



भारत सरकार/GOVERNMENT OF INDIA
वित्त मंत्रालय/MINISTRY OF FINANCE
राजस्व विभाग/DEPARTMENT OF REVENUE
राष्ट्रीय सीमा शुल्क, अप्रत्यक्ष कर एवं नार्कोटिक्स अकादमी
NATIONAL ACADEMY OF CUSTOMS, INDIRECT TAXES & NARCOTICS [NACIN]
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F.NO: NACIN/I/(22)/OTH/398/2020-ADMN-O/o Pr ADG-NACIN-ZC-CHENNAI

Dated : 23.05.22

ORDER

M/s Everwin Security Services Pvt. Ltd., Vignesh Apartment, No.88, 3rd Main Road, Near Gandhi Nagar, Adyar, Chennai – 600020 (hereinafter mentioned as M/s Everwin), was a Service provider for Housekeeping and Security services to National Academy of Customs, Indirect Taxes & Narcotics (hereinafter referred to as NACIN or the Principal employer). M/s Everwin was selected, through a tender process, to provide Security Services on a 24 x 7 basis, for NACIN from February 2016 to February 2018. Likewise, they were also selected to provide House Keeping & Canteen Services from September 2017 to August 2018 for NACIN office, NACIN hostel & Guest House.

2. During the contractual period, M/s.Everwin appeared to have committed the following lapses/irregularities:

- a. M/s Everwin had not paid the salary for the month of August 2018 to the housekeeping staff totally numbering 18, deployed in NACIN office and hostel. In addition to the said default for the month of August, 2018, M/s.Everwin had not paid the salary to one of its employees, Shri.Balaji, for the months of June 2018 and July 2018 also.
- b. M/s Everwin had also made inadmissible deductions (ranging from Rs.851/- to Rs.1017/-) from the salaries of the Housekeeping and Security staff every month, under the head 'Other Deductions'.
- c. The annual bonus (@ Rs.7000/- per employee), which was duly paid to M/s Everwin by the principal employer (NACIN) was also not paid to the Housekeeping and Security staff.
- d. ESI contributions collected by M/s Everwin from NACIN along with every month's bill, was illegally retained by them. Further, the employees' contribution was partly shown as the contribution of M/s Everwin and the balance was shown as employees' contribution, by under-stating the basic pay of the employees.
- e. M/s Everwin had not remitted the correct PF amount to the accounts of the Housekeeping and Security staff deployed in the Academy and Hostel of NACIN, Chennai. In many cases, the PF contributions (employer and employee) made to the PF Office was less than the actual contributions and, in some cases, the entire contribution was not paid to the PF office.

Page 1 of 12

3. In terms of the contractual agreements entered into between M/s Everwin and NACIN, for providing Security Services and House Keeping services in the latter's office, the service provider had to comply with the provisions of the Minimum Wages Act, 1948 and Payment of Wages Act, 1936.

4. It was also seen that the contractual workers employed by M/s. Everwin at NACIN, viz. Shri Jayasuresh and 17 others had preferred complaints and had also filed Claim Applications Nos.M.39/MWA/1/2020-B2 to M.39/MWA/11/2020-B2, M.39/MWA/13/2020-B2 to M.39/MWA/18/2020-B2 and M.39/MWA/20/2020-B2 before the Hon'ble Regional Labour Commissioner (Central), Chennai, regarding non-payment of wages as well as against unauthorized deductions, as detailed above. In response to the aforesaid Claim Applications, 18 orders dated 18.02.2021/17.03.2021 were passed by the Hon'ble Regional Labour Commissioner(C), whereby, M/s Everwin was ordered to re-pay the amounts illegally withheld by them under the head "other deductions" along with an equal amount as one-time compensation, within 30 days of receipt of the said orders. M/s Everwin had not made any payment to the concerned contract employees (Shri Jayasuresh and 17 others) till date, despite being reminded twice by the said contract employees through their letters dated 04.05.21 and 19.07.21, a copy of which was marked to this office too.

5. As M/s Everwin had violated the provisions of the contract entered into with NACIN, they were directed to show cause to the Assistant Director, National Academy of Customs, Indirect Taxes & Narcotics, 3/86-E, AIEMA Road, Ambattur Industrial Estate, Chennai-58, vide Notice of even no. dated 14.08.21 as to why-

(i) they should not be blacklisted from participating in any tender floated by NACIN in future.

(ii) the proceeds of Fixed Deposit receipt No.0355365 dated 17.05.2017 in A/c No.6528632392 issued by Indian Bank, Corporate office, Chennai-600014, in the name of "The Additional Director General, NACIN, Chennai-58", for an amount of Rs.50,000/- (plus interest), submitted by M/s Everwin on 24.05.2017 as a security deposit for their Security services provided by M/s Everwin to NACIN, should not be appropriated by this office.

(iii) the subject matter of their violations should not be reported to the Central Public Procurement Portal, so that they are debarred from participating in any tender floated on the said portal in future.

6. M/s Everwin was given 15 days time from the date of receipt of the Show Cause Notice to reply to the same. M/s Everwin sent an email dated 23.08.2021 requesting for the signed hard copy of the SCN. However, it was seen that as per the Speed Post Tracking document, they had received it on 17.08.21 itself. This

fact was pointed out to M/s Everwin, and they were asked to reply to the charges raised in the SCN, who then, vide mail dated 25.08.21, forwarded a letter dated 14.08.21 stating that:

- i. The agreement signed between NACIN and M/s Everwin had expired on 31.08.2018, thus NACIN had no authority to issue SCN now. Moreover, as per agreement, all disputes are to be resolved through mutual settlement and subject to the jurisdiction of Chennai Courts.
- ii. As the contract workers were the employees of M/s Everwin and not of NACIN, they questioned why NACIN should step in and take action against them on behalf of the contract workers;
- iii. NACIN had paid the incorrect amount of Bonus to M/s Everwin .
- iv. As per agreement, NACIN could only terminate the contract with them, but not blacklist them or report them to CPPP or any authorities.
- v. There were no irregularities in the EPF payments made by M/s Everwin; that in respect of ESI payments, their case was subjudice and that they were also planning to file an appeal against the Labour Court's order.

7. M/s Everwin also requested for the original attendance registers signed by their employees and the details of Bonus paid by this office to all the contract employees from 2016. They were informed vide mail dated 27.08.21 that documents and details pertaining to attendance were required to be maintained by M/s Everwin and therefore could not be provided by this office. They were also informed that documents relied upon to evidence the lapses/ irregularities listed in the SCN had already been sent as Annexures to the SCN and other details sought for by them were beyond the scope of the SCN and therefore, not provided. M/s Everwin vide mail dated 01.09.21 requested for a personal hearing. Further, vide mail dated 02.09.21, they enclosed letter dated 02.09.21, reiterating some of the issues listed in Para 6 (i to v) of this order and requested for 20 more days to reply to the SCN, which was granted to them. Vide letter dated 21.09.21, M/s Everwin stated that they had represented to NACIN, Faridabad and the Regional Labour Commissioner at Chennai; that based on the reply received from these two organisations, they would furnish their reply to this office.

8. An opportunity of Personal hearing on 13.10.21 was given by this office to M/s Everwin. Vide mail dated 11.10.21, M/s Everwin requested for Personal Hearing by virtual mode. Accordingly, a Personal Hearing was scheduled on 22.10.21 in virtual mode as per their request. M/s Everwin vide their letter dated 20.10.21, requested to clarify the nature of the Personal Hearing and reiterated the points listed in Para 6 (i) to(v) of this order. They were informed that the Personal Hearing was an opportunity for them to present their explanations in respect of the charges raised in the SCN.

9. During the online Personal Hearing held on 22.10.21, M/s Everwin was represented by their AGM, Shri. Sugajanarthan G., who stated that as the RLC (Regional Labour Commissioner) had already passed an order under CLRA Act, requiring NACIN to pay the salary of August directly to the staff and as the employees had received their salary for August 2018, the charge against M/s Everwin regarding the non-payment for the month of August 2018, may be amended suitably. In respect of the second charge, he stated that the company had deducted Cautionary deposits ranging from Rs.850/- to Rs.1050/- from the employees' wages and as per their letter dt 10.11.17 to NACIN, they would release these Cautionary Deposits as soon as NACIN returned the Security Deposit of M/s Everwin. Regarding the charges on non-payment of bonus, he stated that they had sought clarification from the RLC and Ministry of Labour as to whether the bonus payment of Rs. 7000/- by NACIN was correct or not and that they would be receiving the reply from them within a week or two and would sort out the issue then. In respect of the charges on the short-payment of ESI, Shri. Sugajanarthan stated that the ESI officials had taken some measures against M/s Everwin after conducting an inspection, because of which M/s Everwin filed a case against them in the High Court of Madras and the issue was sub-judice. On the issue of EPF payment, he stated that the officials of EPF department had inspected the premises of M/s Everwin and given them a clean chit that the EPF payments made by them were in order; that there was no pending payment to EPF Department from M/s Everwin and that if NACIN had any further doubts regarding the EPF payments made by M/s Everwin, they could contact the EPF office directly. He further stated that M/s Everwin had also written a letter to RLC requesting for certain clarifications regarding the judgements passed by RLC and would sort out the issue amicably on receipt of their reply.

10. Shri. Sugajanarthan further added that as neither the Tender document nor the Agreement mentioned anything about the actions such as black listing, informing the CPP portal, etc., initiating these actions against them will not hold good. Moreover, the case filed by Mr. Balaji was still pending with the Labour court. He questioned the correctness of issuing SCN at this stage by NACIN.

11. Shri. Sugajanarthan was asked to submit the records relating to the case in the High Court against the ESI Department. Shri. Sugajanarthan was asked specifically whether the EPF Department had issued any letter to M/s Everwin giving them a clean chit as claimed by him, to which he clarified that the EPF officials had visited their premises in the year 2019 based on a complaint from NACIN and the EPF had said that they would be sending a letter to NACIN and no correspondence had been received by M/s Everwin in this regard from EPF office. Shri. Sugajanarthan was also specifically asked whether M/s Everwin had paid the Cautionary Deposit arrears to the contract workers after issue of No-objection certificate by NACIN as per their assurance made before the RLC. To

this query, Shri. Sugajanathan replied that he would check with his office and revert. He further clarified that they had not paid their employees the bonus amount of Rs. 7,000/- as paid by NACIN because, they felt that if they did so, the employees would claim that they should be given higher bonus. He also stated that all the EPF and ESI dues had been paid correctly into their employees' accounts. He further assured that he would confirm and revert as to whether M/s Everwin had declared the correct wages of the employees while making payments into the employees' ESI and EPF accounts and whether the correct ESI and EPF contributions had been made by M/s Everwin in accordance with their actual salary as paid by NACIN.

12. M/s Everwin was given a week's time to produce the documents and submit the clarifications sought for. However, vide letter sent on 26.10.21, M/s Everwin reiterated the same points listed in their earlier letters and sought copies of all documents sent by NACIN to EPF, ESI, GST and other authorities. They sought clarification as to whether the Asst. Directors who issued the SCN and conducted the PH were the competent authorities for such disciplinary action against the service provider and stated that they would send the required details/ documents after getting the clarifications from NACIN.

13. In response to the above, M/s Everwin, vide mail dated 11.11.21, were informed that NACIN was authorised to take action against service providers for non-fulfilment of their obligations as per contracts executed with them; that they had been issued an SCN in respect of the charges against them and also given an opportunity of Personal Hearing, in conformity with the Principles of Natural Justice and were given time till 18.11.21 to furnish the required details and documents as committed by their representative during the PH. M/s Everwin vide their mail dated 11.11.21, reiterated the same points made vide their earlier letters. However, M/s Everwin failed to furnish the necessary documents and details till date.

FINDINGS

14. I have gone through the case records and the points made by M/s Everwin in their letters and during the Personal Hearing. M/s Everwin was asked to Show Cause vide Notice dated 14.08.2021 in respect of the lapses/ irregularities appeared to have committed by them while they were the Service provider for Housekeeping and Security services to NACIN. They were given ample time for replying to the charges raised therein. They were also given an opportunity of Personal Hearing before me on 22.10.21, during which, the Authorised Representative of M/s Everwin assured to produce specific details/ documents. However, I find that despite reminders in this regard and sufficient time being given to them, M/s Everwin has failed to produce any of these details/

documents/ explanations. I find that throughout the entire proceedings, all their communications were along the same lines; they choose to remain silent and did not submit anything concrete in their favour with reference to the charges laid out in the SCN and instead raised queries totally unrelated to the charges made in the SCN. When they were reminded in this regard, they sent letters raising the points listed in Para 6 (i) to(v) of this order. As M/s. Everwin has not given any valid justification nor has it substantiated its actions in respect of the aforesaid allegations levelled against them, despite reminders and ample time, I am constrained to pass the order in the instant case based on facts available on record.

15. The Show Cause Notice charged M/s Everwin with mainly five lapses as already listed in Para 2 of this order. The first charge made against M/s Everwin was that they had not paid the salary for August 2018 to the 18 housekeeping staff, deployed in NACIN office and hostel. During the PH, the AGM of M/s Everwin, Shri. G. Sugajanathan, requested for dropping the first charge as NACIN had already paid the salary of August 2018 directly to the housekeeping staff consequent to the directions of the RLC order. However, I find that as per the agreement, it was the prime responsibility of the Service provider, namely M/s Everwin to pay the salaries to their employees, which they failed to do. As per Clauses 3(xiii, xiv and xv) of the Housekeeping and Canteen Services Agreement:

1. The wages to the outsourced staff should be paid on or before the 5th working day of the next month.
2. The agency should ensure that there is no scope for any grievance from the personnel on delayed payment of wages.
3. The contractor is responsible for the payment of monthly salary and bonus, etc. to their personnel as applicable to them under law.

The fact that the salary for the housekeeping staff was subsequently paid by NACIN does not absolve M/s Everwin of the charges of not paying the salary for August 2018 and also, of violating the terms and conditions of the agreement. As a service provider, it was the prime duty of M/s Everwin to pay the salary of its employees for the period that they have worked for. Because of this lapse on part of M/s Everwin, the employees had to struggle and could get the salary only after approaching the Labour Court after a period of nearly 3 years. M/s Everwin has also not chosen to give any explanation for its lapse in this regard. In the light of the above, I do not find the request of the appellant for the charge to be dropped tenable. Hence, it is amply clear that M/s. Everwin is squarely guilty of non payment of salary for August 2018 for its employees and violation of the aforesaid clauses of the agreement listed above.

16. The second charge listed in the SCN pertains to the inadmissible deductions (ranging from Rs.851/- to Rs.1017/- per month) from the salaries of the Housekeeping and Security staff every month. Again, there is no explanation or justification presented by M/s Everwin in respect of these inadmissible deductions. During the PH, the Authorised representative stated that M/s Everwin had written a letter on 10.11.17 to NACIN stating that they would release these amounts withheld as Cautionary Deposit as soon as NACIN returned the Security Deposit of M/s Everwin. This is total unjustified, as there is no scope or relevance to equate the retention of the above Security deposit by NACIN, Chennai with the inadmissible deductions made by M/s Everwin. It is also seen that the Security Deposit of M/s Everwin is for only Rs. 50,000/-, whereas the total amount of inadmissible deductions made by M/s Everwin, amount to around Rs. 1.7 lakhs. It is also pertinent to point out here that in reply to their cited letter dated 10.11.2017, this office, vide letter dt. 27.11.2017 to M/s Everwin, drew their attention to Rule 21(2) of the Minimum wages (Central) Rules, 1950, asking them to submit the provisions/Rules under which these deductions were made by them and directed them to re-credit the deductions if they were contrary to the laws and Rules. However, M/s Everwin not only failed to re-credit these amounts, but continued to make these inadmissible deductions till the completion of their contract with NACIN, Chennai. I also find from the records that M/s Everwin had admitted before the RLC that they had made these deductions and assured to release these amounts to the employees on receipt of "no damage certificate" by NACIN. I find that this office had issued the "no damage certificate" accordingly. However, this amount has not been paid by M/s Everwin to the employees, even after the RLC ruled in the case of these 18 employees that these deductions were illegal and ordered M/s Everwin to pay this amount along with one time compensation to the employees. It is thus held that the deductions made by M/s Everwin were illegal and in contravention of the provisions of Rule 21(2) of the Minimum wages (Central) Rules, 1950 and also the provisions of the both the Housekeeping and Canteen Services and the Security Services Agreements signed between M/s Everwin and NACIN.

17. The next charge was in respect of non-payment of the Annual bonus by M/s Everwin to the employees. I find that M.s Everwin has been harping in all their letters that NACIN was making the incorrect payment of Bonus. From the records it is seen that the total Bonus payment made by NACIN for the entire year is Rs. 7,000/- per employee, which has been included in the monthly salary payments made to M/s Everwin. From the invoices of M/s Everwin, this is the amount that they had billed every month too. But the fact remains that M/s Everwin has received this amount from NACIN, but has not paid it to the employees. During the PH, Shri. Sugajanardhanan stated that they had sought clarification from the RLC and Ministry of Labour as to whether the bonus payment of Rs. 7000/- by NACIN was correct or not and would sort out the issue on receiving reply from them. He further stated that they had not paid their

employees the bonus amount of Rs. 7,000/- as paid by NACIN because, they felt that if they did so, the employees would claim that they should be given higher bonus. This explanation by M/s Everwin for not paying the Bonus amount is highly absurd and does not justify their actions. The repeated claim by M/s Everwin regarding incorrect payment of bonus by M/s Everwin is more of an attempt to sidetrack the main issue of wilful misappropriation of the bonus amount by them. It is therefore held that the non-payment of the Bonus amount by M/s Everwin to the employees, despite receiving it from NACIN, was illegal and in contravention of Clause 3(xv) of the provisions of the Agreement, wherein it is stated that “The contractor is responsible for the payment of monthly salary and bonus, etc. to their personnel as applicable to them under law.”

18. The fourth charge against M/s Everwin was regarding the ESI contributions made by M/s Everwin. The ESIC had given details of the contributions made by M/s Everwin for the month of January 2018. A reading of the Annexure 4 to the SCN gives a vivid comparison of the ESI contributions made by M/s Everwin in their employees’ ESI account for January 2018 and the actual deductions from the employees’ salary made by M/s Everwin in the name of ESI contributions. Here, the manipulation in the payments is two-fold, the first was that M/s Everwin collected the correct contributions from NACIN based on the actual pay along with every month’s bill, but remitted only a fraction of their actual contribution by grossly understating the basic pay of the employees. Secondly, they deducted the correct amount of ESI from their employees’ salary based on their actual pay, but remitted only a fraction into their employees’ ESI account. From the above, it is thus clear that M/s Everwin have misappropriated these amounts from both NACIN and their employees. They have submitted no documents or details in their defence. During the PH, Shri. Sugajanarthan stated that all the ESI contributions had been paid correctly into their employees’ accounts; that however, M/s Everwin filed a case against the ESI in the High Court of Madras because of certain measures taken by them (ESI) and the issue was sub-judice, but failed to provide any documental proof in this regard. He also stated that he would check up and revert in respect of whether they had made true declaration of their employees’ wages with the ESIC and made correct contributions therein. However, M/s Everwin, in their subsequent letters have discussed other issues not listed in the SCN, but failed to submit documents evidencing correct declarations and contributions from their side. The letter from ESIC (in Annexure 4 of the SCN) provides ample proof of their wrongdoings in respect of ESI contributions. Therefore, it is held that the fourth charge against M/s Everwin in respect of incorrect contribution of ESI and misdeclaration of the wages of the employees and partial misappropriation of both the employees’ and their own contribution to the ESI is also proved.

19. The fifth charge made in the SCN was that M/s Everwin had not remitted the correct PF amount to the accounts of its employees working at NACIN, Chennai. I also find from the records that this office had written to M/s Everwin as early as on 27.11.17 on the same issue and called for an explanation in this regard. But M/s Everwin had remained silent on the issue. In respect of this charge, Shri. Sugajanathan, during the PH, stated that all the EPF had been paid correctly into their employees' accounts. On being asked if they had made true declaration of their employees' wages with the EPF and accordingly made contributions therein, he stated that he would check up and revert. As stated earlier, M/s Everwin, in their subsequent letters have not reverted on the issue or submitted any documents/details in their defence. However, sufficient evidence is available in the form of the statement from EPF office and the salary slips of the employees which show that, as in the case of ESI payments, M/s Everwin collected the correct contributions from NACIN based on the actual pay along with every month's bill, but remitted lesser than the actual contribution. Secondly, they deducted the correct amount of EPF from their employees' salary based on their actual pay, but remitted a lesser amount into their employees' EPF account. It is thus clear that M/s Everwin have deliberately misappropriated these amounts from both NACIN and their employees. Therefore, it is held that the fifth charge against M/s Everwin in respect of incorrect contribution of EPF and partial misappropriation of both the employees' and their own contribution to the EPF is also proved.

20. In view of the aforesaid discussions, I hold all the charges made in the SCN against M/s Everwin as proved and M/s Everwin is guilty of all the contraventions that it has been accused of. Before taking up the case for a decision, certain issues raised by M/s Everwin in their letters and during the PH are taken up for discussion. Though the issues raised have no relevance to the charges made, they are being analysed below:

- a. One of the main contentions of M/s Everwin is that the SCN was issued by NACIN after expiry of the agreement period on 31.08.18 and therefore was illegal and did not hold good. In this regard I find from the records that this office had been writing to M/s Everwin from November 2017, (when the contract was still valid) calling for explanations and the basis for making "Other deductions". However, no satisfactory explanation justifying the basis for these "Other Deductions" had been given by M/s Everwin. This office had also written to M/s Everwin several times during the same period, calling for the details of EPF and EPS payments and Bonus paid by M/s Everwin to the employees. As per the tender and Agreement conditions, they were bound to give these details on demand, but they failed to do so. Thus it is clear that the enquiry process was started by NACIN during the agreement period itself. Subsequently, as the house keeping staff went to the Labour Court for redressal, this office

- could not initiate action against M/s Everwin. Now that the Labour Court cases have been finalised and the orders have been issued by the Labour Commissioner, this office has taken up the case again to bring the issue to a conclusion. It is thus clear that the issue of SCN by NACIN, Chennai is legal and proper and within its powers as the Procuring Entity and Principal Employer.
- b. Two other issues raised by M/s Everwin were as to whether the concerned ADs were competent to take Disciplinary Action against the service provider such as issuing SCN and conducting PH and whether NACIN, Chennai had the authority to blacklist them. In this regard, I find that the agreements with M/s Everwin have been signed by the Asst Director of NACIN. The issue of the Show Cause Notice and the conducting of PH was also has been done by an officer of the same rank, i.e. Assistant Director of this organisation. The question of competency of the Disciplinary Authority raised by M/s Everwin is therefore inconsequential. The disciplinary action against M/s Everwin has been initiated in terms of Manual for Procurement of Consultancy & Other Services 2017, after following due processes prescribed therein, in view of the issues mentioned in the SCN and the failure of M/s Everwin to abide by the terms and conditions of the Agreements signed between them and this office. I also find that prior to issue of the SCN, several letters had been written to M/s Everwin in respect of the charges made in the SCN, but M/s Everwin had either not replied to the issues raised in these letters or gave insufficient details. Also, the issue of SCN has been followed by an opportunity of Personal Hearing, which was given in online mode on the request of M/s Everwin. By doing so, this office has adhered to the “Principles of Natural Justice” and followed prescribed norms in respect of such proceedings. On the same lines, NACIN, Chennai as the procuring entity, is very much authorised to take punitive actions of various grades of debarment against the service provider for their failure to abide by the terms and conditions of the Agreements signed by M/s Everwin and NACIN, Chennai.
- c. Yet another point that M/s Everwin had raised was that NACIN could get details of EPF and ESI payments directly from the said Departments instead of asking M/s Everwin for details. I find from the records that as per the details obtained from EPF and ESI authorities, the basic pay and the corresponding EPF and ESI contributions made by M/s Everwin in their employees’ accounts were far lesser than the amounts paid by NACIN, Chennai under these heads to M/s Everwin. However, M/s Everwin claimed that they had made correct contributions, but failed to give details/ documents in support of their claim. Therefore, NACIN had specifically asked M/s Everwin to substantiate their claim of correct contributions by providing these details to NACIN. Moreover, as per the tender and Agreement conditions, the Service provider was bound to give

- these details on demand, but they failed to do so. Therefore, the stand taken by M/s Everwin that NACIN could get details of EPF and ESI payments directly from the said Departments instead of asking M/s Everwin, was thus totally not acceptable.
- d. M/s Everwin, in some of their letters sent after issue of SCN, stated that NACIN should provide them with the attendance of all the contract workers. This demand is unreasonable as it is the duty of the Service Provider to maintain the attendance records of its employees, under the Minimum Wages Act. Even before the RLC, M/s Everwin had argued that they did not pay the wages for August 2018 as they did not maintain the attendance registers. This fact was seriously viewed by the RLC as “dereliction of duty” by M/s Everwin, in their orders passed in the cited 18 cases. This goes on to prove that M/s Everwin have not fulfilled even these basic mandatory requirements as Service Providers under the existing rules. As it is not the responsibility of NACIN to maintain attendance registers, this demand of M/s Everwin is not tenable.
 - e. M/s Everwin also raised an issue in their letters as to why NACIN should step in and take action against them on behalf of the contract workers, as these people were the employees of M/s Everwin and not of NACIN. In this regard, it was seen that these contract workers had addressed M/s Everwin several times regarding unauthorised deductions and non payment of wages and copies of those letters were marked to NACIN. One of the main conditions of the Agreement signed between M/s Everwin and NACIN was that the agency should ensure that there is no scope for any grievance from the personnel on delayed payment of wages. M/s Everwin failed to address the grievances of their personnel. When these facts were brought to the notice of NACIN, they were forced to step in as principal employer and intervene against M/s Everwin, which was in accordance with the terms of the aforesaid agreement.
 - f. M/s Everwin raised yet another issue as to why NACIN was initiating action without waiting for the reply from NACIN, Faridabad and the Regional Labour Commissioner at Chennai to whom they (Everwin) had represented. As stated earlier, NACIN, Chennai, as the procuring entity, is very much authorised to take disciplinary actions on their own against the service provider for their failure to abide by the terms and conditions of the Agreement. While it is the right of M/s Everwin to represent their case before any Authority, there is no need for NACIN for deferring the Disciplinary proceedings against them on these grounds. M/s Everwin did not produce any stay order against these proceedings. Moreover, the Principles of Natural Justice have been duly followed in the instant case, as Show Cause Notice listing the charges has been served to M/s Everwin, Personal Hearing was also granted to them and ample time was given to them for furnishing the required details/ documents. Under the

circumstances, there is nothing illegal in the action of NACIN, Chennai to proceed against Everwin for their violations listed in the SCN.

21. Thus, all the above contentions and issues raised by M/s Everwin in their correspondences, though unrelated to the charges in the SCN have been examined and discussed thoroughly and rejected as they are devoid of merits.

22. As the charges made against M/s Everwin in the referred Show Cause Notice have been proved, I pass the following Order:

- i. M/s Everwin is blacklisted/debarred from participating in any other tender floated by NACIN for a period of two years from the date of issue of this order.
- ii. The proceeds of Fixed Deposit receipt No.0355365 dated 17.05.2017 in A/c No.6528632392 issued by Indian Bank, Corporate office, Chennai-600014, in the name of “The Additional Director General, NACIN, Chennai-58”, for an amount of Rs.50,000/- (plus interest), submitted by M/s Everwin on 24.05.2017 as a security deposit for their Security services provided by M/s Everwin to NACIN is appropriated by this office.
- iii. A copy of this order shall be forwarded to the Central Public Procurement Portal for necessary action at their end.

**ASSISTANT DIRECTOR
NACIN, CHENNAI**

To,
Shri C.Murugan, Managing Director,
M/s Everwin Security Services Pvt. Ltd.,
Vignesh Apartment
No.88, 3rd Main Road, Gandhi Nagar, Adyar,
Chennai – 600020.

Copy to,

1. National Academy of Customs, Indirect Taxes & Narcotics, Faridabad.
2. Central Public Procurement Portal/GEM Portal for information and necessary action.
3. The Regional Labour Commissioner(Central), Chennai for information.
4. The Webmaster, CBIC for uploading in the CBIC portal.