

**HIGH COURT OF JAMMU, KASHMIR AND LADAKH
AT JAMMU**

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**CR No. 36/2026 c/w
CR No. 34/2026
CR No. 35/2026**

**M/s Kashmir Confectionary Store
and others
M/s Mehak Trading Co.
M/s Naugraein Traders**

.....Appellant(s)/Petitioner(s)

Through: Mr. Vishal Goel, Adv.

Vs

M/s Mother Choice Health Care India

..... Respondent(s)

Through: Mr. Shivam Gupta, Adv.

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

**ORDER
30.09.2026**

1. Through the medium of present order, the aforesaid titled three revisions petitions filed by the petitioners, challenged three separate orders passed by the learned Principal District Judge, Jammu on 20.07.2026, are proposed to be disposed of.
2. It appears that the respondent concern had three different transactions with the petitioners with regard to supply of goods. For recovery of unpaid amount in respect of these three transactions, the respondent concern applied for relief before the Himachal Pradesh Micro and Small Enterprises Facilitation Council (MSEFC), Shimla established under section 20 of the Micro Small and Medium Enterprises Development Act, 2006(for short the MSME Act). The Facilitation Council in exercise of its power under section 18(2) of the MSME Act after taking up the reference of the respondent

concern for conciliation of disputes between the parties, observed that conciliation was not possible. Accordingly, the disputes in respect of all three transactions were referred to the arbitration in terms of section 18(3) of the MSME Act.

3. The learned Arbitrator passed three separate awards. Two awards have been passed on 19.10.2023, whereas the third award is dated 22.04.2023. It seems that three separate execution petitions came to be filed by the respondent concern against the petitioners before the court of learned District Judge Solan, Himachal Pradesh for execution of the three awards. The said execution petitions were transferred to the court of District Judge Jammu for their disposal.
4. During the pendency of the execution petitions before the learned District Judge, Jammu, the petitioners filed three separate applications under section 47 read with section 151 Code of Civil Procedure(CPC) thereby objecting to the execution of the decrees passed in terms of the awards of the learned Arbitrator. The learned District Judge, Jammu, vide three separate orders passed on 20.07.2026, has dismissed the said applications of the petitioners. The same are under challenge by way of instant three petitions.
5. The only ground urged by Mr. Vishal Goel, learned counsel appearing for the revision petitioners for assailing the impugned orders passed by the learned Principal District Judge, Jammu is that the awards sought to be executed are nullity in the eyes of law as the respondent concern was not registered under the MSME Act at the time when the supplies were made by it to the petitioners. Thus, it was not open to the Micro and Small Enterprises Facilitation Council to take cognizance of the disputes between the parties

and to refer the matters to the Arbitrator for arbitration. To support their contention, the petitioners have placed reliance upon the judgments of the Supreme Court in the cases of **M/s Silpi Industries Etc. v Kerala State Road Transport Corporation and another, (2021) AIR(SC) 5487, M/s Vaishno Enterprises v Hamilton Medical AG and another, (2022) 1 SCR 771** and **Gujarat State Civil Supplies Corporation Limited v Mahakali Foods Private Limited (Unit 2) and another, (2023) 6 SCC 401.**

6. I have heard learned counsel for both the sides and perused the record of the case.
7. As already noted, the only contention raised by the petitioners for assailing the impugned orders passed by the learned Principal District Judge, Jammu is that the said court has not taken into consideration the legal position that the awards sought to be executed are nullity in the eyes of law for the reason that the respondent concern being an unregistered firm under the MSME Act, could not have taken resort to the mechanism as provided under the MSME Act.
8. *Per contra*, stand of the respondent concern is that it is duly registered under the MSME Act. Mr. Shivam Gupta, learned counsel for the respondent concern has placed on record the document, styled as Udyog Aadhaar Memorandum Certificate, which shows that the respondent concern, namely, Mother Choice Health Care India stands registered under the MSME Act with effect from 01.04.2010.
9. It appears that the Government of India, Ministry of Micro Small and Medium Enterprises vide notification SO 2119(E) dated 26.06.2020 has provided for re-registration of all existing enterprises registered under EM-

Part-II or UAM on or after 1st day of July, 2020. Pursuant to said notification, the respondent concern has re-registered itself in the year 2020 and it is for this reason that the petitioners are claiming that the registration of the respondent concern is with effect from the year 2020 and that in the year 2014-2015 when the supplies were made, the respondent concern was not a registered unit under the MSME Act. The petitioners, it seems are under a misconception that the respondent concern was a registered for the first time in the year 2020. The fact of the matter remains that the respondent was registered in the year 2010 and pursuant to the notification dated 26.06.2020, it was re-registered in the year 2020. Thus, the very basis of the contention of the petitioners is misconceived.

10. Even if, it is assumed that the respondent concern was not registered under MSME Act at the relevant time, still then for this reason only, the awards passed by the learned Arbitrator under the MSME Act would not become a nullity. The Supreme Court in the case of **NBCC (India) Ltd. v. The State of West Bengal and others, 2025 INSC 54** has, after noticing the ratio laid down by the Apex Court in all the three judgments relied upon by the petitioners as noted hereinabove, recorded an opinion that having regard to the definition of expression 'supplier' and the 'classification' of enterprises into Micro Small and Medium with respect to each of which, there is a separate legal regime to be suggested by the Advisory Committee and notified by the Central and State Governments and in view of the discretion specifically vested with the Micro Small and Medium Enterprises for filing a memorandum under section 8 of the MSME Act, the contention that the Facilitation Council cannot entertain a reference under section 18(3) of the

MSME Act, if the enterprise is not registered, under section 8 of the MSME Act, must be rejected.

11. In the face of aforesaid legal position, even if, it is assumed that the respondent concern was not registered under the MSME Act, still then reference of dispute between the respondent concern and the petitioners to the Facilitation Council and its subsequent reference by the Facilitation Council to the Arbitrator is perfectly in accordance with law. Therefore, on this ground, the awards passed by the learned Arbitrator would not become a nullity.
12. For the foregoing reasons, I do not find any ground to interfere with the impugned orders passed by the learned Principal District Judge, Jammu. The petitions lack merit. The same are, accordingly, dismissed.

(SANJAY DHAR)
JUDGE

Jammu
30.09.2026
Rakesh PS

Whether the order is speaking:	Yes/No
Whether the order is reportable:	Yes/No