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C.R.P.(PD).No.3635 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.09.2024

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THE HONOURABLE Mr. JUSTICE

V.LAKSHMINARAYANAN

C.R.P.(PD).No.3635 of 2024

&

C.M.P.No.19768 of 2024

Flowserve India Controls Private Limited,
Rep by its authorized signatory ASHISH KUMAR
Plot No.4, 1 – A, Road No.8,
Export Promotion Indl Park,
Whitefield, Bengaluru – 560 066.

...Petitioner

Vs.

Suryaprakas Foundary,
Rep by its Proprietor Mr.Kanagarajan,
No.73, SIDCO Industrial Estate,
Coimbatore, Tamil Nadu – 641 021.

...Respondent

Prayer: Petition filed under Article 227 of the Constitution of India to strike off the proceedings in petition in O.P.No.MSEFC/CBER 173/2021 on the file of the Micro and Small Enterprises Facilitation



C.R.P.(PD).No.3635 of 2022

Council (MSEFC), Coimbatore Region.

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For Petitioner : Mr. Vidhya Shankar.

ORDER

The proceedings are pending from the year 2021 before the Micro and Small Enterprises Facilitation Council.

2. The learned counsel for the petitioner pleads that the Micro and Small Enterprises Facilitation Council does not have jurisdiction on account of the fact that no supply of goods has been made by the respondent to the petitioner. A perusal of the counter shows that this specific plea has been raised before the Micro and Small Enterprises Facilitation Council. A counter seems to have been filed as early as in the year 2022. I am sure that the Council is competent to deal with it. It is not the case of total lack of jurisdiction.

3. A reading of Section 15 of the Micro, Small and Medium



Enterprises Development Act, 2006, shows that even where the services are rendered, it would still attract liability of the person who places an order on MSME.

4. The learned counsel for the petitioner would rely upon the Judgement in *Uniseven Engineering & Infrastructure Limited Vs. MSEF Council District South & Another - 2023 DHC 4521*, to argue that unless and until the goods are supplied, the question of liability does not arise.

5. A careful perusal of the said Judgement shows that was a case where the supplier to MSME made a claim before the Council. The Council does not have jurisdiction in such cases because the application can only be initiated by a MSME and not at the instance of a supplier against MSME. In those circumstances, the Delhi High Court had taken that view. Factually, it does not apply to the present case, because it is not in dispute that the respondent is MSME and the



C.R.P.(PD).No.3635 of 2024

petitioner had placed an order on it. Whether the Council has jurisdiction under Section 15 of the Micro, Small And Medium Enterprises Development Act, 2006, or not having been raised before the said authority, I am certain the same would be decided by the Council. It is not the case of total lack of jurisdiction but it requires interpretation of Section 15 of the said Act.

6. Accordingly, the Civil Revision Petition is dismissed. It is open to the petitioner to raise all his pleas before the authority. Consequently, the connected miscellaneous petition is closed. No costs.

09.09.2024

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C.R.P.(PD).No.3635 of 2024

To

The Micro and Small Enterprises
Facilitation Council (MSEFC),
Coimbatore.



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C.R.P.(PD).No.3635 of 2024

V.LAKSHMINARAYANAN, J.

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C.R.P.(PD).No.3635 of 2024



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C.R.P.(PD).No.3635 of 2024

09.09.2024