

## CHAPTER XV: DEPARTMENT OF ROAD TRANSPORT & HIGHWAYS

### National Highways Authority of India

#### 15.1 Loss of revenue due to non-implementation of rates of user fees

**National Highways Authority of India did not comply with the directions of the Government of India to implement revised rates of user fee after expiry of moratorium period of one year resulting in loss of ₹ 42.56 crore to exchequer.**

The GOI notified, between November 2007 and May 2008, revised rates of the user fee in respect of nine\* stretches of highway projects controlled and managed by National Highways Authority of India (NHAI), in exercise of powers conferred by National Highways Act, 1956 and National Highways (Rates of Fee) Rules, 1997 made thereunder. In protest of increase in the rates of user fee, the All India Motor Transport Congress (AIMTC) called a nationwide strike. Consequently, the enhanced rates were not levied as per an agreement dated 3 July 2008 signed between the representative of AIMTC and the Department of Road, Transport and Highways (DoRTH), Government of India (GOI). It was further agreed that there would be no increase in toll for a period of one year for the said stretches from the date of signing of the aforesaid agreement. Later on, the GOI in supersession of National Highways (Rates of Fee) Rules, 1997, notified National Highways Fee (Determination of Rates and Collection) Rules, 2008 in the Gazette of India dated 5 December 2008. These rules were however not applicable to agreements, contracts executed and bids invited prior to notification of these rules.

Instead of levying revised rates in the above mentioned road stretches, after expiry of one year (2 July 2009) from the date of signing of the aforesaid agreement, the NHAI recommended (15 July 2009) to the GOI to defer levy of revised rates on the ground that draft notifications for all the existing public funded projects (where fee collection was being made as per 1997 rules) were already submitted by it as such the rates may be revised only after publication of these fee notifications. The GOI did not respond (October 2010) to the above proposal of NHAI.

It was observed in audit that:

- Despite knowing the fact that the contract or projects in respect of these nine stretches were executed prior to December 2008 as such these were not covered under new fee notification dated 5 December 2008, the NHAI made a reference to the GOI in July 2009 recommending to defer levy of enhanced user fee rates.

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\* One in November 2007 Gurgaon-Kotputli, seven in January 2008 (i) Panipat-Ambala (ii) Ambala-Khanna (iii) Khanna-Jalandhar (iv) Badarpur-Kosi (v) Kosi-Agra (vi) Ghaziabad-Hapur & Hapur Bypass (vii) Barwa Adda-Panagarh and one in May 2008 i.e. Manor-Dahisor. Out of these, five stretches viz. (i) Ambala-Khanna (ii) Gurgaon-Kotputli (iii) Khanna-Jalandhar (iv) Manor-Dahisor (v) Panipat-Ambala were transferred before July 2009 to BOT Concessionnaires for six laning and the rest were controlled by NHAI.

- Immediately after elapse of period of one year of the date of agreement (3 July 2008) entered between AIMTC and GOI, the NHAI was required to implement enhanced rates in respect of nine road stretches as per notifications published between November 2007 and May 2008 but it did not act as per agreement and eventually failed to comply with the GOI directions to levy enhanced user fee on these stretches.
- Based on the traffic data provided by NHAI for the period August 2009 to September 2010, in respect of four toll plazas/stretchers controlled and managed by NHAI, shortfall in collection of differential revenue works out to ₹ 42.56 crore<sup>4</sup>.

Management in its reply (July 2010) stated that:

- Proposal to postpone levy of enhanced user fee, till notification of revision of rates in respect of all public funded projects was sent (15 July 2009) to the Ministry of RT&H, to have conducive environment for tolling throughout the country.
- As per the agreement dated 3 July 2008, the Ministry of RT&H constituted two committees the first to review all toll related issues and second for monitoring, reviewing and overseeing the function of toll system, respectively.
- To create awareness among users, some sort of deviations might occur which could not be considered as loss, because it is the Government to decide to levy or not to levy the toll at prescribed rates.

Reply of the Management was not acceptable as:

- The authority to take a decision to levy /not to levy toll vests in the GOI and NHAI is only an implementing agency of Government. As such contention of the Management that to have conducive environment for tolling throughout the country, levy of enhanced user fee was postponed was not acceptable and the NHAI should have implemented the agreement dated 3 July 2008.
- The recommendations of the Committees did not have any bearing on the rates notified in Fee Rules 1997/2008.
- The contention of the Management that some sort of deviations might occur which could not be considered as loss was not acceptable in view of the fact already mentioned above, that the NHAI does not have the authority to deviate from the directions of the GOI.

Thus, the decision of NHAI to continue levying the user fee during August 2009 to September 2010 at pre-revised rates, led to revenue loss of ₹ 42.56 crore to the exchequer and the same is likely to continue till the revised rates are levied by NHAI.

The matter was reported to the Ministry in September 2010; reply was awaited (February 2011).

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<sup>4</sup> *Dasna Toll Plaza at Ghaziabad-Hapur & Hapur Bypass Section: ₹ 3.50 crore, Srinagar toll plaza at Badarpur-Kosi Section: ₹ 14.96 crore, Mahuvan Toll Plaza at Kosi-Agra Section: ₹ 14.65 crore and Garui Toll Plaza at Barwa Adda-Panagarh Section: ₹ 9.45 crore*