

IHC rules GIDC illegal, unconstitutional

FAZAL SHER

ISLAMABAD: Islamabad High Court (IHC) on Thursday declared the Gas Infrastructure Development Cess (GIDC) illegal, unconstitutional and in violation of fundamental rights.

The government had imposed the cess on the pretext of mobilising funds for infrastructure development work for the Iran-Pakistan gas pipeline project.

A single-member bench of Justice Shaukat Aziz Siddiqui resumed the hearing of identical petitions filed against GIDC and directed the government to return the tax collected under GIDC to consumers.

As many as 400 petitioners of
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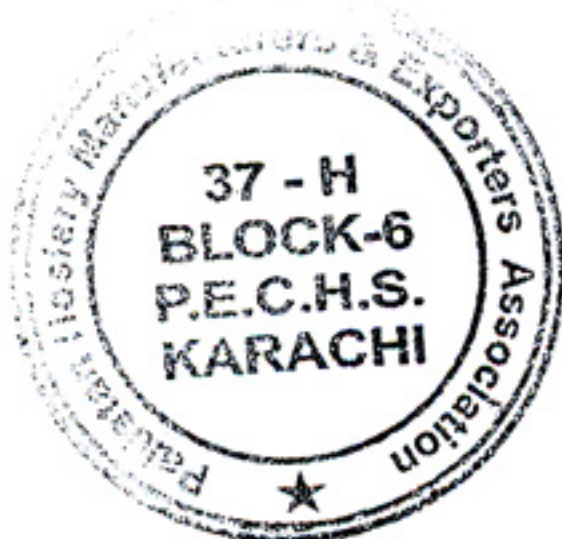
IHC rules

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different industrial units had filed petitions in IHC against GIDC, terming it in violation of the Petroleum Policy, 1994.

The petitioners made Oil and Gas Regulatory Authority (OGRA), Ministry of Petroleum, Sui Northern Gas Pipeline Limited (SNGPL) and Sui Southern Gas Company respondents. They pleaded that the government had put extra burden on the consumers by imposing GIDC saying the concerned authority collected huge money from consumers under the GIDC.

The government had approved GIDC through an Act of parliament in 2011. Under this Act government was receiving Rs 50 per MMBTU from industrial units while from CNG sector it collected Rs 263 per MMBTU in Zone-1 and Rs 200 per MMBTU in Zone II.

Mian Mehmood Rasheed, representing the petitioners, while told reporters outside the court that the government's move was in violation of Articles 8 and 18 of the Constitution. "Under Article 8 and 18, the government is bound to protect the rights of business community," he said.



Industrial consumers to get refund

Court revokes gas levy

By Malik Asad

ISLAMABAD, Jan 31: Justice Shaukat Aziz Siddiqui of Islamabad High Court, deciding over 270 petitions, Thursday declared the Gas Infrastructure Development Cess Act 2011 unconstitutional and asked the gas distribution companies to return the amount they collected from industrial consumers as the Gas Infrastructure Development Cess (GIDC).

Domestic consumers of gas were exempt from the levy which the government imposed on the industrial sector, initially at the rate of Rs13 per MMBTU but later increased it to Rs100 per MMBTU, only to be reduced to Rs50 per MMBTU in September last year.

But Justice Shaukat Aziz ruled that "the GIDC Act 2011 is ultra vires to the constitution, void, and infringement to the fundamental rights, offensive to the principle of fair play, equality, transparency and social justice, good governance and it is tantamount to exploitation".

He directed the department concerned to adjust

the amount received from consumers as GIDC in the future billing.

Over 400 industrial units challenged the GIDC in the Islamabad High Court last September as the levy had increased their cost of production.

According to the petitioners, the levy was imposed to finance the infrastructure for the proposed Turkmenistan-Afghanistan-Pakistan-India (TAPI) and Iran-Pakistan (IP) gas pipeline projects, or for price equalisation of other imported alternative fuels, including LNG and LPG.

Mian Mehmood-ur-Rashid, counsel for the petitioners, told the court that no timelines could be determined at present for even the start of these projects as well as the costs of the same and the government had imposed and started collecting the cess whose rates had been increased exorbitantly without any justification or rationale.

Advocate Niazullah Niazi, counsel for CNG stations owner argued that the GIDC Act was passed in haste and

without fulfilling the constitutional requirements.

The GIDC Act of 2011 was declared a Money Bill, however, the mandate of Article 73 was not followed in letter and spirit, he said.

Neither the copy of the bill was simultaneously transmitted to the Senate as required by Article 73.

Increases in the rate of cess were communicated through a press release issued by the Oil and Gas Regulatory Authority (Ogra), he said, describing it as an illegal act because Ogra has no lawful

authority to impose any levy over and above the tariff which had already been notified by it and that too through a press release.

Raja Javed Ashraf, additional attorney general, representing the federal government, however, argued that the Gas Infrastructure Development Cess was imposed in accordance with the guidelines provided by the Council of Common Interest, and after necessary legislation. It could not be undone because it had become the law of the land, he said.

