



No. PPRA/AP-06/2026
Government of Pakistan
Public Procurement Regulatory Authority
(Appeal & Review Petition Secretariat)
1st Floor, FBC Building, G-5/2, Islamabad
<><><>

ORDER

M/s EMCO Industries Limited

...the "Appellant"

Vs.

Faisalabad Electric Supply Company (FESCO)

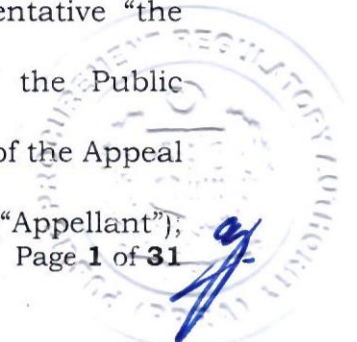
...the "Respondent"

<u>Date of Hearing</u>	
02.03.2026	Mr. Waleed Khalid (Adv), Rana M. Amar Asif (Adv), Mr. Usman Akram Sahi (Adv), Mr. Saleem Rehman, CEO (EMCO), Mr. Saqib Aziz, General Manager (EMCO), Mr. Ali Haider, Manager (EMCO) (On behalf of Appellant)
17.02.2026	Mr. Taimoor Aslam (Adv), Mr. Mudassar Abbas (Adv), M. Sarfaraz Ahmad, M. Tayyab Sattar, Mr. Sarmad Hussein, Mr. Muhammad Iqbal Javed (On behalf of Respondent i.e., FESCO)
02.02.2026	M. Hanzala (AHC), Mr. Arsalan Izhar (On behalf of Resp. No. 2 i.e., M/s Shahzad Enterprises)

APPEAL UNDER RULE 48(7) OF THE PUBLIC PROCUREMENT RULES, 2004
[TENDER NO.NCB-696/FESCO/PMU/GSC&GSO/2025-26 FOR THE
PROCUREMENT OF 18 SETS OF 132 KV BUS ISOLATORS AND 2 SETS OF
145 KV BUS ISOLATROS]

The Authority received an Appeal filed by M/s EMCO

Industries Limited, through its authorised representative "the Appellant" on 15.01.2026 under Rule 48(7) of the Public Procurement Rules, 2004. The Authority on receipt of the Appeal issued notices to M/s EMCO Industries Limited ("Appellant");

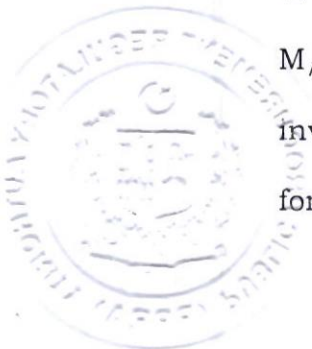


Faisalabad Electric Supply Company (FESCO); M/s Shahzad Enterprises (the “Respondents”), wherein it was directed to appear in person or through their nominated representatives or Counsel before the Authority on 02.03.2026 before the Appellate Committee in the Committee Room of Public Procurement Regulatory Authority (PPRA).

2. On the said date of hearing (02.03.2026), the representatives of the parties, i.e. M/s EMCO Industries Limited “Appellant”; Faisalabad Electric Supply Company (FESCO); M/s Shahzad Enterprises “Respondents” appeared before the Committee and presented their arguments at length. The Respondents provided written arguments to the Committee.

3. In Compliance with the notices issued (i) Mr. Saqib Aziz (General Manager S&M), Mr. Salman Rehman, Mr. Usman Akram Sahi (Advocate), Mr. Rana Amar Asif (Advocate) appeared on behalf of M/s EMCO; Mr. Taimoor Aslam Khan (Advocate), Mr. Sarmad Hussain, Mr. Sarfraz Ahmed, Muhammad Iqbal Javed appeared on behalf of M/s FESCO, Muhammad Hanzala (Advocate), Mr. Arsalan Izhar (Counsel) appeared on behalf of M/s Shahzad Enterprises on the said date of hearing and the subject Appeal was heard at length.

4. The representative of the Appellant submitted that M/s EMCO Industries Limited, established in 1954, has been involved in the manufacturing and supply of electric equipment for transmission, distribution system and substations since



1972. Throughout the decades, the Appellant has been at the forefront to indigenize products for use in the power sector and has been duly recognised as a Local Manufacturer by the Engineering Development Board (EDB) of multiple products, including Disconnect Switches/Isolating Switches. This is evident from the Customs General Order (CGO) which is issued by the Government of Pakistan, and the Appellant has been named as a local manufacturer of Isolating Switches (Air insulated) and Make and Break Switches for voltage up to 145Kv since 2008. Further submitted that from 2006 till current date, the Appellant has secured multiple orders and supplied over 1,500 sets of 132/145Kv Disconnect switches/isolators to multiple Electricity distribution Companies (DISCOs) including PESCO, LESCO, MEPCO, HESCO, QESCO, GEPCO, TESCO, SEPCO, FESCO, IESCO, and NTDC, earning multiple satisfactory performance certificates for disconnect switches/isolators.

5. The representative of the Appellant submitted that in October, 2025, Faisalabad Electric Supply Company (FESCO-Respondent) issued a tender-documents bearing Tender No. NCB-696/FESCO/PMU/GSC&GSO/2025-26, for the procurement of 18 sets of 132Kv Bus Isolators, and 2 sets of 145Kv Bus Isolators. The bid submission date, as extended, was 04-11-2025. The subject tender in accordance with the prevailing law, envisaged and incorporated price preference provisions, as also enumerated in the SRO 827(1)/2001, dated 03-12-2001, (the SRO 827(I)/2001), issued by the Ministry of Commerce,

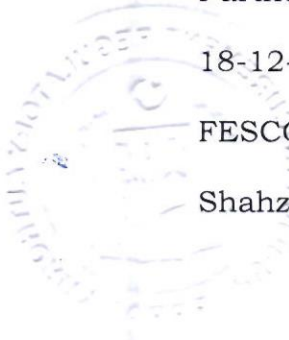
Government of Pakistan. The Appellant submitted its bid on 03-11-2025. The Appellant specifically attached all documents in support of price preference being afforded to it and its eligibility to be extended to the same. Further added that when the bids were publicly opened on 04-11-2025, the prices announced were such that after accounting for the price preference, the Appellant would have been the Most Advantageous Evaluated Bidder. The comparison is as under:


ITEM / LOTS	Description	QTY.	EMCO Industries Limited	SSE	Shahzad Enterprises
			FCS PKR	FCS PKR	FCS PKR
1.	132kV Bus Isolators (Unit Price)	18	2,793,000	3,094,000	2,750,000
	Total value of Item - 1		50,274,000	55,692,000	49,500,000
	Applying price preference @	25%		13,923,000	12,375,000
	Compared value of Item - 1		50,274,000	69,615,000	61,875,000
2.	132kV Bus Isolators (Unit Price)	2	2,793,000	3,094,000	2,750,000
	Total value of Item - II		5,586,000	6,188,000	5,500,000
	Applying price preference @	25%		1,547,000	1,375,000
	Compared value of Item - II		5,666,000	7,735,000	6,875,000

Bid price of EMCO is 23% lesser than Shahzad Enterprises by applying the preference factor.


Bid price of EMCO is 23% lesser than Shahzad Enterprises by applying the preference factor.

Further submitted that when the final evaluation report dated 18-12-2025 was uploaded on E-PADS website on 21-12-2025 by FESCO, the Respondent wrongly and unlawfully declared M/s Shahzad Enterprises as the Most Advantageous Bidder, evidently




 as FESCO did not account for any price preference in terms of the subject tender while evaluating the bids.

6. The representative of the Appellant further submitted that aggrieved of the same, on 22-12-2025, the Appellant filed a formal grievance, vide letter dated 22-12-2025, before the Grievance Redressal Committee of FESCO, against the Evaluation Report under Rule 48(3) of the Rules. A hearing was conducted on 31-12-2025, in which the submissions of the Appellant were elaborated and acknowledged. Further added that on 02-01-2026, a brief decision of the GRC was uploaded on E-PADS, which stated that the request of M/s EMCO Industries Limited Lahore for grant of price preference is not justified, as the subject procurement was neither conducted through International Competitive Bidding nor any International Bidder participated in the competition. No formal decision has still been shared. FESCO vide letter bearing no. 2133/CE.(Dev.)PMU/FESCO dated 09-01-2026, delivered to the Appellant on 12-01-2026, has shared some fact-finding report of the GRC, which claims that the GRC has decided the matter in terms mentioned therein (the GRC decision). Further argued that in the interest of due process and transparency, before approaching any forums of appeal, the Appellant wrote a further letter dated 05-01-2026, indicating the violations of law involved and requested that the tender process be halted. FESCO has till date, not replied to or acted upon this letter, and it is


 apprehended that FESCO intends to proceed with the procurement process.

7. The representative of the Appellant further submitted that the GRC decision fails to take into account that the subject tender itself explicitly provided that domestic preference shall be applicable. In this regard, reference is made to Section III of the bidding documents of the Subject Tender which specifies the Evaluation and Qualification Criteria. The starting sentence of Section III expressly provides that in addition to evaluation parameters stated in clause 34 of ITB, the following evaluation criteria and method shall be used for the purpose of evaluation of this tender. Clause 6 of Section III relates to domestic preference and mandates that domestic preference shall be applied in accordance the SRO 827(I)/2001. Clause 6 is reproduced below:

"6. Domestic preference:

 Domestic preference shall be applicable in accordance to SRO. 827(I)/2001, dated 03-12-2001 issued by Ministry of Commerce, Government of Pakistan.

In the comparison of evaluated bids, the Goods manufactured in Pakistan, will be granted a margin of preference in accordance with the following procedure that:

- a) The bidder shall have established to the satisfaction of the employer the that manufacturing cost of such Goods include a domestic value addition equal to at least 20% of the ex-factory Bid price of such Goods.
- 

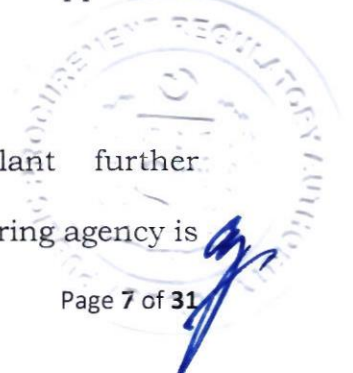



- b) The saving in foreign exchange is not less than the amount of price preference.
- c) It is ensured that in each case of such preference, the total import requirement for producing the supplies tendered for locally manufactured items has been indicated by the bidders.
- d) Price preference shall be allowed as under:
 - i. Having minimum of twenty per cent value addition through indigenous manufacturing price preference shall be fifteen percent.
 - ii. Having over twenty per cent and up to thirty percent value addition through indigenous manufacturing price preference shall be twenty percent.
 - iii. Having over thirty percent value addition through indigenous manufacturing price preference shall be twenty five percent.

Further submitted that it is clear from the above that while evaluating bids in the subject tender, domestic preference was to be applied. However, in complete disregard, to the requirements of Section III, clause 6, and the SRO 827(I)/2001, FESCO issued the Evaluation Report without applying any domestic preference. The evaluation report and the GRC decision are patently illegal and contrary to the bidding documents and mandatory requirements of the law. The GRC decision does not even mention the above provisions of the subject tender or the Appellants assertions in this respect.



8. The representative of the Appellant further submitted that as per Rule 23 of the Rules, a procuring agency is






required to formulate precise and unambiguous bidding documents. The Bidding Documents of the subject tender precisely and clearly indicated in Clause 6 of Section III that “domestic preference shall be applicable in accordance with SRO 827(I)/2001, dated 03-12-2001”. Therefore, disregarding the same while evaluating the bids is unlawful and illegal. The GRC decision is accordingly liable to be declared as illegal and unlawful. Rule 29 of the Rules expressly stipulate that a procuring agency is required to formulate an appropriate evaluation criteria listing all the relevant information against which a bid is to be evaluated. It is further stated that such evaluation criteria shall form an integral part of the bidding documents. Failure to provide for an unambiguous evaluation criteria in the bidding documents shall amount to misprocurement. Rule 29 reads as follows:

“29. Evaluation Criteria:

“Procuring agency shall formulate an appropriate evaluation criteria listing all the relevant information against which a bid is to be evaluated. Such evaluation criteria shall form an integral part of the bidding documents and failure to provide an unambiguous evaluation criteria in the bidding documents shall amount to misprocurement”.



In the present procurement process, the bidding documents unequivocally stipulated that domestic preference was to be applied. On this basis, the Appellant submitted its bid in response to the subject tender and duly appended all relevant documents where in prior instances, such preference had been

2

extended by DISCOs to the Appellant. At the time of public opening of bids, the prices announced were such that, upon application of the prescribed domestic preference, the Appellant would have been declared as the Most Advantageous Evaluated Bidder. However, contrary to the express evaluation criteria, which was an integral part of the bidding documents, no domestic preference was applied, which is evident from the evaluation report. The said action amounts to disregarding the evaluation criteria, which, under Rule 29 constitutes an integral and binding part of the bidding documents. The Respondent has acted in violation of Rule 29 of the Rules, rendering the Evaluation Report and GRC decision unlawful. Violation of any of the Rules in the procurement process including Rule 29 of the Rules makes the evaluation Report and the GRC decision liable to be set aside in light of the jurisprudence of the Superior Courts of Pakistan. Reliance is placed on the judgement titled Messrs Muhammad Hanif and Co. Versus Chief Engineer North, PAK PWD and 3 others (2023 CLC 443).

9. The representative of the Appellant further submitted that the GRC, while deciding on the Grievance filed by the Appellant, has failed to discuss, mention or even refer to Clause 6 of Section III of the bidding documents, in the impugned GRC decision. Despite the said clause constituting a mandatory evaluation requirement, the GRC completely ignored the obligation to apply the prescribed evaluation criteria and instead erroneously sought to place reliance wholly on Rule 24 of the

Rules, which is not applicable to the present matter. In this regard, paragraph 3 of SRO 827(I)/2001, which is relevant and expressly mandates price preference to be applied, is reproduced as under:

3. *“Price preference to be accorded.: Only in cases of procurement by the government and in case of procurement by other public sector agencies, bidders tendering for engineering goods produced in Pakistan shall be accorded a price preference in rupees up to a specific percentage (in proportion to the value addition) of the lowest quoted landed cost of an item of foreign origin with similar specifications as mentioned in the tenders.*

10. The representative of the Appellant contended that a bare perusal of the aforesaid provisions makes it abundantly clear that the “preference” mentioned under Rule 24 of the Rules is conceptually and legally distinct from the price preference mentioned under SRO827 (I)/2001. The GRC, however, failed to appreciate this crucial distinction. The Respondent/GRC not only failed to correctly understand and apply the relevant statutory provisions and bidding documents, but also acted in a manner that is arbitrary, unreasonable, and contrary to settled principles of public procurement law. The Appellant through various communications including letter dated 10-11-2025, to FESCO, reminded and highlighted that it had to apply price preference as per SRO827 (I)/2001 in the subject tender. In the said letter, it was mentioned that:

- i. “Price preference on domestically manufactured goods is applicable in subject FESCO Tender. As per directive of Power



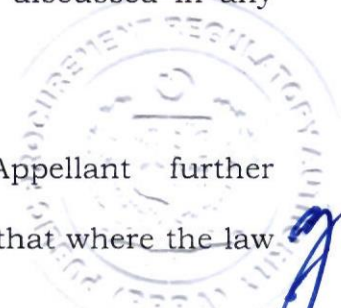
Planning Monitoring Company through letter dated 30-03-2002, SRO827 (I)/2001 and EDB Letter dated 10-10-2022, which are being make it mandatory to apply price preference on locally manufactured products”.

- ii. The Appellant is doing 55% local value addition in the subject items and EDB has declared that the Appellant is doing more than 30% value additions in manufacturing of the subject items, and as a result, the same is eligible for price preference of up to 25% as per the SRO 827.
- iii. Evaluation Reports from various DISCOs showed that price preference to the Appellant was given over the other bidder who offered imported equipment. These documents were also provided to FESCO in the Appellant’s bid submission. Further added that the subject items being offered by Shahzad Enterprises is imported from China and is not manufactured locally.
- iv. A price comparable table showed the bid prices of each bidder after applying price preference. After its application, the bid price of the Appellant gets 23% lesser than the bid price of Shahzad. The subject items in the subject tender are listed in the CGO-03-2024(at Sr. No. 986), CGO-04-2022 (at Sr. No. 929), etc. and EMCO is the local manufacturer of the same.



Despite reminding FESCO of the above mandatory requirements, no weightage was given to Appellant’s lawful request of applying price preference as per SRO827 (I)/2001 in the evaluation process of bids. These matters are also not discussed in any capacity in the GRC decision.

11. The representative of the Appellant further submitted that it is a settled principle of law that where the law




prescribes that a particular act must be performed in a particular manner, it must be done strictly in that manner; any deviation constitutes non-compliance with the legislative intent. *Reliance is placed on the judgement Secretary, Ministry of Finance, Finance Division, Government of Pakistan and others versus Muhammad Anwar (2025 SCMR 153).*

Further added that it is a settled principle of law that any superstructure built on sham base cannot be sustained. Any such superstructure is liable to be struck down. In the present case, since the evaluation process was based on misreading and non-reading of the law and the mandatory evaluation requirements, the resulting declaration of Shahzad Enterprises as the most advantageous evaluated bidder cannot be upheld and is accordingly liable to be set aside. Reliance is placed on the judgements titled Muhammad Rashid Khan Versus Muhammad Wajahat Ameer Khan and others (2023 CLC 1750), Ghulam Mustafa Lund Versus National Accountability Bureau (PLD 2024CSC 54), and Mst. Nawab Bibi Versus Hakim Ali and others (2024 CLC 895).


12. The representative of the Appellant further submitted that even cases involving departmental appeals were covered by Section 24-A of the General Clauses Act, 1897 in so far as they attract quasi-judicial functions.

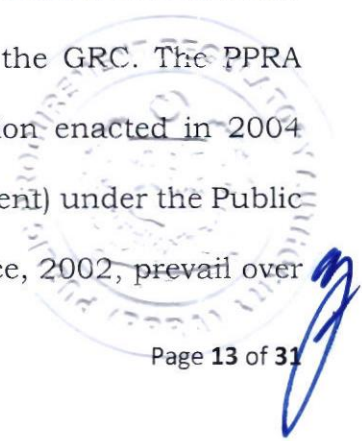
Reliance is placed on the judgements of the Supreme Court titled Zain Yar Khan Versus the Chief Engineer, C.R.B.C. WAPDA, D.I. Khan (1998 PLC(C.S.) 1484), Secretary Ministry of Health,



*Government of Pakistan, Islamabad Versus Dr. Rehana Hameed
(2010 SCMR 511).*


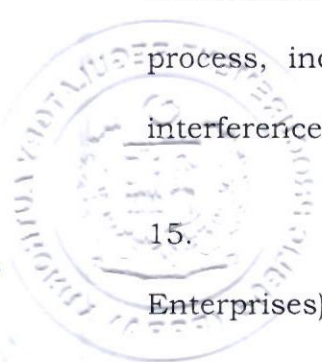
The GRC decision is directly in violation of Section 24-A of the General Clauses Act, 1897, which clearly necessitates that public authorities must exercise reasonably, fairly, justly and provide reasons for the orders / direction. FESCO has failed to adhere to the evaluation criteria and mandatory requirements of law, particularly the SRO827(I)/2001, and to provide a reasoned decision.

13. The representative of the Respondent (M/s Shahzad Enterprises) submitted that the Appellant's entire course of action, from the filing of the initial grievance to the present appeal, constitutes an abuse of process. The apparent objective is to obstruct the legitimate bidding process and impeded the procuring agency from awarding the contract, particularly in view of the undisputed fact that the Appellant did not emerge as the lowest evaluated bidder.

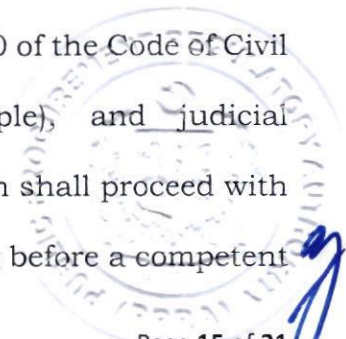

14. Further submitted that the tender in question was floated as National Competitive Bidding, not International Competitive Bidding, and no international bidder participated. The domestic preference under the SRO and Rule 24 of the PPRA Rules is inapplicable, as correctly held by the GRC. The PPRA Rules, being the later and specific legislation enacted in 2004 (and the said Rule in 2021 through amendment) under the Public Procurement Regulatory Authority Ordinance, 2002, prevail over




 the SRO issued in 2001 in case of any conflict, as established in judicial precedents where it was held that subordinate legislation like SROs cannot override statutory rules or enactments. The bidding documents, including Clause 6 of Section III, cannot expand or contradict the scope of the PPRA Rules, as Rule 4 mandates that all procurements shall be conducted in accordance with the Rules, and any inconsistency in bidding documents must yield to the statutory framework. The Evaluation Report dated 18-12-2025 and the GRC decision are reasoned, transparent, and in accordance with law. The Appellant's reliance on Clause 6 of Section III of the Bidding Document is misplaced, as said clause is subject to the primary framework of Rule 24 (2), which limits price preference to scenarios involving international competition. The bidding documents cannot confer rights beyond the PPRA Rules, and any purported incorporation of the SRO must be interpreted restrictively to align with Rule 24(2), which clearly intends preferences only in International Competitive Bidding contexts, not National Competitive Bidding. Respondent No. 2 (M/s Shahzad Enterprises), having been declared as the Most Advantageous Evaluated Bidder on the basis of the lowest evaluated cost without any preference, has a vested right in the process, including the issuance of purchase order, and any interference would cause irreparable loss.


 15. The representative of the Respondent (M/s Shahzad Enterprises) further submitted that the Appellant's alleged local

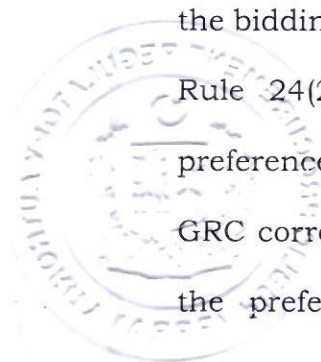
manufacturer status, granted by the Engineering Development Board (EDB) via certificate dated 17-02-2025, is contested on the ground of importing Semi-knocked down (SKD) components from China while availing exemptions under the 5th Schedule of the Customs Act, 1969, by declaring the items as not locally manufactured. This dual benefit (price preference in tenders and duty exemptions) harms the national exchequer and contradicts the Appellant's claim, as highlighted in custom cases filed by entities like M/s MK Engineering Works. The pending Sindh High Court matters (SCR No. 304 of 2025 and 305 of 2025) renders the Appellant's status sub-judice. Specifically, the Customs Appellate Tribunal, in its amended rectification order dated 06-02-2024 in Customs Appeal No. K-7376/2021, allowed the rectification application and declared the EDB's certification of the Appellant (EMCO) as a local manufacturer null and void, finding that EMCO does not manufacture the components parts locally but imports them in SKD form and assembles them, without producing evidence of local manufacturing. This Rectification Order was challenged by EMCO in Special Customs Reference (SCR) No. 304/2025 (C.M. No. 1289/2024 for interim relief) before the Sindh High Court, where the stay order has been vacated, thereby allowing the Tribunal's order to take effect without interim suspension. As per Section 10 of the Code of Civil Procedure, 1908 (res sub-judice principle), and judicial precedents it was held that no Court or forum shall proceed with a matter substantially in issue if it is pending before a competent



 court of concurrent jurisdiction, this Authority, as a lower regulatory forum, should refrain from deciding on the Appellant's manufacturer status to avoid conflicting with the High Court's eventual decision. If this learned Appellate Committee of the Authority proceeds and its decision conflicts with the High Courts outcome, it would be rendered infructuous and violative of Judicial Hierarchy.

16. The representative of the Respondent further submitted that past supplies do not confer any preferential right in the subject tender. The Appellant's performance certificates are immaterial to the evaluation criteria applied here, which were based on responsiveness and lowest cost, without price preference, as the tender was NCB and lacked international participation. The Appellant's alleged value addition is disputed, given its imports of SKD components and exemptions claimed by declaring non-local manufacturer, as evidenced in customs disputes currently sub-judice before the Sindh High Court, where EMCO's local manufacturer status has been declared null and void by the Customs Appellate Tribunal's Rectification Order dated 06-02-2024, with the stay on that order vacated. Further submitted that the incorporation of price preference provisions in the bidding documents (Clause 6 of Section III) must be read with Rule 24(2) of the PPRA Rules, 2004 which restricts such preference to cases involving international bidders (ICB). The GRC correctly found that no such conditions existed, rendering the preference inapplicable. The PPRA Rules, as the later

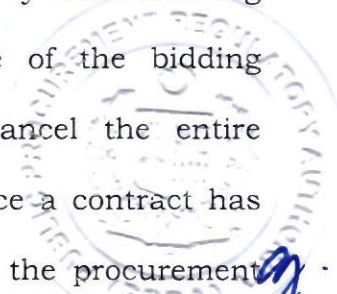








legislation, prevail over any conflicting interpretation of the SRO, ensuring legislative intent for preferences only in international contexts. Bidding Documents cannot override the Rules, as per Rule 4. The documents supporting price preference do not override the statutory requirement under Rule 24(2) for international competition.

17. The representative of the Respondent contended that Rule 24 of the Public Procurement Rules, 2004, governs reservations and preferences in procurement proceedings. Sub-rule (2) thereof provides that procuring agencies may accord a preference to domestic or national suppliers or contractors only in accordance with the policies of the Federal Government, and such preference is applicable primarily when domestic bidders compete against international bidders. The magnitude of any such preference must be clearly stipulated in the bidding documents under the bid evaluation criteria. In cases of NCB tenders restricted to national bidders, i.e., where participation is limited to domestic entities without international competition, no price preference is ordinarily available or invocable. Accordingly, success in the pending proceedings would not confer any automatic entitlement to price preference in NCB tenders. Any procedural irregularities allegedly committed by the Procuring Agency (FESCO) in relation to any clause of the bidding documents do not ispo facto vitiate or cancel the entire procurement process. Further added that once a contract has been awarded and a purchase order issued, the procurement

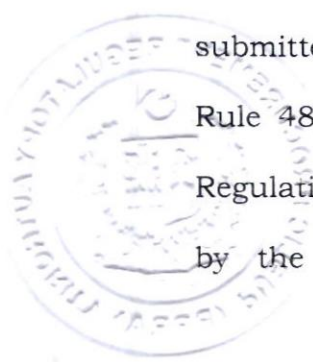


 process attains finality in that respect, subject only to specific grounds for annulment or cancellation as provided under the PPRA Rules, 2004, e.g., material irregularities affecting the fairness of competition or established fraud / corruption). Mere procedural lapses or deviations from bidding clauses, without evidence of prejudice to the competitive process or bad faith, do not warrant cancellation of the entire tender or revocation of the awarded rights post-issuance of the purchase order.

18. The representative of the Respondent further submitted that the bids were evaluated on actual quoted prices without preference, and Respondent No. 2 offered the lowest rates. No price preference was required as confirmed by the GRC, since the tender was not ICB and involved only domestic bidders. The Appellant's imports and exemptions contradict its local manufacturer claims, supporting denial of preference, and the issue remains sub-judice, with the status declared null and void and the stay order vacated. The GRC decision is reasoned and based on Rule 24(2). It explicitly states that price preference applies only in ICB or with international bidders, which was not case here.



19. The representative of the Respondent (FESCO) submitted that the captioned appeal has been preferred under Rule 48(7) of the Public Procurement Rules, 2004, read with Regulation 3 of the Redressal of Grievances Regulations, 2021, by the Appellant, i.e., EMCO Industries Limited, against

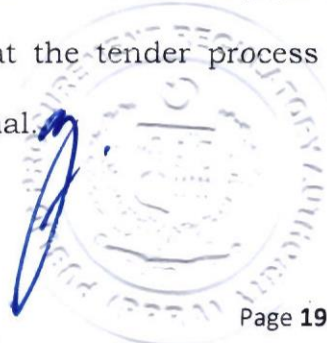




Faisalabad Electric Supply Company (FESCO) qua the award of the contract to Shahzad Enterprises, having been declared the most advantageous bidder. The primary grievance agitated by EMCO Industries Limited is to the effect that domestic preference, as provided by virtue of Clause 6 of Section III of the bidding documents of the subject tender, read with SRO 827(I)/2001 dated 03-12-2001 issued by the Ministry of Commerce, Government of Pakistan, has not been extended to them in the tender for the procurement of 18 sets of 132 KV bus isolators and 2 sets of 145 KV bus isolators. Further added that the said grievance was earlier agitated before the Grievance Redressal Committee; however, the Committee upheld the award of the tender to Shahzad Enterprises, being the most advantageous bidder, and rejected the grievance preferred by EMCO Industries Limited, from which the present appeal arises. The submissions made in this respect by FESCO in support of the award of the contract to the most advantageous bidder are laid out herein as follows.



I. The first and primary contention to be noted is that the subject tender was floated, as admitted by all parties, as NCB (National Competitive Bidding) and not as International Competitive Bidding. Therefore, it does not lie with any party to contend that they were unaware that the tender process was national in nature and not international.





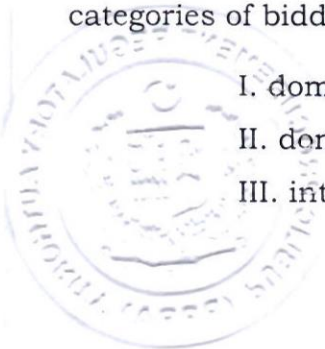
II. The reliance placed by EMCO Industries Limited for claiming domestic preference is misconceived for the reason that Rule 24(2) of the Public Procurement Rules, 2004 provides that the procuring agency, while evaluating and comparing bids, may allow preference to domestic suppliers or contractors while competing with international bidders in accordance with the policies of the Federal Government or regulations made by the Authority.

III. The words **“while competing with international bidders”** were incorporated through a subsequent amendment by way of SRO in 2021 and were not present in the original Rules of 2004. The purpose of highlighting the incorporation of the words **“while competing with international bidders”** is imperative in order to understand that the preference was to be accorded accordingly and that the words stipulated thereunder cannot be rendered redundant. It is categorically clear in the instant case that neither of the parties is an international bidder or qualifies as an international bidder.



IV. That the three categories sought to be made out by EMCO Industries Limited are contrary to the dictate of the Rules and the law, as EMCO Industries Limited seeks to introduce three categories of bidders in any given bid:

- I. domestic manufacturers,
- II. domestic bidders procuring imported goods,
- III. international bidders.



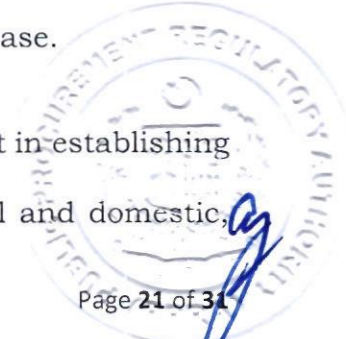



V. That the said interpretation, or the attempt to create three different categories, is entirely not in consonance with the procurement policies laid down by the Federal Government under SRO 2021. The wisdom behind the incorporation of the words **“while competing with international bidders”** stipulates that a distinction was intended to be drawn between two separate categories of bidders, i.e., domestic bidders and international bidders.

VI. That the rationale behind incorporating these words is not difficult to discern, for international bidders compete with local domestic bidders; therefore, a domestic preference is to be accorded to domestic bidders when competing with international bidders. This preference exists for the reason that international bidders are encouraged to establish businesses locally and to compete with other domestic players in an equal market. However, if the interpretation sought to be advanced by EMCO Industries is accorded, then the entire purpose of encouraging international bidders to establish local businesses and to compete in the market as local bidders would be defeated, for there would be no purpose or benefit for such international bidders to formulate companies and establish businesses locally, since the said domestic bidders procuring imported items would be treated as international bidders in any given case.



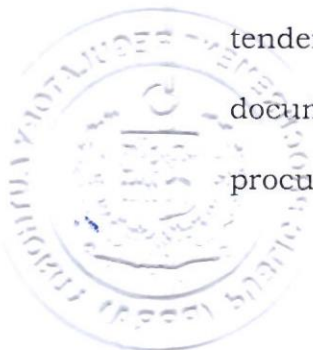


VII. That it could not have been the intent in establishing two different sets of bidders, being international and domestic,





while competing with one another, and to render those domestic bidders who are in the business of procuring imported goods to be termed or categorized as international bidders. It is not for the procuring agency to determine or question why a domestic bidder importing goods is quoting a particular rate, for that is the exclusive domain of the bidder itself. At best, the procuring agency can verify the credentials of such a bidder to ensure that the public procurement remains transparent and that the bidder is in a position to perform the procurement work that it has bid for. It cannot go beyond that and question the purpose or intent of a domestic bidder importing goods for rendering a bid at a price which may be more advantageous than the one quoted by domestic bidder manufacturing goods in Pakistan.

VIII. That it is imperative to stipulate that while the tender was floated as a national competitive bidding document, EMCO Industries, being well aware that it was competing with domestic market players since this was not an international competitive bidding procurement at no point in time sought clarification from the procuring agency as to whether it would be accorded domestic preference. This is despite the fact that domestic preference in terms of Rule 24(2) of the PPRA Rules, 2004 is typically invoked in circumstances distinct from the present case, and despite the tender having been floated as a national competitive bidding document rather than an international competitive bidding procurement.



IX. That the national competitive bidding tender floated by the procuring agency specifically provides in Clause 6 at page 127 of the appeal, under Section III (Evaluation and Qualification Criteria), titled "Domestic Preference." Specifically, Qualification Criteria 6(b) provides that the saving in foreign exchange is not less than the amount of price preference. The said clause, particularly sub-clause 6(b), is unequivocal in its intent that domestic preference is to be accorded with respect to foreign exchange. Where the question of foreign exchange does not arise, as is the case in the present procurement, domestic preference does not qualify to be accorded to either party.

X. That Since Shahzad Enterprises has quoted a rate without any contemplation of foreign exchange, the claim of domestic preference being accorded to EMCO Industries would prejudice and place domestic bidders—who are importing goods without claiming any foreign exchange advantage—at an unfavourable position vis-à-vis EMCO Industries.

XI. That the reliance on SRO 2001 in exclusion of the PPRA Rules, 2004, specifically Rule 24(2), is entirely unwarranted, since the PPRA Authority was established in 2002, whilst the Rules were formulated in 2004. As such, Rule 24(2) itself gives protection to the policies of the Federal Government being implemented by the procuring agency. Therefore, SRO 2001 cannot be read in exclusion of the PPRA Rules, 2004. Hence, the further amendment by way of SRO 2021 and the

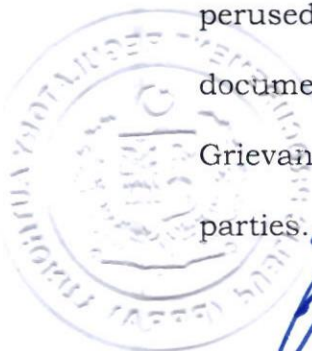
3

inclusion of the words **“while competing with international bidders”** must also be read harmoniously and in consonance with the original SRO for its applicability to become valid, for in exclusion of the PPRA Rules, 2004, the SRO would not be implemented in any event, as it would find no protection in terms of the rules established by the Authority. That the reason for not according domestic preference to both domestic bidders is entrenched in the correct interpretation of Rule 24(2) of the PPRA Rules, particularly the incorporation of the amended words **“while competing with international bidders.”**

20. The Appellate Committee has examined the Appeal filed under Rule 48(7) of the Public Procurement Rules, 2004 (the “Rules”) against the decision of the Grievance Redressal Committee of Faisalabad Electric Supply Company (FESCO) in relation to Tender No. **NCB-696/FESCO/PMU/GSC&GSO/2025-26** for procurement of **18 sets of 132 kV Bus Isolators and 2 sets of 145 kV Bus Isolators.**

Amir

21. The Appellate Committee heard the learned representatives of the Appellant, Respondent No.1 (FESCO) and Respondent No.2 (M/s Shahzad Enterprises) at length and perused the record placed before it, including the bidding documents, evaluation report dated 18-12-2025, decision of the Grievance Redressal Committee, and written submissions of the parties.





In terms of Rules 29 & 30 of the Public Procurement Rules, 2004, which is reproduced as under:

29. Evaluation criteria: -

Procuring agencies shall formulate an appropriate evaluation criterion listing all the relevant information against which a bid is to be evaluated. Such evaluation criteria shall form an integral part of the bidding documents. Failure to provide for an unambiguous evaluation criteria in the bidding documents shall amount to mis-procurement.

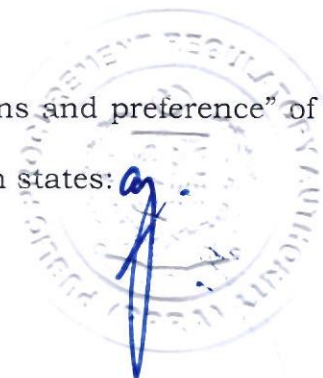
30. Evaluation of bids. -

(1) All bids shall be evaluated in accordance with the evaluation criteria and other terms and conditions set forth in the prescribed bidding documents. Save as provided for in sub-clause (iv) of clause (c) of rule 36 no evaluation criteria shall be used for evaluation of bids that had not been specified in the bidding documents.

It is pertinent to mention that no deviation from the specifications, terms and conditions specified in the bidding documents & evaluation criteria is permissible. The procuring agency may proceed strictly in accordance with terms and conditions set forth in the bidding documents. All participants in the bidding process are bound by the terms and conditions of tender documents and cannot go beyond the purview and ambit of the tender documents.



In terms of Rule 24 "Reservations and preference" of the Public Procurement Rules, 2004, which states:



(1) Procuring agencies shall allow all prospective bidders to participate in procurement or disposal proceedings without regard to nationality, except in cases in which a procuring agency decides to limit such participation to national bidders only or prohibit participation of bidders of some nationalities, in accordance with the policy of Federal Government.

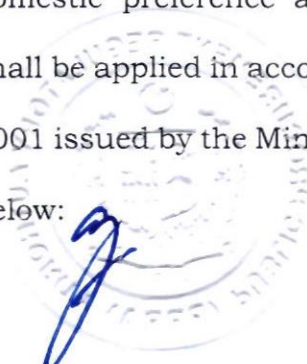
(2) The procuring agency shall, while evaluating and comparing bids, allow for preference to domestic suppliers or contractors, while competing with the international bidders in accordance with the policies of Federal Government or regulations made by the Authority for-

- (i) works projects;
- (ii) certain goods manufactured, mined, extracted and grown in the Islamic Republic of Pakistan; and
- (iii) disposal of certain assets having any potential impact on national security;

(3) The percentage of preference, to be accorded shall be clearly mentioned in the bidding documents under the bid evaluation criteria.

Section III of the bidding documents of the Subject Tender specifies the Evaluation Criteria and Qualification Criteria, the starting sentence of Section III expressly provides that in addition to evaluation parameters stated in clause 34 of ITB, the following evaluation criteria and method shall be used for the purpose of evaluation of this tender. Clause 6 of Section III relates to domestic preference and mandates that "domestic preference shall be applied in accordance the SRO 827(I)/2001 dated 03-12-2001 issued by the Ministry of Commerce. Clause 6 is reproduced below:

below:



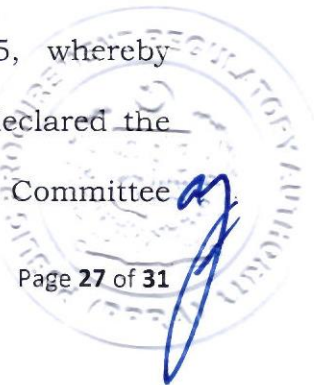
"6. Domestic preference:

Domestic preference shall be applicable in accordance to SRO. 827(I)/2001, dated 03-12-2001 issued by Ministry of Commerce, Government of Pakistan.

In the comparison of evaluated bids, the Goods manufactured in Pakistan, will be granted a margin of preference in accordance with the following procedure that:

- a. The bidder shall have established to the satisfaction of the employer that the manufacturing cost of such Goods include a domestic value addition equal to at least 20% of the ex-factory Bid price of such Goods.
- b. The saving in foreign exchange is not less than the amount of price preference.
- c. It is ensured that in each case of such preference, the total import requirement for producing the supplies tendered for locally manufactured items has been indicated by the bidders.
- d. Price preference shall be allowed as under:
 - i. Having minimum of twenty per cent value addition through indigenous manufacturing price preference shall be fifteen percent.
 - ii. Having over twenty per cent and up to thirty percent value addition through indigenous manufacturing price preference shall be twenty percent.
 - iii. Having over thirty percent value addition through indigenous manufacturing price preference shall be twenty five percent.

22. The bid opening was held on 04-11-2025, and subsequently the Final Evaluation Report dated 18-12-2025 was uploaded on the E-PADS portal on 21-12-2025, whereby Respondent No.2 (M/s Shahzad Enterprises) was declared the Most Advantageous Evaluated Bidder. The Appellate Committee



[Handwritten signature]

observed that the subject procurement was conducted through National Competitive Bidding (NCB) and participation in the tender was limited to domestic bidders. Rule 24(2) of the Public Procurement Rules, 2004 provides that preference to domestic suppliers or contractors may be allowed while competing with international bidders, in accordance with the policies of the Federal Government. The language of the Rule clearly indicates that such preference is contemplated in circumstances where domestic bidders compete against international bidders, thereby justifying the grant of a margin of preference.

23. The Appellate Committee has carefully examined the relevant provisions of the Public Procurement Rules, 2004. **Rule 29** of the Public Procurement Rules, 2004 provides that procuring agencies shall formulate an appropriate evaluation criterion listing all the relevant information against which bids are to be evaluated and that such evaluation criteria shall form an integral part of the bidding documents. **Rule 30(1)** of the Public Procurement Rules, 2004 further mandates that all bids shall be evaluated strictly in accordance with the evaluation criteria and the terms and conditions set forth in the prescribed bidding documents, and no evaluation criteria shall be used for evaluation of bids that had not been specified in the bidding documents.

[Handwritten signature]

24. From the record, it is evident that **Clause 6 of Section III of the bidding documents** specifically provides that



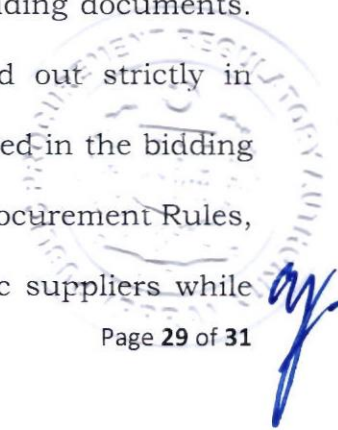
[Handwritten signature]



domestic preference shall be applicable in accordance with SRO 827(I)/2001 dated 03-12-2001, and further stipulated the methodology and percentages for application of such price preference based on domestic value addition. The said clause formed part of the **Evaluation and Qualification Criteria**, which under Rule 29 constitutes an integral component of the bidding documents and is binding upon the procuring agency as well as all bidders participating in the procurement process. Appellate Committee further observed that once the procuring agency has incorporated a particular evaluation parameter in the bidding documents, the same becomes binding and must be applied during evaluation of bids. The procuring agency cannot disregard or ignore the prescribed evaluation criteria at the stage of bid evaluation. Any evaluation conducted in deviation from the criteria specified in the bidding documents is contrary to **Rule 29 and Rule 30** of the Public Procurement Rules, 2004.



25. In the present case, although the bidding documents expressly included **domestic preference as part of the evaluation criteria**, the evaluation report dated **18-12-2025** reveals that the bids were evaluated solely on the basis of quoted prices without applying the domestic preference mechanism prescribed in Clause 6 of Section III of the bidding documents. Consequently, the evaluation was not carried out strictly in accordance with the evaluation criteria contained in the bidding documents. In terms of Rule 24 of the Public Procurement Rules, 2004, preference may be accorded to domestic suppliers while




competing with international bidders in accordance with the policies of the Federal Government. However, the record reveals that the procuring agency, in complete disregard of the requirements stipulated in Section III, Clause 6 of the bidding documents, read with SRO 827(I)/2001, proceeded to evaluate the bids in a manner inconsistent with the evaluation criteria prescribed in the bidding documents.

26. The Appellate Committee is of the view that SRO 827(I)/2001 and Rule 24(2) of the Public Procurement Rules, 2004 must be read harmoniously, and the grant of price preference under the said SRO cannot be interpreted in isolation from the statutory framework established under the Public Procurement Rules, 2004. The incorporation of the words "while competing with international bidders" in Rule 24(2) reflects the legislative intent that such preference is primarily aimed at protecting domestic manufacturers in cases of International Competitive Bidding, whereas, the instant procurement process is National Competitive Bidding process. The Appellate Committee further observed that the Respondents have placed reliance on **Rule 24(2) of the Public Procurement Rules, 2004** to justify non-application of domestic preference. However, even if the procuring agency was of the view that such preference was not applicable in the circumstances of the instant procurement, the same ought not to have been incorporated in the evaluation criteria of the bidding documents. It is worth mentioning that the procuring agency has incorporated price preference criteria in the

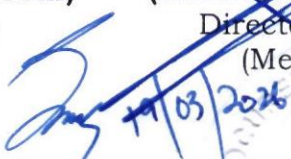
bidding documents under SRO 827(I)/2001 but later on refused to apply that price preference criteria on the grounds that the price preference criteria may be applicable only in international competitive bidding in accordance with Rule 24(2) of Public Procurement Rules, 2004.

27. The Committee is of the view that if the procuring agency come to know at later stage that, the price preference under SRO 827(I)/2001 is not applicable in national competitive bidding, the procuring agency may issue corrigendum, before the opening of the bids and modify its evaluation criteria. But in the instant case, procuring agency has not modified its evaluation criteria and evaluated all bids in disregard of the evaluation criteria prescribed in the bidding documents.

28. Hence, the procuring agency has committed violation of Rule 24, 29 and 30 of the Public Procurement Rules, 2004. Any unauthorised breach of Rules shall amount to mis-procurement. Therefore, the Appellate Committee is of the view that the instant Appeal is **disposed of** with the observations contained at paras 23-27 of this order.


(Dr. Muhammad Aslam Waseem)
Director General (Legal)
(Member)


(Sheikh Afzaal Raza)
Director (M&E)
(Member)


(Hasnat Ahmed Qureshi)
Managing Director (PPRA)
(Chairman of the Committee)

Each page of the order has been signed by all members of the Committee. The order comprises thirty-one (31) pages.

