



GOVERNMENT OF KERALA

Abstract

Local Self Government Department - Judgement of the Hon'ble High Court of Kerala dated 26.09.2024 in WP(C) No.31297/2024 filed by Sri. Sajeev Ramakrishnan, Malappuram - Complied with – Orders issued.

Local Self Government (DD)Department

G.O.(Rt)No.149/2025/LSGD Dated, Thiruvananthapuram, 16-01-2025

- Read 1. Judgement dated 26.09.2024 in WP(C) No.31297/2024 filed by Sri. Sajeev Ramakrishnan, Kottakkal, Malappuram
2. Representation dated nil filed by Sri. Sajeev Ramakrishnan
3. Letter No. KSRRDA/295/2024-B dated 21.12.2024 and 30/12/24 from the Chief Engineer, KSRRDA

ORDER

As per the Judgement read as 1st paper above, the Hon'ble Court had directed that "if the petitioner were to make a comprehensive representation before the 1st respondent (Additional Chief Secretary, LSGD) within a period of two weeks from the date of receipt of a certified copy of the judgment, the 1st respondent shall consider the matter in accordance with the law and after taking note of the circulars referred to above, within a period of two months from the date of receipt of such representation."

2) Accordingly, Sri. Sajeev Ramakrishnan has submitted a detailed representation, read as 2nd paper above, before Government pointing that, in the GST regime works awarded are without including tax element and GST law doesn't permit to include the tax element in contract agreement and therefore the service recipient (PMGSY/KSSRDA/LSGD) is bound to release the tax element. As per Circular No. D1/60/2024/PWD dated 07/05/2024 and Circular No. D1/60/2024/PWD dated 02/08/2024, it is clarified that from 01/07/2017 for all works contract, whether it includes tax or not, it is a bounded duty of the service

recipient (Department) to release the tax element in addition to the total contract amount already tendered and hence the petitioner is entitled to get 18% GST to the work already executed, in accordance with Section 9 and Section 15 of GST Act. As the above Circulars are generally applicable for all the contract works after 01/07/2017, the petitioner has requested to release tax element (GST) for the 6 PMGSY works.

3) The Chief Engineer, KSRRDA, as per letter read as 3rd paper above has reported that the dispute regarding GST in connection with the completed projects is an unsolved issue faced by KSRRDA and the contractors have claimed GST in addition to the contract amount for the bills sanctioned, as per the work agreement executed with KSRRDA. Also at present KSRRDA has no provision to provide GST in addition to the contract amount on the basis of the work agreement executed before or at the time of introduction of GST system without a specific direction from the State/Central Government. The Chief Engineer has also informed that there is no additional fund available with KSRRDA for settling the GST Claim of the contractors and the details of the additional liability of GST have already been submitted to NRIDA on 19.07.2024, in the prescribed format.

4) Government have examined the matter in detail. The National Rural Infrastructure Development Agency has as per letter No. NRRDA-G021(17)/3/2017-FA dated 06.06.2018 given comprehensive guidelines to enable the States to calculate the additional tax implication, if any, on account of application of GST regime. Later, as per letter No. NRRDA-G021(17)/3/2017-FA-359213/426-460 dated 05.02.2024, clarifications have also been issued regarding its adjustment against available savings. As per para 2(v) of the letter from NRRDA dated 05.02.2024, any funds required over and above due to GST implications may be furnished to NRRDA for onward submission to MoRD. In the above circumstances, the Chief Engineer, KSRRDA is directed to take further action on the request of the petitioner in accordance with the directions contained in letter No. NRRDA-G021(17)/3/2017-FA dated 06.06.2018 and letter No. NRRDA-G021(17)/3/2017-FA-359213/426-460 dated 05.02.2024.

5) Circular No. D1/60/2024/PWD dated 07/05/2024 and Circular No. D1/60/2024/PWD dated 02/08/2024 are not fully bound to PMGSY works, since PMGSY is a Centrally Sponsored Scheme in which norms are determined by Central Government and the State Governments have their own limitation to take an ultimate decision. The details of the

additional liability of GST have been already submitted to NRIDA as required by them in the prescribed format. The State Government will take further action in accordance with the further instructions from Government of India.

6)The Judgment read as 1st paper above is thus complied with.

(By order of the Governor)

SHEEJA R S

JOINT SECRETARY

The Chief Engineer, KSRRDA, Thiruvananthapuram
Sri. Sajeew Ramakrishnan,,Chettiyam Valappu, Kottakkal, Malappuram
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The Advocate General, Kerala, Ernakulam (with C/L)
The Principal Accountant General (Audit), Kerala, Thiruvananthapuram
The Accountant General (A&E), Kerala, Thiruvananthapuram
Web & New Media, I&PRD
The Director, Information Kerala Mission, Thiruvananthapuram
Stock File

Forwarded /By order

Section Officer

Copy to: Private Secretary to Hon'ble Chief Minister
Private Secretary to Hon'ble Minister for LSGD