

ANDHRA PRADESH POWER GENERATION CORPORATION LIMITED
ABSTRACT

APGENCO – NSTPD - Design, supply, fabrication, erection, testing and commissioning of Gates & Hoists for dam, power house and providing Penstock steel liners, etc., for Nagarjuna Sagar Tail Pond Project - court cases – O.S.No.150 of 2009 and O.S.No.498 of 2011 which are renumbered as Commercial O.S 54 of 2016 and Commercial O.S 169 of 2017 respectively in the Hon'ble Commercial Court cum XXIV Additional Chief Judge, City Civil Court at Hyderabad – Common Judgment and decrees – E.P No.7/2023 in O.S.No.54/2016(On the file of commercial court cum XXIV Addl. Chief Judge City Civil Court, Hyderabad) in the Court of the Commercial Court Judge at Vijayawada - Payment of Rs 7,50,00,000/- against award amount of Rs.9,19,03,070/- vide E.P.No.7/2023-Approval-Accorded

G.O.O. No. 118 /CE/C/Hydel/2024

Dt: 06.08.2024

Read the following:-

1. LS Agt. No. 10/2007-08 of SE/C/NSTPDC/ Nagarjuna Sagar.
2. Lr.No.CE/C/Hydel/HD-IV/NSTPD/F.G&H /D.No. 60/2008, dt. 31-05-2008.
3. O.S.No.150 of 2009 (renumbered as Commercial O.S 54 of 2016) filed by M/s Aarti Infra Projects Pvt. Ltd against APGENCO before City Civil Court, at Hyderabad.
4. O.S.No.498 of 2011(renumbered as Commercial O.S 169 of 2017) filed by APGENCO against M/s Aarti Infra Projects Pvt. Ltd before City Civil Court, at Hyderabad.
5. E.P.No. 7/2023 in O.S.No.54/2016 (On the file of Commercial Court cum XXIV Addl. Chief Judge City Civil Court, Hyderabad) filed by M/s Aarti Infra Projects Pvt. Ltd against APGENCO before the Commercial Court Judge at Vijayawada.
6. Court Order No.C.E.P No.7/2023 in COS 54/2016 received from the Special Judge for trial of Commercial Disputes, Vijayawada.
7. Lr.No.CGM(A&T)/GM(T)/PO/AO(CPR)/D.No.333/2024, Dt:18.07.2024.
8. Lr. No. APPL/APGENCO-AS-01/2024-25 dated 23.07.2024 of M/s Aarti Infra Projects Pvt. Ltd+ M/s Sunil Hi-Tech Engineers Ltd+ M/s D.K Engineers (AIPPL+SHEL+DKE,) (JV)

ORDER:

1. The work of “ Design, supply, fabrication, erection, testing and commissioning of Gates & Hoists for dam, power house and providing Penstock steel liners, etc., for Nagarjuna Sagar Tail Pond Project at 21.065 KM downstream of Nagarjuna Sagar Dam, across River Krishna near Satrasala” was awarded to M/s Aarti Infra Projects Pvt. Ltd+ M/s Sunil Hi-Tech Engineers Ltd + M/s D.K Engineers (AIPPL+SHEL+DKE,) (JV) for Rs.95,09,00,000/- and concluded the Agreement on 25.08.2007. The contractor has paid the total Security Deposit amount of Rs. 4,75,45,000/-

2. The above work was terminated from scope of contractor vide reference 2nd cited in view of slow progress of work by the contractor duly forfeiting the Security (SD) amount of Rs. 4,75,45,000/-. The value of work done by the contractor was Rs.1,29,50,544/- and the respective amount was paid to the contractor.

Contd..2

3. Tenders for the balance works were called for and awarded to M/s GTV-PES(JV) dated 11.05.2009, M/s Precision Infratech Ltd, dated 22.12.2008 & SAIL (12/2008) for Rs. 157,83,33,078/-.
4. M/s Aarti Infra Projects Pvt. Ltd+ M/s Sunil Hi-Tech Engineers Ltd + M/s D.K Engineers (AIPPL+SHEL+DKE,) (JV) had filed OS No.150/2009 (renumber as C.O.S. No. 54 of 2016) before the Hon'ble Commercial Court cum XXIV Additional Chief Judge, City Civil Court at Hyderabad on dated 16.02.2009 for repayment of SD amount recovered by APGENCO along with certain claims towards incurring losses due to termination of contract.
5. APGENCO had filed OS No.498/2011 (renumbered as C.O.S. No. 169 of 2017 before the Hon'ble Commercial Court cum XXIV Additional Chief Judge, City Civil Court at Hyderabad against M/s Aarti Infra Projects Pvt. Ltd+ M/s Sunil Hi-Tech Engineers Ltd + M/s D.K Engineers (AIPPL+SHEL+DKE,) (JV) for recovery of liquidated damages @5% of the total contract amount i.e., Rs. 7,94,17,324/- from the contracting agency as per the terms of contract. Since the APGENCO has recovered the deposit (SD) amount of Rs. 4,75,45,000/- from the agency duly encashing the BGs, the balance amount of Rs. 3,18,72,324/- to be recovered.
6. The Hon'ble Commercial Court, Hyderabad has dismissed the APGENCO case and directed to pay Security (SD) amount of Rs. 4,75,45,000/- with interest @ 6 % per annum from the date of filing of the suit (16.02.2009) to till the realization to Contracting agency, vide Decree dt. 03.07.2018.
7. Aggrieved by the decree dated 03.07.2018 above, APGENCO has filed an Appeal against the Decree dt. 03.07.2018 in OS No.150/2009 (renumber as C.O.S. No. 54 of 2016) before the High court (11/2020) for recovery of balance liquidated damages for an amount of Rs. 3,18,72,324/- and to dismiss the court orders dt.03.07.2018 passed by the Hon'ble Commercial Court – cum – XXIV Additional Chief Judge, City Civil Court, Hyderabad.
8. Aggrieved by the action of APGENCO, M/s Aarti Infra Projects Pvt. Ltd+ M/s Sunil Hi-Tech Engineers Ltd + M/s D.K Engineers (AIPPL+SHEL+DKE,) (JV) has filed EP vide E.P.No.7/2023 on O.S.No.54/2016 before the Commercial Court cum XXIV Addl. Chief Judge City Civil Court, Hyderabad and the same is posted on 05.08.2024 for further hearing in the II Additional District court, Vijayawada.

9. Details of payments to be made to the M/s Aarti Infra Projects Pvt Ltd + M/s Sunil Hi-Tech Engineers Ltd + M/s D.K Engineers (AIPPL + SHEL+DKE.) (JV) as per EP are as detailed below:

Decree Amount	:	Rs 4,75,45,000/-
Subsequent Interest@ 6% p.a on the amount of Rs.4,75,45,000/- From 16.02.2009 to 03.09.2023	:	Rs 4,14,98,861/-
Court fee	:	<u>Rs 28,59,209/-</u>
Total	:	<u>Rs 9,19,03,070/-</u>

10. Since the Hon'ble Court has not granted stay orders in spite of several times mentioned before the court, the Management has decided to settle the disputed matter amicably to avoid E.P proceedings for payment of Rs. 9,19,03,070/-

11. Accordingly, for settlement of the issue with respect of Decree of Hon'ble Court of Commercial Court vide COS No.54 of 2016 and E.P. 5th cited, M/s Aarti Infra Projects Pvt Ltd + M/s Sunil Hi-Tech Engineers Ltd + M/s D.K Engineers (AIPPL + SHEL+DKE.) (JV) were requested to depute the competent person for bilateral discussion on 22.07.2024 to finalize the matter judiciously.

12. Negotiations were held on 22.07.2024 with M/s Aarti Infra Projects Pvt Ltd + M/s Sunil Hi-Tech Engineers Ltd + M/s D.K Engineers (AIPPL + SHEL+DKE.) (JV) in the Chambers of Director/Hydel and both the parties have agreed to settle the matter amicably as per the decree dt.03.07.2018 in OS No.150/2009 (renumber as C.O.S. No. 54 of 2016).

13. As per the negotiations M/s Aarti Infra Projects Pvt. Ltd+ M/s Sunil Hi-Tech Engineers Ltd + M/s D.K Engineers (AIPPL+SHEL+DKE,) (JV) submitted their proposal vide their letter dated 23.07.2024 as detailed below for early closure of dispute amicably.

Particulars of Amount due	Amount As per Amicable settlement proposal in Rs.
Basic Award Amount	4,75,45,000.00
Interest @ 6% upto 03.07.2018	2,67,44,063.00
Cost of Court Fee	7,10,937.00
Total	7,50,00,000.00

14. Based on the proposal of M/s Aarti Infra Projects Pvt. Ltd+ M/s Sunil Hi-Tech Engineers Ltd + M/s D.K Engineers (AIPPL+SHEL+DKE,) (JV), a note is circulated for arranging payment of **Rs 7,50,00,000.00 (Rupees Seven Crores and Fifty Lakhs only)** as detailed in para 13 above to M/s Aarti Infra Projects Pvt Ltd + M/s Sunil Hi-Tech Engineers Ltd + M/s D.K Engineers (AIPPL + SHEL+DKE.) (JV) against E.P. No. 7/2023 in O.S.No.54/2016 (On the file of Commercial Court cum XXIV Addl. Chief Judge City Civil Court, Hyderabad) filed by M/s Aarti Infra Projects Pvt. Ltd against APGENCO before the Commercial Court Judge at Vijayawada and close the dispute permanently pertaining to the subject matter.

15. APGENCO after careful consideration of the proposals mentioned in para '14' above accords approval for arranging payment of **Rs 7,50,00,000.00 (Rupees Seven Crores and Fifty Lakhs only)** as detailed in para 13 above to M/s Aarti Infra Projects Pvt Ltd + M/s Sunil Hi-Tech Engineers Ltd + M/s D.K Engineers (AIPPL + SHEL+DKE.) (JV) against E.P. No. 7/2023 in O.S.No.54/2016 (On the file of Commercial Court cum XXIV Addl. Chief Judge City Civil Court, Hyderabad) filed by M/s Aarti Infra Projects Pvt. Ltd against APGENCO before the Commercial Court Judge at Vijayawada and close the dispute permanently pertaining to the subject matter. The expenditure is chargeable to capital expenditure of NSTPD.

16. The Chief Engineer/O&M/SRBHES/APGENCO, Sunnipenta, Srisailam Dam (East), Nandyala Dist- 518102 is directed to take necessary action as per the above approval.

17. This order is issued with the approval vide e-office file No.1111/2024, dated 04 .08.2024.

(BY ORDER AND IN THE NAME OF APGENCO)

Y. KOTESWARA RAO
CHIEF ENGINEER/CIVIL
HYDEL, GS, C&I

To
The Chief Engineer/ O&M,
SRBHES, APGENCO,
Sunnipenta, Srisailam Dam (East)
Nandyala Dist- 518102.

Copy to the:

1. Dy EE/Tech to Managing Director/APGENCO/Vidyut Soudha/Vijayawada - 4.
2. AO to the Director/Finance & Comml. /APGENCO/ Vidyut Soudha/ Vijayawada - 4.
3. Dy EE/ Tech. to the Director/Hydel/ APGENCO/Vidyut Soudha/ Vijayawada - 4.
4. Dy EE/ Tech. to the Director/Thermal/ APGENCO/Vidyut Soudha/ Vijayawada - 4.
5. Dy EE/ Tech. to the Director/HR & IR/ APGENCO/Vidyut Soudha/ Vijayawada - 4.
6. Chief Engineer/Elc/HPC & HP/APGENCO/Vidyut Soudha/ Vijayawada - 4.

7. Chief General Manager/ R & A/APGENCO/ Vidyut Soudha/ Vijayawada - 4.
8. Chief General Manager/Audit & Trust/ APGENCO/ Vidyut Soudha/ Vijayawada - 4.
9. AE/Tech to Chief General Manager (Adm,IS & ERP) /APGENCO / Vidyut Soudha / Vijayawada - 4.
10. Superintending Engineer/ Civil/ NSTPD Circle/ Satrasala village, P.O. Jettipalem, Rentachintal Mandal, Palnadu Dist- 522 421.
11. Senior Accounts Officer/P&A/APGENCO/ Vidyut Soudha / Vijayawada - 4.
12. Accounts Officer / NSTPD/Satrasala Village, P.O Jettipalem, Mandal Rentachintal,Palnadu Dist- - 522 421.
13. Stock file.

Forwarded By Order


Superintending Engineer/ Civil
Hydel-II, GS