

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

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Reserved on:10.05.2023**Date of Decision:01.08.2023****M/S CHAND RAM TIMBER AND STEEL****.....PETITIONER****VERSUS****MICRO AND SMALL ENTERPRISES
FACILITATION COUNCIL, HARYANA
AND OTHERS****.....RESPONDENTS****CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.**

**Present: Mr. R.S. Randhawa and
Ms. Tarrannaum Madan, Advocates,
for the petitioner.**

**Mr. Vivek Chauhan, Addl. A.G., Haryana,
for respondent Nos.1 and 2.**

**Mr. Abhilaksh Grover and
Ms. Nandini Gupta, Advocates,
for respondent No.3.**

VINOD S. BHARDWAJ , J.

The petitioner challenged the reference/claim dated 15.06.2021 whereby claim had been submitted by the respondent before the Facilitation Council.

It has been averred in the present petition that the petitioner and respondent No. 3 had business dealings and on account of ill and dishonest conduct of respondent No 3 in business transactions, the dealing between the parties came to an end in February 2020. Vague and fictitious bills were raised by respondent No. 3 in March 2021 despite no order being placed by

the petitioner. A complaint in this regard was duly made by the petitioner with the police whereupon the respondent had been asked to produce the proof of the delivery of goods. As he was unable to show any proof of delivery, FIR No. 399 dated 26.05.2022 under Section 420, 506,34 IPC had been registered at Police Station Jyoti Nagar. Notwithstanding the above, the claim in question had been preferred before the Facilitation Council and an application was submitted for initiation of proceedings under Section 340 Cr.P.C. Hence, after failure of the conciliation proceedings, the matter was referred to Sole Arbitrator who issued notice of appearance of the petitioner. The petitioner claims to have informed the Arbitrator about the said issues and that the proceedings before him are without jurisdiction, but to no avail. Reference was sought to be challenged.

A synopsis was submitted by respondent No.3 wherein it was alleged that four invoices have been raised against the petitioner for the period from February 2020 to March 2021 showing the outstanding amount as claimed. Being in breach of Sections 15, 16 and 17, the application had been filed under the MSMED Act, 2006 and respondent No.3 would furnish all such evidence establishing the delivery of goods before the Council. It is further pointed out that the appointment of an Arbitrator can only be challenged under Section 12 of the Arbitration and Conciliation Act and not in any other manner. It was also averred that respondent No.3 was duly registered as a Micro and Small Enterprise before the dispute arose. It was also pointed out that there is no challenge raised in the present writ petition regarding respondent No.3 not being a duly registered enterprise.

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 disposed of, 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