

# INFRASTRUCTURE CONSULTANTS ASSOCIATION OF INDIA



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REGD.NO.-

08-08-11

To,  
The Chairman,  
Central Board of Excise & Customs & Service Tax,  
Ministry of Finance, North Block, New Delhi.



Sir,

**Sub : Commercial Construction/Infrastructures Development Projects –  
Construction of Road, Bridges, Dams, Tunnel etc.- Levy of service tax  
on various service providers engaged/associated with such  
construction work.**

Construction of new building or civil structure or part thereof which is used for  
commerce or industry or intended for commerce or industry is brought in tax net  
of service tax w.e.f.10-09-2004, under the category of 'Commercial or Industrial  
Construction services' and such construction which involves transfer of property  
and goods, in execution of such contract is brought in tax net w.e.f.01-06-07  
under the category of 'Works Contract Service'. However construction of Dams,  
Tunnels, Roads, Bridges etc. ~~is~~ excluded from the levy of service tax under these  
are

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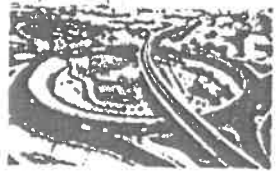
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specified services. This is precisely for the reason such civil construction, infrastructure projects are implemented by the government as civil amenities, in public interest at large. The CBEC vide its Circular No.80/10/2004-ST, dated 17-09-2004 have also clarified as under :

*" Such construction which are for the use of organization or institutions being established solely for educational, religious, charitable, health, sanitation, or philanthropic purpose and not for the purpose of profit are not taxable being non commercial in nature. Generally Government buildings or civil construction are used for residential, office purpose or for providing civil amenities. Thus normally government constructions would not be taxable".*

In process of construction of such civil amenities project services of various service providers such as Architect Services, Civil Engineers Services, Construction of complex services, design Services, Erection, Commissioning & Installation Services, Management, Maintenance or Repair Services etc. are obtained and these services are separately covered under taxable service and the department is collecting service tax from individual service providers. Taxability of such individual service provider has been clarified by the Board vide recent

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circular No.138/07/2011, dated May-2011. Service tax is indirect tax, which is ultimately passed on to the public. The very purpose of ~~execution~~ <sup>exclusion.</sup> of civil construction of Dams, Roads, Tunnels by the government project is to avoid burden of tax on public in relation such construction for civil amenities for use/benefit of public inlarge, however collection of service tax from individual service providers associated with such projects in defeating the very purpose of exclusion of such construction of Roads, Dams, Tunnels, as civil amenities. It is therefore requested to kindly re-consider the clarification issued vide Circular dated May-2011(Supra), so that the very purpose of exempting construction of civil amenities in the statute which no commercial motive of government, is not defeated and the public is not burdened with the tax which is not intended by the government in the statute itself.

FOR

Infrastructure Consultants Association Of India  
Infrastructure Consultants Association of India

Chairman

*Inmalviya*  
Chairman  
*L. N. Malviya*

