



TRANSPARENCY INTERNATIONAL-PAKISTAN

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Advisory Committee

16th September 2011

Mr. Salman Siddique,
Chairman,
Federal Board of revenue,
Islamabad.

Sub: Allegation of Corruption of Rs 112 Million of M/s Ssang Yong Usmani (J.V.) in
Contract of KPT Project "Reconstruction of Berths 10-14", by alleged illegal refund
of GST and SED

Dear Sir,

Transparency International Pakistan has received a very serious complaint of illegal refund of GST and SED by a Contractor of a public sector project, M/s Sangyong + Usmani Joint Venture on a KPT Project "Reconstruction of Berths 10-14. The refund has been claimed on local construction material like Cement, MS Reinforcement Bars, Steel Section etc. of Rs 158 million till Feb 2011, and that M/s Sangyong + Usmani Joint Venture have received the refund of Rs 112 million. The complainant has reported that a Contractor can not claim GST refund as the Contractor of KPT has not sold any value added goods to KPT on which GST has to be collected. And that M/s Sangyong + Usmani Joint Venture has not claimed any GST from KPT and nor deposited it with FBR. (copy of the complaint with documents is enclosed).

The refund claim is reported to have been settled under Sales Tax Act 1990, u/s 4 Clause (a) read with Fifth Schedule, SED under SRO N655(I)/2007 Sr. No. 34 of the table.

It has also been reported that KPT has initiated action against the Contractors M/s Sangyong + Usmani Joint Venture.

Vide letter dated 28 June 2011 the GM P&D has advised the Consultants to get the details of such GST refund from Contractors which has to be passed on to KPT in accordance with Contract Clause 70.9 Condition of Particular Application Part II. And that as they have submitted ST Invoices with Zero Rating for period 1-11-2008 to the Sale Tax Department mentioning KPT as buyers and not forwarded copies of the invoices to KPT as per Sales Tax Rules which is a breach of Sales Tax Act.

It is understood that builders are not exempt from FED/GST as per list of First Schedule S. No 2 (a) (6) of Federal Excise Act 2005 and if a builder claims exemption under SRO N655(I)/2007 then it needs to be checked why the said builder exempted from SED is not paying 16% FED/GST. When the Zero rated invoices are not reflected in KPT returns of Sales Tax/SED filed for 2009, as KPT is declared by M/s Sangyong + Usmani as the buyer, it was FBR duty to examine the Sales Tax Refund files of M/s Sangyong + Usmani prior to allowing the alleged refund.

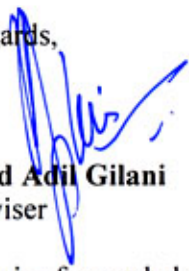
Transparency International Pakistan request the Chairman get the complaint examined for its correctness, that if complaint if proved to be genuine, M/s Sangyong + Usmani may have committed a corrupt business practice as reported by the complainant, and under Public Procurement Rules 2004, Rule 2 (g), and may result in the following actions by KPT.



1. Impose 10 times fine on Rs 112 Million, i.e. Rs 1.12 Billion on Contractors.
2. Terminate the Contract;
3. Recover from the Contractor any loss or damage to the Employer as a result of such termination or of any other corrupt business practices of the Contractor or any of his Subcontractors, agents or servants.
4. Proceed action on blacklisting the Contractors under PP Rule No 19.
5. Report to NAB for criminal action against Contractors under NAO 1999 Section 9.

Transparency International Pakistan is striving for the Rule of Law in Pakistan.

Regards,


Syed Adil Gilani
Adviser

Copies forwarded for the information with the request for action under the prevailing Rules and regulations invoke in their respective domain,

1. The Federal Tax Ombudsman, Islamabad, with request to take Suo Moto action to examine all such cases of fraudulent refund as reported by a complainant, given to all Contractors by FBR under Sales Tax Act 1990, U/S 4 Clause (a) read with Fifth Schedule, SED under SRO N655(I)/2007 in order to recover Billions of Rupees Tax Evasion in last many Years.
2. Chairman Public Accounts Committee, National Assembly, Islamabad
3. The Registrar, Supreme Court of Pakistan, Islamabad
4. Auditor General Pakistan, Islamabad
5. Chairperson KPT, Karachi
6. Chairman, NAB, Islamabad.
7. Managing Director PPRA, Islamabad.