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

+ W.P.(C) 16893/2022 & CM APPL. 53535/2022

MUNICIPAL CORPORATION OF DELHI

.....Petitioner

Through: None.

versus

M/S RAM PRAKASH

.....Respondent

Through: Appearance not given.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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11.12.2024

1. Petitioner- Municipal Corporation of Delhi ["MCD"] has filed this writ petition under Article 226 of the Constitution, for quashing of an order dated 29.07.2022 passed by the Micro and Small Enterprises Facilitation Council ["MSEFC"] constituted under Section 20 of the Micro, Small and Medium Enterprises Development Act, 2006 ("MSMED Act").
2. The proceedings before the Council were initiated on a complaint filed by the respondent herein on 04.12.2021. By the impugned order dated 29.07.2022, MSEFC has forwarded the reference to the Delhi International Arbitration Centre for initiation of proceedings under the Arbitration and Conciliation Act, 1996.
3. The principal contention of MCD is that the alleged dispute arises under a notice inviting tender dated 26.05.2016, whereas the respondent



registered himself under the MSMED Act only in the year 2020, with effect from 11.06.2020.

4. While issuing notice in this writ petition on 12.12.2022, this Court noted that the petitioner's reliance upon the judgments of the Supreme Court in *Silpi Industries v. Kerala SRTC*, [(2021) 18 SCC 790] and *Gujarat State Civil Supplies Corporation v Mahakali Foods Pvt Ltd.*, [(2023) 6 SCC 401]. The operation of the impugned order was stayed.

5. The Registry reports that the respondent was served and in fact the order dated 08.08.2023 records appearance on behalf of the respondent also; however, the respondent is not represented today.

6. Learned counsel for the petitioner draws my attention to an order dated 16.03.2023 in W.P.(C) 16891/2022 and other connected matters, by which similar disputes between the same parties have been adjudicated in favour of MCD.

7. In the said judgments also, it has been noted that the references were made by the MSEFC on 29.07.2022, whereas the present respondent was registered as an MSME on 12.06.2020. Relying upon the judgments in *Silpi Industries (supra)* and *Gujarat State Civil Supplies Corporation (supra)*, the Court had held that, if registration is subsequent to the completion of the work, the MSMED Act would not be applicable and the impugned references were quashed.

8. In the present case, the uncontroverted submission of the petitioner is that the work in question was completed by the respondent in October, 2016. This is also borne out by a communication of the respondent addressed to the petitioner, dated 23.11.2021 [Annexure-P4 to the writ petition].



9. In view of the above, the case is covered by the aforesaid judgment dated 16.03.2023.
10. The writ petition is therefore allowed and the reference pursuant to the impugned order dated 29.07.2022 is quashed.
11. It will be open to the respondent to take alternative remedies for agitation of his claims under the contract in accordance with law and to seek the benefit of Section 14 of the Limitation Act for the period during which proceedings were pending before MSEFC and this Court. Such an application will be considered by the appropriate forum in accordance with law.
12. As the respondent is unrepresented today, learned counsel for the petitioner is directed to forward a copy of this order to the respondent also.
13. The writ petition, alongwith pending application, is disposed of in the above terms.

PRATEEK JALAN, J

DECEMBER 11, 2024/MR/JM/