

**AUTHORITY FOR ADVANCE RULING  
GOODS AND SERVICE TAX  
UTTAR PRADESH**

**4, Vibhuti Khand, Gomti Nagar, Lucknow-**

**ADVANCE RULING NO. UP ADRG 30 /2023 Dated. 25 .8.2023  
PRESENT:**

**1. Shri Amit Kumar**

Joint Commissioner, Central Goods and Service Tax

Audit Commissionerate, Lucknow

....Member (Central Tax)

**2. Shri Harilal Prajapati**

Joint Commissioner, State Goods and Service Tax .....Member  
(State Tax)

1.	Name of the Applicant	M/s Aastha Traders, Shakti Khand-II/164 A-F-1, Indirapuram, Ghaziabad, Uttar Pradesh, 201001
2.	GSTIN or User ID	09ABBFA4098G1ZD
3.	Date of filing of Form GST ARA-01	24.05.2023
4.	Represented by	Shri Anand Kumar Verma
5.	Jurisdictional Authority-Centre	Range-Range 28, Division-Division VI Ghaziabad, Commissionerate- Ghaziabad
6.	Jurisdictional Authority-State	Sector- Ghaziabad Sector-16, Range- Ghaziabad (C), Zone- Ghaziabad II
7.	Whether the payment of fees discharged and if yes, the CIN	Yes MAHB23050900529701

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 & UNDER  
SECTION 98 (4) OF THE UPGST ACT, 2017**

1. M/s Aastha Traders (here in after referred to as the applicant) is a registered dealer under GST having GSTIN 09ABBFA4098G1ZD having principal place of business at Shakti Khand-II/164 A-F-1, Indirapuram, Indirapuram, Ghaziabad, Uttar Pradesh, 201001 (Old address at C-2, G-101, Ganpati Villa, Opp. Angel. Mega Mall, Kaushambi, Ghaziabad-201001 (Uttar Pradesh)) and additional place of business at Khasra No. 255. Maharishi Garden, Prakash Nagar, Khora Colony, Ghaziabad (Uttar Pradesh) engaged in the retail business of the all types of cement.

2. The applicant has submitted an application for Advance Ruling dated 30.05.2023 enclosing duly filled Form ARA-01 (the application form for



Advance Ruling) along with annexure and attachments. The applicant in his application has sought advance ruling on following question-

1. What is applicable tax rate on sale of solar driven submersible pump (water pump)?
2. What is the HSN code for solar driven submersible pump (water pump)?
3. As per declaration given by the applicant in Form ARA-01, the issue raised by the applicant is neither pending nor decided in any proceedings under any of the provisions of the Act, against the applicant.

The applicant has submitted that-

1. Astha traders is a partnership firm having three partners Shri Lavish Gupta, Shri Dhananjay Gupta and Shri Anuj Kumar Gupta.
2. They were engaged in the business of trading of all kinds of cements and they now intend to add a new retail segment namely submersible pump primarily used for pumping water for domestic and agricultural purpose. There were two variants of the pump namely electric pump, designed to run on electricity and solar pump designed to run using solar power modules.
3. They intend to start trading of both electric and solar submersible pump and during the course of market research, it was learnt that some dealers were charging GST @ 18% (9% + 9%), whereas some dealers were charging GST @ 12% (6% + 6%) on solar device driven submersible pump. They were also using different HSN code.
4. In view of the above, they have sought Advance ruling for determination of the GST rate applicable to Solar water submersible pump and the HSN code required to be used while issuing invoices.

4. The applicant has submitted their interpretation of law as under-

The Advance Ruling is being sought the GST applicable tax rate w.e.f 18/07/2022 on sale of solar device driven pump primarily designed to powered by solar modules that helps draw surface or ground water out for domestic as well as irrigation which consequently serves the agricultural Purpose.

Further, what is the HSN Code to be used for solar device driven pump primarily designed to powered by solar modules that helps draw surface or ground water out for domestic as well as irrigation which consequently serves the agricultural Purpose.

5. As per declaration given by the applicant in Form ARA-01, the issue raised by the applicant is neither pending nor decided in any proceedings under any of the provisions of the Act, against the applicant.



6. The application for advance ruling was forwarded to Deputy Commissioner, Central Tax & Central Excise, Division-Ghaziabad-VI vide letters dated 19.06.2023 and dated 24.07.2023 to offer their comments/views/verification report on the matter. No views/comments have been offered till date.

7. The applicant was granted a personal hearing on 19.07.2023 which was attended by Shri Anand Kumar Verma, the authorized representative of the applicant, through video conference during which he reiterated the submissions made in the application of advance ruling.

### **DISCUSSION AND FINDING**

8. At the outset, we would like to make it clear that the provisions of both the CGST Act and the UPGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the UPGST Act. Further for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act/UPGST Act would be mentioned as being under the 'CGST Act'.

9. We have gone through the Form GST ARA-01 filed by the applicant and observed that the applicant has ticked following issues on which advance ruling required-

- (1) *Classification of any goods or services or both.*
- (2) *Determination of the liability to pay tax on any goods or services or both;*

10. We have gone through the submissions made by the applicant and have examined the interpretation submitted by them. At the outset, we find that the issue raised in the application is squarely covered under Section 97(2) (a) of the CGST Act 2017 being a matter related to classification of goods or services or both. We therefore, admit the application for consideration on merits.

11. It is seen from the records, that the applicant intends to start trading in solar driven submersible water pumps. It is necessary to understand the commodity involved before going into the aspect of classification. The applicant was asked to submit the constituents along with specification of their product. They have submitted a flow chart showing the details of the Solar submersible pump and have given the specifications as Solar Panel, Controller and solar submersible pump. They further added that the solar pump only runs on solar heat and not through electricity. They were further asked to provide the detailed technical specification of the product. They however failed to furnish any details regarding the technical specification of the product in question.

11.1 Solar water pumps are powered by solar energy and are used for irrigation, livestock watering, and other water transfer purposes. In order to arrive at the correct classification of the product in question, it is necessary to differentiate between the products, 'Solar power based devices' and



*'Submersible pump that can also run using solar power'.* If all the devices that can be run using electricity generated by solar power were to be termed as 'solar power based device', then all the gadgets like Air Conditioners, Refrigerators or any other electrical appliances used by individuals in their homes using solar power would be termed as 'solar power based device'. This however is not the case. Thus, it is essential to determine whether a device can run independently of solar power.

A solar driven water pump includes different components namely,

- i) Solar Panels,
- ii) Controller, and
- iii) Water Pump.

It is necessary to understand the purpose and classification of each individual component before arriving at the correct classification of the 'Solar power driven submersible pump'.

**11.2 The Solar Panels** are the most critical component of a solar water pump as they convert sunlight into electricity. The panels are typically made of photovoltaic cells that convert sunlight into direct current (DC) electricity. The number and size of the panels required for a solar water pump depend on the amount of water needed to be pumped and the amount of sunlight available. A solar panel converts sunlight into electricity, also known as a photovoltaic panel.

Solar panels i.e Photovoltaic cells assembled in modules or made up into panels are classifiable under Tariff heading 8541 43 00 of the CGST Tariff. There is a specific entry at Sl No 234 of Schedule -I of GST Tariff wherein GST has been prescribed @ 6%.

SL. NO	HSN	DESCRIPTION	RATE
234	84,85 or 94	Following renewable energy devices & parts for their manufacture (h) Photo voltaic cells, whether or not assembled in modules or made up into panels	6%

Hence the Solar panels, classifiable under heading 8541 43 00 are chargeable to GST @ 12% (6% CGST + 6% SGST).

**11.3 A Controller** performs variety of functions and is used with both direct current and alternating current motors. A controller includes means to connect the motor to the electrical power supply, and may also include overload protection for the motor, and over-current protection for the motor and wiring. A motor controller may also supervise the motor's field circuit, or detect conditions such as low supply voltage, incorrect polarity or incorrect phase sequence, or high motor temperature. Hence, a controller being an electrical item may be suitable for multiple uses in different applications including in solar power devices but the scope of its use cannot be limited to a solar pump alone. There may be many items, electrical or otherwise, which may be suitable for use in a solar pump but such individual items, in



standalone condition, cannot be classified as solar power based devices or solar power generators. Accordingly, a Controller itself, in standalone condition, being an independent electrical item suitable for multiple uses is appropriately classifiable under Chapter Heading 8504 covering 'electrical transformers, static converters and inductors' and the same can not be classified as a solar power based device or a solar power generator or as part of solar pumping system. Electrical transformers, static converters and inductors are classifiable under Tariff heading 8504 of the CGST Tariff. There is a specific entry at Sl No 375 of Schedule -III of GST Tariff wherein GST has been prescribed @ 9%.

SL. NO	HSN	DESRPTION	RATE
375	8504	Electric transformers, static converters and inductors	9%

Hence the Controllers, classifiable under heading 8504 are chargeable to GST @ 18% (9% CGST + 9% SGST).

**11.4 A Water pump** is a mechanical device that is used to transfer water from one location to another. There are different types of water pumps. Since the applicant has sought ruling with respect to submersible pump, we shall discuss the details pertaining to same. A submersible pump is a mechanical equipment that works by pushing the water towards the surface. It has a hermetically sealed motor connected to the pump body that helps to push the fluid towards the surface. Submersible pumps are designed to be placed underwater and are typically used to pump water from wells or other subterranean sources. The applicant failed to submit the detailed technical specifications pertaining to the water pump. The critical test is whether the said pump is capable of functioning independent of solar power. The applicant has only stated that, 'the solar pump only runs on solar heat and not through electricity'. However, in the absence of detailed technical specification, it would not be proper to conclude that the product cannot function except with solar power. Hence we are of the opinion that the same merits classification as power driven pumps, designed for handling water.

Pumps for liquids, whether or not fitted with a measuring device, liquid elevators are classifiable under Tariff heading 8413 the CGST Tariff. There is a specific entry at Sl No 317A of Schedule -III of GST Tariff wherein GST has been prescribed @ 9%.

SL. NO	HSN	DESRPTION	RATE
317A	8413	(c) Power driven pumps primarily designed for handling water, namely, centrifugal pump (horizontal and vertical), deep tube-well turbine pumps, submersible pumps, axial flow and mixed flow vertical pump	9%



Hence the Submersible Pump, classifiable under heading 8413 is chargeable to GST @ 18% (9% CGST + 9% SGST).

**12.** The applicant has sought ruling with respect to the HSN Code and applicable tax rate on the sale of Solar driven submersible water pump. As the supply involves different components and therefore question arises whether the same shall constitute as single supply or together as composite supply or treated as mixed supplies?

We observe that the applicant has failed to provide technical specification of the supply. We find that each component is capable of functioning independent of each other. Hence, we find that the supply cannot be treated as single supply. Further, we observed there are clear provisions in the GST Act itself as regards "composite supply" as defined under Section 2(30) and "mixed supply" under Section 2 (74) of CGST Act, 2017 which deal with situations where supply consisting of two or more taxable goods or services or both is involved. It is appropriate to examine the question of present supply with reference to the concept of "composite supply" in order to reach a logical conclusion. We find that as per Section 2(30) of the CGST Act, 2017 *"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.* An illustration provided under the said definition provides that "where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply. In the above illustration, it is obvious that the supply of packing material, supply of service of insurance or transport is not independent of the supply of goods. Hence, the transportation of goods, supply of packing material and insurance are covered by the definition of "composite supply" with the supply of goods which is a principal supply in the illustration. Accordingly, from the above definition and illustration, we are of the view that a "composite supply" can be determined on the basis of the following criteria:- (i) Supply of two or more goods or services or combination of both; (ii) The supply should be made in a natural bundle, i.e. the goods and/or services are provided as a combination in the ordinary course of business; , (iii) The individual items (goods and/or services) cannot be supplied separately; and (iv) One of the supplies should be a principal supply.

In present case, we do not find either water pump is supplied with solar panel and controller in ordinary course of business and vice versa. We do not find any principle supply. Each component can supplied separately. Hence, the supply in question cannot be termed as composite supply.

So far as the concept of "mixed supply" is concerned, the same is defined under Section 2(74) of the CGST Act to mean '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'. Mixed supply has been further illustrated in



the following manner:- "A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately." After having gone through the definitions of 'composite supply' and 'mixed supply' as discussed above we find that in the instant case the appellant has proposed to supply goods in combination of three products namely Solar Panels, Controller and Submersible Pump. However, none of the supplies constitutes a principal supply or that the supplies are naturally bundled in the ordinary course of business. Further, each of these goods, are capable of being sold individually as standalone and such supply individually does not require simultaneous supply of other goods let alone principal supply of other goods. The instant factual position leads us to the logical conclusion that the supply of each one of the items in question as proposed by the appellant is independent and each one of the items can be supplied separately in the appellant's own case. We, therefore, observe that from the definitions it emerges that a supply, consisting of any possible combination of more than one type of goods which are independent of each other in terms of their supply but which are sold together as a bundle simply because the buyer has ordered purchase of such combination of goods, does not constitute a composite supply as the absence of the element of principal supply and natural bundling in the ordinary course of business weighs against the definition of composite supply. We, therefore, hold that the supply of different items namely Solar Panel, Controller and Solar Pump, without anyone of the goods being supplied as principal supply would be covered by the definition of "mixed supply" of different type of goods.

We draw support from the ruling given by West Bengal Authority for Advance Ruling in the case of Sarj Educational Centre reported at 2019 (22) G.S.T.L. 315 (A.A.R~GST)J, wherein it was held in the case of the applicant, who was engaged in supplying food and other services, that they are not naturally bundled with the lodging services as all these components are independent of each other. The said ruling has been upheld by the Appellate Authority for Advance Ruling of West Bengal as reported at 2019 (27) G.S.T.L.:\_131 (App, AAR - GST). Once the question of the nature of supply, whether composite or mixed, is decided, the question that remains. to be addressed is the rate of GST applicable to such supplies. We find that as per the provisions of Section 8 (b) of the GST Act, 2017, concerning determination of tax liability on a mixed supply, "a mixed supply comprising of two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax."

**13.** In view of the above, Solar driven submersible water pump comprising of Solar panel, Controller and submersible pump is a mixed supply and the highest rate of GST will be applicable amongst goods supplied by the applicant.

**14.** Accordingly, we pass the ruling as under:



### **RULING**

1. What is applicable tax rate on sale of solar driven submersible pump (water pump)?

Answer : 18%(CGST @9% and SGST @9%)

2. What is the HSN code for solar driven submersible pump (water pump)?

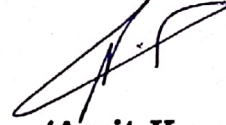
Answer : Will be treated as mixed supply and the highest rate of GST will be applicable amongst the goods supplied by the applicant.

**15.** This ruling is valid only within the jurisdiction of Authority for Advance Ruling Uttar Pradesh and subject to the provisions under Section 103(2) of the CGST Act, 2017 until and unless declared void under Section 104(1) of the Act.



**(Harilal Prajapati)**

Member of Authority for  
Advance Ruling



**(Amit Kumar)**

Member of Authority for  
Advance Ruling

To,

M/s Aastha Traders,  
Shakti Khand-II/164 A-F-1, Indirapuram,  
Ghaziabad, Uttar Pradesh, 201001

### **AUTHORITY FOR ADVANCE RULING -UTTAR PRADESH**

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Appellate Authority of Advance Ruling.
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Appellate Authority of Advance Ruling.
3. The Principal Commissioner, CGST & C. Ex, Ghaziabad, C.G.O. Complex-II, Kamla Nehru Nagar, Near Hapur Chungi, Ghaziabad-201002.
4. The Deputy/Assistant Commissioner, CGST & C. Ex, Division-VI Ghaziabad, C.G.O. Complex-II, Kamla Nehru Nagar, Near Hapur Chungi, Ghaziabad-201002.
5. Through the Additional Commissioner...*Gr-1, C2B-II*....., Uttar Pradesh to jurisdictional tax assessing officers.

**Note:** An Appeal against this advance ruling order lies before the Uttar Pradesh Appellate Authority for Advance Ruling for Goods and Service Tax, 4, Vibhuti Khand, Gomti Nagar, Lucknow – 226010, within 30 days from the date of service of this order.