HARYANA AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,
HARYANA VANIJYA BHAWAN, PLOT NO 1-3, SECTOR 5,
PANCHKULA-134151 (HARYANA)

ADVANCE RULING NO.HAR/HAAR/R/2019-20/27
(In Application No.: 27/2019-20, dated 25.02.2020)

Name & Address of the Applicant	:	M/s Hero Solar Energy Pvt. Ltd., Ground Floor, 506/12, Jacubpura, Near Sadar Bazar, Gurugram, Haryana.
GSTIN of the Applicant	:	06AADCH1476P1Z7
Date of Application	:	25.02.2020
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised.	:	(a) classification of any goods or services or both; (b) applicability of a notification issued under the provisions of this Act;
Date of Personal Hearing	:	18.06.2020
Present for the Applicant	:	Sh. Amar Partap Singh

Memo No.: 1067/AAR
Dated: 28.08.2020

1.1 Brief Facts of the Case:

1.1 Hero Solar Energy Private Limited (hereinafter referred to as "**the Applicant**") is a company incorporated and registered under the Companies Act, 1956. It is also registered under the Goods and Services Tax Act, 2017 at (M/s Hero Solar Energy Pvt. Ltd., Ground Floor, 506/12, Jacubpura, Near Sadar Bazar, Gurugram) with GSTIN 06AADCH1476P1Z7. The Applicant has proposed to enter into the business of setting up of Solar Power Generating System (hereinafter referred to as '**SPGS**') on a turnkey basis.

1.2 The SPGS is mainly used for generation and storage of electricity. SPGS comprises of mainly three equipments namely, Solar Panels, Solar Power Conditioning Unit (hereinafter referred to as "**PCU**") and a Battery bank. These equipments work in tandem with each other to generate electricity from sunlight and its storage. The description and function of each of the equipments is discussed herein under:

a) **Solar Panels** (also known as "**Photovoltaic / PV Panels**") are made of solar cells (also known as "**PV cells**") which are connected to each other in series and parallel connection. Solar cells are made up of silicon semiconductor material which converts the energy generated from sunlight into electrical energy. The electrical energy generated by conversion of sunlight is known as Solar power. Solar PV modules/panels are to be positioned at proper inclination to collect

maximum energy from the sunlight. Hence, these panels are generally installed on the slanting rooftops or slanting industrial sheds with the help of nuts and bolts so that it can perform its designated function i.e. to collect sunlight in efficient manner. However, where slanting base for mounting is not available, these panels are stationed on the module mounting structures erected in the fields / rooftops to collect maximum energy from the sunlight. These mounting structures are made of angles, channels, etc. and these are fixed on a concrete foundation. These structures can be detached from civil foundation and shifted to another location without damaging them.

b) **Solar PCU** (inverter) is an integration of Solar Charge Controller and DC-AC Inverter.

(i) **Solar Charge Controller**- Solar Charge Controller is technically known as a Charge controller. It determines how much power should be injected into the batteries for optimum performance. It measures the efficiency of the entire system as well as the operating life of the batteries. It also protects the battery bank from overcharging. Whenever a battery is used, a charge controller is also used to ensure longer battery life.

(ii) **DC to AC Inverter**- The electrical energy generated by the Solar Panels is in Direct Current (hereinafter referred to as "**DC**") form. However, electrical appliances mostly function on Alternating Current (hereinafter referred to as "**AC**") form of electrical energy. Accordingly, a DC to AC solar inverter (also known as '**solar inverter**') is used which converts the electrical energy generated in DC into AC so that electrical energy can be used by such appliances. Such conversion takes place with a minimal time gap.

c) **Battery Bank** is an electro-chemical device containing Lead. It is a secondary battery used to store electrical energy by the means of oxidation- reduction (redox) reactions. Battery Bank can be charged both using Solar power or using regular power supply (also known as "**mains**"). If connected to mains, the Battery Bank is charged using mains when Solar power is not sufficient to charge it. It provides

AUTHORITY FOR ADVANCE RULING HARYANA

power to the DC to AC Inverter so that connected appliances can run during power failure. Battery Bank is designed for sufficient capacity to run the stipulated load for specified duration.

1.3 Solar PCU and Battery bank can be installed anywhere connected to the panels. Further, depending upon the nature of SPGS, other equipment viz. MCBs, Energy load meters, LT panels and transformers are also required for the functioning of SPGS. These equipments are moveable but for wobble free working, these may be installed using nuts bolts in the civil structure. Also, ancillary items such as wires/cables are required for connecting equipment and nut bolts, mounting structure are required for mounting of Solar Panels.

1.4 The Applicant has proposed to enter into the business of setting up of two types of SPGS which are Solar Rooftop Plant and Ground Mounted Solar Power Plant (Grid Connected) on a turnkey basis whereby the Applicant will supply the abovementioned equipment and will undertake designing, erection, commissioning and installation of the same at the customer's site.

(A) **Solar Rooftop Plant:**

Solar Rooftop Plant is a Solar Photovoltaic system which generates electricity from solar panels mounted on the rooftop of a residential or commercial building or structure viz industrial shed. These are usually ranging from few Kilowatt (KW) to less than a Megawatt (MW). Since Solar PV modules/panels are to be positioned at proper inclination to collect maximum energy from the sunlight, these panels may be installed on the slanting rooftops / industrial sheds with the help of nuts and bolts or where slanting base for mounting is not available, these panels may be fixed on the module mounting structure by using nuts and bolts. The module mounting structure is made of standard GI/aluminium angle and fixed on rooftops with the help of concrete foundation. The Solar panels as well as the mounting structure can be easily unbolted, moved and installed at another place. The remaining two parts of system i.e. Solar PCU and Battery bank are moveable and can be installed using nuts bolts in the civil structure, for wobble free operations.

AUTHORITY FOR ADVANCE RULING HARYANA

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Further, as a part of SPGS for roof top, cables, MCBs, energy load meters and LT panels are also installed and perform following functions:

(i) MCB/MCCBs are used as circuit breakers after the inverter for protection of plant and for operation and maintenance activities.

(ii) Energy meter is essential part of solar plant for energy measurement and billing purpose.

(iii) LT panel is required to connect & combine the inverter output power. Further, the energy meter and MCB/MCCB's are installed in LT panel.

The aforementioned components are completely movable and connected with cables with each other for the operation of the entire SPGS. These can be installed using nuts bolts in the civil structure, for wobble free operations.

B **<u>Ground Mounted Solar Power Plant (Grid Connected):</u>**

Ground mounted Solar Power Plant is not different from relatively smaller Solar Rooftop Power Plant. They both generate solar power in a similar manner. The main difference between Solar Rooftop Plant and Ground Mounted Solar Power Plant lies in a way the solar power energy is consumed. As in the case of rooftop solar, the power generated is mostly consumed at the same site (say the house or the office/commercial building), with any small excess transmitted to the grid. However, in case of ground mounted solar power plant, the electricity is not used at the site, but instead, it is transmitted through electricity grid at different places.

The Ground mounted solar power plant is mounted on standard GI/aluminium module mounting structure to collect maximum energy from the sunlight. These mounting structures are fixed with the help of concrete foundation and hold the solar panels up at a fixed angle in order to achieve operational efficiencies. These structures don't require drilling deep into the earth, and the bracings used in standard ground mount systems are lightweight and easy to remove. These can be erected on any type of geographical regions i.e. arid region, agricultural fields, open vast lands, etc. depending upon the availability of the land. For example, where the Solar PV Modules are to be erected on the agricultural or grasslands, minimum civil work (base) is required to provide the stability to the angles/mounting

AUTHORITY FOR ADVANCE RULINGS HARYANA

structures holding the Modules/Panels. Such angles / structures can be fixed into the base which can be removed at any time depending on the requirement and re-fix in a different place. The remaining two essential parts of system viz. Solar PCU and Battery bank can be installed anywhere connected to the panels.

1.5 Apart from three essential components i.e. solar panels, solar PCU and battery bank, following components are also required in case of ground mounted solar power plant:

(iv) **Transformer:** the power output of the inverter is at the low voltage and as there is high loss at the low voltage, transformer is used to step up the voltage at the higher level in order to minimize the cable losses.

(v) **HT Switchgear:** this component consists of the relays and the circuit breaker that in turn are used to protect the system in case of any faults in the plant. Air Circuit Breaker, Vacuum Circuit Breaker and SF6 circuit breaker are normally used in the HT switchgears.

(vi) **Outgoing Switchyard:** This consists of the power transformer, its protective relays and switchgears, control and relay panels. Switchyard is the key portion which joins/integrates the solar power plant to the utility gird.

(vii) **Energy Meters:** Energy meters record the energy being produced and supplied to the grid. Based on the record the commercial billings are done for the solar power plant. Usually Main, Check and Standby i.e. 3 energy meters are installed in any utility solar power plant as per the CERC guidelines in India.

(viii) **Utility Grid:** The energy generated from the solar power plant is transmitted to the consumers through the transmission line network commonly known as utility grid. Various voltage level of the utility grid depending on the size of the plant like 11 kV, 33 kV, 66 kV, 110 kV, 132 kV, 220 kV, 400 kV, 765 kV, etc exists in India. Transmission line conductor with insulators and the transmission line towers combines together to form the utility grid.

AUTHORITY FOR ADVANCE RULING HARYANA

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(ix) Other components like energy meters, circuit breakers, cables etc. are also required to be connected for functioning of the entire system.

Overview of proposed contract structure for SPGS

2 The Applicant has proposed to enter into a turnkey contract for setting up of SPGS which includes supply of PV Modules, Inverters, Cables, Connectors, other ancillary goods as well as supply of designing, engineering, erection, installation and commissioning services of the equipment and material so supplied. Such turnkey contract is for lump sum price.

3 Further, a broad cost structure comprising of major goods and services to be supplied, is provided in the table below for the ease of reference:

Sl. No.	Particulars	Cost Proportion (%)
1	PV Module & Inverters	65
2	Ancillary Goods: Module Mounting Structure, Cables, MCB, Weather Monitoring, transformers, etc.	20
3	Designing, Erection, commissioning and installation of SPGS	12
4	Civil Works	3

4 Legal Provisions and Background:

4.1 Notification No. 01/2017 – Central Tax (Rate) dated 27.06.2017 provided for the rates at which various goods under the CGST Act are taxable. In order to analyze the instant matter, attention is invited to Sr. No. 234 of Schedule I to the Notification 1/2017. The entry provided that the supply of certain renewable energy devices as listed therein and the parts for the manufacture of such devices would attract CGST at the rate of 2.5%. Notification No. 35/ST-2 dated 30.06.2017 is the corresponding Notification issued under Haryana SGST Act.

4.2 Entry 234 of Notification 1/2017 has been reproduced below for the ease of reference:

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Schedule 1 - 2.5%

S.No.	Chapter/ Heading/ Sub-heading/ Tariff item	Description of Goods
234	84, 85 or 94	Following renewable energy devices & parts for their manufacture a) Bio-gas plant b) Solar power based devices **c) Solar power generating system** d) Wind mills, Wind Operated Electricity Generator (WOEG) e) Waste to energy plants / devices f) Solar lantern / solar lamp g) Ocean waves/tidal waves energy devices/plants h) Photo voltaic cells, whether or not assembled in modules or made up into panels.

4.3 Keeping in view the above position of law during the relevant period, the Applicant sought an advance ruling from the Authority of Advance Ruling (GST), Haryana on the following issues:

A. *Whether the EPC contract for complete design, engineering, manufacture, procurement, testing, inspection and complete erection and commissioning of solar power generating system (SPGS) will result into 'Composite Supply' as defined in Section 2(30) of the Central Goods and Services Tax Act, 2017?*

B. *In case, the supply of SPGS is treated as 'Composite Supply', whether supply of PV Modules/Inverters or any supply covered under Chapter Heading 84, 85 or 94 of the Central Tax Notification will be treated as 'Principal Supply'?*

C. *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 value of the contract i.e. supply of SPGS?*

AUTHORITY FOR ADVANCE RULING HARYANA

4.4 During the personal hearing, it was explained to the Hon'ble Advance Ruling Authority that the issue involved in the case is whether the activity of supply and designing, erection, commissioning and installation of the solar power generating system will fall under Sl. No. 234 of Notification No. 01/2017 – Central Tax (Rate) dated 28.06.2017 and hence will be taxable at the rate of 5%. The Hon'ble Authority for Advance Ruling, Haryana vide the impugned Ruling dated 29.8.2018 decided the issue against the Applicant by holding that the above transaction is covered under the scope of 'works contract' and thus taxable 18 %. A copy of the order dated 29.08.2018 has been enclosed as **Annexure-3.**

4.5 Aggrieved with the order dated 29.08.2019, the Applicant filed an appeal before the Hon'ble Haryana Appellate Authority for Advance Rulings on 02.11.2018.

4.6 Subsequent to the decision of the Hon'ble Authority and filing of the appeal by the Applicant, the **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.

4.7 To resolve the disputes, the Council 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.

4.8 The Govt., in exercise of the powers conferred by sub-section (1) of Section 9 and sub-section (5) of section 15 of the CGST Act, 2017 and on the recommendations of the Council, brought amendments in the Notification No.1/2017- Central Tax (Rate) dated 28.06.2017 by way of Notification No. 24/2018- Central Tax (Rate) dated 31.12.2018 (hereinafter referred to as goods rate note notification). In the said Notification, in Schedule-1-2.5% against Serial No. 234, in the entry in column (3), the following Explanation has been inserted in the end, namely; -

*"**Explanation:-** If the goods specified in this entry are supplied, by a supplier, along with supplies of other goods and services, one of which being a taxable service specified in the entry at S.No. 38 of the Table mentioned in the Notification No. 11/2017-Central Tax (Rate), dated 28.06.2017 (G.S.R. 690 (E)), the value of supply of goods for the purposes of this entry shall be deemed as seventy percent of the gross consideration charged for all such supplies and the remaining thirty percent of the gross consideration charged shall be deemed to be value of the said taxable service.*

4.9 Similarly, the Govt., in exercise of the powers conferred by sub-section (1) of Section 9, sub-section (5) of section 15 and sub-section (1) of Section 16 of the CGST Act, 2017 and on the recommendations of the Council, brought amendments in the Notification No.11/2017- Central Tax (Rate) dated 28.06.2017 by way of Notification No. 27/2018- Central Tax (Rate) dated 31.12.2018 (hereinafter referred to as service rate notification). As per the amended Notification dated 31.12.2018 sl no. 38 was inserted, which states as follows:

(1)	(2)	(3)	(4)	(5)
38	9954 or 9983 or 9987	*"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 (WOEG)* *(e) Waste to energy plants / devices* *(f) Ocean waves/tidal waves energy devices/plants*	9	-

		Explanation:- This entry shall be read in conjunction with serial number 234 of Schedule I of the notification No. 1/2017Central 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.		

4.10 The applicant submitted a letter dated 26.04.2019 before the Hon'ble Appellate Authority for Advance Ruling for the State of Haryana that as the activity sought to be undertaken by the Applicant is a proposed transaction therefore the advance ruling pronounced by the Hon'ble Authority needs fresh consideration in light of the amendment brought in to the Sl. No. 234 of the goods rate notification read with Sl. No. 38 of the services rate notification. A copy of the letter dated 26.04.2019 has been enclosed herewith as **Annexure-5.**

4.11 The Hon'ble Appellate authority for Advance Ruling for the State of Haryana vide its order dated 26.04.2019 quashed the order dated 29.08.2018 passed by the Authority of Advance Ruling by holding that the advance ruling obtained by the Applicant was prior to the amendments made with effect from 01.01.2019 by the Govt. vide notifications dated 31.12.2018 under the CGST/HGST Act, 2017 in the respective entries. The Appellate Authority further held that there is a change in the rate of tax and the percentage of Goods and Services involved in SPGS, after Notification No.24/2018- Central Tax (Rate) dated 31.12.2018 and Notification No. 27/2018- Central Tax (Rate) dated 31.12.2018which have completely changed with effect from 01.01.2019. Accordingly, the advance ruling dated 29.08.2018 was quashed and the Applicant was permitted to approach the advance ruling authority for taking a decision afresh in accordance with law. A copy of the order dated 26.04.2019 passed by the Hon'ble Haryana Appellate Authority for Advance Ruling is enclosed herewith as **Annexure -6.**

4.12 Keeping in view the Notifications dated 31.12.2018 and the order dated 26.04.2019 passed by the Hon'ble Appellate authority, the Applicant is filing the present advance ruling and the provisions pertaining to advance ruling under the CGST Act provided under Chapter XVII of the CGST Act

shall be applicable to determine the questions enunciated under Section 97 of CGST Act with respect to Compensation Cess.

4.13 Section 97 of the CGST Act, entails that advance ruling may be filed by an applicant on following questions: -

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 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.

4.14 The Applicant submits that issue on which advance ruling is sought in the instant matter relates to the classification of goods and services supplied and applicability of Sl no. 234 of Notification No.1/2017-Central Tax (Rate) dated 28.6.2017 as amended vide Notification no. 24/2018-Central Tax (Rate) dated 31.12.2018 and Sl no. 38 inserted in Notification no. 11/2017-Central Tax (Rate) dated 28.6.2017 vide Notification no. 27/2018-Central Tax (Rate) dated 31.12.2018, on supply and installation of SPGS to its customers. The question relating to applicability of Notification is eligible to be posed for advance ruling before the Advance Ruling Authority in terms of Section 97(2)(b) of the CGST Act.

4.15 Further, the Applicant is registered in Haryana and thus, the present advance ruling application is maintainable before the Hon'ble Authority of Advance Ruling, Haryana.

5. Question(s) on which advance ruling is required:

(i) Whether the supply of Solar Power Generating System along with other goods and service of designing, erection, commissioning & installation of the above, should be classified under Sl no. 234 of Notification No.1/2017-Central Tax (Rate) dated 28.6.2017 as amended vide Notification no. 24/2018-Central Tax (Rate) dated 31.12.2018 and Sl no. 38 inserted in

AUTHORITY FOR ADVANCE RULING HARYANA

Notification no. 11/2017- Central Tax (Rate) dated 28.6.2017 vide Notification no. 27/2018-Central Tax (Rate) dated 31.12.2018?

(ii) Whether the supply of goods along with service of designing, erection, commissioning & installation of Solar Power Generating System along with other goods is covered under Sl no. 234 of Notification No.1/2017-Central Tax (Rate) dated 28.6.2017 as amended vide Notification no. 24/2018-Central Tax (Rate) dated 31.12.2018 and Sl no. 38 inserted in Notification no. 11/2017- Central Tax (Rate) dated 28.6.2017 vide Notification no. 27/2018-Central Tax (Rate) dated 31.12.2018?

6. <u>Interpretation of the Applicant:</u>

6.1 In the instant case, the Applicant is proposing to supply goods and services relating to designing, erection, commissioning and installation of SPGS at customer's site.

6.2 Thus, in order to be covered under Sl no. 234 of Notification No. 1/2017-Central Tax (Rate) dated 28.6.2017 as amended vide Notification no. 24/2018-Central Tax (Rate) dated 31.12.2018 and Sl no. 38 inserted in Notification no. 11/2017- Central Tax (Rate) dated 28.6.2017 vide Notification no. 27/2018-Central Tax (Rate) dated 31.12.2018, the supply must fulfil the following criterions:

i. The contract must be for supply of SPGS.

ii. The supply of SPGS must be along with other goods.

iii. The supply of SPGS must be along with service by way of construction or engineering or installation or other technical services, provide in relation of setting up of SPGS.

6.3 If the above stated conditions are satisfied then the following consequences follow:

a. The goods covered under the contract are covered under Sl no. 234 and the value of supply of goods for the purpose ofsl no. 234 shall be deemed as 70% of the gross consideration charged for all such supplies.

b. The supply of SPGS along with other goods is taxable @ 5%

c. The remaining 30% of the gross consideration charged shall be deemed as value of taxable service.

d. The above remaining 30% is covered under Sl no. 38 inserted in Notification no. 11/2017- Central Tax (Rate) dated 28.6.2017 vide Notification no. 27/2018-Central Tax (Rate) dated 31.12.2018.

e. The supply of service of construction or engineering or installation or other technical service is taxable @ 18%.

6.4 It humbly submitted that the above conditions are satisfied in the instant case in the following manner:

i. SPGS proposed to be supplied, erected and commissioned by the Applicant majorly consists of three components namely, a Solar Panel, Solar PCU and Battery Bank.

ii. The system also comprises of other equipments viz. MCBs, Energy load meters, LT panels and transformer depending upon the nature of SPGS. These equipments work in tandem with each other to generate the electricity from sunlight and its storage.

iii. The contract consists for works pertaining to designing, erection commissioning and installation of SPGS along with other goods.

6.5 It is submitted that SPGS proposed to be supplied, erected and commissioned by the Applicant majorly consists of three components namely, a Solar Panel, Solar PCU and Battery Bank. The system also comprises of other equipments viz. MCBs, Energy load meters, LT panels and transformer depending upon the nature of SPGS. These equipment works in tandem with each other to generate the electricity from sunlight and its storage.

6.6 Solar Panel generates electrical energy using Sunlight, Solar PCU is used to convert the energy generated in DC form to AC form, and Battery Bank is used for storage of such electrical energy. MCB/MCCBs/HT Switchgear are used as circuit breakers after the inverter for protection of plant and for operation and maintenance activities. Energy meter is essential part of solar plant for energy measurement and billing purpose. LT panel is required to connect & combine the inverter output power. Further, the energy meter and MCB/MCCB's are installed in LT panel. Transformer is used to step up the voltage at the higher level in order to minimize the cable losses. Outgoing Switchyard which is used at Ground Mounted Solar Power Plant consists of the power transformer, its protective relays and switchgears, control and relay panels. Switchyard is the key portion which

AUTHORITY FOR ADVANCE RULING HARYANA

joins/integrates the solar power plant to the utility gird. In that plant Utility Grid is also used, wherein, the energy generated from the solar power plant is transmitted to the consumers through the transmission line network commonly known as utility grid. Transmission line conductor with insulators and the transmission line towers combines together to form the utility grid. All of these equipments are functioning together to contribute in generation and use of electrical energy.

6.7 It is relevant to note that Electrical motors and generators are classified under Heading 8501 of the CTA. According to HSN Explanatory Notes to Heading 8501, the heading includes photovoltaic generators consisting of panels of photocells combined with other apparatus, e.g.- storage batteries and electronic controls such as Inverter and the panels or modules equipped with elements, which supply power directly.

6.8 HSN Explanatory notes further states that in these devices, electricity is produced by means of solar cells which convert solar energy directly into electricity (photovoltaic conversion).

6.9 As discussed earlier, SPGS proposed to be erected and commissioned by the Applicant is a combination of Panel of PV Cells, Battery Bank, Solar PCU (also known as Inverter) and other utility equipments and it is used as a system to produce electrical energy using sunlight.

6.10 Thus, the SPGS proposed to the supplied by the Applicant is covered under Sl No. 234 of Notification No. 1/2017-Central Tax (Rate) dated 28.6.2017 as amended vide Notification No. 24/2018-Central Tax (Rate) dated 31.12.2018.

6.11 In this regard reliance is placed on the Advance Ruling passed by the Hon'ble AARH in the matter of **M/s Eastman Auto & Power Ltd.** (Advance Ruling No. HAR/HAAR/R/2018-19/06) wherein the issue before the Hon'ble AARH was whether the Solar power packs consisting of Solar PV modules, inverters and battery banks will merit classification under Sl. No. 234 of the Notification 1/2017 or not. The Hon'ble AARH after analyzing the provisions, passed the Ruling that supply of solar power packs involving bundled supply of Solar PV modules, inverters and battery banks will qualify as solar power generating system and will merit classification under Sl. No. 234 of Schedule I to the Notification 1/2017 taxable at the rate of 5 %.

AUTHORITY FOR ADVANCE RULING HARYANA

6.12 Once SPGS is covered under Sl No. 234, then the other goods MCBs, Energy load meters, LT panels and transformer will also be covered under Sl No. 234 in terms of explanation to Sl No. 234 which clearly uses the phrase 'other goods'. Therefore, SPGS supplied along with other goods and services of designing, erection, commissioning and installation is covered under Sl No. 234.

6.13 If the goods supplied by the Applicant are covered under Sl No. 234, then the services of designing, erection, commissioning and installation of the above goods will be covered under Sl No. 38 inserted in Notification No. 11/2017- Central Tax (Rate) dated 28.6.2017 vide Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018. Explanation to both the entries, 243 and 38, clearly state that both the entries are to read together.

6.14 In the light of the above discussion the rate of rate shall be as follows:

i. The supply of SPGS along with other goods will be taxable @ 5%. The value for such supply shall be deemed to be 70% of the gross consideration charged for all such supplies.

ii. The supply of service of designing, erection, commissioning and installation for the above goods, shall be taxable @ 18%. The value for such supply shall be deemed to be 30% of the gross consideration charged for all such supplies.

7. <u>Discussion and findings:</u>

7.1 The applicant Hero Solar Energy Pvt. Ltd. is engaged in the business of setting up of Solar Power Generating System (SPGS) on turnkey basis. Turnkey project is a project whereby the contractor agrees to fully design, construct and equip a facility ready to be used by the contractee. The applicant supplies, designs, installs, erect and commission SPGS for its customers. The SPGS installed by the applicant are in the form of Solar Rooftop Plant and Ground Mounted Solar Power Plant. The applicant had earlier filed an application for Advance Ruling dated 29.05.2018. But the issue on which ruling was sought was different from the issue at hand in this application. The applicant had then sought a ruling with regard to the following:-

(i) 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?

(ii) 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?'

(iii) 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?

7.2 While deciding the said application, the Advance Ruling Authority pronounced its order on 25.07.2018 wherein it observed:-

"The applicant poses for us to decide if the Engineering, Procurement and Construction ('EPC') contract falls within the definition of 'composite supply' as found in the GST Act. Since we have elaborately discussed and observed above that the impugned transaction is a "works contract" u/s 2(119) the GST Act, we need not even enter into the discussion as to whether the impugned transaction is a "composite supply" u/s 2(30) the GST Act. In view thereof, we are constrained, with reasons, to answer the first question in the negative.

The other two questions are a corollary to the first question being answered in negative, we need not go into determine these."

7.3 The applicant, thereafter, preferred an appeal before the Appellate Authority for Advance Ruling on 02.11.2018.

7.4 In the meantime, the Government of India came out with Notification No. 24/2018 (CT Rate) dated 31.12.2018, vide which the following explanation was inserted against entry in column (3) of Serial no. 234 of Notification No. 01/2017:

"If the good specified in this entry are supplied, by a supplier, along with supplies of other goods and service, one of which being a taxable service specified in the entry at Serial No. 38 of the table mentioned in the Notification No. 11/2017- Central Tax (Rate), dated 28th June, 2017, the

value of supply of goods for the purposes of this entry shall be deemed as seventy percent of the gross consideration charged for all such supplies, and the remaining thirty percent of the gross consideration charged shall be deemed as value of the said taxable service."

7.5 Further, vide Notification No. 27/2018 (CT Rate) dated 31.12.2018, Serial No. 38 was inserted which read:-

(1)	(2)	(3)	(4)	(5)
38	9954 or 9983 or 9987	*"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 (WOEG)* *(e) Waste to energy plants / devices* *(f) Ocean waves/tidal waves energy devices/plants* ***Explanation:-** This entry shall be read in conjunction with serial number 234 of Schedule I of the notification No. 1/2017Central 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.*	9	-

7.6 In view, of these notifications, the Appellate Authority for Advance Ruling, Haryana vide its order dated 26.04.2019 observed:-

"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 22.08.2018, 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 22.08.2018 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."

AUTHORITY FOR ADVANCE RULING HARYANA

7.7 Now, the applicant has approached this Authority seeking a Ruling on its queries mentioned at para 5 of this order. The Authority has gone through the oral as well as written submissions of the applicant and is of the unanimous view that the answers to the queries of applicant are in affirmative.

8. Ruling:

(i) The supply of Solar Power Generating System along with other goods and service of designing, erection, commissioning & installation of the same is classified under Sl no. 234 of Notification No.1/2017-Central Tax (Rate) dated 28.6.2017 as amended vide Notification no. 24/2018-Central Tax (Rate) dated 31.12.2018 and Sl no. 38 inserted in Notification no. 11/2017-Central Tax (Rate) dated 28.6.2017 vide Notification no. 27/2018-Central Tax (Rate) dated 31.12.2018.

(ii) The supply of goods along with service of designing, erection, commissioning & installation of Solar Power Generating System along with other goods is covered under Sl No. 234 of Notification No.1/2017-Central Tax (Rate) dated 28.6.2017 as amended vide Notification No. 24/2018-Central Tax (Rate) dated 31.12.2018 and Sl No. 38 inserted in Notification No. 11/2017- Central Tax (Rate) dated 28.6.2017 vide Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018.

Ordered accordingly.

To be communicated.

AUTHORITY FOR ADVANCE RULING HARYANA

26.06.2020

Panchkula.

Sangeeta

(Sangeeta Karmakar)

Member CGST

(Madhubala)

Member SGST

Regd. AD/Speed Post

M/s Hero Solar Energy Pvt. Ltd.,

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Copy to:

1. Principal Commissioner of Central Goods & Service Tax, GST Bhawan, Plot No. 36-37, Sector-32, Gurugram, Haryana.
2. Deputy Excise and Taxation Commissioner (ST), Gurugram (North).
3. Assistant Commissioner-CGST, GST Bhawan, Plot No. 36-37, Sector-32, Gurugram, Haryana.

o/c