

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 5115 of 2015 (L)

PETITIONER(S):

**BLISS ABODE HOTELS PVT. LTD.,
TC 26/807, THRIPTHI, CHEMPAKA NAGAR,
GPO, BAKERY JUNCTION, THIRUVANANTHAPURAM,
REPRESENTED BY DIRECTOR, MRS. MARY JOB.**

BY ADV. SRI.M.DINESH

RESPONDENT(S):

**MANAGING DIRECTOR, KERALA SIDCO LTD.,
KERALA SIDCO LTD., 6TH FLOOR, HOUSING BOARD BUILDING,
SANTHI NAGAR, THIRUVANANTHAPURAM-685 001.**

BY ADV. SRI.R.T.PRADEEP, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT. P1 : TRUE COPY OF THE TENDER NOTICE RREFERENCE NO.E&I/BTM/2014-15
PUBLISHED BY THE RESPONDENT.**

**EXT. P2 : TRUE COPY OF THE BID SUBMISSION CONFIRMATION ISSUED BY THE
RESPONDENT.**

EXT. P3 : TRUE COPY OF THE PAN CARD ISSUED TO THE PETITIONER COMPANY.

**EXT. P4 : TRUE COPY OF THE CERTIFICATE OF IMPORTER-EXPORTER CODE (IEC)
ISSUED TO THE PETITIONER COMPANY.**

**EXT. P5 : TRUE COPY OF THE CERTIFICATE OF INCORPORATION ISSUED TO THE
PETITIONER COMPANY.**

EXT. P6 : TRUE COPY OF THE CONSORTIUM AGREEMENT DTD.24.11.2014.

**EXT. P7 : TRUE COPY OF THE LETTER OF REJECTION OF BID BY THE RESPONDENT
ON 16.2.2015.**

**EXT. P8: TRUE COPY OF THE CERTIFICATE OF REGISTRATION FROM THE
COMMERCIAL TAXES DEPARTMENT DTD.27.11.2014.**

EXT. P9: TRUE COPY OF THE BUSINESS PROFILE OF AL MASHAEL PETROLEUM.

RESPONDENT(S)' ANNEXURES:

**ANNEXURE 1: TRUE COPY OF THE NOTICE DTD.13.2.2015 TO PETITIONER
INFORMING THE REASONS FOR REJECTION OF TECHNICAL BID.**

**ANNEXURE II: TRUE COPY OF THE ACKNOWLEDGMENT OF PAN APPLICATION
DTD. 4.1.2014 SUBMITTED BY THE BIDDER ON ONLINE.**

//TRUE COPY//

P.S.TO JUDGE

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 5115 of 2015

Dated this the 19th day of March, 2015

J U D G M E N T

Non-consideration of the bid submitted by the petitioner favourably, so as to effect the supply, pursuant to Ext.P1 tender notice issued by the respondent made the petitioner to approach this Court by filing the writ petition.

2. As per Ext.P1 tender notice the willing parties were required to submit tenders in conformity with the terms of the tender and it was accordingly, that the petitioner also submitted the technical bid as well as the price bid separately, as stipulated. The last date for submission of the bid was originally stipulated as 26.11.2014, which was extended till 29.11.2014 and it was sought to be opened accordingly. According to the petitioner, the bid submitted by the petitioner, joining hands with the consortium partner, satisfies all the requirements with regard to the eligibility criteria prescribed by the respondent and all the relevant documents were also submitted along with the tender. The tender was actually opened on 13.02.2015 and after the intervening holidays, the petitioner was let known that the bid

submitted by the petitioner was rejected mainly for three reasons, which according to the petitioner is not correct or sustainable, either on fact or in law. Hence the challenge seeking to set aside Ext.P7, also praying for a direction to be given to the respondent to verify the documents submitted by the petitioner and to grant an opportunity to participate in the bid.

3. A statement has been filed on the part of the respondent seeking to sustain the course of action. Copy of the notice dated 13.02.2015 informing the petitioner as to the reason for rejection of the bid has been produced as Annexure 1. Petitioner had filed reply affidavit as well.

4. Heard both the sides.

5. Going by the contents of the statement, particularly as paragraph 2 and also the reason stated in Annexure 1, it is seen that the bid submitted by the petitioner came to be rejected for the reasons as given below:

- “(i) The bidder has not submitted a valid export-import license.
- (ii) No proof in support of the required experience has been submitted.
- (iii) No valid PAN and VAT possessed by the bidder at the time of filing the e-tender.”

6. The learned counsel for the petitioner submits that all the requisite documents were submitted by the petitioner on time as discernible from the proceedings filed along with the writ petition. Ext.P3 is the 'PAN Card' issued to the petitioner Company. Ext.P4 is the 'Certificate of Importer Exporter Code' and Ext.P5 is the 'Certificate of Incorporation'. While Ext.P6 is a copy of the 'Consortium Agreement' and such other relevant particulars. A copy of the 'Certificate of Registration' under the Commercial Taxes Department, has also be produced along with the reply affidavit as per Ext.P8. It is also stated that the necessary documents to substantiate the factum of experience were also produced by the petitioner and as such the rejection of the tender is quite arbitrary and illegal in all respects.

7. The learned standing counsel submits on the other hand that, Ext.P4 Certificate of Importer Exporter Code was granted to the petitioner only on '08.12.2014' as discernible from the very same document, which virtually means that the said document was not available to be submitted on the last date of submitting the bid ie; on 29.11.2014. As such, the version of the petitioner that the said document was also submitted at the time

of tender is without any basis. The learned standing counsel also submits that Ext.P5 'Certificate of Incorporation' issued to the petitioner Company was only on '22.12.2008'. Similarly, in the case of the consortium partner, it came into existence only on '14.7.2009' as discernible from the proceedings forming part of Ext.P6. This being the position, neither the petitioner, nor the consortium partner, is having the requisite experience of 10 years as on the relevant date and as such, the version to the contrary is only liable to be rejected. It is also brought to the notice of this Court that, the petitioner had not produced copy of the 'PAN Card' (which has been produced as Ext.P3). In fact, the petitioner had produced only a copy of the application for obtaining the 'PAN' card, which by itself was not sufficient. Submission is also made as to some discrepancies as it appears on the face of the proceedings, with reference to Ext.P8, particularly, stating that bid submitted by the Managing Director, whereas the present proceedings have been filed by another person who is termed as a Director, who is a lady and whose authority to represent the company is not revealed. This Court does not find it necessary to go into that aspect, in so far as it has been brought to the notice

of this Court that the documents, copies of which have been produced along with writ petition particularly, Exts.P5 and P6 could not have been submitted by the petitioner on the last date of the tender. The version of the petitioner that all the relevant documents were produced along with the tender cannot be correct. There is no tenable ground so as to call for interference.

The writ petition stands dismissed accordingly.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.