

## CHAPTER XIII: DEPARTMENT OF ROAD TRANSPORT & HIGHWAYS

### National Highways Authority of India

#### **13.1 Review of operations of Special Purpose Vehicles (SPVs) formed for implementation of Port Road Connectivity to major Ports**

##### **Introduction**

The National Highways Authority of India, constituted by an Act of Parliament in 1988 is responsible for the development, maintenance and management of National Highways. The Cabinet Committee on Economic Affairs (CCEA) approved (December 2000) a proposal of the Ministry of Surface Transport (November 2000) to provide four lane connectivity to the major ports in the country on Build, Operate and Transfer (BOT) basis through Special Purpose Vehicles (SPVs). Accordingly, NHAI formed nine<sup>^</sup> SPVs for implementation of Port Road Connectivity (PRC) projects envisaging construction and up gradation of PRC of 393 kms. at an estimated cost of ₹ 1824 crore.

Audit examined records of SPVs, made available by them at NHAI Corporate Office and at their respective project offices, with a view to assess effectiveness of SPVs in implementing PRC projects at major ports.

##### **Audit Findings**

###### **13.1.1 Planning**

It was observed in audit that no defined Corporate or Strategic Plan was prepared for execution of SPV projects with the result none of the project was completed by its scheduled date of completion. NHAI while admitting (November 2009) the fact of not having a separate plan for PRC projects stated that the same was included in the NHAI plan. It is worthwhile to mention that the NHAI got prepared its Corporate Plan only in May 2009 which was approved by NHAI Board in August 2009.

###### **13.1.2 Sources of Funding**

As per CCEA's approval, NHAI was required to contribute only 30 *per cent* of the total project cost of ₹3157.05 crore as equity, which worked out to ₹ 947.12 crore. However, NHAI contributed 54 *per cent* of funds amounting to ₹ 1716.32 crore (Equity - ₹749.11 crore, Borrowing/Sub-debt-₹ 967.21 crore) which led to additional financing of ₹769.20 crore for these projects. Thus adequate financial arrangements from sources other than NHAI were not explored prior to execution of projects. CCEA further deliberated that cess funds were not to be utilized for PRC projects. However, NHAI utilized cess funds towards the project cost in contravention of CCEA approval for which no action was initiated to obtain ex-post facto approval. *Management in its reply (January 2010)*

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<sup>^</sup> (i) Mumbai JNPT Port Road Company Limited-MJNPTPRCL(ii) Vishakhapatnam Port Road Company Limited-VPRCL (iii) Paradip Port Road Company Limited-PPRCL (iv) Cochin Port Road Company Limited-CPRCL (v) Mormugao Port Road Company Limited-MPRCL (vi) New Mangalore Port Road Company Limited-NMPRCL (vii) Calcutta-Haldia Port Road Company Limited-CHPRCL (viii) Chennai-Ennore Port Road Company Limited-CEPRCL (ix) Tuticorin Port Road Company Limited-TPRCL

confirmed the facts of the para. Thus the very purpose of creation of SPVs for sourcing funds on project recourse basis, other than from cess funds, was defeated.

### **13.1.3 Delay in formation of SPV**

The CCEA in its approval to the proposal for implementation of PRC projects had stipulated award of these projects by March 2002. Audit, however, observed that only five<sup>1</sup> SPVs were incorporated in December 2000 and remaining four<sup>2</sup> in January 2004 i.e. after 21 months of the date stipulated above. This resulted in delay in award and execution of projects. In case of Paradip project, bids were received in March 2003, however, the contract was awarded after elapse of ten months time (January 2004) when SPV was formed. *The Management stated (January 2010) that delay up to January 2004 occurred due to delayed formation of SPV as there was no site office to initiate proceedings and thereafter due to litigations related to land acquisition.*

### **13.1.4 Detailed Project Reports**

Preparation of accurate and realistic Detailed Project Report (DPR) is critical factor for project planning. However, the following deficiencies were noticed in the preparation of DPR:

- (i) The Mormugao PRC project was initially being executed by Mormugao Port Trust (MPT). Subsequently, GOI, Ministry of Surface Transport (MOST) transferred (March 1999) the project to NHAI. Accordingly, Mormugao Port Road Company Ltd. (MPRCL) took over execution of the project from 1 April 2001 onwards. Audit observed that a stretch of 1.8 km. between Gate No. 1 of Mormugao Port and the nearest end of the above road project i.e. Sada junction, was neither included in the initial DPR prepared by MPT nor in the PRC project undertaken by MPRCL, which resulted in non establishment of full connectivity to the Mormugao Port.

*Management stated (January 2010) that as Sada junction was in centre of Gate No. 1 and 9, it could be approached from either gate.*

Management's reply confirmed that the stretch of 1.8 kms would remain un-connected even after completion of PRC project. Thus, because of non-inclusion of this 1.8 kms stretch in the scope of work, the objective of providing connectivity to the port could not be achieved.

### **(ii) Cochin**

The DPR prepared for Cochin PRC project envisaged upgradation of 16.750 kms. of NH-47 from Edapally to Aroor. The above stretch passes through Kundannoor which is the nearest point to Cochin Port. The Port is about 10 kms. away from Kundannoor and connected by two lane road. The DPR, however, did not incorporate upgradation of this road. Thus despite completion of PRC project by CPRCL in January 2011, the objective of developing adequate road connectivity to the Port remained unachieved due to non upgradation of the existing two lane road connecting the port.

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<sup>1</sup> (i) Calcutta-Haldia PRCL (ii) Vishakhapatnam PRCL (iii) Chennai-Ennore PRCL (iv) Mormugao PRCL and (v) Mumbai JNPT PRCL

<sup>2</sup> (i) Paradip PRCL (ii) Cochin PRCL (iii) Tuticorin PRCL and (iv) New Mangalore PRCL

### 13.1.5 Project Management

**13.1.5.1** Though NHAI set up nine separate SPVs for timely connectivity of the ports but there were cases wherein time as well as cost overrun were observed in completed<sup>1</sup> as well as incomplete<sup>2</sup> projects. Reasons for delays were mainly attributable to land acquisition problems, Resettlement and Rehabilitation (R&R) problems, traffic congestions on port road and termination of contracts. Out of nine projects, the original contract was terminated in case of four<sup>3</sup> projects, between April 2007 (Calcutta-Haldia) and November 2009 (Tuticorin) due to slow progress of work, land acquisition and R&R issues. These contracts were re-awarded during April 2008 (Calcutta-Haldia) to January 2011 (Chennai-Ennore) which led to delay in completion of the projects. The actual cost of four completed projects was ₹ 1146.86 crore against the initial estimated cost of ₹ 947.40 crore, with cost overruns of 21.05 *per cent*. As regards five incomplete projects, ₹ 879.05 crore was incurred against initial estimates of ₹ 946.00 crore.

**13.1.5.2** Works Manual of NHAI stipulated that entire process from the date of receipt of bids to award of contracts should generally be completed within 40 days. Audit however observed that in contravention to the above provisions the Management took 52 to 321 days beyond the above stipulated period, for finalization of contracts in following projects:

Sl. No.	Project	Date of opening of bids	Date of finalisation of contract	Days taken in finalisation beyond 40 days	Reasons for delay
1	New Mangalore	28-02-05	31-05-05	52	Procedural delays
2	JNPT - Phase II	30-01-04	28-09-04	201	Procedural delays
3	Paradip	21-03-03	29-01-04	274	Delay in formation of SPV
4	Haldia	06-09-07	01-09-08	321	Revision in cost after opening of bids.

The delays in finalisation of contracts led to delay in completion of the above projects.

**13.1.5.3** Reasons for time and cost overrun observed in the following projects were as under:

(i) The JNPT–Phase II project was completed on 31 December 2008 except for a stretch of 2.350 Kms (from 10.650 Kms to 13.000 Kms) at State Highway-54. The non-completion of the stretch was due to non-acquisition of land of the desired width. As per DPR, the land width required was 60 meters while the land available with City and Industrial Development Corporation of Maharashtra Ltd (CIDCO) was of 30 meters width only. Audit observed that actual verification of the available land was not done by the SPV while taking over the land from CIDCO. This issue remained unresolved and the required land was yet to be acquired (January 2012). The delay of 19 months in

<sup>1</sup> Mumbai JNPT, Vishakhapatnam, Paradip and Cochin

<sup>2</sup> Mormugao, New Mangalore, Calcutta-Haldia, Chennai-Ennore and Tuticorin

<sup>3</sup> (i) Calcutta-Haldia (ii) Chennai-Ennore (iii) Tuticorin and (iv) Cochin projects were terminated between April 2007 and November 2009

completion of the project resulted in cost overrun of ₹ 35.41 crore up to the date of completion (December 2008) i.e. by 24.76 per cent of original cost.

(ii) In Paradip Port Road project, the truck handling capacity of the port was limited which was not foreseen by the Company, though the increase in cargo traffic was projected in the DPR. Despite increase in cargo traffic, Paradip Port Trust (PPT) did not increase its truck handling capacity and this led to frequent traffic jams on the existing two lane road. The assurance given (May 2005) by the Government of Orissa (GoO) to make available 16 acres of land for parking trucks also did not materialise in the absence of State Support Agreement. PPRCL could not formulate adequate remedial measures for traffic congestion at the construction site. As a result, the project completion was delayed by 28 months resulting in escalation of the project cost by ₹ 88.16 crore, i.e., by 20.62 per cent of the original cost.

(iii) In case of Mormugao project, out of total 18.3 kms. stretch only 13.1 kms. was completed in May 2004. The balance 5.2 kms. could not be completed so far (February 2012) for want of encumbrance free land. Further, the work was not likely to be completed in near future also for the reasons like unanimous decision passed (August 2008) by the Legislative Assembly of Goa for not taking up the remaining work involving displacement of hundreds of people, non existence of State Support Agreement with the State Government of Goa and withdrawal (June 2011) of clearance by Coastal Reserve Zone Management Authority. Therefore the adequate port road connectivity, as envisaged in NHDP Phase-I, was not established.

### 13.1.6 Toll Collection Operations

#### 13.1.6.1 Completed Projects

As per Rule 3(1) of National Highways Fee (Determination of Rates and Collection) Rules 2008, the Central Government may by notification, levy fee for use of any section of National Highways. Rule 3(2) of the aforesaid Rules provided further that collection of fee (i.e. Toll) should commence within 45 days from the date of completion of the project. Audit, however, observed short realization of revenue amounting to ₹ 127.68<sup>1</sup> crore due to delay in collection of toll in the following cases:

(i) **Mumbai JNPT:** The project road being a State Highway the toll notification was to be issued by the Government of Maharashtra (GoM) as per Memorandum of Understanding between NHAI, JNPT, CIDCO and GoM. The Mumbai JNPT-II was completed on 31 December 2008. The Notification was however issued (November 2010) after delay of 21 months and toll collection of user fee started from 25 November 2010. After collection of user fee for 33 days, the toll collection was stopped (27 December 2010) due to agitation by local people who raised various demands including widening and completion of stretch of 2.350 kms. As already mentioned at Para 13.1.5.3(i) above, the said stretch of road was left incomplete due to lapse on the part of the NHAI in verifying the land of desired width while taking over the same from CIDCO. Based on the average revenue earned during the period of 33 days toll collection, the SPV incurred revenue loss of ₹ 21.73<sup>2</sup> crore due to 21 months' delay in issue of Notification. The SPV also incurred loss of ₹ 12.37<sup>3</sup> crore due to non resumption of toll

<sup>1</sup> ₹ 127.68 crore = ₹ 21.73 + ₹ 12.37 + ₹ 1.34 + ₹ 90.32 crore + ₹ 1.92 crore

<sup>2</sup> Revenue loss of ₹ 21.73 crore = ₹ 3,35,427 x 648 days

<sup>3</sup> Revenue loss of ₹ 12.37 crore = ₹ 3,35,427 x 369 days

collection from 28.12.2010 to 31.12.2011. The SPV would be incurring further losses till resumption of toll operations.

(ii) **Cochin:** The project was completed on 31 January 2011, however, Toll Notification was issued (31 March 2011) after 59 days and toll operations commenced (17 June 2011) after 77 days from the date of such Notification were suspended on the very first day due to agitations by local people. The Toll collection could be resumed (17 July 2011) after a period of 29 days. Based on the user fee collected on the first day, the Company short realized revenue to the extent of ₹ 1.34 crore<sup>1</sup>.

(iii) **Paradip:** As brought out in Para 13.1.5.3(ii) above, completion of the Project was delayed by 28 months due to non-cooperation by PPT and GoO. Based on the revenue projections made in the detailed Traffic Survey Report (May 2006) of the Project, the Audit worked out an amount of ₹ 90.32 crore, towards loss of potential toll revenue for the above period, which remained unrealized. Further, in absence of State Support Agreement with the Government of Orissa, the Company was unable to enforce (4 July 2009 to 30 September 2009) collection of toll fee from vehicles bearing Orissa registration number, till a decision was taken in a meeting held by the Chief Secretary, GoO to start collection of toll fee since 1 October 2009 from all vehicles. The Company, however, sustained revenue loss of ₹ 1.92 crore<sup>2</sup> due to non collection of toll.

#### **13.1.6.2 Incomplete Projects**

The initial scheduled date of completion of Mormugao, Calcutta-Haldia, New Mangalore, Chennai-Ennore and Tuticorin projects was March 2003, March 2005, December 2007, April 2006 and August 2006. However these projects could not be completed in time due to reasons like termination of original contracts and re-award of work, slow progress, land acquisition and R&R issues etc. and the work was still (December 2011) in progress.

Based on traffic /revenue projections given in DPR and Traffic Surveys got carried out by NHAI, from time to time through various agencies, the Audit worked out potential loss sustained by the concerned SPVs so far (December 2011), due to non-completion of these projects in time, as ₹ 873.85 crore<sup>3</sup>.

#### **Conclusion**

**CCEA while granting approval in December 2000, to provide four lane connectivity to the major ports in the country on BOT basis through SPVs, had directed NHAI to award contracts for PRC projects by March 2002. Accordingly, these projects were expected to be completed within a period of 2-3 years of award of contract. NHAI/SPVs, however, did not prepare Corporate/Strategic Plan for timely implementation of these projects. Delay in formation of SPVs and award of contracts was observed in various projects. Resultantly, none of the projects was completed by the scheduled completion date. Out of total nine projects, only four were completed so far with delays ranging from 12 months (JNPT Phase-I) to 53 months (Cochin) and remaining five projects were yet to be completed (December 2011). At Mormugao and Cochin ports, a road stretch of 1.8 kms. and 10 kms.,**

<sup>1</sup> Revenue loss of ₹ 1.34 crore = ₹ 1,11,520 x 120 days {Total delay (59+77+29) – 45 days required for commencement of toll = 120 days}

<sup>2</sup> ₹ 1.92 crore = 89 days x ₹ 2.16 lakh per day

<sup>3</sup> Mormugao ₹ 20.54 crore, Calcutta-Haldia ₹ 294.64 crore, New Mangalore ₹ 172.73 crore, Chennai-Ennore ₹ 173.66 crore and Tuticorin ₹ 212.28 crore = Total ₹ 873.85 crore

respectively, at the port end could not be upgraded due to non incorporation of these stretches in respective DPRs. Thus upgraded road connectivity to Mormugao and Cochin Ports could not be established. Further, due to ineffective toll collection operations of SPVs, toll collection was either delayed or suspended and SPVs sustained revenue loss of ₹127.68 crore. Potential loss of toll revenue, due to delay in completion of PRC projects, worked out to ₹ 873.85 crore (December 2011).

The matter was reported to Ministry in March 2012, reply was awaited (May 2012).

### **13.2 Non-recovery of penalty from Concessionaires**

**Failure of Management to recover penalty for delayed completion of work as per Concession Agreements resulted in non-realisation of ₹ 90.30 crore from Concessionaires and avoidable loss of ₹ 17.15 crore (till December 2011) towards interest on the above amount.**

National Highways Authority of India (the NHAI) signed three Concession Agreements (CAs) dated 30 January 2006, 20 April 2006 and 30 June 2006 for up-gradation of Namakkal–Karur, Karur-Dindigul and Ulundurpet-Padalur road stretches, respectively, in the State of Tamilnadu, on Build, Operate and Transfer (BOT) basis.

As per an identical clause 16.5 included in the aforesaid CAs, the Independent Consultant (IC) could, at the request of the Concessionaire, issue a provisional certificate of completion (PCC), after obtaining approval from NHAI, in respect of work completed substantially. The IC was required to append to the PCC a list of outstanding items (Punch List items) prepared in consultation with NHAI and signed jointly by the IC and the Concessionaire. All Punch List items were required to be completed by the concessionaire within 120 days from the date of issue of the PCC. The above clause further stipulated that Certificate of Completion of the work would be issued by the IC, only after completion of Punch List items by Concessionaire to the satisfaction of the IC. NHAI was entitled to terminate the agreements if the Concessionaire failed to complete Punch List items in the manner set forth in the above clause.

In case of any delay in completion of the Punch List items beyond the aforesaid period of 120 days, NHAI was entitled to get the Punch List items completed based on the cost estimated by the IC and recover the cost of completion of Punch List items from the concessionaire. In addition NHAI was also entitled to recover directly from the Escrow Account, a sum equal to 200 *per cent* of such cost (subject to minimum of ₹ 0.10 crore) towards penalty.

The PCCs in respect of three stretches were issued on 21 August 2009 (Namakkal-Karur), 04 November 2009 (Karur-Dindigul) and 04 September 2009 (Ulundurpet-Padalur) respectively. However, the concessionaires did not complete Punch List items within the stipulated period of 120 days after issue of PCC. Therefore, the concerned ICs recommended penalty, in terms of provisions of clause 16.5 of CAs, amounting to ₹ 1.37 crore (Namakkal–Karur), ₹ 52.00 crore (Karur-Dindigul) and ₹ 36.93 crore (Ulundurpet-Padalur) on 16 August 2010, 18 June 2010 and 11 December 2010, respectively. Subsequently, the pending Punch List items in respect of all the three sections were completed/almost completed by the respective Concessionaires, though after the stipulated period of 120 days. Final completion certificates in respect of the three sections were yet to be issued. The NHAI, however, did not recover the recommended amount of

penalty of ₹90.30 crore from the concessionaires due to indecisiveness of the Management. The loss of interest on the above amount was ₹ 17.15 crore<sup>1</sup> (till December 2011).

*The Management stated (January 2012) that opinion from legal consultants as to “whether NHAI in terms of clause 16.5 of concession agreement entitled to recover the penalty of 200 per cent of the cost of the work remaining balance after 120 days, even if the balance work was continued and completed by the concessionaire itself” had been obtained. NHAI further stated that as imposition of penalty was of general nature and would affect almost all the BOT projects of NHAI, the legal opinion would be put up to Executive Committee for deliberation and taking a final decision.*

The above reply was not acceptable in view of the fact that while on the one hand, the PCCs enabled the Concessionaires to collect huge toll revenues amounting to ₹ 192.25<sup>2</sup> crore without extending the benefit of complete infrastructure facility to the public at large during the period August 2009 to June 2011, on the other hand they failed to fulfil their contractual obligation of completing Punch List items within the stipulated period of 120 days. Further, there was no ambiguity in the agreement as clause 16.5 prescribed completion of work in its entirety within a stipulated time frame and gave exclusive rights to NHAI to recover penalty, which was in addition to recovering cost of completion of Punch List items which were delayed.

**Thus indecisiveness of the Management on recommendations made by ICs, for recovery of penalty from Concessionaires resulted in non-realisation of ₹ 90.30 crore from the Concessionaires and consequent avoidable loss of ₹ 17.15 crore (till December 2011) towards interest on the above amount.**

The matter was reported to Ministry in January 2012; reply was awaited (May 2012).

### **13.3 Loss of Revenue due to inordinate delay in construction of toll plaza**

**Mismatch in completion of road stretch and toll plaza with required number of lanes resulted in avoidable loss of toll revenue of ₹ 28.38 crore (up to September 2011). The Authority would be suffering further recurring loss of ₹ 1.75 crore per month till toll collection is resumed.**

National Highway Authority of India (the Authority) executed the work of four laning on Purnea-Dalkhola section (62.14 Kms.) of NH-31 in the State of Bihar and West Bengal, under East-West Corridor of National Highways Development Programme (NHDP) Phase-I and completed the work on 7 April 2010. The Government of India notified in Gazette notification (5 January 2010) commencement of collection of fee on the above section of NH-31 within 45 days from the date of publication of the notification or within 45 days from the date of completion of the notified stretch, whichever was later.

The Authority started collecting user fee at Surjapur toll plaza on the above stretch from 19 August 2010. However, due to resentment among locals against the toll rates and traffic congestion due to non provision of adequate lanes, the District Magistrate, Uttar Dinajpur directed (28 August 2010) NHAI to suspend operation of toll plaza on grounds

<sup>1</sup> At 10 per cent per annum

<sup>2</sup> Ulundurpet-Padalur ₹118.17 crore, Dindigul-Karur ₹43.09 crore and Namakkal-Karur ₹30.99 crore

of law and order problem till resolution of these problems. Accordingly the Authority suspended operation of toll plaza since 10.25 AM on 28 August 2010.

Audit observed that:-

- The location of the toll plaza was not planned initially at the DPR stage. After deciding the location in September 2007, the intention to acquire the land under Section 3A of National Highways Act, 1956 was notified two years later (October 2009), while 3 D notification for land acquisition was issued (September 2010) after delay of one year. Even after lapse of another one year, handing over of the additional land acquired for Surjapur toll plaza to Authority was awaited (August 2011). This indicated inadequate planning of the Management in acquisition of land leading to delayed construction of the toll plaza.
- There were inordinate delays in tendering of OMT (Operation, Maintenance and Tolling) package under which Surjapur toll plaza was initially proposed to be constructed. After deciding the location of toll plaza in September 2007, the Authority took 18 months in initiating tendering process by inviting RFQ from the prospective bidders in March 2009. After opening bids the package was scrapped (September 2010) as the bids received were not considered viable.
- The Authority was required to start collecting user fee by 23 May 2010 i.e. within 45 days from the date of completion (7 April 2010) of the aforesaid four lane stretch, in line with the GOI notification dated 5 January 2010. However, the process of appointment of a fee collecting agency for the above stretch was kept in abeyance as the new policy for appointing such agency was under consideration by the Authority. Subsequently, the new policy framed in June 2010 authorised field units to collect toll departmentally for three months or till the fee collection agency was appointed through open competitive bidding, whichever was earlier. The Authority started collecting user fee departmentally from 19 August 2010. This indecisiveness led to delay of 88 days in starting toll operations.
- Thus due to imprudent planning and indecisiveness on the part of the Management the user fee could not be collected on the above stretch in contravention of the GOI Gazette Notification dated 5 January 2010. Based on the average daily collection of ₹ 5.84<sup>1</sup> lakh the revenue loss to the public exchequer was to the extent of ₹ 28.38<sup>2</sup> crore (up to September 2011).

*Management replied (May, 2011) that:*

- *Construction of a permanent toll plaza 4+4 lane with one additional lane at Surjapur toll plaza was earlier in the scope of another OMT package which was not finalized. Selection process of toll agency was stopped in view of a new policy under consideration. Thereafter, the user fee collection was started departmentally with 2 lane temporary booth which had been suspended.*

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<sup>1</sup> Total toll collection during period 19-8-2010 to 28-8-2010 = ₹ 58.43 lakh/ 10 days= ₹ 5.84 lakh per day

<sup>2</sup> Loss for 88 days (i.e. 23-5-2010 to 18-8-2010)= 88 days\*₹ 5.84 lakh = ₹ 5.14 crore

Loss for 398 days (i.e. 29-8-2010 to 30-9-2011)= 398 days\* ₹ 5.84 lakh = ₹ 23.24 crore

Total ₹ 28.38 crore



- *Due to non-construction of a permanent toll plaza, the tollable section is not complete as per fee rules.*

Reply of the Management was not acceptable in view of the following:

- The Authority failed to comply with its own circular dated 30 September 2003 which stipulated construction of toll plaza, inclusive of plaza office complex, toll booths, extra lanes, paving of medians etc. which should be completed prior to the publication of the fee notification and preferably within 90 days prior to the anticipated completion of 4 laning of the section.
- Completion certificates for different sections of the whole stretch were issued between March 2004 and April 2010 and toll collection was also started with effect from 19 August 2010 by the Authority. As such, contention of the Management regarding incompleteness of tollable section was not acceptable.

**Thus, mismatch in completion of road stretch and toll plaza with required number of lanes resulted in loss of toll revenue of ₹ 28.38 crore (up to September 2011). The Authority would be suffering further recurring loss of ₹ 1.75 crore per month (₹ 5.84 lakh\*30 days) till the toll collection is resumed.**

The matter was reported to Ministry in December 2011; reply was awaited (May 2012).

#### **13.4 Loss due to avoidable payment of interest**

**Moradabad Toll Road Company Limited (Company) was formed in August 1998 by NHAI as its subsidiary Company to construct, develop and maintain two lane Moradabad Bypass. The Company became unviable due to insufficient toll collection and Government's subsequent decision for upgradation of Moradabad-Bareilly section of NH-24 (which included the above Bypass) under NHDP. In view of the above, MTRCL Board decided (September 2008) to wind up the Company and requested NHAI (December 2008) to release funds for settlement of term loans of SBI/IDFC. However, the NHAI delayed its decision, till August 2011, to release funds as desired by the Company. Eventually, the Company incurred an additional expenditure of ₹8.64 crore towards interest on the aforesaid term loans.**

National Highways Authority of India (NHAI) formed (August 1998) under the Companies Act, 1956 a special purpose vehicle (SPV) viz. Moradabad Toll Road Company Limited (Company) as its subsidiary Company with equity capital of ₹ 30 crore, with the purpose to construct, develop and maintain the two lane Moradabad Bypass from Km. 148.43 to Km. 166.650 of NH-24. The estimated cost of the project was ₹ 103.50 crore.

The Company availed, during January 2001 to June 2002, term loan of ₹ 50.65 crore from Industrial Development Finance Corporation (₹ 28.10 crore) and State Bank of India (₹ 22.55 crore) to meet the gap of funding. Phase-I and Phase-II of the project were completed on 20 June 2001 and 02 July 2002, respectively and commercial operation was started from next day of completion. However, due to wide variation in envisaged and actual toll revenues, the revenue of the Company remained insufficient even to meet its expenses like office and administrative expenses, toll operation and maintenance expenses etc. which were met out of the loan extended by NHAI to the Company from

time to time. Resultantly, the Company sustained losses since beginning and its share capital was fully eroded in the year 2007-08.

In the meantime, the Government of India, Ministry of Road Transport and Highways approved (April 2007) four laning of Moradabad–Bareilly section (including Moradabad Bypass) of NH-24 on BOT basis, under Phase III B of National Highways Development Programme (NHDP). The Board of Directors of the Company, in its meeting held in September 2008, considered that in view of the above developments, existence of the Company would become unviable and decided to wind up the Company after working out exact modalities for takeover of Company's project by NHAI. After award (December 2009) of the work by NHAI the Company handed over (December 2010) its assets to the concessionaire M/s. Moradabad Bareilly Expressway Limited for four-laning of the above stretch. Subsequently, the Company availed loan from NHAI and re-paid (August, 2011) the entire amount including interest on outstanding term loans of ₹ 17.82 crore to IDFC (₹ 9.93 crore) and SBI (₹ 7.89 crore).

Audit observed that NHAI was aware that apart from the fact that the Company was incurring losses since beginning due to insufficient toll collection, its existence had further become unviable due to Government's decision of four laning of Moradabad–Bareilly section of NH-24 under Phase III B of NHDP. NHAI was also aware about the decision (September 2008) of the MTRCL Board to wind up the Company and Company's further decision (December 2008) to request NHAI to release funds for settlement of above mentioned term loans of SBI/IDFC. However, despite having sufficient surplus funds and also knowing the fact that the Company had become unviable in the changed scenario, the NHAI delayed its decision to release the amount to repay the loan of the Company taken from SBI and IDFC. Finally in August 2011, it released funds as desired by the Company.

The Company had to bear an additional expenditure of ₹ 8.64 crore towards interest on the aforesaid term loans which would have been avoided had a timely decision been taken by NHAI.

*The Management of the Company stated (April, 2010) that it being a separate entity, the loans taken by it were the exclusive responsibility of the Company and NHAI was not bound to take over the liability. The views of the Company were also endorsed by NHAI (July 2010).*

The reply was not acceptable as MTRCL was a 100 *per cent* owned subsidiary of NHAI and had become unviable as its income from the only source, namely toll operations, became inadequate to repay the loans. The assets were transferred to another concessionaire in December 2010, thereby defeating the possibility of any profitable operation. The chances of realisation of the amount of loan as well as interest thereon shown by NHAI in its accounts as recoverable from MTRCL, are remote.

**Thus, due to delay in releasing loan by NHAI to the Company for repayment of outstanding loan of the later, the Company incurred an extra expenditure of ₹ 8.64 crore towards interest and sustained an avoidable loss to the same extent.**

The matter was reported to Ministry in April 2012; reply was awaited (May 2012).