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W.P. No. 30641 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2022

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 30641 of 2016

and

W.M.P. Nos. 26551 and 37346 of 2016

and

W.M.P. No. 8370 of 2017

M/s. ARSS Infrastructure Projects Ltd.,
Rep. by its Authorised Signatory, Mr. J.Arul Selvam,
Sector-A, Zone-D, Plot No. 38,
Macheswar Industrial Estate,
Bhubaneswar – 751010.
Orissa State.

... Petitioner

-VS-

1. Micro and Small Enterprises Facilitation Council,
District Industries Centre,
2 Raja Street,
Coimbatore – 614001.

2. M/s.Savio Industrial & Structural Corporation,
No. 96/5, Salem-Cuddalore Main Road,
K.N. Colony Post,
Salem – 636014.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the First Respondent in its impugned order dated 11.02.2016 in Case No. M&SEFC/CBER/11/2016, quash the same.

For Petitioner

: Mr. K.Manjunath



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For Respondents

: Mr. T.Arunkumar,
Additional Government Pleader (for R1)

Mrs. AL. Ganthimathi (for R2)

ORDER

Heard Mr. K.Manjunath, Learned Counsel for the Petitioner, Mr. T.Arun Kumar, Learned Additional Government Pleader appearing for the First Respondents and Mrs. AL. Ganthimathi, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Second Respondent made a claim in Case No. MSEFC/CBER/11/2016 before the First Respondent under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as 'the MSMED Act' for short), claiming payment of Rs. 14,71,809/- from the Petitioner towards the value of the goods supplied with interest calculated in terms of that Act, in which an order dated 11.02.2016 was passed holding that the Petitioner was liable to pay the sum of Rs. 14,71,809/- together with compounded interest with month rest at three time of the Bank rate notified by the Reserve Bank of India as stipulated in MSMED Act from the appointed due



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dates till the date of settlement.

3. Learned Counsel for the Petitioner seeks permission of the Court to withdraw the Writ Petition and he has filed a memo dated 14.11.2022 to that effect, which is placed on record.

4. It has been brought to notice that in compliance of the condition imposed for grant of interim stay of the impugned order passed on 02.09.2016 by the Court, the Petitioner has deposited the sum of Rs. 7,35,905/- with the Registrar-General of this Court which has been invested in an interest fetching fixed deposit bearing Account No. 6523118201 dated 25.04.2017 in Indian Bank, Corporate Office, Chennai. Learned Counsel for the Petitioner contends that since the proceedings are pending against the Petitioner under the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'the Code' for short) before the National Company Law Tribunal, Cuttack Bench (hereinafter referred to as 'the Tribunal' for short) and an Interim Resolution Professional has been appointed, the said amount cannot be withdrawn by the Second Respondent and necessary permission would have to be obtained from the Tribunal. In that backdrop, Learned Counsel for the Second Respondent states that the Second Respondent would resort to the aforesaid procedure. It is made clear that for the purpose of computing limitation for filing any such



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application for permission before the Tribunal, the period from the date of filing of the Writ Petition, viz., 31.08.2016, till the date on which the certified copy of this order is made ready by the Registry, shall be excluded.

5. The Registrar-General of this Court, depending upon the outcome of the order that may be passed by the Tribunal, shall make payment of that amount lying in fixed deposit to the concerned persons under written acknowledgment.

In fine, the Writ Petition is dismissed as withdrawn with the aforesaid clarifications. Consequently, the connected Miscellaneous Petitions are closed.
No costs.

17.11.2022

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Index: Yes/No

Note: Issue order copy by 21.12.2022.

To

Micro and Small Enterprises Facilitation Council,
District Industries Centre,
2 Raja Street,
Coimbatore – 614001.



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P.D. AUDIKESAVALU, J.

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