

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.8220 of 2017

and

W.M.P.No.8975 of 2017

M/s.Reliance Infrastructure Ltd,
H-Block, First Floor,
Dhirubhai Ambani Knowledge City,
Navi Mumbai - 400 710.

... Petitioner

Vs.

1.Micro Small Enterprises Facilitation Council,
Represented herein by its Chairman,
SIDCO Corporate Building,
Guindy, Chennai - 600 032.

2.M/s.Perfect Chloro System,
SP 16, Ambattur Industrial Estate,
Ambattur, Chennai - 600 058,
Represented by its Proprietor,
Mr.V.G.Jagan Narayanan

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent relating to the impugned order dated 27.12.2016 passed by the 1st respondent in O.P.No.MSEFC/CR/03/2015 and quash the same and consequently remit back the matter to the 1st respondent for passing an award by following the provisions of the Arbitration and Conciliation Act, 1996 by affording opportunity to the petitioner including the maintainability of the arbitration proceedings before the 1st respondent.

For Petitioner : M/s.R.Maheswari

For Respondents: Mr.K.Chindan for
M/s.Menon Karthik
for R2

ORDER

The petitioner has filed this writ petition challenging the impugned order passed by the 1st respondent/Micro Small Enterprises Facilitation Council under the provisions of the MSME Act, 2006. It is the case of the petitioner that the contract between the petitioner and the 2nd respondent covered is by an Arbitration clause and therefore it was incumbent on the part of the 1st respondent to have filed appropriate application under the provisions of the Arbitration and Conciliation Act, 1996.

2. That apart, it is submitted that the petitioner was not heard before the impugned order was passed and therefore it is liable to be quashed. It is further submitted that the petitioner was also not served with a notice before the final order came to be passed and therefore on this count also the impugned order is liable to be quashed.

3. Opposing the prayer, the learned counsel for the 2nd respondent submits that the petitioner had participated in the proceedings before the 1st respondent and therefore it is not open for the petitioner to state that the impugned order is without any jurisdiction.

4. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the 2nd respondent.

5. The MSME Act, 2006 is a special enactments which is intended to protect small and medium enterprises and therefore the proceedings under the aforesaid Act are speed tracked. Under Section 24 of aforesaid Act, it is made clear that the provisions of Sections 15 to 23 shall have effect notwithstanding anything in consisting therewith contained in any other law for the time being in force. As per Section 19 of the Act, No application for setting aside or any decree, award or other order made either by the council itself or by any other institution or center providing alternate dispute resolution services to which a reference was made by the council, shall be entertained by any Court unless the appellant (not being a supplier) has deposited with it seventy five percent of the amount in terms of the decree, award or, as the case may be, the other order in the manner directed by such Court. As per Section 19(3) of the MSME Act, 2006 provisions of Arbitration and Conciliation Act, 1996 will apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in Section 7(1) of the said Act.

6. Therefore, if the petitioner is aggrieved by an impugned order, it is for the petitioner to have filed appropriate applications under Section 34 of the Arbitration and Conciliation Act, 1996. This is evident from a co-joint reading of Sections 18 and 19 of the MSME Act, 2006.

7. Therefore, I am inclined to dismiss this writ petition by giving liberty to the petitioner to file appropriate application/petition under Section 34 of the Arbitration and Conciliation Act, 1996 within a period of thirty days from the date of receipt of a copy of this order. Time taken before this Court in pursuing the remedy challenging the impugned order shall stand excluded. In case, the petitioner files any such application, Registry shall number the same.

8. Accordingly, this writ petition is dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

jas

To

1. The Chairman,
Micro Small Enterprises Facilitation Council,
SIDCO Corporate Building,
Guindy, Chennai - 600 032.

Copy To

The Sub Assistant Registrar,
Writ AE Section,
High Court, Madras-104

+1cc to M/s.R.Maheswari, Advocate SR.No.34427

+1cc to M/s.Menon Karthik Mukundan, Advocate SR.No.34785

W.P.No.8220 of 2017
and
W.M.P.No.8975 of 2017

RK(CO)
GMV(13/07/2022)