

SA Pathan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10517 OF 2022

UHP Technologies Pvt. Limited

... Petitioner

V/s.

Detection Instruments India Pvt. Ltd. &
Anr.

... Respondents

Mr. Sushant Desai a/w Mr. Sushant Arora & Ms.
Vaishanavi Adhav i/by L. R. & Associates.

Mr. Nigam C. Kumar i/by Ms. Shilpa More, for
Respondent No.1.

Mr. R. S. Pawar, AGP, for State/Respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 4, 2024

PC.:

1. The petitioner is challenging judgment passed by the Court under Section 34 of the Arbitration and Conciliation Act, 1996. The petitioner is invoking Articles 226 and 227 of the Constitution of India.

2. The Advocate for the petitioner submits that the award passed by the Arbitrator is ex-facie without jurisdiction as works dispute arisen out of works contract cannot be subject matter of Micro, Small and Medium Enterprises Development Act, 2006 (for

Digitally
Signed
SHAMNOOR
ATUL
PATHAN
Date
2024.01.05
10:41:09
+0530

short 'MSMED Act'). According to him, therefore, this Court needs to entertain this petition despite availability of alternate remedy under Section 37 of the Arbitration and Conciliation Act, 1996.

3. There cannot be dispute about proposition of law that the Writ Court can entertain the writ petition under Articles 226 and 227 of the Constitution of India, if the impugned order is ex-facie without jurisdiction, or is passed in breach of principles of interest of justice, or is breaches fundamental rights conferred under Part III of the Constitution of India.

4. On perusal of the writ petition, it appears that, it is not petitioner's case that order passed by the Principal Civil Court of original jurisdiction under Section 34 of the Act, is without jurisdiction. According to him, the award passed the Arbitrator is without jurisdiction. The submission on behalf of the petitioner could have been accepted, if the petitioner had approached this Court under Article 227 of the Constitution of India challenging arbitration award. However, subject matter of present writ petition being an order passed under Section 34 of the Arbitration and Conciliation Act, 1996, the petitioner's remedy is to approach the Court under Section 37 of the Arbitration and Conciliation Act, 1996. Since, the petitioner has alternative efficacious remedy to approach under Section 37 of the Arbitration and Conciliation Act, 1996, the writ petition cannot be entertained.

5. The writ petition is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)