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

+ W.P.(C) 2842/2015 and CM Nos. 5106/2015, 6331/2015, 13169/2015

M/S. GARG CARRIERS AND ANR.

..... Petitioners

Through: Mr Rajeev Dutta, Sr Advocate with Mr Anukul
Raj and Mr Rahul Shukla

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Ms Shraddha Bhargava for R-1
Mr Rikesh Singh for R-3
Mr Rajat Navet for R-4
Mr Sandeep Sethi, Sr Advocate with Mr Shaan
Mohan for applicant

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **13.10.2015**

We have heard the learned counsel for the parties at great length. The problem is that the petitioners applied for the Tank Trucks under the 'others category' and consciously struck out the other categories including MSE. In other words, the petitioners did not submit their bids under the MSE category. Another point which clearly indicates that this was a conscious decision taken by the petitioners is that had the petitioners applied under the MSE category, they would have been eligible for exemption from EMD. The fact that they did not seek that exemption and furnished the requisite EMD is indicative of their state of mind that they were consciously submitting their bids under the 'others category' and not under the MSE category. Therefore, the respondents cannot be faulted for considering the case of the petitioners under the 'others category' and not under the MSE category.

In any event, because of our decision in **Bajrang Internation & Ors v. Indian Oil Corporation Ltd. (IOCL) & Ors: W.P.(C) 964/2015** the respondents would have to rework the list of qualified persons to whom the LOIs for the Tank Trucks can be issued. While doing so the petitioners' case would also be considered by the respondents but, under the category of "others".

The writ petition stands disposed of in the above terms. All pending applications also stand disposed of.

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

OCTOBER 13, 2015
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