



WEB COPY



W.P. No. 10665 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

CORAM

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

W.P. No. 10665 of 2018

and

W.M.P. Nos. 12611 and 12612 of 2018 and 24720 of 2019

Easun Reyrollee Limited,
Temple Tower, 6th Floor,
No. 672, (Old No. 476),
Anna Salai, Nandanam,
Chennai – 600035.
Represented by its Chief Financial Officer
Mr. A.Kamatchinathan

... Petitioner

-VS-

1. The Micro and Small Enterprises Facilitation
Council, Odisha ('MSEFC')
Office of the Director of Industries,
Killa Maidan,
Buxi Bazar – 753001
Cuttack, Odisha.

2. Gupta Power Infrastructure Limited,
EN – 62, Sector V, 7th Floor,
Salt Lake City,
Kolkata – 700091.

... 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 proceedings in MSEFC Case No. 15/2014; and quash the impugned award dated 29.09.2016 passed in the above proceedings.



W.P. No. 10665 of 2018

For Petitioner : Mr. T.K.Bhaskar

For Respondents : Mr. U.Baranidharan,
Additional Government Pleader (for R1)

Mr. T.Sakthikumaran (for R2)

ORDER

Heard Mr. T.K.Bhaskar, Learned Counsel for the Petitioner, Mr. U.Baranidharan, Learned Additional Government Pleader appearing for the First Respondent and Mr. T.Sakthikumaran, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Second Respondent had made a claim in MSEFC Case No. 15/2014 before the First Respondent 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. 18,14,665.76 from the Petitioner towards remaining amount due for goods supplied with interest calculated in terms of that Act, in which an order dated 29.09.2016 was passed holding that the Petitioner was liable to pay the principal amount of Rs. 18,14,665.76 together with compounded interest with monthly rests at three times of the Bank rate notified by the Reserve Bank of India as stipulated in



W.P. No. 10665 of 2018

Sections 15 and 16 of the MSMED Act, 2006 from the appointed due dates respectively till payment, which is challenged in this Writ Petition.

3. When the matter is taken up for hearing today, Learned Counsel for the Petitioner has filed a memo dated 30.10.2023, which reads as follows:-

“1. The Petitioner in the present Writ Petition was earlier represented by its Chief Financial Officer, Mr. A. Kamatchinathan. However, in the applications vide IBA/1045/2019 and IBA/1169/2019 filed under the provisions of the Insolvency and Bankruptcy Code, 2016 (“IBC”), the Petitioner was ordered into corporate insolvency resolution proceedings by order of the Hon'ble National Company Law Tribunal, Chennai Bench, dated 05 May 2020.

2. On 17 February 2022, following an unsuccessful corporate insolvency resolution process, the Petitioner was ordered into liquidation proceedings under Section 33 of the IBC and Mr. Mahalingam Suresh Kumar (Reg No. IBBI/IPA-001/IP-P00110/2017-18/10217) was appointed as the Liquidator of the Petitioner. A copy of the liquidation



W.P. No. 10665 of 2018

WEB COPY

order pronounced by the Hon'ble National Company Law Tribunal, Chennai Bench, on 17 February 2022 is being filed along with the petition.

3. *As per Section 35(1)(k) of the IBC, the Liquidator of the Petitioner is empowered to “to institute or defend any suit, prosecution or other legal proceedings, civil or criminal, in the name of on behalf of the corporate debtor”. Accordingly, the Petitioner can no longer be represented in these proceedings by Mr. A. Kamatchinathan, who is the erstwhile Chief Financial Officer of the Petitioner. The Petitioner must be represented by the Liquidator, Mr. Mahalingam Suresh Kumar whose address and contact details are as under:*

*CA Mahalingam Suresh Kumar
Reg No. IBBI/IPA-001/IP-P00110/2017-18/10217
Liquidator of Easun Reyrolle Limited
SPP & Co, Chartered Accountants
No. 27/9, Nivedh Vikas, Pankaja Mill Road
Puliyakulam, Coimbatore – 641045
Mob: +917373052341
E-mail: msureshkumar@icai.org*

4. *Therefore, it is most respectfully submitted that the undersigned counsel shall no longer be representing the*



W.P. No. 10665 of 2018

Petitioner in the present proceedings and that this Hon'ble

WEB COPY *Court on behalf of the Petitioner and to take necessary steps*

to amend the cause title of the present petition.”

The copy of the order dated 17.02.2022 in I.A. No. 887/CHE/2021 in IBA/1054 & 1169/2019 passed by the National Company Law Tribunal Division Bench – I, Chennai has also been placed on record.

4. As the required steps for amendment to further prosecute this Writ Petition by the Liquidator has not been taken, no useful purpose would be served in keeping the Writ Petition pending indefinitely.

In such circumstances, the Writ Petition is dismissed without expressing any view on the merits of the controversy involved in the matter. However, it would not preclude any person stepping into the shoes of the Petitioner from applying for revival of the Writ Petition in the manner recognized by law. Consequently, the connected Miscellaneous Petitions are closed. No costs.

30.10.2023

kv

Index: Yes/No

NCC : Yes / No



W.P. No. 10665 of 2018

Note: Issue order copy by 31.05.2024.

WEB COPY To

The Micro and Small Enterprises Facilitation Council, Odisha ('MSEFC')
Office of the Director of Industries,
Killa Maidan,
Buxi Bazar – 753001
Cuttack,
Odisha.



WEB COPY



W.P. No. 10665 of 2018

P.D. AUDIKESAVALU, J.

kv

W.P. No. 10665 of 2018

30.10.2023