



## KERALA STATE ELECTRICITY BOARD LIMITED

(Incorporated under the Companies Act, 1956)

CIN: U40100KL2011SGC027424, website: [www.kseb.in](http://www.kseb.in)

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### ABSTRACT

RAPDRP Part B Thiruvananthapuram city scheme - issues with M/s Leena Power Tech Engineers Pvt Ltd -Direction from Government for settling the issues - orders issued.

#### **Corporate Office ( SBU D)**

B.O: (FTD) No: 100/2023 (CAPS/AE2/RAPDRP/TVM City/2022-23)

Thiruvananthapuram dated 01.03.2023

- Read: 1. Note No. CAPS/AE2/ RAPDRP/TVM City/2022-23 dated 29.10.2022 of the Chairman and Managing Director.
2. Proceedings of the 68<sup>th</sup> meeting of the Board of Directors held on 02.11.2022 vide Agenda No: 10-11/2022.
3. D.O Letter No: CAPS/AE2/RAPDRP/TVM City/2022-23 dated 26.11.2022 of the Chairman and Managing Director addressed to the Principal Secretary, Power department.
4. Letter No PWR-C1/262/2021-POWER dated 13.02.2023 from the Additional Chief Secretary, Power(C).
5. Note No: CAPS-AE2/2022/59(1) dated 16.02.2023 of the Chief Engineer (IT, CR & CAPS) placed before FTD held on 17.02.2023 (Agenda No; 52/02/2023).

### ORDER

As per the note read as 1<sup>st</sup> above it has been reported before the Board of Directors that Ministry of Power, Government of India has sanctioned RAPDRP part -B scheme for Thiruvananthapuram with an outlay of Rs.178.77 Cr. The work under Distribution component excluding the work of retrofitting the existing RMU was awarded by the Chief Engineer (Distribution - South) to M/s Leena Power Tech Engineers Pvt. Ltd (LPTE), New Mumbai on turnkey basis on 03.04.2014 for an amount of Rs. 201.09 Cr. The agreement was executed by the Chief Engineer (Distribution-South) on 10.07.2014. As per the agreement executed the work is to be completed within 20 months from the date of work order ie.on or before 02.12.2015. The Chief Engineer (Distribution South) as per the sanction accorded vide B.O (FTD) No: 63/2015 dated 09.01.2015 amended the work order issued to M/s. Leena Powertech Engineers (P) Ltd. for the execution of work by splitting into two separate orders for materials and labour portion without any change in payment conditions.

KSEBL had accorded time extension on various occasions and finally up to 31.08.2018 as per BO (FTD) No: 1732/2018 dated 18.08.2018 without LD and without any additional financial commitment to the KSEBL.

The pending issues pertaining to M/s Leena Power Tech brought into the attention of Government of Kerala are as follows.

- Claim for reimbursement of WCT variation.
- Reimbursement of Service Tax variation.
- Claim for extra work done
- Releasing of BG



a) **Work Contract Tax (WCT):** The firm was not registered under KVAT act at the time of submission of bid (ie, 20.06.2013).. Hence the firm is not eligible for any claim towards variation of WCT during the contract period. The same was intimated to the Chief Engineer (Distribution-South) as per letter No: CAPs/P1/RAPDRP/TVMCity /2020-21/90 dated 11.08.2020 of the Director (D, IT & HRM) and the Chief Engineer (Distribution South) vide letter dated 14.08.2020 has communicated the same to the turnkey contractor

b) **Service Tax:** The additional service tax due to the contractor was arrived as Rs.76,40,385/- as per the statement mentioned in the pre audit and the claim could be admitted on receipt of remittance proof from the Contractor, subject to the decision on the observation of the Resident Concurrent Audit officer on the undue benefit of Rs.15,19,01,825/- earned by the contractor by splitting the composite work contract into supply contract and labour contract.

c) **Claim for Extra Work:** The contractor lodged a complaint, that an amount of Rs.2.58 Cr. on account of extra work executed was pending with KSEBL. As per B.O (FTD) No: 203/2019 dated 05.03.2019 it was decided to accord sanction for payment of an amount Rs.11,88,919.83/- towards the additional /extra work done by the contractor.

d) **Release of BG:** The Chief Engineer (Distribution-South) has reported that at present total Bank Guarantee available with KSEBL is as follows

BG Description	Validity up to	Amount
Extended Guarantee for 31 Rings	30.06.2022	Rs.3,31,40,000/-
Energy meter, street Light Controller and pending defect rectification work	31.03.2023	Rs,1,13,00,000/-
<b>Total</b>		<b>Rs.4,44,40,000/-</b>

Releasing of BG submitted by LPTE is pending due to the following

- NLC from consignee is pending due to non-settlement of the Resident Concurrent Audit on undue benefit on account of splitting the work order.
- A suit OS No: 998/2020 filed by Sri.MadhavanNair.P, one of the sub-contractors of M/s LPTE is pending before the Hon'ble Munsiff Court, Thiruvananthapuram in which the respondents are M/s. LPTE and Chief Engineer (Distribution South). The Suit is still continuing.
- M/s LPTE has filed WP ( C) No. 20484 of 2022 before the Hon'ble High Court of Kerala with prayer for staying the encashment of BG. The Hon'ble High Court vide Order dated 28.06.2022 has directed the petitioner to keep the BG live and restrain the respondent Chief Engineer (DS) from invoking the BG.

The eligible payment due to contractor towards the additional /extra work done and the additional service tax due to the contractor could not be released by the Chief Engineer (Distribution South) due to the remarks of Resident Concurrent Audit of undue benefit of Rs.15,19,01,825/- claimed by the contractor due to splitting of the work into supply and labour.

The meeting of the Board of Directors held on 02.11.2022 as per proceedings read 2<sup>nd</sup> above directed to take up the matter with Government requesting for appropriate orders to settle the long pending case. Accordingly the matter was taken up as per DO



letter read as 3<sup>rd</sup> above after incorporating the independent legal advice regarding the indirect taxes, Works contract / Labour and Service contract from a Senior Tax consultant.

Government after examining the matter, as per letter read as 4<sup>th</sup> above has opined that *"It is amply clear and explicit from the records made available by both M/s LPTE and KSEBL that agency contractor is not at fault by splitting the Works contract into Supply and Labour as it was done based on BO (FTD) No: 63/2015(D(D&S/P2/RAPDRP/TVPM/13-14) dated 09.01.2015, Accordingly, the contractor is eligible to receive all the amount withheld on this account. The Bank Guarantees furnished by the contractor to fulfil this obligation are also to be released forthwith.*

*In so far as the Statutory Taxes and duties are concerned, it is made clear that all such taxes and duties as leviable and revised by various Governments after the date of submission of bids shall be payable, and any and all tax paid by the contractor to Government/s for fulfilment of the obligations under the contract shall be reimbursable to the contractor at the rates as applied by the Governments from the date of submission of the bids".*

Accordingly the matter was placed before Full Time Directors as per note read as 5<sup>th</sup> above. Having considered the matter in detail, the Full Time Directors in the meeting held on 17.02.2023 resolved that the agreement authority, the Chief Engineer (Distribution South) in consultation with the Director (Finance) shall complete the payment formalities. Further resolved to place the matter before Board of Directors for information.

.Orders are issued accordingly.

By Order of the Full Time Directors.

**Sd/-**  
**Lekha.G**  
**Company Secretary.**

To

1. The Chief Engineer, Distribution - South.
2. The Chief Engineer (IT, CR & CAPS).
3. The Deputy Chief Engineer, Electrical circle, Thiruvananthapuram

Copy to:

1. The Financial Advisor / CIA/ The LA & DEO.
2. The TA to CMD / Director (D, IT & SCM) / GC / ( T, SO, Planning & Safety) / (GE & HRM) / (REES, SOURA, NILAAVU Sports and Welfare).
3. The RCAO/RAO/Company Secretary.
4. The PA to the Director (Finance).
5. Records/Stock file and Library.

Forwarded / By Order

  
Assistant Engineer