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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7037/2025, CM APPL. 31752/2025 & CM APPL. 31753/2025**

ROSMERTA TECHNOLOGIES LTDPetitioner
Through: Mr. Sandeep Sethi and Mr. Darpan Whadhwa, Senior Advocates with Ms. Ranjana Roy Gawai, Ms. Vasudha Sen, Mr. Vasoodev Sharma and Ms. K. Hema, Advocates.

versus

UNIQUE IDENTIFICATION AUTHORITY OF INDIA AND ORSRespondents
Through: Mr. Purushottam Sharma Tripathi and Mr. Prakhar Singh, Advocates for R-1. Mr. Sandeep Kumar Mahopatra, CGSC with Mr. Tribhuvan, Advocates for R-2 and 4. Ms. Shweta Bharti, Mr. Anil Tiwari, Mr. Sumit Malhotra, Mr. Divyam Rathi and MS. Nitika Sharma, Advocates for R-3.

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

ORDER
22.05.2025

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1. Heard the learned counsel for the parties.
2. This petition under Article 226 of the Constitution of India has been filed with the prayer to issue a direction to the respondents to take immediate and necessary technical modifications and corrections in the GeM Portal to



bring the same in conformity with the terms and conditions of the RFP dated 21.03.2025 and, accordingly, to include the Medium Enterprises as well for the purposes of giving exemptions which are available to Small enterprises.

3. Mr. Sandeep Sethi, learned senior counsel representing the petitioner has drawn our attention to Clause 2.11.2 of the tender document, according to which the exemption for EMD/Bid Security and relaxation on experience and turnover was to be given to the entities registered under a particular NIC Code and further that it was to be given to Medium Enterprises as well.

4. Clause 2.11.2 of the tender document is extracted herein below:-

2.11.2 It is understood that the subject work comes under NIC code ; Division 82: Office administrative, office support, and other business support activities. Hence it is proposed that MSME relaxation on Experience and Turnover only shall be given to the entities registered under the above mentioned NIC code. However, exemption for EMD/Bid security will given to all the MSME registered under any NIC code.

5. Mr. Sethi has further drawn our attention to the screenshot of the GeM Portal which shows a Column requiring the tenderer to indicate as to whether it wanted to request for EMD exemption. He has stated that once the Column “Yes” was chosen, the further process was not possible because the portal did not show any column to select MSME.

6. Accordingly, it has been argued that though Clause 2.11.2 of the tender document permitted Medium Enterprises as well to participate in the tender with the exemptions, however the portal has been designed in such a fashion where such facility cannot be availed by the Medium Enterprises.

7. It is in this background that the prayer in the petition has been made to issue direction to the respondents to accordingly modify the portal.

8. Mr. Purushottam Sharma, learned counsel representing the respondent no.1, however, has stated that from a perusal of Clause 2.17.12, it is clear that



the substantive decision of the tendering authority was to grant the exemption only to Micro and Small Enterprises in terms of the provisions contained in Rule 170 of the Tender Condition Rules, 2017.

9. Clause 2.17.12 is extracted herein below:

2.17.12 As per Rule 170 of General Financial Rules (GFRs) 2017, Micro and Small Enterprises (MSEs), NSIC and the firms registered with Ministry of Electronics & IT (MeitY) / Department of Industrial policy and promotion (DIPP) are exempted from submission of Bid Security. Further, in lieu of Bid Security, Bidders to sign "Bid Security Declaration". In case Bidder withdraw or modify their bids during period of validity etc., they will be suspended for the period of 3 years for further participation in UIDAI issued tenders.

10. In view of the aforesaid provision, which according to the learned counsel for the respondent is substantive in nature, necessary Corrigendum is now being issued by the tendering authority clarifying that the exemptions/benefits are available only to the Micro and Small Enterprises and not to the Medium Enterprises.

11. Mr. Sethi, on the other hand, has stated that though now a Corrigendum is being issued, however in a pre-bid meeting held on 11.04.2025, a specific query was made by the tenderers in this respect, however, it was replied by the authorities that both the Micro and Small Enterprises and the Medium Enterprises shall be considered as the same.

12. Be that as it may, in our considered opinion once the pre-bid meeting was held, the stand of the respondent ought to have been clarified in tune with the provisions contained in Clause 2.17.12 of the tender conditions that however in our opinion will not entitle the petitioner to the prayer made in this writ petition. At this juncture, Mr. Sethi states that the petitioner may be given the liberty to challenge the action on the part of the respondent no.1 in not permitting the Medium Enterprises to participate in the tender.



13. In view of the aforesaid discussion, the relief prayed for in this writ petition has been rendered infructuous. The writ petition is thus dismissed as such.

14. However, we make it clear that notwithstanding disposal of this writ petition, it will be open to the petitioner to challenge the condition which does not permit the Medium Enterprises to participate in the subject tender.

15. Learned counsel for the respondent has stated that the necessary corrigendum is likely to be issued today and further that last date for submission of the bid shall be extended by fifteen days.

16. We also make it clear that in case the petitioner is still aggrieved by issuance of the corrigendum, it will be open to the petitioner to challenge the same by instituting appropriate proceedings.

17. Accordingly, the present writ petition along with pending applications stand disposed of. However, no order as to costs.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

MAY 22, 2025

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