

PETROLEUM PRODUCTS AND GST



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Why Petrol and Diesel should be brought under GST.

Recently, while answering to a question in Loksabha, Hon. Petroleum Minister provided details of the taxes charged by the Central Government on Petrol and Diesel. During the period when explanation was given by Hon. Minister, the price of petrol had crossed the milestone of Rs.100/- per litre. After perusal of the composition of central taxes on petrol and diesel, a study of the taxes levied by the State Governments was also done. For the study purpose the State Taxes leviable in Maharashtra is considered. However, the others states also have similar provisions.

Following are the details of various components of the petrol and diesel prices.

Particulars	Petrol	Diesel
Basic price of petrol (including freight, dealers commission)	40.92	43.23
Excise duty	1.40	1.80
Special Additional Duty	11.00	8.00
Road & Infrastructure Development Cess	18.00	18.00
Agriculture Infrastructure Cess	2.50	4.00
Total Taxes (Central)	32.90	31.80
VAT	19.98	16.97
Cess levied by State Government	10.20	3.00
Total Taxes levied by State	30.18	20.97
Total Taxes	63.08	52.77
Selling price	105.00	96.00

VAT of Petrol and diesel in Mumbai is charged at higher rate by 3%.

The above composition of the various factors in prices shows that approximately 60% and 55% of the total price of petrol and diesel respectively is collected by the Central and State Governments.

The Central Government collected Rs 1,01,598 crore through excise duty on petrol and Rs 2,33,296 crore through excise duty levy on diesel during 2020-21. Excise duty on petrol and diesel went up by 43 per cent and 68.8 per cent respectively between March 2020 and February 2021,

Even after the introduction of Goods and Services Taxes w.e.f. 1st July 2017, the petroleum products are kept out of the purview of GST. These products are still under Entry No.84 of the List I (Union List) of Seventh Schedule to Constitution of India as amended w.e.f.16.09. 2016. Therefore Central Government is empowered to levy excise duty and cesses on petroleum products and gases. States will have powers to impose Sales Tax within the state on Petroleum Products as per Entry No.54 of List II (State List) of Seventh Schedule to Constitution of India.

As per Section Sec 9 (2) of the CGST Act 2017 and Section 5(2) of IGST Act 2017, GST on the supply of petroleum crude, high speed diesel, motor spirit (Commonly known as Petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the GST Council. Therefore, Central Government and State Government are still authorised to levy taxes on these products. Central Government levies duties on the manufacture and State Governments Levy Taxes on selling and distribution activities as per the powers given to them by Constitution of India.

The Objectives of introduction of GST are.

1. One Nation One Tax.
2. Avoid Cascading Effect of Taxes.

However, by keeping the petroleum products outside the purview of GST, both the objectives got defeated. Therefore, it is a time to go for Tax Reforms once again. By bringing Petroleum products under GST following benefits can be achieved.

One Nation One Tax.

It is expected that the concept of One Nation One Tax should truly come in reality. At present, the maximum rate of GST is 14% Central Tax and 14% State Tax. Bringing petroleum products in the ambit of GST will reduce the burden of taxes to a great extent. For this purpose, no constitutional amendment is required. It is pertinent to note that both the governments i.e Central and State can levy Cess in addition to GST, if at all needed.

Avoiding Cascading Effect of Taxes

There is another important reason for the need to bring petroleum products under GST and that is Input Tax Credit. Since Petroleum products are subject to excise duty to avoid cascading effect of taxes, Cenvat Credit Rules are prescribed. Some states also have made provisions for set off of VAT. For the goods and services Input Tax Credit provisions are made under Central Goods and Services Tax Rules 2017. Due to present structure of taxes and different provisions for tax credit, Input Tax Credit under GST cannot be utilised for payment of Excise Duty. Similarly, Cenvat Credit cannot be utilised for payment of GST. There is no interchangeability.

Except petroleum and few other products, all other goods and services are covered under GST provisions. The petroleum companies and gas companies do require various plant and machineries, equipment and services for their activities. Many machineries and services are imported by these companies. Similarly, the goods and services procured domestically also attract GST. These companies also pay GST under reverse charge on manpower, security services, director sitting fees and services received from Governments and local authorities under reverse charge. Just to quote an example for

transportation of petrol, diesel and gases pipelines are laid down. These pipes are essential capital goods for these companies. Similarly laying pipeline is essential service. Even though these companies pay GST on these pipes and laying pipelines, they are not entitled to avail and utilize Input Tax Credit of the same for payment of Excise Duty and VAT. Similarly, refineries also need huge capital investment in plant and machineries, The Input Tax Credit on the plant and machinery also cannot be utilised for payment of excise duty and VAT. This results in cascading effect of taxes. In fact, it is an unjust enrichment. By bringing petroleum products in the ambit of GST, thousands of crores of rupees ITC can be utilised for payment of taxes on petroleum products which will help in reducing the cost substantially and ultimately prices of Petrol, Diesel and CNG.

The other manufacturing tax payers under GST also can avail and utilise input tax credit of Diesel used in generating electricity for captive consumption. This will also reduce their cost of production.

Ease of doing business

Presently petroleum and gas companies have to comply provisions under Central Excise, VAT and GST also. The compliance includes filing returns, audits by government departments and professionals and litigations. Bringing petroleum products under GST will result in reduction in compliances. This will also achieve the purpose of the government in true sense i.e ease of doing business.

In view of the above, it can be said that it is a time for tax reforms once again. It is also expected that by bringing petroleum products GST, the prices can be reduced by at least 15%.