M/s Hero Solar Energy Pvt. Ltd. (also printed as Hero Solar Energy Private Limited), New Delhi; appeal against Advance Ruling No. HAR/HAAR/R/2018-19/07 dated 29.08.2018

Appellate Authority for Advance Ruling — Haryana

Appeal case No. HAR/HAAAR/2018-19/04 Dated **26.04.2019**

Q Questions Before the Authority

- Whether the EPC contract for complete design, engineering, manufacture, procurement, testing, inspection, erection and commissioning of a solar power generating system (SPGS) results in a 'composite supply' under Section 2(30) of the CGST Act, 2017.
- If the supply of SPGS is a composite supply, whether the supply of PV Modules/Inverters or any other supply under Chapter Heading 84, 85 or 94 of the Central Tax (Rate) Notification is the 'principal supply'.
- If the principal supply is PV Modules/Inverters or another supply under Chapter Heading 84, 85 or 94, whether the concessional 5% rate applies to the entire value of the SPGS contract.

F Facts

The appellant proposed to enter the business of setting up solar power generating systems on a turnkey basis under EPC contracts covering design, supply, installation, testing and commissioning. The Advance Ruling Authority had held that the appellant's services fall within the definition of 'works contract' in Section 2(119). The appellant appealed, contending the transaction is a composite supply taxable at 5% and that the contracts are not works contracts.

H Ruling

The Appellate Authority did not decide the merits. It held that the advance ruling dated 29.08.2018 was overtaken by amendments to the rate notifications effective 01.01.2019 and quashed it, so it is **no longer binding under Section 103(2)** . The applicant may seek a fresh advance ruling after notice and hearing, and the authority expressly gave no opinion on the merits. The order contains no item-by-item answers to the three questions.

R Reasoning

The authority compared the date of the impugned ruling with the amendments made by Notification No. 24/2018-Central Tax (Rate) and Notification No. 27/2018-Central Tax (Rate), both dated 31.12.2018 and effective 01.01.2019. These changed the rate and the goods and services composition relevant to solar power generating systems, and the Haryana notifications made parallel changes under the HGST Act. Because the facts and law had materially changed, the authority held that the earlier ruling could not continue to bind the parties under Section 103(2). It therefore quashed the order and directed a fresh ruling.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

P Provisions Relied On

- Section 100(1) of the CGST Act, 2017 and the HGST Act, 2017 (appeal to the Appellate Authority)
- Section 101 of the CGST Act, 2017 and the HGST Act, 2017 (appellate order)
- Section 103(2) of the CGST and SGST Acts (binding effect of advance ruling)
- Section 2(30) of the CGST Act, 2017 (composite supply) as cited in the question
- Section 2(119) of the CGST Act, 2017 (works contract) as cited in the impugned ruling
- Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, Sr. No. 234 (goods), as amended by Notification No. 24/2018-C…
- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, Sr. No. 38 (services), as amended by Notification No. 27/2018…
- Corresponding Haryana notifications dated 31.12.2018 under the HGST Act, 2017

! For the Practitioner

This order is useful mainly as authority that an advance ruling can be quashed and re-decided when a rate notification changes the governing position, which matters for any ruling obtained before 01.01.2019 on solar EPC contracts. It does not settle whether an SPGS EPC contract is a composite supply, which supply is the principal supply, or whether the 5% rate applies to the full contract value. Practitioners should read the amended Sr. No. 234 and Sr. No. 38 entries directly and treat the fresh ruling, not this order, as the operative position.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> haryana_aaar_hsepl_2019_07.2019.pdf

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