

**IN THE PUBLIC PROCUREMENT APPEALS AUTHORITY**

**APPEAL CASE NO. 28 OF 2025-2026**

**BETWEEN**

**M/S KABISA MEDICAL AND SURGICAL**

**PHARMACY LTD.....APPELLANT**

**AND**

**MAWENZI REGIONAL REFERRAL HOSPITAL**

**(KILIMANJARO).....RESPONDENT**

**DECISION**

**CORAM**

- |                           |                   |
|---------------------------|-------------------|
| 1. Ms. Florentina Sumawe  | - Ag. Chairperson |
| 2. Eng. Lazaro Loshilaari | - Member          |
| 3. Mr. Raphael Maganga    | - Member          |
| 4. Mr. James Sando        | - Secretary       |

**SECRETARIAT**

- |                         |                        |
|-------------------------|------------------------|
| 1. Ms. Florida Mapunda  | - PALS Manager         |
| 2. Ms. Violet Limilabo  | - Senior Legal Officer |
| 3. Mr. Venance Mkonongo | - Legal Officer        |

**FOR THE APPELLANT**

- |                       |                     |
|-----------------------|---------------------|
| 1. Mr. Pryank Agrawal | - Managing Director |
|-----------------------|---------------------|



## **FOR THE RESPONDENT**

1. Ms. Elizabeth Kifai - State Attorney - Ministry of Health
2. Mr. Benson Sawaya - Head of Procurement Management Unit (HPMU)
3. Mr. Asheri Mtango - Health Secretary

**M/S Kabisa Medical and Surgical Pharmacy Ltd** (hereinafter referred to as "the appellant") has lodged this appeal against **Mawenzi Regional Referral Hospital** (Kilimanjaro) (hereinafter referred to as "**the respondent**"), concerning Tender No. FA/2025/2026/9027/52/027/G/06/1 for Procurement of Drugs and Medicine (hereinafter referred to as "**the tender**").

Based on the documents submitted to the Public Procurement Appeals Authority (hereinafter referred to as "**the Appeals Authority**"), the background of this appeal may be summarized as follows:

The tender was done in accordance with the National Shopping method as provided under the Public Procurement Act, No. 10 of 2023 (hereinafter referred to as "**the Act**") and the Public Procurement Regulations, GN No. 518 of 2024 (hereinafter referred to as "**the Regulations**").

On 12<sup>th</sup> February 2026, the respondent, through the National e-Procurement System of Tanzania (**NeST**), invited eligible tenderers to participate in the tender, setting the submission deadline for 19<sup>th</sup> February 2026. By the deadline, the respondent received thirteen tenders including that of the appellant. The record of appeal is silent on how the evaluation process was conducted.



On 10<sup>th</sup> March 2026, the respondent issued a Notice of Intention to Award, informing the appellant of its intention to award the Framework Agreement to two tenderers, namely M/S Zeepyi Pharmaceuticals Ltd and M/S Pharview (T) Ltd (**the proposed awardees**). The awardees proposed contract prices were Tanzania Shillings Four Million Three Hundred Fifteen Thousand One Hundred and Fifty-Four only (TZS 4,315,154) and Three Million Four Hundred Ninety-Nine Thousand Six Hundred Eighty-Two and Forty-Two Cents only (TZS 3,499,682.42) respectively. The Notice further stated that the appellant's tender was not qualified for award.

Dissatisfied with the reason given for its disqualification, the appellant applied for administrative review to the respondent and later on the respondent issued the decision by dismissing the appellant's application for administrative review. Aggrieved further, the appellant filed this appeal to the Appeals Authority.

When the matter was called on for hearing the following issues were framed for determination.

- 1. Whether the disqualification of the appellant's tender was justified.**
- 2. Whether the award of the tender to the proposed awardees was proper in law.**
- 3. What reliefs, if any, are the parties entitled to?**



## **SUBMISSIONS BY THE APPELLANT**

The appellant's submissions were made by Mr. Priyank Agrawal, Managing Director. Addressing the first issue, he stated that the appellant participated in the tender advertised by the respondent. On 10<sup>th</sup> March 2026, the appellant received the Notice of Intention to award, which indicated that its tender did not qualify. Dissatisfied with the reason given for its disqualification, the appellant applied for administrative review to the respondent.

Through a letter dated 23<sup>rd</sup> March 2026, the appellant was invited by the respondent to attend a meeting held on the same date. Mr. Agrawal stated that during the meeting, the appellant was informed that its tender was unsuccessful because its prices for some items were higher compared to those of other tenderers, although its overall price was lower. The appellant was dissatisfied with this clarification and with the respondent's decision on its application for administrative review, and consequently filed this appeal.

Mr. Agrawal submitted that the tender document required tenderers to quote for all 380 products. The appellant complied with this requirement and quoted for all products, offering the lowest price in 280 products compared to the proposed awardees. Therefore, the respondent's finding that the appellant's prices were higher was improper, as the cumulative total price of the appellant's tender was lower than that of the proposed awardees.



He further argued that the tenders were not evaluated correctly, as the respondent ought to have noted that the appellant's overall price was cheaper and should therefore have proposed awarding the tender to it. He added that the respondent's decision to award the framework agreement to the proposed awardees would result in the government incurring higher costs for the same products, despite the appellant's ability to supply them at a lower price.

Mr. Agrawal also submitted that the proposed awardees lacked the requisite experience as prime vendors compared to the appellant. He claimed that the appellant had served as prime vendor to eight regional referral hospitals, achieving 100% order completion, and was therefore more experienced than the proposed awardees.

The appellant additionally contended that, since the year 2022, it had supplied goods to the respondent in respect of which payment remained outstanding notwithstanding repeated demands. Mr. Agrawal contended that, due to the outstanding debt from 2024, the respondent unfairly evaluated the appellant's tender with the intention of disqualifying it, notwithstanding the appellant's compliance with the tender requirements and its lower price compared to the proposed awardees' prices.

Finally, the appellant prayed for the following orders: -

- i. A declaration that there was partial evaluation of tender.
- ii. Review the evaluation process to ascertain the basis used to award the tender to the proposed awardees.



- iii. Payment of the debt owed to it by the respondent.

### **REPLY BY THE RESPONDENT**

The respondent's submissions were made by Mr. Benson Sawaya, HPMU assisted by Ms. Elizabeth Kifai, State Attorney.

Mr. Sawaya commenced by stating that the appellant was disqualified for having quoted higher price in some of the products compared to the proposed awardees. He elaborated that, although the tender opening report indicated that the appellant's total price was lower than that of the proposed awardees, however, the appellant had quoted higher prices in more than 200 out of 380 products to be supplied.

He further explained that tenderers were not expected to supply all 380 products listed in the tender. Instead, they would only be required to supply items declared out of stock by the Medical Stores Department. Since the appellant's prices were higher in most of the products, it would be improper for the respondent to order products from the appellant while ignoring the cheaper prices quoted by the proposed awardees. Consequently, the respondent awarded the tender to the proposed awardees, who had lower prices in many of the items compared to the appellant.

Mr. Sawaya submitted that the tenders were evaluated fairly, transparently and in strict compliance with the criteria set out in the tender document, the Act, and its Regulations. He emphasized that no tender was accorded



preferential or discriminatory treatment at any stage of the evaluation process.

He further stated that the evaluation of tenders was not based on experience but also considered preliminary and technical requirements as in the tender document. He argued that the appellant's assertion that tenderers with higher quoted prices were recommended for award was unfounded, as the evaluation report clearly demonstrated that the proposed awardees complied with the requirements of the tender document and quoted lower prices in many of the products compared to the appellant.

Regarding the appellant's allegations concerning outstanding debts and prior supply history, the respondent submitted that such claims are extraneous to the current tender process and did not form part of the evaluation criteria. He argued that these claims were incapable of influencing the outcome of the evaluation, maintaining that the appellant's tender was disqualified solely on account of higher prices, not due to any irregularity in the evaluation process.

Mr. Sawaya further submitted that, upon receipt of this appeal, the respondent reviewed the tender process and observed certain irregularities which necessitated reverting the tender to evaluation stage. Following consultations with the Public Procurement Regulatory Authority, the respondent reverted the tender to re-evaluation process to ascertain whether the evaluation was conducted in accordance with the law.



On her part Ms. Kifai conceded to the appeal having discovered irregularities in the evaluation process. She therefore prayed that the Appeals Authority order the respondent to re-evaluate the tender in compliance with the law.

In his rejoinder, the appellant did not object to the respondent's prayer for re-evaluation of tender, but insisted that the process be conducted strictly in accordance with the law.

### **ANALYSIS BY THE APPEALS AUTHORITY**

Taking cognizance of the respondent's concession to the appeal which affirms that the Appellant's disqualification was unjustified; and considering a prayer for re-evaluation of tender by both parties, the Appeals Authority hereby allows the appeal, quashes the Notice of Intention to award, and order the respondent to reinstate the appellant in the tender process, re-evaluate the tender in accordance with the law, criteria provided in the tender document and using an independent evaluation team.

We make no order as to costs.

It is so ordered.

This decision is binding and enforceable in accordance with section 121(7) of the Act.

Right of Judicial Review, as provided under section 125 of the Act is explained to the parties.



This decision is delivered in the virtual presence of the parties this 30<sup>th</sup> day of April 2026.

**MS. FLORENTINA SUMAWE**

  
.....

**Ag. CHAIRPERSON**

**MEMBERS:-**

**1. ENG. LAZARO LOSHILAARI** .....



**2. MR. RAPHAEL MAGANGA** .....



