

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Reserved on:04.07.2023**Date of Decision:01.08.2023****M/S NANOWAY ENGINEERING PVT. LTD.****.....PETITIONER****VERSUS****STATE OF HARYANA
AND OTHERS****.....RESPONDENTS****CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.****Present: Mr. I.S. Saggu, Advocate,
for the petitioner.****Mr. Vivek Chauhan, Addl. A.G., Haryana,
for respondent Nos.1 and 2.****None for respondent No.3.************VINOD S. BHARDWAJ, J.**

The challenge in the present petition pertains to the award dated 08.12.2020 (Annexure P-12) passed by the Sole Arbitrator appointed by the Haryana Micro and Small Enterprises Facilitation Council in its meeting dated 19.02.2020.

The Petitioner alleges that respondent No.3—claimant has been engaged in the business of manufacturing and selling various electronic items. The petitioner company approached respondent No. 3 to sell its products on a credit basis, and this offer was accepted by respondent No. 3. Goods were supplied through various invoices, and the respondent accepted them unconditionally but later defaulted in making payment, resulting in an outstanding amount of Rs.10,99,827/-. A legal notice dated 15.11.2019 was also served upon the petitioner in this regard.

Subsequently, respondent No. 3 filed a reference under Section 18 of the MSMED Act, 2006, seeking recovery of Rs.10,99,827/-. The petitioner was directed to appear on 19.02.2020 and to deposit Rs.2500/- as a process fee. On the same day, i.e., 19.02.2020, the Council in its meeting decided to refer the matter to an empaneled Arbitrator and appointed a retired District and Sessions Judge as the Sole Arbitrator. The Sole Arbitrator, without appreciating the objections regarding maintainability and other aspects of the petitioner-Company, passed the award dated 08.12.2020 in favour of respondent No. 3 and against the petitioner for recovery of the sum along with interest.

Separate written statement had been filed by respondent Nos.1 and 2 wherein the State Government order published in Haryana Govt. Gazette on 24.10.2013 was referred for stating that empaneled Arbitrators are working specifically on behalf of Council and forwarding or referring the matter to empaneled Arbitrator/expert is just an extension of the function of Council only, with intent to expedite disposal and Arbitrators are purely on behalf of Council.

It is relevant to mention here that the controversy in the present writ petition has already been considered in CWP-12338-2019.

In view of the above, the present writ petition is allowed, in terms of the judgment of even date passed in **CWP-12338-2019**, titled as **“Indian Oil Corporation Limited Versus Haryana Micro and Small Enterprise Facilitation Council, Chandigarh, Haryana and another”**.

August 01, 2023
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No