

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3408 of 2019**

1. M/S Explo Pack, A Partnership Firm Registered Under Indian Partnership Act, 1932 Having Its Registered Office At B - 4 M I D C, Hingana Road, Nagpur (M. H.) Represented By Partner Sunil Saraogi, S/o Late Satyanarayan Saraogi

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Commerce And Industries Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, Chhattisgarh.
2. The Director Of Industries, Chhattisgarh, Udyog Bhawan, Ring Road No. 1, Telibanda, Raipur, Chhattisgarh.
3. Micro And Small Enterprises Facilitation Council, Through The Deputy Director, Directorate Of Industries Chhattisgarh, Udyog Bhawan, Ring Road No. 1, Telibanda, Raipur, Chhattisgarh.
4. Micro Small And Medium Enterprises, Ministry Through The Secretary Udyog Bhawan, Rafi Marg, New Delhi.
5. Nav Bharat Fuse Co. Ltd., A Company Incorporated Under The Companies Act, 1956 Having Its Registered Office At Nav Bharat Udyog Bhawan, Ring Road No. 1, Telibanda, Raipur, Chhattisgarh.
6. Vishal Singh, S/o Vijay Kumar Singh, Aged About 42 Years, Nav Bharat Udyog Bhawan, Road No. 1, Telibanda, Raipur, Chhattisgarh
7. Vijay Kumar Singh, Aged About 70 Years, Nav Bharat Udyog Bhawan, Road No. 1, Telibanda, Raipur, Chhattisgarh.
8. Neena Singh, W/o Vijay Kumar Singh, Aged About 68 Years, Nav

Bharat Udyog Bhawan, Road No.1, Telibanda, Raipur, Chhattisgarh.

9. Geeta Singh, W/o Vishal Singh, Aged About 38 Years, Nav Bharat Udyog Bhawan, Road No.1, Telibanda, Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Harshal Chouhan, Advocate
For State	:	Mr. Ayaz Naved, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

13.11.2019

1. The challenge in the present Writ Petition is to the order Annexure P-1 dated 16.07.2019 passed by the Respondent No. 3 on an application under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 "for short "MSMED Act").
2. The facts of the case in nutshell are that the petitioner is a supplier of corrugated boxes and plastic packing materials to the respondent No.5 of which Respondents 6 to 9 are the directors. The contention of the counsel for the petitioner is that for the supply of materials made for a pretty long time, the Respondent No. 5 has not paid money. Therefore, the petitioner had initially filed a petition for winding up of the Respondent No. 5 company before this High Court which got dismissed and which later on was challenged before the Division Bench of this Court in Company Appeal No.2/15. Pending the Company Appeal, there was some mediation conducted between the two parties and Respondent No. 5 and another company agreed to pay an amount of Rs.66,33,188/- to the petitioner.

3. So far as the dispute in respect of the further claim is concerned, the Division Bench of this High Court in the said Company Appeal had given liberty to the parties to further negotiate and in case, if not redressed to approach the concerned Court for settlement of their dispute. This order was further challenged by the petitioner before the Supreme Court by way of a SLP which was subsequently withdrawn by the petitioner with permission to explore the provisions of MSMED Act. Subsequently, the petitioner filled up on line application under the said Act. However, the moment the petitioner entered their Udyog Adhar Number the application of the petitioner got automatically referred to the Council at Nagpur as the registration of the petitioner company is from Maharashtra. Thereafter, the petitioner downloaded the said application and submitted a hard copy to the Respondent No.3 who later on passed the impugned order Annexure P-1 dated 16.07.2019. The Respondent No. 3 while disposing of the application held that since the Udyog Adhar number of the petitioner is of Maharashtra, the application has to be filed before the Council at Nagpur where the registered office of the petitioner also situates.
4. This Court, prima facie, is of the opinion that the order passed by the Respondent No. 3 cannot be said to be bad in law for the reason that admittedly the registered office of the petitioner company is at Nagpur, Maharashtra. The Udyog Adhar number of the petitioner was also issued from Maharashtra. Since the application under Section 18 MSMED Act has to be made on-line, the moment the Udyog Adhar number is entered in the on-line application, the application

automatically gets referred and transferred to the concerned Council having the jurisdiction which in the instant case is Maharashtra as the Udyog Registration of the petitioner is that of Maharashtra. Moreover, Section 18 (4) of the MSMED Act provides jurisdiction of the Arbitrator or the Conciliator to the area where the supplier is located. The supplier in the instant case is the petitioner firm. The firm has its registered office at Nagpur, Maharashtra. The Udyog Registration number also has been issued from Maharashtra. Under the circumstances, the order of the Respondent No. 3 cannot be found fault with.

5. The contention of the petitioner that the Council in the State of Chhattisgarh has the jurisdiction is only on the ground that the supply in fact has been made from one of their plants situated at Urla, Raipur. This by itself may not be a substantial ground for holding the order to be bad for the reason that the supplier is a firm and it also has got plants in Maharashtra. The firm has its registered office at Nagpur, Maharashtra. The firm Udyod Adhar number also has been issued from Maharashtra. Therefore, the Council at Maharashtra has jurisdiction for deciding the claim raised by the petitioner.
6. Under the circumstances, this Court does not find any strong case made out by the petitioner calling for an interference with the impugned order dated 16.07.2019.
7. The writ petition accordingly stands disposed off.

Sd/-
(P. Sam Koshy)
JUDGE