



W.P.Nos.26871 & 26876 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.03.2023

C O R A M

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.26871 & 26876 of 2019

and W.M.P.Nos.26278 & 26280 of 2019

The Chief Engineer,
Materials Management,
Tamil Nadu Generation and Distribution Corporation Ltd.,
144, Anna Salai, Chennai-600 002.

... Petitioner
(in both Petitions)

Vs

1. Micro Small Enterprises Facilitation Council and
Industries Commissioner and Director of Industries
and Commerce,
Represented by its Chairman,
Sidco Corporate Building, Guindy,
Chennai-600 032.

2.M/s.Uma Enterprises,
No.60 (Old 33) Kasturi Rangan Road,
Alwarpet,
Chennai-600 018.

... Respondents
(in both Petitions)

PRAYER in both Petitions: Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the First Respondent culminating the order



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O.P.No.MSEFC/CR/98/2017 dated 23.10.2018 quash the same and direct the First Respondent to refer the claim dated 26.04.2017 of the second respondent to Arbitration in accordance with the provisions of Section 18(3) of the MSMED Act.

For Petitioner
(in both petitions) ... M/s.V.Viswanathan

For Respondents
(in both petitions) ... M/s.D.R.Arun Kumar for R1

... Mr.S.Elamurugan for R2

COMMON ORDER

Since, the issue involved in both Writ Petitions is one and the same, these Writ Petitions are disposed of by way of this common order.

2. The above Writ Petitions have been filed assailing the impugned order dated 23.10.2018 and for a direction to the 1st respondent to refer the claim dated 26.04.2017 of the second respondent to Arbitration in accordance with the provisions of Section 18(3) of the MSMED Act.



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3. It is the case of the petitioner/TANGEDCO that there was a delay on the part of the petitioner in settling bills pertaining to the purchase of Aluminium Conductors from the 2nd respondent, due to which, the 2nd respondent made a claim before the 1st respondent for payment of interest component towards delayed payment, pursuant to which, the present impugned order dated 23.10.2018 has come to be passed holding that the TANGEDCO is liable to pay the interest component to the 2nd respondent. Challenging the said order, the petitioner is before this Court.

4. Learned counsel for the petitioner submits that while passing the impugned order, the 1st respondent council failed to follow the procedure contemplated under Section 18(2) and 18(3) of the MSMED Act and consequently, the impugned order is liable to be set aside and the matter needs to be remanded back to the file of the 1st respondent for fresh consideration.

5. On the above contention, this Court heard the learned counsel appearing for respondents 1 & 2 and perused the materials available on record.



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6. A perusal of the impugned order of the 1st respondent reveals that the 1st respondent has failed to follow the step by step procedure contemplated under Section 18(2) and 18(3) of the MSMED Act as to the claim of the 2nd respondent for interest component towards delayed payment. The proper procedure with regard to such claims would be to initiate conciliation proceedings between the parties. Subject to the result of the conciliation proceedings, the parties have to have their grievance redressed. Further procedure that can be resorted by the 1st respondent to deal with the claim would be to refer the matter to arbitration under Section 18(3) of MSMED Act and dispose the matter within the stipulated time. Since the contract between the petitioner and the respondent is covered by arbitration proceedings, the parties have to resort to arbitration before coming to this Court for any relief.

7. In view of the above observation, this Writ Petition is allowed by setting aside the impugned order dated 23.10.2018 and the matter is remanded to the 1st respondent. The 1st respondent is directed to follow the step by step procedure contemplated under Section 18(2) and 18(3) of MSMED Act by referring the matter to arbitration within a period of 12 weeks from the date of



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receipt of a copy of this order. There shall be no order as to costs.

Consequently, connected Miscellaneous Petitions are closed.

17.03.2023

NHS

Index: Yes/No

Internet: Yes

To

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



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M.DHANDAPANI, J

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