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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.15056 of 2020
and WMP.No.18765 of 2020

Solar Designs Pvt., Ltd.,
having its registered office at;
No.1, A Wing, 3rd Floor, 602,
Parsn Manere, Anna Salai,
Chennai - 600 006
Tamil Nadu, India

... Petitioner

Vs

1. UTI Infrastructure
Technology and Services Ltd.,
UTI Tower, Gn Block, B.K.C,
Bandra (East), Mumbai - 400 051.

2. UTI Infrastructure
Technology and Services Ltd.,
D-1, First Floor,
Thiru - Vi - Ka Industrial Estate,
Guindy, Chennai - 600 032
Tamil Nadu

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Declaration, declaring that the eligibility criteria / condition in the Tender Notice dated 19.07.2020 bearing No.1666 issued by the respondents, whereby the respondents have debarred the bidders from participating in the tender if they are "embroiled in any king of litigation, either instituted by or against the bidder, with any government department / agency, Reserve Bank of India, nationalized bank, or any Public Sector Unit or company or body, in relation to the contract of furnishing, civil and electrical work." as illegal, arbitrary, bad in law, unlawful, unjustified and therefore, null and void ab initio.

For Petitioner	: Mr.Apratis Animesh Thakar for Mr.Sandeep Mahapatra
For R1 & R2	: Mr.S.Vasudevan



O R D E R

This writ petition has been filed seeking a declaration that the eligibility criteria / condition in the Tender Notice dated 19.07.2020 bearing No.1666 issued by the respondents, whereby the respondents have debarred the bidders from participating in the tender, if they are "embroiled in any kind of litigation, either instituted by or against the bidder, with any government department / agency, Reserve Bank of India, nationalized bank, or any Public Sector Unit or company or body, in relation to the contract of furnishing, civil and electrical work, as illegal, arbitrary and bad in law and null and void ab initio.

2. Today, when the matter was taken up for consideration, the learned counsel for the respondents filed a memo dated 17.03.2021 and submitted that due to various reasons, the proposed tender has been cancelled and hence, the claim of the petitioner would be redressed, before floating further tender notification. For better appreciation, the relevant portion of the memo dated 17.03.2021 filed by the respondents, is extracted below:

"The Technical Bids were opened on 29.10.2020 and financial Bids were opened on 15.12.2020. After opening the Financial Bid, it was found that the bid amount quoted by L1 Bidder was 72.98% more than the estimated amount for carrying out the work. The respondents had sent a final proposal for negotiation with the L1 Vendor to reduce the quoted rates. On negotiations, L1 Vendor agreed to give 2% discount on the Financial Bid amount. After considering the 2% discount, the bidding amount was 70% higher than estimated amount. Therefore it became necessary for the respondents to cancel the entire Tender process as it was not viable. As of today, the Tender bearing No.1666 of 2020 has been cancelled due to administrative reason by the competent Authority."

3.The submissions so made by the learned counsel for the respondents have been fairly conceded by the learned counsel for the petitioner.

4.In view of the aforesaid subsequent development, this writ petition stands disposed of, directing the respondents to consider the representation if any, made by the petitioner, before floating any further tender process, and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.



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5. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. UTI Infrastructure
Technology and Services Ltd.,
UTI Tower, Gn Block, B.K.C,
Bandra (East), Mumbai - 400 051.
2. UTI Infrastructure
Technology and Services Ltd.,
D-1, First Floor,
Thiru - Vi - Ka Industrial Estate,
Guindy, Chennai - 600 032
Tamil Nadu

+1CC to Mr.Sandeep Mahapatha, Advocate, Sr.No.29987
+1CC to Mr.S.Vasudevan, Advocate, Sr.No.29464

W.P.No.15056 of 2020

PCH (CO)
K.RK. (30.07.2021)