

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.07.2017

CORAM

The Honourable MR. JUSTICE M.DURAI SWAMY

W.P.No.18488 of 2017

and W.M.P.No.20058 of 2017

M/s Adhiev Indai Pvt. Ltd.,
No.189, Asma Building
T.T.K.Road
Alwarpet, Chennai 600 018
rep. By its Authorized Signatory [Petitioner]

Vs

The Tamil Nadu Arasu Cable TV
Corporation Limited
rep.by its Managing Director,
No.34/123, VI Floor, Dugar Towers
Marshalls Road, Egmore
Chennai 600 008 [Respondent]

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondent herein to consider the petitioner representation dated 07.07.2017 and consider the petitioner price bid for global tender vide Ref.No.001/TACTV/Set Top Box.2017 dated 6.5.2017 for supply of Set Top Boxes and other ancillaries as per the tender notification Ref.No.001/TACTV/Set Top Box.2017 dated 6.5.2017 and award the contract for supply of Set Top Boxes and other ancillaries to the petitioner pursuant to the above said tender.

For Petitioner : Mr.AR.L.Sunderasan, Senior Counsel
for Ms.AL.Ganthimathi

For Respondent : Mr.Abdul Saleem

ORDER

Mr.Abdul Saleem, learned counsel takes notice for the respondent.

2. The petitioner has filed the above writ petition to issue a writ of mandamus directing the respondent to consider their representation dated 07.07.2017 and to consider their price bid for Global tender dated 6.5.2017 for the supply of

Set Top Boxes and other ancillaries, as per the tender notification dated 6.5.2017 and award the contract for supply of Set Top Boxes and other ancillaries to them, pursuant to the above said tender.

3. It is the case of the petitioner that the respondent floated a Global tender dated 06.05.2017, calling for tenders for supply of Standard Definition (SD), High Definition (HD), Triple Play Set Top Boxes and Data Over Cable Service Interface Specification (DOCSIS) Cable Modem on rate contract basis on suppliers Line of Credit Model. The said tender was released on 06.05.2017 and the pre bid meeting was held on 19.05.2017. The last date for submission of the bid was 29.05.2017 and the date of opening of the bid was 29.05.2017. As per the terms of the tender, the bidder should be a single bidder or Consortium of Bidders.

4. According to the petitioner, it is a Company, duly incorporated under the Companies Act and has been in existence for the past three years as on 31.03.2017. The Petitioner Company and two other Companies viz., M/s Surbhi Broad Band Private Limited, Noida, State of Uttar Pradesh and M/s Shenzhen Jiuzhou Electric Company Limited, China, as a Consortium, submitted their bid before the respondent. They have also entered into a Consortium agreement and also executed a letter that the three companies have joined together as Consortium partners and have submitted the tender.

5. The petitioner was designated as the Prime Bidder for the tender process by the other two partners. As per clause 3 (c)(ii) of the conditions of the Tender, the prime bidder should have reported an average annual turnover of Rs.100 crores for the years 2013-14, 2014-15 and 2015-16 or 2014-15, 2015-16 and 2016-17.

6. In the case on hand, admittedly, the petitioner's average annual turnover was Rs.9,06,95,877/-. Since the petitioner's annual turnover was less than Rs.100 crores, the respondent sent a letter seeking for clarification with regard to the same. However, the petitioner, sent a representation dated 07.07.2017, giving a new interpretation to Clause 3(c)(ii) of the conditions of the Tender. Further, in the representation, the petitioner has stated that in the case of Consortium of Bidders, any one of the partners shall be designated as a Prime Bidder and it is not necessary to name the partner with Rs.100 crores turnover as a Prime Bidder.

7. The stand taken by the petitioner in the representation dated 07.07.2017 is against the terms of the tender. The technical bid submitted by the bidders were opened on 14.06.2017. Mr.Abdul Saleem, learned Counsel appearing for the

respondent submitted that the petitioner was disqualified on 13.07.2017 and the price bid was opened on 17.07.2017. However, Mr.AR.L.Sunderasan, learned Senior Counsel appearing for the petitioner submitted that the petitioner has not received the order of rejection so far from the respondent. Since the price bid of the petitioner was not opened, the petitioner has filed the present writ petition.

8. As already stated, since the petitioner was disqualified under Clause 3(c)(ii) of the terms of the tender, I do not find any reason to interfere with the tender process. In these circumstances, the writ petition is devoid of merits and the same is dismissed. However, it is open to the respondent to consider the petitioner's representation dated 07.07.2017 and pass orders on merits and in accordance with law. No costs. Connected miscellaneous petition is also dismissed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To:

1.The Managing Director,
The Tamil Nadu Arasu Cable TV
Copration Limited
No.34/123, VII Floor, Dugar Towers,
Marshalls Road, Egmore,
Chennai 600 008

+1cc to Mr.Abdul Saleem, Advocate in sr.no.50550
+1cc to Mr.AL.Ganthimathi, Advocate in sr.no.50815

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W.P.No.18488 of 2017

SRS (CO)
NR 20/07/2017

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