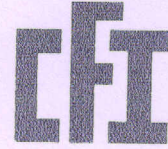


01C

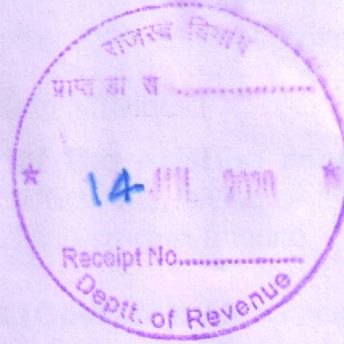


1<sup>st</sup> FLOOR, NO. 1, MASTER BLOCK, OPP. MADHUBAN PARK,  
SHAKARPUR EXTENSION, DELHI - 110092  
Tel.: 91-11-2242 2922, 2242 0758  
Email : cfi@cfiindia.com www.cfiindia.com

**CONSTRUCTION  
FEDERATION OF  
INDIA**

13-07-2020

**Shri Yogendra Garg**  
**Principal Commissioner (GST)**  
**GST POLICY WING**  
**Ministry of Finance**  
North Block  
New Delhi



Dear Sir,

**Sub.: Request to Issue Clarification –  
GST on Overloading Charges Collected at Toll Plazas**

For the past few decades, in order to give boost to the economic development of the country, the Government has embarked upon a massive National Highways Development Projects which is developed by respective agencies - NHAI, PWDs and BRO. This traditional system of financing road projects through budgetary allocation has proved to be inadequate to meet the constantly increasing traffic at a rapid pace.

To finance the highly capital intensive road projects, the Government has been encouraging private sector participation through Public Private Partnerships (PPP). The PPP also envisages for multiple benefits viz. attracting private capital, improves efficiency, planned management, technical innovation etc. In this regard, we would like to submit the following for your kind consideration:

1. NHAI/State Authorities invite bids through competitive bidding process for construction, operation and maintenance of national highways on BOT basis.
2. As per the guidelines of NHAI/ State Authorities, the successful bidder is required to form a separate Special Purpose Vehicle (SPV) company for execution of the Project during concession period.

....2/-

: 2 :

3. After incorporation of the SPV, NHAI/ State Authorities execute the concession agreement with the SPV and further recognize & declare the SPV as 'Concessionaire / Contractor' for the Project.
4. Under the terms of the concession agreement, the Concessionaire / Contractor is required to bear the cost of construction, operation & maintenance of the project highway for a particular period (hereinafter referred to as 'concession period').

The scope of the project involves following activities:

- (i) **Construction or expansion of the existing road (Build):** The SPV first embarks on the construction activities viz., laying of a new road/additional lanes or widening of highway by arranging its own finance.
- (ii) **Operation and maintenance (Operate):** After construction, the SPV have an obligation to maintain the road during concession period which is normally 15 to 20 years.
- (iii) **Transfer:** At the end of the concession period, the roads assets are transferred back to NHAI/ State Authorities.

In consideration for the concessionaire's / contractor's obligation of bearing the cost of construction, operation & maintenance, the Concessionaire / Contractor is given a right to collect and retain the toll revenues during the concession period (normally 15 to 20 years). Based on the terms of the contract with NHAI/ State Authorities, the SPVs collect toll revenue and retain it as per the provisions of the concession agreement towards recovery of road project cost.

Considering the importance and high priority of development & improvement of Infrastructure, **Government has, since inception, exempted service by way of access to a road or a bridge on payment of toll charges from payment of GST Vide Notification No.12/2017-CT(R) dated 28.06.2017 (Entry 23 thereof), the Central. The said exemption was earlier granted under the service tax regime as well vide exemption Notification No.25/2012-ST dated 20.06.2012.**

At the toll plaza, each vehicle is liable to pay toll (unless exempt by notification from NHAI). The goods carriers are weighed. Toll is collected from such goods carriers. **However, if the vehicles are overloaded, vehicles are levied next category rate (for eg Light commercial vehicles if overloaded will be charged fare of truck subject to maximum of 10 times of rate of same category) as per the guidelines issued by the project authority i.e. NHAI. The said charges are levied in terms of Notification issued by the Ministry of Road Transport & Highways.**

....3/-

: 3 :

It is levied for violation of the prescribed limits set out by the NHAI and under the Motor Vehicles Act, 1988 (as amended) and to recover the loss to the concessionaire due to overloading of vehicles i.e. additional wear and tear to road and loss of toll. Hence, overloading charges cannot be regarded as consideration for any supply. Consequently, no GST would be payable on such charges.

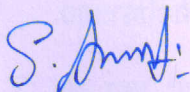
In any event, the said overloading charges are additional toll charges. It is excess toll collected from the passenger/carrier. It is part of the same supply of access to the bridges and roads. There is no separate supply being made to the carrier. Just as payments made for excess baggage to airlines by passengers is part of the main activity of 'transportation by air', this is part of the same access to the road. Excess parking charges for overtime would be consideration for parking supply only.

It is pertinent also to note that the exemption is to service "by way of" access to a road or bridge. "By way of" means "through" or "as a means of". The Oxford English Dictionary, Ninth Edition defines the said term as "through the agency, means, instrumentality or causation of". Hence, any service provided "by way of" access would be exempted, irrespective of the charges collected for it and the nomenclature of such charges.

In view of the foregoing, we are of the view that our members are not liable to pay GST on overloading charges. **However, for ease of business, uniform application and to avoid any possible disputes, we shall be thankful if your good-self considered issuing a suitable clarification on this issue.**

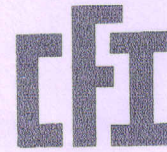
We look forward to a positive and early response please.

With sincere regards,



(Shiv Rawat)  
Deputy Director

B/C



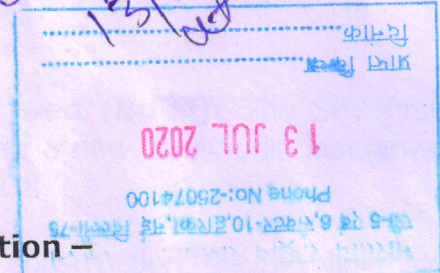
1<sup>st</sup> FLOOR, NO. 1, MASTER BLOCK, OPP. MADHUBAN PARK,  
SHAKARPUR EXTENSION, DELHI - 110092  
Tel.: 91-11-2242 2922, 2242 0758  
Email : cfi@cfiindia.com www.cfiindia.com

**CONSTRUCTION  
FEDERATION OF  
INDIA**

13-07-2020

**Shri Asheesh Sharma, IAS**  
**Member - Finance**  
**National Highways Authority of India (NHAI)**  
G 5&6, Sector-10, Dwarka,  
New Delhi - 110 075

*Dupli  
13/07/2020  
of 4130m*



Dear Sir,

**Sub.: Request to Issue Clarification –**

**GST on Overloading Charges Collected at Toll Plazas**

At the outset, we would like to introduce CFI – a representative body of leading infrastructure construction firms of the country engaged in the construction of critically important infrastructure development projects such as highways, roads, power stations, dams, metro railway, ports, seaports, irrigation & water projects etc. Members of the Federation have been integral part of the nation building process over several decades and are today playing a critical role towards achieving the highly ambitious infrastructure creation targets.

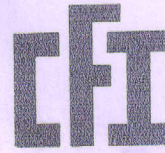
For the past few decades, in order to give boost to the economic development of the country, the Government has embarked upon a massive National Highways Development Projects which is developed by respective agencies - NHAI, PWDs and BRO. This traditional system of financing road projects through budgetary allocation has proved to be inadequate to meet the constantly increasing traffic at a rapid pace.

To finance the highly capital intensive road projects, the Government has been encouraging private sector participation through Public Private Partnerships (PPP). The PPP also envisages for multiple benefits viz. attracting private capital, improves efficiency, planned management, technical innovation etc. In this regard, we would like to submit the following for your kind consideration:

1. NHAI/State Authorities invite bids through competitive bidding process for construction, operation and maintenance of national highways on BOT basis.
2. As per the guidelines of NHAI/ State Authorities, the successful bidder is required to form a separate Special Purpose Vehicle (SPV) company for execution of the Project during concession period.

....2/-

o/c



1<sup>st</sup> FLOOR, NO. 1, MASTER BLOCK, OPP. MADHUBAN PARK,  
SHAKARPUR EXTENSION, DELHI - 110092  
Tel. : 91-11-2242 2922, 2242 0758  
Email : cfi@cfiindia.com www.cfiindia.com

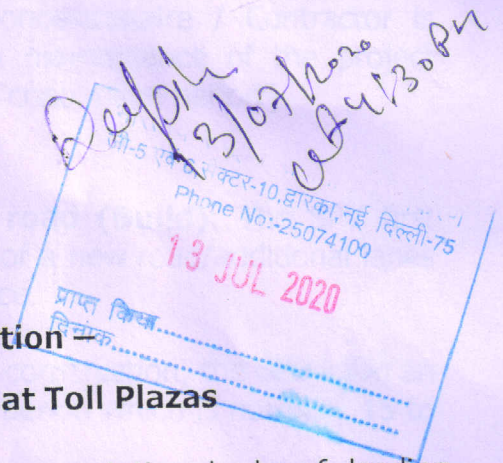
**CONSTRUCTION  
FEDERATION OF  
INDIA**

13-07-2020

**Dr. Sukhbir Singh Sandhu, IAS**  
**Chairman**  
**National Highways Authority of India (NHAI)**  
G 5&6, Sector-10, Dwarka,  
New Delhi - 110 075

Dear Sir,

**Sub.: Request to Issue Clarification –**  
**GST on Overloading Charges Collected at Toll Plazas**



At the outset, we would like to introduce CFI – a representative body of leading infrastructure construction firms of the country engaged in the construction of critically important infrastructure development projects such as highways, roads, power stations, dams, metro railway, ports, seaports, irrigation & water projects etc. Members of the Federation have been integral part of the nation building process over several decades and are today playing a critical role towards achieving the highly ambitious infrastructure creation targets.

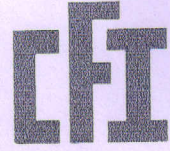
For the past few decades, in order to give boost to the economic development of the country, the Government has embarked upon a massive National Highways Development Projects which is developed by respective agencies - NHAI, PWDs and BRO. This traditional system of financing road projects through budgetary allocation has proved to be inadequate to meet the constantly increasing traffic at a rapid pace.

To finance the highly capital intensive road projects, the Government has been encouraging private sector participation through Public Private Partnerships (PPP). The PPP also envisages for multiple benefits viz. attracting private capital, improves efficiency, planned management, technical innovation etc. In this regard, we would like to submit the following for your kind consideration:

1. NHAI/State Authorities invite bids through competitive bidding process for construction, operation and maintenance of national highways on BOT basis.
2. As per the guidelines of NHAI/ State Authorities, the successful bidder is required to form a separate Special Purpose Vehicle (SPV) company for execution of the Project during concession period.

....2/-

o/c



1<sup>st</sup> FLOOR, NO. 1, MASTER BLOCK, OPP. MADHUBAN PARK,  
SHAKARPUR EXTENSION, DELHI - 110092  
Tel. : 91-11-2242 2922, 2242 0758  
Email : cfi@cfiindia.com www.cfiindia.com

**CONSTRUCTION  
FEDERATION OF  
INDIA**

13-07-2020

**Shri Amitabh Kumar  
Joint Secretary  
GST Council**

GST Council Secretariat  
5th Floor, Tower II, Jeevan Bharti Building,  
Janpath Road, Connaught Place,  
New Delhi-110 001

Dear Sir,

**Sub.: Request to Issue Clarification –  
GST on Overloading Charges Collected at Toll Plazas**

For the past few decades, in order to give boost to the economic development of the country, the Government has embarked upon a massive National Highways Development Projects which is developed by respective agencies - NHAI, PWDs and BRO. This traditional system of financing road projects through budgetary allocation has proved to be inadequate to meet the constantly increasing traffic at a rapid pace.

To finance the highly capital intensive road projects, the Government has been encouraging private sector participation through Public Private Partnerships (PPP). The PPP also envisages for multiple benefits viz. attracting private capital, improves efficiency, planned management, technical innovation etc. In this regard, we would like to submit the following for your kind consideration:

1. NHAI/State Authorities invite bids through competitive bidding process for construction, operation and maintenance of national highways on BOT basis.
2. As per the guidelines of NHAI/ State Authorities, the successful bidder is required to form a separate Special Purpose Vehicle (SPV) company for execution of the Project during concession period.

....2/-

