



No.Dir (A&F)/ SPPRA/RC/17-18 /
GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY
Karachi, dated the April, 2018

BEFORE REVIEW COMMITTEE OF SINDH PUBLIC PROCUREMENT
REGULATORY AUTHORITY

(Appeal)

M/s Gresham's Eastern Pvt Ltd. Karachi

versus

Chief Engineer (E&M-Sew) Karachi Water & Sewerage Board

M/S Greshams's Eastern Pvt Ltd. presented an appeal dated 27-03-2018, against the decision of CRC KWSB dated 26-02-2018, addressing Chief Secretary Sindh and copy to the Managing Director SPPRA, requesting to review the case where by mentioning SPPRA rules clause no. 31(8) instead of SPP rule 32.

2. Accordingly notices were issued to the parties to appear before the Review Committee on 16-04-2018. Mian Sohail Hussain CEO/ MD , Muhammad Junaid & Muhammad Ashraf appeared from M/S Greshams's Eastern Pvt Ltd. side. Mr. Saleem Ahmed, DMD (T) & Chief Engineer (IPD) and Mr. Azam Khan Chief Engineer from Karachi water & sewerage Board appeared before the Review Committee on 16-04-2018.

3. The Complaint Redressal Committee vide its decision dated 26-02-2018 declared M/S Greshams's Eastern Pvt Ltd. as not qualified on grounds of failing to qualify base line of short listing criteriaduring the pre-qualification process. The findings of the Complaint Redressal Committee against the complaint of the complainant M/S Greshams's Eastern Pvt Ltd. are as under.

- a. The applicant has failed to produce the evidence of mandatory registration with SBR
- b. The applicant has failed to demonstrate experience on similar nature of work with respect to construction and management.
- c. The applicant average annual turnover for the last 2 years is for less than what was specified in pre-qualification document.

4. Ample opportunity was given to the appellant to defend his case against the above findings and the decisions of the CRC committee. The officers from Karachi water & sewerage board werealso heard at length.

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5. While defending the reasons of rejection Mian Sohail Hussain from M/S Greshams eastern Pvt. Ltd. has stated in his appeal as under:

- i. M/S Greshams eastern Pvt. Ltd. is registered with Income Tax and produced there of the same certificate
- ii. As per second schedule SRB registration is only required if activity is covered under the tariff described. Power generation is not listed as the taxable activity under the tariff described and produced the legal opinion of Qaiser Mufti Tax consultant.
- iii. Its joint venture partner BHEC had all experience as state owned Chinese organization to grapple with the related field for establishing & maintenance of power plants etc. Turnover and financial statement of BHEC is approximately USD 300 Million.

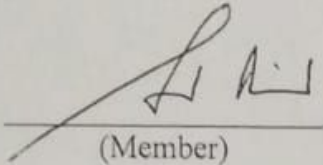
6. After receiving the appeal of M/s Gresham's Eastern Pvt. Ltd. the matter was referred to the Sindh Revenue Board (SRB) for obtaining their advice as to whether the scope of project is taxable under the provision of the Sindh Sales Tax on Services Act, 2011 or otherwise, without disclosing the identity of the appellant vide letter No.AD(A)/SPPRA/31629/2017/2262 dated 5th April, 2018. In response to this communication SRB vide letter No.SRB/TP/7/2016/ 298224 dated 13th April, 2018 intimated that the construction services (tariff heading 9824.000), Contractors' services (tariff heading 9814.2000) and services of contractual execution of work (tariff heading 9809.0000) are liable to Sindh Sales Tax on services. Hence, the version of M/S Greshams Eastern Pvt. Ltd. regarding non registration with SRB does not carry weight as the activities involved in the said procurement are covered by Sindh sales tax. Furthermore, during the proceeding, M/S Greshams Eastern Pvt. Ltd. was asked whether they had submitted / produced Joint Venture agreement documents to the procuring agency at the time of submission of prequalification application, which they admitted as not submitted with the documents required for pre-qualification, however, an authorization letter of M/s BHEC was submitted with the pre-qualification documents. The representative of Karachi Water & Sewerage Board pointed out that authorization letter provided by the appellant was itself raising queries as the issuance date was in conflict with the other dates mentioned in the contents of the letter. M/S Greshams Eastern Pvt. Ltd. has also failed to produce any documentary evidences of having experience in the relevant field and the required turn over for qualification. The bidder should comply the following:

- i. Minimum relevant experience on similar type of power projects as provided in RFQ.
- ii. Minimum per annum turnover as stipulated in RFQ.

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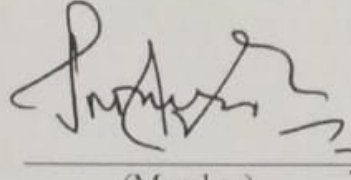
Decision

7. After hearing the parties at length and perusing the record Review Committee is unanimously of the opinion that the matter was thoroughly discussed in the Complaint Redressal Committee and its findings are based on sound footings as such reflect rationality. However the appellant has entirely failed to establish his case, in these circumstances, the decision of the Complaint Rederssel Committee of KWSB, dis-qualifying the M/S Greshams Eastern Pvt. Ltd. during the pre-qualification process is hereby upheld.



(Member)
Saad Rashid

Member Transparency International – Pakistan
Private Member represented on SPPRA Board



(Member)
Asadullah Soomro

Private Member represented on SPPRA Board

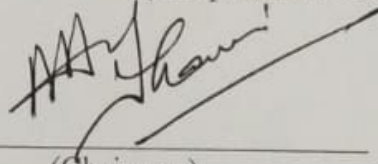
Not attended.
(Member)

Nominee of Director General Audit Sindh

concurd
(out of country)
(Member)

Intisarul Haq Haqqi

Chief Executive Officer, Lucky Electric Power Company
(Independent Professional from relevant field)



(Chairman)

Muhammad Aslam Ghauri
Managing Director

Sindh Public Procurement Regulatory Authority