

(2011) 04 MAD CK 0326

## Madras High Court

**Case No:** Writ Petition No. 23244 of 2010 and M.P. No. 1 of 2010

## S.V. Transport Services

**APPELLANT**

vs

The Deputy General Manager (I/C) L/C, and The Zonal Distribution Manager, Sri. Ramesh Menon, Indian Oil Corporation Ltd.

## RESPONDENT

**Date of Decision:** April 28, 2011

**Hon'ble Judges:** T. Raja, J

## Bench: Single Bench

**Advocate:** J. Abdul Hadi, for the Appellant; P.S. Sivasubramaniam, for the Respondent

### **Final Decision:** Dismissed

## Judgement

@JUDGMENTTAG-ORDER

T. Raja, J.

The Petitioner has filed the present Writ Petition seeking for the issuance of Writ of Mandamus, directing the Respondents to open the price bid submitted by the Petitioner in Tender No. LBP/ S&D/PT-01/2010 - 11/Bulk Lubes and to consider the same, as per the guidelines given in the tender application and to pass appropriate orders.

2. The learned Counsel appearing for the Petitioner submitted that the Petitioner is carrying on a business of transport under the name and style "S.V. Transport Service" for the past 20 years and also has a considerable experience in the field of Oil transportation. While so, the Respondents called for tender for Bulk Lubes Transportation Contract, Chennai in Tender No. LBP/S&D/PT-01/2010-2011/Bulk Lubes.

3. Complying with the terms and conditions stated in the tender form, the Petitioner has applied for participating in the tender, by enclosing a demand draft for a sum of

Rs. 10,000/-towards E.M.D. The Petitioner also offered four trucks bearing 20 KL capacity, which are owned by him. The trucks offered by the Petitioner are quite suitable to meet out the requirements of the Respondents.

4. The learned Counsel appearing for the Petitioner submitted that when the Petitioner is having adequate experience in the field of transportation of Oil and Lubes and his tender offer is perfect in consonance with the tender invitation, his tender offer should be the best offer towards the tender. The credential bids were opened on 27.08.2010 and the trucks offered by the Petitioners were physically verified along with the original documents and the Respondents also found that all the four trucks are eligible for opening the price bids.

5. But, subsequently, it was mentioned that the Petitioner is not qualified for the credential bid. The only reason stated by the Respondents is that the Petitioner's trucks are not having 20 KL capacity and hence, they disqualified the Petitioner from participating in the credential price bid. Aggrieved over the same, the present Writ Petition has been filed.

6. The learned Counsel appearing for the Petitioner has brought to the notice of this Court, a document certified by the Assistant Controller of Legal Metrology, St. Thomas Mount, Chennai, which shows that the Petitioner's Vehicle bearing Registration No. TN.05/AD-5538, Chassis No. MAT466401 AZB04448, Engine No. 6BTAA5901B62842700, is having 20 KL capacity.

7. Therefore, the case of the Petitioner is that all the trucks produced by the Petitioner are having the capacity of 20 KL only. While so, carried away by the licence issued by the Explosives Department, which shows that the total capacity of the Vehicles are having 24 KL, the Respondents have wrongly rejected the price bid submitted by the Petitioner.

8. The Respondents have filed their counter. The learned Counsel appearing for the Respondents submitted that when the tender invitation specifically mentions that as per Clause 5.14 of special terms and conditions, the following criteria are to be met by the tenderer, and to qualify the credential bid, the Petitioner has to file/produce following the photocopy of the documents along with credential bid viz., i) R.C Book, ii) Valid Permit for Andhra, Karnataka, Kerala, Tamil Nadu & Puducherry iii) Valid Explosives License iv) Valid Fitness Certificate vi) Valid Insurance Certificate vii) Affidavit/Lease agreement duly notarised in case of attached/leased truck viii) Registered Partnership Deed in case of Partnership firm ix) Copy of certificate of incorporation in case of Limited Company. On verification of the documents, it was found that the Petitioner has offered four tank trucks with capacity of 24 KL, whereas the Respondent has called for tender with respect to 11 KL/12 KL under B1 category and 18 KL/20 KL under B2 category and since the Petitioner has offered 24 KL Tank Truck, he has become disqualified, as per Clause 5.14 of the special terms and conditions. Further, the capacity of 24 KL of Tank Truck cannot be

accommodated at the filling point of the Respondent. But this contention was denied by the documents filed by the Petitioner. One of the documents filed by the Petitioner viz., a certificate issued by the Assistant Controller of Legal Metrology and Deputy Inspector of Labour dated 14.05.2010, shows that the Petitioner's Vehicles No. TN 05 AD5538 are having only 20 KL capacity. Further, the Petitioner has also filed an additional affidavit to clarify that the capacity indicated in the explosive license as 24 KL, capacity for the Truck is not based on actual capacity or verification, but based on safety fittings and other aspects regarding issuance of license to transport petroleum products. A reading of the certificate issued by the Department of Legal Metrology shows that the Department of Legal Metrology is the proper authority to issue certificate regarding measurement of the vehicles capacity and weight. Further, the Standards of Weight and Measures (Enforcement) Act, 1985, was enacted to bring International Standards in measurements to maintain accuracy in measurement to the extent of Legal to cover commercial transaction and industrial measurement etc. Therefore, I am of the considered view to direct the Respondents to consider the case of the Petitioner as to whether the Petitioner's Vehicle bearing No. TN-05-5538, TN-05 AD 5623, TN-05 AD - 8611 and TN-05 AD 5536 are having 20 KL capacity only.

9. In that view of the matter, this Court directs the Respondents to consider the case of the Petitioner afresh on the basis of the documents mentioned supra, and if the Respondents still comes to the conclusion that the Vehicles are having larger capacity, it is for the Respondents to consider the case of the Petitioner and pass appropriate orders on merits and in accordance with law. On the other hand, if the Petitioner's Vehicles are found having only 20 KL capacity, the Respondents should consider the same as eligible and permit the Petitioner to participate in the opening of price bid.

10. In the result, the Writ Petition is disposed off on the above said terms. No costs. Consequently, connected Miscellaneous Petition is closed.