



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD (L-II)/SPPRA/CMS-3155/2021-22/

Karachi, dated the 30th March, 2022

To,

The Section Officer (PM & I Cell),
Health Department,
KARACHI.

Subject: DECISION OF THE 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 Green Top Pharma v/s The Section Officer, PM & I Cell Health Department held on 24.03.2022, for information & necessary action.

ASSISTANT DIRECTOR (Legal-II)

A copy is forwarded for information and necessary action to:

1. The Secretary to the Government of Sindh, Health Department Karachi.
2. The Additional Secretary, PM & I Cell Health Department Karachi
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 Appellant.



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



No.AD (L-II) SPPRA/CMS-3155/2021-22

Karachi, dated, 24nd March, 2022

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

Decision of the Review Committee held on 24.03.2022

Date(s) of meeting(s)	24.03.2022
Appellant	The Green Top Pharma
Procuring Agency	The Section Officer (PM&I) Cell Health Department Karachi.
Appeal received on	14.3.2022
CRC filed on	25.01.2022
PPMS NIT ID #	T00911-21-0002
Bid opening date	17.9.2021 Technical Opening 20.10,2021 Financial Opening
Bid Evaluation Report	Various BER's were hoisted First 12.10.2021 Last 13.12.201
Contract documents	Various CER's were hoisted 23.11.2021 &11.1.2022

The Appellant's Version:-

1. This appeal has been preferred by the appellant **The Green Top Pharma** hereinafter referred as "Appellant" in terms of Rule 31(5) read with Rule 32 against the procuring agency "**The Section Officer (PM&I) Cell Health Department Karachi.**" hereinafter referred as the "procuring agency". The appellant was called by the Review Committee for ascertaining the maintainability of appeal. The appellant appeared before the Review Committee and informed that he filed his complaint to the Complaint Redressal Committee on **25.01.2022** and the meeting of the Complaint Redressal Committee called on **03.03.2022** but the decision had not been communicated with him within three days. Therefore, he approached the Review committee to adjudicate the matter. In the nutshell, it is as follow:

The appellant Filed complaint to CRC	25.01.2022
CRC meeting	03.03.2022
The appellant filed Appeal to RC	14.03.2022

Findings of the Review Committee:-

1. The basic question involved is the maintainability of the instant appeal, whether the appeal is time barred or not under SPP rules?
2. The Rule 31(5) & 32(1) provide the time limit for any bidder to approach the Review Committee.

Rule 31(5)

The complaint redressal committee shall announce its decision within seven days and intimate the same to the bidder and the Authority within three working days. If the committee fails to arrive at the decision within seven days, the complaint shall stand transferred to the Review Committee which shall dispose of the complaint in accordance with the procedure laid down in rule 32,]2 [if the aggrieved bidder files the review appeal within ten (10) days of such transfer;]3

Rule 32(1)

A bidder not satisfied with decision of the procuring agency's complaints redressal committee may lodge an appeal to the Review Committee [within ten (10) days of announcement of the decision]' provided that he has not withdrawn the bid security, if any, deposited by him.

3. From perusal and analysis of the Rules mentioned supra, it is evident that there are two ways to approach the Review Committee-by transfer or dissatisfaction from CRC decision. One of the way-approaching by transfer-is to approach the Review Committee in case the Complaint Redressal Committee fails to arrive at the decision within 7 days of the receipt of the complaint. In this case, the appeal stood transferred to the Review Committee which is authorized to dispose of the complaint provided that the aggrieved bidder files the review appeal within **ten (10) days of such transfer.**
4. Another way to approach the Review Committee is after the announcement of the decision of Complaint Redressal Committee. In this case also the complainant is required to approach the Review Committee within ten (10) days of the announcement of the decision.
5. It is noted that in either of the cases whether failure of CRC to decide the matter or dissatisfaction of the bidder from CRC decision, the bidder was required to approach the Review Committee within 10 days. In accordance with the rules, any appeal

H. B. B. 2/4

received after 10 days' time is not maintainable. In the instant matter, the bidder to approach the Right forum at Right time. He approached the Compliant Redressal Committee on 25.01.2022 but the compliant Redressal Committee failed to arrive at the decision within seven (7) days. Resultantly, the appellant approached to the review Committee on 14.03.2022 which is not maintainable as per the SPP Rules quoted above.

6. The above discussion is summarized in table below.

Way of Approaching the Review Committee	Condition	Time limitation	In Appellant's case
By Transfer Rule 31(5)	<p>If the CRC fails to arrive at the decision</p> <p>If the aggrieved bidder files the Review Appeal within ten days of such transfer</p>	Within 10 days of the transfer of appeal	<p>The complainant filed complaint on 25.01.2022</p> <p>The CRC failed to arrive at the decision within seven days (7).</p> <p>The complaint transferred to the Review Committee on 1.2.2022.</p> <p>Appeal period expired on 11.2.2022</p> <p>The appellant filed appeal on 14.03.2022 after thirty one (41) days of the transfer of complaint and Thirty one days (31) after the expiry of appeal period.</p>
Dissatisfaction from the	If CRC announces		

Decision of the Complaint Redressal Committee Rule 32	its decision and the complaint is dissatisfied If the complainant lodges appeal within ten days of the announcement of decision.		
---	---	--	--

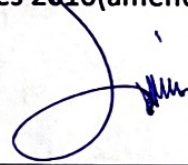
7. The appellant submitted that he could not approach the Review Committee timely because he waited for the decision of the Complaint Redressal Committee (CRC) meeting. The Review Committee noted that the appellant was required to approach the Review Committee timely as provided under Rule 31(5) but the appellant could not do so.
8. It is well settled principle of law that **Vigilance is required for the claim and infringement of rights.** Vigilance requires that those who wish to seek assistance of law must move with speed and within time limits to do so.
9. The above discussion is sufficient to prove that the **appeal is time barred under the SPP Rule 31(5).**

Decision of the Review Committee:-

Given the proceedings, findings, observations and after due deliberation, in exercise of power conferred by the Rule 32(7)(a) of the SPP Rules, the Review Committee rejects the appeal as the appeal is time barred under the SPP Rules 2010(amended up-to-date).



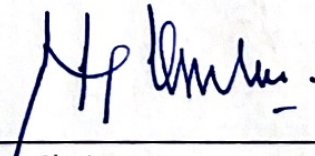
Member
(Manzoor Ahmed Memon)
Member SPPRA Board



Member
(Munir Ahmed Shaikh)
Independent Professional



Member
(G. Mohiuddin Asim)
Representative of P & D Board ,P&
Development Department Karachi



Chairman
(Abdul Haleem Shaikh)
Managing Director
Sindh Public Procurement Regulatory
Authority