

GST and Petroleum

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Abstract—The research paper explains the reason that why petroleum or crude oil should be kept under the ambit of GST. This point has seen a lot of discussions, criticisms, and arguments since past years and still petroleum is kept out of the ambit of GST. The main reason of states not agreeing for petroleum to be a part of GST is only one-current taxation policy, under which the states are free to charge duties according to their needs and it is considered as one of the major sources of revenue collection. The Centre had opposed keeping crude petroleum and natural gas out of the GST net as it would imply that the credit on capital goods and input services going into exploration and extraction would not be available, resulting in cascading. Diesel and motor spirit are derived from a common input, crude petroleum, along with other refined products such as naphtha and lubricating oil base stock. Leaving diesel and motor spirit out of the purview of GST would make it extremely difficult for refineries to apportion the credit on capital goods, input services and inputs. These products are principal inputs for many services such as aviation, road transport, railways and cab operators, among others. As such, these may be levied to GST, and in selected cases, credit of GST paid on these items may be disallowed in order to minimize the possibility of misuse.

1. INTRODUCTION

Goods and service tax is a kind of indirect tax where all the other taxes are being clubbed (VAT, entertainment tax, service tax, entry tax, central sales tax etc) and came under one head that is 'Goods and Service Tax'. The most striking feature of GST is that it aims in removing the cascading effects of both Central and State taxes by permitting setting-off of taxes throughout the value chain, right from the very basic level that is from the original producer and service provider up to retailer.

Goods and service tax has been the most hot topic of last year, right now it is at its baby stage where it is trying to get settled. The paper concentrates on why crude oil should be included in the ambit of GST, the Government motto for GST was "one nation one tax" then why one of the most important components of the economy is kept out of it.

Petroleum is considered as the most taxed product and in current scenario the prices of diesel and petroleum is skyrocketing. According to the research it has found that petroleum is being taxed more than 80 per cent of its cost because multiple duties are being charged on it. So it can be said that "Petroleum and oil products contribute significantly

to the governments' tax kitty." In comparison the tax rate under GST is far lower than 40 per cent (including cess) this indicates that the price of petroleum will come to half then that of the current rate. Input tax credits under GST will bring down the effective rate further.

Excise duty collections on such products collected by the Centre hiked from about 99,000 crore in 2014-2015 somewhere to about 2,43,000 crore in 2016-2017. The value added tax (VAT) collected by States and Union Territories hiked from 1,37,000 crore in 2014-2015 to 1,66,000 crore in 2016-2017. Petroleum products are said to account for about 40 per cent of States, revenue which is not a small number. And this data is much higher than that of the inflation rate.

2. PROBLEMS

One of the most argumentative issues was, petroleum contributes the most as revenue to both State as well as the Central Government.

States had the power to fix the taxation rates and duties on petroleum. So States are being reluctant towards giving their cooperation for keeping the petroleum under GST.

The Constitution provides the provisions which give the right to levy or charge various taxes between the Central and the State. However, the constitution also puts a restriction on this power by Article 256 which states that no one can levy or collect taxes except by the authority of law. Thus, tax levied by the government must be backed by some law passed by the parliament or the State Legislature, otherwise it would be deemed to be unconstitutional. Article 246 (SCHEDULE VII) of the Indian Constitution, distributes legislative powers including taxation, between the Parliament and State Legislature.¹

Companies dealing in the field of crude oil were not getting Input Tax Credit, which was one of the most striking feature of GST.

Input tax credit, means the credit of input tax.²

¹ 'Taxation in India, Wikipedia <[https://en.wikipedia.org/wiki/Taxation in India](https://en.wikipedia.org/wiki/Taxation_in_India)>

² Section 22(63) of the Central Goods And Services Tax Act, 2017.

Input Tax credit is considered as the safeguard of GST. Earlier there was a non-availability of credit at various points of supply chain, which led to a double charging effect of tax and had resulted in the increased cost of goods and services. This flaw has been tried to be addressed by GST and a seamless flow of credit throughout the value chain will be provided which will facilitate in reducing the cascading effect of tax, ultimately which will lower down the prices of such goods and services.

There were one more problem which was stating that there is some lack of uniformity in between states for example the rate of petrol in Delhi is totally different from the rate of petrol on Mumbai

3. SOLUTIONS

The GST Act came into being by 101st Constitutional amendment, which clearly states that any commodity can be included under the ambit of GST, so this can be considered as the answer to the states.

Insertion of Article 246A³

(1) Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Transportation cost is a major factor influencing the composition of the cost of any goods or services and if petroleum will be kept under the ambit of GST the prices will come down, and ultimately it will bring down the inflation and facilitates the end user that is consumer. And will be helpful for the economy as well and will bring growth.

Keeping petroleum under the purview of GST will bring some kind of uniformity in between states. Which will help the developing States.

Once GST will have applicable rates on petroleum, the companies working in this sector will also be facilitated as they can claim and set off its Input tax Credit again which is a tool for cost reduction.

At last it can be concluded, that this issue (petroleum under the ambit of GST) is going through a lot of political debates and drama, but it is the need of the hour because at the end it is serving the economy in a positive manner, it will fetch out good result, because ultimately the price of all commodity will come down and growth can be seen. It is helpful for the country, for the consumers, for the companies and etc.

³ Constitution 101st Act, 2016.