



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.03.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.2105 of 2021

M/s.Angayeeammal Devarajan Textile
Private Limited,
Represented by its Managing Director,
D.Senthilkumar.

... Petitioner

Vs.

1.The Secretary,
Micro, Small Enterprises Facilitation Council,
No.2, Raja Street,
Coimbatore - 641 001.

2.The General Manager,
District Industries Centre,
Thanthonimalai Road,
Karur - 637 009.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd Respondent in his proceedings in Rc.2026/D2/2020 dated 08.10.2020 and quash the same as illegal and arbitrary and without jurisdiction and consequently directing the Respondents to accept the applications of the Petitioner under MSEFC Scheme as per the provisions of Micro Small and Medium Enterprises Development Act, 2006.

For Petitioner : Mr.Suresh.K

For Respondents : Mr.M.Rajarajan, ,
Additional Government Pleader.

ORDER

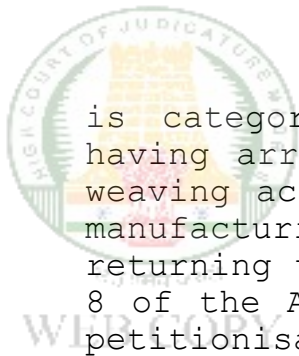
Heard the learned counsel on either side. With their consent,
the writ petition is taken up for final disposal.



The writ petitioner submitted as many as 20 applications under Section 18 of Micro, Small and Medium Enterprises Development Act, 2006 before the second respondent for recovery of their dues from their buyers. The said applications were returned along with demand drafts vide communication bearing Rc.No.2026/D2/2019, dated 14.07.2020 by the second respondent. Thereupon, the petitioner applied to the second respondent seeking clarification as to why the applications had been returned. The second respondent by the impugned communication dated 08.10.2020 informed the petitioner that the petitioner is a trading entity and hence, it is not eligible to apply under MSEFC Scheme. Questioning the same, this writ petition has been filed.

3.The matter was listed for admission on 09.02.2021. It was directed to be called on 02.03.2021. It was listed on 02.03.2021, 11.03.2021 and on 17.03.2021. On all the dates, the learned Additional Government Pleader appearing for the respondents submitted that inspection of the petitioner's business premises indicated that they are only a trading entity and not a manufacturing enterprise. He made it clear that it is only a manufacturing enterprise that is eligible to apply under Section 18 of the Act.

4.According to the petitioner, they are a small enterprise. The learned counsel appearing for the petitioner drew my attention to the notification bearing S.O. 1643(E) dated 29.09.2016 and S.O. 2052(E), dated 30.06.2017 issued by the Central Government. The said notifications contemplate on-line filing of memorandum by the enterprise in question. The applicant will have to fill in the relevant details. Thereafter, Form 1 will be generated. It this Form 1, that is e-generated, that is considered as the memorandum in terms of Section 8 of the Act. As per Clause 13 of the notification in S.O. 2052(E), dated 30.06.2017, the General Manager of the District Industries Center of the concerned district shall undertake enquiry and verification of the memorandum submitted by the enterprise and in case of any discrepancy, issue a notice to the enterprise, give it an opportunity to present its case and based on the findings, he may amend the memorandum or cancel the Registration Certificate if already issued. Till date, the second respondent had not taken any adverse action against the petitioner in terms of the aforesaid Clause. On the other hand, the petitioner has produced convincing materials in the typed set of papers that they are a manufacturing entity. The petitioner had enclosed the their GST registration certificate. Form 1 in terms of Section 8 of the Act mentions that the petitioner is a small enterprise engaged in manufacturing activity. The petitioner has also established that they had availed substantial loan from the State of Bank India to install their plant and machineries. The consumption bill issued by TANGEDCO also indicates that in October 2020, the petitioner



is categorized as industrial consumer. The petitioner is also having arrangement with local weavers for entrusting job works for weaving activities. I am satisfied that the petitioner is a small manufacturing enterprise. The second respondent erred in returning the applications submitted by the petitioner under Section 8 of the Act. The impugned communication is quashed. The writ petition is allowed.

The petitioner is permitted to resubmit the applications as well as the validated demand drafts. The first respondent will number the same and deal with the applications on merits and in accordance with and give disposal as expeditiously as possible. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To:

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Micro, Small Enterprises Facilitation Council,
No.2, Raja Street,
Coimbatore - 641 001.

2.The General Manager,
District Industries Centre,
Thanthonimalai Road,
Karur - 637 009.

+1 CC to M/s.M.RAJARAJAN, Advocate (SR-14427[F] dated 30/03/2021)

+1 CC to M/s.K.SURESH, Advocate (SR-14518[F] dated 30/03/2021)

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GS (26.04.2021) 3P 5C