



# OIL AND NATURAL GAS CORPORATION LIMITED

## SECRETARIAT

Regd. Office : Jeevan Bharati, Tower-II, 124, Indira Chowk, New Delhi-110001

ONGC/CS/SE/2013

December 9, 2013

FAX/COURIER

The Secretary  
**Bombay Stock Exchange Ltd,**  
Corporate Relationship Department  
Phiroze Jeejeebhoy Towers  
Dalal Street, Fort, MUMBAI – 400 001

Fax: 022-22723121/22722037  
2272 2041

The Manager  
Listing Department  
**National Stock Exchange of India Ltd.**  
Exchange Plaza, C-1, Block-G  
Bandra-Kurla Complex, Bandra (E), MUMBAI – 400 051

Fax: 022-26598237/38  
022-66418125/26

Sub: Intimation under Clause 36 of the Listing Agreement.

Dear Sirs,

Pursuant to Clause 36 of the Listing Agreement, please find enclosed a write up with regard to verdict of the Hon'ble Gujarat High Court on demand of additional Royalty on Crude Oil from ONGC.

This is for your kind information and record please.

Thanking you,

Yours faithfully,  
for OIL AND NATURAL GAS CORPORATION LTD.

  
(N.K. Sinha)  
Company Secretary

Encl : As above

### Verdict of Hon'ble Gujarat High Court on Demand of Additional Royalty on crude oil

1. Hon'ble Gujarat High Court vide its order dated 30<sup>th</sup> November, 2013 against Special Civil Application No. 13943 of 2011 has decided that royalty on crude oil is to be paid on pre-discount price and directed ONGC to make the payment towards shortfall royalty for the period April 2008 till this date, within a period of two months.
2. **Background:**
  - 2.1 Consequent upon steep rise of international prices of crude oil and petroleum products, Government decided to modulate the Retail Selling Price (RSP) of LPG (Domestic), SKO (PDS) during 2003-04 in order to protect the interests of common man from the uncertainties of rising international oil prices so as to ensure that the full impact of international oil prices was not passed on to the consumers. During 2004-05, Government also started regulating the prices of MS and HSD (prices of which were decontrolled w.e.f. 1st Apr'2002). As a result, the Public Sector Oil Marketing Companies (OMCs) viz. IOC, BPC and HPC began to incur under-recoveries on the sale of these price sensitive Petroleum Products.
  - 2.2 As per the mechanism for sharing of under-recoveries, circulated by MoP&NG dated 30<sup>th</sup> October, 2003, upstream oil companies including ONGC were directed to share under-recoveries of OMCs by way of extending discounts on sale of crude oil, LPG (Domestic) and SKO (PDS) supplied by them to refineries/OMCs. It was also stipulated in the MoP&NG's letter dated 30<sup>th</sup> Oct'2003 that revenue of State Governments in terms of royalty on crude oil should not be affected by the discount.
  - 2.3 Based on above directive, from April, 2003, ONGC started paying royalty to the Govt. of India at post-discount sale price on production of crude oil from offshore, while for onshore crude oil, at pre-discount sale prices to the State Govt. This has resulted in royalty payout to the State Govts. in excess of the statutory limit of 20% of the price realized by ONGC, as stipulated in the Oilfields (Regulation and Development) Act, 1948(ORDA). In fact it was as high as 49.8% of realized price. Since payment of royalty at pre-discount price was an additional burden on ONGC and statutory limit was breached, ONGC has been representing to MoP&NG for review of its decision.
  - 2.4 Subsequently, keeping in view the statutory provisions, ONGC's representation and the opinion of the Ministry of Law on the issue, MoP&NG vide their letter dated 23<sup>rd</sup> May, 2008 withdrew their earlier directives issued vide letter dated 30<sup>th</sup> October, 2003.
  - 2.5 Consequently, ONGC started making payment of royalty on crude oil from 01<sup>st</sup> April 2008 at post discount price to State Govts., in line with royalty payment to Central Govt. and as per the provisions of ORDA. It may be mentioned that during the period 2003-04 to 2007-08, ONGC paid Rs. 3,419 Crore excess royalty to Govt. of Gujarat.

3. Government of Gujarat had represented to Union Govt. on this issue wherein Union Govt. have clarified that the decision taken by the Central Govt. for payment of royalty on post-discount prices is the result of a thorough examination of the matter considering various statutory provisions in consultation with Ministry of Law.
4. Govt. of Gujarat filed a Special Civil Application No. 13943 of 2011 in the High Court of Gujarat, Ahmedabad on 27 Sept'11 against **Union of India, Ministry of Petroleum and Natural Gas (MoP&NG) as respondent no 1 and ONGC as respondent no 2** with a prayer to direct ONGC to pay the royalty at the pre-discount price of crude oil. Total amount demanded for the period Apr'08 to Dec'11 is Rs. 5,984.87 Crore (Rs. 4,619.62 Crore towards royalty and Rs. 1,365.25 Crore towards penalty).
5. The order of Hon'ble High Court of Gujarat to direct ONGC to pay royalties on onshore crude production at the pre-discount price instead of the post-discount price **works out of the order of Rs. 10,000 Crore from April 2008 to September, 2013 in respect of Gujarat crude only and hence would have significant impact on ONGC financials.** Further the payment of royalty on pre-discount price is of recurring nature. Similar implications would also arise in other states like Assam, Andhra Pradesh and Tamilnadu, where ONGC is producing crude from onshore fields.
6. It is also submitted that in a separate though related issue, ONGC has been asked to pay VAT on pre-discount price from 2004-05 onwards by Gujarat VAT Tribunal, against which ONGC is in the process of filing appeal in Gujarat High Court. Assam VAT authorities have also raised demand for payment of VAT on pre-discount price, which is also being addressed by ONGC.
7. **ONGC is in the process of filing an appeal in Hon'ble Supreme Court of India against the order of Hon'ble Gujarat High Court and making Union Govt. as party.** Management has already directed Corporate Legal to engage best possible advocate(s) for the case.
8. Meanwhile, it has been conveyed to MoP&NG vide letter dated 05<sup>th</sup> December, 2013 from CMD, ONGC to Secretary (P&NG) that in case the decision goes against us and ONGC is directed to deposit the royalty on pre-discount price, ONGC should be compensated by Govt. of India for the differential royalty as:
  - a) Discount to refineries are being extended as per directives of Govt. of India.
  - b) Such royalty payment by ONGC would tantamount to payment out of revenue which has not been earned by or paid to ONGC.
  - c) ONGC is not in a position of bearing such a huge burden, particularly when it is of recurring nature.