

O/o General Manager(NWP-CM)
Mobile Services,
Kerala Telecommunications
TTC Building, RTTC Campus,
Trivandrum-695040
Tel.: 0471-2496666
Fax: 0471-2496655

Returned to
15/06/11

2b/c

भारत संचार निगम लिमिटेड
(भारत सरकार का उपक्रम)
BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)

BSNL 3G))) BSNL LIVE
2010

To

Shri. VIRINDER WADEHRA,
AGM (CMTS Infra-II),
Infra Operations – I Cell, BSNL C.O.,
148- Barakhamba Road, New Delhi – 110 001.



No. MS/INFRA/HQ-Corr/2011-12/23

dated 06.06.2011.

Sub: License fee charged by Municipal authorities regarding installation of towers.

Ref: C.O. Lr. No. 61-04/2011-Infra Ops-I/Misc dated 11.05.2011.

Kind reference is invited to your letter cited under reference. As desired the required information pertaining to Kerala circle is furnished below:

- Vide GO No. 11414/R.D.2/2010 dated 30.10.2010, Kerala Government has exempted BSNL from obtaining permit from Local Bodies for tower erection which is required as per clause 150 of KMBR (Kerala Municipality Building Rules) considering BSNL as fully Central Govt. owned. Rule 130 of KMBR states "No person shall erect or re-erect any non-Governmental telecommunication tower or telecommunication pole structures or accessory rooms or make alteration or cause the same to be done without first obtaining a separate permit for each such tower or telecommunication pole structures from the secretary". Hence at present the case of permit fee/license fee do not exist in Kerala circle.
- Earlier before the issuing of the GO cited above, the Government thro' GO dated 02.01.2009, imposed BSNL a one time levy of Rs. 1,00,000/- for mobile tower. The same was challenged thro' a W.P(C) 8333/09 by BSNL in the Hon'ble High Court of Kerala. High Court in the interim order directed to pay provisionally an amount of Rs. 25,000/- per tower pending disposal of the Writ Petition. Later consequent on stopping of the one time levy imposed by Govt. thro' another GO dated 22.07.2009, the Hon'ble court dismissed the petition and directed the Local Self Govt. Institutions to refund the amount of Rs. 25,000/- made by BSNL, in terms of the interim order. (Copy of Court Order and GOs, attached as Annexure pl.)

Before the GO cited above at para (a), one time permit fee of Rs. 10,000/- and an application fee of Rs. 1,000/- was being paid to the Local bodies per tower. Now after issuing of the GO dated 30.10.2010 by the State Govt., no fee is being paid by BSNL to the Local authorities towards installation of towers.

Encl: Annexure.

K. Sasidharan
Asst. General Manager (OP & INFRA)
For GM (NP-CM)
O/ GM (NP-CM), BSNL,
Trivandrum, Kerala.
9447374757

IN THE HIGH COURT OF KERALA AT ERNAKULAM

W.A.No. 309 of 2009()

1. VODAFONE ESSAR CELLULAR LTD.,
... Petitioner

Vs

1. STATE OF KERALA, REP. BY ITS CHIEF
... Respondent

2. SECRETARY, LOCAL ADMINISTRATION

3. UNION OF INDIA, DEPARTMENT OF

4. SECRETARY, PAMPAKKUDA GRAMA PANCHAYATH

5. SECRETARY, MULIYAR GRAMA PANCHAYATH,

6. SECRETARY, KONGAD SPECIAL GRADE GRAMA

7. SECRETARY, VANDOOD GRAMA PANCHAYATH

8. SECRETARY, THARIODE GRAMA PANCHAYATH,

9. SECRETARY, PANATHHADY GRAMA PANCHAYATH,

10. SECRETARY, PALAKKUZHA GRAMA PANCHAYATH

11. SECRETARY, KORUTHODE GRAMA PANCHAYATH

12. SECRETARY, THIRUVANKULAM GRAMA

13. SECRETARY, ERATTAYAR GRAMA PANCHAYAT

For Petitioner :SRI.P.SATHISAN

For Respondent : No Appearance

The Hon'ble the Acting Chief Justice MR.J.B.KOSHY
The Hon'ble MR. Justice P.BHAVADASAN

Dated :11/02/2009

ORDER
J.B.Koshy, Ag.C.J. & P.Bhavadasan, J.

W.A.Nos. 252 & 309 of 2009

Dated, this the 11th day of February, 2009

JUDGMENT

J.B.Koshy, Ag.C.J.

Interim orders passed by the learned Single Judge in identical situation are challenged in these appeals. The appellants herein are providing mobile cellular services. By Ext.P2 order the State Government has fixed the rate of Rs.2 lakhs as one time tax and Rs.10,000/- as yearly tax towards the property tax on telecommunication towers. Correctness of the above is questioned by the petitioners in the writ petitions. It is the contention of the petitioners that there is no proper authority for levying tax and the levy is in conflict with the specific provisions of Article 246 in List I of Schedule VII.

2. Counter affidavit of the respondents was not filed. Instead of Rs.2,10,000/- as one time tax and yearly tax, the learned Single directed the petitioners to pay Rs.25,000/- per tower subject to final orders in the writ petition. Correctness of the levy was not decided as the interim order was issued at the time of admission.

Dated :11/02/2009

ORDER
J.B.Koshy, Ag.C.J. & P.Bhavadasan, J.

W.A.Nos. 252 & 309 of 2009

Dated, this the 11th day of February, 2009

JUDGMENT

J.B.Koshy, Ag.C.J.

Interim orders passed by the learned Single Judge in identical situation are challenged in these appeals. The appellants herein are providing mobile cellular services. By Ext.P2 order the State Government has fixed the rate of Rs.2 lakhs as one time tax and Rs.10,000/- as yearly tax towards the property tax on telecommunication towers. Correctness of the above is questioned by the petitioners in the writ petitions. It is the contention of the petitioners that there is no proper authority for levying tax and the levy is in conflict with the specific provisions of Article 246 in List I of Schedule VII.

2. Counter affidavit of the respondents was not filed. Instead of Rs.2,10,000/- as one time tax and yearly tax, the learned Single directed the petitioners to pay Rs.25,000/- per tower subject to final orders in the writ petition. Correctness of the levy was not decided as the interim order was issued at the time of admission.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 8333 of 2009(J)

1. BHARAT SANCHAR NIGAM LTD

... Petitioner

Vs

1. STATE OF KERALA, REPRESENTED BY THE

... Respondent

2. SECRETARY, CHAPPARAPPADAVU GRAMA

3. SECRETARY, KEEZHUMAD GRAMA PANCHAYATH

4. SECRETARY, ELAYAVOO GRAMA PANCHAYATH

5. SECRETARY, KANKOL-ALAPADAMABA GRAMA

For Petitioner :SRI.C.S.RAMANATHAN

For Respondent :SRI.M.SASINDRAN

The Hon'ble MR. Justice THOTTATHIL B.RADHAKRISHNAN

Dated :26/08/2009

ORDER

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.8333 OF 2009

Dated this the 26th day of August, 2009

JUDGMENT

The writ petition does not survive the issuance of Ext.P8, which is taken on record as per the order on I.A.10736/09. Accordingly, this writ petition is dismissed as withdrawn without prejudice to contentions and in view of Ext.P8, there will be a further direction that if the petitioner has paid amounts at the rate of Rs.25,000/- in terms of the interim order dated 17.3.2009, the respective Local Self government Institutions will refund such amounts by the force of this judgment.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

k kb.29/8.