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PM shoots down GIDC Ordinance, finally

ISLAMABAD: In an unexpected development, Prime Minister of Pakistan Imran Khan has withdrawn the ordinance and directed Attorney General to ensure urgent hearing in Supreme Court for retrieval of the amount of Rs417 billion struck with Fertilizer, CNG, General Industry and Power sector from January 2012 till December 2018, says a statement issued from PM office here on Wednesday.

Factually it is the media criticism that forced the premier to take back the ordinance that was notified and enforced from August 28, 2019, a senior official said who was part of the meeting where in Prime Minister has come up with the decision.

Under the ordinance which was effective from August 28, 2019 the government unbelievably extended the amnesty of Rs210 billion in the head of Gas Infrastructure Development Cess (GIDC) to the inflectional industrialists, and owners of fertilizers, CNG and Captive Power Plants, K Electric, GENCOs and Independent Power Producers (IPPs) through the Presidential Ordinance enforced with immediate effect from August 28, 2019.

The said decision attracted the massive criticism from media and opposition parties. Media kept on taking the government heavily arguing how it can waive off 50 percent of the amount of Rs417 billion as it is the amount of the state which is lying with the various players and no government can waive off the amount by just using the tool of ordinance.

However, Prime Minister in the statement has cautioned the nation saying that going to the court carries a risk because the decision could go either way. 'This means that the government could get the whole amount or could lose it all and possibly forgo any prospects of future revenue collections under this head. Also on tops of this, the government could be saddled with the burden of administering refunds of approximately Rs295 billion of the principle amount,' mentions the statement.

Now the question arises as to why not the Prime Minister and his team first exhausted the option to make contact with Chief Justice of Pakistan and bring under his notice that huge amount of the state of worth Rs417 billion has been struck with inflectional industrialists, and owners of fertilizers, CNG and Captive Power Plants, K. Electric, GENCOs and Independent Power producers (IPPs) because of 8 years long litigation and there is no decision came out yet on account of stay orders.

However the chronology of events for the promulgation of GIDC Amendment Ordinance, 2019 prepared by Petroleum Division suggests that Prime Minister Imran Khan remained on board all the time in 10 months period starting from November-December 2018 till August 28, 2019 paving way for the promulgation of ordinance, but at the end he felt the heat from media criticism accepting the fact that the decision is not up to the mark.

However, according to the chronology of the events for promulgation of the GIDC ordinance prepared by Petroleum Division, during Nov-Dec 2018, CNG industry, Fertilizer and General Industry and export industry met the former finance minister Asad Umar for discussion of GIDC.

On January 10, 2019, former finance minister held meetings with fertilizer industry and general industry and zero-rated for settlement of arrears. The stakeholders were requested to provide proposals. On January 20, 2019 former minister held meeting to deliberate upon proposals received from fertilizer industry and other industry. The proposals discussed in the meeting on January 20, 2019 were documented and sent to Ministry of Finance for the consent or concurrence before proceeding for amendment in GIDC Act.

ON January 23, 2019 a draft summary for amending the Act was sent to special assistant to finance minister for comments. On January 23, 2019 advice of the Law Division was sought on the issue of waiver of GIDC arrears and revision in GIDC rate vis-à-vis pendency of court cases.

On January 23, 2019, the summary for the cabinet for seeking amendment in Act was submitted to the cabinet division. The federal cabinet in its meeting headed by Prime Minister held on January 24, 2019 and approved the summary and referred the matter to Law Division for drafting the amendments.

On January 28, 2019 Finance Division provided its comments on the cabinet summary stating that proposed one time arrears and reduced rates of the GIDC prospectively may be available to respective consumers subject to i) That the end consumers will clear the entire amount of GIDC arrears within the time line stipulated in the amendment. ii) that all litigation against the government will be withdrawn.

On February 1, 2019, Law Division provided its opinion that Petroleum Division may grant waiver of GIDC arrears to any industry by amending the GIDC Act 2015.

On February 14, 2019 Prime Minister Office communicated their decision regarding observation of Finance Minister to the Cabinet Division and Petroleum Division.

On February 20, 2019 Cabinet Division issued corrigendum to its decision dated January 24, 2019 on GIDC amendment summary which reads as 'Reduction in cess rate prospectively will be allowed to those consumers or sectors who will pay the balance 50 percent GIDC arrears. The reduced rate will apply from the date the payment of arrears is made.'

On March, 2019, draft GIDC amendment bill, 2019 was sent to law division for vetting.

A meeting was held in the office of Additional Draftsman of Law Division on March 14, 2019 wherein certain observations were raised for clarification from Finance Division before vetting of amendment Act. The observations were communicated to Finance Division on March 19, 2019.

On March 19, 2019 Cabinet Division while referring the ECC meeting held in first week of march, 2019 and view of law division dated March 15, 2019 asked the Petroleum Division to process the case for draft GIDC amendment bill under rule 27 of the Rules of Business read

with rule 16 (1) whereby as and when the proposed amendment bill is received, the Law Division will vet the same.

Pursuant to the meeting held in Finance Ministry on March 20, 2019, the proposed response of the Finance Division during the said meeting was communicated for confirmation of the finance division on March 29, 2019.

On April 5, 2019, Finance Division proposed changes in the proposed amendment.

On April 8, 2019, Law Division was conveyed the above observations of the Finance Division.

On April 8, 2019, a presentation was made to ECC on the Status Update on Recovery of GIDC detailing enactment background, details of arrears, court cases and federal cabinet proposals for amendment. The ECC in its decision dated April 8, 2019 directed petroleum division to submit report regarding court cases and also directed to submit proposed GIDC amendment Act, 2019 to cabinet committee on disposal of legislative cases (CCLC) for consideration after vetting of the same from Law Division.

On April 15, 2019, the Law Division vetted the draft Amendment bill.

On May 30, 2019, a summary for CCLC was submitted for consideration by CCLC.

On June 19, 2019, the CCLC approved the draft Amendment Act, 2019.

On June 24, 2019, a directive from PM office received.

On July 5, 2019, the Law Division prepared a draft of GIDC Amendment Ordinance 2019.

On July 5, 2019 a summary for promulgation of GIDC Amendment Ordinance, 2019 was submitted to PM office.

On July 8, 2019 a summary was submitted to the federal cabinet for approval of correction of some typos in the Amendment Ordinance.

The federal cabinet approved the proposed corrections and the draft GIDC Amendment Ordinance, 2019 with direction that settlement under agreement proposed in Ordinance pertaining to the fertilizer sector will be subject to forensic audit of GIDC collections made under the end product cost structure of that sector.

On August 19, 2019, a summary was again submitted to the Prime Minister for promulgation of GIDC Amendment Ordinance, 2019.

On August, 2019, the president was pleased to promulgate the GIDC Amendment Ordinance which was gazette notified on August 28, 2019.