



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 14038 OF 2024

**Warna Sahakari Dudh Utpadak Prakriya
Sangh Ltd.**

Through its authorized officer Pravin
Panditrao Shelar
Age : 43 Years, Occ. : Service
Address :- Tatyasaheb Kore Nagar
Post- Warnanagar, Tal. - Panhala
District Kolhapur – 416 113.

...Petitioner

Vs.

1. Nutrich Foods Private Limited

Through its director
Chandrashekhar Narhari Karpe
Age : 54 years, Occ. : Business
Address – C-16-M.I.D.C. Shirol
Tal. Hatkanangle
District Kolhapur – 416 122.

**2. The Member Secretary
Micro and Small Enterprises**

Council – Pune Region
Add.: Agricultural College
Compound Shivajinagar, Pune – 411 005.

...Respondents

Mr. Sarthak S. Diwan	Advocate for the Petitioner
Mr. Yuvraj Narvankar	Advocate for the Respondents

CORAM : S. M. MODAK, J.

DATE : 18th NOVEMBER 2024

ORAL JUDGMENT :-

1. Heard learned Advocate Shri Diwan for the Petitioner and learned Advocate Shri Narvankar for Respondents.

2. The Respondents have supplied raw materials for manufacture of cattle feed products to the Petitioner and they owe an amount. The Respondent being supplier invoked the provisions of the Micro, Small and Medium Enterprises Development Act, 2006 (In short 'MSMED Act') and reference petition was filed and the Council Pune as per order dated 02.11.2022 directed the present Petitioner to pay certain sum of money. The direction in nutshell is as follows:-

(i) To pay sum of Rs. 35,64,749.28/-.

(ii) To pay interest as per the provisions of Sections 15 and 16 of the MSMED Act, 2006 till realization.

(iii) One month period was granted.

3. This order is challenged by the present Petitioner as per Section 34 of the Arbitration and Conciliation Act 1996 by way of Misc. Civil Application No. 93 of 2023. The learned Principal District and Sessions Court Kolhapur as per Order dated 24.08.2023 directed the

present Petitioner to deposit 75% of the awarded amount within 15 days. This is in pursuance to the provisions of Section 19 of the MSMED Act. Copy of Roznama is produced. It is taken on record and marked as 'Annexure-X'.

Submissions

4. The Petitioner has deposited an amount of Rs. 26,73,562/- on 07/09/2023 in District Court. According to the present Respondent, this amount is not proper calculation as per the order of the District Court. That is why they have moved an application before the learned Principal District Judge on 17.10.2023 for issuing necessary direction. According to them, the Petitioner ought to have deposited Rs. 56,20,566.03/- with future applicable interest from 30.09.2023. Because they ought to have deposited 75% not only of principal amount but also 75% of the interest then due.

5. The learned Principal District Judge, Kolhapur as per Order dated 14.05.2024 accepted the part prayer and directed the Petitioner to deposit Rs. 56,20,566.03/-. There is no direction to pay certain amount towards the interest as prayed. **This order is challenged by the Petitioner.**

6. Learned Advocate Mr. Diwan raised various contentions. According to him, the calculations made by the Respondents are not correct. According to him, the provisions of Sections 15, 16 and 19 of the MSMED Act were not interpreted properly. Even contention is raised that the proceedings initiated against Multi-State Co-operative Society/present Petitioner is not maintainable as per provisions Multi State Co-operative Society Act.

7. As against this learned Advocate Mr. Narvankar has supported the order and contended that the Council has already given an award after hearing both the sides and considering the submissions and if there is challenge to the invocation of the MSMED Act, it cannot be considered while deciding the issue about compliance of the condition put while staying the award. According to him, as per provisions of MSMED Act, it has got overriding effect over other inconsistent laws. He justified the calculations and relied upon the provisions of Section 19 of the MSMED Act 2006. According to him 75% is to be deposited “all the amount in terms of the decree or order”. According to him, it is not only principal amount awarded but the interest has also to be included within 75%.

8. To buttress his submission, he relied upon the observations of the Hon'ble Supreme Court in case of *Gujarat State Disaster Management Authority Vs. Aska Equipments Limited*¹. The Hon'ble Supreme Court has clarified, the Court is not having any discretion to deviate from condition to deposit 75 % of the awarded amount. At the most to reduce the hardship Court can allow installments. In nutshell, the awarded amount includes the principal amount alongwith interest. So the law is very clear and it is interpreted.

9. For the above discussion, I am unable to accept the contention raised by learned Advocate Shri Diwan. If the Petitioner has not deposited 75% of the awarded amount originally, the Respondent has got every right to bring it to the notice of the Court and in that eventuality the learned Principal District Judge was right in issuing those directions. No fault can be found in the impugned order. There is no merit in the submission. At the most, the Petitioner can be granted some more time to deposit the amount as orally submitted.

10. In view of that following order is passed:-

1 (2022) 1 SCC 61

ORDER

- (i) The petition is dismissed.
 - (ii) The Petitioner is granted two months time from today to deposit the amount as directed by learned Principal District Judge, Kolhapur in the impugned order dated 14.05.2024. If it is not deposited, natural consequences to follow.
 - (iii) No observations are made on merits. The District Court to decide the proceeding as per the merits.
11. Writ Petition is disposed of.

[S. M. MODAK, J.]