

M/s Nagaur Mukundgarh Highways Pvt. Ltd.

Appellate Authority for Advance Ruling — Rajasthan

ORDER NO.RAJ/AAAR/06/2018-19 DATED 12.2.2019

Q Questions Before the Authority

- claim full ITC pertaining to procurement of goods and services for construction of the project during the Construction Period, as the entire revenue received during the said period is subject to GST; and
- claim ITC pertaining to procurement of goods and services during the O & M period after reversal of ITC as per Section 17(2) of the Central Goods and Services Tax Act, 2017 read with Rule 42 of the Central Goods and Services Tax Rule, 2017 as Annuity Payment received during the said period is exempt whereas O & M payments are subject to GST.

F Facts

The Appellant is a Special Purpose Vehicle engaged as a Concessionaire by the Public Works Department of Rajasthan to construct, operate, and maintain a state highway project on a DBOT basis. The project involves a construction period followed by an O&M period, with the Appellant receiving project cost payments in installments and annuity payments. The dispute concerns the eligibility of Input Tax Credit (ITC) during the construction and O&M phases given the taxability of these receipts.

H Ruling

ITC during construction phase	Only 50% of the ITC is available	Subject to provisions of Section 17(5) of the CGST Act, 2017
ITC during O&M phase	Full ITC is available	Subject to provisions of Section 17(5) of the CGST Act, 2017

The authority ruled that annuity payments are exempt under the specified notification, but this exemption restricts the availability of ITC. Consequently, the Appellant is entitled to only 50% of the ITC on inputs and input services used during the construction phase. For the O&M phase, the Appellant is entitled to full ITC on inputs and input services, provided they have no other outward exempt supply during that phase.

R Reasoning

The authority determined that annuity payments for road construction are exempt under Entry No. 23A of Notification No. 12/2017-Central Tax (Rate). Because these payments are exempt, the Appellant cannot claim full ITC for the construction phase, leading to a proportionate restriction under Section 17(2) of the CGST Act and Rule 42 of the CGST Rules. However, for the O&M phase, the authority found that if the Appellant has no other exempt outward supplies, they are entitled to full ITC on inputs and input services. The decision relies on the interpretation of the GST Council's intent to treat annuity payments as exempt to avoid taxing the value addition of the concessionaire.

P Provisions Relied On

Section 17(2) of the CGST Act, 2017

Section 17(5) of the CGST Act, 2017

Rule 42 of the CGST Rules, 2017

Entry No. 23A of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017

Notification No. 32/2017-Central Tax (Rate) dated 13.10.2017

! For the Practitioner

This ruling clarifies that **annuity payments for road construction are exempt** from GST, which triggers a restriction on ITC for the construction phase. Practitioners should note that the authority limits ITC to 50% for the construction period due to this exemption. It provides a clear framework for concessionaires to calculate ITC eligibility across different project phases.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> aaar-raj-6-2018_dtd. 12.02.19-nmhpl.pdf

Prepared 13-10-2026.

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