

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WP No.4076 of 2017

ORDER::

This writ petition is filed aggrieved by the action of the 1st respondent in initiating proceedings before the 2nd respondent and further action of the 2nd respondent in entertaining and proceeding with the reference under the Micro, Small and Medium Enterprises Development Act, 2006, as being illegal, arbitrary and violative of the mandate of the Arbitration agreement between the petitioner and the 1st respondent and for issuance of appropriate consequential directions.

02. None appears for the petitioner. Learned counsel for the 1st respondent submits that against the impugned award dated 05-08-2016 passed by the 2nd respondent, the petitioner has an efficacious alternative remedy of filing appeal under Section 34 of the Arbitration and Conciliation Act, as the provisions of the said Act applies to the proceedings arose under the provisions of Micro, Small and Medium Enterprises Development Act, 2006. Learned counsel has also relied on the decision of this Court in ***BALLAPUR INDUSTRIES LIMITED vs. ANDHRA PRADESH MICRO, SMALL ENTERPRISES FACILITATION COUNCIL, HYDERABAD*** in WP No.6690 of 2010 and contended that in similar fact situations, this Court relegated the petitioner therein to avail appeal remedy provided for under the Arbitration and Conciliation Act.

03. In ***BALLAPUR INDUSTRIES LIMITED's*** case this Court considered similar matter as the one on hand and at para 15 and 17 of the order held thus:-

“15. Hence, a conjoining reading of Sections 18 and 19 of the MSMED Act and sub-section (4) of [Section 2](#) of the Arbitration Act makes it clear that Part I of the provisions of the [Arbitration Act](#) are applicable to every arbitration under any other enactment. [In the Arbitration Act](#), the grounds for challenge in [Section 12](#), the challenge of the procedure in [Section 13](#), the competence of arbitral tribunal to rule on its jurisdiction in [Section 16](#), conduct of arbitral proceedings in Chapter V, making of arbitral award and termination of proceedings in Chapter VI, recourse against arbitral award in Chapter VII and finality and enforcement of arbitral awards in Chapter VIII are contained in Part I. Hence, if the petitioner has any grievance against the arbitral award, the only remedy that is available to it is under [Section 34](#) of the Arbitration Act. The petitioner is aware of this remedy, but in view of the pre-condition of deposit of 75% of the awarded amount as contained in Section 19 of the MSMED Act, the petitioner, in order to avoid the same, filed these Writ Petitions under [Article 226](#) of the Constitution of India.

17. In these cases, the petitioner ought to have availed the remedy of appeal under the [Arbitration Act](#), if the petitioner had any grievance with regard to the awards passed against it by the Council. But the petitioner filed the present Writ Petitions on the plea that the grounds raised in the Writ Petitions challenging the award go to the root of the matter. Even if the grounds raised against the award go to the root of the matter, the provisions of the [Arbitration Act](#) are self contained and deal with all situations in relation to arbitration proceedings. When a self contained statute is available in a particular situation as an alternate remedy, invocation of extraordinary jurisdiction of this Court cannot be encouraged and accordingly the present Writ Petitions are not maintainable.”

04. In the circumstances, this Court is not inclined to entertain the writ petition and it is accordingly dismissed on the ground of availability of alternative relief of filing appeal to the petitioner, if so advised. The interim order granted earlier by this Court is vacated. Miscellaneous petitions, if any pending are also dismissed. There shall be no order as to costs.

A.RAJASHEKER REDDY, J

Dated:31-07-2019
NRG

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WEB

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