



\$~70

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

+ W.P.(C) 13542/2025, CM APPL. 55535/2025, CM APPL. 55536/2025
& CM APPL. 55537/2025

PREETI BUILDCON PVT LTD

.....Petitioner

Through: Mr. Rajiv Nayar, Senior Advocate with
Mr. Kartik Nayar, Mr. Krish Kalra, Mr.
Divyansh Rai and Ms. Manjeera
Dasgupta, Advocates.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Rohan Jaitley, CGSC with Mr. Dev
Pratap Shahi, Mr. Varun Pratap and Mr.
Yogya Bhatia, Advocates for UOI.
Mr. Vaibhav Kalra and Ms. Neha
Bhatnagar, Advocates with Mr. Abhijit
Jagannath, SM (Eng.) and Ms. Kashish
Singhal, JE (Law) for R-2/AAI.
Mr. Anubhav Datta, Ms. Nitika Sharma
and Ms. Niharika Kuchhal, Advocates
for R-3.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

%

03.09.2025

1. Heard the learned counsel for the parties.
2. By instituting the proceedings of this petition, a challenge has been made to a decision embodied in the communication/order dated 27.08.2025 passed by the Senior Manager/Engineer(C)/Bid Manager of Airports Authority of India whereby the Earnest Money Deposit (EMD) made by the petitioner for participation in the tender process amounting to Rs.2,90,84,774/- has been



ordered to be forfeited.

3. At the outset, learned Senior Counsel representing the petitioner has stated that the petitioner is not challenging the decision of the Airport Authority of India for cancelling the tender itself and this petition confines itself to the challenge to the decision of forfeiture of EMD.

4. Having perused the documents available on record of this writ petition, what we find is that it is not that before passing the impugned order, a notice was not issued. In fact, a notice was issued and the petitioner was even provided an opportunity of hearing as well through video conferencing, however what bothers us is that the impugned communication/order dated 27.08.2025 does not discuss the reply submitted by the petitioner to the show-cause notice; though it only refers to the said reply dated 19.07.2025.

5. Forfeiture of EMD amount bears serious consequences and accordingly, if any such decision is taken by any tendering authority, forfeiting the EMD amount deposited by a tenderer, it is incumbent upon such an authority to not only issue a show-cause notice but also to pass an order which should contain reasons for arriving at the conclusions by the authority concerned. If the impugned order/communication dated 27.08.2025 is tested on the aforesaid legal anvil, we find that the same cannot be permitted to be sustained.

6. Accordingly, without entering into the respective claims of the parties on merits, we dispose of this writ petition with a direction to the Airport Authority of India to give a fresh opportunity of hearing to the petitioner and take a decision thereon by passing an informed, reasoned and speaking order. While taking such decision, reasons shall be given by the competent authority of Airport Authority of India for arriving at the conclusion.

7. The impugned order dated 27.08.2025 will thus abide by the fresh



decision to be taken by the Airport Authority of India under this order.

8. We have been informed that though instructions have been given by Airports Authority of India to the insurance company/Respondent No.3 for debiting the amount of EMD to the accounts of the Airport Authority of India, the amounts have not yet been debited.

9. Accordingly, we direct that till a fresh decision in terms of this order is taken by the Airports Authority of India, the said amount shall not be debited to its account.

10. The writ petition stands disposed of in the aforesaid terms.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

SEPTEMBER 3, 2025

yrj