



W.A.No.2482 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2024

CORAM :

THE HON'BLE MR. D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

and

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.A.No.2482 of 2024 and

CMP No.16180 of 2024

The Management of Bharat Heavy Electrical Limited,
Indira Gandhi Industrial Complex,
Ranipet 632 406.

... Appellant

Vs.

Val-Met Engineering Pvt. Ltd.,
rep. by its authorised signatory Mr.Subramoni P.H.,
Plot No.110 & 111, EPIP, SIPCOT Industrial Complex,
Gummidipoondi 601 201.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letter Patent to set aside the order dated 07.06.2024 made in WMP No.16180/2024 in W.P.No.2442 of 2024.

For Appellant : Mr.A.V.Arun



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JUDGMENT

WEB COPY(Order of the Court was made by the Hon'ble Acting Chief Justice)

This intra court appeal has been filed to set aside the order dated 07.06.2024 made in WMP No.16180/2024 in W.P.No.2442 of 2024.

2. The respondent herein has filed the above writ petition to direct the appellant herein to release the amounts, unlawfully withheld under the contract/ purchase order dated 20.06.2023, towards the alleged risk purchase, under purchase order No.7411052, dated 20.04.2021.

2.1. Along with the above writ petition, the respondent herein has filed a petition in WMP No.16180/2024 to direct the appellant herein to consider the offer dated 31.05.2024, submitted by the respondent, in response to the tender No.2024- BHEL- 35362- 1, dated 3.5.2024.

2.2. The learned Single Judge, while ordering the said WMP No.16180/2024, has observed that the respondent has not been black listed and hence directed the appellant to process the tender of the respondent as



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and when the remaining tender opened, subject to the result of the writ petition. The above said order is challenged before this court.

3. According to the appellant, the respondent company has not supplied the materials, as agreed in the terms and conditions of the purchase order, and they have supplied only part of materials, viz., 45.65 MT with 1000 mm sheets and defaulted to supply the remaining materials. It is further contended by the appellant that, in view of the default committed by the respondent in supplying pending quantities, the appellant has called for new tenders from the bidder. Hence, the respondent is disqualified from participating in the new tender, in view of the invocation of the risk purchase clause. In this regard, the appellant has also issued a letter dated 20.07.2023, informing the respondent about the exercising of the risk purchase clause, however, without challenging the same, the respondent has filed the petition for direction along with the writ petition, as stated supra, which is not maintainable. Therefore, the impugned order passed by the learned Single Judge is liable to be dismissed.



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4. Heard the learned counsel for the appellant and we have perused the materials on record.

5. The appellant has raised various grounds in the appeal, however, has not relied upon any specific provision to show that the respondent is estopped from participating in the subsequent tender invited by the appellant company, in view of the default committed by them in the earlier tender. Further, the learned Single Judge has passed the interim order, by directing the appellant only to process the tender of the respondent, subject to the result of the writ petition. In our view, no prejudice would be caused to the appellant, if the tender submitted by the respondent is processed, because, the same shall be taken into effect, only after the outcome of the writ petition. Further, the appellant is having every right to raise all their grounds before the Single Judge by filing counter affidavit, objecting the claim made by the respondent. Therefore, we find no error in the order passed by the learned Single.



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6. Accordingly, this writ petition is dismissed. Liberty is granted to the appellant to raise all the grounds before the learned Single Judge, as raised in the writ appeal. Considering the fact that the dispute involved in the present writ appeal is with regard to the tender notification, the learned Single Judge is requested to consider the same and dispose the writ petition at an earliest.

(D.K.K., A.CJ.) (P.B.B.J.)

Internet: Yes/No
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P.B.BALAJI, J.

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