

File No- BMSIC/40025/57-2021/6595

Date: 25 / 11 /2022

**Order**

M/s Anrose Pharma, having its Head Office at 147, Mauza Sansiwala, Post-Barotiwala, Dist-Solan, HP, has participated in Tender No- BMSIC/DRUGS/20-10 and was issued a Letter of Intent (LoI) vide letter no.- BMSIC/40025/57-2021/9430 dated 05-03-2021 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, for the below mentioned products:-

- (i) Diclofenac Sodium Injection, 25mg/ml, 3 Ampoule @ 1.62/-.
- (ii) Meropenem Injection, 250mg, Powder for Injection, vial @ 28.18/-.

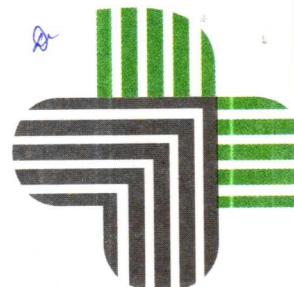
Subsequently, the firm M/s Anrose Pharma was issued Purchase Order for 3000 units of Meropenem Injection, 250mg, vide Letter No. - BMSIC/40025/57-2021/3785 dated 16-08-2021. The firm didn't supply the ordered quantity against above mentioned Purchase Order, but asked for extension of delivery schedule vide mail dated 22-11-2021 stating that, "We had received Purchasze Order of Diclofenac Sodium Injection & Meropenem Injection in this regard we have delivered Diclofenac Injection but Meropenem Raw material was not available at that time in the market, so we could not supplied Meropenem Injection. At this time we are ready to supply of Meropenem Injection and also we are requesting you to please give 20 days for delivery." BMSICL, vide Letter No-BMSIC/40025/57-2021/6499 dated 06-12-2021 granted extension for 20 days for the supply Meropenem Injection, 250 mg.

The firm, M/s Anrose Pharma, was again issued a Purchase Order for 33000 units of Meropenem Injection, 250 mg vide Letter No- BMSIC/40025/57-2021/9569 dated 10-03-2022. The firm didn't supply the ordered quantity and hence, M/s Anrose Pharma was issued show cause notices vide mail dated 03-09-2022 & 29-09-2022.

The firm, M/s Anrose Pharma replied vide mail dated 06-09-2022 stating that, "This is to inform you that deadly CORONA Virus outbreak in China there is severe shortage of Raw Materials had taken place in India as you must be aware that total Indian Pharmaceutical Industry is almost dependent upon China Market for the APIs and the API factories are struggling to start the operations after CORONA outbreak. Here we like to bring to your kind notice that Indian Pharma Industry is heavily dependent on China Market for raw Material APIs And approximately 80% of the Intermediate normally gets imported from China. Due to this epidemic condition, not only our Company but the whole Pharma Sector had and is facing huge crises of Raw Material/intermediate goods. For this reason we are unable to get API raw Material for the same." And the firm has not supplied the ordered quantity as yet.

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 a natural 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 Meropenem Injection, 250mg with M/s Anrose Pharma is hereby terminated with immediate effect apart from



forfeiture of security deposit submitted for Meropenem Injection, 250mg. The non-executed purchase orders for Meropenem Injection, 250mg issued earlier shall also stand cancelled.

  
(Managing Director)

Memo No. - BMSIC/40025/57-2021/ 6595

Date: -15/ 11 /2022

Copy to: The Managing Director, M/s Anrose Pharma for information and needful action.


  
(Managing Director)

Memo No. - BMSIC/40025/57-2021/ 6595

Date: -15/ 11 /2022

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)

