ORDER

Subject: Writ Petition filed by M/s GTIL Infotel Pvt. Ltd., Noida Vs. Union of India through Ministry of MSME (Respondent No.2) and others - Reg.

Whereas Shri Ravinder Agarwal, Central Government Standing Counsel, Hon'ble Delhi High Court has informed this office that a Writ Petition No.2613/2014 filed by M/s GTIL Infotel Pvt. Ltd., Noida Versus (1) Ministry of Petroleum and Natural Gas (2) Ministry of Micro, Small & Medium Enterprises and (3) Indian Oil Corporation in Hon'ble High Court of Delhi regarding grievances on the pre-qualification criteria incorporated in the tenders has been disposed off on 7th May, 2014.

And whereas Hon'ble High Court has directed in Order dt.7.5.2014 that the Writ Petition be treated as a representation and the Grievance Cell (under the Ministry of MSME) shall decide the representation within four weeks.

Therefore, Director, Grievance Cell had a personal hearing of authorised representative of GTIL Infotel Pvt.Ltd., Noida and Indian Oil Corporation Ltd., New Delhi on 27.4.2014 at 11.30 a.m. in his room and after hearing the grievance, the petitioner and IOCL has been given time upto 29.4.2014 to submit any document they want to submit related to the case.

After hearing both the parties and examining all the documents brought before the Grievance Cell including Writ Petition submitted by the
Petitioner, CVC guidelines and provisions made under the Public Procurement Policy, the decision of the Grievance Cell is as under:-

1. Pre-qualification criteria of Annual Turn Over & Work Experience of the tender has been framed by IOCL as per their own Circular No.Eng/20/225 dt.15.4.2013 and CVC Guidelines. Further, the work to be executed in tender is quite critical in nature from public safety and delivery schedule angles.

   In view of above, both the parameters of pre-qualification criteria i.e. Annual Turn Over and Work Experience are also reasonable.

2. In Selection Criteria of the Tender Notice Para B-1 is not in accordance with Para 4 of Public Procurement Policy. Para B-1 violates the Public Procurement Policy as it reduces share of MSE from 20% to 16% in case of non-participation of MSEs owned by SC/ST in the tender.

   IOCL should take immediate note of this mistake and ensure non-occurrence of the same in future.

   For the tender in question, if any MSE is affected, IOCL should take immediate remedial measures.

3. Public Procurement Policy for MSE Order 2012 supercedes all previous Order/Circular/Letters (including letter No.22(4)/2001/EP&M dt.29.7.2003 referred by the petitioner) related with Government Stores Purchase Programme for Small Scale Units, which were issued by Ministry of SSI/MSME or Office of DC-SSI/MSME before the enactment of this Public Procurement Policy for MSE Order 2012. Hence, relaxation sought under the provisions...
in the letter dated 23.7.2003 referred by the Petitioner cannot be granted.

4. Whereas the Public Procurement Policy mandates 20% procurement from MSEs provided they are within the price band and are prepared to match the technical, quality requirements as well as the price, it would be completely wrong to interpret the policy to say that the work experience criteria as well as the turn-over should also be lowered to 20%. It is reiterated that the Public Procurement Policy does not entail lowering of quality standards.

5. It also be noted ‘After a period of three years i.e. from 1st April, 2015 overall procurement goal of minimum of 20% shall be mandatory’ (Para 3 (3) of the Policy).

Hence, the request of the Petitioner for retendering cannot be acceded to in the light of the above facts.

(U.C. Shukla)
Director (Grievance Cell)

1. The Manager, M/s GTIL Infotel Pvt. Ltd., A-51, Sector-8, Noida, U.P.-210301 (Fax No.011-40554606)
2. Indian Oil Corporation Ltd., DGM (O) Indian Oil Corp. Ltd., Delhi State Office, llnd floor, World Trade Centre, Babar Road, New Delhi-110001

Copy for information to: Shri Ravinder Agarwal, CGSC, 462, Lawyer’s Chamber, Delhi High Court, New Delhi-110003 w.r.t. fax letter dated 7.5.2014 (011-26838016)