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W.P. No. 18925 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2022

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

W.P. No. 18925 of 2022

and

W.M.P. No. 18262 of 2022

Dvara Solutions Private Limited,
10th Floor, Phase 1, IIT-Madras Research Park,
Kanagam Village,
Taramani,
Chennai – 600 113,
Tamil Nadu.

... Petitioner

-VS-

1. The Chairperson,
Micro and Small Enterprises Facilitation Council, Chennai/
Industries Commissioner and Director of Industries and Commerce,
Guindy,
Chennai – 600 032.

2. Sambandh Finserve Private Limited,
Represented by its Authorised Signatory,
Plot No. O-4/9, Civil Township, PS,
Raghunathpalli,
Roukerla,
Sundargarh – 769 004.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent contained in order dated 27.08.2021 in MSEFC/CR/57/2021 Online Application No. TN02E0164019/S/00001, quash the same as arbitrary, unjust and illegal and consequently direct the First Respondent to hear and decide the Online Application No. TN02E0164019/ S/00001 on merits.



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For Petitioner : Mr. Pawan Jhabakh

For Respondents : Mr. L.S.M.Hasan Fizal,
Additional Government Pleader (for R1)

No appearance (for R2)

ORDER

Heard Mr. Pawan Jhabakh, Learned Counsel for the Petitioner and Mr. L.S.M.Hasan Fizal, Learned Additional Government Pleader appearing for the First Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. Though the Second Respondent has been served, it has not entered appearance either in person or through counsel.

3. The Petitioner had made a claim in Case No. MSEFC/CR/57/2021 under Section 18(1) of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as 'the MSMED Act' for short) claiming payment of Rs. 87,47,316/- along with interest from the Second Respondent towards remaining amount due for goods supplied with interest calculated in terms of that Act, in which an Order in No. MSEFC/CR/57/2021 dated 27.08.2021 was passed holding that it did not have territorial jurisdiction in the matter as the



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invoice has been raised in Bangalore, which is impeached in this Writ Petition.

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4. Learned Counsel for the Petitioner contends that inasmuch as the office of the Petitioner is located at Chennai, the First Respondent has territorial jurisdiction to entertain the matter, but on account of technical glitches, the Petitioner could not join during video-conferencing to properly explain the same to the First Respondent. It is fervently pleaded that in such circumstances, the impugned order may be set aside and the Petitioner may be afforded an opportunity of hearing before the First Respondent as the restrictions for COVID have been subsequently lifted.

5. Having due regard to the circumstances explained by the Petitioner for inability to effectually represent its case during the COVID pandemic before the First Respondent, this Court, without expressing any view on the correctness or otherwise of the the impugned Order No. MSEFC/CR/57/2021 dated 27.08.2021 passed by the First Respondent, is inclined to set aside the same and remit the matter back to be decided afresh by the First Respondent following the prescribed procedure in accordance with law.

6. In such circumstances, the claim made by the Petitioner is restored to the



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file of the First Respondent, who shall list the matter for next hearing on 07.12.2022 after issuing due notice to the Petitioner and the Second Respondent in that regard and if the First Respondent is not able then to take up the matter, the date to which it is adjourned shall be informed to the parties under written acknowledgment. It shall be ensured by the First Respondent that there is atleast one effective hearing every week showing progress of the case, that full opportunity of hearing is afforded to all parties concerned following the prescribed procedure in consonance with the principles of natural justice, that reasoned orders are passed dealing with each of the contentions raised with reference to the evidence lead by the parties on merits and in accordance with law, uninfluenced and uninhibited by the impugned order, which has been set aside and that the decision taken shall be communicated to the concerned parties under written acknowledgment and the report of such compliance is filed before the Registrar (Judicial) of the Court.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

12.10.2022

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Index: Yes/No

<https://www.mhc.tn.gov.in/judis>



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Note: Issue order copy by 04.11.2022.

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To

1. The Chairperson,
Micro and Small Enterprises Facilitation Council, Chennai/
Industries Commissioner and Director of Industries and Commerce,
Guindy,
Chennai – 600 032.

Copy to

1. The Managing Director,
Sambandh Finserve Private Limited,
Plot No. O-4/9, Civil Township, PS,
Raghunathpalli,
Roukerla,
Sundargarh – 769 004.
2. Sambandh Finserve Private Limited,
Represented by its Authorised Signatory,
Plot No. O-4/9, Civil Township, PS,
Raghunathpalli,
Roukerla,
Sundargarh – 769 004.
3. The Registrar (Judicial),
High Court of Madras,
Chennai – 600 104.



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P.D. AUDIKESAVALU, J.

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