



GOVERNMENT OF KERALA



Abstract

LSGD- WP(C)No.2056/2021 filed by M/S P K Ramachandran before the Hon'ble High Court of Kerala- Judgement dated 27.06.2022 -Appeal Petition- Disposed of - Complied with - Orders issued.

LOCAL SELF GOVERNMENT (DB) DEPARTMENT

G.O.(Rt)No.341/2023/LSGD Dated,Thiruvananthapuram, 06-02-2023

- Read 1 Judgment dated 27.06.2022 of Hon'ble High Court of Kerala in WP(C)No.2056/2021
- 2 GO(P)2/2018/PWD dated 27/1/2018

ORDER

The petitioner, M/s P K Ramachandran filed WP(C)No.2056/2021 before the Hon'ble High Court of Kerala alleging that the respondents have been illegally withholding Rs 83,48,314 reimbursable to the petitioner towards GST amount paid on the value of the works carried out and Rs.63,31,501 being the unpaid value of works carried out at the agreed rates in Ext P2, a supplemental agreement between the petitioner and the respondent. The above amounts are refundable to them, which they had paid between 22/12/2017 and 30/6/2019, after the enforcement of GST which came into force on 1/7/2017.

2.The W.P(C) was disposed of directing the first respondent (Secretary, LSGD) to consider Ext P7 and to take an appropriate decision thereon, after affording an opportunity of hearing to the petitioner and the Cochin Corporation and the order was to be passed within two months of receipt of a copy of the judgment. The copy of the judgment received on 11/07/2022 and the time limit expired on 10/09/2022.

3. As directed in the judgement dated 27 June 2022,hearing was conducted on 23/08/2022. But as the time limit on the judgement was about to expire, an extension was filed before the Hon'ble Court taking into view that the alleged matters presented before the hearing officer needed consultations with other departments in Government as well. An extension was granted by the Hon'ble HC.

4. The petitioner has alleged that the respondents have been illegally withholding

Rs 83,48,314 reimbursable to the petitioner towards GST amount paid on the value of the works carried out and Rs.63,31,501 being the unpaid value of works carried out at the agreed rates in Ext P2, a supplemental agreement between the petitioner and the respondent. The above amounts are refundable to them, which they had paid between 22/12/2017 and 30/6/2019, after the enforcement of GST which came into force on 1/7/2017.

5. But this averment does not synchronise with the provisions laid down in Government order read as 2nd paper above, and accordingly Cochin Corporation have denied the payment, which led to this WP(C).

6. Government examined the matter in detail. As per the provisions laid down in Order read as 2nd paper above, Government allowed net GST Compensation towards extra tax burden under GST in respect of cases for which works were tendered and agreement executed before the implementation of GST (in the Country from 01/07/2017) but were completed after 01/07/2017. It was specifically mentioned vide para 24 of the Order that the above compensation will not be payable in respect of works tendered after 01/07/2017. M-Book entries after 30/6/2017 are not availed with the benefits of reimbursement after GST had come into force. Regarding the withheld amount of Rs.83,48,314/- and unpaid amount of Rs.63,31,501/- it is up to the Cochin Corporation authorities being the agreement authority to offer remarks after considering whether the work was tendered and agreement executed before 01/07/2017 and work completed after 01/07/2017 and satisfy all other conditions stipulated.

7. Considering the above circumstances, orders are issued directing the Cochin Corporation authorities, being the agreement authority, to consider the matter in tune with the guidelines in Order read as 2nd paper above. If the work was tendered and agreement was executed before 01/07/2017 and if the work was completed after 01/07/2017 and the petitioners satisfy all other conditions stipulated, then Cochin Corporation is liable to pay the withheld amount of Rs 83,48,314 reimbursable to the petitioner towards GST amount paid on the value of the works carried out and Rs.63,31,501 being the unpaid value of works carried out at the agreed rates in Ext P2.

8. The directions contained in the judgement dated 27 June 2022 in WP(C)2056/2021 is thus complied with.

(By order of the Governor)
ANIL KUMAR G
ADDITIONAL SECRETARY

The Advocate General, Kerala, Thiruvananthapuram (with covering letter)
Secretary, Cochin Corporation, Kochi
Director of Urban Affairs, Thiruvananthapuram
The Accountant General (Audit), (A&E), Kerala, Thiruvananthapuram
✓ Executive Director, Information Kerala Mission
Information officer Web and New Media Wing, I & PRD
Stock File/ Office Copy.

Forwarded /By order

Signed by

Reenamma P A

Date: 06-02-2023 14:02:56
Section Officer

