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

+ **W.P.(C) 668/2025**

M/S IMAGE FILLING STATIONPetitioner

Through: **Mr. Dhruv Pande and Mr. Imon
Bhattacharya, Advocates**

versus

**NATIONAL HIGHWAY LOGISTICS
MANAGEMENT LIMITED & ANR**Respondent

Through: **Mr. Santosh Kumar, Standing
Counsel with Mr. Adithya Ramani
and Ms. Nidhi Rani, Advocates for
NHAI.**

**CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

**ORDER
20.01.2025**

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CM APPL. 3293/2025

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 668/2025 & CM APPL. 3292/2025 (Interim Directions)

3. Issue notice. The learned counsel appearing for the respondents accepts notice.
4. The petitioner has filed the present petition, *inter alia*, praying as under:-

“A. Issue appropriate writ/order/direction setting aside the Impugned Letter dated 11.01.2025 bearing refence no. HOUDIV-



15011/1/2024-NHLM/efile 1250 in so far as the declaration of the Petitioner's bid has been declared as Non-responsive.

B. Direct Respondent No.1 to consider the Petitioner's bid dated 03.08.2024 in terms of the Request for Proposal dated 05.06.2024 bearing reference No. NHLML/ WSA/DBOT/WEN/2024 titled as "Development, Operation and Maintenance of Wayside Amenities on different sections of national highway on lease basis".

5. The petitioner is essentially aggrieved by the communication declaring the petitioner's bid – which was submitted pursuant to the invitation of Request for Proposal (RFP) dated 05.06.2024 – as non-responsive. Respondent no.1 (National Highways Logistics Management Limited) had invited bids for Development, Operation and Maintenance of Wayside Amenities on different sections of National Highways on lease basis. The said bids were required to be furnished online.

6. The bidding process involved a two-bid system whereby the bidders were required to furnish a pre-qualification technical bid under a separate cover and a financial bid under a separate cover. The technical bids were required to be opened first and evaluated. The financial bid furnished by a tenderer would be considered if the technical bids were found to be responsive. It appears that the petitioner had erroneously uploaded his financial bid under the same cover as the technical bid. Consequently, the petitioner's financial bid was no longer concealed.

7. It is the petitioner's case that although there may have been an error in the submission of its bid, there was no specific condition which forbade the petitioner from furnishing his financial bid alongwith the technical bid. Additionally, he submitted that the alleged error did not cause prejudice to any person other than the petitioner.



8. The learned counsel appearing for the respondents stoutly contests the submission that there was no prohibition furnishing the financial bid alongwith the technical bid. He has produced the print out of the screen which clearly reflects that the relevant section is under a heading that reads as “Covers Information, No. of Covers – 2” . The same is set out below:-

Covers Information, No. of Covers – 2			
Cover No	Cover Type	Description	Document Type
1	Fee/PreQual/Technical	SCANNED COPY OF TENDER COST	.pdf
		SCANNED COPY OF EMD	.pdf
		SCANNED COPY OF POWER OF ATTORNEY	.pdf
		TECHNICAL DOCUMENT I	.pdf
		TECHNICAL DOCUMENT II	.pdf
		TECHNICAL DOCUMENT III	.pdf
		TECHNICAL DOCUMENT IV	.pdf
2	Finance	FINANCIAL PROPOSAL	.xls
		APPENDIX	.pdf

9. Additionally, he submits that the tender conditions also clearly specify that the bids were to be submitted in two stages.

10. There may be merit in the contention that the tenderers were required to furnish their bids under two covers. However, it is also relevant to examine whether furnishing the financial bid under the same cover has caused any prejudice. *Prima facie*, we find some merit in the contention that no prejudice has been caused to any person other than the petitioner by



premature disclosure of the financial bid.

11. We note that the petitioner has already filed a representation before the concerned authorities. The learned counsel appearing for the petitioner submits that the petitioner would be satisfied if a direction is issued to the respondents to consider his representation. The learned counsel for the respondents has no objection to the same.

12. In view of the above, we consider it apposite to dispose of the present petition by directing the respondents to consider the petitioner's representation as expeditiously as possible, preferably before the financial bids are opened.

13. All rights and contentions of the parties are reserved.

14. The pending application is also disposed of.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

JANUARY 20, 2025

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