IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5356 OF 2016
(Prashant Nagnathrao Paldewar Vs. The Regional Manager, Central Warehousing Corporation, Regional Office, Mumbai)

Mr. Sushant C. Yeramwar, Advocate for the petitioner
Mr. Pavan P. Uttarwar, Advocate for the respondent sole

CORAM : S.V. GANGAPURWALA AND R.G. AVACHAT, JJ.

DATE : 26th NOVEMBER, 2018

ORDER :

The petitioner assails the communication/ order dated 7th April, 2015, passed by the respondent, by which the petitioner has been blacklisted and debarred from participating in the Tender for next five years and the Earnest Money Deposit (E.M.D.) of Rs.1,00,000/- deposited by him alongwith the tenders of Gondia-I and Gondia-II, each has been forfeited.

2. Mr. Yeramwar, learned counsel for the petitioner submits that the ground on which the E.M.D. of the petitioner is forfeited, is erroneous. He

submits that the petitioner had not submitted the audited Profit and Loss Accounts and the Balancesheet while submitting the Tender for Nanded and Akola centres, because of which the tender of the petitioner for the said two centres was rejected. The Chartered Accountant of the petitioner has also replied to the respondent, stating therein that the Profit and Loss Accounts of the petitioner were certified and the income is calculated on the basis of presumptive taxation. The same was submitted alongwith the tender document for Nanded and Akola centres. The first part of the statement in the same is clear that it is for the purpose of determination of income under presumptive taxation, whereas the Profit and Loss Account and the Balancesheet submitted alongwith the tender document for Gondia-I and Gondia-II centres, giving the financial details based on the Books of Accounts produced i.e. Trading Account, Profit and Loss Account, were certified. The income in both the scenarios is same. However, the respondent has not considered the same. The learned counsel submits that the petitioner is also blacklisted and debarred from participating in the tender for next five years.

3. Mr. Uttarwar, learned counsel for the respondent submits that the petitioner has not been blacklisted. The order has been passed considering the statements submitted alongwith the tender document for Nanded and Akola centres on one hand and Gondia-I and Gondia-II on the other.

4. We have considered the submissions. The case put forth by the petitioner in the present writ petition alongwith the opinion of the Chartered Accountant has not been considered while passing the impugned order. It is submitted on behalf of the respondent that the petitioner has not been blacklisted. The only issue, therefore, would be about forfeiture of the E.M.D.

5. Considering the record, the impugned order/ communication is quashed and set aside. The respondent-Authority shall re-consider the claim of the petitioner for refund of the Earnest Money Deposit, on its own merits. The petitioner may represent himself before the Authority concerned, by putting forth his say. The Authority shall take decision with regard to the Earnest Money Deposit of the petitioner expeditiously and preferably within three months.

6. With the directions as above, the Writ Petition is disposed of. No costs.

[R.G. AVACHAT]
JUDGE

[**S.V. GANGAPURWALA**]
JUDGE

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