



**TRANSPARENCY
INTERNATIONAL-PAKISTAN**

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Advisory Committee

11th January, 2011

Chairman,
Karachi Port Trust,
Head Office,
Edujee Dinshaw Road,
Karachi

Sub: Complaint of Non Recovery from Contractor of "Reconstruction of Berths 10-14"

Dear Sir,

In continuation of TIP letters dated 28th December 2012, this is to inform KPT that another complaint is received against M/s Ssang Yong Usmani (J.V.) in Contract of KPT Project "Reconstruction of Berths 10-14".

The complaint is that M/s Ssang Yong Usmani (J.V.) has imported materials like Tie Rod, Bollard, Fenders etc. for the Reconstruction of Berths 10-14 at only 5% Custom duty, and 1% income tax, whereas M/s Ssang Yong Usmani (J.V.) have has charged KPT in the quoted prices as well as in the extra items at the rate of 61% for the Custom duty and income tax. (Copy of M/s Ssang Yong Usmani J.V. Rate analysis for Tie Rod is enclosed).

The complainant has informed that according to the clause 70.9 of the condition of particular application Part II B of the contract between KPT and M/s Ssang Yong Usmani (J.V.), tender rates are to be based on the custom duties, taxed and other levies payable by contractor 7 days before the date of submission of the tender. And any increase or decrease in the rates due to subsequent action of changes in the duties will be will be subject to adjustment for payment or deduction from contractor.


As the SRO 575 for 5% Custom, Zero ST, has been stated to be applicable since 2006, and contractor has submitted his rates with Custom and ST at the rate of 61%, and 34% over head, KPT shall have adjusted the extra payment made to M/s Ssang Yong Usmani J.V. KPT had directed the consultant in June 2010 to calculate all these amounts from the Contractor. (Copy of KPT Letter dated 28 June 2010 for recovery is enclosed).

It is also reported by the Complainant that the Consultants have not taken any action since last 20 months, and also that KPT has failed to make the recovery, which amounts to more than Rs. 500 million. By not recovering the amount in last 20 months, KPT has favored the contractor a sum of 108 million, @ 13% annual interest rates which KPT could have earned by depositing the same in FDR.

KPT is requested to examine the complain, t and if found true recover all the over payments made to Contactor of account of all imported material used in the Project and other dues on account of delayed recoveries also.



Regards,


Syed Adil Gilani
Adviser

Copies forwarded for the information of,

1. Chairman Public Accounts Committee, National Assembly, Islamabad
2. Chairman, NAB , Islamabad.
3. The Federal Tax Ombudsman, Islamabad,
4. The Registrar, Supreme Court of Pakistan, Islamabad
5. DG, NAB, Sindh, Karachi.
6. MD, PPRA, Islamabad.



Ssangyong+Usmani
Joint Venture



**RECONSTRUCTION OF BERTHS 14-17A AND SRBs
AT KARACHI PORT**

Rate Analysis
Unit = Meter

BOQ Item No.8.1 (Tie Rods)

Supply & Install tie bar of H.Y.S. 140mm dia @ 4.20m c/c
of approx. 50m as specified in Section 1300:

1- Cost of Tie Rods F.O.B. Price as per quotation from China Juli Group	US\$: 159.60	
Sea freight @ 45.00 US\$ per Ton i.e. 122 Kg (including packing) x 0.045	US\$: 5.49	
	US\$: 165.09	
US\$: 165.09 @ Rs.60.80	=	10,037.00
2- Custom duty, all type of Taxes, Port clearance and Bank charges etc upto delivery at site @ 61.00% (approx)	=	6,123.00
3- Fixing charges for 120 Kg @ Rs.6,450/- per 1 cn.	=	775.00
		16,935.00
4- Overhead & Profit 34.00%	=	5,758.00
Cost per meter		<u>22,693.00</u>

Bid



KARACHI PORT TRUST
PLANNING & DEVELOPMENT DIVISION

NO.P&D -All (1541)/2008/Exe/1433
Dated: 28 JUN 2010

✓ Chief Resident Engineer,
M/s Lyon Associates + Techno Consult Int.,
Reconstruction of Berths 10-14
East Wharf
Karachi

PROJECT: RECONSTRUCTION OF BERTH 10 &14 ON EAST
WHARVES AT PORT OF KARACHI

SUBJECT: Saving in customs, duties, taxes and other levies under
Clause 70.9 of Condition of Particular Application ,Part II-B


1. Clause 70.9 of Condition of Particular Application Part II B, states as under:

All custom duties, taxes and other levies payable by the Contractor at the time of custom clearance in respect of Plant and materials to be incorporated in the Permanent Works and imported for the purpose of the contract subsequent to the date seven (7) days prior to the deadline for submission of Tenders and paid by the Contractor shall be subject to adjustment for payment to or deduction from the Contractor of the difference between the sum actually paid as a result of subsequent additions or changes to any regulations or bye-law of any local or other duly constituted authority and the amounts which would have been otherwise payable in accordance with the conditions prevailing on the date seven (7) days prior to the deadline for submission of Tenders. No other duties, taxes, levies etc shall be reimbursed and the cost thereof shall be deemed to be included in the rates and prices entered in the Bill of Quantities

2. The tender was accordingly prepared and was based on the custom duties, taxes and other levies prevailing seven (7) days prior to the deadline for submission of tenders. Thereafter vide letter dated April 2, 2009 Contractor requested Board of Investment for exemption from custom duty in excess of 5% and whole of sales tax on Import of capital goods under SR No 16 of SRO 575(I)/2006 dated 05-06-2006. Accordingly their

request was considered and accordingly M/s Ssangyong were exempted from custom duty in excess of 5% and whole of sales tax on Import of capital goods.

3. Thus according to Clause 70.9 mentioned above the adjustment in rate of imported item is to be made and saving incurred due to exempted from custom duty in excess of 5% and whole of sales tax on Import of capital goods is to be passed on to employer.
4. Further, contractor submitted Sales Tax Invoices with zero rating for the period 01-11-2008 and onward to Sales Tax Department mentioning KPT as buyers and not forwarded the copy of Invoices to KPT as per Sales Tax Rules which is the breach of Sales Tax Act and thereafter applied for the refund of the same which has been granted. Please get the details from Contractor of refund that has been granted as it is to be passed on to KPT.
5. Please work out the total saving that Contractor has made under exemption from custom duty in excess of 5% and whole of sales tax on Import of capital goods under SR No 16 of SRO 575(I)/2006 dated 05-06-2006 on all imported items such as Tie-Rod, Fenders etc to enable KPT to recover from the Contractor and the sales Tax that had been refunded by the sales Tax Department.


PROJECT MANAGER (E)
P&D, KPT

Copy to
General Manager (P&D)
Project Manager(P), P&D, KPT
Project Manager, M/s Ssangyong+Usmani JV