

**RAJASTHAN AUTHORITY FOR ADVANCE RULING**

**GOODS AND SERVICES TAX**

**KAR BHAWAN, AMBEDKAR CIRCLE, NEAR**

**RAJASTHAN HIGH COURT**

**ADVANCE RULING NO. RAJ/AAR/2021-22/10, Dated 03rd September, 2021**

**JAIPUR - 302005 (RAJASTHAN)**

J P MEENA Additional Commissioner	:		Member (Central Tax)
M. S. Kavia Joint Commissioner	:		Member (State Tax)
Name and address of the applicant	:		Sapna Gupta M/s Utsav Corporation, Plot No. 15. S-l. Gurjar Ki Thadi, Shyam Nagar, Jaipur, Raj.-302019
GSTIN of the applicant	:		08BXFPG070I B1ZA
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	:		(a) Classification of any goods or services or both;
Date of Personal Hearing	:		26.08.2021
Present for the applicant	:		Suchi Sethi (CA)
Date Of Ruling	:		03.09.2021

Note: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.

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

> The issue raised by Sapna Gupta M/s Utsav Corporation, Plot No. 15. S-l, Gurjar Ki Thadi, Shyam Nagar, Jaipur, Raj. -302019 (hereinafter the applicant) is fit to

pronounce advance ruling as it falls under the ambit of the Section 97(2) (a) given as under:-

(a) Classification of any goods or services or both:

Further, the applicant being a registered person (GSTIN is 08BXFPG0701B1ZA) as per the declaration given by him in Form (ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the applicant is admitted to pronounce advance ruling.

#### **A. SUBMISSION AND INTERPRETATION OF THE APPLICANT;**

#### **STATEMENT OF RELEVANT FACTS HAVING A BEARING ON THE QUESTIONS RAISED**

1. M/s Utsav Corporation (hereinafter referred to as "applicant") is a proprietorship concern engaged in providing products and services in energy conservation, renewable energy sources, water infrastructure and water treatment project management. The applicant 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.

2. That the applicant is registered under GST as per the provisions of the GST law bearing GSTIN 08BXFPG0701B1ZA in the state of Rajasthan.

3. That in relation to the contracts/orders of pure sale of solar energy devices, the applicant is willing to seek an advance ruling for classification and GST rate on supply 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.

4. That this Advance Ruling is sought from the Authority for Advance Ruling. Rajasthan in respect of the following question:-

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?

## **Annexure-2**

### **STATEMENT CONTAINING INTERPRETATION OF LAW & FACTS, IN RESPECT OF THE AFORESAID QUESTIONS**

#### **I. APPLICANT'S ELIGIBILITY TO FILE PRESENT ADVANCE RULING APPLICATION**

1. That sub section (c) of section 95 of CGST Act 2017 defines the term 'applicant' as under:

(c) "applicant" means any person registered or desirous of obtaining registration under this Act.

2. In the present matter, the applicant is registered under the GST regime and hence covered under the definition of the term "applicant" for the purpose of presenting the application before the Advance Ruling Authority under the GST Regime. Copy of GST Registration certificate for the state of Rajasthan is enclosed as Annexure-13.

3. Further section 97(2) of the CGST Act specifies the issues for which an advance ruling can be sought. Section 97 of the said act reads as under.

(1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, slating the question on which the advance ruling is sought.

(2) The question on which the advance ruling is sought under this Act. shall be in respect of,-

- (a) classification of any goods or services or both;
- (b) applicability of a notification issued under the provisions of this Act;
- (c) determination of time and value of supply of goods or services or both;
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;
- (e) determination of the liability to pay tax on any goods or services or both;
- (f) whether applicant is required to be registered;
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

4. Thus, as per the said section, advance ruling may be sought by the applicant on the questions concerning classification of goods or services and determination of the liability to pay tax on goods or service. The applicant submits that the questions for determination in the instant advance ruling application concern (a) classification of goods or services and (b) determination of the liability to pay tax on goods or services.

5. Therefore, in the instant case the applicant is eligible to file the present advance ruling before the Authority for Advance Ruling.

## **II. APPLICANT'S INTERPRETATION**

### **Legal Provisions and Interpretation in light of Facts of the Case**

1. The charging section for GST i.e. Section 9 of the Central Goods and Services Tax Act 2017 provides as under

9. (1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

2. Notification No. 01/2017 - Central Tax (Rate) dated 28.06.2017 has been issued by Central Government for notifying GST rates for goods and respective notifications have been issued under Rajasthan GST and IGST Acts.

3 It is imperative for the purpose of interpretation of this notification to refer the Explanation thereto which states as under:

(iii) "Tariff item", "sub-heading", "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975.

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

4. Therefore, to understand the classification and GST rates for the products and combinations thereof in question, it is important to have an understanding about the products.

### **Sale of products on standalone basis**

#### **1. Solar Panels**

Solar panels are those devices which are used to absorb the sun's rays and convert them into electricity. A solar panel is actually a collection of solar for photovoltaic) cells, which can be used to generate electricity through photovoltaic effect. The solar panels used in solar water pump systems produce electricity by using the photovoltaic effect. These solar panels absorb the sun's photons and convert them into energy.

Classification of Solar panels in Customs tariff is under Heading 8541 which is as below:

<b>HSN</b>	<b>Description</b>
8541 40	Photosensitive semi-conductor devices, including photo voltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED)

Under the GST tariff. SI. No. 234 of GST Tariff has a specific entry for Solar PV cells which is taxable at the rate of 5%. The entry is as under:

<b>S.No.</b>	<b>HSN</b>	<b>Description</b>	<b>Rate</b>
234.	84, 85 or 94	Following renewable energy devices & parts for their manufacture (h) Photo voltaic cells,	2.5%

		whether or not assembled in modules or made up into panels	
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Hence there is no ambiguity in the classification of solar panels and it is clear that the same are taxable at 5% rate of GST.

## 2. Solar Pump

A solar water pump is used for extracting water from ponds, rivers, borewells or other sources of water which are then used to meet the water requirements for irrigation, community water supply, livestock and other purposes. Pumps are also used for water transportation from one location to another.

### How does it work?

When sunlight falls on the solar panels, it produces direct current (DC) which then feeds the DC motor to pump out the water, in the case where the motor requires an alternating current (AC), the DC produced by solar panels is converted to AC using an inverter/Variable Frequency Drive, and the motor uses that AC to pump out the water.

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

HSN	Description
8413	Pumps tor liquids whether or not fitted with a measuring device;

Hence the product is classifiable under Chapter 84 of Customs tariff.

As explained above, a pump has a function of drawing or raising water from sources for which the pump motor has to be fed with current

To understand the technical specifications of pumps, it is important to understand the concept of Direct Current and Alternate Current and for that purpose it is briefed out here.

There are two forms of current: Alternating Current (AC) or Direct current(DC ). Direct current always flows in the some direction whereas, alternating current changes direction frequently (though the back-and-forth motion of the electrons still conveys energy to the end device).

it is also important to note that different kinds of devices and applications have technical specifications whether they use AC or DC for functioning.

Solar Water Pumps are of different types which includes DC Pumps and AC Pumps:

- DC pump: This pump runs on a motor which operates on direct current.
- AC pump: The motor of this pump operates on alternating current, which means the direct current produced by the solar panels gets converted to AC using the inverter.

A solar panel produces direct current. The sun on the panels stimulates the flow of electrons, creating current and since these electrons flow in the same direction, the current is direct.

Further, there is a concept of voltage which needs to be technically understood here. Voltage is the amount of electrical pressure, which causes electricity to flow in the power line. Generally, in India, voltage in Single phase is 240 volts and voltage in 3 phase system is 415 volts. This is the general voltage of normal electric current.

The important characteristic of solar pumps (whether DC or AC) is that it is designed with low voltage capacity to be run on solar energy. As compared to the above general standards, the voltage of solar power is lower. The solar pumps are designed to primarily run on solar energy. Hence the solar pump motors have a low voltage capacity as compared to electric pumps. Hence this is a differentiating factor of solar pumps that their voltage capacity is lower as compared to electric pumps of similar phase.

For example, considering the standards, a normal 1 Hp 3 phase electric pump will have voltage capacity of 415 volts but contrary to that a 1 Hp 3 phase solar pump will have a voltage capacity of around 100-200 volts.

The normal electricity flowing in state electricity grids is in form of Alternate Current with standard voltage as explained above.

The solar pumps whether AC or DC have a low voltage capacity and hence in solar water pumping systems, solar pump sets are fitted with solar charge controllers to maintain the frequency of current supplied to them.

Now there can also be a question whether Solar AC pumps can work on normal grid electricity in case of lack of sunlight or solar power. The answer to the question is given in FAQs at <https://www.indiawaterportal.org/>.

"No lack of sunlight affects the working of solar water pumps On such days, however, a hybrid power supply can be given to the pump The pump can be

connected to the state electricity grid or a diesel generator set after making proper adjustments in the controller. but such an arrangement should be made only after consulting the manufacturer of the solar water pump."

Hence it is clear from the technical specifications of a pump whether AC or DC that whether it is designed to function as a solar power based device.

Now, the relevant entries in GST Tariff for pumps classifiable under Chapter 84 are as under:

<b>S. No.</b>	<b>HSN</b>	<b>Description</b>	<b>Rate</b>
192	8413	Power driven pumps primarily designed for handling water, namely, centrifugal pumps (horizontal and vertical), deep tube-well turbine pumps, submersible pumps, axial flow' and mixed flow' vertical pumps	6%

<b>S. No.</b>	<b>HSN</b>	<b>Description</b>	<b>Rate</b>
234.	84. 85 or 94	Following renewable energy devices & parts for their manufacture (h) Solar power based devices (c) Solar power generating system	2.5%

SI. No. 192 covers power driven pumps primarily designed for handling water but the entry is not specifically for solar pumps. However, Entry 234 specifically covers the parts for manufacture of 'Solar Power Generating System' or 'Solar Power based devices'.

As per the rules of interpretation of Customs tariff made application to GST tariff, the entry specifically for renewable energy devices i.e. Solar power based devices or Solar power generating system & parts for their manufacture is very specific and hence relevant here.

Hence on the basis of above, applicant is of the view that the solar pump sets are solar power based devices and must be classified under SI. No. 234 of Notification No. 01/2017- CT(Rate) dated 28.06.2017 and be taxable at the rate of 5%.

### **3. Solar Controller**



In the Ministry of New and Renewable Energy (MNRE) Guidelines for Solar Water Pumping Systems for 2019-20 vide Annexure-1 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 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 pane! 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 'maximizer' 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 maximise the use of DC power generated by solar pane! 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. (MNRE Guidelines for Specification for Solar Photovoltaic Water Pumping Systems for 2019-20 have been enclosed herewith and marked as Annexure-3).

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:

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

<b>S. No.</b>	<b>HSN</b>	<b>Description</b>	<b>Rate</b>
234.	84, 85 or 94	Following renewable energy devices & parts for their manufacture (b) Solar power based devices (c) Solar power generating system	2.5%

Hence, applicant is of the view that solar controllers are essentially parts for manufacture of Solar Water Pumping System which is covered under entry 243 being 'Solar Power Generating System' or 'Solar Power based device'.

#### **4. 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 partem supports should be minimal, further, for bearing of center 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 applicant, the product in question are 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 / to Chapter 84 and to Note I 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 rides

(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 applicant from their supplier, the Purchase Orders raised by the applicant 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 is enclosed for your reference and marked as Annexure-4.

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.27.02.20010, 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 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:

<b>S. No.</b>	<b>HSN</b>	<b>Description</b>	<b>Rate</b>
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234.	84, 85 or 94	Following renewable energy devices & parts for their manufacture (b) Solar power based devices (c) Solar power generating system	2.5%
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The structures supplied by the applicant 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, applicant is of the view that structures for solar water pumping system are classifiable as parts for manufacture of Solar Water Pumping system or Solar power generating system in the above Entry 234 having HSN under Chapter 84.

Combinations:

1. Solar Panels + Solar Controller + Solar Pump + Structure

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

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.

**Solar Panels:** Photovoltaic Cells arranged in form of panels or modules to produce required solar energy.

**Solar Controller:** Controller with Variable Frequency Drive with Maximum Power Point Tracking technology to regulated voltage of solar energy produced by Solar Panels and maximized use of solar energy available.

**Solar Pumps:** Direct Current (DC) or Alternate Current (AC) Solar Pumps with low design voltage apt for being run by solar energy.

**Structure:** Structure specifically designed for use solely with Solar Water Pumping System according to specific number of panels and weight of the panel array in the pumping system.

A sample proposal given by the applicant to a prospected customer as quotation for Solar Pumping System has been enclosed as Annexure-5.

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.

The applicant is awarded with contract or receives Purchase Orders for supply of whole solar water Dumping 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

In view of applicant, 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.

For materials contained in composite goods, i.e. Solar Water Pumping System, different heading refers 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).

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.

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.

In addition to the above Rules of interpretation. Note 4 of Section Notes to Section XV I 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.

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.

It is further submitted that the Solar pumping system sold by the applicant 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.

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.

Tor the said purpose. Entry 234 is relevant which covers following:

'Following renewable energy devices and parts for their manufacture'

(c) Solar Power generating system

(d) Solar power based devices

As explained at length above, 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.

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:

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 above judgment has been enclosed as Annexure-6.

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.

Applying the above ratio, a system wherein solar energy is produced and applied qualifies as a Solar Power Generating system.

Further, it has been understood above in detail that the Solar Pumping system comprising of the various components as listed above, is classifiable under Chapter 84 as and it is a renewable energy device being run on solar energy, hence it is classifiable as 'Solar Power based device' or 'Solar Power Generating system' and should be taxable under Entry 234 of Notification No. 01/2017 - CT(Rate) dated 28.06.2017 i.e. GST Tariff for Goods, therefore taxable at 5% rate of GST.

The above view has been confirmed by Authority for Advance Rulings of Uttarakhand in case of Eapro Global Limited where the applicant in exactly similar background and in relation to the same products, 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 SI. 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 SI. 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.

The above ruling has been enclosed as Annexure-7

Hence on the basis of above analysis, the applicant'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.

Further, in ease 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 assesses 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) assesses 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 (Ui) assesses 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 HT, concludes that

the assesses clears nothing but "Solar Power Generating System" or "Solar Photovoltaic Lantern" and the exemption claimed by the assesses in respect of same under SI No 237 of Notification No 6/2002-CE .... is admissible to the whole package" : Mumbai CESTAT The judgment has been enclosed and marked as Annexure-8

Other Combinations:-

2. Solar Controller + Solar Pump + Solar panel

3. Solar Pump + Solar Panel

4. Solar Pump + Controller

5. Solar Panel + Controller

The components sold by the applicant 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.

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 present case, the appellants have claimed exemption in respect of "inverter charger card" as solar power generating system. The appellants actually manufactured STK 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.

The above judgment has been enclosed as Annexure-9.

The parts intended to be sold by applicant 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.

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 i.e. a Solar Power Generating System and falling under Chapter 84 or 85, all these parts or any combination of them being intended to be sold by the applicant must be classified under Entry 234 of Notification No. 01/2017 - CT(Rate) dated 28.06.2017 i.e. GST Tariff for Goods.

Ques 2. Classification and GST rate on contract for Supply of Solar water pumping system as a whole comprising of goods along with installation for drinking water application

1. The applicant has approached a contractor who has sought to engage a sub-contractor for work to be awarded from PHED department 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.

2. The main contractor is desirous of sub-contracting the execution of a part of the said project viz. "Supplying, installation, commissioning including Operation and maintenance of Solar Energy based bore well water pumping systems.

3. Under the contract for 'Solar energy based bore well pumping system' the applicant has to provide the Solar Pumping Systems comprising of following goods:-

- > Solar Panels
- > Solar Pumps
- > Solar Controllers
- > Structure

> LED Lights

4, Along with the above goods, the applicant is responsible for carrying out the activities for 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 is enclosed and marked as Annexure-10

5. 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:

<b>S. No.</b>	<b>HSN</b>	<b>Description</b>
234.	84, 85 or 94	Following renewable energy devices & parts for their manufacture A) Bio-gas plant B) Solar power based devices C) Solar power generating system D) Wind mills. Wind Operated Electricity Generator (WEOG) 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 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. Similarly, the GST rates on services have been notified by the Government in Notification No. 11/2017 - Central Tax (Rate) dated 28.06.2017 which has been

amended by various notifications and the relevant extract of the said notification (as amended up to date) for the present issue is reproduced as under:

7. 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 234 are supplied by a supplier along with other goods and services, one of which is taxable service under SI. No. 38 above, the value of supply of goods and value of supply of

(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. Part II. Section 3. Sub-section (i) dated 28th dune. 2017 vide GSR number 673(E) dated 28th dune. 2017.	9	-"

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%.

8. In the given case, applicant has to provide goods falling under SI. No. 234 of the Goods Tariff clearly as per the understanding elaborated in the previous Question. Further, the applicant is also required to supply services of installation covered under HSN 9987 for Solar energy based pumping system which is covered under SI. No. 38 of Service Tariff.

9. Hence, in the understanding of the applicant, it has to supply goods under SI.No. 234 of Goods Tariff Schedule along with supply of other goods and services, one of

which being installation service falling under SI.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.

10. The above understanding has been confirmed by Advance Ruling Authorities/ Appellate Advance Ruling Authorities for Solar water pumping systems which has substantiated the view of applicant.

11. That Rajasthan Appellate Advance Ruling Authority pronounced a ruling for Appeal against Advance Ruling in case of Shri Kailash Chandra (Prop. Mali Construction) Order No. RAJ/AAAR/2019-20 dated 15.05.2019, 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 (Sate) 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 SEE 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 ie, "supply of other goods and Services also, one of which should be a taxable service specified in the entry' No. 38", stands fulfilled.

Copy of above Advance Ruling enclosed and marked as Annexure-11.

12. Farther, 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

Copy of above Advance Ruling enclosed and marked as Annexure-12.

13. Hence on the basis of above, 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. 234 of Notification No. 01/2017 - CT(Rate) dated 28.06.2017 read with SI. No. 38 of Notification No. 01/2017 -CT(Rate) dated 28.06.2017 along with their Explanations.

## B. PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 26.08.2021 at Room no. 2.11 NCRB, Statue Circle, Jaipur. On behalf of the applicant Shri Sanjiv Ararwal, (CA) appeared for PH. During the PH. he reiterated the submissions already made in the application.

## C. FINDINGS, ANALYSIS & CONCLUSION:

M/s Utsav Corporation (hereinafter referred to as "applicant") is a proprietorship concern engaged in providing products and services in energy conservation, renewable energy sources, water infrastructure and water treatment project management. The applicant 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.

1. That the applicant is registered under GST as per the provisions of the GST laws bearing GSTIN 08BXFPG0701B1ZA in the state of Rajasthan.

2. That in relation to the contracts/orders of pure sale of solar energy devices, the applicant is willing to seek an advance ruling for classification and GST rate on supply 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.

3. That this Advance Ruling is sought from the Authority for Advance Ruling, Rajasthan in respect of the following question:-

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?

Now, we will discuss the issues raised one by one.

Solar panels: - Solar Panels (also known as "Photovoltaic/PV Panels") are made of solar cells (also known as "PV cells ") which are connected to each other in series and parallel connection. Solar cells are made up of silicon semi-conductor material which converts the energy generated from sunlight into electrical energy. The electrical energy generated by conversion of sunlight is known as Solar power. Solar

PV modules/panels are to be positioned at proper inclination to collect maximum energy from the sunlight.

Under the GST tariff, SI. No. 234 of Schedule-I of GST Tariff has a specific entry for Solar PV cells which is taxable at the rate of 5%. The entry is as under:

<b>S. No.</b>	<b>HSN</b>	<b>Description</b>	<b>Rate</b>
234.	84, 85 or 94	Following renewable energy devices & parts for their manufacture (h) Photo voltaic cells, whether or not assembled in modules or made up into panels	2.5%

Hence, the classification of solar panels is clear and it attract 5% rate of GST.

**Solar pump:** - A solar water pump is used for extracting water from ponds, rivers, bore wells or other sources of water which are then used to meet the water requirements for irrigation, community water supply, livestock and other purposes. Pumps are also used for water transportation from one location to another.

When sunlight falls on the solar panels, it produces direct current (DC) which then feeds the DC motor to pump out the water. In the case where the motor requires an alternating current (AC), the DC produced by solar panels is converted to AC using an inverter/Variable Frequency Drive, and the motor uses that AC to pump out the water.

The important characteristic of solar pumps (whether DC or AC) is that it is designed with low voltage capacity to be run on solar energy. As compared to the above general standards, the voltage of solar power is lower. The solar pumps are designed to primarily run on solar energy, Hence the solar pump motors have a low voltage capacity as compared to electric pumps. Hence this is a differentiating factor of solar pumps that their voltage capacity is lower as compared to electric pumps of similar phase.

The solar pumps whether AC or DC have a low voltage capacity and hence in solar water pumping systems, solar pump sets are fitted with solar charge controllers to maintain the frequency of current supplied to them.

The relevant entries in GST Tariff for pumps classifiable under Chapter 84 are as under:

<b>S. No.</b>	<b>HSN</b>	<b>Description</b>	<b>Rate</b>
234.	84, 85 or 94	Following renewable energy devices & parts for their manufacture (b) Solar power based devices (c) Solar power generating system	2.5%

Entry 234 of Scheduled, specifically covers the parts for manufacture of 'Solar Power Generating System' or 'Solar Power based devices'.

Hence, solar pump is solar power based device and is classifiable under SI. No. 234 of Notification No. 0172017 - CT(Rate) dated 28.06.2017 and taxable at the rate of 5% GST.

Controller: -

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

The above item i.e. 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 inductors as under: -

<b>HSN</b>	<b>Description</b>	<b>Rate</b>
8504	Electrical transformers, static converters and inductors	9%

Thus, controller attracts 18% rate of GST.

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

The structures are neither solar power based devices nor part of solar power based devices and fall under chapter heading 7308 of GST Tariff as under: -

<b>HSN</b>	<b>Description</b>	<b>Rate</b>
7308	STRUCTURES (EXCLUDING PREFABRICATED BUILDINGS OF HEADING 9406) AND PARTS OF STRUCTURES (FOR EXAMPLE, BRIDGES AND BRIDGESECTIONS. LOCK- (1) (2) (3) (4) (5) SECTION-XV 642	9%

	CHAPTER-73 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	
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Thus, STRUCTURES attracts 18% rate of GST.

Solar Water Pumping System (comprising of Solar panel + Controller + Solar Pump + Structure): -

Solar Water Pumps are of different types which includes DC Pumps and AC Pumps:

DC pump: This pump runs on a motor which operates on direct current.

AC pump; The motor of this pump operates on alternating current, which means the direct current produced by the solar panels gets converted to AC using the inverter.

A solar panel produces direct current. The sun on the panels stimulates the flow of electrons, creating current and since these electrons flow in the same direction, the current is direct

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.

Mixed Supply has been defined in Section 2(74) of GST Act, 2017 as below-

(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

Illustration:- 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;

Further, tax liability on a mixed supply shall be determined as defined in Section 8 (b) of GST Act, 2017 which is as under-

"a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax. "

Therefore, the Solar Water Pumping System (comprising of Solar panel + Controller + Solar Pump + Structure) is a Mixed Supply and highest rate of GST will be applicable amongst goods supplied by the applicant.-

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.

4. Now we will discuss the second question as under: -

Q. 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?

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 fail under the ambit of works contract service as per Section 2(119) of CGST Act.2017 and attracts 18% GST.

The definition of work contract as provided under Section 2(119) of the CGST Act 2017 which reads as under: -

(119) "works contract" means 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 the execution of such contract;

Further. Section 8 of Central Goods and Services Tax Act, 2017, the tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-

- (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and
- (b) .....

As per Section 2(30) composite supply is defined as,-

"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;

Further principal supply is defined under Section 2(90) as,-

"principal supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;

Further. Composite supply; -

The following composite supplies shall be treated as a supply of services, namely:-

- (a) works contract as defined in clause (119) of section 2;

However, since composite supply of works contract has been explicitly classified as supply of service under Schedule II. the concept of works contract follows that: -

- a. Works contract in itself is a composite supply in which construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning etc. are involved along with transfer or property in goods.
- b. Under GST, as per definition of works contract service if construction, fabrication, completion, erection, installation, fitting out. improvement, modification, repair, maintenance, renovation, alteration or commissioning is for immovable property, only then it will be classified as works contract.

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 11/201 7-CT (Rate) dated 28.06.201 7. as amended from time to lime.

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: -

<b>S. No.</b>	<b>Chapter, Section or Heading</b>	<b>Description of Service</b>	<b>CGST Rate %</b>
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

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.

5. In view of the foregoing, we rule as follows: -

#### **RULING**

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

i) Solar Pump: - fall under chapter 84, HSN code 8413 and attracts GST at the rate of 5% under SI. No. 234 of Notification No. 01/2017 - CT(Rate) dated 28.06.2017.

ii) Controller: - Fall under chapter 85, HSN code 8504 and taxable at 18% rate of GST.

iii) Structure:- Fall under chapter 73, HSN code 7308 and taxable at 18% rate of GST.

iv) Solar Water Pumping System (comprising of Solar panel + Controller + Solar Pump + Structure):-

v) Solar panel + Solar Controller + Solar Pump:-

vi) Solar Pump + Solar Panel :-

vii) Solar Pump + Controller :-

viii) Solar Panel + Controller



Serial No. (iv) to (Viii) is mixed supply of goods and the highest rate of GST will be applicable amongst goods supplied by the applicant.

**Q.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?

**Ans** 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.

03/09/2021

(J. P. MEENA)	(M. S. Kavia)
Member	Member
(Central Tax)	(State Tax)

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