

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(SOUTHERN ZONE BENCH, CHENNAI)**

ORIGINAL APPLICATION NO. 102 OF 2020 (SZ)

**STATEMENT OF FACTS FILED ON BEHALF OF THE 3RD AND 12TH
RESPONDENTS**

Index

SI.NO	PARTICULARS	PAGE NUMBER
1.	Statement of Facts	1-5
2.	Annexure-R12(1): Copy of Order No. GO(Rt) 385/2019/WRD dated 31.05.2019	6-9
3.	Annexure-R12(2): Copy of Agreement No. 47/SE/ISC/2019-20 dated 11.10.2019 along with Clean Copies	10-23

Dated at Chennai on this the 27TH day of June, 2022

M/s. E.K.KUMARESAN

Standing Counsel for State Government of Kerala - NGT(SZ) Chennai Bench

①



**STATEMENT OF FACTS ON BEHALF OF 3RD AND
12TH RESPONDENT IN O.A. No. 102/2020 FILED BY
SHRI. NISHANTH GOPAL BEFORE THE
NATIONAL GREEN TRIBUNAL, ZONAL BENCH, CHENNAI**

All the allegations and averments raised in the original application except those which are specifically admitted hereunder are denied.

- a) The decision to dredge the Thottappally estuary was taken as a preventive measure by the 12th respondent under National Disaster Management Act, 2005 and the said Act does not permit such issues to be agitated before any other Court or Forum except the Honorable High Court or the Supreme Court as per section 71 As per Section 72 of the Disaster Management Act, 2005, the said Act will have overriding effect on any other laws. The dredging activity of the Thottappally spillway channel and pozhy mouth was required to be done to avoid the risk of flooding in Kuttanad area. The 12th respondent entrusted the task of assessing flood control measures that could be adopted to an eminent Scientist Dr.M.S.Swaminathan and IIT Chennai.

In the above circumstances, as per GO (Rt) No. 385/2019/WRD, dated: 31.05.2019 an agreement was executed by the Department of Irrigation, Kerala with the Kerala Minerals and Metals Ltd, which is a Public Sector undertaking to remove the Mineral sand from Thottappally pozhy. As per Notification dated 28.03.2020, the Ministry of Environment, Forest and Climate Change has exempted Environmental Impact Assessment (EIA) clearance for dredging and

Reeja
REEJA JUSTUS
Under Secretary to Govt.
Water Resources Department
Govt. Secretariat
Thiruvananthapuram

desilting rivers and canals for their maintenance, upkeep and disaster management.

b) Under Disaster management, the works of deepening and widening the Thottappally spillway channel, spillway mouth and removal of the sand in the leading channel are carried out to facilitate the free flow of water to ensure the safety of the people and to avoid any flooding in Kuttanad area. The work envisages removal of sand deposited on the mouth of the pozhy, which happens to contain atomic minerals. Removal of these minerals done by Kerala Minerals and Metals Ltd which is a State Public Sector undertaking, so as to ensure that no minerals in the sand are wasted or filtered away. This does not fall within the meaning of Section 3(d) of the Mines and Minerals (Development and Regulation) Act, 1957 which defines "Mining Operations" as any operations undertaken for the purpose of winning any minerals. No extraction of minerals has been carried out at Thottappally estuary. The whole accumulated sand was transported by Kerala Minerals and Metals Ltd, to their plant at Chavara, at price fixed by the Government of Kerala.

c&d) The whole accumulated sand was transported by Kerala Minerals and Metals Ltd, to their plant at Chavara. Acknowledgment receipt for each vehicle transporting the sand was issued and the same was entered in the register book maintained at site itself. Measurements were also recorded in these receipts and register book. The sand was transported by Kerala Minerals and Metals Ltd, only after the execution of necessary agreements and the remittance of the amount fixed by the Government.

e) Since the sand contained atomic and other rare earth minerals, Kerala


REEJA JUSTUS
Under Secretary to Govt.
Water Resources Department
Govt. Secretariat
Thiruvananthapuram

Minerals and Metals Ltd, and Indian Rare Earths Limited(IREL) are the authorised agencies in Kerala to remove the same. Hence the State Government decided to award the removal of sand to Kerala Minerals and Metals Ltd, which is a Public Sector undertaking.

- f) Under Disaster management, the works of deepening and widening of the “Thottappally spillway channel, spillway mouth” and removal of the sand in the leading channel are carried out to facilitate the free flow of water to ensure the safety of the people and to avoid any flooding in Kuttanad area. The actual design capacity of Thottappally spillway is 1800 cubic metre/second but it gets reduced to 600 cubic metre/second due to the reduced width of pozhy. Due to the formation of sand and plantations such as Casuarinas tree in the pozhy, the width was reduced from 380 metre to 150 metre. The shortage of width at mouth decreases the efficiency of flow of the flood water in to the sea.
- g to h) To safeguard the lives and properties of the inhabitants in Kuttanad region, the excess flood water should be drained out to the sea through the spillway. Under the above circumstances as per the Government order No. **GO(Rt) 385/2019/WRD dated: 31.05.2019**, an agreement was executed by the Department of Irrigation Kerala with the Kerala Minerals and Metals(KMML) which is a State Public sector undertaking to remove the mineral sand from Thottappally. Copy of the above Government Order and the Agreement is produced herewith and marked as **Annexure R12(1)** and **Annexure R12(2)**. The present case does not fall within the definition of “Mining Operations”, but it is a preventive measure taken by the Government of Kerala to counter the threat posed by the nature, particularly the flooding of Thottappally spillway which has on the past caused the extensive damage to the people living in and around the said areas.



REEJA JUSTUS
Under Secretary to Govt.
Water Resources Department
Govt. Secretariat
Thiruvananthapuram

i to m) The Government of Kerala acted under the Disaster Management Act to prevent repetition of floods, which have ravaged parts of the State of Kerala. Steps have been taken in line with the report submitted by the experts in the field, M.S.Swaminathan Committee constituted to study the impact of floods in Kerala and it provide methods to prevent the recurrence of such calamities. The removal of sand from the mouth of the Thottappally estuary is only to prevent the flooding of adjoining areas by a natural disaster in the form of an unprecedented rainfall. As per the M.S.Swaminathan report, the preventive measures adopted by the Government of Kerala cannot be described as an activity covered under the Kerala Atomic Mineral Rules.

GROUNDS

A - Environmental clearance is not necessary for the dredging and desilting activities in rivers and canals for their maintenance , upkeep and disaster management vide Notification dated: 28.03.2020 of the Ministry of Environment, Forest and Climate Change.

B and C - The Flood is causing extensive damages to areas in and around the Kuttanad region, the Government of Kerala entrusted the task of assessing flood control measures that could be adopted to an eminent Scientist Dr.M.S.Swaminathan and IIT Madras. As per the above recommendation, Government have decided to remove sand blocking at Thottappally spillway. Since it was found that the sand contained atomic and other rare earth minerals, the State Government decided to award the removal of sand to Kerala Minerals and Metals Ltd, which is a Public sector undertaking.

D to J - The dredging, deepening and widening the spillway channel is part of disaster management and removal of ferrying sand after such


REEJA JUSTUS
Under Secretary to Govt.
Water Resources Department
Govt. Secretariat
Thiruvananthapuram

5

dredging also come under the disaster management and hence there is no requirement to obtain Environmental clearance .Vide clause seven of Appendix IX of Notification dated: 28.03.2020 issued by Ministry of Environment, Forest and Climate Change, dredging and desilting of dams, reservoirs, barrages, rivers and canals for the purpose of their maintenance, upkeep and disaster management have been exempted from Environmental clearance.

K to M - No extraction of minerals has been carried out at Thottappally estuary. The whole excavated sand was transported by Kerala Minerals and Metals Ltd, to their plants at Chavara. Acknowledgment receipt for each vehicle, transporting the sand was issued and the same was entered in the register book maintained at site itself. Measurements were also recorded in these receipts and register book at itself. The sand was transported by Kerala Minerals and Metals Ltd, only after the execution of necessary agreements and remittance of the amount fixed by the Government.

N to P - The dredging operation is undertaken at the instance of the State Government. It is a part of the planning, organization and co-ordinations as per the provisions of Disaster Management Act. Any action taken under this Act cannot be challenged before any other court except the Honourable High Court and Honourable Supreme Court. Further the provisions of the Disaster Management Act will have an overriding effect over any other laws. Therefore, the present proceedings are not maintainable before the Honourable Tribunal and ought to be dismissed.

In view of the facts stated above, the Original Application is devoid of any merits and hence liable to be dismissed.



Reeba
REEJA JUSTUS
 Under Secretary to Govt.
 Water Resources Department
 Govt. Secretariat
 Thiruvananthapuram



GOVERNMENT OF KERALA

Abstract

Water Resources Department – Removal of Mineral sand from Thottappally Spillway Pozhimouth – Permission accorded to M/s. Kerala Minerals & Metals Ltd. (KMML) – Rate fixed – orders issued.

WATER RESOURCES (IR) DEPARTMENT

G.O. (R) No. 385/2019/WRD Dated, Thiruvananthapuram, 31/05/2019

- Read 1 Letter No. W 1-11299/2018/IR/111-2 dated 01/11/2018 and 09/05/2019 from Chief Engineer, Irrigation & Administration, Thiruvananthapuram.
- 2 Minutes of the meeting held by Hon'ble Minister for Water Resources on 02/05/2019.
- 3 Letter No. MS/Mines/TPLY/05 dated 02/05/2019 from MD, KMML.
- 4 Minutes of the meeting held by the Secretary, Water Resources Department on 14/05/2019.
- 5 Letter No. D8/4661/2019/ISC dated 29/05/2019 from the Superintending Engineer, Irrigation South Circle, Thiruvananthapuram.

ORDER

The accumulation of sand in the Thottappally Spillway in Alappuzha District has affected the free flow of flood water to the sea, risking the Kuttanad area by flooding during the impending Monsoon season. 2018 witnessed severe flooding in the area. The M.S. Swaminathan Research Foundation (MSSRF) & the IIT, Madras upon consultation have recommended clearance of sand bar at the mouth of spillway and deepening and widening of the leading channel for further derisking the flood problem in Kuttanad.

2) Since the sand deposit are noted to contain regulated minerals, the disposal of the sand can be entrusted only to the appropriate licensees in the public sector.

3) M/S Indian Rare Earths Ltd., Chavara & The Kerala Minerals & Metals Ltd, Chavara have approached Government for the sand and based on the decision in the meeting held by Hon'ble Minister on 24/01/2019, Superintending Engineer, Irrigation South Circle, Thiruvananthapuram invited Expression of Interest (EoI) on 26/02/2019. M/s KMML submitted their EoI and their quotation for removal of sand quoting a rate of Rs 290/M³. The firms upon negotiation by the Superintending Engineer proposed that the order for removal of mineral sand may be made in favour of M/s KMML by suitable conveyance clauses. As per the report of the Chief Engineer, (I&A) dated 09/05/2019, M/s KMML has agreed that all financial and legal obligations with the department shall be met by M/s KMML.

4) As per the proposal dated 01/11/2018 of Chief Engineer (I&A) for the removal of mineral sand from Thottappally Spillway, the amount fixed for the mineral sand was Rs.464.55/M³ (excluding the cost of dredging) with reference to the G.O.(Rt) No.645/2018/F&PD dated 06/08/2018 granting sanction to dredge sand at Thottappally Harbour by Fisheries & Port Department. As per G.O.(Rt) No.571/2012/WRD dated 14/05/2012 permission was granted to IREL for dredging of sand bar at Thottappally Spillway (TSW) mouth at the rate of Rs.450/M³. However, as per the G.O.(Rt) No.112/19/F&PD dated 12/02/2019, the rate fixed for the dredged spoil at Neendakara Port is Rs.306.54/M³ including all taxes and the bidder M/s KMML had to pay the cost of dredging to the Fisheries Department. Essentially all these were within a range, comparable rates.

5) Since the rates proposed by the IREL & KMML based on above G.O. dated 12/02/2019 was quite below the previous rates (Rs.464.55/M³, Rs.450/M³) especially considering that the sand contains regulated atomic minerals, Government had entrusted Mining & Geology Department as well as the NCESS to assess and evaluate the contents of the mineral sand. But both institutions have not replied till date conclusively recommending a different rate. Further, in response to Government letter dated 30/04/2019, M/s KMML informed that they are

ready to accept the rate of Rs.464.55/M³ for the sand. In the meantime a high level meeting was convened on 02/05/2019, under the Chairmanship of the Hon'ble Minister for Water Resources Department, in which Hon'ble Ministers for Finance, Public Works Department, Food & Civil Supplies and Agriculture were also present, to decide on the removal of sand from Thottappally Spillway. The meeting assessed that the then rate quoted by IREL & KMML appeared to be low (ie.Rs. 290/M³) and therefore the Additional Chief Secretary, Water Resources Department was entrusted to have discussions with the Secretary, Industries Department and to take a decision in the matter. Also decided that the Chief Engineer(I&A) shall realize the proceeds of sale to Government heads.

6)Based on the above decision, a meeting was convened by Secretary, WRD on 14/05/2019 with officials of IREL, KMML, and representative of MD, KSIDC & Secretary to Industries Department. In the meeting it was found that sand is to be removed before the onset of current monsoon (June 2019). The KMML and Industries Department(KSIDC) refused to increase the offered rate. But agreed to review it later if necessary. The only practically feasible option before the Government is therefore to accept the highest rate offered by KMML and IREL on the date ie. Rs. 464.55/M³ excluding the excavation/ dredging charges as per the terms and conditions of agreement and EoI floated. The KMML has also to bear the GST expenses such as income tax, welfare tax, royalty etc.

7) Government have examined the matter in detail and are pleased to accord sanction to Chief Engineer, (I&A) to accept the highest offered rate on date of Rs.464.55/M³ for the sand excluding GST and excavations/ dredging charges offered by M/s KMML as per letter read 3rd paper above in accordance with the terms and conditions of EoI floated subject to the condition that the above rate will be in force only for three (3) months which is to be revisited at that point on recommendations of Chief Engineer (I&A).

8)The Chief Engineer (I&A) is directed to take urgent action to execute necessary agreement with the PSU mentioned above and move forward to avoid the loss of sand during the impending monsoon, so as to allow free flow of water through the pozhi mouth.

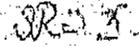
(9)

(By order of the Governor)
Dr. B. ASHOK
Secretary to Government

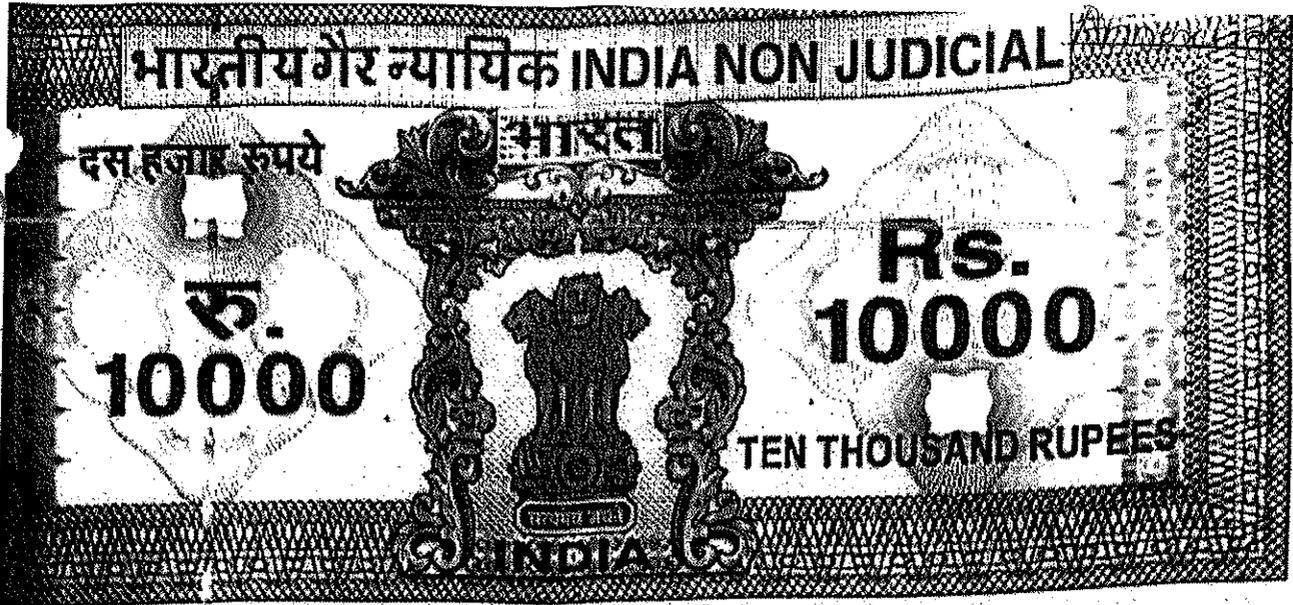
To:

The Chief Engineer (I&A), Thiruvananthapuram.
The Chief Engineer Kuttanad Package & Inland Navigation,
Alappuzha.
The Chief General Manager & Head, IREL, Chavara, Kollam
Managing Director, KMML, Chavara, Kollam
Managing Director, Kerala State Industrial Development
Corporation (KSIDC), Thiruvananthapuram.
The Principal Accountant General (A&E / Audit), Kerala,
Thiruvananthapuram.
Stock File/Office Copy.

Forwarded /By order



Section Officer



R
10

केरल KERALA

A-380938

AGREEMENT NO. 47/SE/ISC/2019-20 DATED:- 11.10.2019

CONTRACT AGREEMENT entered into this 11th day of October 2019 (Two Thousand and Nineteen) between The General Manager, The Kerala Minerals and Metals Limited, Mineral Separation Unit, Kovilthottam, Chavara Kollam-691583 (hereinafter called as the KMML) on the one part and the Superintending Engineer, Irrigation South Circle, Thiruvananthapuram, for and on behalf of the Governor of Kerala (hereinafter called the Government) on the other part for the execution of the work "Removal of Mineral Sand from Thottappally Spillway Channel and Pozhymouth" by the former, for the use of the Irrigation Department for Government of Kerala State as per GO(Rt) No. 385/2019/WRD dated 31.05.2019 accompanying conditions approved by the Superintending Engineer, Irrigation South Circle, Thiruvananthapuram which form part of this agreement.

J. S.
General Manager
Kerala Minerals and Metals Limited
A UNIT OF KERALA
INDIA MINING
CHAVARA

[Signature]
Superintending Engineer

8526 / 1000 MANAGING DIRECTOR
1-8-19
KERALA MINERALS AND
METALS LIMITED
CHAVARA, KOLLAM

10000 (दस हजार) रुपये
भारत

294

भारतीय गैर न्यायिक INDIA NON JUDICIAL

11.

एक हजार रुपये
रु.1000



ONE THOUSAND RUPEES
Rs.1000

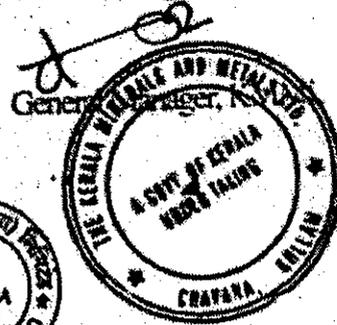
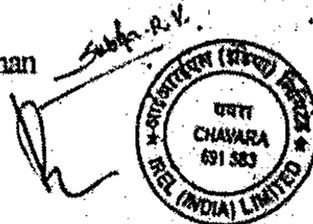
केरल KERALA

S 175784

Signed and delivered by the above mentioned Contractor The General Manager, KMML on behalf of The Kerala Minerals and Metals Limited.

In the presence of:-

1. Smt. Subha R. V, Head Draftsman
2. Sri. M.R. Bimal Joshi, Chief Manager (S&D), IRE (India) Limited, Chavara.



Signed and delivered by Sri. Philip Mathai, Superintending Engineer, Irrigator: South Circle, Thiruvananthapuram for and on behalf of the Governor of the State of Kerala.

Superintending Engineer
Irrigation South Circle, Thiruvananthapuram
(for and on behalf of the Governor of the State of Kerala)

In the presence of:-

1. Smt. Subha R. V, Head Draftsman
2. Sri. M.R. Bimal Joshi, Chief Manager (S&D), IRE (India) Limited, Chavara.

Subha R.V.

5-9
DIRECTOR
KERALA MINERALS AND METALS LIMITED
CHAVARA ULLAS GMD
ചാവര ഉല്ലാസ് ഗെ.മെ.
കെ.എസ്.എസ്.എസ്.എസ്.എസ്.എസ്.

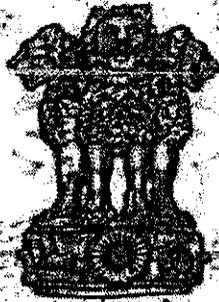


भारतीय न्यायिक

भारत INDIA

12

₹. 500



FIVE HUNDRED RUPEES

पाँच सौ रुपये

Rs. 500

INDIA NON JUDICIAL

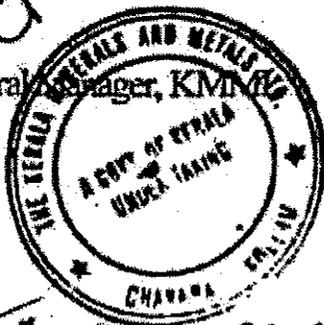
केरल KERALA

F 155298

AGREEMENT NO. 47/SE/ISC/2019-20 DATED:- 11.10.2019

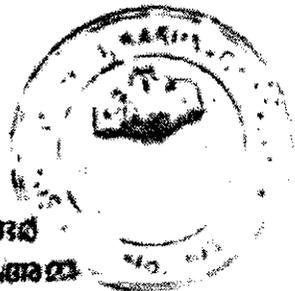
Name of Work: "Removal of Mineral Sand from Thottappally Spillway Channel and Pozhymouth"

General Manager, KMM



Superintending Engineer

Handwritten signature and text:
M. MANOJUN DIRECTOR
KERALA MINERALS AND
METALS LIMITED
CHAVARA KOLLAM



भारतीय नैऋत्ययिक

दस
रुपये

रु. 10

INDIA

भारतीय नैऋत्ययिक
रु. 10

रु. 10

INDIA NON JUDICIAL

13

6080 कन्न KERALA

29AA 902569

AGREEMENT NO. 47SE/ESC/2019-20 DATED: 11.10.2019

Name of Work: "Removal of Mineral Sand from Thattappally Spillway Channel and Puzhymozhi"

General Manager

8530 as an MANAGING DIRECTOR
KERALA MINERALS AND
METALS LIMITED
CHAVARA KOLLAM

29 AUG 2019

दस
रुपये
रु. 10

REVENUE DEPARTMENT
RESERVED
(ONE HUNDRED RUPEES)

[Signature]
R...

INDIA

INDIA NON JUDICIAL

കേരളം കേരള KERALA

29AA 902568

14

AGREEMENT NO. 47/SE/ISC/2019-20 DATED:- 11.10.2019

Name of Work: "Removal of Mineral Sand from Thottappally Spillway Channel and Pozhymouth"

General Manager, KMMML



Superintending Engineer



8529 A
8-19
DIRECTOR
KERALA MINERALS AND
METALS LIMITED
CHAVARA KOLLAY
ചാവര കല്ലായ
ഇന്റീറാലേസി ഡിവിഷൻ



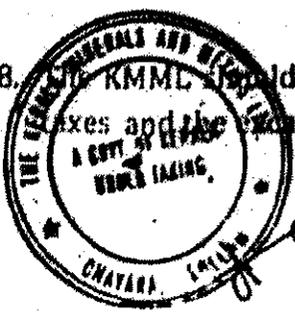
CHAVARA

INDIA) LIM

CONDITIONS OF MOU

The agreement in this regard will come into force according to the government order G.O.(Rt)No 385/2019/WRD Dated 31/05/2019 of water resources department and as per the conditions of Expression of Interest and letter No. DB- 4661/2018/ISC dated 05.08.2019.

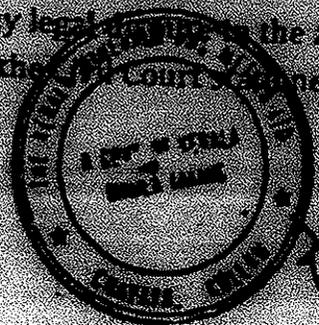
1. The G.O.(Rt) No. 385/2019/WRD dated: 31.05.2019 is binding in this agreement and KMML should deposit amount of Rs. 464.55/m³ as stipulated in G.O. Order.
2. The firm should enter in to an agreement with the department and should deposit an amount equal to 10 percent of the assessed value of the sand to be removed as security deposit calculated based on the government order G.O.(Rt) No.385/2019/WRD dated 31/05/2019. Minimum of 50% of the Security deposit shall be deposited at Treasury at the time of executing the contract and the balance amount as Bank Guarantee as stipulated by the letter referred above (Letter No. DB-4661/2018/ISC dated: 05.08.2019 from the Superintending Engineer). The subsequent G.O.'s and decisions mutually agreed will also form the part of the Agreement.
3. The agreement is in force for a period of 3 months which will be revisited by the government as per the recommendations of Chief Engineer (IA).
4. The successful firm should dredge or excavate the deposited sand from the places pointed out by Executive Engineer or authorized officer at site and deposit the balance sand at the places specified by the departmental officers after extracting the minerals from the deposit.
5. The stacked materials should be measured and reported to Chief Technical Examiner as per rules prevailing in the department.
6. The extracted sand should be weighed at site using the weigh bridge installed at site at the cost of KMML.
7. The firm should deposit the amount for the measured quantity in the TSB account of the Executive Engineer, Irrigation Division, Alappuzha before removing the sand from the site.
8. KMML should bear the necessary tax, welfare fund, and royalty or cess and the excavation charges as per the government order.



[Handwritten signature]



- 9. The work has to be completed at an early date not later than 90 days from the date of agreement.
- 10. All the codal provisions and current Government orders will be applicable to the firm for this work.
- 11. The KMML should not make any damages to the existing structures and should not cause pollution to the environment. If such incidents happen the agreement is void.
- 12. Authority has got the right to terminate the contract at the risk and loss of contractor and such liabilities will be recovered by enforcing RR procedures.
- 13. After completion of the work the SO will be reimbursed after deducting any cost assessed by the department.
- 14. The sand should be removed only after getting prior permission from concerned officers and only from the places pointed out by the engineer and as per the direction of Engineers in charge.
- 15. The sand should be transported only during the working days from 8AM-5PM after getting the necessary pass.
- 16. The sand should be removed with necessary pass specifically mentioning the number and quantity. Over loading will not be allowed.
- 17. No claim is entertained if the quantity of sand to be removed is less than the estimated quantity.
- 18. All the expenses required for dredging, excavation, stacking, reclamation, measurements, separating minerals, dumping the balance sand to the sea, etc. are borne out by the Department officers, conveyance of mineral sand, etc. are borne by KMML.
- 19. The KMML should employ competent technical hand and sufficient employees at site for smooth progress of the work.
- 20. Any legal dispute arising from the agreement with the department has to be carried out in the court of law at the office where agreement is executed.



[Handwritten signature]



21. There should not be any dispute on the quantity and quality of material produced for dredging.

22. Any labour problems and local issues arising during the execution should be resolved by the KMMT itself.

After taking the quantity stipulated in this letter the agreement should be renewed.

Handwritten initials or signature.



Handwritten signature.

General Manager, KMMT



AGREEMENT NO. 47/SE/ISC/2019-20 DATED:- 11.10.2019

CONTRACT AGREEMENT entered into this 11th day of October 2019 (Two Thousand and Nineteen) between The General Manager, The Kerala Minerals and Metals Limited, Mineral Separation Unit, Kovilthottam, Chavara, Kollam-691583 (hereinafter called as the KMML) on the one part and the Superintending Engineer, Irrigation South Circle, Thiruvananthapuram, for and on behalf of the Governor of Kerala (hereinafter called the Government) on the other part, for the execution of the work "Removal of Mineral Sand from Thottappally Spillway Channel and Pozhymouth" by the former, for the use of the Irrigation Department for Government of Kerala State as per GO(Rt) No. 385/2019/WRD dated: 31.05.2019 accompanying conditions approved by the Superintending Engineer, Irrigation South Circle, Thiruvananthapuram which form part of this agreement.

General Manager, KMML

Superintending Engineer

True Copy

B. B. M.
**EXECUTIVE ENGINEER
IRRIGATION DIVISION
ALAPPUZHA.**

Signed and delivered by the above mentioned Contractor **The General Manager, KMML on behalf of The Kerala Minerals and Metals Limited.**

General Manager, KMML

In the presence of:-

1. Smt. Subha R. V, Head Draftsman
2. Sri. MR. Bimal Joshi,
Chief Manager (S&D),
IRE (India) Limited, Chavara.

Signed and delivered by Sri. Philip Mathai, Superintending Engineer, Irrigation South Circle, Thiruvananthapuram for and on behalf of the Governor of the State of Kerala.

Superintending Engineer
Irrigation South Circle, Thiruvananthapuram
(for and on behalf of the Governor of the State of Kerala)

In the presence of:-

1. Smt. Subha R. V, Head Draftsman
2. Sri. MR. Bimal Joshi,
Chief Manager (S&D),
IRE (India) Limited, Chavara.

True Copy

B. B. 7
**EXECUTIVE ENGINEER,
IRRIGATION DIVISION
ALAPPUZHA,**

AGREEMENT NO. 47/SE/ISC/2019-20 DATED:- 11.10.2019

Name of Work: "Removal of Mineral Sand from Thottappally Spillway Channel and Pozhymouth"

General Manager, KMML

Superintending Engineer

True Copy

B.B.7
EXECUTIVE ENGINEER,
IRRIGATION DIVISION
ALAPPUZHA,

CONDITIONS OF MOU

21

The agreement in this regard will come into force according to the government order G.O.(R) No 385/2019/WRD Dated 31/05/2019 of water resources department and as per the conditions of Expression of Interest and letter No D8-4661/2018/ISC dated 05.08.2019.

1. The G.O.(R) No 385/2019/WRD dated 31/05/2019 is binding in this agreement and KMMML should deposit amount of Rs 464 55/m³ as stipulated in G.O. Order.
2. The firm should enter in to an agreement with the department and should deposit an amount equal to 10 percent of the assessed value of the sand to be removed as security deposit calculated based on the government order G.O.(R) No.385/2019/WRD dated 31/05/2019. Minimum of 50% of the security deposit shall be deposited at Treasury at the time of executing the contract and the balance amount as Bank Guarantee as stipulated by the letter referred above Letter No D8-4661/2018/ISC dated: 05.08.2019 from the Superintending Engineer. The subsequent G.O.'s and decisions mutually agreed will also form the part of the Agreement.
3. The agreement is in force for a period of 3 months which will be revisited by the government as per the recommendations of Chief Engineer (IA).
4. The successful firm should dredge or excavate the deposited sand from the places pointed out by Executive Engineer or authorized officer at site and deposit the balance sand at the places specified by the departmental officers after extracting the minerals from the deposit.
5. The stacked materials should be measured and reported to Chief Technical Examiner as per rules prevailing in the department.
6. The extracted sand should be weighed at site using the weigh bridge installed at site at the cost of KMMML.
7. The firm should deposit the amount for the measured quantity in the TSS account of the Executive Engineer, Irrigation Division, Alappuzha before removing it from the site.
8. The KMMML should bear the necessary tax, welfare fund, and royalty or any other taxes and the excavation charges as per the government order

Full Copy


EXECUTIVE ENGINEER
IRRIGATION DIVISION

9. The work has to be completed at an early date not later than 90 days from the date of agreement.
10. All the codal provisions and current Government orders will be applicable to the firm for this work.
11. The KMML should not make any damages to the existing structures and should not cause pollution to the environment. If such incidents happens the agreement
12. authority has got the right to terminate the contract at the risk and lost of the firm, and such liabilities will be recovered by enforcing RR proceedings.
13. After completion of the work the SD will be reimbursed after deducting any liability assessed by the department.
14. The sand should be removed only after getting prior permission from the concerned officers and only from the places pointed out by the engineer in charge and as per the direction of Engineers in charge.
15. The sand should be transported only during the working days from 8AM-5PM after getting the necessary pass.
16. The sand should be removed with necessary pass specifically mentioning the lorry number and quantity. Over loading will not be allowed.
17. No claim is entertained if the quantity of sand to be removed is less than the estimated quantity.
18. All the expenses required for dredging, excavation, stacking, reporting of measurements, separating minerals, dumping the balance sand to the places pointed out by the Department officers, conveyance of mineral sand etc are to be borne by KMML.
19. The KMML should employ competent technical hand and sufficient employers at site for smooth progress of the work.
20. Any legal dispute in the agreement with the department has to be carried out only in the Civil Court stationed at the office where agreement is executed

True Copy

12-8-2
EXECUTIVE ENGINEER
REGULATION DIVISION
ALAPPUZHA.

- 21. There should not be any dispute on the quantity and quality of material available or for dredging.
- 22. Any labour problems and local issues arising during the execution should be solved by the KMML itself.

After taking the quantity stipulated in this letter the agreement should be renewed.

General Manager, KMML

Superintending Engineer

True Copy

B.B.17
EXECUTIVE ENGINEER
IRRIGATION DIVISION
ALAPPUZHA.