



No. PPRA/AP-18/2026
Government of Pakistan
Public Procurement Regulatory Authority
(Appeal & Review Petition Secretariat)
1st Floor, FBC Building, G-5/2, Islamabad
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ORDER

M/s Trace Engineering & Consultant

...the "Appellant"

Vs.

Lahore Electric Supply Company (LESCO) through its CEO & Another

...the "Respondents"

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| <u>Date of Hearing</u> | Mr. M. Hanzala (Advocate) |
| 16.06.2026 | (On behalf of Appellant) Barrister Qassim Duggel, Mr. Abid Hamayun (Additional Director) (On behalf of Respondent No. 1 to 5) Barrister Qasim Nawaz Abbasi (On behalf of Respondent No.6) |

**APPEAL UNDER RULE 48(7) OF THE PUBLIC PROCUREMENT RULES, 2004
AGAINST THE GRC DECISION DATED 17.03.2026 IN TENDER NO. 4274/MM
FOR PROCUREMENT O 11KV UNSWITCHED CAPACITOR BANK**

The Authority received an Appeal filed by M/s Trace Engineering & Consultant, through its authorised representative "the Appellant" on 02.04.2026 under Rule 48(7) of the Public Procurement Rules, 2004. The Authority on receipt of the Appeal issued notices to M/s Trace Engineering & Consultant ("Appellant"); Lahore Electric Supply Company (LESCO); M/s Mighty Corporation (the "Respondents"), wherein it was directed

to appear in person or through their nominated representatives or Counsel before the Authority on 16.06.2026 before the Appellate Committee in the Committee Room of Public Procurement Regulatory Authority (PPRA).

2. On the said date of hearing (16.06.2026), the representatives of the parties, i.e. M/s Trace Engineering & Consultant "Appellant"; Lahore Electric Supply Company (LESCO); M/s Mighty Corporation "Respondents" appeared before the Committee and presented their arguments at length. The Respondents provided written arguments to the Committee.

3. The representative of the Appellant submitted that LESCO floated Tender No. 4274/MM for the Procurement of 11KV Un-switched Capacitor Bank (3×150 KVAR) 450 KVAR - 300 Nos. The Single Stage, Single envelop (SSSE) procedure has been adopted. The Appellant participated in the said Tender. The bid was submitted and publicly opened on 18.12.2025 at 11:00 a.m. Further submitted that the Appellant quoted the price of Rs.79,800,000/- and submitted complete documents as per Form-2, ITB 13.3(a) and all other Schedules of the bidding documents, including a direct Manufacturer Authorization Letter from M/s Shandong Taikai Power Electronic Co. Ltd., China. That on 13.02.2026, LESCO uploaded the Evaluation Report declaring M/s Mighty Corporation as the lowest evaluated bidder (conditionally responsive) while the Appellant was placed as 2nd lowest. **That being aggrieved, the Appellant filed a formal**

Grievance on 19.02.2026 under Rule 48 highlighting lack of valid direct manufacturer authorization letter and absence of valid prototype approval. The GRC heard the matter on 20.02.2026 and rejected the grievance vide its decision dated 17.03.2026. The Appellant also placed on record the MEPCO Evaluation Report of an identical tender wherein M/s Mighty Corporation was declared non-responsive on exactly the same grounds. The Appellant, being aggrieved by the illegal, arbitrary and unsustainable GRC decision dated 17.03.2026, invokes the appellate jurisdiction of this Authority under Rule 48(7) of the PPRA Rules, 2004 & Regulation 3 of the Redressal of Grievances Regulations, 2021.

4. The representative of the Appellant further submitted that the impugned GRC decision dated 17.03.2026 is illegal and unsustainable **because M/s Mighty Corporation did not possess a valid direct Manufacturer Authorization Letter as mandatorily required under Form-2 Sr. No. 3 read with ITB 13.3(a) of the bidding documents. The bidding documents unequivocally require (extract from Form-2 Sr. No. 3):**

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"Documentary evidence established in accordance with ITB 13.3(a) that the Bidder has been authorized by the manufacturer to deliver the goods into Pakistan, where required and where the supplier is not the manufacturer of those goods. (If applicable)".

ITB 13.3(a) further provides:

"in the case of a Bidder offering to deliver goods under the contract which the Bidder did not manufacture or otherwise produce, the Bidder has been duly authorized by the goods' Manufacturer or producer to deliver the goods in Pakistan;"

ITB. 4.5 also states that:

"if so required in the BDS, the bidder shall demonstrate that it has been duly authorized by the manufacturer of the goods to deliver in Pakistan...."

5. Further submitted that M/s Mighty Corporation submitted only a two-step chain authorization:

- (i) M/s Xi'an Herong Mech-Electrical Engineering Co. Ltd. (a "son company") authorized M/s Siddique Sons Engineering (Pvt.) Ltd.; and
- (ii) M/s Siddique Sons then authorized M/s Mighty Corporation. No direct authorization from the actual manufacturer was provided to Mighty Corporation.

That sub-authorization / chain authorization is impermissible under the maxim *delegatus non potest delegare* (a delegate cannot further delegate).

6. This maxim has been consistently applied by the superior courts of Pakistan as follows:

- a. In ARY Communications Limited vs Council of Complaints, Islamabad (2022 PLD 552 Karachi High Court Sindh) the Honourable Court held: "*delegatus non potest delegare*-Scope-Delegated power-Acting under dictation is against unsanctioned delegation, derived from maxim *delegatus non potest delegare*, which lays down that a delegate cannot further

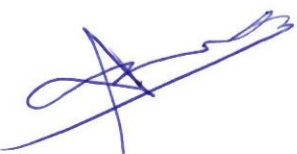
delegate power to someone else-Such is to ensure that when a specific person or body is given a statutory discretion, the discretion is exercised by that very person or body and not by someone else."

b. In Commissioner Inland Revenue, Zone-1, Faisalabad vs Magna Textile Industries Private Limited, Faisalabad (2019 PTD 594 Lahore High Court) the Court ruled: "delegatus non potest delegare-Application-In absence of any power or authority to further delegate any revisional or supervisory jurisdiction, such jurisdiction had to be exclusively exercised while adhering to the principles encapsulated in the maxim delegatus non-potest delegare."

c. In Haji Nek Amal vs Dr. Suhail Baluch (2017 MLD 711 Peshawar High Court) the Court observed: "delegatus non potest delegare (delegatee cannot delegate)-Actions beyond scope of power-of-attorney-Validity- Maxim clearly signified that a person to whom an authority had been delegated by someone could not in turn further delegate or sub-delegate the same to another unless original delegation has expressly and explicitly authorized the same - Any departure from explicit language shall be deemed to be against the will and wishes of principal and will be void to that extent."



7. Further submitted that the bidding documents nowhere expressly authorize / allowed further delegation because only the original manufacture can ensure the supply of exact tender materials. Hence the chain authorization submitted by M/s Mighty Corporation is void and renders its bid non-responsive. The GRC's acceptance of this chain is perverse,



contrary to the bidding documents, and liable to be set aside.
The GRC decision further fails to appreciate the absence of valid Prototype Approval in the name of M/s Mighty Corporation as required under Form-2 Sr. No. 8. Form-2 Sr. No. 8 of the bidding documents mandates:

"Valid Prototype approval from CE(S&S) NTDC....."

8. Further averred that M/s Mighty Corporation failed to submit any valid prototype approval in its own name or a valid undertaking. The GRC erroneously accepted an indirect reference to NTDC approval issued in the name of M/s Siddique Sons. This is contrary to the explicit requirement that the approval/undertaking must relate to the bidding entity. The same deficiency led to M/s Mighty Corporation being declared non-responsive in an identical procurement by MEPCO (Evaluation Report Endst. No. 4775-79 dated 22-11-2025, wherein Mighty was held "Non-responsive due to non-having Authority letter from Manufacturer & the bidder has no prototype approval"). The GRC's failure to follow the same standard constitutes arbitrary and discriminatory treatment and renders the decision unsustainable. Further submitted that the actions of LESCO and the GRC violate the mandatory provisions of transparency, fairness and economy under Rule 4 of PPRA Rules, 2004 and defeat the core objectives of the PPRA framework. The GRC decision is a non-speaking order in violation of Rule 35 of PPRA Rules 2004 and the principles of natural justice. A bidder cannot be declared responsive without disclosing the exact

reason and affording proper appreciation of objections (PLD 1985 SC 62; 1998 SCMR 2268; PLJ 1999 SC 1105; Section 24-A General Clauses Act, 1897).

9. The representative of the Appellant prayed that the instant Appeal may kindly be accepted in the following terms:

- i. Declare the GRC decision dated 17.03.2026 as illegal, arbitrary and unsustainable;
- ii. Set aside the GRC decision dated 17.03.2026 in its entirety;
- iii. Declare the bid of M/s Mighty Corporation as non-responsive for want of valid direct Manufacturer Authorization Letter and Prototype Approval and Order for review of Evaluation Report;
- iv. Declare the Appellant as the most advantageous /lowest evaluated responsive bidder;
- v. Direct LESCO to proceed with award of contract to the Appellant forthwith;
- vi. Grant any other relief deemed fit and proper in the circumstances to uphold justice, transparency and the rule of law.



10. The representative of the Respondent (LESCO) submitted that the contents of the appeals are ambiguous, deceptive and thereby bound to mislead this Learned Authority.



11. The representative of the Respondent (LESCO) further submitted that the Respondent, LESCO, issued a Tender Notice (Invitation for Bids) under Tender No. 4274/MM for the



procurement of 11kv Un-Switched Capacitor Bank (3 150 KVAR) 450 KVAR-300 Nos. The bid was submitted and publicly opened on 18.12.2025 at 11.00 am through the Single Stage-single Envelope procedure in terms of Rule 36(b) of the public procurement rules, 2004. In response to the said advertisement, two firm's M/s Mighty Corporation and M/s Trace Engineering & Consultants submitted their bids along with the required bid securities. After initial scrutiny, both bidders were declared technically responsive in the Technical Evaluation Report dated 13-02-2026, which was duly uploaded on LESCO's website in compliance with Rule 35 of the Rules. Further submitted that the subject tender pertains to a 450kVAR Unswitched Capacitor Bank comprising three (03) sets of 150kVAR capacitors and the associated steel support structure (hangers). The capacitors are manufactured by M/s Herong Electric Co., Ltd., while the steel structure and fabrication works are manufactured by M/s Siddique Sons Engineering (Pvt.) Ltd. M/s Siddique Sons Engineering (Pvt.) Ltd. obtained prototype approval/testing from NGC for the complete assembled product in its own name and is therefore the approved assembler/manufacturer and custodian of the prototype. As the holder of the valid prototype approval, it is fully authorized to issue a Manufacturer Authorization Letter (MAL) to M/s Mighty Corporation for participation in the subject tender.

12. The representative of the Respondent (LESCO) further submitted that the stance of the appellant about the non-

authorization of the M/s Mighty Corporation is null and void. M/s Mighty Corporation fulfil the all requirements and was a successful bidder having manufacturers authorization through M/s Siddique sons Engineering (Pvt) Ltd. The instant appeal is misconceived, incompetent and not maintainable, it's just wastage the time of the honourable authority. Further submitted that the subject equipment is critical for maintaining grid stability. Any suspension or delay in procurement would adversely affect system performance, increase technical losses, and cause financial loss to the procuring agency. Moreover, LESCO has already issued the Letter of Intent to M/s Mighty Corporation. Accordingly, the appeal is devoid of merit, not maintainable, and liable to be dismissed.

13. The representative of the Respondent (LESCO) contended that the Evaluation Committee and Grievance Redressal Committee (GRC) of LESCO acted within their lawful authority under the PPRA Rules. Without prejudice to the preliminary submissions, unless expressly admitted, each and every averment made in the titled appeal is denied, however, for the purpose of record a reply, in seriatim, is given herein below for consideration by this Hon'ble Tribunal.

14. Further submitted that the LESCO GRC rightly upheld the Evaluation Committee's decision declaring M/s Mighty Corporation responsive, as it submitted a valid Manufacturer Authorization Letter in accordance with the bidding

requirements. M/s Herong Electric Co., Ltd. authorized M/s Siddique Sons Engineering (Pvt.) Ltd. and expressly permitted it to further authorize M/s Mighty Corporation. Accordingly, M/s Siddique Sons Engineering, being the custodian of the approved prototype, validly authorized M/s Mighty Corporation. The judgment referred by appellant support respondent stance that further delegation is allowed if original delegation has expressly authorized the same, which is clearly the instant matter. This admission is evident that appellant has no cause of action and instant appeal is liable to be dismissed.

15. Further submitted that M/s Mighty Corporation submitted a complete and valid chain of authorization. M/s Herong Electric Co., Ltd. authorized M/s Siddique Sons Engineering (Pvt.) Ltd., which, as the manufacturer/assembler of the complete product and holder of the approved prototype, further authorized M/s Mighty Corporation. The applicable clause only requires a valid prototype approval. Since the manufacturer possesses a valid prototype approval and has issued a valid Manufacturer Authorization Letter to the bidder, the qualification requirement stands fulfilled. The clause does not require the bidder itself to hold the prototype approval. The appellant's selective reliance on part of the clause reflects a misleading interpretation. Further submitted that the same product, supported by the same prototype approval and authorization from M/s Siddique Sons Engineering (Pvt.) Ltd., was previously awarded to M/s Mighty Corporation by MEPCO

under Tender No. 62/24 dated 29-11-2023 through Purchase Order No. 7100002309 dated 01-04-2024, and the material was successfully supplied. The Evaluation Committee and Grievance Redressal Committee (GRC) of LESCO acted within their lawful authority under the PPRA Rules.

16. The representative of the Respondent No. 6 (M/s Mighty Corporation) submitted that the Appellant has failed to point out any violation of the PPRA Rules, 2004, the bidding documents or any principle governing public procurement. The Appellant is attempting to challenge the outcome of a competitive bidding process merely because it was unsuccessful in securing the Contract. The evaluation committee as well as the Grievance Redressal Committee thoroughly examined the objections raised by the appellant and correctly concluded that the bid submitted by the Respondent No. 6 was fully responsive and compliant with all mandatory requirements.

17. Further submitted that the Respondent submitted a valid Manufacturer Authorisation Letter and fully complied with the bidding requirements. The decision of the GRC does not suffer from any illegality or infirmity. The provisions relied upon by the Appellant merely require proof of due authorisation. The bidding document do not require a direct authorisation from the foreign manufacturer to the bidder. The authorisation submitted by the Respondent No. 6 was valid and complete. M/s Herong Electric Co. Ltd. authorised M/s Siddique Sons Engineering Pvt

Limited, which in turn validly authorised Respondent No. 6. Such authorisation was accepted by the procuring agency after due scrutiny. Even otherwise, M/s Siddique Sons Engineering is a valid manufacturer to the satisfaction of the tender. The authorities cited by the appellant recognise that further authorisation is permissible where expressly allowed by the original authorisation. The present case squarely falls within that exception.

18. Further submitted that the bidding document contains no prohibition against authorisation being issued through a duly authorised manufacturer, assembler or prototype holder. The appellant is seeking to introduce conditions that do not exist in the tender documents. Further averred that the requirement under the bidding documents is for a valid prototype approval relating to the offered product. The clause does not stipulate that such approval must necessarily be in the name of the bidder. The offered equipment is supported by a valid prototype approval held by the authorised manufacturer / assembler.

19. Further contended that the procurement process was conducted strictly in accordance with the PPRA Rules, principles of transparency, competition and fairness.

20. In rebuttal to the written reply and oral submissions, the Representative of the Appellant further submitted that LESCO floated Tender No. 4274/MM for the procurement of 11KV Un-switched Capacitor Bank (3×150 KVAR) 450 KVAR, 300

Nos., under the Single Stage One Envelope procedure. The bids were opened on 18.12.2025. Only two bidders participated, namely the Appellant and M/s Mighty Corporation. The Appellant submitted complete tender documents accompanied by a direct and exclusive Manufacturer's Authorization Letter dated 15.12.2025 issued by its principal manufacturer, M/s Shandong Taikai Power Electronic Co. Ltd., China, which letter expressly records that no company, firm or individual other than the Appellant stands authorized to bid and conclude the contract for the said goods against this specific tender. The responsiveness of the Appellant's bid has not been faulted by the Procuring Agency on any ground whatsoever.

21. Further submitted that by contrast, M/s Mighty Corporation neither submitted any direct authorization from the manufacturer nor holds any prototype approval in its own name. Its bid rests entirely upon (i) a chain or sub-authorization routed through M/s Siddique Sons Engineering (Pvt.) Ltd., and (ii) a prototype approval standing in the name of M/s Siddique Sons Engineering (Pvt.) Ltd. The controversy is therefore confined to a single question, namely whether such bid can lawfully be held responsive under the mandatory conditions of the bidding documents read with Rules 29 and 30 of the Public Procurement Rules, 2004.

22. Further submitted that the identical question, between the identical parties, in respect of the identical product, has

already been authoritatively decided by this Appellate Committee by its Order dated 09.06.2026 passed in Appeal No. PPRA/AP-10/2026 titled M/s Mighty Corporation Vs. Multan Electric Power Company (MEPCO) and M/s Trace Engineering & Consultant. In those proceedings the present Appellant appeared as Respondent No. 2 and as the declared Most Advantageous Bidder, while M/s Mighty Corporation was the appellant. In the said proceedings the bid of M/s Mighty Corporation rested upon the very same manufacturing chain now relied upon before this Appellate Committee, namely Herong Electric Co. Ltd. / M/s Xi'an Herong Mech-Electrical Engineering Co. Ltd., China, routed through M/s Siddique Sons Engineering (Pvt.) Ltd. Its bid was assailed on the very two grounds now in issue, that is (a) the absence of a direct Manufacturer's Authorization Letter, and (b) the absence of a valid prototype approval in its own name. This Honourable Appellate Committee upheld both objections and dismissed the appeal of M/s Mighty Corporation.

23. Further submitted that on the first ground, this Honourable Appellate Committee held in unequivocal terms (Paragraph 38 of the Order dated 09.06.2026):

"... the actual manufacturer of the tendered goods was M/s Xi'an Herong Mech-Electrical Engineering Co. Ltd., China. However, the Appellant did not furnish a direct authorization issued by the said manufacturer in its favour. Instead, the Appellant relied upon an authorization letter issued by M/s Siddique Sons Engineering (Pvt.) Limited. The Appellate Committee

finds merit in the contention of the Respondents that M/s Siddique Sons Engineering (Pvt.) Limited was not the actual manufacturer of the tendered goods and, therefore, could not substitute the mandatory requirement of a direct manufacturer authorization contemplated under the bidding documents. The chain or derivative authorization relied upon by the Appellant cannot be treated as compliance with Clause 33.4(h)(5), which clearly envisaged authorization directly emanating from the original manufacturer."

24. On the second ground, this Honourable Appellate Committee held (Paragraph 40 of the Order dated 09.06.2026):

"... Prototype approval is a technical certification granted to a specific entity and cannot automatically be transferred, assigned or relied upon by another bidder in the absence of express authorization within the bidding framework. The conditions of the bidding documents were clear, mandatory and unambiguous, and the Procuring Agency was bound to apply them uniformly to all participants"

25. Further submitted that this Honourable Appellate Committee further held that prior supplies and a lower quoted price are immaterial where a bid fails the mandatory technical conditions (Paragraph 41), concluded that the deficiencies relating to direct manufacturer authorization and valid prototype approval were substantive in nature and rendered the bid technically non-responsive (Paragraph 44), and accordingly dismissed the appeal (Paragraph 45). The principle of consistency and the discipline of precedent require that the same conditions,

applied to the same parties and the same product, must yield the same result. It would be wholly untenable for this Honourable Appellate Committee to hold the identical chain authorization and the identical third-party prototype impermissible for M/s Mighty Corporation in the MEPCO procurement, yet permissible in the present LESCO procurement. Any such departure would offend Rule 30 of the Rules, the bar against discrimination, and the settled expectation of even-handed treatment in public procurement.

26. Further submitted that it is the settled and standard practice of public procurement that where a bidder does not participate as the manufacturer, it must produce a valid and direct authorization letter issued by the manufacturer in its own favour. This requirement flows directly from Form-2 Sr. No. 3 read with ITB Clauses 4.5 and 13.3(a) of the bidding documents, which require documentary evidence that the bidder has been duly authorized by the goods' Manufacturer or producer to deliver the goods in Pakistan. The object of this mandatory condition is neither formal nor ritualistic. A direct manufacturer-to-bidder authorization secures three matters essential to the integrity of public procurement. First, it guarantees that the goods will be supplied by, and traced to, the actual manufacturer. Secondly, it fixes single-point responsibility and warranty upon a known manufacturer. Thirdly, through the exclusivity it carries, it preserves genuine competition and thereby protects value for money and the public exchequer.

These are the very objectives that Rule 4 of the Rules, and this Honourable Appellate Committee, exist to safeguard.

27. Further submitted that the Written Reply seeks to defend the chain authorization on the solitary ground that the manufacturer, M/s Herong Electric Co. Ltd., China, expressly permitted M/s Siddique Sons Engineering (Pvt.) Ltd. to further authorize M/s Mighty Corporation. This contention, with respect, is misconceived and must be rejected for the reasons that follow.

28. Firstly, the bidding documents nowhere permit, contemplate or sanction a delegated or sub-delegated authorization. The mandatory standard form of Manufacturer's Authorization requires the manufacturer itself to authorize the bidder directly, in the words "We, [name of Manufacturer], do hereby authorize [name of Bidder]...". A self-serving recital inserted by the manufacturer permitting a third party to issue the authorization in its place cannot enlarge or rewrite the mandatory condition of the bidding documents. What the bidding documents require cannot be displaced by what a private letter chooses to permit.

29. Secondly and in any event, the very same manufacturer (Herong) and the very same intermediary (Siddique Sons) were before this Honourable Appellate Committee in Appeal No. PPRA/AP-10/2026, where the chain was held impermissible and Siddique Sons was held not to be the actual manufacturer. The mere addition, in the present tender, of a

recital purporting to permit sub-authorization does not cure the legal defect; it merely lays the device bare. If the manufacturer was willing and able to authorize, it was required to authorize M/s Mighty Corporation directly. It chose not to. The deliberate interposition of an intermediary, where a direct authorization was plainly available, is itself telling.

30. Thirdly, to permit a manufacturer to authorize an intermediary, who may then sub-authorize one or more downstream bidders, would open a window through which a single manufacturer could route authorizations to multiple bidders in the same tender, or successively across tenders, thereby destroying the exclusivity that anchors fair competition. The Appellant's own direct authorization from M/s Shandong Taikai expressly records that no entity other than the Appellant is authorized for this specific tender. A chain authorization carries no such guarantee and is structurally incapable of carrying it. To sanction sub-authorization is to sanction the manipulation of competition and the erosion of value for money, which is the precise mischief the requirement was designed to prevent.

31. Further submitted that the impermissibility of sub-delegation is further fortified by the settled maxim delegatus non potest delegare (a delegate cannot further delegate), consistently applied by the superior courts of Pakistan, including in ARY Communications Limited v. Council of Complaints, Islamabad

(PLD 2022 Sindh 552), Commissioner Inland Revenue, Zone-1, Faisalabad v. Magna Textile Industries (Pvt.) Ltd. (2019 PTD 594), and Haji Nek Amal v. Dr. Suhail Baluch (2017 MLD 711). Where the bidding documents confer no express power of further delegation, none can be assumed, and any authorization derived through sub-delegation is void to that extent.

32. Further submitted that even if, for the sake of argument alone, the chain authorization was assumed to be valid, the bid of M/s Mighty Corporation remains incurably non-responsive on a wholly independent ground, namely the absence of a valid prototype approval in its own name as mandatorily required under Form-2 Sr. No. 8 of the bidding documents. It is an admitted position on the record that the prototype approval relied upon by M/s Mighty Corporation stands issued by the Chief Engineer (S&S) NTDC/NGC in the name of M/s Siddique Sons Engineering (Pvt.) Ltd., and not in the name of M/s Mighty Corporation. M/s Mighty Corporation neither possesses, nor has ever possessed, any prototype approval of its own.

33. Further submitted that a prototype approval is a technical certification granted by the Chief Engineer (S&S) NTDC/NGC to a specific entity, upon examination of that specific entity's prototype samples, and remains valid for a fixed period of three years. By its very nature, only one such approval subsists in the name of a given manufacturer/supplier, for a given product, at a given time. It is not a transferable or negotiable

commercial licence; it cannot be assigned, lent or borrowed by another bidder. This is precisely what this Honourable Appellate Committee held in Paragraph 40 of its Order dated 09.06.2026, namely that a prototype approval cannot automatically be transferred, assigned or relied upon by another bidder in the absence of express authorization within the bidding framework. The question therefore arises, and is respectfully pressed: how can M/s Mighty Corporation produce or rely upon a prototype approval that admittedly stands in the name of a different legal entity, M/s Siddique Sons Engineering (Pvt.) Ltd.? And if the prototype approval, the manufacturer's authorization, and the manufacturing itself all reside in M/s Siddique Sons Engineering (Pvt.) Ltd., then what, in truth, is the role of M/s Mighty Corporation in this tender, other than to serve as a front for an entity that has not itself bid? The bidding documents require the bidder to qualify; they do not permit a bidder to borrow the qualifications of a non-bidding third party.

34. Further submitted that Rules 29 and 30 of the Public Procurement Rules, 2004 mandate that bids be evaluated strictly in accordance with the evaluation criteria, terms and conditions set forth in the bidding documents, and forbid both the use of any criterion not specified therein and the relaxation of any mandatory condition after the opening of bids. Measured against that mandatory yardstick, M/s Mighty Corporation has failed to produce a valid prototype approval in its own name, and its bid was liable to be declared non-responsive on this ground alone.

The failure of this single condition, standing by itself, is sufficient to sustain the Appellant's grievance.

35. Further submitted that during the hearing on 16.06.2026, M/s Mighty Corporation laid stress on the contention that M/s Siddique Sons Engineering (Pvt.) Ltd. is itself the manufacturer of the tendered material, and that its authorization and prototype therefore suffice. This contention is internally contradictory and is, with respect, a misrepresentation of fact. Firstly, the contention is self-defeating. If M/s Siddique Sons Engineering (Pvt.) Ltd. were truly the manufacturer of the tendered goods, there would be no need whatsoever for any authorization from a foreign manufacturer, M/s Herong Electric Co. Ltd., China. The very fact that the bid carries an authorization chain originating from Herong, China, is itself a conclusive admission that the actual manufacturer is Herong and not Siddique Sons. The Respondents cannot be permitted to approbate and reprobate, that is, to assert in one breath that Siddique Sons is the manufacturer, and in the next to rely upon a foreign manufacturer's authorization passing through Siddique Sons. Secondly, this very characterization was examined and rejected by this Honourable Appellate Committee in Paragraph 38 of its Order dated 09.06.2026, wherein it was expressly held that M/s Siddique Sons Engineering (Pvt.) Ltd. was not the actual manufacturer of the tendered goods. That finding is binding upon the same parties and cannot be reopened by mere reassertion. Thirdly, if M/s Siddique Sons Engineering (Pvt.) Ltd. genuinely

claimed the status of a local manufacturer of the tendered goods, that status would necessarily be evidenced by recognised and verifiable indicia, in particular a valid local manufacturer status/certification from the Engineering Development Board (EDB), and a corresponding entry as a local manufacturer in the Customs General Order (CGO). The Respondents have produced no EDB local manufacturer status and no CGO listing in the name of M/s Siddique Sons Engineering (Pvt.) Ltd. for the tendered goods. The absence of these foundational credentials exposes the claim of manufacturer status as a bare assertion advanced only to clothe a deficient bid with apparent legitimacy.

36. Further submitted that a contention so contradicted by the bidder's own documents, by the prior finding of this Appellate Committee, and by the absence of the most basic manufacturing credentials, cannot form the basis of a responsiveness finding and ought to be rejected outright. The Evaluation Report and the impugned GRC proceedings declared M/s Mighty Corporation not as responsive simpliciter, but as conditionally responsive, the condition being the concurrence of the contractor (M/s Siddique Sons Engineering (Pvt.) Ltd.) for the unconditional withdrawal of a suit filed by the said contractor, together with the approval of the LESCO Board of Directors on the recommendations of a departmental Inquiry Report.

37. The concept of conditional responsiveness is unknown to the scheme of the Public Procurement Rules, 2004. Under

Rules 29 and 30, a bid is to be evaluated on the four corners of the documents submitted at the time of bid opening, and is either responsive or non-responsive. A bid whose responsiveness is made contingent upon future, extraneous and uncertain events, namely the withdrawal of litigation by a third party and the outcome of a departmental inquiry, is, by definition, not responsive on the date of opening. The very condition is an admission that the bid did not stand on its own. That, further, the nature of the condition is deeply telling. It places on record that the entity upon whose authorization and prototype the entire bid of M/s Mighty Corporation depends, namely M/s Siddique Sons Engineering (Pvt.) Ltd., is presently in litigation against LESCO and is the subject of a departmental inquiry within LESCO, an authorization and a prototype flowing from an entity that is simultaneously in dispute with, and under inquiry by, the very Procuring Agency cannot be regarded as commercially reliable or legally trustworthy for the purposes of public procurement. This is consistent with the position before this Appellate Committee in Appeal No. PPRA/AP-10/2026, where show-cause/blacklisting proceedings pending against M/s Siddique Sons Engineering (Pvt.) Ltd. were pressed as further vitiating the validity of its authorization.

38. Further submitted that the relevance of the condition is therefore twofold. It confirms, on LESCO's own record, that the bid of M/s Mighty Corporation was not responsive on the date of opening; and it confirms that the authorising and prototype-

holding entity is itself encumbered by litigation and inquiry, which destroys the credibility of the chain on which the bid wholly rests. On either footing, the responsiveness finding cannot be sustained.

39. Further submitted that the Appellant's bid is fully compliant. It carries a direct and exclusive Manufacturer's Authorization Letter from its manufacturer, M/s Shandong Taikai Power Electronic Co. Ltd., China, together with complete tender documentation, and its responsiveness has not been impugned on any ground. Upon the bid of M/s Mighty Corporation being rightly declared non-responsive, the Appellant is the only substantially responsive bidder and is, in law, the Most Advantageous Bidder entitled to award.

40. The argument of a marginally lower quoted price by M/s Mighty Corporation is immaterial in law. As this Honourable Appellate Committee has already held in Paragraph 41 of its Order dated 09.06.2026, financial evaluation becomes relevant only after a bidder is found technically responsive, and a non-responsive bid cannot be considered merely on account of a lower quoted price. True value for money is secured not by the lowest price quoted by a non-compliant front, but by award to the compliant bidder backed by a genuine, direct and exclusive manufacturer's authorization and verifiable technical credentials.

41. The Appellate Committee has heard the learned representatives of the Appellant, the Procuring Agency, and Respondents at length, and has carefully examined the controversy in light of the applicable provisions of the Public Procurement Rules, 2004, the bidding documents, the Technical Evaluation Report, the impugned decision of the Grievance Redressal Committee ("GRC"), and the submissions advanced by the parties.

42. 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.

43. 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 shall 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.

44. The controversy primarily revolves around the following questions:

- i. Whether M/s Mighty Corporation fulfilled the requirement relating to Manufacturer Authorization Letter under the bidding documents;
- ii. Whether the Prototype Approval requirement contained in Form-2 Sr. No. 8 stood duly satisfied;
- iii. Whether the decision of the Evaluation Committee and GRC suffers from any illegality, arbitrariness, misreading or violation of the Public Procurement Rules, 2004.

45. **Clause 13.3 (a) of Instruction to Bidders of the Bidding Document states:**

"in the case of a Bidder offering to deliver goods under the contract which the Bidder did not manufacture or

otherwise produce, the Bidder has been duly authorized by the goods' Manufacturer or producer to deliver the goods in Pakistan;"

Similarly, Clause 4.5 of Instruction to Bidders of the Bidding Document also states that:

"if so required in the BDS, the bidder shall demonstrate that it has been duly authorized by the manufacturer of the goods to deliver in Pakistan...."

Further, Form-2 Sr. No. 3 of the Bidding Document requires:

"Documentary evidence established in accordance with ITB 13.3(a) that the Bidder has been authorized by the manufacturer to deliver the goods into Pakistan, where required and where the supplier is not the manufacturer of those goods. (If applicable)".

Form-2 Sr. No. 8 of the bidding documents mandates:

"Valid Prototype approval from CE(S&S) NTDC....."

46. The Appellant has argued that the bidding documents required a direct authorization from the original manufacturer to the bidder and that M/s Mighty Corporation furnished only a chain authorization through M/s Siddique Sons Engineering (Pvt.) Ltd., which according to the Appellant is impermissible in view of the principle delegatus non potest delegare. It has further been contended that prototype approval was not available in the

name of M/s Mighty Corporation and therefore its bid ought to have been declared non-responsive.

47. On the other hand, the Procuring Agency and Respondent No. 6 have maintained that M/s Herong Electric Co., Ltd., being the manufacturer of the capacitors, expressly authorized M/s Siddique Sons Engineering (Pvt.) Ltd. and permitted it to authorize M/s Mighty Corporation. It has further been explained that M/s Siddique Sons Engineering (Pvt.) Ltd. is the assembler/manufacturer of the complete offered product, holder of the prototype approval, and custodian of the approved prototype. Consequently, the authorization issued in favour of M/s Mighty Corporation was valid and fully compliant with the bidding requirements.

48. Clause 13.3(a) of the Instructions to Bidders provides that in the case of a Bidder offering to deliver goods under the contract which the Bidder did not manufacture or otherwise produce, the Bidder has been duly authorized by the goods' Manufacturer or producer to deliver the goods in Pakistan. Similarly, Clause 4.5 and Form-2 Sr. No. 3 require documentary evidence establishing that the bidder has been authorized by the manufacturer to deliver the goods in Pakistan.

49. The principal objection raised by the Appellant is that M/s Mighty Corporation did not possess a direct authorization from the original manufacturer and relied upon a chain authorization through M/s Siddique Sons Engineering (Pvt.) Ltd.

50. The record reveals that M/s Herong Electric Co., Ltd., manufacturer of the capacitor component, authorized M/s Siddique Sons Engineering (Pvt.) Ltd. and expressly empowered it to further authorize M/s Mighty Corporation for participation in the tender. The authorization placed on record demonstrates that the original grant of authority itself contemplated and permitted such subsequent authorization.

51. The principle of *delegatus non potest delegare* relied upon by the Appellant is not an absolute rule and is subject to the well-recognized exception that further delegation is permissible where expressly authorized by the original delegating authority. The judgments cited by the Appellant themselves acknowledge this exception.

52. In the present case, the material available on record establishes that M/s Siddique Sons Engineering (Pvt.) Ltd. was expressly empowered by the original manufacturer to authorize M/s Mighty Corporation. Consequently, the authorization issued in favour of M/s Mighty Corporation cannot be treated as unauthorized or contrary to the bidding documents.

53. The bidding documents do not expressly require that the authorization must flow directly and exclusively from the foreign manufacturer to the bidder without any permitted intermediary. Once due authorization from the manufacturer, through an expressly authorized entity, stood established, the

requirement of ITB 13.3(a), ITB 4.5 and Form-2 Sr. No. 3 stood substantially fulfilled.

54. Accordingly, the Appellate Committee finds no legal infirmity in the acceptance of the Manufacturer Authorization Letter submitted by M/s Mighty Corporation.

55. **As regards prototype approval, Form-2 Sr. No. 8 of the bidding documents specifically requires:**

"Valid Prototype approval from CE(S&S) NTDC."

56. The evaluation record demonstrates that the prototype approval relied upon by M/s Mighty Corporation was not issued in its own favour. Rather, the approval was admittedly held by M/s Siddique Sons Engineering (Pvt.) Ltd.

57. While the Respondents have argued that prototype approval pertaining to the offered product is sufficient and need not necessarily be in the name of the bidder, the Appellate Committee has carefully examined the bidding documents and finds no provision permitting substitution of the bidder's qualification requirement through a third-party prototype holder in the absence of an explicit undertaking or documentary arrangement recognized under the tender conditions.

58. The procuring agency was required to evaluate the bid strictly in accordance with the terms contained in Form-2. Where a mandatory qualification document is prescribed, the procuring agency cannot dilute or relax such requirement through

interpretation. Public procurement Regulatory Framework requires strict adherence to mandatory qualification criteria prescribed in the bidding document so as to ensure transparency, equal treatment and certainty in the bidding process.

59. The record further indicates that M/s Mighty Corporation did not furnish any prototype approval in its own name nor any document expressly satisfying the requirement as prescribed under Form-2 Sr. No. 8. The reliance upon prototype approval issued in favour of another entity, namely M/s Siddique Sons Engineering (Pvt.) Ltd., does not constitute strict compliance with the qualification requirement applicable to the bidder.

60. The Appellate Committee observe that the Evaluation Committee and the GRC failed to properly appreciate the mandatory nature of the Prototype Approval requirement and erroneously treated the deficiency as inconsequential.

61. In view of the foregoing, the Appellate Committee is of the view that the Manufacturer Authorization Letter submitted by M/s Mighty Corporation cannot be declared invalid merely because it was issued through M/s Siddique Sons Engineering (Pvt.) Ltd., as the record establishes express authorization from the original manufacturer permitting such authorization. The objection regarding lack of direct manufacturer authorization is therefore not sustainable.

62. However, M/s Mighty Corporation required to demonstrate compliance with the mandatory Prototype Approval requirement contained in Form-2 Sr. No. 8 of the bidding documents. The Evaluation Committee and the GRC required to treat the bid of M/s Mighty Corporation in accordance with the relevant provisions of the bidding documents.

63. Hence, the matter is referred back to the procuring agency to re-evaluate the bids of the bidders strictly in accordance with the criteria prescribed in the bidding documents

64. Therefore, the impugned decision dated 17.03.2026 cannot be sustained. For the reasons mentioned above, the Appeal is hereby accepted.



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



(Abdul Majeed)
Sr. Specialist (M&E)
(Member)



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

Dated: 1st July, 2026

Each page of the order has been signed by all members of the Committee. The order comprises thirty-two (32) pages.