



SANCHAR NIGAM EXECUTIVES' ASSOCIATION

KERALA CIRCLE

(Recognised Majority Association of Executives in BSNL)
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No.SNEA/Kerala/2018-19/II/18

dated 4/2/2019

To
The CGMT,
BSNL, Kerala Circle

Sub:-Payment of Property Tax for GSM-BTS reg:-

Ref: 1. No.SNEA/Kerala/2018-19/II/7dated 11/12/2018

2. Ref:- BLDG/GENL/TAX/2017 dated 13/12/2018

Sir,

Please refer to the letter under reference 1 regarding payment of property Tax on mobile Towers. As per the letter under reference 2 some instructions were issued from Circle Office to mitigate the extreme exigency situation. However the cases are increasing day by day. After knowing the fact that BSNL is making payment on court cases local bodies are resorting more and more criminal cases against BSNL for non payment of property TAX. Further in some cases the criminal cases are filed against the land lord who is already agitated due to nonpayment of rent in time.

It may also be clarified whether property tax to be paid to the local bodies under situation which are not mentioned as extreme exigencies like sealing of BTSs, disconnection of power supply, non bailable warrant etc- but threatened with criminal proceedings.

The ground raised based on pending mutations are not applicable in BTS cases and since all the court cases in this matter for exemption from TAX for Mobile BTSs has dismissed, we may take a final decision for minimizing the financial burden on account.

In this connection the following suggestions are put forth for your consideration to minimize the Tax burden if not exempted.

1. Tax to be paid only against within the limitation period of 3 years.(legal opinion may be obtained)

As per order of Hon. High court of Kerala dated 5th June 2018 in RP.No. 411 of 2018 IN WA. 2620/2017 there is a clear finding as follows in Para 11

"There is yet another ground raised of limitation. We cannot, but notice Section 539 of the Kerala Municipality Act, which restrains the local authority from proceeding after the expiration of a period of three years, from the date on which a distraint, suit or prosecution might first have been made, instituted or launched. Hence the respondent-Corporation cannot proceed to recover any dues subsisting three

years prior to the demand impugned in the Writ Petition. We also reserve the right of the writ petitioner to move the appellate authority, the time for which will commence from the date of receipt of the certified copy of this judgment; the limitation then being the period as stipulated in the Kerala Municipality Act.”

- 2 Whether penal interest charged to be paid from due date since no demand was raised by the local bodies in due time in some cases. We have to try to get exemption from penal interest as one time settlement and if they are not agreeing it can be levied only after one year from the date of issuing demand note.
- 3 Rate of tax and area for GBT with Tower, prefab, DG plinth in case of O/D BTS w/o shelter. The same rate of TAX is applied to Tower and Prefab and even for DG plinth.
Once if BSNL take a stand for payment of TAX there is sufficient scope for negotiation at state and local level on all these issues .

If no decision is taken the harassment to field officers and all officers dealing with matter will be become manifold and we will be missing possible avenues for minimizing the tax burden resulting huge payment as legal fee in each cases when BSNL is under financial crunch. If the local bodies are not willing to accept the above contentions BSNL may resort appropriate forum for the redressal on above grounds.

In this regard, it is requested to take an urgent decision on the matter for resolving the issue and redeem the situation due to non-payment.

**With kind regards,
Sincerely Yours**



**T SanthoshKumar
Circle Secretary, SNEA,
Kerala Circle.**

Copy to : - 1. PGM (F), O/o CGMT, Trivandrum
2. CE (Civil), Trivandrum, Kerala Circle
3. GM (HR), O/o CGMT, Trivandrum