

Fermi Solar Farms Private Ltd.

Authority for Advance Ruling — Maharashtra

GST-ARA-03/2017/B- 07 Mumbai, dt. 03.03.2018

Dated 03.03.2018

Q Questions Before the Authority

- Whether in case of separate contracts for supply of goods and services for a solar power plant, there would be separate taxability of goods as 'solar power generating system' at 5% and services at 18%?
- Whether parts supplied on standalone basis (when supplied without PV modules) would also be eligible to concessional rate of 5% as parts of solar power generation system?
- Whether benefit of concessional rate of 5% of solar power generation system and parts thereof would also be available to sub-contractors?

F Facts

The applicant is engaged in the business of setting up solar power plants and sought to bifurcate their contracts into separate agreements for the supply of goods and the supply of services. They contended that the supply of goods should be taxed at 5% as a solar power generating system, while the services should be taxed at 18%. The applicant argued that this structure allows for the concessional rate on goods even when supplied as parts or by sub-contractors.

H Ruling

Taxability of separate contracts	18% (as works contract)	The authority treated the arrangement as a single works contract.
Standalone parts	Not answered	No documents provided to evaluate.
Sub-contractor benefit	Not answered	No documents provided to evaluate.

The authority ruled that the agreements constitute a single **works contract** for the setting up of a solar power plant, which is classified as a supply of services. Consequently, the entire contract is taxable at 18% rather than being bifurcated. The authority declined to answer the questions regarding standalone parts and sub-contractors due to a lack of specific documentation for those scenarios.

R Reasoning

The authority examined the agreements and concluded that the intent was to provide an end-to-end solar power plant, which qualifies as a **works contract** under section 2(119) of the GST Act. Because works contracts are deemed to be a supply of services under Schedule II, the entire transaction is taxable at 18% as per entry 3(ii) of Notification No. 11/2017-Central Tax (Rate). The authority emphasized that the substance of the transaction, rather than the artificial bifurcation of contracts, determines the tax treatment. It relied on the principle that the contract must be read as a whole to ascertain the true nature of the supply.

P Provisions Relied On

Section 2(119) of the CGST Act

Schedule II of the CGST Act

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

Notification No. 8/2017-Integrated Tax (Rate)

! For the Practitioner

This ruling serves as a warning that artificial bifurcation of solar project contracts into separate supply of goods and services agreements will likely be disregarded by tax authorities. Practitioners should note that such arrangements are treated as a single **works contract** taxable at 18%. The ruling does not provide guidance on the taxability of standalone parts or sub-contractor supplies, as the authority refused to rule on those points without specific evidence.

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 -> [maharashtra gst-ara-03 2017 dt 3.3.18 fsfpl.pdf](#)

Prepared 12-10-2026.

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