

File No- Letter No.: - BMSIC/40030/494-2024/ 969)

Date: -06/12/2025

Order

M/s Athens Life Sciences, Flat No-502, Tower 12A Suncity, Prikarma, Sector-20, Panchkula, Haryana-134116 has participated in Tender No- BMSIC/DRUGS/24-05 & BMSIC/DRUGS/24-06.

The firm, M/s Athens Life Sciences was declared L1 for the Amoxycillin dry Syrup 125 mg/5ml 30ml and L2 for Levocetirizine Dihydrochloride Syrup- 2.5mg/5ml. The firm gave its consent to accept and supply on L1 rate.

BMSICL received an information regarding conviction of the firm by Chief Judicial Magistrate, Court, Cuddalore, vide Order dated 29.05.2023. The firm didn't inform BMSICL regarding this conviction, which was in consonance to violation of Clause 3 (i), 3(n), 14(d) & 27(A). The case pertains to the product Atelong (Amlodipine Besylate & Atenolol Tablets), Batch No. TG21-1294F, which was declared sub-standard by the Government Analyst, constituting a violation of Section 18(a)(i) and Section 18(c) read with Serial No. 2 of Form 25 and condition 3(ii) of Form 20B of the Drugs and Cosmetics Act, 1940.

The last date of online submission of Tender no- BMSIC/DRUGS/24-05 was on 03-07-2024 and for Tender no- BMSIC/DRUGS/24-06 was on 24-07-2024. But the firm didn't inform to BMSICL regarding the conviction.

Clause 3(i) of the Standard Bidding Document states that, "*Non-Conviction Certificate (NCC) issued by the concerned Licensing Authority from Drugs Control Administration of the state for last three years should be submitted (wherever applicable). It should be not more than one year old. Self-attested copies are to be submitted*".

Clause 3(n) of the Standard Bidding Document states that, "*The tenderer should give an affidavit (with stamp) sworn before first class magistrate /Notary stating that the firm & its quoted product is not black listed currently (as on the date of submission of the tender) by Central Government / Central Government agencies/any state government or any of the state government agencies / or any Drug procurement agencies or by BMSICL as per Annexure-IP*".

Clause 14(d) of the Standard Bidding Document states that, "*If at any stage, it is found that the tender has been successfully obtained by the bidder by submitting forged/fabricated certificates/documents/licenses and/or by concealing the fact about blacklisting/debarring/de-registration of the firm by Govt. of India/Suspension/Cancellation/non-renewal of the manufacturing license of the bidder firm, the tender bid/rate contract may be rejected/terminated and suitable punitive action may be taken against the firm.*"

Clause 27(A) of the Standard Bidding Document states that, "*If the Tenderer fails to execute the agreement / to deposit performance security / to perform the obligations under the tender conditions / commits default in the performance of the contract/agreement, such Tenderers will be blacklisted for a period of 2 years by BMSICL from the date of intimation besides forfeiture of EMD/Performance Guarantee. The Tenderers who have withdrawn after participating in the tender either fully or partially, the entire firm/company will be blacklisted for a period of 2 years from the date of intimation by BMSICL apart from forfeiture of the Security Deposit/EMD*"

The firm was issued two show cause notices viz. Letter No-6172 dated 02-09-2025 and Letter No-7644 dated 06-10-2025. The firm replied that they were imposed fine of Rs.20, 000/- under Section 27(d) of the Drugs and Cosmetics Act, 1940. The order included a default sentence of one-day

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imprisonment, applicable only in case of non-payment of the fine. The firm confirm that the fine was duly paid immediately, and no imprisonment was imposed or undergone. Thus, the order resulted solely in a regular monetary penalty. This was found to be unsatisfactory and is the violation of clause 3 (i), 3(n), 14(d) & 27(A) of the standard bid document.

In response to the show-cause notice dated 02.09.2025, the firm replied vide letter dated 03.09.2025, stating that the notice did not provide complete details regarding the case and that essential information such as the case number, nature of the case, and other relevant particulars had not been furnished. Thus, the firm attempted to conceal the matter. Also, the official case status of the District Court clearly records the "Nature of Disposal" as 'Conviction. A conviction is recorded once the court finds the accused guilty. By claiming that the case "resulted solely in a regular monetary penalty" and implying that there was no conviction, the firm has misrepresented the legal effect of the court order.

The firm repeatedly argued that the penalty imposed was only a monetary fine, therefore "not a conviction."

This claim is incorrect for the following reasons:

(a) **Legal position under the Drugs and Cosmetics Act, 1940:** Under Section 27(d) of the Act, selling or distributing a drug declared not of standard quality results in criminal conviction. The statute prescribes imprisonment and/or fine. Even where imprisonment is not imposed, the finding of guilt and imposition of fine constitutes a criminal conviction.

(b) **Default sentence in the Order:** The trial court's order included a default sentence of one-day simple imprisonment in case of non-payment of fine. Such default imprisonment cannot exist without a conviction.

(c) **Classification in the District Court Records:** The official case status uploaded by the District Court explicitly records the "Nature of Disposal" as Conviction. Thus, the judicial system itself categorises it as a conviction, not a mere administrative penalty.

(d) **Attempt to misrepresent the legal effect:** By repeatedly stating that the fine "did not amount to conviction," the firm attempted to mislead the procuring agency by misrepresenting the actual legal outcome.

Therefore, the conviction is valid, subsisting, and squarely falls within the period relevant to the tender.

Violation of Tender Clauses:

- **Clause 3(i): Submission of NCC:** Bidders must submit a Non-Conviction Certificate (NCC) issued by the Drug Control Administration for the last three years. The firm submitted an NCC affirming that it had not been convicted. This was false, as the conviction order dated 29.05.2023 falls squarely within the 3-year period.
- **Clause 3(n): Mandatory Affidavit:** The bidder must furnish an affidavit disclosing that the product/firm is not blacklisted/convicted. The firm did not disclose the conviction.
- **Clause 14(d): Concealment and Forged Declaration:** If at any stage it is found that a bidder concealed facts relating to blacklisting/debarring/conviction, the contract is liable to termination and punitive action. The concealment is proven from the NCC and affidavit submitted.



- **Clause 27(A): Blacklisting in case of default or misrepresentation:** Any bidder who commits default or misrepresents material facts is liable to blacklisting for 2 years, apart from forfeiture of security deposit/EMD.

Responses to Show-Cause Notices: Two show-cause notices were issued:

- Letter No. 6172 dated 02-09-2025
- Letter No. 7644 dated 06-10-2025

The firm responded stating that only a fine of Rs. 20,000 was imposed, and “there was no conviction.” The reply was unsatisfactory because:

1. The reply did not disclose essential details like case number, nature of offence, and final order.
2. The firm attempted to conceal the fact that the court recorded conviction.
3. The firm suppressed the information while submitting the tender.
4. The statutory “Nature of Disposal = Conviction” directly contradicts the firm’s claim.

This shows a clear deliberate attempt at suppression.

Based on the tender documents, court order, statutory provisions, and the firm’s submissions, the following facts stand established:

1. The firm was convicted under Section 27(d) of the Drugs & Cosmetics Act, 1940.
2. The conviction fell within the statutory period for which the firm submitted an NCC.
3. The firm suppressed the conviction and submitted a false NCC.
4. The firm misrepresented facts in its reply to show-cause notices.
5. The firm’s actions directly violate multiple clauses of the Standard Bidding Document.

Such suppression of a material fact strikes at the heart of the procurement process and compromises the integrity of the tender system.

Order:

In light of the above, M/s Athens Life Sciences, Flat No-502, Tower 12A Suncity, Prikarma, Sector-20, Panchkula, Haryana-134116 is hereby **blacklisted** for a period of **two (2) years** from the date of issue of this order apart from forfeiture of security deposit and EMD.


(Managing Director)

Memo No. BMSIC/40030/494-2024/ 9691

Date: - 10/12/2025

Copy to: The Managing Director M/s Athens Life Sciences For information and needful action.


(Managing Director)

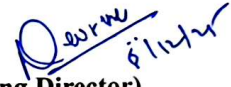


Memo No. BMSIC/40030/494-2024/9691

Date: - 10/12/25

Copy to:

1. The Secretary, Department of Health, Govt. of Bihar for kind Information please.
2. Executive Director, State Health Society, Bihar for kind Information please.
3. The CGM (Supply Chain), General Manager (Logistics), General Manager (Finance), BMSICL for information and necessary action.
4. MD, All Medical Corporations and Procurement Agencies all over India for Information and necessary action please.
5. CEO, Government e-Marketplace for information and necessary action please.
6. All Civil Surgeons, Bihar and Superintendents of all Govt. medical colleges and hospitals of Bihar for information and necessary action.
7. All the concerned manufacturer having rate contract with BMSICL for information.


(Managing Director)

