

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : E-AUCTION

W.P.(C) 1689/2007 and C.M. No.11195/2008

DATE OF DECISION:4th December, 2008

VINOD KUMAR BATRA

Petitioner
Through: Mr. C. Hari Shankar, Mr.
S. Sunil and Mr. C.M. Jayahamen,
Advocates.

versus

THE UOI

Respondent
Through: Mr. Satish Aggarwala, Sr.
Advocate with Mr. Shirish
Aggarwal, Advocate.

CORAM:

HON'BLE MR. JUSTICE MUKUL MUDGAL
HON'BLE MR. JUSTICE MANMOHAN

MUKUL MUDGAL, J: (ORAL)

1. With the consent of the parties, the writ petition is taken up for final hearing.
2. This writ petition under Article 226 of the Constitution of India arises from E-Auction of the plant power loom components by the Commissioner of Customs pursuant to a public notice dated 24th January, 2007. The said E-Auction commenced on 16th February, 2007 and it was closed on 21st February, 2007.
3. The main submission of the Petitioner counsel is that while it is admitted that the Petitioner had submitted an auto bid for Rs. 22,32,000/- to Rs. 22,51,000/- and was thus a higher bidder than the Respondent No. 2, who had only given a bid of Rs. 22,42,000/-, yet the Petitioner was wrongly denied the auctioned lot as a successful bidder.
4. Mr. C. Hari Shankar, learned counsel for the Petitioner has placed considerable stress on the Explanatory Note given to the public notice No. 1/2007 dated 24th January, 2007. The said Explanatory Note reads as under:- EXPLANATORY NOTES:- 1. During trial run it has been observed that bidders may face some technical problems while bidding during the last minutes of e-auction. It has already been to the notice of bidders

that bidding during the last minutes of e- auction may encounter certain unforeseen problems such as time-lag, heavy traffic, system/power failure at the user end etc. In order to avoid such problems and also not to lose out bidding, the bidders keen on buying any particular lot, are advised not to postpone the bidding to the last moment and to opt for e-tender and auto-bid options. These options are provide to overcome such technical difficulties. In the e-tender the bidders can quote the minimum price they are willing to pay for a particular lot. In the auto-bid option they can quote the maximum price they are willing to pay along with the incremental value which can be quoted as low as Rs. 100/-. These options will provide enough flexibility so that they need not sit before the computer throughout the e-auction process and need not worry about the technical problems.

5. According to Petitioners counsel, the said note itself provides that the option of public bidding was provided to overcome technical difficulties owing to last minute bidding. He, therefore, submitted that his bid ought to have been preferred to the bid of Respondent No. 2 and the Respondent No. 2s allocation ought to have been cancelled.

6. A perusal of the said Explanatory Note itself shows that a new system was being adopted by the Customs Department and it had been observed that the bidders may face some technical problem while bidding during the last minutes of E-Auction. In order to avoid such problems, the bidders were advised not to postpone the bidding to the last moment and to opt for E-tender and auto-bid options. No doubt, the plea raised by Mr. C. Hari Shankar is a plausible view. However, taking into account the fact that a new system was being tried out and the bidders had been advised to bid in time to avoid the last minute technical difficulties and the Petitioners e-bid was submitted in the closing minutes, we are satisfied that no cause for interference under Article 226 of the Constitution of India is made out. In coming to this conclusion, we are also aided by the fact that manual bid submitted by the Petitioner was for the sum of Rs. 22,31,000/-, lower than the accepted bid of Rs. 22,42,000/-.

7. Consequently, we find no merit in this writ petition and the writ petition along with pending application stand dismissed.

Sd./-
MUKUL MUDGAL, J

Sd./-
MANMOHAN, J

DECEMBER 04, 2008