

IN THE HIGH COURT OF SINDH AT KARACHI
Suit No. 2617 of 2014

M/s Hospital Services & Sales & another Plaintiffs
VERSUS
Province of Sindh & others Defendants
To.

The Defendants

1. Province of Sindh, Through Secretary, Ministry of Health,
Government of Sindh, Sindh Secretariat Building No. 1, Karachi
2. The Additional Secretary, Health Department,
Government of Sindh, Sindh Secretariat, Karachi
3. The Managing Director Sindh Public Procurement Authority,
Barrack 8, Secretariat, 4-A, Court Road, Karachi
4. * Sh. Shah Dev Parentage not known to me Hindu, Adult,
Sole Proprietor of M/s Grace Pharmaceuticals having office at
Plot No. 351/3, Street No. 20, Sharfabad Karachi



The Advocate General Sindh,
Karachi

Whereas the Plaintiff abovenamed has made an application to this court application under order 39 Rule 1 & 2 CPC read with Section 151 CPC being CMA No. 17600/2014 (Copy enclosed)

You are hereby required to appear in this court in person or by a pleader duly instructed on 12th day of January 2015 at 08:15 a.m. to show cause against the application, failing which the said application will be heard and determined ex-parte.

Also take notice that in default of your filing an address for service on or before the date mentioned you are liable to have your defence struck off.

Given under my hand and the seal of the Court
on this 30th day of December 2014

BY ORDER

For H. Barkat 30/12/14
- ASSISTANT REGISTRAR OS-II

20
20-12-2014
IN THE HIGH COURT OF SINDH AT KARACHI
Suit No. 2617 of 2014

M/s Hospital Services & Sales & anotherPlaintiffs

VERSUS

Province of Sindh & othersDefendants

To,

The Defendants

1. Province of Sindh, Through Secretary, Ministry of Health, Government of Sindh, Sindh Secretariat Building No.1, Karachi
2. The Additional Secretary, Health Department, Government of Sindh, Sindh Secretariat, Karachi
3. The Managing Director Sindh Public Procurement Authority, Barrack 8, Secretariat, 4-A, Court Road, Karachi
4. Shah Dev Parentage not known to me Hindu, Adult, Sole Proprietor of M/s Grace Pharmaceuticals having office at Plot No.351/3, Street No.20, Sharfabad Karachi



Received
By
20/12/14

Whereas the Plaintiff abovenamed has made an application to this court application under order 39 Rule 1 & 2 CPC being CMA No. 17600/2014 (copy whereof is hereto annexed)

Whereas above matter came-up before this Court on 30th day of December 2014 when the Hon'ble Court has been pleased to pass the following orders:-

Mr. Ravi S. Pinjani Advocate for the Plaintiffs.

-X-X-X-X-

- 1) Urgent application granted.
- 2) Learned Counsel for the Plaintiffs contends that Plaintiffs participated in the tender floated by the Defendant No.2 in newspaper dated 04.09.2014 for Drugs Medicines etc. through Tender No.HD(PM&I)14-15/RC/02 and (3) As per learned Counsel for the Plaintiffs, Plaintiff No.1's samples for item Nos.33, 34 and 35 (Surgical Sundries) among others were found acceptable/approved by the Technical Committee comprising of 09 members including therein esteemed professors and experts in their respective fields. The 'Bid Evaluation Reports are enclosed as Annexure 'D' at page 149 alongwith Memo of Plaint. Per learned Counsel for the Plaintiff, defendant Nos.4 lodged complaint before the Complaint Redressal Committee constituted in pursuance of Rule 31 of the Sindh Public

Procurement Rules, 2010. However, despite being a successful bidder, at no point plaintiff has received any notice from the Complaint Redressal Committee. Per learned Counsel for the Plaintiff, in an attempt to comply with Rule 31 of the Sindh Public Procurement Rules, 2010, the Defendants Nos.2 and 3 constituted a committee but the said committee was not formed in terms of Rule 31(2) (b) of Sindh Public Procurement Rules, 2010, which reads as under:-

"(b) An independent professional from the relevant field concerned the procurement processing in question to be nominated by the Head of Procuring Agency.

However, when the Plaintiffs obtained minutes of meeting of Complaint Redressal Committee purportedly held on 02.12.2014 from their own sources on 24.12.2014, it has come to the knowledge of the Plaintiff, the said meeting was not attended by the Professor of Medicines or any other independent member as provided in the aforementioned Rule. Learned Counsel for the Plaintiff submits that the subject tender stood finalized on 21.11.2014 in favour of the respective successful bidders and copy of the notification is enclosed as Annexure "H" at page-291 alongwith MoP. Per learned Counsel, the proceeding of the Complaint Redressal Committee were conducted in violation of Rule 31(2)(b) as stated above and without giving an opportunity of being heard to the Plaintiff who is the vested right and in violation of Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 and also against the principle of natural justice. Issue notices to the defendants and Advocate General Sindh for 12.01.2015. Till the next date of hearing, operation of the decision of the Complaint Redressal Committee dated 02.12.2014 published/notified on 24.12.2014 shall remain suspended only to the extent of Plaintiff No.1's items.

It is hereby ordered that you the Defendants abovenamed be and are hereby directed that the operation of the decision of the Complaint Redressal Committee dated 02-12-2014 published / notified on 24-12-2014 shall remain suspended only to the extent of Plaintiff No.1's item, as per above Court's order.

Now the matter is fixed in this Court
on 12th day of January 2015 at 08:15 a. m.

Given under my hand and the seal of the Court this
on 30th day of December 2014

By Order

[Signature]

30-12-2014

IN THE HIGH COURT OF SINDH AT KARACHI
Suit No. 2617 of 2014

M/s Hospital Services & Sales & another Plaintiffs
VERSUS
Province of Sindh & others Defendants
To,

The Defendants

1. Province of Sindh, Through Secretary, Ministry of Health,
Government of Sindh, Sindh Secretariat Building No.1, Karachi
2. The Additional Secretary, Health Department,
Government of Sindh, Sindh Secretariat, Karachi
3. The Managing Director Sindh Public Procurement Authority,
Barrack 8, Secretariat, 4-A, Court Road, Karachi
4. Shah Dev Parentage not known to me Hindu, Adult,
Sole Proprietor of M/s Grace Pharmaceuticals having office at
Plot No.351/3, Street No.20, Sharfabad Karachi



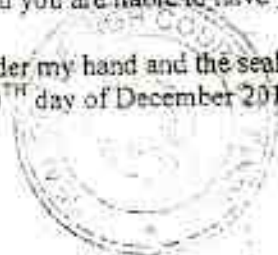
Whereas the Plaintiff above named has instituted a suit against you for
(DECLARATION AND PERMANENT INJUNCTION) (Copy enclosed)

You are hereby summoned to appear in this Court before Additional
Registrar (OS) in person, or by a pleader instructed, and able to answer all material
questions relating to the suit or who shall be accompanied by some person able to
answer all such questions on 24th day of February 2015 at 09:30 a.m. to answer the
claim; and you are directed to produce on that day all the documents upon which you
intend to rely in support of your defence and file your Written Statement on or before
the said date.

Take notice that in default of your appearance on the day before
mentioned the suit will be heard and determined in your absence.

Also take notice that in default of your filing an address for service on or
before the date mentioned you are liable to have your defence struck off.

Given under my hand and the seal of the Court
on this 30TH day of December 2014



BY ORDER

M. Sarwar
ASSISTANT REGISTRAR OS-II

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Suit No.2605 of 2014

Date	Order with signature of Judge
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1. For orders on CMA No.17546/2014
2. For orders on CMA No.17547/2014

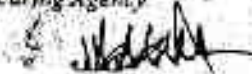
29.12.2014.

Mr. Ravj R. Pinjani Advocate for the Plaintiffs.

-X-X-X-X-

- 1) Urgent application granted.
- 2) Learned Counsel for the Plaintiff contends that Plaintiffs participated in the tender floated by the Defendant No.2 in newspaper dated 04.09.2014 for Drugs Medicines etc. through Tender No.HD(PM&I)14-15/RC/02 and Tender No.HD(PM&I)14-15/RC/03. As per learned Counsel for the Plaintiffs, Plaintiff No.2's samples for item Nos.12 and 28 (Surgical Sundries) and Plaintiff No.1's samples for item Nos.56 among others were found acceptable/approved by the Technical Committee comprising of 09 members including therein esteemed professors and experts in their respective fields. The 'Bid Evaluation Report are enclosed as Annexure 'D-1 and D-2' at page 77 and 173 alongwith Memo of Plaint. Per learned Counsel for the Plaintiff, defendant Nos.4 and 5 lodged complaint before the Complaint Redressal Committee constituted in pursuance of Rule 31 of the Sindh Public Procurement Rules, 2010. However, despite being a successful bidders, at no point plaintiffs have received any notice from the Complaint Redressal Committee. Per learned Counsel for the Plaintiff, in an attempt to comply with Rule 31 of the Sindh Public Procurement Rules, 2010, the Defendants Nos.2 and 3 constituted a committee but the said committee was not form in terms of Rule 31(2) (b) of Sindh Public Procurement Rules, 2010, which reads as under:-

"(b) An independent professional from the relevant, filed concerned the procurement processing in question to the nominated by the Head of Procuring Agency



However, when the Plaintiffs obtained minutes of meeting of Complaint Redressal Committee purportedly held on 02.12.2014 from their own sources on 24.12.2014, it has come to the knowledge of the Plaintiff, the said meeting was not attended by the Professor of Medicines or any other independent member as provided in the aforementioned Rule. Learned Counsel for the Plaintiff submits that the subject tender stood finalized on 21.11.2014 in favour of the respective successful bidders and copy of the notification is enclosed as Annexure "I" at page-433 alongwith MoP. Per learned Counsel, the proceeding of the Complaint Redressal Committee were conducted in violation of Rule 31(2)(b) as stated above and without giving an opportunity of being heard to the Plaintiff who is the vested right and in violation of Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 and also against the principle of natural justice. Issue notices to the defendants and Advocate General Sindh for 12.01.2015. Till the next date of hearing, operation of the decision of the Complaint Redressal Committee dated 02.12.2014 published/notified on 24.12.2014 shall remain suspended only to the extent of Plaintiffs' items.


JUDGE

29.12.2014

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S. DAS 12/1
d/c

IN THE HIGH COURT OF SINDH AT KARACHI
Sui No. 2605 of 2014

M/s Popular International Pvt. Limited & another Plaintiffs
Province of Sindh & others Defendants
VERSUS

The Defendants

1. Province of Sindh, Through Secretary, Ministry of Health,
Government of Sindh, Sindh Secretariat Building No 1, Karachi

2. The Additional Secretary, Health Department,
Government of Sindh, Sindh Secretariat, Karachi

3. The Managing Director, Sindh Public Procurement Authority,
House No 7, Secretariat, P.A. Court Road, Karachi

4. M/s Karachi Medical Company
A-14, All India Society University Road, Karachi

5. Mr. Shri Dev Parvate and karnis, to the Hindu, Adali,
Sole Proprietor of M/s Grace Pharmaceuticals having office at
Plot No 150/1, Street No 20, Sharfabad Karachi

Whereas the Plaintiff abovesaid has made an application to this court
application under order 39 Rule 1 & 2 CPC being CMA No. 17547/2014 (copy
whereof is hereto annexed)

Whereas above matter came up before this Court on 29th day of December
2014 when the Hon'ble Court has been pleased to pass the following orders:-

Mr. Ravi R. Pajani Advocate for the Plaintiffs

-X-X-X-X-

- 1) Urgent application granted.
- 2) Learned Counsel for the Plaintiff contends that Plaintiffs participated in the tender floated by the Defendant No.2 in newspaper dated 04.09.2014 for Drugs Medicines etc. through Tender No.HD(PM&I)14-15/RC/02 and Tender No.HD(PM&I)14-15/RC/03 As per learned Counsel for the Plaintiffs, Plaintiff No-2's samples for item Nos.12 and 28 (Surgical Sundries) and Plaintiff No.1's samples for item Nos.58 among others were found acceptable/approved by the Technical Committee comprising of 09 members including therein esteemed professors and experts in their respective fields. The 'Bid Evaluation Reports are enclosed as Annexure 'D-1 and D-2' at page 77 and 173 alongwith Memo of Plaintiff. Per learned Counsel for the Plaintiff, defendant Nos.4 and 5 lodged

Handwritten notes: No=1, 1, 2, 29/12/14, 4.35 PM

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successful bidders, at no point plaintiffs have received any notice from the Complaint Redressal Committee. Per learned Counsel for the Plaintiff, in an attempt to comply with Rule 31 of the Sindh Public Procurement Rules, 2010, the Defendants Nos 2 and 3 constituted a committee but the said committee was not formed in terms of Rule 31(2) (b) of Sindh Public Procurement Rules, 2010, which reads as under:-

"(b) An independent professional from the relevant field concerned the procurement processing in question to be nominated by the Head of Procuring Agency."

However, when the Plaintiffs obtained minutes of meeting of Complaint Redressal Committee purportedly held on 02.12.2014 from their own sources on 24.12.2014, it has come to the knowledge of the Plaintiff, the said meeting was not attended by the Professor of Medicines or any other independent member as provided in the aforementioned Rule. Learned Counsel for the Plaintiff submits that the subject tender stood finalized on 21.11.2014 in favour of the respective successful bidders and copy of the notification is enclosed as Annexure "I" at page-473 alongwith MoP. Per learned Counsel, the proceedings of the Complaint Redressal Committee were conducted in violation of Rule 31(2)(b) as stated above and without giving an opportunity of being heard to the Plaintiff who is the vested right and in violation of Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 and also against the principle of natural justice. Issue notices to the defendants and Advocate General Sindh for 12.01.2015. Till the next date of hearing, operation of the decision of the Complaint Redressal Committee dated 02.12.2014 published/notified on 24.12.2014 shall remain suspended only to the extent of Plaintiffs' items.

It is hereby ordered that qua the Defendants abovesaided be and are hereby directed that the operation of the decision of the Complaint Redressal Committee dated 02-12-2014 published / notified on 24-12-2014 shall remain suspended only to the extent of Plaintiff's item, as per above Court's order.

Now the matter is fixed at this Court
on 12th day of January, 2015 at 08:15 a. m.
Dated _____ at _____ and the seat of the Court this
12th day of January 2015.

H. Qureshi

29/12/14

3

S. DAS.

10

IN THE HIGH COURT OF SINDH AT KARACHI
Suit No. 2605 of 2014

M/s Popular International Pvt. Limited & another Plaintiffs

VERSUS

Province of Sindh & others Defendants

To:

The Defendants

1. Province of Sindh, Through Secretary, Ministry of Health,
Government of Sindh, Sindh Secretariat Building No. 1, Karachi

The Additional Secretary, Health Department,
Government of Sindh, Sindh Secretariat, Karachi

The Managing Director Sindh Public Procurement Authority,
Barrack 8, Secretariat, 4-A, Court Road, Karachi

M/s Karachi Medical Company
A-18 A, Hilal Society University Road, Karachi

5. Mr. Shafi Dev Parentage not known to me Hindu, Adult,
Sole Proprietor of M/s Grace Pharmaceuticals having office at
Plot No 351/3, Street No. 20, Sharfabad Karachi

Received by
30/12/14

4/12

30/12/14

Whereas the Plaintiff above named has instituted a suit against you for
[DECLARATION AND PERMANENT INJUNCTION] (Copy enclosed)

You are hereby summoned to appear in this Court before Additional
Registrar (AS) in person, or by a pleader instructed, and able to answer all material
questions relating to the suit or who shall be accompanied by some person able to
answer all such questions on 24th day of February 2015 at 09:30 a.m. to answer the
claim, and you are directed to produce on that day all the documents upon which you
intend to rely in support of your defence and file your Written Statement on or before
the said date.

Take notice that in default of your appearance on the day before
mentioned the suit will be heard and determined in your absence.

Also take notice that in default of your filing an address for service on or
before the date mentioned you are liable to have your defence struck off.

Given under my hand and the seal of the Court
on the 29th day of December 2014



BY ORDER

For M. S. Khan 29/12/14
ASSISTANT REGISTRAR OS-II

o/c

29-12-2014

6

S.D.A.S. 12/12/14

10

IN THE HIGH COURT OF SINDH AT KARACHI
Sut No. 2605 of 2014

M/s Popular International Pvt. Limited & another Plaintiffs
VERSUS

Province of Sindh & others Defendants
To,

The Defendants

1. Province of Sindh, Through Secretary, Ministry of Health,
Government of Sindh, Sindh Secretariat Building No.1, Karachi

2. The Additional Secretary, Health Department,
Government of Sindh, Sindh Secretariat, Karachi

3. The Managing Director Sindh Public Procurement Authority,
Bulrack 8, Secretariat, 4-A, Court Road, Karachi

4. M/s Karachi Medical Company
A-14 Al-Hind Society University Road, Karachi

5. Mr. Shah Dev Parentage not known to me Hindu, Adult,
Sole Proprietor of M/s Grace Pharmaceuticals having office at
Plot No.351/3, Street No.20, Shalifabad Karachi

(The Advocate General Sindh,
Karachi)

30/12/14

29/12

Whereas the Plaintiff abovenamed has made an application to this court application under order 39 Rule 1 & 2 CPC read with Section 151 CPC being MA No. 17543/2014 (Copy enclosed)

You are hereby required to appear in this court in person or by a pleader duly instructed on 12th day of January 2015 at 08:15 a.m. to show cause against the application, failing which the said application will be heard and determined ex-parte.

Also take notice that in default of your filing an address for service on or before the date mentioned you are liable to have your defence struck off.

Given under my hand and the seal of the Court
on the 29th day of December 2014



BY ORDER

for A.S.D.A.S. 12/12/14
ASSISTANT REGISTRAR OS-II

c/c

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Suit No.2605 of 2014

Date _____ Order with signature of Judge _____

1. For orders on CMA No.17546/2014
2. For orders on CMA No.17547/2014

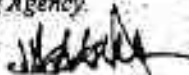
29.12.2014.

Mr. Ravj R. Pinjani Advocate for the Plaintiffs.

-X-X-X-X-

- 1) Urgent application granted.
- 2) Learned Counsel for the Plaintiff contends that Plaintiffs participated in the tender floated by the Defendant No.2 in newspaper dated 04.09.2014 for Drugs Medicines etc through Tender No.HD(PM&I)14-15/RC/02 and Tender No.HD(PM&I)14-15/RC/03. As per learned Counsel for the Plaintiffs, Plaintiff No.2's samples for item Nos.12 and 28 (Surgical Sundries) and Plaintiff No.1's samples for item Nos.56 among others were found acceptable/approved by the Technical Committee comprising of 09 members including therein esteemed professors and experts in their respective fields. The Bid Evaluation Reports are enclosed as Annexure 'D-1 and D-2' at page 77 and 173 alongwith Memo of Plaintiff. Per learned Counsel for the Plaintiff, defendant Nos.4 and 5 lodged complaint before the Complaint Redressal Committee constituted in pursuance of Rule 31 of the Sindh Public Procurement Rules, 2010. However, despite being a successful bidders, at no point plaintiffs have received any notice from the Complaint Redressal Committee. Per learned Counsel for the Plaintiff, in an attempt to comply with Rule 31 of the Sindh Public Procurement Rules, 2010, the Defendants Nos.2 and 3 constituted a committee but the said committee was not form in terms of Rule 31(2) (b) of Sindh Public Procurement Rules, 2010, which reads as under -

"(b) An independent professional from the relevant filed concerned the procurement processing in question to the nominated by the Head of Procuring Agency.



However, when the Plaintiffs obtained minutes of meeting of Complaint Redressal Committee purportedly held on 02.12.2014 from their own sources on 24.12.2014, it has come to the knowledge of the Plaintiff, the said meeting was not attended by the Professor of Medicines or any other independent member as provided in the aforementioned Rule. Learned Counsel for the Plaintiff submits that the subject tender stood finalized on 21.11.2014 in favour of the respective successful bidders and copy of the notification is enclosed as Annexure "I" at page-433 alongwith MoP. Per learned Counsel, the proceeding of the Complaint Redressal Committee were conducted in violation of Rule 31(2)(b) as stated above and without giving an opportunity of being heard to the Plaintiff who is the vested right and in violation of Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 and also against the principle of natural justice. Issue notices to the defendants and Advocate General Sindh for 12.01.2015. Till the next date of hearing, operation of the decision of the Complaint Redressal Committee dated 02.12.2014 published/notified on 24.12.2014 shall remain suspended only to the extent of Plaintiffs' items.


JUDGE

29.12.2014

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S. DAS 12/1
o/c

IN THE HIGH COURT OF SINDH AT KARACHI
Suit No. 2605 of 2014

M/s Popula International Pvt. Limited & another Plaintiffs
VERSUS

Province of Sindh & others Defendants

To: The Defendants
Province of Sindh, Through Secretary, Ministry of Health,
Government of Sindh, Sindh Secretariat Building No. 1, Karachi

2. The Additional Secretary, Health Department,
Government of Sindh, Sindh Secretariat, Karachi

3. The Managing Director Sindh Public Procurement Authority,
House No. 3, Secretariat, 4-A, Court Road, Karachi

4. M/s Karachi Medical Company
A-28 Al-Lihal Society University Road, Karachi

5. Mr. Shah Dev Parantage not known to me Hindu, Adult,
Sole Proprietor of M/s Grace Pharmaceuticals having office at
Plot No. 35/21, Street No. 20, Sharfabad Karachi

Whereas the Plaintiff abovesaid has made an application to this court
application under order 39 Rule 1 & 2 CPC being CMA No. 17549/2014 (copy
whereof is hereto annexed)

Whereas above matter came-up before this Court on 29th day of December
2014 when the Hon'ble Court has been pleased to pass the following orders:-

Mr. Ravi R. Panjani Advocate for the Plaintiffs.

-X-X-X-X-

- 1) Urgent application granted.
- 2) Learned Counsel for the Plaintiff contends that Plaintiffs participated in the tender floated by the Defendant No.2 in newspaper dated 04.09.2014 for Drugs Medicines etc. through Tender No.HD(PM&I)14-15/RC/02 and Tender No.HD(PM&I)14-15/RC/03. As per learned Counsel for the Plaintiffs, Plaintiff No.2's samples for item Nos 12 and 28 (Surgical Sundries) and Plaintiff No.1's samples for item Nos 06 among others were found acceptable/approved by the Technical Committee comprising of 09 members including therein esteemed professors and experts in their respective fields. The 'Bid Evaluation Reports' are enclosed as Annexure 'B-1 and D-2' at page 77 and 173 alongwith Memo of Plaintiff. Per learned Counsel for the Plaintiff, defendant Nos 4 and 5 lodged



Handwritten notes: A, No=1, B, 29/12/14, 4-33M

Handwritten notes: No=9, 12/1/14, S. DAS, 29/12

successful bidders, at no point plaintiffs have received any notice from the Complaint Redressal Committee. Per learned Counsel for the Plaintiff, in an attempt to comply with Rule 31 of the Sindh Public Procurement Rules, 2010, the Defendants Nos.2 and 3 constituted a committee but the said committee was not form in terms of Rule 31(2) (b) of Sindh Public Procurement Rules, 2010, which reads as under:-

"(b) An independent professional from the relevant field concerned the procurement processing in question to be nominated by the Head of Procuring Agency."

However, when the Plaintiffs obtained minutes of meeting of Complaint Redressal Committee purportedly held on 02.12.2014 from their own sources on 24.12.2014, it has come to the knowledge of the Plaintiff, the said meeting was not attended by the Professor of Medicines or any other independent member as provided in the aforementioned Rule. Learned Counsel for the Plaintiff submits that the subject tender stood finalized on 21.11.2014 in favour of the respective successful bidders and copy of the notification is enclosed as Annexure "1" at page-433 alongwith MoP. Per learned Counsel, the proceeding of the Complaint Redressal Committee were conducted in violation of Rule 31(2)(b) as stated above and without giving an opportunity of being heard to the Plaintiff who is the vested right and in violation of Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 and also against the principle of natural justice. Issue notices to the defendants and Advocate General Sindh for 12.01.2015. Till the next date of hearing, operation of the decision of the Complaint Redressal Committee dated 02.12.2014 published/notified on 24.12.2014 shall remain suspended only to the extent of Plaintiffs' items.

It is hereby ordered that you the Defendants abovenamed be and are hereby directed that the operation of the decision of the Complaint Redressal Committee dated 02-12-2014 published / notified on 24-12-2014 shall remain suspended only to the extent of Plaintiff's item, as per above Court's order.

Now the matter is fixed in this Court
on 12th day of January 2015 at 08:15 a. m.
This matter may be heard and the result of the Court this
12th day of January 2015.

By Order

89-12-14

25

S.DAS. 2

10

IN THE HIGH COURT OF SINDH AT KARACHI
Suit No. 2605 of 2014

M/s Popular International Pvt. Limited & another Plaintiffs
VERSUS
Province of Sindh & others Defendants
To,

The Defendants:

1. Province of Sindh, Through Secretary, Ministry of Health,
Government of Sindh, Sindh Secretariat Building No. 1, Karachi

2. The Additional Secretary, Health Department,
Government of Sindh, Sindh Secretariat, Karachi

Received by
30/12/14

3. The Managing Director Sindh Public Procurement Authority,
Marrack, Secretariat, 4-A, Court Road, Karachi

4/12

M/s Karachi Medical Company
A-14 Al-Hilal Society University Road, Karachi

5. Mr. Shash Dex Parentage not known to me Hindu, Adali,
Sole Proprietor of M/s Grace Pharmaceuticals having office at
Plot No 351/3, Street No.20, Sharfabad Karachi

12/12/14

Whereas the Plaintiff above named has instituted a suit against you for
(DECLARATION AND PERMANENT INJUNCTION) (Copy enclosed)

You are hereby summoned to appear in this Court before Additional
Registrar (OS) in person, or by a pleader instructed, and able to answer all material
questions relating to the suit or who shall be accompanied by some person able to
answer all such questions on 24th day of February 2015 at 09:30 a.m. to answer the
claim, and you are directed to produce on that day all the documents upon which you
intend to rely in support of your defence and file your Written Statement on or before
the said date.

Take notice that in default of your appearance on the day before
mentioned the suit will be heard and determined in your absence.

Also take notice that in default of your filing an address for service on or
before the date mentioned you may be liable to have your defence struck off.

Given under my hand and the seal of the Court
on this 29th day of December 2014.



BY ORDER
10/12/14
ASSISTANT REGISTRAR OS-II

o/c

29.12.2014

S.D.A.S. 12/12
B/C

8/10

IN THE HIGH COURT OF SINDH AT KARACHI
Suit No. 2605 of 2014

M/s Popular International Pvt. Limited & another Plaintiffs
VERSUS

Province of Sindh & others Defendants
To:

The Defendants

1 Province of Sindh, Through Secretary, Ministry of Health,
Government of Sindh, Sindh Secretariat Building No.1, Karachi

2 The Additional Secretary, Health Department,
Government of Sindh, Sindh Secretariat, Karachi

3 The Managing Director Sindh Public Procurement Authority,
Barrack 8, Secretariat, 4-A, Court Road, Karachi

4 M/s Karachi Medical Company
A-14 Al-Hilal Society University Road, Karachi

Mr. Shah Dev Parentage not known to me Hindu, Adult,
Sole Proprietor of M/s Grace Pharmaceuticals having office at
Plot No. 351/3, Street No. 20, Shafabad Karachi

The Advocate General Sindh,
Karachi

Recd. by
30/12/14

29/12
10/12/14

Whereas the Plaintiff abovesaid has made an application to this court application under order 39 Rule 1 & 2 CPC read with Section 151 CPC being CMA No. 17547/2014 (Copy enclosed)

You are hereby required to appear in this court in person or by a pleader duly instructed on 12th day of January 2015 at 08:15 a.m. to show cause against the application, failing which the said application will be heard and determined ex-parte

Also take notice that in default of your filing an address for service on or before the date mentioned you are liable to have your defence struck off.

Given under my hand and the seal of the Court
on the 29th day of December 2014



BY ORDER

for 11/12/2014
ASSISTANT REGISTRAR OS-II

o/c

12) Complaint of M/s Grace Pharma, Karachi forwarded by SPPRA vide letter No.5114, dated. 27-11-2014.

M/s Grace Pharma raised objection for rejection of their bids on clinical grounds in the tender of surgical & disposable items and tender for Drugs / Medicines for the following items.

- 1) Surgical/Disposable item.
11,12,28,32,33,34,35,38,39,40 & 56.
- 2) Drugs / Medicines items.
02,101,102,103,135,136,159,184, 240,263 & 264.

The representative of M/s. Grace Pharma pointed out details of rejection of their bids to the Committee in detail and informed that in various items, their prices are almost less than the approved bidder and against item No.28 & item No.56 their quoted price are about 10 times lower than approved bidder, which cause huge loss to the Government exchequer.

The CRC examined item wise details of rejection and acceptance of items quoted by the Complainant and observed that the rejection against following items made by the Technical Evaluation Committee on clinical experience basis are not justifiable, hence their offer may be considered against these items:

- 1) Surgical/Disposable items No.33, 34 & 35.
- 2) Drugs/Medicines: Item No.02, 184 (Injection), 135, 136 (Vaccines), Item No.3 (anti cancer) & item No.101, 102 & 103/ Tablet/Capsules).

Moreover, Rate of approved bidder in item No.28 & 56 are not comparable to the market rates, as in open market item No. 28(Butterfly Needle) & Item No.56 (Pead.I.V. Chamber) are available in cheaper rates which are frequently using in the Hospitals.

Therefore, Committee decided to include other bids like M/s. Grace Pharma for better competition.

However, the case is subjudice, therefore the Committee unanimously was of the opinion that no decision will be taken by the Committee till announcement of final decision by the High Court.

13) Complaint of M/s. Lab Link Enterprises, Karachi forwarded by SPPRA vide letter No.5114, dated.27-11-2014

M/s Lab Link raised objection that they are successful bidder in Technical evaluation for I.V. Cannula & Disposable Syringes but not included the same in financial comparative statement.

The complaint of M/s. Lab Link Enterprises, Karachi has been examined thoroughly including item No.26. The complainant pointed out that they are single approved on the basis of decision of technical committee that "the sample of Lab Link syring made in Japan with stopper can be considered equal to B-Beaun I.V. Cannula in Quality". They further pointed out that their products are FDA, CE and WHO qualified. The Chairman CRC emphasized during the hearing that due to emergency in Tharparker for Children, I.V. Cannula size 24 (Item No.26) is required. Therefore in his opinion, item No.26 may be considered. However, the case is subjudice, therefore the Committee unanimously was of the opinion that no decision will be taken by the Committee till announcement of final decision by the High Court.

- 14- Complaint of M/s Hamza Enterprises, Hyderabad.
 15- Complaint of M/s. Sky Pharma, Hyderabad.

M/s. Hamza Enterprises, Hyderabad & M/s. Sky Pharma Hyderabad has raised complaint / objection on the whole process of tender and pointed out mistakes/ discrepancies / irregularities in the tender proceedings for acceptance and rejection of bids and products.

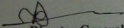
The Committee examined the complaints of M/s.Hamza Enterprises, Hyderabad & M/s.Sky Pharma, Hyderabad and observed that the complainants is one of the companies that filed two suits in the High Court of Sindh regarding impugned conditions, but the Honourable Court passed order to continue the process of procurement and grievances of said bidders be referred to Complaint Redressal Committee. This Department has already submitted those minutes of the meeting of CRC to Honourable High Court, which is under process.


Moreover, The other objections are exactly the same for violation of Rules & other discrepancies pointed out by SPPRA in their letter, against which this department is submitting detailed reply accordingly.

Moreover, Both bidders, filed have filed a suit in the High Court of Sindh. The Committee unanimously opined that no decision will be taken till a decision of High Court arrives it.

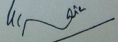
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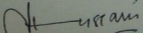
Professor of Medicines
 Dow University of Health Science,
 Karachi.
 Member


Director General
 Health Services Sindh, Hyderabad
 Member


(NAWAB HAIDER)
 Accounts Officer

Representative of Accountant General
 Sindh, Karachi/ Member


(DR. KHALID SHAIKH)
 SPECIAL SECRETARY (PH)
 Chairman


(IQBAL HUSSAIN DURRANI)
 SECRETARY HEALTH
 Chairman

*Secretary to Govt. of Sindh
 Health Department*

was technical approved, but with Inj. Imipenem (149), M/s Bosch Pharma brand Inj. Cilapan 500mg was also considered with MSD/OBS why M/s Bosch included in item No.149 and rejected in item No.177 & 178 despite of same group.	basis but it is not justifiable for items No.149, 177 & 178. Committee opined that if M/s. Bosch qualified for Imipenem so it should also be qualified for Meropenem Salt "or" if M/s. Bosch not acceptable for Meropenem then it should also not be accepted for Imipenem. In-view of above, the committee decided to refer these items to CPC for review.
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09. Complaint of M/s. Iqbal & Company, Karachi forwarded by SPPRA vide letter No.5114, dated. 27-11-2014.

M/s. Iqbal & Company has raised objections on the rejections of their bids against following items: Item No.04= Fistulla Needle. Item No.66=CVP Line Single Lumen Item No.67= CVP Line Double Lumen Item No.68= CVP Line Triple Lumen	No representative of complainant attended the meeting of CRC. However, the Committee examine the complaint and observed that the Technical Evaluation Committee approved Pharmaceutical products & Surgical devices on Clinical experience basis as specified in Clause 12.2 of bid documents. Inview of above, the complaint of M/s. Iqbal & Co., being baseless and un-justified, therefore dismissed.
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10) Complaint of M/s M.I Enterprises, Hyderabad forwarded by SPPRA vide letter No5114, dated. 27-11-2014.

M/s M.I Enterprises has raised objections on the process of tender and make observation on their disqualification. They pointed out that they are qualified but their two items of Fynk Pharma not considered.	Committee examined the complaint of M/s. M.I. Enterprises, Karachi and observed that they were technically qualified but their manufacturers including M/s. Fynk Pharma was disqualified as they have obtained 63 marks, so their items were not considered. Their other objections are similar same as pointed out by SPPRA, against which the department is replying the facts. In-view of above, the complaint of M/s. M.I. Enterprise being frivolous and un-justified, therefore dismissed.
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11) Complaint of M/s. Hassan Distributor, Hyderabad forwarded by SPPRA vide letter No5114, dated. 27-11-2014.

M/s. Hassan Distributor has referred the reference of Suit filed by various bidders in the High Court of Sindh and raised objections in the whole process of tender and pointed out irregularities regarding qualified of the offer of M/s Shamim & Com (for Epla) whereas M/s. Epla also authorize them but not considered.	Committee examined the complaint of M/s.Hassan Distributor, Hyderabad and observed but they were technically dis-qualified. Moreover, M/s.Epla was also disqualified for both the bidders M/s. Shamim & Co., & M/s. Hassan Distributor. Their other objection are the same as pointed out by SPPRA, against which the department is replying the facts. In-view of above, the complaint of M/s. Hassan Distributor based on frivolous and un-justified grounds, has therefore dismissed.
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Secretary to Govt. of Sindh
Health Department.

6) Complaint of M/s Al-Mustufa Enterprises Hyderabad forwarded by SPPRA vide letter No5114, dated 27-11-2014

<p>M/s Al-Mustufa Enterprises has raised objections for rejection of their bids for following items. Item No. 91(Syrup: Montelukast). They have quoted registered product but the product quoted by M/s Sharnim & Co. (Getz Pharma) not registered yet as only tablet & sachet are available. Item No. 92(Syrup.Montelukast 4mg), Item No. 153(Cap.Fluconazole), 134(Cap:Esomperazole), 234(Tab:Montelukast) & 256 (Tab.Omperazole). They informed that these are basic need / product of all teaching hospitals & chest hospitals and only Everest Pharma have this molecule all over in Pakistan, why committee not considered these items.</p>	<p>The representative of M/s. Al-Mustufa Enterprises informed the Committee about rejection of their bids as pointed out in their complaint. The CRC examined the complaint and observed that the Technical Evaluation Committee approved Pharmaceutical products on Clinical experience basis specified in Clause 12.2 of bid documents. Therefore, the complaint of M/s. Al-Mustufa Enterprises, being frivolous and un-justified, is dismissed.</p>
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7) Complaint of M/s A.Z. Pharma forwarded by SPPRA vide letter No 5114, dated 27-11-14

<p>M/s. A.Z. Pharma raised objection of their bid in clinical assessment by the Technical Evaluation Committee in respect of following items.</p>	<p>The representative of M/s. A.Z. Pharma, informed the Committee about rejection of their bids as pointed out in their complaint, he has informed that they offered the lowest prices but huge loss to public exchequer caused due to rejection of their bid on Technical ground. He also informed that there are almost 50% difference between their quoted rate & approved rate of item No.184. The CRC examined the complaint and observed that the Technical Evaluation Committee approved Pharmaceutical products on Clinical experience basis as specified in Clause 12.2 of bid documents but the items in question of simple Dextrose 5% Water, Saline & Ringer Lactate, Metronidazole, hence the bid of complainant disqualified in the clinical assessment of products by Technical Evaluation Committee is not justified. In-view of above, the complaint of M/s. A.Z Pharma found genuine and should be included in financial comparative to save big Government exchequer.</p>																				
<table border="1"> <tr> <td>91</td> <td>Dextrose 5% + Sodium Chloride 0.9% 1000ml.</td> </tr> <tr> <td>95</td> <td>Dextrose Salin ½ Strength 500ml (0.45%)</td> </tr> <tr> <td>98</td> <td>Dextrose Water 5% 1000ml.</td> </tr> <tr> <td>146</td> <td>Hartmana Solution 500ml.</td> </tr> <tr> <td>147</td> <td>Hartmana Solution 1000ml</td> </tr> <tr> <td>174</td> <td>Mannitol 20% 500ml</td> </tr> <tr> <td>184</td> <td>Mertronidazole 100ml.</td> </tr> <tr> <td>230</td> <td>Ringer Lactate 500ml</td> </tr> <tr> <td>231</td> <td>Ringer lactate 1000ml</td> </tr> <tr> <td>237</td> <td>Sodium Chloride 0.9% 1000ml</td> </tr> </table>	91	Dextrose 5% + Sodium Chloride 0.9% 1000ml.	95	Dextrose Salin ½ Strength 500ml (0.45%)	98	Dextrose Water 5% 1000ml.	146	Hartmana Solution 500ml.	147	Hartmana Solution 1000ml	174	Mannitol 20% 500ml	184	Mertronidazole 100ml.	230	Ringer Lactate 500ml	231	Ringer lactate 1000ml	237	Sodium Chloride 0.9% 1000ml	
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237	Sodium Chloride 0.9% 1000ml																				

8) Complaint of M/s A to Zee International forwarded by SPPRA vide letter No.5114.

<p>M/s A to Zee International Hyderabad has informed that they have quoted item No.149, Inj Tienam 500 mg manufactured by M/s MSD/OBS Pakistan. The Inj. Impin em (sr.149) and injection Meropenem (Sr.177 & 178) both Antibiotics are belong to same group "Carbapenem" But Technical Committee approved injection Meropenam (177 & 178) manufactured by M/s. ICI only, no other company i.e. Bosch, Maeter & Global</p>	<p>The representative of M/s. A to Zee Int, informed the Committee that Inj. Imipenem (sr.149) and injection Meropenem (Sr.177 & 178) both Antibiotics belong to same group "Carbapenem" but the Technical Committee approved only Research product (brand leader) against item No.177 & 178, whereas against item No.149: they have approved the product of M/s. Bosch Pharma alongwith Brand leader which is unjustified. The CRC examined the complaint and observed that the Technical Evaluation Committee approved Pharmaceutical products on Clinical experience</p>
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Secretary to Govt. of Sindh
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5) Complaint of M/s. Shamim & Co., Karachi forwarded by SPRA.

M/s. Shamim & Co. has raised objection on the following items:-

Surgical/Disposable.

1. Adhesive Sticking Plaster. They have quoted 3M Surgical Tape Transpore. As per Technical report Paragon Zinc Oxide (BSN) rejected and their quoted brand Transpore (3M) accepted, but as per financial C.S. paragon considered.

Item No. 13 & 53.

They have quoted both items and as per technical evaluation report they were only qualified for both but after opening of financial bids department considered M/s Saad Sales Services without any brand name.

Item No. 88,89,90,91,92,93,94 & 95.

a) They informed that items No.88,89,90 and 91 are used in Cardiac / Ortho Neurosurgeries. They quoted 3 M Ioban Incise Drop but approved products are neither medicated nor its incise area according to tender specification. They provide comparison as under.

IOBAN	OPSITE
provides persistent activity	not provides persistent activity
Medicated Incise Drape	Not a Medicated Drape
Coated with Iodophor impregnated anti microbial adhesive	is a Clear Drape
Recommended for all surgeries	Not recommended

b) For item No.92 & 93, they also quoted 3 M tegaderm dressing but the approved products of M/s BSN are neither Viral barrier and nor a clear dressing .
 c) They further informed that item 94 & 95 approved of M/s BSN are not a viral barrier dressing.

The representative of M/s. Shamim and Co. informed that the Technical Evaluation Committee accepted Transpore (3M) and rejected Paragon (BSN) for use in surgical procedure at hospitals. After technical evaluation by the Technical Committee, M/s.BSN made representation to Central Procurement Committee that the accepted product is not an Adhesive Sticking Plaster, it is a Surgical Tape and also not registered with Ministry of Health, Govt. of Pakistan that also not as per the size mentioned in specification. The CPC had decided earlier in its meeting held on: 06.11.2014 that Transpore was an un-registered product and not as per the required tender specification, hence registered product of M/s. BSN as per tender specification accepted as shown in the minutes of meeting of Central Procurement Committee. Given the above technicalities involved in ascertaining the pharmaceuticals products, the Committee decided that complaint of M/s. Shamim & Co. is frivolous and un-justified, therefore dismissed.

The CRC examined both the items quoted by M/s. Shamim & Co., both these items were also quoted by M/s. Saad Sales, which were also technically evaluated by the technical evaluation committee and approved their samples alongwith Shamim & Co., hence both were included in the comparative statement. No sign of rejection was available in technical evaluation report. Inview of above, the complaint of M/s. Shamim & Co., is baseless, therefore dismissed.

The CRC examined the complaint and observed that the Technical Evaluation Committee approved both brands as per Clinical experience basis specified in Clause 12.2 of bid documents, hence both included in the Comparative Statement accepting the lowest bidder. Inview of above, the complaint of M/s. Shamim & Co., is baseless, therefore turndown.

3) Complaint of M/s Novartis Pharma forwarded by SPPRA

M/s. Novartis Pharma has reservation for acceptance of bid of M/s. AJM Pharma against item No.105 despite they are lowest as their financial offer consist of a discount in kind and have offered 10 packs free on each 100 packs, & the approved item is not as per tender specification.

The representative of M/s. Novartis has informed that the strength of item No.104 & 105 in tender specification are 100mg & 400mg, whereas 100mg strength has already been awarded to us, and item No.105 was approved of M/s. AJM Pharma of strength 500mg, which is not as per tender specification, no corrigendum for change of strength was issued, published & hoist on SPPRA website and neither sent to the participants through registered courier or email. Moreover, this drug is used on body weight calculation with approximate 600 to 800mg, therefore both items should be of one manufacturer to ensure efficacy and also monitor the adverse effects, simultaneously on offered rates, the department will get 10% cost benefits in a branded and quality product with more than 90% of market share. The CRC examined the complaint and observed that acceptance & rejection of item No.105 is not justifiable and the department did not provided corrigendum of change of strength, neither published & nor hoisted on SPPRA website, hence committee decided that the complaint is genuine, and may be considered against this item.

4) Complaint of M/s Karachi Medical Company, Karachi forwarded by SPPRA vide letter No5114, dated. 27-11-2014.

M/s Karachi Medical Company raised objection that following items quoted by them were not considered by Technical evaluation Committee although other items of the same manufacturers have been selected that means that their quality is satisfactory.

Item No.76:Ciprofloxacin Infusion:
Item No.164:Levofloxacin Infusion:
Item No.184: Metronidazole Infusion:
I.V. Infusions (Drip 500ml & 1000ml) of M/s. FDL have been accepted but above Infusion of FDL not accepted.

Item No.263 & 264: Vancomycin Inj.
06 products of M/s.Nabiqasim have been accepted but Vencomycin Injection did not accepted for no reason

Item No. 56: Blood Sugar Test Strip with Lane
Accu-Check Gluco strip of world standard did not accepted whereas an unknown brand has been accepted.

M/s. Karachi Medical Company informed the committee that I.V. Infusions (Drip 500ml & 1000ml) of M/s. FDL have been accepted by the technical committee but Infusion of FDL at items No.164, 184 not accepted without assigning any reasons, which caused huge loss of Govt. exchequer.

The Committee examined their complaint and observed that as per their statement their quoted rates are almost 50% less than the approved rates, The committee decided that the Technical Evaluation carried out by the Technical Committee are not justifiable against items # 164 & 184 as these are not life saving drugs, hence their offer may be considered against these items to save big Government exchequer. Moreover, M/s.Grace Pharma filed a petition in High Court and on orders of Honourable Court, this Department has already stopped / with-held items No. 76, 164, 184, 263 & 264 till final decision of High Court.

The Committee unanimously decided that their complaint for items No.164 & 184, will also be finalized/considered after decision of Honourable High Court.

CRC also feels that rejection of item No. 56, on clinical experience basis are not justifiable as these strip are well known and frequently in use, hence their offer may be considered for this item.

**MINUTES OF THE MEETING OF COMPAINT REDRESSAL COMMITTEE
(CRC) HELD ON: 02-12-2014 UNDER THE CHAIRMANSHIP OF
SECRETARY TO GOVT. OF SINDH, HEALTH DEPARTMENT**

A meeting of Complaint Redressal Committee was held on 02.12.2014 under the Chairmanship of Secretary Health, Government of Sindh in view of various complaints received from aggrieved bidders against tender & technical evaluation finalized by the Central Procurement Committees (CPC) & Technical Evaluation Committee invited by Health Department under Rate Contract for the year 2014-15. Following members of the committee attended the meeting.

- | | |
|---|-----------|
| 1) Secretary Health, Government of Sindh | In Chair. |
| 2) Special Secretary (PH), Health Department, Govt. of Sindh. | Member |
| 3) Director General Health Services Sindh, Hyderabad. | Member |
| 4) Mr. Nawab Haider, representative of AG Sindh, Karachi. | Member |
- Professor of Medicines, Dow University of Health Sciences, Karachi did not attend the meeting.

The Additional Secretary (PM&I), Health Department, produced relevant record before CRC. Representative of complainants attended the meeting explaining their complaints in detail. The Committee examined and discussed the complaints thoroughly and subsequent views of complainants and the clarification by the Additional Secretary (PM&I), Health Department, on behalf of CPC. The Committee unanimously decided as under:

- 1) Complaint of **M/s Zafa Pharma** forwarded by SPPRA vide letter No.5114, dated.27-11-2014

Complaint	Decision of CRC
1) M/s Zafa Pharma raised objection for rejection of their bids in Clinical assessment by the Technical Committee. Item No. 59- Inj. Cefotaxime 1gm. Item No. 66- Inj. Ceftriaxone 1gm.	Nine (09) Bidders quoted Item No.59, and Eight (08) Bidders quoted item No.66, out of which 04 bidders were approved by the Technical Evaluation Committee on clinical experience basis, while 05 Bidders in Item No.59 & 04 bidders in Item No.66 including M/s.Zafa Pharma were rejected by the Committee as per Clause 2.12 of tender enquiry. Given the technicalities involved in ascertaining the pharmaceutical products, the Committee decided that the Technical Evaluation carried out by the Technical Committee is according to the requirement, efficacy and quality, the complaint of M/s. Zafa Pharma, Karachi is found baseless, hence dismissed.

- 2) Complaint of **M/s Hospital Services & Sales** forwarded by SPPRA vide letter No.5114, dated.27-11-2014

M/s Hospital Services & Sales raised objection regarding acceptance of bid of M/s Amson Pharma against item No-1 (ATS 1500 i.u) as the brand quoted is for Tetanus Toxide 40 i.u. It is not ATS 1500 i.u and it rates Rs.40.90 each, higher as compared with Tetanus Toxide on item No.48, against which they have quoted rates Rs.36.30/each.	The representative of M/s. Hospitals Sales & Services, Karachi has explained their complaint/ grievances before CRC as the Item No.1, quoted by M/s. Abbas Enterprises (Amson Pharma) was not ATS, it is simply Tetnus Toxide, which is already available at Item No.48. After thorough examination, the CRC was of view that the complaint is genuine, moreover the department has already stopped this item vide letter dated. 25-11-2014, hence this may be re-tendered.
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Karachi, dated
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(MD)
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