



नई दिल्ली  
NEW DELHI

याचिका संख्या./ Petition No. 13/SM/2025

कोरम/ Coram:

श्री जिष्णु बरुआ, अध्यक्ष/Shri Jishnu Barua, Chairperson  
श्री रमेश बाबू वी., सदस्य/Shri Ramesh Babu V., Member  
श्री हरीश दुदानी, सदस्य/Shri Harish Dudani, Member  
श्री रविंदर सिंह ढिल्लों, सदस्य/Shri Ravinder Singh Dhillon, Member

आदेश दिनांक/ Date of Order: 4<sup>th</sup> of November, 2025

**IN THE MATTER OF:**

Reduction of GST rate on procurement of renewable energy devices and parts for their manufacture from 12% to 5%

**आदेश/ ORDER**

In terms of Section 79 of the Electricity Act, 2003 (the Act, 2003), this Commission has been regulating the tariffs of generating companies that are owned or controlled by the Central Government, and those that have a composite scheme for the generation and supply of electricity in more than one State. Regulation of tariff is being carried out in two ways, namely, determination of tariff under Section 62(1)(a) and adoption of tariff under Section 63 of the Act, 2003. Further, in accordance with sub-clause (s) of Clause (2) of Section 178 of the Act, 2003, this Commission is also empowered to determine the terms and conditions for the determination of the Renewable Energy tariff. Accordingly, the Commission, while determining the tariff, takes into account the objectives of safeguarding consumers' interests as well as ensuring the recovery of electricity costs in a reasonable manner. To achieve these objectives, the Commission undertakes various regulatory measures that are in consonance with the principles set out under the Act. The terms and conditions of the Renewable Energy tariff specified by the Commission also act as guiding principles for SERCs. The Commission has been issuing Regulations for Terms and Conditions for Tariff determination from

Renewable Energy sources based on multi-year tariff principles since 2009. The Distribution Companies procure power from Renewable Energy (RE) generating stations, and the tariff for such power procurement is determined in accordance with the Power Purchase Agreements (PPAs) between the concerned RE generating station and the distribution licensees. The PPAs provide for the grant of relief in the form of a tariff adjustment either to the RE generating stations or the distribution licensees on account of a Change in Law. In terms of the said PPAs, the Commission is required to determine the impact of various Change in Law events on tariff and also to grant appropriate relief. Further, in terms of Section 79(1)(f) of the Act, Paragraph 5.17 of the Guidelines and the relevant provisions of the PPAs, this Commission has the power to adjudicate disputes between RE generating stations and concerned distribution licensees with regard to Change in Law.

2. The Government of India, to introduce a unified indirect tax structure in the form of Goods and Services Tax (GST), enacted the Central Goods and Services Tax Act, 2017, Integrated Goods and Services Tax Act, 2017, Union Territories Goods and Services Act, 2017 and Goods and Services Tax (Compensation to States) Act 2017, with effect from 01.07.2017 (hereinafter collectively referred as *GST Laws*). Additionally, in relation to the aforementioned Acts, some taxes were merged into either the Central GST or the State GST. The Commission, in several previous orders, has observed that the GST Laws provide for a tax slab (previously exempted) ranging from 5% to 28% with respect to goods and services required for the execution, construction, and operation of solar projects, effective from 01.07.2017. The *Notification No. 8/2021- Central Tax (Rate) dated 30.09.2021* was issued by the Ministry of Finance, Government of India. The change in the rate of Goods and Services Tax from 5% to 12% w.e.f. 01.10.2021 resulted in a change in the cost of the inputs of goods required for RE generation. The Commission, vide various orders, held Notification No. 8/2021- Central Tax (Rate) dated 30.09.2021 as a 'Change in Law' as per the relevant provisions of the PPAs. Now, *Notification No. 9/2025-Central Tax (Rate), dated 17.09.2025*, has been issued by the Ministry of Finance, Government of India, in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 01/2017-Central Tax (Rate), dated 28.06.2017. The amended notification, effective from 22.09.2025, prescribes a revised Central Tax rate of 2.5% (resulting in a cumulative GST rate of 5%) on renewable energy devices and parts for their manufacture. The change in the rate of Goods and Services Tax from 12% to 5% w.e.f. 22.09.2025 has again resulted in a change in the cost of the inputs of goods required for RE generation.

3. We therefore, by this Order, take suo motu cognisance of the statutory changes involving the reduction of GST rates on the procurement of renewable energy devices and components with effect from 22.09.2025.

**Impact of GST Laws on RE projects:**

4. We note that under ‘GST Laws’, it has been provided that “*If the point of taxation of Goods/Services is before the GST implementation, then it will be taxed under the earlier law. GST will not be applicable. Any portion of any supply whose point of taxation is after GST implementation will be taxed under GST. The time of goods/supply of services shall be the earlier of the:- (a) The date of issuing invoice (or the last day by which invoice should have been issued) OR (b) The date of receipt of payment - whichever is earlier.*” Guided by the same principle, the Commission is of the view that the point of taxation of Goods/services is decided based on the time when the invoice is raised or the consideration for the goods/supply of services is received, and the tax has been paid. It is immaterial whether the consideration for the supply has been paid wholly or partly. There has to be a clear, one-to-one correlation between the projects, the supply of goods or services, and the invoices raised by the supplier of goods and services.

**A. Notifications regarding rates qua Goods:**

We observe that the relevant notifications are as under:

- a) Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 (2017 CGST Notification):

**Schedule I - 2.5%**

<b>Sr. No.</b>	<b>Chapter/ Heading/ /Sub-heading/ Tariff-item</b>	<b>Description of Goods</b>
234	84 or 85	<u>Following renewable energy devices &amp; parts for their manufacture:</u> (a) Bio-gas plant; (b) Solar power-based devices; (c) Solar power generating system; (d) <b><u>Wind mills, Wind Operated Electricity Generator (WOEG);</u></b> (e) Waste to energy plants/ devices; (f) Solar lantern/ solar lamp; (g) Ocean waves/ tidal waves energy devices/plants;

(The 2017 SGST Notification has a similar provision. For the sake of brevity, the same is not reiterated here.)

b) Notification No. 8/2021- Central Tax (Rate) dated 30.09.2021, i.e. 2021 CGST Notifications stipulate as under:

**(b) in Schedule II – 6%, -**

...  
(iv) after S. No. 201 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

201 A	84, 85 or 94	<p>Following renewable energy devices &amp; parts for their manufacture:</p> <p>-</p> <p>(a) Bio-gas plant</p> <p>(b) Solar power-based devices</p> <p>(c) Solar power generating system</p> <p>(d) <b><u>Wind mills, Wind Operated Electricity Generator (WOEG)</u></b></p> <p>(e) Waste to energy plants/ devices</p> <p>(f) Solar lantern/ solar lamp</p> <p>(g) Ocean waves/ tidal waves energy devices/plants</p> <p>(h) Photo voltaic cells, whether or not assembled in modules or made up into panels.</p> <p><i>[Explanation: If the goods specified in this entry are supplied, by a supplier, along with supplies of other goods and services, one of which being a taxable service specified in the entry at S. No. 38 of the Table mentioned in the notification No. 11/2017-Central Tax (Rate), dated 28th June, 2017 [G.S.R. 690(E)], the value of supply of goods for the purposes of this entry shall be deemed as seventy per cent. of the gross consideration charged for all such supplies, and the remaining thirty per cent. of the gross consideration charged shall be deemed as value of the said taxable service.]</i></p>
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(The Notification No. [F.12(1) FD/Tax/2021-60] has similar provision. The same is not being reiterated here.)

c) Notification no. 9/2025, Central Tax (Rate) dated 17.09.2025 stipulates as under:

*“In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 of 2017), and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 01/2017-Central Tax (Rate), dated the 28th June, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673(E), dated the 28th June, 2017, except as respects things done or omitted to be done before such supersession, the Central Government, on the recommendations of the Council, hereby notifies the rate of central tax of-*

(i) 2.5 per cent. in respect of goods specified in Schedule I;

**Schedule I - 2.5%**

<b>Sr. No.</b>	<b>Chapter/ Heading/ /Sub-heading/ Tariff-item</b>	<b>Description of Goods</b>
437	84, 85 or 94	<p><u>Following renewable energy devices &amp; parts for their manufacture:</u></p> <p>(a) Bio-gas plant;</p> <p>(b) Solar power-based devices;</p> <p>(c) Solar power generating system;</p> <p>(d) Wind mills, Wind Operated Electricity Generator (WOEG);</p> <p>(e) Waste to energy plants/ devices;</p> <p>(f) Solar lantern/ solar lamp;</p> <p>(g) Ocean waves/ tidal waves energy devices/plants;</p> <p>(h) Photo voltaic cells, whether or not assembled in modules or made up into panels.</p> <p><i>Explanation: - If the goods specified in this entry are supplied, by a supplier, along with supplies of other goods and services, one of which being a taxable service specified in the entry at S. No. 38 of the Table mentioned in the <b>notification No. 11/2017-Central Tax (Rate)</b>, dated 28th June, 2017 [G.S.R. 690(E)], <b><u>the value of supply of goods for the purposes of this entry shall be deemed as seventy per cent. of the gross consideration charged for all such supplies, and the remaining thirty per cent.</u></b> of the gross consideration charged shall be deemed as value of the said taxable service.</i></p>

**B. Notifications regarding rates qua Services:**

We note that relevant notifications are as under:

a) **Notification No. 11/2017** inter alia stipulates as under: \_

<b>S. No.</b>	<b>Chapter, Section or Heading</b>	<b>Description of Service</b>	<b>Rate (per cent.)</b>	<b>Condition</b>
(1)	(2)	(3)	(4)	(5)
....	....	....	....	....
3	Heading 9954 (Construction services)	<p>(i) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>(Provisions of paragraph 2 of this notification shall apply for valuation of this service.)</p>	9	-
		(ii) composite supply of works contract as defined in clause 119 of section 2 of Central	9	-

		<i>Goods and Services Tax Act, 2017.</i>		
		<i>(iii) construction services other than (i) and (ii) above.</i>	9	-

b) The 31<sup>st</sup> GST Council Meeting was convened on 22.12.2018. The recommendations made in the GST Council are as under:

“....

- ***III. GST on solar power generating plant and other renewable energy plants***
- *GST rate of 5% rate has been prescribed on renewable energy devices & parts for their manufacture (bio-gas plant/solar power-based devices, solar power generating system (SGPS) etc.) [falling under chapter 84, 85 or 94 of the Tariff]. Other goods or services used in these plants attract applicable GST*
- ***Certain disputes have arisen regarding GST rates where specified goods attracting 5% GST are supplied along with services of construction etc. and other goods for solar power plant.***
- ***To resolve the dispute the Council has recommended that in all such cases, the 70% of the gross value shall be deemed as the value of supply of said goods attracting 5% rate and the remaining portion (30%) of the aggregate value of such EPC contract shall be deemed as the value of supply of taxable service attracting standard GST rate.***”

c) **Notification No. 27/2018:**

(1)	(2)	(3)	(4)	(5)
“38.	9954 or 9983 or 9987	<p><i>Service by way of construction or engineering or installation or other technical services, provided in relation of setting up of following, -</i></p> <p><i>(a) Bio-gas plant</i></p> <p><i>(b) Solar power-based devices</i></p> <p><i>(c) Solar power generating system</i></p> <p><i>(d) Wind mills, Wind Operated Electricity Generator (WOG)</i></p> <p><i>(e) Waste to energy plant / devices</i></p> <p><i>(f) Ocean waves/ tidal waves energy devices/plants</i></p> <p><b><u><i>Explanation:- This entry shall be read in conjunction with serial number 234 of Schedule I of the notification No. 1/2017- Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 vide GSR number 673(E) dated 28th June, 2017.</i></u></b></p>	9	-”;

d) **Notification No. 24/2018:**

“ .....

against S. No. 234, in the entry in column (3), the following Explanation shall be inserted in the end, namely: -“Explanation: If the goods specified in this entry are supplied, by a supplier, along with supplies of other goods and services, one of which being a taxable service specified in the entry at S. No. 38 of the Table mentioned in the notification No. 11/2017-Central Tax (Rate), dated 28th June, 2017 [G.S.R. 690(E)], **the value of supply of goods for the purposes of this entry shall be deemed as seventy per cent. of the gross consideration charged for all such supplies, and the remaining thirty per cent. of the gross consideration charged shall be deemed as value of the said taxable service.**”

- e) The Rajasthan Appellate Authority for Advance Ruling vide its decision dated 11.01.2022 in the case of *M/s. Utsav Corporation Gurjar ki Thadi, Jaipur*, has held as under:

*In drawing our conclusions as above, we have based our findings upon the ruling dated 15.05.2019 given by the Rajasthan Appellate Authority for Advance Ruling in the case of Kailash Chandra (Proprietor of Mali Construction) involving similar situation. The Advance Ruling Authority in the instant case had held that the instant supply comprising supply of goods in the form of solar energy based bore well water pumping system along with installation and commissioning of such Water pumping system is a composite supply of works contract attracting GST @ 18% in terms of entry Sl. No. 3 of Notification No. 11/2017-Central Tax (Rate), dated 28.06.2017. However, the ruling that the composite supply of goods and services in the instant case deserves to be classified as works contract service is not supported by legal position which has been correctly interpreted by the Authority for Advance Ruling for the State of Uttarakhand in the case of M/s Premier Solar Systems Pvt. Limited as reported at 2019-T10L-79-AAR-GST by holding that the supply of solar irrigation water pumping system along with design, erection, commissioning and installation would constitute a composite supply attracting GST @ 5% on goods portion and GST @ 18% on services portion as prescribed in the relevant entry of the notification.*

*Thus, we observed that the effective rate of GST on supply of Goods and Services in relation to the Solar Power Based Devices upto 30.09.2021 is as follows:-*

- (a) 5% on value of goods where the value of goods is to be taken as 70% of the gross consideration and*
- (b) 18% on the value of services where the value of services is to be taken as 30% of the gross consideration.*

*Hence, the effective rate of GST for the composite supply will work out to 8.9% [(5% x 70%) plus (18% x 30%)]. However, with the amendments effected vide Notification No. 06/2021-Central Tax(rate) dated 30.09.2021 and Notification No. 08/2021-Central Tax (rate) dated 30.09.2021, the rate of tax on goods, portion stands increased from 5% to 12% and accordingly, the effective rate of GST for the period post 30.09.2021 will stand increased to that extent.*

5. We observe that relevant provisions of the GST Act, 2017 stipulate as under:

**Section 171 Antiprofitereering measure of the CGST Act, 2017 reads as under:**

**(1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.**

**(2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him**

*[Provided that the Government may by notification, on the recommendations of the Council, specify the date from which the said Authority shall not accept any request for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.*

**Explanation 1.** —For the purposes of this sub-section, “request for examination” shall mean the written application filed by an applicant requesting for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

**Explanation 2.**—For the purposes of this section, the expression “Authority” shall include the “Appellate Tribunal]

**(3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.**

**(3A) Where the Authority referred to in sub-section (2), after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent. of the amount so profiteered.**”

*Provided that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.”*

6. In light of the above, we observe that the GST ACT, 2017 has provided that any reduction in GST rate or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices as an anti-profitereering measure. We observe that a decrease in the GST rate from 12% to 5% has the effect of saving in the project's net cost. In view of the above, the Commission is of the considered view that the revised GST rate shall apply to all cases wherein the bid submission date is prior to 22.09.2025 and (i) the invoice (related to goods/supply of services' is raised on or after 22.09.2025 or (ii) consideration for the 'goods/supply of services' has been received and the tax has been paid on or after 22.09.2025, irrespective of the fact whether the consideration for supply has been paid wholly or partly. Further, it is pertinent to mention here that there has to be a clear one-to-one correlation between the projects, the supply of goods or services, and the invoices raised by the supplier

of goods and services. Accordingly, the monthly tariff or charges need to be adjusted/ refunded, as the case may be, on account of the aforesaid change in GST rates qua *Notification No. 9/2025–Central Tax (Rate), dated 17.09.2025*, from the date of occurrence of the said event.

7. Accordingly, in exercise of the power under section 79(1) of the Act, 2003, we direct that in instances where procurement, commissioning, COD, or SCOD occurs on or after 22.09.2025, but the bid submission date precedes 22.09.2025, all the RE generating stations and the concerned distribution licensee (DISCOM) are duty bound to consider the impact of this reduction in GST rates qua *Notification No. 9/2025–Central Tax (Rate), dated 17.09.2025*, issued by the Ministry of Finance, Government of India, prior to approaching the Commission for determination of tariff under the provisions of Change in Law as contained in the relevant provisions of PPAs and subject to the *Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021* dated 22.10.2021, read with Section 63 of the Electricity Act, 2003. The RE generating station(s) shall furnish to the DISCOM(S)/ beneficiary entity(ies) the relevant documentation, backed by an Auditor certificate, to enable the contracting parties to carry out reconciliation on account of reduction of the expenditure by exhibiting clear and one-to-one correlation with the projects and the invoices raised.

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हरीश दुदानी  
सदस्य

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रमेश बाबू वी.  
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