



C.R.P.No.4377 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.4377 of 2023

and

C.M.P.No.26571 of 2023

M/s.Prathien Infrastructures,
Represented by its Partner
R.Gowri @ Baby
No.222/12, Thattamparai,
Karugampalayam,
Coimbatore – 641 668.

... Petitioner

Vs.

1.The Micro Small Enterprises
Facilitation Council represented by its
Chairperson,
Industries Commissioner and
Director of Industries and Commerce,
Guindy,
Chennai – 600 032.

2.M/s.K.K.Electricals,
Proprietor,
No.4, Jagajeevan Ram Street,
Kamarajapuram,
Chennai – 600 073.

... Respondents



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Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 16.11.2021 made in MSEFC/CR/420/2019 passed by the 1st respondent.

For Petitioner : Mr.N.Manokaran
for Mr.D.Raghu

For R1 : Mr.T.Arunkumar
Additional Government Pleader

For R2 : Mr.K.Govi Ganesan

ORDER

Challenging the order passed by the Micro and Small Enterprises Facilitation Council, Chennai Region, (hereinafter referred to as “the Council” for brevity) on 16.11.2021, allowing the reference filed by the respondent under Section 18(1) of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as “MSMED Act” for brevity), for recovery of principal amount of Rs.19,52,200/- along with compound interests with monthly rests, the present revision has been filed.



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2.The respondent has originally filed the reference before the Council under Section 18(1) of the MSMED Act for recovery of principal amount of Rs.19,52,000/- with compound interest. The case of the respondent is that they are engaged in a business of electric supply services. They have supplied electric materials to the tune of Rs.19,52,200/- to the petitioner and issued four invoices ranging from 04.06.2018 to 31.10.2019. Based on the reference made by the respondent before the Council for non-payment of bills due to them by the petitioner, meetings were convened by the Council on various dates ranging from 18.11.2020 to 16.11.2021. It is to be noted that those meetings were only in the form of conciliation. The parties were not in dispute with regard to the Invoice Nos.3, 4 and 5 and the petitioner is said to have paid the entire amount as regards those invoices. The dispute was only with regard to Invoice No.2 said to have been raised for a sum of Rs.17,89,614/-, which was disputed by the revision petitioner, before the Council. However, the Council relying upon the emails produced by the respondent, has directed payment with interest and passed an Award on 16.11.2021. Challenging the said Award, the present revision has been filed.



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3.Heard the learned counsel on either side and perused the entire materials available on record.

4.In the normal course, any Award passed by the Micro and Small Enterprises Facilitation Council has to be challenged only as per Section 19 of the MSMED Act. While filing an application to set aside such Award, it is mandatory to deposit 75% of the amount awarded. Such strict compliance is required to set aside any Award passed by the MSMED Act. However, it is to be noted that, setting aside of the Award as required under law will arise only when the Award has been passed by following all the procedure contemplated under Section 18 of the MSMED Act. However, when the Council has ignored the procedure and has passed an Award without any evidence or adjudication process as per Arbitration and Conciliation Act, 1996, the High Court, by exercising the power of superintendence under Article 227 of the Constitution of India, can still go into the same. Learned counsel on either side have no dispute with regard to the legal position in this regard.



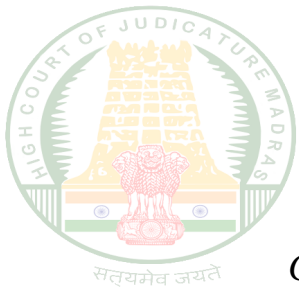
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5.It is relevant to extract Section 18 of the MSMED Act, which reads as follows :

“18.Reference to Micro and Small Enterprises Facilitation Council—(1) Notwithstanding anything contained in any other law for the time being in force, any party to a dispute may, with regard to any amount due under section 17, make a reference to the Micro and Small Enterprises Facilitation Council.

(2) On receipt of a reference under sub-section (1), the Council shall either itself conduct conciliation in the matter or seek the assistance of any institution or centre providing alternate dispute resolution services by making a reference to such an institution or centre, for conducting conciliation and the provisions of sections 65 to 81 of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to such a dispute as if the conciliation was initiated under Part III of that Act.

(3) Where the conciliation initiated under sub-section (2) is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for arbitration or refer it to any institution or centre providing alternate dispute resolution services for such arbitration and the provisions of the Arbitration and



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Conciliation Act, 1996 (26 of 1996) shall then apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in sub-section(1) of section 7 of that Act.

(4) Notwithstanding anything contained in any other law for the time being in force, the Micro and Small Enterprises Facilitation Council or the centre providing alternate dispute resolution services shall have jurisdiction to act as an Arbitrator or Conciliator under this section in a dispute between the supplier located within its jurisdiction and a buyer located anywhere in India.

(5) Every reference made under this section shall be decided within a period of ninety days from the date of making such a reference.”

6.The above provisions make it clear that, on receipt of reference under Sub-Section (1), the Council shall either itself conduct conciliation or seek the assistance of any Institution; and provisions of Sections 65 to 81 of the Arbitration and Conciliation Act, 1996 will apply. It is relevant to note that, if conciliation is successful, no difficulty arises. However, when the conciliation fails and there is no consensus reached between the parties to settle the issues, then the dispute has to be adjudicated on merits as per Sub-Section (3) of Section 18 of the Act. The Council, as per Sub-Section (3),



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shall either itself take up the dispute for arbitration or refer to any Institution or Centre providing alternate dispute resolution services for such arbitration; and the provisions of the Arbitration and Conciliation Act, 1996, shall then apply to the dispute, as if the arbitration was in pursuance of an arbitration agreement referred to in Sub-Section (1) of Section 7 of that Act. The said provision makes it clear that, when the conciliation stands terminated without any settlement between the parties, then the dispute has to be adjudicated upon and the adjudication requires a proper trial by affording opportunity to the parties to prove or disprove certain facts. Therefore, merely because only one of the invoices was disputed during settlement, the Council ought not to have passed an Award based on some records which have been totally disputed by the petitioner, without there being any evidence with regard to proof or disproof.

7.In such view of the matter, the order passed by the 1st respondent/Micro and Small Enterprises Facilitation Council, Chennai Region, dated 16.11.2021, made in MSEFC/CR/420/2019, is quashed and the matter is remanded back to the Council. The Council shall decide the matter afresh, following the procedure contemplated under Arbitration and



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Conciliation Act, 1996, and by affording opportunity to both sides to adduce evidence and thereafter, pass fresh orders in this regard. Such orders shall be passed within a period of four months from the date of receipt of a copy of this order. The amount deposited by the petitioner pursuant to the directions of this Court shall be refunded to the respective party based on the decision taken by the Council.

8. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

25.06.2025

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Internet : Yes

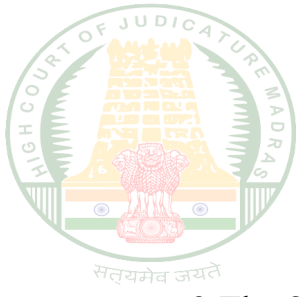
Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

To

1. The Chairman,
Micro Small Enterprises Facilitation Council,
Industries Commissioner and
Director of Industries and Commerce,
Guindy,
Chennai – 600 032.



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2. The Section Officer,
VR Section,
High Court, Madras.



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N. SATHISH KUMAR, J.

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