

**BEFORE THE AUTHORITY FOR ADVANCE
RULINGS FOR THE STATE OF UTTARAKHAND
(Goods and Services Tax)**

समक्ष अग्रिम विनिर्णय प्राधिकारी उत्तराखण्ड (माल और सेवा कर)

Present:

Shri Vipin Chandra (Member)

श्री विपिन चन्द्र (सदस्य)

Shri Amit Gupta (Member)

श्री अमित गुप्ता (सदस्य)

The 23th day of January, 2019

Ruling No- 15/2018-19

अग्रिम विनिर्णय संख्या.

In

Application No:- 14/2018-19

आवेदन संख्या- 14/2018-19

| | | |
|---|---|--|
| 1 | Applicant आवेदक | M/s Premier Solar Systems (P) Limited, Buliding No-4, Edwards 25/1, Rajpur Road, Dehradun, Uttarakhand |
| 2 | Jurisdictional Officer अधिकारिता अधिकारी | Assistant Commissioner, SGST, Khand-1, Dehradun |
| 3 | Present for the Applicant आवेदक की ओर से उपस्थित | Mrs. Revathi Rohini (Vice President) |
| 4 | Present for the Jurisdictional Officer अधिकारिता अधिकारी की ओर से उपस्थित | None |
| 5 | Concerned Officer | Mrs. Preeti Manral, DC, SGST, Dehradun |
| 6 | Date of receipt of application आवेदन प्राप्ति की तिथि | 20.11.2018 |
| 7 | Date of Personal Hearing सुनवाई की तिथि | 29.11.2018 |

Note : Under Section. 100(1) of the Uttarakhand Goods and Services Tax Act, 2017, an appeal against this ruling lies before the appellate authority for advance ruling constituted under section- 99 of the Uttarakhand Goods and Services Tax Act, 2017, within a period of 30 days from the date of service of this order.

नोट : इस अग्रिम विनिर्णय की प्राप्ति के 30 दिन के अन्दर उत्तराखण्ड माल और सेवा कर अधिनियम 2017 की धारा- 99 के अन्तर्गत गठित अग्रिम विनिर्णय अपील प्राधिकारी के समक्ष धारा- 100(1) के अन्तर्गत अपील दायर की जा सकती है।

**AUTHORITY FOR ADVANCE RULING
GOODS & SERVICE TAX
UTTARAKHAND**

RULING

1. This is an application under Sub-Section (1) of Section 97 of the CGST/SGST Act, 2017 (herein after referred to as Act) and the rules made thereunder filed by M/s Premier Solar Systems (P) Limited, Buliding No-4, Edwards 25/1, Rajpur Road, Dehradun, Uttarakhand seeking an advance ruling on following issues:
 - (a) Whether the supply of solar rooftop power plant along with design, erection, commissioning & installation is a 'composite supply' and the applicability of GST rate'.
 - (b) Whether the supply of solar irrigation water pumping systems along with design, erection, commissioning & installation is a 'composite supply' and the applicability of GST rate'
2. Advance Ruling under GST means a decision provided by the authority or the appellate authority to an applicant on matters or on questions specified in sub section (2) of section 97 or sub section (1) of section 100 in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.
3. As per the said subsection (2) of Section 97 of the 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
4. In the present case applicant has sought advance ruling on applicability of GST rate on said supply and whether the same falls under "composite supply". Therefore, in terms of said Section 97(2)(e) & (g) of Act, the present application is hereby admitted.
5. The Joint Commissioner, SGST, Dehradun vide letter dated 20.12.2018 forwarded the report of Assistant Commissioner, SGST, Khand-1, Dehradun (here-in-after called as said officer) in this regard wherein the said officer has submitted that the service portion of erection, commissioning & installation of "solar rooftop power plant" and solar irrigation water pumping system" is less than 10% of whole cost of the said plant/system and since the components/parts of "solar rooftop power plant" and solar irrigation water

pumping system” form the “principal supply”, thus the contract for the supply in question will be treated as “composite supply” and the GST rate on the same will be 5% in terms of Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017.

6. Accordingly opportunity of personal hearing was granted to the applicant on 29.11.2018. Mrs. Revathi Rohini, Vice President of applicant appeared for personal hearing on the said date and submitted documents describing therein exact nature of work being undertaken. Jurisdiction officers of SGST and CGST were not present during the personal hearing, however the concerned officer Mrs. Preeti Manral, Deputy Commission, SGST-Dehradun was present during the proceedings.
7. From the documents submitted by the applicant we find that applicant is registered in Uttarakhand with GSTIN bearing no. 05AABCP8800D1ZU. The applicant has submitted the nature of the work proposed to be undertaken in respect of supply in question and the same is summarized as under:
 - (i) **Solar Roof Top Power Plant:** It is a compact solar system which can be installed on the house roof for fulfilling the electricity requirement. The contents of the same are as under:
 - a. **SPV modules:** The main part of a solar power generating system is the solar photovoltaic modules. Solar Modules contain photovoltaic cells which convert the sun light into electricity and transmitted the produced electricity to inverters through cables and electrical connectors.
 - b. **Inverters:** The electricity produced in a solar panel is DC. Electricity we get from the grid supply is AC. So it is required to install an inverter to convert DC of solar system to AC of same level as grid supply. In off grid system the inverter is directly connected across the battery terminals so that DC coming from the batteries is first converted to AC then fed to the equipment. In grid tie system the solar panel is directly connected to inverter and this inverter then feeds the grid with same voltage and frequency power.
 - c. **Controller:** It is not desirable to overcharge and under discharge a lead acid battery. Both overcharging and under discharging can badly damage the battery system. To avoid these both situations a controller is required to attach with the system to maintain flow of current to and fro the batteries.
 - d. **Cable:** Electrical cables are required to connect the roof top module and the inverters and to grid meter.
 - (ii) **Solar Irrigation Water Pumping Systems:** It is a compact and indigenous system can be set up at agriculture field where grid based electricity is not possible or expensive to establish. The contents of the same are as under:
 - a. **SPV modules:** The main part of a solar power generating system is the solar photovoltaic modules. Solar Modules contain photovoltaic cells

which convert the sun light into electricity and transmitted the produced electricity to inverters through cables and electrical connectors.

- b. **VFD (Variable Frequency Drive) or Pump Controllers:** This device converts the DC power to AC power and control the frequency of power to run the 'water pump'.
- c. **Submersible Pump or Surface Pump:** Pumps are set up to draw water from ground and bore wells. In case where the ground water level is low, submersible pumps are used and where water levels are adequate, upper surface pumps are installed.
- d. **Pipes & Connectors:** Pipes & Connectors are used to connect pumps and draw water from bore well and thereon connected to tanks for storage and directed to fields.

8. In the present case we are not deciding any wider question but restricting our conclusion to the facts and circumstances which was filed for our consideration in the application. Now we proceed as under:

8.1 Whether the supply in question is covered under "Solar Power Generating System" as a whole and can be called as 'composite supply or mix supply' & what will be the rate of GST on such supply. To appreciate the law position in this regard we reproduce the relevant portion of the Act as under:

- (i) *Section 2(30) of the Act ibid "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;*
- (ii) *Section 2(74) of the Act ibid "mixed supply" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.*
- (iii) *Section 2(90) of the Act ibid "principal supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;*
- (iv) *Section 8 of the Act ibid: The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—*
 - (a) *a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and*
 - (b) *a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.*

8.2 We find that "Solar Power Generating System" has not been defined in GST. We also find that in erstwhile Central Excise regime, though exemption to said "Solar Power Generating System" was granted vide serial no. 332 of Notification No. 12/12-CE dated 17.03.2012 but the same has also not been defined in the said regime. The relevant portion Notification No. 12/12-CE dated 17.03.2012 is reproduce as under:

| Sl. No. | Chapter or heading or sub-heading or tariff item of the First Schedule | Description of excisable goods | Rate |
|---------|--|--|------|
| 1 | 2 | 3 | 4 |
| 332 | Any Chapter | Non-conventional energy devices or systems specified in List 8 | Nil |

List-8: 1) Flat plate solar Collector (2) Black continuously plated solar selective coating sheets (in cut length or in coil) and fins and tubes (3) Concentrating and pipe type solar collector (4) Solar cooker (6) Solar air heating system (7) Solar low pressure steam system (8) Solar stills and desalination system (9) Solar pump based on solar thermal and solar photovoltaic conversion (10) **Solar power generating system** (11) **Solar photovoltaic module and panel for water pumping and other applications** (12) Solar crop drier and system (13) Wind operated electricity generator, its components and parts thereof including rotor and wind turbine controller (14) Water pumping wind mill, wind aero-generator and battery charger (15) Bio-gas plant and bio-gas engine (16) Agricultural, forestry, agro-industrial, industrial, municipal and urban waste conversion device producing energy (17) Equipment for utilizing ocean waves energy [Solar lantern or Solar lamp] (19) Ocean thermal energy conversion system (20) Solar photovoltaic cell (21) Parts consumed within the factory of production of such parts for the manufacture of goods specified at S. Nos. 1 to 20. (22) Improved cook stoves (including smokeless chulhas) for burning wood, agro-waste, cow dung, briquettes and coal.

8.3 Therefore we have to seek help from various judicial pronouncements in this regard and a few of them related to the case in hand are reproduced as under:

*** Rajasthan Electronics & Instruments Ltd. Vs CCE [2005 (180) ELT 0481 (Tri. - Del.)]**

3. The contention of the appellant is that the Dusk Dawn System is an electronic system for street lights comprising of electronic controller and Solar Photovoltaic Module. The street lights are automatically switched off based on the ambient light level which is sensed by the sensors installed therein. The Dusk Dawn System comprises of the SPV module and the penal housing. The contention is that whole system works on the solar energy and it is an energy saving device used for automatic switching off the street lights making proper use of grid power and increasing the life of the lamps by operating the street light from sunset to sunrise. The contention of the appellant is that the Commissioner of Central Excise in the adjudication order admitted the fact that Solar Photovoltaic module is a solar power generating system. In spite of this finding the benefit of notification was denied. The contention is that as the whole system is working on the solar power, therefore, they are entitled the benefit of the notification.

5. For ready reference the relevant portion of the Notification No. 6/02 dated 1-3-02 is reproduced below:

*"237. Non-conventional energy devices/systems specified in List 9."
The list 9 of the above notification covers Solar Power Generating system.*

6. The simple reading of the notification provides exemption to the non-conventional energy devices/system specified in List 9.

7. The adjudicating authority admitted the fact that Solar Photovoltaic Module is a Solar Power Generating System. We find that other parts are only panel housing consisting of controllers and switches. Hence the whole system is a Solar Power Generating System and is entitled for the benefit of notification. Therefore, the denial of benefit of notification by the adjudicating authority is not sustainable. The impugned order is set aside and the appeals are allowed.

*** Bhel Vs CCE [2008 (223) ELT 0609 (Tri. - Bang.)]**

1. The point at issue is whether the 'Solar Inverter Charger for solar lantern' is entitled for the benefit of exemption Notification 5/99-C.E., dated 28-2-99. The contention of the revenue is inverter charger should be classified under Heading No. 80.03 of the C.E. Tariff Act as a component of solar power generating system or solar lantern. The exemption Notification No 5/99 C.E., dated 28-2-99 as amended exempts "non-conventional energy systems" specified in list 4 of the Notification from payment of duty. Since the exemption notification exempts total system and not parts of the system, the lower authority held that the inverter charger for solar lantern is not entitled for the benefit of the said notification.

3. We heard both sides. Learned Advocates contended that solar power generating system is also technically known as inverter charger card. Technical experts who headed the Technical Department of the appellants who are a major Public Sector Undertaking have certified that inverter charger card is the power generating system envisaged under the exemption notification. The classification list which was approved by the Jurisdictional Assistant Commissioner on 23-3-1995 also acknowledges that the inverter charger card and solar power generating system are one and the same and the exemption is admissible to the said system. It is an assembly of 19 components. The impugned inverter charger card is one of the 4 constituents in the solar lantern. The constituents are :

(i) SPV Module

(ii) Inverter charger cards/solar power generating systems

(iii) Maintenance free lead acid battery

(iv) Compact fluorescent lamp.

On a very careful consideration of the issue, we find that the exemption notification exempts from Central Excise duty the following items :

(i) Solar voltaic module

(ii) Solar power generating system

(iii) Solar lantern.

In the present case, the appellants have claimed exemption in respect of "inverter charger card" as solar power generating system. The appellants actually manufactured SPV lantern. The above lantern required electricity for its working. It is possible to convert solar energy to electricity with the help of inverter charger manufactured by the appellants. The Dy. General Manager has certified that the inverter merger constitutes solar power generating system as it performs the function of generating the required high frequency AC power from Sun-light with, the help of SPV module and supplying it to the compact fluorescent lamp of a solar lantern. In view of the above, expert opinion, we hold that the impugned item can be considered as solar power generating system and is entitled for the benefit of the exemption Notification. Therefore, we allow the appeal with consequential relief.

8.4 On going through the cases pronounced by the Hon'ble Tribunal we find that the said judgments are on the lines of Notifications 06/2002-CE & 5/99-CE. Therefore, we have to go through the said notifications to find out whether the same are applicable to case in hand. The relevant portion of the same are reproduce as under:

Notifications 06/2002-CE dated 01.03.2002

| Sl. No. | Chapter or heading or sub-heading or tariff item of the First Schedule | Description of excisable goods | Rate |
|---------|--|--|------|
| 1 | 2 | 3 | 4 |
| 237 | Any Chapter | Non-conventional energy devices or systems specified in List 9 | Nil |

List-9: (1) Flat plate solar collector (2) Black continuously plated solar selective coating sheets (in cut length or in coil) and fins and tubes (3) Concentrating and pipe type solar collector (4) Solar cooker (5) Solar water heater and system (6) Solar air heating system (7) Solar low pressure steam system (8) Solar stills and desalination system (9) Solar pump based on solar thermal and solar photovoltaic conversion (10) **Solar power generating system** (11) **Solar photovoltaic module and panel for water pumping and other applications** (12) Solar crop drier and system (13) Wind operated electricity generator, its components and parts thereof (14) Water pumping wind mill, wind aero-generator and battery charger (15) Bio-gas plant and bio-gas engine (16) Agricultural, forestry, agro-industrial, industrial, municipal and urban waste conversion device producing energy (17) Equipment for utilizing ocean waves energy (18) Solar lantern (19) Ocean thermal energy conversion system (20) Solar photovoltaic cell (21) Parts consumed within the factory of production of such parts for the manufacture of goods specified at S.Nos. 1 to 20 above.

Notifications 5/99-CE dated 28.02.99

| Sl. No. | Chapter or heading or sub-heading or tariff item of the First Schedule | Description of excisable goods | Rate |
|---------|--|--|------|
| 1 | 2 | 3 | 4 |
| 265 | Any Chapter | Non-conventional energy devices or systems specified in List 4 | Nil |

List-4: (1) Flat plate solar collectors (2) Black continuously plated solar selective coating sheets (in cut lengths or in coils) and fins and tubes (3) Concentrating and pipe type solar collectors (4) Solar cookers (5) Solar water heaters and systems (6) Solar air heating systems (7) Solar low pressure steam systems (8) Solar stills and desalination systems (9) Solar pumps based on solar thermal and solar photovoltaic conversion **(10) Solar power generating systems (11) Solar photovoltaic modules and panels for water pumping and other applications** (12) Solar crop driers and systems (13) Wind mills, parts of wind mills and any specially designed devices which run on wind mills (14) Any special devices including electric generators and pumps running on wind energy (15) Bio-gas plants and bio-gas engines (16) Agricultural, forestry, agro-industrial, industrial, municipal and urban waste conversion devices producing energy (17) Equipment for utilizing ocean waves energy (18) Solar lantern (19) Ocean thermal energy conversion systems (20) Parts consumed within the factory of production of such parts for the manufacture of goods specified at S.Nos. 1 to 19 above (21) Solar photovoltaic cells.

8.5 On going through the Notifications 12/12-CE, 06/2002-CE & 5/99-CE (supra), we find that there is no change in the description of goods viz **"Non-conventional energy devices or systems specified in List"** in the said notifications and **Solar power generating systems** in the list appended to said notifications however their entry against serial no. & list nos. appended to said notifications keeps on changing during the relevant period except that there is no material change in the said notifications. Thus we observe that said notifications are similar in character and are identical to the Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017. Therefore case laws discussed above have a great impact on the case in hand and observe that the same are applicable to the instant case. Therefore goods as discussed supra which are used in connection with generation of power from sunlight are covered under the definition of "Solar Power Generating System" and will be covered under serial no. 234 of Schedule-I of the Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017, the applicable rate of GST on such supply of "Solar Power Generating System" will attract @ 5% and accordingly as per serial no. 234 of Schedule-I of the Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017, the applicable rate of GST on such supply will be 5% [2.5% CGST + 2.5% SGST].

8.6 From the application submitted by applicant we also find that they are also involved in designing, erection, commissioning & installation of solar rooftop power plant and solar irrigation water pumping systems. Thus both the goods & services are involved in the supply in question. Now the question arises whether the same is covered under "composite supply" or mixed supply".

8.7 From the law position (supra) we observe that a supply can be called composite supply if -

- i. supplies of two or more services/good which are inseparable from each other in ordinary course of business or complementary to each other.
- ii. supplies which are ancillary to principal supply of goods and services.
- iii. supplies which are dependent upon each other.

Further a supply can be called mixed supply if -

- i. supplies of two or more good/services which can be separable from each other, not dependent upon each other.
- ii. goods and services which can be supplied individually.

8.8 In the instant case we find that the applicant is engaged in the manufacture of "solar power generating system" which also includes service elements viz designing, erection, commissioning & installation of the same. It has been claimed by the applicant that the provision of service in said supply constitute less than 10% of total cost of the same which has been admitted by the Assistant Commissioner, SGST, Khand-1, Dehradun in his report dated 07.12.2018. Further the supply of goods as discussed supra represent the "principal supply" of supply in question. Therefore we observe that in the present case, the said supply shall be covered under "composite supply" and not under "mixed supply" in as much as

- a. goods & services both involved in the supply in question
- b. service element is ancillary to principal supply of goods
- c. both the supplies are dependent upon each other since the goods supplied can be put to use only after erection, commissioning & installation of the same and in reverse position erection, commissioning & installation can only be done if goods are available.

8.9 During the personal hearing, the concerned officer has asked why the said supply cannot be treated as "work contract". The applicant argued in their letter dated 18.12.2018 that the supply in question are fixed by nuts & bolts to the foundation not because the intention was to permanently attach it to the earth but because a foundation is necessary to provide and wobble free operation and has to be treated as movable. In support of their argument they rely on Hon'ble Apex Court judgment in the case of CCE Vs Solid & Correct Engineering Works & Ors and Sirpur Paper Mills Ltd Vs CCE.

8.10 In this context we have gone through the legal provisions of law and the same is reproduced as under:

Section 2(119) of the Act "works contract" means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;

8.11 The definition of "work contract" (supra) is concerned with the immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved and thus question arises whether the said supply would be treated as immovable or not. We find that the very important term "immovable property" is not defined in GST Law so we have to rely on definition given on other laws. Immoveable property is defined in Section 3(26) of the General Clauses Act, 1897 as under:

Immovable Property shall include land, benefits to arise out of land and things attached to the earth, or permanently fastened to anything attached to the earth.

Term "attached to earth" is defined u/s 3 of the Transfer of Property Act as meaning:

- (a) *rooted in the earth, as in the case of trees and shrubs;*
- (b) *imbedded in the earth, as in the case of walls or buildings; or*
- (c) *attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached.*

8.12 In this context we have gone through the pictures provided by the applicant and find that to erect the plant/system in question a concrete platform is required and with the help of nuts and bolts the supplies in question are erected on the said platform. In the present case we find that attachment of the plant/system in question with the help of nuts and bolts to a platform/foundation intended to provide stability to the working of the plant/system and prevent vibration/wobble free operation does not qualify for being described as attached to the earth under any one of the three clauses extracted above. That is because attachment of the plant to the foundation is not comparable or synonymous to trees and shrubs rooted in earth. It is also not synonymous to imbedding in earth of the plant as in the case of walls and buildings, for the obvious reason that a building imbedded in the earth is permanent and cannot be detached without demolition. Imbedding of a wall in the earth is also in no way comparable to attachment of a plant/system to a platform/foundation meant only to provide stability to the plant especially because the attachment is not permanent and what is attached can be easily detached from the platform/foundation. So also the attachment of the plant/system to the foundation at which it rests does not fall in the third category, for an attachment to fall in that category it must be for permanent beneficial enjoyment of that to which the plant is attached.

8.13 In support of our view we rely on following case laws:

i. Commissioner of Central Excise vs Solid and Correct Engg Works (Civil Appeal No. 960-966 of 2003) (SC):

It was held that the plants were not per se immovable and they become immovable when embedded in the earth. The attachment of the plant with nuts and bolts intended to provide stability and prevent vibration is not covered as attached to earth. The attachment can be easily detachable from the foundation and is not permanent.

ii. Sirpur Paper Mills Ltd v. Collector of Central Excise, Hyderabad (1998) 1 SCC 400 :

Excise duty on paper making machine - Attached to earth for operational efficiency - If the appellant wanted to sell the paper-making machine it could always remove it from its base and sell it - Held as movable.

8.14 In view of the above we observe that the supplies in question cannot be termed as immovable property for the following reasons:

- (i) The plants/systems in question are not per se immovable property.
- (ii) Such plants/systems cannot be said to be "attached to the earth" within the meaning of that expression as defined in Section 3 of the Transfer of Property Act.
- (iii) The fixing of the plants/systems to a platform/foundation is meant only to give stability to the plant/system and keep its operation vibration free.
- (iv) The setting up of the plant/system itself is not intended to be permanent at a given place.

8.15 Thus the supplies under consideration are out of the ambit of "work contract" service in as much as the question of immovable property does not arise which has been discuss at length supra.

8.16 It is pertinent to mention here that GST Council in the 31st meeting held on 22nd December, 2018 at New Delhi took following decisions relating to issue in hand and clarified as under:-

GST on solar power generating plant and other renewable energy plants
 GST rate of 5% rate has been prescribed on renewable energy devices & parts for their manufacture (bio gas plant/solar power based devices, solar power generating system (SGPS) etc) [falling under chapter 84, 85 or 94 of the Tariff]. Other goods or services used in these plants attract applicable GST.

Certain disputes have arisen regarding GST rates where specified goods attracting 5% GST are supplied along with services of construction etc and other goods for solar power plant.

To resolve the dispute the Council has recommended that in all such cases, the 70% of the gross value shall be deemed as the value of supply of said goods attracting 5% rate and the remaining portion (30%) of the aggregate value of such EPC contract shall be deemed as the value of supply of taxable service attracting standard GST rate. The council has also clarified that the exact formulation will be worked out in consultation with Ministry of Law. If different valuation methodology is determined by the Ministry of Law, then the specified formulation as notified under CGST/SGST Act 2017 will be applicable on the applicant.

8.17 In view of the above discussion & findings we observe that supply of goods along with design, erection, commissioning & installation of the same while supply of "solar rooftop power plant and solar irrigation water pumping systems" shall be treated as 'composite supply' and the 70% of the gross value shall be the value of supply of said goods attracting 5% GST rate and the remaining portion (30%) of the aggregate value shall be the value of supply of taxable service attracting 18% GST rate in terms of Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018 which read as under:

| S.No | Chapter, Section or Headin | Description of Service | Rate (per cent.) | Condition |
|------|----------------------------|------------------------|------------------|-----------|
| 1 | 2 | 3 | 4 | 5 |

| | | | | |
|----|----------------------|---|---|---|
| 38 | 9954 or 9983 or 9987 | <p>Service by way of construction or engineering or installation or other technical services, provided in relation of setting up of following, - (a) Bio-gas plant (b) Solar power based devices (c) Solar power generating system (d) Wind mills, Wind Operated Electricity Generator (W.O.E.G) (e) Waste to energy plants / devices (f) Ocean waves/tidal waves energy devices/plants</p> <p>Explanation:- This entry shall be read in conjunction with serial number 234 of Schedule I of the notification No. 1/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 vide GSR number 673(E) dated 28th June, 2017.</p> | 9 | - |
|----|----------------------|---|---|---|

RULING

In view of the above discussion, we hold as under:

- (i) Supply in question would covered under "Solar Power Generating System" as a whole in terms of serial no. 234 of Schedule-I of the Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017.
- (ii) Supply in question would be treated as "composite supply".
- (ii) 70% of the gross value of supply in question shall be the value of supply of said goods falling under chapter 84, 85 or 94 of the Tariff only would attract 5% GST rate and the remaining portion (30%) of the aggregate value shall be the value of supply of taxable service attracting 18% GST rate in terms of Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018. Other goods used in these plants attract applicable GST rate.


VIPIN CHANDRA (MEMBER)


AMIT GUPTA (MEMBER)

To,
M/s Premier Solar Systems (P) Limited,
Building No- 4, Edwards 25/1
Rajpur Road, Dehradun
Uttarakhand.

**AUTHORITY FOR ADVANCE RULING
GOODS & SERVICE TAX: UTTARAKHAND
OFFICE OF THE COMMISSIONER, SGST, UTTARAKHAND
LADPUR RING ROAD, UPPER NATHANWALA, DEHRADUN**

F. No. : 14/State Tax -UK /GST/Sec-97/2018-19/D.dun/ 0084 /Dated: 24/01/2019

Copy to :

1. The Chief Commissioner, CGST, Meerut Zone, Meerut for review.
2. The Commissioner, CGST, Commissionerate, Dehradun for review.
3. The Commissioner, SGST, Commissionerate, Uttarakhand for review.
4. The Assistant Commissioner, CGST Division, Dehradun for review.
5. The ~~Assistant~~ Commissioner, SGST, Dehradun for review.
6. The Concerned officer, ~~CGST~~ SGST, Dehradun.
7. The Registrar -Appellate Authority for Advance ruling
8. Guard File.