M/s Solarys Non-Conventional Energy Private Limited (printed as 'Solarys' in the order)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 120/2019, dated 30.09.2019 (the listing's… Dated **30.09.2019**

Q Questions Before the Authority

- Whether, where goods and services for a solar power plant are contracted separately, the goods are taxable as 'Solar Power Generating System' at 5% and the services at 18%.
- Whether parts supplied on a standalone basis (where PV modules are supplied separately) are eligible for the concessional 5% rate as parts of a solar power generating system.
- Whether the concessional 5% rate for solar power generating systems and their parts is available to sub-contractors.

F Facts

The applicant sets up solar power plants and enters into two separate contracts with EPC contractors, one for supply of goods (including PV modules, inverters, transformers and cables) and one for services (civil works, erection, commissioning and testing). In some arrangements the developer procures PV modules itself and awards only the balance of goods to the EPC contractor. The EPC contractors may further sub-contract civil works and supplies.

H Ruling

Q1: Separate goods and services contracts for a solar plant, taxed at 5% goods and 18% services	**Not as asked. The EPC contract is a works contract. Up to 31.12.2018 it is taxed as a works contract. From 01.01.2019 values are taken separately for goods (entry 234, 5%) and services (entry 38, shown as 9% in the order's table).**	The order states that the vivisection into two contracts does not alter the works contract character. The services rate for the pre-2019 period is not stated as a percentage in the ruling; 18% is not the answer given.
Q2: Standalone parts (where PV modules are supplied separately) eligible for 5% as parts of a solar power generating system	**Yes, 5% under entry 234 of Notification No. 1/2017-Integrated Tax (Rate) (Serial No. 234 of Schedule I).**	Applies to goods under Chapter 84 or 85 that are renewable energy devices or parts for their manufacture, and only if they go into the manufacture of the solar power generating system.

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

Q3: Concessional 5% available to sub-contractors	**Yes, 5% where the sub-contract is only for supply of goods. If the entire EPC contract is sub-contracted, the rate is the same as that applicable to the contractor, as ruled under Q1.**	The entry does not distinguish between contractor and sub-contractor supplies.

The Authority held that the EPC contract, though split into goods and services contracts, is a single works contract under section 2(119) of the CGST Act, so the artificial division does not change its nature. For the period up to 31.12.2018 it is taxed as a works contract; from 01.01.2019 it is taxed on values worked out separately for goods and services under the amended entries. Parts supplied standalone are eligible for 5% if they fall under Chapter 84 or 85 and go into the manufacture of a solar power generating system, and the 5% benefit extends to sub-contractors only where the sub-contract is for supply of goods.

R Reasoning

The Authority examined the EPC arrangement as a whole and found that the supply of goods and services is so intricately linked that it cannot be separated, so the contract is a works contract under section 2(119) of the CGST Act. It relied on the definition's reference to immovable property and the permanence of the plant. For goods, it read entry 234 of Notification No. 1/2017-Integrated Tax (Rate) as taxing renewable energy devices and parts for their manufacture at 5%, limited to Chapter 84 or 85 items that go into a solar power generating system. For the post-2018 position it applied entry 38 introduced by Notification 27/2018 and the explanation linking it to entry 234. On sub-contractors it held that entry 234 does not distinguish between contractor and sub-contractor supplies.

P Provisions Relied On

- Section 2(119) of the CGST Act, 2017 (definition of works contract)
- Notification No. 1/2017-Integrated Tax (Rate), Serial No. 234 of Schedule I (5%, renewable energy devices and parts)
- Notification No. 11/2017-Central Tax (Rate), entry 3(ii) as cited in the ruling (printed as '11/2019' in the ruling; the number is n…
- Notification No. 11/2017-Central Tax (Rate), entry 38 as inserted by Notification No. 27/2018-Central Tax (Rate) dated 31.12.…
- Notification No. 24/2018-Central Tax (Rate) dated 31.12.2018 (amendment to entry 234)

! For the Practitioner

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

This order is useful for the proposition that a split EPC contract for a solar plant may be treated as a single works contract, which defeats separate 5% and 18% treatment before 2019. It also supports 5% on standalone solar parts under Chapter 84 or 85 and on sub-contracts limited to goods. It does not settle the exact pre-2019 services rate, the treatment of items outside Chapter 84 or 85, or how the 2019 entry 38 values are to be worked out in practice, and it applies only to the applicant.

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 -> kar_aar_120_2019_30.09.2019_sncepl.pdf

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