



Outline of the case study: The MSME seeks to refer the dispute that it has with the buyer regarding payment of its dues to the Facilitation Council for arbitration under Section 18 of the Act, which provides that “any party to a dispute may, with regard to any amount due under section 17, make a reference to the Micro and Small Enterprises Facilitation Council”. The appellant opposes this prayer by contending that ‘any party’ can only be a ‘supplier’ and that supplier should have been registered under Section 8 of the Act even before execution of the contract, if not, the reference is impermissible. The buyer is in appeal before the Apex Court raising the same question w.r.t. jurisdiction of the Facilitation Council.

IN THE SUPREME COURT OF INDIA (CIVIL APPELLATE JURISDICTION)

CIVIL APPEAL NO. of 2024

ABC (INDIA) LTD. ...APPELLANT

VERSUS

SID PRIVATE LIMITED. ...RESPONDENT

Facts of the Case

1. The appellant ABC (INDIA) LTD, granted four work orders between July 2015 to August 2016 to M/s SID Private Limited (hereinafter referred as Enterprise), respondent for undertaking construction work at different places in West Bengal. Pursuant to the work orders, contracts were executed on 27.08.2015, 17.11.2015, 28.07.2016 and 20.08.2016. The Enterprise filed a memorandum under Section 8 of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred as “the Act”) on 19.11.2016 as a ‘small enterprise’. Thereafter, on 15.09.2017, the appellant also executed a fifth contract in favour of the Enterprise.
2. Work is said to have commenced on various dates, supplies continued, and bills were raised from time

to time by the Enterprise, even after filing of the memorandum under Section 8 of the Act.

3. During the subsistence of the contract, disputes arose between the parties in connection with all five contracts.
4. Seeking resolution of disputes, on 28.03.2019, the Enterprise made a reference under Section 18 of the Act for recovery of the amounts due to it to the West Bengal State Micro and Small Enterprises Facilitation Council. The Facilitation Council initiated action, and with the failure of the conciliation proceedings under section 18(2) of the Act, the dispute was referred to arbitration under Section 18(3) on 19.01.2021. A further notice of the arbitral proceedings was also issued, and it was received by the appellant on 30.09.2021.
5. The appellant objected to the Facilitation Council entertaining the reference, on the ground that the Enterprise was not registered under the Act before the execution of the contracts and, as such, the Facilitation Council does not have jurisdiction under Section 18.

*Carrying these objections further, the appellant filed a Writ Petition under Article 226 of the Constitution of India before the High Court of Calcutta, raising the jurisdictional question of the Facilitation Council entertaining the reference. **The High Court did not answer this question. Instead, it permitted the parties to raise such objections before the Arbitral Tribunal. The buyer is in appeal before the Apex Court raising the same question.***

The question of law for consideration before the Apex Court are:

- Q. Whether an MSME cannot make a reference to the Facilitation Council for dispute resolution under Section 18 of the Act if it is not registered under Section 8 of the Act before the execution of the contract with the buyer?

Now decide the said legal issues in view of above facts and submissions.

Disclaimer: The case study has been framed from the facts and figures available in the public domain with some modifications/assumptions so as to enable members to apply their professional skills to answer the same and hide the identity of the case. Author is not to be held liable for any resemblance of the facts and figures with any case.

Winner of Case Study – November 2025

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