

**UNDUE ENRICHMENT THROUGH RECOVERY OF  
TURNOVER TAX FROM CONSUMER RELATING TO  
INDIAN OIL CORPORATION LIMITED (IOCL)**

[Based on Audit Para No. 2.1 of C&AG Report No. 14 of 2021]

**INDIAN OIL CORPORATION LIMITED (IOCL)**

**MINISTRY OF PETROLEUM & NATURAL GAS**

**COMMITTEE ON PUBLIC UNDERTAKINGS  
(2024-25)**

**THIRD REPORT  
(EIGHTEENTH LOK SABHA)**



LOK SABHA SECRETARIAT  
NEW DELHI

# **THIRD REPORT**

**COMMITTEE ON PUBLIC UNDERTAKINGS**

**(2024-25)**

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**MINISTRY OF PETROLEUM & NATURAL GAS**



***Presented to Lok Sabha on 18.12. 2024***

***Laid in Rajya Sabha on 18.12. 2024***

**LOK SABHA SECRETARIAT**

**NEW DELHI**

**....., 2024/ ....., 1946 (Saka)**

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## COMPOSITION OF THE COMMITTEE ON PUBLIC UNDERTAKINGS (2024-25)

**Shri Baijayant Panda - Chairperson**

### **Members**

#### **LOK SABHA**

2. Shri Tariq Anwar
3. Shri Sudip Bandyopadhyay
4. Shri R.K. Chaudhary
5. Shri Chandra Prakash Joshi
6. Smt. Kanimozhi Karunanidhi
7. Shri Kaushalendra Kumar
8. Shri Shankar Lalwani
9. Smt. Poonamben Hematbhai Maadam
10. Shri B.Y. Raghavendra
11. Shri Mukesh Rajput
12. Shri Sukhjinder Singh Randhawa
13. Shri Pratap Chandra Sarangi
14. Shri Kodikunnil Suresh
15. Shri Prabhakar Reddy Vemireddy

#### **RAJYA SABHA**

16. Shri Neeraj Dangi
17. Shri Milind Murli Deora
18. Shri Narain Dass Gupta
19. Dr. Bhagwat Karad
20. Shri Surendra Singh Nagar
21. Shri Debashish Samantaray
22. Shri Arun Singh

#### **SECRETARIAT**

1. Shri Neeraj Semwal - Joint Secretary
2. Smt. Jyochanamayi Sinha - Director
3. Smt. Mriganka Achal - Deputy Secretary
4. Shri Chandan Kumar - Assistant Executive Officer





## COMPOSITION OF COMMITTEE ON PUBLIC UNDERTAKINGS (2023-24)

**Shri Santosh Kumar Gangwar - Chairperson**

### **Members**

#### **LOK SABHA**

2. Shri Sudip Banyopadhyay
3. Shri Anil Firojiya\*
4. Dr. Heena Vijaykumar Gavit
5. Shri Chandra Prakash Joshi
6. Smt. K. Kanimozhi
7. Shri Lavu Sri Krishna Devarayalu
8. Smt. Poonamben Hematbhai Maadam
9. Shri Arjunlal Meena
10. Shri Janardan Mishra
11. Shri Nama Nageswara Rao
12. Dr. Arvind Kumar Sharma
13. Shri Ravneet Singh Bittu
14. Shri Sushil Kumar Singh
15. Shri Ramdas Chandrabhanji Tadas

#### **RAJYA SABHA**

16. Dr. Radha Mohan Das Agrawal
17. Shri Syed Nasir Hussain
18. Dr. Anil Jain
19. Shri Prakash Javadekar
20. Dr. Amar Patnaik
21. Shri V. Vijayasai Reddy
22. Shri Binoy Viswam

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\* Elected w.e.f. 19.12.2023 *vice* Shri Uday Pratap Singh resigned as Member of Lok Sabha w.e.f. 06.12.2023.



## **COMPOSITION OF COMMITTEE ON PUBLIC UNDERTAKINGS (2022-23)**

**Shri Santosh Kumar Gangwar - Chairperson**

### **Members**

#### **LOK SABHA**

2. Shri Sudip Banyopadhyay
3. Dr. Heena Vijaykumar Gavit
4. Shri Chandra Prakash Joshi
5. Smt. K. Kanimozhi
6. Shri Lavu Sri Krishna Devarayalu
7. Smt. Poonamben Hematbhai Maadam
8. Shri Arjunlal Meena
9. Shri Janardan Mishra
10. Shri Kinjarapu Ram Mohan Naidu
11. Dr. Arvind Kumar Sharma
12. Shri Ravneet Singh Bittu
13. Shri Sushil Kumar Singh
14. Shri Uday Pratap Singh
15. Shri Ramdas Chandrabhanji Tadas

#### **RAJYA SABHA**

16. Shri Anil Desai
17. Ms. Indu Bala Goswami
18. Shri Syed Nasir Hussain
19. Dr. Anil Jain
20. Shri Prakash Javadekar
21. Dr. Amar Patnaik
22. Shri M. Shanmugam



## **INTRODUCTION**

I, the Chairperson, Committee on Public Undertakings (2024-25) having been authorized by the Committee to submit the Report on their behalf, present this Third Report on “Undue enrichment through Recovery of Turnover Tax from consumer” relating to Indian Oil Corporation Limited (IOCL) (Based on Audit Para No. 2.1 of Report No.14 of 2021)”.

2. The Committee on Public Undertakings (2022-23) had selected the said subject for detailed examination. As the examination of the subject remained inconclusive during the previous Committee terms, the present Committee on Public Undertakings (2024-25) decided to carry forward the subject so as to complete the unfinished task.

3. The Committee on Public Undertakings (2022-23) was briefed about the subject by the representatives of the C&AG on 20<sup>th</sup> April, 2023. The Committee then took oral evidence of the representatives of Indian Oil Corporation Limited (IOCL) and Ministry of Petroleum and Natural Gas (MoPNG) on 6<sup>h</sup> October, 2023.

4. The Committee (2024-25) considered and adopted the draft Report at their sitting held on 24<sup>th</sup> October, 2024.

5. The Committee wish to express their thanks to the representatives of Indian Oil Corporation Limited (IOCL) and Ministry of Petroleum and Natural Gas for tendering evidence before the Committee and furnishing the requisite information to them in connection with examination of the subject.

6. The Committee would also like to place on record their appreciation for the assistance rendered to them in the matter by the Office of the Comptroller and Auditor General of India.

7. The Committee wish to express their sincere thanks to the predecessor Committee for their valuable contribution in examination of the subject.

8. For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in bold letters in Part-II of the Report.

**New Delhi:  
11 December, 2024  
20 Agrahayana, 1946 (S)**

**BAIJAYANT PANDA  
Chairperson,  
Committee on Public Undertakings**



## ACRONYMS

AP		ANDHRA PRADESH
APGST		ANDHRA PRADESH GENERAL SALES TAX
APM		ADMINISTRATED PRICING MECHANISM
APTOT		ANDHRA PRADESH TURNOVER TAX
BPCL		BHARAT PETROLEUM CORPORATION LIMITED
CNG		COMPRESSED NATURAL GAS
CSR		CORPORATE SOCIAL RESPONSIBILITY
GoAP		THE GOVERNMENT OF ANDHRA PRADESH
HPCL		HINDUSTAN PETROLEUM CORPORATION LIMITED
HSD		HIGH-SPEED DIESEL
IBP		INDO BURMA PETROLEUM
IOCL		INDIAN OIL CORPORATION LIMITED
MOP&NG		MINISTRY OF PETROLEUM & NATURAL GAS
MS		MOTOR SPIRIT
MSME		MICRO, SMALL, MEDIUM ENTERPRISES
OMC		OIL MARKETING COMPANIES
RSP		RETAIL SELLING PRICES
STAT		STATE TAX TRIBUNAL APPELLATE
TOT		TURNOVER TAX
VAT		VALUE ADD TAX





# **REPORT ON UNDUE ENRICHMENT THROUGH RECOVERY OF TURNOVER TAX FROM CONSUMERS RELATING TO INDIAN OIL CORPORATION LIMITED (IOCL)**

**[Based on Audit Para No. 2.1 of C&AG Report No. 14 of 2021]**

## **PART-I**

### **A. BACKGROUND**

Indian Oil Corporation Limited (IOCL) is India's leading integrated energy major with a strong presence in oil, gas, petrochemicals, and alternative energy sources. Indian Oil's portfolio includes refining, pipeline transportation & marketing, exploration & production of crude oil & gas, petrochemicals, gas marketing, and alternative energy sources. Indian Oil's international business operations span over Sri Lanka, Mauritius, the UAE, and other countries, reflecting the brand's global aspirations. The Company operates around 36285 Retail Outlets for distributing petrol and diesel with around 1788 CNG stations. IOCL has an extensive network of more than 17,000 kms. of pipelines across the Country under its supply chain.

2. The Government of Andhra Pradesh on 30th November, 2001 introduced a new sub-section 5-A (1-A to 1-C) for levying turnover tax (TOT) under the Andhra Pradesh General Sales Tax Act, 1957 (APGST Act). Sub-section 5-A(1-A) provided that every dealer shall pay turnover tax @ 2 paise on every rupee in respect of petrol and diesel in addition to the existing taxes. Further, under Sub-section 5-A (1-B) it was stipulated that no dealer shall be entitled to recover TOT from the purchasers and if any dealer, in contravention of the provision of Sub-section 5-A (1-B) by way of turnover tax or purportedly such as turnover tax, recovers such amount, he shall be liable to a fine equal to the amount of turnover tax as per sub-section 5-A(1-C).

3. The Committee have been informed that following the Ministry's clarification in August, 2002, IOCL started charging turnover tax from consumers by including it as State Surcharge in the Retail Selling Price (RSP) of motor spirit and high-speed diesel, with effect from 1 September, 2002. The Commercial Tax Department of the Government of Andhra Pradesh found this to be a violation of sub-section 5A (1-B) of the above Act and levied a penalty of Rs 262.60 crore under sub-section 5-A (1-C) of the APGST Act for recovering turnover tax from consumers and accordingly imposed a fine of an equal amount of Rs.262.60 crore on IOCL. In response, IOCL appealed against the imposition of penalty in various legal forums i.e. State's Sales Tax Tribunal, High Court, Hyderabad and Supreme

Court but could not get any relief. This tax amendment related case, filed in the High Court, Hyderabad, remained pending till the year 2020. Meanwhile, the Telangana Government (the State carved out of erstwhile Andhra Pradesh in 2013) proposed an out-of-court settlement, in which a Memorandum of Understanding (MoU) was signed between IOCL and the Government of Telangana on March 27, 2020, under which IOCL paid 25 percent of the penalty amount i.e. Rs 65.65 crore. In return, the Telangana Government agreed to waive the remaining fine. Audit observed that recovery of TOT by IOCL from Andhra Pradesh consumers was in violation of the legal provisions of the APGST Act, 1957. Therefore, even after payment of penalty of Rs 65.65 crore, IOCL in this case got undue benefit of Rs 196.95 crore through recovery of TOT from consumers.

4. However, during the examination of the subject, the representatives of the Ministry of Petroleum and Natural Gas and IOCL kept reiterating their stand that there was no violation of the provision of the APGST Act, 1957 in the case, as the Company had not recovered any turnover tax from the consumers at the time of raising the invoice. This was only a surcharge and was theoretically to be borne by the consumers of the respective States. However, the State Authority imposed a penalty of Rs.262.60 crore on account of collection of turnover tax and the Tribunal also upheld the same. The Supreme Court also did not give any relief in this matter and directed to approach the High Court.

5. The C&AG looked into the matter thoroughly in their Audit Para No. 2.1 of C&AG Report No. 14 of the year 2021 regarding 'Undue Enrichment through Recovery of Turnover Tax from Consumers' relating to Indian Oil Corporation Limited (IOCL), and came into the conclusion that IOCL collected TOT from the consumers during the particular time period in violation of the provision of the APGST Act, 1957 and enriched the Company to the tune of Rs.196.95 crore after adjustment of Rs.65.65 crore out of settlement of penalty amount. The Committee on Public Undertakings, during their terms in 2022-23, 2023-24 and 2024-25 selected the Audit Para No. 2.1 of C&AG Report No. 14 of the year 2021, for examination and report to Parliament. The Committee during examination of the subject heard the views of officers of C&AG, representatives of the Ministry of Petroleum and Natural Gas and IOCL before finalizing their Report. The detailed observations/recommendations of the Committee on the Audit Para have been given in bold type in Part – II of this Report.

## AUDIT PARAGRAPH

### (i) Audit Para 2.1 of the C&AG Report No.14 of 2021

6. The Government of Andhra Pradesh (GoAP) introduced (w.e.f 30 November 2001) new sub-sections 5-A (1-A) to (1-C) to impose Turnover Tax (TOT) under Andhra Pradesh General Sales Tax Act, 1957 (APGST Act). Sub-section 5-A (1-A) mandated that every dealer shall in addition to tax payable under section 5, 5-AA and 6-C, pay Turnover Tax @ two paise on every rupee inter alia in respect of petrol and diesel oil. However, no dealer shall be entitled to collect Turnover Tax from purchasers and collection of Turnover Tax from purchasers would attract penalty of equivalent amount of Turnover Tax as per sub-section 5-A (1-B) and sub-section 5A (1-C) respectively.

7. Oil Marketing Companies (OMCs) approached Ministry of Petroleum and Natural Gas regarding imposition of irrecoverable Turnover Tax in Andhra Pradesh Government resulting in additional cost. Ministry of Petroleum and Natural Gas clarified (August 2002) to OMCs that no compensation on account of under recoveries due to this tax would be payable beyond 31 March 2002. However, OMCs may recover the additional costs by appropriately revising the Retail Selling Prices (RSP) of Motor Spirit (MS) and High-Speed Diesel (HSD) in Andhra Pradesh.

8. As per clarification from Ministry of Petroleum and Natural Gas, Indian Oil Corporation Limited (IOCL) started recovery of Turnover Tax from the consumers as state surcharge by including the same in RSP of MS and HSD thereby increasing RSP from 1st September 2002.

9. Commercial Tax Department of Government of Andhra Pradesh imposed penalty under sub-section 5-A (1-C) of the Act for recovering Turnover Tax from consumers in contravention to the APGST Act *ibid* and raised demands in March, 2006, March, 2007 and March, 2008 for the years 2002-03 (Rs.52.18 crore), 2003-04 (93.43 crore), 2004-05 (95.45 crore) and March, 2007 (Rs.21.54 crore) for 2003-04 respectively aggregating Rs.262.60 crore.

10. IOCL filed writ petitions against these demands and obtained stay order from the Hon'ble High Court of Hyderabad. The writ petitions were transferred in 2008 to the Hon'ble Supreme Court. However, Hon'ble Supreme Court dismissed the appeals on 10 October, 2012 and directed Appellate Authority to entertain the appeals. Accordingly, IOCL appealed in State Tax Tribunal Appellate (STAT) in 2014 against this imposition of

penalty which justified the penalty and IOCL moved to High Court, Hyderabad. High Court of Hyderabad granted (August 2014) conditional stay on payment of 10 per cent of penalty. Accordingly, IOCL paid Rs.24.11 crore in 2014. The Tax revision case filed in the High Court, Hyderabad remained pending till 2020.

11. In the meantime, IOCL received (March 2018) an offer for an out of court settlement from the Government of Telangana (after bifurcation of the State of Andhra Pradesh). After taking a legal opinion from Solicitor General of India who advised to opt for an out of court settlement on the basis of quantum of penalty, IOCL obtained out of court settlement option. Subsequently with mutual understanding, Government of Telangana initiated an out of court settlement under which a Memorandum of Understanding was entered in (27 March 2020) between IOCL and Government of Telangana wherein IOCL agreed to pay 25 per cent of penalty amount i.e. Rs.65.65 crore and withdraw all appeals pending before various judicial forums. The Government of Telangana in turn agreed to waive off balance penalty. Accordingly, IOCL paid (30 March 2020) Rs.41.54 crore after adjusting pre-deposit of Rs.24.11 crore.

## **(II) Audit Observations**

12. Audit observed that collection of turnover tax from the consumers of Andhra Pradesh by IOCL, as also advised by the Ministry of Petroleum and Natural Gas, was in contravention of the legal provisions of the APGST Act resulting in payment of penalty amounting to Rs. 65.65 crore and undue enrichment to IOCL by Rs.196.95 crore, through recovery of turnover tax from consumers.

13. The IOCL Management replied (October 2020) that contravention of Section 5-A (1-C) of the APGST Act would arise only when IOCL collects any amount by way of turnover tax or purporting to be by way of turnover tax from the buyers. Even if it is assumed that the amount is collected purporting to be by way of turnover tax, it should have been conveyed/denoted/ expressed/ indicated etc. None of the ingredients were present when invoiced to consumers in the instant case. The increase in the price of Motor Spirit and High-Speed Diesel through state specific cost/ state surcharge in the state of Andhra Pradesh with effect from 01 September 2002 was to meet cost of operation in the State on sale of these products. The increase or decrease in price is a regular feature in the business/ trade on reviewing the cost of operation.

14. The Ministry replied (June 2021) that with the introduction of turnover tax by Andhra Pradesh Government w.e.f. 01 December 2001, the impact of turnover tax was included in

the price revision w.e.f. 01 September 2002 for compensating the OMCs for irrecoverable taxes. Inclusion of the State surcharge to recover the additional cost of such irrecoverable State levies were in practice for long time during the Administrated Pricing Mechanism period and it is the consumers of the respective State who have been bearing the burden of such taxes.

15. In this regard, C&AG have stated that the reply of the Management/ Ministry is not tenable because clarification of Ministry of Petroleum and Natural Gas to recover the cost of irrecoverable turnover tax on Motor Spirit and High-Speed Diesel @ two *per cent* in Andhra Pradesh as a State surcharge, collected through the consumers selling price, was *ultra vires* of APGST Act. Moreover, while awarding the case against IOCL, both Appellate Authority and Sales Tax Appellate Tribunal observed that the collection of turnover tax as part of the price was not permissible as per sub-section 5-A (1-B), and it attracted penalty under sub-section 5-A (1-C) of the APGST Act. Further, out of court settlement of penalty payment with Government of Telangana also substantiated the unjustified action of IOCL in shifting of turnover tax burden of Rs. 262.60 crore to consumers in the State of Andhra Pradesh. Ministry also while justifying the acceptance of State Government proposal for out of court settlement stated that Tribunal Order is a speaking order giving reasons for the levy of demand and it would have been a challenge to overcome the observations of the Tribunal.

16. Thus, unlawful collection of turnover tax from consumers of Rs.262.60 crore and after adjusting Rs.65.65 crore out of court settlement of penalty amount resulted in undue enrichment to IOCL to the extent of Rs.196.95 crore.

## **B. ISSUES EMERGED IN AUDIT OBSERVATIONS**

### **(I) Violation of the Andhra Pradesh General Sales Tax Act, 1957**

17. C&AG have stated in the Audit Para that it was clearly mentioned in Sub-section 5-A (1-B) of the Andhra Pradesh General Sales Tax Act, 1957 (APGST Act) that no dealer shall be entitled to collect turnover tax from consumers and collection of Turnover Tax from purchasers would attract penalty of equivalent amount of Turnover Tax as per Sub-section 5A (1B) and sub-section 5A (1C), respectively. IOCL, in this context, have submitted the following justifications:

“OMCs have not recovered/ collected any amount from end consumer as turnover tax (TOT). In situations where the legislations provided embargo for collection of such taxes, to prevent under-recoveries, it has been in practice for decades from Administrated Pricing Mechanism (APM) period to recover the additional cost of such irrecoverable state levies as part of “State Surcharge” on the principle that it is the consumers of respective States who should bear the burden of such taxes levied by their respective State Government.

In order to continue the existing practice, even after the dismantle of APM w.e.f. 01.04.2002, GOI vide Gazette Notification No:P-20029/18/2001 dated 16.01.2003 introduced, “the Irrecoverable Taxes Compensation Scheme, 2002” for compensating the Oil Marketing Companies (OMCs) for irrecoverable State taxes to facilitate smooth transition from the APM to the market determined price regime, which included various irrecoverable State taxes including Andhra Pradesh Turnover Tax (APTOT) as the eligible irrecoverable Taxes for the year 2002-03. In terms of clause 3(iii) & 3(iv), definitions of Irrecoverable taxes include taxes declared by law to be “irrecoverable as tax” which are to be collected through State Surcharge to recover the cost of irrecoverable tax.

Prior to the issuance of Gazette Notification dated 16.01.2003, the Ministry vide letter dated 29.08.2002 clarified that “It is hereby clarified that with the dismantling of APM, no compensation on account of the under recoveries due to this Tax would be payable beyond 31st March 2002. You may however, like to recover the additional costs by appropriately revising the retail selling prices of MS and HSD in Andhra Pradesh at the time of the next general revision in prices of these products.” Accordingly, OMCs during the next price revision included the impact of Turnover Tax w.e.f 01.09.2002 as cost and not as a tax.”

18. Further, the MoP&NG, furnished the following written information:

“The Ministry has been issuing guidelines/instructions from time to time enabling recovery of the turnover taxes or State-specific costs from retail prices.”

19. When the Committee inquired about IOCL's view on the reasons for imposing Turnover Tax under the APGST Act, 1957, IOCL in their written reply submitted the following information:

“Though the Committee were informed that power of the State Legislature to make a law with respect to the levy and imposition of a tax on sale or purchase of goods relatable to entry 54 of List II of the Seventh Schedule of the Constitution of India. Entry 54 before its amendment due to implementation of GST w.e.f 01.07.2017 read as:

*“Taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List”.*

No official documents are available in public domain, however, it appears that the rationale behind introduction of Sec. 5A (1A) in the APGST Act with effect from 01.12.2001 is to raise additional tax revenues to the State Government. Since petrol and diesel are fast moving commodities with high rate of tax, the imposition of 2% on turnover was a revenue yielding exercise for the State Government and to make the oil companies not to recover it as turnover tax from end consumers. The above turnover tax was abolished from 01.04.2005 with implementation of VAT and accordingly, State surcharge was reduced to give effect. Turnover Tax was imposed by the State Government of Andhra Pradesh under the APGST Act, 1957. When asked about the reasons to consult the administrative Ministry regarding the clarifications on the issue instead of the State Government of Andhra Pradesh, the representative of IOCL, during the evidence, submitted as under:

*“हम केन्द्र सरकार का उपक्रम हैं क्योंकि हमारी जो प्राइज़ है, वह केन्द्र सरकार डिसाइड करती है। ...क्योंकि हमारी प्राइजिस और हमारी जो प्रोफिटेबिलिटी है, उसके लिए उत्तरदायी होते हैं, केन्द्र सरकार को इसलिए हमें अभी भी जो भी होता है, उसके लिए पूछना पड़ता है।”*

20. Further, during the evidence, the representative of the MoP&NG as under:

*“...हमने यह नहीं कहा है कि आप पैसा मत दीजिए। हमने यह कहा है कि जो आपका खर्चा है, वह आप एपीएम के तहत रिकवर कीजिए। यह हमने उनसे कहा है। हमारी स्कीम ही*

इसतरह की बनी है। उसमें डेफिनेशन दी हुई है कि कौन-सी ऐसी चीजें हैं, जो रिकवर करने योग्य हैं। कुछ चीजें ऐसी थीं, जो रिकवर योग्य नहीं थीं।

21. When asked whether the matter was taken up with the Government of Andhra Pradesh before issuing such guidelines, the MoP&NG, in a written reply, submitted as under:

“No. Oil Marketing Companies have been recovering the turn-over taxes in consumer selling price basis instructions issued by the Ministry.”

During the course of evidence, the representative of the MoP&NG deposed before the Committee as under:

“...जैसा हमने अपने लिखित जवाब में भी बताया है कि इंटर-मिनिस्ट्रियल कंस्लटेशन होती है। इंटर-मिनिस्ट्रियल कंस्लटेशन में हमेशा फाइनेंस मिनिस्ट्री को जरूर जाता है। अमूमन हम कानून में बदलाव नहीं कर रहे थे। हम कानून में बदलाव कर भी नहीं सकते थे। हम तो उस चीज के लिए मुआवजा दे रहे थे।”

22. When asked by the Committee whether the MoP&NG had obtained any legal advice(s) from the Ministry of Law and the Ministry of Finance before giving the clarification in August 2002 to OMCs over the recovery of turnover tax from the end consumers, the Ministry furnished the following written information:

“It needs to be emphasized that immediately after bringing the petroleum prices under control of the Government under Administered Pricing Mechanism (APM) in 1970s, an Oil Coordination Committee was set up to manage various Oil Pool Accounts. In situations where the various State legislations placed restrictions for collection of such taxes from consumers, since the advent of Administrated Pricing Mechanism (APM) in 1970s, this Ministry has been issuing State surcharge schemes wherein the State surcharge component in respect of any irrecoverable tax was built in the price built-up of the products, to compensate the OMCs for such levies.

It is worth mentioning that after issuing clarification vide letter dated 29.08.2002, even after the dismantling of APM w.e.f. 01.04.2002, GOI vide Gazette Notification No:P-20029/18/2001 dated 16.01.2003 introduced “The Irrecoverable Taxes Compensation Scheme, 2002” for compensating the Oil Marketing Companies (OMCs). In terms of clause 3(iii) & 3 (iv) of the Scheme, definitions of Irrecoverable taxes include taxes declared by law to be “irrecoverable as tax” which are to be collected through State Surcharge to recover the cost of irrecoverable tax.

The scheme issued clearly defined the State Surcharge as state specific amount collected through the consumer selling price in a state to recover the



cost of irrecoverable State tax. It is also worth mentioning that these schemes were issued by the Ministry with approval of competent authority after due inter-ministerial consultation.”

## (II) IOCL's Enrichment and Penalization

### (A) Enrichment of IOCL

23. During the evidence, the Committee desired to know whether the Company was collecting TOT in the form of Surcharge, the representative of IOCL deposed before the Committee, as under:

“हमारी पहले भी इर्रिकवरेबल टैक्सेस की स्कीम रही है, केवल आंध्र प्रदेश में ही नहीं, बाकी स्टेट्स में भी रही हैं। इर्रिकवरेबल टैक्सेस का एक मैकेनिज्म एमओपीएनजी ने बनाया हुआ था कि उसको आप स्टेट स्पेसिफिक कॉस्ट में रिकवर करें। ...स्पेसिफिकली यही होता है कि इर्रिकवरेबल टैक्सेस के नेचर में कि आप उसको टैक्स के फॉर्म में रिकवर नहीं कर सकते हैं। ...सरचार्ज के रूप में कलेक्ट नहीं करते हैं, स्टेट स्पेसिफिक कॉस्ट है, स्टेट में बिजनेस करने में हमें यह कॉस्ट एक्स्ट्रा आएगी, उसको स्टेट स्पेसिफिक चार्ज करते थे।”

टीओटी के नाम से कोई टैक्स कलेक्ट नहीं किया, स्टेट सरचार्ज करके कर रहे थे। हम हर स्टेट के हिसाब से रिटेल प्राइस फिक्स करते हैं। उसमें स्टेट स्पेसिफिक कॉस्ट करके हमने बताया था कि यह रिटेल प्राइस है।...”

24. When the Committee wanted to know the impact on the Company's profitability and financial position if the Company would not have been collected in the name of State surcharge, the representative of IOCL during the evidence, submitted before the Committee that it would have incurred loss of Rs 262 crores.:

IOCL gave further justifications on the issue mentioned above, during the oral evidence as under:

*“The Administered Pricing Mechanism (APM) regime from 1970 to 2002, pricing of petroleum products was based on actual cost. Any levy of irrecoverable taxes imposed by the various State Governments such as Octroi, Entry Tax, Purchase Tax, and Additional Sales Tax, was an under-recovery to the oil industry. To avoid serious implications on the financial viability, reimbursement of these irrecoverable taxes was allowed to the oil companies by the State Specific Cost by the Central Government. The Andhra Pradesh Government imposed a turnover tax at the rate of two per cent on the sale of MS and HSD with effect from 30<sup>th</sup> November, 2001. As per law, seller was not entitled to collect the said TOT from the purchaser. If any amount collected from the buyer, the same will be recovered in the form of penalty from the seller. On representation by the oil industry, it was allowed by MoPNG to recover the same as cost in the price. MoPNG vide notification dated 16<sup>th</sup> of January 2003, introduced the Irrecoverable Taxes Compensation Scheme, 2002 for compensating the oil marketing companies for irrecoverable State Taxes. The scheme mentions 12 types of irrecoverable taxes including the*

*Andhra Pradesh Turn Over Tax on MSHSD which provided relief to the oil marketing companies. Even though the TOT was not separately depicted on the invoices, the demands were raised by the Sales Tax Department on the ground that the same has been collected as part of the price charged to the consumers and penalty for the period 2002-03, 2003-04, and 2004-05, Rs. 262 crore was confirmed. There is no unjust enrichment to IOCL as the amount recovered as State Surcharge for the increased cost were deposited to the State Governments. In addition, 25 per cent extra amount is paid in the form of penalty at the time of settlement.*

25. During the sitting of the Committee, it was pointed out by the C&AG that it was the people's money which, according to the Act, could not be collected by the Company from the people. In response the representative of the MoP&NG submitted as under:

*"...I am not ignoring the fact that there was a violation of the Act. मैं उसको डिस्प्यूट नहीं कर रहा हूँ मेरा डिस्प्यूट सिर्फ एनरिचमेंट शब्द पर है। देखिए, आईओसीएल के पास जेब में कुछ एक्सट्रा नहीं आया है और एनरिचमेंट तो तब होता, अगर आईओसीएल के पास एक्सट्रा आता। जो 1 रुपया मिलना था, वह आंध्र प्रदेश सरकार को पूरा मिला, चाहे वह पब्लिक से लिया हो या आईओसीएल ने अपने से दिया हो, आंध्र प्रदेश सरकार को 1 रुपया तो पूरा मिला। उसके अलावा 25 पैसे और मिले, जो वन टाइम सैटलमेंट में पैनल्टी में मिला। तो मुझे यह समझाया जाए कि आईओसीएल को क्या नगद फायदा हुआ, चाहे उसने कलेक्ट कर के दिया हो या अपने से देता हो। ...मैं मानता हूँ कि उन्होंने कानून नहीं माना। कानून का उल्लंघन मैं मानने के लिए तैयार हूँ लेकिन एनरिचमेंट मुझे समझा दिया जाए।*

26. The representative of MoP&NG gave their opinion on whether the amount collected by IOCL led to the enrichment of the Company during the Committee meeting as under:

*"I would respectfully differ on that. The Committee will take a decision that non-payment of penalty in a legitimate and a legal manner is not enrichment. ....So, I would argue that non-payment of an original penalty and settling it through a mutual agreement does not constitute enrichment."*

(B) **Penalty on IOCL**

27. The Company asserted their innocence, contending that it had not infringed Section 5A (I-C) of the APGST Act as no turnover tax was levied on consumers at the time of invoicing. In this regard, IOCL submitted the following information:

“As recorded in the assessment order dt. 31.03.2006 for the year 2002-03, State Government inquired about revision of prices of Petrol and Diesel on 01.09.2002 in AP viz-a-viz other States in India. The price hike in Hyderabad was Rs.1.04/ltr on Petrol and Rs.0.76/ltr on Diesel compared to approx. increase of 20 paise in Petrol and 30 paise in Diesel litre on pan India basis. The recent price hike was due to the imposition of state surcharge in the State of AP. It appears that State Government viewed this price hike as violation of section 5A of APGST Act and levied penalty during the assessment proceedings by adopting best judgment assessment.”

28. When asked by the Committee whether collecting this Rs.262 crores from consumers lead to undue enrichment of IOCL, the representative of MoP&NG contended as under:

“...हमारा मत यह है कि राज्य के द्वारा एक कानून बना। उस कानून के विपरीत इंडियन ऑयल ने पैसा इकट्ठा किया। लेकिन, मैं आपके समक्ष यह मत रखूंगा कि इस में एनरिचमेंट कहीं नहीं हुआ है। यह रिपोर्ट ‘अनड्यूएनरिचमेंट’ के बारे में कह रही है तो हम ‘एनरिचमेंट’ शब्द से सहमत नहीं हैं क्योंकि जो पैसा इकट्ठा हुआ, उससे पहले पैसा राज्य सरकार को दिया गया। उतना ही पैसा इंडियन ऑयल ने अगर कस्टमर्स से लिया भी है तो उसमें इंडियन ऑयल को कोई लाभ नहीं हुआ है। इसके बावजूद भी इंडियन ऑयल पर जो पेनाल्टी लगाई गई है और उस पेनाल्टी में जो सेटलमेंट ऑफर किया गया, वह राज्य के द्वारा ही ऑफर किया गया। वन टाइम सेटलमेंट की जो स्कीम है, वह राज्य के द्वारा ही ऑफर की गयी है। उसी स्कीम का लाभ लिया गया है और इसमें जो एक्स्ट्रा खर्च है, उसे भी इंडियन ऑयल ने उठाया है, भले ही एक-चौथाई हो, इसलिए यह कहना कि किसी भी तरह से इंडियन ऑयल का एनरिचमेंट हुआ है तो यह मेरी समझ में नहीं आया है।” “My understanding is after collecting the money plus the penalty that they have paid, they have actually paid 1.25 times. मान लीजिए कि आई ओसीएल को 1 रुपया सरकार को कानून के तहत देना था। सरकार के पास कितना पैसा पहुंचा? सरकार के पास 1 रुपया नहीं पहुंचा, सरकार के पास 1 रुपया 25 पैसा पहुंचा।”

29. When asked whether the Company kept collected State specific tax with IOCL, the representative of IOCL during the evidence, replied before the Committee as under:

*“Whatever we collected as a State specific tax was given as Andhra Pradesh turnover tax. We have not kept any money with us. On the contrary, on this amount we paid Andhra Pradesh general sales tax also because it is part of my cost.”*

30. The Committee inquired about the Company’s procedures for refunding amounts erroneously collected from consumers in contravention of the APGST Act. In its written response, IOCL stated the following:

“Since OMCs has not collected any amount depicting as TOT or purporting to be TOT from the buyers in the State of AP at the time of raising Invoice, there had been no violation of Section 5A (1-C) of the Act, thereby, attracting penalty. Hence refund to end consumers does not arise.

Further, IOCL has discharged its liability by making payment of full TOT to the State Govt. as per statutory due date of payment and there is not outstanding demand for non-payment of any dues.”

31. The Ministry of Petroleum and Natural Gas, on same issue responded as under:

“OMCs have submitted that they have not collected anything beyond what was levied by the State Government of AP. Further, OMCs have discharged the liabilities by making payment of full Turnover tax (TOT) to the State Government as per statutory due date of payment and there is no outstanding demand for non- payment of any dues.”

32. C&AG in their vetting comments regarding the utilization of extra amount collected from the consumers have submitted the following written information to the Committee as under:

“The Ministry did not reply to proposal of utilizing the extra amount collected from consumers for the benefit of the people of Andhra Pradesh/Telangana. Further, reply of Ministry may be viewed against the fact that OMCs discharged full TOT after recovering the same from the consumers in violation of APGST Act 1957. Moreover, it also paid penalty of Rs.65.65 crore for out of court settlement.

### (III) Judicial Impasse and Amicable Resolution

33. When inquired about its position on the Andhra Pradesh Commercial Tax Department's ruling and related legal disputes, IOCL presented a tabulated overview of its arguments and the verdicts delivered by the Tribunal, High Court, and Supreme Court in a written reply as under:

Forum	IOCL Plea	Verdict
AP Sales Tax Tribunal	<p>Section 5A (1B) of the Act states that no dealer shall be entitled to collect the turnover tax payable from the purchaser.</p> <p>IOCL stated that there is no bar against structuring of price to provide for liability such as central sales tax (CST) incurred, purchase tax incurred, entry taxes, municipal taxes including State surcharge.</p> <p>The fixation of price, supply &amp; distribution of petroleum products are vested with MoPNG. In marketing, IOCL procure, transport goods from one state to other which involves CST, purchase tax, entry tax, etc. Company is also required to add to price a sum called state surcharge which is the average of past invisible levies incurred by the oil companies and added as part of cost such as CST, entry tax, purchase tax, turnover tax which has to be borne by seller to arrive at the price of petroleum products.</p>	<p>The STAT vide order dt. 25.04.2014 recorded that the turnover tax component is embedded in the sale price or cost price or state surcharge (whatever nomenclature being called) and the same was collected from the purchaser which is prohibited under section 5A(1B) and for violation penal provisions attract section 5A(1C).</p>
High Court of Andhra Pradesh	<p>Submissions made at Tribunal stage were reiterated and further it was submitted that sec 5A(1B) merely prohibits collection of any amount by way of turnover tax; it does not disable the petitioners from factoring in turnover tax in their sale price; none of the invoices raised by the petitioner reflect turnover tax; and mere fact that IOCL has factored in turnover tax, in its sale price, would not attract</p>	<p>Out of court settlement was made before final verdict by Hon'ble HC. However, during the hearing related to stay petition, the court noted that the petitioner is a Government of India Public Sector Undertaking and a huge penalty pending disposal of the tax revision cases may not be justified and on the other hand granting a blanket interim order of stay would prejudice the revenue which had succeeded before the</p>

	section 5A(1C) of the APGST Act.	STAT.  Accordingly, a conditional stay order was passed directing IOCL to pay 10% of penalty vide order dt. 12.08.2014.
Supreme Court	Against the interim HC stay order, requiring deposit of 10% penalty amount as a condition for stay, IOCL challenged the order before Hon'ble SC.	SLP was dismissed vide order dt. 15.09.2014. However, the court granted another four weeks' time to comply with the interim orders and directions issued by the high court.

The Committee observed that all the judicial authorities were in agreement that actions of IOCL were in violation of the provisions of the Act and collected money from purchaser.

34. The Committee sought a breakdown of the Company's annual legal expenses related to the ongoing dispute. In response, IOCL provided a detailed written report outlining its expenditures for each year as under:

“The details of penalty levied by authorities Section 5A (1-C) of the Act on IOCL (including erstwhile IBP) is mentioned as under:

Period	Amount (Rs. /Crs)	Date of issue of demand
2002-03	52.18	31.03.2006
2003-04	93.43	31.03.2007
2004-05	95.45	31.03.2008
Sub Total (IOC)	241.06	
2003-04 (Erstwhile IBP)	21.54	25.03.2007
Total	262.60	

Similar Demands were raised on other OMCs i.e. BPCL and HPCL also. IOCL decided to accept the State Government offer for out of court settlement for payment of 25% of demand i.e Rs 65.65 crs for final settlement. Accordingly, on 30.03.2020 net payment Rs.41.54 crs was deposited with the State Govt for final settlement of the demand after adjustment of pre-deposit of Rs 24.11 crs.

Further, legal charges incurred by IOCL in dealing with case at various forums was Rs.20.93 Lakh. Year wise details are 2008-09 – Rs. 0.05 Lakh, 2013-14- Rs.8.26 Lakh, 2014-15- Rs.10.26 Lakh and 2020-21- Rs. 2.36 Lakh.”

35. To understand the reasons IOCL agreed to a 25% penalty payment of Rs. 65.65 crore to settle the dispute out of court, thereby seemingly acknowledging the Commercial Tax Department's position, the Committee sought explanation from the Company to which IOCL furnished the following written information:

“Out of Court settlement is a regular practice followed by Centre/State Govt. for the liquidation of old pending tax disputes which is considered as win-win situation to both Govt. as well as assessee before the issue is finally decided on merits under judicial proceedings.

It is pertinent to mention that after the implementation of GST, MoF has introduced appropriate Settlement of Dispute Schemes under Central Indirect laws like Excise and Service Tax to settle legacy disputes by creating win-win situation to reduce burden on the authorities, concerned parties as well as on the judiciary, which does not carry any precedence value on merits/ legality. Similarly, several States have also introduced Amnesty Scheme under the State tax levies with the above objective. Out of court settlement proposed by the state of Telangana was also a part of such endeavors to resolve the legacy cases which are sub-judice and pending at various forums. Even in the year 2023, Govt. announced two schemes Vivad se Vishwas -I & II for the settlement of legal disputes covering contractual disputes and the dispute with MSMEs. OMCs are actively participating in both the schemes.

In AP TOT case, the dispute is for three financial years 2002-03 to 2004-05. Considering the various factors like dispute being very old, still pending at the High Court level for decision, there being uncertainty on the outcome of the case, and additional time/ efforts and cost likely to take to get final decision from the Hon'ble Supreme Court, endeavour of the Telengana Government to settle old disputes, OMCs felt the endeavour to be commercially prudent to opt for out of court settlement without going into the merit of the case.

Thus, out of Court Settlement cannot be construed as substantiating or hinting towards supporting any unjustified action. The settlement does not tantamount to acceptance of department contention of case on merits but merely closure of pending case to reduce litigations and any payment made consequent to such schemes / out of court settlement cannot be regarded as payment towards penalty but merely a settlement amount.”

36. To determine who benefited from the waived penalty of Rs. 196.95 crore resulting from the out-of-court settlement, the Committee desired to know from IOCL, to which IOCL responded as under:

“It is pertinent to mention that out of court settlement deprives both the parties of their legal rights, therefore, question of finality does not arise in such



settlement issues. The settlement is mutual and cannot be said to be an indicative for non-compliance in any manner by either party. Such decision w.r.t. the proposal from Govt. of Telangana as already explained are instead commercial decisions which are taken considering the financial prudence duly supported by independent legal opinion on the issue by the Solicitor General of India.”

37. During the evidence, the representative of MoP&NG gave their opinion on the out of court settlement as:

“...जो पेनल्टी लगी भी है, उसका अगर वन टाइम सैटलमेंट हुआ है, वह वन टाइम सैटलमेंट भी एक कानूनी तौर पर हुआ है। जो डिमांड की गई थी, बाकी डिमांड को वेव करके, वन टाइम सैटलमेंट और बाकी डिमांड वेव हुईं। Obviously, both sides waived their interest. जब हम सैटलमेंट करने बैठते हैं, we do not go back to the original demand. We say that इस टाइम पर हम सैटल कर रहे हैं, दोनों साइड के क्लेमस आगे नहीं बढ़ेंगे।”

#### (IV) Tax Structures in Other States and UTs

38. When asked whether the similar taxes/surcharges/cess were imposed by other States/UTs, IOCL, in a written reply, submitted as under:

“The Irrecoverable Taxes Compensation Scheme, 2002 notified *vide* Gazette Notification No:P-20029/18/2001 dt 16.01.2003” provides the details of irrecoverable taxes levied by various State Govts which were prevalent at that time as under:

**Table showing Irrecoverable Taxes Payable by Oil Marketing Companies:**

<b>State Name</b>	<b>Irrecoverable Taxes</b>	<b>Rate</b>
Andhra Pradesh	Turnover on MS/HSD	2%
Bihar / Jharkhand	Surcharge on Sales Tax + Additional Tax	10%
BMC	Octroi on products	2.25%
Goa	Additional Tax on Sales Tax	25%
Gujarat	Turnover Tax on MS/HSD	2%
Madhya Pradesh /Chhattisgarh	Terminal Tax on LPG	Rs.15/MT
Navi Mumbai	Cess on MS/HSD	1% & 0.1%*
Orissa	Surcharge on Sales Tax	10%
Tripura	Additional Tax	0.5%
Tamil Nadu	Entry Tax on HSD	18%
	Additional Tax on SKO/LPG	3%
West Bengal	Additional Tax on Sales Tax on MS/HSD	20%

\*The rate of 1% for sales within municipal limits and 0.1% for sales outside.”

39. When inquired whether the TOT was collected in the same manner from the consumers by the other OMCs, it was stated by the IOCL representative during the evidence that it had been a joint action

40. In a written reply to the Committee, the Ministry further clarified if other Oil Marketing Companies had implemented a turnover tax recovery similar to IOCL's:

The clarification issued *vide* letter dated 29.08.2002 was implemented by all OMCs to recover the cost of irrecoverable State Taxes from the consumers of that State by adjusting the Retail Selling Price (RSP). Also, penalties imposed on all OMCs viz. IOCL, BPCL and HPCL were settled through out of court settlement/amnesty scheme.

41. The Committee was informed that, only ten states and union territories levied irrecoverable taxes. When questioned about measures to establish a uniform tax framework

among all states, IOCL gave their opinion on the issue during the meeting as reproduced below:

*“We cannot tell as to what the policy of the State Government is for imposing additional surcharges.....*

केन्द्र सरकार ने हमारे कहने पर उस राज्य सरकार को समय-समय पर चिट्ठी लिखी। उन्होंने अपनी तरफ से राज्य सरकारों से कहा कि आप इर्रिकवरेबल टैक्सेस समाप्त कीजिए क्योंकि इससे हमें यूनिफॉर्म प्राइसेस मेंटेन करने में और प्रोफिटेबिलिटी पर क्वेश्चन हो जाएगा, क्योंकि इनके पास प्राइस पर इतना मार्जिन नहीं होता है कि इन पर एक्स्ट्रा लेवी ऑफ टैक्स लगाया जा सके। आप कृपया इन करों को पेट्रोल और डीजल पर से माफ कीजिए।....

*...we tried to approach the State Government but they have not withdrawn this case. We tried to convince them that this is the tax we have collected. Once you are imposing some tax, my cost is increasing, and we do not have enough margins to absorb this cost.”*

42. Further, IOCL in this regard have submitted the following written information to the Committee:

“MOP&NG requests the relevant State Governments/ Local Authorities for the removal of Irrecoverable Taxes imposed by State on crude oil and other petroleum products from time to time, so that burden of such taxes on the common man may be reduced in the State. However, states/UTs take independent decisions regarding levy of taxes/surcharges.”

43. During the evidence, the representative of IOCL, made submission before the Committee as under:

“उन्होंने पैनल्टी इम्पोज नहीं किया था। किसी ने नहीं किया, सिर्फ आंध्र प्रदेश सरकार ने किया था। किसी और स्टेट ने नहीं किया। हम उसे कॉस्ट में रिकवर करते थे, हमारे पास क्वेश्चन की क्वेरी आई थी कि यह एक्स्ट्रा प्राइज क्यों है? हमलोगों ने यह उत्तर दिया कि यह एक्स्ट्रा कॉस्ट हुई है, इसलिए इसके प्राइस में डिफरेंस है। किसी और ने इस इश्यु को रेज नहीं किया। बिहार, पश्चिम बंगाल, गुजरात किसी ने रेज नहीं किया।”

44. When sought the reasons as to why the Company waited for three years to react against this issue of irrecoverable taxes/surcharges imposed by States, the representatives of IOCL, during the evidence, replied as under:

“May be concerned officials at that point in time had discussed this issue with the State Governments and tried to convince them to get away with this tax, but probably they would not have succeeded at that point in time.”

45. In response to the Committee's concern regarding the lack of coordination among the MoP&NG, the State Government, and IOCL, it was stated by the IOCL representative during the evidence that a letter had been sent to the State by the Central Government at their request.

## (V) Goods and Service Tax on Petroleum Products

46. The Committee were informed about the Administered Pricing Mechanism (APM) of petroleum products by the representatives of IOCL as under:

*“During the APM regime from 1977 to 2002, pricing of petroleum products was based on actual cost. Any levy of irrecoverable taxes imposed by the various State Governments such a Octroi, Entry Tax, Purchase Tax, and Additional Sales Tax, was an under-recovery to the oil industry. To avoid serious implications on the financial viability, reimbursement of these irrecoverable taxes was allowed to the oil companies by the State Specific Cost by the Central Government.”*

Further, the data in the Table below highlights that under the APM, until 2002, there existed significant variation in the rates of irrecoverable taxes across different states. This disparity directly contributed to varying prices of petroleum products among different States/Union Territories (UTs). Even with the introduction of the Value Added Tax (VAT) on April 1, 2005, the issue of differential VAT rates across States/UTs persisted, thereby continuing to drive price differentiation. This trend is evident in the data provided by the Petroleum Planning and Analysis Cell (PPAC) of the Ministry of Petroleum and Natural Gas.

### **State wise actual rates of VAT on petrol and diesel as on 1st September 2020**

State/UT	Petrol	Diesel
	Sales Tax/VAT	
Andaman & Nicobar Islands	6%	6%
Andhra Pradesh	31% VAT + Rs.4/litre VAT	22.25% VAT + Rs.4/litre VAT
Arunachal Pradesh	20.00%	12.50%
Assam	32.66% or Rs.22.63 per litre whichever is higher as VAT	23.66% or Rs.17.45 per litre whichever is higher as VAT
Bihar	26% or Rs 16.65/Litre whichever is higher (30% Surcharge on VAT as irrecoverable tax)	19% or Rs 12.33/Litre whichever is higher (30% Surcharge on VAT as irrecoverable tax)
Chandigarh	Rs.10/KL cess +22.45% or Rs.12.58/Litre whichever is higher	Rs.10/KL cess + 14.02% or Rs.7.63/Litre whichever is higher
Chhattisgarh	25% VAT + Rs.2/litre VAT	25% VAT + Rs.1/litre VAT
Dadra and Nagar Haveli and Daman and Diu	20% VAT	20% VAT
Delhi	30% VAT	Rs.250/KL air ambience charges + 16.75% VAT

Goa	25% VAT + 0.5% Green cess	22% VAT + 0.5% Green cess
Gujarat	20.1% VAT+ 4% Cess on Town Rate & VAT	20.2% VAT + 4 % Cess on TownRate & VAT
Haryana	25% or Rs.15.20/litre whichever is higher as VAT+5% additional tax on VAT	16.40% VAT or Rs.9.20/litrewhichever is higher as VAT+5% additional tax on VAT
Himachal Pradesh	25% or Rs 15.50/Litre- whichever is higher	14% or Rs 9.00/Litre- whichever is higher
Jammu & Kashmir	24% MST+ Rs.5/Litre employment cess, Reduction of Rs.0.50/Litre	16% MST+ Rs.1.50/Litre employment cess
Jharkhand	22% on the sale price or Rs. 17.00 perlitre , whichever is higher + Cess of Rs 1.00 per Ltr	22% on the sale price or Rs. 12.50per litre , whichever is higher + Cess of Rs 1.00 per Ltr
Karnataka	35% sales tax	24% sales tax
Kerala	30.08% sales tax+ Rs.1/litre additional sales tax + 1% cess	22.76% sales tax+ Rs.1/litre additional sales tax + 1% cess
Ladakh	24% MST+ Rs.5/Litre employment cess, Reduction of Rs.2.5/Litre	16% MST+ Rs.1/Litre employment cess , Reduction of Rs.0.50/Litre
Lakshadweep	Nil	Nil
Madhya Pradesh	33 % VAT + Rs.4.5/litre VAT+1%Cess	23% VAT+ Rs.3/litre VAT+1% Cess
Maharashtra – Mumbai, Thane& Navi Mumbai	26% VAT+ Rs.10.12/Litre additional tax	24% VAT+ Rs.3.00/Litre additionaltax
Maharashtra (Rest of State)	25% VAT+ Rs.10.12/Litre additional tax	21% VAT+ Rs.3.00/Litre additional tax
Manipur	36.50% VAT	22.50% VAT
Meghalaya	31% or Rs17.60/Litre- whichever is higher (2% surcharge leviable only on advalorem tax)	22.5% or Rs12.50/Litre- whichever is higher (2% surcharge leviable only on advalorem tax)
Mizoram	25% VAT	14.5% VAT
Nagaland	25.00% VAT +5% surcharge + Rs.2.00/Litre as road maintenance cess +Rs.6.00/Litre as Covid cess	14.50% VAT+ 5% surcharge + Rs.2.00/Litre as road maintenancecess+Rs.5.00/Litre as Covid cess
Odisha	32% VAT	28% VAT
Puducherry	28% VAT	19.75% VAT
Punjab	Rs.2050/KL (cess)+ Rs.0.10 per Litre (Urban Transport Fund) +24.79% VAT+10% additional tax on VAT	Rs.1050/KL (cess) + Rs.0.10 per Litre (Urban Transport Fund) + 15.94% VAT+10% additional tax on VAT

Rajasthan	38% VAT+Rs 1500/KL road development cess	28% VAT+ Rs.1750/KL road development cess
Sikkim	25.25% VAT+ Rs.3000/KL cess	14.75% VAT + Rs.2500/KL cess
Tamil Nadu	15% + Rs.13.02 per litre	11% + Rs.9.62 per litre
Telangana	35.20% VAT	27% VAT
Tripura	25% VAT+ 3% Tripura Road Development Cess	16.50% VAT+ 3% Tripura Road Development Cess
Uttar Pradesh	26.80% or Rs 18.74/Litre whichever is higher	17.48% or Rs 10.41/Litre whichever is higher
Uttarakhand	25% or Rs 19 Per Ltr whichever is greater	17.48% or Rs Rs 10.41 Per Ltr whichever is greater
West Bengal	25% or Rs.13.12/litre whichever is higher as sales tax+ Rs.1000/KL cess- Rs.17/KL exemption (20% Additional tax on VAT as irrecoverable tax)	17% or Rs.7.70/litre whichever is higher as sales tax + Rs 1000/KL cess – Rs 290/KL sales tax rebate (20% Additional tax on VAT as irrecoverable tax)

(Source: PPAC)

**Notes: VAT/Sales Tax at applicable rates is also levied on Dealer's commission in Arunachal Pradesh, Delhi, Gujarat, Haryana, Madhya Pradesh, Punjab, Rajasthan Chandigarh, Puducherry, Andaman & Nikobar, Meghalaya, Dadar Nagar Haveli and Daman & Diu.**

47. The Committee observed that in the reply of the question asked in Lok Sabha on 08 February, 2024, about not bringing down petroleum and diesel prices in some of the States and being sold in different prices in different States and UTs MoP&NG submitted as under:

“Prices of petrol and diesel are market determined and Public Sector Oil Marketing Companies (OMCs) take appropriate decision on pricing of petrol and diesel. The final selling prices of petrol and diesel include excise duty fixed by the Central Government and State VAT/Taxes fixed by the respective State Governments. The prices of petrol and diesel in the States across the country vary due to freight rates, VAT/local levies etc. Central Government uniformly decreased the prices across the country by reducing excise duty in November 2021 and May 2022 of Rs. 13/litre and Rs. 16/litre on petrol and diesel respectively. While most State governments reduced VAT rate to provide further relief to citizens, some State Governments did not reduce the VAT rates.”

48. When asked by the Committee to share their views on bringing the petroleum products under the ambit of GST, representatives of IOCL deposed as under:

*“Sir, again in the free and fearless spirit, we have been arguing that petrol, diesel, natural gas, ATF, all of these should be under GST. We have been*

*always saying this. But this will only happen when everybody in the GST Council agrees. We are very strong votaries of bringing all these items under GST.”*

49. Regarding whether bringing oil products into the ambit of GST which may help in sorting out the complications being faced by OMCs in collecting States tax/cess, Ministry of Petroleum and Natural Gas, in a written reply, submitted as under:

“In terms of section 9(2) of Central Goods and Services Tax 2017, GST on the supply of five petroleum products namely Petroleum Crude, High Speed Diesel, Motor Spirit (commonly known as Petrol), Natural Gas and Aviation Turbine Fuel (ATF) shall be levied with effect from such date as may be notified by the Government based on the recommendation of the GST council. Thus, OMCs are to undertake compliance under Excise, VAT/ Sales tax for non GST products as well as GST law for GST products and services.”

50. The Committee further observed that in one of the reply of the question asked in Lok Sabha on 18 December, 2023, if the Government intends to subsume fuels like petrol, diesel, natural gas and ATF under the GST, the Ministry of Finance (Department of Revenue) submitted as under

“Article 279 A(5) of the Constitution prescribes that the Goods and Services Tax Council shall recommend the date on which the good and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel (ATF). Also, as per the section 9(2) of the CGST Act, inclusion of these products in GST will require recommendation of the GST Council. So far, the GST Council, in which the states are also represented, has not made any recommendation for inclusion of these good under GST. ”

51. Further, in the reply of the same question asked in Lok Sabha on 08 February, 2024, the Ministry of Petroleum and Natural Gas submitted as under:

“The GST Council in its 45th meeting held on 17<sup>th</sup> September 2021 had considered the inclusion of Petrol/Diesel and other petroleum products under the GST regime but the matter was deferred by the council till larger deliberations on account of its heavy repercussions on the exchequer. The issue has not been taken up by the council as an agenda item for any further deliberation subsequent to the said meeting.”



## PART-II

### OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE

#### Overview

Indian Oil Corporation Limited is India's leading Company in oil, gas, petrochemicals and alternative energy sources. The Company has a refinery capacity of 70.05 million metric tons per annum and around 1789 operational CNG stations. The Company reported a profit after tax of Rs. 39,619 core in 2023-24. The present Audit para 2.1 of C&AG Report No. 14 of 2021, examined by the Committee pertains to "undue enrichment through recovery of turnover tax from consumer relating to IOCL". The Government of Andhra Pradesh (GoAP) imposed Turnover Tax through new sub-sections 5-A (1-A) to (1-C) under the Andhra Pradesh General Sales Tax Act, 1957 (APGST Act) w.e.f. 30 November, 2001. This sub-section mandated that every dealer would in addition to tax payable under section 5, 5-AA and 5-C, pay TOT @ 2 paise on every rupee *inter alia* in respect of petrol and diesel oil in the State. No dealer would be entitled to collect TOT from consumers. Any amount collection of TOT from consumers would attract equivalent amount penalty. On the issue, Oil Marketing Companies (OMCs) approached Ministry of Petroleum and Natural Gas, and the Ministry on 29 August, 2002 clarified that OMCs might recover the additional costs by appropriately revising the Retail Selling Prices (RSP) in Andhra Pradesh. Hence, IOCL and other OMCs during the next price revision included the impact of TOT w.e.f. 01.09.2002. The Committee note that the Commercial Tax Department of the Government of Andhra Pradesh imposed penalty on IOCL under sub-section 5-A (1-C) of the Act for recovering TOT from consumers in contravention to the Sub-section 5A (1-B) of the APGST Act, 1957 and raised the demands for the years 2002-03 (Rs.52.18 crore), 2003-04 (Rs.93.43 crore), 2003-04 (Rs.21.54 crore for erstwhile IBP) and 2004-05 (Rs.95.45 crore) in 31<sup>st</sup> March 2006, 31<sup>st</sup> March, 2007, 28<sup>th</sup> March, 2007 and 31<sup>st</sup> March 2008, respectively, aggregating a total amount of Rs.262.60 crore by imposing penalty. However, the collection of TOT was not reflected in the Bills of OMCs and TOT was abolished from w.e.f. 01.04.2005 with implementation of Value Added Tax (VAT). Thus, the provision of the APGST Act, 1957 for imposition and collection of TOT prevailed for the period between 30.11.2001 to 01.04.2005.

2. The Committee further observed IOCL appealed in various judicial platforms (i.e. State Tax Tribunal Appellate (STAT), Hyderabad High Court and Hon'ble Supreme Court) against the imposition of penalty by the Commercial Tax Department of Government of Andhra Pradesh. The Hyderabad High Court granted conditional stay on the payment of 10 per cent of penalty in August, 2014. This case remained pending till 2020. After the introduction of Goods and Service Tax (GST), the Government of Telangana (after the Andhra Pradesh Reorganization Act, 2014 came into existence) offered an out of court settlement and IOCL paid 25 per cent (Rs.65.65 crore) including 10 per cent (Rs. 24.11 crore) already paid to the State Government. Thus, IOCL settled the case to pay only 25 per cent of the penalty and withdrew all appeals pending before various judicial forums. However, C&AG in their Audit Para objected that unlawful collection of TOT and through the out of court settlement, IOCL got undue enrichment of Rs.196.95 crore (Rs.262.60 crore minus Rs.65.65 crore). Before finalizing their observations and recommendations, the Committee reviewed the input from the C&AG, IOCL, and MoPN&G. Committee carefully considered the evidence provided by all stakeholders, including the information and clarifications submitted. Following thorough internal deliberation, the Committee reached their conclusions and formulated the suggestions detailed in the following paragraphs.

*Violation of the Andhra Pradesh General Sales Tax Act, 1957*

3. The Committee note that the C&AG highlighted a contradiction in the Andhra Pradesh General Sales Tax Act, 1957, which states that no dealer, including Oil Marketing Companies (OMCs), is allowed to collect Turnover Tax (TOT) from consumers, and doing so would result in a penalty. However, Indian Oil Corporation Limited (IOCL) argued that while they did not directly collect TOT from consumers, they had historically included the cost of irrecoverable state taxes in their pricing through a "State Surcharge" due to the administrative pricing mechanism in place before 2002. The MoP&NG issued guidelines allowing OMCs to recover such costs through retail prices, a practice continued after the dismantling of the Administered Pricing Mechanism (APM). The Irrecoverable Taxes Compensation Scheme, 2002, introduced by the Government of India, provided compensation for irrecoverable state taxes, including Andhra Pradesh Turnover Tax, by incorporating these costs into the state surcharge. MoP&NG further clarified that no compensation for TOT was

to be paid beyond March 31, 2002, and that adjustments to retail prices were to cover these costs post-APM. The Committee further note that the MoP&NG's approach to handling the issue of irrecoverable taxes involved inter-ministerial consultations and legal advisories. The Ministry's adherence to guidelines and schemes post-APM reflects a structured process aimed at managing state tax impacts. However, the lack of direct consultation with the Andhra Pradesh government on these issues highlights a potential oversight in aligning federal tax compensation strategies with state-specific tax policies. In view of this, the Committee recommend that to address the discrepancies between the Andhra Pradesh General Sales Tax Act, 1957, and OMC practices, a thorough review of tax collection policies be conducted. The Government should ensure that OMCs adhere strictly to statutory requirements, avoiding indirect tax recoveries through mechanisms like the State Surcharge, this will not only help in aligning practices with legal mandates but also will prevent potential penalties or disputes in future.

4. The Committee would further stress on the fact that to improve the handling of irrecoverable state taxes and ensure fair compensation for Oil Marketing Companies (OMCs), the Government should establish a more transparent and direct compensation mechanism rather than incorporating these costs into retail prices. This approach could involve providing direct financial reimbursements or any other such arrangements to offset irrecoverable state taxes, thereby reducing the burden on consumers. Additionally, enhanced coordination between the Central and State governments is essential. Therefore, the MoP&NG should engage in regular consultations with State governments to align State tax policies.

#### Undue Enrichment to IOCL

5. While deliberating on the subject, MoP&NG and IOCL submitted before the Committee that while Company's actions might have breached legal provisions, there was no financial enrichment to the Company as asserted in the C&AG report. The MoP&NG argued that any amounts collected through surcharges or penalties were ultimately paid to state governments, with no extra benefit accruing to IOCL. The Ministry further emphasized that the Company's financial losses were addressed through compensatory mechanisms and not through direct enrichment. The

Committee observed that all appellate authorities concurred on the violation of the Act, though not in its entirety. However, the Committee remained concerned about the implications of such violations on the overall regulatory framework and the precedent it might set for future cases, stressing the need for stricter compliance and clearer guidelines to prevent any potential misuse of legal provisions. The Committee note that the extra amounts collected were deposited to the States, and any additional penalties paid reflect compliance efforts rather than financial gain. Given the evidence, the Committee note that IOCL's actions appear to have been a response to managing financial losses due to irrecoverable taxes rather than an attempt to unjustly enrich themselves. The Company's practice of including TOT-related costs in their pricing structure, while legally contentious, was countered by compensatory measures and penalties rather than resulting in direct financial benefit. Thus, the Committee feel that it is more accurate to view the situation as a complex financial management issue rather than clear undue enrichment. However, the Committee recommend that 'in future' any such financial mismanagement or additional burden arising out of such complex financial situations should not be imposed on the common man, instead, it should be resolved through the adjustments in profit margins or under-recoveries of the respective Company's balance sheet.

#### Imposition of Penalty on IOCL

6. The Committee note that the Andhra Pradesh Government imposed a penalty on Indian Oil Corporation Limited (IOCL) for allegedly violating Section 5A (1-C) of the Andhra Pradesh General Sales Tax (APGST) Act, 1957. This section prohibits the collection of Turnover Tax (TOT) from consumers. The penalty of ₹262 crore was levied based on the price hike observed in Andhra Pradesh, which was perceived to be influenced by the imposition of a state surcharge. Despite IOCL's assertion that TOT was not collected as a separate charge but included in state-specific costs, the assessment led to substantial financial repercussions for the Company. The Committee observe that the stand of the Commercial Tax Department of the Government of Andhra Pradesh was that TOT was collected from consumers through the increase RSP though TOT was not reflected or mentioned in the Bill/Invoice. In this regard, the Committee strongly feel that all OMCs including IOCL must display clear cut price list including taxes, surcharges, etc. at an appropriate place in their

outlets for the information of their consumers and also must be provided the detailed (original price of petrol/diesel, Central tax, State tax, etc.) and clear Bill/Invoice to every consumer in printed or electronically form via. email/sms/POS receipt. The Committee would like to recommend that a regular audit and compliance reviews should be conducted to ensure that oil marketing Companies adhere to legal requirements regarding tax collections and surcharges. These reviews can help to identify and address any discrepancies early, and thereby preventing large-scale penalties and disputes in the matters.

#### Judicial Impasse and Amicable Resolution

7. The Committee note that after the introduction of Goods and Services Tax (GST), all the OMCs settled the penalties throughout of court settlement which were offered/initiated by the Government of Telangana (carved out of erstwhile Andhra Pradesh in 2013 under the Andhra Pradesh Reorganization Act, 2014) after many long pending cases in various judicial platforms. Indian Oil Corporation Limited (IOCL) ultimately paid a penalty of ₹65.65 crores, as part of an out-of-court settlement to resolve the dispute regarding the collection of Turnover Tax (TOT) and related issues. The Committee find that this process was avoidable and led to wastage of public money, resources and valuable time of the stakeholders including IOCL, MoPNG and Courts. Therefore, to address delays in judicial proceedings which has an adverse impact on the functioning of various Central Public Sector Undertakings (CPSUs), the Committee would like to recommend for establishment of a specialized fast-track courts for CPSU-related cases, which would expedite cases involving large financial stakes and complex regulatory issues, thereby reducing the time and costs associated with prolonged litigation. The Committee would like to be apprised of the steps taken by the MoP&NG in this regard if any.

#### Tax Structures in Other States and UTs

8. The Committee note that there were irrecoverable taxes levied by various State Governments during the period under review. The Irrecoverable Taxes Compensation Scheme of 2002, detailed in the Gazette Notification No/18/2001 dated January 16, 2003, outlines various taxes imposed by states on OMCs. These include turnover taxes, surcharges, and additional taxes varying significantly across regions. For

example, Andhra Pradesh imposes a 2% turnover tax on MS/HSD, while Tamil Nadu levies an 18% entry tax on HSD and a 3% additional tax on SKO/LPG. Goa imposes a steep 25% additional tax on sales. IOCL's approach to these taxes involved adjusting retail selling prices (RSP) to recover costs, a practice adopted by all major OMCs, including BPCL and HPCL. Efforts by the MoPNG to persuade State governments to remove these taxes, yielded no results. The Government of Gujarat similarly imposed a Turnover Tax (TOT) but permitted Oil Marketing Companies (OMCs) to collect the tax from consumers without imposing any penalties. Conversely, the Andhra Pradesh government remained unyielding despite requests from OMCs and the Ministry of Petroleum and Natural Gas to allow the recovery of TOT from consumers due to their inability to absorb the cost. The Committee feel that both IOCL and the Ministry could have been more active in persuading Andhra Pradesh to withdraw the TOT, which persisted for three years. Action was only taken after Andhra Pradesh's Commercial Tax Department imposed a penalty of Rs. 262.60 crore. The Committee believes that the Ministry of Petroleum and Natural Gas should have initiated more proactive engagement and communication with OMCs, state governments, and other stakeholders to resolve such issues more effectively. Therefore, the Committee recommend that the Ministry of Petroleum and Natural Gas should establish a more efficient dialogue process to address and resolve conflicts between OMCs and State governments, thereby saving time and resources for all parties involved.

#### Goods and Service Tax on Petroleum Products

9. The Committee observe that the taxation for Petroleum and Natural Gas in the Country has been marked by significant variations in tax rates across different States/UTs. This persisted even after the introduction of the Value Added Tax (VAT) on April 1, 2005. Consequently, the prices of Petroleum and Natural Gas exhibit differences from one States/UTs to another. Despite the implementation of the Goods and Services Tax (GST) from July 1, 2017, certain key petroleum items including Crude Oil, Natural Gas, Petrol, Diesel, and Aviation Turbine Fuel remained outside the ambit of GST. As a result, the Petroleum and Natural Gas sector continues to contend with a complex tax regime characterized by a mix of excise duty, State sales tax for non-GST items, and GST for the remaining products. The Committee opine that by having a uniform GST rate, the variability in fuel prices due to State-specific levies

would be minimized. The Committee find that the disparity in tax rates across the Country has resulted in significant challenges like contravention of APGST Act. This move would enhance price transparency and reduce the financial burden on consumers. However, this transition requires the consensus of the GST Council and careful consideration of fiscal impacts on both the Central and State governments. Therefore, the Committee feel that the GST Council should address this issue (disparity in tax rates across the Country) and speed up the process to bring the Petroleum and Natural Gas under the GST. This step is essential to ensure consistency in the pricing of Petroleum and Natural Gas products across all States/UTs. Such a move would not only streamline taxation but also promote equitable pricing and facilitate smoother operations within the sector.

### Conclusion

10. The Committee find that had the Company not collected the amount from the consumers, it would have to pay the entire amount of Rs.262.60 crore of TOT from its own coffer as stipulated in Sub-section 5A(1B) of the APGST Act, 1957. Thus, the Company saved Rs.196.95 crore out of the total amount of penalty after paying only Rs.65.65 crore. The Committee show their concern that now at this stage it is too difficult to identify and refund the money to the actual consumers who paid TOT on purchase of petroleum product at that time. Therefore, the Committee would suggest that the OMCs including IOCL and the Ministry of Petroleum and Natural Gas should find a reasonable way out to compensate consumers in the State of Andhra Pradesh/Telangana in the form of a suitable welfare schemes under their CSR activities which may include establishment of charitable clinics, hospitals, educational institutions, skill training centres, etc., especially in remote and under developed areas of these States.

New Delhi:  
11 December, 2024  
20 Agrahayana, 1946 (S)

**BAIJAYANT PANDA**  
Chairperson,  
Committee on Public Undertakings

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**APPENDIX I**  
**COMMITTEE ON PUBLIC UNDERTAKINGS**  
**(2022-23)**

**MINUTES OF THE THIRTY- THIRD SITTING OF THE COMMITTEE**

The Committee sat on Thursday, the 20<sup>th</sup> April, 2023 from 1100 hrs. to 1150 hrs. in Committee Room 'D', Ground Floor, Parliament House Annexe (PHA), New Delhi.

**PRESENT**

**Shri Santosh Kumar Gangwar - Chairperson**

**MEMBERS**

**LOK SABHA**

2. Shri Lavu Sri Krishna Devarayalu
3. Shri Arjunlal Meena
4. Shri Arvind Kumar Sharma
5. Shri Sushil Kumar Singh

**RAJYA SABHA**

6. Shri Anil Desai
7. Shri Prakash Javadekar
8. Dr. Amar Patnaik
9. Shri M. Shanmugam

**SECRETARIAT**

1. Shri Chander Mohan - Joint Secretary
2. Shri Santosh Kumar - Director
3. Shri G.C. Dobhal - Additional Director

**REPRESENTATIVES OF OFFICE OF COMPTROLLER & AUDITOR GENERAL**

1. Shri Raj Ganesh Viswanathan - Dy. C&AG (Comm.) & Chairman, Audit Board
2. Shri Deepak Kapoor - Director General
3. Shri Sanjay Kumar Jha - Director General
4. Shri B.R. Mondal - Director General

2. At the outset, the Chairperson welcomed the Members and the representatives of O/o C&AG and drew their attention to Direction 55(1) of the 'Directions by the Speaker'



regarding confidentiality of briefing before the Parliamentary Committees. Thereafter, Representatives of O/o C&AG made a Power Point Presentation and briefed the Committee on 'Audit Para No. 2.1 of C&AG Report No. 14 of 2021 relating to undue enrichment through recovery of Turnover Tax from consumers relating to Indian Oil Corporation Limited (IOCL). The representatives of O/o of C&AG also informed the Committee about the Action Taken Notes (ATNs) received from the Ministry of Petroleum & Natural Gas and the Memorandum of Important Points (MIPs) submitted by them.

3. The presentation covered issues relating to undue enrichment of Rs. 196.95 crore by Indian Oil Corporation Limited after payment of penalty amounting to Rs. 65.65 crore to the Government of Telangana through out of Court settlement in 2020. They stated that reply of Ministry to recover Turnover Tax by way of including the same in Revised Selling Price (RSP) was in contravention of the legal provisions of Section 5-A of the APGST Act, 1957.

4. Thereafter, Chairperson and Members raised queries and sought clarifications on various aspects of the Audit Para which inter-alia include incidences of recovery of similar Turnover Tax by other Oil Marketing Companies; observations of the Appellate Tribunals, High Court and Supreme Court; the expenditure incurred on pursuing legal process in Tribunals and Courts; the ways to refund the money in question by the Company to consumers, etc.

5. The representatives of the O/o C&AG responded to some of the queries and the Committee decided that the representatives of IOCL and the Ministry of Petroleum & Natural Gas be called for further detailed deliberations at a later date.

6. Thereafter, the Chairperson thanked the representatives of C&AG for their valuable suggestions/deliberations made before the Committee. The Chairperson also thanked the Members of the Committee for their active participation and valuable contribution made during their term.

***The Committee, then, adjourned.***

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## APPENDIXE II

### COMMITTEE ON PUBLIC UNDERTAKINGS (2023-2024)

#### MINUTES OF THE SIXTEENTH SITTING OF THE COMMITTEE

The Committee sat on Friday, the 6<sup>th</sup> October, 2023 from 1400 hrs to 1500 hrs. in Committee Room 'D', Ground Floor, Parliament House Annexe, New Delhi.

#### PRESENT

**Shri Santosh Kumar Gangwar - Chairperson**

#### MEMBERS

#### LOK SABHA

2. Shri Lavu Sri Krishna Devarayalu
3. Shri Nama Nageswara Rao
4. Shri Ramdas Chandrabhanji Tadas

#### RAJYA SABHA

5. Dr. Radha Mohan Das Agrawal
6. Shri Syed Nasir Hussain
7. Dr. Anil Jain
8. Dr. Amar Patnaik
9. Shri V. Vijayasai Reddy

#### SECRETARIAT

1. Shri Santosh Kumar - Director
2. Shri G.C. Dobhal - Additional Director
3. Smt. Mriganka Achal - Deputy Secretary

#### OFFICE OF C&AG

1. Shri R G Viswanathan - Dy. C&AG(Commercial) & Chairman, Audit Board
2. Shri Deepak Kapoor - DG (Commercial-II)
3. Shri B.R. Mondal - DG (Parliamentary Committee)
4. Shri Sanjay Kumar Jha - DG of Audit (Energy)
5. Shri Avinash Jadhav - Director (Oil)

#### REPRESENTATIVES OF INDIAN OIL CORPORATION LIMITED (IOCL)

1. Shri S.M. Vaidya - Chairman
2. Shri Sanjay Kaushal - CFO

2. The Chairperson welcomed the Members and the officers of C&AG at the sitting convened to take evidence of the representatives of Indian Oil Corporation Limited (IOCL) in connection with examination of 'Audit Para No. 2.1 of C&AG Report No. 14 of 2021 pertaining to IOCL regarding undue enrichment through recovery of turnover tax from consumers relating to IOCL'. Thereafter, Dy. C&AG briefed the Committee on the subject under examination.

***(The representatives of IOCL were, then, called in)***

3. The Chairperson welcomed the representatives of the IOCL Limited and drew their attention to Direction 55(1) of the 'Directions by the Speaker' regarding confidentiality of evidence before the Parliamentary Committee. The Chairperson, then, enquired about ground for payment of penalty amount of Rs.65.65 crore; imposing penalty by Government of Gujarat against IOCL and other OMCs in similar matter, taking up the matter with the State Government of Andhra Pradesh by MoP&NG, seeking advice of Union Ministry of Law & Justice etc.

4. The Members also sought clarifications on various issues relating to avoidability of Rs.65.65 crore (25%) of penalty; clarifications of MoP&NG to IOCL vis-a-vis section 5A(IA to IC) of the APGST Act 1957; the impact of the penalty on the profitability and financial position of IOCL; the use of remaining amount of Rs. 196.95 crore; the reasons for inordinate delay upto the year 2020 in taking action on the issue of turnover tax relating to 2002 – 2005, stand taken by other Oil Marketing Companies in similar matter, expenditure incurred on long legal battle; the efforts made by IOCL to bring all the States on the common platform in view of only 10 States having such taxes in different names.

5. The Committee also considered that, since the remaining amount of Rs. 196.95 crore collected from consumers could not be reimbursed to them, the Company should come forward with ways and means to compensate the people of the State of Telangana in the form of a suitable welfare scheme under the CSR activities of the Company. Further, the Company should also encourage its dealers to display clear cut price list including taxes, surcharge, etc. at an appropriate place in their outlets for awareness of consumers.

6. The representatives of the IOCL clarified on some of the issues on which information was readily available with them. Thereafter, the Chairperson thanked the representatives of IOCL and directed that the written replies to the points on which information was not readily available, may be furnished to the Committee Secretariat within 10 days.

***The Committee, then, adjourned.***

***A copy of the verbatim proceedings has been kept.***

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## **APPENDIXE III**

### **COMMITTEE ON PUBLIC UNDERTAKINGS** **(2023-2024)**

#### **MINUTES OF THE SEVENTEENTH SITTING OF THE COMMITTEE**

The Committee sat on Friday, the 6<sup>h</sup> October, 2023 from 1500 hrs to 1530 hrs. in Committee Room 'D', Ground Floor, Parliament House Annexe, New Delhi.

#### **PRESENT**

**Shri Santosh Kumar Gangwar - Chairperson**

#### **MEMBERS**

##### **LOK SABHA**

2. Shri Lavu Sri Krishna Devarayalu
3. Shri Nama Nageswara Rao
4. Shri Ramdas Chandrabhanji Tadas

##### **RAJYA SABHA**

5. Dr. Radha Mohan Das Agrawal
6. Shri Syed Nasir Hussain
7. Dr. Anil Jain
8. Dr. Amar Patnaik
9. Shri V. Vijayasai Reddy

#### **SECRETARIAT**

1. Shri Santosh Kumar- Director
2. Shri G.C. Dobhal - Additional Director
3. Smt. Mriganka Achal - Deputy Secretary

#### **OFFICE OF C&AG**

1. Shri R G Viswanathan - Dy. C&AG(Commercial) & Chairman, Audit Board
2. Shri Deepak Kapoor - DG (Commercial-II)
3. Shri B.R. Mondal - DG (Parliamentary Committee)
4. Shri Sanjay Kumar Jha - DG of Audit (Energy)
5. Shri Avinash Jadhav - Director (Oil)

## **REPRESENTATIVES OF MINISTRY OF PETROLEUM AND NATURAL GAS**

1. Shri Pankaj Jain - Secretary
2. Shri P.M. Khanooja - Additional Secretary
3. Ms. Sujata Sharma - Joint Secretary (M & OR)

*(The representatives of Ministry of Petroleum and Natural Gas were called)*

2. The Chairperson welcomed the representatives of the Ministry of Petroleum and Natural Gas (MoPNG) in connection with examination of 'Audit Para No. 2.1 of C&AG Report No. 14 of 2021 pertaining to IOCL regarding undue enrichment through recovery of turnover tax from consumers relating to IOCL' and drew their attention to Direction 55(1) of the 'Directions by the Speaker' regarding confidentiality of evidence before the Parliamentary Committee.

3. The Chairperson, in his opening address, asked the clarifications by the Ministry of Petroleum and Natural Gas with respect to contravention of sub -section 5-A (1-A to 1-C) of the APGST Act, 1957; advice furnished by Ministry of Law & Justice, if any, before allowing IOCL for collection of turnover tax in the form of 'State Surcharge'; 'State Surcharge' being collected by the Company prior to the period of operation of 'the Irrecoverable Taxes Compensation Scheme, 2002', avoidability of undue enrichment through recovery of turnover tax from consumers; collection of TOT from other OMCs with the amount collected state-wise.

4. Thereafter, the Members also sought clarifications on avoidability of a penalty of Rs.65.65 crore; status of invoking penalty by Gujarat and other States, the impact of penalty on the profitability and financial position of IOCL in case of non-collection of TOT; the reasons for inordinate delay till 2020 in taking action on the issue of turnover tax from 2002-2005; the impact of GST if the petroleum & Gas products are brought under GST ambit, the efforts made by the Ministry of Petroleum and Natural Gas to bring all the States on the common platform to impose similar tax uniformly in view of imposition of such taxes by only 10 States etc.

5. The representatives of Ministry of Petroleum and Natural Gas particularly, the Secretary, MoP&NG contended that it was not undue enrichment of IOCL and hence the

collection through revision of price should not have been termed as 'undue enrichment' which was not agreed to by the Committee. The Committee stated that if the Company had not collected the amount from the consumers, it would have paid the entire amount of Rs.262.60 crore of TOT from its own pocket as stipulated in sub-section 5A(1A) of the APGST Act, 1957. Now, the Company saved Rs.196.95 crore after paying only Rs.65.65 crore collected from consumers and hence it is an undue enrichment. The Committee asked the Ministry to find a reasonable way out to compensate consumers in the State of Telangana in the form of a suitable welfare scheme under the CSR activities of the Company. Further, the Ministry should also issue instructions to OMCs to display clear cut price list including taxes, surcharge, etc. at an appropriate place in their outlets for awareness among its consumers.

6. Thereafter, the Chairperson thanked the representatives of the Ministry and directed that the written replies to the points for which the information was not readily available, may be furnished to the Committee Secretariat within 10 days.

***The Committee, then, adjourned.***

***A copy of the verbatim proceedings has been kept.***

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## APPENDIXE IV

### COMMITTEE ON PUBLIC UNDERTAKINGS

(2024-25)

#### MINUTES OF THE NINTH SITTING OF THE COMMITTEE

The Committee sat on Wednesday, the 24<sup>th</sup> October, 2024 from 1330 hrs. to 1340 hrs. in Committee Room No. '1', Ground Floor, Extension to Parliament House Annexe, New Delhi.

#### PRESENT

**Shri Baijayant Panda** - **Chairperson**

#### MEMBERS

#### LOK SABHA

2. Shri Tariq Anwar
3. Shri R.K. Chaudhary
4. Shri Kaushalendra Kumar
5. Shri B.Y Raghavendra
6. Shri Mukesh Rajput

#### RAJYA SABHA

7. Shri Narain Dass Gupta
8. Dr. Bhagwat Karad
9. Shri Debashish Samantaray
10. Shri Arun Singh

#### SECRETARIAT

1. Shri Neeraj Semwal - Joint Secretary
2. Smt. Jyochnamayi Sinha - Director
3. Smt. Mriganka Achal - Deputy Secretary

2. After the Committee reassembled for the afternoon session, Hon'ble Chairperson chaired the Second agenda item of the day. The Chairperson briefly apprised the Members on the two draft Reports and requested to consider as part of unfinished work of the



Committee (2023-24). The Committee then considered and adopted the following two draft reports, without any changes/modifications, on the following two selected subjects: -

- i. 'Para No. 2.1 of Report No.14 of 2021 related to "Undue enrichment through Recovery of Turnover Tax from consumer" relating to Indian Oil Corporation Limited (IOCL) (Based on Audit Examination); and
- ii. Action Taken by the Government on the Observation/Recommendations of the Committee contained in the Eighteenth Report of the Committee on Public Undertakings on Operational Performance of NMDC Ltd. relating to NMDC Limited (Based on C&AG Report No. 5 of 2019)

3. The Committee authorized the Chairperson to finalize the draft Reports on the basis of factual verification as suggested by C&AG and concerned Ministry/Department and presenting the Reports during the next session of Parliament.

***The Committee, then, adjourned to take-up next agenda item of the afternoon sittings.***

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