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

+ W.P.(C) 7295/2016 & CM 29995-6/2016

M/S VINTAGE FACILITY MANAGEMENT Petitioner

Through Ms Anusuya Salwan, Adv. with Mr
Abhishek Pundir, Adv.

versus

COMMISSIONER OF INCOME TAX Respondent

Through Mr Rahul Chaudhary, Sr. St. Counsel
with Mr Raghvendra Singh, Jr. St.
Counsel with Mr Anup Kr. Kesari, Adv.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **17.08.2016**

The petitioner is aggrieved by the letter dated 09.08.2016 whereby the petitioner's tender was rejected. The said letter is reproduced in its entirety hereinbelow:

“Office of the
Income Tax Officer/Drawing & Disbursing Officer
Transfer Pricing-3, Room No. 701, 7th Floor,
E-2 Block, Pratyakshkar Bhawan, Dr. S.P.M. Civic Centre,
Jawahar Lal Nehru Marg, New Delhi-110002
Tel: 011 23218658

F. No. DDO/CIT-TP-3/Tender/2016-17/45

Dated: 09.08.2016

To
The Director,
M/s. Vintage Facility Management Solutions Pvt. Ltd.
B-107, R.G. Complex, Plot No.2,
D.B. Gupta Road, Motia Khan, Pahar Ganj,
New Delhi-110055.

Sir,

Subject: Tender - DEOs &MTSs- regarding -

1. Please refer to e-mail dated 01-08-2016, 04-08-2016 and 05-08-2016 with regard to the captioned matter. Your attention is also invited to this office letter F.No.DD0/CIT-TP-3/Tender//2016-17/43, dated 01-08-2016 wherein you were inter-alia requested as under:-

- i It may be further clarified that no interest shall be given on the guarantee amount given by you to this office. The performance guarantee should remain valid for a period of 60 days beyond the date of completion of all contractual obligations. Therefore, in this regard, I am directed to request you to deposit an amount of Rs. 1,50,000/- as performance guarantee to the O/o the undersigned as per the terms of the tender notice dated 20-07-2016 by 05-08-2016.
- ii Personal affidavit from the Director of the Co. under taking that payment shall be made to the contract staff by 7th of every month for the purpose of smooth facilitation of service.

2. However, in spite of repeated opportunities provided to you, none of the above mentioned conditions have been fulfilled by you. In response to e-mail dated 05-08-2016 Sh. Ajay Kumar Jha, Manager (Operations) appeared before the undersigned and he informed that the Director of M/s. Vintage Facility Management Solutions Pvt. Ltd. Mrs. Ritika Sehgal shall not sign the tender contract and the Contract shall be signed by him. (Ajay Kumar Jha).

3. In view of repeated non-compliance, in terms of signing of Contract and failure to deposit performance guarantee as per terms of tender notice as intimated by this office letter dated 01-08-2016, I am directed to inform you that the tender is hereby rejected.

Yours faithfully,

Sd/-
(PushpLata Arvind)
Income Tax Officer/DDO,
O/o CIT, TP-3, New Delhi.”

Two requirements were stressed in the said letter. One was of the furnishing of the performance guarantee of Rs.1.5 lacs and the second was of the furnishing of a personal affidavit from the Director of the company undertaking that payment shall be made to the contract staff by the 7th of every month for the purposes of smooth functioning of the service.

Ms Salwan, appearing on behalf of the petitioner, now states before us that the petitioner is willing to comply with both these directions. Although, according to her, this was not a part of the tender condition. The contract shall also be signed by the Director of the petitioner company. All these formalities shall be completed within one week. On doing so, the letter dated 09.08.2016 would stand withdrawn and the letter of intent dated 02.08.2016 will stand revived and thereafter the contract would be signed.

The writ petition stands disposed of.

Dasti under the signatures of the Court Master.

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

AUGUST 17, 2016/ab