



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

111

CWP-11746-2024(O&M)
Date of decision: 27.05.2024

M/s Indo Farm Equipment Ltd.

...Petitioner

VERSUS

M/s. Axels India and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Anirudh Dhanda, Advocate for the petitioner.

Mr. D.K. Singal, Advocate for respondents No. 1.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for seeking quashing of the arbitration award dated 18.11.2022 passed by the Haryana Micro and Small Enterprises Facilitation Council alleging that the impugned award has been passed in illegal manner and without application of mind by considering that the claim of dues was for a period prior to the registration of the respondent under MSMED Act, 2006 i.e. on 26.03.2016.

2. Learned counsel for the petitioner contends that the Haryana Micro and Small Enterprises Facilitation Council failed to take into consideration the authoritative pronouncement of the Hon'ble Supreme Court as per which the claim could be lodged only with respect to the invoices that were raised after the registration of the applicant/claimant as a micro or small enterprise and that the invoices-the business transactions



prior to the registration of the unit as a micro or a small enterprise could not be entertained and adjudicated under the MSMED Act, 2006.

3. Notice of motion.

4. Mr. D.K. Singal, Advocate, enters appearance and files power of attorney on behalf of respondent No.1 in the Court and the same is taken on record. He submits that the petitioner-company has already preferred its objections/appeal before the District Judge, Panchkula and that the said objections were dismissed vide order dated 18.01.2024 on account of failure to make a pre-deposit.

5. FAO No.719 of 2024 was accordingly filed by the petitioner before this Court. An amount of Rs. 68.08 lakhs approximately was deposited by the petitioner which amounts to be 75 per cent of the amount of award. Pursuant to the order dated 06.03.2024 passed by this Court in FAO-719-2024, the said amount was taken on record by the District Judge, Panchkula, vide order dated 12.03.2024. The said First Appeal i.e. FAO-719-2024 was disposed of after observing that in case the amount deposited by the petitioner is in accordance with the provisions of MSMED Act, 2006 thus, the impugned order shall be deemed to be set aside and the objection petition /appeal filed by the petitioner would be restored and decided on merits but if the amount deposited is not as per the stipulation as specified under the statute, the appeal will be deemed to have been dismissed.

6. It is thus submitted that as the matter has already been decided and the objections are pending before the District Judge subject to a decision as regards the tenders/pre-deposit made by the petitioner, there is no



occasion for examining the said issue in a separate writ petition.

7. I have heard the learned counsel appearing on behalf of the respective parties and as the aforesaid contention of the counsel for respondent No.1 remains undisputed, I find that the present writ petition is misconceived considering that the petitioner had already approached the District Judge, Panchkula, by way of filing objections, impugning the award passed by Haryana Micro and Small Enterprises Facilitation Council and that the issue with respect to the pre-deposit is already under active consideration of the District Judge. Besides, the Coordinate Bench of this Court in FAO-719-2024 has already ruled on the issue of pre-deposit and the consequences that it may entail in the event of short tender (pre-deposit) made by the petitioner as would have a bearing on the award already passed. The writ petition as an alternative remedy to raise a challenge to the said award notwithstanding that the petitioner has already preferred the objections before the District Judge, Panchkula, and had taken recourse to the remedies under the MSMED Act, 2006 is misconceived and the same is liable to be dismissed.

8. **Ordered accordingly.**

9. The dismissal of the instant petition shall however, not have any bearing on the other contentions that the petitioner may have and/or to pursue his alternative remedy in accordance with law.

(VINOD S. BHARDWAJ)
JUDGE

27.05.2024

Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No