



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.5159 of 2022.

Date of decision: 21.12.2022.

Innovative Group Conference and Event
Solution Pvt. Ltd.

.....Petitioner.

Versus

Deputy Commissioner, Chamba
and another

.....Respondents.

Coram

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.
The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?¹ No

For the Petitioner : Mr. Neel Kamal Sharma, Advocate.

For the Respondents: Mr. Anup Rattan, Advocate
General with Mr. Shiv Pal
Manhans, Additional Advocate
General and Mr. Rajat Chauhan,
Law Officer.

Mr. Arun Sharma, S.D.M., Chamba,
Mr. Rakesh Kumar, Sr. Assistant
S.D.M. Office, Chamba and Mr.
Vijay Sharma, Sr. Assistant,
HPPWD Chamba Division, in
person.

Tarlok Singh Chauhan, Judge (Oral)

The instant petition has been filed for grant of the
following substantive relief:-

¹**Whether the reporters of the local papers may be allowed to see the Judgment?Yes**

“That the demand of the respondents for paying GST above the tender amount of Rs.1,61,74, 260/- may kindly be quashed and set aside being illegal.”

2. Respondent No.2 floated a short-term e-tender for setting up temporary 'Mela' shops during the "International Minjar Fair, 2022" with effect from 24.07.2022 to 05.08.2022. The reserve price of the tender was kept at Rs.1,27,81,200/-.

3. According to the petitioner while participating in the tender process, it filled up basic rate as Rs.1,37,00,000/-, but the tender site did not accept the amount and when the amount was filled including 18% GST above the basis rate of Rs.1,37,00,000, it generated figure of Rs.1,61,74,260/- the total amount and, therefore, the petitioner was not liable to pay amount over and above Rs.1,61,74,260/-.

4. Strong reliance in support of this submission is placed on price schedule appended with the petition as Annexure P-8 wherein the basic rate in column No.13 is reflected as Rs. 1,61,74,260/- and likewise the total amount with all taxes at column No.53 is also shown to be Rs.1,61,74,260/- only.

5. It is vehemently argued by Shri Neel Kamal Sharma, Advocate, for the petitioner that once the respondents themselves have shown the aforesaid amount inclusive taxes and there was no

other tax, then the claim of the petitioner ought to have been accepted by the respondents rather than directing it to deposit the entire amount along with 18% GST.

6. The respondents have filed reply wherein the material fact regarding reserve price has not been denied. However, it is submitted that the petitioner was liable to pay not only the bid amount of Rs. 1,61,74,260/- but also liable to pay 18% GST over the same.

7. We have heard the learned counsel for the parties and gone through the records of the case.

8. Evidently, the amounts figuring and reflected in column Nos. 13 and 53 of the bid schedule are the same i.e. bid amount as also the amount along with taxes is shown to be the same. In order to check the correctness of the submission made by the petitioner, we called for the tender document that was uploaded on the website and is available there and found that only two fields of the tender document can be operated i.e. bidder's name and the basic rate in figure to be entered by the bidder in column No.13.

9. In order to check the correctness of the petitioner's claim that the bid amount was not being accepted as such and was auto corrected after calculating 18% GST, we filled Rs.1,61,74,260/- in column No.13 and the same was duly accepted and surprisingly it

is this very amount of Rs.1,61,74,260/- which was then reflected in column No.53 which relates to the total amount with all taxes. ◇

10. Thus, it is evidently clear that there was no auto generation of the amount at the site after filling in the basic rate. On the other hand, it is absolutely clear that the amount as was entered at Sr. No. 13 was auto reflected at Sr. No.53.

11. Thus, it stands established that the amount filled-up by the petitioner in column No. 13 of Rs.1,61,74,260/- was auto generated at Sr. No.53 and was not at all auto corrected.

12. There is yet another reason for not accepting the plea of the petitioner as the official-respondents along with their reply have placed the price schedule of the other Company namely "The Prince Trading Company", who too had participated and qualified the e-tendering process wherein the basic rate quoted by it was Rs.1,33,11,111/- and the same is duly reflected at Sr. Nos. 13 as also 53.

13. In view of the aforesaid discussion and for the reasons stated above, we find no irregularity much less any illegality in the demand raised by the respondents of GST @ 18% on the tender amount of Rs.1,61,74,260/-, as offered by the petitioner.

14. Consequently, there is no merit in this petition and the same is accordingly dismissed, leaving the parties to bear their own costs. ◇

15. Pending application, if any, also stands disposed of.

(Tarlok Singh Chauhan)
Judge

(Virender Singh)
Judge

21st December, 2022.
(krt)

High Court