IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE PREETA A.K.

FRIDAY, THE 10TH DAY OF JULY 2026 / 19TH ASHADHA, 1948

WP(C) NO. 23893 OF 2020

PETITIONER:

D.SURESHBABU
AGED 55 YEARS
N.K.DIVAKARAN GOVERNMENT CONTRACTOR, KOLASSERIL HOUSE,
CHTTIKULANAGARA P.O., MAVELIKKARA

BY ADV SRI.S.VIDYASAGAR

RESPONDENTS:

1 KERALA STATE ELECTRICITY BOARD LTD VYDHUTHIBHAVANAM VYDHUTHIBHAVANAM, THIRUVANANTHAPURAM PIN 695 004, REP. BY SECRETARY TO KERALA SATE ELECTRICITY BOARD, VYDHUTHIBHAVANAM, THIRUVANANTHAPURAM PIN-695 004

2 EXECUTIVE ENGINEER
OFFICE OF THE EXECUTIVE ENGINEER TRANSSMISION DIVISION
VYDHYUTHIBHAVANAM, PATHANAMTHITTA DIS KERALA PIN-689 645

3 ASST. EXECUTIVE ENGINEER TRANSMISSION CONSTRUCTION SUB DIVISION
K S E B LIMITED, PATHANAMTHITTA KERALA PIN-689 645

4 ASST. EXECUTIVE ENGINEER
OFFICE OF THE EXECUTIVE ENGINEER TRANSMISSION CONSTRUCTION SUBDIVISION, MANJADI, THIRUVALLA, PATHANAMTHITTA DIS PIN-689 101

BY ADVS.
SRI.G.KEERTHIVAS
SRI.RIJI RAJENDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03.07.2026, THE COURT ON 10.7.2026 DELIVERED THE FOLLOWING:

JUDGMENT

Petitioner, an A Class Government contractor, had undertaken three civil works of the 1st respondent, Electricity Board, evidenced by Exts. P1, P2 and P3. Ext.P1 work order is dated 31.5.2017, Ext.P2 is dated 03.8.2017, and Ext.P3 is dated 30.8.2018. Even though the official date of commencement of work in respect of Ext.P1 is 31.5.2017, going by Ext.P4, the actual date of commencement of work is 25.8.2017. While so, the tax regime in India changed, and the Value Added Tax (for short "VAT") and Service Tax were replaced by a single tax, namely Goods and Services Tax (for short "GST"), which commenced its operation on 1.7.2017. Therefore, it is the contention of the petitioner that on and from 1.7.2017, all works executed would have to be governed by the provisions of the Goods and Services Tax (GST) Act, 2017, and no tax liability can be effective for realizing the VAT and other State Taxes. It is the contention of the petitioner that, after the works were completed, he submitted the contract bills, and the respondent illegally recovered amounts additionally from the bills of the petitioner corresponding to Kerala Value Added Tax (for short 'KVAT') and, in addition thereto, recovered amounts under GST. The petitioner, therefore, challenges Ext.P9 order, which according to him is illegal and arbitrary.

2. When the matter came up for hearing on 22.6.2026, the learned counsel for the respondents sought time to file a counter affidavit in the matter.

3. I have gone through the counter affidavit filed by the respondents. The respondents have taken up a contention that the settlement of bills and release of payments in the said works were carried out in accordance with the statutory provisions contained in the GST regime and that no amounts were recovered towards VAT work contract tax or Service Tax. Relying on Ext.R1(a), the respondents contend that the rates quoted by the petitioner were inclusive of all taxes and duties, as provided under Clause 11.4, and that the tax liability towards work contract tax was 4% and Service Tax was 3%. Since the bills came to be settled after the introduction of the GST regime, the said tax components were not payable separately, and instead, GST @ 18% was released to the petitioner over and above the admissible contract value, as the liability to remit GST vested with the contractor. The respondents, therefore, submit that the petitioner cannot simultaneously claim release of work contract tax and Service Tax, as the GST component has already been added and disbursed to the petitioner.

4. The respondents have drawn my attention to Ext.R1(b) series, which are the bills paid to the petitioner. According to the learned counsel for the respondents, from out of the total bill amount, the amount equal to the tax liability under work contract tax and Service Tax was deducted, and on the amount so arrived at, 18% GST was added, and the total value of the work was thereafter determined. Payments were released after effecting the agreed deductions, and therefore, the contention of the petitioner is unsustainable.

5. I have heard the learned counsel for the petitioner as well as the respondents and perused the materials on record.

6. It is admitted by both parties that, even though one of the three works commenced prior to the GST regime, all the three works were completed after the introduction of the GST regime. Therefore, even going by the admission of the respondents, the tax to be levied is under the GST regime. On going through Ext.R1(b) series, it is seen that the amounts quoted along with the tender towards KVAT liability have been deducted from the contract amount, and thereafter, the GST amount has been added to the contract value. Therefore, the contention of the petitioner that there is double taxation both under the KVAT as well as under the

GST is not sustainable.

7. The learned counsel for the petitioner points out that the quantification in Ext.R1(b) series is not correct and that the same has to be reworked. As far as Ext.P9 is concerned, the order which is under challenge, it is seen that Ext.P9 is only a reflection or explanation of the bills that have been generated and produced as Ext.R1(b) series. Ext.P9 specifically states that the tender was submitted by the petitioner by including the tax liability under KVAT and Service Tax. Therefore, as KVAT no longer exists, the amount so quoted has been deducted from the bill amount, and on such amount, GST @ 18% has been added to arrive at the total contract value. The explanation is in consonance with the statutory provisions. Therefore, I find no reason to interfere with Ext.P9 order passed by the respondents.

8. However, after going through Ext.R1(b) series, the learned counsel for the petitioner contends that there is a dispute pertaining to the amounts that have been calculated. As the same is a question of fact which has to be addressed before the appropriate forum, even though I sustain Ext.P9, I direct the respondents to consider the grievance of the petitioner regarding the calculation of the amounts stated in Ext.R1(b) series. Liberty is granted to the petitioner to approach the appropriate jurisdictional

authorities in order to resolve the dispute, if any.

With the said direction, the Writ Petition is disposed of as above.

Sd/-

PREETA A.K.
JUDGE

sab

APPENDIX OF WP(C) NO. 23893 OF 2020

RESPONDENT EXHIBITS

Exhibit R1(c)	A true copy of the Work Order No.25/17- 1S1EE1TD1PTNdated, 31.07.2017 of the Executive Engineer, Transmission Division, Pathanamthitta
Exhibit R1(a)	A true copy of the relevant pages of the Instructions to the Bidder containing Clauses 11.3 and 11.4.
Exhibit R1(b) series	A true copy of the Abstract of Bills relating to (i) the work of extension of control room for upgradation of 66 kV Substation, AdooA (ii) the work of construction of foundation and erection of C2 columns at Enathu Substation, and (iii) the work of upgradation of 66 kV Substation, Adoor to 110 kV - construction of foundation for yard equipment, columns, construction of cable trench and erection of equipments for 110 kV feeder bay,

PETITIONER EXHIBITS

EXHIBIT P4	TRUE COPY OF FINAL BILL IN RESPECT OF EXT.P1, WORK CONTRACT ISSUED BY 2ND RESPONDENT
EXHIBIT P5	TRUE COPY OF FINAL BILL IN RESPECT OF COMPLETED WORK UNDER EXT.P2 WORK CONTRACT ISSUED BY 2ND RESPONDENT
EXHIBIT P6	TRUE COPY OF FINAL BILL IN RESPECT OF COMPLETED WORK UNDER EXT.P3 WORK CONTRACT ISSUED BY 2ND RESPONDENT
EXHIBIT P7	THE TRUE COPY OF THE REPLY TO QUERY UNDER RIGHT TO INFORMATION ACT, ISSUED FROM KGST DEPARTMENT
EXHIBIT P1	THE TRUE COPY OF THE WORK ORDER NO.4/17-18 DATED 31/5/2017 ISSUED BY 4TH RESPODENT
EXHIBIT P9	THE TRUE COPY OF DISPUTED ORDER DATED 29/6/2020 ISSUED BY 2ND RESPONDENT
EXHIBIT P10	THE TRUE COPY OF THE LETTER GRIEVANCE

	DATED 28/5/2020 ISSUED BY PETITIONER TO 2ND RESPONDENT TO DISBURSE THE RECOVERED AMOUNT FROM BILLS
EXHIBIT P11	THE TRUE COPY OF QUERY AND REPLY DATED 13/3/2020 FROM INFORMATION OFFICER WELFARE FUND
EXHIBIT P12	THE TRUE COPY OF A/D CARD SHOWING RECEIPT OF P10 COMPLAINT.
EXHIBIT P8	THE TRUE COPY OF THE ANSWER RECEIVED FROM FINANCIAL ADVISER KSEB DATED 7/9/2019
EXHIBIT P2	THE TRUE COPY OF THE WORK ORDER NO.25/17 18EE/TD/PTA ISSUED BY 2ND RESPONDENT
EXHIBIT P3	THE TRUE COPY WORK AWARDED BY 3RD RESPONDENT AS PER WORK ORDER NO.AEE/TCSDP/18-19/W056/30-8-2018