

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No.2826 of 2020

Aerocom Cushions Private Limited Vs. Micro & Small Enterprises And Anr.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri N.S. Badhe, Advocate for the Petitioner/s

CORAM : ANIL S. KILOR, J.

DATED : 26.07.2023

1. Heard.
2. The rejection of claim of the Petitioner in a reference No.MH/20/M/NGR/01180/2020 by the respondent No.1/Micro & Small Enterprises Facilitation Council, vide order dated 10.06.2020, is the subject matter of the present writ petition.
3. From the record, it is evident that, an online reference was filed on 11.01.2020 and the first date of the reference was 11.03.2020. Thereafter, it was posted for 08.04.2020. In the meantime on 17.03.2020 the statement of claim was filed and as there was outbreak of Corona Virus and due to lock-down the petitioner did not appear on 10.06.2020. However, the Council/ respondent No.1 has observed that the petitioner failed to point out the documentary evidence regarding liability to pay transport cost and hence, the reference for recovery of balance principal and interest on delayed payment against non-applicant buyer, was rejected.

4. The learned counsel for the petitioner submits that it was a period of Corona Virus and since the petitioner was not in a position to appear before the Council and to point out the documentary evidence in support of his claim, the same was rejected. It is further submitted that considering the fact of lock-down during the period, when the order was passed, the Council ought to have granted sufficient opportunity to the petitioner to produce documentary evidence in support of his claim.

5. I find substance in the submission of the learned counsel for the petitioner. There is no dispute that there was a lock-down after 25.03.2020 and the hearing was kept during the period of lock-down. Therefore, the petitioner cannot be blamed for not appearing before the Council on 10.06.2020 to produce documents in support of his claim.

6. In that view of the matter, I am of the opinion that the petitioner shall get an opportunity to establish his claim by filing documentary evidence on record. Accordingly, I pass the following order:

(i) The writ petition is partly **allowed**.

(ii) The order dated 10.06.2020 passed by the respondent No.1/Micro & Small Enterprises Facilitation Council, is hereby quashed and set aside.

(iii) The matter is remanded back to the respondent No.1/ Micro & Small Enterprises Facilitation Council

for deciding the same afresh, after hearing both the parties.

[ANIL S. KILOR, J.]