

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.Nos.3541 to 3543 of 2015

and

M.P.Nos.1 & 1 of 2015

and

M.P.Nos.1 and 2 of 2015

M/s.Spencer's Retail Limited
Duncan House, I Floor
31, Netaji Subhas Road
Kolkata 700 001
rep.by its Executive Director/
Authorised Signatory
Business Process and Commercial
Mr.G.Murali

... Petitioner in all W.Ps.

vs.

1. The State of Tamil Nadu
The Regional Joint Director of
Industries and Commerce
Thiru.Vi.Ka.Industrial Estate
Guindy, Chennai 600 032.
2. Micro Small Enterprises Facilitation
Council, Thiru.Vi.Ka.Industrial Estate
Guindy, Chennai 600 032.
3. The Chairman/Chairperson
Micro and Small Enterprises Facilitation
Council & Industries Commissioner and
Director of Industries and Commerce
Mandaveli, Chennai 600 028.

... Respondents 1 to 3
in all W.Ps.

4. M/s.Carts India
SP2/10, 3rd Main Road
Ambattur Industrial Estate
Chennai 600 058.

... 4th respondent in
W.P.No.3541 of 2015

M/s.Engineers and Traders International
No.15 & 16, Tiny Sector
Ambattur Industrial Estate
Chennai 600 058.

... 4th respondent in
W.P.No.3542 of 2015

M/s.Pluto Retail Fixtures and
Trolleys P.Ltd.
No.18, Tiny Sector
Ambattur Industrial Estate
Chennai 600 058.

... 4th respondent in
W.P.No.3543 of 2015

Writ petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records pertaining to the instant case pertaining to the order of the second respondent through the third respondent dated 04.12.2012 made in Case Nos.MSEFC/CR/43/2010; MSEFC/CR/44/2010 and MSEFC/CR/41/2010 respectively; to quash the same and to direct the second respondent to adhere to Section 18 of the Micro Small Medium Enterprises Development Act.

For Petitioner : Mr.M.S.Krishnan
in all W.Ps. Senior Counsel for
Mr.Arun C.Mohan

For Respondents : Mr.R.Vijayakumar
in all W.Ps. Additional Government Pleader for
RR1 to 3
Mr.Menon for
M/s.Menon Karthik Mukundan and
Neelakandan for R4

COMMON ORDER

Heard Mr.M.S.Krishnan, learned Senior Counsel assisted by Mr.Arun C.Mohan, appearing for the petitioner, Mr.R.Vijayakumar, learned Additional Government Pleader appearing on behalf of respondents 1 to 3 and Mr.Menon for M/s. Menon Karthik Mukundan and Neelakandan, learned counsel appearing for fourth respondent in all the writ petitions.

2. The petitioner has filed these writ petitions to quash the award passed by the Micro Small Enterprises Facilitation Council

dated 04.12.2012. It appears that the petitioner had earlier filed application under Section 34 of the Arbitration and Conciliation Act wherein a prayer was made in O.P.Nos.746, 747 and 748 of 2014 to set aside the very same award, impugned in these writ petitions. Thereafter, the fourth respondent in these writ petitions filed application Nos.7820, 7821 and 7822 of 2014 seeking to direct the petitioner to deposit the shortfall amount and failing compliance of the same, to dismiss the Original Petitions filed under Section 34 of the Arbitration and Conciliation Act and the Original Petitions were closed/dismissed on account of the fact that the mandatory deposit was not made. In the interregnum, the present writ petitions have been filed and this Court ordered notice to the respondents on 12.02.2015. When the matter came up for hearing earlier on 23.02.2015, it was brought to the notice of this Court that the applications filed for restoration of the Original Petitions filed under Section 34 of the Arbitration and Conciliation Act are listed before this Court, which is hearing the said petitions. Hence, the matter was adjourned on that day and the same is listed today for hearing.

3. When the matter is taken up today, it is represented that the applications filed for restoration of the Original Petitions were ordered and the Original Petitions filed in O.P.Nos.746 to 748 of 2014 were restored. In such circumstances, the petitioner cannot avail parallel remedies by challenging the very same award in these writ petitions.

4. At this juncture, learned Senior Counsel appearing for the petitioner submitted that the petitioner may be permitted to raise all the grounds canvassed in these writ petitions in the pending Original Petitions. However, the learned counsel appearing for the fourth respondent resisted the said prayer by contending that the scope of the petitions filed under Section 34 of the Arbitration and Conciliation Act cannot be expanded by seeking liberty before this Court and it is for the petitioner to approach the appropriate forum for necessary relief.

5. In the light of the above submissions made on either side and in view of the subsequent development in the matter, no further adjudication is necessary in these writ petitions. However, it is open for the petitioner to canvass all the points before the O.P.Court with the leave of the Court and it is equally open for the fourth respondent to put forth their objections before the said Court both on the petitioner's entitlement and on merits.

6. With the above observation, all these writ petitions are closed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

vj2

To

1. The Regional Joint Director of Industries and Commerce
The State of Tamil Nadu
Thiru.Vi.Ka.Industrial Estate
Guindy, Chennai 600 032.
2. Micro Small Enterprises Facilitation Council, Thiru.Vi.Ka.Industrial Estate
Guindy, Chennai 600 032.
3. The Chairman/Chairperson
Micro and Small Enterprises Facilitation Council & Industries Commissioner and
Director of Industries and Commerce
Mandaveli, Chennai 600 028.

+3cc's to Mr.Arun C.Mohan, Advocate, S.R.No.11819,11820,11821
+3cc's to M/s.Menon, Karthik, Mukundan, Advocate,
S.R.No.11451,11453,11454

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KJI (CO)
CA(10/03/2015)

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