

The steps involved in setting up of solar plant and generation of electricity for sale involve the following: -

- a) Each solar panel is constructed of a layer of silicon cells, a metal frame, a glass casing surrounded by a special film, and wiring. For maximum effect, the panels are grouped together into "arrays" (an ordered series) and placed in large outdoor spaces. The solar cells, which are also referred to as photovoltaic cells, absorb sunlight during daylight hours;
- b) Within each solar cell is a thin semiconductor wafer made from two layers of silicon, one layer is positively charged and the other negatively charged, forming an electric field. When light energy from the sun strikes a photovoltaic solar cell it energizes the cell and causes electrons to come loose from atoms within the semiconductor wafer. Those loose electrons are set into motion by the electric field surrounding the wafer and this motion creates an electrical current;
- c) The solar panels work efficiently to transform sunlight into electricity, called direct current (or DC) electricity. The same is then converted into alternating current (or AC) for use with the help of inverters;
- d) Once the solar energy has been converted from DC to AC electricity, it runs through electrical panel and is distributed/sold to customers.

11. The applicant is in the business of generating electricity using PV cells and modules. therefore, they contend that the proposed solar plant projects to be setup in the state of Maharashtra would squarely fall within the purview of term 'power plant' and would be eligible for benefit under heading 98.01 of the first schedule to Customs Tariff Act read with Project Import Regulations subject to fulfilment of the prescribed conditions and procedure therein. The applicant has also stated that the benefit of project import regulations has been extended to many private sector undertakings who have executed power projects. The decisions in the cases of Lanco Kondapalli Power Pvt. Ltd. [2002 (84) ECC 801] and PPN Power Generating Company Pvt. Ltd. [2018 (10) TMI 846 – Mad.] have been cited by the applicant in support of their contentions.

12. On this issue also I have to support the stand adopted by the applicant. The law doesn't restrict the concessional rate of import duty on project imports to any specific power plant. Electrical power can be obtained from different sources, e. g., hydro-electric, thermal, nuclear, wind, solar etc. The entry at sr. no. 3 of the table annexed to the notification no. 230/86-Cus., dated 03.04.1986 only shows that the sponsoring authority in case of power plants and transmission projects would be the secretary to the government of the state/union territory dealing with the subject of power or electricity. Therefore, the clear language of the notification is that the exemption would be available to all power plants. An interpretation to restrict such benefit to any particular type of power plant would therefore, be perverse.

In view of the aforesaid conclusions, the question raised before me, i.e., 'Whether the applicant, being a private undertaking and engaged in setting up of solar power plants is eligible to import goods at concessional rate of duty under sub-heading 98010013 of the first schedule to the Customs Tariff Act, 1975 (51 of 1975) read with project Import Regulations, 1986 subject to fulfilment of conditions prescribed therein?' is required to be answered in the affirmative.

I rule accordingly.



(M.R. MOHANTY)

Customs Authority for Advance Rulings,
Mumbai



This copy is certified to be a true copy of the ruling and is sent to: -

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Vinitha
6/7/2022

(P. Vinitha Sekhar)
Secretary/Additional Commissioner,
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