GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY

NO.AD (L-II)/SPPRA/CMS-2967/2021-22/0855 Karachi, dated the 1st March, 2022

To,

The Executive Engineer,
Sujawal Drainage Division,
SUJAWAL.

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

The undersigned is directed to refer to the subject cited above and to enclose herewith a copy of the Authority's Review Committee decision (**M/s Haji Habibullah Khan, v/s Executive Engineer, Sujawal Drainage Division Sujawal,** held on 22 .02.2022, It is farther stated that Committee has rejected appeal submitted by the Appellant M/s Haji Habibullah Khan.

ASSISTANT DIRECTOR (Legal-II)

A copy is forwarded for information and necessary action to:

1. The Secretary to Government of Sindh, Irrigation & Power Department.
2. The Superintending Engineer, Lower Sindh Drainage Circle Hyderabad.
3. Assistant director (I.T), SPPRA **(with advice to post the decision on the Authority's website in terms of Rule-32(11) of SPP Rules, 2010)**
4. The Staff Officer to the Chairman / Members Review Committee.
5. The Appellant.

GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY

No.AD (L-II)SPPRA [illegible] /2020-21 Karachi, dated the 28th February 2022

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

DECISION OF THE REVIEW COMMITTEE HLED ON 22.2.2022

Name of Appellant	M/S Haji Habibullah Khan
Procuring Agency	**XEN SUJAWAL DRAINAGE DIVISION SUJAWAL**
IPPMS ID#	(T00987-21-0004)
Reference No.	EC/G-55/NIB/480/2021
Appeal Received in Authority Dated	11.02.2022
Complaint of the appellant addressed to Superintendent Engineer Lower Sindh Drainage Circle Hyderabad.	11.1.2022
Dated of Posting Notice Inviting Tender	0 = 25-12-2021 1 = 25-12-2021
Date of Opening (First Opening)	10.1.2022
Date of Opening (Second Opening)	25.01.2022
Date of Posting Bid Evaluation Report	04-02-2022
Date of Posting Concerned Documents	Not posted up-to .15.2.2022
SPPRA Observations communicated on	8.2.2022
Estimated Cost of NIT Total	37 Million
Total works in NIT	One work
Appellant Related work	Complete NIT
Issue Involved	Non- observance of SPP Rules Non-opening of bids
Complaint of the appellant	11.1.2022

The Appellant's Version

1. This appeal has been preferred by the appellant M/S Haji Habibullah Khan hereinafter referred as "Appellant" in terms of Rule 31(5) against the procuring agency "The Executive Engineer Sujjawal Drainage Division Sujjawal." hereinafter referred as the "procuring agency". The appellant was called by the Review Committee for ascertaining the maintainability of appeal. The appellant could not appear before the Review Committee. The Review committee decided adjudicates the matter ex-parte. The appeal and complaint of the appellant are on the record. The appellant had filed the complaint before the Complaint Redressal Committee on **11.1.2022** and the Complaint Redressal Committee could not call its meeting as one of the member of Complaint Redressal Committee was test Covid-19 positive. As per the written statement of the appellant, the appellant was asked by the CRC to wait for 14 days till the member of the CRC becomes salubrious. However, the CRC was not called after the lapse of 14 days. Therefore, he had filed the Review Appeal on **11.2.2022** vide letter dated 9.2.22
2. The appellant argued that since he was asked by the Superintendent Engineer that CRC meeting would be called after 14 days therefore he was waiting for the CRC meeting to be called and as such not approach the Review Committee within time.

Findings of the Review Committee

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

Rule 31(5)

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

Rule 32(1)

> **A bidder not satisfied with decision of the procuring agency's complaints redressal committee may lodge an appeal to the Review Committee within ten (10) days of**

announcement of the decision provided that he has not withdrawn the bid security, if any, deposited by him.

3. From reading and analysis of the rules mentioned supra, it is evident that there are two ways to approach the Review Committee-by transfer or dissatisfaction from CRC decision. One of the way-approaching by transfer-is to approach the Review Committee in case the Complaint Redressal Committee fails to arrive at the decision within 7 of the receipt of the complaint. In this case, the appeal stands transferred to the Review Committee which is authorized to dispose of the complaint provided that the aggrieved bidder files the review appeal within ten **(10) days of such transfer.**
4. Another way to approach the Review Committee is after the announcement of the decision of Complaint Redressal Committee. In this case also the complainant is required to approach the Review Committee within ten (10) days of the announcement of the decision.
5. It may be noted that in either of the cases whether failure of CRC to decide the matter or dissatisfaction of the bidder from CRC decision, the bidder was required to approach the Review Committee within 10 days. In accordance with the rules, any appeal received after 10 days' time shall not be maintainable. In the instant matter, the bidder was not successful to approach the right forum at right time. He approached the Compliant Redressal Committee on [illegible].1.2022 but the compliant Redressal Committee failed to arrive at the decision within seven (7) days. Resultantly, the appellant approached to the Review Committee on 11.1.2022 (vide letter dated 09.2.2022) after the lapse of about thirty days which is not allowed as per SPP Rules.
6. The above discussion is summarized in table below.

Way of Approaching the Review Committee	Condition	Time limitation	In Appellant's case
By Transfer [illegible] 31(3)	If the CRC fails to arrive at the decision If the aggrieved bidder files the Review Appeal within ten days of such transfer	Within 10 days of the transfer of appeal	The complainant filed complaint on 11.1.2022. The CRC failed to arrive at the decision within seven days(7) The appellant filed appeal 23 days of the transfer of appeal.
Dissatisfaction from the Decision of the Complaint Redessal	If CRC announces its decision and the		

Committee Rule 32	complaint is dissatisfied If the complainant lodges appeal within ten days of the announcement of decision.		

7. The appellant submitted that he could approach the Review Committee because he was asked by the CRC to wait 14 days. The Review Committee noted that the appellant was required to approach the Review Committee timely and just the letter of waiting cannot override the legal procedure.
8. It is well settled principle of law that **Vigilance is required for the claim and infringement of rights.** Vigilance requires that those who wish to seek assistance of law must move within time limitations to do so.
9. The above discussion is sufficient to prove that the appeal is time barred under SPP Rules

Decision of the Review Committee:

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

Member
(Manzoor Ahmed Memon)
Member SPPRA Board

Member
(Munir Ahmed Shaikh)
Independent Professional

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

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