

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 256 of 2017**

{Arising out of Order dated 17/05/2017 passed in Writ Petition (C) No.312 of 2016 by the learned Single Judge}

M/s MP Tar Products Through The Proprietor Mr. Pankaj Kothari, 69 -70, Light Industrial Area, Bhilai, District Durg Chhattisgarh.

---- Appellant**Versus**

1. Zuberi Engineering Company A Partnership Firm Duly Registered Under The Relevant Provisions Of The Indian Partnership Act 1932, Having Its Registered And Head Office At 204, Anukampa I, Opp. Raymond Showroom, M.I. Road, Jaipur, 302001 Rajasthan India Through Its Authorized Signatory Shri G.D. Parwal, S/o Late M.L. Parwal R/o A 31, Ram Nagar, Shastri Nagar Jaipur Rajasthan.
2. Micro Small And Medium Enterprises Facilitation Council (M S E F C), Raipur Tahsil And District Raipur Chhattisgarh.

---- Respondents

For Appellant : Mr. Rajeev Shrivastava, Advocate
 For Respondent No.1 : Mr. Raza Ali, Advocate

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**Per P.R. Ramachandra Menon, Chief Justice****01/07/2019**

1. The verdict passed by the learned Single Judge whereby the writ petition filed by the 1st respondent came to be allowed (in relation to the work order awarded to the appellant herein by the 1st respondent) particularly with reference to the jurisdiction seat of arbitration, is under challenge in this appeal.

2. Heard Mr. Rajeev Shrivastava, learned counsel for the appellant and Mr. Raza Ali, learned counsel for respondent No.1.
3. The sum and substance of the case projected by the learned counsel for the appellant is that verdict passed by the learned Single Judge with regard to the course to be pursued is not correct or sustainable.
4. In fact, verdicts passed by the Apex Court on different occasions as in **Swastik Gases Private Limited v. Indian Oil Corporation Limited, (2013) 9 SCC 32** and such other cases have been referred to for sustaining the finding and reasoning. The learned counsel for the appellant submits that the learned Single Judge has however omitted to consider the specific provisions of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as 'Act, 2006'). By virtue of the mandate under Section 18(4) of the Act, 2006, notwithstanding anything contained in any other law for the time being in force, the 2nd respondent council shall have jurisdiction to act as an Arbitrator or Conciliator to resolve any dispute between the supplier located within its jurisdiction and the buyer located anywhere in India.
5. Learned counsel for respondent No.1 submits that such a plea was never raised in the return filed by appellant herein. Reply of learned counsel for the appellant is that a question of law does not require to be pleaded, but the fact remains that this point was admittedly not brought to the notice of the learned Single Judge while finalizing the matter.
6. After hearing both the sides, we are of the view that the above provision of law ought to have been brought to the notice of learned Single Judge, to have it considered at the time of finalizing the matter. In such circumstances, we grant permission to the appellant to withdraw this appeal

as sought for by the learned counsel for the appellant, without prejudice his rights and liability to pursue other appropriate remedy by way of appropriate proceedings in accordance with law. We make it clear that we have not expressed anything with regard to the merit, either in law or on facts.

7. Granting liberty as aforesaid, the appeal is dismissed as withdrawn.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE