

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-22731-2023

Date of decision: 09.10.2023

M/S OSCAR REMEDIES PVT. LTD.

.....Petitioner

VERSUS

HARYANA MICRO AND SMALL ENTERPIRSES
FACILITATION COUNCIL AND ORS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Arpandee Narula, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present writ petition is to the order dated 02.09.2023 (Annexure P-9) passed by respondent No.2 in Arbitration Case No. 4481 of 2023 titled as “*M/s Civni Packs Pvt. Ltd. versus M/s Oscar Remedies Pvt. Ltd.*” .

Learned counsel appearing on behalf of the petitioner contends that the respondents has raised a claim with respect to various invoices that were issued post 12.09.2022 after recording that 45 days came to an end on the said date. He contends that the claim with respect to the invoices issued subsequently could not have been lodged on a date prior thereto. A further claim is made that a period of 60 days was granted in the agreement amongst the parties and hence, the liability to make that payment arose only as per the contractual clause agreed between the parties. It is further pointed out that if the aforesaid aspects are taken into consideration, only 02 bills would at best fall within the provision of being beyond 45 days. An application was

accordingly submitted by the petitioner before the respondent-MSME Council for dismissal of the claim as well as the reference to arbitration under Section 18 (3) of the MSMED Act, 2016. The said application has been rejected by the respondents without dealing with the said issues.

After arguing the matter vehemently at length, counsel for the petitioner was confronted with the fact that an objection in the nature as is being claimed can only be entertained as a plea of defence and that the said issue is required to be examined in later point of time. He was further confronted with the fact that the validity of the claim and its admissibility are two different things. The question raised by the petitioner with respect to maintainability of the claim. It was pointed out that even if there is one bill which would arise in terms of the mandate of Section 15 of the MSMED Act, 2006, the institution of the proceedings before the Facilitation Council cannot per se held to be bad.

He thus does not press the instant petition at this stage so as to take all the pleas and objections available to him at an appropriate stage including and not limited to objections under Section 34 of the Arbitration and Conciliation Act, 1996 read with Rule 19.

Disposed of as not pressed with liberty as aforesaid.

(VINOD S. BHARDWAJ)
JUDGE

OCTOBER 09, 2023

Vishal sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No