

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

ORIGINAL APPLICATION NO. 620 OF 2022

IN THE MATTER OF:

KAUSHAL KISHORE VISHWAKARMA ...APPLICANT

VERSUS

STATE OF PUNJAB & ORS. ...RESPONDENTS

N.D.O.H:- 07.04.2025

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THROUGH

Sonia A. Menon
SONIA A. MENON AND ASSOCIATES
COUNSELS FOR THE APPLICANT,
HRIDYUM, 321-324, D/S,
NEW RAJINDER NAGAR,
NEW DELHI-110060
9810865468
ENRL.NO:D/1595/2003
EMAIL: soniaaroramenon@gmail.com

DATED: 04.04.2025
NEW DELHI

(iv) The reasons for sale of hazardous waste by public auction resulting in prolonged storage thereof.

2. That MSTC Limited is a Government of India Enterprise under the administrative control of the Ministry of Steel. MSTC acts primarily as an e-commerce service provider and conducts e-auctions for various materials, including scrap, coal, minerals, and other items as per the request of its principals.
3. That MSTC's role is strictly limited to providing an e-auction platform for the sale of materials as per the request and specifications provided by the seller. MSTC enters into a selling agency agreement with the seller and facilitates the e-auction process through its online portal. The selling agency agreement entered with National Fertilizers limited is annexed hereto as ANNEXURE R-1.
4. MSTC's responses to the specific queries raised by this Hon'ble Tribunal:

**REGARDING WHETHER CARBON SLURRY
CONSTITUTES AN ENVIRONMENTAL POLLUTANT:**

5. MSTC respectfully submits that as an e-auction service provider, it does not possess the technical expertise to determine whether carbon slurry constitutes an environmental pollutant. This determination falls within the domain of environmental regulatory authorities like the Central Pollution Control Board (CPCB) and respective State Pollution Control Boards (SPCBs).
6. MSTC relies on the categorization provided by the seller, in this case, National Fertilizers Limited (NFL), which is responsible for accurately describing the material and

ensuring compliance with applicable environmental regulations before offering it for auction.

REGARDING WHETHER CARBON SLURRY HAS ANY ADVERSE IMPACT ON THE ENVIRONMENT:

7. MSTC respectfully submits that it does not conduct environmental impact assessments of materials put up for auction on its platform. The responsibility for assessing and mitigating any environmental risks associated with carbon slurry rests with the seller (NFL) and the appropriate regulatory authorities.
8. MSTC acts solely as a facilitator for the e-auction process and has no role in determining the environmental characteristics or impact of materials being auctioned.

REGARDING WHETHER PROLONGED STORAGE OF CARBON SLURRY INVOLVES ANY VIOLATION OF ENVIRONMENTAL LAWS:

9. MSTC respectfully submits that it does not own, store, handle, or manage any of the materials being auctioned through its platform at any point before, during, or after the auction process. The responsibility for storage, handling, and disposal of carbon slurry in compliance with the Environment (Protection) Act, 1986, and the Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2016, lies entirely with the seller (NFL) and subsequently with the buyer after the completion of the auction process.
10. MSTC's selling agency agreements explicitly state that MSTC has no role in the physical handling or storage of the materials being auctioned.

REGARDING THE REASONS FOR SALE OF HAZARDOUS WASTE BY PUBLIC AUCTION RESULTING IN PROLONGED STORAGE:

11. MSTC respectfully submits that its role is strictly limited to providing an e-auction platform. MSTC has no control over the storage practices of either the seller before the auction or the buyer after the auction. The decision to dispose of materials through e-auction is made by the seller, in this case, NFL.
12. MSTC's e-auction terms and conditions typically require that buyers comply with all statutory requirements, including obtaining necessary approvals for transportation, handling, and disposal of materials purchased through auction.
13. MSTC has no authority or control over how quickly buyers remove purchased materials or how sellers manage their inventory before or after auctions. Any prolonged storage is not attributable to the auction process itself but to other factors beyond MSTC's control or responsibility.

SPECIFIC DETAILS REGARDING THE E-AUCTION OF CARBON SLURRY:

14. MSTC conducted an e-auction (Auction No. MSTC/NRO/NATIONAL FERTILIZERS LIMITED/3/NFL NAYA NANGAL/16-17/9384[124847]) for the sale/removal of carbon slurry from ponds at NFL Naya Nangal Unit. The auction was scheduled on 23-09-2016 and closed at 23-09-2016 21:22:13.
15. The auction details clearly specified that the material was "carbon slurry" containing approximately 55-60% carbon

with water content in the carbon slurry approximately 40-45% by weight.

16. MSTC's role was limited to providing the e-auction platform. MSTC had no role in determining the material specifications, storage conditions, or post-auction handling of the carbon slurry.



SHALINI BHATTI
REGIONAL MANAGER (PRO), MSTC LTD,
एम.एस.टी.सी. लिमिटेड
(भारत सरकार का उपक्रम)
30-31A, जीवन विकास भवन, प्रथम तल
आसफ अली रोड, नई दिल्ली-110002

SHALINI BHATTI
Regional Manager
MSTC LIMITED
(A Govt. of India Enterprise)
30-31A Jeevan Vikaas Building, 1st Floor
Asaf Ali Road, New Delhi-110002

THROUGH

SONIA A. MENON AND ASSOCIATES
COUNSELS FOR THE APPLICANT,
HRIDYUM, 321-324, D/S,
NEW RAJINDER NAGAR,
NEW DELHI-110060

DATED: 04.04.2025
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EMAIL: soniaaroramenon@gmail.com



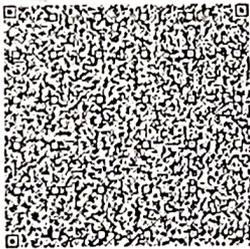
सत्यमेव जयते

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Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL291958816557420
Certificate Issued Date	: 15-Dec-2016 03:56 PM
Account Reference	: IMPACC (IV)/ dl731303/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL731303587276789787910
Purchased by	: MSTC LTD
Description of Document	: Article 5 General Agreement
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: NATIONAL FERTILIZERS LTD
Second Party	: MSTC LTD
Stamp Duty Paid By	: MSTC LTD
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



.....Please write or type below this line.....

SELLING AGENCY AGREEMENT

- 1) This AGREEMENT made this 28th day of December 2016 between M/s National Fertilizers Ltd, {A Govt of India Enterprise} incorporated under companies Act, 1956, and having its Registered office at Scope Complex, New Delhi, herein after called as "the Principal" (Which expression shall unless excluded by or repugnant to the context be deemed to include its successors

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Statutory Alert:

- 1) The authenticity of this Stamp Certificate should be verified at "www.shcstamp.com". Any discrepancy in the details on this Certificate and as available on the website renders it invalid.
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and assigns) on the ONE PART, and MSTC Ltd (A Govt of India Enterprise) incorporated under the Companies Act, 1956 and having its Registered Office at 225-C, Acharya Jagdish Bose Road, Kolkata – 700 020 and having its Northern Regional Office at Jeevan Vikas Building, 1st Floor, 30/31-A, Asaf Ali Road, New Delhi – 110 002, hereinafter called "MSTC" (Which expression shall unless excluded by or repugnant to the context be deemed to include its successors and assigns) on the Other part.

- 2) WHEREAS MSTC has approached NFL or Principal with a request to engage MSTC as Selling Agents for disposal of Surplus & Obsolete material and *all type of Scrap including Iron and steel (Ferrous and non-ferrous) as well as equipments / machineries, Rejected & condemned assets, vehicles, MOVABLE / Immovable items and redundant spares, Spent catalyst, used Oil, Battery and other salable Industrial waste i.e, Fly Ash, Ash from Ash Pond, Hazardous wastes etc* through (MSTC's Auction web site) www.mstcecommerce.com. However, Industrial products of NFL shall be sold by NFL through their own separate arrangements.
- 3) AND WHEREAS the Principal has agreed to engage MSTC as selling Agent for the above purpose on the terms and conditions mentioned hereinafter.
- 4) NOW it is hereby agreed and declared by the parties hereto as follows.
- 5) This Agreement covers disposal of all scraps; secondary arising, surplus stores and equipment, as articles / items mentioned in the clause 2 above.
- 6) In addition to the above, add-ons to the category of disposals may be effected through this agreement on mutual consent.
- 7) MSTC shall act as 'Selling Agent' for disposal of all items covered under clauses 5 & 6 hereof in the home / indigenous market by way of public e-Auction over the internet through www.mstcecommerce.com or any other manner mutually agreed upon with principal and MSTC & based on this agreement.
- 8) This Agreement shall cover the disposal of items mentioned in Clause 2 hereinafter located at Plants / Offices of NFL located all over India
- 9) **DURATION OF CONTRACT:**
This Agreement shall remain valid for TWO (2) year from the date of signing of the Agreement, which may be extended for another period of ONE year on same rates, terms & conditions on MUTUAL consent.
- 10) **QUANTUM OF BUSINESS:**
This contract by itself does not commit any specific quantum of business to MSTC by Principal.
- 11) **NATURE & SCOPE OF SERVICE & RESPONSIBILITY OF MSTC:**
 - 11.1 MSTC shall conduct e-auction sale for disposals only and in NO case the appointment of any other dealer / trader / e-Auctioneer for this purpose, shall be considered.
 - 11.2 MSTC will offer guidance in regard to making of lots for the purpose of e- Auction and will act on the basis of the list of disposable items received from the Principal.

- 11.3 MSTC may arrange publicity for disposal through e-Auction by the system which shall notify automatically to all the buyers who are registered with the e-Auction website i.e, www.mstcecommerce.com regarding all the forthcoming e-Auctions specifying therein all relevant details about the materials / lots / date & time of opening & closing of e-Auctions etc. In case the Principal desires publicity through a particular publication or media, the same would be arranged on receipt of written request and the additional cost has to be borne by the Principal. In case of e-Auction, notification shall be sent to all registered buyers by MSTC.
- 11.4 MSTC shall arrange disposal of the materials primarily through e-Auction via their website, www.mstcecommerce.com .
- 11.5 Principal will receive a system generated email indicating the status of the e-Auction which will inter alia include Lots for which Highest bids have been received, and also lots not sold with highest bid received for Principal's record. The Principal shall have the option to visit the website in order to obtain a full report of any particular e-Auction, which will normally depict the replica of the Bid Sheet of a particular e-Auction.
- 11.6 In case of e-tender/e-auction, Reserve Price must be fixed and entered by the Principal in the website, which will be only accessible by the Principal and none else, for the disposable materials. In case the Reserve price is not entered by the principal prior to commencement of the E-auction, the lots for which the reserve prices have not been entered shall stand automatically withdrawn by the system.
- 11.7 If, in respect of any Item (s) covered under the Selling Agency Agreement, it is desired by the Principal to have a market survey, conducted by MSTC, then the extra charges incurred "At Actuals" for said survey shall be reimbursed by NFL. In case of Market survey by external agencies, the costs for the same will have to be borne by the NFL subject to prior approval, on case to case basis.
- 11.8 Approval of NFL is required before confirming the sale of any Plant spares / redundant spares, equipment(s). All such cases will be informed to MSTC at the time of forwarding the list item-wise, otherwise the lots will be SOLD as per procedure. ***For Plant / Redundant spares, sale of equipment, Spent catalyst, and other saleable Industrial waste i.e, Fly Ash, Ash from Ash Pond, , Im-movable Properties / Assets, Hazardous Wastes etc ,*** these lots will be SOLD under STA & shall be subject to Approval {STA} of Competent Authority of NFL. Thereafter, NFL will take a decision based upon the bid sheet made available on the system for their further approval at their end.
- However, for ***Scrap, Movable items sale of used Oil, Battery etc*** No internal approval shall be obtained before confirming the outcome of sale. In case of disposal of scrap, the 'Sale Order' shall be generated once the highest bid has been received over and above the Reserve / base price. 'Reserve Price' shall be uploaded in the portal before the Auction of Plant / Redundant spares, sale of equipment and sale of Scrap item etc starts.
- 11.9 The EMD from only highest bidder shall be taken after closure of the e auction, within 7 days of the same. This EMD will be uploaded in the system and the amount will be calculated and will be intimated automatically to all the highest bidders whether for




SOLD/STA lots. This EMD shall be 10% of the bid amount which will be paid in favour of NFL and shall be submitted to MSTC. Once the post bid EMD is received by MSTC, MSTC shall issue Acceptance Letter/ Sale Order to the bidders and thereafter this EMD will be called Security Deposit, which is liable to be forfeited in case of default in payment by the bidder. Here the contract will be entered with the bidder. Payment period will be 10 days from the last date of EMD submission or the date of issue of Sale Order whichever is earlier. The 'Security deposit' as specified in the Sale Order shall be adjusted only at the time of final payment.

- 11.10 MSTC shall prepare and issue Delivery Orders after receipt of confirmation from NFL when the payment including TDS is made by the bidder through RTGS. On production of the Delivery Order/ submission of valid copy of I-card by successful bidder, the Principal will deliver material.
- 11.11 MSTC shall deal with all claim & complaints from the customers/buyers regarding the e-Auction Portal and all complaints regarding Lot / items to be disposed shall be dealt by NFL.
- 11.12 MSTC shall also be responsible for follow-up of orders booked.
- 12.0 **NATURE & SCOPE OF RESPONSIBILITY OF THE PRINCIPAL:**
- 12.1 The Principal shall provide MSTC with the list of materials with detailed specifications and descriptions, locations, quantity, if any, for disposal. The rate of VAT / Sale Tax as applicable shall be intimated to M/s MSTC by respective Plants / Offices of NFL with the list of spares / items which has to be disposed off. The Principal shall not amend/alter or modify the quantity of the lot after the e-auction is declared open and live. All such amendments/alterations/modifications shall be made prior to commencement of e-tender/e-auction and intimated to MSTC in writing for notifying the prospective bidders. MSTC shall be engaged as agency to dispose off the items on "As is where is basis".
- 12.2 The Principal shall cause to effect deliveries to the buyers/customers as per Delivery Orders issued by MSTC and as per directions given by MSTC from time to time. Any disputes arising while effecting deliveries to successful bidders/buyers shall be dealt with by the Principal as case may.
- 12.3 The Principal shall be responsible for raising invoices as per terms and Sale Orders/Delivery Orders shall be issued by MSTC.
- 12.4 The Principal may monitor the e-auction and will be able to view the bid history etc., during the continuation of the e-auction.
- 12.5 The Principal will intimate the rate of any applicable statutory levies / taxes to MSTC for the disposal of any LOT / items.
- 12.6 The standard Terms & Conditions of MSTC for carrying out e-Auction shall be applicable and any specific terms for any lot shall be intimated by NFL for their addition before start of e-Auction.
- 13.0 **SERVICE CHARGE :**

- 13.1 For sale effected through e-Auction/e-tender, MSTC shall be entitled to a service charge @ 2.5% of Sale value Plus Service tax and minus TDS , i.e, {(Service charge @ 2.5% + Service Tax @ as applicable) – TDS}.
- 13.2 As per existing tax structure, MSTC shall instruct Buyer to bring the payment by bank drafts or RTGS in two parts i.e one in favour of NFL (97.5% of the sale value plus Sale tax/TCS) & another in favour of MSTC (2.5% plus applicable Service tax (currently 15%) less applicable TDS (currently 5%) i.e TOTAL 2.75%) towards it's Service Charges. Any changes in Government taxes will be implemented accordingly. The details thereof shall be forwarded along with the signed bill and receipt within three days of the succeeding month.
- i) For sale effected through e-Auction/e-tender MSTC shall be entitled to a service charge @ 2.5% {excluding Service Tax minus TDS} on the sale value of materials on the basis of the Sale value of the Delivery Order (D.O.) issued through this e-auction over the internet.
- ii) Service charge payable to MSTC shall be deducted from the sale price at source in each e-auction. The details thereof shall be forwarded along with the signed bill and receipt within three days of the succeeding month. The balance amount of Sale value shall be submitted to NFL by bidder.
- iii) The above Service Charges shall NOT be payable on the amount of forfeited Security Deposit.
- iv) Service Charge payable to MSTC, net TDS, shall be directly received by MSTC from the buyer from the bid money/sale price. The buyer shall credit the amount of this TDS to Principal's accounts who shall deposit the same with the Govt as per the rules and TDS certificate will be provided by the Principal to MSTC after filling of return.

14.0 **STANDING COMMITTEE FOR IMPLEMENTATION OF THE AGREEMENT:**

- 14.1 The Principal and MSTC will nominate one official each for dealing with all matters relating to this Agreement. The working arrangements for implementing the provisions of this Agreement shall be mutually discussed and decided upon.

15.0 **EXECUTION OF SALE CONTRACT:**

- 15.1 Sale Contract(s) of the Principal existing at the time of execution of this Agreement will continue to operate and will not come under the purview of this agreement. Similarly, at the expiry of this Agreement, the orders booked by MSTC will continue to operate as if this Agreement continues till the execution of those orders.

16.0 **HANDLING OF SUITS:**

- 16.1 Since MSTC will only act as Selling Agent / Service Provider to the principal, who is Owner / Seller of the materials, all litigations including Arbitration, if any invoked by the Bidders / Buyers shall be exclusively dealt with by the Principal irrespective of whether MSTC is joined in such proceedings as a party or not, at its own Costs and expenses.

The Principal shall also be required to appoint the Sole Arbitrator in case request for such appointment is made by Bidder / Customer in terms of the relevant Auction / e-Auction clauses.

17.0 AMENDMENT :

17.1 Any amendment to this Agreement would be enforceable only if made in writing and duly signed by authorised representatives of the parties hereto.

18.0 FORCE MAJEURE CLAUSE :

18.1 If any time during the continuance of this Agreement, the performance, in whole or in part by either party, of any obligation under this Agreement be prevented or delayed by reason of any war, hostility, act of public enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes, lock-outs, Technical and/or connectivity failure which is entirely beyond the control of MSTC etc. or acts of God (hereinafter referred to as 'events') provided notice of happening of any such eventuality is given by the affected party to the other within 21 days from the date of occurrence thereof, neither party shall be reason of such event have any claim for damages against the other in respect of such non-performance or delay in performance, provided further that if the performance in whole or part of any obligation under this Agreement is prevented or delayed by reasons of any such event for a period exceeding sixty days, the parties shall try to arrive at an amicable settlement, failing such settlement the Principal may terminate this Agreement at its sole discretion and at such event MSTC shall be bound to pay all the expenses and other moneys recovered from the bidders to the Principal forthwith.

19.0 TERMINATION :

19.1 This Agreement shall be subject to termination with clear 3 (three) calendar months, notice in writing from either side before the expiry of the contract.

20.0 ARBITRATION CLAUSE :

20.1 In the event of any dispute or difference relating to the interpretation and/or application of the provisions of this Agreement, such dispute or difference shall be referred by either party to the Arbitration of one of the Arbitrators in the Department of Public Enterprises to be nominated by the Secretary to the Government of India, In Charge of the Bureau of Public Enterprises. The "Arbitration and Conciliation Act, 1996" shall not be applicable to the arbitration under this clause. The award of the Arbitration shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference of settling aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law & Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary, or the Special Secretary/Additional Secretary when so authorised by the Law Secretary, whose decision shall bind the parties finally and conclusively. The parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator.



21.0 JURISDICTION OF COURT :

21.1 Any dispute arising out of this agreement shall be subject to the jurisdiction of the court(s) at NEW DELHI.

22.0 APPLICABILITY OF LAWS :

22.1 The Agreement shall be governed by the Indian Laws for the time being in force.

IN WITNESS WHEREOF the parties hereto have subscribed their respective hands on the day, months and year first above written.

Signed and delivered

For and on behalf of NFL

By its Dy. GENERAL MANAGER, Sh. YOGESH KUMAR

(Designation) (Signature with seal)

Yogesh Kumar
योगेश कुमार/YOGESH KUMAR
उप प्रबन्धक (सामग्री)
Dy. General Manager (Mtls.)
नेशनल फर्टिलाइजर्स लिमिटेड
National Fertilizers Limited
ए-11, सेक्टर-24, नोडा-201301
A-11, Sector-24, Noida-201301

In the presence of:

- 1. *Shashi* 2. *D.P.*

शशि प्रकाश / SHASHI PRAKASH
उप प्रबन्धक (सामग्री)
Deputy Manager (Mtls.)
नेशनल फर्टिलाइजर्स लिमिटेड
National Fertilizers Limited
(Signature with Address)

दिवेंद्र पाल / DIVYENDU PAL
सहायक प्रबन्धक (सामग्री)
Assistant Manager (Mtls.)
नेशनल फर्टिलाइजर्स लिमिटेड
National Fertilizers Limited
(Signature with Address)
ए-11, सेक्टर-24, नोडा-201301
A-11, Sector-24, Noida-201301

For and on behalf of M/s MSTC Limited

By its Regional Manager Smt. Bhanu Kumar
(Designation)

Bhanu Kumar
श्रीमती भानु कुमार
उप प्रबन्धक
नेशनल फर्टिलाइजर्स लिमिटेड
नेशनल फर्टिलाइजर्स लिमिटेड
(Signature with seal)
ए-11, सेक्टर-24, नोडा-201301
A-11, Sector-24, Noida-201301

In the presence of:

- 2. 2.

S. Barnwali
(Signature with Address)

सुचिता कुमार वर्मा / SUCHITA KUMAR BARNWAL
उप प्रबन्धक (सामग्री)
Regional Manager (Mtls.)
नेशनल फर्टिलाइजर्स लिमिटेड
National Fertilizers Limited
ए-11, सेक्टर-24, नोडा-201301
A-11, Sector-24, Noida-201301

W. K. Sharma
(Signature with Address)

विक्रम शर्मा / VIKASH SHARMA
उप प्रबन्धक (सामग्री)
Assistant Manager
नेशनल फर्टिलाइजर्स लिमिटेड
National Fertilizers Limited
ए-11, सेक्टर-24, नोडा-201301
A-11, Sector-24, Noida-201301



Sonia Menon <soniaaroramenon@gmail.com>

Kaushal Kishore Vishwakarma Vs. State of Punjab and Ors. (OA/620/2022)

1 message

Sonia Menon <soniaaroramenon@gmail.com>

Fri, Apr 4, 2025 at 3:35 PM

To: nfladm@nfl.co.in, dc.btd@punjab.gov.in, cs@punjab.gov.in, msppcb@punjab.gov.in, mscb.cpcb@nic.in, "prms@nfl.co.in" <prms@nfl.co.in>, "shubhamsalesco@gmail.com" <shubhamsalesco@gmail.com>, "customercare@nfl.co.in" <customercare@nfl.co.in>, "hspcbho@gmail.com" <hspcbho@gmail.com>, secy-moef@gov.in

Sir,

Please find attached the PDF of the Status Report on behalf of the R-11 MSTC, which is being filed in the captioned matter.

The copy is being served to the updated email addresses.

Regards,

(Hem Chandra Papnai)

From the Office of Ms. Sonia A. Menon,

Advocate

518 Double Storey,

New Rajinder Nagar,

New Delhi-110060

9810865468, 42412328

**STATUS REPORT.pdf**

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