

File No- BMSIC/40025/68-2021/6552

Date: -15/ 11 /2022

Order

M/s Himalaya Meditek Pvt. Ltd., Plot No.: 35&36, Pharmacity, Selaqui Industrial Area, Dehradun- 248197, Uttarakhand has participated in Tender No. - BMSIC/DRUGS/20-10 and was issued a Letter of Intent (LoI) vide Letter No. 9443 dated 06-03-2021 for submitting the requisite documents, security deposit and to execute the Rate-Contract for the said drug within 15 days from the date of receipt of LoI. The firm signed the agreement on 12.05.2021, for the below mentioned products:-

- (i) Artemeter+Lumefantrin 80mg+480mg Tablets. (Rs. 0.30/- per Unit)
 - (ii) Cefoperazone Injection 250mg, powder for Injection. (Rs.6.24/- per Unit)
 - (iii) Diclofenac Sodium Injection 25mg/ml, 3ml Ampoule (Rs. 1.62/- per Unit)
- Subsequently, the firm M/s Himalaya Meditek Pvt. Ltd. was given orders to supply:-

1. 8000 units of Artemeter+Lumefantrin 80mg+480mg Tablet; 2,000 units of Cefoperazone Injection 250mg, powder for Injection and 14, 00, 000 Diclofenac Sodium Injection 25mg/ml, 3ml Ampoules, vide Letter No. - 1184 dated 26-05-2021.

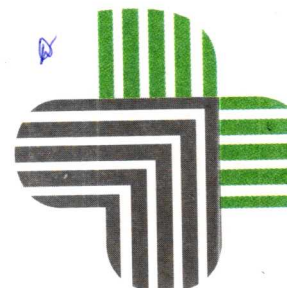
2. 15, 000 units of Artemeter+Lumefantrin 80mg+480mg Tablet; 6, 400 units of Cefoperazone Injection 250mg, powder for Injection and 21, 00, 000 Diclofenac Sodium Injection 25mg/ml, 3ml Ampoules, vide Letter No. - 6791 dated 16-12-2021.

3. 25, 000 units of Artemeter+Lumefantrin 80mg+480mg Tablets vide Letter No. - 4221 dated 16-09-2022.

The firm didn't supply the ordered quantity against the above mentioned Purchase Orders, but asked for extension of delivery schedule vide email dated 27.07.2021. The extension of 10 days was issued to the firm, vide Letter No. 4444 dated 11.09.2021 against Purchase Order no- 1184 dated 26-05-2021. Hence showcase notice was issued to M/s Himalaya Meditek Pvt. Ltd vide mail dated 09-12-2021, 14-03-2022 & 06-04-2022.

The firm M/s Himalaya Meditek Pvt. Ltd vide mail dated 04-11-2022 submitted its reply stating that, "the tender was published during COVID period. The raw material price have now increased to almost two times from the time we had executed the agreement. In view of this we humbly request your good department to consider our request for termination of rate contract for the particular item and not take any punitive action against our firm."

According to Force Majeure Clause (FMC), "A Force Majeure (FM) means extraordinary events or circumstance beyond human control such as an event described as an act of God (like anatural calamity) or events such as a war, strike, riots, crimes (but not including negligence or wrong-doing, predictable/ seasonal rain and any other events specifically excluded in the clause). An FM clause in the contract frees both parties from contractual liability or obligation when prevented by such events from fulfilling their obligation s under the contract. An FM clause does not excuse a party's non-performance entirely, but only suspends it for the duration of the FM. The firm has to give notice of FM as soon as it occurs and it cannot be claimed ex-post facto. There may be a FM situation affecting the purchase organization only. In such a situation, the purchase or organization is to communicate with the supplier along similar lines as above for further necessary action. If the performance in whole or in part or any obligation under this contract is prevented or delayed by any reason of FM for a period exceeding 90 (Ninety) days, either party may at its option terminate the contract without any financial repercussion on either side."



Hence, in view of the provisions in Force Majeure Clause, the rate Contract of Artemeter+Lumefantrin 80mg+480mg Tablets with M/s Himalaya Meditek Pvt. Ltd, Plot No.: 35&36, Pharmacity, Selaqui Industrial Area, Dehradun- 248197, Uttarakhand, is hereby terminated with immediate effect, apart from forfeiture of security deposit. The non-executed purchase orders pertaining to the above mentioned products issued earlier also stand cancelled.

(Managing Director)

Date: -15/11/2022

Memo No- BMSIC/40025/68-2021/6552

Copy to:-

1. The Managing Director, M/s Himalaya Meditek Pvt. Ltd, for information and needful action.

(Managing Director)

Date: -15/11/2022

Memo No. - BMSIC/40025/68-2021/6552

Copy to:

1. The Additional Chief 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. GM (Logistics) is requested to ensure publication of this order on the official website of BMSICL and Notice Board as well.
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.

(Managing Director)

