RITES Ltd./Contract Policy Cell/Gurgaon

No. RITES/CPC/OM/2023/23
Dated: 25.04.2023

OFFICE MEMORANDUM-CPC/OM-23/23

Subject: Debarment of M/s Webfil Limited, Kolkata – 700001, from participating in procurement of Ministry of Railways and it's attached/ subordinate offices, Autonomous bodies, CPSEs etc. for a period of Six (06) months.

Railway Board letter No. 2023/Tele/Complaint Redressal-PMI (3420420) dated 03.03.2023 was uploaded on website of RITES under list of "Banned & Suspended Vendors" on 20.03.2023 regarding "Debarment of M/s Webfil from participating in procurement of Ministry of Railways and it's attached/ subordinate offices, Autonomous bodies, CPSEs etc."

The copy of the Hon'ble Calcutta High Court' Order dated 17.03.2023 regarding the subject matter is enclosed herewith for information and compliance of all concerned.

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

25/4/23

(Pawan Chowdhry)
ED/B&A and Head CPC

Copy to:

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

S/L. 1.
March 17, 2023.
MNS.

WPA No. 6526 of 2023

M/s. Webfil Limited and another
Vs.
Union of India and others

Mr. S. N. Mookherjee,
Mr. Soumya Mazumder,
Ms. Sharmistha Ghosh,
Mr. S. Bhattacharyya,
Mr. Victor Chatterjee,
Mr. Subhrojyoti Mookherjee

... for the petitioners.

The Learned Advocate General contends that the impugned blacklisting dated March 3, 2023 of the petitioners is entirely *de hors* the law and principles of Natural Justice.

First, no show cause notice was issued at all before the said blacklisting, thereby violating the principle of *Audi Alteram Partem*.

Secondly, it is well settled that the possible consequence of blacklisting has to be intimated in the show cause notice itself, which was not complied with in the present case, since no show cause notice was issued at all. Even in the clarification sought by the petitioners, no such consequence was even indicated by the respondent authorities.

That apart, it is contended that there is a written procedure for show cause governing tenders like the present, which was not complied with at all.

Over and above, it is contended that mere 50% of the origin of the products-in-question has to be local (made in India) for the purpose of satisfying the eligibility criteria of participating in the tender process. The petitioner no. 1-company was the L1 bidder. But, in view of the blacklisting impugned herein, such position has been automatically cancelled and a re-tender has been issued (Annexure P-23 at page 145 of the present writ petition).

In view of the extreme urgency involved, since a re-tender notice has already been issued and the impugned blacklisting has several adverse consequences inasmuch as the functioning of the petitioners are concerned, leave is granted to move the writ petition without any prior notice.

Being *prima facie* satisfied that the petitioners have strong grounds for hearing of the writ petition on merits, the operation of the impugned blacklisting dated March 3, 2023 (Annexure P-20 at page 135 of the writ petition) is

stayed till April 30, 2023 or until further orders, whichever is earlier.

That apart, the respondents shall be restrained by an order of injunction from taking any further action on the notice of re-tender issued for the same job as the present one, which is annexed as Annexure P-23 at page 145 of the writ petition, also till April 30, 2023 or until further orders, whichever is earlier.

Liberty to the parties to mention the matter for inclusion before the regular Bench having determination as a 'Listed Motion'.

(Sabyasachi Bhattacharyya, J.)

2023/Tele/ComplaintRedressal-PMI

I/3062605/2023

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

आज़ादी का अमृत महोत्सव

G20 भारत 2023 INDIA

No. 2023/Tele/Complaint Redressal-PMI (3420420) **New Delhi Dated: 03.03.2023**

M/s Webfil Limited,
YULE House,
8, Dr. Rajendra Prasad Sarani,
Kolkata - 700001

Sub: Debarment of M/s Webfil from participating in procurement of Ministry of Railways and it's attached/ subordinate offices, Autonomous bodies, CPSEs etc.
Ref: DoT DO No. 16-09/2018-IP-Part-3 dated 19th Jan. 2023.

Vide above reference from DoT to Ministry of Railways, it has been informed that in Railway's Tender No. KOTA/SNT/Tele/2021/06R1 and NCRPU-TELE-IPEXCH-2022, M/s Webfil is L1 and is supplying Chinese product labeled "Made in India". The complaint is to be investigated at Railway Board level as per Note No. 2020/RS(G)/779/2 dated 20.01.2023 wherein EDs/PEDs of Technical department have been nominated competent authority for examining references received in relation with DPIIT PPP-MII orders and for disposing off references received pertaining to them.

2. In this context an online virtual meeting was called on 02.02.2023 wherein representatives from M/s Webfil, North Central Railway and West Central Railway participated. During the meeting, M/s Webfil was given an opportunity to explain about the material that they proposed to supply against the Railways tender No. KOTA/SNT/Tele/2021/06R1 and NCRPU-TELE-IPEXCH-2022.

3. In case of the NCR tender No. NCRPU-TELE-IPEXCH-2022, M/s Webfil has informed that the local content of their bid is 65%. They have also indicated that while filling the online tender document they have by mistake shown the local content as 100% indicating that it was a typographical mistake. Material from M/s Asttecs is proposed to be supplied. M/s Webfil indicated that the local content of M/s Asttecs portions of the work is 65% (M/s. Webfil letter No. DS/MKT/NCR/PRYJ dated 03.02.2023 to NCR along with the undertaking from M/s Asttecs regarding the local content).

4. In case of the WCR tender No. KOTA/SNT/Tele/2021/06/R1, M/s Webfil has informed that material of M/s Asttecs is proposed to be supplied. It was further informed along with the undertaking from M/s Asttecs that their local content is 65% and the local contents of the total work of M/s Webfil's bid is 80%. (The same has been confirmed vide M/s Webfil's letter No. DS/MKT/WCR/Kota dated 03.02.2023).

5. Another complaint was received by Ministry of Railways directly from M/s Coral Telecom vide its letter No. nil dated 08.02.2023 regarding tender No. SNT-PROJ-JP-2022-23-07 of NWR wherein it has been alleged that M/s Webfil has given a false declaration of local content as 100% in its offer. A confirmation from NWR was obtained and NWR has confirmed vide its letter No. SNT/HQ/VoIP/letter

dated 16.02.2023 that the local content declaration given by M/s Webfil in their said tender is 100%. M/s Webfil was asked to give clarification vide Board's letter of even No. dated 20.02.2023. M/s Webfil vide its letter No. DS/MKT/NWR-JP/VoIP/LTR dated 21.02.2022 has informed that M/s Webfil's method of calculation of local content was flawed and not in line with how it actually has to be computed for a System Integrator in a Works Contract. M/s Webfil admits that there has been an error of understating and computation on their part. M/s Webfil has also given in writing that it would ensure proper computation of "Percentage of Local Content" in all the upcoming tenders.

6. A personal hearing was arranged on 01.03.2023 for discussing all such tenders with the representative of M/s Webfil. It was again stated by M/s Webfil that the mistake has been because of error in understanding the methodology of the local content computation of the bid. No new information was provided.

7. From this it is seen that M/s Webfil has shown the local content in their bid as 100% in two Tenders of Indian Railways i.e. NCR tender No. NCRPU-TELE-IPEXCH-2022 and NWR tender No. SNT-PROJ-JP-2022-23-07. Typographical error and ignorance of rules for the wrong declaration is not acceptable. It is established that the local content in both these tenders have been wrongly declared.

8. After having considered all the above facts, M/s Webfil Limited is hereby debarred from participating in the procurement process of Ministry of Railways and its attached/subordinate offices, autonomous bodies, Central Public Sector Enterprises etc. for a period of six months from the date of issue of this Order for false declaration of local content which is a breach of code of integrity under Rule 175(1)(i)(h) of the GFR and in terms of para 9(f) of DPIIT PPP-MII order dated 16.09.2020.

9. Since M/s Webfil is an RDSO approved source for other railway products like PDMux, UFSBI etc., this debarment is not applicable on these products. Products manufactured by M/s. Webfil for Railways and approved by RDSO can be quoted by other system integrators.

10. This debarment shall come into effect from the date of issue of this notification. Any contracts concluded before the date of debarment should not get affected by this debarment in terms of board's letter No. 2021/RS(6)/779/17(E 3380016) dated 09.11.2022.

Signed by Rakesh Ranjan
Date: 03-03-2023 20:29:38
Reason: Approved

(राकेश रंजन)
कार्यकारी निदेशक (दूरसंचार विकास)
रेल मंत्रालय
011-47843012
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Room No.103-A, First Floor

Copy to: As per list attached.

3062605/2023

No. 2023/Tele/Complaint Redressal-PMI (3420420) **New Delhi Dated: 03.03.2023**

Copy forwarded for information to:

1. The General Managers, All Indian Railways Including Production Units
2. The Director General RDSO, Lucknow
3. The Director General, NAIR, Vadodara
4. The Chairman, All Railway Recruitment Boards.
5. The Director General, IRISET,Secunderabad
6. The Director General, IRICEN,Pune
7. The Director General, IRIEEN, Nasik
8. The Chairman & Managing Director, IRCON, New Delhi
9. The Chairman & Managing Director, RITES, New Delhi
10. The Chairman & Managing Director, CONCOR, New Delhi
11. The Chairman & Managing Director, KRCL, Mumbai
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13. The Chairman & Managing Director, RCIL, New Delhi
14. The Managing Director, DFCCIL, New Delhi
15. The Managing Director, IRFC, New Delhi
16. The Chief Administrative Officer (R) DMW, Patiala
17. The Managing Director, CRIS, New Delhi
18. The Vice Chairman, RLDA, New Delhi
19. The Chairman, Railway Rates Tribunal, Chennai
20. The Principal Bench, Railway Claims Tribunal, New Delhi
21. The General Secretary, NFIR
22. The General Secretary, AIRF
23. The General Secretary, AIRPF
24. The Secretary General, FROA
25. The Secretary General, IRPOF