

F.No.19011/2/2011-MPR
Government of India
Ministry of Chemicals & Fertilizers
Department of Fertilizers

Shastri Bhawan, New Delhi
The 24th November 2011

Office Memorandum

Subject: Acquisition of the phosphatic business of M/s Southern Petrochemicals Industries Corporation Ltd. (SPIC), Chennai by M/s Greenstar Fertilizers Ltd. (GFL), under a Business Transfer Agreement with effect from 24.10.2011.

The undersigned is directed to say as follows on the subject mentioned above:

1. SPIC is one of the fertilizer companies covered under the concession scheme/Nutrient Based Subsidy Policy as a manufacturer/importer of P&K fertilizers. The company has been claiming payment of subsidy on the sale of P&K fertilizers under the concession scheme/Nutrient Based Subsidy Policy. SPIC is also producer of urea. The company stopped production of urea from March 2007 to September 2010 and production of DAP stopped from March 2007 to July 2007 and then from March 2008 to October 2010. In order to start production of P&K fertilizers, M/s SPIC entered into a Memorandum of Understanding (MOU) with M/s Wilson International Trading Pvt. Ltd., Singapore and M/s Raiffeisen Zentral Bank Oesterreich AG (RZB-Austria) for supply of required raw materials for production of P&K fertilizers. Based upon the request of SPIC, Department of Fertilizers granted permission to the company on 6.8.2010 to credit the entire amount of subsidy of SPIC in respect of P&K fertilizers, into its designated Escrow Account in the State Bank of Patiala, Shastri Bhawan, New Delhi with M/s Wilson International Trading Pvt. Ltd., Singapore and M/s RZB, Austria. The Reserve Bank of India also approved this arrangement. Further, Department of Fertilizers also decided on 1.10.2010 to make payment on priority basis to M/s SPIC, for production/receipt /sale of P&K fertilizers, valid up to 31.3.2011.
2. M/s GFL, which was known as M/s Greenstar Fertilizers Pvt. Ltd. prior to 29.7.2011, is registered with this Department with effect from 16.3.2011, as an importer of P&K fertilizers. Based on the request submitted by the company, its name was changed on 17.8.2011 from M/s Greenstar Fertilizer Private Ltd. to M/s Greenstar Fertilizers Ltd. with effect from 29.7.2011. Accordingly, M/s GFL is claiming subsidy from this Department on the imported P&K fertilizers. As per the policy guidelines, this company has been receiving 100% payment of subsidy, after the certification of sales of imported P&K fertilizers, by the respective State Governments in Proforma 'B' on sales basis.
3. SPIC, vide its representation dated 20.10.2011 submitted that as part of the overall business restructuring, SPIC has divided its fertilizer business into Urea and Phosphatic fertilizers. SPIC and GFL took up with this Department, vide their respective representations dated 20.10.2011 submitting that GFL has purchased the phosphatic fertilizer business including SPIC brand name, as a going concern, at an agreed amount, from SPIC, as per the Business Transfer Agreement (BTA) dated 19.10.2011 with effect from 24.10.2011. Both of these companies submitted that they have carried out the requisite formalities in respect of the BTA with various concerned authorities of the State Governments and Government of India. The phosphatic business, as such, will be now operated by GFL in the factory premises of SPIC and the fertilizers will continue to be sold under "SPIC" Brand name. The closing stock of phosphatic fertilizers as on 24.10.2011 and receivables of subsidy from this

Department would be transferred to GFL by SPIC. GFL would fulfill the pending obligations to this Department, if any, that existed prior to the business transfer and SPIC will facilitate fulfilling all such obligations to this Department. Further, SPIC has got Registration Certificates issued by the State Governments of Tamil Nadu, Andhra Pradesh, Kerala, Pondicherry and Karnataka valid up to 31.3.2014, under the FCO, to carry on the sale of P&K fertilizers. These State Governments have endorsed these Registration Certificates/Memorandum of Intimation of SPIC in favour of GFL. Both these companies further submitted that the working capital lenders of SPIC for phosphatic operations namely, M/s RZB have also agreed 'in-principle' to undertake the working capital loan and extend higher working capital limits to GFL, provided the existing escrow arrangements and priority payment of concession in respect of SPIC, as such, is allowed to continue by this Department for GFL as already provided to SPIC. GFL submitted that it has acquired all the movable and immovable assets of the phosphatic business of SPIC at an amount agreed under the BTA, by virtue of which it has become a full-fledged manufacturing company with manufacturing facility of DAP/ NPK Complexes/SSP fertilizers under the NBS Policy.

4. SPIC submitted the following documents to this Department along with its representation-dated 20.10.2011:

- (i) Certified copy of SPIC's Board Resolution in its meeting held on 14.9.2011, approving the sale of phosphatic Business.
- (ii) Certified true copy of Resolution passed by the shareholders of SPIC through postal ballot, the result of which was declared on 18.10.2011.
- (iii) Certified true copy of Business Transfer Agreement (relevant extracts).
- (iv) Certified true copy of the Resolution passed by the Committee of Board of Directors of SPIC in its meeting held on 19.10.2011 for sale of the phosphatic business for an agreed amount.
- (v) Letter dated 24.10.2011 issued by Axis Bank to SPIC confirming deposit of the amount as agreed under the BTA, by GFL in the Escrow Account of SPIC.
- (vi) Information by SPIC to National Stock Exchange regarding resolutions passed by the Shareholders of the company through postal ballot.
- (vii) Copy of the communication in regard to announcement by National Stock Exchange regarding slump sale of the phosphatic business by SPIC to GFL by virtue of the decisions taken by the Board of SPIC on 19.10.2011.
- (viii) Detail of month-wise production and sale of P&K fertilizers by SPIC and amount of concession claimed thereon from this Department from April 2007 to August 2011.
- (ix) Certificates regarding consent for existing operation of the plant under Section 21 of the Air (Prevention and Control of Pollution) Act 1981 in respect of SPIC, issued by Tamil Nadu Pollution Control Board.
- (x) Application dated 3.5.2011 submitted by SPIC to Tamil Nadu Pollution Control Board requesting for renewal of the consent to operate for 2011-12 and the Acknowledgment of the receipt of the payment by the Board from SPIC for Rs. 92,400/- and 8,62,378/-.

- (xi) Letter dated 1.9.2010 issued by FA Wing, Department of Fertilizers, allowing SPIC for making payment to it on priority basis.
- (xii) Permission by this Department dated 6.8.2010 and 4.3.2011 for depositing the subsidy amount of SPIC into the Escrow Account opened by it with M/s Wilson International Trading Pvt. Ltd., Singapore and M/s RZB, Austria, for supply of raw material to SPIC for producing phosphatic fertilizers.
- (xiii) Copy of Form 23 filed by SPIC with Ministry of Corporate Affairs and receipt thereof and approval of that Ministry.

5. GFL has also submitted the following documents along with its representation dated 20.10.2011:

- (i) Certified extract of BTA by and between SPIC and GFL.
- (ii) Extracts from the minutes of the Board meeting of the Directors of GFL held on 13.10.2011 regarding approval of the acquisition of the phosphatic business of SPIC.
- (iii) Copy of the Office Memorandum dated 17.8.2011 issued by this Department regarding change of the name of M/s Greenstar Fertilizers Pvt. Ltd. to M/s Greenstar Fertilizer Ltd. with effect from 29.7.2011. The Company made its request on 29.9.2011 to correct the name of GFL as per the fresh certificate of incorporation issued by Registrar of Companies on 9.7.2011. The exact name of the company with effect from 29.7.2011 is M/s Greenstar Fertilizers Ltd.
- (iv) Applications dated 20.10.2011 submitted by GFL to the State Governments of Kerala, Andhra Pradesh, Pondicherry, Karnataka and Tamil Nadu in the prescribed format requesting for transfer of the name of the RC/Memorandum of Intimation from SPIC to GFL by virtue of its purchase of the phosphatic fertilizer business from SPIC by GFL.
- (v) Letter dated 24.10.2011 issued by State Government of Tamil Nadu endorsing the RC/Memorandum of Intimation of SPIC in the name of GFL.
- (vi) Copies of the acknowledgement issued by the State Government of Andhra Pradesh and Karnataka regarding endorsement in its name in respect of the RC/Memorandum of Intimation already granted to SPIC under the FCO.
- (vii) Certificate dated 24.10.2011 issued by Central Board of Excise and Customs, wherein GFL has been registered for operating as a manufacturer of excisable goods produced in Tuticorin plant of SPIC.
- (viii) Detail of the Vessel-wise arrival of DAP imported by GFL from 1.4.2011 to 27.10.2011 and amount of subsidy eligibility thereof under NBS Policy for P&K fertilizers.
- (ix) Confirmation by GFL regarding payment of the agreed amount as per BTA by it to SPIC for acquisition of the phosphatic business of SPIC.
- (x) Confirmation by GFL in regard to taking possession of all movable and immovable assets of SPIC as per BTA.

- (xi) The document showing that the working capital lenders for phosphatic operations of SPIC namely, M/s RZB, have agreed 'in-principle' to undertake the working capital loan and extend higher working capital limits to GFL provided the existing escrow arrangements and priority payment of concession is allowed by this Department to continue for GFL.
 - (xii) Copies of the RC/Memorandum of Intimation of SPIC endorsed by the State Governments of Tamil Nadu, Andhra Pradesh, Kerala, Pondicherry and Karnataka in favour of GFL valid up to 31.3.2014, under the FCO, to carry on the production/sale of P&K fertilizers. GFL provided the RC/Memorandum of Intimation to this Department on 14.11.2011.
 - (xiii) Letter dated 14.11.2011 submitted by GFL requesting to Tamil Nadu Pollution Control Board, Chennai, seeking consent to operate the phosphatic fertilizer plants of SPIC under the BTA. The company submitted the information to the Board regarding receipt of the requisite fees by the Tamil Nadu Pollution Control Board for the period 2011-12. The company requested to the Board to take the BTA on record and endorse the consent to operate in the name of GFL with effect from 24.10.2011. The Pollution Control Board also acknowledged the receipt of the letter-dated 14.11.2011. GFL provided a copy of the above said letter to this Department on 15.11.2011.
6. With the above submissions/documents/information made by SPIC and GFL, both these companies have requested to this Department as follows:
- (i) The above transaction of sale of the phosphatic fertilizers business from SPIC to GFL may be taken on record by Department of Fertilizers for the purpose of releasing of payment of subsidy by Department to GFL, on the sale of indigenous and imported Phosphatic & Potassic fertilizers including SSP, under the Nutrient Based Subsidy Policy for P&K fertilizers.
 - (ii) The subsidy on receipt/sale of the closing stock of DAP, NPK complex and SSP of SPIC as on 24.10.2011 and the receivable subsidy from Department of Fertilizers in respect of past claims of SPIC for P&K fertilizers, may be transferred to GFL.
 - (iii) Disbursement of "On-Account" payment of 85% concession/subsidy and 15% balance concession/subsidy to GFL on the receipt/sale of indigenous as well as imported P&K fertilizers with effect from 24.10.2011, in line with that of SPIC prior to this transaction as GFL has acquired the status of a manufacturer of P&K fertilizers by virtue of the BTA.
 - (iv) Making provision in Fertilizer Monitoring System (FMS) and approval of supply plan by the competent authority in Department of Fertilizers for entering the production, dispatch, Movement and sale of imported as well as indigenous Phosphatic & Potassic fertilizers by GFL under NBS Policy.
 - (v) Permission of Department of Fertilizers for depositing the amount of subsidy of GFL on P&K fertilizers, in the existing escrow account with M/s Wilson International and the Bank namely M/s RZB from the date of transfer of business i.e. 24.10.2011.
 - (vi) Continuation of priority payment of subsidy by this Department to GFL to enable them to stabilize the operations.

7. Department of Fertilizers has examined the above said representations alongwith the documents/BTA submitted by SPIC and GFL and the other information on record with the Department. Accordingly, it has been observed that both the companies have fulfilled the requisite formalities for transfer of the phosphatic fertilizer business of SPIC to GFL with effect from 24.10.2011 as per the BTA dated 19.10.2011. Resultantly, GFL has acquired the status of a manufacturer/importer of P&K fertilizers under the NBS Policy for P&K fertilizers with effect from 24.10.2011. As per the BTA, the closing stock of DAP, NPK complexes, SSP as on 24.10.2011 and receivables of subsidy from Department of Fertilizers by SPIC is to be transferred to GFL, which would fulfill the pending obligations to this Department, if any, that existed prior to the business transfer and SPIC will facilitate fulfilling all such obligations to this Department. Both these companies have got this BTA recorded in the records of various concerned authorities of the State Governments and the Government of India.

8. As per the policy guidelines No.11011/4/2000-MPR, dated 5.8.2002 of this Department on concession scheme for P&K fertilizers, the manufacturers of P&K fertilizers (other than SSP) are eligible for "On-Account" payment of concession/Subsidy on the quantity of the fertilizers produced / imported by them and sold for agricultural use or to manufacturers of NPK mixture fertilizers registered under FCO, except those quantities of sales notified otherwise in the context of any violation of the Scheme.

9. Keeping in view all the above-mentioned facts and circumstances, information/documents and the policy guidelines, the following has been decided by Department of Fertilizers:

- (i) The name of M/s Greenstar Fertilizers Private Limited is changed to M/s Greenstar Fertilizers Limited with effect from 29.7.2011 as per the fresh Certificate of Incorporation issued by the Registrar of Companies, Tamil Nadu, Chennai, Andaman & Nicobar islands.
- (ii) The transaction of sale of the phosphatic fertilizer business from SPIC to GFL, as per BTA, between the two companies, may be taken on record by this Department, under the concession scheme/Nutrient Based Subsidy Policy for P&K fertilizers, with effect from 24.10.2011.
- (iii) "On-Account" payment of 85% concession/Subsidy and 15% balance concession/Subsidy may be released to GFL on the receipt/sale of indigenous as well as imported P&K fertilizers, with effect from 24.10.2011, in line with that of SPIC, under the guidelines No. 19011/59/2003-MPR dated 12.3.2009, under the NBS Policy.
- (iv) Provision in the Fertilizer Monitoring System (FMS) may be made in respect of GFL for entering the data relating to production, dispatch, movement and sale of imported as well as indigenous P&K fertilizers, as required under the FMS, for claiming payment of subsidy under the NBS Policy with effect from 24.10.2011.
- (v) Supply plan for indigenous as well as imported P&K fertilizers may be granted to GFL for dispatch, movement and sale of indigenous as well as imported P&K fertilizers with effect from 24.10.2011.

10. Further, this Department has also taken the following decisions:

- (i) This Department shall deposit the amount of subsidy on P&K fertilizers in favour of GFL, into the existing escrow account, instead of SPIC, with M/s Wilson International and the Bank namely M/s RZB, in the State Bank of Patiala, Shastri Bhawan, New Delhi from the date of transfer of business i.e. 24.10.2011. The Company shall intimate to this Department

in respect of the change of name in favour of GFL, in the existing Escrow Account, in the State Bank of Patiala, Shastri Bhawan, New Delhi.

(ii) This Department shall provide the facility of priority payment of subsidy to GFL for a period of six months with effect from 24.10.2011. Thereafter, the financial condition of GFL shall be reviewed by this Department.

(iii) The subsidy on the receipt/sale of the closing stock of DAP, NPK Complexes and SSP of SPIC as on 24.10.2011 and the receivable subsidy from this Department in respect of the past claims of SPIC for P&K fertilizers, shall be transferred/deposited by this Department to GFL/the Escrow Account, under the guidelines dated 12.3.2009, under NBS Policy.

(iv) GFL shall fulfill all the requisite formalities and obligations under the concession scheme/NBS Policy, if any, that existed prior to the business transfer i.e. 24.10.2011 and SPIC will facilitate fulfilling such obligations to this Department.

(v) GFL shall be responsible for the entire unadjusted "On-Account" payment of concession/Subsidy released to SPIC prior to 24.10.2011 for which Proforma 'B' have not been submitted by the State Governments so far.

11. This issues with the approval of the competent authority and concurrence of IFD, vide Dy. No. 1742/DS (Budget) dated 11.11.2011.



(Varinder Gupta)

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Copy to :

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2. M/s Greenstar Fertilizers Ltd., No.5, 3rd Floor, Sun Plaza, 19, G.N. Chetty Road, Chennai – 600 006.
3. CA/P&AO, Department of Fertilizers
4. Consultant (Finance)/DS (Budget)/AFA/SO (Finance)
5. US (Concession Wing)/Sr. AD (Concession Wing)/AD (FA Wing)
6. CMD, PDIL
7. Director (Movement), DOF
8. DG, FAI
9. Director (Agriculture) of all State Governments
10. Tamil Nadu Pollution Control Board, Anna Salai, Guindy, Chennai.
11. NIC for uploading on the Department's website (fert.nic.in)
12. DD (OL), Department of Fertilizers
13. Guard file.
