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

+ **W.P.(C) 16242/2022 & CM APPL. 50833/2022(Stay)**

MANGLORE REFINERY AND PETROCHEMICALS LTD

..... Petitioner

Through: Mr. Rajat A. and Mr. Neeraj
Gupta, Advs.

versus

**MICRO AND SMALL ENTERPRISES FACILITATION
COUNCIL SOUTH GOVERNMENT OF NCT OF DELHI
AND ANR**

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

ORDER

% **25.11.2022**

CM APPL. 50834/2022 (for exemption)

Allowed, subject to all just exceptions.

The application shall stand disposed of.

W.P.(C) 16242/2022 & CM APPL. 50833/2022(Stay)

1. Notice. Although the respondents are stated to have been placed on advance notice, none has appeared on their behalf when the matter was called. Consequently, let learned counsel for the petitioner take steps for service upon the said respondents through all permissible modes including via approved courier service. Let those respondents file their replies within a period of six weeks from today. The petitioner shall have four weeks thereafter to file a rejoinder affidavit.

2. Prima facie, the Court finds itself unable to sustain the impugned order in terms of which the **Micro Small & Medium Enterprises Facilitation Council** ["MSME Council"] has proceeded to refer disputes which ex-facie emanate from a works contract. Bearing in mind the principles enunciated in **M/s. Shree Gee**



Enterprises versus Union of India ¹ and **Rahul Singh versus Union of India & Ors.** ², the Court is of the considered opinion that the reference under Section 18(3) of the **Micro, Small and Medium Enterprises Development Act, 2006** [“the 2006 Act”] would not sustain. Matter requires consideration.

3. Till the next date of listing, there shall be stay of all further proceedings initiated pursuant to the order dated 23 May 2022 passed by the Micro & Small Enterprises Facilitation Council.

4. List again on 04.05.2023.

YASHWANT VARMA, J.

NOVEMBER 25, 2022

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¹ 2015 SCC OnLine Del 13169

² 2017 SCC OnLine All 3949