



CWP-22757-2023

-1-

213

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-22757-2023

Date of Decision: 11.07.2025

M/S BHUPESH MITTAL (GOVERNMENT CONTRACTOR)**-PETITIONER****V/S****MICRO AND SMALL ENTERPRISES FACILITATION COUNCIL
BATHINDA AND OTHERS****-RESPONDENTS****CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Sapan Dhir, Advocate,
for the petitioner.

Mr. Teevra Sharma, AAG, Punjab
for respondent no.1-MSME.

Mr. Nippun Sharma, Advocate,
for respondents no.2 and 3.

KULDEEP TIWARI, J.

1. Through the instant petition filed under Article 226/227 of the Constitution of India, a challenge is thrown to two orders of even date i.e.10.08.2023 (Annexures P-11 and P-12), passed by respondent no.1- Micro and Small Enterprises Facilitation Council, Bathinda (hereinafter referred to as 'MSEFC'), on the ground that in a single claim petition two different orders have been passed and the same allegedly having been passed in a mechanical manner.

2. Succinctly, the petitioner-firm had filed a claim petition on



CWP-22757-2023

-2-

dated 03.07.2020, against respondents no.2 and 3, before respondent no.1-MSME, under the provisions of Section 18 of Micro, Small and Medium Enterprises Development Act, 2006. Upon notice, respondents no.2 and 3 caused their respective appearances, and filed reply dated 11.11.2020 (Annexure P-5). Subsequently, the petitioner-firm, had also filed a rejoinder dated 23.09.2021 (Annexure P-6), to the said reply. The petitioner-firm, had also filed an amended rejoinder on dated 30.08.2022 (Annexure P-7), with revised calculation. During interregnum period, respondents no.2 and 3, also filed a commercial suit in the Court at Patna, against the petitioner-firm, *qua* the same dispute, as was pending before the MSEFC.

3. The petitioner-firm and respondents no.2 and 3, led their respective evidence by placing on record various documents. The matter was heard by respondent no.1-MSEFC, and finally, vide order dated 10.08.2023, the claim of the present petitioner-firm was declined on the ground of limitation.

4. During the course of argument, learned counsel for the petitioner draws attention of this Court towards both the orders, as passed by the MSME Council, and has read out the findings, so as to establish that to dismiss his one petition, two different orders with different findings, have been passed by the MSME Council. Therefore, it cannot, by any stretch of imagination, be considered to be a legal order.

6. On the other hand, a reply was filed on behalf of respondent no.1-MSEFC, by way of an affidavit of Sh. Preet Mohinder Singh Brar,



CWP-22757-2023

-3-

Member, MSME-cum-General Manager, District Industries Centre, Bathinda, wherein, they came up with a clarification that on dated 10.08.2023, two cases were decided by the respondent no.1-MSME; one case bearing No.BTI/78/2020, which was of the present petitioner-firm and respondent no.2, titled as '**Bhupesh Mittal vs. IKE Electric Pvt. Ltd.**' which was decided after appreciating the entire facts and circumstances of that particular case, and was, finally, dismissed on account of lack of evidence regarding performance of contract by the side of petitioner-firm. The reply further states that Annexure P-11, is the order dated 10.08.2023, which has been passed in the claim petition of the petitioner. The reply (*supra*), further clarifies that on the same day, another case titled as '**M/S PP Industries Vs. Ajmer Vidyut Vitran Ltd. and others**' bearing case no.174-2011/BTI-02, was decided by passing a detailed Award of even date, which was dismissed on the ground of limitation. Here, the typist while typing both the orders, committed a typographical mistake, however, when the files were put up before the Chairman of MSEFC, immediately after signing the Awards, the mistake came to notice, and the same was got corrected, on the day itself, before formal issuance of orders, and the Award dated 10.08.2023 (Annexure P-11), was signed and conveyed to the petitioner-firm. This fact is clearly reflected from the file notings which are annexed as Annexure P-10.

7. The reply further voices that somehow the petitioner managed to get the incorrect copy of Award dated 10.08.2023 (Annexure P-12), which was not even communicated through mail, nor certified by



the competent authority. Finally, respondent no.1-MSEFC, took a stand that only Award dated 10.08.2023 (Annexure P-11), was passed, and there is no *mala fide* on the part of any member or official working under it, rather, it was only a typographical error, committed on the part of the typist, and the petitioner cannot take undue benefit of the same.

8. During the Course of arguments, a specific stand was taken by learned counsel for respondent no.1-MSEFC, that they have only passed order dated 10.08.2023 (Annexure P-11), *qua* the claim petition of the petitioner-firm, and this order can only be assailed by filing a petition under Section 34 of the Arbitration and Conciliation Act, 1996, therefore, the instant petition is *per se* not maintainable.

9. Faced with the above submission, as made by learned counsel for respondent no.1- MSEFC, learned counsel for the petitioner-firm submits that he may be granted liberty to file objections under the provisions of Section 34 of the Arbitration and Conciliation Act, 1996, *qua* the Award dated 10.08.2023 (Annexure P-11), as passed by respondent no.1-MSEFC.

10. Considering the request, as made by learned counsel for the petitioner-firm, and without commenting on the merits of the order 10.08.2023 (Annexure P-11), this Court, extends liberty to the present petitioner-firm, to file an apt motion under Section 34 of the Arbitration and Conciliation Act, 1986, before the apt forum/court concerned.

11. In case, the petitioner files an apt motion before the forum/authority concerned, within a period of 30 days, from the date of

**CWP-22757-2023**

-5-

passing of this order, the latter concerned, shall make all its endeavours to decide the same as expeditiously as possible, after giving an adequate opportunity of hearing to the parties concerned.

12. Furthermore, since the instant matter/issue remained pending before this Court since 2023, therefore, an application seeking condonation of delay, if any, preferred by the petitioner, the same shall be considered most sympathetically, and under four corners of law, considering the fact that the petitioner, at the first instance, approached this Court.

13. **Disposed of** with the aforesaid liberty.

July 11, 2025
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No