
 सत्यमेव जयते	RAJASTHAN APPELLATE AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX NCR BUILDING, STATUE CIRCLE, C-SCHEME JAIPUR – 302005 (RAJASTHAN) Email : aaarjpr@gmail.com	
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Proceedings under Section 101 of the Central GST Act, 2017 read with Rajasthan GST Act, 2017

Before the Bench of

1. Sh. Satish Kumar Agrawal, Member (Central Tax)
2. Sh. Ravi Jain, Member (State Tax)

ORDER NO. RAJ/AAAR/04/2021-22 DATED2021

Name and address of the Appellant	:	M/s Utsav Corporation (Legal Name Sapna Gupta) Gurjar Ki Thadi, Jaipur
GSTIN/ UID of the appellant	:	08BXFPG0701B1ZA
Issues under Appeal	:	Classification of any goods or services or both
Date of Personal Hearing	:	08.12.2021
Present for the appellant	:	CA Shuchi Sethi, Authorised representative
Details of Appeal	:	Appeal No. RAJ/AAAR/APP/04/2021-22 against Advance Ruling No. RAJ/AAR/2021-22/10 dated 03.09.2021

(Proceedings under section 101 of the Central GST Act, 2017 read with section 101 of the Rajasthan GST Act, 2017)

At the outset, we would like to make it clear that the provisions of both the Central GST Act, 2017 and the Rajasthan GST Act, 2017 are same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central GST Act, 2017 would also mean a reference to the same provisions under Rajasthan GST Act, 2017.

2. The present appeal has been filed under Section 100 of the Central GST Act, 2017 (hereinafter also referred to as 'the CGST Act') read with Section 100 of the Rajasthan GST Act, 2017 (hereinafter also referred to as 'the RGST Act') by M/s Utsav Corporation (Legal Name Sapna Gupta) Gurjar Ki Thadi, Jaipur (hereinafter also referred to as 'the appellant') against the Advance Ruling No. RAJ/AAR/2021-22/10 dated 03.09.2021.

BRIEF FACTS OF THE CASE

3. M/s Utsav Corporation (legal name Sapna Gupta) Gurjar Ki Thadi, Jaipur (herein after referred as appellant) have filed appeal against Ruling issued by Authority for Advance Ruling Rajasthan vide order No. RAJ/AAR/2001-22/10 dated 03.09.2021. The Appellant has submitted appeal on online portal on 06.10.2021 and in hard copy on 18.10.2021. Fee of CGST Rs. 10000/- and SGST Rs. 10000/- have been paid vide Challan dated 23.09.2021. Brief facts of the case are as under: -

3.1 M/s Utsav Corporation, Gurjar Ki Thadi, Jaipur (hereinafter referred to as "appellant") is a proprietorship concern engaged in providing products and services in energy conservation, renewable energy sources, water infrastructure and water treatment project management. The appellant is engaged in supply of solar energy-based products under various contracts and on the basis of purchase orders from customers with or without installation service. Appellant is registered under GST as per the provisions of the GST laws bearing GSTIN 08BXFPG0701B1ZA in the state of Rajasthan.

3.2 Due to different nature of contracts/orders in the sector of solar energy devices, the appellant has sought advance ruling on following question for classification and GST rate on sale of solar energy products as Solar Water pumping system as a whole, sale of one of the products on standalone basis, and sale of the products under various combinations to be undertaken by them and supply of parts of the system along with installation.

1) What should be the classification and GST rate on sale of following goods or combination of goods:

- a) Solar Pump
- b) Controller
- c) Structure
- d) Solar Water Pumping System (comprising of Solar panel + Controller + Solar Pump + Structure)
- e) Solar panel + Solar Controller + Solar Pump
- f) Solar Pump + Solar Panel
- g) Solar Pump + Controller
- h) Solar Panel + Controller

2) What should be the classification and GST rate on Supply of Solar water pumping system as a whole comprising of goods (Solar Panel + Solar Controller + Solar Pump + Structure) along with the installation of Solar water pumping system for drinking water application?

3.2.1 Authority for Advance Authority has passed the ruling vides Order No. Raj/AAR/2021-22/10 dated 03.09.2021 which is as under.

3.2.2 Solar Panels: - Under the GST Tariff, S. No. 234 of Schedule-I of GST Tariff have a specific entry for Solar PV cells which is taxable at the rate of 5%.

3.2.3 Solar pump: - Solar pump is solar power-based devise and is classifiable under S. No. 234 of Notification No. 01/2017-CT (Rate) dated 28.06.2017 taxable at the rate of 5% GST.

3.2.4 Solar Controller: - Controller is neither solar power-based device nor part of solar power-based devices and fall under chapter heading 85 of GST Tariff which has a specific entry for Electrical transformers, static converters and inductor. Thus controller attracts 18% rate of GST.

3.2.5 Structure: -The structures are neither solar power-based devices nor part of solar power-based devices and fall under chapter heading 7308 and attracts 18% rate of GST.

3.2.6 Solar Water Pumping System (Solar panel, Controller, Solar Pump, Structure): - Since, Solar Water Pumping System is not the whole device it is made of Solar panel, Controller, Solar Pump, Structure etc. includes procurement, development, testing, commissioning etc hence, it is a mixed supply for goods and services and highest rate of GST will be applicable amongst goods supplied by the applicant.

3.2.7 Solar panel + Solar Controller + Solar Pump, Solar Pump + Solar Panel, Solar Pump + Controller, Solar Panel + Controller: -Since the above composition is the mixed supply of goods, as already discussed in above para, hence the highest rate of GST will be applicable amongst goods supplied by the applicant.

3.2.8 Supply of Solar water pumping system as a whole comprising of goods (Solar Panel + Solar Controller + Solar Pump + Structure) along with the installation of Solar water pumping system for drinking water application: - It is a works contracts Service and attracts 18% rate of GST S. NO. 3 of Heading 9954 (ii) of Notification No. 11/2017 dated 28.06.2017.

4. Aggrieved by the ruling, appellant has filed appeal before this forum on following grounds: -

4.1 Appellant submitted that technical details and use of the products 'Solar Controllers' and 'Structure' in the relevant context has been ignored in determination of classification of the product which have been briefed out by the Ministry of Renewable Energy Devices itself.

4.1.1 Solar Controller: -In the Ministry of New and Renewable Energy (MNRE) Guidelines for Solar Water Pumping Systems for 2019-20 vide Annexure-I of Circular No. F. No. 41/3/2018-SPV Division dated 17.7.2019, SPV controller is defined as under:

SPV Controller - Pump Controller converts the DC voltage of the SPV (Solar Photovoltaic) array into a suitable DC or AC, single or multi-phase power and may also include equipment for MPPT, remote monitoring, and protection devices.

The power output of a solar array is used or manipulated by components to which it is connected. The controllers perform the function of regulating the frequency of current supplied into the device/system according to the voltage requirement of device/system to which it is connected.

The Solar controller converts the DC power produced by the solar array to match the voltage and current operating requirements of the system's solar pump. It ensures that (i) the pump operates at its maximum performance levels and (ii) the pump will operate in less-than-perfect sun conditions, when sun rays are not available at required frequency such as on night time or cloudy days.

Solar charge controllers regulate the energy flowing from the PV array and to perform such function, they consist of following components and technology:

- Variable Frequency Drive
- Maximum Power Point Tracker (MPPT)
- Enclosure for Controller

With the variable voltage and frequency of solar power from PV array, solar drive converts the DC voltage input to AC output.

In the MINISTRY OF NEW AND RENEWABLE ENERGY (MNRE) Guidelines referred above, MPPT is defined as under:

Maximum Power Point Tracker (MPPT) — MPPT is an algorithm that is included in the pump controller used for extracting maximum available power from SPV array under a given condition. The voltage at which SPV array can produce maximum power is called 'maximum power point' voltage (or peak power voltage).

A maximum power point tracker (MPPT) can be installed between the Solar panel array and the pump motor to match the array's output with the required current or voltage of the motor to be operated.

A MPPT is effectively an electronic DC power to DC power converter and is often called a 'maxi miser' as it aids in maximum use of power generated by the solar panel array.

In the sunlight, the MPPT algorithm of solar drive extracts maximum power and also operates the motor at a variable speed based on the power input to drive. When the sunshine varies during the day, the power input to the drive also varies and the solar drive generates variable ratio to control the speed of the motor.

The above drive with MPPT is assembled in an enclosure to form a solar converter.

MPPT technology is not used in conventional electric pumps and it has no use there because the technology functions to maximize the use of DC power generated by solar panel array by the solar pumping systems only.

It is a distinguishing factor of solar controllers. MNRE Guidelines for Specification for Solar Photovoltaic Water Pumping Systems specifically provide that Maximum Power Point Tracker (MPPT) shall be included to optimally use the power available from the SPV array and maximize the water discharge.

Since in the case of appellant the controllers comprise of Variable Frequency Drive (VFDs) with MPPT, it is apparent that these controllers are designed only for use in solar pumping systems.

Hence, solar controllers are essentially parts for manufacture of Solar Water Pumping System.

As far as classification of controllers in Customs tariff is concerned, the relevant Heading is as under:

HSN	Description
8504	Electrical transformers, static converters (for example, rectifiers) and inductors 8504 40 - Static converters: 8504 40 40 --- Voltage regulator and stabilizers (other than automatic) 8504 40 90 --- Other

Hence the product is classifiable under Chapter 85 of Customs tariff.

Now, the relevant entries in GST Tariff for pumps classifiable under Chapter 85 are as under:

S. No.	HSN	Description	Rate
375.	8504	Electrical transformers, static converters (for example, rectifiers) and inductors, <i>other than charger or charging station for Electrically operated vehicles</i>	9%

S. No.	HSN	Description	Rate
201A	84, 85 or 94	Following renewable energy devices & parts for their manufacture <i>(b) Solar power based devices</i> <i>(c) Solar power Generator</i>	2.5%

On the basis of above explanation, solar controllers to be supplied by the appellant are essentially parts for manufacture of Solar Water Pumping System which is a Solar Power based device which is covered under entry 201A being 'Solar Power based device'.

4.1.2 Structure: -Iron structures are used for mounting of PV modules in a solar water pumping system.

As per MNRE Guidelines for Specification for Solar Photovoltaic Water Pumping Systems, the PV modules should be mounted on metallic structures of adequate strength and appropriate design, which can withstand load of modules and high wind velocities up to 150 km per hour. The support structure used in the pumping system should be hot dip galvanized iron with minimum 80 micron thickness according to IS 4759.

To enhance the performance of SPV water pumping systems arrangement for seasonal tilt angle adjustment and three times manual tracking in a day should be provided. In order to make structure rigid, the gap between Telescopic pattern supports should be

minimal, further, for bearing of centre load of whole structure only pins should be used instead of threaded bolts.

As far as general classification of iron structures in Customs tariff is concerned, the relevant Heading is HSN 7308 which has following description:

Structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frame-works, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel

However, in the case of appellant, the product in question is not general iron structures but 'Water Pumping System Mounting Structure'. They are parts of specific machines.

Hence it is important to refer the Section Note according to which parts of machines are to be classified. Note 2 of Section XVI of Customs Tariff being relevant in the given case states as under:

2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

(a) parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;

(b) other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517;

It is a fact that structures in the given case are specifically designed as per technical specification of Solar water pumping system in which they have to be used and hence they are undoubtedly intended to be part of solar pumping systems. When the structures are purchased by the appellant from their supplier, the Purchase Orders raised by the appellant for structures clearly indicate that 'Water Supply Solar Pump Mounting Structure' is required and it also indicates that structure should be suitable for specified number and weight of panels to be mounted thereon for the manufacture of solar pumping system.

A sample PO for Water Supply Solar Pump Mounting Structure of Galvanized Iron for 8 panels and weight of 1280 kg has been enclosed.

Hence it is clear that the structures in the given case are suitable for use solely with a particular kind of machines, i.e. Solar Water Pumping System.

Relevant to the point here, in the case of *M/s Phenix Construction Technology vs. Commissioner of Central Excise & Service Tax, Ahmedabad-II [2017-TIOL-3281-CESTAT-AHM]*, the point of dispute was that whether structures and part of structures would qualify as components of the solar power plant. Hon'ble CESTAT held that *items in question definitely be considered as 'components' of the reflector, undisputedly used being required for initial setting up of a solar power generation project or facility, hence eligible to the benefit of exemption Notification No.15/2002CE dt.27.02. 2010, as amended."*

As relied upon in the above judgment also, MNRE Guidelines for Specification for Solar Photovoltaic Water Pumping Systems dated 17.7.2019 specifically state that PV Modules should be mounted on metallic structures of adequate strength and appropriate design. Hence structures designed for mounting of PV modules for solar water pumping system are essentially parts of Solar water pumping system.

In the case of *Elecon Engineering Co. Ltd. 1998 (103) ELT 395 (Tribunal)*, it was agreed that power cables cut to specific size and used as a protection to the wind mill from short circuit should be treated as an essential part of the Wind Turbine Controller.

Hence above facts and judgment strengthen the facts that structures are parts solely for use in Solar water pumping system.

Applying the above Section Note 2 to structures in the given case, these are parts not included in Chapter 84 or 85, so they out of (a) above. Thus structures are other parts and as per Note 2(b), since these structures are suitable for use only with Solar Water Pumping System having specific technical design and parameters for specified number of panels and weight etc., these structures are to be classified with the solar water pumping system only under Chapter 84.

Hence the structures are classifiable under Chapter 84 of Customs Tariff by applicability of Section Note 2(b) to Section XVI of Customs Import tariff.

Now for determining the GST rate on iron structures for solar pumping system sold on standalone basis, the relevant entry is as under:

S. No.	HSN	Description	Rate
201A	84, 85 or 94	Following renewable energy devices & parts for their manufacture (b) <i>Solar power based devices</i> (c) <i>Solar power generator</i>	2.5%

Appellant submitted that structures supplied by the appellant are specifically designed for use in solar water pumping systems according to the specific number of panels, the load of which has to be borne by the structure. As explained above, they are classifiable under Chapter 84 of Customs Tariff by applicability of Section Note 4(v) to Section XVI of Customs Import tariff.

Hence, the structures for solar water pumping system are classifiable as parts for manufacture of Solar Water Pumping system which is Solar power based device in the above Entry 201A having HSN under Chapter 84.

4.2 Appellant submitted that ruling regarding the sale of parts of Solar Water pumping System in different combinations has been passed in a blindfolded manner and relevant provisions have not even been read. Authority has jumped to a presumption of mixed supply without any relevance of the same in given case. The relevant provisions under Section 2 of CGST Act are reproduced as under:

(30) “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;

(74) “mixed supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person **for a single price** where such supply **does not constitute a composite supply**.

Appellant submitted that as per the definition, characteristics of mixed supply are as under:

- 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**

4.2.1 Appellant submitted that pre-requisite of a mixed supply is that the individual supplies therein are made by the taxable person **for a single price**. However the given transaction of sale will be made by the appellant on separate prices clearly bifurcated for all the parts of Solar Water Pumping System. Copy of sample Purchase Order by a customer of the appellant for previous periods has been attached.

4.2.2 Appellant submitted that it is abundantly clear from the above definition that a mixed supply is a combination which does not constitute a composite supply. Hence without applying and refuting the applicability of composite supply, conclusion regarding mixed cannot be reached. Now in the given facts, it was explained to AAR and substantiated by commercial practices and guidelines issued by the concerned Ministry of Central Government itself that the goods supplied together by the appellant are essential parts of a Solar Water Pumping System. The submissions are re-submitted as under:

MNRE Guidelines for Specification of Solar Water Pumping System 2019-20 clearly state as under:

A solar photovoltaic (SPV) water pumping system is a system powered by solar energy which consists of SPV panels and when sunlight falls on the solar panels it produces current which then feeds the motor to pump out the water. So the system is a solar power generating system. A SPV Water Pumping System typically consists of:

- Pump Set (having AC or DC motor)
- Solar Photo Voltaic (SPV) Array (made up of Solar Panels/Modules)
- Solar Controller (SPV Controller)
- Module Mounting Structures.

4.2.3 The characteristics, technical design and specifications of these parts itself indicate that they are intended to contribute together for manufacture of a Solar water pumping system which is solar power based device. In no stretch of imagination, it can be refuted that such bundle of supplies is a natural bundle of goods supplied in conjunction with each other in the ordinary course of business. However, the AAR has not assessed or tested the supplies under the parameters of composite supply, which clearly stands these tests.

4.2.4 Appellant submitted that the parts of solar power based device have been specifically classified under Entry 201A of the Notification No. 1/2017-CT (Rate) dated 28.06.2017. The purpose clearly appears to remove any ambiguity regarding classification related to Solar Power Generators or Solar Power based devices and in the present case, it is substantiated clearly that all the goods supplied by the appellant are parts of Solar Water Pumping System which is a solar power based device.

4.2.5 The appellant is awarded with contract or receives Purchase Orders for supply of whole solar water pumping systems consisting of all above components. These contracts or orders being discussed here are only for supply of goods and it includes all the above goods required for Solar water pumping system. A sample PO has been enclosed for reference.

4.2.6 In view of appellant, the entire supply shall be regarded as supply of Solar Water Pumping System which of course qualifies as a 'Solar Power generating system' or 'Solar power based device'. This understanding is backed by a rule of interpretation that a heading of classification should be understood in a sense to include that article in unassembled or disassembled form also.

Rule 2 of General Rules for the Interpretation of Customs Import Tariff is applicable here which provides as under:

2. (a) *Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished articles has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), **presented unassembled or disassembled.***

Rule 3

3. *When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:*

(a) *The heading which provides the most specific description shall be preferred to headings providing a more general description. **However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.***

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.

4.2.7 For materials contained in composite goods, i.e. Solar Water Pumping System, different heading refer to different parts of the solar pumping system like Heading 8413 for Pumps, Heading 8504 for Controller etc., by application of Rule 3(a), each heading has to be regarded as equally specific in relation to Solar pumping system and one of them cannot be said to have most specific description as per Rule 3(a).

4.2.8 Since each Heading is specific as per Rule 3(a), such composite goods cannot be classified by reference to 3(a), hence Rule 3(b) needs to be applied. As per Rule 3(b), mixture or composite goods consisting of or made up of different components shall be classified as if they consisted of the material or component which gives them their essential character.

4.2.9 The essential character of Solar Water Pumping System is attained by the pump sets. The essential function of the Solar Water Pumping System is to pump water from its source and this essential character of the system is satisfied by the pump sets. Hence as per application of Rule 3(b), Solar Water Pumping System should be classified as pump under Heading 8413.

4.2.10 Further the AAR in the present case has already ruled that the solar pump sets are taxable at the rate of 5% only under erstwhile Entry 234 which is now Entry 201A of Goods Tariff Notification. Hence the whole supply shall be classified and taxed similarly.

4.2.11 In addition to the above Rules of interpretation, Note 4 of Section Notes to Section XVI of Customs Tariff further requires the classification in this manner, which is read as under:

4. Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function.

4.2.12 The solar pumping system is a machine which consists of individual components being the above products. As explained in detail above, these products are intended to contribute together to form a Solar Water Pumping system which has to perform the function of water pumping and pumps for handling water are classifiable under Heading 8413. Hence according to the Section Note 4, Solar Water Pumping System is classifiable under Chapter 8413.

4.2.13 It is further submitted that the Solar pumping system sold by the appellant consisting of the individual components in unassembled form will still be included in Heading 8413 only as per Rule 2(a) which clearly provides that a reference to a heading should be taken to include a reference to that article presented in unassembled or disassembled form.

4.2.14 Now as it is understood while classification of solar pumping system under Customs tariff that Solar Water Pumping system is in itself a product and being composite goods or

machine consisting of individual components, it is classified as the essential character component i.e. pumps, the classification of the product in question i.e. 'Solar Water Pumping System' under GST tariff for determining tax rate needs to be looked upon.

4.2.15 That the AAR has ruled as under in relation to this question:

Since, Solar Water Pumping System is not the whole device it is made of Solar panel, Controller, Solar Pump, Structure etc. includes procurement, development, testing, commissioning etc. hence, it is a mixed supply for goods and services.

4.2.16 That it has been understood and acknowledged by the AAR that Solar Water Pumping System is made of Solar panel, Controller, Solar Pump, Structure etc. and these are the goods in question supplied together by the appellant. However, the understanding of the AAR that Solar Water Pumping System is not the whole device is vague and unclear. The appellant does not find any meaning in the statement that this system includes procurement, development, testing, commissioning etc. hence, it is a mixed supply for goods and services. It has been clearly mentioned in the facts this particular part of question has been asked regarding supply of the goods for manufacture of Solar Water Pumping System. The appellant is not able to process that where the supplier is supposed to sell goods only, how come they said supply be termed as a mixed supply of goods and services. The ruling has been passed in certain ill presumptions beyond the facts of the case without putting forward the same or asking any question in that regard in the personal hearing of the appellant.

4.2.17 Although the term 'Solar power generating system is not defined in GST law. Exemption were provided to Solar power generating systems in excise regime as well and term has been interpreted by Authorities as under:

- a. In **Rajasthan Electronics 2005 (180) ELT 481 (Tri – Delhi)**, the case of the appellant was that a Dusk Dawn System which is an electronic system for street lights comprising of electronic controller and Solar Photovoltaic Module should be entitled for benefit of notification being a Solar Power Generating system or not.

The contention of the appellant was that whole system works on the solar energy and it is an energy saving device used for automatic switching off the street lights making proper use of grid power and increasing the life of the lamps by operating the street light from sunset to sunrise.

The contention of the Revenue is that whole system is not on the solar power generating system. Only one part of the system i.e. SPV module, can be called as 'Solar Power Generating System'. The other part of the SPVDDS is application part where the power generated by the SPV module is consumed by which the Dusk Down System functions.

Hon'ble Delhi Tribunal held as under:

The adjudicating authority admitted the fact that Solar Photovoltaic Module is a Solar Power Generating System. We find that other parts are only panel housing consisting of controllers and switches. Hence the whole system is a Solar Power Generating System and is entitled for the benefit of notification.

4.2.18 The Authority for Advance Rulings of Uttarakhand in case of *Eapro Global Limited* has confirmed the taxability for supply of same goods in similar combinations where the appellant in exactly similar background asked the following questions:

- (a) Applicability of GST rate on supply of solar inverter, controller, battery and panels under "Solar Power Generating System" as a whole & whether such supply be called as 'composite or mixed supply'
- (b) Supply of solar inverter & solar panels together will fall under the definition of "Solar Power Generating System" or it will be a 'mixed supply' and the applicability of GST rate on supply of solar inverter & solar panels together.

The Authority concluded as under:

- i) Supply of solar inverter, controller, battery and panels would be covered under "Solar Power Generating System" as a whole in terms of Sl. No. 234 of Notification No. 01/2017 – CT(Rate) dated 28.06.2017 when supplied for said purpose and the applicable rate of GST will be 5% and such supply will be treated as composite supply.
- ii) Supply of solar inverter & solar panels together will fall under the definition of "Solar Power Generating System" (if the same are used for said specified purpose) in terms of Sl. No. 234 of Notification No. 01/2017 – CT(Rate) dated 28.06.2017 and the applicable rate of GST will be 5% and such supply will be treated as composite supply.

Hence on the basis of above analysis, the appellant's interpretation has been affirmed that sale of all these components together is a composite supply in which sale of Solar Water Pumping System itself is the composite supply since the intention of the recipient is very clear that he has to procure a Solar Water Pumping System as a whole.

4.2.19 Further, in case of **Aura Solar** recently a judgment has been delivered by Mumbai Tribunal in the context of Excise where it has said then when goods are sold as a package and can be proved through a technical opinion that it is a solar power generating system then exemption cannot be denied. The relevant extract of judgment is as under:

CESTAT extends exemption to "Solar Power Generating System" or "Solar Photovoltaic Lantern" in respect of clearance of solar lanterns under a single pack; Finds vivisection of the package to classify a part of such package and deny exemption in respect of one lamp as "neither justified nor having any basis in law"; Pursuant to investigation, Revenue alleged that assessee cleared portable lamp (in sets of two lamps) by projecting the same as "solar lantern" in their invoices & other documents to fraudulently avail exemption under Notification No 6/2002-CE as applicable to 'Non-conventional energy devices'; Observes that (i) manner in which the goods were being cleared was in a package comprising of two lanterns along with a SPV panel, (ii) assessee did not sell the lantern individually whereas the packaging and marketing of product showed that both the lamps in the package were marketed as solar lanterns and (iii) assessee did not sell the single lantern individually or separately; Remarks "The classification of the goods need to be determined in the form and manner in which the same is cleared and not by unbundling/vivisectioning the package into individual components to determine their classification"; Relying upon the technical opinion provided by IIT, concludes that the assessee clears nothing but "Solar Power Generating System" or "Solar Photovoltaic Lantern" and the exemption

claimed by the assessee in respect of same under SI No 237 of Notification No 6/2002-CE is admissible to the whole package" : Mumbai CESTAT.

4.2.20 That in the view of appellant based on explanations given below, all the items supplied in the transaction of sale are classifiable under Entry 201A of the Notification No. 1/2017-CT (Rate) dated 28.06.2017 amended as on date under respective HSN codes as above and hence the applicable tax rate on supply of all items is 5% and thus the tax rate applicable on supply in question shall also be 5% only.

4.3 Other Combinations:

1. Solar Controller + Solar Pump + Solar panel
2. Solar Pump + Solar Panel
3. Solar Pump + Controller
4. Solar Panel + Controller

4.3.1 The components sold by the appellant are all designed specifically and solely for use in a solar water pumping system. When these parts are sold in any combination as mentioned above, they are eventually intended for use in manufacture of a Solar water pumping system only. The combinations may vary according to the customer demands and requirements.

4.3.2 In case of **B.H.E.L. v. Commissioner of Central Excise, Hyderabad 2008 taxmann.com 125 (Bangalore - CESTAT)**, Hon'ble Bangalore Tribunal has even held that an inverter charger card is entitled for benefit as a Solar power generating system:

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

4.3.3 The parts intended to be sold by appellant are designed to be solely used for solar water pumping system with required technologies and components (like low voltage pump solar pump sets, Controllers with MPPT algorithm technology) which are usable for solar water pumping system only.

4.3.4 Hence these parts are undoubtedly for manufacture of Solar Water Pumping system only. Further, as explained and enumerated above, all these parts fall under Chapter 84 or 85 of Customs Tariff read with application of relevant Section Notes. Being parts for manufacture of Solar water pumping system and falling under Chapter 84 or 85, all these parts or any combination of them being intended to be sold by the appellant must be classified under Entry 201A of Notification No. 01/2017 – CT(Rate) dated 28.06.2017 i.e. GST Tariff for Goods.

4.4 Appellant submitted that supply of 'Solar Water Pumping System' along with its installation, the ruling given has been framed in complete ignorance to specific provisions applicable in the present case and ruling given by AAR is reproduced below: -

In the present case, the applicant is proposed to supply the functional solar water pumping system as a whole, which include supply, installation, commissioning & maintenance. The proposed supply including installation, commissioning & maintenance would fall under the ambit of works contract service as per Section 2(119) of CGST Act, 2017 and attracts 18% GST.

2. Further, we observe that the supply, supplied by the applicant i.e comprising of goods (Solar Panel + Solar Controller + Solar Pump + Structure) along with the installation is a composite supply of works contract, and the rate of tax in given service shall be determined in accordance with the Notification No 11/2017-CT (Rate) dated 28.06.2017, as amended from time to time.

The relevant portion of the S. No. 3 (Heading 9954) (ii) of the Notification No 11/2017-CT (Rate) dated 28.06.2017 (as amended) is as under: -

S. No.	Chapter, Section or Heading	Description of Service	CGST	SGST
			Rate %	Rate %
3	Heading 9954 (Construction services)	(ii) composite supply of works contract as defined in clause 119 of section 2 of Central Goods and Services Tax Act, 2017.	9	9

In view of the above, we find that the proposed supply comprising of Solar Panel, Solar Controller, Solar Pump, Structure along with the installation shall attract GST @18% under S. No. 3 of Heading 9954 (ii) of Notification No. 11/2017, dated 28.06.2017.

4.4.1 Appellant submitted that they have explained in the submission to the AAR but the same have been ignored without any rebuttal or reason for non-consideration and reproduced the relevant entries of tariff.

4.4.2 Appellant submitted that the entries in Tariff notifications for both goods and services have been amended since 01.02.2019 itself to give effect to taxability of contracts for supplies with installation in the sector of solar devices in a ratio of 70:30 with an effective rate of 8.9%. The notification has been further amended now vide Notification No. 8/2021-Central Tax (Rate) dated 30th September, 2021 after the pronouncement of Advance Ruling in the present case to increase the tax rate of goods portion from 5% to 12% thus making the effective tax 13.8%.

4.4.3 Appellant submitted that in the given case, there is a contract from PHED department viz. "Supplying, installation, commissioning including Operation and maintenance of Solar Energy based bore well water pumping systems" for designing, providing, installation, and commissioning of 84 Nos. Solar Energy based bore well water pumping systems, (with De-fluoridation unit of capacity 1000 LPH) including comprehensive operation and maintenance for a period of 7 years in various fluoride affected villages/habitations which has been awarded to a contractor and under a contract with such main contractor, appellant is looking forward to provide to the main contractor Solar Pumping Systems comprising of following goods:

- Solar Panels

- Solar Pumps
- Solar Controllers
- Structure
- LED Lights
- Installation and commissioning of the Solar energy based bore well pumping system at the respective sites.

A sample proposal for scope of work for sub-contracting arrangement has also been enclosed.

4.4.4 Appellant submitted that the GST rates on goods have been notified by the Government in Notification No. 01/2017 – Central Tax (Rate) dated 28.06.2017 which has been amended by various notifications and the extract of the said notification amended till date relevant for the present issue is reproduced as under:

Sl. No.	Chapter	Description
201A	84, 85 or 94	<p>Following renewable energy devices & parts for their manufacture:</p> <ol style="list-style-type: none"> Bio-gas plant Solar power based devices Solar power generator Wind mills, Wind Operated Electricity Generator (WOEG) Waste to energy plants/devices Solar lantern/solar lamp Ocean waves/tidal waves energy devices/plants Photo voltaic cells, whether or not assembled in modules or made up into panels <p><i>“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)], <u>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.</u>”</i></p>

4.4.5 Appellant submitted that on a conjunctive reading and analysis of above entries in GST Tariff Schedule of goods and services, it comes to understanding that when goods under Entry 201A are supplied by a supplier along with other goods and services, one of which is taxable service under Sl. No. 38 above, the value of supply of goods and value of supply of services has to be deemed as 70% and 30% of gross consideration respectively. The rate of

GST on value of goods will be 5% and rate of GST on services will be 18%. In the given case, appellant has to provide goods falling under Sl. No. 201A of the Goods Tariff clearly as per the understanding elaborated in the previous Question. Further, the appellant is also required to supply services of installation covered under HSN 9987 for Solar energy based pumping system which is covered under Sl. No. 38 of Service Tariff. Hence, in the understanding of the appellant, it has to supply goods under Sl. No. 201A of Goods Tariff Schedule along with supply of other goods and services, one of which being installation service falling under Sl. No. 38 of Services Tariff Schedule, the value of supply of goods and value of supply of service shall be taken as per Explanations to these entries, viz. 70% and 30% respectively.

4.4.6 Appellant submitted that AAR in the present case has overruled a decision of the Appellate Advance Ruling Authority Rajasthan in case of Shri Kailash Chandra (Prop. Mali Construction) Order No. RAJ/AAAR/2019-20 dated 15.05.2019 (copy enclosed), wherein it was held as under:

23. On careful consideration of the abovementioned entries of the said notifications, we find that the Solar Energy based bore well water pumping system (hereinafter also referred to as "the System") deserve classification under entry No. 234 of the Notification No. 01/2017-Central Tax (Rate) as 'Solar Power based devices'. The Appellant has contended that benefit of Notification Nos. 24/2018-Central Tax (Rate) and 27/2018- Central Tax (Rate) inserting 'Explanation' in the entry No. 234 ibid and inserting entry No. 38 ibid respectively should be available to them. After going through the amended entries 234 and 34 ibid, we find that the benefit is available only when the Solar Power based devices' i.e. the System is supplied along with other goods and Services, one of which being a taxable service specified in the entry at S. No. 38 ibid. We find that a standard Solar Energy based bore well water pumping system comprises SPV panels, Structures, Storage tank, Controller, Pipe and Cables. The Appellant is also adding De-fluoridation unit (DFU) and also accomplishing the task of installation, commissioning, operation and maintenance of the System including DFU. DFU qualifies for other goods while Installation and Commissioning of the System are the Services which are not only taxable but are also being provided in relation to setting up of the System, a requirement of the 'Explanation' to entry No. 234 ibid and entry No. 38 ibid. Thus, we find that the condition precedent to availment of the benefit of these entries i.e. "supply of other goods and Services also, one of which should be a taxable service specified in the entry No. 38", stands fulfilled.

4.4.7 Appellant further submitted that, in case of Premier Solar System Pvt. Ltd. reported in 2019-TIOL-79-AAR-GST, a ruling was sought

"(b) Whether the supply of solar irrigation water pumping systems along with design, erection, commissioning & installation is a 'composite supply' and the applicability of GST rate?"

The Authority pronounced a Ruling that

(i) Supply in question would be covered under "Solar Power Generating System" as a whole in terms of serial no. 234 of Schedule-1 of the Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017.

(ii) Supply in question would be treated as "composite supply".

(ii) 70% of the gross value of supply in question shall be the value of supply of said goods falling under chapter 84, 85 or 94 of the Tariff only would attract 5% GST rate and the remaining portion (30%) of the aggregate value shall be the value of supply of taxable service attracting 18% GST rate in terms of Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018. Other goods used in these plants attract applicable GST rate.

4.4.8 Appellant submitted that from the above submission, it is clear that in case where supplier is required to supply of goods and services for 'Solar energy based bore well water pumping system', the taxability and valuation has to be done in line with Sl. No. 201A of Notification No. 01/2017 – CT(Rate) dated 28.06.2017 read with Sl. No. 38 of Notification No. 01/2017 – CT(Rate) dated 28.06.2017 along with their Explanations having a tax rate of 12% on 70% goods portion of the supply and 18% GST on 30% service portion of the gross amount of contract.

PERSONAL HEARING

5. Personal hearing in the matter was held in virtual mode on 08.12.2021 which was attended by Mrs. Shuchi Sethi, CA as Authorized Representative of the appellant, M/s Utsav Corporation (Sapna Gupta), Jaipur. During the course of personal hearing, the authorised representative reiterated the submissions already made by them in the appeal under the head of 'grounds of appeal'.

DISCUSSION AND FINDINGS:

6.1 We have carefully gone through the Appeal papers filed by the Appellant, the Ruling dated 03.09.2021 given by the AAR, Rajasthan, written as well as oral submissions made by the authorized representative(s) of the appellant, at the time of personal hearing held on 08.12.2021.

6.2 We find that the Appellant has claimed that they are engaged in supply of solar energy based products under various contracts and on the basis of purchase orders from customers they supply these products with or without installation service. The appellant has sought advance ruling as to the classification of the goods proposed to be supplied by them and the rate of GST applicable on different types of sale (supply) of such solar energy based products such as Solar Water Pumping System as a whole or sale of one of the specified products on standalone basis or sale of the products under different combinations to be undertaken by them and also supply of parts of the system along with supply of installation service relating to such system.

6.3 As can be seen from the order dated 03.09.2021 of the Authority for Advance Ruling, it has been held therein that-

- (i) Solar Panel has a specific entry in the 1st schedule and the same is taxable at the rate of 5% GST;
- (ii) Solar Pump is a solar power based device which is covered under Sl. No. 234 of Notification No. 01/2017-CT (Rate), dated 28.06.2017 and, therefore, taxable at the rate of 5% GST;
- (iii) Controller is neither a solar power based device nor a part of solar power based devices and, therefore, the same would fall under chapter heading 85 of GST Tariff which has a

specific entry for Electrical Transformers, Static Converters and Inductors attracting 18% rate of GST;

(iv) Structures are neither solar power based devices nor part of solar power based devices and, therefore, the same would fall under Chapter Heading 7308 attracting 18% rate of GST;

(v) Solar Water Pumping System (Solar panel, Controller, Solar Pump, Structure) is not the whole device rather it is made of Solar Panel, Controller, Solar Pump, Structure etc. which includes procurement, development, testing, commissioning etc. and hence, it is a mixed supply for goods and services and the highest rate of GST will be applicable amongst goods supplied by the applicant;

(vi) Solar Panel + Solar Controller + Solar Pump, Solar Pump + Solar Panel, Solar Pump + Controller, Solar Panel + Controller compositions are the mixed supply of goods, hence, the highest rate of GST will be applicable amongst goods supplied by the applicant;

(vii) Supply of Solar water pumping system as a whole comprising of goods (Solar Panel + Solar Controller + Solar Pump + Structure) along with the installation of Solar water pumping system for drinking water application is a Works Contract Service which attracts 18% rate of GST as per Sl. No. 3 (ii) (Heading 9954) of Notification No. 11/2017 dated 28.06.2017.

6.4. The appellant has contested all the rulings given by the AAR, Rajasthan except for the rulings mentioned at point No. (i) and (ii) above. We have considered the submissions made by the appellant in the appeal filed by them against the ruling of the AAR, Rajasthan and gone through the relevant documents available on record.

6.5. So far as the classification of controller is concerned we observed that it has been claimed by the appellant that technical details and use of the product i.e. 'solar controller' have been ignored by the AAR, Rajasthan in determining the classification of the product. We find that the relevant entries in GST Tariff for controller classifiable under Chapter 85 are as under:

Sl. No.	HSN	Description	Rate
375.	8504	Electrical transformers, static converters (for example, rectifiers) and inductors, other than charger or charging station for Electrically operated vehicles	9%

The appellant has relied heavily on the guidelines of the Ministry of New and Renewable Energy for Solar Water Pumping Systems to claim that controllers to be supplied by them are essentially parts for the manufacture of solar water pumping system which is a solar power based device attracting GST rate of 5% as per entry number 201A of Notification No. 01/2017- Central Tax (Rate), dated 28.06.2017. Based on these guidelines, it is their claim that an SPV Controller converts DC voltage of the SPV array into suitable DC or AC, single or multi phase power and may also include equipment for MPPT (Maximum Power Point Tracker) and remote monitoring and protection devices. The appellant has further claimed that the Solar controller converts the DC power produced by the solar array to match the voltage and current operating requirements of the system's solar pump and it ensures that the pump operates at its maximum performance levels and the pump will operate in less-than-perfect sun conditions, when sun rays are not available at required frequency such as on night time or cloudy days.

We find that the controller as claimed by the appellant is an electrical device that can coordinate in a predetermined manner the performance of an electric motor. 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 can not 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, can not 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. Accordingly, we find that a controller will attract GST at appropriate rate applicable to items of Chapter Heading 8504 as held by the Authority for Advance Ruling.

6.6. Another point for determination as raised by the appellant in the appeal concerns the classification of structure and resultant applicable rate of GST thereon. It is the contention of the appellant that the product in question i.e. steel structure is not a general iron structure rather the same is specifically designed as per technical specifications of solar water pumping system and, therefore, it is a part of the solar water pumping machine. Claiming that the structures in the given case are suitable for use solely with a particular kind of machine i.e. solar water pumping system, the appellant has relied upon the judgment of Hon'ble CESTAT in the case of M/s Phenix Construction vs Commissioner of Central Excise & Service Tax, Ahmedabad-II as reported at 2017-TIOL-3281-CESTAT-AHM wherein it was held that structures and parts of structures would be considered as components of the reflector, undisputedly used being required for initial setting up of a solar power generation project or facility.

We find that the judgment relied upon by the appellant was given in the context of exemption provided under Notification No. 15/2010- C.X., dated 27-2-2010 issued under Section 5A(1) of the *Central Excise Act, 1944* which was contingent upon fulfillment of certain conditions. For better appreciation of the provisions of the notification, the relevant portion is reproduced below:-

“--- the Central Government on being satisfied that it is necessary in the public interest so to do, hereby exempts all items of machinery, including prime movers, instruments, apparatus and appliances, control gear and transmission equipment and auxiliary equipment (including those required for testing and quality control) and components, required for initial setting up of a solar power generation project or facility, from the whole of the duty of excise leviable there on which is specified in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), subject to the following conditions, namely-

(1) before the clearance of the goods from the factory, the manufacturer produces to the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, a certificate, from an officer not below the rank of a Deputy

Secretary to the Government of India in the Ministry of New and Renewable Energy recommending the grant of this exemption and the said officer certifies that the goods are required for initial setting up of a solar power generation project or facility; and (2) the manufacturer of such goods furnishes an undertaking to the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, having jurisdiction, to the effect that -

(a) *the said goods shall be used only in the said project or facility and not for any other use; and*

(b) *in the event of failure to observe conditions above, the manufacturer shall pay the duty which would have been leviable at the time of clearance of goods, but for this exemption."*

Perusal of the provisions of the notification reveals that the notification covers a wide range of items required for setting up of a solar power generation project or facility and the exemption was available on the condition of production of a certificate issued by the specified authority to the effect that the goods in question were required for the specified use besides submission of an undertaking to the effect that the goods shall be used for the specified purpose failing which the applicable duty shall be paid by the assessee. Hence, we find that the ratio of the said judgment of Hon'ble CESTAT does not apply to the facts of the instant case as the conditions requiring production of requisite certificate and submission of undertaking are the distinguishing factors which are absent here.

The appellant has claimed that the structures in the given case are specifically designed as per technical specifications of solar water pumping system and therefore, the same are intended to be parts of solar pumping systems. We find that structures of iron and steel are specifically classified under Chapter Heading 7308 which covers a variety of structures intended to be put to different uses some of which have been illustrated in the said heading. As a matter of fact, each of the iron structures is designed according to the specification as per the intended use and no structure is manufactured in isolation without taking the specifications for intended use into consideration. But such specifications of the design of a structure can not take the structures out of the definition of structures to make them parts of the item to which they are attached or part of the item which they are supposed to support. If such a contention of the appellant is accepted every structure of iron and steel etc. would be called a part of the item to which it is attached or the item which it supports. In such a situation, none of structures would fall under the Chapter Heading 7308.

We further observe that the matter of classification of structures and the rate of GST applicable thereon has also been clarified by the Tax Research Unit of the Department of Revenue in December 2017 in response to Frequently Asked Questions. Reply to the relevant question number 75 applicable to the instant case is reproduced as under:-

75.	What is the HS code for Solar Panel Mounting Structure and its GST rate?	<p>1. Structures of iron or steel fall under heading 7308 and structures of aluminium fall under heading 7610 and attract 18% GST.</p> <p>2. Solar Panel Mounting Structure, depending on the metal they are made of, fall under 7308 or 7610 and attract 18% GST.</p>
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In view of the above position which is also supported by the clarification referred to above, it

is clear that a metal structure including Solar Panel Mounting Structure is correctly classifiable under Chapter Heading 7308 (if made of iron or steel) or 7610 (if made of aluminium) and the same will attract GST at the rates specified for the goods of those headings. Structures of iron and steel etc. as claimed by the appellant, can, therefore, neither be classified as solar power based devices nor called as solar power generators and the rate of tax as applicable to such devices or systems can not apply to the iron and steel structures. Held accordingly.

6.7. The appellant has also contested the ruling given by the AAR in the matter of classification of different type of goods and the rate of GST applicable thereon in various situations when such goods are proposed to be sold in different combinations. The AAR has given ruling to the effect that when such goods are sold in various combinations the same would attract the highest rate of GST applicable to any of the goods in the combination as the supply of different type of goods in different combinations qualifies to be a mixed supply of goods. In this regard, the Appellant has referred to the provisions of the Customs Import Tariff and relied upon various case laws related to the erstwhile Act besides quoting the rulings given by AAR of other States. Based on these references, it is their contention that supply of these items in different combinations qualifies as supply of solar power generating system and, therefore, the rate of GST applicable to solar power generating system should also apply to supply of such items in different types of combinations.

We observe that 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. In this regard, we agree with the appellant’s primary contention to the effect that without applying and refuting the applicability of “composite supply”, conclusion regarding mixed supply cannot be reached. Accordingly, we find it appropriate to examine the matter 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.

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 different type of goods in different combinations. The different type of combinations of goods as proposed by the appellant simply indicate different type of possibilities of various type of goods being sold in response to one purchase order. However, the maximum possible combinations as proposed by the appellant do not indicate that one 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, as submitted by the appellant, 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 in different possible combinations is independent and each one of the items can be supplied separately in the appellant’s own case.

We, therefore, observed 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 type of items such as Solar Panel, Controller, Solar Pump or Structure in different possible combinations, if any, without anyone of the goods being supplied as principal supply would be covered by the definition of “mixed supply” of different type of goods.

In arriving at the conclusion drawn above we may gainfully refer to 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)**], 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. The different type of goods that are proposed to be supplied by the appellant in different possible combinations may attract different rates of GST. 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.” Hence, we hold that the rate of GST applicable to the mixed supply of goods in different possible combinations as proposed by the appellant would be the rate which would be the highest of rates of GST applicable on standalone supply of individual items forming part of the proposed mix. The finding of the AAR is, accordingly, upheld in this regard.

6.8. Finally, the appellant has also challenged the ruling of the AAR in the matter of classification of the proposed simultaneous supply of Solar Water Pumping System as a whole comprising of the requisite goods namely, Solar Panel, Solar Controller, Solar Pump and Structure along with the service of installation of the entire Solar Water Pumping System for drinking water application against a single contract awarded by PHED for designing, providing, installation and commissioning of solar energy based bore well water pumping system including comprehensive operation and maintenance thereof.

We observe that the Rajasthan Authority for Advance Ruling (AAR) in its Ruling No. RAJ/AAR/2021-22/10 Dated 03.09.2021 has observed that the proposed supply comprising of solar panel, solar controller, solar pump and structure along with the provision of installation service for installation of the said system is a composite supply classifiable under the definition of works contract and accordingly, the supply shall attract GST @18% in terms of Sl. No. 3(ii) (Heading 9954) of Notification No. 11/2017-CT(R), dated 28.06.2017.

The appellant has mainly submitted that the entries in tariff notifications for both goods and services have been amended since 01.02.2019 itself to give effect to taxability of contracts for supplies of goods with installation services in the sector of solar devices in a ratio of 70:30 with an effective rate of 8.9%. It is their further submission that the relevant notification has been further amended vide Notification No. 8/2021-Central Tax (Rate), dated 30.09.2021 (after pronouncement of Advance Ruling in the instant case) to increase the tax rate of goods portion from 5% to 12% resulting in the effective tax of tax increasing to 13.8% on such supply.

In this regard, the appellant has also referred to the ruling given by the Rajasthan Appellate Authority for Advance Ruling vide Order No. RAJ/AAAR/2019-20 dated 15.05.2019 in the case of Kailash Chandra (Proprietor of Mali Construction) involving similar situation and also relied upon the advance ruling given by the Authority for Advance Ruling for the State of Uttarakhand in the case of M/s Premier Solar Systems Pvt. Limited as reported at 2019-TIOL-79-AAR-GST wherein it was held that the supply of solar irrigation water pumping system along with design, erection, commissioning and installation would constitute a composite supply attracting GST @ 5% on goods portion which would be 70% percent portion of the aggregate value and GST @ 18% on services portion comprising of the remaining 30% portion of the aggregate value.

We find that the Appellant has submitted copy of a sample proposal for scope of work for sub-contracting arrangement which requires the appellant to supply, to the main contractor, Solar Pumping Systems comprising of solar panels, sola pumps, solar controllers, structure and LED lights alongwith supply of services by way of installation and commissioning of solar energy based bore well pumping system. As submitted by the appellant, the main contractor working for PHED is also obliged to provide comprehensive

operation and maintenance for a period of seven years besides the supply of goods and services sub-contracted to the instant appellant.

In the instant case the appellant is obliged to supply a complete solar water pumping system alongwith the service of its installation and commissioning and, therefore, it would be appropriate to analyze the relevant notifications. On careful consideration of the relevant entries of the notifications, we find that Solar Energy based bore well water pumping system as a whole (hereinafter also referred to as "the System") as proposed to be supplied by the appellant qualifies as 'Solar Power based devices' mentioned under entry No. 234 of Notification No. 01/2017-Central Tax (Rate), dated 28.06.2017 as the same is a device based on solar power used for pumping water. Further, services by way of installation and commissioning of solar power based devices are governed by entry No. 38 of Notification No. 11/2017-Central Tax (Rate), dated 28.06.2017. Both these entries concerning supply of goods and services respectively are inter-connected by the respective explanations given below them. The said entry No. 38 alongwith its explanation reads as follows:-

(1)	(2)	(3)	(4)	(5)
38	9954 or 9983 or 9987	<p>Service by way of construction or engineering or installation or other technical services, provided in relation of setting up of the following, -</p> <p>(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</p> <p>Explanation: - This entry shall be read in conjunction with serial number 234 of Schedule I of the Notification No.1/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, section 3, sub section(i) dated 28th June,2017 vide GSR number 673(E) dated 28th June,2017.</p>	9	-"

The explanation given below entry No. 234 of Schedule I of Notification No.1/2017-Central Tax (Rate), dated 28.06.2017 reads as follows:-

"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 Sl. 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."

On careful consideration of the abovementioned entries of the said notifications and the proposed contract submitted by the appellant we find that the benefit of the said entries is

available only when the Solar Power based devices is supplied along with other goods and Services, one of which being a taxable service specified in the entry at S. No. 38 ibid. We find that the Appellant in the instant case is supplying solar energy based bore well water pumping system and also carrying out the activity of provision of installation and commissioning of such systems. Hence, the appellant is supplying solar energy based devices and also providing the specified services, therefore, the condition as mentioned under respective entries of both the notifications are satisfied in the instant case. Thus, we find that the condition precedent to availment of the benefit of these entries supply of solar power based devices and services by way of installation in relation to setting up of solar power based devices are satisfied in the instant case.

In view of above, we hold that the supply of solar energy based bore well water pumping systems as a whole alongwith installation and commissioning of such systems involves both supply of goods and services in terms of entry No. 234 of Notification No.1/2017-Central Tax (Rate), dated 28.06.2017 read with entry No. 38 of Notification No. 11/2017-Central Tax (Rate), dated 28.06.2017 with rate of GST as prescribed under these entries.

In drawing our conclusions as above, we have based our findings upon the ruling dated 15.05.2019 given by the Rajasthan Appellate Authority for Advance Ruling in the case of Kailash Chandra (Proprietor of Mali Construction) involving similar situation. The Advance Ruling Authority in the instant case had held that the instant supply comprising supply of goods in the form of solar energy based bore well water pumping system alongwith installation and commissioning of such water pumping system is a composite supply of works contract attracting GST @ 18% in terms of entry Sl. No. 3 of Notification No. 11/2017-Central Tax (Rate), dated 28.06.2017. However, the ruling that the composite supply of goods and services in the instant case deserves to be classified as works contract service is not supported by legal position which has been correctly interpreted by the Authority for Advance Ruling for the State of Uttarakhand in the case of M/s Premier Solar Systems Pvt. Limited as reported at 2019-TIOL-79-AAR-GST by holding that the supply of solar irrigation water pumping system along with design, erection, commissioning and installation would constitute a composite supply attracting GST @ 5% on goods portion and GST @ 18% on services portion as prescribed in the relevant entry of the notification.

Thus, we observed that the effective rate of GST on supply of Goods and Services in relation to the Solar Power Based Devices upto 30.09.2021 is as follows:-

- (a) 5% on value of goods where the value of goods is to be taken as 70% of the gross consideration and
- (b) 18% on the value of services where the value of services is to be taken as 30% of the gross consideration.

Hence, the effective rate of GST for the composite supply will work out to 8.9% [(5% x 70%) plus (18% x 30%)]. However, with the amendments effected vide Notification No. 06/2021-Central Tax (rate) dated 30.09.2021 and Notification No. 08/2021-Central Tax (rate) dated 30.09.2021, the rate of tax on goods portion stands increased from 5% to 12% and accordingly, the effective rate of GST for the period post 30.09.2021 will stand increased to that extent.

7. The appellant has also placed reliance of various case laws passed by various Advance Ruling authorities. We are of the opinion that each case has to be examined individually in the backdrop of several factors. Further, the appellant has also placed reliance on various case laws passed by courts related to other acts. We have observed that there is no need to discuss the same in presence of clear provision under GST Law.

8. Accordingly, the appeal filed by appellant is disposed off in the above terms.

(Satish Kumar Agarwal)
Member (Central Tax)

(Ravi Jain)
Member (State Tax)

SPEED POST

To

M/s Utsav Corporation (Legal Name Sapna Gupta),
Plot No. 15, S-1, Gurjar Ki Thadi,
Shyam Nagar, Jaipur (Rajasthan)-302019

F. No. IV (16)04/AAAR/RAJ/2021-22/

Date. . .2021

Copy to:-

1. The Chief Commissioner of CGST (Jaipur Zone), NCR Building, Statue Circle, Jaipur.
2. The Chief Commissioner of SGST, Rajasthan, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, Jaipur-302005.
3. The Principal Commissioner, CGST Commissionerate, Jaipur.
4. The Member, Rajasthan Authority for Advance Ruling, Goods and Service Tax, KarBhawan, Bhawani Singh Road, Ambedkar Circle, Jaipur-302005.
5. Guard File.

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Superintendent