

\$~76

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2273/2018**

**UNION OF INDIA (MINISTRY OF
RAILWAYS)**

..... Petitioner

Through: Mr Malaya Kumar Chand, Sr. Panel
Counsel with Mr Hardik Ahluwalia,
Advocates.

versus

SIRUS GLOBAL LTD

..... Respondent

Through: Mr H. Banerjee, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

25.09.2018

CM No. 38490/2018

1. Allowed, subject to all just exceptions.

W.P.(C) 2273/2018 & C.M. Nos.9417/2018 & 38489/2018

2. The petitioner has filed the present petition impugning an order dated 01.05.2017 (hereafter 'the impugned order') passed by the Micro and Small Enterprises Felicitation Council, Government of NCT of Delhi (hereafter 'the Council'). The impugned order was passed under Section 18(3) of the Micro, Small and Medium Enterprises Development Act, 2006 (hereafter 'the Act') referring the disputes between the parties to the Delhi International Arbitration Centre (DIAC). The petitioner contends that the impugned order is without any jurisdiction, as the agreement between the parties also includes an arbitration clause. It is contended by the petitioner that in view of the arbitration agreement between the parties, the Council

would have no authority to refer the parties to DIAC as such reference is not in conformity with the arbitration agreement between the parties. He further contends that the respondent was not registered with the Council at the material time and, therefore, cannot be considered as ‘supplier’.

3. Both the aforesaid issues are covered by the decisions of this Court. In ***Bharat Heavy Electricals Limited v. Micro and Small Enterprises Facilitations Centre and Ors.: W.P.(C)10886/2016, decided on 18.09.2017***, this Court after considering the scheme of the Act had held that by virtue of the provisions of Section 24 of the Act, the provisions of the Act would have the effect notwithstanding anything inconsistent in any other law or instrument. Thus, the provisions of Section 18(3) of the Act would be applicable notwithstanding the arbitration agreement in terms of Section 7 of the Arbitration and Conciliation Act, 1996.

4. The issue whether the respondent is a ‘supplier’ within the meaning of Section 2(n) of the Act is also concluded against the petitioner in view of the decision of this Court in ***M/s Ramky Infrastructure Private Limited v. Micro and Small Enterprises Facilitation Council and Anr.: W.P.(C) 5004/2017, decided on 04.07.2018***.

5. In view of the above, the present petition is unmerited and is, accordingly, dismissed. All pending applications stand disposed of.

VIBHU BAKHRU, J

SEPTEMBER 25, 2018
MK