JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT

W.P No.345 of 2026
Universal Gas Distribution Company (Private) Limited
Vs.
Federation of Pakistan, etc.

W.P No.1421 of 2026
Universal Gas Distribution Company (Private) Limited
Vs.
Federation of Pakistan, etc.

Date of hearing	**30.06.2026**
Petitioners by:	M/s Hassan Muneeb Zia, Mouood Fiaz and Muneeb Zia, Advocates.
Respondents:	Mr. Rashid Hafeez, Addl: Attorney General for Respondent No.1 and Ms. Asia Batool, AAG. M/s Syed Hasnain Ibrahim Kazmi and M.Saleem Iqbal Janjua Advocates for Respondent No.3.

SARDAR MUHAMMAD SARFRAZ DOGAR, CJ:-The above-captioned writ petitions involve inter-connecting questions of law and facts; hence, both of them are being decided through this single Judgment.

2. The petitioner, Universal Gas Distribution Company (Private) Limited ("**UGDCL"**), has instituted the instant petitions challenging certain actions taken by the Federation of Pakistan and its functionaries under the Off the Grid (Captive Power Plants) Levy Act, 2025 (the "**Levy Act**"). The

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UGDCL is a private limited company incorporated under the Companies Act, 2017, and is owned by private individuals and is holder of a licence dated 22.02.2016 issued by the Oil and Gas Regulatory Authority ("**OGRA**"), authorizing it to undertake the business of sale of indigenous natural gas to industrial consumers. In pursuance thereof, the petitioner procures indigenous natural gas from local gas producers under negotiated Gas Sale and Purchase Agreements and supplies the same to various industrial consumers, including Captive Power Plants ("**CPPs**"). The sale price of gas supplied by the petitioner is deregulated and is mutually negotiated between the petitioner and its consumers. It is further contended that neither the Federation of Pakistan nor OGRA determines or notifies the sale price of gas supplied by the petitioner. Likewise, the licence issued by OGRA does not confer any authority upon it to determine or notify the petitioner's gas sale price, nor has any such notification ever been issued.

3. Through Writ Petition No.345 of 2026, the petitioner has called in question Notification dated 09.01.2026 (the "**Impugned Notification**"), whereby the petitioner was notified as a collection agent for the purposes of collecting the levy under sections 3 and 4 of the Levy Act. By virtue of the said notification, the petitioner was included in the Schedule appended to the Levy Act and was consequently required to collect and deposit the levy in respect of supplies of natural gas to CPP customers.

4. Through Writ Petition No.1421 of 2026, the petitioner has challenged two additional instruments issued pursuant to the Levy Act. The first is the Off the Grid (Captive Power

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Plants) Removal of Difficulties Order, 2026 dated 24.02.2026 (the "**Impugned Order**"), issued by the President of Pakistan in exercise of the delegated legislative power conferred under section 10 of the Levy Act for removal of difficulties arising in the implementation of the said Act. The second is Letter dated 11.03.2026 (the "**Impugned Letter**"), issued by the Ministry of Energy (Petroleum Division), Government of Pakistan, whereby the petitioner was directed to furnish information relating to the pricing of natural gas supplied to its consumers, purportedly for the purpose of determination of the levy payable under the Levy Act. Both, the Impugned order and the Impugned letter have also been assailed on the grounds set forth in the instant petition.

5. Learned counsel for the petitioner contended that the charging provisions contained in sections 3 and 4 of the Levy Act are attracted only in respect of those gas suppliers whose sale price of natural gas is notified by the OGRA under sections 8 and 43B of the Oil and Gas Regulatory Authority Ordinance, 2002. According to the learned counsel, the reference to the OGRA-notified sale price constitutes an essential ingredient of the charging mechanism and, therefore, is a mandatory precondition for the imposition and collection of the levy. It was submitted that the petitioner's sale price of natural gas is deregulated, privately negotiated with its consumers, and neither determined nor notified by OGRA. Therefore, the petitioner does not fall within the ambit of the charging provisions of the Levy Act and could not lawfully be designated as a collection agent through the Impugned Notification.

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6. In respect of Impugned Order, learned counsel further submitted that the Impugned Order, purportedly issued under section 10 of the Levy Act, is manifestly beyond the scope of the delegated legislative authority conferred by the parent statute. It was argued that section 10 merely empowers the Federal Government to remove implementation difficulties in a manner consistent with the provisions of the Act and does not authorize it to alter or amend the substantive charging mechanism. By substituting the statutory benchmark of the OGRA-notified sale price with an altogether different criterion, the Impugned Order effectively amends the charging provisions of the Levy Act, thereby exercising a legislative function reserved exclusively for Parliament under Articles 70 and 77 of the Constitutionof the Islamic Republic of Pakistan, 1973 (the "**Constitution"**). The Impugned Order was, therefore, asserted to be *ultra vires* the parent statute and without lawful authority.

7. Learned counsel further argued that the Impugned Letter dated 11.03.2026, issued by the Ministry of Energy (Petroleum Division), Government of Pakistan, is unlawful on the ground that it sought pricing information from the petitioner for the purpose of implementing a levy which, according to the petitioner, is wholly inapplicable to it. It was further submitted that the said letter was issued in disregard of the interim order passed by this Court on 26.01.2026 in Writ Petition No.345 of 2026, whereby the respondents were restrained from taking coercive measures against the petitioner. The issuance of the Impugned Letter was, therefore, described as an act in circumvention of the subsisting judicial restraint.

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8. Learned counsel also contended that the Impugned Order and the Notification, both infringe the petitioner's fundamental rights guaranteed under the Constitution. It was argued that by compelling the petitioner to collect the levy from its consumers, the respondents have rendered the petitioner's business commercially unviable, as the additional financial burden would inevitably compel its CPPs customers to procure gas from alternative suppliers, thereby jeopardizing the petitioner's business operations. Hence, such action constitutes an unreasonable restriction upon the petitioner's right to conduct lawful trade and business guaranteed under Article 18 of the Constitution. It was further argued that the impugned measures also offend Article 25 of the Constitution, inasmuch as the petitioner alone has been subjected to the levy regime by inclusion in the Schedule to the Levy Act, whereas other similarly situated private gas suppliers have not been treated alike. It was submitted that the classification is devoid of any intelligible differentia and bears no rational nexus with the object sought to be achieved by the Levy Act.

9. In support of the aforesaid submissions, learned counsel placed considerable reliance upon the settled principles governing the interpretation of fiscal statutes. It was argued that a charging provision must receive strict construction and that no person can be subjected to a fiscal levy unless his case falls squarely within the express language employed by the legislature. It was submitted that any ambiguity in the charging provision must necessarily be resolved in favour of the taxpayer. Reliance was placed upon cases reported as "*Chairman, Federal Board of Revenue v. Al-Technique Corporation of Pakistan"* (**PLD 2017 SC 99**), *"Pakistan*

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Television Corporation Limited v. Commissioner Inland Revenue (Legal) and others" (**2019 SCMR 282**), and *"Messrs Bayer Pakistan (Pvt.) Ltd. v. Province of Sindh"* (**2022 MLD 1680**).

10. Learned counsel further placed reliance upon two judicial pronouncements rendered in relation to the Levy Act. The first is the judgment dated 12.02.2026 passed by the Lahore High Court in Writ Petition No.26511 of 2025 titled "*Bulleh Shah Packaging (Pvt.) Ltd. v. Federation of Pakistan and 3 others*", whereby the hon'ble Lahore High Court declared the levy notifications issued under the Levy Act to be without lawful authority to the extent of its retrospective application and further held that the levy rates notified therein were not in conformity with the requirements of sections 3 and 4 of the Levy Act. The second is the judgment dated 12.01.2026 delivered by the High Court of Sindh in Constitutional Petition No.D-1783 of 2025 titled "*M/s Fashion Knit Industries &Ors v. Federation of Pakistan & Others*" whereby hon'ble High Court of Sindh also struck down the retrospective application of the levy, holding that the Levy Act did not authorize imposition of the levy with retrospective effect. Learned counsel argued that the principles laid down in the aforesaid judgments fully support the petitioner's case.

11. Learned counsel finally submitted that the Impugned Order, being a species of subordinate legislation, cannot override, amend or enlarge the provisions of the parent statute. Adds that where subordinate legislation is inconsistent with the Act under which it is framed, the provisions of the parent statute must prevail and the inconsistent subordinate legislation is liable to be struck down. Likewise, where a

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Schedule appended to an Act is inconsistent with its substantive or charging provisions, the latter must govern. In support of these propositions, reliance was placed upon *"Sami Pharmaceutical Pvt. Ltd. v. Province of Sindh"* (**2021 PTD 731**), *"Mst. Ummatullah v. Province of Sindh"* (**PLD 2010 Karachi 236**), and *"Excise and Taxation Officer, Karachi v. Burmah Shell Storage and Distribution Company of Pakistan Ltd."*(**1993 SCMR 338**). Lastly, learned counsel for the petitioner prayed for the acceptance of both the petitions in terms of their prayers.

12. Conversely, learned Additional Attorney General for Pakistan duly assisted by learned counsel for the Respondent No.3, at the very outset, raised a preliminary objection to the maintainability of instant petitions. It was contended that the petitioner lacks the requisite *locus standi* to invoke the constitutional jurisdiction of this Court under Article 199 of the Constitution, as it cannot be regarded as an "aggrieved person". According to them, the levy created under the Levy Act is not imposed upon the petitioner but upon the CPPs consuming natural gas. The petitioner has merely been designated as a collection agent for the limited purpose of collecting the levy from its CPP consumers and depositing the same into the national exchequer. It was argued that since no fiscal liability has been imposed upon the petitioner itself, therefore, it has suffered no legal injury capable of conferring *locus standi* to maintain the present petitions.

13. On merits, it has been submitted that the legislative intent underlying the Levy Act is to subject all CPPs operating in the country to the levy, irrespective of whether they procure natural gas from state-owned gas utilities or from private

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licensed suppliers such as the petitioner. It was argued that the reference to the sale price notified by OGRA under sections 8 and 43B of the Oil and Gas Regulatory Authority Ordinance, 2002, created a practical impediment in implementing the levy in respect of private gas suppliers, whose sale prices are admittedly not notified by OGRA. In order to remove this implementation difficulty and to give full effect to the legislative scheme, the President of Pakistan, in exercise of powers conferred under section 10 of the Levy Act, validly issued the Off the Grid (Captive Power Plants) Removal of Difficulties Order, 2026.

14. It has further been submitted that the Impugned Order neither amends nor overrides the substantive provisions of the Levy Act but merely facilitates its implementation by prescribing an alternative mechanism for computation of the levy in cases where OGRA-notified tariffs are unavailable. It was argued that the Impugned Order validly provides that, in respect of private gas suppliers, the levy shall be determined on the basis of the self-power generation cost calculated with reference to the sale price of natural gas or RLNG supplied by such companies to their CPPs. According to the respondents, the Impugned Order falls squarely within the ambit of the delegated power conferred by section 10 of the Levy Act and constitutes a valid exercise of subordinate legislative authority.

15. It was lastly contended that the Impugned Order, being a piece of delegated legislation issued under express statutory authority, enjoys a presumption of constitutionality and legality and unless the petitioner is able to establish that the delegated legislation is manifestly inconsistent with the parent

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statute or otherwise suffers from constitutional infirmity, the Court ought not to interfere in the exercise of its constitutional jurisdiction. Learned law officer, in support of his arguments has relied upon case laws titled as "*Harris Hasan Syed v. Commissioner Inland Revenue and others*" (**2026 PTD 619**), "*The Commissioner Inland Revenue and others v. Mekotex (Pvt.) Limited and others*" (**PLD 2024 Supreme Court 1168**), "*Elahi Cotton Mills Ltd. v. Federation of Pakistan*" (**PLD 1997 SC 582**) and "*Khurshid Soap & Chemicals v. Federation of Pakistan*" (**PLD 2020 SC 641**). Finally, it was prayed that both petitions be dismissed being devoid of any merit.

16. I have heard the learned counsel for the petitioner, learned Addl: Attorney General as well as the learned counsel for the respondent No.3 at considerable length. I have also perused the pleadings, the documents placed on record, the relevant provisions of the Levy Act, the licence issued by the OGRA in favour of the petitioner, the impugned Order, the Impugned Notification and the impugned Letter dated 11.03.2026, and the precedents cited at the Bar.

17. Before adverting to the rival submissions, it would be advantageous to identify the controversy requiring determination. A careful examination of the pleadings and the submissions advanced by the learned counsels for both the parties reveal that the dispute is essentially one of statutory interpretation. The principal controversy is not the legislative competence of Parliament to enact the Levy Act, nor the constitutional validity of the levy in the abstract. Rather, the question is whether the executive, while exercising delegated authority under the Levy Act, could lawfully extend the

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statutory levy mechanism to a category of gas suppliers who admittedly do not fall within the charging framework enacted by Parliament. Therefore, following questions arise for determination:-

(i) Whether the petitioner possesses the requisite locus standi to invoke the constitutional jurisdiction of this Court under Article 199 of the Constitution despite having been designated merely as a collection agent under the Levy Act?

(ii) Whether the charging provisions contained in sections 3 and 4 of the Levy Act extend to private gas suppliers whose sale price of natural gas is admittedly not notified by OGRA under sections 8 and 43B of the Oil and Gas Regulatory Authority Ordinance, 2002?

(iii) Whether Impugned Notification dated 09.01.2026 whereby petitioner was notified as a collection agent for the purposes of collection of levy under sections 3 and 4 of the Levy Act and Letter dated 11.03.2026 whereby petitioner was directed to furnish information relating to the pricing of natural gas supplied to its consumers purportedly for the purpose of determination of the levy payable under the Levy Act, possess any statutory validity?

(iv) Whether the President, in exercise of powers conferred by section 10 of the Levy Act, could validly substitute the statutory benchmark prescribed by Parliament for the calculation of levy in respect of private gas suppliers?

(v) Whether the Off the Grid (Captive Power Plants) Removal of Difficulties Order, 2026 is *intra vires* the Levy Act?

18. Since, at the threshold, the respondents have questioned the maintainability of the petitions, therefore, the said objection requires consideration before proceeding further into the merits of the controversy.

19. Learned counsels representing the Respondents have contended that the petitioner is not an "aggrieved person" within the contemplation of Article 199 of the Constitution, as no levy has been imposed upon it. According to the respondents, the levy is payable exclusively by the CPPs, whereas the petitioner has merely been notified as a collection agent entrusted with the ministerial function of collecting the

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levy from its consumers and depositing the same into the national exchequer. It has, therefore, been argued that no legal right of the petitioner stands infringed so as to entitle it to invoke the constitutional jurisdiction of this Court.

20. The objection, though attractive at first blush, is devoid of substance. As, the expression "person aggrieved" occurring in Article 199 of the Constitution has consistently received a liberal and purposive interpretation by the superior Courts. The constitutional jurisdiction of this Court is not confined to cases where an individual is subjected to a direct pecuniary liability. It extends equally to cases where a statutory instrument imposes legal obligations, alters legal status, interferes with contractual rights, or otherwise effects the legal interests of a person. The true test is whether the impugned executive action has consequences for the petitioner or has prejudicially affected his legally protected interests. By applying these principles to the facts of the present cases, it is evident that the petitioner is not a stranger to the statutory scheme. By virtue of Impugned Notification dated 09.01.2026, issued under section 9 of the Levy Act, the petitioner has specifically been incorporated into the Schedule to the Act and designated as an "agent" for the purpose of imposition and collection of levy from its CPPs. Petitioner’s such designation is not merely descriptive in character; rather, it carries with it substantive statutory obligations as the petitioner would be legally obliged to bill the levy, recover it from its consumers, account for the collections, deposit the same with the Federal Government, and face the legal consequences flowing from the statutory scheme in the event of non-compliance. The impugned Notification has, therefore, fundamentally altered the petitioner's legal

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obligations under its existing contractual arrangements with its consumers.

21. The matter does not end here as the record further reveals that pursuant to the impugned Notification, the Ministry of Energy (Petroleum Division), Government of Pakistan issued Impugned Letter dated 11.03.2026 requiring the petitioner to furnish copies of all Gas Sale Agreements, together with detailed pricing information and month-wise gas supply data, for the purpose of determining the levy under the Levy Act. The petitioner has, thus, been called upon to disclose confidential commercial information and to facilitate implementation of a statutory regime which it asserts is not applicable to it. The impugned executive action unquestionably affects the petitioner's legal rights and commercial interests.

22. Furthermore, the respondents themselves have consistently maintained that the petitioner is under a statutory obligation to collect the levy from its consumers. Once such a position is adopted by the executive, it cannot simultaneously contend that the petitioner has suffered no legal prejudice. A statutory obligation necessarily carries with it corresponding legal consequences. If the petitioner disputes the very source of that obligation, it cannot be denied access to constitutional remedies merely because the immediate incidence of the levy ultimately falls upon another person.

23. It is yet important to observe here that the challenge mounted by the petitioner is directed not only against the financial incidence of the levy but also against the assumption of statutory jurisdiction by the executive authorities. The petitioner asserts that Parliament itself has not brought it within the charging provisions of the Levy Act and that the executive

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has sought to achieve indirectly, through delegated legislation, what could only have been accomplished by legislative amendment.

24. For the foregoing reasons, this Court is satisfied that the petitioner has established a direct, substantial and legally recognizable interest in the subject matter of the present litigation. The petitioner is, therefore, clearly an "aggrieved person" within the meaning of Article 199 of the Constitution. Consequently, the preliminary objection, regarding maintainability of instant petitions, is repelled.

25. Next aspect of the matter, central in nature, after having held that instant petitions are competent, is that whether the petitioner falls within the charging provisions of sections 3 and 4 of the Levy Act and whether Impugned Notification and Impugned letter have been issued lawfully or not.

26. It is a settled canon of statutory interpretation that every enactment must be construed as an integrated whole. The provisions cannot be read in isolation, nor can a particular expression be detached from the statutory context in which it appears. The Court is, therefore, required to discern the legislative scheme by reading the statute harmoniously so that each provision is assigned its due meaning without rendering any part thereof redundant or otiose. Reference in this regard can be made to case law titled as "Commissioner Inland Revenue, Zone-II, Large Taxpayers Unit, Lahore v. Coca Cola Export Corporation" (**2026 PTD 318**).

27. A plain reading of the Levy Act reveals that Parliament enacted a self-contained statutory framework comprising mainly four distinct components, namely: (i) the imposition of the levy; (ii) the mechanism for determination of its rate; (iii)

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the collection of the levy through designated agents; and (iv) its utilization for reduction of electricity tariffs. Each of these components performs a distinct legislative function, yet each is inextricably linked with others. The charging provision cannot, therefore, be separated from the computation mechanism. Admittedly, section 3 of the Levy Act, is the charging provision, which is reproduced in verbatim as under:-

> **3. Imposition and collection of levy**. (1) Subject to section 4, every captive power plant shall pay to the Federal Government a levy on consumption of natural gas or RLNG, over and above the sale price notified under section 8 and section 43B of the Oil and Gas Regulatory Authority Ordinance, 2002 (XVII of 2002), at such rate as notified by the Federal Government in the official Gazette, from time to time.
> (2) The agent shall be responsible for billing of levy to captive power plants, its collection and onward payment to the Federal Government in the manner as may be prescribed.

The plain reading of Section 3 reveals that it creates the liability to pay levy upon the consumption of natural gas or RLNG by captive power plants. However, Parliament has not imposed an unqualified levy upon every consumer of natural gas. Instead, the charging provision expressly stipulates that the levy shall be payable "*over and above the sale price notified under section 8 and section 43B of the Oil and Gas Regulatory Authority Ordinance, 2002*" and at such rate as may be notified by the Federal Government in the Official Gazette from time to time.

28. Section 4 complements the charging provision by prescribing the methodology for calculation of the levy. For ease of reference, the same is also reproduced hereunder in verbatim:-

> **4. Calculation of rate of levy**. Before notifying the levy under sub-section (1) of section 3.the divisions concerned under the Rules of Business, 1973 shall calculate the rate of

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> levy by taking into account the difference of power tariff of industrial B3 category, notified by NEPRA, and the self-power generation cost of the captive power plant at the gas tariff notified by OGRA:
>
> Provided that the rate of levy shall be increased by five percent immediately and further increased to ten percent by July, 2025, fifteen percent by February, 2026 and twenty percent by August, 2026.

The plain reading of Section 4 of Levy Act reveals that before notifying the levy under section 3, the concerned Divisions are required to calculate its rate by taking into account the difference between the industrial B3 power tariff notified by NEPRA and the self-power generation cost of the captive power plant "*at the gas tariff notified by OGRA*". Thus, the statute employs the same statutory benchmark, the gas tariff *notified by OGRA*, not only for identifying the incidence of the levy under section 3 but also for determining its quantum under section 4.

29. In connection to above, it is also significant to point out here that the expression "self-power generation cost" itself has been defined by the Legislature under section 2(m) of the Levy Act, which means "*the power generation cost of the captive power plant at the Oil and Gas Regulatory Authority's (OGRA) notified tariff*." The definition clause leaves little room for interpretative flexibility. Parliament has consciously anchored the computation of levy to a specific regulatory benchmark, namely, the *tariff notified by OGRA*.

30. The legislative design thus demonstrates that the *OGRA-notified tariff* is not an incidental or procedural reference rather, it constitutes the very foundation upon which both, the charging provision and the computation mechanism are structured. The reference appears repeatedly in the operative provisions of the statute and is woven into the legislative formula enacted by

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Parliament. Therefore, the Court cannot treat the requirement of an OGRA-notified tariff as a mere administrative detail capable of being ignored or substituted through executive action.

31. It is well settled that a Court interpreting a fiscal statute cannot supply omissions or fill perceived legislative gaps on considerations of equity, convenience or presumed legislative intention. Reference can be made to case laws titled as "*MeeraShafi v. Ali Zafar*" (**PLD 2023 Supreme Court 211**) and "*Muhammad Rafique v. Director General, Federal Investigation Agency, Islamabad and another*" (**2023 P Cr. L J 38**). The fiscal legislation operates strictly within the boundaries demarcated by the Legislature. Reference can be made to case law titled as "*Pakistan Television Corporation Limited (PTVCL) through Company Secretary v. Appellate Tribunal Inland Revenue, Islamabad Bench, Islamabad and 3 others*"(**2025 P T D 1575).** Where Parliament has defined the circumstances in which a levy becomes payable, neither the executive nor the Court is competent to enlarge those circumstances by implication. Reference can be made to case laws titled as "*Messrs Bayer Pakistan (Pvt.) Limited through Legally Authorized Officer and others V. Province of Sindh through Member Board of Revenue and others*" (**2022 MLD 1680**), "*Muhammad Afzal v. Ayub Nawaz, Taxation Officer, Municipal Committee, Rahimyar Khan and others*" (**2008 CLC 896**), "*Syed Mukhtar Hussain Shah v. Mst. Saba Imtiaz and others*" (**PLD 2011 Supreme Court 260**) and *"Tariq Nasim Jan and others v.Al-Hamra Hills (PVT.) Limited and others"* (**2017 CLD 1442**).

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32. From the plain language of sections 3 and 4 of the Levy Act it reveals that the Parliament deliberately selected the OGRA-notified gas tariff as the statutory benchmark for both the imposition and computation of the levy. The repeated reference to the OGRA-notified tariff is neither accidental nor superfluous. It constitutes an essential legislative ingredient of the charging mechanism enacted by Parliament. Consequently, any interpretation which disregards or substitutes that benchmark would amount not to interpretation but to legislation which is an exercise plainly beyond the constitutional function of the Court and equally beyond the competence of the executive acting under delegated authority.

33. Having interpreted the statutory scheme embodied in sections 3 and 4 of the Levy Act, the next questions, therefore, are whether the petitioner, whose licence admittedly contemplates sale of natural gas under privately negotiated Gas Sale Agreements and whose sale price is not notified by OGRA, can nevertheless be brought within the charging provisions of sections 3 and 4 of the Levy Act and the whether Impugned Notification dated 09.01.2026 and Impugned Letter dated 11.03.2026 have lawfully been issued or not.

34. These issues necessarily require an examination of the petitioner's statutory licence, the regulatory framework governing its operations, and the legal consequences flowing from the admitted absence of an OGRA-notified sale price.

35. The controversy in this regard is not burdened with disputed questions of fact as the parties are *ad idem* on certain foundational facts. It is not disputed that the petitioner is a private limited company incorporated under the Companies Act, 2017. It is equally undisputed that the petitioner is the

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holder of Licence No. NG-015/2016 issued by the Oil and Gas Regulatory Authority (OGRA) on 22.02.2016 under sections 22 (1) and 23 (6) of the Oil and Gas Regulatory Authority Ordinance, 2002, authorizing it to undertake the regulated activity of sale of natural gas.

36. The nature and scope of the licence granted to the petitioner is equally significant as a careful reading thereof demonstrates that the regulatory model devised by OGRA for the petitioner is fundamentally different from the statutory framework governing the integrated gas utility companies, namely, Sui Northern Gas Pipelines Limited (SNGPL) and Sui Southern Gas Company Limited (SSGCL). The licence expressly contemplates that the petitioner shall procure natural gas or LNG through commercial arrangements and sell the same to its consumers under individually negotiated Gas Sale Agreements. Clause (ii) of the licence specifically provides that the petitioner "*will sell the natural gas to consumers at CMSs in accordance with the terms and conditions of Gas Sales Agreement between Licensee and Consumers.*" The contractual relationship between the petitioner and its consumers is, therefore, founded upon private commercial negotiations rather than tariff determination by the regulator. The respondents have not disputed this legal position. Indeed, throughout the proceedings, the Federation has candidly acknowledged that the sale price charged by the petitioner to its consumers is neither determined nor notified by OGRA. The respondents' own case is that it was precisely because no OGRA-notified tariff exists in relation to private suppliers that the President considered it necessary to issue the Off the Grid (Captive Power Plants) Removal of Difficulties Order, 2026. This admission, in the

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opinion of this Court, assumes decisive importance because, as already discussed in the preceding part of this judgment, Parliament consciously employed the expression "*sale price notified under section 8 and section 43B of the OGRA Ordinance*" in section 3 and "*gas tariff notified by OGRA*" in section 4. These are not descriptive expressions referring generally to the prevailing market price of natural gas rather, they are statutory references to a specific regulatory mechanism operating under the OGRA Ordinance. The significance of this legislative choice becomes apparent when viewed in the context of the petitioner's licence. The licence does not envisage that OGRA shall determine or notify the petitioner's sale price. On the contrary, it contemplates commercial sale of natural gas under mutually negotiated Gas Sale Agreements. Thus, the very statutory benchmark employed by Parliament in sections 3 and 4 has no application to the petitioner's business model.

37. At this juncture, it is necessary to note an important distinction which appears to have escaped the attention of the respondents. The absence of an OGRA-notified tariff in the petitioner's case is not the result of any omission on the part of the Authority, nor is it attributable to any administrative failure requiring executive intervention. Rather, it is the inevitable consequence of the regulatory framework deliberately established under the petitioner's licence. In other words, the absence of an OGRA-notified tariff is a legal characteristic of the petitioner's regulatory regime and not an implementation defect capable of being cured by executive fiat. It is a settled principle of interpretation that where the Legislature adopts a statutory expression which has acquired a definite legal meaning under another enactment, such expression must

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ordinarily be understood in that legal sense unless a contrary intention clearly appears. Reference can be made to case law titled as "*Syed MukhtarHussain Shah v. Mst. Saba Imtiaz and others"*(**PLD 2011 Supreme Court 260**) and "*Tariq Nasim Jan and others v. Al-Hamra Hills (PVT.) Limited and others*"(**2017 CLD 1442**). By expressly referring to the sale price notified under sections 8 and 43B of the OGRA Ordinance, Parliament consciously incorporated into the Levy Act a regulatory concept already existing under the OGRA regime. The Court cannot dilute or enlarge that concept merely because a different category of licensees operates under a separate commercial model.

38. Learned law officer has repeatedly argued that Parliament intended to impose the levy upon every Captive Power Plant in the country irrespective of the source from which it procures natural gas. The submission undoubtedly appeals to the object sought to be achieved by the Levy Act. However, legislative intention cannot be gathered merely from the perceived purpose of the enactment while ignoring the language actually employed by Parliament. Courts ascertain legislative intention primarily from the words enacted by the Legislature and not from what the executive considers the Legislature ought to have enacted. Reference can be made to case laws titled as "*Mst. Gulshan Bibi and others v. Muhammad Sadiq and others*"(**PLD 2016 Supreme Court 769**), *"Mumtaz Hussain v. Dr. Nasir Khan and others"*(**2010 SCMR 1254**) and "*Muhammad Fahad Malik v. Pakistan Medical And Dental Council and others*"(**P L D 2018 Lahore 75**). If Parliament intended to extend the levy to all gas suppliers irrespective of whether their sale price was notified by OGRA, nothing

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prevented it from employing broad expressions such as "sale price charged by the supplier", "market sale price", or "such price as may be prescribed." Significantly, Parliament did not choose any such expression. Instead, it repeatedly linked the charging mechanism with the tariff notified by OGRA. The Courts are not at liberty to substitute one legislative expression with another merely because the latter may appear more comprehensive or more consistent with the perceived policy underlying the enactment. Reference can be made to case law titled as "*Muhammad Safeer and others v. Muhammad Azam and others.*"(**PLD 2024 Supreme Court 838**) and "*Syed Mukhtar Hussain Shah v. Mst. Saba Imtiaz*" (**PLD 2011 Supreme Court 260).**

39. The submissions of learned counsels for the respondents, if accepted, would require this Court to read into sections 3 and 4 words which Parliament has consciously omitted and such an exercise would plainly offend the well-settled doctrine that a Court cannot supply a *casus omissus* in a taxing statute. Recourse can be made to case laws titled as "*Deputy Director Finance and Administration FATA through Additional Chief Secretary FATA, Peshawar v. Dr. LalMarjan*" (**2022 SCMR 566**), "*The Collector of Sales Tax Gujranwala v. Super Asia Mohammad Din and sons*" (**2017 SCMR 1427**), "*State Cement Corporation of Pakistan Ltd. v. Collector of Customs, Karachi*" (**1998 SCMR 2207**) and "*MessrsGetz Pharma (PVT.) Limited through Authorized Person and others Versus Federation Of Pakistan through Secretary and others*"(**2019 P T D 2209**). The omission, if any, is a matter for legislative correction and not judicial or executive innovation.

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40. The respondents have also argued that the Impugned Notification only designates the petitioner as a collection agent under section 9 of the Levy Act and, therefore, does not itself create any substantive liability. However, it is a settled principle of statutory construction that machinery provisions are always subservient to the charging provisions and it facilitates assessment, collection and recovery of a levy already validly imposed by the Legislature. It cannot operate independently of the charging section, nor can it enlarge the class of persons or transactions brought within the ambit of the levy. Where the charging provision itself does not apply, the machinery provisions necessarily become inoperative in relation to the person sought to be burdened.

41. Section 9 of the Levy Act empowers the Federal Government to notify persons who shall collect the levy as agents on its behalf. However, this provision neither creates the levy nor determines the persons upon whom it is chargeable. It just prescribes the mechanism through which a levy otherwise validly imposed under sections 3 and 4 is to be collected. The power to appoint a collection agent is thus entirely dependent upon the existence of a valid charging provision applicable to the person from whom the levy is sought to be collected.

42. As already held in the preceding parts of this judgment, the petitioner does not fall within the charging framework enacted by sections 3 and 4 of the Levy Act, and the executive could not lawfully enlarge that framework. The Impugned Notification itself merely inserts the petitioner's name into the Schedule appended to the Levy Act for the purpose of collection of levy from CPPs by the petitioner. It does not purport to amend sections 3 or 4 of the Act, nor could it have

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done so. The Schedule and the Impugned Notification issued thereunder merely identify the collecting agency; they cannot expand the substantive scope of the charging provisions enacted by Parliament. It is trite law that where there exists any inconsistency between the Schedule to an Act and the operative provisions of the statute, the latter must prevail. A Schedule forms part of the enactment only to the extent that it is consistent with the substantive provisions thereof. It cannot be construed in a manner which enlarges, restricts or otherwise modifies the plain language of the parent Act. The Supreme Court, in "*Excise and Taxation Officer, Karachi v. Burmah Shell Storage and Distribution Company of Pakistan Ltd.*" (**1993 SCMR 338**), authoritatively held that where the Schedule travels beyond the substantive provisions of the statute, it must yield to the Act and not vice versa.

43. In the present case, acceptance of the respondents' contention would produce precisely such an impermissible consequence. Although Parliament has confined the charging mechanism to cases where the statutory benchmark of an OGRA-notified tariff exists, the executive, by adding the petitioner's name to the Schedule through the Notification, seeks indirectly to extend the operation of the Levy Act to a category of suppliers not contemplated by the charging provisions themselves. Such enlargement of legislative policy cannot be achieved through executive notification. The doctrine that "*what cannot be done directly cannot be done indirectly*" is fully attracted to the facts of the present case. If Parliament itself has not subjected the petitioner's transactions to the levy, the executive cannot accomplish the same result by designating

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the petitioner as a collection agent under section 9 of the Levy Act.

44. The cumulative effect of the foregoing discussion is inescapable. The petitioner operates under a regulatory framework in which the sale price of natural gas is contractually negotiated between the licensee and its consumers and is admittedly never notified by OGRA. Since sections 3 and 4 of the Levy Act predicate both the imposition and the computation of the levy upon the existence of an OGRA-notified tariff, the petitioner does not answer the statutory description contemplated by the charging provisions enacted by Parliament. Consequently, the machinery provisions of the Levy Act cannot be invoked against the petitioner unless the parent statute itself is first amended by the competent Legislature. Consequently, the Impugned Notification dated 09.01.2026 is held to be without lawful authority and liable to be set aside.

45. The conclusion reached in the preceding part of this judgment inevitably brings the Court to the central issue involved in writ petition No.1421 of 2026 that whether the President, while exercising powers under section 10 of the Levy Act, could validly issue the Impugned Order, whereby the statutory benchmark enacted by Parliament for the imposition and computation of levy was substituted with an altogether different criterion. The answer to this question depends upon the scope of delegated legislative authority and the constitutional limitations governing its exercise.

46. Before examining section 10 of the Levy Act, it is necessary to recall certain well-settled constitutional principles. Under the constitutional scheme, legislative power is vested in Parliament. Articles 70 and 77 of the Constitution embody the

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fundamental principle that the imposition of any tax or levy, and the essential ingredients governing its incidence and computation, are matters falling within the exclusive legislative domain. While Parliament may undoubtedly delegate limited authority to the executive to carry the statute into effect, such delegation does not authorize the executive to alter, enlarge or amend the legislative policy embodied in the parent enactment. Delegated legislation is intended to supplement legislation, not to supplant it. Wisdom has been drawn from the case laws titled as "*Sindh Revenue Board through Secretary Government of Sindh, Karachi v. Quick Food Industries (Pvt) Limited*" (**2023 SCMR 1776**) and "*Muhammad Amin Muhammad Bashir Limited v. Government of Pakistan through Secretary Ministry of Finance, Central, Secretariat, Islamabad*" (**2015 SCMR 630**).

47. It is equally well established that a statutory power to "remove difficulties" is among the narrowest forms of delegated legislative authority. Wisdom has been drawn from the case laws titled as "*Shahtaj Sugar Mills Ltd. and others v. Government of Pakistan through Secretary Finance and others*" (**2024 S C M R 1656**)**,** *"Jurists Foundation through Chairman v. Federal Government through Secretary, Ministry of Defence and others"* (**PLD 2020 Supreme Court 1**), "*Mr. Fazlul Quader Chowdhry and others v. Mr. Muhammad Abdul Haque*" (**PLD 1963 Supreme Court 486**) **and** "*Attock Petroleum Limited (Apl) v. National Highway Authority and another*" (**2022 P T D 222**). Such a provision is intended to enable the executive to remove procedural, transitional or administrative impediments encountered in implementing the Levy Act. It does not confer authority to amend substantive provisions of the

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statute, to alter legislative policy, to substitute statutory conditions, or to enlarge the field of operation consciously delineated by Parliament. The removal of difficulties clause is an enabling provision for effectuating the Act; it is not a charter for rewriting it.

48. The reason underlying this limitation is self-evident. If a general power to remove difficulties were construed as authorizing the executive to modify substantive provisions of the statute, it would effectively acquire the same legislative authority as Parliament itself. Such an interpretation would render the constitutional distribution of legislative powers illusory and permit amendment of primary legislation without recourse to the legislative process envisaged by the Constitution.

49. As discussed in the preceding parts of this judgment, Parliament deliberately employed the OGRA-notified tariff as the statutory benchmark governing both the imposition of levy under section 3 and its computation under section 4. The existence of such notified tariff is thus an essential ingredient of the charging mechanism enacted by Parliament. The petitioner admittedly operates under a distinct regulatory regime where the sale price of natural gas is determined through privately negotiated Gas Sale Agreements and is not notified by OGRA.

50. The executive, having such statutory position, choose not to seek legislative amendment and instead, issued the Impugned Order under section 10 of the Levy Act. A plain reading of which reveals that it declares the statutory benchmark of the OGRA-notified tariff to be inapplicable in respect of private gas suppliers and, in its place, prescribes a wholly different formula by directing that the levy shall be determined on the basis of the

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self-power generation cost worked out with reference to the sale price charged by such gas companies to their captive power consumers.

51. In the considered opinion of this Court, the aforesaid exercise does not amount to removal of a difficulty; rather, it amounts to substitution of one legislative standard with another. Parliament consciously selected one criterion, whereas the Impugned Order has introduced an entirely different criterion.

52. Learned law officer has argued that the executive has only filled a legislative gap because the Act did not contemplate private gas suppliers whose sale prices are not notified by OGRA. This Court is unable to subscribe to this submission as there exists an important distinction between a legislative omission and an implementation difficulty. A legislative omission arises where Parliament has consciously or inadvertently failed to provide for a particular situation. Whether such omission should be remedied is itself a matter of legislative policy. An implementation difficulty, on the other hand, presupposes the existence of a complete statutory rule whose execution encounters practical obstacles. The executive may remove the latter but cannot cure the former by introducing substantive provisions which Parliament itself has not enacted.

53. In the present case, the absence of a statutory mechanism for private gas suppliers is not the consequence of any administrative obstacle. It flows directly from the language employed by Parliament in sections 3 and 4. The executive has attempted to overcome this statutory limitation not by facilitating implementation of the Act but by prescribing a fresh charging formula, which exercise plainly transcends the limits of section 10.

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54. The submission that the Court should adopt a purposive interpretation so as to advance the object of the Levy Act is also untenable. Purposive interpretation undoubtedly occupies an important place in modern statutory construction. However, no principle of purposive interpretation authorizes either the Court or the executive to disregard express statutory language, particularly in the field of fiscal legislation. Legislative purpose must be gathered from the words chosen by Parliament and cannot be employed to replace those words with a more desirable legislative formulation. Wisdom has been drawn from the case laws titled as "*Market Committee Karachi v. Amin Akbar Ali Dossa and others*" (**2026 SCMR 905**), "*Federation of Pakistan through Revenue Division and others v. Dewan Motors (PVT.) Ltd. and others*" (**PLD 2025 Supreme Court 394**) and *"Dr. Omar Masood and another v. Syed Amir Hussain Naqvi and another"* (**2019 CLD 931**).

55. The respondents have further contended that the Impugned Order enjoys a presumption of constitutionality and legality. There can be no denial that every piece of delegated legislation ordinarily carries such presumption. However, the presumption is neither absolute nor irrebuttable. It yields where the delegatee exceeds the limits of authority conferred by the parent statute. The doctrine of *ultra vires* constitutes the principal safeguard against executive legislation supplanting Parliamentary enactments.

56. In view of what has been discussed above, it is held that the Impugned Order travels beyond the authority conferred by section 10 of the Levy Act. By substituting the statutory benchmark expressly enacted by Parliament with a new benchmark founded upon privately negotiated sale prices, the

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delegatee has effectively altered the charging architecture of the Levy Act. Such an alteration could only have been accomplished by Parliament through legislative amendment and not by executive notification under a removal of difficulties clause.

57. There is yet another feature of the Impugned Order which reinforces the above conclusion. The Order expressly provides that it shall be deemed to have taken effect from 31st January, 2025. Neither section 10 nor any other provision of the Levy Act authorizes the executive to retrospectively alter the charging mechanism enacted by Parliament. Retrospective operation of a delegated legislative instrument affecting fiscal liability is a matter requiring clear statutory authorization. In the absence of such express authority, retrospective enlargement of the charging provisions cannot be sustained.

58. The respondents have sought to justify the retrospective operation of the Impugned Order on the ground that it clarifies the existing statutory position. The argument cannot be accepted. A provision which substitutes the very criterion for determination of levy cannot be described as clarificatory. It creates substantive legal consequences, enlarges the class of persons brought within the charging framework, and modifies the basis upon which fiscal liability is determined. Such changes are inherently substantive and cannot be given retrospective effect through delegated legislation in the absence of explicit legislative sanction. Reference can be made to case laws titled as "*Army Welfare Sugar Mills v. Federation of Pakistan, etc.*" (**1992 SCMR 1652**), "*Sehikh Fazal Ahmad v. Raja Ziaullah Khan and another*" (**PLD 1964 SC 494**), "*Government of Pakistan through Secretary Establishment*

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Division, Islamabad v. Muhammad Ismail and others" (**2021 SCMR 1246**) and "*Hashwani Hotels Ltd. v. Federation of Pakistan and others*" (**PLD 1997 SC 315**).

59. The cumulative effect of the foregoing discussion leaves little room for doubt. The Impugned Order neither explains the Levy Act nor facilitates its implementation. Instead, it substantially modifies the statutory conditions enacted by Parliament, enlarges the scope of the charging provisions, introduces an altogether different method for computation of levy, and seeks to give such modification retrospective operation. Each of these consequences lies beyond the permissible limits of section 10 of the Levy Act.

60. Consequently, I hold that the Off the Grid (Captive Power Plants) Removal of Difficulties Order, 2026 is *ultra vires* the Levy Act, being beyond the scope of the delegated authority conferred by section 10 thereof. The said Order, having sought to amend the parent statute under the guise of removing difficulties, is without lawful authority and of no legal effect.

61. Consequent to above, the Letter dated 11.03.2026 issued by the Ministry of Energy (Petroleum Division), Government of Pakistan whereby, the petitioner was directed to furnish copies of Gas Sale Agreements, detailed pricing information, month-wise supply volumes and other commercial data for the stated purpose of determining the levy payable by its captive power consumers, having derived its authority and being entirely consequential upon the Impugned Notification and Impugned Order, is also held to be issued without lawful authority and liable to be set aside.

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62. Learned counsel for the petitioner has also argued that the issuance of the Letter amounted to an overreach of the interim order passed by this Court whereby the respondents had been restrained from taking coercive measures against the petitioner. While there may be some substance in the grievance expressed by the petitioner, this Court considers it unnecessary to return any definitive finding on that aspect. Once the Letter itself is found to be devoid of statutory authority, the question whether it also violated the interim order becomes academic and need not be adjudicated for the disposal of these petitions.

63. Learned counsel for the petitioner has also assailed the impugned instruments on the grounds that they offend Articles 18 and 25 of the Constitution by imposing unreasonable restrictions upon the petitioner's right to carry on lawful business and by subjecting the petitioner to discriminatory treatment *vis-a-vis* other private gas suppliers. Reference has also been made to Articles 70 and 77 of the Constitution to contend that the Impugned Order amounts to an exercise of legislative power by the executive.

64. Insofar as Articles 70 and 77 are concerned, the principles embodied therein have already informed the discussion relating to the limits of delegated legislation. The conclusion that the executive has travelled beyond the authority conferred by section 10 of the Levy Act necessarily flows from the constitutional distribution of legislative powers and requires no further elaboration.

65. As regards the alleged violation of Articles 18 and 25, this Court is of the considered opinion that it is neither necessary nor desirable to enter upon an elaborate constitutional examination in the present case. It is a settled principle of

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constitutional adjudication that where a matter can be effectively decided on statutory interpretation or other narrower legal grounds, the Court should ordinarily refrain from pronouncing upon wider constitutional questions. Reference can be made to case laws titled as "*Fozia Mazhar v. Additional District Judge, Jhang and others*" (**PLD 2024 Supreme Court 771**), "*Jurists Foundation through Chairman v. Federal Government through Secretary, Ministry of Defence and others*" (**PLD 2020 SC 1**), "*Meera Shafi v. Office of the Governor Punjab & others*" (**2019 LHC 3402/PLD 2020 Lahore 54**) and "*Lahore Development Authority v. Imrana Tiwana*" (**2015 SCMR 1739**). The above conclusions are sufficient to dispose of both petitions. Hence, this Court considers it unnecessary to render any concluded opinion on the petitioner's challenge founded upon Articles 18 and 25 of the Constitution. Those questions are, therefore, left open to be examined in an appropriate case should the necessity so arise.

66. For the foregoing reasons, both Writ Petition No.345 of 2026 and Writ Petition No.1421 of 2026 are hereby **allowed**. Consequently:-

(a) Notification dated 09.01.2026, whereby the petitioner was notified as a collection agent under the Off the Grid (Captive Power Plants) Levy Act, 2025, is declared to have been issued without lawful authority and is hereby set aside to the extent it applies to the petitioner.

(b) The Off the Grid (Captive Power Plants) Removal of Difficulties Order, 2026 dated 24.02.2026 is declared *ultra vires* the Off the Grid (Captive Power Plants) Levy Act, 2025 and of no legal effect.

(c) Letter dated 11.03.2026 issued by the Ministry of Energy (Petroleum Division), Government of Pakistan pursuant to the aforesaid Notification and

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the Impugned Order is likewise declared to be without lawful authority and is hereby set aside.

In the circumstances of the matter, there shall be no order as to costs.

67. Before parting with the matter, it is necessary to observe that nothing contained in this judgment shall be construed as expressing any opinion on the legislative competence of Parliament to impose a levy upon private gas suppliers or Captive Power Plants. The Parliament unquestionably enjoys the constitutional authority to enact or amend fiscal legislation within the limits prescribed by the Constitution. The present judgment proceeds solely on the basis that such legislative object cannot be achieved through subordinate legislation travelling beyond the authority conferred by the parent statute.

(CHIEF JUSTICE)

Shamroz Ali

APPROVED FOR REPORTING

(CHIEF JUSTICE)

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