

Vehicular Pollution in India and Some Recent Regulatory Measures

The Supreme Court of India recently raised the idea of levying green taxes on diesel-run cars and other petrol vehicles as compensation for environmental damage in a November 2012 order.¹ Although the government has declined introducing any such taxes on vehicles, the government's decision does not seem to put the matter to rest.

For example, the Supreme Court sought the government's response to a radical plea for collection of 25% of the cost of a diesel car or SUV sold in the National Capital Region as a green tax at the time of their purchase, with a view to deter people from buying polluting cars.² The court has also proposed the direct collection of environment compensation on existing diesel and petrol cars—an annual levy of 2% of cost of existing petrol cars and 4% of diesel cars. Notably, this is not the first time such green taxes on vehicles have been proposed. In 2011, the Delhi government proposed an increase in the tax on diesel-run vehicles by 25% at the time of their registration in the city. Currently, monetary penalties for selling old diesel-run buses in India are already in place. The proposed taxes, if implemented, are expected to go a long way in checking the pollution caused by diesel-run vehicles.

Environmental Concerns

In urban areas, vehicular emissions significantly contribute to the degrading of ambient air quality, thereby posing a serious environment and health concern. It is extremely difficult to check vehicular pollution, as the fleet of vehicles on the road has only risen with the increase in industrialization, population, and economic growth. In a country where one car was once a luxury, two cars per household has become an acceptable norm in large cities. The public transportation system, including buses, auto-rickshaws, and taxis, has also grown to cater to the demands of an increasing population. The vehicular population in Delhi alone rose to 3.6 million in the year

2001, as against 1.9 million in 1990. This represented an increase of approximately 87%. Vehicular pollution directly impacts human health, as it is emitted at ground level, with the worst affected being children, stray animals, and plants. Vehicular pollution leads to serious respiratory and heart diseases, thereby resulting in increased mortality and morbidity.

On February 5, 1990, the government amended the Environment (Protection) Rules of 1986 to prescribe mass emission norms and in-use emission norms for the first time in the country.³ These norms have been amended several times since then. Mass emission standards for two- and three-wheelers manufactured on and from April 1, 2010, have also been prescribed under the Central Motor Vehicles Act of 1988 and rules made thereunder.⁴

In September 1998, the Delhi government ordered the phasing out of lead in petrol. In February 2000, lead in petrol was phased out all over the country. A program promoting the use of compressed natural gas (CNG) and other clean fuels has also been in place in various Indian cities. Notably, the CNG drive was also initiated by the Supreme Court while acting on a public interest petition.⁵ Under that order, the Supreme Court mandated the replacement of all pre-1990 autos and taxis with new vehicles using clean fuels by March 31, 2000. The entire city bus fleet (public and private) was required to be steadily converted to single-fuel mode on CNG by March 31, 2001. The Court also ordered the establishment of the Environment Pollution (Prevention and Control) Authority (EPCA) as a result of the petition.

Issues Surrounding Dieselization of Vehicles

The debate around diesel vehicles and their harmful impact on the environment has been going on since 1999, when the EPCA submitted a report to the Supreme Court entitled "Restriction on the Plying of Diesel Driven

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(Private) Vehicles in the NCR.” This report highlighted the need for a ban on diesel cars in Delhi based on the emerging public health and pollution levels in Delhi.⁶ In 2001, in another report prepared and submitted by the EPCA to the Supreme Court,⁷ the EPCA concluded that in Delhi, low-sulfur diesel with 0.05% (500 parts per million (ppm)) sulfur could not be regarded as an environmentally acceptable fuel.⁸

In the past, the Supreme Court has directed that penalties be imposed on diesel buses in the interest of public health. In 2002, the Court ordered that permits given to diesel buses should be time-bound and that the continued operation of the diesel buses beyond the stipulated time frame should be subject to a monetary penalty.

In the November 2012 case, amicus curiae Harish Salve's proposal to levy green taxes on vehicles, subsequently mooted by the Court, is also based on a report from the EPCA that calls for restraining the rapid increase in diesel cars with effective tax measures.⁹ The Court has responded positively to the proposal, though the government does not seem to be convinced by the idea.

Conclusion

Environmental nongovernmental organizations have welcomed and supported the November 2012 order of the Supreme Court, while the automobile manufacturers and dealers have raised skepticism about the future of this order. However, the government has clarified that it is not in favor of any increase in taxes. Some argue that the levy of a green tax is not necessary, as the automobile industry is already taxed heavily. In addition, the cost of diesel fuel

is much less than the cost of petrol. Raising the price of fuel is a politically sensitive issue, as diesel is the main fuel used for commercial transportation purposes, including the transportation of goods. An increase in diesel prices could therefore have adverse economic effects.

The government must consider formulating stricter emissions norms. The current emissions standards for diesel cars in Delhi and surrounding areas allow higher limits for nitrogen oxides and particulate emissions compared to petrol cars. The government must also encourage cleaner and greener fuels, such as clean diesel fuel (10ppm sulfur) and fuel blended with biofuels, to ensure that people have the option to choose cleaner fuels voluntarily. Needless to say, the exercise of such a choice must be incentivized.

ENDNOTES

- 1 Order dated Nov. 27, 2012, passed in WP (Civil) 13029 of 1985, M.C. Mehta v. Union of India.
- 2 M.C. Mehta v. Union of India and Others (WP 13029/1985) (Apr. 16, 1999), available at <http://www.elaw.org/node/2778>.
- 3 See <http://www.moef.nic.in/legis/env/env4.html>.
- 4 Available at <http://www.tn.gov.in/sta/mvact1988.pdf>.
- 5 Supreme Court Order dated July 28, 1998, on Control of Vehicular Pollution in National Capital Region including Delhi in the matter of M.C. Mehta v. Union of India (WP 939/1996).
- 6 Centre for Science & Environment, Note dieselization of cars and action plan: a brief summary of Supreme Court directives on toxicity of diesel and growing scientific evidence on health impacts of this fuel (Nov. 2012), <http://www.cseindia.org/userfiles/dieselization.pdf>.
- 7 EPCA, Report on Clean Fuels, <http://www.indiaenvironmentportal.org.in/files/Report%20on%20clean%20fuels%20-%20July%202001.pdf>.
- 8 Centre for Science & Environment, Note dieselization of cars and action plan: a brief summary of Supreme Court directives on toxicity of diesel and growing scientific evidence on health impacts of this fuel (Nov. 2012), available at <http://www.cseindia.org/userfiles/dieselization.pdf>.
- 9 The amicus curiae, Harish Salve, had filed an interlocutory application in the WP (Civil) 13029 of 1985, seeking a directive that a charge of 2% of the purchase value of petrol-fueled cars and 4% of the value of diesel-fueled cars be levied in the National Capital Region. The EPCA Report was released sometime in 2012, however, its exact title and date are not available.