



WEB COPY



W.P. No. 3994 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 3994 of 2024

and

W.M.P. No. 4309 of 2024

M/s. Savio Industrial & Structural Corporation
Represented by its Proprietor V.X.DominicSavio
No. 96/5, K.N.Colony Post,
Salem-Cuddalore Main Road,
Opp to Co-Op Industrial Estate,
Salem - 636 014.

... Petitioner

-VS-

1. Micro and Small Enterprises Facilitation Council
Represented by its Chairperson,
(Industries Commissioner and Director of Industries and Commerce)
SIDCO Tower, Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai - 600 032.

2. Southern Railway,
Rep. by its Chief Engineer/Construction/MAS
Southern Railway,
Office of Chief Administrative Officer,
Egmore, Chennai - 600 008.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India,

1950, praying to issue a Writ of Certiorarified Mandamus, calling for the



W.P. No. 3994 of 2024

records of the First Respondent relating to its order dated 12.01.2021 in CASE No. MSEFC/CBER/200/2019 and quash the same and direct the First Respondent to pass orders on merit on having held enquiry.

For Petitioner : Mr. Akhil Akbar Ali
For Respondents : Mr. V.Ravi,
Special Government Pleader (for R1)

ORDER

Heard Mr. Akhil Akbar Ali, Learned Counsel for the Petitioner and Mr. V.Ravi, Learned Special Government Pleader, who takes notice for the First Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. Having regard to the nature of order proposed to be passed in the Writ Petition, which would not cause any prejudice to the Second Respondent, notice to him is dispensed with.

3. The Writ Petition challenges the Order in Case No. MSEFC/CBER/200/2019 dated 12.01.2021 passed by the First Respondent in the exercise of



W.P. No. 3994 of 2024

powers under Section 18(1) of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as 'the MSMED Act' for short).

4. The Hon'ble Supreme Court of India in ***India Glycols Limited -vs- Micro and Small Enterprises Facilitation Council, Medchal-Malkajgiri*** (Order dated 06.11.2023 in Civil Appeal No. 7491 of 2023) has ruled that such order cannot be challenged in a petition under Articles 226 or 227 of the Constitution in view of the remedy available under Section 34 read with Section 2(4) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the A & C Act' for short).

5. It also requires to be noticed that Section 34(3) of the A & C Act provides as follows:-

“34. Application for setting aside arbitral award.—

....

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal:



W.P. No. 3994 of 2024

WEB COPY

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.”

The Hon'ble Supreme Court of India in ***Assistant Commissioner (CT) LTU, Kakinada -vs- Glaxo Smith Kline Consumer Health Care Limited*** [(2020) 19 SCC 681] has emphatically laid down that the High Court in the exercise of powers under Article 226 of the Constitution of India ought not to entertain Writ Petition assailing the order passed by a Statutory Authority which was not appealed against within the maximum period of limitation before the concerned Appellate Authority. In view of that legal position, when the impugned order has been passed by the First Respondent on 12.01.2021, but the Writ Petition has been filed on 14.02.2024 long after the maximum limitation period of four months, it is not possible to entertain this Writ Petition on this ground also. It is needless to add here that no view has been expressed by this Court on the merits of the controversy involved in the matter.



W.P. No. 3994 of 2024

In the result, the Writ Petition is dismissed. Consequently, the connected

Miscellaneous Petition is closed. No costs.

23.02.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 29.05.2024.

kv

To

1. The Chairperson,
Micro and Small Enterprises Facilitation Council
(Industries Commissioner and Director of
Industries and Commerce)
SIDCO Tower, Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai - 600 032.
2. The Chief Engineer/Construction/MAS
Southern Railway,
Southern Railway,
Office of Chief Administrative Officer,
Egmore, Chennai - 600 008.



WEB COPY



W.P. No. 3994 of 2024

P.D. AUDIKESAVALU, J.

kv

W.P. No. 3994 of 2024

23.02.2024