

### **Court stays gas cess collection from fertiliser-makers**

KARACHI: The Sindh High Court has stayed the collection of Gas Infrastructure Development Cess (GIDC) on feedstock supply from fertiliser plants established under Fertilizer Policy 2001.

Fertiliser manufacturers had challenged the imposition of GIDC on gas supplied under a fixed price gas sale and purchase agreement dated April 11, 2007.

The government in order to encourage investment in new fertiliser plants had announced the Fertiliser Policy 2001, in which it guaranteed that feed stock gas to new plants including Enven and Fatima Fertilizers would be provided at a fixed price of \$0/7/mmbtu inclusive of all taxes and fees etc.

Moreover, the government had allocated 100mmcf of gas for a period of 20 years from Sui southern Gas Company (SSGC) at a fixed price for establishing new plants.

The counsel for the fertiliser companies stated before the court the fertiliser plants needed gas for two purposes as fuel stock gas and as raw material for fertiliser (feedstock gas), which made them different from any other consumer of gas.

The counsel maintained that the challenge to the collection of GIDC was restricted to the gas supplied to it as feedstock under a sovereign guarantee, where the price cannot be changed and this was not an issue agitated before the Supreme Court in any of the cases before it.

Fertiliser companies submitted that since the government and gas utility companies had given a sovereign guarantee that they would not impose any fee on the fixed price of \$0.77/mmbtu for feedstock gas supplied under the Policy and GSPA, GIDC could not be collected on feedstock gas.

Sindh High Court stayed the collection of GIDC from fertilizer plants, established under the Policy 2001, and fixed a hearing for September 29, 2020.

Meanwhile, Adviser to the Prime Minister on Finance and Revenue, Dr Abdul Hafeez Shaikh announced the government had decided to form two sub-committees to look into the issue of the GIDC to propose workable options for the solution of the issue after the fertiliser industry approached him with a request to recover GIDC from the industry in 10 years instead of 24 months.

During a meeting with the adviser, fertiliser manufacturers contended that the sector had been facing liquidity problem and, therefore, the GIDC be recovered from them in 10 years, instead of 14 equal installments as directed by the Supreme Court of Pakistan.

Moreover, fertiliser companies on Friday threatened to increase urea prices by 17 percent or Rs500/bag in case the government tried to recover GIDC in 24 months.

Last month, the Supreme Court of Pakistan had ordered the recovery of outstanding GIDC dues from the industrial and commercial sectors in two years. Total outstanding dues are estimated at around Rs523 billion as of end-June 2020.

A year ago, the government had promulgated a presidential ordinance to waive half of the outstanding GIDC dues and recover the remaining. But the prime minister had to withdraw the ordinance after much hue and cry in the media.

After the Supreme Court's judgment, the Ministry of Energy directed fertiliser companies, government power companies, independent power producers, K-Electric, and gas companies to deposit the GIDC arrears estimated at around Rs523.6 billion.

It must be noted that the fertiliser sector owed Rs180.3 billion, captive power plants Rs116 billion, compressed natural gas (CNG) sector Rs83 billion, general industry Rs50.5 billion, K Electric Rs40.4 billion, government-owned power companies Rs27.7 billion and IPPs Rs10.5 billion. -