

Judicial Doctrine under the MSMED Act, 2006: The Direction of Travel

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Abstract—The decisions interpreting the Micro, Small and Medium Enterprises Development Act, 2006 (“MSMED Act”) exhibit, considered as a body, a coherent and consistent orientation. Drawing upon the principal pronouncements of the Supreme Court of India and the leading High Court authorities, this article distils four interlocking interpretive principles — purposive construction in favour of the small supplier; the primacy of the MSMED Act over the Arbitration and Conciliation Act, 1996; the mandatory character of the pre-deposit under Section 19; and the accommodation of registration status — and argues that, taken together, they describe a settled “direction of travel”: an expansive reading of the Act’s operative provisions, restrained only by the textual limits of the statute, which reinforces the legislation’s social-justice purpose.

Keywords—MSMED Act, 2006; delayed payments; Section 24 non-obstante clause; Section 19 pre-deposit; social justice; statutory interpretation.

I. Introduction

The MSMED Act, 2006 was conceived as an instrument of distributive justice for the small-enterprise sector, the delayed-payments regime in Chapter IV being its sharpest protective edge. The manner in which the higher judiciary has construed the Act is therefore central to any assessment of whether its social-justice promise is realised in practice or remains confined to the statute book. A reading of the case law as a whole reveals not a scattering of ad hoc rulings but a discernible doctrinal architecture. This article identifies its load-bearing principles and the composite direction in which they point.

II. Purposive Interpretation in Favour of the Small Supplier

The first and organising principle is that of purposive construction oriented towards the protection of the small supplier. In each of the principal decisions the Court has treated the social-justice object of the Act as the dominant interpretive consideration, subordinating arguments founded on freedom of contract to that object. The principle is not one of unlimited supplier protection — the Court has, in several cases, declined to extend the Act’s protections beyond their textual scope — but it is one of clear interpretive preference wherever the text is ambiguous. It supplies the premise from which the remaining principles are derived.

III. Primacy of the MSMED Act over the Arbitration and Conciliation Act, 1996

The second principle is the primacy of the MSMED Act over the Arbitration and Conciliation Act, 1996 in cases of conflict. It is anchored in the non-obstante clause in Section 24 of the MSMED Act, and has been applied by the Court not merely to instances of direct textual conflict but also to situations of operational tension between the two regimes. In *Silpi Industries v. Kerala State Road Transport Corporation*, (2021) 18 SCC 790, and *Gujarat State Civil Supplies Corporation Ltd. v. Mahakali Foods Pvt. Ltd.*, (2023) 6 SCC 401, the principle was formulated in terms sufficiently general to accommodate the future questions of inter-statutory interaction that the Act’s operational evolution will inevitably raise.

IV. The Mandatory Pre-Deposit under Section 19

The third principle, articulated in *Tirupati Steels v. Shubh Industrial Component*, (2022) 7 SCC 429, is the mandatory and inflexible character of the pre-deposit required under Section 19 as a condition for challenging an award or decree in favour of a supplier. Though procedural in form, the requirement is substantive in effect: it converts the supplier’s award into a substantially liquid asset and shifts the financial burden of the appellate process onto the late-paying buyer. The Court’s refusal to treat the pre-deposit as a matter capable of relaxation is itself an expression of the purposive orientation that informs the wider body of decisions.

V. Accommodation of Registration Status

The fourth principle, articulated in *Mahakali Foods*, is the accommodation of registration status. A supplier registered under the Act at the time of reference to the Facilitation Council may invoke the Act's protections in respect of supplies made before registration was effected, on the rationale that the statute's social-justice purpose would be diluted were post-supply registration treated as disqualifying. The principle has, in operational terms, widened the Act's reach to a substantial additional population of suppliers. It carries a recognised cost — a measure of strategic-registration concern — which the Court has, on the available evidence, judged to be outweighed by the social-justice benefits. The leading High Court authorities, *Steel Authority of India Ltd. v. Micro, Small Enterprises Facilitation Council*, (2010) SCC OnLine Bom 2208, and *Porwal Sales v. Flame Control Industries*, (2019) SCC OnLine Bom 5953, supply the interpretive scaffolding that the lower courts have since applied with substantial fidelity.

VI. The Composite Direction of Travel

The composite picture that emerges is one of expansive interpretation of the Act's operative provisions, restrained only by the textual limits of the statute. In none of the principal cases has the Court declined to apply the Act on grounds of constitutional concern, jurisdictional limitation or interpretive doubt; the Act's effectiveness as a social-justice instrument is, in the judicial reading, both presumed and — where ambiguity arises — actively reinforced. This direction is broadly congruent with the empirical record of the Act's implementation: the effectiveness of its instruments is matched by the interpretive deference of the Court to the legislative purpose, and the two reinforce one another in producing a regime whose social-justice content has been progressively realised since enactment. The judiciary has, in short, read the MSMED Act as the legislature wrote it — as a protective statute — and the doctrine it has built is the surest assurance that the Act operates on the ground and not merely on paper.

Cases Referred

Silpi Industries v. Kerala State Road Transport Corporation, (2021) 18 SCC 790; *Gujarat State Civil Supplies Corporation Ltd. v. Mahakali Foods Pvt. Ltd.*, (2023) 6 SCC 401; *Tirupati Steels v. Shubh Industrial Component*, (2022) 7 SCC 429; *Maharashtra State Co-operative Bank Ltd. v. Babulal Lade*, (2020) 13 SCC 12; *Steel Authority of India Ltd. v. Micro, Small Enterprises Facilitation Council*, (2010) SCC OnLine Bom 2208; *Porwal Sales v. Flame Control Industries*, (2019) SCC OnLine Bom 5953.

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