



## SOLAR POWER DEVELOPERS ASSOCIATION

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**Shekhar Dutt, SM, IAS(Retd)**  
Director General, SPDA  
Former Governor of Chhattisgarh State

To,

December 27, 2018

Sh. Arun Jaitley  
Hon'ble Minister of Finance and Corporate Affairs  
North Block,  
Government of India,  
New Delhi – 110001

**Sub: GST – One Nation One Tax**

**Reg: Taxability issues on supply of Solar Power Generating System under GST**

Dear Sir,

This is further to the representation filed by Solar Power Developers Association (hereinafter referred to as 'SPDA') for seeking clarification regarding taxability of various types of contracts entered into for supply of goods and services w.r.t Solar Power Generating System (hereinafter referred to as 'SPGS').

SPDA would like to thank your good self for considering our request of providing clarification on taxability of various types of contracts entered into for supply of goods and services w.r.t. SPGS.

In the 31<sup>st</sup> GST council meeting held on 22 December, 2018 the GST council has recommended that in case of contracts for supply of SPGS, seventy percent of the gross value of the contract would be deemed as the value of supply of goods and attract five percent rate and the remaining portion (thirty percent) of the aggregate value of such EPC contract shall be deemed as the value of supply of taxable services attracting standard GST rate.

SPDA would like to bring to your attention the fact that in case of contract for supply of SPGS, the scope of work primarily includes supply of goods. It is pertinent to note that services are incidental to the contract and are minimal in the whole scope of work (not being more than ~5% of the total contract value). For the purposes of clarification, we have in last 8 months provided MoF with all the necessary evidences including the cost break-up of every single part installed in SPGS and EPC contract documents executed in the industry. It was further clarified that SPGS cannot be supplied in isolation without services such as installation & commissioning.

SPDA would also like to submit that providing concessional rate of 5% on only seventy percent of the gross value of the contract for supply of SPGS would result in higher tax rate on supply of SPGS as compared to the erstwhile Excise and Service Tax regime. Accordingly, the effective tax rate will be 8.9%. [70 % x 5 % + (30 % x 18%)] which is considerably high as compared to 1.5 to 2% in pre-GST era.

Above recommendation shall lead to increase in cost of electricity not only for future projects but also for many operating plants wherein the Power Purchase Agreement executed between DISCOMs & Solar Developers provides pass-through on GST implication. Many solar developers have already sought GST compensation (at 5 % GST on SPGS) from Central Electricity Regulatory Commission. New Recommendations shall further burden the DISCOMs with tax implication increased from 5 % to 9%.

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### Former

- Deputy National Security Advisor, Govt. of India
- Defence Secretary, Govt. of India
- Secretary Defence Production, Govt. of India
- Secretary Ministry of Health, Govt. of India
- Director General, Sports Authority of India

It is pertinent to highlight that Ministry of New and Renewable Energy (hereinafter referred to as 'MNRE') in pre-GST regime approved entire BOQ consisting of various parts e.g. cables, module mounting structures, spares, transmission lines etc. as essential to SPGS and hence the concessions applicable have been extended to all other goods used in solar power plant. Drawing a corollary from the same, concessional rate of 5% should be applicable on both the goods and services being incidental to such supply be covered as supply of SPGS.

In view of the above, SPDA would like to submit that the entire contract for supply of SPGS (including service portion) should qualify as supply of SPGS and should be taxed as supply of SPGS at the concessional rate of 5%.

Moreover, SPDA would like to re-emphasize the fact that generation of power by way of solar energy is one of the key promoters for the Government's aspiration of 'Make in India'. The Government has set target of 175 GW of renewable power by 2022 which includes 100 GW of solar power. However, the present recommendations would run inconsistent and create a huge gap in the Government's policy and its implementation.

Thus, it is humbly requested that keeping in line with Government's endeavor to promote the renewable power sector and considering the specific facts of the solar sector, the entire contract for supply of SPGS should be taxed at the concessional rate of 5%.

Look forward to your good self's positive consideration in the matter.

Thanking you.

Yours sincerely,

For **Solar Power Developers Association**



Shekhar Dutt