



2026:DHC:3243



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision:19th April, 2026**

+ ARB.P. 1310/2025

N L ENGINEERS PRIVATE LIMITED

.....Petitioner

Through: Mr. Raktim Gogoi, Mr. Kaushlendra
D. Pandey, Mr. Arun Bansal and Ms.
Akshita Nigam, Advocates, Advs.
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versus

IRCON INTERNATIONAL LIMITED & ANR.Respondents

Through: Mr. Ritesh Singh, Mr. Manish Singh,
Mr. Navneet K. Singh, Mr. Vivek
Vashisth, Mr. Raj Kumar, and Mr.
Manish Arora, Advs.
Mob: 8077158261
Email: manish.arora@theprecept.in

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J. (ORAL):

1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 ("Arbitration Act") seeking appointment of an Arbitrator for adjudication of disputes between the parties, arising out of Agreement dated 11th August, 2016 for the supply of 9-metre long RSJ Poles for the R-APDRP, Part-B Projects, in the state of Jammu & Kashmir.
2. The petitioner had earlier invoked the jurisdiction of the Micro and



Small Enterprises Facilitation Council (“MSME Council”) under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 (“MSMED Act”) in the year 2018, seeking resolution of disputes between the parties. Since the claims of the petitioner could not be settled in conciliation, the matter was referred to arbitration under the provisions of the MSMED Act.

3. The proceedings culminated in an Award dated 30th April, 2024 passed by the MSME Council in *Claim Petition No. 04/2018*, in favour of the petitioner herein. Aggrieved by the said Award, the respondents herein have preferred a petition under Section 34 of the Arbitration Act, which is pending before the District Judge, SAS Nagar, Mohali.

4. It is to be seen that the petitioner had initially filed claims before the MSME Council in the year 2018, claiming certain sums against the respondents. Subsequently, an amended claim petition was filed by the petitioner dated 25th July, 2022 before the MSME Council.

5. The petitioner had approached this Court for appointment of an Arbitrator earlier as well. However, in view of the claims having been filed before the MSME Council, the said petition being *ARB.P.1124/2022* was dismissed as withdrawn *vide* order 09th February, 2023.

6. The present petition has now been filed by the petitioner on the premise that no claim in respect of liquidated damages was raised or adjudicated upon in the Award dated 30th April, 2024 passed by the MSME Council. It is the case of the petitioner that the petitioner’s remaining claims continue to subsist and require adjudication, in accordance with law.

7. This Court notes that in the present case, in terms of the Agreement between the parties, the petitioner had supplied goods to the respondents in



four lots, from 06th October, 2017 to 11th June, 2018. As per the case put forth by the petitioner, certain amounts were deducted by the respondents towards liquidated damages on 25th July, 2018. Therefore, it is clear that the cause of action in respect of liquidated damages arose on that very date. The petitioner had instituted its claim before the MSME Council on 16th October, 2018, after the cause of action for liquidated damages had already arisen. Further, the petitioner had also amended its claims before the MSME Council by filing an amended Claim Petition in the year 2022.

8. Thus, the petitioner had every opportunity and legal right to raise a claim for liquidated damages along with the other claims filed before the MSME Council, but the petitioner chose not to do so. The petitioner did not raise claim *qua* liquidated damages even at the time of filing amended claim before the MSME Council.

9. Once the petitioner had already invoked Section 18 of the MSMED Act and participated in arbitration proceedings resulting in the Award dated 30th April, 2024, a second arbitration proceeding for some other claims arising out of the same cause of action, transaction and contract, would not be maintainable. Reference in this regard is also made to the order dated 15th July, 2022 passed by the Supreme Court in *Special Leave to Appeal (C) No. 10722/2022*, titled as “*M/s Tantia Constructions Limited Versus Union of India*” wherein, in similar circumstances, it has been held as follows:

“xxx xxx xxx

*Having heard the learned counsel for the petitioner, we are of the firm opinion that **there cannot be two arbitration proceedings with respect to the same contract/transaction. It is not in dispute that in the present case, earlier the dispute was referred to arbitration and the Arbitrator passed an award on whatever the claims were made. Thereafter, a fresh arbitration proceeding was sought to be initiated with respect to some further claims, may be after final bill. The same is rightly refused to be***



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referred to arbitration in exercise of Section 11(6) of the Arbitration and Conciliation Act, 1996. We are in complete agreement with the view taken by the High Court.

With this, the Special Leave Petition stands dismissed. Pending application(s), if any, shall stand disposed of.

xxx xxx xxx”

(Emphasis Supplied)

10. It is no longer *res integra* that principles of *res judicata* apply to Arbitration proceedings. Therefore, once an Award has been pronounced between the parties and the claims sought to be raised now could have been raised in the earlier arbitral proceedings at that point of time, a prayer for second reference to arbitration would not be maintainable.

11. In view of the discussion hereinabove, no merit is found in the present petition. The same is accordingly dismissed.

MINI PUSHKARNA, J

APRIL 16, 2026/KR