

# **CFI PRE- BUDGET MEMORANDUM 2023-24**

## **GST ISSUES**

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<b>INDIRECT TAXES (GST)</b>				
<b>Sr. No.</b>	<b>Section/ Subject</b>	<b>Issue</b>	<b>Justification</b>	<b>Suggestion</b>
1.	<b>Section 16 (2) – ITC eligibility</b>	<b>ITC of GST paid on advances</b>	<p>GST paid on receipt of advances is not available as credit till the time of completion of service and invoice is raised. In case of heavy equipment, capital goods and shipbuilding industry, completion of service gets extended to 2-3 years.</p> <p>In the absence of Input Tax credit on advances, the Contractor is put to severe hardship due to blockage of Working Capital.</p>	<p>It is suggested that appropriate amendment in the section should be made so that issue of receipt voucher is treated as a document for availing ITC</p> <p>This would facilitate taxpayers reducing their working capital requirement.</p>
		<b>Advance received by Joint Ventures</b>	<p>Construction companies frequently form JVs to collaborate on projects where a single company does not have expertise and know-how to execute entire project.</p> <p>Though the project is awarded to JV, the actual work is entrusted to JV members under a subcontract agreement. JV is only responsible for billing the project owner after adding a nominal(~1%) profit margin. JV members will raise invoices on JV for their portion of work on monthly basis, JV will club the invoices and raise single invoice to client by adding 1% profit margin. All risks related to project and</p>	<p>At present, there is no provision in the GST Act to refund un-utilized input tax credit in case of “input services”. Since the advance made by client is simply collected and passed on by JV, JV is not providing any services to JV members.</p> <p>Thus, in such cases the advance payment from JV to its members should be considered as cash transaction and not taxable in the hands of JV and It will continue to be taxable only in the hands of the JV members.</p>

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			<p>actual work is carried out by JV members including submission of bank guarantee to client etc. Being a legal entity, JV has a separate GST registration for filing GST returns separately.</p> <p>Advance received by JV from client is passed on to the JV members in proportion to their share. Under GST law, tax is collected either on raising of a tax invoice or on receipt of advance.</p>	<p>Further, mobilisation advance is essentially meant for inducing the contractor to spend for provisioning the works contract service. Thus, it is in the form of an interest-bearing loan which proportionately adjusted as determined in the Contract. Hence it should be treated as loan instead of an advance.</p>
<b>2.</b>	<b>Input Tax Credit related Amendment</b>	<p>As per Section 16(2)(aa) of the CGST, GST Input Tax Credit can be availed only when details of such Invoice/Debit Note have been furnished by the Supplier in his Outward Supplies (i.e., GSTR-1) and such details have been communicated to the recipient of such invoice or debit note through GSTR-2B.</p>	<p>In effect, GST Input Tax Credit is available to the recipient on declaration of invoice or debit note in GSTR-1 by the Supplier and those details are available to the recipient in GSTR-2B to avail GST Input Tax Credit. In other words it restricts credit eligibility of recipients for omissions/errors of the suppliers.</p> <p>As per new Section 16(2)(aa) the GST Input Tax Credit is restricted to the amount available in GSTR-2B only.</p>	<p>It is suggested to restore the provision permitting to avail input credit based on Tax Invoice Received following the spirit of the decision of Honourable Supreme Court in the case of Bharati Airtel.</p> <p>Additionally, Taxpayers should not be unnecessary burdened for something which is beyond its control, like for e.g. ensuring suppliers/vendors pay their GST else Input tax credit will be reversed or recovered from the recipient of supply. Non-filing / non – compliance of vendors, should not become financial hardship to a prompt</p>

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				taxpayer. Liability of recipient of credit should start only after time limit to pay taxes/file details by vendors has expired and liability should be restricted to reversal plus interest.
<b>3.</b>	<b>Abatement for land value in construction contract</b>	<b>Standard abatement of 1/3rd of total value is prescribed irrespective of the location of construction activity</b>	<p>Land value in metro cities particularly in Mumbai / Delhi is substantially higher compared to Tier-I, Tier-II cities.</p> <p>This results in increase in overall cost to Buyers in Metro cities e.g. Mumbai.</p>	Deemed Value of Land can be provided as per the location of Property i.e. Metro/ Non-Metro, Tier I/II/III cities etc. as value of land varies significantly according to location. In any case abatement for land in Mumbai, Delhi & Bangalore should be at least 70% or alternatively can be linked to Ready Reckoner rate published by local government.
<b>4.</b>	<b>Transition credit of excise duty paid on inputs held in stock by an infrastructure construction company Section 140(3)</b>	Whether based on the language of Sec 140(3) and the intent of the Government, transition credit for excise duty on inputs like steel, cement etc. held in stock on 30.06.2017 by an infrastructure construction company	<p>Sec 140(3) allows transition credit of excise duty to a person registered under GST Act who</p> <p>a) <b>was not liable to be registered under the existing law</b> (read Central Excise Act and Service tax Act) <u>or</u></p> <p>b) was a manufacturer of exempted goods or was providing exempted</p>	It is suggested that a clarification in this regard, shall be appreciated directing field formations correctly interpret and allow transition credit of excise duty to works contractors engaged in the construction of roads, bridges, railways, ports, airports etc.

## INDIRECT TAXES (GST)

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		can be allowed as transition credit?	<p>services <u>or</u></p> <p>c) <b>was providing works contract service and availing benefit of Notification No. 26/2012-ST dated 20.06.2012</b><u>or</u></p> <p>d) was First stage dealer or a Second stage dealer or a Registered importer or a Depot of a manufacturer.</p> <p>in respect of inputs held in stock subject to fulfilment of certain conditions.</p> <p>The Section specifically mentions eligibility for transition credit to a works contractor who is availing benefit of Notification No. 26/2012-ST dated 20.06.2012. This provision applies to a “builder constructing buildings”</p> <p>There are other works contractors engaged in construction of roads, bridges, railways, ports, airports, dams, canals etc. who fall under category a) mentioned above and are eligible for transition credit of excise duty on inputs held in stock.</p> <p>Some field formations are taking a</p>	

## INDIRECT TAXES (GST)

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			myopic interpretation view that transition credit will be available only to works contractors engaged in construction of buildings and not to those engaged in construction of roads, bridges, railways, ports, airports etc.	
5.	<b>Job work- Section 143 of CGST Act</b>	Simplification of procedure for non-receipt of material from job-worker within stipulated time	<p>As per section 143(3) of CGST Act, Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out. This put additional compliance of issuance of invoice to job worker. Further job worker is required to pay GST at the time of returning materials.</p> <p>This will avoid unnecessary hassle of raising GST invoice on job worker and further raising of invoice by job worker</p>	<p>It is suggested to change the provision of section 143 as under: Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1), <i>within a period of two years of their being sent out</i>, the supplier shall pay an amount equivalent to the ITC attributable to the inputs or capital goods by debiting the electronic credit ledger or otherwise, but the supplier can take the ITC again when the inputs or capital goods are received back in his premises or supplied from the premises of such job worker.</p> <p>Alternatively, extension from the</p>

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			<p>on principal at the time of returning of goods. Though CGST law allows additional 1 year in case of inputs and 2 years in case of Capital goods subject to permission from Commissioner, it is practically difficult to get extension. Such extension process is very time consuming and tedious.</p>	<p>existing 1 year to 2 years should be allowed based on just intimation to GST authority and condition of specific permission from Commissioner should be withdrawn.</p>
6.	<p><b>Applicability of GST @18% w.e.f. 18.07.2022 on existing Road Projects</b></p> <p><b>Outcome of GST Council 47<sup>th</sup> Meeting held on 28<sup>th</sup> &amp; 29<sup>th</sup> June 2022</b></p>	<p><b>Payment of GST @6% due to increase in rates of GST from 12% to 18% with effect from 18.07.2022</b></p> <p><b>Request for Reimbursement of Additional 6% GST Rates</b></p>	<p>The GST Council in its 47<sup>th</sup> Meeting held on 28<sup>th</sup> &amp; 29<sup>th</sup> June 2022, has recommended and increased the rate of GST on Works Contract for the Roads again to 18%. This increase has come into effect from 18.07.2022.</p> <p>The said increase in GST Rates has directly increased the cost of the existing projects by 6% and will also have direct cost impact on the output supply, too.</p> <p>As per the concession agreements (BOT/HAM/EPC) entered into with the NHAI (The Authority), the Authority is liable to make the payment to the contractors, as the amount provided in</p>	<p>As the change in GST rate is effective from 18.07.2022, the members have already paid the additional tax to the government by 20.08.2022 which was the due date for submitting the monthly GST returns.</p> <p><b>Federation is requesting the government to advise MoRTH/NHAI to issue Circular/Notification by giving clarity on reimbursement of additional 6% due to change in GST rates with effect from 18<sup>th</sup> July 2022. Thus, as the matter is extremely urgent and important, we request to issue guidelines for reimbursement of the said</b></p>

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			<p>the contract is inclusive of GST.</p> <p>In terms of the 'Change in Law' clause in the concession agreement, the Authority has to bear the burden of the additional tax being imposed with effect from 18.07.2022 by the Government of India. The failure to do so may account to breach of contractual liability on part of the Authority. If the same is not paid by the Authority, the members would not be in a position to bear the burden of the additional cost and also would not be in a position to continue with the ongoing projects which are of national importance. Many projects may come to a grinding halt.</p> <p><b>Impact on BOT Contracts:</b></p> <p>An increase in GST rate by 6% shall impact under construction projects awarded under BOT model. Due to additional outflow of GST @ 6%, many projects shall become unviable.</p> <p>Recently, various authorities have</p>	<p><b>additional tax on monthly basis to the members (contractors) for mitigating statutory compliance well in time.</b></p>



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			awarded huge investment projects under BOT model which are yet to commence construction. There will be a direct GST impact due to rate change by 6% since there is no rate change in underlying input materials.	
7.	<b>Tax Deducted at Source - Section 51 of CGST Act</b>	Withdrawal of GST TDS provision	<p>GST TDS has been introduced w.e.f. The above process is not only complex and cumbersome but also leads to the blockage of working capital as TDS credited into Electronic Cash ledger remains unutilized if there is sufficient balance in Electronic Credit Ledger.</p> <p>Further, Deductor has to file GSTR-7 return only by declaring GSTIN wise consolidated transaction without giving invoice wise break up of such transaction. This creates issues in identification as well as reconciliation of TDS deducted against specific invoice. In many cases it is also observed that Deductor reports TDS against incorrect GSTIN which not only leads to blockage of working capital but also loss of credit if not corrected by Deductor subsequently.</p>	<p>The primary purpose of introduction of GST TDS is to trace the supply transaction to control Tax evasion. However, all Government Organizations already have mechanism whereby reimbursement of taxes is paid only based on proof of payment. Therefore, there is no necessity for separate GST TDS mechanism.</p> <p>GST TDS provisions are against ease of doing business and has negative impact on the working capital and profitability of the company. GST TDS mechanism is not present in any other countries who has implemented GST. Therefore, in line with the practice followed by other countries as well as to simplify GST law, it is necessary to withdraw GST TDS mechanism with immediate effect.</p>

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				Alternatively, Section 51 be amended to the effect that the deduction of tax shall not be made in respect of supplies made by the registered persons having aggregate turnover in the preceding financial year [at PAN level] exceeds Rs. 500 Crores.
<b>8.</b>	<b>Reverse Charge Mechanism for Pure Labour Services by Sub-Contractors</b>		<p>There is lack of compliance by many of the subcontractors from organized sector. Though GST is reimbursed against their invoice and claimed input tax credit, due to remittance of tax by them, resulting in additional cost by reversal of input tax credit availed by companies.</p> <p>Currently payment of tax under Reverse Charge Mechanism is applicable for Security Services, vide notification No. 28/2018 (central Tax) Rate, dated 28/12/2019, the same can be extended to pure labour service provide, which enable us to pay tax under RCM and avail credit.</p>	<p>To include "Pure Labour services by subcontractor" in notification 28/2019, as mentioned below:</p> <p>Security services (services provided by way of supply of security personnel) / <b><u>Pure labour services by subcontractor</u></b> provided to a registered person: Provided that nothing contained in this entry shall apply to, -</p> <p>(I)(a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>(b) local authority; or</p> <p>c) Governmental agencies; which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or</p>

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				Any person other than a body corporate A registered person, located in the taxable territory;
9.	<b>GST on Annuity payments under Hybrid Annuity Model (HAM) projects</b>	Request for withdrawal or suitable modification of CBIC Circular 150/06/2021-GST dated 7 <sup>th</sup> June 2021	<p>a) The Government in order to promote infrastructure projects promoted the PPP Model. The Road projects of NHAI under the BOT (Build operate Transfer) model are known as concessionaires' agreements and the infrastructure companies are known as concessionaire. As per this revenue model, the infrastructure companies are allowed to collect the toll charges or usage charges as a consideration for the investments made in the Road Project which is ultimately transferred to Government. The GST on toll charges is exempt from GST in terms of the SI No 23 of Notification no. 12/2017 dated 28th June 2017.</p> <p>b) Subsequently, the concession agreement has undergone some change whereby a certain fixed amount is paid by NHAI to the infrastructure companies who retained the right to collect the toll / usage</p>	<p>Based on industry's representation, CBIC vide circular 150/06/2021-GST dated 07.06.2021 has issued certain clarifications which the Industry feels is not the correct interpretation.</p> <p>As per the circular, the issue has been examined by the GST Council in its 43rd meeting held on 28th May 2021. 2.1 GST is exempt on service, falling under heading 9967 (service code), by way of access to a road or a bridge on payment of annuity [entry 23A of notification No. 12/2017-Central Tax]. Heading 9967 covers "supporting services in transport" under which code 996742 covers "operation services of National Highways, State Highways, Expressways, Roads &amp; streets; bridges and tunnel operation services". Entry 23 of said notification exempts "service by way of access to a road or a bridge on payment of toll". Together the entries 23 and 23A exempt access to</p>

## INDIRECT TAXES (GST)

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			<p>charges . The payments in lieu of the annuity are also exempted from GST in terms of Notification no. Notification 32/2017 dated 13th October 2017 amendment to the No.12/2017-Central Tax (Rate), dated the 28th June, 2017 Vide 23A - Service by way of access to a road or a bridge on payment of annuity under the head 9967 is NIL rate of the Duty. Thus, the payments made in lieu of the annuity are also exempted from the GST.</p> <p>c) Since the response for these models is not up to the expectations, there is a change in the model. The new model is known as Hybrid Annuity Model (HAM) wherein 40% out of the total project cost would be paid in 8 or 10 instalments and the balance 60% of the project cost along with interest would be paid as Annuity payments in 15 half yearly instalments after the Commencement of Operations (COD). Under the HAM model also, the right in the property at any time does not vest with the infrastructure Companies and the same ultimately remains with the Government / Government authorities.</p>	<p>road or bridge, whether the consideration are in the form of toll or annuity [heading 9967]. Circular No.150/06/2021-GST 2.2 Services by way of construction of road fall under heading 9954. This heading inter alia covers general construction services of highways, streets, roads railways, airfield runways, bridges and tunnels. Consideration for construction of road service may be paid partially upfront and partially in deferred annual payments (and may be called annuities). Said entry 23A does not apply to services falling under heading 9954 (it specifically covers heading 9967 only). Therefore, plain reading of entry 23A makes it clear that it does not cover construction of road services (falling under heading 9954), even if deferred payment is made by way of instalments (annuities). Accordingly, it is stated that that Entry 23A of notification No. 12/2017-CT(R) does not exempt GST on the annuity (deferred payments) paid for construction of roads.</p>

## INDIRECT TAXES (GST)

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			<p>d) The industry holds the view that the said annuity is also liable to be exempted from GST. On a representation by the industry, CBIC clarified that the plain reading of Entry 23A makes it clear that it does not cover construction of road services (falling under heading 9954), even if the deferred payment is made by way of instalments (annuities), thus making the recommendations of the GST council void. There is apprehension among the members that the Department may bring annuity under GST for both the Models.</p>	<p><b>The industry requests that the circular be withdrawn or necessary clarification to the said circular be issued especially as the annuity payments are compensatory payments in lieu of the toll charges where project cost are not bided by the Concessionaire and the same are exempted vide notification no. 12 and as amended by Notification no. 32.</b></p> <p><a href="#"><u>Comparative Summary of the differences between Agreements' between BOT (A) and HAM</u></a></p>

**Comparative Summary of the differences between Agreements' between BOT (A) and HAM**

Particulars	BOT (Annuity) Agreement	Hybrid Annuity Mode
PAYMENT OF BID PROJECT COST	No such clause in the agreement	<p align="center"><b>ARTICLE 23</b> <b>PAYMENT OF BID PROJECT COST</b></p> <p><b>23.1 Bid Project Cost</b></p> <p>The Parties expressly agree that the cost of construction of the Project, as on the Bid Date, which is due and payable by the Authority to the Concessionaire shall be deemed to be Rs. 1600.00 crore (Rupees one thousand six hundred crore only) (The "<b>Bid Project Cost</b>"). The Parties further agree that the Bid Project Cost specified hereinabove for payment to the Concessionaire shall be inclusive of the <b>cost of construction, interest during construction</b>, working capital, physical contingencies and all other costs, expenses and charges for and in respect of construction of the Project, save and except any additional costs arising on account of variation in Price Index, Change of Scope, Change in Law, Force Majeure or breach of this Agreement, which costs shall be due and payable to the Concessionaire in accordance with the provisions of the Agreement. For the avoidance of doubt, the Bid Project Cost specified herein represents the amount due and payable by the Authority to the Concessionaire and may be less than, equal to, or more than the Estimated Project Cost.</p> <p><b>23.2 Adjusted Bid Project Cost</b></p> <p>23.2.1 The Bid Project Cost specified in Clause 23.1 shall be revised from time to time in accordance with the provisions of this Clause 23.2 to reflect the variation in Price Index occurring after the Reference Index Date immediately preceding the Bid Date.</p> <p>23.2.2 The Bid Project Cost adjusted for variation between the Price Index occurring between the Reference Index Date preceding the Bid Date and the Reference Index Date immediately preceding the Appointed Date</p>

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		<p>shall be deemed to be the Bid Project Cost at commencement of construction.</p> <p>23.2.3 For every month occurring after the Appointed Date, the Authority shall compute the variation in Price Index occurring between the Reference Index Date preceding the Bid Date and the Reference Index Date preceding the date of Invoice, and shall express the latter as a multiple of the former (the “<b>Price Index Multiple</b>”). All Invoices to be submitted by the Concessionaire to the Authority for and in respect of the Construction Period shall be the product of the relevant proportion of the Bid Project Cost and the Price Index Multiple applicable on the date of Invoice. For the avoidance of doubt and by way of illustration, if (a) the Price Index on the Reference Index Date preceding the Bid Date, say January 31, 2016, is 200 (two hundred); (b) the Invoice is submitted on October 15, 2017; and (c) the Price Index as on September 30, 2017 is 210 (two hundred and ten), then the Price Index Multiple for determination of the amount due in respect of such Invoice shall be 1.05 (one point zero five).</p> <p><b>23.3 Payment of Bid Project Cost</b></p> <p><b>23.3.1 40% (forty per cent) of the Bid Project Cost , adjusted for the Price Index Multiple, shall be due and payable to the Concessionaire in 5 (five) equal installments of 8% (eight per cent) each during the Construction Period in accordance with the provisions of Clause 23.4.</b></p> <p><b>23.3.2 The remaining Bid Project Cost, adjusted for the Price Index Multiple, shall be due and payable in 30 (thirty) biannual installments commencing from the 180th (one hundred and eightieth) day of COD in accordance with the provisions of Clause 23.6.</b></p>

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		<p><b>23.4 Payment during Construction Period</b>  Upon receiving a report from the Independent Engineer certifying the achievement of the below mentioned Payment Milestones<sup>1</sup>, the Authority shall disburse, within 15 (fifteen) days of the receipt of each such report, an installment equal to 8% (eight per cent) of the Bid Project Cost, adjusted for the Price Index Multiple as applicable on the Reference Index Date preceding the date of that report.  For the purpose of this Clause 23.4, the Payment Milestone for release of payment during Construction Period shall be as under:</p> <ul style="list-style-type: none"> <li>a) I (first) Payment Milestone - On achievement of 20% Physical Progress</li> <li>b) II (second) Payment Milestone - On achievement of 40% % Physical Progress</li> <li>c) III (third) Payment Milestone – On achievement of 60% Physical Progress</li> <li>d) IV (fourth) Payment Milestone - On achievement of 75% Physical Progress</li> <li>e) V (fifth) Payment Milestone – On achievement of 90% Physical Progress</li> </ul> <p>Provided that in case of Change of Scope, the Physical Progress shall be recalculated to account for the changed scope.</p> <p><b>23.5 Bonus on early completion</b>  In the event that the Concessionaire shall achieve COD on or more than 30 (thirty) days prior to the Scheduled Completion Date, the Authority shall pay to the Concessionaire a bonus equal to 0.5% (Zero point five per cent) of [60 % (Sixty per cent)] of the Bid Project Cost for the first30</p>

<sup>1</sup> Independent Engineer, during finalization of design, shall upfront decide weightages of all the items in due consultation with the Authority responsible for making payments and recommended percentage physical progress achievements based on the above decided weightages for the entire construction period. The weightages shall be fixed as per format in Annexure – I of Schedule G of this Agreement.



Particulars	BOT (Annuity) Agreement	Hybrid Annuity Mode
		<p>(thirty) days by which COD shall precede the Scheduled Completion Date and thereafter the said bonus shall be calculated on the pro-rata basis for each day preceding the said 30 (thirty) days period. The Bonus shall be due and payable to the Concessionaire along-with the 1<sup>st</sup>(first) Annuity Payment.</p> <p><b>23.6 Annuity Payments during Operation Period</b></p> <p>23.6.1 The (the “<b>Completion Cost</b>” shall be the summation of A, B, C, D, E, and F below:</p> <ul style="list-style-type: none"> <li>A. 20% of the Bid Project Cost adjusted for the Price Index Multiple as applicable on the Reference Index Date preceding the date of report confirming 20% Physical Progress.</li> <li>B. Another 20% of the Bid Project Cost adjusted for the Price Index Multiple as applicable on the Reference Index Date preceding the date of report confirming 40% Physical Progress.</li> <li>C. Another 20% of the Bid Project Cost adjusted for the Price Index Multiple as applicable on the Reference Index Date preceding the date of report confirming 60% Physical Progress.</li> <li>D. Another 15% of the Bid Project Cost adjusted for the Price Index Multiple as applicable on the Reference Index Date preceding the date of report confirming 75% Physical Progress.</li> <li>E. Another 15% of the Bid Project Cost adjusted for the Price Index Multiple as applicable on the Reference Index Date preceding the date of report confirming 90% Physical Progress.</li> <li>F. Another 10% of the Bid Project Cost adjusted for the Price Index Multiple as applicable on the Reference Index Date preceding the COD.</li> </ul> <p>The Parties acknowledge and agree that the Authority has paid a portion of the Completion Cost as payments during Construction Period pursuant to Clause 23.4 of this Agreement. The balance Completion Cost remaining shall be due and payable during the Operation Period in</p>

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		<p>accordance with the provisions of Clause 23.6.2.</p> <p>23.6.2 The Completion Cost remaining to be paid in pursuance of the provisions of Clause 23.6.1 shall be due and payable in biannual installments over a period of 15 (fifteen) years commencing from COD, (the “<b>Annuity Payments</b>”). The 1st (first) installment of Annuity Payments shall be due and payable within 15 (fifteen) days of the 180<sup>th</sup>(one hundred and eightieth) day of COD and the remaining installments shall be due and payable within 15 (fifteen) days of completion of each of the successive six months (“the <b>Annuity Payment Date</b>”).For the avoidance of doubt, the last Annuity Payment Date would be adjusted to in such a way that it falls at the end of the Operations Period.</p> <p>23.6.3 Each of the Annuity Payments due and payable during the years following the COD shall be as under:</p> <table border="1" data-bbox="972 735 1899 1374"> <thead> <tr> <th data-bbox="972 735 1361 807">Annuity following the COD</th> <th data-bbox="1361 735 1899 807">Percentage of Completion Cost remaining to be paid on COD</th> </tr> </thead> <tbody> <tr><td data-bbox="972 807 1361 842">1st Annuity</td><td data-bbox="1361 807 1899 842">2.10%</td></tr> <tr><td data-bbox="972 842 1361 877">2nd Annuity</td><td data-bbox="1361 842 1899 877">2.17%</td></tr> <tr><td data-bbox="972 877 1361 912">3rd Annuity</td><td data-bbox="1361 877 1899 912">2.24%</td></tr> <tr><td data-bbox="972 912 1361 948">4th Annuity</td><td data-bbox="1361 912 1899 948">2.31%</td></tr> <tr><td data-bbox="972 948 1361 983">5th Annuity</td><td data-bbox="1361 948 1899 983">2.38%</td></tr> <tr><td data-bbox="972 983 1361 1018">6th Annuity</td><td data-bbox="1361 983 1899 1018">2.45%</td></tr> <tr><td data-bbox="972 1018 1361 1053">7th Annuity</td><td data-bbox="1361 1018 1899 1053">2.52%</td></tr> <tr><td data-bbox="972 1053 1361 1088">8th Annuity</td><td data-bbox="1361 1053 1899 1088">2.60%</td></tr> <tr><td data-bbox="972 1088 1361 1123">9th Annuity</td><td data-bbox="1361 1088 1899 1123">2.68%</td></tr> <tr><td data-bbox="972 1123 1361 1158">10th Annuity</td><td data-bbox="1361 1123 1899 1158">2.76%</td></tr> <tr><td data-bbox="972 1158 1361 1193">11th Annuity</td><td data-bbox="1361 1158 1899 1193">2.84%</td></tr> <tr><td data-bbox="972 1193 1361 1228">12th Annuity</td><td data-bbox="1361 1193 1899 1228">2.93%</td></tr> <tr><td data-bbox="972 1228 1361 1264">13th Annuity</td><td data-bbox="1361 1228 1899 1264">3.02%</td></tr> <tr><td data-bbox="972 1264 1361 1299">14th Annuity</td><td data-bbox="1361 1264 1899 1299">3.11%</td></tr> <tr><td data-bbox="972 1299 1361 1334">15th Annuity</td><td data-bbox="1361 1299 1899 1334">3.20%</td></tr> <tr><td data-bbox="972 1334 1361 1369">16th Annuity</td><td data-bbox="1361 1334 1899 1369">3.30%</td></tr> </tbody> </table>	Annuity following the COD	Percentage of Completion Cost remaining to be paid on COD	1st Annuity	2.10%	2nd Annuity	2.17%	3rd Annuity	2.24%	4th Annuity	2.31%	5th Annuity	2.38%	6th Annuity	2.45%	7th Annuity	2.52%	8th Annuity	2.60%	9th Annuity	2.68%	10th Annuity	2.76%	11th Annuity	2.84%	12th Annuity	2.93%	13th Annuity	3.02%	14th Annuity	3.11%	15th Annuity	3.20%	16th Annuity	3.30%
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Particulars	BOT (Annuity) Agreement	Hybrid Annuity Mode	
		17th Annuity	3.40%
		18th Annuity	3.50%
		19th Annuity	3.61%
		20th Annuity	3.72%
		21st Annuity	3.83%
		22nd Annuity	3.94%
		23rd Annuity	4.06%
		24th Annuity	4.18%
		25th Annuity	4.25%
		26th Annuity	4.25%
		27th Annuity	4.44%
		28th Annuity	4.71%
		29th Annuity	4.75%
		30th Annuity	4.75%
		<p>Each of the biannual installments payable hereunder shall be paid along with interest as specified in Clause 23.6.4.</p> <p>23.6.4 Interest shall be due and payable on the reducing balance of Completion Cost at an interest rate equal to the applicable Bank Rate plus 3% (three per cent). Such interest shall be due and payable biannually along with each installment specified in Clause 23.6.3. For the avoidance of doubt and by way of illustration, the Parties agree that interest on the Completion Cost remaining to be paid, calculated from COD and until the 180th (one hundred and eightieth) day of COD, shall be due and payable to the Concessionaire along with the first Annuity Payment and interest on **% (** per cent) of the Completion Cost remaining to be paid on COD shall be due and payable under this Agreement. The Parties further agree that interest shall be calculated based on the number of days a particular Bank Rate was applicable during the period of calculation. For the purpose of illustration, assuming that the balance capital cost remaining to be paid is Rs 100 crores on the 1st Annuity Payment Date, the applicable Bank Rate for the first 75 days is 8% and thereafter it is revised to 7.5% and remains</p>	

Particulars	BOT (Annuity) Agreement	Hybrid Annuity Mode
		<p>unchanged till the 2<sup>nd</sup> Annuity Payment Date, the interest would be calculated as <math>((100 * 11\% * 75) / 365) + ((100 * 10.5\% * 105) / 365)</math>. For the avoidance of doubt, the Interest would be calculated on simple interest basis and no compounding of the same would be undertaken.</p> <p><b>23.7 O&amp;M Payments</b></p> <p>23.7.1 The Parties acknowledge and agree that all O&amp;M Expenses shall be borne by the Concessionaire and in lieu thereof; a lump sum financial support in the form of biannual payments shall be due and payable by the Authority, which shall be computed on the amount quoted by the selected bidder under its O&amp;M Bid, in accordance with the provisions of this Clause 23.7 (the “O&amp;M Payments”). The Parties further acknowledge and agree that any O&amp;M Expenses in excess of the O&amp;M Payments shall be borne solely by the Concessionaire, save and except as expressly provided in this Agreement. For avoidance of doubt it is clarified that the O&amp;M Payments will be subject to any Change in Scope of the Project of the Concessionaire under Article 16 of this Agreement.</p> <p>23.7.2 Subject to the Provisions of Clause 23.7.3, the O&amp;M Payments due and payable to the Concessionaire shall be paid in 2 (two) equal biannual installments and disbursed by the Authority together with the corresponding installments of Annuity Payments.</p> <p>23.7.3 Each installment of O&amp;M Payment shall be the product of the amount determined in accordance with Clause 23.7.1 and the Price Index Multiple on the Reference Index Date preceding the due date of payment thereof. For the avoidance of doubt and by way of illustration, if (i) the O&amp;M Bid is Rs.1Cr. (Rupees one core); (ii) the O&amp;M Payment is to be determined for the 2<sup>nd</sup> (second) year of the Operation Period; (iii) the Price Index on the Reference Index Date preceding the Bid Date is 200 (two hundred) and the Price Index on the Reference Index Date preceding the due date of payment is 240 (two hundred forty), implying a Price Index Multiple of 1.2 (one point two), then the O&amp;M Payment for that installment shall be the product of O&amp;M Bid and the applicable Price</p>

Particulars	BOT (Annuity) Agreement	Hybrid Annuity Mode
		<p>Index Multiple, which product shall be Rs.1.2cr. (Rupees one point two crore)</p> <p><b>23.8 Mobilization Advance</b> The Authority shall, on request of the Concessionaire, make an advance payment in a sum not exceeding 10% (ten per cent) of the Bid Project Cost (the "Mobilization Advance"). This advance payment shall be made in two equal instalments. The Concessionaire may request the Authority for the first instalment of the advance payment at any time after the Appointed Date, along with furnishing a Bank Guarantee in a form satisfactory to the Authority. The Concessionaire may request the Authority for the second instalment of the advance payment at any time, after 60(sixty) days from the Appointed Date, along with furnishing a Bank Guarantee in a form satisfactory to the Authority. The first and second instalments of the Mobilization Advance shall be paid by the Authority within 30 (thirty) days of receipt of the respective requests in this behalf from the Concessionaire. The rate of interest on the Mobilization Advance shall be equal to the Bank Rate, compounded annually. The Mobilization Advance shall be deducted by the Authority in 4 (four) equal instalments from each of the payments to be made by the Authority to the Concessionaire in accordance with the provisions of Clause 23.4 and the interest thereon shall be recovered as the 5th (fifth) and final instalment upon expiry of 120 (one hundred and twenty) days commencing from the date of recovery of the 4th (fourth) instalment</p>
<b>CONCESSION FEE</b>	<p><b>ARTICLE 26</b> <b>CONCESSION FEE</b> <b>26.1 Concession Fee</b> 26.1.1 <i>In consideration of the grant of Concession under this Agreement, the Concession Fee payable by the Concessionaire to the Authority shall be Re.1.00 (Rupee One) per year during the term of this Agreement.</i> 26.1.2 <i>The Concession Fee, for each year,</i></p>	No such clause in the agreement

Particulars	BOT (Annuity) Agreement	Hybrid Annuity Mode
	<p><i>shall be paid in advance within 90 (ninety) days of the commencement of the Accounting Year, for which it is due and payable.</i></p>	
<p><b>Annuity</b></p>	<p><b>27.1 Annuity</b>  <i>Subject to the provisions of this Agreement, the Concessionaire upon achieving COD for the Project Highway and in consideration of the Concessionaire accepting the Concession and undertaking to perform and discharge its obligations in accordance with the terms, conditions and covenants set forth in this Agreement, Authority agrees and undertakes to pay to the Concessionaire, for each Annuity Payment Period, on each Annuity Payment Date as set forth in Schedule M – Annuity Payment Schedule, the sum of Rs.34,20,00,000 (Rupees Thirty Four Crore and Twenty Lakh only) (the “Annuity”) as set forth in its Bid.</i></p> <p><b>27.2 Payment of Annuity</b>  <b>27.2.1</b>  <i>Subject to the provisions of this Article 27 and Article 28 and any other applicable provisions of this Agreement, Authority shall make payment of Annuity to the Concessionaire on each Annuity Payment Date. For avoidance of doubt the number of such Annuity payments shall not exceed 2 (two) per year and such Annuity payments shall not exceed 16</i></p>	<p>No such clause in the agreement</p>

Particulars	BOT (Annuity) Agreement	Hybrid Annuity Mode
	<i>(sixteen) over the Concession Period and will commence only after achieving COD.</i> <b>27.2.2</b>	