$~
* IN THE HIGH COURT OF DELHI AT NEW DELHI
% ***Judgment reserved on: 29.04.2026***
Judgment pronounced on: 13.05.2026
Judgment uploaded on: 13.05.2026

\+ W.P.(C) 5286/2026, CM APPL. 25966/2026 & CM APPL. 25967/2026

SGIVS GLOBAL LLC .....Petitioner

Through: Mr. Sandeep Sethi, Sr. Adv, Mr. Siddharth Dharmadhikari, Ms. Devanshi Singh, Mr Bharat Bagla & Ms Kunika Bansal, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Chetan Sharma, ASG along with Ms. Avshreya Pratap Singh Rudy, CGSC with Mr. Amit Gupta, Ms. Akshi Bali, Ms. Usha Jamnal, Ms. Nyasa Sharma, Mr. Ankit Khatri, Mr. R. V. Prabhat, Mr. Yash Wardhan Sharma, Mr. Shubham Sharma and Mr. Naman, Advs. for UOI.
Mr. Santhosh Krishnan, Mr. Zulfiker Ali P.S., Mr. Ashwin Joseph Adv, Ms. Lebina Baby, Advs. for R-3.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE AMIT MAHAJAN

JUDGMENT

ANIL KSHETARPAL, J.:

1. By way of the present Petition filed under Article 226 of the Constitution of India, the Petitioner seeks issuance of a writ of

mandamus directing Respondent Nos.1 and 2 to refrain from awarding Tender No. Abu/Cons/415/17/2025 dated 20.11.2025 to the Respondent No.3 on account of the alleged financial non-viability of the financial bid submitted by the Respondent No.3. *Vide* the said Tender, a Request for Proposal (RFP), by way of a two-tier bid system, for providing Consular-Passport-Visa-OCI Attestation Services (CPV Services) for the Embassy of India, Abu Dhabi and Consulate General of India in Dubai, was invited.

2. In addition to the aforesaid directions sought, the Petitioner also seeks issuance of an appropriate writ for constitution of an expert committee to examine the viability of the financial bid submitted by the Respondent No.3, with the assistance of an independent quantum expert. Further, the Petitioner prays for a declaration that the financial bid submitted by the Respondent No.3 is unresponsive on account of being ex-facie, unviable and arbitrary, and also seeks directions to ensure a fair, lawful, and transparent evaluation of all financial bids in accordance with applicable procurement norms and tender conditions.

3. The controversy is the present Petition arises out of the financial bid submitted by the Respondent No.3, who has been declared the L-1 bidder with respect to the RFP. However, the Petitioner, who is the L-2 bidder in the subject Tender floated for CPV services, has challenged the viability and feasibility of the said financial bid, quoted at the rate of Rs.19 AED per application.

A. <u>FACTUAL MATRIX</u>:

4. In order to appreciate the controversy arising for the

adjudication before this Court, the relevant facts, in brief, are required to be noticed.

5. On 20.11.2025, the Respondent No.2, floated the subject Tender, thereby inviting technical and financial bids for the provision of CPV services for the Embassy of India, Abu Dhabi and the Consulate General of India in Dubai. Pursuant thereto, the Petitioner, along with the Respondent No.3 and other bidders, submitted their respective technical bids and upon qualifying therein, proceeded to submit their financial bids.

6. It is pertinent to highlight that the subject tender has previously engaged the attention of this Court even at the stage of technical evaluation, hence, this is not the first instance wherein disputed pertaining thereto have been brought before this Court. The legal challenges surrounding the said tender find their genesis in ***W.P. (C) No.1562/2026*** captioned ***E Trav Tech Limited v UOI & Anr. and connected matters***, wherein the non-qualifying bidders assailed the technical evaluation process, inter alia, on the ground that the Respondent No.2 had failed to provide reasons or a break-up of marks for each criterion of evaluation.

7. Consequently, this Court, *vide* judgment dated 10.03.2026, was pleased to dismiss the said petition, highlighting the limited scope of judicial review in tender matters and taking on record the undertaking of the learned ASG that reasons for disqualification would be communicated to the non-qualified bidders upon completion of tender process. The said judgment came to be challenged before the Supreme

Court by way of ***SLP(C) No. 10625/2026***, however, the Supreme Court vide its order dated 16.04.2026, declined from interfering with the judgment of this Court and dismissed the Petition.

8. In the interregnum, the Respondent No.2 on 30.03.2026, opened the financial bids, whereupon the Respondent No.3 was declared the L-1 Bidder, having quoted AED 19 per application, while the Petitioner herein was declared the L-2 Bidder, having quoted AED 52. Pursuant thereto, the Petitioner submitted a detailed representation to the Ambassador, Embassy of India, Abu Dhabi, seeking a meaningful and thorough examination of the financial bid submitted by Respondent No. 3.

9. However, on not receiving any response thereto, the Petitioner has approached this Court by way of the present Writ Petition, inter alia, challenging the financial bid of the Respondent No.3 on the primary ground that the same is ex facie predatory in nature. It is the specific grievance of the Petitioner that the Respondent Nos.1 and 2, are proceeding further on the basis of the said bid without undertaking any meaningful scrutiny thereof, thereby raising serious concerns as to its financial viability, sustainability, and capability of lawful performance.

10. At this juncture, it is deemed equally important to highlight that the present tender has been floated for the second time. The earlier tender, floated on 31.01.2025, had culminated in the Petitioner emerging as the L-1 bidder under the two-tier bid system, having quoted AED 17 per application.

11. However, the said tender came to be annulled *vide* notice dated 26.06.2025. The reasons for such annulment remain disputed, while the Petitioner contends that the same was annulled *suo motu* by Respondent No. 2, to the contrary, it has been the case of the Respondent Nos. 1 and 2 that, the annulment ensued on account of the Petitioner's failure to execute the contract.

B. <u>CONTENTIONS OF THE PARTIES</u>:

12. Heard learned counsel for the parties at length and perused the record placed before this Court.

13. Learned senior counsel appearing on behalf of the Petitioner, in support of his case, has made the following submissions:

13.1 At the outset, the Petitioner has argued that the Respondent Nos.1 and 2, are proceeding in an arbitrary, non-transparent and legally untenable manner with the subject tender, by mechanically treating the lowest quoted price as determinative of the outcome, without any examination of the quoted amount's financial viability, sustainability or responsiveness. Against this backdrop, it has been argued that it is incumbent upon the Respondent No.2 to do a severable exercise to determine whether the quoted amount by the Respondent No.3 is reasonable or not.

13.2 Learned senior counsel, has argued that the imminent acceptance of a manifestly predatory and commercially unviable bid submitted by the Respondent No.3 at AED 19 per application, which is a stark outlier when compared with other bids, namely, AED 52 quoted by the Petitioner, AED 68 and AED 79, quoted by other two bidders. It is the case of the Petitioner that the bid quoted by the Respondent No.3 is incapable of sustaining the obligations under the tender.

13.3 In support of the aforesaid submission, learned senior counsel has placed on record a detailed, comparative data-backed cost analysis, derived from the tender condition themselves, which established a minimum cost floor of AED 48.36 per application (inclusive of VAT). The said computation is argued to be based on multiple mandatory cost heads including, office rental costs, salary and employment costs including visa and insurance etc, application facilitating services of courier service alone and operation expenses and capital expenditure amortization.

13.4 Against the aforesaid computation, the following table has been relied upon by the Petitioner to conclusively establish that the bid quoted by the Respondent No.2 is ex-facie unviable and unsustainable. The table is as follows:

Parameter	SGIVS (L2)	L1 Competitor
Service Fee per Application (incl. VAT)	AED 52.00	AED 19.00
Minimum Cost Floor per Application (incl. VAT)	AED 48.36	AED 48.36
Profit / (Loss) per Application	AED +3.64 (surplus)	(AED 29.36) deficit
Annual Revenue (6,39,933 apps x service fee)	AED 3,32,76,533	AED 1,21,58,733

Annual Minimum Operating Cost (incl. VAT)	AED 3,04,59,171	AED 3,04,59,171
Estimated Annual Operating Surplus / (Deficit)	AED +28,17,363 (surplus)	(AED 1,83,00,437) deficit
Estimated Monthly Operating Surplus / (Deficit)	AED +2,34,780 (surplus)	(AED 15,25,036) deficit per month
Total 3-Year Revenue	AED 9,98,29,600	AED 3,64,76,200
Total 3-Year Operating Cost (incl. VAT)	AED 9,13,77,512	AED 9,13,77,512
Estimated 3-Year Cumulative Surplus / (Deficit)	AED +84,52,088 (surplus)	(AED 5,49,01,312) deficit

While relying upon the above produced comparative table, it has been argued by the Petitioner that while the bid quoted by it yields a modest operational surplus, the Respondent No.3's bid leads to a massive and recurring loss, thereby rendering performance of contractual obligations illusory. In particular, when the tender conditions do not permit any revision of service fee after the initiation of tender process, thereby foreclosing any possibility of recovery of such losses.

13.5 Further, while relying upon the Office Memorandum dated 06.02.2020 and Para 7.5.7 of the Manual for Procurement of Goods, 2017, it has been argued that the Respondent Nos. 1 and 2, have failed to discharge their statutory and procedural obligations enumerated therein, which mandates that an abnormally low bids must be subjected to detailed scrutiny and classification.

13.6 Additionally, it has also been argued that the predatory pricing technique adopted by the Respondent No.3, is also evident from its conduct of an unexplained reduction in its quoted price, from AED 49 in the previous tender round to AED 19 in the present tender, despite the present RFP being more stringent and restrictive, with respect to the explicit exclusion of additional Value Added Services (VAS) in the present RFP in comparison to the previous RFP issued in pursuance to the earlier tender.

13.7 Learned senior counsel, while highlighting the distinction between previous tender, wherein the Petitioner quoted AED 17, and the present tender against the quoted amount of AED 19 by the Respondent No.3, has argued that the earlier RFP quoted price was commercially viable with respect to the viability conditions laid down therein. On the contrary, the present RFP does not include the viability clause, thereby raising serious concerns about the rationale behind such an omission, which directly benefits bidders who have quoted abnormally low, predatory and unsustainable prices. Therefore, the quoted price by the Respondent No.3 is subject to heightened scrutiny, particularly, with respect to the comparative cost analysis submitted by it.

14. *Per contra*, learned counsel appearing on behalf of Respondent Nos.1 and 2, has made the following submissions:

14.1 Learned Counsel has made a reference to Clause B (II) (e) of Chapter XV of the RFP titled Selection of Bidders/Award of Contract read with Annexure K titled Financial Bid, to argue that the L-1 bidder was to be determined strictly on the basis of the lowest Service

Fee quoted, and no additional criteria such as financial viability or profitability has been prescribed.

14.2 Further reliance is placed on Clause (g) of Annexure E of the RFP, to argue that each bidder, including the Petitioner, unequivocally declared full understanding and acceptance of Annexure K (Financial Bid), Annexure D (Mandatory Criteria), and Annexure J (Technical Bid), thereby agreeing to abide by the selection process. Accordingly, having furnished such an undertaking, the Petitioner is now estopped from assailing the very procedure it voluntarily accepted.

14.3 In regard to the aforestated, it has been further contended that the present challenge raised on behest of the Petitioner is barred by the doctrine of approbate and reprobate, as the Petitioner participated in the tender process with full knowledge of the evaluation criteria, but has sought to dispute the same only after being declared unsuccessful. Reliance in this regard is placed on ***State of Uttar Pradesh v. Karunesh Kumar & Ors.***[1].

14.5 With respect to the argument raised by the Petitioner alleging financial unviability of the Respondent No.3's quoted bid, it has been argued that the same is misconceived, particularly, since the RFP does not contain any clause permitting rejection of bids on the basis of low pricing or perceived commercial unsustainability. Reference in this regard, has again been placed on the criteria set out and argued by the counsel under Chapter XV read with Annexure K of the RFP.

14.6 It has also been contended that the reliance placed by the

[1] (2022) SCC OnLine SC 1706

Petitioner on previous tenders is misplaced, as each tender process constitutes an independent commercial exercise influenced by changing market conditions, efficiencies, and business strategies. In this regard, it is highlighted that the Petitioner itself had earlier quoted AED 17 as L-1 bidder in the tender dated 31.01.2025, which demonstrates that pricing is inherently variable and cannot be frozen or compared across tenders.

14.7 It has been the case of the Respondent Nos.1 and 2 that the present RFP was introduced in 2025 as a calibrated policy measure aimed at addressing long-standing concerns of exploitative practices by incumbent service providers, including overcharging and forced sale of value-added services, thereby safeguarding the interests of the Indian diaspora, particularly blue-collar workers. The framework was duly vetted at the institutional level by the Integrated Finance Division and the Legal & Treaties Divisions of the Ministry, ensuring both financial prudence and legal validity.

14.8 It is further contended that the same RFP framework has been uniformly implemented across multiple Indian Missions, with successful award of contracts in several locations during 2025. The Petitioner itself has participated in and benefitted from the same regime in other Missions, including Oman, where it was declared L-1 bidder without any challenge, demonstrating selective invocation of grievances only in cases of unfavourable outcomes.

14.9 Additionally, it has been highlighted by the learned counsel that the Respondent No.3, being a qualified commercial entity, is presumed to have undertaken its own assessment of costs, risks, and profitability before submitting its bid, and it is not open to rival bidders to speculate on the sustainability of such pricing. The challenge is also stated to be motivated, as the Petitioner is an incumbent service provider and L-2 bidder, and has approached the Court only after opening of financial bids, thereby attempting to stall the tender process and continue enjoying contractual benefits.

14.10 It has been contended that the entire tender process, is in conformity with Rule 173 of the General Financial Rules, 2017, which mandates transparency, fairness, and evaluation strictly in accordance with the conditions of the bidding document, without introducing new criteria. The Respondents further point out that adequate safeguards exist under the RFP, including bank guarantees under Chapter X with inclusion of penalty and termination provisions under Chapter XI, ensuring performance security and accountability of the successful bidder.

14.11 Moreover, a particularly significant circumstance has been highlighted and brought to the notice of this Court, with respect to an inherent contradiction in the Petitioner's position, as it has been operating as the incumbent service provider for over 13 years at a significantly lower rate of AED 4.5, yet now seeks to dispute the viability of a higher discovered price. Such inconsistency, according to the Respondents, undermines the credibility of Petitioner's financial objections.

14.12 Lastly, reliance is placed on a series of judgments governing the limited scope of judicial review in tender matters, including ***Agmatel India Pvt. Ltd. v. Resoursys Telecom***[2], wherein it was held that interpretation of tender conditions lies within the domain of the tendering authority and interference is warranted only in cases of arbitrariness or irrationality. Further reliance is placed on the judgment of Supreme Court in ***SLP(C) No. 15708/2022*** titled ***Tata Motors Ltd. v. The Brihan Mumbai Electric Supply & Transport Undertaking (best) & Ors.***, wherein it was reiterated that Courts must not interfere with commercial decisions unless there is manifest illegality or overwhelming public interest, and on ***Uflex Ltd. v. Government of Tamil Nadu &Ors.***[3], where the Supreme Court cautioned against judicial interference in commercial tender evaluation absent mala fides or arbitrariness.

14.13 The aforesaid contentions, has finally been crystallised by the learned counsel, in the context of public interest with a contention that the lower service fee discovered through the present tender directly advances public interest by reducing costs for applicants, particularly members of the Indian diaspora, and such public interest considerations must outweigh purely commercial grievances of an unsuccessful bidder.

15. Learned counsel appearing for the Respondent No.3, has adopted the aforesaid submissions made by the Respondent Nos.1 and 2. In addition to the aforestated, he has made the following

---

[2] (2022) 5 SCC 362
[3] 2021 INSC 492

submissions:

15.1 It has been argued that the allegation pertaining to predatory pricing is wholly misconceived. The concept of predatory pricing is argued to be covered under Section 4 of the Competition Act, 2002. In order to invoke Section 4, the essential ingredient is argued to be the existence of a dominant position in the relevant market and its abuse. On the contrary, in the present case, Respondent No. 3 is a successful bidder in a single competitive tender process and not a dominant player in any relevant market by virtue of it being a new entrant. On the aforesaid surmise, it has been argued that the mere fact of having quoted the lowest service fee in an open, competitive procurement process does not, in law or fact, establish dominance, much less its abuse.

15.2 It is contended that being a first-time bidder and a new entrant in the relevant sector, its selection as the L-1 bidder is not only in conformity with the tender conditions but also serves a broader objective of encouraging fair market participation and competition. It is further contended that such selection confers an intangible yet substantial commercial advantage, inasmuch as successful execution of the present contract would establish Respondent No.3's technical credibility and performance record.

15.3 It is the case of Respondent No.3 that, in terms of the tender framework governing CPV procurements, particularly the evaluation methodology for technical bids in subsequent rounds, prior successful experience as a winning bidder is a relevant factor that results in higher technical marking in future tenders. Accordingly, the present award would enable Respondent No.3 to enhance its competitive standing in forthcoming CPV tenders, thereby advancing its legitimate business prospects and facilitating sustained participation in the procurement ecosystem.

C. ANALYSIS AND REASONING:

16. This Court has considered the submissions advanced by learned counsel for the parties and perused the material placed on record.

17. At the outset, we deem it appropriate to reiterate that the limited scope by a writ Court in tender matters is no more res integra and already stands crystallised by the consistent precedents of the Supreme Court, in particular in ***Tata Cellular v Union of India***[4]. It is well settled that in contractual matters, particularly pertaining to public tender, this Court does not sit as a Court of Appeal over the commercial wisdom of the tendering authority, or as in the present case, the Respondent No.2.

18. The judicial contours of intervention by a writ Court stands delineated in the judgment of the Supreme Court in ***Jagdish Mandal v State of Orissa, (2007) 14 SCC 517***, wherein the Court held that while dealing with tender matters, the Courts should ask itself only:

i. whether the process or decision is *mala fide* or intended to favour someone;

ii. whether it is so arbitrary and irrational that no responsible

[4] (1994) 6 SCC 651

authority acting reasonably could have taken it; and

iii. whether public interest is affected.

If the answers to aforestated questions are in the negative, there should be no interference, even if some procedural error or some prejudice to an individual bidder is shown.

19. In ***Agmatel India Pvt. Ltd.*** *(Supra)*, the Supreme Court reiterated that the "author of the tender document is the best person to understand and appreciate its requirements", and even if the Court might prefer a different interpretation, that "by itself, would not be a reason" to interfere, so long as the tender-authority's view is not vitiated by mala fides, perversity or irrationality.

20. Similarly, in ***Uflex Ltd.*** *(Supra)*, the Court emphasised that the tender jurisdiction was not created to make the court an appellate body over commercial and technological choices; economics and competition must largely be left to the tendering authority, and interference is permissible only on the narrow grounds already settled by ***Tata Cellular*** *(Supra)*, ***Jagdish Mandal*** *(Supra)* and ***Michigan Rubber(India) Ltd. v. State of Karnataka & Ors.***[5]**.**

21. Put summarily, applying the aforesaid framework, the present Petition cannot invite scrutiny of this Court on an economic comparison between the quoted price by the Petitioner and the Respondent No.3, rather it only calls for an inquiry whether the Respondent No.2 has acted lawfully, rationally and in public interest.

---

[5] (2012) 8 SCC 216

22. Having delineated the limited scope of interference, we shall now advert to the examination of submissions put forth by the learned senior counsel appearing for the Petitioner.

23. The Petitioner's primary argument when put succinctly has been that the present RFP does not contain any viability clause, and as such the financial bid submitted by Respondent No.3 needs to be put to an independent scrutiny by Respondent Nos. 1 and 2. However, this Court cannot accept such submission, since by virtue of the same, this Court is being called upon to either read such a mechanism into the tender or, at least, compel a fresh 'cost analysis' of the Respondent No.3 through an expert committee. However, such contention runs contrary to the binding precedent.

24. In this regard, reliance is placed on the judgment of the Supreme Court in ***Uflex Ltd.*** *(Supra),* wherein the Court stressed that Courts cannot imply new terms into a commercial document merely because they might appear fair or desirable. The Court's function is limited only to interpret and apply the contract the parties have actually made, instead of improving it by reading in further business-efficacy terms unless strict conditions for implication are satisfied. Moreover, in ***CWP No. 573/2015*** titled ***Delta Guards Pvt. Ltd. v Sarv Haryana Gramin Bank & Ors.***, the Punjab and Haryana High Court held that there is no general requirement that every tender must include a viability/ALB clause or a pre-set range.

25. In the present case, the RFP, explicitly provides that the contract is to be awarded strictly on the basis of the lowest service

fee (L-1) in Annexure K of the RFP, without any superadded viability scrutiny. Thus, the tender consciously adopts a price-only L-1 model for financial evaluation. As such, the argument made by the Petitioner that Respondent Nos.1 and 2 must introduce, at the post-bid stage, a full viability review or expert-committee mechanism, which the RFP expressly omits, would amount to rewriting the tender under Article 226 of Constitution, a course impermissible under the above authorities.

26. Additionally, the financial viability of the Respondent No.3, is founded entirely on a self-prepared cost analysis. However, such unilateral computations, prepared by a competing bidder, cannot form the basis for judicial review of a concluded commercial evaluation. The determination of cost structures, viability assessments, and sustainability of bids falls squarely within the expertise and institutional competence of the tendering authority. This Court is neither equipped nor inclined to substitute its own financial assessment for that of the competent authority, particularly in the absence of any expert determination or statutory mandate requiring such scrutiny.

27. It is equally significant that the RFP does not contain any express "viability clause" or stipulation empowering rejection of bids on the ground of perceived commercial unsustainability. In the absence of such a contractual stipulation, the Court cannot read into the tender conditions an additional requirement of financial viability assessment, as that would amount to judicially rewriting the tender document.

28. Additionally, the selection of the L-1 bidder is in public interest, particularly in relation to the welfare of Indian diaspora living in Abu Dhabi and UAE. The acceptance of the lowest responsive bid not only advances the settled principles of transparency and non-arbitrariness but would also ensure that CPV services are rendered at a reduced cost as compared to the previously prevailing cost regime.

D. CONCLUSION:

29. In view of the foregoing analysis and discussion, this Court does not find merit in the challenges raised by the Petitioner in the present Petition.

30. In the considered view of this Court, the Petitioner has failed to show that the tender process as well as the selection of the Respondent No.3 as a L-1 bidder, failed to satisfy the criteria laid down in Jagdish Mandal (Supra), thereby limiting the scope of this Court to interfere under Article 226 of the Constitution.

31. Accordingly, the present Petition is dismissed. The pending applications also stand closed.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

MAY 13, 2026
jai/hr