**RITES Ltd./Contract Policy Cell/Gurgaon**

No. RITES/CPC/OM/2023/105
Dated: 10.11.2023

**OFFICE MEMORANDUM-CPC/OM-105/23**

**Subject: Banning of business dealings with M/s Sumcon-Avijantrik (JV), Chapaguri Road, North Bongaigaon, PO & Distt. Bongaigaon, Assam-783380, for 05 (five) years. Reg. - Revoking the order of banning of business dealing with M/s Sumcon Infraventures LLP banned vide Board's letter dated 29.10.2021.**

Railway Board vide letter no. 2021/CE-I/CBL/8/M/s SUMCON-AVIJANTRIK dated 29.10.2021 had banned the business dealings with M/s Sumcon-Avijantrik (JV) along with their sister concerns/ and partners, for a period of 05 (five) years w.e.f., 29.10.2021. The above-mentioned Railway Board' letter dated 29.10.2021 was uploaded in RITES website vide note dated 29.11.2021 under list of "Banned & Suspended Vendors".

The details of individual names and address of JV Partners as received from Railway Board vide email dated 16.11.2022 were also uploaded in RITES website under the list of "Banned & Suspended Vendors" vide note dated 28.11.2022.

In view of Hon'ble Gauhati High Court Order dated 18.10.2023, an Office Memorandum-CPC/OM-104/23 dated 01.11.2023 was issued by CPC wherein the name of firm, M/s Sumcon Infraventures LLP, Room No 10P, Ground Floor, Sarvamangala House, 5, Dr. Rajendra Prasad Sarani, Kolkata-1, was deleted from the list of banned vendors. The above Office Memorandum dated 01.11.2023 alongwith the Hon'ble Gauhati High Court Order dated 18.10.2023 was uploaded in ESS Portal/CPC Documents and on RITES website under the list of "Banned & Suspended Vendors".

Now, Railway Board has forwarded letter dated 06.11.2023 enclosing letter no. 2021/CE-I/CBL/8/M/s SUMCON-AVIJANTRIK dated 03.11.2023 regarding the subject matter.

The copies of Railway Board' letter dated 06.11.2023, 03.11.2023 and Office Memorandum dated 01.11.2023 are enclosed for information and compliance of all concerned.

This OM is issued with the approval of the Competent Authority.

10/11/2023
(Murali Krishna Krovvidi)
GM/CPC

Copy to:

1. Secy. to CMD/DP/DT/DF for kind information please.
2. All Country Heads, Vertical Heads, Regional Heads, PU/ SUB-Unit/RIO Heads.
3. CVO for kind information please.
4. JGM/IT for getting uploaded on portal ESS/CPC Documents and also on RITES website under the list of "Banned & Suspended Vendors"

आज़ादी का अमृत महोत्सव

भारत सरकार **Government of India**
रेल मंत्रालय **Ministry of Railways**
(रेलवे बोर्ड **Railway Board**)

Azadi Ka Amrit Mahotsav

**CONFIDENTIAL**

No. 2021/CE-I/CBL/8/M/s Sumcon-Avijantrik(JV) New Delhi, dated: 06.11.2023

**Chairman & Managing Director**
**RITES,**
Shikhar, Plot No. 01,
Sector 29, Gurugram
Haryana-122001

**Sub:- Banning of business dealings with M/s Sumcon-Avijantrik(JV), Chapaguri Road, North Bongaigaon, P.O. & Distt.- Bongaigaon, Assam – 783380**

**Ref:-** GM/CPC/RITES' letter no. RITES/CPC/Banning of Business/2023 dated 18.10.2023

Please refer to RITES letter under reference seeking further course of action to be taken in the case of M/s Sumcon-Avijantrik(JV), Chapaguri Road, North Bongaigaon, P.O. & Distt.- Bongaigaon, Assam – 783380 who had been banned of business dealings with Indian Railways for 5 years.

2. In this regard, a copy of Board's letter no. 2021/CE-I/CBL/8/M/s Sumcon-Avijantrik(JV) dated 03.11.2023 is enclosed herewith for information and further necessary action.

**DA:** As Above

06.11.23

**(गौरव)**
**निदेशक सिविल इंजीनियरिंग(जी)**
**रेलवे बोर्ड**
**[Phone: 030-47598(Rly) : 011-23307598(MTNL)]**
**Email address: dceg@rb.railnet.gov.in; padcegrb@gmail.com**

Copy to:-
**General Manager**/CPC
RITES

आज़ादी का अमृत महोत्सव

भारत सरकार Government of India
रेल मंत्रालय Ministry of Railways
(रेलवे बोर्ड Railway Board)

Azadi Ka Amrit Mahotsav

**CONFIDENTIAL**

No. 2021/CE-I/CBL/8/M/s SUMCON-AVIJANTRIK New Delhi, dated: 03.11.2023

**As per standard list,**

**Sub: Revoking the order of banning of business dealing with M/s Sumcon Infraventures LLP banned vide Board's letter dated 29.10.2021**

Ref: N.F. Railway's letter No. W/362/CON/Banning of Business/M/s. Sumcon-Avijantrik dated 17.03.2023

Vide Board's letter no. 2021/CE-I/CBL/8/M/s SUMCON-AVIJANTRIK dated 29.10.2021, Ministry of Railways had banned business dealing with M/s Sumcon-Avijantrik (JV), Chapaguri Road, North Bongaigaon, P.O & Distt.- Bongaigaon, Assam-783380 alongwith their allied/sister concerns/ and partners for a period of five years.

2. The matter has been re-examined in Board's office and Ministry of Railways have now decided to revoke the order of banning of business dealing with M/s Sumcon Infraventures LLP and its allied/sister concerns/and partners.

3. The banning of business dealing with M/s Avijantrik Infratech Pvt. Ltd., Kazipara Pt.I, Chapar, Dist.-Dhubri, Assam-783371 alongwith its allied/sister concerns/ and partners for a period of five years on Indian Railway and Production Units shall continue.

4. Receipt of this letter may please be acknowledged.

*DA: as above*

3.11.23

(अजीत कुमार झा)
कार्यपालक निदेशक सिविल इंजीनियरिंग (जी)
रेलवे बोर्ड
**[Phone: 030-44803(Rly), 011-23383379(MTNL)]**
**{e-mail address: edceg2022@gmail.com}**

Copy to:

1. **The General Manager,** Northeast Frontier Railway, Guwahati.
2. **M/s Sumcon Infraventures LLP**, Room No. 10 P, Ground Floor, Sarvamangala House No.-5, Dr. Rajendra Prasad Sarani, Kolkata-700001.
3. M/s Avijantrik Infratech Private Limited, Kazipara Pt.I, Chapar, Dist.-Dhubri, Assam – 783371
4. M/s Sumcon-Avijantrik (JV), Chapaguri Road, North Bongaigaon, P.O & Distt.- Bongaigaon, Assam-783380.

**LIST FOR DISTRIBUTION (No. 2021/CE-I/CBL/8/M/s SUMCON-AVIJANTRIK New Delhi, Dated 03.11.2023)**

1. General Managers, All Indian Railways & Production Units
2. General Manager (Con), N.F. Railway, Guwahati
3. General Manager /CORE, Allahabad
4. Chief Administrative Officers (Con), All Indian Railways (Except N.F. Railway)
5. Principal Chief Engineers, All Indian Railways

**(A)**

1. CAO, COFMOW, Tilak Bridge, New Delhi
2. Principal CAO, Diesel Loco Modernization Works, Patiala (Punjab)
3. CAO (Workshop Projects), Chamber Bhawan, Judge's Court Road, Anta Ghat, Patna-800001, Bihar

**(B)**

1. Director General, RDSO, Manak Nagar, Lucknow
2. Director General, NAIR, Vadodara
3. Director, IRICEN, Pune – 411 001 (Maharashtra)
4. Director, IRIEEN, PB No.-233, Nasik Road-422101 (Maharashtra)
5. Director, IRISET, Taa Naka Road, Lalla Guda, Secunderabad-500017
6. Director, IRIMEE, Jamalpur Distt-Jamalpur, PIN-811214 (Bihar)
7. Director, IRITM, Sarswati Residential Estate, IRITM Campus, Manak Nagar, Lucknow

**(C)**

1. MD, CONCOR, Concor Bhawan, C-3, Mathura Road, Opp. Apollo Hospital, New Delhi- 110076
2. IRCON International Limited, C-4, District Centre, Saket, New Delhi- 110017
3. MD, RITES Ltd., RITES Bhawan, Plot No.1, Sector-29, Gurgaon
4. CMD, RVNL, August Kranti Bhawan,Plot No.25, 1st Floor, Bhikaji Cama Place, New Delhi
5. MD, MRVC Ltd., Churchgate Station Bldg, Mumbai- 400020
6. CMD, KONKAN Railway Corporation Ltd, Rail Bhawan, New Delhi-110001
7. MD, DFCCIL, 5th Floor, Pragati Maidan Metro Station Building Complex, New Delhi-110001
8. MD, RLDA, Near Safdarjung Railway Station, Moti Bagh, Phase-I, New Delhi- 110021
9. MD, CRIS, Chanakyapur, New Delhi
10. CMD, RailTel Corporation of India Ltd. Plot No. 143, Institutional Area, Sector-44, Gurgaon – 122003
11. CME, IROAF, 12th Floor, Core-1, Scope Minar, Distt. Centre, Laxmi Nagar, Delhi- 110092
12. Managing Director, IRFC Limited, UG Floor, EastTower, NBCC Place, Bhisham Pitamah Marg, LodhiRoad, Pragati Vihar, New Delhi
13. CMD, IRCTC Ltd., B-148, 11th Floor, Statesman House, Barakhamba Road, New Delhi 110001
14. CMD, Braithwaite & Co. limited, 5 Hide Road Kolkata 700043

**Copy to:**

**(A)**

1. General Secretary, IRCA, DRM Office, New Delhi
2. General Secretary, AIRF, Rail Bhawan, New Delhi
3. General Secretary, NFIR, Rail Bhawan, New Delhi
4. General Secretary, IRPOF, Rail Bhawan, New Delhi
5. General Secretary, FROA, Rail Bhawan, New Delhi
6. General Secretary, AIRPA, Rail Bhawan, New Delhi
7. General Secretary, AISC & STREA, Rail Bhawan, New Delhi
8. The Secretary, RBSS, Group (A) Offices Association, Rail Bhawan
9. The Secretary, RBSS, Group (B) Offices Association, Rail Bhawan
10. General Secretary, RBSSS Association, Rail Bhawan
11. The Secretary, RBMSA, Rail Bhawan
12. The Secretary, Railway, Group (D) Employees Association, Rail Bhawan

**(B)**

1. Concerned PSO for kind information of Chairman cum CEO, M/Infra, M/T&RS M/O&BD, M/Finance, Railway Board
2. Adv./MR, EDPG/MR, OSD/MR, OSR(Co-ord)/MR
3. Chief Vigilance Officers, All Indian Railways
4. DG(RHS), DG(RPF), AM(CE), AM(Works), AM(B), AM(Elec.), AM(RS), AM(ME), AM/Tele, AM/C&IS, AM/Sig., AM(Plg.), PED(B&S), PED(Vigilance), PEDCE(P), PED/Safety, PED/Gati Shakti, EDCE(G), EDTK(M&MC), EDCE(B&S), EDF(X), ED/GS(Civil-I), ED/GS(Civil-II), ED/GS(Elect.), ED/GS(S&T), ED/GS/SD, EDW(Plg.), ED(L&A), ED(PSU), EDVE, ED(Safety), ED(Sig. Dev.), ED( Tele), EDRS(G), EDEE(G), EDFE, EDE(N), ED(Accounts), ED/T&MPP, EDME(Chg.), EDME(Frt.), ED/Plg., JS(conf), JS(P), JS(G), JS(D), Vigilance-III, Vig(Conf) of Railway Board.

**RITES Ltd./Contract Policy Cell/Gurgaon**

No. RITES/CPC/OM/2023/104
Dated: 01.11.2023

**OFFICE MEMORANDUM-CPC/OM-104/23**

**Subject: Banning of business dealings with M/s Sumcon-Avijantrik (JV), Chapaguri Road, North Bongaigaon, PO & Distt. Bongaigaon, Assam-783380, for 05 (five) years**

This is in reference to Railway Board' letter no. 2021/CE-I/CBL/8/M/s SUMCON-AVIJANTRIK dated 29.10.2021 wherein Railway Board had banned the business dealings with M/s Sumcon-Avijantrik (JV) along with their sister concerns/ and partners, for a period of 05 (five) years w.e.f., 29.10.2021. The above-mentioned Railway Board' letter dated 29.10.2021 was uploaded in RITES website vide note dated 29.11.2021 under list of "Banned & Suspended Vendors". The copy of RITES' note dated 29.11.2021 and Railway Board' letter dated 29.10.2021 are enclosed.
The details of individual names and address of JV Partners as received from Railway Board vide email dated 16.11.2022 was also uploaded in RITES website under the list of "Banned & Suspended Vendors" vide note dated 28.11.2022 (copy enclosed) which are as given below:

1. **M/s Sumcon-Avijantrik (JV)**, Chapaguri Road, North Bongaigaon, PO & Distt. Bongaigaon, Assam-783380
2. **M/s Sumcon Infraventures LLP**, Room No 10P, Ground Floor, Sarvamangala House, 5, Dr. Rajendra Prasad Sarani, Kolkata-1
3. **M/S Avijantrik Infratech Pvt Ltd**, Kazipara Pt-1, Chapar, Dist-Dhubri, Assam, Pin-783371

Now, in view of Hon'ble Gauhati High Court Order dated 18.10.2023, the name of one of the above-mentioned banned firms i.e., **M/s Sumcon Infraventures LLP, Room No 10P, Ground Floor, Sarvamangala House, 5, Dr. Rajendra Prasad Sarani, Kolkata-1, has been deleted from the list of banned vendors**. The copies of Hon'ble Gauhati High Court Order dated 11.05.2023 and 18.10.2023 are enclosed herewith.

This OM is issued with the approval of the Competent Authority.

01/11/2023
(Murali Krishna Krovvidi)
GM/CPC

Copy to:

1. Secy. to CMD/DP/DT/DF for kind information please.
2. All Country Heads, Vertical Heads, Regional Heads, SBU Heads & PU Heads.
3. CVO for kind information please.
4. JGM/IT for getting uploaded on portal ESS/CPC Documents and also on RITES website under the list of "Banned & Suspended Vendors"

GAHC010237512023

# THE GAUHATI HIGH COURT
## (HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

**Case No. : WP(C)/6212/2023**

SUMCON INFRAVENTURES LLP
A LIMITED LIABILITY PARTNERSHIP FIRM, HAVING ITS REGISTERED OFFICE AT ROOM NO. 10P GROUND FLOOR, SARVAMANGALA HOUSE 5. DR. RAJENDRA PRASAD SARANI, KOLKATA 700001 AND IS REPRESENTED BY ITS DULY AUTHORISED PARTNER SHRI ANUJ SINGHANIA, S/O RAJ KUMAR SINGHANIA, AGED ABOUT 30 YEARS, RESIDENTOF PRANTIK RESIDENCY (FLAT NO. 7D) 157, VINOBA BHAVE ROAD, KOLKATA 700038

VERSUS

UNION OF INDIA AND 9 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF RAILWAYS, NEW DELHI 110001

2:NORTHEAST FRONTIER RAILWAY
REPRESENTED BY ITS GENERAL MANAGER
NF RAILWAY
MALIGAON
GUWAHATI 781011

3:THE CHIEF ENGINEER/CON V
NF RAILWAY
MALIGAON
GUWAHATI 781011

4:THE GENERAL MANAGER
NF RAILWAY
MALIGAON
GUWAHATI 781011

5:THE RAILWAY BOARD
MINISTRY OF RAILWAY

REPRESENTED BY ITS CHAIRMAN
RAIL BHAWAN 1
RAISINA ROAD
NEW DELHI 110001

6:THE CHAIRMAN
THE RAILWAY BOARD
MINISTRY OF RAILWAY
REPRESENTED BY ITS CHAIRMAN
RAIL BHAWAN 1
RAISINA ROAD
NEW DELHI 110001

7:THE EXECUTIVE DIRECTOR
CIVIL ENGINEERING (G)
THE RAILWAY BOARD
MINISTRY OF RAILWAY
REPRESENTED BY ITS CHAIRMAN
RAIL BHAWAN 1
RAISINA ROAD
NEW DELHI 110001

8:RITES LIMITED
HAVING ITS REGISTERED OFFICE AT SCOPE MINAR
LAXMI NAGAR
DELHI 110092
HAVING ITS REGIONAL PROJECDT OFFICE AT 40/424 RAJAT SHREE HOUSE
1ST FLOOR
NEAR SBI KOTRA ROAD
RAJGARH
496001
REPRESENTED BY ITS ADDITIONAL GENERAL MANAGER (CIVIL)

9:THE ADDITIONAL GENERAL MANAGER (CIVIL)
RITES LIMITED
HAVING ITS REGISTERED OFFICE AT SCOPE MINAR
LAXMI NAGAR
DELHI 110092
HAVING ITS REGIONAL PROJECDT OFFICE AT 40/424 RAJAT SHREE HOUSE
1ST FLOOR
NEAR SBI KOTRA ROAD
RAJGARH
496001

10:THE MANAGER (CIVIL)
RITES LIMITED

HAVING ITS REGISTERED OFFICE AT SCOPE MINAR
LAXMI NAGAR
DELHI 110092
HAVING ITS REGIONAL PROJECDT OFFICE AT 40/424 RAJAT SHREE HOUSE
1ST FLOOR
NEAR SBI KOTRA ROAD
RAJGARH
49600

**Advocate for the Petitioner** : MR G N SAHEWALLA

**Advocate for the Respondent** : DY.S.G.I.

**BEFORE**
**HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

**ORDER**

**18.10.2023**

1. Heard Mr. G.N. Sahewalla, learned Senior Counsel for the petitioner, who submits that in terms of the order dated 11.05.2023 passed by this Court in WP(C) No.2168/2023, the blacklisting/debarring of the petitioner from participating in any future tender, pursuant to the impugned letters dated 29.10.2021 and 29.11.2021 had been set aside. However, the same was subject to any final decision to be taken by the Railway Board, in pursuance to the letter dated 17.03.2023 issued by the respondent no.3 and letter dated 13.04.2023 issued by the Railway Board.

2. The learned Senior Counsel submits that as per the letter dated 17.03.2023, which was in response to a clarification sought by the NF Railway, M/s Avijantrik Infratech Private Limited had admitted that the documents used in the tender, on the basis of which the petitioner had been blacklisted from

participating in any future tender, were not connected with the petitioner. The letter dated 13.04.2023 had been issued by the Railway Board, which was addressed to the Chief Administrative Officer (CONS.) North East Frontier Railway, asking him to clarify under what circumstances the NF Railway had taken a decision to re-consider revoking the blacklisting/banning of business against the petitioner. The petitioner's counsel submits that the said letter had been made in pursuance to the letter dated 17.03.2023 issued by the respondent no.3.

3. Subsequent to the two letters mentioned above and the order dated 11.05.2023 passed in WP(C) No.2168/2023, the respondent no.3 has written a letter dated 25.08.2023 (Annexure-XX), which is addressed to the respondent no.7, stating that as per the order passed by this Court on 11.05.2023 in WP(C) No.2168/2023, a recommendation has been made to revoke the banning of business dealings with the petitioner.

4. The learned counsel for the petitioner submits that despite the order dated 11.05.2023 passed by this Court and till a final decision is taken by the Railway Board with regard to whether the petitioner should be blacklisted/debarred from participating in any future tender, the name of the petitioner should be deleted from the Railways Portal and also from the RITES Portal under the heading Banned/Suspended/Negative Vendors.

5. Mr. K. Gogoi, learned CGC appearing on behalf of all the respondents fairly submits that till a decision is taken by the Railway Board in compliance with the order dated 11.05.2023 in WP(C) No.2168/2023, the petitioner's name would

have to be deleted from the Railways Portal and RITES Portal under the heading of Banned/Suspended/Negative Vendors.

6. Mr. K. Gogoi also submits that subsequent to the letter dated 25.08.2023 issued by the respondent no.3, the respondent no.3 had again issued another letter dated 21.09.2023 to the respondent no.7, in the same line as the earlier letter dated 25.08.2023. He submits that the present writ petition can be disposed off, if a direction is issued to the respondent no.7, to take a final decision with regard to whether the petitioner should be banned/blacklisted or suspended from doing any business with the Railway Authorities.

7. I have heard the learned counsels for the parties.

8. The operative portion of the order dated 11.05.2023 passed in WP(C) No.2168/2023 at paragraph-11 and 12 is re-produced here-in-below :

> *"11. The learned CGC's prayer that the question of revocation of blacklisting/debarment of the petitioner from participating in any future tender should be left in the hands of the Railway Board is justified. However, they have to take a decision at the earliest and keeping the issue pending is unfair and unreasonable. In view of the judgment of the Apex Court in UMC technologies Private Limited (supra) and the admission by the respondent no.11 in the judgment and order dated 11.04.2023 passed in WP(C) No.7057/2021 to the effect that the respondent no.11 had used forged documents for taking part in the tender process, this Court is of the view that the impugned letters are arbitrary and not sustainable.*
>
> *12. In view of the reasons stated above, the Impugned letters dated 29.10.2021 and 29.11.2021 issued by the respondent no.6, so far as the*

*petitioner herein is blacklisted/debarred from participating in any future tender,2023:GAU-AS:6916 is hereby set aside. The above is however, subject to any final decision to be taken by the Railway Board in pursuance to the letter dated 17.03.2023 issued by the respondent no.3 and the letter dated 13.04.2023 issued by the Railway Board. While coming to a finding on the issue, the Railway Board may make it's own finding, based on any new facts which has not been considered in this order."*

9. A perusal of the extract of the order shows that the blacklisting/debarring the petitioner from doing any business dealings with the respondents, vide letters dated 29.10.2021 and 29.11.2021 have been set aside. As such, it was incumbent on the part of the respondents to have deleted the name of the petitioner from the Railways Portal and RITES Portal under the heading of Banned/Suspended/Negative Vendors, till a final decision was taken by the Railway Board, in pursuance to the letters dated 17.03.2023 and 13.04.2023, which has been mentioned in the preceding paragraphs. Further, as can be seen from the letters dated 25.08.2023 and 21.09.2023 issued by the respondent no.3, the respondent no.7 was to take a final decision.

10. In view of the order dated 11.05.2023 passed in WP(C) No.2168/2023, the respondents are directed to immediately delete the name of the petitioner from the Railways Portal and RITES Portal under the heading of Banned/Suspended/Negative Vendors. The respondent no.7 shall also take a final decision with regard to the issue whether the petitioner is to be blacklisted/debarred from future dealings, by considering the letters dated 17.03.2023, 13.04.2023, 25.08.2023, 21.09.2023 issued by the respondents and any other new materials it may have, inasmuch as, this Court has not given any

view in the order dated 11.05.2023 passed in WP(C) No.2168/2023, with regard to whether the petitioner should or should not be blacklisted/debarred by the Railway Board.

11. The writ petition is accordingly disposed off.

12. The letter dated 21.09.2023 issued by the respondent no.3, which has been submitted by the learned CGC is made a part of the record and marked as Annexure-X.

**JUDGE**

**Comparing Assistant**

GAHC010085862023

| Application No. | Application Received on | Date on which copy was made ready | Fees paid (Rs.) | Posting date to Delivery Desk |
|---|---|---|---|---|
| 564045 | 12/05/2023 | 12/05/2023 | 100.00 | 12/05/2023 |

# THE GAUHATI HIGH COURT
## (HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

**Case No. : WP(C)/2168/2023**

SUMCON INFRAVENTURES LLP
A LIMITED LIABILITY PARTNERSHIP FIRM,
HAVING ITS REGISTERED OFFICE AT ROOM NO. 10P,
GROUND FLOOR, SARVAMANGALA HOUSE,
5, DR. RAJENDRA PRASAD SARANI,
KOLKATA- 700001 AND IS REPRESENTED BY ITS DULY AUTHORIZED
PARTNER SHRI ANUJ SINGHANIA,
SON OF RAJ KUMAR SINGHANIA,
AGED ABOUT 30 YEARS,
RESIDENT OF PRANTIK RESIDENCY (FLAT NO. 7D),
157, VINOBA BHAVE ROAD, KOLKATA- 700038.

VERSUS

THE UNION OF INDIA AND 10 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA,
MINISTRY OF RAILWAYS,
NEW DELHI- 110001.

2:NORTHEAST FRONTIER RAILWAY
REPRESENTED BY ITS GENERAL MANAGER

N.F. RAILWAY
MALIGAON

GUWAHATI- 781011.

3:THE CHIEF ENGINEER/ CON-V
N.F. RAILWAY
MALIGAON
GUWAHATI- 781011.

4:THE GENERAL MANAGER
N.F. RAILWAY
MALIGAON
GUWAHATI- 781011.

5:THE RAILWAY BOARD
MINISTRY OF RAILWAYS

REPRESENTED BY ITS CHAIRMAN

RAIL BHAWAN 1
RAISINA ROAD

NEW DELHI- 110001.

6:THE CHAIRMAN
THE RAILWAY BOARD
MINISTRY OF RAILWAYS
RAIL BHAWAN 1
RAISINA ROAD

NEW DELHI- 110001.

7:THE EXECUTIVE DIRECTOR-CIVIL ENGINEER(G)
THE RAILWAY BOARD
MINISTRY OF RAILWAYS

RAIL BHAVAN 1
RAISINA ROAD

NEW DELHI- 110001.

8:RITES LIMITED
HAVING ITS REGISTERED OFFICE AT SCOPE MINAR

LAXMI NAGAR
DELHI- 110092

HAVING ITS REGIONAL PROJECT OFFICE AT- 40/424

RAJAT SHREE HOUSE
1ST FLOOR

NEAR SBI KOTRA ROAD

RAJGARH- 496001
REPRESENTED BY ITS ADDITIONAL GENERAL MANAGER(CIVIL).

9:THE ADDITIONAL GENERAL MANAGER (CIVIL)
RITES LIMITED
HAVING ITS REGISTERED OFFICE AT SCOPE MINAR

LAXMI NAGAR
DELHI- 110092

HAVING ITS REGIONAL PROJECT OFFICE AT 40/424

RAJAT SHREE HOUSE
1ST FLOOR

NEAR SBI KOTRA ROAD

RAJGARH- 496001.

10:THE MANAGER (CIVIL)
RITES LIMITED
HAVING ITS REGISTERED OFFICE AT SCOPE MINAR

LAXMI NAGAR
DELHI- 110092

HAVING ITS REGIONAL PROJECT OFFICE AT 40/424

RAJAT SHREE HOUSE
1ST FLOOR

NEAR SBI KOTRA ROAD

RAJGARH- 496001.

11:M/S. AVIJANTRIK INFRATECH PRIVATE LIMITED
HOUSE NO. 239
WARD NO.- 04

P.O. AND P.S.- CHAPAR
DISTRICT- DHUBRI
ASSAM
REPRESENTED BY ITS AUTHORIZED SIGNATORY
SRI SUBHAMAY KARMAKAR

S/O- LATE SANKAR KARMAKAR

RESIDENT OF- CHAPAGURI ROAD

NORTH BONGAIGAON

P.O. AND DISTRICT- BONGAIGAON

ASSAM

**Advocate for the Petitioner** : MR G N SAHEWALLA

**Advocate for the Respondent** : DY.S.G.I.

**BEFORE**
**HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

**ORDER**

**11.05.2023**

1. Heard Mr. G.N Sahewalla, learned senior counsel assisted by Mr. M Sahewalla, learned counsel for the petitioner. Also heard Mr. H. Gupta, learned CGC for the respondent no.1 – 10.

2. The petitioner has challenged the impugned letters dated 29.10.2021 and 29.11.2021 issued by the respondent no.6, by which the petitioner was blacklisted for a period of 5 years w.e.f. 29.10.2021. The blacklisting of the petitioner company i.e. Sumcon Infraventures LLP has been done on the ground that the petitioner along with M/s Avijantrik Infratech Private Limited (respondent no.1) had participated in the tender process as a Joint Venture and had submitted forged documents.

3. The petitioner's counsel submits that the petitioner was never a constituent of the Joint Venture with the respondent no.11, i.e. M/s Avijantrik Infratech Private Limited. The petitioner's counsel also relies upon paragraph-14 of the judgment and order dated 11.04.2023 passed in WP(C) No.7057/2021, in support of his submission that the petitioner did not enter into any Joint Venture

with the respondent no.11. He submits that the said paragraph-14 in WP(C) No.7057/2021 would clearly show that the respondent no.11 had admitted to participating in the tender process by forging documents. He has also relied upon the letter dated 17.03.2023 issued by the respondent no.3 to the respondent no.7 to re-consider/revoke the order of blacklisting/banning of business dealings with the petitioner, in view of the respondent no.11 having admitted vide letters issued by them, that the documents used in the tender pursuant to tender notice dated 30.07.2018 were not connected with the petitioner and that the respondent no.11 had not conducted any business with the petitioner.

4. Besides the above facts, the learned Senior Counsel for the petitioner has relied upon the judgment of the Apex Court in the case of ***UMC technologies Private Limited vs. Food Corporation of India & Another***, reported in ***(2021) 2 SCC 551***, wherein it has been held that prior show-cause-notice granting a reasonable opportunity of hearing is an essential element of all administrative decision making and particularly so in decisions pertaining to blacklisting, which entail grave consequences for the entity being blacklisted. Though the State respondents had apparently issued notices to the alleged Joint Venture comprising of the M/s Sumcon-Avijantrik (JV) and the respondent nos.11 in the address of respondent no.11, the said notices were never sent to the petitioner's address. The learned Senior Counsel submits that as no prior show-cause-notice was issued to the petitioner prior to the impugned letters being issued by the respondents, the impugned letters should be set aside.

5. Mr. H. Gupta, learned CGC submits that the question as to whether the

blacklisting of the petitioner should be revoked, is under consideration with the Railway Board and in this regard, the Railway Board has issued a letter dated 13.04.2023 to the Chief Administrative Officer (Cons.) Northeast Frontier Railway, asking him to clarify under what circumstances the NF Railway had taken a decision to reconsider revoking the blacklisting/banning of business against the petitioner. He submits that the above letter dated 13.04.2023 issued by the Railway Board, had been made in pursuance to the letter dated 17.03.2023 issued by the respondent no.3. The learned CGC submits that as no reply has been forthcoming from the NF Railway to the Railway Board in pursuant to the letter dated 13.04.2023, the Railway Board is unable to take a decision with regard to whether the blacklisting of the petitioner company should be revoked. The learned CGC also submits that the Guidelines dated 09.11.2022 are to be applied by the Railway Board, for considering cases arising out of blacklisting. He submits that in terms of Guideline nos.15 & 16, the revocation of the blacklisting would have to be done with the approval of the Railway Board. He accordingly submits that some more time should be given to the Railway Board to take a decision with regard to the grievance of the petitioner.

6. I have heard the learned counsels for the parties.

7. A perusal of the documents on record would show that no prior show-cause-notice had been sent to the petitioner or to it's address, prior to the blacklisting of the petitioner. As such, on this ground alone, the impugned letters dated 29.10.2021 and 29.11.2021 issued by the respondent no.6 are liable to be set aside. The above being said, in the writ petition filed by the

respondent no.11 in this Court i.e. WP(C) No.7057/2021, wherein the impugned letters have also been put to challenge, it is seen that the respondent no.11 has in paragraph-14 admitted to forging documents of another company, which in this case is the petitioner, to enable the respondent no.11 to participate in the tender process. The above admission made by the respondent no.11 in the judgment and order dated 11.04.2023 passed in WP(C) No.7057/2021 thus indicates that the respondent no.11 had unitarily forged documents and participated in the tender process as a Joint Venture, without the consent and knowledge of the petitioner.

8. A perusal of the letter dated 17.03.2023 issued by the respondent no.3 also states that in response to a clarification sought by the NF Railway, the respondent no.11 had admitted that the documents used in the tender were not connected with the petitioner and they had not conducted any business with the petitioner. The said letter also states that as per admission made by the respondent no.11 and the Law Officer's opinion, it was evident that the petitioner was not a Joint Venture partner and had not participated in the tender process as a Joint Venture.

The above also indicates that the petitioner not being a Joint Venture partner with the respondent no.11, the ground for issuing the impugned letters, by which the petitioner has been blacklisted does not appear to have any basis.

9. The Guideline no.15 & 16 issued by the Railway Board on 09.11.2022, with regard to the debarment/blacklisting, states as follows :

*"15. Any representation from the debarred firm shall be dealt with by the concerned directorate in Board. The revocation of debarment order before*

*expiry of debarment period, if there is adequate justification for the same, shall be done with the approval of concerned Board member.*

*16. Court cases arising out of debarment orders issued shall be processed/dealt with by the concerned procuring unit."*

10. A perusal of the above guidelines shows that that any representation from the blacklisted/debarred firm shall be dealt with by the concerned Directorate of the Board before expiry of the debarment period. The revocation of the blacklisting, if there is adequate justification for the same, shall be done with the approval of the concerned Board and that Court cases arising out of the debarment orders issued shall be processed/dealt with by the concerned procuring unit.

11. The learned CGC's prayer that the question of revocation of blacklisting/debarment of the petitioner from participating in any future tender should be left in the hands of the Railway Board is justified. However, they have to take a decision at the earliest and keeping the issue pending is unfair and unreasonable. In view of the judgment of the Apex Court in ***UMC technologies Private Limited (supra)*** and the admission by the respondent no.11 in the judgment and order dated 11.04.2023 passed in WP(C) No.7057/2021 to the effect that the respondent no.11 had used forged documents for taking part in the tender process, this Court is of the view that the impugned letters are arbitrary and not sustainable.

12. In view of the reasons stated above, the impugned letters dated 29.10.2021 and 29.11.2021 issued by the respondent no.6, so far as the petitioner herein is blacklisted/debarred from participating in any future tender,

is hereby set aside. The above is however, subject to any final decision to be taken by the Railway Board in pursuance to the letter dated 17.03.2023 issued by the respondent no.3 and the letter dated 13.04.2023 issued by the Railway Board. While coming to a finding on the issue, the Railway Board may make it's own finding, based on any new facts which has not been considered in this order.

13. The writ petition is accordingly disposed off.

Sd/- Michael Zothankhuma

**JUDGE**

12.05.23

**Comparing Assistant**

CERTIFIED TO BE TRUE COPY
Date ..... 12/5/23 .....
Administrative Officer (Judicial)
Copying Section
Gauhati High Court
Authorised U/S 76, Act 1, 1872

28.11.22
ED/B&A-1228
29.11.2022

RITES Ltd./CTC/ Gurgaon

No. RITES/CTC/Banning of Business/2022
Dated: 28.11.2022

**Sub:** Banning of business dealings with M/s Sumcon-Avijantrik (JV), Chapaguri Road, North Bongaigaon, PO & Distt. Bongaigaon, Assam-783380, for 05 (five) years.

**Ref:** a) Railway Board letter no. 2021/CE-I/CBL/8/M/s Sumcon-Avijantrik dated 29.10.2021
b) RITES Note no. RITES/CO/CPC/Banning of Business/2021 dated 29.11.2021

With reference to Railway Board letter no. 2021/CE-I/CBL/8/M/s Sumcon-Avijantrik dated 29.10.2021 and RITES Note dated 29.11.2021, as referred above, the business dealings with M/s Sumcon-Avijantrik (JV) along with their sister concerns/ and partners, have been banned for a period of 05 (five) years w.e.f., 29.10.2021. However, individual names and their registered address of JV partners were not mentioned in above-referred Railway Board letter dated 29.10.2022. Railway board has been requested to provide the individual names and their registered address of JV partners vide our email dated 09.11.2022. In response, the required details have been given by PS to Director Civil Engineering (G) of Railway Board vide email dated 16.11.2022, which are as given below:

a) **M/s SUMCON INFRAVENTURES LLP and its address is Room No 10P, Ground Floor, Sarvamangala House, 5, Dr. Rajendra Prasad Saranl, Kolkata-1**

b) **AVIJANTRIK INFRATECH PVT LTD and its address is Kazipara Pt-1, Chapar, Dist-Dhubri, Assam, Pin-783371**

This note along with email from PS to Director Civil Engineering (G) of Railway Board dated 16.11.2022 and Railway Board letter dated 29.10.2022, may please be uploaded on website of RITES under banned list of vendors.

28/11/2022
(Chirag Kukar)
Manager/CTC

GM/CTC 28/11/2022

Advisor/CTC

ED (B&A) 29/11

CITO
(for uploading in RITES website under banned list of vendors)

**Email** **CHIRAG KUKAR**

## Clarifiaction on the banned M/s Sumcon-Avijantrik (JV), partners 29.10.2021

**From :** padcegrb@gmail.com Wed, Nov 16, 2022 12:37 PM

**Subject :** Clarifiaction on the banned M/s Sumcon-Avijantrik (JV), partners 29.10.2021

**To :** CHIRAG KUKAR <chirag.1992@rites.com>

Respected sir,

With reference to your mail dated 09.11.2022 the registered address of individual companies is as under:-

Address of M/s SUMCON INFRAVENTURES LLP is as follows:- Room No 10P, Ground Floor, Sarvamangala House, 5, Dr. Rajendra Prasad Sarani, Kolkata-1

Address of AVIJANTRIK INFRATECH PVT LTD is as follows:- Kazipara Pt-1, Chapar, Dist-Dhubri, Assam, Pin-783371

Regards,

PRIVATE SECRETARY
to **Director Civil Engineering(G)**
**Railway Board**
**Rly, No. 030-47598**

**RITES Ltd. / Contract Policy Cell / Gurgaon**

No. RITES/CO/CPC/Banning of Business/2021
Dated, 29.11.2021

**Subject: Banning of Business Dealing with M/s. Sumcon-Avijantrik (JV), Bongaigaon, Assam – 783380 and M/s Sabari Krishna Enterprises, Hyderabad - 500018.**

Ref: Railway Board letters

i. No. 2021/CE-I/CBL/8/M/s SUMCON-AVIJANTRIK dated 29.10.2021
ii. No. 2017/Elect (G)/180/1 dated 10.11.2021

Ministry of Railways (Railway Board) has decided vide above mentioned letters for banning of business dealings with the following firms:

1. M/s. Sumcon-Avijantrik (JV), Chapaguri Road, North Bongaigaon, PO & Distt. Bongaigaon, Assam - 783380 and also with their allied/sister concerns/and partners on Indian Railways & Production Units etc. for a period of five (05) years with effect from 29.10.2021.

2. M/s. Sabari Krishna Enterprises, H.I.G. 126, Bharath Nagar Colony, Moosapet, Hyderabad - 500018 and also with their allied/sister concerns/and partners on all Indian Railways including Project Organisations, Production Units and Railway PSUs etc. Under the Ministry of Railways (Railway Board)for a period of three (03) years with effect from 10.11.2021.

The letters of Railway Board dated 29.10.2021 and 10.11.2021 are attached herewith.

29/11/2021
(Tapas Biswas)
Expert (C) / Contract Policy cell

GM/CP-II 29/11/2021

ED/B&A and
Head CPC 29/11

GM/IT: May kindly arrange to upload this note alongwith above referred letters dated 29.10.2021 and 10.11.2021 on website of RITES under banned list of vendors.

30/11/21

आज़ादी का अमृत महोत्सव

भारत सरकार Government of India
रेल मंत्रालय Ministry of Railways
(रेलवे बोर्ड Railway Board)

Azadi Ka Amrit Mahotsav

CONFIDENTIAL

No. 2021/CE-I/CBL/8/M/s SUMCON-AVIJANTRIK New Delhi, dated 29.10.2021

As per attached list.

Sub:- Banning of business dealings with M/s Sumcon-Avijantrik (JV), Chapaguri Road, North Bongaigaon, PO & Distt. Bongaigaon, Assam – 783380 for 5 (five) years.

1. M/s Sumcon-Avijantrik (JV) were served with a Memorandum and Statement of charges for banning of business dealings with them for malpractices committed by them for getting work related to tender no. CE/CON/N-J/TL/2019/05 through forged documents.

2. Reply to the Memorandum submitted by M/s Sumcon-Avijantrik (JV) vide their letter No. SAJV/NFR/RB-01 dated 10.09.2021 has been considered in detail by the Competent Authority, who has concluded that M/s Sumcon-Avijantrik (JV) has indulged in malpractices.

3. It has therefore, been decided by Ministry of Railways (Railway Board) to ban business dealing with **M/s Sumcon-Avijantrik (JV), Chapaguri Road, North Bongaigaon, PO & Distt. Bongaigaon, Assam – 783380 and also with their allied/sister concerns/and partners for 5 (five) years** commencing with immediate effect on Indian Railways and Production Units etc.

4. Receipt of this letter may please be acknowledged.

Prem Sagar
29.10.21
(प्रेम सागर गुप्ता)
कार्यपालक निदेशक/सिविल इंजीनियरिंग(जी)रेलवे बोर्ड
[Phone: 030-44803; MTNL No: 011-23383379]
e-mail address: edccg@rb.railnet.gov.in

Copy to: 1. General Manager, Northeast Frontier Railway, Guwahati.
2. M/s Sumcon-Avijantrik (JV), Chapaguri Road, North Bongaigaon, PO & Distt. Bongaigaon, Assam – 783380.

**LIST FOR DISTRIBUTION** (Bd's letter No.2021/CE-I/CBL/8/M/s SUMCON-AVIJANTRIK)

1. General Managers, All Indian Railways & Production Units.
2. General Manager (Con.) N.F.Railway, Guwahati.
3. General Manager/CORE, Allahabad.
4. Principal Chief Engineers, All Indian Railways.
5. Chief Administrative Officers (Con.) All Indian Railways. (Except N.F. Railway)
6. PFAs, All Indian Railways.

(A)

1. CAO, COFMOW, Tilak Bridge, New Delhi.
2. CAO, Diesel Loco Modernization Works, Patiala (Punjab).

(B)

1. Chief Commissioner of Railway Safety, Ashok Road, Lucknow.
2. Director General, RDSO, Manak Nagar, Lucknow.
3. Director General, NAIR, Vadodara.
4. Director, IRICEN, Rail Path, Pune- 411001(Maharashtra).
5. Director, IRICEN,Taa Naka Road, Lalla Guda, Secunderabad, Telangana-500017.
6. Director, IRICEN,Victoria Road, East Colony, Jamalpur, Bihar-811214.
7. Director, IRICEN, Post Box 233, Nasik Road-422101, (Maharashtra).

(C)

1. MD, CONCOR, Concor Bhawan, C-3, Mathura Road, Opp. Apollo Hospital, New Delhi-10076.
2. IRCON International Limited, C-4, District Centre, Saket, New Delhi-110017.
3. MD, RITES Ltd., RITES Bhawan, Plot No. 1, Sector-29, Gurgaon.
4. CMD, RVNL, August Kranti Bhawan, Plot No. 25, 1st Floor, Bhikaji Cama Place, New Delhi.
5. MD, MRVC, Ltd., Churchgate Station Bldg, Mumbai-400020.
6. CMD, KONKAN Railway Corporation Ltd., Rail Bhawan, New Delhi-110001.
7. MD, DFCCIL, 5th Floor, Pragati Maidan Metro Station Building Complex, New Delhi-110001.
8. MD, CRIS, Chanakyapuri, New Delhi.
9. CMD, RailTel Corporation of India Ltd., Plot No. 143, Institutional Area, Sector-44, Gurgaon-22003.
10. CME, IROAF, 12th Floor, Core-1, Scope Minar, Distt. Centre, Laxmi Nagar, Delhi-110092.
11. CMD, Braithwaite& Co. Limited, 5 Hide Raod, Kolkata-700043.

Copy to:

1. Concerned PSO for kind information of Chairman cum CEO, M/Infra, M/Tr.&RS, M/Finance, M/O&BD, Railway Board.
2. DG(RHS), DG(RPF), AM(CE), AM(Works), AM(B), AM(Elec.), AM(ME), AM/Tele, AM/C&IS, AM/Sig., AM(Plg.), AM/L&A, PED(B&S), PED(Vigilance), EDCE/G, ED/Signal, EDCE/P, EDTK(M&MC), EDCE(B&S), EDF(X)-I, EDF(X)-II, ED(Works), EDW(Plg.), ED/Project(Mon.), ED(L&A), ED(PSU), EDVE, ED(Safety), ED(Stn.Dev.) ED(Tele.), EDRS(G), EDRE, EDEE(G), EDFE, ED/T&MPP, EDME(Chg.), EDME(Frt.), ED/Plg., JS(Conf.), JS(P), JS(G), JS(D), Vigilance-III, Vigilance(Conf.) of Railway Board.