

PRESS RELEASE

Text of the D.O.Letter dated 17.8.2014 addressed by **Selvi J Jayalalithaa**, Hon'ble Chief Minister of Tamil Nadu to **Shri Narendra Modi**, Hon'ble Prime Minister of India is reproduced below:-

"As you may recall, I had handed over a Memorandum to you on 3.6.2014, highlighting some very crucial issues of concern to Tamil Nadu. One of these issues was the impact of the proposed Goods and Services Tax (GST) on the fiscal autonomy of States and the huge permanent revenue loss such a taxation system is likely to cause to a manufacturing and net exporting State like Tamil Nadu.

I understand that a further revised draft Constitutional Amendment Bill on GST has been circulated to the States by the Government of India on 20.6.2014. I am happy to note that some of the concerns that I had raised have been addressed in the latest draft Bill, with the provisions relating to Declared Goods having been removed and alcoholic liquor for human consumption kept outside GST. The provisions relating to advisory Committees for dispute resolution have also been deleted.

However, a number of concerns still remain. Foremost amongst these is the issue of fiscal autonomy. The proposed GST Council with the functions assigned to it will override the supremacy of the Legislature – both at the Centre and in the States in taxation matters. This is unacceptable to Tamil Nadu.

The Amendment Bill also does not include enabling provisions for States to levy higher taxes on Tobacco and Tobacco products, similar to what has been permitted for the Centre. Tobacco consumption is a public health hazard and many States including Tamil Nadu are levying higher taxes on tobacco, which should continue to be permitted.

Petroleum products such as petrol and diesel which are currently outside the purview of State VAT in most States, are still proposed to be covered by GST under the draft Bill. A new provision has been made in the revised draft amendment Bill which enables States to levy additional taxes over and above the GST on the sale of petroleum products. However, this system of a dual levy of GST and an additional tax is not acceptable to Tamil Nadu as a portion of the tax on petroleum products would still be eligible for input tax credit. Considering the short supply chain, collection of tax on Petroleum and Petroleum products at the first and second points of sale is now done efficiently and without leakage. Bringing these products under the ambit of GST will entail huge revenue loss to the States as Input Tax Credit will have to be provided. Hence, I reiterate my earlier request that Petroleum and Petroleum products should be kept outside the purview of GST.

In addition, it is also being made out by the Ministry of Petroleum and Natural Gas that due to the levy of irrecoverable taxes such as entry tax, octroi, and Input Tax Credit availment restrictions on crude oil and other petroleum products, there are a number of "State Specific Costs" that are perforce passed on to the consumers in the State. Abolition of such irrecoverable dues has been sought so as to enable the Oil Marketing Companies (OMCs) to reduce "under-recoveries" without increasing the prices for petroleum products.

In this context, I have already stated in a number of fora that the "under-recoveries" of the OMCs are not really losses and are notionally calculated on the basis of international prices of petroleum products which is neither relevant nor fair since a portion of the crude oil is domestically produced and what is imported into India is crude oil and not petroleum products. In this context, only an actual cost based formula would be appropriate to determine the real subsidy burden falling on

the OMCs. This figure is much lower and the State levies are not as large a burden as is being made out. States have to protect their slender tax base and cannot be expected to subsidize what is essentially a Central responsibility through foregoing their legitimate revenues.

Further, in Tamil Nadu, no State specific levies like entry tax, octroi, cess or surcharge are being levied on petroleum products. As far as Input Tax Credit (ITC) on crude oil is concerned, the OMCs/ refineries are eligible to avail of Input Tax Credit to the extent of tax paid on purchase of Crude Petroleum from ONGC on the sale of eligible products like lubricants and commercial LPG. Other petroleum products are non-VAT goods and hence not eligible for Input Tax Credit. Making all petroleum products VAT goods, in order to reduce the subsidy burden of the Government of India will result in a drastic fall in State revenue. It is also a precursor to including all petroleum products under GST and hence, this proposal is unacceptable to Tamil Nadu.

Manufacturing States like Tamil Nadu stand to permanently lose substantial revenue if GST is implemented. However, there is no assurance of a permanent compensation mechanism. Further, the State's experience with the Centre's compensation mechanism both for the introduction of VAT and the reduction of Central Sales Tax has been far from satisfactory and does not inspire confidence that a fair, hassle-free and workable compensation mechanism can be devised and implemented. Hence, it is imperative that an independent compensation mechanism for revenue losses suffered by the States should be enshrined in the Constitution itself and not reduced to an instrument of Union policy which may change from time to time. **Hence, I reiterate my earlier suggestion that the Amendment Bill should provide for an independent compensation mechanism in this regard.**

I understand that the Sub-Committees constituted by the Empowered Committee of State Finance Ministers on various aspects of GST such as the problems of dual control, threshold and exemptions in the GST regime; on Inter-State GST and GST on imports; and on revenue neutral rates for State GST and Central GST and place of supply rules are yet to submit their final reports.

May I also point out that many of the concerns that I have raised, as also the apprehension amongst many of the present VAT assesseees that they would now be subjected to two sets of taxation authorities, could be overcome if a simpler structure of completely delegating the levy, collection and appropriation of the substitutes for VAT, Central Excise Duty and Service Tax within a State to the State machinery is put in place, with the Central machinery focusing on inter-State taxation? Not only would such an arrangement be administratively much simpler, but it would also ensure that the original Constitutional design of fiscal federalism of leaving the States in complete control of at least one sizeable source of revenue is preserved. I believe it is still not too late to move forward on GST by putting in place the elegant solution I have suggested.

In any event, I strongly urge you that a broad consensus on key and contentious issues like dual rate bands, taxation threshold, IGST Model, commodities to be excluded from GST, clarity on dual administrative control, compensation period and methodology, should be arrived at among the States and with the Central Government before the enactment of the Constitutional Amendment Bill on GST is taken up.

I look forward to a positive response from you in this matter".

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