



February 2023

## Economic Survey and the outlook for the Roads & Highways Sector

The Economic Survey for the FY 2022-23 (“**Economic Survey**”) was published on January 31, 2023 (“**Economic Survey**”). The Economic Survey summarized the impressive performance achieved in developing the traditional infrastructure including the road & highways sector. Summarized below are some salient points, progress made and outlook for the roads & highways sector, detailed in the Economic Survey:

### 1. Increased Budgetary Support for the Roadways Sector

Year on year increase in the budgetary support to the roads & highways sector. During the last 4 (four) years the government budgetary support increased from INR 0.8 lakh crores in the financial year 2018-2019 to approximately INR 1.4 lakh crore during financial year 2022- 23 (as of October 31, 2022).

During the period 2015-16 to 2022-23, the budgetary support from the Government of India has remained unwavering even though during this time, the private sector investment has stagnated.

### 2. Increase in construction of national highways and roads

A positive trend in the development of roads & highways sector with accelerated construction of national highways and roads during financial year. As an example of increased activity, as compared to construction of 6,061 (six thousand and sixty-one) kilometers during financial year 2015-2016, in the financial year 2021-2022 approximately 10,457 (ten thousand four hundred and fifty-seven) kilometers of roads and national highways was constructed.

In relation to financial year 2022-23, approximately 4,060 (four thousand and sixty) kilometers of National Highways and roads were constructed until October 2022. This is approximately around 91% of the roads and national highways which were constructed in the corresponding period of the previous financial year i.e., 2021-22.

### 3. Success of the NHAI InvIT

National Monetization Pipeline (“**NMP**”) which was announced on August 23, 2021, is being considered as a key driver in the growth of the infrastructure sector. The NMP was based on the principle of ‘asset creation through monetization’, i.e., the NMP sought to tap private sector investment for new infrastructure creation. As per the NMP, it is envisaged that for a limited period license/ lease of an asset, owned by the government or a public authority, is to be provided to a private sector entity for upfront or periodic consideration for monetization. The funds received from such monetization are reinvested in new infrastructure or deployed for other public purposes.

The roadways sector forms a critical part of the NMP with 27% of the assets, in value terms, coming from the roadways sector. In the roadways sector, the monetization strategy is planned to be implemented either through Toll Operate Transfer (TOT) model or by establishing Infrastructure Investment Trusts (“**InvIT**”).

A major breakthrough in the financial year 2021-22 was the National Highways Authority of India (“**NHAI**”) InvIT,

which was launched not only to facilitate monetization of roads but also to attract foreign and domestic institutional investors to invest in the roadways sector. As per the Economic Survey, up to December 2022, NHAI InvIT raised more than INR 102,00,00,00,000 (Indian Rupees ten thousand two hundred crore) from high quality foreign and Indian and institutional investors.

#### 4. **Recognition of public private partnerships (“PPP”) as a key mode of channeling private sector investment**

There seems to be reemphasis on increase in the private investment and the PPP route remains a key method through which private sector investment can be channelized for infrastructure creation. The Economic Survey highlights PPPs in all infrastructure sectors, including the roadways sector, will be successful if there is an institutional structure, financial support available and there is use and availability of standardized documents, such as Model Request for Qualification, Model Request for Proposal and Model Concession Agreements.

As drivers towards expediting PPP projects, the Public Private Partnership Appraisal Committee (“PPPAC”), the apex body for appraisal of PPP projects of the Government of India has streamlined its appraisal mechanism to ensure speedy appraisal of projects, eliminate delays, adopt international best practices, and have uniformity in appraisal mechanism and guidelines. As a result of these reforms, PPPAC has cleared 79 (seventy-nine) projects with a total project cost of INR 22,72,68,10,00,000 (Indian Rupees two lakh twenty-seven thousand two hundred sixty-eight crore ten lakh) from financial year 2015-16 to 2022-2023 in various sectors with around 13 (thirteen) projects being approved in the roads sector between April 2015 to August 2021.

#### 5. **India Infrastructure Project Development Fund (“IIPDF”) Scheme launched**

The Economic Survey notes that obtaining financing for infrastructure creation is a key challenge. A scheme for financial support for project development expenses of PPP projects i.e., the IIPDF was notified by the government on November 3, 2022. The aim of the scheme is to develop PPP projects by providing necessary funding support to the project-sponsoring authorities, being executed by the Government of India and the respective State Governments, for creating a shelf of bankable, viable PPP projects by on-boarding transaction advisers.

#### 6. **Way Forward and the role of PM GatiShakti**

Looking forward there is a great impetus that the PM GatiShakti will play a critical role. Till date GatiShakti has helped integrating the seven engines of growth i.e., roads, railways, airports, ports, mass transport, waterways, and logistic infrastructure. In the long term the focus will be on improving coordination among different stakeholders and ministries in the infrastructure sector. This will help avoid compliance issues and will that investments in the road sector and other infrastructure sectors are effective.

### **Roadways Practice**

As part of our practice in the roadways sector, JSA provides end to end assistance to its clients in all aspects of development and operations including but not limited to setting up of green field projects, acquisition of HAM projects and documentation in respect thereof such as joint venture agreements, shareholders agreements, foreign direct investment approvals, project financing, HAM contracts, EPC contracts, O&M contracts, vetting of tender documents including review of concession agreements and regulatory issues including competition, licensing and tariff matters before various regulatory fora. JSA’s team is regularly advising and assisting various concessionaries/PSU’s/authorities in assessment of contractual claims and dispute resolution.

**This Prism has been prepared by:**



**Ashish Suman**  
Partner



**Ayan Sinha**  
Associate



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