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September 28, 2026

Mr. Vivek Chaturvedi, IRS
The Chairman
Central Board of Indirect Taxes & Customs (CBIC)
Kartavya Bhavan-I
New Delhi - 110 001

Respected Sir,

Subject: Industry Representation regarding Imposition of GST on Metro Fare / Toll Revenue under DBFOT (Metro Rail) or BOT (Toll) Concession Agreements – Request for Urgent Clarification and Policy Direction

The Bombay Chamber of Commerce and Industry ('BCCI'), one of India's oldest and premier industry associations representing businesses across sectors, including infrastructure, transportation, finance, manufacturing and services, write on behalf of stakeholders in the infrastructure sector, including developers, concessionaires, investors, lenders and project participants engaged in public-private partnership ('PPP') projects across India. Through this representation, we seek to draw attention to an emerging and critical issue concerning the GST treatment of metro fare revenue and toll revenue earned by concessionaires operating infrastructure projects under Design-Build-Finance-Operate-Transfer (DBFOT) (Metro Rail) and Build-Operate-Transfer (BOT) (Toll) concession arrangements.

The dispute stems from the view being adopted by GST authorities in certain proceedings that the right to collect metro fare or toll granted under a concession agreement constitutes consideration received by a concessionaire for construction/works contract services provided to the project authority and is, therefore, liable to GST. Further, in other proceedings, the authorities are raising GST demands based on notional valuation methodologies prescribed under Rule 28 of Central Goods and Services Tax Rules, 2017 (such as cost-plus 10%) despite the absence of any direct consideration flow from the project authority. Such an interpretation is inconsistent with the fundamental structure of PPP concession arrangements and has far-reaching implications for infrastructure projects across the country. If accepted, it would seriously undermine the financial viability of concession projects and destabilize the PPP framework for metro rail and highway development in India.

The urgency of the issue is further accentuated by the fact that divergent and inconsistent positions are being adopted by tax authorities in relation to the same category of concession revenues. While in certain proceedings, GST authorities are seeking to treat metro fare or toll revenue as taxable consideration for construction or works contract services supplied to the project authority, in other proceedings involving concessionaires, the same fare/toll revenue has been treated as consideration for exempt outward supplies for the purposes of input tax credit reversal. Such divergent positions have created significant uncertainty regarding the GST treatment of concession revenue and underscore the need for an immediate clarification.

1. Background

India has increasingly relied upon the PPP model for implementation of critical infrastructure projects, including national highways, airports, ports, metro rail systems, and urban transportation networks. The cornerstone of the PPP model is the participation of private sector entities that invest capital, undertake construction, assume operational and commercial risks, and recover their investment over the concession period through user charges and other contractually permitted project revenues.

Under DBFOT (Metro Rail) and BOT (Toll) Projects, the concessionaire generally undertakes design and engineering, financing, construction and commissioning, operation of the metro system/ highway, maintenance throughout the concession period and eventual transfer of the project to the public authority. In consideration for undertaking these responsibilities and assuming substantial project risks, the concessionaire is granted specific project rights, including the right to collect passenger fares or toll charges.

The concession model is fundamentally premised on recovery of the concessionaire's investment through metro/ toll revenue collected from passengers over the concession period. The right to collect fare is therefore not a payment made by the project authority but merely a contractual mechanism enabling recovery of investment through operation of public infrastructure. The entire financial model, project viability, debt repayment, and return on equity of the concessionaire under the DBFOT (Metro Rail)/ BOT (Toll) structure is predicated upon the passenger fare/ toll revenue being free from GST.

It is submitted that:

- i. **Passenger transportation through metro rail** is specifically exempt under Entry No. 17 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017; and
- ii. Services by way of **access to a road or bridge on payment of Toll charges** are exempt from GST under Entry 23 of aforesaid Notification. The description of both the entries are reproduced below:

The relevant entries provide as follows:

"Service of transportation of passengers, with or without accompanied belongings, by metro" – Nil rate of GST.

"Services by way of access to a road or a bridge on payment of toll charges" – Nil rate of GST.

These exemptions have formed the bedrock of the DBFOT (Metro Rail) and BOT (Toll) financial model since the introduction of GST in July 2017. In the context of highway projects, the National Highways Authority of India ('NHAI') has itself consistently recognized toll revenue as exempt from GST, as reflected in Policy Circular No. 3.3.23/2021 dated 24 November 2021.

The entire ecosystem including project financing arrangements, concession agreements, lender documentation, financial models, and concession fee structures, has been developed on the basis of this settled understanding.

Recharacterizing the same fare or toll revenue as consideration for construction services would effectively negate the specific exemptions granted by the Government and fundamentally alter the economic basis on which these projects were conceived and implemented.

It is also important to note that the construction of such projects is typically carried out through EPC contractors and other third-party service providers engaged by the concessionaire, on whose services applicable GST is already paid and corresponding input tax credit is either reversed or not availed by the concessionaire. Accordingly, treating metro fare or toll revenue as consideration for construction or works contract services provided to the project authority would effectively result in GST being levied again on the same underlying project works.

2. Emerging GST Dispute – Show Cause Notices to Concessionaires

We wish to bring to your urgent attention that the concerns highlighted in this representation have already resulted in investigations, audits, and show cause notices being issued to several concessionaires operating under DBFOT (Metro Rail) and BOT (Toll) concession arrangements. In these proceedings, authorities have sought to characterize fare or toll revenue earned during the concession period as consideration for construction or works contract services allegedly supplied by concessionaires to project authorities.

In a number of cases, GST demands have been proposed by invoking valuation mechanisms under the Central Goods and Services Tax Rules, 2017, including the adoption of notional valuation methodologies, notwithstanding the absence of any direct monetary consideration flowing from the project authority to the concessionaire.

The Department's position appears to be that the right to collect fare or toll granted under a concession agreement constitutes deferred consideration for works contract services rendered by the concessionaire to the project authority, classifiable under SAC 9954, and is therefore taxable at the applicable GST rate notwithstanding the exemptions under Entries 17 and 23 of Notification No. 12/2017-CT (Rate).

It is further pertinent to note that the approach adopted by the GST authorities themselves has not been consistent across concession-based infrastructure projects. In certain cases, proceedings are initiated seeking reversal of input tax credit on the ground that toll revenue constitutes consideration for exempt outward supplies, namely services by way of access to a road on payment of toll charges covered under Entry 23 of Notification No. 12/2017-Central Tax (Rate). In contrast, in other proceedings involving BOT/DBFOT concessionaires, the GST authorities are seeking to characterize the very same toll/fare revenue as taxable consideration for works contract/construction services provided to the project authority. **These diametrically opposite stands adopted by different wings of the tax administration demonstrate the absence of a settled and uniform understanding regarding the GST treatment of concession revenue. Such conflicting positions have created significant uncertainty for infrastructure developers and underscore the urgent need for a clear policy clarification from CBIC to ensure consistency, certainty and predictability in tax administration.**

It is submitted that in DBFOT (Metro Rail) and BOT (Toll) concession arrangements, the concessionaire typically does not itself execute the construction activities. The design, engineering, procurement and construction of the project are ordinarily outsourced to independent EPC contractors and other third-party service providers. Such EPC contractors discharge GST on the construction and works contract services supplied to the concessionaire, and the concessionaire correspondingly bears and pays GST on the consideration paid to such contractors. Consequently, the underlying construction activity already suffers GST at the stage of execution by the relevant contractors.

If, thereafter, the metro fare or toll revenue earned during the operational phase, is again treated as consideration for construction or works contract services allegedly supplied by the concessionaire to the project authority, **the same economic activity would effectively be subjected to GST twice. Such an interpretation would lead to unwarranted double taxation.** Therefore, metro fare and toll revenue, being operational receipts from users of the infrastructure and not consideration for construction services supplied to the project authority, ought not to be subjected to GST in the hands of the concessionaire. Further, the concessionaire earns fare or toll revenue only after commencement of operations and only to the extent that passengers or road users actually utilize the metro system or highway. The revenue is therefore intrinsically linked to the provision of exempt passenger transportation services or exempt toll access services and cannot be equated with consideration for construction activities undertaken years earlier.

3. Ongoing Litigation and Need for Immediate Policy Clarification

The issue highlighted in this representation has become the subject matter of investigations, adjudication proceedings and litigation across multiple jurisdictions. The divergent positions adopted by field formations regarding the GST treatment of metro fare and toll revenue have resulted in considerable uncertainty for concessionaires, project authorities, lenders and investors involved in infrastructure PPP projects.

The uncertainty has been further amplified by recent judicial proceedings concerning the GST treatment of concession-based infrastructure projects. The matter is presently under consideration before the Hon'ble Supreme Court in the case of CG Tollway Ltd. and the final legal position remains awaited. In the meantime, GST authorities across the country continue to initiate proceedings and raise demands on concessionaires, resulting in substantial tax exposure and avoidable disputes.

Given the significant investments involved in DBFOT (Metro Rail) and BOT (Toll) projects and their importance to India's infrastructure development agenda, prolonged uncertainty regarding the GST treatment of concession revenue is likely to adversely affect project viability, financing arrangements, investor confidence, and ease of doing business.

In these circumstances, a timely policy clarification would provide much-needed certainty to all stakeholders and help avoid protracted litigation across the sector pending final resolution of the issue.

4. Industry-wide Impact and Threat to PPP Framework

The present issue extends far beyond any individual project or concessionaire. The implications are sector-wide and have the potential to adversely affect the entire DBFOT (Metro Rail) and BOT (Toll) infrastructure ecosystem. If GST is imposed on Metro Rail/ Toll revenue across all DBFOT (Metro Rail)/ BOT (Toll) projects, the consequences would include:

- i. Retrospective GST demands (with interest and penalty) running into thousands of crores of rupees across all DBFOT (Metro fare)/ BOT (Toll) projects, severely impacting the financial health and debt servicing capacity of concessionaires;
- ii. Fundamental disruption of the financial models and Internal Rate of Return (IRR) projections on the basis of which DBFOT (Metro fare)/ BOT (Toll) projects were bid, financed, and implemented;
- iii. Triggering of Change in Law claims by concessionaires against project authorities (Government authorities) under Concession Agreements, resulting in significant financial liability for the project authorities;
- iv. Serious risk of project distress, NPA classification by lenders, and potential insolvency of concessionaires operating on thin financial margins;
- v. Fundamental erosion of investor confidence in the DBFOT (Metro Rail)/ BOT (Toll) PPP model, discouraging private sector participation in future PPP infrastructure projects; and
- vi. Potential cascading impact on the Government's infrastructure development programme and National Infrastructure Pipeline targets.

5. Request for Clarification

In the foregoing circumstances, we respectfully request to consider issuing a suitable clarification to provide certainty and preserve the integrity of the PPP framework. Specifically, it is requested that:

1. Issue a suitable clarification confirming that Metro Rail/ Toll revenue collected by concessionaires under DBFOT (Metro Rail)/ BOT (Toll) arrangements constitutes exempt revenue under GST;
2. Clarify that the grant of the right to collect metro fares or toll charges under a concession agreement shall not be regarded as consideration for construction services or works contract services supplied to the project authority;
3. Clarify that in DBFOT/ BOT concession arrangements, where the concessionaire derives revenue solely from users of the infrastructure and no consideration is payable by the project authority, GST liability cannot be artificially created by resorting to notional valuation provisions under Rule 28 of the Central Goods and Services Tax Rules, 2017, at 110% of cost, on the assumption that the concessionaire is providing works contract or construction services to the project authority.

4. Clarify that where construction activities under a concession arrangement are executed through EPC contractors or other third-party service providers on which applicable GST has already been discharged and corresponding input tax credit is not availed, metro fare or toll revenue collected by the concessionaire shall not be subjected to GST by treating the same as consideration for construction or works contract services supplied to the project authority, as such an approach would result in double taxation of the underlying project works.

6. Conclusion

We respectfully submit that the issue has now assumed industry-wide significance and is giving rise to substantial litigation and uncertainty across the infrastructure sector. Given the importance of the PPP model to India's infrastructure development programme, an early clarification from CBIC would provide much-needed certainty to businesses, investors, lenders and project authorities, while reinforcing the Government's commitment to ease of doing business and a stable tax environment.

We therefore request your kind intervention and issuance of a suitable clarification at the earliest. We stand ready to provide any further information, data, or assistance that may be required in this regard.

Yours faithfully,



Sandeep Khosla

CC: Shri Arvind Shrivastava, IAS
The Revenue Secretary,
Department of Revenue,
Ministry of Finance