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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ARB.P. 1930/2025

PRIME SERVICES ....Petitioner

Through:

versus

SANJAY GANDHI MEMORIAL HOSPITAL & ANR. .....Respondents

Through: Anubhav Gupta, PC, GNCTD with Dr. Neeraj Kumar Singh, CMO (NFSG)

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

O R D E R

% **04.12.2025**

1. This is a petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an arbitrator for adjudication of disputes between the parties.

2. The brief facts of the case are that the petitioner participated in a tender process and being a successful bidder was issued a Work Order dated 13.10.2008 for Nursing Orderlies in the premises of Sanjay Gandhi Memorial Hospital, Mangolpuri by the respondents. Thereafter, the parties entered into an Agreement for Class IV/ Nursing Orderly Services dated 15.10.2008.

3. The said Agreement contained an arbitration clause being Clause No. 19 which reads as under:

> "*In case of any dispute or difference, the award of the Arbitrator by the Lt. Governor of GNCT of Delhi will be final and binding on the parties to the contract and the court of Delhi/New Delhi shall only have the jurisdiction over the same.* "

4. The respondents withheld a sum of Rs. 1,00,41,232/- out of the billed amount on instructions from the Assistant Commissioner, Service Tax.

5. The respondents sought information from Commissioner (CGST) *vide* letter dated 07.09.2022 regarding objection with regard to release of the payment to the petitioner.

6. The letter of 07.09.2022 reads as under:

DOCUMENT No. 4

REMINDER-II

SANJAY GANDHI MEMORIAL HOSPITAL
GOVERMENT OF N.C.T OF DELHI
S-BLOCK MANGOL PURI, DELHI-110083

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http://health.delhigovt.nic.in msgmh@rediffmail.com

F.1/136/SGMH/08/Pt. File-II/ 10986 - 10991 Dated: 07.09.22

To

1. The Commissioner (C.G.S.T.),
   Central GST Range 102, Block-11, District Pitam Pura,
   7 th Floor, CGO Complex, Lodhi Road, New Delhi

2. Sh. Nikhil Mohan Goyal,
   IRS, Dy. Commissioner of unit – 9 & 10, (Then Anti-Evasion, Gamma Group),
   5th floor, EIL Bhawan, Annexe Building, Bhikaji Cama Palace,
   R.K. Puram, New Delhi – 110002.

3. The Assistant Commissioner of Central Taxes,
   Division- Mangol Puri, 4th Floor, Ambedkar Bhawan,
   Sector-16, Rohini, New Delhi-110085.

4. Sh. Jai Bhagwan Maan,
   The Superintendent, Division- Mangol Puri,
   4th Floor, Ambedkar Bhawan,
   Sector-16, Rohini, New Delhi-110085

Sub:- To release pending payment amounting to Rs. 1,00,41,232/- withheld on account of Service Tax claimed by M/s Prime Services (GSTIN –07AAEFP1841N1Z1), from SGM Hospital in r/o of providing services of Nursing Orderlies for the period (December 2010 to April 2012)-reg.

Sir/Madam,

Consequent upon our First request for verification of deposited Service Tax for the period December 2010 to April 2012 by M/s Prime Services (GSTIN –07AAEFP1841N1Z1) and as per our office letter issued dated 21.07.2012 (copy enclosed) & dated 21.11.2012 (copy enclosed) and then all the requisite documents were also provided by our hospital to Service Tax Deptt.

A visit of our Administrative and Account functionaries was held on 18.07.2022 & 19.07.2022 regarding pending reply in case of Nursing Orderlies Service tax payment and a set of correspondence was submitted at the office of Dy. Commissioner (Anti-Evasion) & Superintendent (Anti-Evasion). The Dy. Commissioner and unit Superintendent assured that your reply may be shared shortly through Govt. e-mail i.e. rajendra.das@gov.in & brijeshkumar3278@delhi.gov.in but neither the reply nor any communication was received till date. .

As per our last correspondence refer to this office letter dated 09.10.2020, 04.06.2019 & 03.12.2021 on the subject cited as above (copy enclosed) to verify the Service Tax claimed by M/s Prime Services from this hospital has been deposited in Service Tax Deptt. or not ?

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Despite submitting the required documents and so many requests since 2012 (see letter dated 04.06.2019), no reply/information received from Service Tax Deptt. Whereas, it was mentioned in the letter of the Asstt. Comm. Service Tax, bearing letter no. C.No. ST/DIV-II/SG/44/2012/3614 dated 7.06.2012 (copy enclosed) that, **"you are requested to withhold payments of the said party till further information"** which was withheld accordingly and has not been released till date only because of non receipt of reply from Service Tax Deptt. Therefore, please do inform us in principle that the said payment is to be released or is to be withheld further.

It was also mentioned in the said letter that the payment amounting to Rs. 1,00,41,232/- of M/s Prime Services was withheld on the direction of Asstt. Com., Service Tax, Div-II, CGO Complex, Lodhi Road, New Delhi-110003 vide letter no. C. No. ST/Div-II/S/44/2012/3614 dt. 27.06.2012 (copy enclosed) and the required documents were sent to him vide letter no. F.5/136/SGMH/08/Vol-II/4768 dated 21.07.2012 (copy enclosed).So a letter to release withheld amount is needful to release the withheld amount.

In this regard, this is to inform you that a copy of letter no. C.No. 661-west/R-116/Div.-MAN/SGMH/3/2019/661 dated 17.06.2019 was received from Asstt. Comm., 4 th floor, Ambedkar Bhawan, Sec-16, Rohini, N.D-110085 and was addressed to M/s Prime Services (copy enclosed) to submit the requisite documents for verifications.

Meanwhile a reply submitted by M/s Prime Services vide its letter dated. 09.08.2019, stated that, in r/o the above mentioned pending payment, despite submitted required documents, one more letter dated. 17.06.2019 received from Asstt. Comm. Sec-16, Rohini and it has replied accordingly vide letter dated 29.06.2019 (copy enclosed) stating that its enquiry was cleared from financial year 2012-13 to 2016-17. M/s Prime Services has also attached the following documents with its letter dated. 09.08.2019 (copy enclosed).

1. Letter no. C.No. GST-West/R-116/Division/SGMH/1/2019/660 dated 17.06.2019.
2. Letter dt. 29.06.2019 sent to Asst. Com. of Central Taxes, Sec-16, Rohini.
3. C.No. DL/ST/AE/Inq/Gr.9/Prime/2012/17756 dated 29.08.2012.
4. C.No. DL/ST/AE/Inq/Gr.9/Prime/20123 dated 20.12.2013.
5. C.No. DL/ST/AE/Inq/Gr.9/Prime/20123/A dated 20.12.2013.
6. C.No. DW/GST/AE/PE/Gamma/I.D./242017-18/2948 dated 24.10.2017.
7. C.No. DW/GST/AE/PE/Gamma/prime/328/2017/2374 dated 14.05.2018.

Copies of these 07 letters are enclosed as Annexure 1 to 7.

The details of M/s Prime Services are as below:

M/s Prime Services GSTIN/UIN 07DLLS28017D1D3 / 07AAEFP1841N1Z2

PAN No. – AAEFP1841N

Old Sales Tax No. – DL II/ST/SEC/268/PS/2004

Old TIN No. – 07022012629

Address (1) – F-30, Moti Nagar, New Delhi-110015

Address (2) – H-8, 258, Vardhman Corporate Plaza, Netaji Subhash Place, Pitampura, New Delhi-110034.

Address (3) – J-11/74, Rajouri Garden, New Delhi 110027.

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And copy of Last correspondence are also enclosed for your kind perusal and reply accordingly whether the said firm deposit their tax liability for the period any enquiry, proceedings for the said period are pending, any demand or dues are pending against M/s Prime Services as assessed by Tax Authorities for the period December 2010 to April 2012 and anything adverse come into your knowledge against the said firm so that the payment may be released accordingly.

As per your letter no. C.No. DL/ST/AE/Inq/Gr.9/Prime/20123 dt. 20.12.2013 & letter no. C.No. DW/GST/AC/PE/Gamma/prime/328/2017/2374 dt. 10.06.2018 shows that service enquiries have been concluded up to the financial year 2012-13 to 2016-17 and these letters are addressed to M/s Prime Services only, whereas, this hospital had requested for verification of Service Tax and nothing about the period December 2010 to April 2012.

M/s Prime Services (GSTIN 07AAEFP1841N1Z1) has been requesting again & again to release its pending payment which was withheld as per direction of Service Tax Deptt. as mentioned above and as per latest correspondence, dated 22.08.2021 received from M/s Prime Services (GSTIN 07AAEFP1841N1Z1) to release pending payments a 18% interest also claimed for delayed period Now M/s Prime Services claimed interest on pending payment also and in view of the above mentioned facts, you are once again requested to provide information required by this hospital on points as mentioned below.

1. Whether, M/s Prime Services (GSTIN 07AAEFP1841N1Z1) show transactions from S.G.M. Hospital in their filed return for the period December 2010 to April 2012.
2. Whether, M/s Prime Services (GSTIN 07AAEFP1841N1Z1) deposited the claimed amount to service tax department during or for the period December 2010 to April 2012.
3. If Tax authority found nothing adverse about M/s Prime Services than issue Letter to release withheld amount.

Please furnish the information regarding verification of Service Tax claimed by M/s Prime Service from this hospital in r/o Nursing Orderly Services for the period December 2010 to April 2012 to avoid the Arbitration / Court proceedings which may cause loss of Govt. revenue if the matter is decided by Arbitrator / Court to pay interest on the above mentioned outstanding amount.

In view of the facts given above, therefore, if your good self has any objection in this regard, please do inform within 15 days from the date of issuance of this letter failing which we have no option but to put up the proposal for payment of the said payment before the Principal Secretary, Health, GNCTD.

This issues with the prior approval of the competent authority

(DR. BRIJESH KUMAR SINGH)
DY. MEDICAL SUPERINTENDENT (B)

F. 1/136/SGMH/08/Pt. File-II/ 10986 – 10991 Dated: 21.09.2021

Copy to:

1. PA to MS, SGM Hospital, Mangol puri, Delhi.
2. M/s Prime Services, F-30, Moti Nagar, New Delhi-110015.

(DR. BRIJESH KUMAR SINGH)
DY. MEDICAL SUPERINTENDENT (B)

7. Since there were disputes between the parties, the petitioner invoked arbitration *vide* legal notice dated 01.08.2025 and thereafter filed the present petition.

8. Mr. Gupta, learned counsel appears for the respondents and has addressed oral arguments. He states that the claims of the petitioner are barred by limitation and are stale claims.

9. In the present case, a perusal of the letter dated 07.09.2022 shows that the amount was withheld by the respondents pursuant to a letter written by the Assistant Commissioner, Service Tax Department.

10. The fact whether the claims of the petitioner are stale or it is a continuing cause of action, is a mixed question of fact and law which the Arbitrator can only decide after recording evidence and seeing the factual matrix in detail.

11. The referral Court is only to form *prima facie* opinion that there are subsisting disputes between the parties. The fact that the cause of action continues to arise on each day when the amount has not been paid, *prima facie* may be plausible.

12. For the said reasons, the petition is allowed and the following directions are issued:-

i) Ms. Vrinda Kapoor Dev (Advocate) (Mob. No. 9899029387) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.

ii) The arbitration will be held under the aegis and rules of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah

Road, New Delhi (hereinafter, referred to as the 'DIAC').

iii) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.

iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.

v) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection such as limitation, as well as claims/counter-claims and merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.

vi) The parties shall approach the learned Arbitrator within two weeks from today.

13. The present petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

DECEMBER 4, 2025/AS