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W.P.Nos.20863 and 20865 of 2025

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2025

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

**W.P.Nos.20863 and 20865 of 2025
and W.M.P.No.23567 of 2025 in W.P.No.20863 of 2025**

National Federation of Farmers' Procurement
Processing & Retailing Cooperatives of India Ltd. (NACOF),
Rep. by its State Manager, N.Gurusamy,
No.5/1 & 5/2, "A", 1st Floor, Gopala Menon Road,
Kodambakkam, Chennai 600 024.

.. Petitioner in WP.20863/2025

Central Government Employees Consumer
Co-operative Society Limited (Kendriya Bhandar),
Rep. by its Manager, J.Parvathy,
Central Revenue Quarters, 15th Main Road,
Anna Nagar West, Chennai 600 040.

.. Petitioner in WP.20865/2025

-VS-

Tamilnadu Civil Supplies Corporation,
Rep. by The Managing Director,
Poonamallee High Road, Chennai Metro
Rail Limited (CMRL), Admin Building,
Koyambedu, Chennai 600 107.

.. Respondent in both WPs.



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Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the entire records relating to impugned order dated 15.05.2025 passed by the Respondent vide proceedings in Roc.No.BS6/004804/2025, forfeiting the EMD amount of Rs.3,38,07,000/- paid by the petitioner in the tender floated by the respondent vide NIT No.BS6/004804/2025 dated 17.02.2025 - TNCSC/24-25, and quash the same and consequently direct the respondent to refund the EMD amount of Rs.3,38,07,000/- to the petitioner.

For Petitioner
in both WPs.

: Mr.Srinath Sridevan
for Mr.S.Senthil

For Respondents
in both WPs.

: Mr.P.S.Raman
Advocate General
Asst. by Mr.D.Ravichander,
Stdg. Counsel.

* * * * *

COMMON ORDER

These writ petitions came up for hearing on 12.06.2025 and this Court passed the following order:-

"Mr.D.Ravichander, learned Standing Counsel, takes notice on behalf of respondent.

2. *The subject matter of challenge in the present writ*



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petitions pertain to the impugned proceedings of the respondent dated 15.05.205 wherein the respondent has ordered for the forfeiture of the Earnest Money Deposit (EMD) of Rs.3,38,07,000/-.

3. *The main ground that was urged by the learned Senior Counsel appearing on behalf of the petitioner is that instead of quoting the bid price as Rs.1,06,680/- (WP No.20863 of 2025) and Rs.1,09,569/- (WP No.20865 of 2025) by oversight / mistake it was quoted as Rs.10,668/- and Rs.10956/- respectively. For this genuine mistake that was committed, steps are now being taken to forfeit the entire EMD to the tune of Rs.3.38 Crores.*

4. *The learned Senior Counsel brought to the notice of this Court an earlier order passed in WP No.6223 of 2025 under identical circumstances wherein this Court on considering the grounds raised, directed forfeiture to the tune of Rs.12.02%. The learned Senior counsel also brought to the notice of this Court the judgement of the Apex Court in **[ABCI Infrastructures P Ltd Vs. Union of India and others]** reported in **2025 SCC Online SC 327** where the Apex Court had permitted forfeiture of 6% of the EMD amount. It was further contended that the said rulings can be taken into consideration in the present case also.*

5. *The learned Standing Counsel seeks for some time to file a counter.*



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6. *Post these writ petitions under the caption “for orders” on 27.06.2025.”*

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2. Heard Mr.Srinath Srideven, learned senior counsel appearing for the petitioners and Mr.P.S.Raman, learned Advocate General appearing for the respondent.

3. The learned Advocate General submitted that the petitioners are expected to quote the correct number when they submitted their bidS and relying upon the number that was quoted by the petitioners, they were ranked as L1 and L2 and ultimately, the petitioners have withdrawn their bids. This has caused substantial damage to the respondent. Therefore, the respondent has proceeded further and has forfeited the EMD amount.

4. The learned Advocate General, further submitted that even if this Court wants to take into consideration the peculiarity of the facts and circumstances of the present case and pass orders, it should not be taken as a precedent in future cases, since it will cause huge loss to the respondent.

5. This Court, after carefully considering the submissions made on either side and the materials available on record, finds that there has been a



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genuine mistake on the part of the petitioners in quoting the bid as

Rs.10,668/- instead of 1,06,680/- and Rs.10,569/- instead of Rs.1,09,569/-.

In the light of this genuine mistake, it will not be fair to forfeit the entire EMD amount to the tune of Rs.3.38 crores. However, the petitioners have to pay for the mistake committed. Hence, considering the earlier order passed by this Court in W.P.No.6223 of 2025 on 25.03.2025 (between ***Hyderabad Agricultural Co-operative Association Limited vs. Tamil Nadu Civil Supplies Corporation***), under identical circumstances and also considering the judgment of the Apex Court in ***ABCI Infrastructures Pvt. Ltd. vs. Union of India and Ors.***, reported in ***2025 SCC OnLine SC 327***, this Court is inclined to permit the respondent to forfeit 8% of the EMD amount.

6. In the light of the above discussion, the respondent Corporation shall forfeit 8% of the EMD amount and shall refund the remaining amount to the petitioners within a period of four weeks from the date of receipt of a copy of this order.

The writ petitions are disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.



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Index : Yes/No
Website : Yes/No
Speaking/Non-speaking Order

sra

To

The Managing Director
Tamilnadu Civil Supplies Corporation,
Poonamallee High Road, Chennai Metro
Rail Limited (CMRL), Admin Building,
Koyambedu, Chennai 600 107.



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N.Anand Venkatesh, J.

(sra)

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