

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.Nos.1329 and 1330 of 2015

1.Tamil Nadu Transmission Corporation Ltd.,
rep. By its Chairman & Managing Director,
No.144, Anna Salai, Chennai 600 002.

2.The Chief Engineer/Transmission,
Tamil Nadu Transmission Corporation Ltd.,
6th Floor, NPKRR Maaligai,
No.144, Anna Salai, Chennai 600 002.

...Appellants/Respondents in both cases

versus

M/s.Den Erfolg Switchgears (P) Ltd.,
rep. By its Director P.Sivagnanam,
No.1, Gandhiji 6th Street, Thirunagar,
Madurai 625 006.

...Respondent/Petitioner in both cases

Appeal filed against the order passed by this Court dated
2.9.2015 passed in W.P.No.27484 and 27485 of 2015.

Prayer in W.P.No.27484 & 27485 of 2015:

Writ petition filed under Article 226 of the constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd Respondent in its impugned proceedings dated 29.8.2015 bearing No. Lr. No. CE/TR/SE/TRIV/EE3/ AEE2/ F.T.1912/ D.238/2015 and Lr. No CE/TR/SE/TRIV/EE2/AEE2/F.T 1913/D 317/2015 rejecting the request for extension of time and reiterated the last for submission of tenders and opening of tenders for T 1912 & T-1913 on 3.9.2015 & 08.09.2015 quash the same and consequently issue mandamus directing the respondents to extend the time for submitting and opening the Tender T-1912 & T 1913 on 3.9.2015 & 08.09.2015 to another 30 days from the said date in adherence to the provisions of Tamilnadu Transparency in Tenders Act 1998 and Rules 20 (1) & (2) taking into consideration that the tender specification was amended on 25.8.2015 and 29.08.2015.

For appellants : Mr.Abdul Saleem

For Respondent : Ms.P.S.Mercy Gnanammal
for Mr.C.T.Prabhakar

COMMON JUDGMENT
(made by K.K.SASIDHARAN, J.)

These two intra court appeals are directed against the order dated 2 September 2015 in W.P.Nos.27484 and 27485 of 2015 whereby and whereunder, the learned Single Judge allowed the Writ Petitions on the premise that reasonable time was not given after amendment made to the bid document, notwithstanding the fact that there was no amendment as such, and only the queries made by the respondent were answered by the appellant.

2. The Tamil Nadu Transmission Corporation Limited, (hereinafter referred to as the appellant), issued a notification calling for tenders for conversion of the existing outdoor breakers into indoor breakers and procurement of various other materials. The respondent on receipt of tender notification submitted a letter which is in the nature of a pre bid query. The appellant considered the query and answered it on 24 August 2015 and 25 August 2015. The respondent, on receipt of answers to the pre-bid queries, wanted the appellant to grant additional time for submission of tenders. The request was rejected. The said order was put in issue before the writ court in W.P.Nos.27484 and 27485 of 2015.

3. The learned Single Judge was carried away by the contention taken by the respondent that there was an amendment to the bid document. The learned single Judge therefore opined that the appellants ought to have been given sufficient time to the respondent for submission of tenders. The Writ Petition was allowed, resulting in filing the appeal.

4. We have heard the learned counsel for the appellants and the learned counsel for the respondent.

5. The tender notification was issued on 5 July 2015. The respondent submitted a pre-bid query on 11 August 2015. It was replied by the appellant on 24 August 2015. There was no amendment as such to the tender document. The appellant only answered the pre bid queries raised by the respondent. The respondent considered those answers to the pre bid queries as amendment to the notification and sought thirty days time for submission of bid. Since there was no amendment made by the appellant to the tender document, the respondent was not correct in contending that thirty days more time should have been given for submission of bid. There was no obligation on the part of

the appellant to extend the time for submission of tender on the ground that answer to the pre bid queries was given only during the interregnum period for submission of tenders. This aspect was not considered by the learned single Judge. We are therefore of the view that the common order dated 2 September 2015 is liable to be set aside.

6. There is one more factor involved in this matter. The learned Single Judge has granted thirty days time to the respondent to submit the bid. Since there was no stay of the order passed by the learned Single Judge, the appellant granted thirty days time. However, the fact remains that the respondent has not submitted the bid in spite of extending the time. We are also informed that the tender was given to third parties and as such, virtually, nothing survives for adjudication. We have heard this matter only on account of the submission made by the appellant that the impugned order would also be relied on by others for extension of time after receiving answer to the pre bid queries. We make it clear that in case there is no amendment made by the tender floating authority to the tender, there is no need to grant further time for submission of bids.

7. The intra court appeals are allowed, as indicated above. No costs. Consequently, connected M.P.s, are closed.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

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To

1. The Chairman & Managing Director,
Tamil Nadu Transmission Corporation Ltd.,
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+2 Ccs to Ms. Abdul Saleem, Advocate sr 75352 & 75351.

W.A.Nos.1329 & 1330/2015

SJ(CO)
SP(06/12/2017)