



2025 | NSC 580

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). _____ OF 2025

(@ Special Leave Petition (C) No(s). 12174 of 2023)

M/S Sri Venkateswara Constructions **Appellant(s).....**

Appellant(s).....

VERSUS

Respondent(s).....

WITH

CIVIL APPEAL No(s). **OF 2025**

(@ Special Leave Petition (C) No(s). 18198 of 2023)

JUDGMENT

PRASANNA B. VARALE, J:-

1. Leave granted.

Signature Not Verified

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RAVI ARORA
Date: 2025.04.28
17:39:00 IST
Reason:

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RAVARDH
Date: 2024.04.28
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Reason:

The challenge in the present appeals is to the order dated

18.05.2023 in Writ Petition no. 32063/2022 whereby the High

Court of Orissa allowed the petition preferred by the respondent no.4 herein and has thereby set aside the order/s impugned and in addition has directed for fresh tender in respect of Karangadihi Sand Quarry.

3. The factual background is that on 18.07.2022 the Tahasildar, Banspal (Respondent no. 2 herein) floated an auction notice for long term lease of Karangadihi Stone Quarry for a period of five years, i.e., from the financial year 2022-23 to 2026-27. The last date of submission of bid was fixed to 04.08.2022 and the date of opening of bid was fixed to 05.08.2022. The auction notice specified the list of documents to be enclosed by the bidders along with the bid application. The important documents which are in question in the present case are:

“5. Income Tax Return of Previous Financial Year in which the annual income shall not be less than the royalty mentioned in schedule-1 as per annual Minimum Guaranteed Quantity (MGQ) of minor minerals and additional charge offered in the application of the applicant or Bank Guarantee with 18 months validity which shall not be less than the royalty mentioned in schedule-1 as per annual Minimum Guaranteed Quantity (MGQ) of minor minerals and additional charge offered in the application by the applicant and the applicant shall furnish details of other immovable property [Income Tax Return of Previous Financial Year showing annual income/ Requisite Extent of Bank Guarantee = Minimum Guaranteed Quantity X (Offered Additional Charge + Royalty)]

7. The bidder shall furnish a certificate/letter from the concerned GST jurisdictional officer that no GST dues are pending against such bidders”

4. The tender drop box was opened, on 05.08.2022 at 11.30 A.M., by the selection committee, comprising of Tahsildar, Banspal, Addl. Tahsildar, Banspal and Revenue Inspector in presence of applicants or their representatives. Five sealed envelopes were found to be submitted by Dileswar Behera, Anil Khirwal, Soumyajit Mohanty, M/s Sri Venkateswar Construction (petitioner herein) and M/s P.K. Minerals (P) Ltd. (respondent no.4 herein).

5. On scrutiny of the documents, it was found by the Tahsildar in its order dated 05.08.2022 that bids of Dileswar Behera, Anil Khirwal, Soumyajit Mohanty were not accompanied with required documents. It was further found that petitioner herein has quoted the highest additional charge at rate of Rs. 589/- and the respondent no.4 herein has quoted the second highest additional charge at rate of Rs. 221/-. Consequently, the petitioner was selected and declared as the successful bidder. The reasons given by the Tahsildar for declaring the petitioner as the successful

bidder and for rejecting the bid of respondent no.4 herein are reproduced below:

"The Serial No.04, M/S P.K Minerals Ltd. MD Soumya Ranjan Pahi. of Susila Saw Mill Campus, Keonjhar the 2nd highest bidder have not submitted any letter or certificate from the concerned GST Jurisdictional authority. In the advertisement No.1895 dt18.07.2022 of tender call notice, the bidders were" asked to furnish a certificate/ letter from concerned GST jurisdictional officer that no GST dues are pending against such bidders". But it is found that he has submitted only a photocopy of GST portal site from internet , which can't be considered as certificate or letter from the concerned GST jurisdictional Officer. Hence the case of 2nd highest bidder is not considered.

On the other hand, SL No. 05, M/S Sri Venkateswara Constructions Managing Partner Ganta Naga Subrahmanyam Rao, Rutisila, District-Keonjhar who quoted the highest rate of additional charge @ Rs.589/- has submitted all requisite documents along with the IT return of assessment year 2021-22, which needs to be clarified in conformity with tender advertisement. On enquiry M/S Sri Venkateswara Constructions Managing Partner Ganta Naga Subrallamanyam Rao, Rutisila, District-KeonJhar has submitted an certificate from Chartered Accounts EVB Reddey and Associates with Registration No.011050S, where he has clarified that the due date of filing of audited balance sheet profit and loss account for financial year 2021-22 is 30th September, 2022 and the due date of filing of IT return is 31st October, 2022 and for this aforesaid balance sheet may be treated as previous year ITR. It is also clarified that U/S 44AB of IT Act 1961, in case of Partnership firm whose turnover is more than Rs 1 Crore , the due date of filing audited balance sheet and profit & loss account for the year 2021-22 is 30th September and due date of filing ITR is 31st October. Hence the requisite amount of IT return of Assessment year 2021-22 submitted by M/S Sri Venkateswara Constructions Managing Partner Ganta Naga Subrahmanyam Rao, Rutisila, District-Keonjhar is in consonance with the Income Tax circular of Govt of India and also in accordance with the tender requirement. Besides these M/S Sri Venkateswara Constructions, Managing Partner Ganta Naga

Subrahmanyam Rao, Ruttisila, District-Keonjhar has also submitted the certificate/letter from the Office of the Supdt. Central GST & Central Excise, Jajpur Range, Jajpur Road, that there is no GST liability against M/S Sri Venkateswara Constructions Managing Partner Ganta Naga Subrahmanyam Rao, Ruttisila, Distnt-Keonjhar bearing GST IN No.21ABHFS6939AIZD vide C No.CGST-;21/06/Misc.,GST/JPR-II/2022/1173. In addition to these M/s Sri Venkateswara Constructions Managing Partner Ganta Naga Subrahmanyam Rao, Ruttisila, District-Keonjhar has quoted highest rate @ Rs.589/-, which is far higher than the rate of 2nd highest bidder i.e.@ Rs.221/- which will increase the highest revenue to the Govt. exchequer”

6. Accordingly, an intimation letter dated 10.08.2022 was issued to the petitioner and subsequently, further process had commenced such as deposit of the security money along with other charges under various heads like Royalty, etc.

7. The respondent no.4 herein has challenged the order of Tahsildar dated 05.08.2022 and preferred an appeal before Sub-Collector (Respondent no. 3 herein).

8. The Sub-Collector *vide* its order dated 20.10.2022 dismissed the appeal filed by the respondent no.4 herein, the reasoning given for dismissing the appeal is enumerated below:

“After careful verification of documents available in the C/R, it is found that the return available as per the Act has been submitted with Tender Notice and the condition of the Annual Turnover and Net Worth of all partners also fulfilled and satisfied as the entire audited balance sheet and return for the Assessment year 2021-

22 relating to the previous year 2020-21 as on the date of auction that was on 04.08.2022.

The respondent No.1 has not committed any illegality in respect of acceptance of the Income Tax Return of the respondent No.2 and consequential order is valid.

The second point of challenge before this court is that regarding the condition as per clause No.5 of the Auction Notice, the Bidders/participants have to submit their immovable property list and particulars alongwith the application, whereas the respondent No.2 has not furnished such particular, hence he is not eligible for such tender.

In reply, the respondent No.2 submitted that he has disclosed its income for the last Assessment Year is about Rs.1,81,06,830/- and under these circumstances the submission of details of immovable property is not required as per the terms and conditions for submission of tender.

It is further submitted with reference to the CHECK LIST of documents submitted by the Respondent NO.2 at Sl. No. 6, it has been listed as Immovable property (sale deed) is attached. So, this ground of challenge has not based on material.

The last ground of challenge of the appellant is that the Respondent No.1 hurriedly completed the process of verification without verifying the GST certificate submitted by the respondent No.2. As per the records, the Respondent No.1 is satisfied and verified the facts that, the no dues certificate has been issued by the jurisdictional officer of the respondent No.2 and found correct in respect of dues stands against the firm as on the date of selection and no other condition is required to be satisfied, whereas in other hand the appellant has not obtained the GST no dues certificate from his jurisdictional officer, thus there was no scope for any verification. The Appellant has not submitted any more evidence against the documents submitted by the Respondent No.2 which seems to be invalid as per the conditions of the tender or otherwise fake or false. Hence, the objection on this score raised by the Appellant is not sustainable in the eye of law. ”

9. On being aggrieved by the order of Sub-Collector the respondent no.4 herein filed a Writ Petition before the High Court of Orissa praying to set aside the order passed by the Sub-Collector and Tahsildar. The High Court vide the impugned order allowed the appeal of the respondent no.4 herein and thereby had quashed the order dated 05.08.2022 passed by the Tahsildar and order dated 20.10.2022 passed by Sub-Collector, and in addition had directed for fresh tender. The High Court while allowing the appeal has observed as under:

“7. On the basis of the factual matrix, as delineated above, before delving into the merits or the case itself, Clause-(iv) of Rule-27(4) of the Odisha Minor Minerals Concession (Amendment) Rules, 2022, which is relevant for the just and proper adjudication of the case, is taken note of:

“R-27/4/(iv). Income tax return of previous financial year showing annual income far on amount not less than the amount of additional charge offered and the royalty payable for the minimum guaranteed quantity for one whole year or bank guarantee valid for a period of eighteen months for the amount not less than the amount as above.”

8. As per the provision mentioned above, the bidder has to submit the income tax return of previous financial year for an amount not less than the amount of additional charge offered and the royalty payable for the minimum guaranteed quantity for one whole year or bank guarantee for a period of 18 months for the amount of additional charges offered. As required under Clause-5 of the auction notice, though opposite party no.4 had enclosed a check list along with bid application and vide sl.no.5 had enlisted "income tax return of FY 2021-22", but had enclosed the income tax return for the assessment year 202122 for the financial year 2020-21. As the tender notification was issued on 18.07.2022, the bidder was required to submit the income tax return for the FY

ending 31.03.2022. If the same would be taken into consideration, the bid application submitted by opposite party no.4 was without any income tax return of the financial year 2021-22, therefore, the same should have been rejected. Apart from the same, against sl.no.8 of the check list, opposite party no.4 had mentioned "GST no dues certificate", but the certificate enclosed was not a statutory certificate and, as such, the same was issued before the submission of income tax return of FY 202122. Furthermore, the said certificate was issued on the request made by the assessee and, as such, the same was a conditional one. The GST Authorities had made it clear that the certificate is not valid in case of any liability arises for the said period and at the time of scrutiny of details. Meaning thereby, the authority had reserved the right to cancel and declare the certificate to be invalid.

9. So far as the petitioner is concerned, it had no clues of Goods and Service Tax (GST). On 28.07.2022, the petitioner had applied to the Superintendent, Central Excise (CGST, Keonjhar1 Range for issue of a "No Dues Certificate" to comply with Clause-7 of the auction notice. But the CGST Authorities advised the petitioner to download the information from their website. Accordingly, the petitioner had downloaded the information from their website, which contained the information that the petitioner had no outstanding GST dues. Thereby, the same is in compliance of Clause-7 of the auction notice. As a consequence thereof, the petitioner objected to the bid submitted by opposite party no.4, but without considering the same, the authorities proceeded with the decision making process of selection and allotment of the quarry.....

10. On perusal of the endorsement of the committee, it is made clear that opposite party no.4 had quoted additional charge at the rate of Rs.589/-, but, so far as its income tax return for the assessment year 2021-22 is concerned, a clarification was to be given by the competent authority in consultation with the concerned department/authority, and, as regards no dues certificate obtained from the CGST department, confirmation was to be made by the concerned authority. Similarly, it was observed that the petitioner had quoted additional charge of Rs.221/-; but, however, the no dues certificate obtained from GST portal was needed to be confirmed from the concerned department/authority, if necessary, and, thereafter, the tender would be finalized. If such requirement has to be complied with, pursuant to the observation

made on 05.08.2022, without getting such clearance from the respective departments and getting confirmation from the respective authority, as was observed, the authority could not have proceeded with the matter and finalize the tender in favour of opposite party no.4 on the very same day, i.e., 05.08.2022. Thereby, the entire decision making process of the tendering authority is arbitrary, unreasonable and contrary to the provisions of law. Under these circumstances, this Court, in exercise of the powers conferred under the judicial review, has got jurisdiction to interfere with the decision making process of the tendering authority.

20. A contention was raised that opposite party no.4 had quoted highest price of Rs.589/- as additional charge and the petitioner had quoted Rs.221/-, therefore, opportunity should have been given to the petitioner to match with the bid price of opposite party no.4. But that question does not arise, in view of the fact that the document, which had been submitted by the petitioner with regard to no dues certificate from GST authority, is also required to be verified by the concerned department/ authority, if necessary. Thereby, this Court is of the considered view that even if the petitioner is called upon to match the highest price, but its bid will suffer from deficiency like that of opposite party no.4. Therefore, the question of calling upon the petitioner to match the highest price offered by opposite party no.4 may not arise. ”

10. On being aggrieved with the impugned order passed by the High Court the petitioner herein as well as the respondent no.4 through another SLP (C) no. 18198/2023 has preferred the present appeals. Both the appeals are being decided by this common judgement.

11. The Ld. counsel for the petitioner submitted as follows:

11.1 That the petitioner submitted the latest available Income Tax Return as per the law. The auction notice, issued on 18.07.2022, had a submission deadline of 04.08.2022. According to Section 139(1) and Section 44AB of the Income Tax Act, 1961, the due date for filing the Income Tax Return for financial year 2021-2022 for a tax audit subject bidder is 31.10.2022. Since the Petitioner, a partnership firm with a turnover above Rs. 1,00,00,000/- (Rupees one crore) was subjected to a tax audit and had not yet filed the 2021-2022 return by the bid submission date, the 2020-2021 return was considered the relevant return. In view of express provisions of Income Tax Act, 1961 the interpretation adopted by Respondent Nos. 1-3 is reasonable, ensuring fairness and a level playing field for all bidders. A strict interpretation of the bid condition would have been disadvantageous to bidders subject to a tax audit under the Income Tax Act. It is further submitted that it is not impossible to determine the financial soundness of a bidder and eligibility of a bidder under bid condition no. 5 from the latest available income-tax return filed by the bidder.

11.2 That the certificate obtained by the Petitioner from the GST jurisdictional officer dated July 28, 2022 confirms that, as per the GST liability register, there was no outstanding GST liability against the Petitioner as of that date, thereby fulfilling the requirement under bid condition S. No. 7 of the auction notice. The disclaimers in the certificate merely state that future liabilities may arise due to events like scrutiny or audit—a standard and universally applicable caveat. Such disclaimers do not undermine the validity or sufficiency of the certificate, which accurately reflects the Petitioner's compliance status at the time of issuance.

11.3 That confirmations and clarifications from relevant authorities are not essential preconditions to awarding a tender, as long as proper verification is conducted. In this case, the Tahasildar initiated clarifications and verifications on the same day and recorded his findings. Upon examining the Income Tax Act, 1961, he concluded that for tax-audited entities like the Petitioner, the due date for filing the 2021–2022 return was October 31, 2022, making the 2020–2021 return the latest available at the time of bidding and compliant with condition S. No. 5 of the auction notice. He also found the 'GST no dues' certificate submitted by the

Petitioner to be in order, as it confirmed there were no outstanding dues thus, meeting the requirement under S. No. 7.

11.4 That there was nothing in the order sheet noting that Respondent No. 2 was restricted from conducting immediate verification or the tendering authority prescribed any specific standard or degree of verification. The fact that respondent no. 2 examined and verified the documents on the same day should not prejudice the Petitioner, especially since the Petitioner's bid was found to be both compliant and the highest by a significant margin.

11.5 That Respondent No. 4 failed to comply with bid condition S. No. 7 by submitting a self-downloaded printout from the GST portal instead of an official 'no dues' certificate or letter from the relevant authority. There was no proof supporting the claim that CGST authorities advised submitting such a printout, and the document lacked any official verification or certification. This non-compliance was acknowledged by Respondent No. 2 in his order, and the Hon'ble High Court also rejected Respondent No. 4's arguments regarding the same in the impugned order. Accordingly, Respondent No. 2 rightly rejected Respondent No. 4's bid on this ground.

11.6 That While interpreting Rule 27(4)(iv), it is important to consider that the provision was amended less than four months before the auction notice, leaving limited precedent or established procedural practice for authorities to follow. Therefore, the approach taken by the tendering authorities (Respondents No. 1-3) in not adhering strictly to a literal interpretation of the condition, but instead ensuring a level playing field for all bidders, is reasonable and cannot be faulted.

11.7 That Tax authorities do not typically issue “no dues certificates” as part of statutory provisions but may do so upon request, as in the Petitioner’s case for bid submission. Since no specific format was prescribed in S. No. 7 of the auction notice, the Petitioner could not be expected to dictate the format or wording of the certificate issued by the statutory authority. Therefore, it was not within the Hon’ble High Court’s purview to impose additional requirements or mandate a specific certificate format when the tendering authority itself had not done so.

11.8 That HC should not have quashed the entire tender process but could have directed the Tahasildar to make appropriate enquiries with the relevant authorities and pass a reasoned order based on such enquiries finally settling the tender.

11.9 That the Petitioner, currently the highest bidder, has lost its competitive advantage as its bid amount is now in public. This order unfairly allows all bidders, including previously unsuccessful ones like Respondent No. 4, a chance to match or outbid the Petitioner in the re-tender process. Moreover, the order fails to consider the Petitioner's incurred expenses, obtained consents and licenses, and offers no protection regarding the security deposit, royalties already paid, or other investments made pursuant to the original tender award.

11.10 Petitioner has placed reliance on several Supreme Court decisions emphasizing judicial restraint in interfering with tender-related decisions made by the employer. In ***Central Coalfields Ltd. v. SLLSML (2016)***, the Court held that the employer's determination of essential tender terms must be respected and is not subject to judicial scrutiny. In ***G.J. Fernandez v. State of Karnataka (1990)***, it was affirmed that deviations from tender terms are permissible if they apply equally to all applicants and are non-objectionable. Similarly, in ***Tata Cellular v. Union of India (1994)***, the Court clarified that judicial review focuses on the lawfulness—not the soundness—of administrative decisions, and such decisions will not be interfered with unless they are arbitrary,

irrational, mala fide, or biased. This principle was reiterated in ***Jagdish Mandal v. State of Orissa (2007)***, where the Court held that courts should not intervene at the behest of unsuccessful bidders over mere technical or procedural issues. Accordingly, the interpretation of condition S. No. 5 is reasonable, ensures equal treatment of applicants, and does not warrant judicial interference.

12. *Per contra*, the Ld. Counsel appearing for the respondent no.4 submitted as follows:

12.1 That The income tax return for the previous financial year was a crucial requirement of the tender and could not be disregarded. Since the tender was advertised on 18.07.2022, the required return was for the financial year 2021–2022. However, the Petitioner submitted the return for the financial year 2020–2021, corresponding to the previous assessment year. Despite this non-compliance, the Tahasildar allegedly acted illegally and with mala fide intent in selecting the Petitioner as the successful bidder. Additionally, the Petitioner failed to submit a proper ‘no dues’ certificate from the GST jurisdictional officer. The certificate submitted was conditional, issued upon the Petitioner’s request, and explicitly stated that it would be invalid if any liability arose

during scrutiny, implying that the GST authority had reserved the right to cancel it.

12.2 That the tender box was opened on 05.08.2022, and a comparative statement of the bids received under the advertisement dated 18.07.2022 was prepared. The tender committee's endorsements clearly indicated that the finalization of the tender was contingent upon receiving necessary clarifications regarding the bids of both the Petitioner and Respondent No. 4. However, without awaiting these clarifications, the Tahasildar proceeded to declare the Petitioner as the successful bidder on the same day through an allegedly illegal and mala fide order. The Hon'ble High Court, in paragraph 10 of the impugned order, noted this irregularity and the premature action taken by the Tahasildar.

12.3 That Respondent No. 4 applied to the Superintendent, Central Excise (CGST Authority) for a "No Dues Certificate" as required under Clause 7 of the tender advertisement dated 18.07.2022. However, the CGST authorities advised Respondent No. 4 to download the relevant information from their website. Accordingly, Respondent No. 4 submitted the downloaded document, which indicated that there were no pending GST dues. This submission

was considered compliant with Clause 7, as the tender scrutiny committee did not raise any objections regarding it.

12.4 That the advertisement for the long-term lease of the mine was issued by the Tahasildar, Banspal, on 18.07.2022, and the tender was open until 4th August 2022. The Petitioner could have filed the Income Tax Return for the financial year 2021-2022 anytime between April and August 3, 2022, as the tender deadline was 5 pm on 4th August. There was no need to wait until the statutory deadline of 31.10.2022. The Petitioner, however, submitted the Income Tax Return for the financial year 2020-2021 instead and misrepresented it as the return for 2021-2022. The Hon'ble High Court acknowledged this in paragraph 8 of the impugned order. Despite this, the Respondent Nos. 1-3, in their Counter Affidavit, contradicted their own tender advertisement and the OMMC Rules by supporting the Petitioner and suggesting that the failure to submit the correct Income Tax Return or the Bank Guarantee could be excused.

12.5 That in the counter affidavit, the Respondent State claims that the necessary clarifications and confirmations were obtained by the Tahasildar before issuing his order on 05.08.2022. However, this statement contradicts both the facts and the Tahasildar's own

order, which clearly shows that no clarifications were obtained from the relevant department or authority, as indicated by the Tender Committee's endorsement. Instead, the Tahasildar relied on clarifications provided by the Petitioner's Chartered Accountant, who could not offer an independent opinion. As a government officer, the Tahasildar should have sought clarifications from the appropriate government department rather than relying on a bidder's representative, which suggests bias in favor of the Petitioner and against Respondent No. 4.

12.6 The Respondent State filed a Counter Affidavit in W.P.(C) No. 32063 of 2022 on 22.12.2022 but did not mention that the Tahasildar had made necessary clarifications and confirmations before issuing the order dated 05.08.2022. Similarly, in another affidavit filed on 02.05.2023 in reply to the Petitioner's Rejoinder, no such claim was made. The current assertions by Respondents No. 1 to 3 about the Tahasildar making necessary clarifications are unsupported by documentary evidence and were never argued before the High Court. These statements are misleading, inconsistent with earlier records, and appear to be an afterthought. The Hon'ble High Court, in paragraph 10 of the impugned

judgment, has thoroughly addressed these issues and given a clear finding.

13. The Ld. Counsel appearing for the respondent no.1 to 3 submitted as follows:

13.1 That A review of the endorsements made by the committee shows that clarifications and confirmations were not mandatory. However, as part of a fair tender process, the Tahasildar confirmed the details on the same day, 05.08.2022, after verifying the documents submitted by both bidders. The entire bidding process was conducted in accordance with the OMMC Rules, 2016, and no objections were raised by any bidders during the process. As a result, the Tahasildar was not required to seek further verification or clarification from any party.

13.2 That the clarification provided by Mr. Ganta Naga Subrahmanyam Rao, Managing Partner of the Petitioner, is valid, stating that under Section 44AB of the Income Tax Act, 1961, for partnership firms with a turnover exceeding Rs. 1 crore, the due date for filing the audited balance sheet and profit & loss account for the financial year 2021-2022 was 30.09.2022, and the due date for filing the Income Tax Return was 31.10.2022. As such, the Income Tax Return for the financial year 2020-2021, submitted

by the Petitioner, can be treated as the relevant previous year's return, satisfying the prerequisite conditions. Additionally, the Petitioner submitted a valid certificate from the GST jurisdictional officer, while Respondent No. 4 submitted an invalid photocopy from the GST portal, which could not be accepted as a valid certificate.

14. Heard Ld. Counsels appeared on both sides and perused the relevant documents placed on record.

15. The controversy in these petitions revolves around the conditions referred to in the tender notice dated 18.07.2022. As referred to in para 3 the condition no. 5 is in respect of submission of income tax return of previous financial year or bank guarantee of 18 months validity. The second condition is furnishing a certificate/letter from the concerned GST Jurisdictional Officer stating that the bidder has no GST dues pending.

16. Respondent no. 4 in the present Special Leave Petition (petitioner before the High Court) vehemently submitted that the petitioner herein has submitted the income tax return for the financial year 2020-21 instead of year 2021-2022. Thus, it was submitted that the petitioner failed to comply with the condition no. 5. Though at the first blush, this submission may look

attractive but on perusal of the material, we are unable to accept this submission.

17. Admittedly, the petitioner had submitted the requisite documents along with his income tax return. Tahasildar for his satisfaction had made an enquiry with the managing partner Shri. G.N. Subrahmanyam Rao of M/s. Sri Venkateswara Constructions. In response to the query made by the Tahasildar, the representative i.e. the managing partner submitted certificate of the chartered accountant. It was clarified in the certificate that the due date of filing of audited balance sheet and profit and loss account for financial year 2021-22 is 30th September, 2022 and the due date of filing of IT return is 31st October, 2022. It was then submitted that the income tax return for the financial year 2020-21 may be treated as previous year income tax return. A support was taken to the provision namely, Section 44 AB of Income Tax Act, 1961 which state that in case of partnership firm whose turnover was more than Rs. 1 crore, the due date of filing audited balance sheet and profit & loss account for the year 2021-22 is 30th September and the due date of filing ITR is 31st October, 2022. The requisite amount of income tax return of the assessment year 2021-22 submitted by the petitioner is in consonance with the

income tax circular of Government of India and was also in accordance with the tender requirement. The second condition in respect of furnishing certificate/letter from the concerned GST Jurisdictional Officer that no GST dues are pending is also complied with by the petitioner.

18. Accordingly, the certificate was issued with the statement that the certificate is not valid in case of any liability arises for the said period and at the time of scrutiny of details. The Tahasildar on his satisfaction that the petitioner has complied both the conditions, he was declared as a successful bidder.

19. Needless to state, that the intention of laying down such condition is to ascertain and assess the financial capacity and capability of the bidder. As stated above, the petitioner has submitted his income-tax returns of the year 2020-21 which shows that the petitioner has the financial capability to participate in the bidding process, therefore, the income tax return as submitted by the petitioner is sufficient to fulfil the purpose of such condition/requirement of auction notice in assessing the petitioner's financial capability.

20. Income Tax Department issued notification providing thereby extension of the period for filing the income-tax returns to

particular category. Admittedly, the petitioner was from that category and was entitled to avail the benefit of the notification. Accordingly, the petitioner was entitled to file his returns of financial year 2021-22 till 31st October, 2022 and this fact was brought to the notice of Tahasildar. Thus, the insistence of respondent no. 4 for not submitting the income-tax return for the year 2021-22 was clearly untenable and resultantly the submission that the petitioner failed to comply with the prerequisite condition is unsustainable.

21. In so far as the other condition is concerned the petitioner has submitted the communication issued by the GST officer revealing that there are no dues against the successful bidder, merely because there is a rider attached to it, the same would not ipso facto, lose the sanctity of the certificate issued by the GST officer in favour of the petitioner.

22. On the contrary, the respondent no.4 himself failed to comply this condition and instead of placing before the authority any certificate issued by the GST officer the respondent no.4 only placed on record a screenshot of his GST portal reflecting his GST dues. Such a screenshot could not have been accepted as compliance of condition of auction notice. Therefore, the

respondent no.4 had complied with only one condition and failed to comply the other pre-requisite in the form of GST certificate. Thus, considering the material placed on record, we are of the clear opinion, that the submissions made on behalf of respondent no.4 is not sustainable for the simple reason that the Tahasildar was satisfied on the aspect that the petitioner had complied with both the conditions and there was no need for the him to further wait for some approval and delay the process.

23. Another aspect which is also worth consideration is the bid quoted by the petitioner was much more than the respondent no.4 and by way of accepting the tender of the petitioner the state ex-chequer could have been benefitted and there was no reason for the revenue authorities i.e., the Tahasildar and the Sub-Collector to turn down the bid of the petitioner. However by accepting the bid of respondent no.4 there could have been a loss to the public ex-chequer.

24. Thus, considering all these aspects, we are of the opinion that the decision of the revenue authorities namely the Tahasildar and the Sub-Collector were just, and the High Court committed gross error in allowing the petition.

25. Resultantly, the appeals are allowed. The order impugned is quashed and set aside.

26. Pending application(s), if any, shall stand disposed of.

.....J.
[BELA M. TRIVEDI]

.....J.
[PRASANNA B. VARALE]

NEW DELHI;
APRIL 25, 2025.