2026:AHC:209853-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 37832 of 2026

Oil And Natural Gas Corporation Ltd

.....Petitioner(s)

Versus

Micro Small And Medium Enterprises Facilitation Council And Another

.....Respondent(s)

Counsel for Petitioner(s) : Bharat Singh Pal, Prashant Kumar Singh

Counsel for Respondent(s) : C.S.C.

Court No. - 1

HON'BLE AJIT KUMAR, J.
HON'BLE GARIMA PRASHAD, J.

1. Heard learned counsel for the parties.

2. By means of this petition filed under Article 226 of the Constitution, petitioner has questioned the order impugned dated 02.09.2025 passed by the Secretary, Micro, Small & Medium Enterprises Facilitation (MSME), Council, Meerut Zone, Meerut in the matter of arbitration hearing vide Reference Case No. 279/2023 on the ground that a preliminary objection has already been raised as to the maintainability of claim petition for the reason that second petition is barred by principles of *res judicata* as earlier the Single Arbitrator was appointed and arbitration proceedings were withdrawn in respect of the same amount of disputed claim of Rs. 3,68,000/- which is also subject matter of claim here in this petition before the MSME Council. However, MSME Council instead of deciding the matter of preliminary objection as to the maintainability, has proceeded to decide the entire matter of merit asking the petitioner to furnish his defence statement.

3. We have perused the earlier order of Arbitrator dated 18.04.2022 passed in Arbitration proceedings in which final award was passed referring the claim made before the Arbitrator. The penultimate and and last paragraphs of the order of the Arbitrator are reproduced hereunder:

"Both the parties have partly paid the fee of arbitrator as per the total claim in this arbitration an amount of USD 1,02,249/- and Rs. 3,68,000/-

with interest @ 18% per annum from the 24.06.2019 till the filing of Statement of Claim. The amount of interest claimed has not been quantified, as such the total amount involve in this arbitration in terms of Indian rupees calculated at the providing Dollar, Rupees exchange rate comes to Rs. 81,71,771.49, and the arbitrator fee as per schedule IV of the Contract Act comes to Rs. 4,28,360.42. Both the parties have paid Rs. one lakh each plus administrative charges at the rate of Rs. 15,000/- per hearing only for one hearing so far.

Thus balance fee of the arbitrator outstanding is Rs. 2,28,316/- plus administrative charges for three hearing Rs. 45,000/-, which are payable by the Claimant as per the Section 31(A) of the Arbitration Act. This amount of fee of arbitrator shall be paid by the Claimant with the 7 days from the date of the order. The Claimant shall pay to the respondent a sum of Rs. 1,00,000/- towards the costs on compliance of payment of fee of arbitrator. The claim filed by the Claimant shall stand withdrawn as dismissed."

4. The claim petition that has been filed before the MSME Council in the reference case similar relief has been claimed vide relief clause which is reproduced hereunder:

"That it is most respectfully prays that this Hon'ble Chairman may kindly be pleased to pass an order in the interest of Justice holding the respondent liable to pay to the petitioner:

a. Principal Amount of Rs. 3,68,000/- (Rupees Three Lakhs Eighty Six Eight Thousand only)

b. Interest in terms of Section 15, 16 and 17 of the MSMED Act, 2006 which shall be calculated after 45 days of date of invoice till the date of release of amount;

c. Litigation expenses of Rs. 50,000/-.

d. Costs, expenses, compensation, etc. as may be considered appropriate in the facts and circumstances."

5. In view of the above, we find merit in the submission of learned

counsel for the petitioner and accordingly, dispose of this petition with direction to the MSME Council to dispose of the matter of maintainability of the petition at the first instance within a period of two months of presentation of certified copy of this order and thereafter, shall proceed to decide the matter on merits, if the preliminary objection stands rejected.

6. With the aforesaid observations and directions, this petition stands disposed of.

(Garima Prashad,J.) (Ajit Kumar,J.)

October 7, 2026
IrfanUddin

Digitally signed by :-
IRFAN UDDIN SIDDIKI
High Court of Judicature at Allahabad