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Arb.O.P (Com.Div.) No.65 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2024

CORAM

**THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY**

**Arb.O.P (Com.Div.) No.65 of 2024**

M/s.Slar Machines & Methods, Partnership Firm,  
rep by its Partner – V.Saravanabhavan,  
No.122/2, SIDCO Industrial Estate,  
Ambattur, Chennai 600 098.

... Petitioner

**Vs.**

The Branch Manager,  
National Small Industries Corporation Limited (NSIC),  
(A Government of India Enterprises),  
#25, 1<sup>st</sup> Main Road, KSSIDC Industrial Estate,  
6<sup>th</sup> Block, Rajaji Nagar, Bengaluru 560 010.

... Respondent

**Prayer:**

Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an independent and impartial Arbitrator to hear and decide the dispute between the petitioner and the respondent and to direct the respondent to pay the costs of this petition.



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For Petitioner : Mr.E.Manoharan

For Respondent : Mr.Ajay Kumar Gnanam

### **ORDER**

This Arbitration Original Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, (hereinafter called as “the Act”) to appoint an Arbitrator to adjudicate the disputes between the petitioner and the respondent.

2. The learned counsel for the petitioner would submit that the petitioner had submitted their application for procurement and supply of raw materials and the same was accepted by the respondent vide its letter dated 09.09.2009. Subsequent to the same, the parties had entered into an Agreement dated 02.11.2009. Thereafter, since a dispute was raised between the parties, this petition has been filed by the petitioner for appointment of Arbitrator.

3. The learned counsel for the respondent would submit that in the



present case, the dispute between the parties is covered under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter called as “MSME Act”). Hence, by referring Section 18 of the MSME Act, he would submit that if there is any dispute between the parties, the same has to be referred to the Micro and Small Enterprise Facilitation Council, however, without invoking the said provision of the MSME Act, the petitioner had wrongly approached this Court for appointment of Arbitrator. Hence, he requests this Court to dismiss the present petition.

4. In reply, the learned counsel for the petitioner would submit that as per Section 18 of the MSME Act, it is only optional to refer the disputes between the parties to Micro and Small Enterprise Facilitation Council and it is not Mandatory to do so. However, after taking appropriate instructions from his client, he would fairly submit that his client is willing to go for Mediation before the Micro and Small Enterprise Facilitation Council and requests this Court to pass appropriate orders in accordance with law.



5. Heard the learned counsel for the petitioner and the respondent and also perused the materials available on record.

6. In the present case, it appears that the dispute between the parties is covered under the provisions of Section 18 of the MSME Act, which reads as follows:

***“18. Reference to Micro and Small Enterprises Facilitation Council.—***

*(1) Notwithstanding anything contained in any other law for the time being in force, any party to a dispute may, with regard to any amount due under section 17, make a reference to the Micro and Small Enterprises Facilitation Council.*

*(2) On receipt of a reference under sub-section (1), the Council shall either itself conduct conciliation in the matter or seek the assistance of any institution or centre providing alternate dispute resolution services by making a reference to such an institution or centre, for conducting conciliation and the provisions of sections 65 to 81 of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to such a dispute as if the conciliation was initiated under Part III of that Act.*

*(3) Where the conciliation initiated under sub-section (2)*



*is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for arbitration or refer to it any institution or centre providing alternate dispute resolution services for such arbitration and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall then apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in sub-section (1) of section 7 of that Act.*

*(4) Notwithstanding anything contained in any other law for the time being in force, the Micro and Small Enterprises Facilitation Council or the centre providing alternate dispute resolution services shall have jurisdiction to act as an Arbitrator or Conciliator under this section in a dispute between the supplier located within its jurisdiction and a buyer located anywhere in India.*

*(5) Every reference made under this section shall be decided within a period of ninety days from the date of making such a reference.”*

7. Therefore, considering the submissions made by the learned counsel on both sides, this Court is inclined to pass the following orders:



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i) The parties are directed to raise all their issues before the Micro and Small Enterprise Facilitation Council within a period of 3 weeks from the date of receipt of copy of this order.

ii) The Micro and Small Enterprise Facilitation Council is directed to accept the claim petition filed by the parties without insisting for limitation.

iii) All the disputes raised by the parties shall be decided by the Micro and Small Enterprise Facilitation Council in accordance with the MSME Act.

8. With the above directions, this Arbitration Original Petition is disposed of. No cost.

**20.06.2024**

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation: Yes / No

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**KRISHNAN RAMASAMY.J.,**  
nsa

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