

GIB/GJ/BIPSON/27-03-2018/HC-84**High Court Category :** Others**State :** Gujarat**Order No.:** GIB/GJ/BIPSON/27-03-2018/HC-84**Name of Entry :**
BIPSON SURGICAL(INDIA) PVT. LTD**Date :** 27-03-2018**Breif Issue :****Facts & Issue of the case**

The petitioner M/s Bipson Surgical (India) Pvt. Ltd is engaged in the business of manufacture and distribution of surgical Dressing items such as Bandages, Gauge. Petitioners have prayed for an appropriate writ, direction and order quashing and setting aside the impugned decisions/order of the respondent No.2 Gujarat Medical Services Corporation Limited (GMSCL) as well as give effect to the change in Tax Structure whereby 12% GST has been introduced on goods that are supplied by the petitioners to respondent No.2-GMSCL. GMSCL is a procuring agency of Government of Gujarat which procures the drugs, surgical items etc. from different manufacturers and distributors for the supply of the same to the Government Hospitals throughout the State of Gujarat. The GMSCL invited the tenders from the eligible suppliers to supply different items. The petitioners awarded the contracts and were asked to supply 5 different items. It is the case on behalf of the petitioners that at the relevant time when they submitted the bids and quoted the rates which came to be accepted, the GST / CGST was not in existence which came to be introduced subsequently and therefore, in view of the above, they may be permitted to change the rates. So, whether the respondents are required to be directed to accept the request of the petitioner of price revision in view of the introduction of the GST?

Decision of Advance Ruling Authority :**Decision**

Petition fails and is dismissed. The Court held that, at the relevant time VAT liability was 5% and the excise duty liability was 2%, now as per the GST, the total tax liability would be 12% -Just because now the VAT and excise duty have been deleted and the same is substituted by GST which may be at 12%, the petitioners cannot claim the price revision on the aforesaid ground. The liability to pay GST under the GST / CGST Act is upon the supplier. As observed hereinabove the price quoted and the rate contract was inclusive of all the levies and taxes. Therefore, the petitioners shall not be entitled to the revision of price as sought. The decision taken by the respondent No.2 GMSCL in not permitting the price revision is after due application of mind and even after considering the opinion of the Finance Department, State of Gujarat and a conscious decision has been taken by the Committee which is

neither perverse nor arbitrary and/or contrary to the terms and conditions of the tender documents / rate contracts. Therefore also, the impugned decision not suffering from any malafides and/or arbitrariness, the same is not required to be quashed and set aside in exercise of powers under Article 226 of the Constitution of India.