

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE B.PRAMOD

WRIT PETITION NO.17408 OF 2025 (GM-RES)

R

BETWEEN:

ENNCON SYNERGIES INDIA PRIVATE LIMITED
HAVING ITS OFFICE AND FACTORY AT
NO.401, 402, MURLI CORPORATE PARK
PLOT NO.A-80, ROAD NO.16, MIDC
WAGLE INDUSTRIAL AREA
DISTRICT: THANE-400 604
REPRESENTED BY ITS CEO AND
AUTHORISED SIGNATORY
MR. ABHIJIT MIRAJKAR
AGED ABOUT 45 YEARS
REGISTER UNDER THE COMPANIES ACT, 2013

...PETITIONER

(BY SRI SUPREETH P., ADVOCATE)

AND:

STARWORTH INFRASTRUCTURE AND
CONSTRUCTION LIMITED
A COMPANY INCORPORATED UNDER THE
COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE
AT NO.130/1, ULSOOR ROAD
BENGALURU-560 008
KARNATAKA
REPRESENTED BY ITS ASSISTANT GENERAL
MANAGER-CONTRACTS AND TECHNICAL
MR. NAGABHUSHAN NAYAK
S/O. VASANT NAYAK
AGED ABOUT 39 YEARS

...RESPONDENT

(BY SRI K. ANANDARAMA, ADVOCATE)

Digitally signed
by
SHARAD DAVANI
B



Location: HIGH
COURT OF
KARNATAKA

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER ON MAINTAINABILITY DATED 15TH APRIL 2025 PASSED BY THE HON'BLE LXXXVII ADDITIONAL CITY CIVIL AND SESSIONS COURT, COMMERCIAL COURTS AT BENGALURU IN CCH-88 IN COM.A.P.NO.188/2024, AS PER ANNEXURE-J.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 11.09.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE B.PRAMOD

CAV ORDER

The Petitioner has approached this Court by way of the present petition challenging the order dated 15th April 2025 passed by the LXXXVII Additional City Civil and Sessions Court, Commercial Court at Bengaluru (hereinafter referred to as the 'Commercial Court') in Com A.P. No.188/2024, whereby the objection raised by the Petitioner regarding the maintainability and lack of jurisdiction of the said Court to entertain an application under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Arbitration Act'), was rejected.

2. The relevant factual matrix for considering the petition is that the Respondent appointed the Petitioner on 09.11.2021 as a Piece Rate Worker (PRW) for the execution of HVAC Expansion works for the Taj-Bengaluru Airport Hotel Project. It is admitted that the Respondent subsequently revised the PRW value in the Petitioner's favour. While the Respondent cleared all invoices raised by the Petitioner up to 30th June 2022, a dispute arose over certain outstanding bills. Consequently, on 08.12.2022, the Respondent issued a termination letter terminating the PRW arrangement.

3. Aggrieved by the non-payment of arrears for works carried out and materials supplied, the Petitioner approached the Micro and Small Enterprise Facilitation Council (MSEFC), Konkan at Thane, Maharashtra, filing an application under Section 18 of the Micro, Small, Medium Enterprise Development Act, 2006 (hereinafter referred to as the "MSME Act"). Following the adjudication of the dispute, the MSEFC, Thane, Maharashtra, in Petition No. 121/2023, passed an arbitration award in favour of the

Petitioner, directing the Respondent to pay a sum of Rs. 1,83,24,524/- along with interest as prescribed under Section 16 of the MSME Act.

4. Due to the Respondent's failure to comply with the award, the Petitioner initiated execution proceedings by filing Commercial E.P. No.958/2024 before the Commercial Court at Bengaluru. The Respondent, challenging the validity of the award, filed an application under Section 34 of the Arbitration Act, registered as Com. A.P. No.188/2024, before the Commercial Court at Bengaluru. The Commercial Court subsequently stayed the execution petition.

5. The Petitioner raised a preliminary objection to the maintainability of the application under Section 34 at Bengaluru, contending that, as the MSEFC in Thane, Maharashtra, passed the award, the Commercial Court at Bengaluru lacks territorial jurisdiction to entertain the challenge. The Commercial Court, vide the impugned order dated 15/04/2025, held that the Petitioner's objection regarding the lack of jurisdiction is not maintainable.

Challenging the above order, the petitioner has filed this writ petition.

6. The learned counsel for the Petitioner submits that under Section 2(1)(e)(i) of the Arbitration Act, the court having jurisdiction is determined by the seat of arbitration. Since the proceedings were conducted and the award was passed by the MSEFC at Thane, the Respondent ought to have filed the application under Section 34 before the Commercial Court at Thane. It is further contended that the Commercial Court erred in relying on the fact that the Petitioner filed the execution petition in Bengaluru, as such a filing under the Code of Civil Procedure, 1908, does not confer jurisdiction upon the Court to entertain a challenge to the award under Section 34 of the Arbitration Act.

7. *Per contra*, the learned counsel for the Respondent contends that the contractual relationship is governed by the Work Order dated 09.11.2021 (as amended on 25th April 2022) and the General Conditions of Contract (GCC). It is submitted that Clause E of the Work Order explicitly provides that "*The Court of Bengaluru alone shall have*

exclusive jurisdiction in all disputes arising out of this contract...." It is further submitted that the entire cause of action arose in Bengaluru, as the contract was executed in Bengaluru, the Respondent is situated in Bengaluru, and the project site was located in Bengaluru.

8. It is submitted that, the Facilitation Council, acting under Section 18 of the MSME Act, served as the venue for the proceedings, but this does not override the agreed "seat" of arbitration or the exclusive jurisdiction clause agreed upon by the parties in the contract. It is contended that a challenge to an award passed under the MSME Act remains bound by the jurisdictional agreement between the parties and that Section 10(3) of the Commercial Courts Act, 2015, is not the determinative factor for identifying the "Court" for an application under Section 34 when an exclusive jurisdiction clause exists. The Respondent relies upon the following judgments in support of his contentions:

A) *Indian Oil Corpn. Ltd. v. Fepl Engineering (P) Ltd., 2019 SCC OnLine Del 10265*

- for the contention that the "Seat" of arbitration would continue to be governed in terms of the arbitration agreement; jurisdiction of the MSME Council is decided based on the location of the supplier, which would only determine the "Venue".

B) *Gammon Engineers & Contractors (P) Ltd. v. Rohit Sood, 2024 SCC OnLine Bom 3304*

- for the contention that the MSME Act does not provide any mechanism for challenging the award passed under Sec 18. The Arbitration Act takes over once an award is passed under Section 18 of the MSME Act. Therefore, once an award is passed, the provisions of the Act govern the challenge to the award and determine the Court before which an application to set aside the award must be made.

C) *Uttar Gujarat Vij Co. Ltd. v. Gupta Power Infrastructure Ltd., 2024 SCC OnLine Guj 4280*

- for the contention that the MSME Act has not prescribed any provision dealing with the jurisdiction of the Courts entertaining the application for setting aside the award, in

view of the fact that the Arbitration Act is applicable at both stages of the award and post passing the award, and the place of arbitration for the parties to entertain and challenge an arbitral award continues to be the place over which the Court has been conferred with exclusive jurisdiction, as agreed between the parties.

9. In reply, learned counsel for the petitioner contends that the Order passed in ***Indian Oil Corpn. Ltd. v. Fepl Engineering (P) Ltd.***, (supra) is stayed, and the Order passed in ***Gammon Engineers & Contractors (P) Ltd. v. Rohit Sood*** (supra) is under challenge and pending adjudication. Further, the petitioner submits that the judgment of the Apex Court in ***Gujarat State Civil Supplies Corpn. Ltd. v. Mahakali Foods (P) Ltd.***, (2023) 6 SCC 401, holds that under the MSME Act, jurisdiction to act as an Arbitrator or Conciliator is determined by where the supplier is located. The Commercial Court's observation in para No. 8 of the impugned order that, MSEFC at Thane has no jurisdiction to pass an award, and its noting that the petitioner admits the jurisdiction of the Bengaluru

Court in view of filing the execution petition, were uncalled for.

10. Having heard the learned counsel for the parties and having perused the record, the point for consideration is as follows:

"Whether the application filed under Section 34 of the Arbitration and Conciliation Act, 1996 was maintainable at Bengaluru, in light of the exclusive jurisdiction clause stipulated in the contract, against the award passed under Section 18 of the Micro, Small, Medium Enterprise Development Act, 2006?"

11. Section 18 of the MSME Act reads as under:-

"18. Reference to Micro and Small Enterprises Facilitation Council.—(1) *Notwithstanding anything contained in any other law for the time being in force, any party to a dispute may, with regard to any amount due under section 17, make a reference to the Micro and Small Enterprises Facilitation Council.*

(2) On receipt of a reference under sub-section (1), the Council shall either itself conduct conciliation in the matter or seek the assistance of any institution or centre providing alternate dispute resolution services by making a reference to such an institution or centre, for conducting conciliation and the provisions of sections 65 to 81 of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to such a dispute as if the conciliation was initiated under Part III of that Act.

(3) Where the conciliation initiated under sub-section (2) is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for arbitration or refer to it any institution or centre providing alternate dispute resolution services for such arbitration and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall then apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in sub-section (1) of section 7 of that Act.

(4) Notwithstanding anything contained in any other law for the time being in force, the Micro and Small Enterprises Facilitation Council or the centre providing alternate dispute resolution services shall have jurisdiction to act as an Arbitrator or Conciliator under this section in a dispute between the supplier located within its jurisdiction and a buyer located anywhere in India.

(5) Every reference made under this section shall be decided within a period of ninety days from the date of making such a reference."

12. From the above provision it is clear that, under the MSME Act, the Facilitation Council acts as a statutory body for dispute resolution. The venue of the Council's proceedings under Section 18 of the Act does not automatically displace the contractually agreed seat of arbitration or the exclusive jurisdiction of the courts of Bengaluru, especially when the cause of action—namely, the execution of work and the location of the project—is

centred entirely in Bengaluru, and when Clause E of the Work Order explicitly provides that "*The Court of Bengaluru alone shall have exclusive jurisdiction in all disputes arising out of this contract....*".

13. The nature of the award under Section 18 of the MSME Act is such that, if the Facilitation Council fails to reach a settlement, it may act as an arbitrator. It is a settled legal position that an award passed by the MSEFC is an arbitral award due to the legal fiction within the definition of "arbitral award". Consequently, the challenge to such an award is governed by Section 34 of the Arbitration Act, which provides the statutory remedy for setting aside an arbitral award.

14. In determining the jurisdiction and the "seat" of Arbitration, the Petitioner relies on Section 2(1)(e)(i) of the Arbitration Act to argue that the location of the MSEFC (Thane) constitutes the "seat." However, this Court must distinguish between the "venue" of the proceedings and the "seat" of arbitration. While the MSEFC at Thane was the statutory forum (venue) for the dispute resolution

process, the underlying contract explicitly designated the Courts at Bengaluru as the exclusive jurisdiction for all disputes.

15. Under the well-established principle of interpretation under the Arbitration Act, the "seat" of arbitration is the legal centre that determines the territorial jurisdiction of the Court before which an application under Section 34 is to be filed. Where the parties by contract have determined the seat of arbitration, that designation prevails over the mere venue of the proceedings. The contractual designations of the Courts at Bengaluru as the exclusive forum for dispute resolution effectively establishes Bengaluru as the seat of arbitration for the purposes of Section 2(1)(e)(i) of the Arbitration Act. The above finding is supported by the ruling of the Apex Court in the case of ***J&K Economic Reconstruction Agency v. Rash Builders India (P) Ltd., 2026 SCC OnLine SC 596***, the relevant paragraphs read as under:

"18. Thus, the principles governing the distinction between the seat and venue of the arbitration, and the jurisdictional consequences that follow, may be summarised as under:—

- (i) The seat of arbitration constitutes the juridical home or legal place of arbitration. It determines the curial law governing the arbitral process and identifies the Court having supervisory control over the arbitration.*
- (ii) Once the seat is designated by agreement of the parties, the courts of that place alone have exclusive jurisdiction to entertain all proceedings arising out of the arbitration, including challenges to the award. The designation of the seat operates akin to an exclusive jurisdiction clause, excluding all other courts - even those where the cause of action may have arisen.*
- (iii) The venue is merely a geographical location chosen for convenience for holding hearings, examination of witnesses, or meetings of the arbitral tribunal. It does not confer jurisdiction and does not, by itself, alter or determine the seat. The arbitral tribunal is free to conduct proceedings at locations different from the seat without affecting the juridical seat.*
- (iv) The mere fact that arbitral proceedings are conducted or the award is rendered at a particular place does not confer jurisdiction on courts of that place if it is different from the designated seat. The seat remains fixed unless expressly altered by agreement of the parties.*

(v) Where the seat is not expressly designated, courts determine it by applying:

(a) the closest and most intimate connection test, identifying the place most closely connected with the arbitration (based on the Naviera Amazonica principle); and

(b) in appropriate cases, construing the venue as the seat where the agreement and surrounding circumstances indicate such intention (as reflected in the Shashoua principle).

(vi) The intention of the parties, as discerned from the arbitration agreement and surrounding circumstances, is the paramount factor in determining the seat. Once such intention is expressed-either expressly or by necessary implication-it must be given full effect by Courts."

16. Further, since Clause "E" of the Work Order is an exclusive jurisdiction clause, in commercial contracts, where parties have mutually agreed to vest exclusive jurisdiction in a specific court, such an agreement is binding. Under the Arbitration Act, an agreement of the parties to refer disputes to a particular arbitral institution

or forum, coupled with an exclusive jurisdiction clause designating a specific court, is enforceable.

17. In applying the governing principles determining the jurisdiction for an application under Section 34, this Court relies on the settled principle that the Court specified by the parties in the arbitration agreement or the exclusive jurisdiction clause, and which has a territorial nexus with the subject matter of the dispute, is the appropriate forum. The Arbitration Act, read with the MSME Act, does not displace the contractual freedom of the parties to determine the forum for adjudication of their disputes. The statutory remedy under Section 18 of the MSME Act provides for the adjudication of the dispute through the MSEFC; however, the question of challenging the validity of the award under Section 34 of the Arbitration Act is governed by the procedural and jurisdictional framework of the Arbitration Act, including the determination of the appropriate "Court" under Section 2(1)(e)(i).

18. The MSME Act, under Section 18, enables the MSEFC to function as an arbitrator. Once the MSEFC passes an award, the provisions of the Arbitration Act apply to the challenge and setting aside of such award. The jurisdiction of the Court under Section 34 is determined by the seat of arbitration, which, in the present case, is Bengaluru by virtue of the exclusive jurisdiction clause in the contract.

19. In view of the upshot of the above discussion, the Commercial Court was correct in holding that the Respondent's application under Section 34 of the Arbitration Act is maintainable before the Commercial Court at Bengaluru, in adherence to the exclusive jurisdiction clause of the contract.

20. The observation of the Commercial Court that MSEFC at Thane has no jurisdiction to pass an award, and that the filing of the execution petition at Bengaluru by the petitioner is unwarranted. Except to the above extent, this Court finds no error or infirmity in the order dated 15/04/2025 passed by the Commercial Court.

21. Needless to mention that the adjudication is only in respect to the issue at hand. All the contentions of the parties are left open.

22. In view of the foregoing reasons, the following:

ORDER

- i. The Writ Petition is ***allowed in part.***
- ii. The observation of the Commercial Court in paragraph No.8 of the impugned order, as mentioned *supra*, is set aside.

**Sd/-
(B.PRAMOD)
JUDGE**

MKM, BSV