

■ AJIT GULABCHAND  
President

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



CONSTRUCTION  
FEDERATION OF  
INDIA

Date: November 14, 2022

**Secretary**  
**Ministry of Road Transport & Highways (MoRTH) &**  
**Chairperson**  
**National Highway Authority of India (NHAI)**  
Transport Bhawan  
1, Parliament Street  
New Delhi – 110 001

**Kind Attn.: Smt. Alka Upadhyaya, IAS**

Respected Madam,

**Sub: Clarification on enhanced GST rates from 18<sup>th</sup> July 2022 on the activity of Construction and Maintenance of Road under Built, Operate and Transfer Model (BOT) request – reg**

The Federation is a representative body of the engineering and infrastructure development companies of the country engaged in the construction of Roads, Bridges, highways, railways (metro, mono), water projects etc. as well as other basic infrastructure of national importance. In view of the initiative taken by the present government to boost the economy of the country, a number of road projects across the country are under construction.

The GST Council in its 47<sup>th</sup> GST Council Meeting held on 28<sup>th</sup> & 29<sup>th</sup> June, 2022 recommended an increase in the rate of GST on Works Contract for the Roads from 12% to 18%. This increase has come into effect from 18.07.2022. The said increase in GST Rates has directly increased the cost of the existing projects by 6%.

The Federation is extremely grateful to NHAI for having issued proactively a circular dealing with the impact caused by the enhanced GST rate on Hybrid Annuity Model (HAM) on 20<sup>th</sup> Sep 2022. The content of the circular clearly deals with modalities of compensating the Members of the Federation against the change in GST rate under Change in Law clause of Concession agreement.

However, the NHAI has yet to issue a circular in line with the HAM model as referred to above for BOT (Toll) model. The enhanced GST rate impacts the cost of BOT project in the same way as for HAM projects during the entire concession

period. In the event of increase in the GST rate, the cost of construction and maintenance is increased by additional 6%. As in the HAM project, the Annuities are taxable whereas in the case of BOT projects, toll collections are exempt from GST and hence the enhanced GST on construction and O&M becomes direct cost to the members of the federation.

In terms of the 'change in law' clause in the concession agreement, the authority needs to compensate the burden of the additional tax being imposed with effect from 18.07.2022 by the Government of India. As you are aware that, we are executing the road projects of national importance spreading across the length and breadth of the country, the enhanced GST rate will have a huge impact on our liquidity and will affect the viability of these projects.

Most of the BOT projects are also funded by global investors who are quite conscious of the impact caused due to change in law on IRR/NPV of the projects. The concession agreement provides that, the NHAI will compensate the members of the federation under article 41 so as to place the concessionaire in the same financial position as at the time of the bidding. The global investors are closely monitoring the change in law and the steps taken by the NHAI for compensating them appropriately. The delay if any, will adversely affect the sentiments of the investors.

In view of the above, we request your good-self to kindly issue a Circular addressing the BOT Toll projects giving inter-alia, a clarity on the reimbursement of additional 6% GST rate from 18<sup>th</sup> July 2022.

We will be grateful if a SOP in line with HAM projects issued on 20<sup>th</sup> Sep 2022 by your esteemed Office be issued expeditiously.

We are enclosing a sample working showing the modalities of reimbursement of enhanced GST in line with your letter dated 20<sup>th</sup> September 2022 with respect to HAM projects.

Thanking you in anticipation of a positive and prompt consideration.

With sincere regards,



(Ajit Gulabchand)  
President

Encl: As above

Copy to:

**Shri NRVVMK Rajendra Kumar**  
**Member (Finance)**  
**National Highway Authority of India (NHAI)**  
G-5 & G-6, Sector 10  
Dwarka  
New Delhi – 110 075