



HIGH COURT OF CHHATTISGARH AT BILASPUR

Order Sheet

WPC No. 649 of 2021

M/S Shyam Matalics And Energy Ltd. **Versus** Micro And Small Enterprises
Facilitation Council & Anr.

15/10/2025	Shri Anumeh Shrivastava, Advocate for the petitioner. Shri Ankit Singhal, Advocate for the respondent No.2. Learned counsel for the petitioner submits that Challenge in this writ petition is to an order dated 28/12/2019 declared on 01/02/2020 in case No. RAN-178/MSEFC/2016 (Ms. Indus Technical & Finance Consultancy Ltd. Vs. Ms. Shyam Metallic & Energy Ltd.) y the respondent no.1 by which the petitioner was directed to pay Rs. 83,23,683/- if it is not deposited within period of 30 days then respondent shall pay outstanding amount to the petitioner along with interest up to the date of payment. In compliance of the Interim order dated 17/03/2021, an amount of Rs.41,61,860/- has been deposited before the executing Court i.e. III Additional District Judge, Raipur. He further submits that the petitioner has alternative remedy to challenge the award under section 34 of the Arbitration and Conciliation Act, 1996 and bypassing alternative efficacious remedy, the instant petition has

been filed which is not maintainable. Replying to it learned counsel for the petitioner submits that the issue involve in this writ petition is referred to a Larger Bench by the order of the Hon'ble Supreme Court in case of **Tamil Nadu Cements Corporation Limited Vs. Micro & Small Enterprises Facilitation Council & Anr. in (2025) 4 SCC 1** in paragraph 64 and 65 as under :-

“64. In the light of the aforesaid decisions, we deem it appropriate to refer the following questions raised in the present appeal to a larger Bench of five Judges, namely:-

64.1. (i) Whether the ratio in *India Glycols*⁵ that a writ petition could never be entertained against any order/award of MSEFC, completely bars or prohibits maintainability of the writ petition before the High Court?

64.2. (ii) If the bar/prohibition is not absolute, when and under what circumstances will the principle/restriction of adequate alternative remedy not apply?

64.3. (iii) Whether the members of MSEFC who undertake conciliation proceedings, upon failure, can themselves act as arbitrators of the Arbitral Tribunal in terms of Section 18 of the MSME Act read with Section 80 of the A&C Act?

The first and second question will subsume the question of when and in what situation a writ

petition can be entertained against an order/award passed by MSEFC acting as an Arbitral Tribunal or conciliator.

65. The Registry is directed to place the papers before the Chief Justice so that an appropriate decision can be taken on the administrative side for the constitution of a larger Bench in the present case.

Therefore, he submits that until and unless, the reference is answered by the Hon'ble Supreme Court, it cannot be said that the writ petition is not maintainable.

Learned counsel for the respondent No. 2 submits that as the amount of Rs.41,61,860/- has already been deposited by the petitioner, the respondent No.2 may be permitted to withdraw the same after furnishing the security for which he has filed an application I.A. No.2.

This proposition is opposed by the petitioner on the ground that the petitioner has a good case on merits and in the event, if the amount so deposited is withdrawn by the respondent no.2, it would create a difficulty to recover the same in the event the writ petition is allowed.

Heard learned counsel for the parties and perused the record.

There is no dispute to the fact that in compliance of the

interim order dated 17/03/2021, the said amount was deposited by the petitioner for the executing Court. It does not appear from the record as to whether the such amount has been invested to generate interest upon it.

Therefore, it is ordered that the executing Court (III Additional District Judge, Raipur) to invest the said amount of Rs.41,61,860/- in a fixed deposit for a period of 01 year, renewable from time to time in its name. It is also observed that the said amount would be disbursed either to the petitioner or the respondent depending upon the outcome of the writ petition.

In view of the above, I.A. No.02/2022 an application on behalf of respondent No.2 for permission to withdraw the amount deposited by the petitioner is also disposed of.

Interim Relief dated 17/03/2021 is made absolute and I.A.No. 01 dated 17/12/2020 application for Interim Relief is disposed of.

List it in the month of **January, 2026.**

sd/-
(Sachin Singh Rajput)
Judge