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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10423/2025, CM APPL. 43290/2025 and CM APPL. 60320/2025**

MILLENNIUM AUTOMATION SYSTEM LIMITED

.....Petitioner

Through: Mr. Sunil Choudhary, Advocate.

versus

**MICRO AND SMALL ENTERPRISES FACILITATION COUNCIL
SOUTH NEW DELHI & ORS.**

.....Respondents

Through: Mr. Ravinder Singh, Ms. Raveesha Gupta, Mr. Ritvik Bhardwaj and Mr. Nitin Prabhakar, Advocates for R-3.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER
07.01.2026

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1. It appears that the Respondent no.3 initiated two proceedings under Section 18 of the Micro, Small & Medium Enterprises Development (MSMED) Act, 2006 before the Micro and Small Enterprises Facilitation Council, South, New Delhi; ("MSEFC"). The first Reference Case bears No. 392/DM(S)/SDM (HQ)/MSEFC/Delhi/2023, which relates to purchase order dated 06.08.2021, and the Second Reference Case bears No. 387/DM(S)/SDM (HQ)/MSEFC/Delhi/2023, which relates to purchase order dated 18.07.2020. Both the contracts involved supply, installation, commissioning and supervision. There seems to be a dispute with respect to full and final payment.



2. Essentially, the dispute is with respect to the non-payment of certain dues by the Respondent no.3; however, the petitioner contends that the services were not fully rendered. Respondent no.3 initiated the proceedings before The MSEFC. The MSEFC undertaken the conciliation proceedings, which eventually failed and a reference under Section 18(3) was made by two impugned reference orders i.e. orders dated 13.11.2024 and 18.11.2024.

3. Learned counsel, who appears on behalf of the petitioner, has raised various grievances with respect to the manner in which the reference was sent. According to him, The MSEFC ought to have *prima facie* examined the facts and circumstances and should have opined that the dispute is amenable to be referred under Section 18(3) of the Act.

4. Learned counsel, who appears on behalf of respondent no.3, however, contends otherwise. He submits that the reference is justified and the same is strictly in accordance with law.

5. Having considered the submissions made by the learned counsel for the parties, the Court finds that the impugned orders refer the fact of conciliation meetings and the concerned authority on the basis of prolonged silence on the part of the respondent construed that the conciliation is not possible and eventually has referred the matter under Section 18(3) of the Act for arbitration before the DIAC.

6. One of the order dated 13.11.2024 is extracted as under:-

“No.F.392/DM(S)/Ref.u/s-18/SRD/MSEFC/1288-90

dated 13/11/2024

Sub: Forwarding of a reference filed under Section 18 of the Micro, Small & Medium Enterprises Development (MSMED) Act, 2006 by M/S ARCH N DECOR PROJECTS PVT. LTD. against MILLENIUM AUTOMATION PVT.LTD. Case No.392IDM(S)/MSEFC/u/s 18.

Sir,



I am to state that in supersession of notification no. ACI/MSME/CI/2/2010/1241-46 dated 25th July, 2012, and in exercise of powers conferred by Section 20 read with Clause (P) of Section 2 of the Micro, Small & Medium Enterprises Act, 2006, the Lt. Governor of NCT of Delhi vide notification no.F. No . 1 (MSMED)01/2019/Pt.File/3120 dated 30/09/2020 has reconstituted/ established a Micro and Small Enterprises Facilitation Council (MSEFC) in each Revenue District of the NCT of Delhi for the purpose of above said Act.

It is further to state that a reference wider section 18 (1) MSMED Act, 2006 was filed by MIS ARCH N DECOR PROJECTS PVT. LTD. on 18/07/2023 for adjudication of the disputed / delayed payment from M/S MILLENIUM AUTOMATION PVT. LTD. i.e., Respondent, before MSEF Council of South Revenue District for Conciliation.

In accordance with the provisions of the said MSMED Act, 2006, the South Revenue District, Micro and Small Enterprises Facilitation Council, Delhi took up the case for conciliation proceedings in its meeting held on 22.12.2023, 11.01.2024, 30.01.2024, 20.02.2024 & 11.07.2024.

Such a prolonged silence on the part of the respondent, construe to mean that, the respondent is not inclined for the conciliation in the instant matter. The council after taking into consideration indifferent attitude of the respondent is of the considered view that there is no point to continue with the instant proceedings and has decided to refer the reference I instant matter for arbitration to DIAC, as per provision of Sub-Section 3 of Section 18 read with provision of Arbitration & Conciliation Act, 1996.

Therefore, the instant reference filed by M/S ARCH N DECOR PROJECTS PVT. LTD. against M/S MILLENIUM AUTOMATION PVT. LTD. along with all the relevant documents is forwarded for Arbitration u/s 18(3) MSMED Act, 2006 read with provision of the Arbitration and Conciliation Act, 1996."

7. A bare perusal of the order would clearly indicate that there does not seem to be any *prima facie* opinion formed by the concerned authority, as to how the dispute is capable of being referred under section 18(3) of the Act. No doubt, at this stage, the authority may not require to deal with the merits of the case, however, as to whether the forum is competent to adjudicate should have been alluded to by it, to some extent.

8. Under these circumstances, without expressing any opinion on the correctness of the submissions, the Court deems it appropriate to set aside the impugned orders and remit the matter back to the said authority for



passing a fresh order after hearing both the parties.

9. Parties undertake to appear on the date to be fixed by the concerned Council.

10. Let a fresh order be passed by the said authority within a period of thirty (30) days from the date of receipt of copy of the order passed today.

11. With the aforesaid observations, the instant petition stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

JANUARY 7, 2026

Nc/amg