



SANCHAR NIGAM EXECUTIVES' ASSOCIATION

KERALA CIRCLE

(Largest Association of Executives in BSNL)

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No.SNEA/Kerala/2020-21/II/176

dated 18th Mar 2021

To

Sh. C V Vinod,
Chief General Manager Telecom,
BSNL, Kerala Circle,
Thiruvananthapuram-33

Respected Sir,

Sub: Property tax being levied by the local bodies for BSNL mobile towers, need for issuing guidelines to BAs to properly defend/scrutinize the demand notices and effecting payments uniformly that too as per existing norms only and a few suggestions to be taken up by the Circle Administration with the LSGD, Govt. of Kerala, our request reg:

It is a fact that various local self governments in the State have started levying property tax on BSNL towers invariably and that too without following any standard norms and uniform procedures as per existing laws. Further, it may be noted that BSNL has not formulated and informed BAs the much required Standard Operating Procedures to effectively deal with such demands from the LSGs which is really a point of concern. This has resulted in many complexities including pilferage of exchequer on recurring basis, litigations, revenue recovery and even prosecution of our officers including BA Heads. We would like to drag your kind attention towards the subject and to arrive at a resolution for the following issues.

1. Issuing demand notices for remitting the property taxes in arrears from the date of construction of towers.

It may be noted that property taxes on telecommunication towers was first notified in the year 2013 in the State of Kerala. Moreover, the Panchayat Raj Act 1994 limits any litigation on recovery of arrears beyond three years following the limitation clause in Revenue Recovery rules. But, it is seen that many LSGs are still issuing demand notices even for very old cases and proceeding with RR or prosecution of our Officers.

2. Non uniform tax rates for towers and accessory buildings

Any LSG in the State is empowered to fix its own tax tariff structure well within the GoK guidelines only. As per the Kerala Govt. notification, property tax for mobile towers is Rs. 400 to Rs.500 per sq.m and for building (other room/shelter) for industry use is @Rs.40 to Rs.60 per sq.m respectively per year. As per notification cited, tower and building are independent properties and hence the two properties should be taken separately for assessment of property tax as per the relevant rate applicable to each. It is pertinent to note that, KMBR 2019 and KPBR 2019 permits the construction of accessory rooms such as equipment rooms, shelters or generator rooms essential for the service and such construction up to 15 sq.m cannot be charged. If such constructions are beyond 15 sq.m area, the same can only be charged @Rs.40 to Rs.60 per sq.m.

3. Non uniform calculation of area of tower for assessment

The whole area within the retaining wall for tower which is constructed either for the protection of tower against natural calamities or to save the telecommunication equipments during flood/water logging etc has been included for the calculations which need to be objected. Similarly, for the roof top towers, many LSGs are seen charging for the area within the primary grid beam instead of the tower base.

4. Need to conclude the already initiated criminal proceedings

In some BAs, criminal proceedings were initiated against BSNL by a few Grama Panchayaths and BSNL was forced to pay the whole demand despite the above narrated discrepancies. BA' earnest requests to those LSGs to modify the demand as per norms were never accepted and still those proceedings are still open in courts. After making the payment to LSGs to avoid legal complexities, BSNL had requested for closing the criminal proceedings but the GPs are demanding payment of 50% of the demand again for closure of the case.

The following are suggested with regard to the above issues.

1. Necessary instructions may be issued by the Circle Administration after formulating a SOP based on the existing norms and as per the relevant clauses in the KMBR, KPBR, Panchayat Raj Act, various State GOs regarding property tax etc and the same may be communicated to BAs on priority to effectively defend all property tax demand notices being issued by various LSGs in the State.

2. Circle Administration may consider approaching the LSGD Heads in the State Government Headquarters and intimate them about the hardships being faced by BSNL including audit objections while processing property tax demands being issued by the LSGs without following existing norms as per law.
3. BSNL may also request the State Government to direct the concerned LSGs to withdraw/conclude all existing litigations wherever tax payments have been effected by BSNL. Also, we may request LSGD to consider penal interest adjustment as per the 2019 GO wherever applicable to end litigations to the extent possible.
4. We may request the State Government to change the date of effect in Grama Panchayaths as done in the case of Municipalities. The representation given to Hon. Chief Minister by SNEA Kerala in this regard is already under the active consideration of the Government, as understood.

Further, it is also requested to take up the matter of pending payments due to non-allotment of funds from BSNL Corporate Office to ensure property tax payment to various LSGs for which no dispute exists and already processed in ERP for final release, before the deadline[31st March 2021] to avoid compounding taxes and anticipating prosecution of BSNL Officers.

Sincerely Yours



Jithesh K P

Circle Secretary

SNEA Kerala Circle