

No. BPPI/Drug- 050/2017

Dated: 27/12/2018

ORDER

Whereas, Bureau of Pharma Public Sector Undertakings of India, New Delhi had published tender no. BPPI/Drugs- 050/2017 dated 22.05.2017 through e-procurement system for supply of drugs for the year 2017-2019.

Whereas, M/S Nestor Pharmaceuticals Limited (here after called as the firm) addressed at S-22/6, DLF Phase- III Gurgaon- 122010, Haryana had participated in tender. The firm was awarded 20 drugs including DC- 330 (Prednisolone 10mg Tablet) by Bureau of Pharma Public Sector Undertakings of India, New Delhi vide Letter of acceptance dated 07/11/2017 for the period of 2 years as per tender provision. The firm was asked to supply the drug within 30 days against purchase order no. BPPI/2017/PO/Drugs/01714 dated 16.02.2018 as per details below:-

S. No.	Purchase order no. & date	Drug code	Description of Drug	Quantity	Delivery Period	Value of purchase order(Excluding GST)
1.	BPPI/2017/PO/Drugs/01714 dated 16.02.2018	330	Prednisolone 10mg Tablet	500000	30 Days (Expired on 18.03.2018)	2310000/-

Whereas, Bureau of Pharma Public Sector Undertakings of India, New Delhi issued Show cause notice on 20/09/2018 to the firm informing about provisions of the clause no. 11 (e), 12.4 (d) & (e), 19.7 & 20.1(a) of tender document with request to explain within 7 days why not following actions against them may be taken:-

- (i) Procure the drugs from the other sources at your risk and cost as per tender clause 12.4 (d) & (e) and recovery of extra expenditure shall be made from you.
- (ii) Forfeiture of Security Deposit Rs. 12,10,980/- submitted by you after encashment of Bank Guarantee No. 00841714PER0019 Dated: 23.11.2017 issued by Andhara Bank valid till 22.11.2020.
- (iii) Consider your bad performance for future dealings and disqualify your company from participating in the tender for the next 2 years.
- (iv) Recover 5% value of supply order from your pending bill.
- (v) Initiate blacklisting of your company.

Whereas, the firm vide their e-mail dated 22/09/2018 replied that they were trying to procure the API and finally they got confirmation from one of the API supplier. They will get the supply of API in next 30-40 days. Therefore, the firm desired extension of 60 days for supply of goods under "Force Majeure". Further, they have stated that non- availability of API raw material due to "Force Majeure" reasons they were unable to execute the order within the prescribed time limit. Therefore, no punitive action be imposed against them due to delay in supply which was beyond their control.

The firm didn't supply even after expiry of 60 days from date of their e-mail dated 22.09.2018. The explanation of the firm regarding "Force Majeure" conditions due to non-availability of API is not acceptable as "Force Majeure" clause no. 12.9 of tender document doesn't cover non-availability of API/ Raw material.

In view of above, the firm is debarred for a period of 2 years to participate in the tender of Bureau of Pharma Public Sector Undertakings of India, New Delhi for supply of DC- 330 (Prednisolone 10mg Tablet) from date of issuance of this order besides recovery of 5% value of supply order from pending bills & forfeiture of performance security.

This order is without prejudice to the legal and criminal action to be taken if any, by Bureau of Pharma Public Sector Undertakings of India, New Delhi in the matter.


Sachin Singh, IRS
Chief Executive Officer
Bureau of Pharma PSUs of India, New Delhi

To

Regd.

M/S Nestor Pharmaceuticals Limited (here after called as the firm) addressed at S-22/6, DLF Phase- III
Gurgaon- 122010, Haryana