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Implementation of GST for Fertiliser Sector

At the outset Government of India needs to be complimented for imparting extra ordinary momentum to implementation of Goods and Services Tax (GST). One of the most important tax reforms in the history of country has been languishing for last seven years. The present government not only passed the Constitutional Amendment Bill but also the enabling CGST, IGST and UTGST Bills. These speedy measures have paved the way for early implementation of this uniform taxation regime.

Goods and Services Tax is a uniform simplified indirect tax on goods and services across India. This would subsume large number of existing indirect taxes & duties levied by the Centre and the state governments. GST would be applicable on 'supply' of goods or services as against the present practice of tax on manufacture of goods and / or on sale of goods and provision of services. GST would be destination based taxation on consumption as against present system of origin based taxation. With provision of seamless credit against taxes paid on inputs, commonly known as input tax credit (ITC), GST generally would not be a cost to the business except in the case of exempt goods and services and where claiming ITC is not allowed for some reason.

It is going to be a dual GST system with centre and state simultaneously levying it on a common base of transaction value. GST to be levied by the centre would be called Central GST or CGST and that levied by the state government would be called State GST or the SGST. Similarly, GST levied by the Union Territories would be called Union Territories GST or UTGST. Integrated GST or IGST would be applicable on inter-state transactions which will be equivalent to CGST plus SGST. Import of goods or services would be treated as inter-state supplies and IGST would be levied. Exports would be zero-rated under GST regime. Intra-state transactions within the same legal entity having single registration would not be subjected to GST. But inter-state supply (like stock transfers) would attract GST. The list of exempted goods and services would be common for both states and the Centre.

Before looking at likely impact of GST on Indian fertiliser industry, it would be appropriate to underline the unique operating environment of fertiliser industry. Indian fertiliser industry is largely dependent on imports either in the form of raw materials, intermediates or finished fertilisers. The dependence on imports in the case of nitrogen is 60% and in the case of phosphates it is 93%. For potash, India is 100% dependant on imports.

The government is providing subsidy on fertilisers which is currently exempt from Central and State taxes. Taxing subsidy would increase the cost of fertilisers which would either increase retail price or subsidy. Subsidy represents about 73% of the total cost of urea. In the case of DAP and MOP subsidy represents 31% and 40%, respectively of the total cost. Fertiliser sector is allowed a number of tax concession and exemptions under the existing tax regime. With such exemptions and concessions the total incidence of central and state taxes on the value of fertilisers excluding subsidy is currently estimated at 6-10%. This includes about 2-4% taxes on input stage and 4-6% tax at output stage. Large quantities of fertilisers are currently moved on stock transfer basis without any incidence of state taxes.

The issues apprehended by fertiliser industry arising due to implementation of GST *inter-alia* included taxing of subsidy, increasing the rate of taxation on fertilisers and inputs, non-inclusion of natural gas and other petroleum products like petrol & diesel, continuing cascading effects of basic customs duty on imports in light of large import dependence, etc. Large amounts of accumulated input tax credit was also apprehended due to higher incidence of tax on inputs which are taxed at full value and lower tax on fertilisers which are taxed excluding the subsidy.

Accordingly, FAI took proactive initiatives and brought out major issues of the sector before the concerned government authorities as early as May 2011. However, implementation of GST was delayed. In response to the fresh initiatives regarding implementation of GST by the new government at the Centre, FAI took stock of situation based on additional information available with the help of an expert organisation in the area. FAI then made fresh representations in September 2016. This was followed up with subsequent representations covering various issues in response to various stages of evolving GST Law till April 2017. These submissions *inter-alia* sought low rate of GST on fertilisers and inputs, exemption of fertiliser subsidy from GST and effective mechanism for time bound refund of accumulated input tax credit.

Pre-emptive initiatives and timely representation by FAI had positive impact on evolving GST Law. In the final GST Law approved by the Parliament, subsidy by the central and state governments has been excluded from the taxable value for levy of GST. Thus, one major issue has already been resolved. The government has also made provisions for refund of unutilised accumulated input tax credit for exports and accumulations arising due to inverted duty structure.

But, there are number of issues which remain cause of concern. These *inter-alia* include concessional rate of GST for fertilisers and inputs, timely refund of unutilised input tax credit for fertilisers sector, problems due to non-inclusion of natural gas and petroleum products under GST and the issue of basic customs duty on raw materials continuing to increase the cost of domestic P & K fertilisers in light of large import dependence.

Basic customs duty on raw materials will continue as a cost to the industry because basic customs duty is not covered under GST and hence input tax credit against such taxes and duties will not be allowed. Similarly, petroleum products like natural gas, petrol and diesel will be brought under GST at later stage as and when GST Council decides so. Therefore, the existing taxes and duties on these products would continue to be levied without credit for such taxes under GST regime. This means cascading effect of taxes on these products would continue to increase the cost to the industry. In case of urea, natural gas constitutes major portion (75%) of the cost of production. Further, levy of higher than the existing rate of taxation on fertilisers as well as on inputs would also result in either increase in retail price to the farmers or increase in subsidy out go or both.

Simultaneous implementation of GST and DBT may affect smooth conduct of retail business and hence timely availability of fertilisers to the farmers. Therefore, it would be highly appropriate to postpone DBT in fertiliser sector by a year or so to facilitate smooth implementation and stabilisation of GST regime.

Refund of accumulation of input tax credit for fertiliser sector is also a major issue. Fertiliser industry apprehends large amounts of accumulated input tax credit. It is likely to arise due to inverted duty structure if rate of GST on inputs are higher than the rate of GST on finished fertilisers. This could add upto several thousand crore per annum. Any delay in this refund will increase the working capital requirement and hence interest cost. Large amounts of input tax credit will also arise due to lower tax incidence on fertilisers (as subsidy is excluded from taxable value) than that on inputs (which would be taxed at full value) even if the rate of tax is same on input and output. There is no provision for refund of this amount which can also run into thousands of crores. Provision of refund on these two accounts should be same as has been provided for export. This will ensure prompt refund and avoid the increase in cost of supply of this vital agriculture input, which is highly subsidised by the Government of India.

Government can decide on the concessional rate (at lowest level applicable for goods of common consumption) of GST for fertilisers and inputs. There is need for clarification regarding levy of GST and taxable value of urea imported on government account and sold to fertiliser companies on high seas for further handling and distribution. Transportation of fertilisers hither to has been exempt from levy of taxes. Therefore, there should not be any GST on fertiliser transportation to avoid the increase in delivered cost of fertilisers.

The pilot project for direct benefit transfer (DBT) of fertiliser subsidy is under implementation in 19 districts. Government is pushing to expand this to the entire country in next few months. Simultaneous implementation of GST and DBT may affect smooth conduct of retail business and hence timely availability of fertilisers to the farmers. GST is a much bigger reform applicable to all economic activities of the country and should get precedence over DBT. Therefore, it would be highly appropriate to postpone DBT in fertiliser sector by a year or so to facilitate smooth implementation and stabilisation of GST regime.■