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NH-24028/22/2020-H
Government of India
Ministry of Road Transport & Highways
(Highways Section)
Transport Bhawan, 1, Parliament Street, New Delhi-110001.

Dated: 27th August, 2021

To

1. The Chairman, NHAI, G-5 7 6, Sector -10, Dwarka, New Delhi-110075
2. DG(RD) & Special Secretary, Ministry of Road Transport & Highways
3. The Managing Director, NHIDCL, PTI Building, New Delhi-110001
4. Principal Secretaries/Secretaries of all States/UTs Public Works Department/ Road Construction Department/ Highways Department (dealing with National Highways and other centrally sponsored schemes)
5. All Engineers-in-Chief and Chief Engineers of Public Works Department/ Road Construction Department/ Highways Department (dealing with National Highways and other centrally sponsored schemes)
6. The Director General Border Roads, Seema Sadak Bhawan, Ring Road, New Delhi-110010
7. All CE-ROs, ROs and ELOs of the Ministry of Road Transport & Highways

Subject: Clarification regarding applicability of GST on the activity of construction of road where considerations are received in deferred payment HAM (Annuity) - reg.

Ref: - 1) NHAI Circular No. 3.3.14 dated 29.09.2017
2) NHAI Circular No. 3.3.17 dated 23.10.2017
3) NHAI Circular No. NHAI/F&A/GST -2017-18/SM dated 05.03.2018
4) NHAI Circular No. 3.3.20/2019 dated 29.07.2019 (SOP)

Sir,

I am directed to refer to aforesaid NHAI circulars and to say that as per the recommendations of 43rd GST Council meeting held on 28.05.2021, Ministry of Finance, Department of Revenue, has clarified vide circular no. 150/06/2021 - GST dated 17.06.2021 (copy enclosed) that "Entry 23A of notification no. 12/2017- CT (R) does not exempt GST on the annuity (deferred payments) paid for construction of roads".

2. Accordingly, in supersession of the above NHAI circulars to the extent of applicability of GST on Annuity payments, the following is hereby clarified regarding applicability of GST on the activity of construction of road where considerations are received in deferred payment HAM (Annuity) :

I. Projects where bid due date was on or before 30.06.2017: •

- a. For the projects where the last date of submission of bids was on or before 30.06.2017, GST on Annuity payments will be paid/reimbursed considering Change in law as per the Guidelines mentioned under Standard Operating Procedure (SOP) dated 29.07.2019 with the applicable GST rate and considering Bid Project Cost (BPC) plus Escalation Cost as total cost of project in the excel template.
- b. In case, where the template has already been submitted by the concessionaire and Change in law impact has been calculated, in such a case, GST impact shall be calculated again considering BPC plus escalation cost as total cost of project.
- c. The impact of additional GST shall be computed after adjusting GST Input Tax Credit lying with the concessionaire.

- d. Further, Appendix-I & Annexure-1 Base Data stands omitted and Annexure-II (Regular & Composite scheme) (enclosed) stands modified and issued accordingly along with Annexure-III (enclosed) for calculation of amount recoverable (if any), from the concessionaire in case payment already made under change in law.
- e. GST on interest on annuity payments shall be payable at the applicable GST rate in accordance with the provisions u/s 15(2)(d) of CGST Act.
- f. GST on annuity as per the percentage impact calculated shall be paid / reimbursed at the time when such annuity becomes due.
- II. Projects where bid due date was on or after 01.07.2017 and on or before 13.10.2017:
No GST on annuity under change in law shall be paid / reimbursed since bids were invited inclusive of GST .
- III. Projects where bid due date was on or after 14.10.2017 and on or before 16.06.2021:
- a. Effect of change in law on annuity payment shall be computed at applicable GST rate after adjusting GST Input Tax Credit lying with the concessionaire. No GST shall be paid on 40% construction support.
Annexure-IV for calculation of GST impact is enclosed herewith.
- b. GST on interest on annuity payments shall be payable at the applicable GST rate in accordance with the provisions u/s 15(2)(d) of CGST Act.
- c. GST on annuity as per the percentage impact calculated shall be paid / reimbursed at the time when such annuity becomes due.
- IV. Projects where bid due date are after 16.06.2021:
No GST on annuity under change in law shall be paid / reimbursed since bids were invited exclusive of GST .
- V. GST (TDS) shall be deductible from the Annuity & Interest on Annuity payable on or after 17.06.2021.

3. This issues with the approval of Competent Authority.

Encl: As above

Copy to:

AS & FA, MoRTH

Copy also to :

- (i) Sr. PPS to Secretary (RT&H)
(ii) Sr. PPS to AS (Highways)

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कनिष्ठ निजी सचिव SO, PRIVATE SECRETARY	06/9
कार्यालय सहायक OFFICE SUPDT.	06/9/2021
अनुमोदित / प्रमाणित BY NUS DATE	06/9/2021

Yours faithfully,


(Rajesh Gupta)
Director

Tele No. 011-23718527

✓ For dissemination to ext. file

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