IN THE HIGH COURT AT CALCUTTA

(Constitutional Writ Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

WPA No. 26282 of 2025

M/s. Abdul Matin

Versus

State of West Bengal represented by the

Secretary, I&W Dte. & Ors.

Mr. Asoke Kumar Banerjee, Sr. Adv.
Mr. Anal Kumar Ghosh
Ms. Neelina Chatterjee
Ms. Nilanjana Addya
Ms. Ahana Bhattacharyya

.....For the petitioner.

Mr. Kishore Datta, Ld. A.G.
Mr. Sirsanya Bandopadhyay, Sr. St. Counsel
Mr. Tarak Karan
Mr. Chayan Gupta
Mr. Sandip Dasgupta
Mr. Aviroop Mitra

.....For State respondents.

Hearing Concluded On : 02.12.2025
Judgment on : 10.12.2025

Krishna Rao, J.:

1. The petitioner has filed the present writ application challenging the impugned order dated 12th November, 2025, passed by the Chief Engineer (D&R) and Chairman of the Central Tender Unit (CTU), Irrigation and Waterways Directorate, Government of West Bengal, wherein the petitioner is debarred for a period of six (6) months from the date of the order on the ground that the petitioner has concealed and suppressed relevant information in the bid documents.

2. On 12th July, 2025, the respondent no.2, the Superintending Engineer, Central Tender Unit, Irrigation and Waterways Directorate published an e-Notice Inviting Tender (e-NIT) for the work namely "Anti–Erosion work to the Right bank of River Padma at AOR of BOP Atrosia and Renu for a total length of 1830.00 meter in Block & P.S. Lalgola, District Murshidabad". The e-tender stipulates the financial eligibility as Pre-Qualification (PQ) credential in preceding three financial years. Average of Gross Annual Turnover of the bidder except for Consortiums and Joint Ventures for any three Financial Years on the date of publishing of NIT should be at least Rs. 22,63,99,792/- (30% of the amount put to tender). The tender value of the amount is Rs. 75,46,65,973/-.

3. All together five firms have participated in the said tender process including the petitioner. On 18th August, 2025, the Technical Bid was opened. Out of five bidders, two bidders were declared "Not Qualified" and remaining three bidders including petitioner were declared "Qualified".

4. On 22nd August, 2025, the respondent no.2 issued a letter to the petitioner, informing the petitioner that the petitioner is qualified in the Technical Bid and directed the petitioner to provide a report from the Chartered Accountant containing gross turnover excluding GST for the financial years 2020-2021 to 2024-2025. The petitioner by a letter dated 26th August, 2025, informed the respondent no.2 that as per the NIT, 'minimum eligibility' criteria with regard to financial eligibility, the petitioner submitted Gross Annual Turnover which was inclusive of GST.

5. By a letter dated 1st September, 2025, the respondent no.4 informed the petitioner that the bid submitted by the petitioner stood "Disqualified" as the Average Annual Turnover based on 3 years within the zone of 5 preceding years was less than that mentioned in the Pre-Qualification criteria of the e-NIT. In the said letter, it was also informed to the petitioner that the Annual Turnover value is considered excluding GST as per 5.2 and 5.5 of guidance note on Tax Audit under Section 44AB of the Income Tax Act, 1961 (Revised 2023). It is further informed that GST components are separately added on expenses side under different names as well as on the income side within the contractor bill value in the trading, and the profit and loss account to show the sales value as inclusive of tax and in the balance sheet, under current liability, separate liability is shown for GST liabilities.

6. Being aggrieved with the decision of the respondent no.4 dated 1st September, 2025, the petitioner has filed a writ petition being WPA No. 21458 of 2025. During the pendency of the said writ petition, the respondent no.4 has passed another order dated 12th September, 2025, cancelling the tender on the ground that the number of qualified bidder was less than "three" and the EMD of Rs. 50,00,000/- was refunded to the petitioner.

7. On 16th September, 2025, the respondent no.4 issued another order of penalty upon the petitioner by directing the petitioner to deposit an amount of Rs. 50,00,000/- being the EMD in favour of the Government and also debarred the petitioner for six months with effect from 16th September, 2025. Being aggrieved and dissatisfied with the order passed by the respondent no.4, dated 16th September, 2025, the petitioner had preferred another writ petition before the this Court being WPA No. 23810 of 2025. During the pendency of the writ petition, the respondent no.2 has published the 2nd Call Tender on 26th September, 2025 for the same work.

8. The writ petition filed by the petitioner was disposed of on 9th October, 2025, by setting aside the order dated 16th September, 2025 along with levy of penalty of Rs. 50,00,000/-. The respondents by an addendum dated 13th October, 2025, last date for submitting bid was extended till 3rd November, 2025.

9. On 13th October, 2025, the respondent no.2 had issued a fresh show cause notice to the petitioner directing the petitioner to be present before the respondent no.4 on 16th October, 2025 and to explain as to why an action for suspension under 1st degree of offence would not be initiated as per clause 11G(a) of the e-NIT for concealment of information in the e-NIT. The petitioner has submitted detailed reply to the show cause notice. On 12th November, 2025, the respondent no.4 issued the impugned order of debarment.

10. Mr. Asoke Kumar Banerjee, Learned Senior Advocate representing the petitioner submits that none of the documents submitted by the petitioner are either false documents or containing false information. He submits that in the first e-tender, the petitioner was initially declared "qualified" and subsequently was declared "disqualified" at the instance of the complaint from another bidder that the average turnover has been declared inclusive of GST. He submits that in the first e-NIT, M/s. Chakraborty Construction was "disqualified" on the ground of furnishing insufficient credentials but in the 2nd Call notice, the tender documents of M/s Chakraborty Construction was accepted.

11. Mr. Banerjee submits that as per the e-NIT notice at Serial No.1(B)(a), the financial eligibility as PQ Credential in preceding three financial years, Average of Gross Annual Turnover should be at least Rs.22,63,99,792/- i.e. 30% of the amount put to Tender. He submits that there is no specific condition that the Gross Annual Turnover should be exclusive of GST or the GST was to be shown in Clause 26 or

40 of FORM 3CD. He submits that the amount put to tender is inclusive of GST. The Income Tax Authority has accepted the IT Returns of the petitioner and also passed IT Refund orders and thus it cannot be said that the Gross Annual Turnover should be exclusive of GST.

12. Mr. Banerjee submits that the Technical Bid Opening (TBO) in the 2nd Call e-NIT was uploaded on 26th November, 2025, declaring the petitioner "disqualified" but M/s. Chakraborty Construction was declared as "qualified" though in the first e-NIT M/s. Chakraborty Construction was declared "disqualified" on the ground of "Insufficient Credentials". He submits that the petitioner has been debarred on the ground of commission of "First Degree Offence" as per Clause 11(d)(i) of the e-NIT. Clause 11(d)(i) provides ground for debarment as "submission of eligibility requirements containing false information or falsified documents" but the petitioner has not submitted any false information or falsified documents.

13. Mr. Banerjee submits that whether Average Annual Turnover should include GST or not is a matter of interpretation and consideration but the document submitted by the petitioner cannot be said to be false information or falsified documents. He submits the alleged offence on the basis of which the respondents have passed an order of debarment does not come within the ambit of Clause 11(d)(i).

14. Mr. Banerjee has relied upon the judgment in the case of ***The Controller and Auditor General of India, Gian Prakash, New Delhi & Anr. vs. KSGT Jagannathan and Anr.*** reported in ***AIR 1987 SC 537*** and submits that the High Courts in India exercising their jurisdiction under Article 226 of the Constitution of India have the power to issue a writ of mandamus or a writ in the nature of mandamus where the government, a public authority has failed to exercise or has wrongly exercised, the discretion conferred upon it by a statute or a rule or a policy decision of the Government or has exercised such discretion mala fide or on irrelevant consideration or by ignoring the relevant consideration and materials or in such a manner as to frustrate the object of conferring such discretion or the policy for implementing which such discretion has been conferred.

15. *Per contra,* Mr. Kishore Datta, Learned Advocate General, representing the State submits that the tender value of the said work was Rs. 75,46,65,973/- and as per Clause 1(B) of the e-NIT, the Average of Gross Annual Turnover of the bidder except for Consortiums and Joint ventures for any three financial years within immediate preceding five financial years on the date of publishing of NIT as stated in Clause 7(V) should be at least Rs.22,63,99,792/- i.e. 30% of the amount put to tender.

16. Learned Advocate General submits that as per Clause 4.2B(IV) with regard to the financial information, the bidder has to submit 1-3 profit and loss accounts and audited balance sheets along with the relevant annexures containing the designated Forms–3CA/3CB/3CD, as applicable under IT Act in the name of the bidder for any 3 financial years within the zone of preceding five financial years from the date of publication of e-NIT.

17. Learned Advocate General has placed the Income Tax Return Acknowledgment of the petitioner and draw the attention of this Court wherein it is mentioned that "State whether sales tax, goods and services Tax, customs duty, excise duty or any other indirect tax, levy, cess, impost etc. is passed through the profit and loss account?, the petitioner has answered the same as "Yes" but the petitioner has not disclosed or mentioned about the amount and in place of the amount. it is mentioned as "0".

18. Learned Advocate General also draws the attention of this Court to Clause 40 of the Income Tax Return document wherein the details regarding turnover, gross profit etc. for the previous year and the preceding previous year is to be shown and in the said column, the petitioner has shown the Turnover of the previous year as Rs.20,29,93,619/- which includes GST.

19. Learned Advocate General further submits that as per Clause 4.2C (IV) of the e-NIT, profit and loss accounts and audited balance sheets of any three financial years within zone of preceding five financial years duly authenticated by licensed auditor regarding Annual Turnover from business containing relevant Annexures of the IT Form– 3CA/3CB/3CD under Section 44 AB of IT Act as applicable for the bidder in each financial year. He submits that it is to be evaluated by the Tender Evaluation Committee as average or arithmetic mean over the said three financial years, to be uploaded in profit and loss and balance sheet pdf. But the petitioner has not indicated the GST and other applicable taxes separately than the Gross Turnover.

20. Learned Advocate General submits that when the respondents have requested the petitioner for clarification regarding Summary Statement of Yearly Turnover from the contractual business, the petitioner has submitted Certificate under Form-2 from the Chartered Accountant wherein for the financial year 2024-2025, the turnover is shown as Rs.32,38,55,754/-, for the financial year 2023-2024, the turnover was Rs. 19,16,13,205/-, for the financial year 2022-2023, the turnover was shown Rs. 20,29,93,619/-, for the financial year 2021-2022, the turnover was Rs. 9,06,65,648/- and for the financial year 2020-2021, the turnover was Rs. 3,12,53,050/- and the Average Annual Turnover for the last five year was shown as Rs. 16,80,76,255.11. He submits that if for the three preceding years i.e. 2021-2022, 2022-2023, 2023-2024 are taken into consideration, the total amount would come to Rs. 71,84,62,578/- whereas the tender value of e-NIT is Rs.75,46,65,973/-.

21. Learned Advocate General submits that the Technical Bid Opening (TBO) initially on the basis of the Gross Turnover shown by the petitioner published the Technical Bid Evaluation Sheet declaring the petitioner as “qualified”. In the said Technical Bid Evaluation Sheet, it is mentioned that within 24 hours of uploading the TBO Summary Sheet containing Preliminary Technical Qualification result, any of the aggrieved bidder may seek clarification/redress/review from the Tender Evaluation Cell. He submits that after publication of Evaluation Sheet, the Committee has further reviewed and scrutinized the bid of the petitioner and it was found that the Average Annual Gross Turnover based on three years within the zone of five preceding years is less than the mentioned PQ criteria of e-NIT of the said work and accordingly, a show cause notice was issued to the petitioner calling upon the petitioner to show as to why the petitioner has not been debarred for suppression of fact. He submits that on receipt of the show cause notice, the petitioner has submitted detailed reply and personal hearing was given to the petitioner. The reply submitted by the petitioner was not found satisfactory, accordingly, the impugned order is passed.

22. Learned Advocate General in support of his submission, has relied upon the judgment in the vase of the ***State of Gujarat vs. Ambuja Cement Limited*** reported in ***(2024) 8 SCC 284*** and submits that the taxable turnover of the purchases would have to be calculated after deducting both components. He submits that calculation of taxable turnover of the purchases and reduction value of the purchases on which no tax credit was claimed nor granted, and component of value added tax already paid on purchases, rightly excluded from the total turnover of the respondent dealer while computing his tax liability under Section 11 (3)(b) of the GVAT Act.

23. Learned Advocate General further relied upon the judgment in the case of ***B.C. Chaturvedi vs. Union of India and Ors.*** reported in ***(1995) 6 SCC 749***, and submits that the Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence.

24. The issue in the present writ application whether the impugned order dated 12th November, 2025, issued by the respondent no.4 by debarring the petitioner on the basis that a "First Degree Offence" has been committed as per the tender conditions is sustainable under law or not. Clause 11(D)(i) of the e-NIT reads as follows: "*Submission of eligibility requirements containing false information or falsified documents."* Clause 11(D)(i) is coming under the "First Degree Offence" in terms of Clause 11(E)(a) of the e-NIT. The penalty for committing First Degree Offence is provided in Clause 11(G)(a) of the e-NIT which reads as follows:

> ***"11.G. PENALTY FOR OFFENCE:***
>
> ***a.*** *For committing 1st degree offense any of the cases referred under Clause 11D (i) to (v), forfeiture of earnest money and debarment for a period of six months, if the offence is detected during technical evaluation. If the offence is detected after award of the contract and if the offender happens to be the agency selected for work, and such selection is made due to oversight, forthwith termination of the contract and determination of contract value in accordance with clause 3(ix)(c) of West Bengal Form No. 2911, and simultaneous debarment for a period of six months. Further, in case the offense is detected after completion of work and payment of final bill, the work credential earned would be declared as 'null and void'*

> *so that the same cannot be used ever in future as PW credential for securing other works contracts in the irrigation & Waterways Department, together with debarment for a period of six months."*

25. The specific allegation against the petitioner is that in Clause 26 of the Form-3CD, the petitioner has only declared professional tax but no declaration regarding GST was found. In Clause 40 of the Form-3CD, it was found that the total turnover was shown inclusive of GST. Such submission in the tender is treated as concealment of information to influence the outcome of the eligibility screening in the tender process. As per the case of the petitioner, the petitioner has submitted Form-3CD along with the profit and loss accounts and balance sheet in the Income Tax Department. The Income Tax Authority after scrutiny of the IT Returns for all the financial years, except Financial Year 2024-2025, has already assessed by the IT Department and processed the refunds, payable to the petitioner. There is no adverse comment in all the IT Returns filed by the petitioner. It is also the case of the petitioner that disclosure in the Form-3CD which is the part of the IT Return, has no bearing for the purpose of determining the PQ.

26. Clause 7V (b) of the e-NIT, reads as follows:

> ***"7V. Eligibility criteria based on average annual financial turnover of the bidder.***
>
> ***b. Average of Annual turnover from business of any three FY with the zone of immediate preceding five FY as stated in clause 4.2 B(IV) should be at least 30% of the amount put to tender of work in which the bidder intends to participate.***

However, for Consortium/JV, such Average Annual Turnover should be at least 90% of the amount of tender in which the Consortium/JV intends to participate and each entity should have 20% of required Average Annual Turn Over for three preceding financial years. Documents sought under Technical & OID cover folders are mandatory for all the entities of the consortium/JV."

27. Clause 4.2 C(IV) of the e-NIT, reads as follows:

"4.2 C (IV) *<u>Financial credential explanation:</u>*

a. *Profit & Loss Accounts and Audited Balance Sheets of any three financial years within zone of preceding five financial years duly authenticated by licensed auditor regarding Annual Turnover from business containing relevant annexure of IT Form 3CA/3CB/3CD U/S 44 AB of I.T Act as applicable for the bidder, in each financial year. It is to be evaluated by the tender evaluation committee as average or arithmetic mean over the said three financial years, to be uploaded in Profit & Loss & Balance Sheet. Pdf. Auditor's certificate should contain his/her Membership/ Registration no. of Registered Audit/CA Firm and contact details for verification purpose.*

b. *If the total sales, turnover of gross receipts does not exceed Rs. 1.0 crore in the financial year, then tax audit will not apply to such businesses.*

Note:

a. *If the bidder Company/Firm was set up less than three years ago, audited balance sheets and P/L Accounts for the number of years since inception are to be submitted under Technical cover and the average value would be evaluated only for the period since inception and not three years.*

b. *Any additional document considered necessary by the bidder related to 4.2B* ***(IB).***

> ***c.*** *No file in Technical/Pre-Qual cover or OID cover folder is allowed to be kept blank/empty. Where ever the Forms and documents are uploaded by the Tender Inviting Authority, the same is to be downloaded, duly filled up, converted to PDF file, and again uploaded after digital signing, forming a part of tender document. No offline document is acceptable during evaluation stage."*

28. Clause 4.2B IV of the e-NIT, reads as follows:

"4.2B. My Document [OID* Cover]:

IV	***Financial Information***	*1. P/L and audited Balance sheet for year – 1.pdf2* *2. P/L and audited Balance sheet for year – 2.pdf3* *3. P/L and audited Balance sheet for year - 3/pdf4.*	***1-3*** *Profit & Loss accounts and audited balance sheets along with relevant annexures containing the designated Forms 3CA/3CB/3CD, as applicable under IT Act, in the name of the bidder for any three financial years within the zone of preceding five financial years from date of publication of e-NIT.*	*Refer to Clause 4.2C(IV) for details*

29. As per request of the respondent no.2 dated 22^{nd} August 2025, the petitioner has submitted Certificate regarding Summary Statement of Yearly Turnover from contractual business under Form-2. In the said certificate, the petitioner has clarified the Taxable Value, G.S.T. and Turnover Amount. If the taxable amount for the financial years from 2020-2021, 2021-2022, 2022-2023, 2023-2024 and 2024-2025 are taken into consideration, the total taxable value would come to Rs.

72,10,69,420.57 and the 30% of the said amount would come to Rs. 21,63,20,826.17 and if for the above financial years, the turnover inclusive of GST is taken into consideration, the total amount would come to Rs.84,03,81,275.57 and 30% of the said amount would come to Rs. 25,21,14,382.67. If GST is not included in the Annual Turnover, the petitioner would not be eligible to participate in the said tender.

30. Guidance Note on Tax Audit under Section 44AB of the Income Tax Act, 1961 (Revised 2023) Clauses 5.2 and 5.3 defines the term "Turnover" which reads as follows:

> ***"5.2*** *The Central Sales Tax Act, 1956 defined "Turnover" as follows:*
>
> > *"turnover" used in relation to any dealer liable to tax under this Act means the aggregate of the sale prices received and receivable by him in respect of sales of any goods in the course of inter-State trade or commerce made during any prescribed period and determined in accordance with the provisions of this Act and rules made there under.*
>
> *Further, section 8A(1) of the said Act provides that in determining turnover, deduction of sales tax should be made from the aggregate of sales price.*
>
> > *The Central Goods and Services Act, defines Turnover as under.*
> >
> > *Section 2(112)*
> >
> > *"turnover in State' or 'turnover in Union territory' means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State*

> *or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess."*
>
> ***5.5*** *The term 'turnover' for the purposes of this clause may be interpreted to mean the aggregate amount for which sales are effected or services rendered by an enterprise. If GST or any other tax is included in the sale price, no adjustment in respect thereof should be made for considering the quantum of turnover. Trade discounts can be deducted from sales but not the commission allowed to third parties. If, however, GST or any other indirect tax recovered are credited separately to GST or other tax account (being separate accounts) and payments to the authority are debited in the same account, they would not be included in the turnover, However, sales of scrap shown separately under the heading 'miscellaneous income' will have to be included in turnover."*

31. In Clause 4.2C(IV)(a), it is mentioned that profit and loss accounts and audited balance sheets of any three financial years with zone of preceding five financial years duly authenticated by the licensed auditor regarding annual turnover from business containing relevant Annexure of IT Form 3CA/3CB/3CD under Section 44AB of the I.T. Act as applicable for the bidder, in each financial year to be submitted for evaluation by the Tender Evaluation Committee as average or arithmetic mean over the said three financial years.

32. Section 44AB of the Income Tax Act, 1961 reads as follows:

> ***"44AB. Audit of accounts of certain persons carrying on business or profession.—*** *Every person,—*
>
> *(a) carrying on business shall, if his total sales, turnover or gross receipts, as the case may*

be, in business exceed or exceeds [one crore rupees] in any previous year

[Provided that in the case of a person whose-

a) Aggregate of all amounts received including amount received for sales, turnover or gross receipts during the previous year, in cash, does not exceed five per cent of the said amount; and

b) Aggregate of all payments made including amount incurred for expenditure, in cash, during the previous year does not exceed five per cent of the said payment,

This Clause shall have effect as if for the words "one crore rupees", the words [ten crore rupees] had been substituted; or]

[provided further that for the purposes of this clause, the payment or receipt, as the case may be, by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the payment or receipt as the case may be, in cash.]

(b) carrying on profession shall, if his gross receipts in profession exceed [fifty lakh rupees] in any [previous year; or

(c) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under [section 44AE] [or section 44BB or section 44BBB], as the case may be, and he has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, in any [previous year; or]]

[(d) carrying on the [profession] shall, if the profits and gains from the [profession] are deemed to be the profits and gains of such person [under section 44ADA] and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his [profession] and his income exceeds the maximum amount which is not chargeable to income-tax in any [previous year; or]]

[(e) carrying on the business shall, if the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,] get his accounts of [such previous year] audited by an accountant before the specified date and [furnish by] that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed:

[Provided that this section shall not apply to the person, who declares profits and gains for the previous year in accordance with the provisions of sub-section (1) of section 44AD and his total sales, turnover or gross receipts, as the case may be, in business does not exceed two crore rupees in such previous year:]

[Provided further that] this section shall not apply to the person, who derives income of the nature referred to in section 44B or [section 44BBA], on and from the 1st day of April, 1985 or, as the case may be, the date on which the relevant section came into force, whichever is later:

[Provided also] that in a case where such person is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this section if such person gets the accounts of such business or profession audited under such law before the specified date and [furnishes by] that date the report of the audit as required under such other law and a further report [by an accountant] in the form prescribed under this section.

Explanation.—For the purposes of this section,—

(i) "accountant" shall have the same meaning as in the Explanation below sub-section (2) of section 288;

[(ii) "specified date", in relation to the accounts of the assessee of the previous year relevant to an assessment year, means [the due date for furnishing the return of income under sub-section (1) of section 139].]]"

33. As per tender document Average of Gross Annual Turnover of the bidder except for Consortium and Joint Venture for any three financial years with immediate preceding five financial years on the date of publishing the e-NIT should be at least Rs. 22,63,99,792/- i.e. 30% of the amount put to tender. Aggregate Turnover specifically excludes the amount of Central GST (CGST), State GST (SGST), Integrated GST (IGST) and Union Territory GST (UTGST) charges on supply. The value of supplies subject to reverse charge mechanism is also excluded. Tax payers are legally obligated to furnish correct details in their returns and other documents. Not excluding the Goods and Services Tax amount when calculating and reporting Annual Turnover for specific GST purposes is considered incorrect reporting under the Indian GST Law and could potentially be interpreted as concealment of fact if done with the intent to evade tax.

34. The term "suppression" under the GST Act means non declaration of facts or information that a taxable person is legally required to declare in official documents, or failure to furnish information when requested in writing by proper officer. In the present case the petitioner has submitted its Bid excluding GST component and the Average Annual Turnover also referred to as Aggregate Turnover excludes Central Tax, State Tax, Union Territory Tax, Integrated Tax and Cess. The respondent no.2 by a letter dated 22nd August, 2025, requested the petitioner to submit Annual Turnover excluding GST for immediate preceding five financial years i.e. 2020-2021, 2021-2022, 2022-2023, 2023-2024 and 2024-2025. It was directed the petitioner that the said statement is required to be produced in a letterhead of the Chartered Accountant, on the basis of which further course of action would be taken.

35. The petitioner by a letter dated 26th August, 2025, submitted Certificate regarding Summary Statement of Yearly Turnover from Contractual Business in Form-2, which reads as follows:

"Form – 2
Certificate regarding Summary Statement of
Yearly Turnover from Contractual Business

This is to certify that the following statement is the summary of the audited Balance Sheet arrived from contractual business in favour of M/s. ABDUL MATIN, PAN : AAJFA6084B. for the Five consecutive years or for such period since inception of the Firm.

Sl. No.	*Financial*				
	Year	*Taxable Value*	*G.S.T.*	*Turnover Amount*	*Remarks*
1.	*2024-2025*	*27,44,54,029.00*	*4,94,01,725.00*	*32,38,55,754.00*	
2.	*2023-2024*	*16,23,67,938.00*	*2,92,45,267.00*	*19,16,13,205.00*	
3.	*2022-2023*	*17,54,10,878.00*	*2,75,82,741.00*	*20,29,93,619.00*	
4.	*2021-2022*	*8,09,51,471.57*	*97,14,176.00*	*9,06,65,647.57*	
5.	*2020-2021*	*2,78,85,104.00*	*33,67,946.00*	*3,12,53,050.00*	
TOTAL		***72,10,69,420.57***	***11,93,11,855.00***	***84,03,81,275.57***	

Average Actual Annual Turnover For Last 5 years : 16,80,76,255.11

For and on behalf of
A SWAIKA & CO.
Chartered Accountants
Firm Registration No. – 333998E

Amit Swaika

CA. Amit Swaika
(Proprietor)
Membership No. 303466
UDIN- ***25303466BNIGGL3293*** *M/s. ABDUL MATIN*
DATE : 25.08.2025

Partner.
______________________ ”

36. In the said certificate, the petitioner has shown taxable value, GST and Turnover amount. If a taxable amount is taken into consideration, excluding GST the petitioner would not be eligible to participate in the tender process as the petitioner would not reach to the amount of Rs. 22,63,99,792/- which would be 30% of the amount put to tender.

37. The respondents have also relied upon Form-3CB and Form-3CD submitted by the petitioner with the Income Tax Department under Section 44AB of the Income Tax Act, 1961. This Court finds that the petitioner has submitted the same Form along with the tender document. The Form submitted by the petitioner was duly accepted by the Income Tax Authorities while filing Income Tax Return.

38. This Court finds that what are the documents relied by the petitioner while submitting Income Tax Return, the petitioner has submitted the same documents in the tender process. The petitioner has not excluded the GST component as Annual Turnover but when the respondent no.2 requested the petitioner for submission of Annual Turnover excluding GST, the petitioner has submitted the same without any suppression of concealment of fact. It is not the case of respondents that the petitioner has filed some forged documents by suppressing the original documents. Since beginning it is the case of the petitioner that the petitioner has calculated Annual Turnover by including G.S.T. When the respondents have demanded details of Annual Turnover by excluding G.S.T, the petitioner has furnished the same without any suppression or concealment.

39. If the respondents find that the petitioner has calculated the Annual Turnover by not excluding G.S.T, the respondents ought to have reject the bid of the petitioner instead of passing impugned order.

40. Considering the above, this Court finds that though the petitioner has submitted bid document without excluding the GST component but subsequently on the request of the authority has submitted Certificate in Form-2 from the registered Chartered Accountant segregating GST component and taxable value, thus the same cannot be termed as suppression/concealment of relevant information.

41. In such view of the matter, the impugned order dated 12th November, 2025, issued by the respondent no.4 is not sustainable and is set aside and quashed.

42. **WPA No. 26282 of 2025** is **allowed**.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)