

(एक मिनी रत्न कंपनी)
(कोल इण्डिया लिमिटेड की सहायक कंपनी)
कॉ०प०सं० U10101JH1972GOI000918
संविदा प्रबंधन प्रकोष्ठ
पंजीकृत कार्यालय: कोयला भवन,
कोयला नगर, धनबाद - ८२६००५, झारखण्ड
टेलीफोन/फैक्स - ०३२६-२२३०२०६
वेबसाईट : www.bcclweb.in
ई०मेल - gmcmc.bccl@coalindia.in



(A Mini Ratna Company)
(A Subsidiary of Coal India Ltd.)
CIN U10101JH1972GOI000918
Contract Management Cell
Registered Office:KoylaBhawan,
Koyla Nagar, Dhanbad - 826005, Jharkhand
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E. mail -gmcmc.bccl@coalindia.in

Ref. No. BCCL/CMC/H-HEMM/DEBAR/KL/2021/.....347

Date: 23/2/2021

To

SPEED POST

M/s Kallal Logistics
5/1 Subramanyam Street
Abhirampuram, Chennai
PIN-600018

e.mail id :aravinthraj@kallal.in
Phone No. : 044-48684020
Mob. No. : 9080111111

Sub: Debar from participating in future bids for 01 years

Ref:

1. e-Tender Notice No.-H-HEMM-47
2. Tender ID No.: 2020_BCCL_180446_1
3. NIT No.: BCCL/CMC/HEMM/e-Tender/2020/271 dated 14.08.2020
4. Name of the work: "Hiring of HEMM for removal of OB, extraction and transportation of Coal from IV(T), V/VI/VII, VIIIA, VIIIB, VIIIC, IX, X & XI/XII seams of Patch-F, New Akashkinaree Colliery, Govindpur Area, BCCL."
5. **Show Cause Notice vide ref. no. BCCL/CMC/H-HEMM/Sh.Ca./KL/2021/56, Date: 02.02.2021.**
6. **Reminder to Show Cause Notice vide ref. no. BCCL/CMC/H-HEMM/Sh.Ca./KL/2021/74 Date: 12.02.2021.**
7. Your reply to Show Cause Notice dated 02.02.2021 received in our office on 26.02.2021.

Dear Sir,

An e-tender notice was floated as referred above. The J V bidder M/s Kallal Logistics had participated in the said tender as a Joint Venture of which you (M/s Kallal Logistics) are one of the member. While examining the bid document & subsequent clarification submitted and reply of the Show Cause Notice submitted from your end, the following have been observed:

1. The bidder, M/s Kallal Logistics, a JV firm has availed the EMD exemption, a privilege specifically intended for a Micro or Small Enterprises under MSME norms. In support of EMD exemption, the bidder has submitted an Udyam Aadhaar Registration Certificate (with Udyog Aadhaar no. TN02F0193530) in the name of M/s Kallal Logistics with enterprise type as "Medium" and Date of Incorporation as 20.02.2019.
2. As the JV agreement of the Bidder, M/s Kallal Logistics, was executed on 05.09.2020, it is evident that the said Udyog Aadhaar registration Certificate doesn't belong to the JV bidder, M/s Kallal Logistics. Subsequent to the requisition of the confirmatory document the JV bidder, M/s Kallal Logistics submitted the following documents:-
 - i. A CA certificate dated 29.09.2020 certifying that the JV, M/s Kallal Logistics is a small scale undertaking as per MSME norms.
 - ii. An Udyog Aadhaar Certificate in respect of M/s G.N. Construction (one of the partner of the JV, M/s Kallal Logistics) with Date of Commencement: - 18.04.2006 and Enterprise Type:- Small
 - iii. An Udyog Aadhaar Registration certificate in respect of M/s Kallal Logistics with Date of Commencement:- 20.02.2019 and Enterprise Type :- Medium
 - iv. An Udyam Registration Certificate (with Udyam registration No. UDYAM-RJ-05-0000456) in respect of M/s Kallal Logistics with type of enterprise:- Small; Date of incorporation/registration of enterprise:- 20.02.2019 and Date of Udyam Registration :- 19.08.2020

3. None of the certificates mentioned under Sl. nos (ii) to (iv) above are for the bidder i.e. Kallal Logistics which is a JV. This is also clear from the dates of registration which are prior to the date of formation of JV. The CA certificate does not confirm to the requirement for exemption from submission of EMD under NIT.
4. Thus, the JV bidder, M/s Kallal Logistics availed the EMD exemption using Udyog Aadhaar registration Certificate (Medium) of one of its partner, M/s Kallal Logistics. Even in confirmatory documents the JV bidder, M/s Kallal Logistics submitted the Udyog Aadhaar registration Certificate/ Udyam Registration Certificate of its partners and did not submit any documents befitting the status of bidder (JV) as Micro or Small unit under MSME norms.
5. It has further been noted that the Udyog Aadhaar Certificate in respect of M/s G.N. Construction (one of the constituent partner of the JV, M/s Kallal Logistics) shows the enterprise type as "Small". However, As per TDS details of M/s G.N. Construction submitted by the bidder, total amount paid for the FY 2019-20 to M/s G.N. Construction by Hindalco Industries Limited is more than Rs. 80 Crore. It has also been confirmed by M/s. Hindalco Industries Limited that the value of work done during the period FY 2019-20 by M/s G.N. Construction was more than Rs. 80 Crore. Whereas, the criteria for being small / micro, units under MSME, requires turnover to be below 50 crore.
6. In view of reply of Show-cause Notice under Para 3, it is to bring your notice that integrity pact emphasizes for fairness and transparency whereas the concern bidder has failed to adhere to fairness and transparency on contrary has been indulged in malafide acts which is evident from following facts : -
 - a) It has been observed that M/s. Kallal Logistics formed consortium and again named it as M/s. Kallal Logistics to create confusion at the very first stage of tendering.
 - b) Further, the Udyam Adhaar Registration Certificate with Udyog Adhaar no. TN02F0193530, was submitted with enterprise type as "Medium". Whereas, the CA certificate the submitted for JV mentioning it as a small scale undertaking.
 - c) Further-more, enterprise type of M/s. G N Construction, one of the partner of said JV is shown as "small", whereas TDS details of M/s G.N. Construction for the FY 2019-20, issued by Hindalco Industries Limited, is more than Rs. 80 Crore.

Thus at various stages M/s Kalla Logistics, the JV bidder has breached integrity pact and bidder by iniquitous acts in pursuance of their malafide intensions has availed EMD Exemptions deposite not being eligible for EMD exemption.

7. It is pertinent to note that M/s. Kallal Logistics, a JV firm, has not submitted any comment regarding the above foul plays, which was clearly mentioned in Show cause notice. They have neither made any comment on the Udyam Adhaar Certificates nor on the turnover figure indicted through said TDS certificate. Thus it is admission of above irregularities on their part.
8. The last date of bid submission was 10.09.2020 whereas following allied documents of the JV agreement were executed after the last date of bid submission : -
 - i. Power of Attorney was given to Mrs. Lakshmi Muthuraman, on 29.09.2020, to enter into JV agreement with M/s G.N. Construction, after the last date of bid submission.
 - ii. Power of Attorney was given to Saravanan Palaniappan, on 29.09.2020, to sign and execute all the deeds, documents, all letters, correspondences, papers and certificates and to submit the pre-qualification application/bid documents and upload the same using digital signature in the E Portal for the JV bidder M/s Kallal Logistics.

Thus, bid was submitted by the said bidder on 07.09.2020, whereas, the Power of Attorney for submission of bid was given on 29.09.2020.

Show cause notice clearly speaks about last date of bid submission, issue of Power of Attorney to Mrs. Lakshmi Muthuraman, issue of Power of Attorney to Saravanan Palaniappan etc. not being in natural flow.

Bidder himself has agreed and admitted that there were so many irregularities in JV agreement submitted initially.

9. The conduct of the bidder M/s. Kallal Logistics, a JV firm is in violation of following terms and conditions of the NIT dated 06.08.2020.

(i) The Clause 3 of e-NIT for exemption of EMD is as quoted below:

Quote:.....

..... MSEs registered with “Udyam Registration Portal” District Industries Centre (DIC), Khadi and Village Industries Commission (KVIC), Khadi and Industries Board (KVIB), Coir Board, National Small Industries Commission (NSIC), Directorate of Handicrafts and Handloom or Udyog Aadhaar Memorandum or any other body specified by Ministry of Micro, Small and Medium Enterprises under the Public Procurement Policy for Micro and Small Enterprise (MSEs) Order, 2012 are exempted from submission of EMD

In case of exemption of EMD, the self-attested scanned copy of “Udyam Registration Certificate” or any other Registration certificate issued by authorities specified by Ministry of Micro, Small and Medium Enterprises in support of exemption will have to be uploaded by the MSE bidder during bid submission which will be verified along with bid documents.

.....Unquote.

(ii) The sub clause ‘D’ of Clause ‘9’ of e-NIT is as quoted below:

Quote:.....

(vi) Classification of Micro and Small Enterprise are as under:

- Micro Enterprise -Enterprise where the investment in plant and machinery or equipment does not exceed one crore rupees and turnover does not exceed five crore rupees.
- Small Enterprise- Enterprise where the investment in plant and machinery or equipment does not exceed ten crore rupees and turnover does not exceed fifty crore rupees.

(vii) The MSEs should be registered with “Udyam Registration Portal” or any other body specified by Ministry of Micro, Small & Medium Enterprises (MoMSME) under the Public Procurement Policy for Micro and Small Enterprise (MSEs) Order, 2012.

(viii) The MSEs are required to submit the self-attested scanned copy of “Udyam Registration Certificate” or any other Registration certificate issued by authorities specified by Ministry of Micro, Small and Medium Enterprises in support of exemption will have to be uploaded by the MSE bidder during bid submission as per provisions of Public Procurement Policy for Micro and Small Enterprise (MSEs) Order, 2012 with latest guidelines/clarifications provided by MoMSME.

.....Unquote.

(iii) Clause 3 & 4 of Undertaking (Annexure-C)

Quote.....

“3. All information furnished by us in respect of fulfillment of eligibility criteria and qualification information of this Bid is complete, correct and true.

4. All copy of documents, credentials and documents submitted along with this Bid are genuine, authentic, true and valid

.....Unquote

- (iv) Section 2 : Commitments of the Bidder(s)/ Contractors(s) of Pre-Contract Integrity Pact (Annexure-H) of tender

Quote.....

(1)The Bidder(s) / Contractor(s) commit themselves to take all measures necessary to prevent corruption. The Bidder(s) / Contractor(s) commit themselves to observe the following principles during participation in the tender process and during the contract execution.....

.....Unquote

10. From above it is clear that to avail EMD exemption, the bidder must be either micro or small enterprise. In the instant case the fraudulent certificate of the bidder being MSE was submitted. You could not submit satisfactory evidence for being MSE in true sense. You neither made any comment on the Udyam Adhaar Certificates nor on the turnover figure indicted through said TDS certificate. This clearly shows acceptance for these irregularities on your part.
11. It is to note here that integrity pact emphasizes for fairness and transparency, which the JV bidder M/s. Kallal Logistics have failed to adhere to. Rather the JV bidder M/s. Kallal Logistics indulged in mala fide acts which is evident from the above mentioned acts.
12. Clause '3' along with sub clause 'D' of Clause '9' of e-NIT clearly speaks about EMD exemption for the bidder which is micro or small enterprises. In the instant case the JV bidder M/s. Kallal Logistics, which is neither a Micro nor Small unit under MSME norms, but has availed EMD exemption.
13. At every stages of bidding, the JV bidder M/s. Kallal Logistics's approach was casual with foul play by availing EMD exemption without being eligible to do so; submission of bid documents casually and by a person without having proper authorization; and also submitting an experience certificate of doubtful authenticity; besides other lapses.
14. The experience certificate submitted by the JV bidder, M/s Kallal Logistics (ref no. nil, dated 20.08.2020 issued by M/s Coronation Infrastructure Pvt. Ltd) was sent for verification to issuing authorities i.e. M/s Coronation Infrastructure Pvt. Ltd. They denied the issuance of the said certificate vide letter dated 03.09.2020.

However, after more than one and half month they suo-moto confirmed regarding issuance of said experience, vide official mail of GM(CMC), BCCL on 28.10.2020. On the same day i.e. on 28.10.2020, a request was received from the bidder, for opening of bid on the basis of fresh communication from M/s. coronation, through e-mail of Aravinth Raj. It is to note here that Aravinth Raj, in the said mail, had claimed himself as Authorized signatory of Kallal Logistics, but as per records he was not so.

It is surprising to note that an experience issued on 20.08.2020 was denied about issuance of said certificate within two weeks of issue itself. Again after more than one and half month a suo moto letter is issued by M/s. Coronation Infrastructure Pvt. Ltd., regarding issuance and is instantly followed by representation from M/s. Kallal Logistics. All these raises doubt on the integrity of the bidder and points towards malafide intention on their part.

15. You could not submit satisfactory replies to the above lapses pointed out in the referred show cause notice. Thus, it is clear that M/s. Kallal Logistics (JV of M/s. Kallal Logistics and M/s. G N Construction) has committed breach of terms and conditions of NIT / tender Document by availing EMD exemption without being eligible to do so; submission of bid documents casually and by a person

without having proper authorization; and also submitting an experience certificate of doubtful authenticity; besides other lapses.

16. The said lapses and violation of provisions of NIT/TD attracts penal actions under following clauses:

(i) **Clause 8.6 of NIT**

Quote.....

If any information/declaration furnished online by the bidder against eligibility criteria is found to be wrong at any stage which changes the eligibility status of the bidder penal action as mentioned in Annexure-C will be applicable.

.....**Unquote**

(ii) **Clause-9 of Annexure-C (Undertaking)**

Quote.....

If any information and document submitted is found to be false/ incorrect at any time, department may cancel my/our Bid and action as deemed fit may be taken against me/us, including termination of the contract, forfeiture of all dues including Earnest Money (EMD, if applicable), Performance Security Deposit and Performance Security Deposit and banning of our firm and all partners of the firm etc. Additionally, company, without prejudice to any other right or remedy, be at liberty, to initiate other legal actions against me/us.

.....**Unquote**

(iii) **As per Letter of Bid (Annexure-A)**

Quote.....

If any information furnished by me/us towards eligibility criteria of this bid is found to be incorrect at any time, penal action as deemed fit may be taken against me/us for which I/We shall have no claim against Bharat Coking Coal Limited.”

.....**Unquote**

(iv) **Section 3 - Disqualification from tender process and exclusion from future contracts of Integrity Pact**

Quote.....

If the Bidder, before contract award, has committed a transgression through a violation of Section 2 or in any other form such as to put his reliability or credibility as Bidder into question, the Principal is entitled to disqualify the Bidder from the tender process or to terminate the contract, if already signed, for such reason.

- (1) If the Bidder / Contract or / Supplier has committed a transgression through a violation of Section 2 such as to put his reliability or credibility into question, the Principal is also entitled to exclude the Bidder / Contractor / Supplier from future contract award processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case. In particular the number of transgressions, the position of the transgressors within the company hierarchy of the Bidder and the amount of the damage. The exclusion will be imposed for a minimum of 6 months and maximum of 3 years.

.....**Unquote**

(v) **Clause-2(vi) Guidelines for Banning of Business**

Quote.....

2. The contracting entity may be banned in the following circumstances:-

.....
2(vi) Willful suppression of facts or furnishing or wrong information or manipulated or forged documents by the Agency or using any other illegal/unfair means.

.....Unquote

(vi) Clause- 4 & 5 at Guidelines for Banning of Business

Quote.....

4. The banning shall be for a minimum period of one year and shall be effective for the concerned Subsidiary for the tenders invited at Subsidiary level. Similarly, in case of tenders of CIL HQ, banning shall be for CIL HQ. However, if such 'Banning of Business' has to be made effective for entire CIL and its Subsidiaries then approval of Chairman, CIL shall be required.

5. Once a contracting entity is banned, it shall be extended to the constituents of that entity, all partners in case of Joint Venture, all the partners in case of Partnership Firm, owner/proprietor in case of Proprietorship Firm and all the Directors in case of Limited Company. If such banned owner/Proprietor/Partner/Director make/form different Firms/entity and attempts to participate in tenders, the same will not be entertained during the currency of such banning.

.....Unquote

17. Attention is invited towards clause '5' of "ANNEXURE-J: JOINT VENTURE/CONSORTIUM AGREEMENT", which was uploaded and duly signed by all members of JV. Said Clause '5' reads as below:

Quote.....

5. JOINT AND SEVERAL LIABILITIES.

All partner of Joint Venture /Consortium shall be liable jointly and severally during the Pre-qualification and Bidding process; and in the event the contract is awarded, during the execution of the Contract, in accordance with Contract terms.

.....Unquote

18. In this regard attention is further invited towards the "ANNEXURE-A: LETTER OF BID" which was uploaded and digitally signed by bidder Shri Saravanan Palaniappan which reads as below :

Quote.....

This has reference to above referred bid. I/we have read and examined the conditions of contract, Scope of Work, technical specifications, BOQ and other documents carefully.

I am pleased to submit our bid for the above work. I/We hereby unconditionally accept the bid conditions and bid documents in its entirety for the above work and agree to abide by and fulfill all terms and conditions and specifications as contained in the bid document.

I hereby submit all the documents as required to meet the eligibility criteria as per provision of the bid notice/document.

I hereby confirm that this bid complies with the Bid validity, Bid security and other documents as required by the Bidding documents.

If any information furnished by me/us towards eligibility criteria of this bid is found to be incorrect at any time, penal action as deemed fit may be taken against me/us for which I shall have no claim against Bharat Coking Coal Limited."

.....Unquote

Vide said Annexure-A, the JV bidder M/s Kallal Logistics certified that they had read and examined the conditions of contract, Scope of Work, technical specifications, BOQ and other documents carefully and unconditionally accept the same.

Thus, in view of the seriousness and gravity of the acts on the part of the J V bidder M/s Kallal Logistics, the competent authority of Bharat Coking Coal Limited has taken decision as below:

1. Debar the J V bidder M/s Kallal Logistics and its constituent members (namely M/s Kallal Logistics and M/s G N Construction) from participating in future bids in all tenders of BCCL for a period of 01 (one) year.

Accordingly, being a constituent member of the J V bidder M/s Kallal Logistics you are hereby debarred from participating in future bids in all tenders of BCCL, in individual capacity or as a joint venture, for a period of 01 (one) year from the date of issue of this order, as per provisions of NIT.

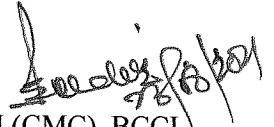
This issues with the approval of competent authority.

Sincerely

GM (CMC), BCCL

Copy for kind information to :

1. CMD/D(F)/D(T) Op./D(T) P&P BCCL
2. CVO BCCL for kind information
3. GM(CMC), CIL, Kolkata
4. GM(CMC) ECL/CCL/SECL/WCL/MCL/NCL/NEC
5. All HODs, BCCL HQ
6. All Area GMs of BCCL
7. GM(System)- for uploading on BCCL Website
8. Office Copy


GM (CMC), BCCL

Sl. No.	Name & address of Firm/Company	Name, address & Pan No. of Proprietor	Registration No. & date of the Firm	Nature of Business	Period of Ban/Black listing From-To	Order No. & date of Ban/Blacklisting the firm	Remarks
1.	M/s Kallal Logistics, 5/1 Subramanyam Street, Abhirampuram, Chennai, PIN-600018	M/s Kallal Logistics, 5/1 Subramanyam Street, Abhirampuram, Chennai, PIN-600018 PAN - AAUFK4909Q	NA	Hired HEMM Tender	23.08.2021 to 22.08.2022	BCCL/CMC/H-HEMM/DEBAR/KL/2021/347 dated-23.08.2021	Debarred from participating in future bids in all tenders of BCCL, in individual capacity or as a joint venture for a period of 1 year w.e.f. 23.08.2021

[Signature]
24/08/2021

[Signature]
24/08/2021
M.R. Srinathana
Sr. Agt (Min) CMC