



\$~42

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

+ **W.P.(C) 4628/2024 & CM APPL. 18999-19000/2024**

M/S SUNSHINE CATERERS PRIVATE LIMITED Petitioner

Through: **Mr. Raj Shekhar Rao, Senior Advocate with Mr. Anupam Dwivedi, Mr. Vishweshwar Mishra, Advocates**

versus

UNION OF INDIA THROUGH MINISTRY OF RAILWAYS & ANR. Respondents

Through: **Mr. Saurav Agarwal, Mr. Anshuman Chowdhary and Ms. Saloni Paliwal, Advocates for IRCTC**

%

Date of Decision: 01st April, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

CM APPL. 19000/2024 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

W.P.(C) 4628/2024 & CM APPL. 18999/2024

1. Present writ petition has been filed under Article 226 of the Constitution of India seeking directions to Indian Railway Catering and Tourism Corporation Limited ('IRCTC') i.e., Respondent No. 2 to withdraw the Disqualification E-mail dated 27th March, 2024, whereby the



Petitioner's bid has been rejected and subsequently, to declare the Petitioner herein, as technically qualified so as to allow the Petitioner to participate in the tender issued by Respondent No. 2.

2. It is stated that on 8th February, 2024, Respondent No. 2 had issued a notice inviting tender ('NIT') bearing E-Open Tender No. 2024/IRCTC/P&T/CLUSTER/FEB/WCR/CLT/B-6 for provision of onboard catering services in trains, for a period of five (05) years further extendable upto two (02) years. As per the NIT, the last date for submission of technical bids was 1st March, 2024 upto 12:00 hours and date of opening of technical bids was 1st March, 2024 at 12:15 hours.

2.1. It is stated that as per the Techno-Commercial Eligibility Criteria prescribed in the said NIT, the bidders were mandated to submit certain annexures/documents along with their respective technical bids. The details of the relevant annexures which are the subject matter of the present writ petition are as follows: -

Details of the Annexure to be submitted with Technical Bid	
Annexure - B	Certificate by Chartered Accountant (CA) towards supply of at least 45,000 meals from each operational kitchen owned by the bidder [i.e. average 500 meals per day (meals include Lunch/Dinner /Breakfast)] in any of the 4 preceding completed quarters to be submitted (as on the date of tender opening)
Annexure - D	Certificate by CA with Unique Document



	Identification Number (UDIN) for Annual Turnover Figures from Food & Beverages Business and Annual Net Worth
Annexure - E	Minimum Average Workforce on roll during last completed Financial Year (2022-23) duly certified by the approved CA or Statutory Auditor with UDIN number based on monthly EPF and ESI contribution of the employer/PF Trust.

2.2. It is further stated that the Petitioner has submitted its bid on 01st March, 2024, annexing therewith all the necessary and requisite documents including Annexure(s) B, D and E, which were duly certified by the approved Chartered Accountant with respective UDIN.

2.3. It is stated that on 27th March, 2024, the Petitioner received an e-mail from the tendering authority, stating therein that the Petitioner's bid to participate in the said NIT has been disqualified, as the Annexure(s) B, D and E submitted with the bid have not been accepted as the information furnished in the said Annexure(s) was not correspondingly reflected on the website of Institute of Chartered Accountants of India ('ICAI'). Accordingly, the Petitioner's technical bid stands rejected.

2.4. Aggrieved by the rejection of its bid, Petitioner has preferred the present petition.

3. The learned senior counsel appearing for the Petitioner states that the Petitioner has admittedly submitted all the relevant Annexure(s) B, D and E as per the terms of the NIT, which is as per the prescribed format



2024: DHC: 2649-DB



and, therefore, the Petitioner is technically eligible to participate in the tender. He states that the said Annexure(s) have been certified by the Chartered Accountant on its letterhead with the UDIN as per the terms of the tender.

3.1. He states that Respondent has rejected the said Annexure(s) and the bid on the ground that the information certified by the Chartered Accountant in the Annexure(s) is not reflected in the UDIN certificates downloaded from the ICAI website. He fairly admits that in the UDIN certificate for Annexure B and Annexure E in the field 'Figures/Particulars' the information filled in by the Chartered Accountant is indecipherable and appears to be gibberish. He states that however, there was no such condition in the tender that the information certified as Annexure(s) B, D and E should be recorded by the Chartered Accountant in the UDIN certificate also.

4. In reply, learned counsel for the Respondent states that the concept of UDIN has been introduced by ICAI to eradicate the practice of bogus certificates and has been made mandatory for all certificates issued by a Chartered Accountant. He relies upon the Gazette notification dated 02nd August, 2019.

4.1. He states that in the present case it is apparent that the information certified by the Chartered Accountant in Annexure(s) B and E did not find any mention in the UDIN certificate(s) downloaded from the ICAI website. He states that with respect to Annexure D, the details mentioned in the UDIN certificate were incomplete. He states that the information certified by the Chartered Accountant in the Annexure(s) B, D and E must correspondingly mirror in the UDIN certificate downloaded from the ICAI



website. He states that as a matter of fact, with respect to the other bidders who have been technically qualified, the information certified by their Chartered Accountants is duly reflected in their respective UDIN certificate(s).

5. We have considered the submission of the learned senior counsel for the Petitioner as well as the learned counsel for the Respondent and perused the record.

6. In the facts of the present case, the discrepancy has arisen on account of non-mention of the certified information by the Petitioner's Chartered Accountant in the corresponding UDIN certificate(s), in the field under the heading 'Figures/Particulars'. With respect to the UDIN certificate(s) filled in by the Chartered Accountant on the ICAI website, for the Annexure B and Annexure E certified by him, the said Chartered Accountant has left the said field blank and consequently there is no certified information available in the UDIN certificate(s).

7. Similarly, with respect to Annexure D, the information certified by the Chartered Accountant for FY 2019-20 and Annual Average Turnover finds no mention in the field under the heading 'Figures/Particulars' in the UDIN certificate.

8. The stated purpose of UDIN is to enable the third parties such as the Respondent and tendering authority, to verify, the authenticity of the certificate(s) issued by the Chartered Accountant, online through the UDIN portal.

9. It is not disputed by the Petitioner that the information certified in the certificate(s) i.e., Annexure(s) B, D and E could have been filled in the UDIN certificate(s) uploaded by the Chartered Accountant on the ICAI



2024:DHC:2649-DB



website. The Respondent has, as a matter of fact, contended that the UDIN certificate(s) for the Annexure(s) submitted by the technically qualified bidders duly reflects the certified information.

10. In these facts, the stand of the Respondent in disqualifying the technical bid of the Petitioner on the ground that the information certified by the Chartered Accountant as Annexure(s) B, D and E cannot be verified on the UDIN portal is not arbitrary or irrational. The Respondent has as per its stand uniformly disqualified all bidders where the certified information was not mentioned by the Chartered Accountants in the UDIN certificate. The Petitioner during arguments was unable to explain the information appearing as “1...0;2...0” in the field ‘Figures/Particulars’ in the UDIN certificate(s) for Annexure B and Annexure E. Since, the Petitioner itself is unable to explain the said field, we cannot fault the Respondent for rejecting the said UDIN certificate(s).

11. We accordingly find no merit in the present petition and the same is dismissed along with pending applications.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

APRIL 1, 2024/hp/MG