

24 FEB 2022

IN THE LAHORE HIGH COURT, LAHORE

M (W)
From

The Adnl. Registrar (Judl)
Lahore High Court, Lahore.



Handwritten initials/signature

Chief (L-I)

S-100-1

S-100-2

S-100-3

Chief (L-III)

S-100-1

S-100-2

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Chief (L-II)

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The Federation of Pakistan through Ministry of Energy (Power Division), Pak Secretariat, Islamabad through its Secretary.

2. The Federation of Pakistan through its Secretary Finance, Finance Division, Islamabad.

3. The Federal Board of Revenue, Constitutional Avenue, Islamabad through its Chairman.

4. Gujranwala Electric Power Company Limited (GEPCO), Gujranwala through its Chief Executive, Gujranwala.

5. Managing Billing / Revenue Officer (GEPCO), Gujranwala, Sub Division Narowal.

6. Revenue Officer, District Narowal.

SUBJECT: - WRIT PETITION NO:-

50859-21

Sir,

In continuation of this Court letter No _____ Date: _____

I am pleased to forward for information and immediate compliance a copy of this Court's Order/Judgment dated 09-02-22 passed in the above noted case.

Your's faithfully

Handwritten signature

ASSISTANT REGISTRAR (WRIT)
FOR ADL. REGISTRAR (JUDG)

Handwritten signature

25 FEB 2022

33194
FBR & COX, Dy. No. _____
Received in Chairman's Sect
on 24 FEB 2022

ORDER SHEET
IN THE LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT.

W.P. No.50859 of 2021.

Narowal Flour Mills

VERSUS

Federation of Pakistan and
others.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signatures of Judge, and that of parties of counsel, where necessary
05.	09.02.2022.	Mr. Faisal Ghafoor Khokhar Advocate for the petitioner. Malik Abdullah Raza Advocate for respondent/FBR. Malik Asif Rafique Rajwana Advocate for respondent No.1. Mr. Azmat Hayat Khan Lodhi, Assistant Attorney General.

This writ petition calls into question the levy of extra tax and further tax in the electricity bills being issued by Gujranwala Electricity Supply Company (GEPCO)/respondent No.4.

2. The issue raised in this writ petition has already been dealt with in a number of cases including ICA No.16154 of 2021 in which it was held as under:

The SRO 124 prescribed special procedure for collection and payment of sales tax on Electric Supply. This SRO was followed by SRO No.480(i)/2007, dated 09.06.2007 ("SRO 480") where under all special procedures, under different SROs, were consolidated. The special procedure for taxing Electric Power under SRO 124 became chapter e of the Sales Tax Special Procedure Rules of 2007 ("Rules of 2007"). The SRO 480 was repealed thereafter by SRO 694(i)/2009, dated 29.06.2019 ("SRO 694") along with all consolidates SROs. Admittedly there is no special procedure available for collection of tax on electricity supply.

6. The appellant's case is that in absence of any special procedure for collection of tax on

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electric power, tax cannot be charged on electricity supply to the flour mills.


7. We are not impressed by this argument. Section 71 of the Act of 1990, is giving power to subordinate legislature for devising special procedures, which means that general procedure is to be bypassed or replaced for notified taxable supplies. Absence of special procedure or its repeal/withdrawal shall restore the general provisions. Learned Single Bench has rightly relied upon section 3 which is the basic / principle charging provision and was altered subject to the provisions of the Section 71 through special procedure for collection and payment of sales tax on supply of electric power.


7. There is no dispute regarding exemption for supply of the flour falling under entry No.19 of the Sixth schedule. Nevertheless the contention that supply of electricity to the flour mills indirectly relates to entry No.19 is incorrect. Supply of electricity to any unit including an exempted unit is an independent taxable supply and unless it is exempted under the Act of 1990, has to be taxed under the general charging provisions by applying general procedure under the Act.

The learned Division Bench seized of the above Intra Court Appeal upheld the levy of extra tax and further tax.

3. In this view of the matter, this writ petition has no merit and is accordingly **dismissed**.


(Shams Mehmood Mirza)
Judge.

TRUE COPY
Case No.
Examiner J.C.B. (Copy Branch)
Lahore High Court, Lahore



Ihsan
29/02/92