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## **Bombay High Court holds that statutory arbitration overrides a contractual arbitration clause in the absence of an exclusive jurisdiction clause**

The Hon'ble Bombay High Court ("**Bombay HC**"), in the case of *GEA Westfalia Separator India Private Limited vs. SVS Aqua Technologies LLP*<sup>1</sup>, presents a significant legal discourse on arbitration jurisdiction, specifically examining the applicability of the contractual arbitration clause *vis-à-vis* arbitration conducted under the Micro, Small and Medium Enterprises ("**MSMEs**") Development Act ("**MSMED Act**"). The Bombay HC held that in the absence of an exclusive jurisdiction clause in a contract, the statutory arbitration under the MSMED Act takes precedence. It clarified that petitions under Section 34<sup>2</sup> of the Arbitration and Conciliation Act, 1996 ("**Arbitration Act**") challenging the arbitral awards passed by the Micro and Small Enterprises Facilitation Council ("**MSEFC**"), Pune must be filed before courts having territorial jurisdiction under the MSMED Act.

### **Brief facts**

GEA Westfalia Separator India Private Limited ("**Petitioner**") and SVS Aqua Technologies LLP ("**Respondent**") executed a manufacturing and supply agreement. The arbitration clause in the said agreement, *inter alia* envisaged for disputes to be "*referred to and finally resolved by arbitration in Mumbai*" ("**Arbitration Clause**"). There was no exclusive or non-exclusive jurisdiction clause.

Disputes arose between the Petitioner and Respondent culminating into awards being passed by the MSEFC, Pune under the MSMED Act in favour of the Respondent and against the Petitioner ("**Impugned Awards**"). Being aggrieved, the Petitioner challenged the Impugned Awards under Section 34 of the Arbitration Act before the Bombay HC ("**Section 34 Petitions**").

In the proceedings, the Respondent raised a preliminary objection on the territorial jurisdiction of the Bombay HC to entertain the Section 34 Petitions and *inter alia* contended that: (a) since the arbitration was conducted by the MSEFC in Pune, as a matter of statutory territorial jurisdiction, the courts in Pune would have the jurisdiction under Section 34 of the Arbitration Act; and (b) Section 18 of the MSMED Act overrides the provisions of the Arbitration Act and therefore, the arbitration agreement between the Petitioner and Respondent is irrelevant for all purposes.

The Petitioner, on the other hand, relied upon the contractually agreed arbitration clause and *inter alia* contended that: (a) the arbitration clause envisaged the seat of arbitration as Mumbai. Consequently, the Bombay HC had the exclusive jurisdiction for the purpose of Section 34 Petitions; and (b) the arbitration conducted by the MSEFC, Pune merely indicated that Pune was the convenient venue for the proceedings.

<sup>1</sup> Arbitration Petition (L) No. 7358 of 2025 (decided on September 10, 2025)

<sup>2</sup> Section 34 of the Arbitration Act sets out the grounds for challenging an arbitral award.

## Issue

Whether in the absence of an exclusive jurisdiction clause, an arbitration clause can confer jurisdiction to a court for setting aside an award passed in a statutory arbitration?

## Findings and analysis

The Bombay HC dismissed the Section 34 Petitions and *inter alia* held as follows:

1. the Impugned Awards did not arise from the Arbitration Clause reduced into writing by the parties. It was passed pursuant to the proceedings initiated under Section 18<sup>3</sup> of the MSMED Act, which provision statutorily creates an independent arbitration agreement between parties. The Arbitration Clause was not acted upon in any manner, and the arbitration was conducted at MSEFC Pune, as per the statutory arbitration agreement created by the MSMED Act;
2. there is no exclusive/non-exclusive jurisdiction clause designating any particular court to have jurisdiction in the manufacturing and supply agreement. Given that the Respondent, as the supplier was based in Pune, and as per the provisions of the MSMED Act, the arbitration proceedings were conducted before MSEFC, Pune. In these circumstances, the statutory requirement is a strong indication of Pune being the seat of the arbitration;
3. on a holistic reading of Section 34 read with Section 2(1)(e)(i) of the Arbitration Act, the petitions under Section 34 of the Arbitration Act must be filed before the principal courts of civil jurisdiction that would possess jurisdiction to deal with the dispute if the same had been in the form of a suit. In the present case, given that none of the parties are located in Mumbai and no activity in pursuance of the agreement has been carried out in Mumbai, the courts in Mumbai would not have the jurisdiction to deal with any disputes between the parties; and
4. in the absence of an exclusive jurisdiction clause in the agreement, there is no connecting factor conferring jurisdiction to the Bombay HC. Considering that the contractual arbitration clause has been supplanted with the statutory arbitration provisions under the MSMED Act, the relevant court in Pune would have the jurisdiction within the meaning of Section 34 read with Section 2(1)(e)(i) of the Arbitration Act.

## Conclusion

The ruling clarifies that in the absence of an exclusive jurisdiction clause, the provisions of statutory arbitration under the MSMED Act will prevail in determining the jurisdiction of courts in arbitral proceedings. This decision underscores the importance for parties to exercise diligence in drafting jurisdiction and dispute resolution clauses specifically while entering into contracts with MSMEs.

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<sup>3</sup> Section 18 of the MSMED Act sets out the mechanism for referring disputes pertaining to the outstanding sums to the MSEFC.

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