



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.18515 of 2014
and M.P.Nos. 1 of 2014

Electronics corporation of Tamil Nadu Ltd.
Rep. by Managing Director
No.692, Anna Salai,
Nandanam, Chennai-600 035

... Petitioner

Vs.

1. The Chairman,
Micro Small Enterprises
Facilitation Council (MSEFC)
Coimbatore Region,
Coimbatore.

2. G.Srinivasan,
Managing director,
M/s. Aargee Equipments Pvt. Ltd.,
L8/12, Electronic Industrial Estate,
Hosur-635 109

... Respondents

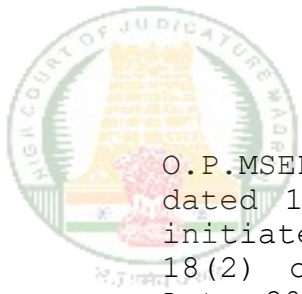
PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent in O.P.MSEFC/CBER/19/2004 (File No.11906/2013) and quash summon dated 16.06.2014 and direct the 1st respondent to initiate conciliation proceedings in accordance with section 18 (2) of the Micro, Small and Medium Enterprises Development Act, 2006 and in thereafter follow section 18(3) of the Micro, Small and Medium Enterprises Development Act, 2006 and initiate arbitration proceedings in the event of the claim of the 2nd respondent is within limitation and entitled to invoke the Micro, Small and Medium Enterprises Development Act, 2006.

For Petitioner : Mr.M.Vijayan
For Mr.King & Partridge

For Respondents : No Appearance [R1]
Mr.S.Patrick [R2]

O R D E R

The relief sought for in the present writ petition is to call for the records on the file of the 1st respondent in



O.P.MSEFC/CBER.19/2004 (File No.11906 of 2013), quash summon dated 16.06.2014 and subsequently direct the 1st respondent to initiate the conciliation proceedings in accordance with Section 18(2) of the Micro, Small and Medium Enterprises Development Act, 2006 (in short 'Act') and thereafter follow Section 18(3) of the Act and initiate arbitration proceedings in the event of the claim of the 2nd respondent is within limitation and entitle to invoke the Act.

2. The grievances of the writ petitioner is that the procedures, as contemplated under Section 18(2) of the Act, has not been followed and the impugned summon has been issued. The learned counsel for the petitioner reiterated that the procedures as contemplated under Section 18 is to be followed at the first instance and thereafter, the proceedings of the arbitration is to be followed. Without following the said procedures, as contemplated, summon has been issued and therefore, the writ petition is to be considered.

3. The learned counsel for the 2nd respondent made it very clear that the procedures contemplated under Section 18 of the Act alone is to be followed and the respondents are scrupulously following the same. They have no objection in following the procedures as contemplated under the Act. Thus, further it is contented that by virtue of interim order granted in the present writ petition for the past about 7 years, the respondents are unable to continue the proceedings and it is pending for long years.

4. No writ petition against the summon/notice is entertainable in a routine manner. A writ petition against the summon or notice can be entertained under Article 226 of the Constitution of India, if such summon or notice has been issued by an incompetent authority having no jurisdiction, directly hitting the provisions of the Acts or Rules. If an allegation of mala fides is raised against the authorities, then also, the writ is entertainable provided such authorities, against whom such an allegation is raised, is impleaded as a party, who can respond in his personal capacity. In all other circumstances, the parties are expected to respond to the summon or notice issued by the competent authorities and defend their case in the manner known to law.

5. The impugned summon is nothing but an information provided to the writ petitioner to appear before the Council on 30th day of June, 2014 at 10.30 a.m. to participate in the meeting for conciliation proceedings. It is not in dispute between the parties that the procedures contemplated under Section 18(2) is to be followed while conducting the conciliation proceedings. When the respondent also has no



dispute with reference to the provisions of the Act and the procedures contemplated, which is to be followed, there is no reason whatsoever to consider the other grounds raised by the petitioner on merits. It is for the parties to conciliate all these issues and resolve the same in the manner known to law.

6. In view of the fact that the writ petition is pending for about 7 years and pursuant to the interim order granted by this Court, the respondents are unable to proceed with the conciliations. It is just necessary to fix outer limit for the purpose of completion of the proceedings.

7. Accordingly, the 1st respondent is directed to proceed with the conciliation proceedings by issuing a fresh summon, fixing date and time and communicating the same to the authorities concerned for conciliation and conclude the same within a period of 12 weeks from the date receipt of a copy of this order. The parties are directed to cooperate for the early disposal of the proceedings. In the event of any non-cooperation, the same may be recorded in the proceedings itself by the Council.

8. With these directions the writ petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

shr/ska
To

The Chairman,
Micro Small Enterprises
Facilitation Council (MSEFC)
Coimbatore Region,
Coimbatore.

+1cc to Mr.Gokul krishnan, Advocate, S.R.No.3823
+1cc to Mr.King & Partridge, Advocate, S.R.No.3562

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PL(CO)
CT 11/02/2022