GOODS AND SERVICES TAX APPELLATE TRIBUNAL
THIRUVANANTHAPURAM BENCH
Division Bench :: Court No. I
(hybrid hearing)

APPEAL NO: APL/12/TVP/2026

Shree Contractor ....Appellant

Versus

The Commissioner of CGST & CE ....Respondent
Thiruvananthapuram

Appearing for Appellant
Kartik Singhal, CA
Monika Lalwani, Accounts Head

Appearing for Respondent
Suresh S, AR

CORAM:

Hon'ble Shri Subramanya Rayaprol, Vice-President
Hon'ble Shri Ramamoorthi Sriram, Member (Technical)

....

FINAL ORDER NO: 08/TVP/KERALAM/2026

Date of Hearing: 14-8-2026
Date of Order: 17-9-2026

Per: Subramanya Rayaprol, Vice-President

1.0 Mr Karthik Singhal, CA and Ms Monika Lalwani, Accounts Head, appeared for the appellant tax payer and Mr Suresh S, Ld AR for the Revenue (Centre) appeared for the respondent CGST Department.

2.0 The brief facts of the case is that the appellant is a partnership firm engaged in the business of providing works contract services. to various persons including

Kerala Water Authority. During course of scrutiny of records of the appellant undertaken by the Audit officers of the respondent CGST department, for the period from September 2019 to March 2022, among other observations, it was alleged that there was short-payment of GST due to change in the rate of tax from 12% to 18% amounting to Rs. 45,26,398/-. On verification of Form 26AS and statement for stage-wise completion of work executed by the appellant and payments thereof, and also ascertained from the Executive Engineer of Kerala Water Authority, it was found that the invoice raised for two transactions and payments received against such invoices for the year 2021-22, were actually incurred after changing the rate of tax to 18%, even though one of the transactions was in respect of a work completed prior to 01.01.2022. The details of tax payable due to change of rate by Appellant was determined as follows:

Amount in Rs.

Date of work completed	*Date of bills raised/ Date of payment*	*Taxable Value*	*Tax payable (18%)*	*Tax paid (12%)*	*Balance payable (6%)*
16.12.2021	*January 2022*	*4,38,74,221*	*78,97,360*	*52,64,906*	*26,32,454*
31.01.2022	*February 2022*	*3,15,65,724*	*56,81,830*	*37,87,887*	*18,93,944*
	Total	*7,54,39,945*	*1,35,79,190*	*90,52,793*	*45,26,398*

Accordingly, a show cause notice dated 19-10-2023 was issued demanding differential GST as to why :

(i) an amount of 45,26,398/- being the GST short paid, should not be demanded from them under Section 73(1) of CGST Act, 2017.

ii) Interest under section 50(1) of the CGST Act, 2017 on the amount demanded above should not be demanded and recovered.

iii) Penalty should not be imposed on them under Section 73(1) of CGST Act, 2017 read with Section 122(2)(a) of the CGST Act, 2017.

3.0 The Assistant Commissioner adjudicated the show cause notice and passed an OIO dated 9-11-2023, and confirmed the entire amount of demand along with interest and 10% penalty. On further appeals, the Joint Commissioner (Appeals), passed the impugned Order-in-Appeal dated 10-6-2024, and held that, Kerala Water Authority is not a 'Local Authority' in terms of Section 2(69) of the CGST Act, 2017, and also held that the appellant had supplied composite work contract service to the Kerala Water Authority and paid GST@12% as per Notification No. 11/2017 CT (Rate) dated 22.08.2017. The said Notification was amended vide Notification No. 15/2021 CT (Rate) dated 18.11.2021 as per which the concessional rate of 12% was lifted in respect of works contract services provided to Governmental authority or Government entity by omitting them from the list of recipients entitled for concessional rate w.e.f. 01.01.2022 and since the appellant had paid tax only @12% for the works contract services provided to KWA, the short-paid GST of Rs.45,26,398/- was liable to be recovered, and rejected the appeals. Hence, the present appeals before us.

4.0 The Ld Chartered accountant appearing for the appellant submits that the Joint Commissioner (Appeals) has wrongly interpreted the 'local authority' under Section 2(69), and also that the audit findings are unreliable and self contradictory. He also submitted that DRC-01A was not issued in violation of Rule 142 (1A). He submits that the appellant has paid the entire amount of tax and penalty as they have received the amount from the Kerala Water Authority and they are contesting the Interest. He also submits a copy of the agreement with the Kerala Water Authority.

5.0 The Ld AR for the Revenue (Centre), submits that It is submitted that it is true that the appellant is registered with GST under the category of local authority based on the type of constitution as declared by the registered person in the application for registration by the department. However, it is not disputed that declaration made by Kerala Water Authority in the application for registration as to their constitution as a "Local Authority" as they are deemed to be a "Local Authority" under the Kerala Water Supply and Sewerage Act 1986 and the PAN has been allotted to them under the Income Tax Act accordingly. However, since the term "Local Authority" for the purposes of GST is specifically defined in Section 2 (69) of the CGST Act, 2017; Kerala Water Authority should satisfy the definition of "Local Authority" under the CGST Act in order to be eligible for the concessional rate of GST as notified under Sl No. 3 (iii) of the Notification No. 11/2017 CT (Rate) dated 28.06.2017 as amended in respect of works contract services received by them. Since the Kerala Water Authority do not fall under any of the subclauses (a) to (g) of clause (69) of Section 2 of the CGST Act, 2017 and hence do not qualify as a "local authority" as defined in the CGST Act. Accordingly, he submits that the works contract services supplied to Kerala Water Authority is not eligible for the concessional rate of GST as notified under S. No. 3 (iii) of the Notification No. 11/2017 CT (Rate) dated 28.06.2017 as amended vide Notification 15/2021-CT(Rate) dated 18-11-2021.

6.0 Heard both sides at length, and also seen the written submissions made by both sides.

7.0 We find that the only issue to be decided is whether the Kerala Water Authority is a 'local authority' and if so, whether the appellant is eligible for lower rate of GST @ 12% or the higher rate of GST @ 18% on the two invoices in question, out of which one invoice pertains to works contract completed before 1-1-2022, in the light of amended Notification No. 11/2017-CT(Rate). Also, whether the appellant is liable to pay interest and penalty in the present case.

8.0 We would like to reproduce the Section 2 (69) of the CGST Act, 2017, which defines 'local authority', as below:

"local authority" means –

(a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution;

(b) a "Municipality" as defined in clause (e) of article 243P of the Constitution;

(c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal fund or local fund;

Explanation.– For the purposes of this sub-clause —

(a) "local fund" means any fund under the control or management of an authority of a local self-government established for discharging civic functions in relation to a Panchayat area and vested by law with the powers to levy, collect and appropriate any tax, duty, toll, cess or fee, by whatever name called;

(b) "municipal fund" means any fund under the control or management of an authority of a local self-government established for discharging civic functions in relation to a Metropolitan area or Municipal area and vested by law with the powers to levy, collect and appropriate any tax, duty, toll, cess or fee, by whatever name called;

(d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;

(e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;

(f) a Development Board constituted under article 371 and article 371J of the Constitution; or

(g) a Regional Council constituted under article 371A of the Constitution.

9.0 We also find that the GST Department has registered Kerala Water Authority in the category of 'local authority'. However, we are inclined to also refer to the Kerala Water Supply and Sewerage Act 1986, wherein the Section 3 of the said Act, reads as,

3. Establishment of Kerala Water Authority.—

(1) The Government shall, by notification in the Gazette and with effect from such date as may be specified therein, establish an autonomous authority to be called the Kerala Water Authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Authority shall for all purposes be deemed to be a Local Authority.

(4) The Authority shall have its head office at Thiruvananthapuram and may have offices at such other places as it may consider necessary.

10.0 We also find that the Kerala Water Authority was established on 1st April 1984 under the Kerala water and waste water ordinance, 1984 by converting the erstwhile Public Health Engineering Department to provide for the development and regulation of water supply and waste water collection and disposal in the State of Kerala and for matters connected there with. The Kerala Water Supply and Sewerage Act 1986 (Act 14 of 1986) replaced the ordinance. The Authority was established by vesting the properties and assets of the erstwhile Public Health Engineering Department under section 16 of the Act, and the assets, rights and liabilities of the local bodies and Kerala State Rural Development Board in so far as they pertain to the execution of water supply and sewerage schemes under 18 of the Act. Its main functions are,

(i) Preparation, execution, promotion, operation, maintenance and financing of these schemes for the supply of water and the disposal of the waste water.

(ii) Rendering all necessary services in regard to water supply and collection and disposal of waste water to the Government and on request to private institutions or individuals.

(iii) Preparation of state plans for water supply and collection and disposal of waste water on the direction of the Government.

(iv) Fixation & revision of tariffs, taxes and charges of water supply and maintenance services in the areas covered by the water supply & waste water systems of the Authority.

(v) Establishment of state standards for water supply and waste water services.

11.0 The definition of 'local authority' is very specific and means only those bodies which are mentioned as 'local authorities' in clause (69) of section 2 of the GST Act. It would not include other bodies which are merely described as a 'local body' by virtue of a local law.. For example, State Governments have setup local developmental authorities to undertake developmental works like infrastructure, housing, residential & commercial development, construction of houses, etc. The Governments setup these authorities under the Town and Planning Act. Examples of such developmental authorities are namely, Greater Cochin Development Authority, Delhi Development Authority, Ahmedabad Urban Development Authority, etc. Such developmental authorities formed under the Town and Planning Act are not qualified as local authorities for the purposes of the GST Act. Likewise Kerala Water Authority formed under Kerala Water Supply and Sewerage Act, 1986, does not qualify as 'local authority' for the purposes of the GST Act.

12.0 We also observe that a statutory body, corporation or an authority created by the Parliament or a State Legislature is neither 'Government' nor a 'local authority'. Such statutory bodies, corporations or authorities are normally created by the Parliament or a State Legislature in exercise of the powers conferred under article 53(3)(b) and article 154(2)(b) of the Constitution respectively. Such a statutory body, corporation or an authority as a juridical entity is separate from the State and cannot be regarded as the Central or a State Government and also do not fall in the definition of 'local authority' for the purpose of GST Act. Thus, regulatory bodies and other autonomous entities would not be regarded as the government or local authorities for the purposes of the GST Act.

13.0 On reading of both the provisions, we find that Kerala Water Authority do not fall under any of the subclauses (a) to (g) of clause (69) of Section 2 of the CGST Act, 2017 and hence do not qualify as a "local authority" as defined in the CGST Act.

14. In view of the above, we find that KWA is a statutory body created under the Kerala Water Supply and Sewerage Act, 1986, and does not fall into any of the categories listed in Section 2(69). The CBIC has also clarified vide Circular No. 245/02/2025-GST dated 28-01-2025 that statutory authorities such as development authorities are *not* "local authorities" under Section 2(69). Hence, it can be concluded that the Kerala Water Authority (KWA) is *not* a "local authority" under Section 2(69) of the CGST Act, 2017; it is treated instead as a statutory authority/governmental authority, not falling within the statutory definition of a local authority.

15.0 Accordingly, the works contract services supplied to Kerala Water Authority is not eligible for the concessional rate of GST as notified under Sl No. 3 (iii) of the Notification No. 11/2017 CT (Rate) dated 28.06.2017 as amended in respect of works contract services supplied to Local Authority, and are liable to pay the GST @ 18% under Notification No. 11/2017-CT(Rate) as amended wef 1-1-2022.

16.0 We also find that the appellant had approached the Hon'ble High Court of Kerala, against the Kerala Water Authority in WP (C) No. 37299 OF 2024, with a prayer for issuing instructions to Kerala Water Authority to make payment of differential tax of 6% (18% - 12%) as demanded by the GST Department wef 1-1-2022. The Hon'ble High Court had directed the Kerala Water Authority to make payment of GST at higher rate within three months from the date of said order. The Hon'ble High Court had held that,

> *Thus, this writ petition is disposed of with the aforesaid findings and directions which are summarized hereunder:*

(i) The respondents 2 and 3 shall ensure that the differential amounts of tax receivable by the petitioner are released to the petitioner, upon the petitioner furnishing necessary evidence showing the payment of higher rate of tax, pertaining to the works carried out by the petitioner in relation to the contract in question. Same shall be released within three months from the date of receipt of a copy of this judgment.

17.0 The Ld AR for the respondent has also submitted that the appellant had made the payment of higher rate of tax as per the directions of the Hon'ble High Court and paid the entire amount along with Penalty, as below:

Date of Payment	CGST TAX	SGST TAX	CGST Penalty	SGST Penalty	Paid through
Demand created	**2263199**	**2263199**	**226320**	**226320**	
4-1-2024	43142	43032			Cash
4-1-2024	183178	183288			ITC
31-12-2025	2036879	2036879	226320	226320	Cash
Total Paid	**2263199**	**2263199**	**226320**	**226320**	

18.0 We also find that since the differential tax is payable, the interest for delayed payment of tax also automatically follows. The appellant has already made payment of the differential tax amount. Hence, the appellant is also required to make payment of interest as applicable from the time of supply till the date of payment of differential tax, in terms of Section 50 (1) of the CGST/KGST Act, which reads as,

50. Interest on delayed payment of tax.

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding

eighteen per cent., as may be notified by the Government on the recommendations of the Council.

[2]***[Provided** that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74* [4]***[**or section 74A**]** in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.**]***

19.0 We find that the appellant has paid some amount of differential tax through ITC, and balance amount through the cash ledger. We are therefore of the opinion that the interest is not payable to the extent of tax paid through the Electronic Credit Ledger. The interest is payable only to the extent of tax paid through electronic cash ledger. Hence, the demand of interest accrued to the extent of tax amount paid through the electronic credit ledger is liable to be set aside.

20.0 In view of the above discussion, it is held that Kerala Water Authority is a statutory body of the Kerala State and not a 'local authority' in terms of Section 2 (69) of the CGST / KGST Act, 2017. It is further held that the appellant are liable to pay the tax at higher rate of 18% wef 1-1-2022 under Notification No. 11/2017-CT(Rate) as amended. The interest is payable only on the amount of tax paid through electronic cash ledger.

Accordingly, we pass the order as below:

ORDER

(i) Kerala Water Authority is not a 'local authority' under Section 2 (69) of the CGST/ KGST Act, 2017.

(ii) The GST is payable @ 18% (9% CGST + 9% SGST) under Notification 11/2017-CT(Rate) wef 1-1-2022 on the works contract services provided to Kerala Water Authority by the appellant.

(iii) The interest on the differential tax is payable only on that portion of tax which is paid through Electronic Cash Ledger. The demand of interest accrued on the tax amount paid through Electronic Credit Ledger is dropped.

(iv) The appeals No. APL/12/TVP/2026 is disposed off in above terms.

(Order pronounced in open court)

Rayaprol Subramanya Viswanatha
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Date: 2026.09.17 13:17:54 +05'30'

Subramanya Rayaprol
Vice-President

Ramamoorthi Sriram
Digitally signed by Ramamoorthi Sriram
Date: 2026.09.17 14:21:24 +05'30'

Ramamoorthi Sriram
Member (Technical)

Dated: 17.09.2026