



W.P.No.39024 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2025

CORAM

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.39024 of 2024

M/s.Mark Asso.
Rep.by its Partner
T.A.Vijay
Thiruvalluvar Nagar,
NSP Garden,
Veerapandi, Tiruppur.

... Petitioner

vs.

1. Micro and Small Enterprises Facilitation Council,
Coimbatore Region,
Rep.by its Secretary/Regional Joint Director of
Industries and Commerce, No.2, Raja Street,
Coimbatore 641 001.

2. M.Rajkumar

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the 1st respondent to number and dispose the petitioner's petition dated 26.02.2024 filed under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 within a time framed manner.



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For Petitioner : Mr.K.Sudhakar
For R1 : No Appearance
For R2 : Mr.S,Mukunth
Senior Counsel
for Mr.Sarvabhauman Asso.

ORDER

The present writ petition has been filed to direct the 1st respondent to number and dispose the petitioner's petition dated 26.02.2024 filed under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006.

2. It is the case of the petitioner that the he is engaged in the business of trading constructions materials in whole sale and the 2nd respondent purchased the construction materials from him. The 2nd respondent availed credit facility without firm by way of purchasing construction materials on credit basis for 90 days. Thereafter, 2nd respondent failed to repay the same and the petitioner issued demand legal notice to the 2nd respondent. On such receipt of the same, the 2nd respondent did not pay the balance due amount. Hence, the petitioner filed



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a petition before the 1st respondent under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as MSME Act, 2006) requesting to recover the same from the 2nd respondent and the same is pending. Aggrieved by the same, the petitioner has filed the present writ petition

3. The learned counsel appearing for the petitioner submitted that he has filed a petition before the 1st respondent requesting the second respondent to recover the due amount from the 2nd respondent. But the 1st respondent has not numbered the same and once any person registered under Udayam portal and obtained certificate, they are entitled to the benefit under the MSME Act, 2006.

4. The learned Senior Counsel appearing for the second respondent submitted that the petitioner partnership obtained Udayam registration certificate under MSME Act, 2006 only on 19.06.2021, whereas the supply has taken place between the period from 20.06.2020 to 21.04.2021 and MSME does not have jurisdiction to entertain the petition dated 26.02.2024 filed by the petitioner.



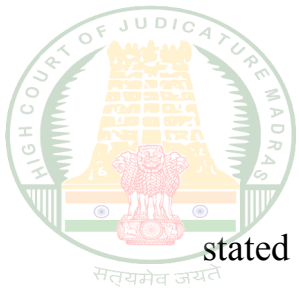
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5. It is seen from the records that similar matter has already been dealt with by this Court in W.P.No.26595 of 2013 dated 19.10.2022. The relevant portion of the said order is extracted hereunder :-

- “10. Considering the above Judgment of the Apex Court, this Court has also hold that when the supply is made prior to the registration of the supplier, one cannot take benefit under the Act. This Court further held that mere registration at another point of time will not entitle the supplier or seller to claim any benefit under the Act.
11. In Nitesh Estates Ltd., vs. Micro and Small Enterprises Facilitation Council of Haryana, 2022 SCC Online SC 1198, the Apex Court set aside the order of the writ petition, by dismissing the writ, challenging the notices issued under the MSMED Act. The Apex Court held that when jurisdiction itself was not with the Council, issuance of notices was not maintainable and accordingly, quashed the same. Similarly, in Vaishno Enterprises vs. Hamilton Medical AG, 2022 SCC Online SC 355, the Apex Court held that on the date of contract when the supplier was not registered as MSME and registration was done after the contract, the Act would not supply”.

6. It is admitted fact that as per para-2 of the affidavit wherein it is



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stated that the supply has taken from 20.06.2020 to 21.4.2021 under several invoices between the petitioner and the 2nd respondent, but Udhayam registration certificate dated 19.06.2021 under MSME Act, 2006. Hence, this writ petition is not maintainable.

7. Liberty is given to the petitioner to approach the Civil Court for appropriate remedy in regard to the supply which was made prior to the Udhayam Registration dated 19.06.2021.

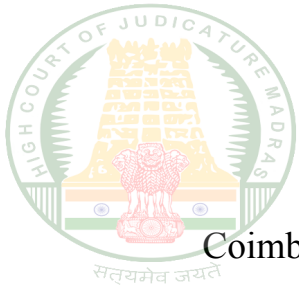
8. In view of the above, this writ petition stands dismissed. No costs.

24.02.2025

Index : Yes/No.
Internet : Yes/No.
Neutral Citation : Yes/No
Speaking : Non-speaking Order
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To

The Secretary/Regional Joint Director of
Industries and Commerce,
Micro and Small Enterprises Facilitation Council,
Coimbatore Region,
No.2, Raja Street,



Coimbatore 641 001.

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J.SATHYA NARAYANA PRASAD, J.

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