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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4227/2023**
STATE TRADING CORPORATION OF INDIA LTD.

..... Petitioner

Through: Mr. Sanjeev Puri, Sr. Advocate with
Ms. Pragya Puri, Advocate.

versus

**MICRO AND SMALL ENTERPRISES FACILITATION COUNCIL,
DELHI COMMISSIONER OF INDUSTRIES & ANR.**

..... Respondents

Through: Mr. Gautam Suhag, Mr. Gyanender
Singh Rana and Ms. Kanika Singh,
Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER
15.01.2024

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1. The Petitioner has approached this Court challenging the Award dated 01.12.2022 passed by the Delhi Arbitration Centre (DAC) in ARB.CASE ID: DL/10/M/SWC/00035 of 2022.
2. It is stated in the writ petition that the matter could not have been referred to arbitration under the MSMED Act primarily on the ground that the Respondent No.2 was not registered as an MSME on the date when the matter was referred to arbitration. He further states that the transaction was completed in the year 1991 and the MSMED Act came into force in the year 2006.
3. It is stated that the Petitioner has already moved an application under Section 34 of the Arbitration and Conciliation Act challenging the Impugned



Award dated 01.12.2022.

4. It is well settled that when there is a dispute resolution mechanism provided under the Act then the Courts in exercise of jurisdiction under Article 227 of the Constitution of India should not entertain the petitions only because of conditions of pre-deposit.

5. The question of lack of inherent jurisdiction can as well be decided in the application under Section 34 of the Arbitration and Conciliation Act which has already been filed by the Petitioner before the Competent Court.

6. In view of the above, this Court is not inclined to exercise its jurisdiction under Article 227 of the Constitution of India.

7. Needless to state that it is always open for the Petitioner to raise all contentions, including the contentions raised in the present writ petition and also since the Petitioner has raised the question of lack of inherent jurisdiction, it is always open for the Petitioner to raise the issue of dispensation of pre-deposit and the question of lack of inherent jurisdiction will be decided as a preliminary issue.

8. With these observations, the writ petition is disposed of, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

JANUARY 15, 2024

S. Zakir