CBIC-190354/36/2021-TRU Section-CBEC
Government of India
Ministry of Finance
Department of Revenue
*****

North Block, New Delhi,
Dated the 17th June, 2021

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/ Commissioner of Central Tax (All) /
The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Sub–Clarification regarding applicability of GST on the activity of construction of road where considerations are received in deferred payment (annuity)-reg.

Certain representations have been received requesting for a clarification regarding applicability of GST on annuities paid for construction of road where certain portion of consideration is received upfront while remaining payment is made through deferred payment (annuity) spread over years.

2. This 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 & 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 road or bridge, whether the consideration are in the form of toll or annuity [heading 9967].

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).

3. Accordingly, as recommended by the GST Council, it is hereby clarified that *Entry 23A of notification No. 12/2017-CT(R)* does not exempt GST on the annuity (deferred payments) paid for construction of roads.

4. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours faithfully,

(Rajeev Ranjan)
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