



सीमाशुल्क एवं केन्द्रीय करके आयुक्तका कार्यालय
OFFICE OF THE COMMISSIONER OF CUSTOMS & GST
लेखापरीक्षा - I आयुक्तालय: हैदराबाद
AUDIT-I COMMISSIONERATE: HYDERABAD

एलिगेंट महाराज, प्रथम मंजिल, लाक्समी नगर, रामनाथपुर मुख्य सड़क : हैदराबाद 5000-13

ELEGANT MAHARAJA, 1ST FLOOR, LAXMI NAGAR, RAMANTHAPUR MAIN ROAD: HYDERABAD- 500 013

C.No.V/G/A/I/42/2019-20- SAG 63

Date: 23 -11-2020

To

M/s. Talettutayi Solar Projects (P) Ltd.,
Khasra No. 574, 575, 576, 583, 584,
Gadwal-Leela Road, Village Palwal,
Maldakal Mandal, Telangana -509 324.
Gentlemen,

(GSTN- 36AAFCT1349D1ZJ)

Sub:- Non-payment of GST on mixed supply of Generation and Transmission
/ Distribution of Electricity - Reg

Please refer to the FAR No. 63/2020-21 dated 24.09.2020.

During the review of the FAR, it is observed that there has been mixed supply of generation and transmission/ distribution of electricity for which GST has not been paid. Thus, in terms of Section 65(1) read with Section 65(7), the audit objection is communicated for initiation of action under Section 74 of the CGST Act, 2017.

**1. Non-payment of GST on mixed supply of Generation and Transmission/
Distribution of Electricity:**

As per Rule 46A of CGST Rules, 2017, “a registered person supplying taxable goods as well as exempted goods or services or both to an unregistered person, a single “invoice-cum-bill of supply” may be issued for all such supplies.

Here, in the instant case, the taxable goods is Electricity falling under HSN 27160000 is produced at the Principal Place of Business viz., Gadwal-Leela Road, Village Palwal, Maldakal Mandal and the same is supplied through the Transmission lines to the grid of TSTRANSCO which does fall under SAC 9969. As such, it squarely falls under Mixed supply (section 2(74) of CGST Act, 2017) and not under Composite supply (section 2(30) of CGST Act, 2017) as the goods supplied and services rendered are not naturally bundled and supplied in conjunction with each other in the ordinary

course of business, which permits issue of common invoice for goods falling under HSN 27160000 (Electricity) as well as for Services falling under SAC 9969 (Transmission and Distribution of Electricity). Also, in the invoices furnished by you, there has been no separate invoices which prove that the supplies made are of mixed supply. As per CGST Act, 2017, mixed supply attracts the higher rate of GST amongst the supplies made, which is GST@ 18% (CGST 9% & SGST 9%).

On verification of the agreement with SPDCTL the following are observed that (i) the Solar energy generated shall pass from the Solar Power Developer to the DISCOM at the Interconnection point. (ii) The SPD has to bear the entire cost of Interconnection facilities as per the approved estimate made by TSTRANSCO or DISCOM. (iii) The SPD shall own, operate and maintain interconnection facilities from project to grid sub-station from time to time.

In terms of the Notification No. 2/2017-CT(Rate) dated 28.06.2017 “electricity (HSN 27160000) is exempted from GST. It appears that you are availing exemption as per Sl No. 25 of the Notification No. 12/2017-CT(Rate) dated 28.06.2017 “ Transmission or distribution of electricity (SAC 9969) by an electricity transmission or distribution utility”.

In terms of para 2(z) of the Notification No. 12/2017-C.T. (Rate) dated 28.06.2017, it is clearly indicated that for the purposes of this notification, unless the context otherwise requires:

(z) “electricity transmission or distribution utility” means the Central Electricity Authority; a State Electricity Board; the Central Transmission Utility or a State Transmission Utility notified under the Electricity Act, 2003 (36 of 2003); or a distribution or transmission licensee under the said Act, or any other entity entrusted with such function by the Central Government or, as the case may be, the State Government;

Further, the Electricity Act, 2003 defines "distribution licensee" means a licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;

As such, the exemption applicable to only those who operate and maintain a distribution system connecting the transmission grid to the retail electricity consumer and holding a distribution or transmission licensee under the said Act viz., the Electricity Act, 2003 (36 of 2003).

Thus, the exemption claimed citing the said Notification No. 12/2017-C.T. (Rate) dated 28.06.2017 is not applicable to your instant case and the taxable income reflected is chargeable in terms of the Notification No. 11/2017-CT(Rate) dated 28.06.2017 “Transmission or distribution of electricity (SAC 9969) by **other than** electricity transmission or distribution utility is taxable as amended (**at serial no.13**) GST@ 18% (CGST 9% & SGST 9%).

The Taxable income from the inception of GST i.e. 01.07.2017 till date gained from the supply of power to the said **transmission and Distribution Utility is thus liable to GST@ 18%** (CGST 9% & SGST 9%) in terms of the above said notification No. 11/2017-CT(Rate) dated 28.06.2017 “ read with section 2(74) of CGST Act, 2017 as it is a mixed supply of goods and services as detailed above.

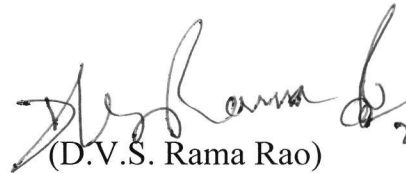
The income generated through mixed supply as detailed above involving production of electricity and distribution to the grid is tabulated along with GST as under:

Sl.No	Year	Income from Supply	CGST@9%	SGST@9%	Total @18%
1	2017-18(July-March)	4,62,58,946	41,63,305	41,63,305	83,26,610
2	2018-19	13,89,50,527	1,25,05,547	1,25,05,547	2,50,11,095
3	2019-20	13,51,49,738	1,21,63,476	1,21,63,476	2,43,26,953
4	2020-21 (Apr-Sept)	6,71,22,281	60,41,005	60,41,005	1,20,82,011
TOTAL		38,74,81,492	3,48,73,333	3,48,73,333	6,97,46,666

**The above figures are obtained from the GSTR 3B return filed by the taxpayer. As seen from the said returns it is observed that no outward supplies of Power generated to Grid was shown for the months of April, 2018 and Apr'2020 to May, 2020. The income generated for the said months may be provided, failing which, the reasons for the same may please be furnished with documentary proof.

The same may be paid along with interest/penalty and compliance report to audit immediately.

Yours sincerely,


(D.V.S. Rama Rao) 23/11/20

SUPERINTENDENT(SAG-63)

Perd
S.S. Sahar
23-11-2020
Shyam Bahari
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