

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 10.04.2026

Pronounced on: 17.04.2026

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THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

WP No. 10937 of 2026

M/s.Kinetic Industries (P) Ltd.,
SF- 273/2, 16th KM Milestone,
Kavarapettai, Sathyavedu Road,
Thanipoondi Post, Gummidipoondi Taluk,
Thiruvallur 601 202

..Petitioner(s)

Vs

1. The Micro Small Enterprises Facilitation
Council, Rep. by its Chairperson,
Industries Commissioner and Director of
Industries and Commerce,
Guindy, Chennai 32.

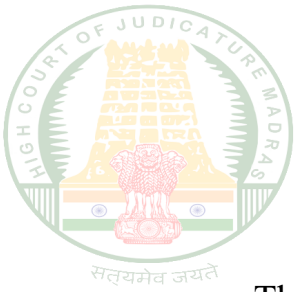
2. M/s. J.S.Masix Tooling Solutions
2A, K.S.R.Nagar, M.T.H.Road,
Ambattur, Chennai 53

..Respondent(s)

Writ petition is filed under Article 226 of the Constitution of India seeking for issuance of a writ of certiorari to call for the records pertaining to the order passed by the 1st respondent in Case No. MSEFC/ CR/ 452/ 2022 dated 15.07.2025 and quash the same.

For Petitioner(s): Mr.I.Mohamed Faizal

For Respondent(s): Mr.M.Shahjahan, SGP for R1

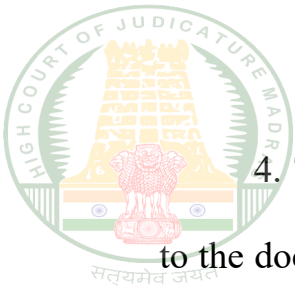


ORDER

This writ petition has been filed challenging the impugned order dated 15.07.2025 passed by the Micro and Small Enterprises Facilitation Council, Chennai Region, (MSEFC) (in short “Council”) under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 (in short “MSMED Act”).

2. The impugned order came to be passed on a claim made by the second respondent under the MSMED Act against the petitioner for the non-payment of the value of the goods supplied by the second respondent to the petitioner. The first respondent Council through the impugned order allowed the said claim and directed the petitioner to pay the principal amount of Rs.5,58,400/- along with compound interest with monthly rests.

3. According to the petitioner, the statutory procedure contemplated under Section 18(2) of the MSMED Act, namely, the conciliation proceedings was not adhered to by the first respondent Council before passing the impugned order. According to the petitioner, no conciliation took place as per the provisions of Section 18(2) of the MSMED Act before the first respondent Council, and therefore, the impugned order is arbitrary and illegal.



4. The learned counsel for the petitioner drew the attention of this Court to the documents filed along with this writ petition in support of the petitioner's contention that the conciliation procedure as provided under Section 18(2) of the MSMED Act was not complied with.

5. On the other hand, the learned Special Government Pleader for the first respondent would submit that the conciliation procedure as per Section 18(2) of the MSMED Act was adhered to by the first respondent Council and only after the conciliation failed, the dispute was referred to arbitration, which culminated in the passing of the impugned order. According to him, there is no statutory violation committed by the first respondent Council.

DISCUSSION:

6. Before going into the merits of the respective contentions as to whether the statutory procedure of conciliation as provided under Section 18(2) of the MSMED Act was fulfilled or not, this Court has to primarily decide as to whether a writ petition is maintainable challenging the order passed by the Council under the MSMED Act for the alleged non-adherence to the conciliation procedure contemplated under Section 18(2) of the MSMED Act.

7. Section 18 of the MSMED Act provides a mandatory, fast track dispute resolution mechanism for Micro, Small and Medium Enterprises (MSMEs) in



respect of delayed payments. It empowers the first respondent Council to handle conciliation and arbitration overriding other laws and private arbitration agreement.

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8. The key aspects of Section 18 of the MSMED Act are as follows:-

(a) Reference to the Council – any party can refer a payment dispute as provided under Section 17 of the MSMED Act to the Council.

(b) The Council conducts conciliation treating it under the Arbitration and Conciliation Act, 1996 (in short “the A&C Act”).

(c) If the conciliation fails, the Council itself or an institution handles the arbitration applying the provisions of the A&C Act.

(d) The Council has jurisdiction where the supplier is located regardless of where the buyer is located in India.

(e) The MSMED Act mandates that reference should be decided within 90 days from the date of reference.

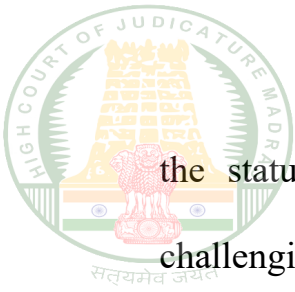
(f) The key implications of Section 18 of the MSMED Act is that it overrides the arbitration clause in the existing contract; and that the conciliation must be attempted before the formal arbitration.

9. The arbitration under the MSMED Act (Section 18) more or less is bound by the provisions of the A&C Act with the exception of special provisions under the MSMED Act which are exclusively applicable to



arbitration under the MSMED Act. MSMED Act is a special statute that overrides the A&C Act only in case of conflict. While the MSMED Act adopts the procedural framework of A&C Act, its mandatory provisions--specifically regarding jurisdiction and pre-deposits prevail. Section 18 of the MSMED Act begins with a non-obstante clause, meaning, it overrides any other law including the A&C Act regarding the dispute about the unpaid dues payable to an MSME. In order to appeal as against the arbitration award passed under the MSMED Act, the appellant must pre-deposit 75% of the award amount under Section 19 of the MSMED Act, whereas the A&C Act does not mandate any such pre-deposit.

10. The Council under the MSMED Act is a statutory authority and it has the statutory right to refer the dispute to arbitration, which overrides any private arbitration agreement between the parties. The MSMED Act mandates conciliation before arbitration which is not mandatory under the A&C Act. However, if the Council refers the dispute to arbitration, the proceedings follow the A&C Act for conducting arbitration and passing an arbitral award. The Limitation Act also applies to an arbitration under the MSMED Act, just as it does in regular Commercial Arbitration. Therefore, while the procedural framework of the A&C Act applies to Arbitration under the MSMED Act, the substantive provisions of the MSMED Act, such as the mandatory 75% pre-deposit to be made by the aggrieved party challenging the award, prevails over



the statutory provisions available under Section 34 of the A&C Act for challenging an arbitral award, which does not require such a pre-deposit. It is

clear from the statutory provisions of the MSMED Act that except for certain provisions which are exclusively applicable for arbitration under the MSMED Act, the other provisions, which are not in conflict with the provisions of the MSMED Act and which finds place in the A&C Act, continue to apply for arbitration under the MSMED Act.

11. The contention of the petitioner before this Court is that an award has been passed by the Council under the MSMED Act without complying with the requirements of conciliation as per the provisions of Section 18(2) of the MSMED Act. This Court need not adjudicate as to whether the conciliation procedure contemplated under Section 18(2) of the MSMED Act was complied with by the Council or not, as this Court will have to first decide whether a writ petition is maintainable as against any order passed by the Council under the MSMED Act.

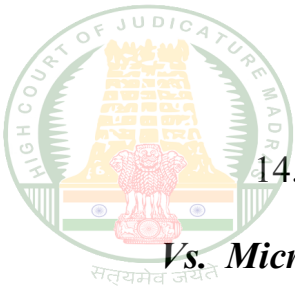
12. As observed earlier, only in cases where under the MSMED Act, special provisions have been introduced specifically for MSMEs claims, the said provisions shall override the provisions of the A&C Act. The MSMED Act does not stipulate that if the conciliation procedure contemplated under Section 18(2) of the MSMED Act is not complied with, a party aggrieved by the same is



entitled to approach the Court of law even before an arbitral award is passed.

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13. Under the A&C Act, a party can question the jurisdiction of the arbitral tribunal to adjudicate the arbitral dispute by filing an application under Section 16 of the A&C Act. It has been made clear in Section 16 of the A&C Act that if the said challenge is rejected by the Arbitral Tribunal under Section 16 of the A&C Act, the party aggrieved by the same will have to wait for the final arbitral award to be passed to challenge the arbitral tribunal's jurisdiction/competence to adjudicate the arbitral claim only by filing a petition under Section 34 of the A&C Act. Therefore, when the MSMED Act does not bar the application under Section 16 of the A&C Act, it is clear that the objects of arbitration both under the provisions of the MSMED Act and the A&C Act are only for early disposal of the dispute. Infact, under Section 18(5) of the MSMED Act, the arbitral reference has to be disposed of by the Council within a period of 90 days from the date of reference. Therefore, when the timelines have been fixed both under the MSMED Act as well as the A&C Act for passing an arbitral award, the question of entertaining this writ petition by giving a go-by to Section 34 of the A&C Act which enables the party aggrieved by any award to challenge the same, does not arise. The very object of arbitration, i.e., for speedy resolution of the dispute, will be defeated, if such kind of writ petitions are entertained by this Court.



14. The Hon'ble Supreme Court in *India Glycols Limited and another Vs. Micro and Small Enterprises Facilitation Council, Medchal [(2025) 5*

SCC 780] has held that recourse to jurisdiction under Articles 226/227 of the Constitution of India is clearly impermissible without following the remedy under Section 34 of the A&C Act, which requires the petitioner to mandatorily pre-deposit 75% of the award amount while challenging the award passed under the MSMED Act. However, this obligation, in the present case, is sought to be circumvented by taking recourse to the jurisdiction under Articles 226/227 of the Constitution of India, which is certainly impermissible. If the writ petition of this nature is entertained by this Court, the very object of early resolution of the disputes both under the MSMED Act as well as under the A&C Act will get defeated. Similarly, the object of Section 19 of the MSMED Act mandating pre-deposit of 75% of the award amount for filing an appeal under Section 34 of the A&C Act will be circumvented, thereby defeating the legislative intent behind the introduction of Section 19 of the MSMED Act.

15. Eventhough the decision in *India Glycols (cited supra)* has now been referred to a larger bench by the Hon'ble Supreme Court in the case of *Tamil Nadu Cements Corporation Ltd. Vs. Micro and Small Enterprises Facilitation Council and others [(2025) 4 SCC 1]*, the decision in *India Glycols (cited supra)* by a three-judge bench of the Hon'ble Supreme Court continues to hold the field on the issue as to whether a writ petition is maintainable in respect of

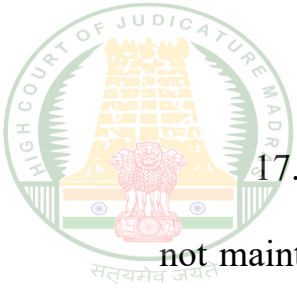


the proceedings of the first respondent Council under the MSMED Act. In

India Glycols (cited supra), a three-judge bench of the Hon'ble Supreme Court

has held that the writ petition is not maintainable, and this court is bound by the said decision till the said view is reversed by a larger bench of the Hon'ble Supreme Court. Therefore, the decision of the learned Single Judge of this Court in ***Sri Valli Process Vs. Micro Small Enterprises Facilitation Council [2022 SCC Online Mad 3537]***, which has entertained the writ petition arising out of the proceedings under the MSMED Act is not correct, in view of the decision rendered by the Hon'ble Supreme Court in ***India Glycols (cited supra)***.

16. Therefore, it is clear that even if there is any violation of the statutory procedure prescribed under Section 18 of the MSMED Act, the party aggrieved by the said violation will have to wait for the final arbitral award to be passed and only thereafter, challenge the award under Section 34 of the A&C Act by making the statutory pre-deposit amount under Section 19 of the MSMED Act. The recourse to writ petition under Articles 226/227 of the Constitution of India aggrieved by the proceedings of the Council under the MSMED Act is not maintainable, as the very object of the arbitration, which is for early resolution of the disputes between the parties, will be defeated if such writ petitions are entertained.

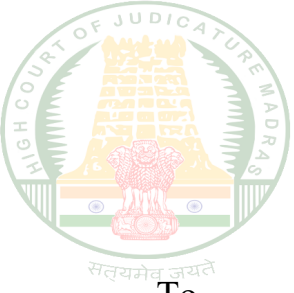


17. Since the petitioner, in good faith, has filed this writ petition, which is not maintainable, the time spent by the petitioner before this Court in this writ petition shall stand excluded for the purpose of saving limitation under Section 14 of the Limitation Act, 1963.

18. For the foregoing reasons, this writ petition is dismissed as not maintainable. No Costs. W.M.P.No.11873 of 2026 is closed.

17-04-2026

Neutral Citation: Yes
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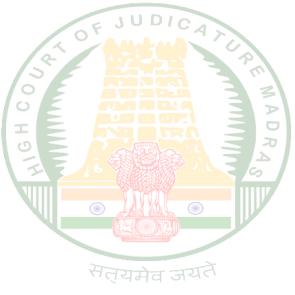


WP No. 10937 of 2



To

1. The Micro Small Enterprises Facilitation council
Rep. by its Chairperson,
Industries Commissioner and Director of Industries and Commerce,
Guindy, Chennai 32



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ABDUL QUDDHOSE, J.

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