

### **Weekly update: 01/2023-24**

**Background:** In a recent case, a Govt. department had floated a tender inviting bids for a certain project. The bidding process was being carried on the Government e-marketplace (GeM portal). Our client had duly submitted the technical bid and qualified. In the next stage, which was financial/commercial bid, all the qualifying bidders were required to submit their “per unit price”. Our client, complied with the given conditions and submitted their price. Furthermore, our client was ranked L1 bidder, which means our client had quoted the lowest per unit price.

**Problem:** The issue arose when the tender was awarded to L3 bidder. L3 bidder had quoted the cumulative price, which was not the requirement as per the bid document. Since, it is an automated process carried out on an online portal and with clearly laid down guidelines with respect to bidding, inference with respect to per unit price cannot be drawn from the cumulative price being quoted by L3. Awarding the tender to L3 surpassing L1 was clear violation of CVC guidelines and against natural justice.

**Learning:** We had sent a legal notice to the concerned Govt. department raising the concern of our client, as a result of which the tender was duly cancelled.

This case came with three main learnings:

- It is imperative that the authority floating the tender, maintains transparency and follows the CVC guidelines on anti-corruption and procurement.
- During the tendering process, it is important to strictly adhere to the conditions mentioned in the bid document.
- In case of any malpractice or deviation from the bid document, the concerned organisation should immediately raise their concern to the appropriate authority against the corrupt and unfair practices.

For further discussion or queries on the above mentioned issue, we can be reached at [anbay.legal@gmail.com](mailto:anbay.legal@gmail.com).