

Query No. 21

Subject: *Accounting treatment of release of funds by Project Implementation Trust Fund.*¹

A. Facts of the Case

1. The Government of India (GoI) is currently developing a Dedicated Freight Corridor (DFC) between Delhi and Mumbai, covering an overall length of 1483km. The DFC passes through the states of Uttar Pradesh, Delhi, Haryana, Rajasthan, Gujarat and Maharashtra, with the end terminals located at Dadri near Delhi and Jawaharlal Nehru Port in Mumbai. The Dedicated Freight Corridor is envisaged to offer high-speed connectivity for high axle load wagons (25 tonne) of double stacked container trains supported by high power locomotives.

2. In parallel, the Government of India is developing an Industrial Corridor, as a global manufacturing and investment destination utilising the high capacity DFC between Delhi and Mumbai, as the backbone. In essence, the Industrial Corridor project is aimed at the development of futuristic industrial cities in India which can compete with the best manufacturing and investment destinations in the world.

3. The Industrial Corridor project was conceived as a symbol of Indo-Japan strategic partnership during the visit of the Hon'ble Prime Minister of India to Tokyo in December, 2006. A Memorandum of Understanding (MOU) was signed between Ministry of Commerce & Industry (MoC&I), Government of India and the Ministry of Economy, Trade and Industry (METI), Government of Japan on this occasion to promote Japanese investments in India and explore opportunities for mutual cooperation as part of Special Economic Partnership Initiatives (SEPI) under the Common Economic Partnership Agreement (CEPA) to be reached between India and Japan. The Government of India had approved the development of Industrial Corridor project on 16th August, 2007. Subsequently, institutional and financial structure and financial assistance for the Industrial Corridor project was approved by the Government of India in September 2011.

4. Industrial Corridor region covers parts of Uttar Pradesh, Haryana, Rajasthan, Gujarat, Madhya Pradesh and Maharashtra besides the National Capital Territory of Delhi. Initially, 7 nodes have been taken up for development as industrial cities in the first phase. These are a combination of brownfield and greenfield areas identified by the respective State Governments based on the availability of land, water and other parameters as listed below:

- Ahmedabad-Dholera Investment Region, Gujarat (903 sq. kms.);
- Shendra-Bidkin Industrial Park, Aurangabad, Maharashtra (84 sq. kms.);
- Manesar-Bawal Investment Region, Haryana (402 sq. kms.);
- Khushkhera-Bhiwadi-Neemrana Investment Region, Rajasthan (160 sq. kms.);
- Jodhpur-Pali-Marwar Industrial Area, Rajasthan (155 sq. kms.);
- Pithampur-Dhar-Mhow Investment Region, Madhya Pradesh (372 sq. kms.);
- Dadri-Noida-Ghaziabad Investment Region, Uttar Pradesh (218 sq. kms.); and
- Dighi Port Industrial Area, Maharashtra (253 sq. kms.)

¹ Opinion finalised by the Committee on 16.1.2017.

5. A special purpose vehicle (SPV), XYZ Corporation Limited was incorporated in January 2008 as the project development agency for Industrial Corridor project. XYZ Corporation Limited's mandate is to act as project development agency and be the catalyst for development and implementation of the Industrial Corridor project in the respective States. Presently, the total paid up capital of the company is Rs. 100.00 crore being Government of India (49%), Japan Bank of International Corporation (26%), Housing and Urban Development Corporation (19.9%) as its major shareholders.

6. *Financial and institutional structure:* As per the financial and institutional structure of Industrial Corridor project approved by the Cabinet Committee on Economic Affairs (CCEA) on 15th September, 2011, a corpus in the name of Industrial Corridor Project Implementation Fund was created by the Government of India, based on an average requirement of Rs. 2500 crore per city, for the development of industrial cities. As per the structure approved, the corpus of the Fund / Trust will be Rs. 17,500 crore and the entire corpus will be utilised based on the progress made for each city, subject to a ceiling of Rs. 3,000 crore per city from the GoI grant. An additional grant of Rs. 1,000 crore would be given to the Fund/Trust for passing on to XYZ Corporation Limited as grant-in-aid over the next five years to carry out project development activities and to form project specific SPVs and sectoral holding companies consisting of project specific SPVs in the range of infrastructure areas. The Government of India's contribution to the Fund/Trust would be used as a *Revolving Corpus*. It has also been approved that each Industrial Corridor city is to be implemented by a special purpose vehicle set up as a joint venture between the Central Government represented through the Fund / Trust and the respective State Government. The equity in node/ city level SPVs and in these project specific SPVs and holding companies will be held by the Fund/ Trust. (Emphasis supplied by the querist.)

7. The Fund/Trust will be administered by a Board of Trustees chaired by Secretary, Department of Economic Affairs and will comprise the Secretary, Department of Industrial Policy and Promotion (DIPP), Financial Advisor (DIPP), representatives of the Department of Expenditure, Planning Commission, and Chief Executive Officer (CEO) & Managing Director (MD), XYZ Corporation Limited, who will also be the CEO of the Fund/ Trust. The Corpus of the Trust would be used for:

- (a) Providing equity and/ or debt to the nodal/ city level SPVs for development of non-PPP infrastructure and for investment in project specific SPVs that may be set up by a node/ city level SPV;
- (b) Providing equity and/or debt to other project specific SPVs and sectoral holding companies consisting of project specific SPVs; and
- (c) Providing grant to XYZ Corporation Limited for project development.

Further, as per the same approval, XYZ Corporation Limited will get perspective plans and master plans prepared and will identify and develop projects and arrange for professional inputs for risk management, project structuring, project appraisal, preparation of Expression of Interest/ Request for Proposal/ bid documents etc., evaluation of bids, bid process management and project management. It will undertake due diligence and analyse, examine and appraise proposals and assist the Fund/ Trust in monitoring all projects. XYZ Corporation Limited will act as the project development partner or knowledge partner to all SPVs and state government agencies for the implementation of these industrial cities. It will bring in the

vision of a state-of-the-art, world-class city at each node and assist each SPV in translating the vision to reality through identification of projects, undertaking project preparatory activities like preliminary project reports, feasibility studies, preparation of detailed project reports (DPRs), development of projects, bidding out projects for private participation and providing assistance to SPVs for:

- (a) putting in place suitable risk management measures like tying up/ procurement of land, linkages (water, power, transport, gas, etc.) including land procurement from State Governments for strategic projects and projects cutting across the Industrial Corridor states/ region like power plants, water supply, transportation, logistics parks, exhibition cum convention centres etc. which are being directly driven by XYZ Corporation Limited to achieve early implementation to induce growth at the Industrial Corridor cities;
- (b) legal vetting of documents and obtaining requisite approvals from competent authorities;
- (c) finalising commercial arrangements like off-take agreements / Power Purchase Agreements, etc.; and
- (d) obtaining viability gap support from State and Central Government.

The querist has supplied the relevant extracts of the Cabinet Note on the Financial and Institutional Structure of Industrial Corridor project for the perusal of the Committee. (Emphasis supplied by the querist.)

8. Industrial Corridor Project Implementation Trust Fund was created through the execution of the Trust Deed on 27th September, 2012 with the initial corpus of Rs. 312.40 crore and an additional grant of Rs. 99 crore for passing on to XYZ Corporation Limited as grant-in-aid to carry out project development activities and to form project specific SPVs and sectoral holding companies consisting of project specific SPVs in a range of infrastructure areas. The querist has supplied a copy of the Trust Deed of Industrial Corridor Trust for the perusal of the Committee.

9. ABC Model Solar Power project was conceived by the Government of India in partnership with the Government of Japan. A Memorandum of Understanding (MoU) was executed among New Energy and Industrial Technology Development Organisation (NEDO) Japan; Department of Economic Affairs, Ministry of Finance, Government of India; Ministry of New and Renewable Energy, Government of India; and XYZ Corporation Limited on 30th April, 2012. Under the terms of the MoU, the Government of Japan will provide various equipment to the project in the form of grant. Besides, the project was structured in a manner so as to ensure a partnership between the Government of India (in the form of funding and implementing agency) and the Government of Japan (for supplying the technology and equipment). The querist has supplied a copy of the MOU for the perusal of the Committee.

10. The investment proposal for the project was placed before the Board of Trustees of Industrial Corridor Trust for their consideration and approval. The Board considered that since the project was based on grant from NEDO, Government of Japan and the entire project development activities have been undertaken by XYZ Corporation Limited, the same may be implemented through a 100% SPV of XYZ Corporation Limited so that the upsides, if any

may flow back to the Revolving Fund of Industrial Corridor Trust. The proposal for the formation of SPV for the implementation and operation of the Model Solar Power Project to be incorporated as a 100% subsidiary of XYZ Corporation Limited, was approved by the Cabinet Committee on Economic Affairs (CCEA) as an exception. It was also approved that a sum of Rs. 13 crore required for subscription to the equity of a 100% subsidiary of XYZ Corporation Limited as well as Rs. 22.34 crore as debt to the SPV will be released by the Industrial Corridor Trust and the upsides from such investment will flow back to the Industrial Corridor Trust. (The querist has provided the relevant extracts of the Cabinet Note for the perusal of the Committee.) Accordingly, the project SPV in the name of XYZ-ABC Project Corporation Limited was incorporated on 18th March, 2014. An amount of Rs. 13.00 crore was transferred from Industrial Corridor Trust to XYZ Corporation Limited out of the corpus of Rs. 17,500 crore and on the same day, the amount was released by XYZ Corporation Limited towards subscription amount to XYZ-ABC Project Corporation Limited. Appropriate modification was carried out in the Shareholder's Agreement of XYZ Corporation Ltd. and no objection was obtained from all the shareholders of XYZ Corporation Limited so that for any upsides from XYZ-ABC Project Corporation Limited to XYZ Corporation Limited, the shareholders may not raise claim and the same can flow back to the corpus of the Industrial Corridor Trust. The querist has separately informed that such upsides include dividend and surplus from XYZ-ABC Project Corporation Limited as well as recovery of investments on liquidation/cessation of operations of the company. (The querist has provided relevant extracts of minutes of the meeting of Board of Directors of XYZ Corporation Limited, approving the amendments in the Shareholder's Agreement as well as in Articles of Association). The querist has also informed that under normal circumstances, the funds provided by Trust as per approval of the Cabinet Committee in respect of investment in XYZ-ABC Project Corporation Limited to XYZ Corporation Limited and which have been utilised accordingly for making investment in XYZ-ABC Project Corporation Limited, are not refundable except when XYZ-ABC Project Corporation Limited goes into liquidation, the proceeds therefrom together with the balance of interest, dividend and any other income lying with XYZ Corporation Limited on account of XYZ-ABC Project Corporation Limited will become refundable to the Trust and XYZ Corporation Limited or its shareholders will not have any claim.

11. *Accounting Treatment*

A. In the books of account of Industrial Corridor Project Implementation Trust Fund:

The amount of Rs. 13.00 crore was released to XYZ Corporation Limited for onward investment in the equity shares of XYZ-ABC Project Corporation Limited. The amount was released out of corpus of Industrial Corridor Trust.

The same was shown as a deduction from the corpus of the Industrial Corridor Trust accompanied by a clarificatory note in the financial statements of Industrial Corridor Trust.

The querist has supplied a copy of the audited financial statements of Industrial Corridor Trust for the financial years 2013-14 and 2014-15 for the perusal of the Committee.

B. In the books of account of XYZ Corporation Limited:

The amount of Rs. 13.00 crore received out of corpus of Industrial Corridor Trust was recorded as 'Project Implementation Funds' under 'Capital Reserves' as Reserves and

Surplus of the company as per Accounting Standard (AS) 12, 'Accounting for Government Grants'.

The investment in shares of XYZ-ABC Project Corporation Limited is shown under investments under Non-Current Assets in the financial statements of XYZ Corporation Limited.

The querist has given a copy of the audited financial statements of XYZ Corporation Limited for the financial years 2013-14 and 2014-15 for the perusal of the Committee.

C. In the books of account of XYZ-ABC Project Corporation Limited:

1.3 crore equity shares were issued in the name of XYZ Corporation Limited and the same was reflected accordingly in the financial statement of XYZ-ABC Project Corporation Limited.

The querist has supplied a copy of the audited financial statements of XYZ-ABC Project Corporation Limited for the first financial year starting from 18.03.2014 to 31.03.2015 for the perusal of the Committee.

12. *Audit*

In accordance with the provisions of the Trust Deed, the Comptroller and Auditor General of India (C&AG) has been entrusted the audit of annual accounts of Industrial Corridor Trust for five years starting from the financial year 2012-13 to 2016-17. The audit team deployed from the Office of C&AG during the conduct of annual accounts audit of Industrial Corridor Trust for the financial year 2013-14 observed the following:

“Cabinet Committee on Economic Affairs approved constitution of a Special Purpose Vehicle for implementation and operation of ABC Model Solar Power Project, Rajasthan as a 100 per cent subsidiary of XYZ Corporation Limited on 20th January, 2014. However, the approval does not contain any direction on release of equity contribution of Rs. 13 crore from Corpus/Capital Account of Industrial Corridor Trust Fund. Further, as the Industrial Corridor Trust has earmarked funds specifically established for passing on to XYZ Corporation Limited as grant-in-aid, to enable XYZ Corporation Limited to carry out the project development activities for implementation of Industrial Corridor projects, including forming project specific SPVs and sectoral holding companies but the equity contribution for subsidiary of XYZ Corporation Limited was adjusted from Corpus/Capital Account of Trust, the clarification on this regard was not provided to Audit. The clarification on this regard may be obtained from appropriate authority and necessary accounting entry or disclosure may be made in the accounts for the year 2014-15.”

The querist has supplied a copy of the management letter issued by the office of C&AG and the reply of the management for the perusal of the Committee. The same query was raised again by the audit team during annual accounts audit of Industrial Corporation Trust for the financial year 2014-15 in the form of half-margin. The same is reproduced as under:

“Audit of accounts of Industrial Corridor Trust Fund for the year 2014-15

The Cabinet Committee on Economic Affairs approved constitution of a Special Purpose Vehicle for implementation and operation of ABC Model Solar Power Project as a 100 per cent subsidiary of XYZ Corporation Limited on 20th January,

2014. However, the approval does not contain any direction on release of equity contribution of Rs. 13.00 crore from Corpus/Capital account of Industrial Corridor Trust Fund. As per para 6.1 and 7.1 of the Trust Deed of Industrial Corridor Trust, the corpus of Industrial Corridor Trust includes Rs. 1000 crore as additional corpus meant for grants-in-aid to XYZ Corporation Limited. The above funds were released to XYZ Corporation Limited but instead of adjusting the same from additional corpus, the contribution was adjusted from main corpus/capital account of Trust.

This issue was raised last year through management letter and Industrial Corridor Trust Fund was requested to obtain a clarification in this regard from appropriate authority and to pass necessary accounting entry or disclosure to this effect in the accounts for the year 2014-15.

However, the same has not been complied with by Industrial Corridor Trust Fund for the accounts for the year 2014-15.

The above facts and figures may please be confirmed and reply may be furnished within two days.”

The copy of the reply submitted to the Office of C&AG has been provided by the querist for the perusal of the Committee.

13. The querist has also separately informed that the equity investment released from the project implementation funds, i.e., corpus funds, to XYZ Corporation Limited for making onward investment in XYZ-ABC Project Corporation Limited is in accordance with the approval of ‘Financial and Institutional Structure of the Industrial Corridor project’ approved by the Union Cabinet on 15th September, 2011 and Cabinet Committee on Economic Affairs approval dated 20.01.2014 for formation of special purpose vehicle for implementation and operation of ABC Model solar power project at Rajasthan.

B. Query

14. On the basis of the above, the querist has sought an opinion from the Expert Advisory Committee on the correctness of the accounting treatment given in the books of account of Industrial Corridor Trust by showing the funds amounting to Rs. 13.00 crore released by Industrial Corridor Trust from the Corpus to XYZ Corporation Limited for making onward investment in XYZ-ABC Project Corporation Limited.

C. Points considered by the Committee

15. The Committee notes that the basic issue raised in the query relates to the treatment of release of funds amounting to Rs. 13 crore by Industrial Corridor Trust (hereinafter also referred to as the ‘Trust’) from the Trust Corpus of Rs. 17,500 crore (which is also referred to as the ‘main corpus’ in the Facts of the Case) to XYZ Corporation Limited for making onward investment in XYZ-ABC Project Corporation Limited in the books of account of Industrial Corridor Trust (hereinafter referred to as the ‘Trust’). The Committee has, therefore, considered only this issue and has not examined any other issue that may arise from the Facts of the Case, such as, accounting in the books of account of XYZ Corporation Ltd. or XYZ-ABC Project Corporation Limited. Further, the Committee wishes to point out that the opinion expressed hereinafter is purely from accounting perspective and not from the perspective of legal interpretation of various orders/approvals by Cabinet/Cabinet Committee on Economic Affairs, trust deed, etc. At the outset, the Committee presumes that the release

of funds from the corpus of Rs. 17,500 crore is appropriate and in accordance with the Trust Deed and approval of the Cabinet Committee on Economic Affairs.

16. In the context of accounting for the release of funds, the Committee notes from the Facts of the Case and the relevant extracts from the Cabinet Approval Note (copy of which has been supplied by the querist for the perusal of the Committee) that the funds have been released to XYZ Corporation Ltd. for onward investment in 100% equity of XYZ-ABC Project Corporation Ltd. and that any upsides from such investment will flow back to the Trust. The Committee further notes that such upsides include dividend and surplus from XYZ-ABC Project Corporation Limited as well as recovery of investments on liquidation/cessation of the operations of XYZ-ABC Project Corporation Limited, however, no equity or debt instrument is issued to the Trust in respect of such a release of funds. In this regard, the Committee also notes the definition of the terms, 'asset' and 'investment' from the Framework for the Preparation and Presentation of Financial Statements' and Accounting Standard (AS) 13, 'Accounting for Investments', issued by the Institute of Chartered Accountants of India, which provide as follows:

“An *asset* is a resource controlled by the enterprise as a result of past events from which future economic benefits are expected to flow to the enterprise.”

“Investments are assets held by an enterprise for earning income by way of dividends, interest, and rentals, for capital appreciation, or for other benefits to the investing enterprise. ...”

17. The Committee notes from the Facts of the Case that the release of funds gives a right to the Trust to receive any upsides that may arise from the investment in SPV (XYZ-ABC Project Corporation Ltd.) formed for implementation of solar power project. Thus, the Committee is of the view that that such release of funds results into a resource controlled in the form of the right and from such resource, future economic benefits are also expected to flow to the Trust and therefore, it meets the definition of asset. Further, with regard to the nature of such asset, the Committee is of the view that in substance, such asset is held by the Trust for earning income and therefore, considering the principle of 'Substance over form', it is of the nature of 'investment' for the Trust. Accordingly, the Committee is of the view that the release of funds should be recognised as investment in the financial statements of the Trust rather than as a reduction from the 'corpus'. Moreover, an appropriate disclosure of the fact that the shares in XYZ-ABC Project Corporation Ltd. are held through XYZ Corporation Ltd. should be given in the notes to accounts. Further, since apparently, such investment is intended to be held for more than one year from the date on which such investment is made, it is a long-term investment and therefore should be recognised at 'cost' in accordance with paragraph 17 of AS 13, which provides as follows:

“17. Long-term investments are usually carried at cost. However, when there is decline, other than temporary, in the value of a long term investment, the carrying amount is reduced to recognise the decline. Indicators of the value of an investment are obtained by reference to its market value, the investee's assets and results and the expected cash flows from the investment. The type and extent of the investor's stake in the investee are also taken into account. Restrictions on distributions by the investee or on disposal by the investor may affect the value attributed to the investment.”

D. Opinion

18. From the above, the Committee is of the opinion that the accounting treatment given in the books of account of Industrial Corridor Trust by showing the funds amounting to Rs. 13.00 crore released by Industrial Corridor Trust from the Corpus to XYZ Corporation Limited is not correct. The same should be recognised as 'investment' in the financial statements of the Trust, as discussed in paragraph 17 above.
