



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY

(2252-2253)

NO.AD (L-II)/SPPRA/CMS- /2020-21/4063

Karachi, dated the 31st March, 2021



To,

Executive Engineer,
Machinery Maintenance Division Khairpur @ Shikarpur,
Works & Services Department,
Government of Sindh,
SHIKARPUR.

Subject: **DECISION OF REVIEW COMMITTEE OF SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY.**

The undersigned is directed to refer to the subject cited above and to enclose herewith a copy of the Authority's Review Committee decision (M/s Saif Enterprises & M/s Asif Ali Mugheri V/s Executive Engineer Machinery Maintenance Division Khairpur @ Shikarpur, held on 16.03.2021 for taking further necessary action in compliance of referred decision, under intimation to this Authority, at the earliest.


ASSISTANT DIRECTOR (LEGAL-II)

A copy is forwarded for information and necessary action to:

1. The P.S to Secretary to Government of Sindh, Works & Services Department.
2. The Superintendent Engineer, Highway Circle (Works & Services) Department Sukkur.
3. Assistant director (I.T), SPPRA (with advice to post the decision on the Authority's website in terms of Rule-32(11) of SPP Rules, 2010)
4. The Staff Officer to the Chairman / Members Review Committee.
5. The Appellants.



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.DD(L-II)/SPPRA/CMS- 120-214063

Karachi, dated the 31 March, 2021

**BEFORE REVIEW COMMITTEE OF SINDH PUBLIC PROCUREMENT
REGULATORY AUTHORITY UNDER RULE-32 OF SPP RULES, 2010**

(REVIEW APPEAL)

(Appeal)

M/s Saif Enterprises

And

M/s Asif Ali Mugheri

Versus

*Executive Engineer, Machinery Maintenance Division, Works & Services Department
Khairpur @ Shikarpur*

(NIT ID # T00138-20-0004 dated 24.02.2021)

FACTS AND BACKGROUND

1. The appellants, (*M/s Saif Enterprises and M/s Asif Ali Mugheri*) lodged complaints with the Complaints Redressal Committee (CRC) of the Procuring Agency in respect of the NIT posted on PPMS vide NIT ID T00138-20-0004 for the procurement of "W/R of Road from N-55 Jail Chowrangi to Mari Chowk via Shah Bagh and approach to Court Complex at City Shikarpur 97.00 KMs) ADP No. 2108 (2020-21) invited by the *Executive Engineer, Machinery Maintenance Division, Works & Services Department Khairpur @ Shikarpur 'the procuring agency'*.
2. In the complaints the appellants have informed that they downloaded the bidding documents from SPPRA Website and submitted their bids through TCS (Courier Company) and the same had been received by the Procuring Agency before the last date of submission of bids i.e. 17.02.2021. The complainants claimed that on the date of opening of bids (i.e. 17.02.2021) no tender box was lying in the office of the *Executive Engineer, Machinery Maintenance Division, Works & Services Department Khairpur @ Shikarpur* and the tenders were not opened publicly.
3. Subsequently, the complainants approached the Complaint Redressal Committee (CRC) of the Procuring Agency but CRC failed to convene the meeting and decide the matter within seven days of submission of complaint.
4. After that the appellants *M/s Saif Enterprises and M/s Asif Ali Mugheri* vide letter dated 1st March, 2021 and 8th March, 2021 respectively lodged an appeal, along with supporting document, before Review Committee in terms of Rule-31(5) read with Rule-32(5) as the CRC of the Procuring Agency has failed to announce its decision within stipulated time.

5. Resultantly the appellant's case was placed before the Review Committee in its meeting held on 16.03.2021 at 11:00 am. Notices, in this regard, were issued to the parties concerned (vide this Authority's letter dated 11.03.2021) to appear before the Committee on the scheduled date, time, and venue in terms of Rule-32(6), (8) & (10) of SPP Rules, 2010 (amended up to date).
6. In Compliance Mr. Hizbullah Bhutto, *representative of M/s Saif Enterprises* and Mr. Taj Muhammad Soomro, *representative of M/s Asif Ali Mugheri* and Mr. Abdul Sattar Shah *'representatives of the procuring agency'* appeared before the Committee.

REVIEW COMMITTEE PROCEEDINGS

7. Meeting started with recitation of verses from the Holy Quran. The Chairperson of the Review Committee commenced the meeting by welcoming all the participants of the meeting. Then, the chair asked the appellants to present the case / version over the instant procurement issues / grievances.

APPELLANTS' VERSION

8. Mr. Hizbullah Bhutto *'representative of the M/s Saif Enterprises'* apprised the Committee that neither the Procuring Agency opened the bids publicly nor any of the representative of Procuring Agency were present at the time and place of opening of bids. He further apprised the Committee that he had submitted the bid along with all relevant documents through Courier and the same was received by the Procuring Agency before the deadline of submission of bids, however, the Bid Evaluation Report (BER) uploaded by the Procuring Agency on SPPRA-PPMS website did not show the details of his bid.
9. Mr. Taj Muhammad Soomro *'representative of the M/s Asif Ali Mugheri'* apprised the Committee that he had also submitted his bid along with all relevant documents through Courier and the same was received by the Procuring Agency before the deadline of submission of bids, however, the Bid Evaluation Report (BER) uploaded by the Procuring Agency on SPPRA-PPMS website did not show the details of his bid. He further apprised that bids were not opened publicly. Besides, neither Tender Box nor Procurement Committee were present at the time and place of opening of bids.
10. Moreover, the appellants contended before Review Committee that the CRC had failed to fulfill its statutory obligation on deciding the matter.

PROCURING AGENCY'S VERSION


11. Mr. Abdul Sattar Shah *'representatives of the procuring agency'* denied the allegations leveled by the complainants and informed the Committee that on the date of opening of bids the appellants requested to take their bids back for some changes / modification and later on failed to drop the bids in the tender box placed in the office of *Executive Engineer, Machinery Maintenance Division, Works & Services Department Khairpur @ Shikarpur*. He further informed that bids were opened publicly in the presence of Procurement Committee and bidders.

REVIEW COMMITTEE OBSERVATIONS / FINDING


12. The Committee asked about the current status of the instant procurement. The procuring agency's representative informed that the work has not been awarded. The Chair also asked about the bids submitted by the appellants through courier. The procuring agency's representative informed that the bids were snatched by the appellants, on which Committee asked why it was not recorded in the bid opening minutes nor FIR was filed / lodged with police by the Procuring Agency. There was no justification given on the two issues by the Procuring Agency.

REVIEW COMMITTEE DECISION


13. *Given the preceding finding and observations and after due deliberation the Review Committee unanimously decided that since the procuring agency has not awarded or signed any contract (as confirmed by the Procuring Agency's representative) therefore, Procuring Agency shall not award the contract under Rule-31(7) of SPP Rules, 2010 against the instant NIT i.e. W/R of Road from N-55 Jail Chowrangi to Mari Chowk via Shah Bagh and approach to Court Complex at City Shikarpur 97.00 KMs) ADP No. 2108 (2020-21) and directed the Procuring Agency to place the matter before the Complaint Redressal Committee (CRC) within seven days to decide the matter and intimate the decision to the aggrieved bidders and the Authority within three working days under Rule-31(4) of SPP Rules, 2010.*



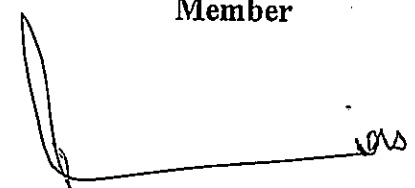
(Engr. Haji Pulpito Sahto)
Independent Professional
Member



(Manzoor Ahmed Memon)
Member SPPRA Board
Member



(Syed Adil Gilani)
Member SPPRA Board
Member



(Riaz Hussain Soomro)
Managing Director SPPRA
Chairman