IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

129 **CWP-36626-2025**
Date of Decision: 15.12.2025

SOHAN LAL ......PETITIONER

Versus

STATE OF PUNJAB AND OTHERS .....RESPONDENTS

CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MS. JUSTICE LAPITA BANERJI

Present : Mr. Kshitij Sharma, Sr. Advocate with
Mr. Gaurav Patwalia, Advocate,
Mr. Shiv Kumar, Advocate and
Ms. Shruti Gupta, Advocate for the petitioner.

Mr. R.S. Pandher, Addl. A.G., Punjab.

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LISA GILL, J. (Oral)

1. Prayer in this writ petition is for setting aside order dated 13.09.2025 (Annexure P-2) passed by respondent No.4 whereby petitioner's technical bid has been rejected and he has been declared non-responsive; orders dated 24.10.2025 (Annexure P-9) and 20.11.2025 (Annexure P-12) passed by respondent No.3 and respondent No.2 respectively, whereby his appeals have been dismissed. It is further prayed that aforesaid three orders be stayed during pendency of this petition and bid of petitioner be treated as responsive.

2. Brief facts as pleaded are that from 08.09.2025 to 11.09.2025, tenders for labour and cartage were invited for various clusters in District Faridkot. Petitioner participated in the said tender

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process for Faridkot-1 & Faridkot-2 clusters. District Tender Committee, (respondent No.4) on 13.09.2025, rejected bid of petitioner. First appeal filed by petitioner on 15.09.2025 was dismissed by respondent No.3 vide order dated 24.10.2025 on the ground that petitioner had not submitted requisite audited financial documents in violation of 5(G) of terms and conditions of tender document. Petitioner thereafter filed second appeal alongwith Chartered Accountant's Certificate clarifying that under Section 44-AD of Income Tax Act, 1961, (for short, 'the Act') audit was not necessary as petitioner's turnover was below statutory threshold. Respondent No.2 vide order dated 20.11.2025 rejected the appeal leading to filing of present writ petition.

3. Learned Senior Counsel for petitioner vehemently argues that bid of petitioner has been incorrectly treated as non-responsive. The authorities have further grossly erred in dismissing appeals filed by present petitioner who it was found has not complied with condition 5(G) of the Tender Document. It is submitted that an assessee/person having a turnover less than Rs.3 crores as per Section 44-AD of the Act is not required to maintain detailed books of accounts or get the accounts audited by a Chartered Accountant, therefore, insistence of respondents upon an audit report in terms of Clause 5(G) of tender document is clearly unjustified. The condition as such can thus not be read to mean that audit report should be submitted by the tenderer

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who is otherwise not required to have its account audited under Section 44-AD of the Act. It is, thus, prayed that this petition be allowed as prayed for.

4. Learned counsel for respondents, on advance notice, has opposed this writ petition while submitting that condition in the tender document is absolutely clear and it is not open to petitioner to now turn around and raise objections thereto, after having participated in the tender process. It is further submitted that documents submitted by petitioner were deficient inasmuch as audited balance sheet was not submitted. Moreover, Chartered Accountant certification was also found to be incomplete as it is mentioned in order dated 24.10.2025 passed by First Appellate Authority. As per Clause 5(G), tenderer should have a minimum turnover @ Rs.100/-MT from the transportation/cartage work of food grains of Government Procurement Agencies including FCI Punjab Region for a minimum period of one year in the last seven financial years. This information was clearly missing. Petitioner thus has rightly treated as non-responsive. Dismissal of writ petition is sought.

5. We have heard learned counsel for the parties at length and have carefully perused the file.

6. Floating of tenders from 08.09.2025 to 11.09.2025; submission of bid by petitioner and rejection thereof, vide order dated 13.09.2025 as well as rejection of his appeals vide order dated

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24.10.2025 and 2011.2025, is a matter of record. At the outset, it is relevant to refer to Clause 5(G) of the Tender Document which reads as under:-

> *"G. Tenderer must have a minimum turnover @ Rs.100/- MT from the transportation/cartage work of food grains of Government Procurement Agencies including FCI Punjab Region for a minimum period of one year in the last seven financial years i.e., from year 2018-19 to 2024-25 equivalent to the cluster with highest capacity applied for.*
>
> ***Note 1**: Copies of the audited balance sheet of the concerned financial year for which turnover has been submitted shall also be uploaded along with the Technical Bid as proof of turnover. Provided that if the balance sheet pertains to the year 2019-20 or later then CA certification must bear UDIN No.*
>
> ***Note 2:** If the tenderer does not have the work experience/turnover as specified in clause-5F & 5G of the policy, bidder shall have to submit EMD @ Rs.15/- MT for the expected arrival with the MD PUNGRAIN."*

7. It is apparent that as per aforesaid clear cut condition of tender document, it was imperative upon the petitioner to have submitted audited balance sheet of the concerned financial year for which turnover had been submitted besides submitting proof to show minimum turn over @ Rs.100/-MT from the transportation/cartage work of food grains of Government Procurement Agencies including FCI Punjab Region for a minimum period of one year in the last seven financial years. The said documents had admittedly not been

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submitted by petitioner. Merely because petitioner was not under a mandate to have his account audited under Section 44-AD of the Act cannot *per se* mean that such condition cannot be imposed by respondents and that petitioner is not required to submit duly audited documents in terms and conditions of the tender. Petitioner has further not challenged this condition prior to submission of his bid. It also a matter of record that documents evidencing petitioner's required minimum turnover from transportation/cartage work of food grains of Government Procurement Agencies including FCI Punjab Region were not appended by petitioner alongwith his technical bid. It is clearly mentioned in order dated 24.10.2025, by First Appellate Authority that incomplete documentation was there.

8. Reference by learned Senior Counsel for petitioner to judgment of Hon'ble the Supreme Court in **Kimberley Club Pvt. Ltd. Vs. Krishi Utpadan Mandi Parishad and others, 2025 INSC 1276** is of no avail to petitioner. In **Kimberley Club Pvt. Ltd.** (supra), it was found that technical bid of appellant therein had been rejected on the ground that one document i.e. *'haisiyat praman patra'* submitted by it had not been issued by District Magistrate. Hon'ble the Supreme Court on considering the facts found that none of the tender conditions specified that said *'haisiyat praman patra'* submitted by a prospective bidder must be issued only by a District Magistrate and by no other. Said document had been duly submitted by tenderer therein though

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not issued by District Magistrate. It was in this factual matrix that Hon'ble the Supreme Court directed re-consideration of technical bid of said appellant. We take note of the fact that Hon'ble the Supreme Court in the above said matter specifically reiterated the settled position re: judicial review as under:-

> *"11. In tender matters, the court exercising judicial review does not sit in appeal over the decision of a tendering authority regarding disqualification of bid. Only in cases where such decision is dehors the terms of the NIT or is patently arbitrary would the Court exercise powers of judicial review and set aside such a decision."*

9. Keeping in view the facts and circumstances as above, we do not find any ground whatsoever to cause interference in this matter in exercise of jurisdiction under Article 226 of Constitution of India.

10. No other argument is addressed.

11. Writ petition is, accordingly, dismissed.

[LISA GILL]
JUDGE

15.12.2025
Prince

[LAPITA BANERJI]
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

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