April 2, 2018

BIR RULING NO. 555-18

Section 109 (1) (T) of the Tax Code of 1997, as amended; Revenue Regulations No. 15-2015; BIR Ruling No. 92-2016; and BIR Ruling No. 147-2016

Seen Sam Shipping, Inc.
Seen Sam Building, Nasipit,
Talamban, Cebu City

Attention: *AAA*

Gentlemen :

This refers to your letter dated May 11, 2016, requesting for a ruling that the importation of five (5) units of cargo vessels, namely, **M/V Minghang 55, M/V Minghang 56, M/V Minghang 57, M/V Minghang 66** and **M/V Minghang 67**, is exempt from the payment of Value-Added Tax (VAT), pursuant to Section 109 (1) (T) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Documents submitted show that **SEEN SAM SHIPPING, INC.**, is a domestic corporation duly registered with the Securities and Exchange Commission (SEC), with Company Registration No. C199900785; that its primary purpose is to engage and operate domestic and international cargo, passenger and parcel services with the use of sea conveyances, crafts and contrivances then charge legal and commonly accepted rates; that it is also registered with the BIR with Certificate of Registration No. OCN2RC0000630833 dated September 1, 1999 and with Taxpayers Identification No. (TIN) 000-000-000-000; that it is currently importing five (5) brand new cargo vessels, namely, **M/V Minghang 55, M/V Minghang 56, M/V Minghang 57, M/V Minghang 66** and **M/V Minghang 67**, particularly described as follows:

VESSEL NAME	KIND OF VESSEL	GROSS TONNAGE	PLACE OF BUILDING	DATE OF LAUNCHING
Minghang 55	Self-Propelled Deck Barge	528	Yangzhou Songchuan Ship Building Co., Ltd.	September 20, 2015
Minghang 56	Self-Propelled Deck Barge	528	Yangzhou Songchuan Ship Building Co., Ltd.	September 19, 2015

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Minghang 57	Self-Propelled Deck Barge	528	Yangzhou Songchuan Ship Building Co., Ltd.	December 2, 2015
Minghang 66	Deck Barge	520	Yangzhou Hanjiang Jiudian Eastern Shipyard	March 20, 2016
Minghang 67	Deck Barge	520	Yangzhou Hanjiang Jiudian Eastern Shipyard	March 30, 2016

and that **SEEN SAM SHIPPING, INC.** has obtained from MARINA the necessary clearance/authority to import the abovementioned vessels in its letters dated 20 January, 2016; 19 February, 2016; and, 10 May, 2016.

In support of its request for exemption, **SEEN SAM SHIPPING, INC.** has submitted the following documents:

1. Certified true copies of its SEC Certificate of Incorporation, Articles of Incorporation and By-Laws;
2. Certified true copy of its BIR Certificate of Registration;
3. Certified true copy of its MARINA Certificate of Accreditation;
4. Certified true copies of the Authority to Import issued by MARINA;
5. Certified true copies of the Builder's Certificates; and
6. Other documents.

In reply, please be informed that **Section 109 (1) (T) of the NIRC of 1997, as amended**, provides as follows:

"SEC. 109. Exempt Transactions. *—*

(1) Subject to the provisions of subsection (2) hereof, the following transactions shall be exempt from the value-added tax.

(T) [1] *Sale, importation or lease of passenger or cargo vessels and aircraft, including engine, equipment and spare parts thereof for domestic or international transport operations."*

Based on the above-cited provision, the importation, among others, of a cargo vessel destined for domestic transport operations shall be exempt from VAT. In relation thereto, **Section 4.109-1 (B) (1) (t) of Revenue Regulations (RR) No. 16-2005, as amended by RR No. 15-2015,** which implements the above-quoted provision, provides:

"SECTION 4.109-1. VAT-Exempt Transactions. —

XXX XXX XXX

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(B) Exempt Transactions. —

(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from VAT:

XXX XXX XXX

(t) Sale, importation or lease of passenger or cargo vessels and aircraft, including engine, equipment and spare parts thereof for domestic or international transport operations; Provided, however, that the exemption from VAT on the importation and local purchase of passenger and/or cargo vessels shall be subject to the requirements on restriction on vessel importation and mandatory vessel retirement program of MARINA."

It is noted that **M/V Minghang 55, M/V Minghang 56, M/V Minghang 57, M/V Minghang 66** and **M/V Minghang 67** are all brand new vessels and have been issued by MARINA with the required authority to be imported. Hence, the importation of said vessels by **SEEN SAM SHIPPING, INC.** is deemed compliant with the requirements on restriction on vessel importation and mandatory vessel retirement program of MARINA. Accordingly, the importation by **SEEN SAM SHIPPING, INC.** of **M/V Minghang 55, M/V Minghang 56, M/V Minghang 57, M/V Minghang 66** and **M/V Minghang 67** shall be exempt from VAT pursuant to Section 109 (1) (T) of the NIRC of 1997, as amended. The VAT exemption, however, shall be subject to the strict compliance of the conditions contained in the letter of approval issued by MARINA for the importation of the above-described vessels. ***(BIR Ruling Nos. 92-2016 and 147-2016)***

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained that the facts are different, then this ruling shall be considered as null and void.

Very truly yours,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

Footnotes

1. Renumbered by Republic Act No. 10378.

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