



\$~120

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3207/2023 & CM APPL. 12480/2023**

NBCC (INDIA) LTD.

..... Petitioner

Through: Mr. Kartik Nagarkatti, Advocate.

versus

**MICRO AND SMALL ENTERPRISES FACILITATION COUNCIL
/ DISTRICT MAGISTRATE (WEST), GOVERNMENT OF NCT OF
DELHI & ANR.**

..... Respondents

Through: Ms. Aditi Saraswat, Advocate for Mr.
Jawahar Raja, ASC for GNCTD/R-1.
Mr. K.S. Ghosh, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER
17.05.2024

%

1. The Petitioner has approached this Court challenging the reference of dispute between the Petitioner and Respondent No.2 to arbitration by the Respondent No.1/Micro and Small Enterprises Facilitation Council (MSEFC) under the Micro, Small and Medium Enterprises Development (MSMED), Act, 2006.

2. Material on record discloses that the Petitioner and Respondent No.2 entered into a contract wherein Respondent No.2 was to supply Black Granite Stone as per the approved sample of size 30ft X 8ft X 8ft and 5 stones of various sizes at National Police Memorial, Chanakyapuri. Disputes arose between the Petitioner and the Respondent No.2. The dispute has been referred to arbitration by the MSE Facilitation Council. The contention of the Petitioner is that works contract is outside the purview of the MSME Act

W.P.(C) 3207/2023

Page 1 of 2



and, therefore, the reference is bad.

3. Learned Counsel appearing for the Petitioner states that even though the nature of work shows that it is only a work of supply of Granite Stone but in fact, it also involves certain amount of work to be done and, therefore, it is a work contract.

4. In the facts and circumstances of the present case, this Court is of the opinion that the question raised in the present writ petition is a mixed question of law and fact and therefore, this Court while exercising its jurisdiction under Article 226 of the Constitution of India is not inclined to venture into the arena of facts.

5. In view of the above, this Court is of the opinion that the reference need not be interfered with.

6. It is always open for the Petitioner to raise this contention before the Arbitrator by filing appropriate applications under the Arbitration and Conciliation Act, 1996.

7. With these observations, the writ petition is disposed of, along with pending application(s), if any. It is made clear that this Court has not made any observations on the merits of the case.

SUBRAMONIUM PRASAD, J

MAY 17, 2024

S. Zakir