

Talettutayi Solar Projects Private Limited

14 December 2020

To

The Superintendent,
Office of the Commissioner of Central Tax & GST,
Group – 63, Circle – VI, Audit – I, Commissionerate,
H.No. 3-4-118/1, 1st Floor, Elegant Maharaja,
Ramanthapur, Hyderabad - 500013

Sub: Reply letter to Notice No. C.No. V/G/A/II/04/2019-20/SAG-63 dated 23 November 2020 ('the Notice')

Ref: GST Registration No. 36AAFCT1349D1ZJ, M/s Talettutayi Solar Projects (P) Ltd. ('the Company'/'We'/'TT')

Respected Sir,

The Company is engaged in supply of electricity (generated through solar power) to Southern Power Distribution Company of Telangana Limited ('DISCOM'), incorporated by the Government of Telangana in accordance with the Andhra Pradesh Electricity Reforms Act, 1988 ('the APE Act').

The Company had received Audit assessment notice under Goods and Services Tax ('GST') Law from your office vide Notice No. C.No. V/G/A/II/04/2019-20/SAG-63 dated 12 September 2019 pertaining to the period July 2017 to March 2018. The assessment was completed, and a NIL demand order was issued vide Order no. C.No. V/G/A/II/04/2019-20/SAG-63 dated 24 September 2020 ('the Order').

A copy of the Order is attached as "Annexure-1".

In pursuant to receipt of the Order, the Company has received the Notice wherein it is alleged that the Company has not discharged GST liability since 01 July 2017 till October 2020 on supply of electricity (generated through solar power) to DISCOM considering the same as mixed supply of generating and transmission/ distribution of electricity. Further, basis the said allegation, the following GST liability has been determined in the Notice on the turnover disclosed by the Company in GSTR-3B:

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S.No.	Year	Income from Supply	CGST @ 9%	SGST @ 9%	Total GST Liability
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	125,05,547	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	60,41,0005	1,20,82,011
TOTAL		38,74,81,492	3,48,73,333/-	38,74,81,492/-	6,97,46,666/-

Copy of the Notice is enclosed as “Annexure-2”.

In this regard, the Company strongly rejects the allegation made in the Notice and would like to make the following submission for your kind reference:

1. Single activity for supply of solar power

1.1 The Company has entered into an agreement for sale of power to a DISCOM through a competitive bidding process carried out u/s 63 of the Electricity Act, 2003. Section 63 allows any DISCOM to procure power from any generating company. In order to analyse the nature of supply made under the Power Purchase Agreement (‘the Agreement’), it would be pertinent to first discuss the provisions pertaining to supply of electricity by the generating companies and licensing requirements for transmission and distribution of electricity under the Electricity Act, 2003 (‘the Electricity Act’) and its applicability on the Company. Same are discussed as below:

1.1.1 Supply of electricity by the generating company:

Relevant Provision-

The Section 2(28) of the Electricity Act provides that a generating company means any company or body corporate or associate or body of individuals, whether incorporated or not or artificial juridical person, who owns or operates a generating station. A generating station has been defined under the provisions of the Section 2(29) of the Electricity Act as the station for generating electricity, including any building and plant with step-up transformer, switch gear etc. used for that purpose and the site thereof; a site intended to be used for generating station.

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Further, the Section 10 of the Electricity Act provides that it is the duty of the generating company to establish, operate and maintain generating stations. Generation is not a licensed activity under the Electricity Act. A generating company can supply electricity to any licensee in accordance with the provisions of the Electricity Act and the rules and regulations made thereunder and may, subject to regulations made under sub-section (2) of the Section 42 of the Electricity Act, supply electricity to any consumer.

Applicability on the Company:

From the perusal of the above provisions, it can be inferred that the Company qualifies as a generating company in accordance with the provisions of the Electricity Act. Accordingly, the Company can supply electricity to **authorised licensee**. In light of the same, the Company has duly entered into an Agreement for supply of electricity to DISCOM {which is incorporated by the Government of Telangana in accordance with the Andhra Pradesh Electricity Reform Act 1998 (Act No.30 of 1998)}.

Further, in accordance with the requirements under the Electricity Act, the Company is required to establish, operate and maintain generating station, sub-station and dedicated transmission lines connected therewith. Electricity generated has to be evacuated immediately for its supply to end consumers. It is a well-recognized position that there cannot be any hiatus between the generation and consumption of electricity. In order to ensure evacuation of power from the generating station, it has to be connected to the nearest sub-station maintained by a transmission / distribution licensee. This inter-connection to the sub-station is done through a dedicated transmission line that is maintained by the generating company. A dedicated transmission line is involved in evacuation of electricity from a generating station and is not a transmission service, which has been clarified by the Electricity (Removal Of Difficulty) Fifth Order, 2005 issued by the Central Government vide S.O. 794(E), dated 8.6.2005, published in the Gazette of India, Ext., Point II, Section 3(ii), dated 8.6.2005.

Copy of the above-mentioned order is attached as “Annexure-3”.

Accordingly, the activity of the Company complying with the requirements of maintaining the necessary interconnection facilities to effect supply to the DISCOM, is not a transmission / distribution service as sought to be contended. It is merely the function of evacuating electricity generated in the generating station to the sub-station of transmission / distribution licensee as the case may be.

1.1.2 Requirement of license under the Electricity Act to transmit and distribute the electricity:

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Transmission and distribution are well defined activities under the Electricity Act, and cannot be loosely used to refer to the evacuation activity of a generating company. These activities are licensed activities that can be carried out only by authorized entities under the supervision of the concerned electricity regulatory commissions. As per the provision of the Section 14 of the Electricity Act, the appropriate Commission may, on an application made to it **under the Section 15 of the Electricity Act, grant a licence** to any person-

- a) To **transmit the electricity**, where the word transmit is defined under section 2(74) of the Electricity Act as conveyance of electricity through the transmission lines; or
- b) To **distribute electricity**, where distribution is defined as a system for supply of electricity to the consumers; or
- c) To undertake trading, where trading means purchase of electricity for resale thereof.

Accordingly, it would be relevant here to highlight that in order to transmit or distribute the electricity (as mentioned above), there is a statutory requirement to obtain the transmission or distribution license as the case may be. No person can transmit or distribute electricity without complying with the applicable licensing regulation as defined under the provisions of the Section 14 of the Electricity Act. It is only the authorized licensee who can maintain the necessary transmission / distribution system for carrying on the service of transmission.

Applicability on the Company:

In light of the above-mentioned provisions, it would be pertinent to note that the Company is solely engaged in the activity of generation of electricity and is not engaged in transmission or distribution of electricity. The Company has not obtained any license for transmission or distribution of electricity. Further, it would be pertinent to note that the Company had participated in a tender process pertaining to supply of electricity to DISCOM. The contract was awarded to the Company after proper bidding process and after ensuring that all approvals has been duly obtained by the Company. The Power Purchase Agreement has been executed merely for supply of electricity to the DISCOM and not for providing transmission or distribution services.

Accordingly, the Company would like to submit the fact that the Company is solely engaged in the supply of electricity under the Agreement and no element of transmission or distribution of electricity is involved in the same.

1.2 Nature of supply made under the Agreement:

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1.2.1 In the Notice, it has been alleged that the Company has executed two separate supplies i.e., supply of electricity and transmission of electricity to DISCOM, based on the following clauses from the Agreement:

- The Solar energy generated shall pass from the Solar Power Developer to the DISCOM at the interconnection point;
- The SPD has to bear the entire cost of interconnection facilities as per the approved estimate made by TSTRANSCO or DISCOM; and
- The SPD shall own, operate and maintain interconnection facilities from project to grid sub-station from time to time.

1.2.2 As already explained earlier, the inter-connection facility has to be maintained to ensure evacuation of electricity generated from the generating station. It is not transmission of electricity. The Agreement has been entered between the Company and DISCOM is solely for the sale/ supply of electricity. The recital of the Agreement i.e., “Power Purchase Agreement” itself signifies the very purpose of entering into Agreement is the purchase of power only. Further, the intent of the Agreement is also being supported by various other clauses of the Agreement, which are highlighted hereinbelow for ease of reference:

Clause Number	Relevant Text from the Agreement
Clause 2	“.....TSSPDCL has floated the process of floating tenders on behalf of TDISCOMs <u>for purchase of 500 MW solar power</u> . Accordingly, the authorized representative (TSSPDCL) on behalf of TSDISCOMs has floated the tender for <u>procurement of 500 MW solar power</u> through e-procurement platform as per the directions of Energy Department,
Clause 3	“Whereas, the Solar Power Developer has been selected as the Successful Bidder..... with a proposal of 10 MW for <u>Sale to DISCOM as detailed in Schedule 1</u> attached herewith and the letter of intents (LOIs) issued by DISCOM is enclosed as Schedule-3”
Clause 5	“Whereas the Solar Power Developer desires <u>to sell the entire solar energy from the Contracted Capacity to the DISCOM</u> in accordance with the policy announced by the Govt.....”

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Clause 8	“WHEREAS, the project near 13/33 KV Gadwal SS, Mahananumagar District <u>shall be connected to 132/33 KV Gadwal Grid substation for easy power evacuation</u> within the time frame stipulated in this Agreement. The injection of power from the Project to the grid is to be limited to the contracted capacity”.
Clause 1.17 to Article 1	“ Delivered Energy ” means with respect to any billing month, the kilo watt hours of electrical <u>energy generated by the Project and delivered to the DISCOM at the interconnection point</u> , as measured by the energy meters.....”
Clause 1.18 to Article 1	“ Delivery Point ” , means the interconnection point at which the Solar Power Developer <u>delivers power</u> to the TSTRANSCO or DISCOM.”
Clause 1.39 to Article 1	“ Quoted Tariff ” means charges for <u>each year of supply of power</u> as per the terms of the Agreement, quoted by the SPD as a part of the Financial Bid submitted on 13 th October 2014.....”
Clause 2.1 to Article 2	“Entire Delivered Energy, as mentioned in Schedule 1, at the interconnection point for <u>sale to the DISCOM shall be purchased</u> at the tariff as provided.....Title to the Delivered energy purchased shall pass from the Solar Power Developer to the DISCOM at the Interconnection Point. Provided the units of energy generated by the SPD prior to the COD of the Project <u>shall be purchased</u> by the DISCOM at the first year Tariff rate as provided in clause 2.2”

On a wholesome reading of the Power Purchase Agreement and especially, the aforesaid clauses, the following aspects emerge:

- i. The Tender was floated by DISCOM solely for the purpose of purchasing power and there was no intent of receiving transmission or distribution services from the Company;
- ii. The Company was allotted the Agreement basis the intent of purchasing the power by DISCOM. Appropriate letter of intent supporting the same was also provided by DISCOM. *Copy of the letter of intent is attached as “Annexure-4”;*
- iii. Evacuation of generated power till the interconnection point is an integral part of the Agreement as the same is necessary for delivery of the generated electricity at the

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generating station to DISCOM and without which, the electricity generated could not have been supplied to DISCOM; and

- iv. Defining the interconnection point is to identify contractually the point at which, the power is delivered to the DISCOM. Supply of power by the Company upto the inter-connection point using its own inter-connection facility i.e., evacuation does not amount to transmission or distribution of electricity.

1.2.3 Further, in reference to the above, it may be further noted that the Company has obtained an appropriate approval for interconnection point from the Government.

Copy of the approval for setting up interconnection point is attached as “Annexure-5”.

1.2.4 Basis the above, it is apparent that the real intent and purpose for entering into the Agreement is sale of electricity to DISCOM and evacuation of power till the interconnection point is an integral part of the Agreement. Accordingly, the same cannot be deciphered into an Agreement consisting two different supplies i.e., supply of electricity (goods) and supply of transmission or distribution of electricity services.

1.2.5 In reference to the same, it would be pertinent to refer the Hon'ble Supreme Court judgement in the case of ***Bharat Sanchar Nigam Ltd. & Anr vs Union of India & Ors (Case no. Writ petition (civil) 183 of 2003)***. In the said judgement, it has been held that the taxability of the supply shall be determined basis the intent of the agreement parties as to whether they wished to engage in supplies of goods or provision of services. Once the intent is determined, the transaction would be charged accordingly. Relevant extract of the same is provided herein below:

*“.....If the SIM Card was not sold by the assessee to the subscriber but is merely part of the services rendered by the service providers, then the SIM card cannot be charged separately to sales tax. **It would depend ultimately upon the intention of the parties**.....*

If the parties intended that the SIM card would be a separate object of sale then it would be open to levy sales tax thereon. However, if the sale of the SIM card is merely incidental to the service being provided and only facilitates the identification of the subscriber, it would not be liable to the sales tax.....”

1.2.6 In pursuant to the same, it is pertinent to highlight that the real intent of entering into the Agreement is to supply electricity to DISCOM and the same is also supported by the letter of intent issued by DISCOM. Further, arranging the interconnection facility for easy evacuation

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of electricity is only a mode of completely executing the Agreement and accordingly, forms an integral part of the Agreement to supply electricity.

- 1.2.7 From the aforesaid discussions, the Company would like to submit that the activities undertaken under the Agreement are solely in the capacity of a generating company. Further, there exists a single agreement wherein, it has been agreed to sale power to DISCOM and no involvement of activities pertaining to transmission or distribution of electricity. The activity of injecting the power into the interconnection point is solely to execute the end sale of power to DISCOM. The same does not qualify as a separate activity of distribution or transmission under the provisions of the Electricity Act.
- 1.2.8 Further, the Company would also like to submit that TT is recovering only energy/ electricity charges i.e., Rate per Kilowatt power hours from DISCOM. There is no separate or consolidated consideration involved pertaining to transmission or distribution of power in the invoices raised by the Company to DISCOM. Further, supply of electricity is an exempted good as per the Notification No. 02/2017 – Central Tax (Rate) dated 28 June 2017. Hence, the Company has claimed full exemption on the invoices raised on DISCOM under the said Notification for the supply of power to DISCOM.
- 1.2.9 Furthermore, it has been alleged in the Notice that the Company has claimed exemption for transmission and distribution of power under Notification No. 12/2017 – Central Tax (Rate) dated 28 June 2017. In the said context, we would like to submit that the Company is not engaged in the activity of transmission or distribution of energy (as discussed above). Hence, the Company has not claimed any exemption in the quoted Notification.
- 1.2.10 Accordingly, we would like to submit that the Company is engaged in supply of power without involving any activity pertaining to transmission or distribution. Further, the Company has received consideration against the power supply only. Therefore, the question of tax liability under GST laws does not arise on the transmission or distribution of electricity (i.e., the service which has not even been provided). Accordingly, the Notice as well as the proceeding undertaken should be dropped on this ground only.

2. The activity does not qualify as 'mixed supply'

- 2.1 It would be pertinent to refer the definition of mixed supply under the provision of section 2(74) of the CGST Act as provided hereinbelow:

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“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 fresh juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is no dependent on any other. It shall be not be a mixed supply if these items are supplied separately;”

2.2 On a close examination of the definition, following key aspects with their implications can be noticed:

Key Aspects	Implications
Two or more individual supplies of goods/ services/ combination	<ul style="list-style-type: none">• Two or more individual supplies - goods and/or services supplied together have an identity independent of each other• Supply of goods or services or both
Supplied in conjunction with each other	<ul style="list-style-type: none">• Supplies are made in conjunctions or mixing of goods or services or both• Concept of naturally bundled is not applicable
Not a composite supply	<ul style="list-style-type: none">• Supplies are not naturally bundled• Supplied conjointly in the ordinary course of business• None of the supplies qualifies as the principal supply

2.3 In pursuant to the above definition, it may be noted that in order to qualify as mixed supply, all the above-mentioned criteria are required to be fulfilled. However, without prejudice to the submissions made above, in the present case, generation and evacuation of electricity does not fulfil the criteria to qualify as mixed supplies. Even evacuation (as distinct from transmission as elaborated above) cannot be looked upon independently as it forms an intrinsic part of the generation of electricity as the process of generation of electricity cannot be carried out without simultaneous evacuation of such power.

2.3.1 **Two or more individual supplies of goods/ services/ combination:** In order to qualify as mixed supplies under the provisions of GST Law, there shall be supply of two or more **individual supplies** of goods/ services/ combination. Further, goods/ services/ combination so supplied as a mixed package **shall be capable of supplying independently.**

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In the given case, the generation of electricity and evacuation thereof to interconnection point cannot be treated as two different individual supplies because the generation of electricity cannot be performed without evacuating the same simultaneously, in this case, to the DISCOM. Further, as discussed earlier, even from the perspective of customer (i.e., DISCOM) there is only one supply i.e., sale of power. In other words, the activity of evacuation of electricity to the interconnection point cannot be undertaken independently of the generation/ supply of electricity. Hence, the supplies made under the Agreement even otherwise, would not fulfil these criteria to qualify as mixed supply.

2.3.2 Supplied in conjunction with each other: For qualifying as a mixed supply, the supply should be made together as a package and artificially bundled. For example, supply of a package consisting of canned foods, sweets, chocolates, cakes for a single price will constitute a mixed supply. In the given example, the supply of the mentioned goods are not naturally bundled with each other but artificially bundled and sold as a package.

In the give case, supply of electricity and evacuation of electricity to the interconnection point is completely dependent on each other and cannot be supplied independently. Accordingly, the same would not qualify as a supply made in conjunction with each other.

2.3.3 Not a composite supply: In order to qualify as mixed supply, a supply shall fall out of the ambit of composite supply under the provisions of the GST Act. Accordingly, once the supply qualifies as a composite supply the same cannot be a mixed supply. In the subsequent paras, we have discussed in case it is alleged that there are two supplies the same can only qualify as a composite supply and thereby cannot qualify as mixed supply.

2.4 Basis the above discussions, the supplies made under the Agreement shall fall out of the ambit of mixed supplies.

3 Ambit of composite supply

As discussed earlier, even assuming and not admitting that there are two or more supply involved in the execution of the Agreement. The same can only fall within the preview of composite supply as mentioned under Section 2(30) of the CGST Act.

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- 3.1 As per the provisions of Section 2(30) of the CGST Act, the composite supply has been defined as under:

“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;

Illustration.— Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;”

As apparent from the definition, following are the essential characteristics of a composite supply are noticed:

- a. The supply should consist of two or more taxable supplies;
 - b. The supply may be of goods or services or both, or any combination thereof;
 - c. Such supplies should be naturally bundled and supplied in conjunction with each other in the ordinary course of business;
 - d. One of the supplies should be a principal supply.
- 3.2 Further, Section 2(90) of the CGST Act defines a “principal supply” as supply which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

- 3.3 We have hereinbelow discussed each of the aspects related to composite supply:

3.3.1 *The supply should consist of two or more taxable supplies:*

The Company has entered into an agreement for supply of the electricity till the interconnection point. As per the Notice, it has been alleged that there are two supplied involved in the agreement i.e., generation of electricity and transmission of electricity. Further, supply of electricity energy is exempt as per the Notification No. 02/2017 – Central Tax (Rate) dated 28 June 2020. However, transmission of electricity till the interconnection point by the Company to DISCOM is chargeable to GST under SAC 9969. In this respect, it would be pertinent to highlight the definition of taxable supplies and exempt supplies as per the relevant provisions of the CGST Act.

Sub-section (108) of section 2 defines a taxable supply as under:

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“(108) “taxable supply” means a supply of goods or services or both which is leviable to tax under this Act”;

Sub-section (47) of section 2 defines an exempt supply as under:

“(47) “exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply”;

In the instant case, the Company is providing supply of electricity which are exempt from tax under section 11 of the CGST Act. However, the definition of taxable supplies includes those supplies of goods which are leviable to tax and exempted under section 11 of the CGST Act. Accordingly, the exempt supplies also fall under the category of taxable supplies.

3.3.2 The supply may be of goods or services or both, or any combination thereof:

Under the Agreement, the Company is supplying electricity (which is classified as goods under the GST classification scheme) There is no transmission services but evacuation of power (to the interconnection point). Accordingly, activities involved in the Agreement is generation and evacuation of electricity till the interconnection facility.

3.3.3 Such supplies should be naturally bundled and supplies in conjunction with each other in the ordinary course of business:

- a. The phrase “naturally bundled” has not been defined under the GST Law. Accordingly, it would be pertinent to refer the dictionary meaning of the said terms:

As per Marriam-Webster Dictionary, “naturally” is something that is by natural or inherent character and a “bundle” is a group of things fastened together for convenient handling or a package offering related products or services at a single price.

As per Cambridge Dictionary, “naturally” means as happening or existing as part of nature and not made or done by people and “bundle” means several things that have been fastened or are held together.

As per Oxford Dictionary, “naturally” means in a normal manner and “bundle” means a collection of things or quantity of material tied or wrapped up together.

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Thus, it may be said that “naturally bundled” is something that is, by its character, inherently fastened together for convenience.

- b. In the given case, evacuation of electricity does not have any independent existence and are inextricably associated with the supply of generated power. In fact, the said activity becomes an integral part of the supply of electricity. The same are naturally linked and provided for delivery of electricity. Therefore, they cannot be vivisected and cannot be treated as a separate and distinct activity. In any case, as explained earlier, evacuation is an activity distinct from transmission. Supply of power upto the inter-connection point using the generating company’s facilities is not transmission.
- c. Further, we may also refer to the Education Guide issued by Central Board of Indirect Taxes and Customs (formerly known as Central Board of Excise and Customs) to infer the meaning of ‘Bundled Services’. Same is reproduced herein below:

*“Bundled Service’ means a bundle of provision of various service wherein an element of provision of one service is combined with an element or elements of provision of any other service or services. The rule is – ‘If various elements of a bundled service are naturally **bundled in the ordinary course of business**, it shall be treated as provision of a single service which gives such bundle its essential character.”*

- d. Accordingly, in this respect it is important to highlight that the Para 9.2.4 of the Education Guide) provides for a list of indicators in order to determine whether the services are naturally bundled in the ordinary course of business or not. The relevant para of the guide is re-produced as below:

“Whether services are bundled in the ordinary course of business would depend upon the normal or frequent practices followed in the area of business to which services relate. Such normal and frequent practices adopted in a business can be ascertained from several indicators some of which are listed below –

- *The perception of the consumer or the service receiver. If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package then such a package could be treated as naturally bundled in the ordinary course of business.*

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- *Majority of service providers in a particular area of business provide similar bundle of services. For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.*
 - *The nature of the various services in a bundle of services will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service.”*
- e. It can be noted that all the above-mentioned indicators are applicable with respect to the supplies made by the Company under the Agreement (i.e., generation and evacuation of electricity), as explained below:
- i. ***Perception of the consumer or the service recipient*** – In power industry, the customer or the buyer of electricity expects that the supplier would arrange for the delivery of the generated energy till a specific point.
 - ii. ***Majority of service providers in a particular area of business provide similar bundle of services*** – Throughout the power industry, the generating companies evacuate power to ensure supply to the buyer of the energy simultaneously and instantaneously with generation of power of power and are not supplied independently.
 - iii. ***Nature of the various services in a bundle of services*** – Evacuation is an integral part of generation and supply of power. In such cases, supply of power is the main activity and evacuation is merely incidental to supply of power.
- f. Basis the above discussion, it can be inferred that generation and evacuation of electricity is naturally bundled and is supplied conjointly with each other in the ordinary course of business.

3.3.4 ***One of the supplies should be principal supply:***

The key intention of the buyer, i.e., DISCOM is to buy electricity from the Company. Accordingly, the sole activity, in present case is the supply of electricity. Company is engaged in generation and supply of electricity to DISCOM.

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3.4 Further, it would be pertinent to refer the principals laid down by various rulings to analyse the classification of supply as composite supply in the given case. Table hereinbelow discusses the principals provided by various authorities and their applicability in the instant case:

Ruling	Principal Laid down	Relevant Text from the Ruling	Applicability in the instant case
M/s Prasa Infocom & Power Solutions Private Limited – AAR, Maharashtra (No. GST-ARA-26/2019-20/B-43 dated 18 March 2020)	it has been held that where the supply of service cannot be executed without the supply of good, the same shall be construed as a combination supplied in the ordinary course of business	<i>“.....Without these goods the services cannot be supplied by the applicant and therefore we find that the goods and services are supplied as a combination and in conjunction and in the ordinary course of their business where the principal supply is supply of goods. Thus we find that there is a composite supply in the subject case”</i>	In the given case, the Agreement is for the supply of electricity and evacuation is incidental activity for effective delivery of the electricity. .
M/s BC Examination and English Services Pvt. Ltd. (Advance Ruling No. HAR/HAAR/R/2017-18/11 dated 01 June 2018)	Auxiliary services which aids/facilitates the supply of the primary services and are so naturally bundled that these cannot be supplied independently qualifies as	<i>“...Since the above services are for conducting the IELTS exams and are so bundled with each other that these cannot have an independent existence and therefore these are composite supply of services.....”</i>	In the instant case, evacuation of electricity is necessary in order to ensure the generation and supply of primary goods i.e., electricity. It is the combination

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	composite supply		of generation and evacuation that would qualify as naturally bundled services in the ordinary course of business for supply of energy by a generating company and thus, would qualify, if at all, as composite supplies. As far as transmission is concerned, this occurs after the inter-connection point.
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Copy of the above discussed rulings is attached as “Annexure-6”.

- 3.5 In light of the above detailed analysis, the Company would like to submit that there is no occasion of composite supply of electricity and transmission services under the provisions of GST Law for the reasons stated herein above. The supply of electricity upto the inter-connection point is evacuation of power generated and based on the laws of physics and the operational requirements of a generating station, the two activities of generation and evacuation are bundled naturally and are composite in nature. It is for this reason that the Power Purchase Agreement provides for the generation and evacuation of power upto the inter-connection point at the cost of the Company.

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In the view of the aforesaid discussion, the Company would like to humbly submit that the Company has not made any non-compliance pertaining to payment of GST on supply of electricity. The Company has appropriately claimed exemption on supply of electricity in light of the provisions of the GST Law.

Basis the same, we request you to accept our submission for your records and provide us an opportunity of being heard in person before passing any order.

In case your good self requires any further information/clarification, we would be obliged to provide the same at the earliest.

Yours Sincerely,

For **Talettutayi Solar Projects (P) Ltd.**

For **TALETTUTAYI SOLAR PROJECTS PVT. LTD.**

(Authorized Signatory)


AUTHORISED SIGNATORY

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