

GOVERNMENT of BIHAR
Micro and Small Enterprises Facilitation Council
Under MSMED Act, 2006

Directorate of Industries

2nd Floor, New Secretariat, Patna- 800 015

Reference No.- 02/2018

M/s RAJ FURNITURE, Sri Ram Colony, City Road, Gulabgh, Purnea
versus

District Magistrate, Purnea

Date of hearing: 22nd May, 2019

Quorum:	1. Sri Pankaj Kumar Singh, Director of Industries, Bihar, Patna-	Chairman
	2. Sri Surendra Kumar, Deputy Secretary, Law Department, Bihar, Patna.-	Member
	3. Sri Bipul Kumar, Manager, State Level Bankers Committee	Member
	4. Sri S.K. Patwari, Bihar Chamber of Commerce & Ind.-	Member
	5. Sri Nisheeth Jaiswal, Bihar Industries Association-	Member

For Applicant (s): Applicant in Person

For Respondent (s): None

Order

The instant case was taken up by the Micro and Small Enterprises Facilitation Council (hereinafter referred to as "Council").

In compliance of the direction given by the Council in the last meeting 12th December 2018 the Applicant submitted his claim duly certified by CA and supported with an affidavit on 21-02-2019 which was forwarded to the Opposite Party, District Magistrate, Purnea vide Council's Letter No. 1672 dated 03rd April, 2019 and requested to send his specific response.

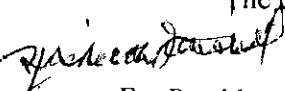
The District Magistrate, Purnea vide his Letter No. 235/Aa. Pra. Dated 08-05-2019 has sent his response:

The Council discussed in detail on response of the District Magistrate, Purnea. It was found that the District Magistrate, Purnea has accepted the receipt of 31 boats and the same has been utilizing. Further he has accepted that 20% of the value has been retained as the Applicant failed to supply all the boats within 30 (thirty) days. Further, he has stated in his response that one of four suppliers M/s Variety Vyapaar Pvt. Ltd., 189, Bipin Bihari Ganguli Street, Kolkata-700012 has filed a writ bearing CWJC No. ... of 2016 for the identical issue which is pending in the Hon'ble High Court, Patna and it is desirable to wait for order of the Hon'ble High Court in the said CWJC.

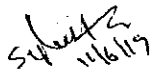
The Council perused the records i.e. Tender document; Supply Order; Payment Order and contents of the counter-affidavit (Oath No. 9421 dated 20-05-2016) filed by the District Magistrate, Purnea in the said CWJC and found that There is no indication about retainment of 20% amount of value in the Tender document; Supply Order and Payment Order. Scheduled time of supply has not been mentioned in the Supply Order (Letter No. 151/Aa. Pra. Dated 03-03-2014. CWJC No. 5621 of 2016 has been filed by M/s Variety Vyapaar Pvt. Ltd., 189, Bipin Bihari Ganguli Street, Kolkata- 700012 not by the Applicant, hence outcome of the said writ is limited to the writ petitioner, not binding upon this Applicant, if otherwise ordered so. As the Applicant has approached this Council for delayed payment by the Buyer, hence, the Council has to decide the matter in accordance with the provisions as laid down in MSMED Act, 2006.

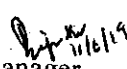
After perusal of the abovementioned documents it is apparent that 20% amount of value has been retained by the Opposite Party for which there was no condition either in the Tender document; Supply Order and Payment Order. Generally for the breach of contract, Performance Guarantee/ Security Deposit may be forfeited but the value of supplied material cannot be withheld.

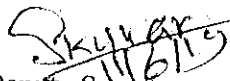
The case was adjourned for next meeting for adjudication by the Council.

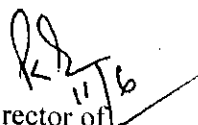

For President
Bihar Industries
Association, Patna
Member

Jai Kishore 10-2


For President
Bihar Chamber of
Commerce, Patna
Member


Manager,
SLBC, SBI
Bihar, Patna
Member


Deputy Secretary
Law Department
Bihar, Patna
Member


Director of
Industries, Bihar
Chairperson
MSEFC, Bihar

Memo No.-2/DI/ FC-16-05/2017- 2253 Patna, dated 14-6-19

CC: Members of MSEFC- Deputy Secretary, Law Department, Bihar, Patna/Manager, SLBC, SBI, Gandhi Maidan, Bihar, Patna/President, Bihar Chamber of Commerce and Industries, Khemchand Choudhary Marg, Patna/ President, Bihar Industries Association, Sinha Library Road, Patna for information.

CC: PA to the Director of Industries, Bihar, Patna for information.

CC: I. T. Manager, Industries Department, Bihar, Patna for information and necessary action.

Ji 13/6/19
Joint Director of Industries
Bihar, Patna

Speed/Reg. Post

Memo No.-2/DI/ FC-16-05/2017- 2253 Patna, dated 14-6-19

CC: M/s RAJ FURNITURE, Sri Ram Colony, City Road, Gulabbagh, Purnea- 854326

CC: District Magistrate, Purnea

Ji 13/6/19
Joint Director of Industries
Bihar, Patna