

**BEFORE THE APPELLATE AUTHORITY FOR ADVANCE RULING FOR THE STATE
OF HARYANA, FOR GOODS AND SERVICES TAX, PANCHKULA**

Appeal case No. HAR/HAAAR/2018-19/04

Dated : 26.04.2019

GSTIN Number	06AADCH1476P1Z7
Legal Name of Appellant	M/s Hero Solar Energy Pvt. Ltd.
Registered Address/Address provided while obtaining user ID	M/s Hero Solar Energy Pvt. Ltd., 201, First Floor, Okhla Industrial Estate, Phase-III, New Delhi-110020.
Appellant represented by	Sh. Amar Pratap Singh, Advocate alongwith Sh. Ankit Awal, CA.

Order under Section 101 of the Central Goods and Services Tax Act, 2017/the Haryana Goods and Services Tax Act, 2017.

The present appeal has been filed under Section 100 (1) of the Central Goods and Services Tax Act, 2017/the Haryana Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and the HGST Act respectively"] by M/s Hero Solar Energy Private Limited [hereinafter referred to as the "Appellant"] against the Advance Ruling No. HAR/HAAR/R/2018-19/07, dated 29.08.2018.

A copy of order dated 29.08.2018 of the Advance Ruling Authority was received by the appellant on 05.10.2018 and the appeal has been filed on 02.11.2018 which is in time.

BRIEF FACTS OF THE CASE

1. The appellant namely M/s Hero Solar Energy Pvt. Ltd. is a Co. incorporated under the Company's Act 1956. The appellant has proposed to enter into the business of setting up of Solar Power Generating System (SPGS) on a turnkey basis. The appellant had sought advance ruling on the following questions:-

1. Whether the EPC contract for complete design, engineering, manufacture, procurement, testing, Inspection, and complete erection and commissioning of solar power generating system will result into 'Composite Supply' as defined in Section 2(30) of the Central Goods and Services Tax Act, 2017?
2. In case the supply of SPGS is treated as 'Composite Supply, whether supply of PV Modules/Inverters or any other supply covered under Chapter Heading 84,85 or 94 of Central Tax Notification will be treated as 'Principal Supply'?

3. In case the principal supply be treated as 'supply of PV Modules/Inverters or any other supply covered under Chapter Heading 84,85 or 94 of Central Tax Notification, whether the concessional rate of 5% be applicable on the entire of value of the contract i.e. supply of SPGS?

After notice and opportunity, the Advance Ruling Authority passed the impugned order wherein the authority has held that the services of the appellant are covered under the definition of "works contract" mentioned in section 2(119). Being aggrieved with the impugned order the appellant M/s Hero Solar Energy Private Limited has filed the present appeal.

Pleadings :-

Of the Appellant :

The present appeal has been filed on the following grounds:-

- A. The impugned transaction constitutes a composite supply of SPGS and Taxable @ 5%.
- B. Proposed contracts for supply and installation of SPGS are not works contract as defined under section 2(119) of CGST Act.
- C. Issue regarding movability/immovability of property after erection/installation has been settled under the erstwhile central excise regime.
- D. Impugned ruling is a non-speaking order and has been passed in gross violation of the principle of natural justice.

Record of Personal Hearing:

Sh. Amar Pratap Singh, Advocate has reiterated the grounds taken in the memorandum of appeal.

In addition, he has given written arguments today, wherein it has been pleaded that subsequent to the decision of the Hon'ble Authority and filing of the appeal by the Appellant, the legal position in respect of the Sr. No. 234 of the goods rate Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 has changed w.e.f. 01.01.2019 because of the amendment brought in by the Notification No. 24/2018-Central Tax (Rate) dated 31.12.2018; and in respect of the Sr. No. 38 of the service tax rate Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 has changed w.e.f. 01.01.2019 because of the amendment brought in by the Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018. The State of Haryana vide Notifications dated 31.12.2018

has brought similar notifications in the HGST Act, 2017 as has been done in the Central Goods and Services Tax Act, 2017.

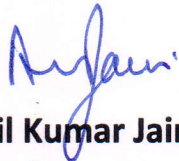
We have heard the counsel of the appellant in detail and have perused the record of this case thoroughly.

The advance ruling dated 29.08.2018 obtained by the appellant is prior to the amendments made with effect from 1.01.2019 by the Govt. vide notifications ibid dated 31.12.2018 under the CGST /HGST Act, 2017 in the respective entries. There is a change in the rate of tax and the percentage of Goods and Services involved in Solar Power Generation System (SPGS), after Notification No. 24/2018- Central Tax (Rate), dated 31.12.2018 and Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018. Therefore, after issuance of above notifications, the facts and circumstances have completely changed with effect from 01.01.2019.

In the changed facts and circumstances of the case, we are of the considered view that the advance ruling granted vide Advance Ruling Order dated 29.08.2018, is no more binding on the applicant or the authorities concerned in terms of Section 103(2) of the CGST and SGST Acts and the applicant may seek Advance Ruling which will be granted afresh by the Advance Ruling authority after considering the notifications mentioned in Para above and after giving opportunity of hearing to the appellant. Thus, the order dated 29.08.2018 of the Advance Ruling Authority is quashed and the applicant may approach the Advance Ruling Authority for taking a decision afresh in accordance with law. It is made clear that this authority has not given any opinion on the merits of the case.

Decided accordingly.


(Dr. Amit Kumar Agrawal)
Member


(Anil Kumar Jain)
Member