



WEB COPY



W.P.No.10980 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.10980 of 2017

and

W.M.P.No.11951 of 2017

TVS Interconnect Systems Ltd.,
No.3/84, Vellaripatti,
Melur Road,
Madurai – 625 122.
Rep. by its Director

... Petitioner

Vs.

1. Micro Small Enterprises Facilitation Council,
Chennai Region,
Sidco Corporate Building, Guindy,
Chennai – 600 032.
Rep. by its Chairman

2. Chairman,
MSE Facilitation Council, Chennai &
Industries Commissioner and Director
of Industries and Commerce
Sidco Corporate Building,
Guindy, Chennai – 600 032.

3. Zonal Officer,
MSC Facilitation Council Chennai &
Regional Joint Director of Industries and Commerce,



W.P.No.10980 of 2017

Thiru.Vi.Ka Industrial Estate,
Guindy, Chennai – 600 032.

4.Avani Rtech Solutions Pvt. Ltd.,
103, Balamurugan Garden,
Thoraipakkam, OMR,
Chennai – 600 097.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the impugned order dated 13.02.2017 in O.P.No.MSEFC/CR/206/2016 passed by the 1st respondent and quash the same.

For Petitioner : Mr.Krishna Srinivas
for M/s.S.Ramasubramanian
and Associates

For Respondents : No appearance [R1 to R3]
Mr.V.B.Thirupathi Kumar [R4]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorari, to call for the records of the impugned order dated 13.02.2017 in O.P.No.MSEFC/CR/206/2016 passed by the first respondent and quash the same.



W.P.No.10980 of 2017

WEB COPY

2. The case of the petitioner is that, it is a Private Limited Company registered under the provisions of the Companies Act, 1956 and it is engaged in the business of Telecom installation and commissioning and networking. The fourth respondent is a Company registered under the provisions of the Companies Act, 1956, which is engaged in the business of providing services of telecome tower installation, electrical and civil works. The petitioner had issued work orders to the fourth respondent, pursuant to which, the payment was made between 2010 to 2011. All the transactions between the petitioner and the fourth respondent were took place during that period and at the relevant point of time, the fourth respondent was not covered by the provisions of the Micro Small and Medium Enterprises Development Act, 2006 in short 'MSME Act'), however, the fourth respondent obtained a registration under the MSME Act in the year 2015. Thereafter, the fourth respondent filed a petition dated 03.02.2016 before the first respondent claiming that a sum of Rs.7,63,846.50/- together with interest of Rs.9,76,836.72/-, totalling to a sum of Rs.17,40,683.18/- was due and payable by the petitioner to the fourth respondent. However, the first respondent, who is the authority under the MSME Act, had passed order



W.P.No.10980 of 2017

in favour of the fourth respondent without providing any opportunity to the petitioner. Challenging the *ex-parte* order passed by the first respondent, the petitioner has filed the above writ petition before this Court.

3. Though very many grounds have been raised in this writ petition, the learned counsel for the petitioner submits that, the first respondent has not given any opportunity to the petitioner before passing the impugned order. Hence, he prays that, this Court, may set aside the impugned order and remand the matter back to the first respondent for fresh consideration and grant liberty to the petitioner as well as the fourth respondent to canvass of the points before the first respondent once again and fix a time frame to dispose of the same.

4. The learned counsel appearing for the fourth respondent submitted that, he has no serious objection for the said order being passed.



W.P.No.10980 of 2017

WEB COPY

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the fourth respondent and perused the materials available on record.

6. Considering the fair submissions made by the learned counsel appearing for the petitioner as well as the fourth respondent and also considering the fact that, the first respondent has passed the present impugned order without giving any opportunity to the petitioner, which is not sustainable and the same is a clear violation of principles of natural justice, this Court is inclined to set aside the impugned order.

7. Accordingly, the impugned order passed by the first respondent dated 13.02.2017 in O.P.No.MSEFC/CR/26/2016 is set aside on the ground of violation of principles of natural justice and remand the matter back to the first respondent for fresh consideration and the first respondent is directed to pass appropriate orders, after providing an opportunity of personal hearing to the petitioner as well as the fourth respondent, within a period of eight (8) weeks from the date of receipt of



W.P.No.10980 of 2017

a copy of this order. It is open to the petitioner, as well as the fourth respondent, to canvass all those points, including the issue relating to the registration of the fourth respondent under the MSME Act, before the first respondent.

8. With the above directions, this writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

02.08.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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W.P.No.10980 of 2017

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WEB COPY



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M.DHANDAPANI, J.

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