



2026:AHC:97940-DB

A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT - C No. - 8895 of 2026**

Shri Krishna Nutriton India Pvt Ltd

.....Petitioner(s)

Versus

The Micro Small and Medium Enterprises and another

.....Respondent(s)

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Counsel for Petitioner(s) : Nitin Chandra, Sudekchhit Pandey  
Counsel for Respondent(s) :

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**Reserved on 24.3.2026**  
**Delivered on 30.4.2026**

**Court No. - 40**

**HON'BLE SARAL SRIVASTAVA, J.**  
**HON'BLE GARIMA PRASHAD, J.**

(Delivered by Hon'ble Garima Prashad, J.)

1. Heard learned counsel for the petitioner.
2. The present writ petition has been filed challenging the award dated 15.07.2021 passed by the Micro, Small and Medium Enterprises Facilitation Council, Kanpur (hereinafter referred to as the "MSME Council") under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as the "2006 Act"), whereby the petitioner has been directed to pay a sum of Rs. 9,62,610/- along with interest of Rs. 14,53,225/-, totaling to Rs. 24,15,835/-.
3. Learned counsel for the petitioner submits that the impugned award has been passed ex parte and without due service upon the petitioner. It is stated that the petitioner came to know of the award only

in the third week of April, 2025. Thereafter, the petitioner approached the Executing Court. An application was filed seeking recall of the order dated 13.03.2023, whereby the execution proceedings were directed to proceed ex parte. It is further stated that objections to the execution proceedings were filed on 13.06.2025. The said applications are presently pending adjudication.

4. It is further submitted that despite the pendency of the recall application and objections, the Executing Court is proceeding ahead with the execution proceedings without deciding the said applications, compelling the petitioner to invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India.

5. Learned counsel for the petitioner contends that the MSME Council lacked jurisdiction as the claim was barred by limitation, the last supply having been made on 18.02.2017 and the reference having been filed on 03.09.2020. It is further contended that the proceedings before the MSME Council were conducted in violation of principles of natural justice as no proper service was effected and the award has been passed ex parte without affording opportunity of hearing.

6. In support of the aforesaid submissions, learned counsel for the petitioner has placed reliance upon several decisions, which shall be dealt with hereinbelow, one by one. On the strength of the said authorities, it is sought to be contended that where arbitral proceedings suffer from a fundamental jurisdictional infirmity or are vitiated by violation of principles of natural justice, the High Court may, in appropriate cases, exercise its jurisdiction under Articles 226 and 227 of the Constitution of India.

7. We have considered the submissions advanced by learned counsel for the petitioner and perused the record.

8. The challenge raised by the petitioner essentially rests on two grounds, namely, absence of proper service before the MSME Council and the claim being barred by limitation. Both these issues are not pure questions of law but are mixed questions of fact and law. Determination

of proper service would require examination of mode of service, acknowledgment, addresses and related material, while the plea of limitation would depend upon factual aspects such as date of supply, invoices, acknowledgments and course of dealings between the parties.

9. It is well settled that not every plea styled as one of “jurisdiction” can be entertained in writ jurisdiction. Where adjudication requires appreciation of evidence and determination of disputed questions of fact, such issues are required to be examined by the forum competent under the statute.

10. Proceedings under Section 18 of the 2006 Act culminate in an arbitral award and the statute itself provides a remedy under Section 34 of the Arbitration and Conciliation Act, 1996. The Supreme Court in **India Glycols Ltd. v. Micro and Small Enterprises Facilitation Council, (2018) 1 SCC 143** has categorically held that a party cannot bypass the statutory remedy and invoke writ jurisdiction to challenge such an award, particularly so as to avoid compliance of the requirement of pre-deposit under Section 19 of the 2006 Act.

11. The reliance placed upon **Serosoft Solutions Pvt. Ltd. v. Dexter Capital Advisors Pvt. Ltd., 2025 SCC OnLine SC 26** is misplaced. The said judgment reiterates that interference under Articles 226 and 227 in arbitral matters is extremely limited and can be exercised only in cases of patent perversity or exceptional circumstances. In the present case, no such manifest perversity is demonstrated on the face of the record. The issues raised require factual adjudication and do not fall within the narrow scope carved out in **Serosoft (supra)**.

12. Insofar as reliance upon **Sonali Power Equipments Pvt. Ltd. v. Chairman, Maharashtra State Electricity Board, 2025 SCC OnLine SC 1467** is concerned, the said judgment merely lays down that the Limitation Act applies to arbitration proceedings under Section 18 of the 2006 Act by virtue of Section 43 of the Arbitration and Conciliation Act, 1996. However, whether a claim is barred by limitation depends upon factual determination and cannot be adjudicated in writ jurisdiction. The

said decision does not permit bypassing of the statutory remedy under Section 34.

13. The judgment in **Jharkhand Urja Vikas Nigam Ltd. v. State of Rajasthan, (2021) 19 SCC 206** is clearly distinguishable. In the said case, the Supreme Court found that the MSME Council had failed to follow the mandatory statutory procedure and had not conducted arbitration in accordance with law, rendering the award a nullity. In the present case, no such foundational defect is apparent. The grievance raised pertains to alleged improper service and ex parte proceedings, which are matters to be examined by the competent forum and do not render the award a nullity on the face of the record.

14. In **Tamil Nadu Cements Corp. Ltd. v. MSEFC, 2023 SCC OnLine Mad 4508**, it has been observed that writ jurisdiction is not completely barred. However, the same judgment also reiterates that where disputed questions of fact arise and an alternative remedy is available, the High Court should ordinarily decline to exercise writ jurisdiction. The present case falls squarely within such a category.

15. The reliance upon **Union Territory of Ladakh v. Jammu and Kashmir National Conference, 2023 (12) SCALE 389** to contend that in case of conflict of coordinate Bench decisions the earlier one must be followed, is of no assistance to the petitioner. There is no conflict requiring deviation from the law laid down in **India Glycols (supra)**, which directly governs the issue involved.

16. The judgments in **Lajja Ram v. Union Territory, Chandigarh, (2013) 11 SCC 235**, **Kalpraj Dharamshi v. Kotak Investment Advisors Ltd., (2021) 10 SCC 401** and **State Bank of India v. Rajesh Agarwal, (2023) 6 SCC 1** arise in entirely different statutory contexts. While they reiterate general principles relating to natural justice, delay and fairness, they do not dilute the settled position that where a specific statutory remedy is available against an arbitral award, the writ jurisdiction ought not to be invoked except in exceptional circumstances.

17. Acceptance of the petitioner's submission would result in every arbitral award being subjected to writ scrutiny on allegations of procedural irregularity, thereby rendering the statutory mechanism under Section 34 redundant, which is impermissible in law.

18. In the present case, the petitioner has already approached the Executing Court and has filed applications raising the very issues now sought to be urged before this Court. The petitioner also has a statutory remedy available in law to challenge the award. No exceptional circumstance has been made out so as to warrant interference under Article 226 of the Constitution of India.

19. In view of the aforesaid, this Court is of the considered opinion that the writ petition is not maintainable.

20. Accordingly, the writ petition is dismissed.

21. It is, however, directed that any applications filed by the petitioner before the Executing Court shall be considered and decided expeditiously in accordance with law, without being influenced by any observation made herein.

22. It is further provided that the petitioner shall be at liberty to avail such other statutory remedies as may be available in law.

23. No order as to costs.

**(Garima Prashad,J.) (Saral Srivastava,J.)**

**April 30, 2026**

Rakesh