IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
28.10.2025	31.10.2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.38469 OF 2025
AND
W.M.P. NO. 42992 OF 2025

M/s.Marson Polymers
Plot No.14, Flat No.5
Baby Nagar 1st Main Road
Velachery, Chennai 600 042
Rep. By its partner M.Suresh Kumar .. Petitioner

- Vs -

1. The Director-cum-Nodal Officer
The Institute of Road Transport
100 Feet Road, Taramani
Chennai 600 113.

2. Tolins Tyres Ltd.
Rep. By its Managing Director
1/47, M.C.Road, Kalady
Ernakulam, Aluva, Kerala 683 574.

3. Pearl Cottage Industries
A-45, Pipdic Industrial Estate
Mettupalaoay, Puducherry 605 509
Rep. By its Authorised Representative

Manager S.Rajagopal .. Respondents
(RR-2 & 3 impleaded vide order of
This Court dated 28.10.2025 made
In WMP Nos.45781 & 46082/2025)

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of declaration to declare the tender notification in Ref. No.02/RT/CP/IRT/2025 dated 06.01.2025 issued by the respondent as invalid by operation of law due to expiry of validity period in accordance with Rule 26 of Tamil Nadu Tender Transparency Rules, 2000 and to direct the respondent to call for retender for supply of retreading materials like precured tread rubber, bonding gum and black vulcanizing cement.

For Petitioner	:	Mr. G.Sankaran, SC, for M/s. R.Sivakumar
For Respondents	:	Mr. P.Kumaresan, AAG Assisted by Mr.C.Gowthamraj Mr. Vijay Narayan, SC, for M/s. S.Mekhala for R-2 Mr. T.K.Bhaskar for M/s.Ramya Subramaniam Datat for R-3

ORDER

Claiming that the validity period in respect of finalisation of the tender issued had already expired in terms of Rule 26 of the Tamil Nadu Tender Transparency Rules, 2000, and seeking a further direction to issue a retender, the petitioner has approached this Court through the present writ petition.

2. Shorn of unnecessary details, the facts in the present case could be briefly summarised as under :-

The 1st respondent issued tender notification for supply of retreading materials like precured tread rubber, bonding gum and black vulcanizing cement fixing the due date for submission of tender as 6.2.2025. Thereafter, the date for submission of tender documents was extended for subsequent periods and lastly it was extended upto 10.03.2025.

3. As per the tender notification, the process consists of two stages, viz., (i) Technical Bid and (ii) Commercial Bid. The technical bid was opened on 10.03.2025. In the technical bid, five persons were declared eligible and qualified in the technical bid for consideration of their commercial bid. Thereafter, the

commercial bid was opened on 21.7.2025 and while the petitioner was L-4 for the item procured treat rubber, but was L-1 for bonding gum.

4. It is the further case of the petitioner that the process of tender is governed by the provisions of the Tamil Nadu Tender Transparency Act, 1998 (for short 'the Act') and the Tamil Nadu Tender Transparency Rules, 2000 (for short 'Rules'). As per the tender notification, clause 5.7 relate to evaluation criteria wherein clause (n) provides that the evaluation of tender would be done as per the Act and the Rules.

5. It is the further case of the petitioner that Rule 26 relates to the time taken for evaluation and extension of tender and award of contract within the period for which the tenders are held valid and that the tender accepting authority may seek for extension of validity of tenders for completion of evaluation, provided that sum total of all extensions shall ordinarily not exceed 180 days. Therefore, if the evaluation of tender and award of contract is not completed within the extended validity period of tender, the same shall be declared to have become invalid.

6. It is the further case of the petitioner that as per the statutory provisions, the validity period of a tender gets expired on the 180th day from the last date for submitting the tender document and, therefore, the last date for submission of tender document being 6.2.2025, on 21.7.2025, when the commercial bid was opened, it was beyond 180 days and, therefore the validity period of the tender stood expired. Since the evaluation of tender and award of contract was not completed before the expiry of 180 days from 6.2.2025, the tenders submitted have become invalid and there cannot be any further process of tender.

7. It is the further case of the petitioner that inspite of the tenders having become invalid beyond the 180 days from the last date for submission of tender, individual communication was issued to the participants through e-mail on 6.10.2025 to participate in the negotiation meeting towards procurement of retread material, which was to be held on 8.10.2025. Though the petitioner was L-1 in respect of bonding gum and L-4 in respect of retread material, the

petitioner has not received any communication to participate in the negotiations for reasons best known to the respondent.

8. It is the further case of the petitioner that as per clause 6.2 of the tender notification, the offer submitted by the bidder should be firm and valid for a period of 120 days from the date of opening of commercial bid and, the tender validity clause should be read in consonance with Rule 26 of the Rules, which prescribes the tender validity period. Clause 6.2 of the notification would not offend Rule 26 provided the commercial bid is opened within 60 days after the due date, viz., 6.2.2025, else clause 6.2 will override the statutory provisions and would be against the ratio laid down by the Apex Court in various decisions and that the condition of tender should be in strict compliance with the provisions of the Act and Rules and further even as per clause 5.7 (n) of the tender notification, the Rules ought to be followed.

9. It is the further case of the petitioner that any process of tender by the respondent beyond the period of 180 days from the last date of submission of tender document, viz., 6.2.2025 is ex facie, arbitrary, illegal and suffers lack of

jurisdiction and the petitioner having no other alternative and efficacious remedy, has approached this court by filing the present petition.

10. Learned senior counsel appearing for the petitioner submitted that as per clause 6.2 of the tender notification, the offer submitted by the bidder should be firm and valid for a period of 120 days from the date of opening of the commercial bid, which clearly shows that the tender validity is fixed as 120 days from the date of opening of commercial bid.

11. It is the submission of the learned counsel that the tender validity clause in the tender notification ought to be read in consonance with Rule 26 of the Rules in respect of the tender validity period. Therefore, the said clause 6.2 would be in harmonious synchronization with Rule 26 if the commercial bid is opened within 60 days from the date of the submission of the tender document as otherwise, clause 6.2 will override the statutory provisions which is *per se* impermissible.

12. It is the submission of the learned senior counsel that clause 5.7 (n) of the tender notification clearly prescribes that the Rules have to be followed. In the above backdrop, it is the submission of the learned senior counsel that the due date for submission of the tender document was fixed as 6.2.2025, which is the cut-off date for reckoning the starting point, wherefrom the application of Rule 26 would commence.

13. It is the further submission of the learned senior counsel that Rule 26 clearly spells out that the evaluation and acceptance of the tender shall be completed within the period for which the tender is held to be valid, meaning thereby, that the period prescribed is 120 days. However, proviso to Rule 26 provides for extensions, which sum total of all extensions including the validity period shall not exceed 180 days and any tender not finally evaluated and accepted within the period of 180 days would stand invalidated by the application of Rule 26 (3). In the present case, the commercial bid was opened only on 21.7.2025 and, thereafter, negotiation had taken place 8.10.2025 which is beyond the maximum period of 180 days and, therefore, the tender process wholly gets invalidated and no action could be taken on the said tender process,

as it is hit by the limitation prescribed under proviso to Rule 26. Therefore, the tender process has to be struck down as invalid and, accordingly prays for allowing the present writ petition.

14. Per contra, learned senior counsel appearing for the 2nd respondent submitted that provision in a statute has to be harmoniously read and so long as the harmonious construction does not offend the rule, then the same has to be followed. Learned senior counsel further submitted that tender notification was issued on 6.1.2025 by mentioning the last date as 6.2.2025, which was thereafter, extended to 17.2.2025, 24.2.2025, 3.3.2025 and the last of which was on 10.03.2025. Thereafter, technical bid was opened on 10.3.2025 and commercial bid was opened on 21.7.2025. After opening of the commercial bid and the 2nd respondent being held as the successful bidder in respect of procured treat rubbed, negotiations were finalised on 8.10.2025.

15. Highlighting the above dates, learned senior counsel for the 2nd respondent submitted that clause 6.2 of the tender notification clearly prescribes that the offer submitted by the bidders should be firm and valid for a minimum

period of 120 days from the date of opening of the commercial bid, which clearly shows that the time starts from the opening of the commercial bid and, therefore, reading clause 6.2 harmoniously with Rule 26, more particularly with reference to the terminology used in Rule, 26, which prescribes that the process completion *"as far as may be practicable"* would clearly imply that the condition of imposition of the period is only directory and not mandatory and the tender process starting from evaluation to the finalisation of the contract having been completed with the validity period of 120 days from the date of opening of the commercial bid, the tender process does not suffer from infirmity.

16. It is the further submission of the learned senior counsel that in respect of multi-stage tender, the period of 180 days cannot be reckoned from the last date of submission of the tender document and only to overcome the said lacunae, Rule 26 provides for a discretion vested with the tender inviting authority to finalise the bid, as far as may be practicable within the period of 180 days, which would be from the date when the evaluation starts. The starting period should be harmoniously read with the validity period provided in the tender document as otherwise either the Rule or the condition in the tender

document would be frustrated, which is not the intent with which the Rule has been framed.

17. It is the further submission of the learned senior counsel that the petitioner has not come to court at the earliest point of time and had all along been waiting to see whether he is called for negotiation and only after he was not called for negotiation, after a lapse of two months, the petitioner has come before this Court claiming that the whole tender process is invalid in view of Rule 26, which clearly shows that the petitioner has not approached this Court with clean hands and has also not explained the reason for the delay of two months in approaching this Court, which are critical issues, which plague the stand of the petitioner and, therefore, the writ petition does not have any merit and requires to be dismissed.

18. Learned counsel appearing for the 3rd respondent, while in sum and substance adopted the argument advanced by the learned senior counsel appearing for the 2nd respondent, further submitted that Rule 14 (2) of the Rules itself specifies the period for which the offers must be held valid, which uses the

expression *ordinarily ninety days",* which only implies that the period is not mandatory, but only directory. Therefore, the whole tender process having been completed in line with clause 6.2 of the tender notification read harmoniously with Rule 26, it does not suffer the vice of any infirmity to be declared as invalid u/s 26 (3).

19. It is the further submission of the learned counsel that the petitioner has not come to court with clean hands, in that it has suppressed the fact that their factory premises has been seized and sealed under the SARFAESI Act and possession has been taken by South Indian Bank on 12.9.2025 and e-auction notice having been issued on 6.10.2025. The petitioner being a bidder in factual default cannot seek to collapse the whole procurement procedure and the said fact has not been divulged in the writ petition.

20. It is further submitted that even assuming without admitting that the petitioner has issues with bonding gum, the petitioner cannot claim to have any issues with regard to procured tread rubber and black vulcanising cement, as the petitioner is not declared as L-1 in the said categories and, therefore, cannot seek

to topple the whole tender process, moreso, when the Act and Rules permit for award to part and split tender to various entities. Therefore, the pela of the petitioner to invalidate the whole tender, that too coming before the court with unclean hands, requires to be dealt with seriously and the writ petition deserves to be dismissed.

21. Learned Addl. Advocate General appearing for the 1st respondent, while concurred with the submissions advanced on behalf of respondents 2 and 3, further submitted that the petitioner was declared as L-1 for bonding gum, but not for other categories and that the tender document prescribes that the bids shall be firm and valid for a minimum period of 120 days from the date of opening of the commercial bid, as per clause 6.2 of the tender conditions and on and from the date of opening the commercial bid, the contract has been accepted within a period of 120 days and, therefore, there is no infirmity in the award of the contract and no interference is warranted with the award of the tender. Accordingly, he prays for dismissal of the present writ petition.

22. Reliance has been placed on the decision in ***SKS Foundation India Pvt. Ltd. – Vs – The Managing Director, Tamil Nadu Textbook & Educational Services Corporation (W.P. No.3525 of 2025 – Dated 5.3.2025)*** by the learned counsel for the respondent.

23. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

24. The whole issue raised in the present writ petition revolves around Rule 26 and clauses 6 of the tender document and for better appreciation, the relevant provisions of the Rules and the tender document are quoted hereunder:-

*"**RULES***

26. Time taken for evaluation and extension of tender validity :-

(1) The evaluation of tenders and award of contract shall be completed, as far as may be practicable, within the period for which the tenders are held valid.

(2) The Tender Accepting Authority may seek extension of the validity of tenders for the completion of evaluation:

Provided that sum total of all extensions shall ordinarily not exceed 180 (one hundred and eighty) days.

(3) In case the evaluation of tenders and award of contract is not completed within the extended validity period, all the tenders shall be deemed to have become invalid and fresh tenders may be called for.

TENDER DOCUMENT

6. Tender Opening and Evaluation

6.1. Technical Bid Opening

a) The technical bid submitted by the bidders through on-line at https://tntenders.gov.in. Portal will open on 6.2.2025 at 16.30 hrs.

b) The tenders for technical bid submitted online shall be opened by a Tender Scrutiny Committee constituted for this purpose by the Director or his authorized representatives in the presence of the bidders who choose to be present at the Institute of Road Transport, 100 Feet Road, Taramani, Chennai 600 113 on 06.02.2025 at 16.30 hrs.

c) Commercial bid will be conducted electronically among the technically qualified bidders.

6.2 Tender Validity

The offer submitted by the bidders should be firm and valid for a minimum period of 120 days from the date of opening of the commercial bid."

(Emphasis Supplied)

25. Incidentally, Rule 14 pertains to Commercial Conditions and, therein, in the proviso to sub-rule (2) provides that the tender document shall ordinarily be valid for an initial period of ninety days. For better clarity, the relevant provision is quoted hereunder :-

> *“14. Commercial conditions :-*
>
> *..........*
>
> *(2) The tender documents shall specify the period for which the tenderer should hold the financial bids offered in the tender valid :*
>
> *Provided that the initial period of validity shall ordinarily be ninety days.”*

26. From the above provision available in the Rules, it is evident that the offer in the financial bid, which is submitted along with the tender documents should be ordinarily valid for a period of ninety days. Clause 6.2 of the tender document has clearly envisaged that the bids should be firm and valid for a minimum period of 120 days from the date of opening of the commercial bid.

27. There is no quarrel with the date on which the tender was floated, the last date of the tender being 6.2.2025 with further extensions for four times, the last of which ended on 10.03.2025. The technical bid was opened on 10.03.2025 and, thereafter, the commercial bid was opened on 21.07.2025. In the commercial bid, while in one of the category, the petitioner was L-1, in one of the other two categories, respondents 2 and 3 were declared as L-1. Thereafter, insofar as the present writ petition is concerned, which relates to the declaration of the 2nd respondent as L-1, negotiation was called for on 6.10.2025 through e-mail by fixing the date as 8.10.2025. It is the case of the petitioner that he was not called for negotiations, though the petitioner was L-1 in one of the category, viz., Bonding Gum.

28. The writ petition is premised on the basis that the time operiod of the tender fixed u/r proviso to 26 (2), viz., 180 days having completed, the whole tender process gets invalidated and, therefore, the tenders cannot be proceeded with.

29. From the above, the only question that arises for determination is the date of starting point for calculation of the time period of 180 days as provided under proviso to Rule 26 (2). While it is the case of the petitioner that it would start from the date immediately succeeding the last date of submission of tender, the respondents contend that it would be on the basis of clause 6.2, which prescribes the tender validity period.

30. Chapter VI of the Rules pertains to Tender Evaluation and Rule 26 thereof prescribes the time taken for evaluation and extension of tender validity. Rule 26 has already been extracted supra, and sub-rule (1) provides that *evaluation of tenders* and award of contract shall be completed, *as far as may be practicable* within the period for which the tenders are held valid whereas proviso to sub-rule (2) provides that the sum total of all extensions, which is provided for under sub-rule (2) shall not *ordinarily* exceed 180 days.

31. Even a bare perusal of the terminology used in Rule 26 (1) and (2), more particularly with reference to the terms *"as far as may be practicable"* and *"ordinarily"* clearly denote that the period within which the tender process is to

be completed shall be within 180 days, inclusive of extensions, beyond which the all the tenders shall be deemed to have become invalid.

32. Clause (h) of Rule 2 defines the term *“multi-stage tender”* to mean a tender in which there are at least two stages and there could be no quarrel with the fact that the present tender process is a multi-stage tender process, which deals with fulfilment of eligibility criteria based on experience and financial or technical parameters or both.

33. In the light of clause (h) of Rule 2, clause 6.2 of the tender document should be looked at. Clause 6.2, which has been extracted supra, provides that the offered bids should be firm and valid for a minimum period of 120 days from the date of opening of the commercial bid, meaning thereby, that the tender accepting authority is provided with a period of 120 days to finalise the bid of the successful bidder from the date the commercial bid is opened. Even as per proviso to Rule 14 (2), initial period of 90 days is provided as the period of validity of a commercial bid. In the present case, over and above the period of 90 days as

provided under proviso to Rule 14 (2), an additional period of 30 days is provided, in all adding to 120 days during which period the commercial bid would be valid.

34. Therefore, from the above, there is a specific period prescribed during which the commercial bid would be valid as provided under clause 6.2 of the tender conditions. It is to be pointed out that the tender conditions ought to be in consonance with the mandate provided under the Rules. In this regard, Rule 26 is required to be looked at, which deals with time taken for evaluation and extension of tender validity.

35. Rule 26 (1), (2) and the proviso to Rule 26 (2) pertains to the time taken for evaluation and extension of tender validity. Even a bare perusal of Rule 26 (1) would reveal that the period prescribed is directory in nature as could be evident from the usage of the terminology *"as far as may be practicable".* Rule (2) further provides that the tender accepting authority may seek extension of validity of tenders for completion of evaluation and that the sum total of all extensions shall not ordinarily exceed 180 days.

36. In this regard it is to be pointed out that Section 2 (f) and (h) of the Act defines the term *"tender"* and *"tender document"*. The term used in Section 26 is *"tender"*, which could only mean *"bid"* submitted along with the tender document and would by no stretch be taken to mean the tender document. Once the term *"tender"* is taken to mean the *"bid"* necessarily clause 6.2 of the tender notification would come into play in and by which the tender validity has been fixed at 120 days from the date of opening of the commercial bid.

37. As already stated above, proviso to Rule 14 (2) provides for a minimum period of 90 days as the validity of the bid and thereto, the word *"ordinarily"* is used, which alone would give leverage to the tender inviting authority to extend the time. Only by virtue of the usage of the said term, which clothes the tender inviting authority to extend the time period, clause 6.2 had prescribed the minimum period of validity of the bid at 120 days from the date of opening of the commercial bid. However, it is to be pointed out that the extension of time cannot be beyond the period of 180 days as prescribed under proviso to Rule 26 (2).

38. Therefore, for all purposes, in the present case, harmoniously reading Rule 26 along with clause 6.2 of the tender notification, it could only mean that the starting point for limitation of the maximum period of 180 days, inclusive of all extensions, would start only from the date on which the commercial bid is opened and it cannot be dated back to the last date for submission of the document. Giving any such interpretation as to starting date would frustrate clause 6.2 and would run counter to the intent of Rule 26 as it would put fetters on Rule 26, thereby frustrating Rule 26 as well as clause 6.2 of the tender notification.

39. Further, the invalidation of tenders beyond the period of 180 days provided u/r 26 (3) also uses the terminology *"evaluation of tenders"* which could only mean the evaluation of bids, which would start only from the date of opening of the bid for evaluation and it cannot be dated back to the date of submission of tender documents along with the bids, moreso when the bids involve *"Multi-Stage Tenders"*, like the present case in which case, the clause with regard to tender validity, as given in the tender document read in consonance

with Rule 26, would lead to a harmonious construction as otherwise, it would only frustrate Rule 26 as well as the clauses in the tender notification.

40. Moreover, the usage of the term *"as far as may be practicable"* as used in Rule 26 could only be achieved if it is read in line with Rule 14 (2) as extension beyond 90 days would fall under the proviso to Rule 26 (2) which alone would extend the validity period, thereby, giving life to Rule 26 (3), as otherwise, all it would defeat many of the tender processes, which stand covered under the definition *"Multi-Stage Tender"* as defined u/r 2 (h). Giving any other construction/interpretation than the one given above would frustrate the provisions of the Act, Rules and the clauses in the tender notification.

41. Further, the view of this Court is also strengthened from the decision of a learned single Judge of this Court in *SKS Foundation case (supra)* relied on by the respondent, wherein this Court held as under :-

> *"16. Section 26(2) mandates that the authority shall seek extension of time if the evaluation is not complete within the validity period, but not with respect to award of contract. Section 26(3) states that in cases where the evaluation of*

tenders and the award of a contract are not completed within the extended validity period, all tenders shall be deemed invalid, and fresh tenders may be called for. But Rule 26(1) itself uses the phrase 'as far as may be practicable' and in this case, the reasons stated above with reference to price verification and additional security deposit, can be considered as appropriate for not completing even the process of award of contract in time."

42. Therefore, on a careful consideration of Rule 26 and clause 6.2 of the tender notification as also the definition of *"tender"* and *"tender document"* defined u/s 2 of the Act, this Court holds that the starting point for working out the period of 180 days would only start from the date of evaluation of the bids on the basis of the validity prescribed in the tender document and it would not be reckoned from the last date of submission of the tender document.

43. From the above, it could safely be concluded that based on the terminology used in proviso to Rule 14 (2), which uses the term *"validity shall ordinarily be ninety days",* the tender document, under clause 6.2, has made a distinct mention that the offer should be firm and valid for a minimum period of

120 days *"from the date of opening of the commercial bid"*, meaning thereby, that the period starts from the date of opening of the commercial bid and not otherwise.

44. In the present case, the last date for submission of tender document is 6.2.2025, which was extended upto 10.03.2025 on which date the technical bids were opened. Thereafter, the commercial bid was opened on 21.7.2025 and negotiations were conducted on 8.10.2025. Clause 6.2 of the tender notification reckons that the validity of the bid would be 120 days from the date of opening of the commercial bid and the commercial bid having been opened on 21.7.2025 and in view of clause 6.2 of the tender notification, the start date for reckoning the period of validity is to be computed only from 21.7.2025, as even proviso to Rule 14 (2) provides for an initial validity period of 90 days and clause 6.2 of the tender notification having fixed 120 days as the minimum period of validity of the price bid from the date of opening of the commercial bid, the period of 120 days is to be reckoned from 21.7.2025, which is extendable upto a maximum period of 180 days as provided u/r 26 (3) beyond which alone the tender would become invalid and not otherwise. Therefore, the interpretation sought to be made by

the petitioner for reckoning the date of submission of the tender document as the starting point for the purpose of calculating the period of 180 days is erroneous and the same cannot be sustained.

45. Further contention was also raised by the respondents with regard to the petitioner approaching this Court with unclean hands and there being delay in filing the writ petition, which has not been properly explained, and, therefore, even on the short point this court ought to dismiss the writ petition. However, this Court, in view of the legal issue involved, has not entered into the question of delay in approaching this Court and the petitioner coming to court with unclean hands as the legal issue requires consideration rather than this Court deciding the petition on a technical issue. In view of the fact that the legal issue is answered against the petitioner, the other issues does not merit consideration and the case of the petitioner is liable for rejection.

46. For the reasons aforesaid, there are no merits in this writ petition and, accordingly, the same fails and the writ petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

31.10.2025

Index : Yes / No

GLN

To

The Director-cum-Nodal Officer
The Institute of Road Transport
100 Feet Road, Taramani
Chennai 600 113.

M.DHANDAPANI, J.

GLN

PRE-DELIVERY ORDER IN
W.P. NO. 38469 OF 2025

Pronounced on

31.10.2025