

Neutral Citation No. 2023:PHHC:041994
**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.3423 of 2022 (O&M)

DECIDED ON: 22nd March, 2023

M/s Shiv Shakti Modern Rice Mill Pvt. Ltd.

.....APPELLANT

VERSUS

M/s Powertech Control and Switches and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. N.P. Singh, Advocate for appellant.

Mr. Shiv Kumar, Advocate for respondent No.1.

AVNEESH JHINGAN, J (ORAL)

1. This appeal is filed aggrieved of order dated 21.7.2022 dismissing the objections under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the 1996 Act') for non-compliance of Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006 (for short 'MSME Act, 2006').
2. The appellant placed purchase order with respondent No. 1 (ref to as 'respondent') for supplying of electric equipment. The respondent was registered under the MSME Act, 2006. The dispute was referred to the arbitrator by the MSME council. The proceedings culminated in award dated 10.5.2019. The respondent was awarded a sum of Rs.12,17,070/- along with interest under Section 16 of MSME Act, 2006 and litigation expenses of Rs.20,000/-.
3. The objections filed under Section 34 of the 1996 Act were dismissed on 21st July, 2022, for the failure of the appellant to make pre-deposit as mandated under Section 19 of MSME Act, 2006.

4. On 23.11.2022, following order was passed:

"In compliance of order dated 08.08.2022, learned counsel for the appellant has presented a demand draft No.717424 in a sum of Rs.10,00,000/- dated 16.11.2022 drawn in favour of the Registrar, Punjab and Haryana High Court. A photocopy of the same is taken on record.

Let the original demand draft be deposited with the Registrar General of this Court and the same shall be kept in the shape of STDR in a nationalised Bank fetching maximum rate of interest. Adjourned to 22.03.2023."

5. Learned counsel for the appellant submits that the appellant has deposited Rs.10,00,000/- with the Registrar General of this Court and the same be transferred to the Court concerned for compliance of Section 19 of MSME Act, 2006. He further submits that if there is any short fall towards the pre-deposit of 75%, the same would be deposited within three weeks of the directions of the Court concerned.

6. Learned counsel for respondent opposes the prayer.

7. The objections filed under Section 34 of the 1996 Act were not entertained on account of failure of appellant to comply with prerequisite of predeposit as per Section 19 of the MSME Act, 2006. The appellant in order to show his *bonafide* has deposited Rs.10,00,000/- by way of demand draft with the Registrar General of this Court.

8. The impugned order is set aside. The matter is disposed of by remanding the matter back to the Court concerned to proceed with objections in accordance with law.

9. The amount deposited with the Registrar General of this Court, shall be transferred to the District Judge, Faridabad, who shall deal with the amount in accordance with provisions of MSME Act, 2006. In case there is short-fall in the amount of pre-deposit, appellant shall be informed of the amount to be deposited as the appellant has already made a statement before the Court to make the deficiency good within three weeks from the directions of the Court concerned.

10. Parties are directed to appear before the Court concerned on 11th April, 2023.

11. Since the main case has been disposed of, pending application, if any is rendered infructuous.

22nd March, 2023
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned *Yes*
Whether reportable *No*