

## **GST Council to decide on cess treatment**

Cess, including the Krishi Kalyan Cess and the Swachh Bharat Cess, might not be subsumed under the goods and services tax (GST).

The proposed indirect tax regime would subsume several taxes such as central excise duty, services tax, additional customs duty and state- level value added tax. But, finance ministry officials said, the Constitution amendment Act on GST does not state how a cess is to be treated under the new regime. The Act leaves it to the GST Council to decide which cess may be subsumed in GST.

“While certain taxes like entry tax, Octroi and others will be automatically subsumed under the GST, the Constitution amendment Bill does not mention treatment of cesses,” said a government official.

“So, there is a possibility that Krishi Kalyan and Swachh Bharat cess are not subsumed, unless the GST Council decides to discontinue these. The call will have to be taken up by the GST Council now.” In the current financial year, the government has budgeted Rs.10,000 crore as revenue from Swachh Bharat Cess, Rs. 5,000 crore from Krishi Kalyan Cess and Rs. 3,000 crore from Infrastructure Cess.

Satya Poddar of EY said the Centre can retain these cess, if it wants to. Explaining this, he said surcharge is a tax on tax and hence would go once entries containing the principal taxes are deleted. However, a cess is not a tax and it does not go into the Consolidated Fund of India, he explained.

Cess is imposed for specific purpose such as education, cleanliness etc. The Constitution amendment Act on GST omit entry 92 C of the Seventh Schedule under which the union government imposes services tax. Similarly, it amends entry 84 of the Seventh Schedule under which the union government levies excise duty to keep only some petroleum and tobacco and its products under it. So, any surcharges imposed on these would automatically go.

However, the Act does not amend relevant entries of cess, including entry 97 of the Seventh Schedule, which deals with residuary powers of the Union government. So, if the Centre decides they can retain these.” The statement and objects of the Act also talk about subsuming cess into GST. “ Hence there is inconsistency in the Act and its statement and objects,” Poddar added.

A government official said if the taxes continue, these would be levied on GST, instead of only services or goods. “These cesses were put in place by the government for a very specific purpose, whether it is infra cess, Krishi Kalyan or Swachh Bharat,” he said. Talks are on with the ministries concerned on a compensation mechanism if these cess are discontinued.

“We are talking to agriculture ministry, drinking water and sanitation ministry and others to get their views.” The Centre does not share cess with states, while all taxes under GST will have to be shared with the states.

In 2014- 15, Rs. 75,232 crore came in as cess and surcharge, or 8.32 per cent of total tax revenue, after adjusting for states' share. As petroleum is expected to be taxed at zero under the GST regime initially, the Centre will continue with the cess on crude oil and other related additional duties.

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