

**ORDER**

Tender for rate contract and supply of Drugs for different healthcare facilities of state of Bihar was floated vide Notice inviting tender no.-BMSIC/DRUGS/21-07 in which M/s Omega Pharma having its office at Khasra no.482, Village Saliyar, Roorkee-247667, Distt-Haridwar, Uttarakhand was declared as L1 bidder for the respective drugs namely:

S. No.	Name of the Drug	Rate quoted (Excluding GST)
1.	Cefixime Tablet 200mg	Rs.2.36/- per unit
2.	Ibuprofen tablet 200mg	Rs. 0.29/- per unit
3.	Prednisolone tablet 20mg	Rs. 0.93/-per unit


As per the terms of tender document, Letter of Intent (LOI) was issued to M/s Omega Pharma vide letter no. BMSIC/40025/287-2021/5755 dated 02/11/2021 of BMSICL for executing agreement for supply of above-mentioned drugs within 15 days of issuance of LOI but no response was received from the bidder within the due date and hence, reminder was sent to them via e-mail on 14/12/2021. However, this time also bidder did not respond and then, show cause notice was issued vide letter no. BMSIC/40025/287-2021/8436 dated 02/02/2022 of BMSICL.

In response to show cause notice, M/s Omega Pharma submitted performance security for executing agreement for only 2(two) drugs namely Ibuprofen tablet 200mg and prednisolone tablet 20mg and informed BMSICL that "due to the Beijing Games 2022 and closure of Pharmaceutical Ingredients units in China, there is an acute shortage of raw material for this product and other similar products in the Indian market. Also, the price of API has increased by as much as 300% ever since the second wave of COVID-19 has erupted. Pharma companies are largely dependent on China for their API requirement."

M/s Omega pharma has further referred office memorandum dated 19/02/2020 & 13/05/2020 of Ministry of Finance, GoI which states that disruption of the supply chain due to spread of corona virus in China or any other country will be covered in the Force Majeure Clause (FMC).

In view of the above said facts it is explicitly clear that the reply given by the firm Omega Pharma is not legally maintainable and is therefore fit to be rejected. Due to non-execution of agreement on time, supply chain of BMSICL has been disrupted. The FMC clause is applicable in case of contractual obligations only and in this case the firm is not entering into the contract itself.

Therefore, ***in light of provision of Clause 27(A) of the tender document, on account of failure to enter into agreement after being declared as L-1 to perform the obligations under the tender conditions, EMD of M/s Omega Pharma is being forfeited and M/s Omega Pharma is being blacklisted for its product namely Cefixime Tablet 200mg for a period of 2 years from the date of issuance of this order.***

  
(Managing Director)

