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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 08th July, 2025**+ **CM(M) 495/2025&CM APPL. 15346/2025****HINDUSTAN CONSTRUCTION COMPANY LTD.....Petitioner****Through: Mr. Shashank Garg, Sr. Advocate with
Mr. Arjun Jain, Ms. Anushree Narain,
Mr. Vipin Chaudhary and Ms. Nishtha
Jain, Advocates.****versus****KRA INFRASTRUCTURE DEVELOPERS PVT. LTD.****.....Respondent****Through: Mr. R. Gupta, Advocate.****CORAM:****HON'BLE MR. JUSTICE MANOJ JAIN****J U D G M E N T (oral)**

1. Petitioner challenges order dated 24.02.2025 passed by the learned Arbitral Tribunal whereby their application moved under Section 16 of the Arbitration and Conciliation Act, 1996 has been dismissed.
2. The sole grievance of the petitioner herein is to the effect that, even if, the respondent i.e. claimant was a small enterprise, registered under *Micro, Small and Medium Enterprises Development Act, 2006* (MSME Act), the contract in question, being a *works contract*, was outside the scope and ambit of MSME Act and such aspect has not been considered and answered by the learned Arbitral Tribunal.
3. Learned Senior Counsel for petitioner submits that since the question of jurisdiction goes to the root of the matter, the petitioner has no other option but to knock the doors of this Court by invoking supervisory jurisdiction under Article 227 of Constitution of India.
4. This Court has gone through the order under challenge and it is noticed that the petition has been dismissed while making certain observations, as



appearing in Para 19 of the impugned order.

5. Evidently, there is no discussion about the aforesaid important aspect i.e whether a *works contract* is excluded from the scope of MSME Act or not?

6. Learned counsel for respondent has already filed his reply and submits that, even if, there was no discussion to the abovesaid aspect, the final result would still have been 'no different'.

7. During course of arguments, learned Senior Counsel for petitioner has placed strong reliance upon *Shree Gee Enterprises v. Union of India, 2015 SCC OnLine Del 13169*; *Sterling & Wilson (P) Ltd. v. Union of India, 2017 SCC OnLineBom 6829*; *P.L. Adke v. Wardha Municipal Corpn./Council, 2021 SCC OnLineBom 13986*; *TATA Power Co. Ltd. v. Genesis Engineering Co., 2023 SCC OnLine Del 2366*.

8. This Court is conscious and mindful of the fact that the scope of interference in such type of matters is very restricted and constructed. This Court in *Kelvin Air Conditioning & Ventilation System (P) Ltd. v. Triumph Reality (P) Ltd., 2024 SCC OnLine Del 7137* observed that judicial inference in such type of matters has to be minimal and recourse to Article 227 of the Constitution of India has to be under exceptional circumstances when it is shown that such order is absolutely perverse.

9. However, in the present case, the issue involved is that of jurisdiction of Arbitral Tribunal which goes to the root of the matter and such issue has, somehow, not been answered appropriately and, therefore, this Court is compelled to remand the matter to learned Tribunal.

10. In the given facts and circumstances, it will be, therefore, appropriate to request learned Arbitral Tribunal to consider the application moved by *M/s. Hindustan Construction Company Ltd.* under Section 16 of the Arbitration



and Conciliation Act, 1996 afresh and to dispose of the same, after giving due opportunity of hearing to both the sides.

11. It is, however, made clear that this Court has, merely, requested the learned Tribunal to re-consider the application and has not given any opinion on the merits of the points argued before this Court.

12. The present petition stands disposed of in aforesaid terms.

13. Pending application also stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

JULY 8, 2025/ss/SS