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Shri Anurag Jain
Secretary to Government of India
Ministry of Road Transport & Highways
New Delhi

Dear Shri Jain

**Request for Settlement of Awards (PPP projects) under Vivad-se-Vishwaas II scheme
where Specific Performance of the Contract is required**

FICCI compliments the Ministry of Road Transport & Highways for its proactive efforts towards the Vivad-se-Vishwaas II scheme and undertaking the necessary steps to resolve maximum number of contractual disputes within the purview of NHAI and NHIDCL till 31st March 2024.

These efforts will go a long way in supporting the industry in maximizing the benefits of this one-time settlement scheme. We are most thankful for the supportive policies implemented by the Government, which accords priority to resolve contractual disputes with industry stakeholders and reduce the backlog of litigation.

The scheme extends to both 'earning contracts' and those governed by Public Private Partnership (PPP) arrangements. However, the sustainability aspect of the scheme primarily pertains to the monetization of contracts. FICCI, on a regular basis, has been seeking constructive inputs and feedback from its members, and highlighting the same to the concerned Government authorities towards devising effective solutions.

In this regard, may we bring to your kind attention the concerns raised by FICCI members regarding scope of the scheme, which currently applies solely to the monetary value of contracts awarded by the Hon'ble Court / Arbitral Tribunal.

The detailed background and FICCI recommendations on this matter are as attached in Annexure – 1 for your kind consideration.

We are confident that you will kindly consider our request positively and take appropriate measures to protect the interest of all stakeholders. If you deem appropriate and subject to your convenience, FICCI would be happy to bring an industry delegation to brief the Ministry in detail on this matter.

We appreciate your valuable guidance and support.

Best regards

Yours sincerely

S K Pathak



Annexure - 1

Background

- I. As per the Memorandum, the scheme applies specifically to awards issued by Hon'ble Court / Arbitral Tribunal, with eligibility limited to the monetary value of the contract. It would mean that the awards mandating specific performance of the contract (*whether fully or partially*), are excluded from settlement in this scheme. Consequently, awards pertaining to PPP projects where the award is solely for an extended concession period or a combination of an extended concession period and monetary claim, will not qualify for settlement under Vivad-se-Vishwas II.
- II. It is also noteworthy to consider that in most of the PPP Contracts, the projects are either handed back to the concerned Government department or assigned to some other concessionaire. In such cases, even if the award includes an extended concession period, it cannot be practically extended or implemented. Instead, it would typically need to be converted into monetary value basis the provisions outlined in the Concession Agreement.

In view of the above, may we request you to kindly consider the following:

1. In cases where the award for '**specific performance of the contract**' (*either increase in concession period or for monetary claims or both*) could not be implemented, such cases could be converted into monetary value and also be considered for settlement under Vivad-se-Vishwas II.
2. Cases where the declaratory relief is valid for a very long duration/entire life of the concession and cannot be converted into monetary value, we recommended that the principal in monetary value should be made available under the scheme as decided by the Arbitral Tribunal.
3. Request if the scope of this one-time settlement scheme could be further extended by allowing arbitral awards and court orders published/passed till 31.03.2024, to be considered for settlement under this one-time scheme. This would eventually meet the objective/purpose of the scheme to clear the backlog of maximum number of litigation cases and settle pending disputes.