**Taxes Applicable under GST Regime for Petroleum Operation**

Vedanta Ltd (Division - Cairn Oil & Gas) is a Company engaged into exploration & production of Petroleum Crude &Natural Gas (E&P sector) and as an Operator is eligible for various benefits namely;

1. Import of goods - Basic Customs Duty exemption & concessional rate of IGST for Import of goods into India vide Notification No. 50/2017-Customs dated 30.06.2017 under Serial No. 404 condition 48 as amended by notification 02/2022-customs dated 01.02.2022 and 40/2022-customs dated 13.07.2022.
2. Domestic supply of goods - Concessional GST @12% or GST as per HSN, (whichever is lower) for all domestic supplies of goods required in connection with petroleum operations vide Notification no 03/2017-IGST(Rate) dated 28.06.2017 as amended by notification 08/2022-Central Tax (Rate) dated 13.07.2022 and similar Notifications issued under GST Law.

Such exemptions are available for goods specified in List 33 as mentioned in the Customs Notification & List 1 of the GST Notification, required in connection with petroleum operations undertaken under specified contracts. The said exemptions are provided against appropriate documents i.e.

1. exemption certificate issued by Company in case of imports
2. Essentiality Certificate (EC) issued by Directorate General of Hydrocarbon (DGH) under Ministry of Petroleum in case of domestic supply

**Import of goods**

|  |  |  |
| --- | --- | --- |
| **Incidence / Nature of taxes** | **Applicability of Taxes** | **Remarks** |
| Case I: Goods are eligible for concessional duty under custom notification  BCD on Goods  + IGST on Goods | Exempt + 12%  Or rate as per HSN,  whichever is lower | * Import to be done by contractor using Company’s IEC * IGST will be paid by Company on import * In case of exceptional situations where IEC of contractor is to be used, prior approval of Company is to be obtained |
| Case II: Goods are not eligible for concessional duty under custom notification (i.e. not falling under revised list 33 of customs)  BCD on Goods  +  SWS + IGST on Goods | As per applicable HSN +  10% of BCD  + As per applicable HSN | * Custom duties will be paid by Contractor on import * IGST paid will be available to bidder as Input Credit * Company will reimburse the custom duty (BCD+SWS) to the contractor by way of variation. |

**Note (GST Regime):**

1. Appropriate Certificate to be obtained by Contractor from Company to avail concessional rate of GST on supply of Goods as mentioned in relevant Notifications. Company will assist for the same.
2. Responsibility for customs clearance will be on bidder.
3. Contractor to charge concessional rate of GST for supply of Goods as per GST notifications for the time being in force (at present, the rate is 12%) to Company on its invoice as per Pricing Schedule. For case II above, Company to arrange for domestic EC from DGH for domestic procurement from the contractor.
4. GST paid by Contractor on its input supplies will be available to him as Input Credit. Thus, Contractor to work out its base cost considering availability of Input Tax Credit.
5. Non- Resident Contractor will be required to take GST registration in India. In addition PAN, IEC & other registrations will be necessary. Company will not allow to import goods in its Import Export Code (“IEC”). The Contractor may be required to open Project office as per FEMA / RBI guidelines. The Payments will only be made in permitted bank accounts.
6. Company will deduct GST TDS as per applicable provisions and the same will be in Contractor’s account.
7. Company shall provide the E-waybills in case of Goods imported using Company’s IEC code. In other cases, E-waybills to be provided by Contractor.

**Domestic supply of goods**

| **PARTICULARS** | **Applicability of taxes** | **Remarks** |
| --- | --- | --- |
| **CGST+SGST**  (if supply is made within same State) | 12% against EC from DGH  or  rate as per HSN,  whichever is lower | 1. Appropriate Certificate to be obtained by Company from DGH to avail concessional rate of GST. Contractor to assist in documentations.  2. Eligible Input tax credit will be available to bidder. Thus, Contractor to work out its base cost considering availability of Input Tax Credit. |
| **IGST**  (if supply is made from different State where goods need to be delivered) | 12% against EC from DGH  or  rate as per HSN,  whichever is lower |

***Note:***

1. ***In all cases, vendor should ensure that relevant compliances are timely filed on GST portal w.r.t. GST collected from the Company.***
2. ***The document is for information only. Bidder is advised to take its review, opinion and assessment from its own tax consultant /internal tax department to assess the tax understanding and avail relevant tax benefits/exemptions.)***

**Annexures:**

*Annexure 1: GST Notifications prescribing rates for supply of goods for petroleum operations.*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Nature of transaction** | **Applicable GST** | **Rate of tax** | **Notification Reference** | **File Ref.** |
| Import into India | IGST | 12% | Notification No. 50/2017- Customs dated 30.06.2017  As amended by notification no. 02/2022-Customs dated 01.02.2022 and 40/2022-customs dated 13.07.2022  (Please refer to Item No. 404) |  |
| Domestic Supply of goods | CGST/SGST/IGST | 12% | 1. Notification no. 03/2017-Central Tax (Rate) dated 28.06.2017  2. As amended by notification no. 08/2022-Central Tax (Rate) dated 13.07.2022 |  |

*Annexure 2: Definitions as per GST Law.*

1. ***Fixed Establishment:-***

*Section 2(50) of the CGST law defines the term 'fixed establishment' to mean a place (other than the registered place of business) which is characterized by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs.*

*Possible factors wrt creation of fixed establishment in India for the purpose of GST laws:*

1. *If it could be proven that, the place in question has sufficient degree of permanence, coupled with suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs, the place would qualify as a fixed establishment. What constitutes suitable structure in terms of human and technical resources to supply services, or to use services, is a factual question, which need to be looked into on a case by case basis.*
2. *Since there is no further guidance under the GST law, one may like to refer CBEC Education guide for guidance in this regard. The CBEC's education guide in this regard provides that temporary presence of staff by way of a short visit at a place cannot be called a fixed establishment. Also, the number of staff at a location is not important, and what is relevant is the adequacy of the arrangement (of human and technical resources) to carry out an activity for consideration, or to receive and use a service supplied. Similarly, it will be important to evaluate the permanence of the arrangement i.e., whether the same is capable of executing the task*
3. *Basis the above parameters, and any further guidance the Government may provide going forward, one may like to determine if an office/activity would create a fixed establishment in India.*

**Withholding Tax (WHT)**

WHT will be as per the withholding certificate issued by the tax authorities. Mandatory documents required will be as under:

1. WHT Order from Tax Authorities in India
2. PAN

The TDS/Withholding tax so deducted will be in Bidder’s account only.