

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.23246 of 2016

And

W.M.P.Nos.19939 and 19940 of 2016

AGM Duty Free Selatan Sdn BH
Represented by its Manager
P.Muniyandi

... Petitioner

Vs.

- 1 Airport Authority of India
Rep. by its Chairman,
Rajiv Gandhi Bhavan,
Safdarjung Airport,
New Delhi-110 003.
 - 2 Airport Authority of India (Southern Region)
Rep. by Regional Executive Director,
O/o.Regional Executive Director,
Operational Offices, Southern Region,
Chennai-600 027.
 - 3 M/s.Felmingo Duty Free Shop Pvt Ltd.,
Rep. by its Senior Manager
- ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records with respect of the impugned Award dated 06.01.2016 issued by the 2nd respondent in his proceedings in No.AAM/C087/2015/28 and quash the same consequently direct the 2nd respondent to issue award license in favour of the petitioner to Develop Operate and Maintain Duty Free Outlet at Integrated International Terminal of Chennai Airport.

For Petitioner : Mr.R.Nalliyappan

For Respondents : Mr.M.Palanimuthu for R1 and R2

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner claims that he is doing duty free business in Malaysia for more than 10 years and the second respondent floated tender to design, built, operate and maintain duty free outlets in International Airports at Chennai, Thiruchirapalli, Madurai, Coimbatore, Trivandrum, Calicut, Visakhapatnam and Mangalore and the petitioner had submitted its application through online. On 06.11.2015, the second respondent opened the Technical Proposal and informed that the petitioner and the third respondent tender were found to be in compliance with the requirements of the RFP, but however, to the shock and surprise of the petitioner, the third respondent has been awarded the tender, which according to the petitioner is not in consonance with the norms and regulations and no proper and fair method is adopted. In this regard, the petitioner has submitted a representation dated 07.06.2016, to the second respondent and since no response is forthcoming, came forward to file this writ petition challenging the award of tender in favour of the third respondent.

3.Mr.R.Nalliyappan, learned counsel appearing for the petitioner would submit that the third respondent has suppressed the punishment suffered for seizure of non-duty paid cigarettes and also the cancellation of license by the Commissioner of Customs (Import) for some malpractice and on the sole ground, the award of tender in favour of third respondent warrants interference.

4.Per contra, Mr.M.Palanimuthu, learned counsel appearing for the respondents 1 and 2 would submit that after following fair and proper procedure only, the third respondent has been awarded the contract and prays for dismissal of the writ petition.

5.At this juncture, the learned counsel appearing for the petitioner on instructions, would submit that though the petitioner prayed for a larger relief, now the petitioner prays for disposal of the representation dated 07.06.2016, within a stipulated time frame, in accordance with law.

6.This Court has considered the rival submissions and also perused the materials placed before it.

7.In the light of the above facts and circumstances and taking into consideration, the submission of the learned counsel appearing for the petitioner, the second respondent is directed

to consider and dispose of the representation of the petitioner dated 07.06.2016, on merits and in accordance with law, after putting on notice the third respondent and pass orders, within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the third respondent.

8.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

- 1 Airport Authority of India
Rep. by its Chairman,
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Safdarjung Airport,
New Delhi-110 003.
- 2 Airport Authority of India (Southern Region)
Rep. by Regional Executive Director,
O/o.Regional Executive Director,
Operational Offices, Southern Region,
Chennai-600 027.

+1cc to Mr.R.Nalliyappan, Advocate sr.38942
+1cc to Mr.Palanimuthu, Advocate Sr.38849

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vs[co]
srg 20/07/2016