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

+ W.P.(C) 6613/2016 & CM No.27111/2016

M/S RAKSHAK SECURITAS PRIVATE LIMITED Petitioner
Through: Mr. Manish Vashisht with Mr. A.K.
Pandey & Mr. Sameer Vashisht, Advs.

versus

INDIAN COUNCIL OF SOCIAL SCIENCE RESEARCH AND
ANR Respondents
Through: Mr. Amitesh Kumar, Adv.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
16.05.2017

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The petitioner's grievance in this case is that in the earlier tender it had quoted a service charge of 0.001% of components of daily rates, however, the same was deemed non-responsive. In the fresh tender, the successful tenderer quoted only 0.00025% of the daily rates as service charge, however, was deemed to be responsive. The petitioner relies upon judgment of the Supreme Court *Dutta Associates Private Ltd. v. Indo Merchantiles* (1997) 1 SCC 53 and a judgment of the Division Bench of this Court in *M12 Securities v. Government of NCT of Delhi* 205 (2013) DLT 288 (DB). It was submitted that in these judgments the Courts have categorically ruled that the service charge offered by a bidder in order to be

accepted should be viable. It was highlighted that the petitioner's previous bid, whereby it had offered the same services @ 0.001% was deemed non-responsive and that was cancelled. The ground of cancellation was that the service charge offered was not viable. It was submitted that in these circumstances, the bid of the successful tenderer, offering a service charge of 0.00025% was grossly inadequate.

Learned counsel for the respondent, Mr. Amitesh Kumar, submitted that he has instructions to state that the contract in question would end on 31.07.2017 and that in the future tenders to be published, due consideration would be given to the decision in Dutta Associates Private Ltd. v. Indo Merchantiles (supra) and the Division Bench ruling in M12 Securities v. Government of NCT of Delhi (supra) with respect to the viability of the service charges offered by the bidders. It was also submitted that a new tender process would be initiated inviting fresh bids having regard to this development.

In the light of the statement made, the Court directs that upon the expiry of the tender period, i.e. 31.07.2017 the respondent shall ensure that a fresh tender process is initiated and the contracts are finalized within a reasonable time not exceeding 3 months from the date of the expiry of the tender period.

The writ petition is disposed of in the above terms.

S. RAVINDRA BHAT, J

NAVIN CHAWLA, J

MAY 16, 2017/kks

W.P.(C) No.6613/2016

Page 2 of 2