



Arb.O.P (Com.Div.) No.247 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2025

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No. 247 of 2024

Mr. R.J. Ravindranath alias Ravi Kapoor,
Proprietor,
R.K.L. Printers

... Petitioner

VS.

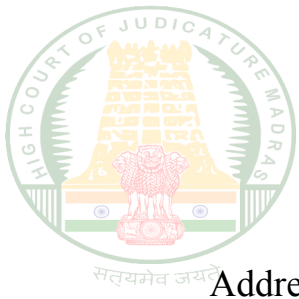
1. Srikals Graphics Pvt. Ltd.,
Rep. by its Managing Director &
Authorised Signatory,
Mr. S. Kalyanasundaram

2. Mr. S. Kalyanasundaram,
Managing Director &
Authorised Signatory,
Srikals Graphics Pvt. Ltd.,

3. Ramyashree Sridharan,
Director,
Srikals Graphics Pvt. Ltd.,

4. Balaji Sundaram Kalyana,
Director,
Srikals Graphics Pvt. Ltd.,

Addressees Nos. 1 to 4 having registered office at,
19/6, 3rd Main Road, Gandhi Nagar,
Adyar,
Chennai- 600020.



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Addressees Nos. 1 to 4 also at,
No. A-27, SIDCO Industrial Estate,
Guindy,
Chennai – 600032.

... Respondents

Prayer : Arbitration Original Petition (Commercial Division) filed under Section 34(2)(b)(ii) & 34(2-A) of the Arbitration and Conciliation Act, 1996 to set aside the Award dated 30/01/2023 passed by the Hon'ble Micro and Small Enterprises Facilitation Council in MSEFC/CR/229/2022 and pass such further or other reliefs as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice.

For petitioner	: Ms.Tanya Kapoor for Mr.P. Shiva
For respondents	: Set Ex-parte

ORDER

This petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996 challenging the Arbitral Award passed by the MSME Council on 30.01.2023.

2. The petitioner has challenged the impuged Arbitral Award on the following grounds :



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a) By total non application of mind to the documents produced by the petitioner which includes the invoices raised by the petitioner on the respondents, the MSME Council has passed the impugned Arbitral Award rejecting the claim of the petitioner.

b) The MSME Council under the impugned award has relied upon an inspection report without serving a copy of the same on the petitioner for coming to the conclusion that the petitioner has closed down his business and their GST registration has also been cancelled and that they have stopped doing business. According to the petitioner, the said finding is a patent illegality as according to them, they are continuing their business and further in violation of principles of natural justice, the MSME Council, *Suo moto* has relied upon the inspection report.

c) Without any counter filed by the respondents raising objections with regard to the claim of the petitioner, the MSME Council has rendered a finding that the petitioner is not entitled for the claim based on surmises and conjectures.

d) The petitioner has also challenged the impugned Arbitral Award on the ground that the said Award has been passed in violation of principles of natural justice and the arbitral award was passed without



following the due procedure as contemplated under the provisions of the Arbitration and Conciliation Act as well as the MSME Act.

3. The learned counsel for the petitioner drew the attention of this Court to the impugned Arbitral Award and would reiterate the grounds that have been raised by the petitioner as listed out supra in the opening paragraphs of this order.

4. Notice was served in this petition on the respondents, but they have chosen not to enter appearance in this O.P. Their names are also printed in the cause list, today. They are therefore, set ex-parte by this Court.

5. Admittedly in support of the petitioner's claim, they have filed certain documents before the MSME Council. The same is also referred in the impugned Arbitral Award in paragraph No.9, wherein it has been confirmed that the petitioner has submitted documents before the MSME Council. According to the learned counsel for the petitioner, the documents includes invoices raised by the petitioner on the respondents



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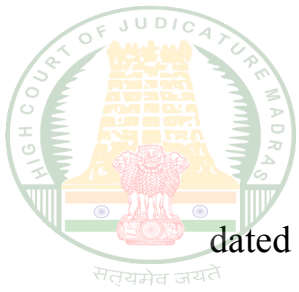
and other vendors. According to the petitioner a sum in excess of Rs.64 lakhs is due and payable by the respondents to the petitioner towards the value of the supplies effected by the petitioner on the respondents. Apart from that the petitioner has also claimed interest before the MSME Council and the total claim amount works out to Rs.1,08,95,761/- as on the date of the filing of the claim before the MSME Council.

6. As seen from the impugned Arbitral Award, the respondents have participated in the arbitration and were also represented by a learned counsel. Similarly the petitioner was also represented by a learned counsel. In fact as seen from paragraph No.6 of the impugned Arbitral Award, the counsel for the respondents had sought time before the MSME Council for an amicable settlement and the petitioner had also agreed for the same. After agreeing to negotiate with the petitioner for an amicable settlement, the respondents thereafter have raised a maintainability issue before the MSME Council stating that since the petitioner is carrying on printing business and is supplying used machines and selling printing machineries, which is a trading activity and therefore their claim will not fall under the purview of the MSME Act. Admittedly, no documents were filed by the respondents before the



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MSME Council. They have also agreed to negotiate with the petitioner for settlement. In the impugned Arbitral Award, the MSME Council has relied upon an inspection report. It is not known as to how MSME Council has obtained an inspection report on their own. When both parties to the dispute are participating in the arbitration only on a request made by either of them, an inspection report can be obtained. As seen from the impugned Arbitral Award, a copy of the inspection report which is relied upon by the MSME Council has also not been served on the petitioner. The petitioner has also taken a categorical stand before this Court that the copy of the inspection report was never served on the petitioner by the MSME Council. The inspection report relied upon by the MSME Council discloses that the petitioner has closed down their business. Any document which is relied upon for the purpose of passing an Arbitral Award has to be made available to both the parties to the dispute. Admittedly, the inspection report was not made available to the petitioner, who is the claimant before the MSME Council. It is also not known as to how the inspection report relied upon by the MSME Council has any bearing with regard to the dates when the supplies were made by the petitioner on the respondents. The so called inspection report is



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dated 27.01.2023, whereas the supplies were effected by the petitioner in the year 2019 itself.

7. For the foregoing reasons, the impugned Arbitral Award has been passed by total non application of mind and without proper evidence and in violation of principles of natural justice contrary to the provisions of the Arbitration and Conciliation Act. Necessarily, the impugned Arbitral Award has to be set aside by this Court. Accordingly the impugned Arbitral Award, dated 30.01.2023 passed by the MSME Council is hereby set aside and this petition is allowed. The petitioner is permitted to initiate fresh legal action against the respondents in accordance with law. The period spent before the MSME Council by the petitioner as well as the period spent before this Court in this O.P. shall stand excluded for the purpose of saving limitation under Section 14 of the Limitation Act.

19.02.2025

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
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