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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.OF 9117 OF 2015

AND

M.P.NO.1 OF 2015

M/s.URC Construction (P) Ltd.,
having its registered office at:
No.119, Power House Road,
Erode - 638 001.

... Petitioner

Vs

1. The Chief Engineer, (Construction)
Construction Organization,
Southern Railway,
Egmore, Chennai - 600 008.

2. The Chief Administrative Officer, (Construction)
Southern Railway,
Egmore, Chennai - 600 008.

3. The Deputy Chief Engineer,
Gauge conversion II,
Southern Railway,
Tiruchirapalli.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, praying to Certiorarified Mandamus to call for the entire records of the second respondent in No.W496/MTK/64/IICN(7709) dated 31.12.2014/06.01.2015 and which culminated in the termination notice issued by the third respondent in No.W496/MTK/64/IICN(7709) dated 14.03.2015 and quash the same as illegal, arbitrary and unsustainable and further direct the respondents to return the earnest money deposit (EMD) of Rs.5,23,060/- made by the petitioner in FDR No.33977602580 dated 19.07.2014 issued by the State Bank of India, URC Nagar, Erode - 638 012.

For Petitioner : Mr.V.P.Sengottuvel
For Mr.U.Baranidharan

For Respondents : Mr.P.T.Ramkumar
Standing Counsel



O R D E R

The order of the 2nd respondent dated 31.12.2014 and the consequential order of termination notice dated 14.03.2015 are under challenge in the present writ petition.

2.The petitioner company is a pioneer Engineering Contractors/ Infrastructure Developers in South India. A tender notice was issued by the 1st respondent on 13.06.2014 for the proposed Gauge conversion of work between Pattukottai-Karaikudi Section, proposed construction of Station building, platforms, approach road, protective works, passenger amenities, watering arrangements and yard drainage etc., at Periyakkottai Crossing Station. The tender processes were completed and admittedly the petitioner was the successful tenderer. Contract value for various items of works are described as under

Annexure-A	- Rs. 2,18,42,634.84.
Annexure-B	- Rs. 6,93,28,517.56.
Annexure-C	- Rs. 60,41,534.20.
Annexure-D	- Rs. 47,54,394.64.
Total	- Rs. 10,19,67,081.24.

3.The grievances of the writ petitioner is that among the above stated works, Annexure 'B' relating to earth work for formation of bank for rail alignment is the major work with almost 70% of the Contract value. However, the said Annexure 'B' has been deleted from the scope of the work by the authorities and even during negotiation between the parties, the railway authorities have not considered this aspect.

4.The detailed facts became unnecessary, in view of the fact that the tender process has not been disputed and the petitioner was admittedly, the successful tenderer and during negotiation also the petitioner has clarified that all the works must be granted to him based on the tender notification.

5.In the event of not conforming of the works as per the tender notification, the petitioner in his letter had categorically stated that he would not be in a position to take up the work as the same would cause heavy loss to the petitioner company.

6.The authorities in the proceedings dated 31.12.2014, has stated that they have accepted the works only in respect of Annexures A, C and D and specifically stated that Annexure B has been deleted from the scope of the work. The petitioner company in their letter dated 12.01.2015, categorically stated as follows:



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11. With this direction, the writ petition stands allowed. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS II)

//True Copy//

Sub Assistant Registrar

ars/mka

To

1. The Chief Engineer, (Construction)
Construction Organization,
Southern Railway,
Egmore, Chennai - 600 008.
2. The Chief Administrative Officer, (Construction)
Southern Railway,
Egmore, Chennai - 600 008.
3. The Deputy Chief Engineer,
Gauge conversion II,
Southern Railway,
Tiruchirapalli.

+1cc to Mr.U.Baranidharan, Advocate, S.R.No.51898
+1cc to Mr.P.T.Ramkumar, Advocate, S.R.No.51676

W.P.No.9117 of 2015

KSM(CO)
CS/22/10/2021