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EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Government Notifications

STRATEGIC DEVELOPMENT PROJECTS ACT, No. 14 OF 2008

Order under Subsection (4) of Section 3

BY virtue of the powers vested in me by Sub-Section (4) of Section 3 of the Strategic Development Projects Act, No 14 of 2008 as amended, I Mahinda Rajapaksa, Minister of Economic Policies and Plan Implementation, do by this Order declare that:-

1. The notification containing the relevant information of the project to construct, operate and maintain a four-lane elevated highway from New Kelani Bridge to Athurugiriya via Rajagiriya (hereinafter referred to as “the Project”) on a Design-Build-Finance-Operate-Maintain and Handover (DBFOMH) basis for a period of 18 years as a Public-Private-Partnership (PPP) with an envisaged investment of USD 821.6 million which was identified as a Strategic Development Project for the purpose of Sub-Section (2) of Section 3 of the Strategic Development Projects Act, No. 14 of 2008 as amended (hereinafter referred to as “SDP Act”), was published in *Gazette Extraordinary* No. 2254/3 dated November 15, 2021.
2. The approval of the Cabinet of Ministers has been obtained on March 14, 2022 in terms of Sub-Section (3) of Section 3 of the SDP Act to declare that the project to construct, operate and maintain a four lane elevated highway from New Kelani Bridge to Athurugiriya via Rajagiriya on Design-Build-Finance-Operate-Maintain and Handover (DBFOMH) basis for a period of 18 years as a Public-Private-Partnership (PPP) with an envisaged investment of USD 821.6 million as a strategic development project.



3. The above Strategic Development Project shall be called and known as “Construct, operate and maintain a four-lane elevated from New Kelani Bridge to Athurugiriya via Rajagiriya on a Design-Build-Finance-Operate-Maintain and Handover (DBFOMH) basis as a Public-Private-Partnership (PPP) with an envisaged investment of USD 821.6 million” and the Project Company to undertake this project is CHEC NKBA elevated Highway (Pvt) Limited.
4. The aforesaid “Project to construct, operate and maintain a four-lane elevated highway from New Kelani Bridge to Athurugiriya via Rajagiriya on Design-Build-Finance-Operate-Maintain and Handover (DBFOMH) basis as a Public-Private-Partnership (PPP) with an envisaged investment of USD 821.6 million” shall implement and commence commercial operations within a period of three (3) years from the effective date of the Concession Agreement.
5. The exemption from the enactments specified in the Schedule to this Order shall apply in respect of the “project to construct, operate and maintain a four-lane elevated highway from New Kelani Bridge to Athurugiriya via Rajagiriya”. Further, to expedite the implementation of the project, the same concessions shall apply for any imports as set out in clause 2 through clause 6 in the Schedule during the period between the date of signing the Concession Agreement and the effective date set out in the Concession Agreement.

SCHEDULE

1. Inland Revenue Act, No. 24 of 2017

Corporate Income Tax

The profit and income generated by the Project to be exempted from Corporate Income Tax under the Inland Revenue Act, No. 24 of 2017 during the construction period of three (03) years and the operation and maintenance period of fifteen (15) year, after the construction period.

Tax on Dividends

Tax on dividends for the shareholders of the Project Company in relation to the distribution of dividend income shall be exempted during the operation and maintenance period of fifteen (15) years and one (01) year thereafter.

Tax on Payment of Interest on foreign loans, fees to consultants, Management fees and royalty

The Project Company shall be exempted from the payment of Withholding Tax (WHT) on the following ;

- (i) On the interest of foreign loans taken for capital expenditure;
- (ii) On fees paid to Consultants [up to forty (40) consultants in the construction period of three (03) years and up to twenty (20) consultants in the maintenance period of fifteen (15) years after the construction Period]; and
- (iii) On Management Fees and Royalty Payments [not exceeding five (05) percent of the total project cost during the construction period of three (03) years and not exceeding two (02) percent of the total project cost during the maintenance period of fifteen (15) years after the construction period].

Capital Gains Tax

The shareholders of the Project Company and the Project Company shall be exempted from the payment of Capital Gains Tax during the construction period of three (03) years and the operation and maintenance period of fifteen (15) years after the construction period.

Income Tax on Employment

The expatriate employees (technical and managerial experts) of the Project Company shall be exempted from the payment of income tax arising from the gains and profits from employment in relation to the Project, as set out below;

- (i) for a period of three (03) years from the date of commencement of construction [subject to a maximum number of forty (40) expatriate employees].
- (ii) for a period of fifteen (15) years after the construction period [subject to a maximum number of twenty (20) expatriate employees].

2. The Value Added Tax Act, No. 14 of 2002 (VAT Act)

All imports of project related goods as approved by the Board of Investment of Sri Lanka (hereinafter referred to as “BOI”) and services required for the implementation of the Project, shall be exempted from the payment of Value Added Tax (VAT) during the construction period of three (03) years from the effective date of the Concession Agreement and the operation and maintenance period of fifteen (15) years after the Construction Period.

VAT on local purchases of project related goods as approved by the BOI and services required for the implementation of the project, shall be deferred during the construction period of three (03) years from the effective date of the Concession Agreement and the operation and maintenance period of fifteen (15) years after the Construction Period.

Further, the semi-annuity service payment by the Government of Sri Lanka to the Project Company including interest income receivable under the Concession Agreement shall be exempted from the payment of VAT during the operation and maintenance period of fifteen (15) years after the Construction Period.

3. The Ports and Airports Development Levy Act, No. 18 of 2011

The Project Company shall be exempted from the charge and payment of Ports and Airports Development Levy (PAL), on all imported project related goods as approved by the BOI (Whether directly imported by the Project Company or sourced through any contractor(s) or sub-contractor(s)) provided the goods are consigned in the name of the Project Company during the Construction Period of three (03) years from the effective date of the Concession Agreement and the operation and maintenance Period of fifteen (15) years after the Construction Period.

4. Excise (Special Provision) Act, No. 13 of 1989

Import of project related items as approved by the BOI, by the Project Company, its contractor(s) and its sub-contractor (s) provided the goods are consigned in the name of the Project Company shall be exempted from the charge and payment of Excise Duty during the Construction Period of three (03) years from the effective date of the Concession Agreement and the operation and maintenance period of fifteen (15) years after the Construction Period.

5. Sri Lanka Export Development Act, No. 40 of 1979

Import of project related items as approved by the BOI by the Project Company, its contractor(s) and its sub-contractor (s) provided the goods are consigned in the name of the Project Company shall be exempted from the charge and payment of CESS during the Construction Period of three (03) years from the effective date of the Concession Agreement and the operation and maintenance period of fifteen (15) years after the Construction Period.

6. Customs Ordinance (Chapter 235)

All imports of Project related items whether directly imported by the Project Company or sourced through any contractor (s) or sub-contractor(s) provided the goods are consigned in the name of the Project Company (other than the items listed in the Negative List published by the Ministry of Finance) as approved by the BOI, shall be exempted from Customs Import Duty (CID), during the Construction Period of three (03) years from the effective date of the Concession Agreement and the operation and maintenance period of fifteen (15) years after the Construction Period.

However, any importation of items in the Negative List shall be considered by the BOI where such items are either not wholly produced in Sri Lanka or are not available in sufficient quality, quantity and considering the timeline for completion.

MAHINDA RAJAPAKSA, M.P,
Minister of Economic Policies Plan Implementation.

Ministry of Economic Policies and Plan Implementation,
Colombo,
25th April, 2022.

EOG 04-0224