

**\*HIGH COURT OF ANDHRA PRADESH :: AMARAVATI**

**+WRIT PETITION No.28931 of 2023**

**Between:**

#Tirumala Tirupathi Devasthanams

**...PETITIONER**

**AND**

\$M/s Micro And Small Enterprises Facilitation Council  
and Others

**...RESPONDENT(S)**

JUDGMENT PRONOUNCED ON **28.03.2025**

**THE HON'BLE DR.JUSTICE K. MANMADHA RAO**

1. Whether Reporters of Local newspapers  
may be allowed to see the Judgments? - Yes -
2. Whether the copies of judgment may be marked to Law  
Reporters/Journals - Yes -
3. Whether Their Ladyship/Lordship wish to see the fair  
copy of the Judgment? - Yes -

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**DR.JUSTICE K. MANMADHA RAO**

\* THE HON'BLE DR.JUSTICE K. MANMADHA RAO

**+WRIT PETITION No.28931 of 2023**

% 28.03.2025

**# Between:**

#Tirumala Tirupathi Devasthanams

**...PETITIONER**

**AND**

\$M/s Micro And Small Enterprises Facilitation Council  
and Others

**...RESPONDENT(S)**

**! Counsel for the Petitioner :** Sri V. Venugopal rAo  
Ms. V. Dyumani

**! Counsel for Respondents:** Sri G. Pedababu  
Sri P. Venkata Subbaiah

<Gist :

>Head Note:

? Cases referred: 1. MANU/AP/1256/2022:AIR 2022 AP 150  
2. 2021 SCC OnLine SC 439  
3. (2023) 6 SCC 401  
4. (2009) 1 SCC 267  
5. (2005) 8 SCC 618  
6. (2020) 15 SCC 706  
7. (2022) SCC 75  
8. (2023) 6 SCC 401  
9. CRP Nos.112 of 2022 & batch dated 2.2.2022

APHC010558812023



**IN THE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATI  
(Special Original Jurisdiction)**

**[3310]**

FRIDAY ,THE TWENTY EIGHTH DAY OF MARCH  
TWO THOUSAND AND TWENTY FIVE

**PRESENT**

**THE HONOURABLE DR JUSTICE K MANMADHA RAO**

**WRIT PETITION NO: 28931/2023**

**Between:**

Tirumala Tirupathi Devasthanams

**...PETITIONER**

**AND**

M/s Micro And Small Enterprises Facilitation Council and **...RESPONDENT(S)**  
Others

**Counsel for the Petitioner:**

1.V.DYUMANI (SC for TTD)

**Counsel for the Respondent(S):**

1.G RAMA CHANDER RAO

2.VENKATA SUBBAIAH POGULA

**The Court made the following:**

**ORDER:**

This writ petition is filed under Article 226 of the Constitution of India for  
the following relief:

“.....to issue a writ order or direction particularly in the nature of a Writ of Prohibition restraining the 1st Respondent in continuing the proceedings in Reference No 21C/IFC/2022/1669 Application No UDYAMAP100007461/S/00002 and to declare the proceeding in the Reference No 21C/IFC/2022/1669 Application No IJDYAMAP10 0007461/S/00002 as without jurisdiction and beyond the jurisdiction and scope of the 1<sup>st</sup> Respondent under the Micro Small and Medium Enterprises Act 2006 and consequently direct the 1st Respondent to forthwith drop all further proceedings pursuant to Reference No 2 IC/IFC/2022/1669 Application No UDYAMAP100007461/S/00002 and pass.....”

2. Brief facts of the case are that the 1<sup>st</sup> Respondent issued an "Intimation" dated 25-05-2021 to the petitioner demanding payment of an amount of Rs. 58,50,23,610/-. Challenging the said Intimation, the petitioner filed W.P.No.18584 of 2021 before this Court and this Court permitted the petitioner to treat the said intimation as a show cause notice and submit its objections. But subsequent to filing of the said writ petition, the claim of the respondents No.2 and 3 was settled and the same was brought to the notice of the 1<sup>st</sup> respondent vide Memo dated 30.08.2022. As the claims between the petitioner and the respondents No.2 and 3 were settled, the petitioner asked the 1<sup>st</sup> respondent to drop all further proceedings before it. However, to the shock and surprise of the petitioner, the 3<sup>rd</sup> respondent filed reply Memo dated 21.11.2022 stating that the no-due certificate 'was forced out of' it for the purpose of paying bills, which is illegal and unlawful. It is stated that the 1<sup>st</sup> respondent should have dropped all further proceedings before it in the light of the Memo filed by the petitioner and the communication addressed to it by respondent No. 2 and 3. Instead, the respondents No.2 and 3 are trying to make the 1<sup>st</sup> respondent adjudicate on the application that was withdrawn by them. The 1<sup>st</sup> respondent is entertaining such requests and forcing the petitioner to participate in the proceedings before it. The conduct of the respondents in this regard is illegal and arbitrary. It is stated that Respondents 2 and 3 initiated Arbitration proceedings against the Petitioner. The Sole Arbitrator appointed by Respondents 2 and 3 was proceeding at lightning speed and was about to grant the entire claim and that the Petitioner

timely took steps against the said proceedings as the Arbitrator had no jurisdiction under the said Construction Agreement. The construction Agreement provided for Arbitration for disputes below Rs.50,000/-. The Agreement also specifically provides that all claims above Rs.50,000/- have to be adjudicated by a competent Civil Court by way of a Civil Suit. Considering the same, this Hon'ble Court in CMA 220 of 2021, filed by the Petitioner, granted stay of all further proceedings before the said Arbitrator. The said CMA is still pending before this Hon'ble Court. The Respondents 2 and 3, later withdrew their claim before the said Arbitrator after their dues were settled in October/November 2021. It is stated that in addition to all the amounts received from the petitioner, the respondents No.2 and 3 have initiated the complaint before the 1<sup>st</sup> respondent seeking a sum of Rs.55,30,81,823/- plus interest to the tune of Rs.35,05,84,167/- (Total : Rs.90,36,65,990/-), which is illegal and arbitrary. Hence, the present writ petition.

3. This Court vide order dated 04.11.2023, while issuing Notice before admission, has granted direction as under:

*“.....Since the jurisdiction of the respondent No.1 is raised in this writ petition, the matter is Admitted and stay of all further proceedings before the respondent No.1 is granted, pending further orders.”*

4. The counter affidavit has been filed by the respondents No.2 and 3. While denying the allegations made in the petition, inter alia, contended that, these respondents have lodged two complaints online, UDAYAM-AP-10-0007461.5/00001, on 25-05-2021 for a principal amount of Rs.73,61,14,782/-

and UDAYAM-AP-10-0007461.S/00002 for another principal amount of Rs.58,50,23,610/- on 25-05-2021. The Petitioner filed a writ petition challenging only UDAYAM-AP-10-0007461.S/00002 through WP No. 18584 of 2021, and the Hon'ble Court has permitted to treat the same as show cause notice and submit its objections. Subsequently, the 2<sup>nd</sup> Respondent has withdrawn the said UDAYAM-AP-10-0007461.S/00002, and as such, the same has become infructuous. It is stated that the 2<sup>nd</sup> Respondent has raised his claims in addition to the 44th & Final Bill, for Rs. 7,64,15,841 on 05-11-2020, out of which Rs.2,64,15,841/-was paid on 05-12-2020 and 07-12-2020. The Writ petition's outstanding amount of Rs. 5,00,00,000/- was due. Before the 44th & Final Bill was paid, the 2<sup>nd</sup> respondent was appointed M. Jaganmohan Rao and that the said M. Jaganmohan Rao unilaterally appointed himself as arbitrator and issued notices to the Writ Petitioner and this Respondent. Upon receipt of the notices, Writ Petitioner stopped payment of the admitted amount under the 44th and Final Bill, due to which, the 2<sup>nd</sup> Respondent was in severe financial distress.

It is stated that the Indian Bank, Seethammadhara Branch, on 22.04.2021 issued notices for regularization of Open Cash Credit (OCC) limit and on 12.05.2021, the bank issued a notice asking the 2<sup>nd</sup> respondent to pay a minimum of Rs. 10.00 crores, failing which the same will be flagged as NPA on 31-05-2021 and SARFAESI proceedings will be started on 01-06-2021. As this Respondent was reeling under severe financial distress, it approached the Writ petitioner for payment of the outstanding admitted 44th & Final Bill, and

on 21-09-2021, the Writ Petitioner agreed (a) to release the balance payment of Rs. 5,00,00,000/- passed under 44th & Final Bill; (b) to release service tax component @4.944% for the work done in the GST regime i.e., from 01.07.2017; (c) It was decided to Release labour cess recovered in the final bill as per agreement conditions. Despite agreeing to release the payments without doing so on 11-10-2021, Executive Engineer-III, requested these respondents to withdraw all the cases filed against the TTD, withdraw the appointment of the sole arbitrator and submit a receipt for full and final settlement of all claims against the TTD relating to the subject work so as to release the balance payment.

It is further stated in the counter affidavit that on 30.10.2021, 44<sup>th</sup> bill has been released. However, other payments were not released, so on 01.11.2021, then this respondent again addressed a letter to the Executive Officer, TTD, for the release of service Tax reimbursement, the release of 2.5% retention money, reimbursement of labour cess payment, release of original bank guarantees, issuance of experience certificate and withdrawal of all civil and criminal cases filed by TTD against M/s M.Nagireddy & Company and this respondent as agreed in the meeting held on 21.09.2021. It is further stated that as the sole arbitrator has unilaterally appointed himself, even prior to the meeting, these respondents, have decided to withdraw the same and accordingly in CMA 220 of 2021, these respondents have submitted the same to the Hon'ble Division bench. The complaint before the lokayuktha was in

relation to the non-release of the 44th and Final Bill. As it was agreed to pay the said amount, it was withdrawn.

It is mainly stated in the counter that the 2<sup>nd</sup> respondent is a registered small entity under the MSMED Act, 2006 so the 2<sup>nd</sup> respondent is entitled to file their claims before the 1st Respondent. As held by this Hon'ble Court in **Dalapathi Constructions vs. The State of Andhra Pradesh and Ors.**<sup>1</sup>, wherein, it was held that *there is nothing in the MSME Act which provides that the registration for a particular activity will render an enterprise liable not to be regarded as a micro, small or medium enterprise for any other activity. Once registered, the status of the enterprise is that of a registered enterprise under the MSME Act, and all the provisions of the MSME Act have to apply with full force.* Further as held by the Hon'ble Supreme Court **M/s. Silpi Industries vs Kerala State Road Transport Corporation**<sup>2</sup> and **Gujarat State Civil Supplies Corporation Ltd., vs. Mahakali Foods (P) Ltd.**,<sup>3</sup>, on the issue of jurisdiction of the council, it was held that :

*"52.1. Chapter V of the MSMED Act, 2006, would override the provisions of the Arbitration Act, 1996. 52.2. No party to a dispute with regard to any amount due under Section 17 of the MSMED Act, 2006 would be precluded from making a reference to the Micro and Small Enterprises Facilitation Council, though an independent arbitration agreement exists between the parties."*

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<sup>1</sup> MANU/AP/1256/2022: AIR 2022 AP 150

<sup>2</sup> 2021 SCC OnLine SC 439

<sup>3</sup> (2023) 6 SCC 401

So, the 1st Respondent is entitled to be approached by the 3rd Respondent for adjudication of claims, including a determination as to whether full satisfaction was given under duress or not. Therefore, prayed to dismiss the present writ petition as devoid of merits.

5. Heard Sri V. Venugopal Rao, learned Senior counsel representing Ms. V.Dyumani, learned counsel appearing for the petitioner and Sri G. Pedababu, learned counsel representing Sri P. Venakata Subbaiah, learned counsel appearing for the respondents.

6. On hearing, learned Senior Counsel while reiterating the contents made in the petition, submits that, the Respondents 2 and 3 have initiated Arbitration proceedings against the Petitioner and that the Sole Arbitrator appointed by Respondents 2 and 3 was proceeding at lightning speed and was about to grant the entire claim. He submits that the Petitioner timely took steps against the said proceedings as the Arbitrator had no jurisdiction under the said Construction Agreement. The construction Agreement provided for Arbitration for disputes below Rs.50,000/-, and that the Agreement also specifically provides that all claims above Rs.50,000/- have to be adjudicated by a competent Civil Court by way of a Civil Suit. Considering the same, this Hon'ble Court in CMA 220 of 2021, filed by the Petitioner, granted stay of all further proceedings before the said Arbitrator and the said CMA is still pending consideration before this Hon'ble Court. He further submits that the Respondents 2 and 3, later withdrew their claim before the said Arbitrator after their dues were settled in October/November 2021. He further submits that

the respondents No.2 and 3 have initiated a complaint against the Petitioner before the Lokayukta. Later, once the claim was settled as aforesaid and after the amount was paid, the Respondents 2 and 3 withdrew the complaint before the Lokayukta as well. He further submits that the Micro, Small and Medium Enterprises Development Act, 2006 was enacted by the Union Government for facilitating promotion, development and enhancing competitiveness of Micro, Small and Medium Enterprises and for matters connected there with or incidental thereto and the said Act is applicable to Micro, Small and Medium Enterprises which are defined in the said Act in Clauses (e), (g) and (h) of Sec.2 of the Act. He further submits that among other requirements, a Micro Enterprise is defined as an Enterprise where investment in Plant and Machinery does not exceed Rs.25 lakhs. A Small Enterprise is defined as an Enterprise where the Plant and Machinery is more than Rs.25 lakhs, but does not exceed Rs.5 crores. Similarly a Medium Enterprise is defined as an Enterprise where the investment in Plant and Machinery is more than Rs.5 crores, but does not exceed Rs.10 crores.

7. Learned Senior counsel further submits that the Act applies to "Buyer" and "Supplier" within the meaning of those expressions in Clauses (d) and (n) of Sec.2 of the Act. The "Buyer" is whoever buys any goods or receives any services from a "Supplier" for consideration. Similarly, "Supplier" means a Micro or Small Enterprise which has filed Memorandum under Sec. 8(1) of the Act. A plain perusal of the above statutory scheme would make it amply clear that the said Act has no application to the petitioner or to

respondents No.2 and 3. He further submits that the claim of the respondent is way beyond the monetary limits imposed under the statute. At any rate, the petitioner is not a buyer and the respondents No.2 and 3 are not suppliers within the meaning of those expressions under the Act. He further submits that the 1<sup>st</sup> respondent has no authority to entertain the claim per se. At any rate, the conduct of the 1<sup>st</sup> respondent in continuing the proceedings despite the representations given by the petitioner and the respondents No.2 and 3 withdrawing the said proceedings, is illegal and arbitrary. Therefore learned counsel requests this court to pass appropriate orders.

8. *Per contra*, learned counsel appearing for the respondents also while reiterating the contents made in the counter affidavit, argued that, on 30.10.2021 the 44<sup>th</sup> Bill has been released. However, other payments were not released. So, on 01.11.2021 the petitioner addressed a letter to the Executive Officer, TTD, for the release of service tax reimbursement, the release of 2.5% retention money, reimbursement of labour cess payment, release of original bank guarantees, issuance of experience certificate and withdrawal of all civil and criminal cases filed by TTD against M/s M. Nagireddy & Company and the petitioner as agreed in the meeting held on 21.09.2021. Reminder letters through email were issued on 17-11-2021 and 18-11-2021 and that on 18-11-2021, the Superintending Engineer-III, through Roc.No.TTD.56021(31)/24/2019-SE III SEC-TTD, issued an urgent note to Executive Engineer-III for (1) releasing the Service Tax amounts; (2) Withdraw all the Civil & Criminal Cases by T.T.D. against the contractor; and (3) Any

other relevant pending payments. He further submits that in January 2022, 2.5% retention money was released, but to date, service tax reimbursement and reimbursement of labour cess payments have not been paid despite agreeing in the meeting on 21-09-2021. Learned Senior Counsel mainly contended that under Section 18 (3) of the MSMED Act, 2006, after the failure of the conciliation under Section 18 (2), the 1st Respondent will either act as an arbitrator or refer the dispute to an institution or centre providing alternate dispute resolution services for such arbitration and the provisions of Arbitration and Conciliation Act, 1996 will apply. So, the arbitrator will be competent to decide whether a full and final settlement letter was issued under duress or not.

9. Learned Senior counsel further submits that , as the sole arbitrator has unilaterally appointed himself, even prior to the meeting, the respondents have decided to withdraw the same in CMA No.220 of 2021 and accordingly, they have submitted the same before a Division Bench of this Court. Further, the complaint before the lokayukta was in relation to the non-releas of the 44<sup>th</sup> and Final Bill as it was agreed to pay the said amount, it was withdrawn. He further submits that as the respondents are a registered small entity under the MSMED Act 2006, so they are entitled to file their claims before the 1<sup>st</sup> respondent.

10. To support his contentions, learned counsel for the respondents has relied upon a catena of decisions of Hon'ble Supreme Court (1) In a case

of **National Insurance Co. Ltd v. Boghara Polyfab (P) Ltd.**,<sup>4</sup>, wherein the Apex Court held that :

Some illustrations (not exhaustive) as to when claims are arbitrable and when they are not, when discharge of contract by accord and satisfaction are disputed, to round up the discussion on this subject :

(i) A claim is referred to a conciliation or a pre-litigation Lok Adalat. The parties negotiate and arrive at a settlement. The terms of settlement are drawn up and signed by both the parties and attested by the Conciliator or the members of the Lok Adalat. After settlement by way of accord and satisfaction, there can be no reference to arbitration.

(ii) A claimant makes several claims. The admitted or undisputed claims are paid. Thereafter negotiations are held for settlement of the disputed claims resulting in an agreement in writing settling all the pending claims and disputes. On such settlement, the amount agreed is paid and the contractor also issues a discharge voucher/no claim certificate/full and final receipt. After the contract is discharged by such accord and satisfaction, neither the contract nor any dispute survives for consideration. There cannot be any reference of any dispute to arbitration thereafter.

(iii) A contractor executes the work and claims payment of say Rupees Ten Lakhs as due in terms of the contract. The employer admits the claim only for Rupees six lakhs and informs the contractor either in writing or orally that unless the contractor gives a discharge voucher in the prescribed format acknowledging receipt of Rupees Six Lakhs in full and final satisfaction of the contract, payment of the admitted amount will not be released. The contractor who is hard pressed for funds and keen to get the admitted amount released, signs on the dotted line either in a printed form or otherwise, stating that the amount is received in full and final settlement. In such a case, the discharge is under economic duress on account of coercion employed by the employer. Obviously, the discharge voucher cannot be considered to be voluntary or as having resulted in discharge of the contract by accord and satisfaction. It will not be a bar to arbitration.

(2) **SBP & Co. versus Patel Engineering Ltd. And another**<sup>5</sup> ;

(3) **Deep Industries Limited versus Oil and Natural Gas Corporation Limited and another**<sup>6</sup>;

(4) **Bhaven Construction through authorized signatory Premjibhai K.Shah versus Executive Engineer, Sardar Sarovar Narmada Nigam Limited and another**<sup>7</sup>

(5) **Gujarat State Civil Supplies Corporation Limited versus Mahakali Foods Private Limited (Unit 2) and another**<sup>8</sup> , wherein it was held that :

The upshot of the above is that:

(i) [Chapter-V of the MSMED Act, 2006](#) would override the provisions of the [Arbitration Act, 1996](#).

(ii) No party to a dispute with regard to any amount due under [Section 17](#) of the MSMED Act, 2006 would be precluded from making a reference to the Micro and Small Enterprises Facilitation Council, though an independent arbitration agreement exists between the parties.(iii) The Facilitation Council,

<sup>4</sup> (2009) 1 Supreme Court Cases 267

<sup>5</sup> (2005) 8 Supreme Court Cases 618

<sup>6</sup> (2020) 15 Supreme Court Cases 706

<sup>7</sup> (2022) 1 Supreme Court Cases 75

<sup>8</sup> (2023) 6 Supreme Court Cases 401

which had initiated the Conciliation proceedings under [Section 18\(2\)](#) of the MSMED Act, 2006 would be entitled to act as an arbitrator despite the bar contained in [Section 80](#) of the Arbitration Act.

(iv) The proceedings before the Facilitation Council/institute/centre acting as an arbitrator/arbitration tribunal under [Section 18\(3\)](#) of MSMED Act, 2006 would be governed by the [Arbitration Act, 1996](#).

11. Learned counsel for the respondents while relying upon the above decisions of Hon'ble Supreme Court, submits that, the 1<sup>st</sup> respondent is entitled to be approached by the 3<sup>rd</sup> respondent for adjudication of claims, including a determination as to whether full satisfaction was given under duress or not. Therefore, in view of the above facts and circumstances, learned counsel for the respondents prayed to dismiss the writ petition and vacate the interim order granted by this Court on 4.11.2023 as well.

12. Perused the material on record.

13. It is the contention of the petitioner's counsel that the respondents No.2 and 3 have initiated a complaint against the petitioner before the 1<sup>st</sup> respondent seeking for a sum of Rs.55,30,81,823/- plus interest to the tune of Rs.35,05,84,167/- (total Rs.90,36,65,690/-), which is illegal and arbitrary. Further it is also contended that as per Articles of Agreement (22.1 and 22.2) settlement of disputes; settlement of claims and jurisdiction, stated as follows:

22.1 If any dispute of difference of any kind whatsoever arises between the department and the Contractor in connection with, or arising out of the Contract, whether during the progress of the works or after their completion and whether before or after the termination, abandonment or breach of the Contract, it shall in the first place, be referred to and settled by the Engineer-in-charge who shall, within a period of thirty days after being requested by the Contractor to do so. give written notice of his decision to the Contractor. Upon receipt of the written notice of the decision of the Engineer-in-Charge the Contractor shall promptly proceed without delay to comply with such notice of decision.

22.2 If the Engineer-in-Charge fails to give notice of his decision in writing within a period of thirty days after being requested or if the Contractor is dissatisfied with the notice of the decision of the Engineer-in-Charge, the Contractor may within thirty days after receiving the notice of decision appeal to the Department who shall offer an opportunity to the contractor to be heard and to offer evidence in support of his appeal, the Department shall give notice of his decision within a period of thirty days after the Contractor has given the said evidence in support of his appeal, subject to arbitration, as hereinafter provided. Such decision of the Department in respect of every matter so referred shall be final and

binding upon the Contractor and shall forthwith be given effect to by the Contractor, who shall proceed with the execution of the works with all due diligence whether he requires arbitration as hereinafter provided, or not. If the Department has given written notice of his decision to the Contractor and no claim to arbitration, has been communicated to him by the Contractor within a period of thirty days from receipt of such notice the said decision shall remain final and binding upon the Contractor. If the Department fail to give notice of his decision, as aforesaid within a period of thirty days after being requested as aforesaid, or if the Contractor be dissatisfied with any such decision, then and in any such case the contractor within thirty days after the expiration of the first named period of thirty days as the case may be, require that the matter or matters in dispute be referred to arbitration as detailed below:-

Settlement of Claims:

Settlement of claims for Rs.50,000/- and below by Arbitration.

All disputes or difference arising of or relating to the Contract shall be referred to the adjudication as follows:

Claims up to a value of Rupees 10,000/-

Superintending Engineer, (or another circle in the same department).

Claims above Rs. 10,000/- and up to Rupees 50,000/-. Another Chief Engineer, [from the Government Department of A.P.]

The arbitration shall be conducted in accordance with the provisions of Indian Arbitration and Conciliation Act 1996 or any statutory modification thereof.

The arbitrator shall state his reasons in passing the award.

Claims above Rs. 50,000/-.

All claims of above Rs.50,000/- are to be settled by a Civil Court of competent jurisdiction by of Civil suit and not by arbitration.

A reference for adjudication under this clauses shall be made by the contractor within six months from the date of intimating the contractor of the preparation of final bill or his having access payment whichever is earlier.

22.3 JURISDICTION:

For the purpose of this agreement all the transactions shall be deemed to have taken place within the state of ANDHRA PRADESH and the courts in ANDHRA PRADESH shall have jurisdiction over the matters arising under or out of this agreement.

14. However, it is the contention of the respondents' counsel that the 44<sup>th</sup> Bill has been released, however payments were not released so the respondents have addressed a letter to the Executive Officer, tTD for the release of Service Tax reimbursement, the release of 2.5% retention money and that in January 2022, 2.5% retention money was released. Further, service tax reimbursement and reimbursement of labour cess payments have not been paid despite agreeing in the meeting on 21.09.2021. it is also

contended that the proceedings before the Facilitation Council/Institute/Centre acting as an arbitrator/Arbitral Tribunal under Section 18(3) of the MSMED Act 2006 would be governed by the Arbitration Act 1996 and that the Facilitation Council/Institute/Centre acting as an Arbitral Tribunal by virtue of Section 18(3) of the MSMED Act 2006 would be competent to rule on its own jurisdiction as also the other issues in view of Section 16 of the Arbitration Act 1996.

15. As seen from the Minutes of the Meeting on “Construction of Multi Storey Complex (Sri Padmavathi Nilayam) at Tiruchanoor” with regard to releasing of payments to the contractor, held on 21.09.2021 by the Executive Officer, TTD, Tirupati, wherein it was observed that:

*“2) Releasing of the Service Tax component @ 4.944% for the work done in the GST regime, i.e., from 1.07.2017: Service Tax component @ 4.944% deducted, while arriving the rates for the items for the work done in GST regime, the CE is requested to examine the same in consultation with Finance Department.*

*(Action: FA&CAO & CE).*

*3) Release of labour cess recovered in the final bill: It is decided to release the labour cess recovered in the final bill, as per the agreement conditions.*

*(Action: CE)*

16. A learned Division Bench of this Court in “**Bhajrang Cranes v. Shiram Transport Finance Company Ltd.**<sup>9</sup>,” wherein it was held as follows:

“46. The object of minimizing judicial intervention while the matter is in the process of being arbitrated upon, will certainly be defeated if the High Court could be approached under Article 227 or under Article 226 of the Constitution against every order made by the arbitral tribunal. Therefore, it is necessary to indicate that once the arbitration has commenced in the arbitral tribunal, parties have to wait until the award is pronounced unless, of course, a right of appeal is available to them under Section 37 of the Act even at an earlier stage.

47. We, therefore, sum up our conclusions as follows:

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<sup>9</sup> C.R.P.Nos. 112 of 2022 and batch dated 02.02.2022

(i) xxx.....xxx.....xxx

(ii) xxx.....xxx.....xxx

(vi) Once the matter reaches the arbitral tribunal or the sole arbitrator, the High Court would not interfere with orders passed by the arbitrator or the arbitral tribunal during the course of the arbitration proceedings and the parties could approach the court only in terms of Section 37 of the Act or in terms of Section 34 of the Act.

(xii) xxx.....xxx.....xxx

11. Having regard to the above, it is clear that, the order passed by the Arbitral Tribunal during Arbitration proceedings cannot be challenged either under Article 226 or 227 of the Constitution of India, unless a remedy is provided, under Section 34 of the Act. The parties have to wait till the award is passed and then challenge the same. However, the learned Counsel for the petitioner would contend that, the Court has got the power to se-aside the Order passed by the Arbitrator in exceptional cases, wherein one party is remediless under the Statute or a clear bad faith is shown by one of the parties."

.....

13. From the observation made by the Hon'ble Apex Court and having regard to the facts in issue, it is pellucidly clear that only after completion of arbitral proceedings and if the Tribunal passes an Order against the petitioner, it can raise these grounds in the Appeal filed under Section 34 of the Act. Tested on the above anvil, the argument of the Petitioner cannot be accepted in the given set of circumstances. Having regard to the above, the Order under challenge requires no interference and accordingly, the Civil Revision Petitions stands disposed off giving liberty to the petitioner to raise these issues in the Appeal if filed under Section 34 of the Act after completion of arbitral proceedings. No order as to costs".

17. On a perusal of the above decisions of Hon'ble Supreme Court and having regard to the facts in issue, it is pellucidly clear that only after completion of arbitral proceedings and if the Tribunal passes an Order against the petitioner, it can raise these grounds in the Appeal filed under Section 34 of the Act. Therefore, whatever the contentions raised by the petitioner cannot be accepted. Further the Council-1<sup>st</sup> respondent has no power to review its own order that once conciliation is closed and posted for arbitration under Section 18(3), that order to closure cannot be reviewed as contended by the 2<sup>nd</sup> respondent and that the parties could approach the court only in terms of Section 37 of the Act or in terms of Section 34 of

the Act. In the instant case, the matter has been referred to Arbitrator as per Section 18(3) of the MSMED Act. Therefore, the petitioner has a remedy under Section 34 of the Act to challenge the award by way of an Appeal after completion of arbitral proceedings.

18. Hence, the proceedings under challenge in this writ petition warrant no interference. Finding no merit in the instant petition and the same is liable to be dismissed

19. Accordingly, the Writ Petition is dismissed. No costs.. As a sequel, all the pending miscellaneous applications shall stand closed.

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**DR. K. MANMADHA RAO, J.**

*Date :* 28 -03-2025

*Gvl*

**HON'BLE DR. JUSTICE K. MANMADHA RAO**

**WRIT PETITION No. 28931 of 2023**

*Date : 28 .03.2025*

*GVI*