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WA No. 1913 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19-06-2026

PRONOUNCED ON : 10-07-2026

CORAM

THE HON'BLE MR.SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

WA No. 1913 of 2025
and
CMP No. 14543 of 2025

Airports Authority of India,
Through Joint General Manager (Operations),
Regional Headquarters Southern Region,
Operational Offices Complex,
Chennai Airport, Chennai – 600 016.

..Appellant(s)

Vs

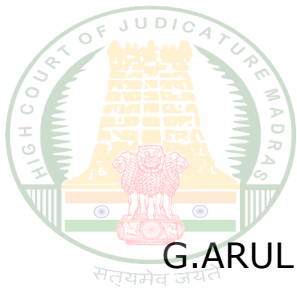
Goldair India Private Limited,
81/1, Adchini, Shri Aurobindo Marg,
South Delhi, India – 110017,
Through its Director,
Mr.Rajeev Matta.

..Respondent(s)

PRAYER: Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 26.02.2025 in W.P.No.5177 of 2025 on the file of this court by allowing this writ appeal.

For Appellant(s): Mr.R.Venkatavaradhan
For Mr.R.Aravind

For Respondent(s): Mr.Arun Karthik Mohan



JUDGMENT

G.ARUL MURUGAN, J.

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The Airports Authority of India preferred this Intra-Court Appeal assailing the order dated 26.02.2025 passed in W.P.No.5177 of 2025, whereby the Writ Court set aside the communication sent through email dated 11.02.2025, rejecting the respondent's bid and consequently directed the appellant/Airports Authority of India to accept the respondent's consortium bid dated 21.11.2024, submitted towards concession for ground handling services at Vijayawada Airport.

2. The relevant facts to be noted are that the appellant/Airports Authority of India floated a Tender dated 21.10.2024/Request for Proposal (RFP) towards concession for ground handling services at Vijayawada Airport. The respondent/writ petitioner, which is a wholly owned subsidiary of M/s.Goldair Handling SA, formed a consortium with the said company and submitted its bid on 21.11.2024.

3. The appellant through email communication dated 01.01.2025, intimated the respondent and its consortium member about certain shortfalls in the bid. The same was responded to by the respondent stating that the appendices referred to in the shortfall were not applicable to them. However, since the same was insisted by the appellant, the consortium member of the petitioner wrote to the appellant/Airport



Directors at Udaipur and Bagdogra Airports on 03.01.2025, requesting them to provide details pertaining to the Appendix/No Due Certificates.

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4. Pursuant to the receipt of the response dated 06.01.2025 from the Bagdogra Airport and Udaipur Airport intimating that the consortium member, M/s.Goldair Handling SA, has no operations in both these airports and is not included in their debtor lists, the petitioner submitted a communication dated 06.01.2025 to the appellant along with certificates dated 06.01.2025 and 03.01.2025 issued by the Statutory Auditor to the bidder.

5. However, via email communication dated 09.01.2025, the appellant again called for the submission of the said documents. The respondent responded through a communication dated 17.01.2025, reiterating their earlier stand taken. As the issues were not resolved, the respondent again sent a communication dated 26.01.2025 to the Bagdogra Airport and Udaipur Airport seeking assistance. By email communication dated 27.01.2025, the Airport Directors of both the Airports, intimated that any such certificate could be issued only upon a written request from the Special Purpose Vehicles (SPV), which is handling the contract and subsequent to which the respondents consortium member communicated with the consortium member of the SPV at the two airports, but received no response, in view of the pending dispute/litigation between them. Ultimately, the appellant through the



email communication dated 11.02.2025, intimated that the technical bid of the respondent stood rejected.

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6. The respondent challenged the rejection of their technical bid on the ground that neither the respondent nor its consortium member M/s.Goldair Handling SA, was a party to or had any valid subsisting contract at the Udaipur and Bagdogra Airports, and therefore, they were not required to submit any No Due Certificate as per Appendix 9A and 9B. The appellant resisted the challenge, stating that M/s.LAS Goldair Handling Bagdogra Private Limited and M/s.LAS Goldair Handling Udaipur Private Limited are both Special Purpose Vehicles (SPVs) or affiliates of the petitioner's consortium partner M/s.Goldair Handling SA. Therefore, the appellant contended that they were bound to produce No Due Certificates as per Appendix 9A and 9B and in view of the non production, the bid was rightly rejected.

7. The Writ Court considering the definition of 'affiliates' in the tender documents and referring to Clause 2.2.1(g) along with requirements stipulated under Clause 2.2.7, held that the No Due Certificates under Appendix 9A and 9B were not required to be submitted by the respondent. Consequently, the Writ Court set aside the rejection of the technical bid and directed the appellants to open the financial bid of the petitioner, if the technical bid was otherwise eligible and to process the same on merits along with other participants. Aggrieved by this order,

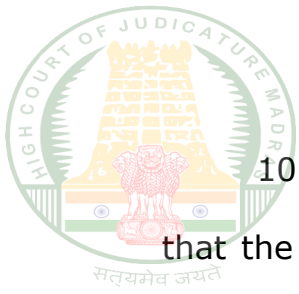


the Airports Authority of India is before this Court on appeal.

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8. Mr.R.Venkatanandhan, learned counsel appearing on behalf of the appellant/Airports Authority of India, contended that the respondents were bound to declare and submit No Due Certificates in Appendix 9A and 9B, inasmuch as the respondent's consortium partner, M/s.Goldair Handling SA, is also the consortium partner in M/s.LAS Goldair Handling Private Limited, which undertakes operations at the Bagdogra Airport and Udaipur Airport.

9. Learned counsel further submitted that pursuant to the communication made by the appellant, consortium member of the respondent had, in fact, approached the two airports for obtaining the No Due Certificates. Though by an initial communication it was intimated by the airports that the consortium member of the respondent M/s.Goldair Handling SA did not have any operations, but subsequent communication made it clear that since the SPV holds the contract, any request could be considered only based on the communication from the SPV. The Consortium member had also approached the SPV but was not able to successfully make a request admittedly in view of the pending dispute/litigation. As such merely because of the difficulty, or inability of the respondent/consortium member to obtain the No Due Certificate, it will not be eligible to qualify in the tender.



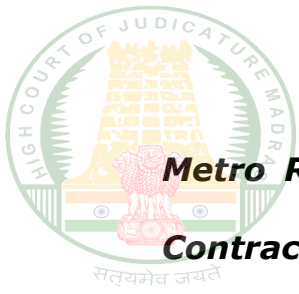
10. By referring to clause 2.2.1.(g), the learned counsel submitted that the learned Single Judge had only considered 'affiliates' to arrive at the conclusion that No Due Certificate was not required, but however failed to consider the other clause, which includes 'any other party', that is in any capacity, not limited to a consortium or licensee. When this Clause is wide enough to bring the SPV within its fold, and the consortium member of the respondent is admittedly involved in the operations at Bagdogra Airport and Udaipur Airport, it has to mandatorily submit the No Due Certificates. Therefore, any relaxation or exemption granted for 'affiliates' would not be applicable to 'any other party'.

11. The learned counsel also, by relying on the decisions of the Hon'ble Supreme Court of India in the case of **Tata Cellular vs. Union of India¹**, and **Jagdish Mandal vs. State of Orissa and Others²**, submitted that the scope of judicial review is limited, whereby the decision arrived at by the tendering authority is not reviewable and only the decision making process can be reviewed. In the absence of any allegation of mala fides, the writ petition challenging the rejection of the bid is not maintainable.

12. The learned counsel also, by placing reliance on decisions of the Hon'ble Supreme Court in **Afcons Infrastructure Limited vs. Nagpur**

¹ (1994) 6 SCC 651

² (2007) 14 SCC 517



Metro Rail Corporation Limited³, and Galaxy Transport Agencies, Contractors, Traders, Transports and Suppliers vs New J.K.

Roadways, Fleet Owners and Transport Contractors and Others⁴,

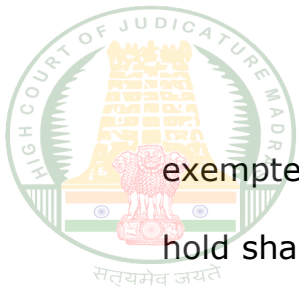
submitted that the author of the tender document is the best person to understand and appreciate its requirements, hence the interpretation of the tender inviting authority must be accepted and the Court cannot substitute its own view. Therefore, the order of the learned Single Judge setting aside the rejection by interpreting the terms of the contract is erroneous and impermissible and warrants the interference of this Court.

13. Per contra, Mr.Arun Karthik Mohan, learned counsel appearing on behalf of the respondent argued that the appellant had throughout the writ petition interpreted the clauses in the tender document and took a stand that the SPV handling contract work at the two airports is an 'affiliate' of the respondent/consortium partner, but adopts completely a new stand in the appeal contending that SPV falls under the clause 'any other party' and therefore the No Due Certificate under Appendix 9A and 9B is to be submitted, which is impermissible.

14. He further submitted that neither the respondent nor its consortium partner holds a valid past or present contract and the two SPVs in Bagdogra and Udaipur Airports, which are 'affiliates' of the respondent/consortium partner, since coming within the term 'affiliate' is

³ (2016) 16 SCC 818

⁴ (2021) 16 SCC 818



exempted from submitting No Objection Certificate (NOC) as they do not hold shareholding of more than 50% as contemplated under Clause 2.2.7.

The learned counsel further submitted that from the Statutory Auditor report filed, it is clear that the shareholding of the respondent's consortium partner was only of 35% and 34.7%, which is less than the 50% threshold prescribed under Clause 2.2.7. Consequently, the SPV could not be construed as 'affiliate' of M/s.Goldair Handling SA.

15. Learned counsel further added that even if the clause 'any other party', as contended were to apply, it would only be applicable, if such work is undertaken by the bidder, or consortium member, or its affiliate. Since that the rejection of the bid by the respondent was completely perverse and irrational, in view of the explicit terms contained in the tender, the learned Judge rightly set aside the rejection and directed the appellant to evaluate the financial bid along with other participants, if otherwise qualified.

16. By relying on the decisions of the Hon'ble Supreme Court in the case of ***M/s.Star Enterprises and Others vs. City and Industrial Development Corporation of Maharashtra Limited and Others***⁵, and ***State of Punjab vs Bandeep Singh and Others***⁶, the learned counsel submitted that the State or its instrumentality must act in consonance with the Rule and whenever the decision of the tender

⁵ (1990) 3 SCC 280

⁶ (2016) 1 SCC 724



inviting authority suffers from irrationality, it is for the Courts to interfere to protect the larger public interest.

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17. We gave our anxious consideration to the submissions made on either side and have perused the materials available on record.

18. The Appellant/Airport Authority of India, floated the tender dated 21.10.2024 calling for Request for Proposal towards concession for ground handling services at Vijayawada Airport. The respondent submitted the bid on 21.11.2024. The respondent is the wholly owned subsidiary of its consortium partner M/s.Goldair Handling SA. After exchange of certain communications through email between the appellant/Airports Authority of India and the respondent/tenderer, ultimately by email communication dated 11.02.2025, the respondent's technical bid came to be rejected on the failure to submit 'No Due Certificate' in Appendix 9A and 9B.

19. At the outset, it is to be noted that it is not the tender conditions nor the acceptance of the bid that is challenged by any tenderer or unsuccessful participant. The scope of judicial review in contractual matters is fairly well settled by decisions of the Apex Court. The tender of the respondent was rejected as non-responsive due to the non-submission of 'No Due Certificates' under Appendix 9A and 9B. The challenge to the order of rejection is based solely on the ground that the

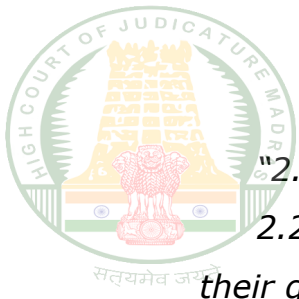


submission of the No Due Certificates are not required as per the specific clause of the tender conditions. Therefore, this Court is only required to consider as to whether the rejection of the tender is irrational or perverse in light of the specific clause in the tender.

20. The core issue is as to whether the respondent is required to submit 'No Due Certificate'. In this regard, it is useful to refer to the relevant definition within the tender document itself. The term 'affiliate/associate' is defined in the tender document which reads as follows:

"Affiliate"/"Associate" shall have the meaning ascribed to it in Clause 2.2.7"

21. Clause 2 of the tender deals with "Instructions to the Bidder". While Clause 2.1. states about the "Scope of the Application", Clause 2.2. deals with "Eligibility of the Bidders". The tender document allows a bidder to bid as a single entity, which may be an individual, private entity or Government entity, or any consortium with a group of, at maximum, three entities coming together to implement the project. The term 'bidder' is applicable to both single entity and the consortium. Clause 2.2 reads as follows:



2.2. Eligibility of Bidders

2.2.1. For determining the eligibility of bidders ("Bidders") for their qualification hereunder, the following shall apply:

(a) The Bidder may be a single entity (which may be a natural person, private entity, government-owned entity etc.) or a group of at maximum of three entities (the "Consortium"), coming together to implement the Project(s). However, no Bidder applying individually or as a member of a Consortium, as the case may be, cannot be a member of another Bidder who is bidding for the same Airport. For avoidance of doubt, a Bidder bidding individually or as a member of Consortium shall not be entitled to submit another bid either individually or a member of Consortium for the same Airport. The term Bidder used herein would apply to both a single entity and a Consortium.

(b) A Bidder may be a natural person, private entity, government-owned entity or any combination of them with a formal intent to enter into an agreement or under an existing agreement to form a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in this RFP.

(c)

(d).....

(e).....

(f)

(g) If the Bidder or its Member or its Affiliates (whose experience is used for Technical and Financial Capacity) is an existing or past concessionaires or licensees of AAI or has/ had worked at the AAI airport either through a direct contract with AAI or through a contract with Airlines (for example as non-entity) or any other party (in any capacity whatsoever and not being limited to as a role of a Concessionaire or license at AAI), intends to participate in response to RFP, then the Bidder or its Member or its Affiliates (whose experience is used for Technical and Financial Capacity) should have 'NIL' outstanding dues for the



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period up to 30.06.2024 in respect of all the units of AAI (where the participating tenderer is operating concessions/licenses or had operated concessions/licenses) as on the bid submission date. However, AAI reserves the right to cross check the outstanding dues to rule out any discrepancy and may ask the participating bidders to clear their dues, if any while seeking shortfall documents.

2.2.2.

2.2.3.

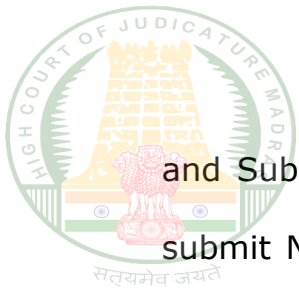
2.2.4.

2.2.5.

2.2.6

2.2.7. In computing the Technical and Financial Capacity of the Bidder/Consortium Members under Clauses 2.2.2 and 3.2, the Technical Capacity, turnover and Net worth of their respective Associates/Affiliates would also be eligible hereunder. For purposes of this RFP, Associate means, in relation to the Bidder/Consortium member, a person who controls, is controlled by, or is under the common control with such Bidder/Consortium Member (the "Affiliates or Associate"). As used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law."

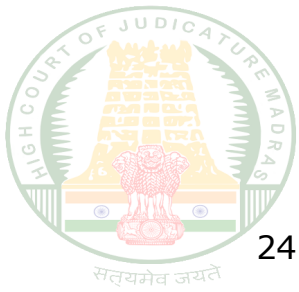
22. The conflict of interest regarding a bidder as per Sub-Clause (b) of Clause 2.2.1 affects the bidding process and for the said purpose, mainly the shareholding percentage of the bidder, its member, or affiliates thereof is taken for consideration. Clause 2.2.1.(g) stipulates that there should be 'Nil' outstanding dues for the period upto 31.06.2024



and Sub-Clause (a) of 2.2.1.(g) stipulates that the bidder is required to submit No Due Certificate as per Appendix 9A and 9B at the time of bid submission. Further as per Clause 2.2.1.(g), three categories: i.e., Bidder or its Member or its Affiliates, who is an existing or past concessionaires or licensee of the Airports Authority of India, or as had worked at Airports Authority of India airports either through the direct contract or through a contract with Airlines or any other party, in any capacity whatsoever and not being limited to as a role of concessionaire or licensee at Airports Authority of India and intends to participate in the tender such bidder or its member or its affiliate should have no outstanding dues as on the prescribed date or on the bid submission date.

23. A plain reading of the Clause 2.2.1.(g) makes it simple and clear that in submission of the bid, three specific categories of interested parties are involved i.e., its bidder, or its member, or its affiliate. The nature of the interest is further divided into three categories i.e., where any of the aforementioned entities has an interest as an existing or past concessionaire, or licensee, or has/had worked at Airports Authority of India airports. Furthermore, the term 'worked at Airports Authority of India' specifies three distinct categories, i.e.,

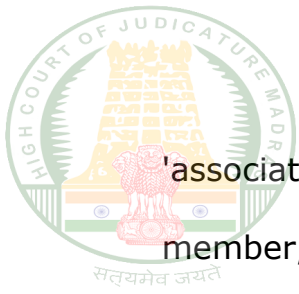
- (a) Through a direct contract;
- (b) Through a contract with Airlines;
- (c) Through Any other party (which includes any capacity not limited to a concessionaire or licensee).



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24. The mode of interpretation of the tender condition by the appellant before the Writ Court was that the SPVs at Bagdogra Airport and Udaipur Airport are 'affiliates' of the M/s.Goldair Handling SA, which is consortium partner of the respondent. But the learned counsel for the appellant now seeks to interpret the condition in a way that Clause 2.2.1. (g) has to be read as having four categories: i.e., the bidder, or its member, or its affiliate, or any other party. By interpreting in such a manner, the learned counsel projects that only an 'affiliate' could fall on explanation given in Clause 2.2.7, where if the consortium partner holds less than fifty percent shareholding in the affiliate, they are exempted from submitting the No Due Certificate. However, the respondent's consortium partner M/s.Goldair Handling SA is a part of the SPV and the SPV would fall under the category 'any other party', and therefore, explanation available under Clause 2.2.7 would not be applicable to this clause 'any other party', but only for an affiliate. Therefore, the learned counsel for the appellant argued that the respondents are bound to submit Appendix 9A and 9B.

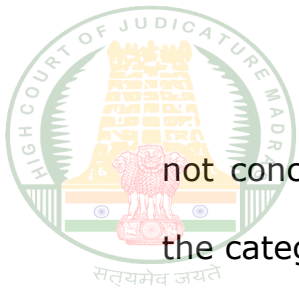
25. We are not persuaded with such an interpretation advanced by the learned counsel for the appellant/Airports Authority of India, for the simple reason that the term 'affiliates' has been defined in the tender document itself, stating that it shall have the meaning ascribed in Clause 2.2.7. The Clause 2.2.7 stipulates that, for the purpose of tender, an



'associates'/'affiliate' means, in relation to the bidder or consortium member, a person who controls, is controlled by, or is under the common control of such bidder/consortium member. Further, the expression 'control' is also defined as a person which is company or corporation, having ownership directly or indirectly, holding more than fifty percent of the voting shares of such person, or the power to direct its management.

26. From the statutory audit reports filed by the respondent, which are not disputed by the appellant, it is evident, which was also observed by the Writ Court that M/s.Goldair Handling SA, the consortium partner of the respondent holds 35% of the shareholding in the SPV at Bagdogra Airport and as only 34.7% of the shareholding in the SPV at Udaipur Airport. Consequently, as the shareholding is below the 50% threshold, the SPVs at Bagdogra Airport and Udaipur Airport cannot be considered as affiliates of M/s Goldair Handling SA.

27. Specifically only three categories are mentioned in Clause 2.2.1. (g) comprising bidder/member/affiliate, having interest through existing/past concessionaire or licensee or worked at airports is required to submit No Due Certificate in Appendix 9A and 9B. Only for the interest acquired for having worked at airport, it is explained that the work done through direct contract, or contract through airlines, or through 'any other party' beyond concessionaire/licensee will also form part. In effect, a direct contract or contract through airlines or any other party who was



not concessionaire or licensee worked in the airport would all fall under the category 'affiliates'.

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28. Admittedly, M/s.LAS Goldair Handling Bagdogra Private Limited and M/s.LAS Goldair Handling Udaipur Private Limited are concessionaire/licensee at Bagdogra and Udaipur Airports respectively in which M/s.Goldair Handling SA, the consortium partner of the respondent, is having interest as a consortium member. Since the records establish that M/s.Goldair Handling SA holds less than 50% share in the SPVs at both Bagdogra and Udaipur Airports, it would not come under the clause 'affiliate'. In such circumstances, given that neither the respondent nor its consortium partner M/s.Goldair Handling SA is having a valid past or present concession in any of the airports of appellant/Airports Authority of India, the requirement of submitting No Due Certificate under Appendix 9A and 9B does not arise.

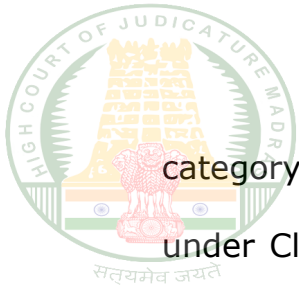
29. It is to be noted that the Appellant/Airports Authority of India had only communicated the requirement to procure NOCs under Appendix 9A and 9B, which was responded to at the very threshold by the respondent, who maintained that they were not required to submit the same. However, based on the appellant's insistence, they have addressed the communications to the two airports – Bagdogra and Udaipur Airports for the issuance of NOC, which was replied to by the respective airports stating that M/s.Goldair Handling SA, the consortium partner of the



respondent, did not have any services at these two airports. When the very clause in the tender itself does not require the respondent to submit the No Due Certificate in Appendix 9A and 9B, any further communication made between the appellant/Airports Authority of India and the respondent cannot alter the express terms of the tender.

30. It is the vehement contention of the learned counsel for the appellant, by relying on the decisions of the Hon'ble Apex Court that since the tender inviting authority is the best person to interpret the tender, its interpretation is to be accepted. However, as referred to earlier, in fact the appellant had all along interpreted and taken a stand that the SPVs at the two airports are affiliates of M/s.Goldair Handling SA, the consortium partner of the respondent. However, after factually coming to know from the Auditor Report, that M/s.Goldair Handling SA is having a shareholding of less than 50%, the appellant now shifted their stand and by relying on the clause 'any other party' seek to interpret that the exemption/relaxation granted under Clause 2.2.7 would apply only to 'affiliate' and the same would not be applicable to SPV, which would fall under 'any other category'.

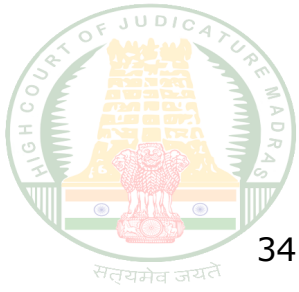
31. The terms of the tender being explicitly clear regarding 'affiliate' and its applicability as stated under Clause 2.2.7, the interpretation now sought to be made by the appellant contending that the SPV would not fall within the definition of 'affiliate' but would rather fall under the



category of 'any other party', and that the benefit or relaxation granted under Clause 2.2.7 will not be applicable to this clause would be against the very terms of the tender, which is impermissible and totally misplaced.

32. Admittedly, there is no adverse communication from the two airports where the SPVs are operating, nor is there any communication in respect of pending dues. The rejection of the technical bid for non-submission of No Due Certificate under Appendix 9A and 9B, which are not required as per the very terms of the tender, is irrational and suffers from perversity.

33. Once this Court arrives at the conclusion that the decision of the tender inviting authority is irrational and perverse, the only consequence that would be proper is to direct the respondent's financial bid to be opened and evaluated along with other bidders, which the Writ Court had rightly exercised. In view of the above deliberations, we do not find any error or infirmity in the order passed by the Writ Court warranting interference.



34. Accordingly, the Writ Appeal stands dismissed. Consequently,
the connected Miscellaneous Petition is closed. There shall be no order as
to costs.

(SUSHRUT ARVIND DHARMADHIKARI, C.J.) (G.ARUL MURUGAN J.)

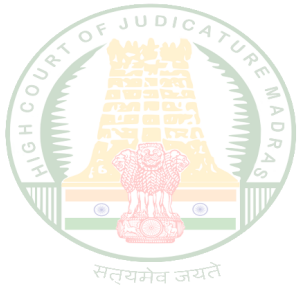
10-07-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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WA No. 1913 of 2025



THE HON'BLE CHIEF JUSTICE.
AND
G.ARUL MURUGAN, J.

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