

AUTHORITY FOR ADVANCE RULING, TAMILNADU
ROOM NO.206, 2ND FLOOR, PAPJM BUILDING, NO.1, GREAMS ROAD,
CHENNAI - 600 006.

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/S.98 OF
THE GOODS AND SERVICES TAX ACT, 2017

Members present:

Smt. D. Jayapriya, I.R.S., Additional Commissioner/ Member (CGST), Office of the Principal Chief Commissioner of GST & Central Excise, Chennai-600 034.	Smt. A. Valli, M.Sc., Joint Commissioner/Member (SGST), Office of the Commissioner of Commercial Taxes, Chennai-600 006.
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Advance Ruling No. 03/ARA/2024, Dated: 27.03.2024

1. *Any appeal against this Advance Ruling order shall lie before the Tamilnadu 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 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) of 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 an 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	33AAACA2931P2ZP
Legal Name of Applicant	M/s. Asvini Fisheries Private Limited
Trade Name of Applicant(Optional)	M/s. Asvini Fisheries Private Limited
Registered Address / Address provided while obtaining user id	No. 3, First Canal Cross Road, Gandhi Nagar, Adyar, Chennai – 600 020.
Details of Application	Form GST ARA – 01 Application Sl. No. 96/2023/ARA, dated 11.08.2023
Concerned Officer	State: Kotturpuram Assessment Circle Centre: Madurai Commissionerate
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for	
A	Category
B	Description (in brief)
	The Applicant has been engaged in the business of exporting processed shrimps.
Issue/s on which advance ruling Required	1) Applicability of a notification issued under the provisions of the act
Question(s) on which advance ruling is required	1) Whether the export of processed frozen shrimps (HSN: 0306) packed in individual printed pouch / box, further packed inside a printed master carton (of upto 25 kgs each) containing the design, label and other particulars provided by the buyer, attracts GST. 2) Whether the export of processed frozen shrimps (HSN: 0306) packed in individual plain pouch / box, further packed inside a plain master carton (of upto 25 kgs each), attracts GST.

M/s. Asvini Fisheries Private Limited, No.3, First Canal Cross Road, Gandhi Nagar, Adyar, Chennai – 600 020 (hereinafter called as ‘the Applicant’) is engaged in the business of exporting processed shrimps for over three decades. They are registered under GST Act with GSTIN 33AAACA2931P2ZP. They have filed an application seeking Advance Ruling on the following issues :-

- 1) Whether the export of processed frozen shrimps (HSN: 0306) packed in individual printed pouch / box, further packed inside a printed master carton (of upto 25 kgs each), containing the design, label and other particulars provided by the buyer, attracts GST.

- 2) Whether the export of processed frozen shrimps (HSN: 0306) packed in individual plain pouch / box, further packed inside a plain master carton (of upto 25 kgs each), attracts GST.
2. The Applicant submitted a copy of challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017.
3. Under the 'Statement of relevant facts', the Applicant states that -
- 3.1 The Applicant has been engaged in the business of exporting processed shrimps for over three decades. The applicant sources shrimps locally from farmers, which undergo further processing in the factory such as receiving, washing, de-veining, peeling, de-heading, tail removal, sorting, grading and freezing.
- 3.2 Processing steps performed by the applicant is entirely dependent on the customer's requirements / order. Based on the customer requirement, one or more processing steps can be performed independently to produce the desired results.
- 3.3 As part of the freezing process, the Applicant uses two different types of freezing methodology to freeze the processed shrimps.
- a) Individual quick freezing (IQF)
 - b) Block freezing
- 3.4 Processed raw material are thereby packed immediately as per the buyer's instructions. The Applicant uses the following types of packaging.
- 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.
- 3.5 The primary packaging is based on the freezing technique used by the Applicant for the order. The products are weighed and packed into food grade polythene pouches/ boxes. The sealed pouches/ boxes are further packed into the master cartons, both of which are as per the specification and requirements given by the buyer.
- 3.6 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.
- 3.7 The applicant has therefore filed this application before the Authority to understand whether in the case of export of pre-packaged and labeled processed shrimps by the Applicant, attracts GST, in view of the amendment

in tax rate as per Notification No. 6/2022 dated 13 July 2022, Central Tax (CGST) at 2.5 % and State Tax (SGST) at 2.5 %.

4. On interpretation of law, the applicant states that –

4.1 The applicant is classifying the above commodities under chapter 3 under sub heading 0306 and discharging tax as per S.No.4 of Schedule 1 of Notification 02/2017 - Central Tax (Rate) dated 28th June 2017 up to 12/07/2022, as reproduced here for easy reference,

S.No	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
4	0306	Crustaceans, whether in shell or not, frozen, dried, salted or in brine; crustaceans, in shell, cooked by steaming or by boiling in water, frozen, dried, salted or in brine; flours, meals and pellets of crustaceans, fit for human consumption

4.2 Entry No. 4 of Schedule I of the Notification No. 1/2017-Central Tax (Rate) was amended by Notification No. 06/2022-Central Tax (Rate) dated 13-07-2022 whereby GST at the rate of 5% was made applicable to supply of “pre-packaged and labelled” Crustaceans (i.e., shrimps).

4.3 As per explanation (ii) of Notification No. 1/2017-Central Tax (Rate), the expression “pre-packaged and labelled” means a pre-packaged commodity as defined under Section 2 of the Legal Metrology Act, 2009, where the package in which the commodity is pre-packed or a label is securely affixed thereto is required to bear the declaration under the provisions of the said Act and the rules made thereunder.

4.4 Further Section 2(l) of the legal metrology Act, 2009 defined 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”.

4.5 The applicant submits that legal metrology Act will apply to the commodities packed in India where the ultimate consumer details are not available at the time of sale irrespective of the fact whether the goods are sold in India or exported outside India.

4.6 Further, in the instant case the applicant is pre-packing the products as per the customer requirements ranging from ½ Kg to 2 Kgs in primary packs by printing the customer brand name and other details as provided by the customer for the export sale.

4.7 Further the applicant submit that the clarification released by ministry of finance regarding the GST Levy on pre-packaged and labelled goods vide press release dated 18th July 2022 as follows :-

- i. *If specified commodities are supplied in a package that do not require declaration(s) / Compliances under the legal Metrology Act, 2009 and the rules made thereunder, the same would not be treated as pre packaged and labelled for the purposes of GST Levy.*
- ii. *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 thereunder, 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 thereunder.*

4.8 Further the applicant wants to rely on the following decisions in support of the case, The authority for advance ruling of Andhra Pradesh in the case of M/s Sri Seetharamnjaneya Sortex vide reference number 08/AP/GST/2023 dated 08/05/2023 & the authority for advance ruling of Haryana in the case of D.D International Private Limited vide reference number HR/HAAR/34/2022-23 dated 09/02/2023 where it was held that GST would be leviable on export of pre-packaged and labelled rice up to 25Kgs to foreign buyer. Accordingly, the applicant's interpretation of the above provisions of the Act, are as follows :-

- 1) 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.
- 2) Pre-packaged and labelled commodities processed exclusively for export have not been excluded from the Legal Metrology Act, 2009 and rules made thereunder.
- 3) Therefore, we understand that GST would be applicable on the supply of processed frozen shrimps in packages of up to 25 kgs, irrespective of the fact that the said supply is for domestic sale or for exports.

5. The State jurisdiction Officer viz. the Assistant Commissioner (ST), Kotturpuram Assessment Circle stated that-

- According to Entry No. 4 of Schedule I of the Notification No. 1/2017-Central (Rate) as amended by Notification No. 06/2022- Central Tax (Rate) dated 13-07-2022 whereby GST at the rate of 5% was made applicable to supply of "Pre-packaged and labelled" Crustaceans (i.e Shrimps).

- As per Explanation (ii) of Notification No. 1/2017- Central Tax (Rate), the expression “Pre-Packaged and labelled” means a pre-packaged commodity as defined under Section 2 of the Legal Metrology Act, 2009 where the package in which commodity is pre packed or label is securely affixed thereto is required to bear the declaration under the provisions of the said Act and the rules made thereunder.
 - Further, as per Section 2(l) of the Legal Metrology Act, 2009, 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”.
 - Furthermore, the Press-release issued by Ministry of Finance regarding the GST levy on pre-packaged and labelled goods on 18th July 2022 stated that “If specified commodities are supplied in a package that do not require declaration(s)/ Compliances under the Legal Metrology Act, 2009 and the rules made thereunder, the same would not be treated as pre-packaged and labelled for the purpose of GST levy”.
 - It is pertinent to note from the above analysis, GST would be leviable if the following conditions are satisfied :-
 - i) It is pre-packaged and labelled and
 - ii) It is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (I of 2010) and rules made thereunder.
 - There is no differentiation about applicability of GST on goods supplied domestically or are being exported. As per Section 18 of the Legal Metrology Act, 2009, “*No person shall manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any pre-packaged commodity unless such package is in such standard quantities or number and bears thereon such declarations and particulars in such manner as may be prescribed.*”. There is no exemption provided in the Legal Metrology Act, 2009 for providing declaration for commodity meant for export.
 - Therefore, it is concluded that if shrimps are supplied in pre-packaged and labelled bags containing a quantity of less than or equal to 25 kgs will attract GST @ 5% irrespective of the fact that it is for domestic supply or for export.
6. The Centre Authority vide letter dated 11.10.2023, has submitted that as per Notification No. 01/2017 - Central Tax (Rate) dated 28.06.2017, the item i.e., Crustaceans, (0306) comes under 5% tax rate (CGST:2.5% and SGST: 2.5%).

PERSONAL HEARING

7.1 The Applicant, was given an opportunity to be heard in person on 10.01.2024. Shri. Arihanth Kumar Jain and Shri. Lokesh Reddy N, both Chartered Accountants who are the Authorized Representative of the Applicant appeared for the hearing and they reiterated the submissions made in their application.

7.2 The members enquired as to whether the activity involved in the processing of shrimps for the purpose of intended export by the applicant would fit into the relevant entry under the Notification No. 1/2017-CT (Rate), or, under the Notification No. 2/2017-CT (Rate). The AR replied that they would furnish a detailed additional submission within a weeks' time, incorporating the process involved in detail and about the application of the aspect relating to Pre-packaged & labelled to the instant case.

7.3 In continuation of Personal hearing, the applicant in their further submissions filed vide their letter dated 10.01.2024, has submitted that the Company is engaged in processing and export of frozen Vannamei Shrimps which is covered under Sl. No.2 of the Notification No. 1/2017 – Central Tax (Rate), dated 28.06.2017 as amended by Notification No. 41/2017 – Central Tax (Rate) dated 14.11.2017 and Notification No. 6/2022 – Central Tax (Rate) dated 13.07.2022. They stated that the company uses either block freezing or individual quick freezing (IQF) depending upon the requirement of the customer. Further, they submitted a detailed process-flow followed by the Company for both block-freezing and IQF and sample copies of images in relation to packing done by the Company.

DISCUSSION AND FINDINGS

8.1 We have carefully examined the issue involved with reference to the relevant provisions and connected Notifications of the Act and considered the submissions put forth by the Applicant in their application, submissions made in continuation of the personal hearing and the inputs furnished by the Centre and State Tax jurisdictional Officers.

8.2 The Applicant has submitted that they are engaging in the business of exporting processed shrimps. The applicant sources shrimps locally from farmers, which undergo further processing in the factory such as receiving, washing, de-veining, peeling, de-heading, tail removal, sorting, grading and freezing. Processing steps performed by the applicant is entirely dependent on the customer's requirements / order. Based on the customer requirement, one or more processing steps can be performed independently to produce the desired results.

8.3 The applicant further stated that the processed raw material are thereby packed immediately as per the buyer's instructions. The Applicant uses the following types of packaging, i.e., a) **Primary Packaging** or inner packing i.e., packaging of inner boxes or pouches, and b) **Secondary packaging** or outer packing i.e., packaging of master carton. The processed products are weighed and packed into food grade polythene pouches/boxes. The weight of the individual

inner packaging generally ranges from about 250 grams to 2 Kilograms, by printing the customer brand name and other details as provided by the customer for the export sale and which are further packaged in master cartons with a maximum weight of up to 25 Kilograms.

8.4 On the above facts and circumstances of the issue, the applicant has sought for advance ruling on the following questions:

- 1) Whether the export of processed frozen shrimps (HSN: 0306), packed in individual printed pouch / box, further packed inside a printed master carton (of upto 25 kgs each) containing the design, label and other particulars provided by the buyer, attracts GST?
- 2) Whether the export of processed frozen shrimps (HSN: 0306), packed in individual **plain pouch** / box, further packed inside a plain master carton (of upto 25 kgs each), attracts GST?

8.5 We intend to begin the analysis with a discussion on "export of goods" before proceeding further in this regard. In terms of 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.

8.6 Coming back to the issue involving the taxability of the impugned goods in question, we find that in exercise of the powers conferred by sub-section (1) of Section 5 of the Integrated Goods and Services Tax Act, 2017, the Central Government, on the recommendations of the GST Council notified the rates of Integrated Tax that shall be levied on the Inter-State supplies of Goods vide Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017, as amended,

vide Notification No. 6/2022- Integrated Tax (Rate) dated 13.07.2022, it is seen that the supply of Shrimp (Crustaceans), which falls under HSN 0306, other than fresh or chilled, pre-packaged and labelled is taxable at 5% under IGST, vide entry no 2, Schedule I of the principal Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017, the extract of which is as follows:-

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
(1)	(2)	(3)
2	0303, 0304, 0305, 0306, 0307, 0308	All goods [other than fresh or chilled], pre-packaged and labelled

Explanation. – For the purposes of this Schedule,-

(ii) the expression 'pre-packaged and labelled' means a 'pre-packaged commodity' as defined in clause (l) 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.'

8.7 It becomes imperative here to have a perusal of any entry relating to HSN 0306 in the exemption Notification for supply of goods, viz., Notification No.2/2017 Integrated Tax (Rate), dated 28.06.2017, as amended, to examine the possibility of a tax exemption existing therein for the impugned goods. The relevant entries 21 and 22, of the principal notification 2/2017, after amendment in terms of Notification no. 44/2017 dated 14.11.2017, read with Notification No. 7/2022-Integrated Tax (Rate) dated 13.07.2022, pertaining to the commodity in question is extracted and reproduced hereunder:

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
(1)	(2)	(3)
"21	0304, 0306, 0307, 0308	All goods, fresh or chilled

22	0303, 0304, 0305, 0306 , 0307, 0308	All goods [other than fresh or chilled] and, other than pre-packaged and labelled;
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Explanation: For the purpose of this Schedule

The expression 'pre-packaged and labelled' means a 'pre-packaged commodity' as defined in clauses (l) 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.

8.8 It is understood that consequent to the amendments carried out in IGST Rate notifications 1/2017 and 2/2017, both dated 13.07.2022, wherein the words '**pre-packaged and labelled**', has been substituted in place of "other than those put up in unit container and, - (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]," the applicant has applied for a Ruling in the instant case.

8.9 On perusal of the relevant portion of the minutes of 47th GST Council Meeting, the object and reason of the amendment in question is observed and which is reproduced as follows :

"Currently only branded food items attracted tax and revenue from those items had fallen as compared to the Pre-GST Regime. Owing to the reason that even well established brands file affidavit, giving up the rights on brand name, simply to avail GST Exemption. Therefore, the GoM was of the view that that this could be simplified by replacing the term branded with "Pre-packaged and labelled" and this would be in accordance with the Legal Metrology Act & Rules: that in other cases, no rate change was being suggested and such items sold loose and un-labelled would continue to remain exempt and hence majority of consumers buying loose food grains would remain unaffected"

Hence, it is seen that the intention of the Government behind this amendment is to curtail the avoidance of tax by the tax payers within the legal frame work, on the premise of giving up their right on the brand name as a formality. It is also observed that no rate change was proposed and such items sold loose and un-labelled would continue to remain exempt.

8.10 Further, on perusal of the detailed process flow chart, and the product literature as furnished by the applicant in their additional submissions dated 10.01.2024, it is seen that the applicant company uses either block freezing or individual quick freezing (IQF) depending upon the requirement of the customer. Accordingly, the impugned commodity falling within the ambit of Sl. No. 21 of the Exemption Notification 2/2017 Tax (Rate), dated 28.06.2017, is ruled out as the said Entry is meant for all goods, fresh or chilled and not for Frozen goods.

8.11 Therefore, it becomes necessary to analyse as to whether the impugned commodity falls within the ambit of,

Sl.No 22. i.e., *"All goods [other than fresh or chilled] and, **other than pre-packaged and labelled**"* of Notification 2/2017 Tax (Rate), dated 28.06.2017, as amended, which provides for tax exemption,

(or)

Sl.No 2, i.e., *"All goods [other than fresh or chilled], **pre-packaged and labelled**"* of the Schedule I to Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017, as amended, whereby the goods become liable to tax @ 5%.

8.12 We observe that both the entries relate to goods other than fresh and chilled, the only distinction being, whether the goods are "**pre-packaged and labelled**", or "**other than pre-packaged and labelled**". Hence, the point for determination herein is as to whether the supply 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 thereunder, 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) 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."

Further, Section 2(l) 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**.*

8.13 Therefore, we find that according to the above provisions, 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(l) 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 thereunder.

As far as the first condition is concerned, it is seen from the submissions made by the applicant in the application filed as well as in the additional submissions made by them, that the packages conform to a pre-determined quantity. In so far as the second condition is concerned, the applicant has contended that the Pre-packaged and labelled commodities processed exclusively for export have not been excluded from the Legal Metrology Act, 2009 and rules made thereunder. Further the applicant has cited the clarification released by Ministry of Finance regarding the GST Levy on pre-packaged and labelled goods vide press release dated 18th July 2022, wherein it has been clarified that *"If specified commodities are supplied in a package that do not require declaration(s) / Compliances under the legal Metrology Act, 2009 and the rules made thereunder, the same would not be treated as pre-packaged and labelled for the purposes of GST Levy."* With regard to the above, on perusal of the provisions of the Legal Metrology Act, 2009(1 of 2010), we find that there is no exemption or exclusion from compliance of bearing the declarations under the said Act and the rules made thereunder, in so far as packages meant for export are concerned.

8.14 At this juncture, 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. Under the statement of facts as in para 6 of Sl.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."

We find that in the instant case, since 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 packagings 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 under the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made thereunder. The stand above gets validated through the FAQs dated 18.07.2022 issued by the CBIC which has a persuasive value while interpreting the legal provisions. Under the said "FAQs on GST applicability on 'pre-packaged and labelled' goods", the relevant clarification under Sl.No.4, goes as below :-

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

8.15 Likewise, in the case of second query relating to processed frozen shrimps packed in individual plain pouch/box, further packed inside a plain master carton (of up to 25 kgs each), we are of the view that even if the specified commodity of 25 Kgs or less is supplied in a pre-packed manner inside a plain pouch/box/master carton, the same also fall within the ambit of 'pre-packaged and labelled' category which is mandated to bear the declarations under the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made thereunder, and thus become liable to tax under GST as in the case of printed packages. Here again, we find that the above opinion gets validated through the "FAQs on GST applicability on 'pre-packaged and labelled' goods", dated 18.07.2022 issued by the CBIC as in the clarification under Sl.No.8, given below :-

S.No.	Question	Clarification
8	'X' is a rice miller who sells packages containing 20 kg rice but not making the <u>required declaration</u> under legal metrology Act and the Rules made thereunder (although the said Act and the rules requires him/her to make a declaration), <u>would it still be considered as pre-packaged and labelled and therefore be liable to GST?</u>	Yes, <u>such packages would be considered as pre-packaged and labelled commodity</u> for the purposes of GST <u>as it requires making a declaration</u> under the Legal Metrology (Packaged Commodities) Rules, 2011 (rule 6 thereof). Hence, miller 'X' would be required to pay GST on supply of such package(s).

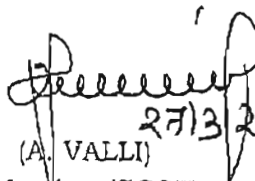
8.16 In fine, we find that Notification No. 6/2022-Central Tax (Rate), and the parallel IGST Notification No.6/2022-Integrated Tax (Rate), both dated 13.07.2022, stipulates that tax under GST is applicable on 'pre-packaged and labelled' commodities as per the provisions of Legal Metrology Act, 2009, with effect from 18.07.2022. In the instant case, the ultimate buyer is not present when commodity is placed in package and the commodity is being pre-packed for an unknown ultimate buyer. Therefore, where the quantity involved is 25Kgs or less in respect of specified commodities including shrimps (HSN 0306) which are pre-packed, they would mandatorily get covered within the ambit of Legal Metrology Act, 2009, and the rules made thereunder. Accordingly, we are of the considered view that GST would be applicable on the supply of pre-packaged and labelled shrimps upto 25 kgs, irrespective of the fact whether it is meant for domestic supplies or for export, as long as they are specified commodities that are pre-packaged.

9. Based on the above discussions, we rule as under:

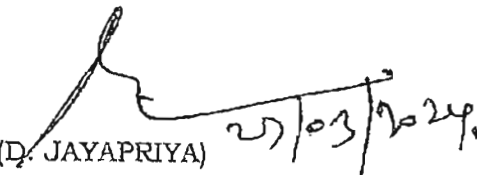
RULING

1) Yes. The export of processed frozen shrimps (HSN: 0306), packed in individual printed pouch / box, attracts GST at applicable rates, even if they are further packed inside a printed master carton (of upto 25 kgs each) containing the design, label and other particulars provided by the buyer.

2) Yes. The export of processed frozen shrimps (HSN: 0306), packed in individual plain pouch / box, further packed inside a plain master carton (of upto 25 kgs each), attracts GST at applicable rates.


(A. VALLI)
Member (SGST)




(D. JAYAPRIYA)
Member (CGST)

To
M/s. Asvini Fisheries Private Limited,
No. 3, First Canal Cross Road, Gandhi Nagar,
Adyar, Chennai – 600 020.

//by RPAD//

Copy submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai – 600 005.

Copy to:

1. The Commissioner of GST & Central Excise,
Madurai Commissionerate,
Central Avenue Building, No. 4, Lal Bahadur Shastri Road,
Bibikulam, Madurai – 625 002.
2. The Assistant Commissioner (ST),
Kotturpuram Assessment Circle,
Room No. 245, II – Floor,
Integrated Building for Commercial Taxes
and Registration Department,
Government Farm Village,
Nandanam, Chennai – 600 035.
3. Master File/ Spare – 2.