FIPI

Ref. No. PF/9
April 17, 2017

Dr. Hasmukh Adhia
Revenue Secretary
Department of Revenue
Ministry of Finance
North Block, New Delhi

Dear Sir,

Sub: GST and the concerns of Oil & Gas sector

At the outset, let me thank you for giving us an opportunity to present the concerns of the oil industry with regard to GST to hon'ble Finance Minister and your good self during the GST conclave held in Mumbai on 26th March 2017. I sincerely thank you as well as the hon'ble minister for the patient hearing and appreciation of the concerns of the oil and gas industry.

We are also thankful to the Government for constituting the GST working group to address the concerns of Oil & Gas sector to whom we have submitted our concerns and trust that the Government would suitably address them. Through this letter, I am taking this opportunity to keep you apprised in the matter.

Sir, as presented to you earlier, the non-inclusion of Crude oil, Natural Gas, MS, HSD and ATF in GST at the time of introduction of GST would lead to huge additional indirect tax burden with stranded costs of about Rs. 22,000 crores in the hands of the industry. This is going to adversely affect each and every company operating in the oil & gas sector in India, which we believe, is certainly not the intention of Government of India.

Considering the importance of the Oil and Gas sector to the Indian economy, we urge you that until the 5 products are covered under GST, the additional burden post-GST as above, is minimised by the following measures:

	Implication (Rs Crore)
"Zero Rate" in GST Act all goods and services consumed by E&P	10800
"Zero rate" supply of MS, HSD, ATF, Crude and Natural Gas until all 5 products are brought under GST. Alternatively allow utilization of SGST/CGST credit for payment of Excise Duty / VAT / CST since the taxes go to the same government.	9800
Removal of CST in line with all other GST products to eliminate a major handicap for domestic producers vis-à-vis imports	1600
	22200

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In case the Government is unable to accept the above suggestion at present, we urge that the oil industry is suitably compensated through some other suitable mechanism as considered fit by the Govt.

We would like to highlight that what we are merely asking for is that the Oil & Gas industry should not be in 'worse off' position with the introduction of GST as compared with the existing regime, which you would kindly appreciate is logical and a fair demand. We are enclosing a brief note containing few suggestions which the Govt may like to consider to alleviate the concerns of the petroleum industry and shall be grateful if the same are considered favourably by the Government.

We shall be glad to provide any further information/clarification.

Thanking you,

Yours faithfully

Dr. R.K. Malhotra
Director General

Encl. as above

cc. 1. Shri K.D. Tripathi, Secretary, MoP&NG
2. Shri P.K. Jain, Chief Commissioner (AR)

Upstream

1. Present exemptions on import or domestic purchase of Goods for petroleum operation.

1.1 Presently, import of specified goods/equipment required for petroleum operation is exempted from whole of Customs Duty (i.e. Basic Customs Duty (BCD) and Countervailing Duty) under Sl. No 357A of Notification No 12/2012-Cus dated 17.03.2012. Further, Para (d) of condition No 40A of S.l No 357A of Notification No 12/2012-Cus dated 17th March 2012 also allows transfer of such imported goods from one eligible block to another for petroleum operation without payment of duty.

1.2 Further, as per para 7.02(f) of FTP-2015-20, domestic purchase of such goods under ICB is treated as deemed export and benefit as specified under para 7.03 of FTP is available. Accordingly, under Sl. No. 336 of Central Excise Notification No. 12/2012-CE dated 17.03.2012, domestic purchase of such goods is exempted from whole of central excise duty and other benefit like duty drawback, advance authorisation etc.

1.3 These benefits are also provided under the NELP policy and the Production Sharing Contract (PSC) signed with the Government under which fiscal stability has been promised.

Submission:

(a) Existing exemption from payment of whole of Customs duty on import of specified goods for petroleum operation should continue under GST i.e. on import of such goods for petroleum operation, there should be exemption from whole of BCD and IGST.

(b) Existing deemed export benefit as specified at para 7.03 read with para 7.02(f) of FTP-2015-20 should continue under GST on domestic sourcing of such goods under procedure of ICB i.e. exemption from whole of IGST or CGST & SGST on supply of such goods. Alternatively, deemed export benefit may be considered for the Crude Oil and Natural Gas Sector to enable refund of the input stranded taxes by way of a notification.

(c) Exemption on transfer of such imported goods from Onshore Supply Base (storage location) to Offshore or inter-movement of such goods in Offshore should also be exempted from levy of IGST or CGST & UTGST.

2. Relief from addition burden of tax on procurement of services for petroleum operations.

2.1 At present, the procurement of services for petroleum operations attract service tax @ 15%. The Offshore original works contracts attract service tax on only 40% of gross contract value i.e. effectively 6% Service Tax with NIL VAT/Sales Tax.

Submission:

Hence, to promote investment and protect the sector from adverse tax implication under GST, it is requested to provide exemption from levy of GST on services exclusively required in connection with petroleum operation such as offshore works contract, mining services, and survey & exploration services.

Alternatively, these services may be taxed at a reduced rate of 5% so that there is no adverse impact on the industry.

3. **Royalty, Profit Petroleum, Cost Petroleum and Cash calls**

Royalty, Profit Petroleum, Cost Petroleum and Cash calls should not be treated as supply under GST.

Downstream

1. **Increase in Basic Customs Duty on MS, HSD and ATF with a corresponding reduction in Excise Duty on these products**

1.1 In terms of the current provisions of GST Bill, subjecting MS, HSD and ATF to GST from a later date, would result in the Oil Industry being worse off than at present, due to denial of credits / increase in reversal of credits. This is despite the fact that the Centre and State Governments would continue to earn their present tax revenues from these transportation fuels under the existing laws.

1.2 It would be pertinent to note that in the recent past, modern and complex refineries have been set up in the middle-east region, which pose a serious challenge to the Indian refineries both in the domestic and export market. The fuel and losses account for almost 8% of the crude consumed in a complex refinery and availability of natural gas at wellhead gives the refineries in middle east, a cost advantage of ~ $ 2.60 per barrel of crude over an Indian refinery.

1.3 The refining sector operates on large volumes and high value but low margins. In a scenario, where a tax regime results in additional tax costs, the operating efficiency of refining sector will be adversely impacted. The Indian refining sector is facing the threat of imported MS, HSD & ATF becoming a more economical option vis-à-vis indigenously manufactured products, even in the domestic market.

1.4 A mechanism to grant refund equivalent to the amount of input tax credits to be reversed by the refineries attributable to the supplies of MS, HSD & ATF may be devised. Since pricing of transportation fuels is on normative import parity, an increase in the Basic Customs Duty on these products will enable the industry recover lost input tax credit through product prices. However, it would be pertinent to note that any increase in petrol and diesel prices would have a direct impact on headline CPI and WPI inflation and a further impact on inflation on account of higher food prices due to increase in transportation costs. To offset any such adverse impact, Government may consider, reduction in excise duty of these products so that the end prices at consumer level do not go up.

2. **CST on Transportation Fuels**

Since pricing of transportation fuels on import parity basis does not include CST, any CST paid on inter-state sale of the transportation fuels amongst the oil companies leads to under- recovery results in in the hands of oil companies for inter-state sales. More importantly, CST distorts logistics due to creation of sub-optimal distribution chain. Since the amount of CST being paid by Oil industry is approx. Rs. 2000 Crores per annum, the elimination of CST on the above products will be a welcome relief.