Grounds of the Appeal raised by the Appellant :=

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Reference of ground</th>
<th>Details of ground</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Form FIR-2 of Ram Narayan</td>
<td>In the said statement, the bidder has shown Rs. 7593.00 lakh as Current Contract Commitments.</td>
</tr>
</tbody>
</table>
Contractor

But, as learnt the said contractor is awarded the “work of Revamping and Rehabilitation work of Itawa branch canal ch. 0 to 16 Km. and its minors” valued Rs. 3400 lakh under the Executive Engineer, R.M.C. Division III, CAD, Itawa, which is not shown as Work Commitments/Liability.

Actually, the contractual commitment works out to the tune of Rs. 10993.00 lakh instead of Rs. 7593.00 lakh. Therefore, the said bidder does not have adequate Bid Capacity as per tender requirement.

Keeping in view of this, his bid needs to be treated as Non-responsive, and is not deserved for awarding the said work.

The tender Bid of M/s Ram Narayan Contractor may be treated as non-responsive due to their insufficient Bid Capacity. And, accordingly, the said work should not be awarded to the said contractor even if they may be lowest.

The said work may be awarded to us as we are being 2nd lowest in the said tendering.

Procuring Entity’s Reply:

The Bidder "M/S RNC -SVR" has participated in the said bid as "Joint Venture" (having 2 members) as per ITB clause 4 of section | Eligible Bidders. The Tech Bid was downloaded on dated 12.04.2018 as per schedule. The over all reply of issues raised by the appeallent is as under:

While evaluating Tech Part bid according to para 4.2 (c) of section III-Evaluation and Qualification Criteria of Bid Document, the bid capacity of the Joint Venture Bidder was derived as under:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name of JV member</th>
<th>Bid capacity requirement as per Joint Venture Share</th>
<th>Bid capacity available as per Bid documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>M/s Ram Narayan Contractor (Lead Partner)</td>
<td>Rs. 62.60 Crore (80%)</td>
<td>Rs. 76.41 Crore</td>
</tr>
<tr>
<td>2</td>
<td>M/s Sorathia Velji Raina &amp; Co. (IInd Member)</td>
<td>Rs. 15.65 Crore (20%)</td>
<td>Rs. 232.13 Crore</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>Rs. 78.25 Crore</td>
<td>Rs. 308.54 Crore</td>
</tr>
</tbody>
</table>

Aforesaid figure shows that the "M/S RNC -SVR" (JV) does fulfill criteria of Bid Capacity of clause 4.2(c) and the Evaluation Committee determined the bidder Responsive.

The Appeallent Bidder M/S SCC Infrastructure Pvt. Ltd. who is Second lowest Bidder in the bid vide his appeal dated 23.04.2018 stated that, "M/s Ram Narayan Contractor does not fulfill the Bid Capacity as prescribed in the tender because the work worth Rs. 3400.00 lakh subsequently awarded to the said Contractor was not considered/shown in the current contractual commitment/work liability, therefore his bid needs to be treated as non responsive and accordingly the work should be awarded to him.

In fact, the amount of the work "Balance work of Revamping and Rehabilitation of Gainta Distributory System & Etawa Branch Canal 0 of 16 Km. of RMC" for Rs.
$582.67 lac noticed to have been awarded to M/S Ram Narayan Contractor vide Executive Engineer RMC Dn. CAD (Chambal) Etawa and which has not shown as current contractual commitment/work liability in Form CCC of Section IV-of bid documents. Considering this, the contractual commitment works out to Rs. 1,117,600 lakh.

Considering on the Appeal, Bid capacity of M/S Ram Narayan Contractor and One Other member is calculated assuming on the basis of "works in hand Rs. 1,117,600 Lakh will be as under:-

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name of JV member</th>
<th>Bid capacity requirement as per Joint Venture Share</th>
<th>Bid capacity available as per Bid documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>M/s Ram Narayan Contractor (Lead Partner)</td>
<td>Rs. 62.60 Crore (80% Share)</td>
<td>Rs. 40.60 Crore (5078.59*1.5 - 11176=4059.77 Lakh)</td>
</tr>
<tr>
<td>2</td>
<td>M/s Sorathia Velji Ratna &amp; Co. (IInd Member)</td>
<td>Rs. 15.65 Crore (20% Share)</td>
<td>Rs. 232.13 Crore</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>Rs. 78.25 Crore</td>
<td>Rs. 272.73 Crore</td>
</tr>
</tbody>
</table>

As per above mentioned figures and facts the lead Partner M/s. Ram Narayan contractor does not meet the minimum qualification criteria of Bid capacity. In addition, M/s. RNC -SVR (JV) found to have been made false representations regarding expected additional commitment in the Form: CCC of Section IV-Bidding documents.

**Decision**

An application was submitted by M/s. SCC Infrastructure Pvt. Ltd., Ahemdabad with the request that bid of M/s Ram Narayan Contractor be treated as non-responsive as his bid capacity is below minimum required and consider their tender bid for awarding the work being 2nd lowest in the said tendering.

The appellant and representative of the procuring entity submitted their arguments during the hearing. The representative of the impleaded party had also submitted their grounds for the rejection of the appeal in the writing as well as orally.

The ground of the appeal filed by the appellant is with regards to the derivation of bid capacity of said bidder. The appellant has submitted that the bid capacity of said bidder M/s. Ram Narayan Contractor seems exaggerated. The said contractor is awarded the work of Revemping and Rehabilitation of Itawa brach canal ch. 0 to 16 Km. and its minors valued Rs. 3400 lakh under the Executive Engineer, R.M.C. Division III, CAD, Itawa, which is not shown as work commitments/liability. Actually, the contractual commitment works out to the tune of Rs. 10993.00 lakh instead of Rs. 7593.00 lakh. Therefore, the said bidder does not have adequate bid capacity as per tender requirement.

The representative of impleaded party M/s Ram Narayan Contractor, Bikaner submitted a written argument. He submitted that the tender for the work of “Balance work of Revemping and Rehabilitation of Gainta Distributory system of Itawa brach canal ch. 0 to 16 Km. of RMC” was opened in our favour but was stayed by the High Court, Jaipur on 06.03.2018 and was not vacated till dated 11.04.2018 and it’s a fact that its future was not defined. Due to above mentioned facts about stay order of Hon’ble High Court, this case was not included in the bid documents and it was hidden not intentional.

The representative of the procuring entity Chief Engineer, Water Resources North, Hanumangarh submitted that the Bidder "M/S RNC -SVR" has participated in the
said bid as "Joint Venture" (having 2 members) as per ITB clause 4 of section I Eligible Bidders. The Tech Bid was downloaded on dated 12.04.2018 as per schedule.

In fact, the amount of the work "Balance work of Revamping and Rehabilitation of Gainta Distributary System & Etawa Branch Canal 0 of 16 Km. of RMC" for Rs. 3582.67 lac noticed to have been awarded to M/S Ram Narayan Contractor vide Executive Engineer RMC Dn. CAD (Chambal) Etawa and which was not shown as current contractual commitment/work liability in Form CCC of Section IV-of bid documents. Considering this, the contractural commitment works out to Rs. 11176.00 lakh.

Considering the "works in hand" as Rs. 11176.00 Lakh, the bid capacity of M/s Ram Narayan Contractor will be Rs. 40.60 Crore which is less than the required bid capacity of Rs. 62.60 Crore. Further, Chief Engineer, Water Resources North, Hanumangarh submitted that the bid capacity requirement of M/s Ram Narayan Contractor has been calculated as per share (80%) in the Joint Venture.

As per above mentioned figures and facts the lead Partner M/s. Ram Narayan contractor does not meet the minimum qualification criteria of bid capacity. In addition, M/s. RNC -SVR (JV) found to have been made false representations regarding expected additional commitment in the Form: CCC of Section IV of Bidding documents. Further, the contention of M/s Ramnarayan that total bid capacity considering bid capacity of all the partners of JV fulfills the bid capacity criteria cannot be accepted as M/s Ram Narayan Contractor does not fulfill the bid capacity criteria to the extent of his percentage share in JV.

Therefore the appeal of M/s SCC Infrastructure Pvt. Ltd., Ahmedabad is allowed and bid of "M/S RNC -SVR" (JV) is liable to be non responsive. Considering this tender may be processed.

Date: 01-06-2018

(Shikhar Agrawal)
First Appellate Officer &
Principal Secretary,
Water Resources, Rajasthan