether the transfer of title of the goods lying in the FTWZ warehouse before clearance for home consumption constitutes a ‘Supply’ or not is to be determined, before discussing the necessity or otherwise of the applicant getting registered within the state of Tamilnadu. Therefore, the legalities relating to the Customs Act, 1962, Special Economic Zones Act, 2005 (SEZ Act in short) along with the GST provisions are required to be examined. Accordingly, it is seen that as per Section 2(n) of the Special Economic Zones Act, 2005 (SEZ Act in short),

*“(n) “Free Trade and Warehousing Zone” means a Special Economic Zone wherein mainly trading and **warehousing** and other activities related thereto are carried on;”*

And as per Section 2(za) of the SEZ Act,

*“(za) “**Special Economic Zone**” means each Special Economic Zone notified under the proviso to sub-section (4) of section 3 and sub-section (1) of section 4 (including Free Trade and Warehousing Zone) and includes an existing Special Economic Zone;”*

7.4 It is clear from the above that a Free Trade Warehousing Zone (FTWZ) gets covered as a Special Economic Zone (SEZ), within the meaning of the term. Further, as per Rule 8(5) of the SEZ Rules, 2006,

“(5) The Units in Free Trade and Warehousing Zones or units in Free Trade and Warehousing Zone set up in other Special Economic Zone, shall be allowed to hold the goods on account of the foreign supplier for dispatches as per the owner's instructions and shall be allowed for trading with or without labelling, packing or repacking without any processing.”

The above clause confirms the fact that FTWZ is a licensed place inside SEZ, where the activities relating to (a) Warehousing of goods on behalf of foreign or domestic clients, (b) Trading with or without labelling, (c) Packaging and re-packing, etc., are normally allowed to be carried out.

7.5 As per the nature of services being provided to the applicant by M/s. DHL Logistics Private Limited, a logistics service provider (LSP) which is a unit of FTWZ, it is clear that the basic activity of a FTWZ unit is **warehousing of the goods**

belonging to its client. Further, the definition of FTWZ as per Section 2(n) of the Special Economic Zones Act, 2005, carries the phrase “wherein mainly trading and warehousing and other activities related thereto are carried on.”, confirms the fact that warehousing is one of the most important activity undertaken by an unit in FTWZ. Further, in such cases where the goods are imported and warehoused by the LSP (M/s. DHL Logistics), on behalf of the client (the applicant), it is observed that the LSP normally files a ‘Bill of Entry for **warehousing**’, in which the details of both the FTWZ/SEZ entity (LSP) and the Indian client (applicant) would be mentioned. In this regard, a perusal of documents furnished by the applicant in this regard under their letter dated 24.04.2025, reveals the following :-

(i) A Bill of Entry for warehousing into FTWZ is raised (captioned as ‘Bill of Entry for SEZ Import **Z** Type), where the importer’s name has been mentioned as **M/s. West Pharmaceutical Packaging India Private Limited**’ and under the SEZ unit details, ‘M/s. DHL Logistics Private Limited, J. Matadee Free Trade Zone, Mannur’ has been mentioned.

(ii) A commercial sale invoice is raised by the applicant, where the recipient’s name is mentioned as ‘M/s. Aspiro Pharma Limited’.

(iii) A Bill of Entry for Home Consumption (Bill of Entry for DTA Clearance T Type) is raised where the importer’s name is mentioned as **M/s. Aspiro Pharma Limited**, and under the SEZ unit details, ‘M/s.DHL Logistics Private Limited, J. Matadee Free Trade Zone, Mannur’ has been mentioned.

7.6 The SEZ link to Customs Act, is established under Section 53 of the SEZ Act, which runs as below,

“53. Special Economic Zones to be ports, airports, inland container depots, land stations, etc., in certain cases.—A Special Economic Zone shall, on and from the appointed day, be deemed to be a territory outside the customs territory of India for the purposes of undertaking the authorised operations.

(2) A Special Economic Zone shall, with effect from such date as the Central Government may notify, be deemed to be a port, airport, inland container depot, land station and land customs stations, as the case may be, under section 7 of the Customs Act, 1962 (52 of 1962).”

From the above, it becomes clear that Special Economic Zones are deemed to be considered as ports, airports, inland container depots, land stations, outside the Customs territory of India, under Section 7 of the Customs Act, 1962, which deals with the appointment of ports, airports, etc. Hence, it is a deemed territory outside the Customs territory of India.

7.7 Further, as per Section 51 of the SEZ Act, the provisions of this Act, shall have an overriding effect over any other law, which is reproduced below :-

“51. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.”

7.8 A combined reading of the above provisions shows that Free Trade Warehousing Zone (FTWZ) is part of SEZ scheme and it is a Customs bonded warehouse. Warehousing of goods that are imported without payment of appropriate Customs duties are carried out in these zones. SEZ is a specifically delineated duty free enclave which is deemed to be a foreign territory for the purposes of trade operations and duties and tariffs. Normally, the applicant imports goods and stores them in FTWZ till he finds a local customer who will purchase the goods and such purchaser clears the goods under the provisions of the Customs Act. In other words, the goods would become exigible to tax under the domestic enactments only when they are cleared and supplied to DTA from FTWZ for home consumption.

7.9 This fact was reiterated in the CBIC Circular No.3/1/2018-IGST dated 25.05.2018, the excerpts of which are reproduced below :-

“3. It is seen that the “transfer/sale of goods while being deposited in a customs bonded warehouse” is a common trade practice whereby the importer files an into-bond bill of entry and stores the goods in a customs bonded warehouse and thereafter, supplies such goods to another person who then files an ex-bond bill of entry for clearing the said goods from the customs bonded warehouse for home consumption.

4. It may be noted that as per sub-section (2) of section 7 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the “IGST Act”), the supply of goods imported into the territory of India, till they cross the customs frontiers of India, is treated as a supply of goods in the course of inter-State trade or commerce. Further, the proviso to sub-section (1) of section 5 of the IGST Act provides that the integrated tax on goods imported into India would be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 (hereinafter referred to as the “CTA”). Thus, in case of supply of the warehoused goods, the point of levy would be the point at which the duty is collected under section 12 of the Customs Act, 1962 (hereinafter referred to as the “Customs Act”) which is at the time of clearance of such goods under section 68 of the Customs Act.

5. It may also be noted that sub-section (8A) has been inserted in section 3 of the CTA vide section 102 of the Finance Act, 2018, with effect from 31st March, 2018, so as to provide that the valuation for the purpose of levy of integrated tax on warehoused imported goods at the time of clearance for home consumption would be either the transaction value or the value as per sub-section (8) of section 3 of the CTA (i.e. valuation done at the time of filing the into-bond bill of entry), whichever is higher.

6. It is therefore, clarified that integrated tax shall be levied and collected at the time of final clearance of the warehoused goods for home consumption i.e., at the time of filing the ex-bond bill of entry and the value addition accruing at each stage of supply shall form part of the value on which the integrated tax would be payable at the time of clearance of the warehoused goods for home consumption. In other words, the supply of goods before their clearance from the warehouse would not be subject to the levy of integrated tax and the same

would be levied and collected only when the warehoused goods are cleared for home consumption from the customs bonded warehouse.

7. This Circular would be applicable for supply of warehoused goods, while being deposited in a customs bonded warehouse, on or after the 1st of April, 2018.”

7.10 However, from 01.02.2019 onwards, when an amendment to Schedule III of the CGST Act, 2017 by way of insertion of clause 8(a) to Schedule III of the CGST Act, 2017, to the effect that ‘supply of warehoused goods to any person before clearance for home consumption shall be neither a supply of goods nor a supply of services.’, the aforesaid Circular became redundant, and so the same stood rescinded by way of another Circular No.04/01/2019-GST dated 01.02.2019, which read as below:-

“The provisions of the CGST (Amendment) Act, 2018 and SGST Amendment Acts of the respective States have been brought into force w.e.f. 01.02.2019. Schedule III of the CGST Act, 2017 has been amended vide section 32 of the CGST (Amendment) Act, 2018 so as to provide that the “supply of warehoused goods to any person before clearance for home consumption” shall be neither a supply of goods nor a supply of services.

2. Accordingly, Circular No. 03/01/2019-IGST dated 25th May, 2018 is hereby rescinded.”

7.11 It may be noted that though the IGST Act, 2017 has self-containing provisions relating to ‘Levy and collection of Tax’, it does not contain the provisions relating to ‘Scope of supply’, ‘time and value of supply’, ‘input tax credit’, ‘demand and recovery’, etc. The provisions of Central Goods and Services Tax Act, 2017 applies mutatis mutandis in relation to integrated tax in respect of such provisions, as provided under Section 20 of the IGST Act, 2017. Therefore, with the amendment to Schedule III of the CGST Act, 2017 with effect from 01.02.2019, with regard to ‘scope of supply’, the integrated tax also stands impacted to that extent.

7.12 From the legal provisions referred above, it becomes clear that even before the amendment to Schedule III of the CGST Act, 2017, the legal position was that the supply of goods before their clearance from the warehouse would not be subject to the levy of Customs duty or integrated tax and that the same would be levied and collected only when the warehoused goods are cleared for home consumption from the customs bonded warehouse. It was made all the more conspicuous, post the amendment carried out through para 32 of the Central Goods and Services Tax (Amendment) Act, 2018 (No.31 of 2018), whereby clauses 7 and 8 were added to Schedule III of the CGST Act, 2017, along with Explanation 2, as follows:-

32. In Schedule III of the principal Act, —

(i) after paragraph 6, the following paragraphs shall be inserted, namely:—

“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.”;
- (ii) the Explanation shall be numbered as Explanation 1 and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:—
- ‘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.’

In this regard, it may be seen that though the terms ‘warehouse’ and ‘warehoused goods’ have not been defined under the SEZ Act, 2005, the same have been defined under Section 2(43) and 2(44) of the Customs Act, 1962, as

“(43) “Warehouse” means a public warehouse licensed under section 57 or a private warehouse licensed under section 58 or a special warehouse licensed under section 58A.”

“(44) “Warehoused goods” means goods deposited in a warehouse”

7.13 It may be noted that the SEZ Act does not carry such definitions, but that the same is due to the fact that apart from the definitions in-built under the SEZ Act, the definitions under other Acts are also borrowed, as the case may be, as specified under Section 2(zd) of the SEZ Act, which reads as,

“(zd) all other words and expressions used and not defined in this Act but defined in the Central Excise Act, 1944 (1 of 1944), the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Income-tax Act, 1961 (43 of 1961), the Customs Act, 1962 (52 of 1962) and the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) shall have the meanings respectively assigned to them in those Acts.”

Therefore, the ‘warehoused goods’, as specified in clause 8(a) of the Schedule III, covers the warehouses/warehoused goods in respect of the FTWZ/SEZ, being discussed in the instant case, as well.

7.14 Notwithstanding the above, in order to bring clarity to the issue in question, and to be more specific, the Government by way of clause 128 of the Finance Bill, 2025 (Bill No.14 of 2025) has proposed to insert a new clause (aa) in paragraph 8 of Schedule III of the CGST Act, which shall be retrospectively effective from the 1st day of July, 2017. The proposed insertion is to the effect that ‘supply of goods warehoused in a Special Economic Zone or in a Free Trade Warehousing Zone to any person before clearance for exports or to the Domestic Tariff Area shall be treated neither as supply of goods nor as supply of services.’ The excerpts of the relevant clause in the Finance Bill, is reproduced as under for reference, i.e.,

*“Clause 128 of the Bill **seeks to insert a new clause (aa) in paragraph 8 of Schedule III** of the Central Goods and Services Tax Act **to specify that the supply of goods warehoused in a Special Economic Zone or in a Free Trade Warehousing Zone to any person before clearance for exports or to the Domestic***

Tariff Area shall be treated neither as supply of goods nor as supply of services.

It further seeks to amend the Explanation 2 of the said Schedule to clarify that the said Explanation shall be applicable in respect of clause (a) of paragraph 8 of the said Schedule.

It also seeks to insert an Explanation 3 in the said Schedule to define the expressions "Special Economic Zone", "Free Trade Warehousing Zone" and "Domestic Tariff Area", for the purpose of the proposed clause (aa) in paragraph 8 of said Schedule.

These amendments shall take effect retrospectively with effect from the 1st day of July, 2017."

7.15 Accordingly, once it is clear that the activity of the applicant involved in the instant case, i.e., sale of goods lying in the FTWZ warehouse before clearance for home consumption, are not be treated as 'Supply', the question of payment of Customs duty and IGST on the said transaction does not arise at all. In other words, the legal position even before the insertion of clause (a) of Para 8 of the Schedule III to the CGST Act, 2017, in the year 2018, was that the supply of goods before their clearance from the warehouse would not be subject to the levy of Customs duty or integrated tax and that the same would be levied and collected only when the warehoused goods are cleared for home consumption from the warehouse.

7.16 Further, it is clear that unless the applicant themselves clear the goods into DTA for home consumption, which activity is not contemplated in the instant case, there is no requirement for payment of duties of customs and IGST by the applicant, and that the same becomes payable only when the customer to whom the goods are sold, clears the same into DTA. Under the facts and circumstances of the case, we are of the opinion that the GST registration reported to have been obtained by the applicant in the state of Telengana would be sufficient enough to take care of tax compliances, if any, that may arise due to clearance of imported goods into DTA, suo-moto by the applicant. Other than the said activity, since no liability to pay IGST by the applicant arises while making sale of goods lying in the FTWZ warehouse to any customer (before clearance for home consumption), the requirement of a registration under Section 22 of the CGST Act, 2017 for this purpose, in the state of Tamilnadu where the port of clearance is located, does not arise. We are of the opinion that the said situation is ideally covered under the provisions of Section 23(1)(a), which reads as below :-

"Section 23. Persons not liable for registration.— (1) The following persons shall not be liable to registration, namely:—

(a) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;"


8. In view of the above, we rule as under:

Ruling

The applicant is not required to obtain a separate registration under GST in the state of Tamil Nadu, as per Section 22 of the CGST Act for the operations undertaken from the FTWZ unit at Chennai, Tamilnadu.


(B. Suseel Kumar)
Member (SGST)




(Balakrishna S) 09/05/2025
Member (CGST)

To

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(By RPAD)

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2. Stock File - A1