

No. NHIDCL/SPM/Manipur/2022-23/3205

Dated: 07.11.2022

## DEBARMENT NOTICE

**Sub: Debarment of M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates from engagement on NHIDCL/MoRT&H projects for a period of two years.**

It is brought to notice of all the divisions/units of NHIDCL and other agencies of MoRT&H that M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates was appointed as "Authority's Engineer" by NHIDCL for the work of "Consultancy Services for Authority's Engineer for Supervision of Widening to 2 (Two) Lane with Hard shoulder of Churachandpur to Tuivai section of NH 102B (Packages IA, IB, IIA, IIB, IVA & IVB) in the State of Manipur on EPC mode".

2. Whereas, Shri Maman Chand Bansal, Special Project Monitor inspected the project site, between the period 04.06.2022 and 11.06.2022 and vide his report dated 23.06.2022 has reported the matter of over payments in Project, Package-IVA & IVB.

3. Whereas, vide OM No. NHIDCL/SPM/Manipur/2022-23 dated 8<sup>th</sup> August 2022, a committee with following members was constituted for inspecting, factual verification, investigating, examination of a complaint pertaining to the works of Manipur on NH-102 B. The Committee comprised of (i) Sh. D.S. Chaudhary, ED(P), RO, Imphal, (ii) Sh. Mahesh Gupta, Dy.GM(F) and (iii) Sh. Devender Kumar, Dy.GM(T), NHIDCL, Hqrs Office, New Delhi.

4. Whereas, the Committee visited the site on 17<sup>th</sup> to 18<sup>th</sup> August 2022 in the presence of Authority's Engineer and NHIDCL officials of RO Imphal, PMU Churachandpur, Site office Singhat and the representatives of the Contractor. The Committee inspected the records at the office of the Authority Engineer on 19<sup>th</sup> August 2022. The Committee during inspection noted overpayments of Rs. 50.51 crore and price adjustments thereon in two-(Package-IVA and IV B).

5. M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates was show caused vide O.M. No. NHIDCL/SPM/Manipur/2022-23/212418/3149 dated 21.09.2022 & no. 3158 dated 22.09.2022, to explain the irregularities pointed by Special Project Monitor in the Inspection Report and also to explain how the over payments have occurred in project causing the material adverse effect to the Authority, defrauding and causing financial loss to the Government exchequer, breaching the provisions of Contract Agreement.

6. In this regard, M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates reply vide letter dated 27.09.2022 has been received and AE has mentioned that they have issued, show cause notices and subsequently legal notices through advocate under various sections of IPC, to the concerned persons for the "Breach of Trust" committed by them while discharging their duty. The matter is under thorough

*[Signature]*

investigation at their end. They assured that persons found guilty, will not be spared and stern action shall be taken against them as per law of land.

7. However, the above submission doesn't absolve, M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates from their duties as they have failed to carry out due diligence and are responsible, liable and omissions of Team Leader and Resident Engineer.

Article-18.2 (i) of EPC Contract Agreement is as follows:

*18.3 Delegation by the Authority's Engineer*

*(i) The Authority's Engineer may, by order in writing, delegate any of his duties and responsibilities to suitably qualified and experienced personnel who are accountable to Authority's Engineer, or may revoke any such delegation, under intimation to the Authority and the Contractor. Provided, however, that the Authority's Engineer shall be responsible and liable for all actions and omissions of such personnel.*

8. Whereas, Team Leader and Resident Engineer of M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates has not discharged its duties in a fair, impartial and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice.

9. Whereas, Team Leader and Resident Engineer of M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates has violated clause 19.5 of the EPC Agreement.

Clause 19.5 of the EPC Agreement is as follows:

*(i) Within 10 (ten) days of receipt of the Stage Payment Statement from the Contractor pursuant to Clause 19.4, the **Authority's Engineer shall broadly determine** the amount due to the Contractor and recommend the release of 90 (ninety) percent of the amount so determined as part payment against the Stage Payment Statement, pending issue of the Interim Payment Certificate by the Authority's Engineer. Within 10 (ten) days of the receipt of recommendation of the Authority's Engineer, the Authority shall make electronic payment directly to the Contractor's bank account.*

*(ii) Within 15 (fifteen) days of the receipt of the Stage Payment Statement referred to in Clause 19.4, the **Authority's Engineer shall determine** and shall deliver to the Authority and the Contractor an IPC certifying the amount due and payable to the Contractor, after adjusting the payments already released to the Contractor against the said statement. For the avoidance of doubt, the Parties agree that the IPC shall specify all the amounts that have been deducted from the Stage Payment Statement and the reasons therefore.*

*(iii) In cases where there is a difference of opinion as to the value of any stage, the Authority's Engineer's view shall prevail and interim payments shall be made to the*





Contractor on this basis; provided that the foregoing shall be without prejudice to the Contractor's right to raise a Dispute.

(iv) The Authority's Engineer may, for reasons to be recorded, withhold from payment:

(a) the estimated value of work or obligation that the Contractor has failed to perform in accordance with this Agreement and the Authority's Engineer had notified the Contractor; and

(b) the estimated cost of rectification of work done being not in accordance with this Agreement.

(v) Payment by the Authority shall not be deemed to indicate the Authority's acceptance, approval, consent or satisfaction with the work done.

10. Whereas, Team Leader and Resident Engineer of M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates has violated clause 5.6 of the Terms of Reference of Contract Agreement between NHIDCL & M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates.

Clause 5.6 of TOR is as follows:

*On a daily basis, the concerned key personnel of Authority Engineer shall inspect the Construction Works. Following activities need to be undertaken during the visits.*

*Review of construction including progress, quality and safety of construction Inspection of defects and deficiencies in construction works.*

*Witnessing quality inspection tests at labs established by Concessionaire on a sample basis.*

11. Whereas, Team Leader and Resident Engineer of M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates has violated clause 5.11 of the Terms of Reference of Contract Agreement between NHIDCL & M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates.

Clause 5.11 of TOR is as follows:

*The Authority's Engineer shall test check at least 60 (sixty) percent of the quantity or number of tests prescribed for each category or type of test for quality control by the Contractor.*

12. Whereas, Team Leader and Resident Engineer of M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates has given false certificates that while recommending the bills that he has physically inspected and verified the quality and quantity of the work in the project and found that the actual quantity and quality of work that has been carried out by EPC Contractor corresponds to the quantum for which for which the SPS/IPC bill has been recommended and work confirms to the prescribe quality standard.



13. Whereas, Team Leader and Resident Engineer of M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates has submitted the signed copy of their Monthly Progress Reports to Authority (NHIDCL) by providing false information.

14. Whereas, Team Leader and Resident Engineer of M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates has not followed the roles & responsibilities as defined in the Contract Agreement signed between NHIDCL & M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates.

15. In light of the above, M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates is hereby debarred for a period of 2 (two) years from participating in future projects of NHIDCL/MORTH either directly or indirectly from the date of issue of this notice in accordance with Para 3 (3)(a) & (e) MoRTH Circular No. RW/NH-33044/76/2021-S&R(P&B) dated 07.10.2021.

16. This Debarment order is issued without prejudice to any other right or remedy available with the Authority under the Contract Agreement and / or applicable law.

17. This issues with the approval of Competent Authority.



(W. Blah)

Executive Director

To:

1. PPS to DG(RD) & SS, MoRTH.
2. PS to DGBR, Seema Sadak Bhawan, New Delhi.
3. PS to Chairman, NHAI.
4. PS to MD, NHIDCL.
5. PS to Director (T)/Director (A&F), NHIDCL.
6. All ED (T/P), GM (T/P), DGM (T/P), NHIDCL.
7. IT Division: to host it on NHIDCL website.
8. Authority's Engineer - M/s Chaitanya Projects Consultancy Pvt. Ltd. in association with Mspark Futuristic & Associates.