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

+ W.P.(C) 2082/2024 and CM APPL. 8635/2024, CM APPL. 8636/2024, CM APPL. 8637/2024

**EMERSON PROCESS MANAGEMENT
(INDIA) PRIVATE LIMITED**

..... Petitioner

Through: Mr. Jayant Mehta, Senior Advocate
with Mr. Abhinav Hansaria, Advocate

versus

GOVERNMENT E-MARKETPLACE (GEM) & ORS.

..... Respondents

Through: Ms. S. Akshata, Advocate for R-1
Mr. V.N. Koura with Mrs. Paramjeet
Benipal and Mrs. Shanin Koura,
Advocates for R-2

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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13.02.2024

CM APPL. 8636/2024 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

W.P.(C) 2082/2024, CM APPL. 8635/2024 & CM APPL. 8637/2024

1. Present writ petition has been filed seeking issuance of directions to the Respondent Nos. 1 and 2 to not hold the re – run of the reverse auction in respect of Group-A of Tender no. PLM/CCCPL/23/15 dated 22nd May, 2023 which was scheduled to be held on 12th February, 2024.



2. Learned senior counsel for the Petitioner states that after conducting the first round of reverse auction from 06th October to 10th October, 2023, the Respondents decided to conduct a second round of reverse auction on account of a technical glitch at the end of Respondent No. 1, despite the Petitioner qualifying as an L1 bidder. Thereafter, despite the Petitioner qualifying as an L1 bidder again in the second round of reverse auction held from 19th December, 2023 to 20th December, 2023, the Respondents decided to conduct a third round of reverse auction without providing any cogent reasons. He states that failure of the Respondents in awarding the tender to the Petitioner is arbitrary, unfair and unreasonable.

3. Learned senior counsel for the Petitioner states that conducting multiple rounds of reverse auction, without any justifiable reasons, creates a doubt on the credibility and transparency of the entire process of reverse auctions being conducted by Respondent No. 1, and thus any such action ought not to be permitted without any just cause and reason. He further states that on account of conducting multiple rounds of the reverse auction, the price offered by the Petitioner as an L1 bidder has been exposed in the market.

4. Learned counsel for the Respondent No. 2 who appears on advance notice states that no third run of reverse auction against Group A of the subject tender has been carried out till date. He clarifies that no decision has been taken to conduct a third run of the reverse auction against Group A of the subject tender. He, in fact, states that the whole project (with respect to Group A of the subject tender) is under a cloud and Respondent No.2 is yet to take a final decision with regard to the same.



5. Keeping in view of the aforesaid statement by learned counsel for Respondent No. 2, the present writ petition is disposed of with a direction to Respondent No. 2 to give a seven day prior written notice to the Petitioner in the event it decides to conduct a third run of reverse auction against Group A of the subject tender. However, this Court clarifies that the rights and contentions of all the parties including the issue of territorial jurisdiction of this Court are left open.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 13, 2024/msh