IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI

AND

HON'BLE SRI JUSTICE RAKESH THAPLIYAL

WRIT PETITION (M/S) NO. 813 OF 2023

24TH MAY, 2023

BETWEEN:

M/s Patelpurta Agro Farm …..Petitioner.

And

State of Uttarakhand & others ….Respondents.

With

WRIT PETITION (M/S) NO. 815 OF 2023

BETWEEN:

M/s Patelpurta Agro Farm …..Petitioner.

And

State of Uttarakhand & others ….Respondents.

With

WRIT PETITION (M/S) NO. 816 OF 2023

BETWEEN:

M/s Patelpurta Agro Farm …..Petitioner.

And

State of Uttarakhand & others ….Respondents.

Counsel for the Petitioner(s)	:	Mr. Aditya Singh and Mr. Saurabh Kumar Pandey, learned counsels.
Counsel for the Respondent Nos.1 & 2	:	Mr. Amarendra Pratap Singh, learned Additional Advocate General for the State.
Counsel for the Respondent No.3	:	Mr. Vikas Bahuguna, learned counsel.

The Court made the following:

COMMON JUDGMENT:(per Hon'ble The Chief Justice Sri Vipin Sanghi)

We have heard learned counsels, and proceed to dispose of these writ petitions by this common judgment.

2. The petitioner had participated in the tenders invited by the respondents, i.e. the Fisheries Department of the State, for granting license for fishing in different reservoirs. The petitioner's technical bids were rejected by the Technical Evaluation Committee of the respondents, and the reasons stated for the said rejections were the following:-

Name of Firm / Name of Reservoir	M/s Jai Shiv Shakti Enterprises	M/s Patel Putra Agro Farm Pvt. Ltd.	M/s Ajmer Singh	M/s Anita
Beghul Reservoir	XXXX	1) The balance sheet/ financial statement is not containing the signatures of Auditor and Proprietor. 2) The work experience certificate directly is not issued for the firm. 3) The UDIN is not generated in balance sheet	XXXX	XXXX
Dhaura Reservoir	XXXX	As Above	XXXX	XXXX
Nanak Sagar Reservoir	XXXX	As Above	XXXX	XXXX

3. The petitioner, being aggrieved by the rejection of its technical bids, preferred these three writ petitions in respect of three similar tenders for different reservoirs.

4. The respondents have filed their counter-affidavit justifying the rejection of the technical bids of the petitioner. The rejection of the petitioner's technical bides has been done on three grounds. If either of them is sustainable, the rejection of the petitioner's technical bids would stand. We are, therefore, presently only concern with the third ground of rejection, i.e. the Unique Document Identification Number (for short '*UDIN*') is not generated in the balance-sheet etc.

5. Before examining the documents placed on record, we may take note of Clause 6(iv) of the Tender Document. The same stipulates that the bidder as to provide *"विगत तीन वित्तीय वर्षों में औषत रु० 5.00 करोड़ का टर्नओवर का प्रमाणक जिस हेतु ऑडिटेड बैलेंस शीट व लाभ हानि खाता एवं चार्टेड अकाउंटेंट का प्रमाण पत्र".*

6. The aforesaid would show that the bidders were required to provide their audited balance-sheet and profit and loss account statement, and a certificate issued by the Chartered Accountant to establish their turnover of Rs.5.00 Crores average over past three years.

7. The petitioner states that, along with its tender, the petitioner provided the Tax Audit Reports in Forms 3CB and 3CD, which were signed by the petitioner's Director, apart from the Chartered Accountant.

8. According to the petitioner, the Tax Audit Reports, which were duly filed along with the income tax returns by the petitioner, were submitted along with the petitioner's bids. These Tax Audit Reports also contain the balance-sheets as on 31.03.2022 (Assessment Year 2022-23), 31.03.2021 (Assessment Year 2021-22), and 31.03.2020 (Assessment Year 2020-21).

9. Admittedly, the Tax Audit Reports, and consequently, the balance-sheets and the profit and loss

account for the relevant years did not bear the UDIN. The petitioner has placed on record the Chartered Accountant's certificate dated 08.12.2022, certifying the turnover of the petitioner from the Financial Year 2018-19 to 2021-22, which bears the UDIN.

10. The submission of Mr. Singh, learned counsel for the petitioner is that, there was sufficient compliance of Clause 6(iv), since the petitioner had placed before the respondents along with its bids the Tax Audit Reports in Forms 3CB and 3CD, which also contained the balance-sheets as well as the profit and loss account statement for the relevant period. He submits that merely because the UDIN was not affixed on the said tax audit reports, the same do not become doubtful.

11. On the other hand, the respondents have placed on record the notification dated 02.08.2019, which reads as follows:-

"The Institute of Chartered Accountants of India
(set up by an Act of Parliament)
NOTIFICATION
New Delhi, 2nd August, 2019

NO.1-CA(7)/192/2019.- *Whereas, to curb the malpractice of false certification/ attestation by the unauthorized persons & to eradicate the practice of bogus certificates and to save various regulators, banks, stakeholders etc. from being misled, the Council of the Institute decided to implement an innovative concept to generate Unique Document Identification Number (UDIN) mandatorily for all kinds of the certificates/ GST and tax audit reports and other attest function in phased manner, for which members of the ICAI were notified* *through the various announcements published on the website of ICAI www.icai.org at the relevant times.*

Now, in exercise of the powers conferred on it under Item No.(1) of Part- II of the Second Schedule to the Chartered Accountants Act, 1949, the Council of the Institute of Chartered Accountants of India hereby issue the following guidelines for information of public and necessary compliance by members of the Institute-

(i) A member of the Institute in practice shall generate Unique Document Identification Number (UDIN) for all kinds of the certification, GST and Tax Audit Reports and other Audit, Assurance and Attestation functions undertakes/ signed by him which made mandatory from the following dates through announcements published on the website of the ICAI www.icai.org at the relevant time:-

- *For all Certificates w.e.f. 1st February, 2019.*
- *For all GST and Tax Audit Reports w.e.f. 1st April, 2019.*
- *For all other Audit, Assurance and Attestation functions w.e.f. 1st July, 2019.*

(ii) The above Guidelines shall come into force from the above dates for the various services respectively.

RAKESH SEHGAL, Acting Secy.
[ADVT.III/4//Exty./170/19]".

12. We have considered the submissions of learned counsels. The bidders were required to submit the audited balance-sheet and profit and loss account statement, apart from the Chartered Accountant's certificate to establish the minimum turnover required of Rs.5.00 Crores on an average for the post three years. The Technical Evaluation Committee which evaluates the bids of all the bidders undertakes the said exercise by sitting in its office. The Technical Evaluation Committee, therefore, is entitled to require the bidders to submit duly authenticated documents, which could be relied upon and verified, if necessary, from its own office.

13. The Technical Evaluation Committee is not expected to run around and gather information from departments, such as Income Tax Department, to verify the authenticity of the documents filed by the bidders. Such an exercise, if required to be undertaken by the Technical Evaluation Committee, would impede the process of the tenders and defeat the very purpose of tendering the works, which will generate revenue for the State.

14. The notification dated 02.08.2019 clearly sets out the purpose of its issuance, and the reason for evolution of the UDIN mechanism. The Tax Audit Reports are mandatorily required to have the Unique Document Identification Number in the light of the aforesaid notification. The Tax Audit Reports, placed on record by the petitioner, do not have the UDIN.

15. That being the position, the Technical Evaluation Committee was justified in not relying on the same, since the authenticity of the Tax Audit Reports, produced by the petitioner along with the bids, could not be verified and established.

16. Consequently, in our view, the rejection of the petitioner’s technical bids on the ground that the Tax Audit Reports did not bear the UDIN appears to be completely justified, and therefore, there is no merit in these petitions.

17. For the aforesaid reasons, the writ petitions are dismissed.

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

(VIPIN SANGHI, C.J.)

(RAKESH THAPLIYAL, J.)

Dated: 24th May, 2023
NISHANT