THE ECONOMIC TIMES

15 APRIL 2000 VOLUME 40 NO 36

Sales tax on Hazira gas a retrograde step

UTTAM GUPTA

The sales tax authorities in Gujarat have raised demand for central sales tax (CST) on gas picked up by GAIL from Hazira (offshore gas brought through sub-sea pipeline is processed here) and transported for sale in five other states, viz., Maharashtra, Madhya Pradesh, Uttar Pradesh, Rajasthan and Andhra Pradesh. The demand pertains to the last five years and would involve an outgo of a whopping sum of about Rs 560 crore (as reported in a section of the Press).

What were the authorities doing all these years? How come they have suddenly become wise? The crux of the matter is that in the past, they believed that movement of gas through pipeline did not constitute sale; instead, it was treated as stock transfer. Consequently, this was not liable to levy of CST. Now, their perception has taken a U-turn. They no longer regard it as stock transfer; hence, the demand.

The gas was being moved out of Gujarat ever since the HBJ pipeline was commissioned in 1987. In view of this and considering that demand pertains to 1994-95 onwards only, it would appear that for quantities moved prior to 1994-95, authorities continue to treat these as stock transfer. This glaring inconsistency is, indeed, baffling! Whether sale or stock transfer, legal pundits will decide on the correct interpretation. If, the former is upheld and CST is levied then, logically, authorities are not justified in levying GST (Gujarat State Tax) @ 4 per cent which is applicable only on movements that are in the nature of stock transfer. Consequently, they should refund to GAIL amounts already collected towards GST. The rate of CST being same as GST i.e., 4 per cent, net impact on revenue will be nil.

The resulting comfort to GAIL may prove to be short lived. This is because there is a possibility of such sale of gas being treated as a transaction having taken place within Gujarat, i.e., at par with sale to a unit located in the state. Then, this would attract Gujarat sales tax (GST) which is a whopping 20 per cent. Thus, even after refund of GST @ 4 per cent, gain to state exchequer would be a substantial 16 per cent.

Even as GAIL is gearing for a long legal battle, demand for sales tax will seriously affect end users of gas in various sectors, viz., fertilisers, power, sponge iron, etc. This is because, the former will in turn, ask the latter to pay. Unlike GAIL, these industries cannot recover additional tax from their respective customers. In fertilisers, where, RPS is in vogue, this would lead to higher subsidy outgo due to control on selling price at low level.

Apart from triggering off liquidity problems, the demand for additional tax will seriously erode bottom lines of the companies. One should also not forget the nightmare of their having to reopen/rework the balance-sheets and P/L accounts for past years. This, in turn, will affect their liability towards corporate tax as well. The central government will be confronted with a spate of demand for refund.

For the future, charging tax at 20 per cent as against CST/GST @ 4 per cent, will result in steep increase in cost of gas to end users and in turn, production cost of their respective finished products, viz., fertilisers, power, sponge iron, LPG, etc. Already, these costs have increased sharply on account of basic price of gas being linked to IMPP of fuel oils — since 1.10.1997 — which will go up further due to proposed linkage to 100 per cent of fuel parity next year. Steep increase in tax rate will compound users' woes.

The Gujarat government should refrain from actions which make life miserable for critical industries on the one hand and common man on the other. Instead, it should concentrate on how tax burden can be reduced. It is better to strike at the very root of the problem by reducing sales tax from existing 20 per cent to 4 per cent. This will not only benefit units/users located in Gujarat, but also, automatically, mitigate problems of units/users located outside the state.

The author is chief economist, the Fertiliser Association of India