



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

WRIT PETITION NO. 13423 OF 2022 (GM-RES)

BETWEEN:

M/S KESHA SALES PVT LTD.,
REGISTERED COMPANY ACT 1956,
NO 914, 9TH FLOOR
MODI TOWER NEHRU PLACE
NEW DELHI - 110019
REPRESENTED BY ITS AUTHORIZED SIGNATORY
SHRI MANOJ AGARWAL

...PETITIONER

(BY SRI. DEEPAK.,ADVOCATE)

AND:

M/S BRINDAVAN THREADS PVT LTD.,
REGISTERED COMPANY ACT 1956,
REGD OFFICE NO 5/3
1ST MAIN JAYAMAHAL EXTENSION
BENGALURU - 560 046

FACTORY WORKS SNO 20/3
42ND KM, BENGALURU, TUMKUR ROAD
HANUMANTHAPURA VILLAGE
SOMPURA HOBLI,
NELAMANGALA TALUK
BENGALURU RURAL DISTRICT - 562 111.
REPRESENTED BY DIRECTOR

...RESPONDENT

(BY SRI. BHARATH KUMAR. S.,ADVOCATE)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO PRAYING TO QUASH ANNX-G DATED. 25.05.2022 PASSED IN CASE NO.AC 182/2021 PENDING BEFORE THE ARBITRITRAL TRIBUNAL AT ARBITRATION AND RECONCILIATION CENTRE BANGALORE.

THIS PETITION, COMING ON FOR FINAL DISPOSAL, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

ORAL ORDER

Petitioner who is respondent in an arbitration proceedings before the Sole Arbitrator in Arbitration case No.182/2021, which was initiated by the respondent herein for the recovery of amount towards the supplies made, is before this Court being aggrieved by the order dated 25.05.2022. In terms of which, the sole arbitrator has held while answering preliminary issue Nos.1 to 6, that the petition/claim petition filed by the respondent herein (Claimant before the Arbitrator) is maintainable.

2. Learned counsel for the petitioner submits that the claimant/respondent has sought to avail the benefit of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006, which presupposes claimant/respondent satisfying



the requirement of the definition of "Supplier". He submits that Section 7 and 8 of the said Act, 2006 requires 'Supplier' as that of the claimant/respondent herein to file memorandum within the time stipulated and comply the requirement under the statute which in the instant case is absent. Therefore the respondent/petitioner herein had raised the issue of very maintainability of the claim before the Arbitrator. That the arbitrator had framed six preliminary issues and has answered the same holding claim petition to be maintainable thereby declining to accept the contention urged by the petitioner. Therefore, seeks for allowing of the petition.

3. Learned counsel for the respondent, furnishing copy of a notification dated 18.09.2015, submits that the claimant/respondent herein was incorporated much prior to coming into the force of the MSMED Act, 2006. The option requiring submitting of the memorandum as contemplated under Sections 6 and 7 of the Act, was not applicable to the cases as that of the claimant/respondent, which was further clarified by the notification dated 18.09.2015. A reference of which is made in the impugned order at paragraph No.16. Thus, he submits that the contention now sought to be



canvassed by the petitioner/respondent therein has already been adverted to by the Arbitrator. Hence, he seeks for dismissal of the petition.

4. Heard and perused the records.

5. Paragraph No.16 of the impugned order read as under:

" 16. But it can be seen that the above referred documents show that the claimant's company is a small scale industry. As per the proviso contained in section 8(1) of the Act, a discretion is given to the small scale industry which has obtained registration certificate, to file or not to file memorandum. The yardstick to know whether it is a small scale industry is the registration certificate that it is a SSI unit and not quantum of investment on plant and machinery. Even otherwise it can be seen that as per the notification issued by government of India, Ministry of Mines, Small and Medium Enterprises, referred to above, vide notification No.SO 2576 E dated 18th September 2015 relating to filing of Udyog Aadhaar Memorandum at Para 4 it is provided that:

"Existing enterprises which have filed Entrepreneurship Memorandum I or Entrepreneurship Memorandum II or both, or the holders of Small Scale Industry registration, prior to the coming into force of the Micro Small and Medium Enterprises Development Act 2006(27 of 2006) shall not be required to file Udyog Aadhaar Memorandum, but if they so desire, they may also file the Udyog Aadhaar Memorandum".

6. The Arbitrator has taken into consideration the notification dated 18.09.2015, which has apparently exempted filing of the memorandum as contemplated under Sections 7 and 8 of the MSMED Act. No substantial procedural illegality can be found in the order passed by the Sole Arbitrator.

7. At this juncture, learned counsel for the petitioner seeks for liberty to raise the question of jurisdiction and



maintainability after passing of the award in the event of petitioner requiring to file an appeal.

8. Even otherwise any order of the Arbitrator regarding jurisdiction and maintainability of the arbitration proceedings is appealable as provided under Section 16(6) of the Arbitration and Conciliation Act.

9. Reserving liberty to the petitioner to urge such grounds in the appeal, if circumstances arises to be filed after passing of the award, petition is ***disposed of***.

10. It is made clear, no opinion is expressed on the merits or otherwise of the contention urged in the petition. The Arbitrator shall proceed with the matter on merits and pass orders in accordance with law.

Sd/-
(M.G.S. KAMAL)
JUDGE