

**GOVERNMENT OF TAMIL NADU
COMMERCIAL TAXES DEPARTMENT
OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES
EZHILAGAM, CHENNAI- 600 005**

PRESENT: Dr. D.JAGANNATHAN I.A.S,

COMMISSIONER OF STATE TAX

**Circular No. 14/2024
(PP6/GST-160/2024)**

Dated :12.07.2024

Sub: Clarification on time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects of National Highways Authority of India (NHAI) in Hybrid Annuity Mode (HAM) model-Regarding.

Ref: Circular No. 221/15/2024-GST, dated 26.06.2024, issued by Government of India, Ministry of Finance, Department of Revenue, CBIC, GST Policy Wing.

In the reference cited, the Government of India, Ministry of Finance, Department of Revenue CBIC, GST Policy Wing, has issued Circular No 221/15/2024-GST, dated 26.06.2024 based on the recommendations of the GST Council. Hence, following *pari-materia* circular is issued.

Representations have been received from the trade and the field formations by the GST Council, seeking clarification regarding the time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects in Hybrid Annuity Mode (HAM) model, where certain portion of Bid Project Cost is received during construction period and remaining payment is received through deferred payment (annuity) spread over years.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Commissioner, in exercise of powers conferred by section 168 of the Tamilnadu Goods and Services Tax Act, 2017 (hereinafter referred to as "TNGST Act"), hereby clarifies the issues as under:

S.No.	Issue	Clarification
1.	<p>Under HAM model of National Highways Authority of India (NHAI), the concessionaire has to construct the new road and provide Operation & Maintenance of the same which is generally over a period of 15-17 years and the payment of the same is spread over the years. What is the time of supply for the purpose of payment of tax on the said service under the HAM model?</p>	<p>Under the Hybrid Annuity Model (HAM) of concession agreements, the highway development projects are under Design, Build, Operate and Transfer model (DBOT), wherein the concessionaire is required to undertake new construction of Highway, as well as the Operation and Maintenance (O&M) of Highways. The payment terms for the construction portion as well as the O&M portion of the contract are provided in the agreement between National Highways Authority of India (NHAI) and the concessionaire.</p> <p>2.1 A HAM contract is a single contract for construction as well as operation and maintenance of the highway. The payment terms are so staggered that the concessionaire is held accountable for the repair and maintenance of the highway as well. The contract needs to be looked at holistically based on the services to be performed by the concessionaire and cannot be artificially split into two separate contracts for construction and operation and maintenance, based on the payment terms. The concessionaire is bound contractually to complete not only the construction of the highway but also to operate and maintain the same.</p> <p>2.2 In HAM contract, the payment is made spread over the contract period in installments and payment for each installment is to be made after specified periods, or on completion of</p>