

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15016 of 2019

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M/s Tech Sharp Engineers Pvt. Ltd. having its registered office at Pappanchatram, Village- Kuthambakkam, P.O.- Chembarambakkam Poonamalee, Channai- 602103 through its authorized signatory namely Sanjeev Kumar uruvandavida (Male) aged about 40 years son of Sri K.P. Radhakrishnan, Resident of Old No. 10/4, New no. 16/4, Central Avenue, Keshavperumalpuram, Chennai- 600028.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Industries, Government of Bihar, Patna.
3. The Director, Department of Industries, Government of Bihar, Patna.
4. The Micro and Small Industries Facilitation Council, Through its Chairman, 2nd Floor, New Secretariat, Patna- 800015.
5. M/s Pinax Steel Industry Ltd. Anand Lok 2nd Floor 227 A.J. Bose, Road Kolkata- 700020.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Kaushik, Advocate Mrs. Namrata Dubey, Advocate Mr. Pushkar Bhardwaj, Advocate
For the Respondent/s	:	Mr. Surya Swetabh, Advocate Mr. Paritosh Parimal, Advocate Mr. Suresh Kumar, A.C. to G.P. 1 Mr. Surya Swetabh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-12-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-



- i. For issuance of an order, direction or a writ of *certiorari* for quashing and setting aside the order dated 15.02.2017/^{21.03.17} passed in Reference Case No. 06/ 2014 by the Respondent Micro, Small and Medium Enterprises Facilitation Council, Patna (hereinafter referred to as 'the council') whereby and where under the petitioner has been directed to make payment of the alleged unpaid amount to the Respondent Number 5 who had claimed Rs. 14,09,533/- along with interest against the Petitioner Company after deducting the paid amount of Rs. 4,00,000 from the total amount of Rs. 18,09,533/-.
- ii. For issuance of an order, direction or a writ of *certiorari* for quashing and setting aside the order dated 22.05.2019 passed by the Respondent Micro, Small and Medium Enterprises Facilitation Council, Patna whereby and where under the Council has directed for communication of the award dated 15.02.2017/^{21.03.17} to the concerned District Collector for the execution and for realization/ recovery of the decreed amount as arrears/ dues of land revenue
- iii. For issuance of an order, direction or a writ of *prohibition* for restraining the Respondent Council from passing further orders in the Reference Case No. 06/ 2014 filed by the Respondent Number 5 claiming relief against the writ petitioner.
- iv. For issuance of an order, direction or an appropriate writ for staying the operation of the impugned orders dated 15.02.2017/^{21.03.17} and 22.05.2019 during the pendency of the present writ application.



Having heard learned counsel for the parties as also considering the response filed by the respondents, we are of the considered view that all issues of fact and law can easily be adjudicated by the Appellate Authority constituted under Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006, wherein challenge to the Award is specifically provided.

Only for the reason that petitioner is mandated to deposit 75% of the amount claimed by Respondent No. 5, namely, M/s Pinax Steel Industry Ltd. Anand Lok 2nd Floor 227 A.J. Bose, Road Kolkata- 700020 cannot be a reason sufficient enough to entertain the present petition.

The period for which the petitioner has been pursuing the remedies before different foras shall be excluded for the purpose of limitation.

Needless to add, if the petition under Section 19 of the Act is filed within four weeks, the same shall be considered and adjudicated on merits, in accordance with law.

Equally, if the petitioner were to file application seeking exemption from pre-deposit, the same shall be considered and decided expeditiously, in accordance with law.



The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	07.12.2022
Transmission Date	

