

HIGH COURT OF CHHATTISGARH, BILASPUR**Review Petition No.89 of 2016**

M/s Sunmarg Steels (P) Ltd. Through – Authorised Representative Mr. Dilip Patel, S/o Shri Babubhai Patel, Manager of M/s Sunmarg Steels Pvt. Ltd. Ring Road No.2, Gondwara, Industrial Area, Raipur, Chhattisgarh

---- Petitioner**versus**

1. Micro Small & Medium Enterprises Facilitation Council (MSMEFC) under MSMED Act 2006, through its Director-cum-President, Udyog Bhawan, Raipur, Chhattisgarh
2. M/s Abha Power & Steel Pvt. Ltd. Hardikala, Silpari Industrial Area, Bilaspur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Hemant Gupta, Advocate
For Respondents	:	None

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order on Board**Per Deepak Gupta, Chief Justice****22/6/2016**

1. The judgment dated 28.4.2016, review of which has been sought was passed in Writ Appeal No.107 of 2016. By the said judgment, the appeal filed by the Petitioner was rejected. The Petitioner, which is a private limited company, had approached Micro, Small and Medium Enterprises Facilitation Council (henceforth 'the Council') for grant of certain relief. The Council passed an award which is an award within the ambit of the Arbitration and Conciliation Act, 1996 (henceforth 'the Act of 1996'). Admittedly, objections against such award under Section 34 of the Act of 1996 lie before the District Judge concerned. The Petitioner, in fact, filed such objection by way of an appeal before the District Judge, but the District Judge directed the Petitioner to deposit 75% of the awarded amount as required by Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006 (henceforth 'the Act of 2006'). The Petitioner did not comply with this order of the District Judge and

abandoned the appeal, and thereafter, filed a writ petition before this Court. The objection/appeal of the Petitioner was dismissed by the District Judge on 25.11.2013 for non-deposit of the statutory amount. The writ petition as well as the writ appeal were rejected mainly on the ground that a party cannot be permitted to vacillate between two remedies available to him even if those remedies are available. If a party chooses to avail one of the two remedies, he cannot shift course from one forum to another leaving the first in the midst. The Petitioner having chosen to file objection under Section 34 of the Act of 1996 before the District Judge, should not have approached this Court inviting its writ jurisdiction. The Learned Single Judge was absolutely right in dismissing the writ petition on the ground that an alternative efficacious remedy was available to the Petitioner. The Division Bench also rightly observed that the Petitioner having opted to follow the remedy available under the Arbitration and Conciliation Act could not abandon it midway and approach the High Court invoking its writ jurisdiction.

2. We find no error apparent on the face of record. The review petition is accordingly dismissed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE