

White Paper on **INFRASTRUCTURE SECTOR**

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Centre for Public Policy Research
Breaking Business Barriers
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SECTION 1 - INTRODUCTION

1.1 Introduction to Ease of Doing Business

The “Ease of doing business” is a World Bank index which is widely used to rank 189 countries for their present business laws and regulation environment every year. The index however does not take into account general conditions like macroeconomic indicators, market proximity, infrastructure etc. Further, “Ease of doing Business” ranking is characterised by the average of 11 sub-indices like starting a business, getting credit, electricity, registering property etc. A higher ranking indicates efficient and simpler regulations for business and strong protection of property rights. This index not only identifies the source of the obstacle for doing business in a country, but also serves as the basis for policymakers to compare the regulatory environment for business across countries and design more compelling regulatory reforms for future.

India is one of the fastest growing economies in the world and has become one of the most attractive investment destination in the world. On analysing “Ease of doing business” index for 2016, we observe that India has moved up its ranking to 130, up by 4 units as compared to the previous year. The improvement in ranking is mainly because of the ongoing reforms and the 2 major drivers are, “Distance to frontier” sub index where India outperformed all the South Asia countries since 2004. The biggest improvement came from “Getting Electricity” sub index where the ranking jumped to 70 in 2016 from 137 in 2015. In order to complement its economic growth, India has to set major reforms to improve “Ease of doing business” ranking and attract more investors. While Government of India (GOI) is constantly encouraging investments, the Department of Industrial Policy and Promotion (DIPP) is complimenting the government's initiative by taking several initiatives to ease doing business in India. The future reforms taken by GOI must ensure that India is on equal footing amongst other countries in terms of flexible, favourable, efficient and transparent business environment.

With this in view, the British High Commission (BHC) has initiated a study called “Breaking Business Barriers” for various sectors in India which focuses on stakeholder engagement and arriving at insights around business barriers. Specific recommendations have been identified for each of these sectors. The main objective of this report is to emphasize on the retail sector and the various barriers faced by businesses. We hope that the findings of this report would help bring the issues of retail sectors to the forefront and also serve as a reference point for the imminent need to pursue reforms in business policies and processes.

1.2 Introduction to Breaking Business Barriers

Centre for Public Policy Research (CPPR) in association with the *British High Commission (BHC)* has taken up an initiative '**Breaking Business Barriers**' aiming to curtail the regulatory barriers in

setting up, operating and exiting a business in the state of Karnataka, Kerala and Tamil Nadu. The initiative focuses on easing the business in seven sectors - Drugs and Pharmaceuticals, Education, Energy, Information Technology (Hardware & Software), Infrastructure, Retail and Manufacturing.

The initiative intends to enhance the development of a business-friendly environment in these states, by removing the regulatory barriers in doing business. The collaboration with the stakeholders has helped to identify the issues and challenges faced by them in operating the business and work towards finding a solution. In this regard, CPPR organized round table meetings with the Government representatives and business community in order to understand all relevant information regarding policies, taxation regimes, rules and other general information for doing business.

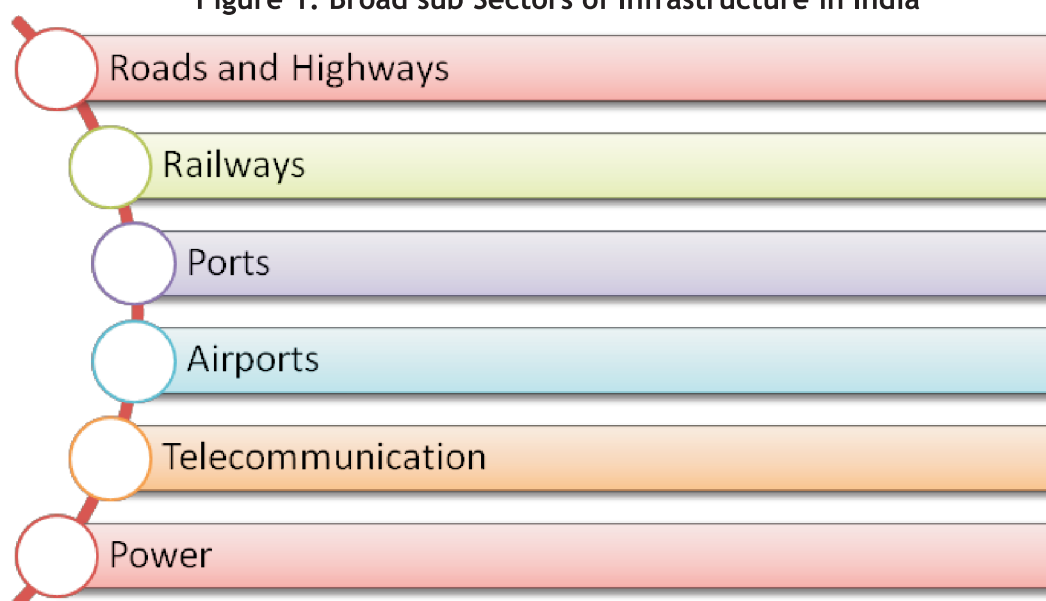
The website *EasyBiz* (easybizindia.com) India is created for the purpose of giving insights into the policy framework in the three states and measure state competitiveness. The website offers an interactive portal for the entrepreneurs to flag the issue faced by them in operating the business and work with one another to resolve the issue. The portal also has a clear process flowchart of the steps involved in starting a business (licenses, NOC, certificates) in the three states.

SECTION 2 - SECTOR OVERVIEW

2.1 Definition of Infrastructure

In India, there is no uniform definition of the term as different organisations used to include different sectors or industries or areas under “infrastructure”. To move towards a uniform definition, the cabinet committee on infrastructure on 1 March 2012 approved the framework for using a harmonised master list of infrastructure sub sectors. The updated list is given in the Annexure. For the purpose of this study we will broadly divide the sector as given in figure 1.

Figure 1: Broad sub Sectors of Infrastructure in India



2.2 Overview of Infrastructure sector in India

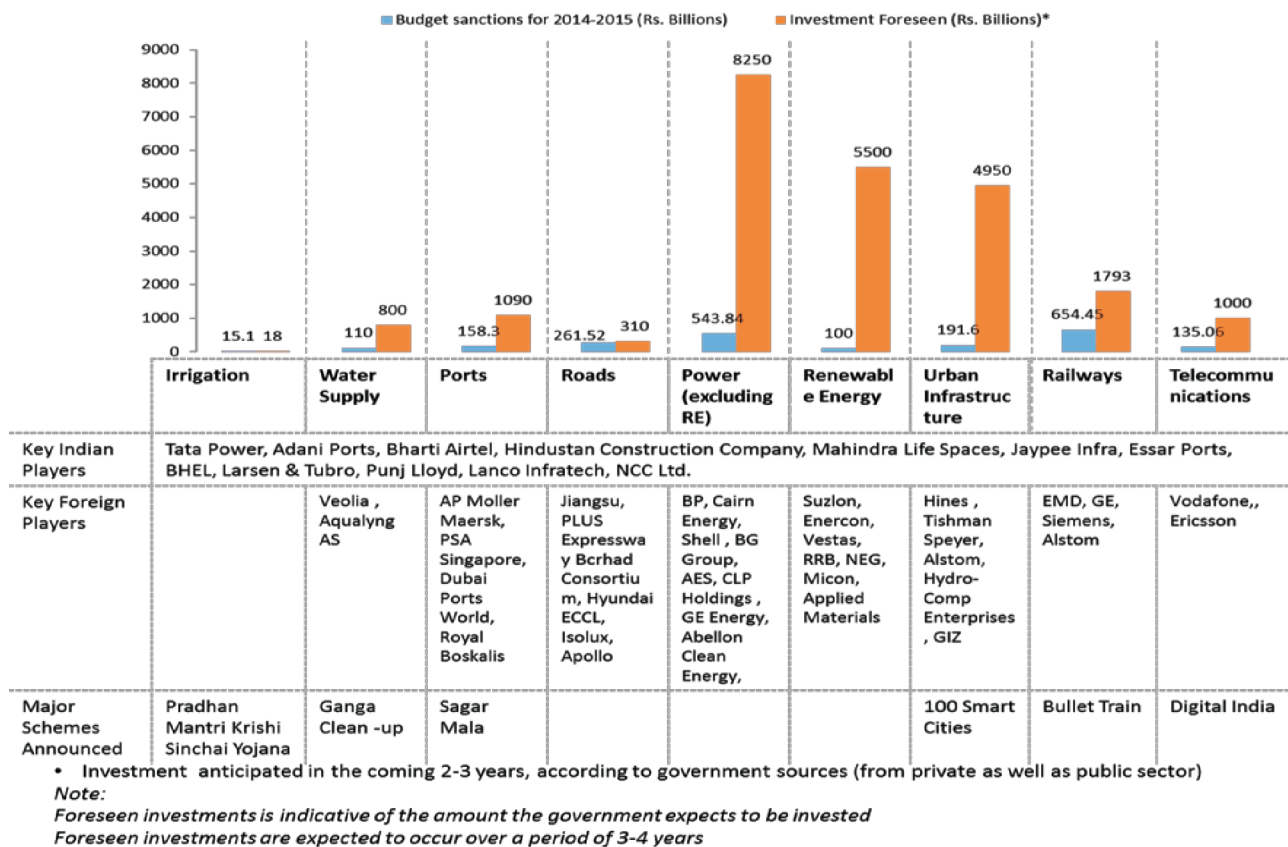
Infrastructure plays pivotal roles in the growth and development of the country. It is the corner stone for a health economy. In India, infrastructure contributes as the second largest economic activity after Agriculture. Indian infrastructure sector mainly includes roads, railways, airports, ports, urban infrastructure, water connectivity, waste management, irrigation and so on. Power and road tops the list. According to research done by Infrastructure Development Finance Co. the infrastructure sector of India contributes more than 8 per cent of the country's GDP. The figures are going to touch 10 per cent by year 2017 to uphold the growth objectives. A report by consulting firm McKinsey in 2013 said that infrastructure investment equivalent to 1 per cent of the gross domestic product could create an additional 3.4 million direct and indirect jobs in India.

2.2.1 Market Size of Infrastructure sector in India

Indian Infrastructure is poised for immense growth and opportunities. The 12th Five Year Plan (2012-2017) has an envisioned an ambitious target of infrastructure investment at US \$ 1 trillion which is 27 per cent of the gross domestic saving. Investment in the 2015-16 has gone up to by Rs.70,000 crore. Highway and roads have proved to be highly successful. Telecommunications and Railways contribute to majority of the market with US\$ 831.2 Billion. The Union Budget 2016-17 has included US\$11 billion in increased commitments through Private Sector Enterprises for infrastructure investment. The government also has assured to increase the public infrastructure spending up to 70,000 crore a year. The budget also increased allocation on both road and railways by 14,031 crore and 10,500 crore respectively.

The GOI has mooted several policies and plans to accelerate the pace of Infrastructure. The government plans to establish a national Investment and infrastructure fund (NIIF) to ensure an annual flow to 20,000 crore to NIIF. It has announced to consider permitting Tax Free Infrastructure Bonds for project like road and railways. It has announced to introduce 100 per cent FDI in Railways. Something similar to telecom industry may happen in the Railways sector soon. Another significant policy change is, to rebalance the risk of PPP mode, with the Sovereign willing to take the major part of the risk in infrastructure projects through 'Hybrid Annuity Model'.

Figure 2: Budgetary sanctions during 2014-2015 and foreseen investment in Infrastructure by 2019



There are several ambitious project line up like introduction of bullet trains, developing “100 Smart Cities, reaching 100 GW of Solar Energy Generation by 2019, “Sagar Mala” scheme for Port development, creation of a Digital India, building 30km of road per day, and the “Make in India” Campaign. It is sure that these projects will see much larger investment from the private sector than the public sector.

2.3 State wise overview of Infrastructure Sector

Karnataka, Tamil Nadu and Kerala have emerged as favourite destinations for investors in India. According to Infrastructure India, a GOI database on infrastructure, the combined investment from 2011 till March 2015 of the three states comes to INR 4,47,890.48 Crore. The three states have executed a total of 807 projects for infrastructure development.

The states realise they have to prioritise infrastructure development to uphold the massive economic activities. The states have designed long term plans to keep up the pace of economic in their respective states. The states have devised their infrastructure policies and plans to facilitate the expansion of infrastructure.

2.3.1 Overview of Infrastructure Sector in Karnataka

According to the reports of Government of Karnataka, the allocation for infrastructure projects has increased by 45 per cent in the period 2012-16. New infrastructure projects offering an opportunity of USD17, 250 million has been proposed by the GOK. Karnataka is the only state with two industrial or economic corridors (CBEC & BMEC). It had successive participation by World Bank in highways development and a joint partnership project with Indian railway and with PSU's in Intercity Gas Pipeline.

The state has already chalked out plans to give thrust infrastructure development in the state. It has planned to invest INR 3800 crore in Tadadi seaport development. It has also planned to build 23 New road projects with more than 1500 km opportunity for development, develop solar parks limited to 200 MW, harness the 7.9 GW potential of pumped storage based hydro power (Krishna river and Kaveri river basin), establish Karnataka as an aviation hub and implement phase two of “Namma Metro” constituting a length of 72 Km by the year 2017 at a cost of INR 26,405 crore.

2.3.2 Overview of Infrastructure Sector in Tamil Nadu

The government of Tamil Nadu has been making conscious efforts to encourage private sector participation in the infrastructural development. Historically, spending on infrastructure development in Tamil Nadu has been 4 per cent to 5 per cent of GSDP, while the requirement (as dictated by Vision 2023) is to increase the annual spending on infrastructure to about 10 per cent of GSDP from 2015 onwards. The 'Vision Tamil Nadu 2023', a strategic plan for infrastructure development in Tamil Nadu, envisages investments to the tune of Rs 1,50,000 Crore (\$25 billion) for infrastructure development.

2.3.3 Overview of Infrastructure Sector in Kerala

Kerala witnessed a huge boost to its infrastructure dreams which included the Rs. 7,525 crore Vizhinjam Port project, Kannur International airport project, the Rs. 4,500 Kochi Smart city project and the National waterway and Kochi metro projects last year. To keep up with the state's ambitions, the Kerala government has envisioned a massive Rs.30, 534 Crores investments for the infrastructure development which will providing opportunities in engineering, procurement and construction. The investments would be raised from the market through public private partnership. It will give wings to much aspired projects like High Speed Rail Corridor Project: linking north and south i.e Kasargode to Thiruvananthapuram, estimated at a cost of Rs. 1, 59, 245 crores. In 2015 the centre announced a whopping Rs. 34,000 crore was sanctioned for the development of 1,065 km of roads across Kerala.

2.4 Policy Initiatives by States

2.4.1 Infrastructure Policy Initiatives in Karnataka

Infrastructure development in Karnataka is guided by various policies like Karnataka Infrastructure Policy 2007, Karnataka Road Policy 2009, Karnataka Minor Port Policy 2014, Karnataka Power Policy 2014-2021 which have laid down role the single window systems, regulatory authority, licensing system and priorities the importance of public private partnership in infrastructure development in the state.

2.4.2 Infrastructure Policy Initiatives in Tamil Nadu

The state government has taken up several policy initiatives to boost growth in the infrastructure sector. The Tamil Nadu Infrastructure Development Act, 2012 has been enacted to provide an institutional framework that could create an enabling and facilitative environment; identify, prioritise and implement infrastructure projects and enable private sector participation where feasible.

2.4.3 Policy Initiative of Infrastructure Development in Kerala

Kerala has formulated the Kerala Infrastructure Development Bill 2014, to facilitate the pace of infrastructure development in the state. Once the bill is passed it will enable and facilitate private investments to design, construct, and finance, operate and maintain infrastructure project in the state. The Bill has earmarked 21 areas of infrastructure development like drinking water, ports, urban infrastructure, etc under PPP model involving 25 crores and up to 200 crores.

SECTION 3-WAY FORWARD

Indian infrastructure sector is well poised for a giant leap with grand plans and investment projections. However, the picture is not as rosy as it seems. The Economic Survey 2014-15, Centre for Monitoring Indian Economy (CMIE) report on Infrastructure and the HSBC Global Research in a 3 July report 2015 points to the sluggish growth of sector. According to Economic Review 2014-15 infrastructure has been in the down slide in the public investment by 20 per cent and the private investment in this sector has declined by 30 per cent. CMIE observes that *the core infrastructure industries declined from 4.2 percent during April-March 2013-14 to 3.5 per cent during April-March 2014-15*. This has severely affected the balance sheets of corporate sector and public sector banks.

To find solutions to accelerate the pace of growth of the sector, CPPR conducted rounds of consultation meetings through 'Round Table Dialogues' with the Industry and the Government representatives in Tamil Nadu, Karnataka and Kerala. The issues and the suggestions discussed below incorporate the outcomes of the Round Table Dialogues.

3.1 Entry

Issues

- **Land Acquisition:** Land is the key issue in all delays of Indian Infrastructure. Infrastructure developers have to put in heavy upfront investments. The government floats the tenders without acquiring land required for the project. It is often found the projects get stalled mid way due to land disputes.
- **Reverse Bidding Process:** While reverse bidding process helps in cost cutting, it also creates risk in quality and delays in completion of project giving way for cost overruns. In the process of reverse bidding process, the developer often come out with ill informed costing. In midway of execution they run out of funds. Refinancing the projects from banks, equity and government takes long time. Some time the developers abandon the projects since they find that the project may not be financially viable.
- **Inefficient Single window system & lack of coordination of inter departments:** These systems are handled by government agencies like the Karnataka Udyog Mitra (KUM), Kerala State Industrial Development Corporation and Tamil Nadu Industrial Guidance and Export Promotion Bureau, it is found that these agencies seriously lack efficiency. Often it is found that even after applying through the single window system the entrepreneurs are directed by the department to go each individual department like labour, environment, utility services, etc to get approval. The single window currently only has power to help in start of a business. It does not have the power to help in the process of operation and exist of the business.
- **Environmental clearance:** Environment clearances take almost 2 years. It highly affects the rate of execution of project and causes financial burden for the developers. The environmental clearances mainly lie with the Union Government.

Suggested Reforms

- **Land:** Ideally for public infrastructure project the government through appropriate departments should acquire the land and carry out resettlement activities and then ask the developer to initiate the projects. This will reduce the stress on the developers.

While planning for mega project by the Centre Government, it should take the opinion of the all the states involved in the process. A task force comprised of state government representatives, experts, Banks and Business Associations to pre-plan the execution process and get all the permits and documentation required implementing the project. The states should be allowed to negotiate among themselves about the trade off that they would like to offer one another.

- **Single Window:** To give more clarity to single window system entire industrial department should

be restructured to give the single window more power to single window. In the infrastructure sector, as mentioned later in this chapter the related government departments like the PWD, NHAI, Railways, etc should coordinate with each other. Before the tendering process they should see that the prerequisite licenses and permits are in place for the developers so that they could concentrate on completion of the projects.

- **Reverse Bidding:** To overcome this issue, the government should involve the banks, experts from industries and business associations to arrive at rational cost and benefit of the projects. This will significantly reduce the risk of delays and cost overruns.
- **Environment Clearance:** The Ministry of Environment and Forest, State Pollution Board, Coastal Regulation Zone, forest and wildlife should merge to one platform and single form system. The state should take initiatives to coordinate with the Centre to get these clearances through the State pollution Control Board instead of the developers running around from pillars to posts to get the clearances. The MoEF and the State Pollution Control Board should work in tandem to get faster results. GOI should also update the environment norms and coastal zone regulations with changing technology scenarios.

Operate

Issues

- **Risk sharing:** There are multiple short term and long term risks involved in the infrastructure projects. Most of the infrastructure projects are worked out through public private partnership. The private parties who put in huge investments by borrowing from banks and private equity should be protected against the risk of delayed credit approval, revenue generation, cost overruns due to delays, resettlement of land owners, and other unforeseen risks time the end of projects. It is often observed that the government is not proactive in fulfil its project obligation. It expects the private parties to fulfil to all the contractual obligations irrespective of the risks that the developers face at different stages of project execution.
- **Delay in Bill payment:** Delay in bill payments causes the debt to be costlier. The developers unnecessarily bleed financially. It demotivates the developer by shrinking the profit margins.
- **Access to Credit & refinancing:** Infrastructures need High Upfront investment. Big ticket project heavy funding. Primarily the developers depend on the banks to get credit. The banks process of due diligence takes longer than expected. This causes hurdle for buying equipment and raw material. Refinancing is also a lengthy process. Most often the project stalls in between due to reasons which do not involve the promoters. However, since the banks money get stuck in between, they become extra cautious in lending out money when the problems are sorted out and the project restarts.

- **Long Term Finance:** While mega infrastructure projects require at least 10-15 years for completing, the bank deposits which is the primary source of funding matures in 3-5 years. There is an urgent need for designing long terms funding sources for the infrastructure projects.
- **Taxation Terrorism:** Prime Minister has himself acknowledges the prevalent of tax terrorism. The recent Government Order by Government India, to the tax department, asking them harass companies speaks for itself. Though filling of Tax has been digitalised, yet the companies are harassed by Tax offices. The companies are asked to present in person to address the queries which not only give scope for bad practises but also consumes time and money of the entrepreneurs.
- **Dispute Resolution:** Commercial courts are the need of the hour. As per available data, over Rs.21,000 crore worth disputes involving 870 cases are pending for resolution in the Road sector alone, involving both PPPs and public funded projects. The number of disputes in the PPP projects has shown a significant increase from 56 cases (involving Rs.803 crore) in 2013 to 116 cases (involving Rs.11,580 crore) in 2015. It takes a long time to eke out differences between private party and government or between contractors. Absence of a clear and fast dispute resolution mechanism is increasing cost of projects and deterring investors' sentiments. Arbitration awards are almost invariably appealed against, resulting in long drawn out disputes that often last 3 to 10 year. The current judicial system neither have dedicated courts or is equipped to settle disputes. The ongoing practise of settling disputes by appointing a government representative often is biased and does not yield satisfactory result.

Suggested Reforms

- **Risk Sharing:** The government should bear a major part of the risks. It should clearly demarcate the risk and rewards between itself and the private parties. There has been announcement of the reduction of the risk of upfront investment for infrastructure projects through 'Hybrid Annuity Model'. This model is yet to be tested.
- **Bill Payment:** The bill payments should be done periodically. There should be digital mechanism for monitoring and bill clearance. There should be separate mechanism in the departments to facilitate timely clearances of bills.
- **Access to Credit:** To mitigate this issue the GOI has announced the "Hybrid Annuity Model" where in the the government will give 40 per cent of the cost to start the project. Rest 60 per cent will be arranged by the developer. This model assures to be effective. However, this model is yet to be tested. It should not happen that the sluggish bureaucratic process derails the spirit of the model. Also the rates of credit should come down to ease doing business in infrastructure sector

- **Long Term Finance:** The funding should be till pre-commissioning of the projects. The union government has proposed for the 5/25 funding to infrastructure project. It encourages the banks to go for long term lending of 25 years divided into 5 years terms.
- It suggests that the banks should monitor the progress of the projects every 5 years and refinance the projects for its completion. The banks should have proper monitoring and evaluation system by involving well equip team of both experts and industry associations who could monitor the progress of the projects continually and scientifically. There should be live update of the projects and risks through online portals to enable the banks to timely and informed decisions for refinancing.
- **Dispute Resolution:** The Indian government has mooted the idea of establishing commercial courts which will all the commercial disputes. The initiative is welcomed by the industry. However, the pace of implementation is slow. There should be dedicated effort to establish these courts. The judges appointed to these courts should be trained to understand the dynamics of business processes and commercial issues.
- This will enable them to take informed decisions within stipulated time. In case of Arbitration and mediation between the public and private Parties disputes, there should be a conscious effort to take the bureaucracy out of the dispute settlement process. The arbitration and mediation should be taken over by the Industry Associations who would get experts help to settle disputes. The courts should resist from entertaining cases against decision of the arbitration.
- Out of court settlements should be initiated by amending the existing labour law to facilitate faster settlement of disputes between developers and the labour. States like Gujarat and Rajasthan have already amended the labour. The amendments encourage out of court settlement and also curb the threats of the labour unions.
- **Tax:** The government of India has digitalised the system of addressing queries. Hope the state governments follow suit. In addition to that the government should also think about the small players those who face obstacles in meeting the compliances of tax. Instead of coming up with punitive measures for them the tax departments should assist them in full filling their tax obligation.

There should be certain legal protection in executing name and shaming of the defaulters'. Raid into their residence, confiscating their documents should come with certain judiciary authorisation and within certain time. There should also be provisions for providing legal support in cases where the defaulters cannot afford to disputes with the government.

The government should do away with the disputes involving retrospective tax. I should follow the global best practise set for retrospective tax.

Exit

Issues

- **Retrenchment:** Establishments with 100 or more employees need permissions before they close down.
- There is no clear cut policy for exit of businesses. In terms of credit liability there is not system as to, who & how will initiate the valuation, mergers should and acquisitions should take place.

Suggested Reforms

- Retrenchment law should be amended to increase the threshold of 300 employees for seeking permission prior to closure of business
- The business association along with the Banks should work together during the closure or reviving infra companies.

SECTION 4- CONCLUSION

Investment in the infrastructure sector is on a down slide during the last two to three years. Stalled projects have caused due lack of interdepartmental coordination, lack of finance and delay in issuing licenses and permits and unhealthy bidding system have acted as a deterrent for the sector. It is imperative to revitalize the sector through proper regulatory mechanism to provide impetus to the sector. There is a need to formulate a comprehensive National policy for the infrastructure sector. The policy should clearly lay down the objectives, scope, implementing procedures and processes for adoption of a uniform approach on key issues that have impacted the growth of infrastructure in recent times.

ANNEXURE

Updated Harmonised List of Infrastructure and its sub-sectors

Sr. No.	Category	Infrastructure sub-sectors	
1.	Transport	i	Roads and bridges
		ii	Ports ¹
		iii	Inland Waterways
		iv	Airport
		v	Railway Track, tunnels, viaducts, bridges ²
		vi	Urban Public Transport (except rolling stock in case of urban road transport)
2.	Energy	i	Electricity Generation
		ii	Electricity Transmission
		iii	Electricity Distribution
		iv	Oil pipelines
		v	Oil / Gas / Liquefied Natural Gas (LNG) storage facility ³
		vi	Gas pipelines ⁴
3.	Water & Sanitation	i	Solid Waste Management
		ii	Water supply pipelines
		iii	Water treatment plants
		iv	Sewage collection, treatment and disposal system
		v	Irrigation (dams, channels, embankments etc)

		vi	Storm Water Drainage System
		vii	Slurry Pipelines
4.	Communication	i	Telecommunication (Fixed network) ⁵
		ii	Telecommunication towers
		iii	Telecommunication & Telecom Services
5.	Social and Commercial Infrastructure	i	Education Institutions (capital stock)
		ii	Hospitals (capital stock) ⁶
		iii	Three-star or higher category classified hotels located outside cities with population of more than 1 million
		iv	Common infrastructure for industrial parks, SEZ, tourism facilities and agriculture markets
		v	Fertilizer (Capital investment)
		vi	Post harvest storage infrastructure for agriculture and horticultural produce including cold storage
		vii	Terminal markets
		viii	Soil-testing laboratories
		ix	Cold Chain ⁷
		x	Hotels with project cost ⁸ of more than Rs.200 crores each in any place in India and of any star rating.
		xi	Convention Centres with project cost ⁸ of more than Rs.300 crores each

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The Report on “Breaking Business Barriers (BBB)” has been the culmination of the research conducted by Centre for Public Policy Research on theme of 'Ease of Doing Business' in three southern India states namely; Kerala, Karnataka and Tamil Nadu. The project was executed for a year starting from May, 2015.



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