WEST BENGAL AUTHORITY FOR ADVANCE RULING

GOODS AND SERVICES TAX

14 Beliaghata Road, Kolkata – 700015

(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

Members present:

Dr Tanisha Dutta, Joint Commissioner, CGST & CX

Jaydip Kumar Chakrabarti, Senior Joint Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed there under, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	SUNSHELL POWER
Address	183, Netaji Subhas Road, Uttarpara Kotrung, Hooghly, West Bengal, Pincode-712258
GSTIN	19ACQFS1646E1ZT
Case Number	WBAAR 29 of 2024-25
ARN	AD190225003975Z
Date of application	February 11, 2025
Jurisdictional authority (State)	Srirampur Charge
Jurisdictional authority (Centre)	Rishra Division, Howrah Commissionerate
Order number and date	02/WBAAR/2025-26 dated 08.05.2025
Applicant's representative heard	Mr. Shubham Khaitan, CA

1.1 At the outset, we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression "GST Act" would mean the CGST Act and the WBGST Act both.

1.2 The applicant is stated to be engaged in the business of erection, commissioning and installation projects in the renewable energy sector. The said scope of work would include EPC contracts for rooftop solar power plant including supply of multiple components within the said power plant. This would include monocrystalline panel, inverter with remote monitoring, fixing structure and relevant accessories. The applicant is working for multiple corporates, Government, Government entities, Indian Railways etc.

1.3 The applicant has made this application under sub section (1) of section 97 of the GST Act and the rules made there under seeking an advance ruling in respect of following questions:

(a)Whether the supply of components of the solar power plant along with the erection of the same would be treated as a composite supply under GST?
(b)If yes, what should be the classification and rate of GST on the said contract?
(c)Further, what would be the value on which the relevant rate of GST would be applicable?
(d)Whether Notification No. 24/2018 Central tax (rate) dated 31st December 2018 containing the explanation with the ratio of goods and services as 70:30 would be applicable?

1.4 The aforesaid questions on which the advance ruling is sought for are found to be covered under clause (a) & (b) of sub-section (2) of section 97 of the GST Act.

1.5 The applicant states that the questions raised in the application have neither been decided by nor are pending before any authority under any provision of the GST Act.

1.6 The officer concerned from the Revenue has raised no objection to the admission of the application.

1.7The application is, therefore, admitted.

2. Submission of the Applicant

2.1. The process of solar power generating system involves both supply of material along with the services of erection, commissioning and installation of the same.

2.2 Both the activities have been carried out by the applicant and are inextricably linked with each other. They can be considered as naturally bundled and are usually provided in conjunction with each other in the given industry. Therefore, they would be considered to be a composite supply.

2.3 The aggregate valuation provided in the contract for Rs. 1.76 crore would be considered for the purpose of charging GST. However, the valuation would have to be segregated between that of goods and services.

2.4 For the purpose of clarity, an explanation was inserted vide Notification no. 24/2018-Central tax (rate) dated 31st December 2018 stating the following:

"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 28th June 2017 G.S.R. 690 (E), *the value supply of goods for the purposes of this entry shall be deemed as* seventy per *cent. of the gross consideration charged for all such supplies, and* the *remaining thirty per cent of the gross consideration charged shall be deemed as value of the said taxable service."*

As per the above, the value of goods would be deemed to be 70% of the gross consideration charged i.e. Rs 1.08 crores and that of services would be the remaining 30% i.e. Rs. 0.46 crores.

2.5 As regards the rate of taxes, the same has been provided separately for both goods and services in Entry no. 201A of amended Notification no. 1/2017-Central tax (rate) dated 28th June 2017 and Notification no. 11/2017-Central tax (rate) dated 28th June 2017 respectively as follows:

Entry no. 201A of amended Notification No. 01/2017- Central tax (rate) dated 28th June 2017

SI No	Chapter	Description	Rate of tax
201A	84,85 or 94	Following renewable energy devices and parts for their manufacture: a)Bio-gas plant	12%

		b)Solar Power based devices c)Solar Power generator d)Windmills,WindOperatedElectricity Generator (WOEG) e)Waste to energy plants/devices. f)Solar Lantern/Solar Lamp g)Ocean Waves/tidal energy devices /plants h)Photo voltaic cells, whether or not assembled in modules or made up into panels *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 28th June 2017* G.S.R. 690 (E)}, the value *supply of goods for the purposes of this entry shall be deemed as seventy per* cent. *of the gross consideration charged for all such supplies, and the remaining thirty per cent of the gross consideration charged shall be deemed as value of* the *said taxable service.*	

2.6 Entry no. 39 of amended Notification No. 11/2017- Central tax (rate) dated 28th June 2017

SI No	Chapter	Description	Rate of tax
38	99	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	18%

		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 [201A of Schedule II] 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.	

2.7 From the above, one can interpret that in case of supply of both goods and services in making a solar power generating system, the rate of tax and valuation would be as follows:

- 12% on value of goods (Value of Goods to be taken as 70% of consideration)
- 18% on value of Services (Value of services to be taken as 30% of consideration)

2.8 The above mentioned case had also been examined by the Rajasthan Appellate Authority for Advance Ruling in the case of Shri Kailash Chandra (Order No. RAJ/AAAR/02/2019-20 dated 15th May 2019). As per given case, the supply, design, installation, commissioning and testing of solar energy based water pumping system would be divided into goods and services in the ratio of 70:30. Further the rate of tax would be as per the respective rate notification of goods and services.

3. Submission of the Revenue

The concerned officer of Rishra Division, Howrah Commissionerate has submitted as follows:

3.1 The applicant is engaged in the business of erection, commissioning and installation projects in the renewable energy sector. The scope of work includes EPC contracts for rooftop solar power plant including supply of multiple components within the said power plant, which would include mono-crystalline panel, inverter with remote monitoring, fixing structure and relevant accessories. In response to the tender no. RT-RNY-EL-T-29-2023-24 invited by RANGIYA DIVISION- ELECTRICAL/N F RLY, the applicant entered into an agreement, accepted vide letter no. RANGIYA DIVISION-ELECTRICAL/RT-RNY-EL-T-29-2023-24/10783460105435 dated 14.06.2024 by Sr. DEE/TRD/RNY. As per the agreement/contract, the applicant was supposed to undertake works related to supply, design, installation, testing

and commissioning of grid connected rooftop solar power plant consisting Mono-crystalline Panel, Inverter with remote monitoring system, fixing structure and all other accessories including LA and proper earthing as per the direction of EIC at site. PV Module (Mono-crystalline) had to be IEC certified with five year AMC/CAMC at RNY Station PF 2 & 3 PP shed, PF 4 & 5PP shed. The applicant has approached the Advance Ruling Authority with the question for the applicability of GST on such contracts with Indian Railways and other government entities.

(a) It appears from the terms and conditions of the contracts/agreements between the applicant and Indian Railways, the supply of components of the solar power based devices/solar power generating system along with the construction or engineering or installation or other technical services, provided in relation of setting up such solar power plant may be classified as a composite supply under works contract in GST regime on the ground of its inherent nature of permanency since it is firmly embedded with the land through earthing and it would not be possible and prudent to shift base from time to time or locate the plant elsewhere at frequent intervals.

(b) & (c) Such supply may be classified vide entry no. 38 of the Notification No. 27/2018 Central Tax (Rate) dated 31.12.2018, which was in amendment of the Notification No. 11/2017 Central Tax (Rate), dated 28th June,2017 which is appended as under:

"after serial number 37 in column (1) and the entries relating thereto in column (2), (3) (4) and (5) the following serial number and entries shall be inserted, namely:-

(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 1/2017 Central Tax (Rate), published in the Gazette of India, Extraordinary,	9	

		Part II, Section 3, Sub section (i) dated 28th June, 2017 vide GSR number 673 (E) dated 28th June, 2017		

Now, as per serial number 234 of Schedule I of the Notification No. 1/2017 Central Tax (Rate) dated 28.06.2017, the GST rate on renewable energy devices & parts for their manufacturer was 5%, which was subsequently enhanced to 12% vide entry no. '201A' under 'Schedule II' of Notification No. 8/2021 Central Tax (Rate) dated 30.09.2021, which enumerates that:

201A	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 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 28th June, 2017 [G.S.R 690(E)], the value of supply of goods for the purposes of this entry shall be deemed as seventy per cent of the gross consideration charged for all such supplies, and the remaining thirty per cent of the gross consideration charged shall be deemed as value of the said taxable service.

Thus, it can be inferred that, all renewable energy devices are taxed at 12% GST. But, if the project includes erection, procurement, and commissioning of a solar generating system, it will fall under "Works Contract Services'. In this case, 12% GST will be applicable on 70% of the total contract value and 18% GST on the remaining 30% of contract value. So, it is endorsed that tax incident on goods is at 12% and service is at 18%.

Hence, GST may be quantified at the effective rate of 13.8% [70%*12%+30%*18%] on the overall contract value.

(d)Notification No 24/2018 Central Tax (Rate) dated 31st December 2018 is squarely applicable for ascertaining the GST ratio on goods and services.

4. Observations & Findings of the Authority

4.1 We have gone through the records of the issue as well as submissions made by the authorized representative of the applicant during personal hearing. The submissions of Revenue have also been considered.

4.2 The applicant is stated to have been awarded a contract from the Rangiya Division of Northeast Frontier Railway to supply , design, installation, testing and commissioning of Grid connected rooftop solar power plant of the capacity of 280 and 210 KW on the PP sheds of platform no. 2 & 3 and on the PP sheds of platform no. 4 & 5 respectively at Rangiya station consisting of Monocrystalline Panel, Inverter with remote monitoring system, fixing structure and all other accessories including Lightning Arrester (in short LA) and proper earthing. The relevant work order and agreement papers are placed on records.

4.3 As per the statement of the applicant, the above contract is an Engineering Procurement Construction (in short EPC) contract which means that the entire process right from designing to completion in respect of the project should be done by the applicant.

4.4 The applicant's interpretations of law and/or facts are as under:

The process of solar power generating system involves both supply of material along with the services of erection, commissioning and installation of the same.

Both the activities have been carried out by the applicant and are inextricably linked with each other. They can be considered as naturally bundled and are usually provided in conjunction with each other in the given industry. Therefore, they would be considered to be a composite supply.

In support of the interpretation of the applicant one order dated 15.05.2019 passed by the Appellate Authority for Advance Ruling, Rajasthan in respect of Shri Kailash Chandra has been placed before us. The said authority has classified the activities of supply, design, installation, commissioning and testing of solar energy based water pumping systems as composite supply involving supply of services and goods. The subject matter of the above appellate order is not strictly related to the facts and circumstances of the application on which ruling is sought from this authority.

4.5 Before going into the details of the discussion, we should discuss some concepts of the

GST Act and the components and the process of installation of grid connected rooftop solar power plant which will act as reference in the later part of the discussion.

Composite Supply: Section 2(30) of the GST Act defines Composite Supply as 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.

Mixed Supply: Section2(74) of the GST Act defines Mixed Supply as supply of two 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.

Works Contract: Section 2(119) of the GST Act defines works contract as 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 execution of such contract.

4.6 A basic understanding of the structure, components and process of installation of grid connected rooftop solar power plant is also necessary before going into the details of the issues raised in the application for advance ruling.

A Solar Power Plant is a larger-scale power generation facility designed specifically for power supply. It uses a large-area solar panel array to collect solar energy, converts DC power into AC power through an inverter, and then transmits it to the grid. Based on the searches made in different websites on Internet regarding structure and process of installation of grid connected rooftop solar power plant we found the following information:

The main components of a solar power plant are:

Solar panels: The solar panels are the most vital component and responsible for amassing daylight and converting it into DC energy. A solar power device's most important aspect is its array of solar panels, which can be usually the product of silicon cells organized in a grid. The solar panels are of three types: Monocrystalline (most efficient), Polycrystalline (moderately efficient) and Thin film (not very efficient).

Inverters: Through using inverters, the DC energy produced by using solar panels is transformed into AC power which is well suited to the needs of our daily life.

Mounting structures: This factor guarantees that solar panels are securely attached to the roof where the solar power system is installed.

Wiring: Wiring is critical to connect the solar panels, inverter, and other components, ensuring easy electricity transmission.

Net meter (bidirectional meter): The net meter withdraws (imports) the exported units from the grid at night. It keeps all the appliances running. This power exchange is known as net

metering.

Grid: Grid is the quintessential part of a grid-connected PV system. It is more of a sort of battery since that is where excess power is sent and then taken back when needed. So, it is basically a sort of power backup system for the plant.

Thus a Solar Power Plant can be described as a complex and integrated system which converts sunlight into direct current electricity using the photoelectric effect. Inverters change the direct current into alternating current for connection to the electrical grid. In a rooftop solar power plant, the solar panels are installed on the roof of a building with the following installation process.

4.7 The step-by-step installation process of grid connected rooftop solar power plant can be summarized as under:

Preparing the roof: Before any setup, it is critical to thoroughly clean the roof surface of the roof, removing any debris, dust, or obstructions that could interfere with the mounting system. This guarantees a smooth and stable base for the solar panels. Then the mounting points are marked where the brackets might be set up. The brackets are securely fastened to the roof with the help of screws and bolts. The tilt angle of the brackets may be anything from 18 to 36 degrees for desirable results.

Installing the mounting structure: Then the mounting structures are installed on the roof. This is the base where the solar panels are placed for the desired function of the entire system. The mounting structures are attached to the roof with nuts and bolts first. Then the base of the structures is covered with concrete mixture up to a certain height in order to make the structure firm, long-lasting and durable.

Placing and securing the panels: This step begins with connecting the solar panels. Each panel is ready with connectors that ought to be attached to form a continuous electrical circuit. Now the solar panels must be secured to the mounting structure using nuts and bolts. The entire construction is secured adequately to ensure that it is durable and long-lasting.

Installation of electrical wiring: Electrical wiring comes next. The following sequence of electrical connections can be made between these panels:

Series Connection: The positive (+) wire of one PV module is linked to another module's negative (–) wire in a series connection. The voltage match with the battery bank is improved with this type of wiring.

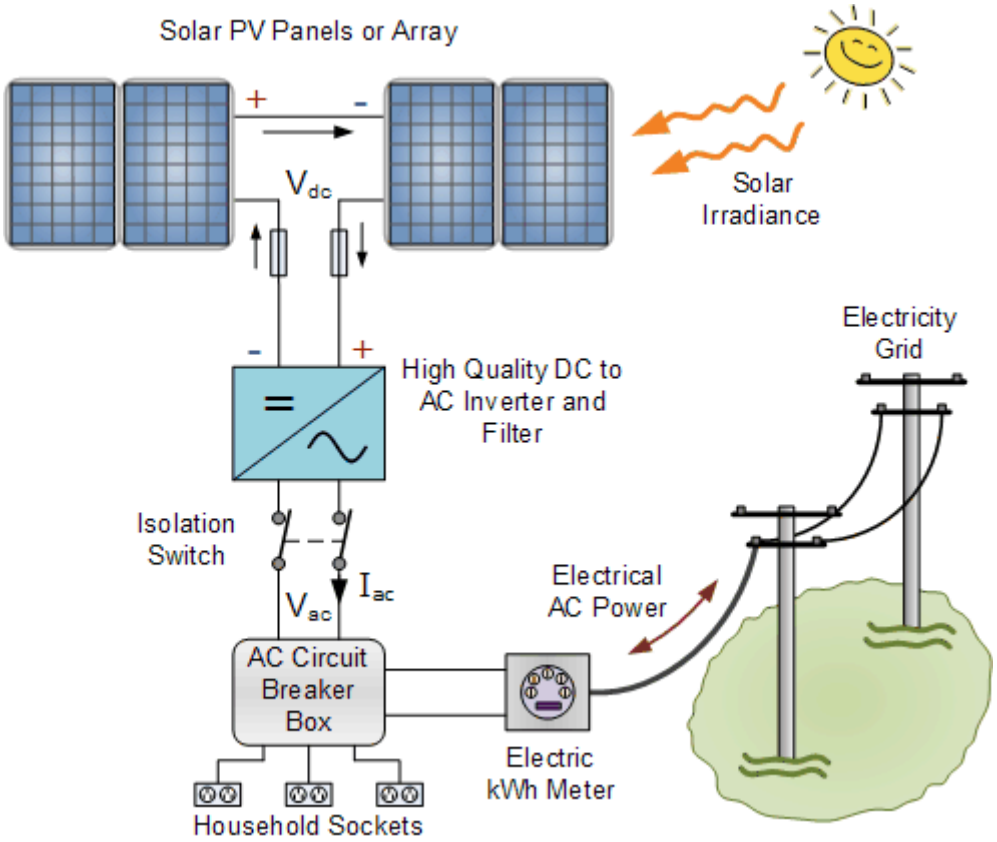
Parallel Connection: In this scenario, the connections are positive (+) to positive (+) and negative (–) to negative (–). Each panel's wiring voltage remains the same with this style of wiring.

Connecting the solar inverter to the system and solar battery: The system must then be connected to a solar inverter. The positive wire from the solar panel is linked to the inverter's

positive terminal, while the negative wire is connected to the inverter's negative terminal. After that, the solar inverter and solar battery are to be connected. The battery's positive terminal is linked to the positive terminal of the inverter, and the negative terminal is connected to the negative terminal of the inverter. To store an electrical backup in an off-grid solar system, a battery is required.

Linking solar inverter to power grid: The inverter must then be connected to the grid. A standard plug can be used to connect to the main power switchboard. The electric board that delivers electricity is linked to an output wire.

The following diagram represents the interconnection and integration of the different components of a solar power plant.



4.8 It is in the above background that we have to determine the nature of supply in respect of supply, design, installation, testing and commissioning of Grid connected rooftop solar power plant of the capacity of 280 and 210 KW respectively at Rangiya station consisting of Monocrystalline Panel, Inverter with remote monitoring system, fixing structure and all other accessories including LA and proper earthing.

4.9 At the very outset we should keep in mind that the issue raised in the instant application for advance ruling has already been placed before different Authorities for Advance Ruling in

different parts of the country. Even the matter has been referred to the Hon'ble High Court of Andhra Pradesh as well.

The rulings given by authorities differ so far as the nature of supply in the present case is concerned. The Karnataka Authority for Advance Ruling in the case of Solaris Non-conventional Energy Private Limited and the Maharashtra Authority for Advance Ruling in the case of Fermi Solar Farms Private Limited has ruled that the activity under question is works contract.

In the first case the authority observed that there is transfer of property in goods in case of installation of solar power generating system. The authority has also observed that the contract is for the engineering, procurement and commissioning of the solar power generating system and what is transferred is the entire power generating system including the civil works involved in the project. The project has a very high element of permanence. Civil structures are created and various equipments are installed on those structures. A project of this magnitude is not envisaged to be one which shall keep shifting its location. It is essentially of the nature of an immovable property. The individual components may be capable of being shifted but in its entirety the project is certainly of the nature of an immovable property. So the Karnataka AAR has considered the project as works contract.

The Maharashtra AAR has also found the installation of solar power system as works contract on the premises that the power system is an immovable goods.

Almost similar view has been adopted by the Rajasthan AAR in the case of Solairedirect India LLP.

In all the above cases the concerned AARs have hold that being works contract, installation of solar power system is to be taxed @ 9% CGST + 9% SGST.

4.10 Then on the other hand, we have the ruling of Haryana AAR in the Hero Solar Energy Pvt. Ltd. where the authority has taken the stand that 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. 1,1,/2017- Central Tax (Rate) dated 28.6.2017 vide Notification no.27/2O18-Central Tax (Rate) dated 31.12.2018.

4.11 Then we should refer to a recent judgement passed by the Hon'ble Andhra Pradesh High Court in the case of Sterling And Wilson Private Limited vs. Joint Commissioner & Others vide Writ Petition no. 20096/2020.

In the concluding part of the judgement the Hon'ble High Court has observed that in the present case, the solar power plant is not trees or shrubs, which are rooted in earth or a structure embedded in the earth. The appellate authority also accepts that the solar power

module is attached to the civil foundation, which is embedded in the earth. The property, which is attached to a structure embedded in the earth, would also become immoveable property only when such attachment is for the permanent beneficial enjoyment of the structure, which is embedded in the earth. In this case, the civil foundation is embedded in the earth.

However, the solar modules and the Solar Power Generating System have not been attached to the civil structure for the purpose of better enjoyment or beneficial enjoyment of the civil foundation. On the contrary, the civil foundation has been embedded on earth for better permanent and beneficial enjoyment of the Solar Power Generating Station.

Applying the aforesaid test, it must be held that the property in question, viz., the Solar Power Generating System would not answer the description of immoveable property. The transaction in question would not fall within the meaning of —works contract as defined under Section 2(119) of the GST Act.

The Hon'ble High Court has finally observed that applying the principles set out in **Commissioner of Central Excise, Ahmedabad v. Solid and Correct Engineering Works**, it must be held that the property in question is not embedded in the earth to bring it within the meaning of immoveable property. Once it is held not to be embedded, the question of whether it is a permanent embedment or not, would not arise. In this view of the matter, it must be held that the supply of the Solar generating Power Station, is a composite supply, it would not amount to a works contract.

4.12 Now in the above context we have to discuss the issues raised in the present application. The applicant has received an order to supply , design, installation, testing and commissioning of Grid connected rooftop solar power plant of the capacity of 280 and 210 KW respectively at Rangiya station under the Rangiya Division of Northeast Frontier Railway consisting of Monocrystalline Panel, Inverter with remote monitoring system, fixing structure and all other accessories including LA and proper earthing. It is to be noted that the order for supply and the subsequent agreement between the applicant and the Northeast Frontier Railway indicates that the contract is an EPC contract where the entire process of the project right from designing to installation and completion will be done by the applicant.

4.13 Clearly the order represents two aspects. First is the supply of the components of Solar Power Plants of 280 and 210 KW respectively. This supply includes different parts of a grid integrated rooftop solar power plant e.g. Monocrystalline Panel, Inverter having remote monitoring system, structures necessary for fixing the panels etc. This part of the supply represents supply of goods.

The other part of the supply represents the installation and setting up of the whole Solar

Power Plant by installing the solar power generating system on the roof top of the railway station and connecting it to grid. This is service by way of installation and engineering in relation to setting up of the entire roof top solar power plant connected with grid.

4.14 The above work order in its entirety suggests that here the supply is of composite nature. Here one taxable supply is for supply of goods in the form of Solar Power Generating system as narrated in 4.13 above. The other taxable supply is supply of service in the form of installation and setting up of the whole solar power plant. The two supplies are provided in conjunction with each other as per the work order placed before us.

4.15 From a conjoint reading of Sec. 2(30), 2(119) and Entry no. 6 of Schedule II of the GST Act it is evident that works contract as defined under Sec. 2(119) is a composite supply where the supply is to be treated as supply of services. So there can be two types of composite supply. One type is composite supply of the nature of works contract. The other type is composite supply other than works contract where the nature of supply (whether supply of goods or services) is to be determined in terms of principal supply. Now we must bear in mind that the activities which come under the ambit of works contract as defined under Sec. 2(119) must be in relation to any immovable property.

Since the term immovable property is not defined in the GST Act, we have to refer to the General Clauses Act, 1897 as well as the Transfer of Property Act, 1882 and different judicial pronouncements defining immovable property.

Under Section 3(26) of the General Clauses Act, 1897, "immovable property" includes land, benefits arising out of land, and things attached to the earth or permanently fastened to anything attached to the earth. There is no ambiguity in respect of the first two elements. The third element i.e. things attached to the earth or permanently fastened to anything attached to the earth has not been defined in the General Clauses Act, 1897. Here the Transfer of Property Act, 1882 comes to our help.

The Transfer of Property Act, 1882 has defined ‘attached to the earth’ as

rooted in the earth, as in the case of trees and shrubs.

imbedded in the earth, as in the case of walls or buildings.

attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached.

The Apex Court in its judgement in the Commissioner of Central Excise, Ahmedabad v. Solid and Correct Engineering Works case has set the guidelines to determine whether a property is immovable or not. The Apex Court has applied the conjoint reading of both the General Clauses Act, 1897 as well as the Transfer of Property Act, 1882. It is in this light that we have to determine whether roof top solar power plant is an immovable property or not.

4.16 The first two elements of the definition in the General Clauses Act, 1897 are absent in case of Solar power plant. Roof top solar power plant is clearly not rooted in the earth as in the case of trees and shrubs. It is certainly not imbedded in the earth as in the case of walls or buildings.

We have to examine the third aspect of the definition. The solar panels, the most important part of the solar power plant are definitely attached to a roof which is a part of a building which is imbedded in the earth. The solar panels are placed on the mounting structures. The mounting structures are fastened to the roof by using screws, nuts and bolts. The base of the structures is covered with concrete mixture up to a certain height in order to make the structure firm, long-lasting and durable. Then the solar panels are securely attached to the mounting structures with the help of nuts and bolts. The other essential parts of the rooftop solar power plant i.e. inverter with switch (here remote monitoring system as per contract), isolation switch, circuit breaker box) etc. are to be installed in a separate room built for this purpose.

It appears that the Grid connected Rooftop Solar Power Plant that is under consideration of this advance ruling is a complex system of many components integrated with one another. The supply, design, installation, testing and commissioning of Grid connected rooftop solar plants of the capacity of 280 and 210 KW involves enormous amount of survey, testing, designing, earthwork and installation of wires and cables, junction boxes, main board and sub-distribution board, controlling switches, socket outlets, D.P. main switches, single phase KWH meters, insulators. The work also involves erection of poles on concrete foundation in the ratio of 1:3:6 representing cement, sand and coarse aggregate respectively.

The preceding discussion clearly points out that the element of being permanently fastened to anything attached to the earth is very much present in case of rooftop solar power plant. Civil structures are created for installation of different equipments of the plant and those structures become inseparable part of the whole power plant. At the completion of the work it is the entire rooftop solar power plant with all the civil works done is transferred to the recipient. Some individual equipments/ components may be detached from the installation itself but in its entirety the grid connected rooftop solar power plant is immovable in nature. If we consider it in terms of degree of annexation, grid connected rooftop solar power plant is not a kind of installation that is capable of shifting from time to time. Rather the project in its entirety can be viewed as permanent both in terms of its use and location. It is not the case that the solar power plant has been installed somewhere today and will be shifted elsewhere the next day.

4.17 In view of the above discussion, it can be said that supply , design, installation, testing and commissioning of Grid connected rooftop solar power plant is a composite supply of the nature of works contract as defined under section 2(119) of the GST Act.

4.18 Once it is said so, the question that follows is whether the tax rate of supply of services is applicable on the whole amount of supply since works contract is treated as supply of service. To our considered opinion, the supply , design, installation, testing and commissioning of Grid connected rooftop solar power plant deserves a different treatment when it comes to the question of rate of tax.

Here we must refer to the relevant entries in Notification No. 1/2017-Central Tax (Rate) dt. 28.06.2017 and Notification No. 11/2017-Central Tax (Rate) dt. 28.06.2017 as amended.

Sl. No. in SCH	**Schedule**	**Chapter / Heading / Sub-heading / Tariff item**	**Description of Goods**	**Tax rate**	**Validity & [Notification No. & Date]**
201A	II	**84, 85 or 94**	Following renewable energy devices and parts for their manufacture:- (a) Bio-gas plant; (b) Solar power based devices; (c) Solar power generator; (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. 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. 1135-F.T ., dated 28th June, 2017, the value of supply of goods for the purposes of this entry shall be deemed as seventy per cent. of the gross consideration charged for all such supplies, and the remaining thirty per cent. of the gross consideration charged shall be deemed as value of the said taxable service.	6%	**01.10.2021-[Notification No. 1235-F.T. Dated – 21.10.2021 and 08/2021-Central Tax (Rate) Dated - 30.09.2021]**

Notification No. 11/2017-Central Tax (Rate) dt. 28.06.2017

Sl No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
[7]38.	9954 or 9983 or 9987	Service by way of construction or engineering or installation or other technical services, providedin 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 [16]~~234 of Schedule I~~ [16]*201A of Schedule II* of the notification No. 1/2017-Integrated Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub- section (i) dated 28th June,2017 vide GSR number 666(E) dated 28th June, 2017.	18	

4.18 We should not miss the Explanation parts of Entry no. 201A and Entry no. 38 of Notification No. 01/ 2017 – Central Tax (Rate) Dt. 28.06.2017 as amended and Notification No. 11/2017 – Central Tax (Rate) Dt. 28.06.2017 as amended respectively.

We have to discuss both the entries at length for the purpose of this application for advance ruling. There are eight renewable energy devices and parts for their manufacture viz. (a) bio gas plant, (b) solar power based devices, (c) solar power generator, (d) wind mills, wind operated electricity generator, (e) waste to energy plants and devices, (f) solar lantern/ solar lamp, (g) ocean waves/ tidal energy devices/ plants, (h) photo voltaic cells whether or not assembled in modules or made up into panels are mentioned in entry no. 201A of Schedule II which are to be taxed @6% (CGST)+ 6% (SGST) as per Notification No. 01/ 2017 – Central Tax (Rate) Dt. 28.06.2017 as amended.

Now if we look at the entries under serial no. 38 of Notification No. 11/2017 – Central Tax (Rate) Dt. 28.06.2017 as amended, we will find that all the above noted goods have not been mentioned in serial no. 38. Out of the above eight entries, only serial no. (a), (b), (c), (d), (e) and (g) have found their places. So it can be concluded if service by way of construction or engineering or installation or other technical services in respect of bio gas plant, solar power based devices, solar power generator, wind mills, wind operated electricity generator (WOEG), waste to energy plants and devices and ocean waves/ tidal energy devices/ plants are provided

along with supply of the devices and parts, the tax rate of the supply needs to be considered in terms of the explanations given with the relevant entries of the notifications referred to here.

It is clear that whenever we go for deciding the tax rate applicable for the supply , design, installation, testing and commissioning of Grid connected rooftop solar power plant (as is the case in the present application) we have to do it by interpreting Entry no. 38 of Notification No. 01/ 2017 – Central Tax (Rate) Dt. 28.06.2017 as amended in conjunction with Entry No. 201A of Notification No. 11/2017 – Central Tax (Rate) Dt. 28.06.2017 as amended. The two entries are interlinked in such a way that they cannot be read and interpreted separately.

4.19 Two things that emerge from the above discussion are as under:

Firstly, the value of supply in respect of the goods and services referred to in Entry No. 201A of Notification No. 11/2017 – Central Tax (Rate) Dt. 28.06.2017 as amended and Entry no. 38 of Notification No. 01/ 2017 – Central Tax (Rate) Dt. 28.06.2017 as amended is the Gross consideration charged by the supplier for the entire supply.

Secondly, the conjoint reading of Entry no. 38 of Notification No. 01/ 2017 – Central Tax (Rate) Dt. 28.06.2017 as amended and Entry No. 201A of Notification No. 11/2017 – Central Tax (Rate) Dt. 28.06.2017 as amended hints at bifurcation of the values of the total supply into 70 and 30 per cent. for supply of goods and supply of services respectively. The 70 per cent. portion of the supply will attract tax rate of the goods supplied i.e. solar power generator (in the present case) and the rest 30 per cent will attract the tax rate of the service under serial no. 38.

In view of the foregoing discussion, we rule as under:

RULING

Q1. Whether the supply of components of the solar power plant along with the erection of the same would be treated as a composite supply under GST?

Answer: The supply of components of the solar power plant along with the erection of the same would be treated as a composite supply of the nature of works contract.

Q2. If yes, what should be the classification and rate of GST on the said contract?

Answer: As per Entry no. 201 of Notification No. 01/ 2017 *supra,* tax rate should be 12% IGST on seventy per cent. of the gross value charged by the supplier and 18% IGST on thirty per cent. of the gross value charged by the supplier.

Q3. what would be the value on which the relevant rate of GST Would be applicable?

Answer: The value referred to here is the gross consideration charged by the supplier for the entire supply.

Q4. Whether Notification no. 24/2018-Central tax (rate) dated 31 December 2018 containing the explanation with the ratio of goods and services as 70:30 would be applicable?

Answer: The answer is in affirmative.

(Dr. TANISHA DUTTA)	(JAYDIP KUMAR CHAKRABARTI)
Member	Member
West Bengal Authority for Advance Ruling	West Bengal Authority for Advance Ruling

Place: Kolkata
Date: 8th May, 2025

To,
SUNSHELL POWER
183, Netaji Subhas Road, Uttarpara Kotrung,
Hooghly, West Bengal,
Pincode-712258

Copy to,

(1)The Principal Chief Commissioner, CGST & CX, 180, Shantipally, R.B.Connector, Kolkata-700107

(2)The Commissioner of State Tax, West Bengal, 14, Beliaghata Road, Kolkata-700015

(3)The Commissioner, Howrah Commissionerate, 15/1, Strand Road, MS Building, Kolkata-700001

(4)The Charge Officer, Srirampur Charge, Srirampore, Court Compound, Hooghly, Pincode-712201

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